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Legislative decision-making under multiple referral

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LEGISLATIVE DECISION MAKING UNDER MULTIPLE REFERRAL

by

GARRY YOUNG

A THESIS SUBMITTED
IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE
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Abstract

Legislative Decision Making Under Multiple Referral

by

Garry Young

A large proportion of the most important legislation considered by the U.S. House of Representatives is now referred to more than one committee. This study examines the impact that multiple referral has had on committee, party, and leadership relations in the House.

Using spatial theory, legislative outcomes are compared under varying conditions including types of referrals, restrictions on floor amendments, and opportunities for obstruction and discharge. Central to the study is a consideration of the role of the majority party leadership. A model is developed that includes the Speaker who controls procedure.

A number of empirical implications of the models are analyzed as well. These include a consideration of the relative obstructiveness of committees given referral conditions, the choice of restrictive versus non-restrictive amendment rules, and the choice of referral conditions by the Speaker.
Acknowledgments

It is quite possible that academicians will, one day, react with shock to the news that graduate programs once required their students to write dissertations. Much like execution by the guillotine strikes even the most ardent supporters of the death penalty as unnecessarily cruel, we may one day view this particular scholarly hurdle to be the same. Or maybe not. After all, victims of the guillotine never got to impose the device on others the way past writers of dissertations get to impose the requirement on their students.

Actually the whole process was not that bad. And certainly, I could not have arranged a better committee under to which to work. My greatest thanks go to Joseph Cooper and Rick Wilson. Though sometimes disguised the influence of both is greatly present in the work that follows and, I suspect, in all that I do throughout my career. Thanks also to Dan Ward and Kei-Mu Yi who graciously contributed their time to round out my committee.

Thanks to a number of others as well. First and foremost to my spouse Val who had the good fortune (or sense) to be at Stanford for most of this project so that she only had to read each chapter two or three times a piece. To Keith Krehbiel for cheerfully sharing some of
his data. To Beth Lentz, who, probably more than any other, is responsible for this being done eight months later than it should have been. And to the following for contributions of which they know nothing: Perry Farrell, Fakir Musafar, and Pat Califia.
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Chapter One

Introduction

By all accounts, June 20, 1985 was a bad day for Jim Florio. The then U.S. Representative from New Jersey and author of the historic 1980 Superfund bill, found his version of Superfund reauthorization soundly defeated by a business interest inspired bill that was supported by a coalition of moderate Democrats and Republicans. Even more stunning, Florio’s defeat occurred in the Energy and Commerce Sub-Committee on Commerce, Transportation, and Tourism, a sub-committee that Florio chaired (Davis 1985a: 1281).

One month later, despite the strong backing of environmental groups, Florio was unable in full committee to amend the new bill back in line with his original legislation. With opposition coming only from a small group of liberal Democrats – Florio included – who felt the bill to be too weak, Energy and Commerce reported its version of Superfund re-authorization by 31-10 vote (Davis 1985b: 1480).

If this was meant to be a story illustrating the legislative process in the U.S. House, at least as it is typically described, the rest of the story could be easily predicted. With strong support from a large bi-partisan coalition of committee members, including the full
committee chair, the bill would go on to the floor and, in all probability, be passed with few if any changes. Florio and his backers would have little chance to modify the bill back to their liking because the chamber, in deference to Energy and Commerce, would go along with the committee’s bill. Given a Republican controlled Senate and Republican president, Florio’s loss at the committee level meant a loss throughout. A more liberal bill would have to wait for another Congress.

But that is not the way this bill worked out. Due to a 1974 change in the House rules, legislation is now referred multiply to all committees with a reasonable jurisdictional claim. In the case of Superfund, several committees held such a claim over some portion of the bill and one committee, Public Works and Transportation, held claim over exactly the substantive portions of the bill that Florio and the environmentalists disliked the most.

Public Works took the Energy and Commerce bill, inserted much of Florio’s language into it and eventually succeeded in defeating Energy and Commerce on the House floor and in conference committee.

Like thousands of bills before and after it, the Superfund re-authorization bill was referred to multiple committees in the U.S. House. While multiple referrals are an increasingly common fixture in the House, standard
theoretical treatments of the legislative process in both the House and legislatures generally still focus exclusively on single referral. Yet, as the Superfund story suggests adding multiple committees to the deliberation of one bill greatly alters the strategic context of the legislative process and, ultimately, leads to different policy outcomes.

The idea that the internal arrangements of legislatures have an important impact on outcomes has become a truism in contemporary legislative research. The idea is hardly a new one. It was, after all, a major concern of the initial organizers of Congress (Cooper 1970). What the idea has lacked over time however, is great theoretical acceptance. Most theoretical approaches to which political scientists have ascribed (e.g., pluralism, elitism) deny the importance of institutions and their structures on political outcomes. The recent development of new institutionalism however is an important exception (see, e.g., March and Olsen 1989). Neo-institutionalists examine the way in which particular organizational structures, the allocation of procedural rules, for example, interact with the distribution of interests to produce political outcomes.

Multiple referral presents the opportunity for an interesting addition to such a literature. Anecdotal
evidence like the one above as well as a fairly substantial set of empirical analyses of multiple referral suggest that it is a subject ripe for study and of great theoretical importance.

How exactly to attack the subject, however, presents a difficult problem. The House's use of multiple referral tends to be both complex and varied. Indeed, as Krehbiel (1991: 277) notes, "Even experts on [multiple referral] are amazed by how much they differ and are thus reluctant to generalize about their nature and uses."

While some routinization has naturally occurred, a notable characteristic of multiple referral is the amount of tailoring that is done for individual cases so that there is great variance in the circumstances surrounding individual bills. The details of referral language, rule specifications, conditions of conference committee membership, and other conditions are often formed specifically for a particular bill. In an institution where internal and external complexity has become the norm, the House's organizational response has been flexibility (Young and Cooper 1993: 232).

Such diversity however presents an obstacle to discerning general patterns inductively. While a great deal of empirical "brushclearing" should be done in this area, it strikes me that a more effective first cut at
attacking multiple referral should be more deductive and more basic. Instead then of trying to capture multiple referral in all of its rich and subtle complexity I opt here to take a more modest but, hopefully, an ultimately more productive approach. I begin with a basic model of the legislative process and then work towards the complexity by adding what appear to be important components. In this sense, I follow the same methodology as Isaac Newton when he constructed his model of the solar system. He began with the simplest of assumptions - a sun and a circular orbiting planet - studied the implications of his model, gauged the empirical predictions with observation, and then added more complexity with more planets, satellites, and elliptical orbits. Here the solar system will be a committee system beginning with one committee and a chamber and then adding committees, political party, and internally derived procedure. The models I derive here are not particularly complex, I leave more elegant modeling to others, they do however yield a number of insights into the impact that multiple referral has on the legislative process and it provides a number of empirical implications that are tested.

Overview

This study proceeds in the following fashion.
Chapter Two is a discussion of the adoption and evolution of multiple referral. Chapter Three is a review of three bodies of theoretical literature regarding the organization of the House. These three perspectives – Informational, Distributive, and Party Centered – provide a needed context for the discussions that occur in later chapters. Additionally, in this chapter I briefly review other work regarding multiple referral.

In Chapter Four I commence the analysis of multiple referral using spatial modeling techniques. Here I adopt Denzau and MacKay’s (1983) agenda setting model to multiple referral and take a first cut at evaluating the strategic implications of multiple referral. Chapter Five represents an important "theoretical bridge" to further discussion of multiple referral. Here I develop a role for party by endogenizing procedure into a Rules Committee.

In Chapter Six I apply the models developed previously to multiple referral and consider variations and implications. Chapters Seven and Eight are purely empirical. In Seven I examine the issues of the choice of referral, sequencing in a sequential referral, committee obstruction, and the use of discharge. Chapter Eight is an examination of rule choice. Chapter Nine concludes.
Chapter Two

Origins and Evolution

House adoption of multiple referral in 1974 did not strike most observers as an act of major consequence. The House spent little time debating the subject with the only controversy being the issue of the Rules Committee's role in bill referral appeals. Such low regard for the importance of multiple referral's adoption is not particularly surprising. Of far greater concern to House members were the different proposals for jurisdictional realignment. Also, there was little evidence that multiple referral in the Senate - in use for over thirty years by 1974 - had made much of an impact in that chamber.

Despite its humble origins, the House now relies heavily on multiple referral and the use of the procedure has transformed power relations and the legislative process in the House (Young and Cooper 1993). The purpose of this chapter is to present a relatively detailed description of the adoption of multiple referral. I argue that multiple referral represented a relatively simple, and non-hierarchical, solution to a thorny coordination problem which plagued the institution's ability to efficiently produce timely and coherent legislation.
The House in the 93rd Congress

Throughout its history the U.S. House of Representatives has struggled with problems of organization. External demands on the House, e.g., petitions for private relief, mushroomed almost from the start of the First Congress. The increasing workload soon made it impossible for the House to function strictly through floor action and the body turned elsewhere for a method to perform its work. For political and philosophical reasons House members chose to rely on ad hoc select, and later permanent standing, committees, rather than agents of the executive branch, as the primary units of labor (Cooper 1970).

This early reliance on committees set the tone, and in a real sense determined the path, of future institutional development in the House. By the time of the seventies' reforms, Wilson's (1885: 69) claim that "...Congress in its committee-rooms is Congress at work" was still accurate. But while the persistence and strength of the committee system pointed in no small way to the success of the committee system as an organizational arrangement, by the early seventies the House had become, by most accounts, an inefficient institution. While reforms led by the Democratic caucus effectively decentralized the House by weakening the power
of committee chairs and increasing the role of sub-committees, attempts at reorganizing the committee system - last accomplished in 1946 - were consistently unsuccessful. In 1974, ironically in the wake of a major executive branch crisis, the House tried again, this time with muted success.

Problems Facing the House

By the start of the 93rd Congress in 1973, most members of the House were acutely aware of the organizational problems facing the institution. Because of differential changes in workloads, the distribution of work across committees was extremely uneven. Some committees, most notably Ways and Means, were so overwhelmed that they could not hope to adequately address all the pressing problems within their purview. Meanwhile other committees languished under few important responsibilities and resultant member inactivity. A consistent trend towards increasing the number of committee seats held by members and the number of subcommittees in existence helped dilute individual efforts thus reducing the ability of members to specialize and develop expertise in particular policy areas (Davidson and Oleszek 1977: 55).

Exacerbating this problem were deficiencies in available committee staff for minority members and
subcommittees. Of additional concern, especially to the leadership, committees tended to wait until late in congressional sessions to report important legislation. Consequently, the early days of sessions tended to see very sparse floor action followed by a frantic, and always unsuccessful, drive to push through needed legislation at the end (H.Doc.94-187,I,pp.4-5).

The most pressing and most controversial of the problems facing the House was overlap in jurisdiction among committees. Multiple committees held jurisdiction across a number of important general issue areas. For example, eight committees handled legislation regarding the elderly (Congressional Record, October 18, 1974, H34455) while at least eight considered environmental issues. Most severe was the energy area. Not counting several Appropriations sub-committees, no less than fourteen committees claimed jurisdiction over energy issues. And these committees were quite active in the area. In 1973, 180 hearings were held on energy issues by twelve committees (Davidson and Oleszek 1977: 54). By 1980, the average standing committee in the House shared at least some jurisdiction with eight other committees (Collie and Cooper 1989: 258).
Jurisdictional Overlap and Its Causes

The cause of the severe jurisdictional overlap is not difficult to understand. Committee jurisdictions were codified for the first time as a consequence of the Legislative Reorganization Act of 1946. The reform mainly consolidated jurisdictions among a smaller group of committees (King 1990). As would eventually occur in 1974, the 1946 act failed to realign committee jurisdictions in any way approaching exclusivity. Beginning with a committee system with overlapping jurisdictions already in place, the problem became far worse over the next thirty years.

Committees gain jurisdiction in two ways: By statute and by referral precedent. The latter is far more prevalent and tends to lead to the former (King 1991). Typically, when a new issue arises, the committee which is able to gain the first referral in that issue area gains precedence and, as a result, the referral of future similar legislation.

Since precedence is determined by the initial referral, committees have the incentive to market legislation in such a way as to direct that legislation to themselves. Instructive is the way the Banking Committee garnered jurisdiction over mass transit. According to Davidson and Oleszek (1977: 54), Banking members made the
argument that "monetary policy directly affects housing, housing affects urban areas, and mass transit serves urban areas - hence the Banking Committee was entrusted with mass transit."

Over time this piecemeal approach of jurisdictional allocation results in overlap of general issue areas across a number of different committees. What made the period from 1946 to 1973 and beyond even more of a problem in this regard was the extraordinary emergence of a number of generally new and vitally important issues areas and the tremendous growth in the policy domain of the federal government's involvement. The House's piecemeal approach to assigning jurisdiction, coupled with the emergence of the highly important issue areas, meant that issues of the most importance to the nation, by the 1970s, were handled in a fragmented way by several committees.

The Consequences of Jurisdictional Overlap

While some observers have argued that jurisdictional overlap has the advantage of encouraging healthy competition among committees and providing multiple points of access for differential interests, the severity of overlap that the House faced in 1973 led to a number of problems. First, fragmentation of general issues areas prevented problems from being addressed comprehensively. Second, given that aspects of policy are highly
interrelated, the individual actions of committees often negatively affected areas in other committee's purview. Third, as noted earlier, uneven development of jurisdictions ultimately led to a severe inequality of committee workloads. Fourth, despite the fact that committees dealt in very similar issue areas, staff resources - highly paid policy experts for example - tended to be wasted on duplication; committees did not share resources and generally did not coordinate or communicate on issues of mutual interest.

Fifth, since prior to 1974 referral of legislation had to be single (i.e., a complete bill had to go to just one committee), House practice dictated that referral be made to the committee of predominant jurisdiction as determined by House rules and precedent. Thus a bill which affected the jurisdiction of multiple committees went to just one of those committees. This led to severe jurisdictional infighting among committees. Consequently, some legislation failed not because of lack of support among members but because of turf protection among committees. Also, committees often deleted important provisions from bills simply to avoid conflict with another committee (H.Rpt.93-916,II,p.58).

Finally, the severity of the overlapping jurisdictions present by the 93rd Congress points to a
theoretical question of considerable interest. Shepsle's (1979) finding that institutional structure could induce stability in a legislative setting depends heavily on a assumption of mutually exclusive jurisdictions among committees. Given overlapping jurisdictions, it is easy to demonstrate that such an equilibrium may not exist.

The Coordination Problem

The specific problems created by jurisdictional overlap can be more generally described as a major coordination problem. Seidman (1980: 204) defines coordination as a "harmonious combination of agents or functions toward the production of a result." In game theory, the coordination problem is characterized as one where actors with similar but not identical preferences inadvertently behave in a way detrimental to all involved. The typical illustration for such problems is the "Battle of the Sexes" game (Luce and Raiffa 1957: 90-91). Figure 2.1 illustrates an adaptation of the game. Here, two actors - Fred and Ethel - both wish to attend a sporting event. Fred however most prefers to attend a baseball game while Ethel prefers to attend a football game. Both events occur simultaneously and it is assumed that neither actor can communicate with the other regarding which event he or she will attend.
Figure 2.1
Battle of the Sexes

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<th>Football</th>
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<tr>
<td>Ethel</td>
<td>[1/0]</td>
<td>[0/2]</td>
</tr>
<tr>
<td>Fred</td>
<td>[2/0]</td>
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Importantly however, both actors prefer to attend a sporting event together more than they wish to attend either sport separately. Thus for example, Fred, despite preferring most of all to attend the baseball game with Ethel, prefers to attend the football game with Ethel rather than attend the baseball (or football game) alone. The Baseball-Baseball outcome thus yields Fred his most preferred payoff of 2 while a Football-Football outcome yields Fred 1 and the outcome Baseball-Football or Football-Baseball both yield Fred his worst payoff of 0. Accordingly, both Fred and Ethel prefer to coordinate their efforts to ensure that they are best off. In this simple scenario how to do this is not clear. Fred may end up going to the football game - thinking that Ethel will be at the football game - while Ethel goes to the baseball game - thinking that Fred will be at the baseball game.
Relaxing the communication barrier will not necessarily solve the problem since there is no guarantee that the two parties can reach agreement on one choice. One actor, after all, would have to compromise. Expanding the number of actors involved and the number of choices possible only serves to make the problem more severe (Calvert 1987: 17). Also, repetitive interaction does not necessarily solve the problem (Hardin 1982).

If we consider the situation in the House by the 93rd Congress, it is easy to see the similarity between the structure of the committee system and the coordination game mentioned above. Instead of the two actors’ dilemma over sporting events imagine a circumstance where two committees both prefer to see a bill in an area passed but each prefers to be the committee that passes it and each committee has different preferences as to the exact content of the legislation. Dispute over which committee gets its way can lead ultimately to no bill being passed thus making both committees worse off.

For many types of organizations the typical response to an organizational defect which leads to coordination problems is the addition of hierarchy (Chisholm 1989: 13). A fledging business, for example, when faced with rapid growth may find it necessary to not just divide labor among a set of units (e.g., purchasing, marketing, etc.)
but to also create a hierarchical structure to integrate the various units from above. With direction and sanctions stemming from a central source it can be ensured that each unit acts to the overall benefit of the organization.

Congress, however, has little in common with a business firm. With its members hired and fired through the election process, not by agents of the House, and with ultimate decision making based on majority voting, it is not realistic that any relationship close to the boss-employee one can exist in Congress. While power has never been evenly distributed, periods of extreme power concentration are rare and short-lived. In short, the institution's "low tolerance for hierarchy" (Cooper 1977: 147) makes coordination through centralized means an unlikely organizational alternative.

There are, however, other less centralizing means of achieving coordination. In game theory focal points are one example (Schelling 1960). More conventional organizational theorists point to such solutions as informal channels of communication, behavioral norms, and reciprocity (Chisholm 1989: 11-12). Congress too has had to rely on such informal methods. Perhaps most important historically, and certainly most important after the creation of multiple referral, is the leadership. Through
skillful use of persuasion and bargaining, the House leadership can bring together disparate but interdependent units of the House for the goal of passing needed legislation. However, by the 93rd Congress the leadership had little means at its disposal to overcome the problems already discussed. Additionally, as noted often during the reform hearings, other informal means - such as informal channels of communication - rarely occurred as committees jealously guarded their turf.

Such constraints were certainly understood by the House's foremost advocate of reform, Richard Bolling (D-MO). At the commencement of the 93rd Congress, Bolling was a high ranking member and future chair of the Rules Committee. Though ultimately unsuccessful at achieving his leadership ambitions, he managed to bring into focus, for the benefit of his colleagues, the failures of House organization through such efforts as the publication of two books (1965, 1968) on the subject.

At the commencement of the 93rd Congress circumstances appeared to be favorable for Bolling to translate his vision for the House into being. With a political ally in power as Speaker, as well as the cooperation of the minority leadership, Bolling saw the 93rd Congress as his best opportunity for success.
Committee Reforms of 1974

The Select Committee on Committees (Bolling Committee) was formed by the House early in the 93rd Congress. Despite some opposition to the means by which reform would be pursued (e.g., through a new select committees instead of through the pre-existing Joint Committee on Congressional Operations) the resolution to create the committee passed easily. Stronger opposition probably did not materialize because many if not most House members did not take the effort seriously (Davidson and Oleszek 1977: 67-71).

Speaker Carl Albert (D-OK) named Bolling chair of the ten member committee. Committee membership was divided equally by party and were generally representative of region, seniority, and ideology. Jurisdictional concerns took up most of the time of the hearings but a number of witnesses discussed the possibility of accepting overlap as impossible, if not undesirable, to eradicate and then suggested a possible solution. Most often mentioned was the creation of ad hoc committees composed of members of the relevant standing committees and a system of multiple referral. While the former struck some as a way of ultimately creating a new wave of standing committees, thus leading to even more confusion, the latter method generally received a favorable hearing.
The inspiration for the idea of multiple referral came from the Senate's use of the procedure. The main concern voiced by witnesses was that if no system of discharge were included, multiple referral would result in more obstruction. Dante Fascell (D-FL), for example, noted that the best way to kill a bill, if no discharge were available, would be to send it to multiple committees (H.Doc. 94-187, I, pp.504-505).

The most detailed proposal for a system of multiple referral came from Jonathan Bingham (D-NY). Bingham argued that the House needed to formally pass a mechanism for multiple referral and not rely on the informal method used in the Senate (at that time). His proposal called for the Rules Committee to consider cases where multiple committees may be involved and then devise a referral plan. The referral plan may call for a single referral, or some sort of multiple referral with the details of the multiple referrals being worked out to fit the needs of each bill (H.Doc.94-187,III, pp. 115-125). Though Bingham's plan was not adopted in exactly the way he specified - by either the Bolling Committee or the House - he gave the select committee a specific plan from which to work and crystallized the idea that while the new referral procedure needed to be more formal than the Senate's version of multiple referral, it also needed to allow for
great flexibility of usage.

Bingham's proposal, and the idea of multiple referral generated a positive hearing from the Bolling Committee. Multiple referral represented a politically inexpensive mechanism for coordinating committee action over interdependent issues without a great deal of centralization. What it required, as Fascell noted, was granting the Speaker the formal power to discharge committees from the bill in order to prevent obstruction. While multiple referral had been tried informally previously, the Bolling Committee concluded that a more formal mechanism — with the Speaker involved as the coordinating agent — would be more successful.

After presenting a "trial balloon" report in December, the Bolling Committee reported its plan for House reorganization in March, 1974. The final blueprint called for a committee system with fifteen exclusive and seven non-exclusive committees. Members would be able to serve on just one of the fifteen exclusive committees with secondary assignments on one of the non-exclusives. Additionally, the plan called for the realignment of jurisdictions, especially in the areas of trade, health, environment, and energy. The Interior Committee would be renamed Energy and Environment and would gain most of the energy and environmental jurisdiction held by other
committees. Education and Labor was to be split into two exclusive committees while Ways and Means would lose non-tax aspects of a number of welfare, health, and trade areas. Merchant Marines and Fisheries, originally slated by the Bolling Committee to be abolished, would instead lose its environmental, oceanography, and Panama Canal responsibilities. The Post Office and Civil Service Committee as well as Internal Security would be abolished (Congressional Quarterly Almanac 1974: 636).

Besides jurisdictional realignments, the Bolling Committee included a provision for the guarantee of minority committee staffing as well as plan for changing the method of legislation referral and jurisdiction evolution.

Additionally, the Bolling provisions called for the multiple referral of legislation. The Bolling language specified that measures were to be referred to each committee with jurisdiction over any provision within the measure. The Speaker was given the authority to refer measures concurrently, in sequence (with a time limit placed on the secondary committees in the case of a sequential referral), or the measure could be divided up into parts with each part being referred to the committee of jurisdiction over that part. Included in the referral provision was a mechanism for the Rules Committee to
"review and modify" the referral made by the Speaker (H.Rpt.93-988,II,pp.400-401).

In expectation of fierce opposition by the "losers" in jurisdictional realignment, the Bolling Committee tempered its reform plan in order to make it more politically viable. Since Ways and Means was a major target the committee avoided affecting other committees, like Armed Services, that were popular with conservative constituencies (Davidson and Oleszek 1977: 183). The ultimate proposal represented a careful balance between practical politics and an optimal organizational arrangement.

Despite the committee’s efforts, opposition to the Bolling plan was intense following the initial trial balloon report. While there appears to have been no criticism of multiple referral – excepting the provision on the Rules Committee – other components of the reform plan came under heavy fire. The exclusive/non-exclusive committee organization meant that members holding multiple assignments on what would become exclusive committees would have to give up seats, many sub-committee chairs feared the loss of their leadership posts, and most of all, there was opposition to the realignments. The most intense opposition came from John Dingell (D-MI). Dingell at the time chaired sub-committees on Small Business and
Merchant Marines and was the future chair of the full Commerce Committee. Since all three committees stood to lose major amounts of jurisdiction (especially in the environmental and energy areas where Dingell was most active), Dingell perhaps more than any other member of the House had the most to lose if the Bolling Committee plan were adopted intact. Dingell shrilly insulted the intelligence of the select committee members and bluntly accused the select committee of basing its decisions on the self interest of its members (Congressional Record, October 8, 1974, H34454).^2

While the plan garnered the endorsement of the Republican caucus, the Democrats were not nearly so forthcoming in support. During a May caucus meeting opponents managed to strike a blow to the Bolling Committee by instructing the plan be reviewed by the Caucus Committee on Organization, Study, and Review (known as the Hansen Committee after its chair Julia Butler Hansen (D-WA)) before being sent to the floor by the Rules Committee (Davidson and Oleszek 1977: 192-203).

Though not in a position to stop the reform effort (Rules could, after all, vote to send the Bolling report to the floor if the Hansen Committee attempted to kill the report), the Hansen Committee did begin work on the task of dismantling the most politically offensive provisions
of the Bolling Committee resolution.

The Hansen Committee presented its version of reform to the Democratic caucus on July 17. Though the caucus committee kept the Bolling abolition of Internal Security, Post Office was reinstated as were most of the status quo jurisdictional alignments. Additionally, the Hansen alternative reinstated proxy voting, removed the limitation on committee assignments, reduced the number of guaranteed minority staffing for committees, and removed the Bolling provisions giving the Rules Committee review power over the Speaker’s referral. Indeed the Rules Committee suffered heavily under the Hansen plan. It would lose part of its power to obstruct legislation and would be prohibited from acting on legislation still in other committees. Finally, and most importantly for our purposes, the Hansen Committee kept the Bolling proposal for multiple referral intact with the exception of the Rules Committee role in referral (Congressional Almanac 1974: 637).

With what promised to be a tumultuous general election looming, the House began the reform debate on September 30, 1974. The Bolling resolution went to the floor under an open rule. Two alternatives, that presented by the Hansen Committee as well as a proposal by David Martin (R-NE), were to be offered as substitutes to
the Bolling language. Debate and amending activity centered on the issue of committee jurisdictions. The multiple referral provisions, present in all three reform proposals, attracted little comment and only one attempt at deletion.

For the most part, those who commented on multiple referral saw it as an easy way to alleviate the coordination problem created by jurisdictional overlap which, regardless of the final outcome of the reform debate, would remain. There is little indication given by members who took part in the debate, that multiple referral would have a major impact on the legislative process. The comments of James O'Hara (D-MI), are an example:

I would trust that dual referral would not be used very often but I think it is a power that ought to be available for use in particular kinds of circumstances for particular subjects (Congressional Record, October 8, 1974, H34407)

Some however predicted a greater potential for multiple referral. During debate, several members commented that multiple referral if used extensively could have major consequences for the House. The two most notable commentators in this regard were Robert Bauman (R-MD) and Lloyd Meeds (D-WA). In presenting an amendment to delete the multiple referral language, Bauman first noted that it appeared that the members had overlooked the
potential power that would accrue to future Speakers if the new referral language were accepted. He went on to say,

It seems to me that these new and unprecedented powers offer a great deal of possibility for mischief. If this language is adopted, it is not difficult to foresee, and I would predict, numerous conflicts between various committee chairmen over such split jurisdiction, all of which is, as I said, definitely opposed to what I thought was the purpose of this legislation. I would hope that we could strike out this so-called split referral provision so that the bills could be placed in one committee, to hold hearings, to take testimony, then decide amongst the members of that one committee whether or not it should be reported and acted upon by the Rules Committee in the House...I would hope that there would be support for my amendment to strike out what I think is a very mischievous and dangerous section of the resolution; one that offers all sorts of possibilities for difficulty and conflict within the House itself which can and should be avoided (Congressional Record, October 8, 1974, H34406)

In response, Meeds, the Bolling Committee’s pointperson on the multiple referral provision, argued,

The inability to assign or refer to more than one committee is probably one of the greatest bottlenecks and greatest deterrents to this Congress meeting the modern jurisdictional requirements than anything else. Even if the jurisdictional changes [in the Bolling resolution] were not to be passed ultimately, this provision standing alone would probably do more than any other single provision to make the House function properly. All of the testimony before the Select Committee on Committees was that people recognize this as a major problem...[and]...all [three reform sponsors] have responded to it in the same fashion...(Congressional Record, October 8, 1974, H34406)
Bauman's amendment failed by voice vote.4 Ironically, John Dingell - a future beneficiary of multiple referral - did print in the Congressional Record an amendment that, if adopted, may have dramatically altered the future use of multiple referral. Dingell's amendment called for the chair of a committee seeking referral to request the multiple referral and make the Speaker's decision subject to House approval (Congressional Record, October 1, 1974, H33392, H33396; October 2, 1974, H33674). Dingell never offered the amendment on the floor.5

While adoption of multiple referral did not prove to be controversial, one component of the referral process, proposed by the Bolling Committee, attracted considerable opposition. This was the role that the Rules Committee would be given in reviewing and modifying the Speaker's referral decisions. Bob Eckhardt (D-TX) proposed an amendment that would delete this provision from the Martin substitute (which was identical to the Bolling provision in this area). The basic thrust of the argument of Eckhardt and others was that giving Rules such power would undercut the Speaker, boost the power of Rules unnecessarily, and, since committee chairs would have the power to appeal Rules' decisions to the floor, lead to floor fights before a bill even reached committee. Martin responded that the provision was merely a mechanism for
giving committee chairs the ability to appeal the unilateral actions of the Speaker. He argued that such disputes probably would not occur often but would provide a better forum for the resolution of committee jurisdictional disputes than was in existence. Eckhardt's amendment passed by a close margin (Congressional Record, October 8, 1974, H34454)\textsuperscript{6}

Eckhardt's amendment eventually proved to be moot. Though modified by amendment, the Hansen proposal defeated both the Martin and the Bolling proposals, the latter by a 203–165 margin (Congressional Record, October 8, 1974, H34469). As part of the Hansen package, multiple referral was adopted. For the most part, the Hansen proposal passed intact. Some jurisdictional modifications were made and the original Bolling proposal to ban proxy voting in committee was added. Also, importantly, the Hansen proposal to limit the power of the Rules Committee by giving the Speaker the power to bring Rules to the floor without a rule was, with the strong support of Albert, rejected (Congressional Quarterly Almanac, 1974: 640).

**Procedure and Evolution**

As adopted by the House the new referral rules allowed the Speaker to refer legislation to a single committee, create an ad hoc committee for bills covering multiple committee jurisdictions, or refer the overlapping
bill to multiple committees. The ad hoc committee was to be created out of members from the standing committees of jurisdiction. This procedure has been used only twice, both times with limited success (Davidson and Oleszek 1992: 131-132).

The multiple referral rule allowed three types - joint, split, and sequential. In the original resolution passed by the House, under a joint referral a complete bill went to multiple committees concurrently. Split referrals also went concurrently to committees but only by provisions within each committee's jurisdiction. Sequential referrals occurred, normally, following the report of the committee or committees of initial referral. In the case of sequential referrals only, the Speaker could impose a time limit on the committees following the initial committee(s). The initial committee(s) in what would become a sequential referral, as well as all committees in a joint or split referral, could not be discharged of a bill by a time limit.

As multiple referrals became more common, the use of the procedure evolved. While the newness of the procedure resulted in some early problems - coordination among floor managers for example (Davidson and Oleszek 1977: 10) - repeated use led to routinization in areas such as the crafting of referrals, committee interaction, rules, and
debate. This evolution did not always develop as planned, dual hearings by committees, for example, did not increase (H.Rpt.96-866,p.418).

With use, questions arose as to implementation of the procedure in specific circumstances. Over time, precedents set by the Speaker in regard to these questions, as well as one rule change in 1977, served to increase the Speaker's power and flexibility over the handling of multiply referred legislation.

Most of these changes centered on two areas: the Speaker's specification of jurisdictional responsibility and the power of the Speaker to discharge multiply referred bills from committee. In regard to jurisdiction, the Speaker gained the power to specify that only portions of a bill that affected a committee's jurisdiction could be amended by that committee, despite the committee's receiving the entire bill through a joint or sequential referral (H.Doc.99-279). By limiting the amount of discretion committees had over an entire bill, jurisdictional encroaching could be curtailed and the Speaker had an added tool to manipulate favored outcomes (Young and Cooper 1993). From the start, split referrals - where a bill is literally split into pieces and allocated among committees - were usually impractical since many bills can not be readily divided into discrete
sections. An additional precedent in this area was that secondary committees in a sequential referral, could be limited to specific amendments added by the initial committee(s) of reference.

In regard to discharge power, a rule change in 1977 gave the Speaker the power to place a time limit on the initial committee in a sequential referral. Additionally, through precedents the Speaker gained the authority to impose a time limit on any committee in a multiple referral. This power aids the Speaker in reducing the natural obstructive tendencies that committees tend to have. Though time limits are rarely imposed - except in the case of secondary committees in a sequential referral - the Speaker’s ability to threaten discharge presumably acts as a deterrent to obstruction (Young and Cooper 1993: 213). The impact of obstruction and the Speaker’s role in regard to multiple referral is analyzed in considerably more detail throughout this study.

The Patterson Committee

As I have noted, the actual adoption of multiple referral into House rules did not strike observers as particularly noteworthy. Certainly if those voting in 1974 realized that by the 101st Congress over 18% of all referrals, and a higher percentage of important measures, would be multiply referred or that the procedure would
effectively lead to dramatic alterations in the entire legislative process there would have been a more extensive debate on the subject. While the debate did not occur at the adoption stage, it arose later down the road. It came five years after the 1974 reform in the form of yet another reform effort spearheaded by yet another Select Committee on Committees, this time chaired by Jerry Patterson (D-CA).

As a reform effort the Patterson Committee was ill-conceived from the start (see e.g., Sheppard 1985). It did however serve as a sounding board for a number of complaints about multiple referral. Most notably that, at the time, multiple referral led to a dramatic increase in veto points, duplicated effort, jurisdictional conflict, and the unwillingness of committees to be accountable for legislation unless they had reason to believe that the other committees would not stall on the legislation (H.Rpt.99-866, p.418). While no Patterson Committee proposals for multiple referral were adopted outright, a number of suggestions regarding time limits did provide the impetus for some of the precedents referred to above. Most of the Patterson suggestions in this regard are now in place.
Patterns of Usage

Used sparingly at first, multiple referrals now make up a considerable proportion of all business in the House. As table 2.1 indicates, during the first Congress of use - the 94th (1975-1976) - multiple referral made up only 6% of total measures. By the 101st Congress (1989-1990) the total amount was 18.2% of all measures introduced. More importantly, many of the most important measures considered by the House tend to be multiply referred. Multiply referred legislation from recent congresses include measures dealing with toxic waste clean-up, clean air and water, housing for the homeless, catastrophic health care, and banking reform. In addition, the budget re-conciliations bills, considered in each Congress, are a form of multiple referral since different committees contribute titles to it (Tiefer 1988: 122).

Multiple referrals also constitute a growing proportion of committee and floor action. For example, as table 2.1 indicates, by the 101st Congress 15.7% of all measures reported were multiply referred7 while 8.9% of all measures passed were multiply referred. At the committee level, multiple referrals now constitute a very large proportion of the workload of a number of committees. Most notable is Commerce. During the 96th through 98th Congresses (1979-1984), 44.6% of that
<table>
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<th>Action</th>
<th>94th Congress</th>
<th>95th Congress</th>
<th>96th Congress</th>
<th>97th Congress</th>
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<th>99th Congress</th>
<th>100th Congress</th>
<th>101st Congress</th>
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<tr>
<td>Passed as a Percentage of Total</td>
<td>98.5</td>
<td>96.6</td>
<td>94.9</td>
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<td>94.2</td>
<td>98.2</td>
<td>91.0</td>
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<tr>
<td>Passed as a Percentage of Total (K)</td>
<td>1624</td>
<td>1615</td>
<td>1478</td>
<td>1375</td>
<td>1358</td>
<td>1375</td>
<td>1126</td>
<td>1128</td>
</tr>
<tr>
<td>Passed as a Percentage of Total (K) (N)</td>
<td>1624</td>
<td>1615</td>
<td>1478</td>
<td>1375</td>
<td>1358</td>
<td>1375</td>
<td>1126</td>
<td>1128</td>
</tr>
<tr>
<td>Referred as a Percentage of Total</td>
<td>97.5</td>
<td>94.6</td>
<td>88.6</td>
<td>86.8</td>
<td>86.2</td>
<td>83.7</td>
<td>83.0</td>
<td>84.3</td>
</tr>
<tr>
<td>Referred as a Percentage of Total (K)</td>
<td>1495</td>
<td>1490</td>
<td>1286</td>
<td>1126</td>
<td>1085</td>
<td>813</td>
<td>892</td>
<td>840</td>
</tr>
<tr>
<td>Referred as a Percentage of Total (K) (N)</td>
<td>1495</td>
<td>1490</td>
<td>1286</td>
<td>1126</td>
<td>1085</td>
<td>813</td>
<td>892</td>
<td>840</td>
</tr>
<tr>
<td>Referred as a Percentage of Total</td>
<td>94.0</td>
<td>89.7</td>
<td>88.3</td>
<td>90.4</td>
<td>88.4</td>
<td>86.0</td>
<td>82.5</td>
<td>81.8</td>
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<td>Referred as a Percentage of Total (K)</td>
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<td>11807</td>
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<td>8835</td>
<td>7322</td>
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</tr>
<tr>
<td>Referred as a Percentage of Total (K) (N)</td>
<td>28532</td>
<td>20353</td>
<td>11807</td>
<td>9116</td>
<td>8835</td>
<td>7322</td>
<td>7716</td>
<td>7716</td>
</tr>
</tbody>
</table>

* Data is reported for multiple referrals and is included.
committees workload, as measured by the total number of referrals referred to the committee, were multiple referrals.

In addition, the use of multiple referrals has been interrelated with a number of other changes in House procedure, especially on the floor. For example, the processing of multiple referral has helped change the process of special rules construction in the House (Bach and Smith 1988) and has given a boost to the use of suspension of the rules (Bach and Smith 1988; Cooper 1990). Indeed, as Young and Cooper (1993) argue, use of the procedure coincides with changes in procedure and power relations throughout the House, from the earliest stage of drafting legislation through the process to the conference committee stage.

This growing understanding that multiple referral's impact on the House has been dramatic calls into question contemporary images and theories of the legislative process in the House. As of yet, our attempts at revising these contemporary images and theories has been rather limited. Such a revision is the purpose of this study.
Notes to Chapter Two

1. For example, Ways and Means and Commerce mutually reported the Airports and Airways Revenue Act (H.Rpt.93-916,II,p.57)

2. This latter accusation, superficially at least, has some merit. Besides several stories of direct accommodations being made for select committee members (see e.g., Davidson and Oleszek 1977: 145), of the five standing committees hit the hardest - Ways and Means, Commerce, Internal Security, Merchant Marines, and Post Office - only the latter two had any representation (one apiece) on the Bolling Committee while three major beneficiaries of reform - Rules, Interior, and Foreign Affairs - each had two representatives on the select committee. Indeed as far as Rules goes, both of its representatives - Bolling and David Martin (R-NE) - steadfastly refused to consider even a symbolic reduction in the Rules Committee power in order to give the appearance that Rules’ gains in responsibilities were for reasons other than the best interests of the House (Davidson and Oleszek 1977: 149-150).

3. Martin was a member of both the Rules Committee and the Bolling Committee. His compromise reform package included the multiple referral language of the other two proposals. Martin’s plan was defeated 41-319 (Congressional Quarterly Almanac 1974, p. 638).

4. Presumably the lack of a recorded vote indicates greatly one-sided support for adoption of multiple referral. The multiple referral provision was in all three reform proposals and Bauman, though a former committee staffer, had been in the House only since August, 1973 and probably enjoyed little influence with his colleagues.

5. It is not clear how serious Dingell was about altering the multiple referral format. Part of his strategy for printing amendments was to offer them on the floor, if necessary, in order to bog down the reform process (Davidson and Oleszek 1977: 242).

6. It is clear that many liberal members still thought of Rules as a conservative stronghold and did not want to increase that committee’s power.

7. As I explain in chapter four, reported measures data is misleading.
Chapter Three

Informational, Distributive, and Party Based Theories of Congress

Before commencing with the main body of analysis it will be useful to give the chapters to follow theoretical context. The models that I construct in chapter three are direct descendants of the rational choice based theories that have become a dominant method of analyzing the legislative process in Congress. To date, three main theoretical perspectives have developed. These are distributive theory, informational theory, and party centered theory.¹

In their current state, rational choice theories of Congress attempt to explain aggregate congressional behavior by essentially mimicking contemporary economics methodology. Analysis is reduced to the individual level with the individuals assumed to be rational egoists. Here rational implies purposive maximizing behavior and egoist implies that maximization is directed towards self-interested goals. Collective behavior is explained as the aggregation of individuals acting to maximize their self-interested goals interactively with other individuals and within environmental parameters (e.g., a constitutional requirement that House terms are two years). Such environmental parameters are generally held to be
exogenous to rational choice theories though the obvious implication of such a reductionist methodology is that context ultimately is explainable at the micro level.

How then do members of Congress act as utility maximizers? Given that utility can not be measured directly, it is necessary to posit some goal or set of goals as the overriding concern of the actors. Thus in theories of the firm a standard assumption is profit maximization while in international relations the dominant assumption is that states seek to maximize power. With the notable exceptions of Fenno (1973), Dodd (1985), and Parker (1992), virtually all rational choice theorists assume that legislators seek to maximize their probability of re-election to office. While all scholars recognize that no actor follows just one goal, re-election to office is necessary in order for a member to achieve other possible goals including the passage of important legislation and the realization of progressive ambition.

Beginning with David Mayhew's (1974) mostly heuristic Congress: The Electoral Connection, an impressive body of literature studies legislative organization and process while using the re-election assumption. Despite the common assumption of re-election there exists today great variation in the predictions made by the three main approaches that have developed. In the
pages that follow, I review distributive, informational, and party centered theories and then proceed to discuss the literature on multiple referral especially in regard to those theories. My purpose here is simply to provide theoretical context for the study that follows. For this reason I eschew, for the most part, in depth criticism of the three perspectives but instead seek only to outline their basic components. Since the party centered perspective is the basis for the work to follow, I do spend some time dealing issues surrounding the development of a party based theory of Congress and then sketch a more elaborate view of party. This chapter proceeds as follows. First, I review the three rational choice based theories. Second, I outline a basis for a more elaborate party centered theory. Finally, I review the theoretical literature that has focused thus far on multiple referral.

Three Theories of Congress

Distributive Theories

Though closely connected with a mostly empirical literature on sub-governments (see e.g., Maass 1951; Rundquist 1980), fully developed theories which seek to explain congressional organization and behavior based on attempts by members of Congress to provide benefits to their constituents are relatively new. Most notable is an
Borrowing extensively from theories of the firm (see e.g.,
Coase 1937), these authors argue that the organization of
Congress is arranged in order to facilitate gains-in-
trade. Given a majority-rule legislature whose members
represent the active interests in a geographic
constituency, the principal problem faced by each
legislator is garnering enough benefits for her/his
constituency to ensure re-election. Unfortunately for
each legislator, majority rule stipulates that in order
for any one legislator to gain benefits, that legislator
must garner at least a majority total amount of votes.

In order to obtain benefits for their relevant
constituent interests, legislators need to strike bargains
with each other. Since constituent interests are
differentiated across districts, it is not possible to
develop coalitions that produce just one type of good.
Instead, members seek to gain by trading votes on less
salient items in exchange for other legislator votes on
more salient items.

The chief problem, then, is contractual enforcement.
Assuming a large enough discount on future benefits from
cooperation, voters always have the incentive to renege on
a bargain once achieving their goals.

Weingast and Marshall argue that in order to capture
gains from trade, Congress is organized in such a way as
to enforce bargains. This organization is composed of a
committee system designed not for specialization but for
reducing the transaction costs of contracting. Committees
are assigned monopoly rights over policy jurisdictions
with absolute gatekeeping power. Inviolable seniority
allows members to enjoy property rights over their
committee seats and membership on committees is self-
selected. This usually results in homogenous, preference
outlying committees.

Much of the work done by distributive theorists has
been concerned with the foundations of committee power.
Accordingly, considerable attention has been paid to the
advantages of monopoly proposal power (Denzau and MacKay
1983; Baron and Ferejohn 1989a), gatekeeping power (Denzau
and Mackay 1983; Krehbiel 1985 1986), and procedural
advantage (Denzau and MacKay 1983; Baron and Ferejohn
1989b). Additionally scholars have analyzed the ability
of committees to enforce bargains through such means as
monopoly jurisdictions (Weingast and Marshall 1988), the
ex post veto (Shepsle and Weingast 1987), and strategic
use of counter-amendments (Weingast 1989).

Distributive theory, as well as informational theory
and party centered theory, helped spawn a number of works
interested in testing empirical propositions yielded by

Finally, distributive theory has attracted a considerable amount of criticism. This is true especially for the ex post veto (Krehbiel, Shepsle, and Weingast 1987; Smith 1988; Nagler 1989). Other general criticisms of distributive theory can be found in Hall and Grofman (1990) and, especially, in Krehbiel (1991).

**Informational Theory**

Informational theory stems primarily from the work of Thomas Gilligan and Keith Krehbiel (1987, 1989a, 1989b, 1990; see also Krehbiel 1991). Briefly, their models depart from the traditional formal models by relaxing the complete information assumption regarding the relationship between policy outputs and policy outcomes. Outputs in this case are policies produced by the legislature in question. Outcomes are the actual result of the policy. Legislators are assumed to be more concerned with actual outcomes than with outputs since constituents are expected to react - electorally - to outcomes (see, e.g., Arnold 1990).

In a complex (uncertain) world, the actual correspondence between outputs and outcomes may be costly to obtain. In order to obtain the information needed,
scarce resources must be diverted from other uses. Informational theory suggests that Congress formed its committee system so that committees would develop expertise in particular jurisdictional areas and, thus, offer a low cost method of gathering the necessary information. Such specialization, however, presents a problem. Members of these committees may have the incentive to withhold pertinent information regarding policies and their outcomes in order to obtain outcomes more in line with their preferences.\(^3\)

In order to prevent this from occurring, the legislature utilizes rules and procedures in such a way as to both give committees the incentive to specialize and to fully reveal the information acquired. This class of models generally make predictions along two lines. The first regards composition of committees. Informational models predict that distributional losses will be minimized if committees are representative (in terms of preference distribution) of the greater chamber. How representative of the chamber the committee needs to be depends on the costs of specialization. In some cases it will be more advantageous for the chamber if the committee is a preference outlier in order to encourage efficiency gains through specialization.
The second line of predictions regard the conditions under which restrictive rules will be granted to committees. Specifically, informational theories predict that restrictive rules are "positively associated with committee specialization, nonoutlying committees, and heterogeneous committees" (Krehbiel 1991: 165). Given that informational efficiency drops, ceteris paribus, with the amount that a committee is an outlier to the chamber, it follows that outlying committees will be less likely to receive restrictive rules and, presumably, other procedural advantages as well (e.g., be more subject to discharge).

Party Centered Theories

While many scholars see party as playing a fundamental role in American politics (e.g., voting behavior), it is curious that a number of congressional scholars, especially those of the rational choice school, malign or ignore the importance of party in Congress. The most prevalent current view is that congressional parties are mere facades. Mayhew (1974: 102) labels congressional parties as "furniture" while Krehbiel (1990) asks the rhetorical question "Where is the Party?" Additionally, Weingast and Marshall (1988: 137) explicitly assume no role for party. Such a view is surprising given that, circumstantially at least, there is considerable evidence
that party matters a great deal. The leadership, including the Speaker and all committee chairs, always belong to the majority party. Though it varies over time, there tends to be substantial amounts of party line voting in Congress (Rohde 1991) and the most effective members in Congress, measured in terms of sponsored legislation passed, tend to belong to the majority party. In the 100th Congress, for example, 81% of the bills that passed the House were sponsored by Democrats.

It is surprising, then, that more attention has not been paid to the role of party in Congress. One problem appears to be the orientation of rational choice—especially distributive theories—towards theories of exchange. In an exchange setting it is natural to think of committees as being analogous to firms but congressional parties—unlike parties in an electorate (Downs 1957)—have no natural analogue to market units. Nevertheless some have tried to present congressional parties in distributive settings. A common empirical test, for example, regards the relative advantage that majority party members have over minority party members in allocating particularistic benefits to constituencies (see e.g. Rundquist 1980; Heitshusen 1992). These studies generally yield null results.\textsuperscript{4}

There are a number of reasons to believe however
that, at least in regard to particularistic benefits, party is a poor exchange unit. Mayhew (1974: 97-98), for example, notes that the costs of including minority members in project packages is low while the potential costs of partisan warfare can be quite high. Minorities can ably disrupt the institution through such methods as refusing to agree to unanimous consent requests. Also, unless the two parties are quite homogenous or the majority party enjoys something approaching a supermajority, the minority members will often be necessary components of winning coalitions on non-particularistic bills. Furthermore, if the majority party constituencies are the only beneficiaries of particularistic goods and the link between goods provision and re-election is as high as is sometimes claimed then we would expect the incumbency advantage to be less for Republicans than for Democrats, something that is not the case.5

Finally, unless the majority party completely discounts the possibility that the minority will, within some foreseeable time horizon, become the majority party, members of the current majority may wish to avoid the possibility of some day being on the losing side of partisan based goods provision (i.e., avoid future retribution). Indeed, Mayhew (1974: 98n45) states that
such partisan exclusion is rare if existent in not just the Congress but in other legislatures as well.

To a large extent however, treating distributive theories as only being concerned with the provision of particularistic goods to constituencies is a straw man representation of distributive theory and of the legislative process generally. Clearly, Congress produces legislation other than pure pork-barrel. Maass (1983: 4), for example, cites the case of the Panama Canal treaty and other examples of non-distributive polices produced by Congress are readily apparent (see e.g., Derthick and Quirk 1985; Arnold 1992). It is clear that contemporary usage of the term "distributive" is not referring so much to the winning of particularistic benefits as as it is to the notion that sub-units of the chamber exert influence over outcomes. Thus the issue is not "Who gets what?" as much as it is "Who wins?" (Krehbiel 1991: 23-60). Indeed, this is the way Weingast and Marshall (1988: 139) claim they are referring to distributive politics. However, there remains the tendency to measure policy outcomes in terms of project allocations (Weingast and Marshall 1988: 152-155; Krehbiel 1991: 160).6

Thus far, the few attempts to devise a rational choice based theory which include a role for party have had a distributive theory foundation though in the "Who
wins?" sense of distributive rather than the "Who gets what?" sense. The main attempt at devising a party centered theory of Congress is that of Cox and McCubbins (1993) in their monograph Legislative Leviathan. Besides Cox and McCubbins, John Aldrich has produced an interesting set of work on the origins and evolution of party in Congress (forthcoming) as well as two formal models of party in a legislature (1988 1989). Additionally, Kiewet and McCubbins (1991) have developed a theory of party delegation in the appropriations process. Since the Cox and McCubbins’ work is closely related to these other studies, I review here just Cox and McCubbins’ party theory.

Cox and McCubbins’ theory is rooted firmly in the rational choice tradition of utilizing the re-election assumption. Unlike most rational choice perspectives, however, Cox and McCubbins stress a strong link between the re-election motivation of members, partisan affiliation, and the support and need for party leadership.

To construct their theory, the authors assume that re-election is an important motivation and they assume that there exists a strong link between partisan affiliation and the re-election fortunes of legislators. Thus, an overall decrease (increase) in national favorable
attitudes regarding a member’s political party correspond with a decrease (increase) in the member’s probability of re-election. The partisan affiliation/re-election assumption may strike some as less than convincing in light of the historically anomalous growth in personal, rather than partisan, electoral accountability that has occurred since the 1950s (Alford and Brady 1993). While personal factors are undeniably important (but see Jacobson 1987), Cox and McCubbins present a theoretical and empirical argument that suggests the partisan linkage to be quite strong.

Unfortunately, national attitudes regarding a political party essentially represent a collective good for the party’s members. Consequently, no one member individually has the incentive to contribute to the collective good (see e.g., Olson 1965). Collective goods, for example, might include a reduction in the amount of particularistic benefits included in legislative packages.

One potential method for solving such a collective dilemma is to grant to a central agent the power to constrain the choices of partisans in a such a way as to ensure optimal production of the collective good. Such an agent for Cox and McCubbins is the Speaker of the House.

The authors argue that the Speaker, and other party leaders, internalize the electoral prospects of their
party into their utility functions because being leader of
the majority party is preferable to being leader of the
minority party. Leaders then have the incentive to work
as leader to increase the chances that the leader’s party
succeeds in future elections while also seeking to ensure
one’s own re-election to Congress as well as continued
election as party leader.

How much power the Speaker holds is contingent on
the Speaker’s party base. A more homogenous party base,
such as that enjoyed by Cannon in the early twentieth
century, allows for a more powerful Speaker than a
heterogeneous party base, such as that faced by Rayburn in
the mid-twentieth century, because the leader’s base will
be more unified in terms of policy preferences (see also
Cooper and Brady 1981).

Cox and McCubbins go on to present evidence that the
party leadership does indeed influence the organization of
the House specifically in regard to such issues as
committee membership, the violability of seniority, and
party voting coalitions.

Toward a More Elaborate View of Party and Leadership
While a variety of factors have lessened the power and
importance of committees in the House, committees still
carry the bulk of the institution’s workload and the
continued theoretical focus on committees is appropriate. The committee system, divided as it is among different jurisdictions, provides members with the opportunity to specialize in areas of particular concern, often because the committee's purview touches on some area of importance to the member's constituency (especially early in the legislator's House career). The fit between member and committee is especially close if the member has some amount of expertise in the areas of the committee's concern. The occasional doctor who serves in Congress, for example, is a natural candidate for the Energy and Commerce Committee because of its emphasis on health concerns. The member's expertise - acquired prior to or during House service - potentially provides the chamber with a benefit. The reason is simply that a person with expertise requires fewer resources to interpret information than does a person with less expertise.

Without for the moment considering the issue of who exactly controls selection of members onto committees, it is easy to see that in some circumstances a certain amount of member self selection is optimal. Members who want to be on a committee have the incentive to learn the subject matter, attend hearings, and ultimately contribute to committee performance. On the other hand, members with little concern with the committee's work will tend to
focus their efforts on other committees or on non-committee matters (Hall 1987). This suggests an important implication. Random selection of members onto committees - so that each committee is a microcosm of the greater chamber - may ultimately lead to a committee which, in terms of output, is quite homogeneous. Why? Because the dis-interested members will defer decision making authority to the interested members (Hall 1987). Clearly, neither distributive theory nor informational theory predict that committees are perfect microcosms of the chamber or even that microcosms are desirable. A fundamental tenet of distributive theory is self selection by members onto their committees of choice. The expectation is homogeneous committees especially on committees, like Agriculture, which have a fairly narrow issue concern. What of informational theory? Informational theory disputes self selection but it does recognize that some amount of committee homogeneity may be desirable if the members on the committee specialize. Why would members specialize? Perhaps because they have a special interest in the committee’s subject matter.

Where in this does party come into play? For the informational and distributive perspectives the role of party is unimportant. Under most accounts of distributive theory party leaders may play a role of institutional
maintenance (Mayhew 1974: 145-149) or they may facilitate bargaining (through the Rules Committee, for example); under informational theory party plays no role at all, indeed the party leadership is seen as representing the chamber not the party. A party centered theory, I believe, has elements of both perspectives, in effect if not in cause.

Because of factors mainly external to the institution, members arrive in Congress with a party label, typically Republican or Democrat. Each congressional candidate’s party affiliation affects electoral prospects differentially over time and independent from other more personally based factors. The reason why a candidate chooses a particular party affiliation in the first place presumably is dependent in part on electoral prospects - thus the dearth of Republicans in places like Texas in the 1950s - but also in part on ideological predispositions. Though few rational choice approaches to party directly model ideology (but see Hinich and Munger 1992) it is reasonable to suggest that partisans coalesce together because they share a common vision of public policy (Aldrich forthcoming) and because they wish to demonstrate their production of policies consistent with that common vision to their partisan electorate (e.g., party activists
(Aldrich 1983)). Thus the "glue" that links partisans is not simply a national party label with local electoral consequences as Cox and McCubbins posit. That linkage is present but not necessarily of tremendous importance. After all, while partisan attachments at the voter levels have decreased over time, party cohesion at the congressional level has increased (at least for the 1980s).

Candidates wishing to be elected to Congress must first successfully demonstrate their congruence with their chosen partisan’s in primary elections before facing the general electorate and once elected continue to demonstrate their acceptability to the primary electorate or face successful challenges at that level. Thus, while members of Congress are expected to be concerned with the nature of policy, aside from base provision of goods or posturing, this policy concern does not have to inconsistent with the re-election assumption.

This suggests that House members from the same party share two characteristics. First, depending on the homogeneity of their party’s electorate, members of the same party will often have similar policy attitudes. In cases where the parties are relatively homogeneous, party members in the House will be quite similar in beliefs while in cases where the party's are heterogeneous, belief
convergence may run along other lines, like geography, rather than party. Second, the party label that each member shares has an impact on each member's electoral fortunes; consequently each party member shares the preference of favorable electoral attitudes regarding the party (as Cox and McCubbins argue).¹⁰

These two commonalties give partisans the incentive to attempt to create a legislative structure conducive to producing public policy which favors the ideological predispositions of the partisans and which produces policy likely to increase the party's chances at the polls. Despite the common interests, individual differences and incentives remain and these can undercut the collective interest of the party and ultimately lead to outcomes that make all the partisans worse off. Each House district has its own characteristics that differentiate them from all other districts and a rational politician will seek to take those differences into account. Thus while each party member may have a collective interest to, for example, support the monitoring of member committee selection, each will prefer to get the committee assignment most conducive to serving her/his own district's particular needs. Another example concerns the distribution of particularistic benefits to constituencies. While each party member may prefer to see
pork barrel (i.e., inefficient) spending controlled by some central mechanism, he/she has the incentive to maximize the amount of particularistic projects attained for her/his district.

A further problem partisans face in a legislative setting like the House is a problem with coordination of activities. While partisans share similar ideological perspectives (typically) relative to non-partisans it is not the case that partisans share exact preferences. Consequently, a natural tendency is for individuals or groups of like individuals (subsets of committees, for example) to pursue their particular most preferred outcome with the ultimate outcome possibly making all the partisans worse off (see Calvert 1987 1992); an outcome analogous to Fred and Ethel (from chapter two) finding themselves alone (and unhappy) at the baseball and football games respectively.

Because the overall effect of such individual actions leads to detrimental outcomes, at both individual and collective levels, one potential solution is the appointment of a leader. In the context of the House this is a single party leader (the Speaker for the majority party) or a set of party leaders tasked with servicing the policy, electoral, and organizational needs of the partisans.
While partisans have the incentive to employ a leader, what incentive does the leader have to do the work? Why, in other words, perform tasks just as beneficial to others as to yourself thus producing, essentially, a public good? This is a sticky theoretical issue which has led many to treat leaders, in a completely ad hoc fashion, as having utility functions different from those of the rank-and-file members.

One could assert that leadership benefits re-election efforts. Constituents presumably value representatives who hold positions of power and thus reward them with greater electoral support. Yet, if only for stability reasons, partisans in the institution have the incentive to seek out potential leaders who have the least to gain from a marginal increase in electoral safety: those already relatively safe. Indeed, the extensive attention that leaders must pay to institutional issues likely reduces the leader's attention to constituent interests and thus actually reduces electoral safety.

Members may seek out leadership for the sake of increasing their share of the budget largess directed to their constituents, but once again this incentive is less pressing for the electorally safe. In fact, the current empirical evidence suggests that provision of goods to
constituents drops as electoral safety increases. It is the vulnerable members who are most concerned with such goods provision (Bickers and Stein 1991).

Being leader could lead to financial rewards but many of these are illegal (e.g., bribes) and likely will invite removal. There are obviously other incentives one could propose. The psychological benefit from being in power, for example (see, e.g., Lasswell 1948). Such a notion holds a certain amount of superficial validity but remains poorly understood theoretically and requires reformulation of the leader’s utility function (once again) as separate from all other members.

Cox and McCubbins (1992) deal with this problem by assuming that people who want to be leaders value the benefit from being leader (the actual benefit remains unstated) and they value the benefit of being leader of the majority party over being leader of the minority party. Thus the incentive to strive for the electoral success of the party. Aldrich (1988), on the other hand, treats payments to leaders as being policy based. Here, leaders get to maximize their own policy preferences within a space defined by the party caucus. Thus the type of members seeking leadership posts will tend to be highly policy oriented. Both these approaches are, essentially, assuming a different utility function for leaders than
rank-and-file members.

I accept Aldrich as the most appealing word on the subject though the Cox and McCubbins' assertion is not necessarily inconsistent. Robert Dole (R-KS), for example, certainly prefers Senate majority leader status over that of minority leader and the reason for that probably has a policy basis. He could achieve more of his policy goals as majority leader than as minority leader.

What this discussion points to is a major flaw in the current level of rational choice theory. A growing body of work points to the reason why leaders solve a variety of collective action (Hardin 1982; Cox and McCubbins 1989) and coordination problems (Calvert 1992). None, however, adequately address the question of "Why do leaders lead?"

Given that partisans have the incentive to appoint a leader, how much power is granted to the leader is directly related to the commonalty of interests among the grantors (i.e., the party members). When members have a great deal in common, because their ranks are relatively homogeneous, agreement on common goals is easier to achieve and the incentive to grant considerable power to the central agent is higher than when the ranks are heterogeneous. This suggests that Speakers, like Sam Rayburn, who led a party majority badly divided between
conservative Southern Democrats and liberal Northern Democrats, will be less powerful than Speakers fortunate to enjoy more homogeneous bases (Cooper and Brady 1981).

In what ways would we expect the party majority, through its leader, to assert its power? Monitoring committee membership is one area though great care must be taken not to destroy the incentives for committee activity. The Speaker must balance the need for the committee system to serve the specific non-partisan based needs of members while at the same time creating a committee system that serves the party's more general policy concerns. For committees whose jurisdictions deal with exceptionally geographically specific concerns - Agriculture for example - the membership balance may be relatively hard to obtain. Committees with more diverse jurisdictions, which also tend to be the committees which deal with the most important subject matter, will be easier to monitor in regard to the selection of members and the Speaker will seek to award the most loyal partisans the most important committee seats (Cox and McCubbins 1992).¹¹

How much the Speaker stacks these committees depends on two factors. The first is the relative homogeneity of the party membership. This is for the reason cited above regarding the Speaker's power base and for the simple
reason that a more homogeneous base means that the
variation within the pool of members to be drawn is less.
Even random selection of membership from a homogeneous
pool results in more partisan "looking" committees than a
random selection of membership from a heterogeneous pool.
The second constraint is the issue of institutional
maintenance brought about by the minority party. Even if
we assume away the natural "fair play" desire not to stack
committees too much, the possibility of minority
retribution is a concern in a democratic decision making
body such as the House. There are a number of ways the
minority can disrupt House deliberation especially under
divided government. This concern increases as a function
of the majority party's potential for soon becoming the
minority party.

Such constraints suggest that committee membership
in the House will not be a microcosm of the chamber
majority party membership in any where near the fashion
that Krehbiel (1990) suggests that party centered models
imply. Despite the constraint on committee composition
there are other ways the party leadership comes to the aid
of the party majority's policy goals. One is the choice
of committee chairs. We would expect, for example, that
committee chairs are reflective of the party membership
when the party's base is most homogeneous. This seems to
be the case currently.

Perhaps the most important device at the Speaker's disposal is the control of legislative procedure. This is the approach taken in this study. I argue in chapter four that the Speaker can manipulate procedures to achieve the majority party goals. Strategic use of procedure results in outcomes more beneficial to the party majority because relatively non-partisan committees can be "punished" with little or no protection against amendments while the more partisan committees can be "rewarded" with relatively restrictive rules.

Thus committees do not necessarily have to be stacked, they do not necessarily lose their incentives to produce, the minority party does not lose its policy input, and the majority party protects its concerns.

While the party centered theory I am suggesting is definitely of the distributive sort in the sense that a sub-set of the chamber asserts power over the chamber (median), it is not distributive in the classic particularistic benefits sense. Indeed, it is far from distributive in the latter sense since I shall argue in a subsequent chapter that strong party majorities seek to restrict particularistic projects.\textsuperscript{12} While some theorists analyze party from this latter distributive perspective (Baron 1989) there really is little reason to
suspect that party ever plays such a role. After all, as Mayhew (1974) and others claim, if the committee system is perfectly capable of facilitating gains in trade why would strong parties be necessary?

**Literature on Multiple Referral**

While virtually all general studies of committees or legislative procedure in the House now include at least some discussion of multiple referral, elaborate descriptions and theoretical treatments of its use are still quite rare. The body of work that does exist divides into two general categories, descriptive and theoretical. Among the descriptive works I include Davidson, Oleszek, and Kephardt (1988), Collie and Cooper (1989), Davidson and Oleszek (1992), and Young and Cooper (1993). Labeling these studies descriptive is somewhat unfair because the authors of each, usually implicitly, are addressing very real theoretical concerns. The Collie and Cooper piece, for example, uses organization theory to examine the origin, persistence, and impact of multiple referral. Generally speaking however, all of these studies describe the use and frequency of multiple referral and discuss such issues as actor strategy, the impact of multiple referral on committee workloads and committee interaction.

Among the theoretical works are two articles that
deal exclusively with multiple referral (Austen-Smith 1993; Bawn 1992). In addition Weingast (1992) includes a theoretical treatment of multiple referral with empirical results. The Weingast and Bawn articles fit neatly into distributive theory while Austen-Smith's piece is informational. I review these three in detail below. Thus far, with the exception of the current study, there have been no theoretical treatments of multiple referral from a party centered perspective.14

Bawn

Bawn (1992) argues that multiple referral removes two fundamental committee powers: exclusive proposal power and ex ante gatekeeping power. Despite these losses, a committee can still protect itself, and exert power over the chamber, by ensuring that it dominates the House conference delegation and employing an ex post veto.

Utilizing a simple spatial model, much like those used later in this study, Bawn demonstrates that under a joint referral a committee loses its gatekeeping power because the second committee in the referral can unilaterally make a floor proposal. Thus a committee, which otherwise prefers to obstruct legislation and keep the status quo, finds the status quo altered away from its median ideal point. In many cases this committee finds
itself unable to cooperate or compete with the second committee, especially if it is an outlying committee relative to the chamber median, the majority party median (if the Rules Committee is involved), and the second committee.

Caught in such a dilemma the disadvantaged committee has a strategic option available. Instead of waging a hopeless battle against the bill on the floor, the committee can support the bill in order to garner conference committee membership. Once on the conference committee the opposing standing committee members then have the opportunity to defeat the bill in conference, thus effectively vetoing the bill and retaining the status quo, or the standing committee members might successfully gain passage of a more favorable bill.

Bawn goes on to examine a case where the Commerce Committee supported a bill on the floor in order to stop it in conference committee. I leave a more extensive treatment of multiple referral and conference committees to future research. For now I make several brief comments. As noted earlier, the ex post veto explanation of committee power attracts considerable criticism. However, it is notable that Bawn does not incorporate the ex post veto as part of her theory in quite the same way as do Shepsle and Weingast (1987). She does not make the
claim that the potential of the ex post veto causes the floor to ex ante yield to a committee's position. Instead she is simply arguing that a sophisticated committee has the incentive to wage opposition at the most opportune time. This might be at the conference stage. Such behavior sounds perfectly plausible though the Speaker enjoys considerable influence over conference committee composition and behavior for multiple referred bills (Young and Cooper 1993).

One aspect of her model however is incorrect. It is not necessarily the case that in joint referrals a committee can unilaterally take a bill to the floor. Generally speaking the Rules Committee will not write a rule in such a case, unless the non-reporting committee is agreeable. It is true that such unilateral proposals occur quite often under suspension of the rules. However, I examined all cases of this sort in the 100th Congress and found no occurrence of the non-reporting committee opposing the bill's passage. The usual procedure in cases of unilateral reporting is for a representative of the non-reporting committee to note, during floor debate, the committee's acquiescence to the bill. Indeed, suspension is typically used only if most of the major actors, including the referenced committees and the majority and minority party leadership agree (Cooper 1990). During the
100th Congress, 33% of all jointly referred measures that were reported by at least one, but not all, the committees of reference failed to go further in the process.

While unilateral reporting is not necessarily possible it is, however, the case that the Speaker has the power, through application of time limits, to force committees to report a bill regardless of support. As discussed in chapter five, this has important implications for committee strategy.

Weingast

In "Fighting Fire with Fire" Barry Weingast's (1992) broader concern is with the ability of committees to protect their legislative packages in a climate of sharply increased amendment activity by non-committee members (see e.g., Bach and Smith 1988; Smith 1989). In an earlier article Weingast (1989) demonstrates theoretically that under the House's open rule procedures (and given a multidimensional issue space) committees can combat hostile amendments with counter-amendments and consequently reduce committee losses on the floor. In this article Weingast seeks to present some empirical data supporting his theory and, more importantly for our immediate concerns, he discusses multiple referral within the context of his argument.

Weingast begins by noting that multiple referral
provides a means for coordinating committee action across interrelated jurisdictions. He goes on to argue that multiple referral aides in the construction of inter-committee bargains because it makes the committee's concerns contemporaneous (thus reducing opportunity for reneging). If two committees wished to strike a bargain over two separate bills a major obstacle to agreement is the fear of reneging by the committee that brings its bill to the floor first. Suppose for example that we have two committees, A and B. A needs B's support on a package A wants to pass - say, for an airport construction subsidy - and B wants A's support for a bill that B wants to pass - say, a highway construction subsidy. If A goes to the floor first with its airport subsidy B has the incentive to support A in the hope that A will support B's highway package at a later date. After A is victorious, however, what is to keep that committee voting against B's highway package when B's bills goes to the floor?

However, if the committees worked together on the same package and then brought that package to the floor as one proposal, the fear of reneging is mitigated, especially if the bills came to the floor under a closed rule or suspension.

There is little question that multiple referral aids in bargaining across committees and, presumably, such
logrolling that Weingast identifies goes on during multiple referrals. The main problem here is that bills that are multiply referred typically have components to them that are exclusive to one committee in the referral, however, most of these bills also have sections that two or more committees share. Thus multiple referral involves not just the construction of logrolls across each committees exclusive jurisdiction but also multiple committee interaction over the same components of the bill. During the 102d Congress, for example, the Commerce, Banking, Judiciary, and even the Agriculture committees all wrote language for the same provisions on the regulation of the banking industry. It is committee interaction over the same issue areas that creates the climate of conflict and cooperation that gives multiple referral its vital importance in the contemporary House. In order to get at this, the models I construct in subsequent chapters focus exclusively on a single dimension of shared jurisdiction by two committees.

Austen-Smith

Austen-Smith applies an earlier Gilligan and Krehbiel (1989) model to multiple referral. Gilligan and Krehbiel develop a signaling game where two members of a committee signal policy information to the chamber. While
the two committee members and the chamber all have differential and known preferences, the two committee members are perfectly informed regarding the relationship between policy outputs (i.e., legislation) and policy outcomes (i.e., the result of the output). The chamber however is uninformed regarding the output-outcome correspondence. Austen-Smith models a situation where two committees signal information to the chamber either simultaneously (joint referral) or in sequence (sequential referral). As with the Gilligan and Krehbiel game, actor preferences are differential and known, however, here the two committee hold more information than does the chamber but the two committees are not perfectly informed regarding the output-outcome correspondence.\(^{15}\)

Austen-Smith finds that multiple referrals of either type (joint or sequential) are informationally superior to single referrals. This means that the committees involved have more of an incentive - usually - under multiple referral to reveal what they know about the output-outcome correspondence than they would if they had monopoly referral. Thus multiple referral reduces the ability of committees to strategically withhold information in order to influence the final chamber decision in the direction preferred by the committee. Also, sequential referrals are informationally superior to joint referrals. Under a
sequential referral one committee reveals its information and then is followed by the second committee while under a joint referral both committees signal simultaneously. Thus, under a sequential referral the committee moving second knows what the first moving committee signaled.

One implication of the Austen-Smith findings for informational theory is that multiple referral alleviates the information problem caused by bill reference to homogenous (preference outlying) committees. The presence of multiple committees in the reference, even if they are all outliers, garners results similar if not superior to those in which a very heterogeneous committee holds single reference.

It is interesting however that sequential referrals are more informationally efficient than are joint referrals. Such a finding suggests that the House will turn more often to sequential referrals than to joint referrals. Indeed, Austen-Smith’s model predicts that in certain situations the most informationally efficient arrangement is a sequential referral with the more extreme preferred committee going first. We know empirically that joint referrals occur far more often than do sequential referrals. In the 100th Congress, for example, joint referrals composed 96% of all multiple referrals. Austen-Smith does cite the potential problem of added
delay caused by sequential referrals. Such an added cost, he argues, may explain the predominance of joint referrals. This issue of outlying committees going first in a sequential referral has never, to my knowledge, been tested. Such a test is performed in chapter six.

Though Austen-Smith does not consider the impact of rules on committee behavior under multiple referral, it is possible to infer some possible implications from Gilligan and Krehbiel (1989). In their model under a closed rule, the presence of two actors with differential preferences (heterogeneous committee) results in an outcome more beneficial to the chamber. Were the committee homogenous, so that all actors on the committee had very similar preferences and thus will present a completely united front on the floor, the committee could withhold necessary information in order to force an outcome closer to the committee’s (median) ideal point.

In Gilligan and Krehbiel’s terms such a situation yields a distributional benefit for the homogenous committee. Thus the empirical prediction that homogenous committees are less likely to garner restrictive rules (Krehbiel 1991). The informational theory prediction is that bills that are multiply referred also garner more restrictive rules than singly referred bills to homogenous committees especially when the referenced committees lie
on opposite ends of the chamber (see Krehbiel 1991). The issue of restrictive rule choice is considered in depth in later chapters.

Conclusion

Each of the three theories presented here rely heavily on standard notions of the House as an institution reliant on a committee system in which single committees enjoy monopoly referral rights over legislation. This is especially true of distributive theory. Weingast and Marshall (1988: 143), for example, assume that "within their jurisdiction, committees possess the monopoly rights to bring alternatives to the status quo up for a vote before the legislature." Given the pivotal role that such an assumption plays in producing the distributive theory results, it is not surprising that the initial considerations of multiple referral from a distributive theory perspective have focused on the means by which committees retain their monopoly power.

Informational theory on the other hand is not as affected by the need to incorporate and explain multiple referral. As the Austen-Smith results indicate, informational competition among committees yields optimal outcomes. Future work along informational lines might make the argument, for example, that given multiple
committees reference over legislation alleviates the need to keep committees perfectly heterogeneous and that competition among committees increases the incentives for specialization.

Both the the distributive and informational perspectives, however, will ultimately have to directly face the issue of party and the role the party leadership plays in facilitating and influencing legislation under multiple referral. As has been argued elsewhere (Young and Cooper 1993) and as will be explored in subsequent chapters, the leadership can and does play a very important role in the legislative process, especially when it comes to multiple referrals. Thus far both distributive and informational theorists deny the importance of this role. Party centered theorists, while obviously stressing the importance of party, have yet to deal with multiple referral.
Notes to Chapter Three

1. Rational choice based theories are not the only well formulated theories of legislative process and organization. More macro oriented approaches include Cooper (1977 1981) and Maass (1983).

2. Dodd assumes maximization of power and Parker discretion. Fenno assumes the multiple goals of reelection, optimal policy, and influence within the institution.

3. Note the similarity to the classic Jeffersonian fear that a strong committee system would lead to non-majoritarian policy outcomes (see, e.g., Cooper 1970).

4. Most studies of this sort are more interested in the link between committee membership and the allocation of benefits e.g., membership on Armed Services and military spending in a district. See Baron (1989) and Heckathorn and Maser (1990) for theoretical support regarding party as a facilitator to providing particularistic benefits.

5. There is a large and controversial literature on the linkage between electoral margins and pork provision. For the latest work see Bickers and Stein 1993.

6. For a complete review of the literature and the theoretical issues surrounding congressional parties see Cooper and Wilson, forthcoming.

7. If there is a link between committee membership and electoral performance then even if random selection occurs over time the result will be committees whose memberships are homogeneous. This is because the unlucky members who landed committees not congruent with their districts lose elections more than the lucky members.

8. On the issue of what types of House members have the incentive to specialize see Gilligan and Krehbiel (1992).

9. The most influential electoral model concerning the behavior of party is that of Downs (1957). Here, the basis of the party coalition is the desire to control government. To achieve this partisans single mindedly attempt to win elections, policy goals are unimportant and indeed are sacrificed to win elections. In the single dimension stipulated and given electoral conditions like those in the U.S., Downs predicts policy convergence between the two dominant political parties. Such a model
provides little in the way of a basis for a policy minded party organization in Congress since the policy goals of the two party organizations would be indistinguishable. While some reformulations of the Downsian model obtains policy divergence (namely Hinich and Munger 1992) it is clear that future progress of the party centered models of Congress must deal with the issue of party in the electorate. A possible route is to consider a party where the members strongly value policy outcomes but temper their candidate choices with the practical political concern of electoral viability. In a two stage election (i.e., a primary then a general election) a likely prediction of such a model is policy divergence.

10. However, as I explain below, this does not suggest that individual partisans necessarily sacrifice all policy discretion to the party. Partisans will never be completely congruent ideologically especially given the geographically based system of representation used in the House.

11. Party is clearly not the only cleavage of note present in the House. Another important one is that of geography. Though the importance of geography is probably declining it still constitutes an important consideration for members. For example, the mutual regard that members from the Southwest have for the oil and gas industry and other common economic concerns gives legislators from that region - regardless of party - the incentive to coalesce together to help ensure particular levels of geographic representation on certain committees. The protection of geographic interests - by members across the nation - effectively constrains the Speaker's ability to monitor committee selection. However, acceptance of geographic claims on particular seats does not mean the Speaker can not choose the most loyal member from the region to sit on whatever committee is at issue.

12. Presumably if strong parties provides the basis for overcoming particularistic interests then a testable hypothesis is that in periods of relatively strong parties in Congress (e.g., the Cannon era) the distributive content of legislation should be lower than periods of weak parties in Congress (e.g., the early seventies).

14. There are a number of other studies that make important contributions to our understanding of multiple referral while examining other aspects of Congress. These include Bach and Smith (1988), Tiefer (1988), Smith (1989), and Cooper (1990). In addition, Davidson (1989) examines multiple referral in the Senate.

15. Gilligan and Krehbiel examine only the case where the two committee actors lie on either side of the chamber while Austen-Smith examines situations where the two committees lie on either side of the chamber as well as on the same side of the chamber. Also, Gilligan and Krehbiel model three rule types (open, modified, and closed) Austen-Smith models only the open rule. Since under an open rule the chamber may amend committee proposals to the committee median, the committee proposals under an open rule are merely costless signals or "cheap talk" (Crawford and Sobel 1982).
Chapter Four

Committee Gatekeeping and Proposal Power
Under Single and Multiple Referral

As discussed in the previous chapter, while multiple referral has undergone considerable empirical scrutiny, our theoretical understanding remains muted. In the next several chapters I develop and compare a series of models of the legislative process under both single and multiple referral. From these models empirical propositions are derived and tested.

The basic problem addressed in the chapters that follow is what impact does multiple referral have on the collective choices made by legislatures generically and the U.S. House of Representatives specifically? To achieve this end I utilize a form of rational choice models which are rooted in the spatial theory of political choice as typified by the work of Anthony Downs' (1957) and Duncan Black (1958). In recent years, spatial theory, as applied to legislative decision making, has developed rapidly and now represents a major contribution to political theory (see Krehbiel 1988; Strom 1990).

In this chapter, I adapt the models developed by Denzau and MacKay (1983), regarding committee gatekeeping and proposal power, to multiple referral. In subsequent chapters, I complicate the models by making amendment
rules endogenous while including a role for political party and leadership.

Definitions and Assumptions

Except where stated, all model definitions and assumptions are constant in this and subsequent chapters. Consider a legislature \( (N) \) consisting of \( n \)-odd members. The legislature is tasked with choosing an alternative \( x \) in \( X \) where \( X \) is a subset of \( \mathbb{R}^1 \). Each member has a quadratic utility function \( (u_i) \) over the space.

Two institutional arrangements are considered. The first, using Krehbiel's (1985) language, is a Simple Institutional Arrangement (SIA). Here, each legislator is assigned to one or more committees and the policy space is divided into jurisdictions, with each committee receiving a single, exclusive one-dimensional jurisdiction. In this arrangement, committees hold the exclusive right to propose a change \( (x^i) \) in the status quo \( (x^0) \). In order for that change to become the new status quo it must first be approved by a simple majority vote of the entire legislature. The second institutional arrangement to be considered involves multiple committee control over single jurisdictions. Here, multiple committees share proposal power over individual policy dimensions.

Throughout, information is assumed to be perfect.
Consequently, all the actors know all points in the policy space as well as the preferences of the other actors. Additionally, committee behavior is assumed to be sophisticated. This means simply that committees choose to report or not report a bill based not only on a desire to alter the status quo but also on knowledge regarding the future behavior of the floor. That is, a committee will not report a bill if that action will ultimately make the committee worse off than is the case under the status quo.

Amendment rules are determined exogenously and are of two types: closed and open. Under a closed rule no amendments by the floor are allowed. Under an open rule there is no limit on amendments to a committee proposal except that all amendments must be germane to the single jurisdictional dimension under consideration. For the case of a sequential referral under a closed rule, a slight modification will be made to the amendment procedure. As stated, in the next chapter amendment rules are made endogenous to the models. Finally, for expository convenience, committees and the floor are presented as medians. Given single-peakedness, a single issue dimension, and simple majority voting, the median is the Condorcet winner (see Black 1958).
Joint and Sequential Referral

Under an institutional arrangement with overlapping jurisdictions, bill's are referred to two or more committees in the same dimension. Upon introduction of a bill, the bill is exogenously referred to committees through either a joint or sequential referral.¹

Under a joint referral two committees (C1, C2) receive concurrent consideration of any bill proposed to alter $x^0$. Both committees must concur to allow a bill to reach the floor. Under a sequential referral an initial committee (C1) receives any bill meant to alter $x^0$. If C1 reports some alternative, $x^1$, $x^1$ is then referred to a second committee, C2. C2 then chooses to make an alternative to $x^1$, of $x^2$, or opt to accept $x^1$. C2 can not under a sequential referral choose to obstruct the movement of $x^1$ to the floor. If C2 offers some alternative to $x^1$ that alternative is offered on the floor as an amendment to $x^1$.

Discussion

Several aspects of the models need elaboration. First, the assumption of single dimensionality. A major component of what makes multiple referral an important subject for study is that committees must now share control over particular issues. Even in the case of a split referral, where portions of a bill are parcelled out
section by section, it is usually the case that overlap among sections occur. For this reason, also, I treat joint referrals and split referrals as equivalent. Making an initial assumption of one dimension allows us to examine outcomes over shared jurisdiction.

The second model aspect regards the perfect information assumption. I assume that all actor's positions are known by all and that all issue points are known as well. This latter assumption includes a perfect correspondence between outputs by the legislature and actual outcomes. Denzau and Mackay (1983) analyze the impact of varying information assumptions regarding actors' positions while informational theory, reviewed in chapter two, relaxes the assumption regarding perfect correspondence between outputs and outcomes. Both these endeavors are quite worthwhile and should continue to be pursued. I choose to keep perfect information here for several reasons. First, since this study is the first extensive attempt to model multiple referral, starting off with the simplest models strikes me as the best approach. Second, in an institution with a great deal of membership stability, the voting preferences of each member in the chamber is not difficult to ascertain with precision. Finally, the linkage between voter concern over outcomes rather than outputs is not always certain. A legislator's
role in an output is easy to define (he/she voted for it or not) but the relationship between the output and the outcome is never as clear. Indeed, the actual outcome may not occur for years after the particular vote, thus reducing the chances of the vote being particularly salient to the electorate at the time the outcome becomes clear.

The third aspect of the models that needs addressing regards multiple referral and committee obstruction. It is important to note that the adoption of multiple referral did not coincide with the removal of committee obstruction powers per se. As noted in chapter one, the Speaker now has the ability to impose a time limit on all committees in a multiple referral. While the secondary committees in a sequential referral commonly receive a time limit, committees in a joint or split referral and the initial committee in a sequential referral receive a time limit (at least formally) quite rarely. The role of the leadership is vitally important and will play a role in the models in subsequent chapters. It is certainly not the case generally that one committee in a joint referral can merely report a bill and get it to the floor over the opposition of the other referenced committees. In other words, all committees must either report the bill or be discharged of it in order for it to proceed to the floor.
For now it is reasonable to assume that all committees in a joint referral can obstruct.

In regard to sequential referrals, however, the situation is quite different. Sequential referrals usually occur only after the committee of initial reference reports the bill.\(^3\) As results below will make clear, this suggests that under particular conditions the committee of initial referral obstructs the bill thus effectively keeping it from being sequentially referred at all. In the case where a bill is sequentially referred, the committee(s) receiving the sequential referral - what I will call the secondary committee(s) - always face a time limit and thus can not formally obstruct the bill. Obviously the sequential referral slows down the process and may act as an informal obstruction (Davidson et al 1988). This is not dealt with here.

Finally, all the multiple referral models below include just two committees. This is consistent with observation. In the 100th Congress, for example, 80.2% of multiply referred bills went to just two committees. Extension to more committees is straightforward though not unimportant as will be discussed.

**Open Rule**

In this section and the one on the closed rule, I present the basic Denzau and MacKay (1983) results for
sophisticated committees and then develop the multiple referral models. In the two committee case, two basic configurations of floor and committee preferences exist. These are presented in figures 4.1A and 4.1B. The floor median is represented by $x^h$ while $x^{c1}$ and $x^{c2}$ represent the medians of committee 1 and committee 2 respectively.

**Single Referral**

For the single referral case consider figure 4.1A with C1 as the only committee of reference. C1 knows that reporting a bill to the floor will result in the outcome of $x^h$. This is true because the median voter of the chamber has the incentive to

![Figure 4.1](image)

**Two Committees and Chamber**

A. $\begin{array}{cccccc} & \ldots & \ldots & \ldots & \ldots & \ldots \\ \hline \begin{array}{cccc} x^h & x^{c1} & x^1 & x^{c2} \end{array} & \begin{array}{cc} x^3 & x^2 \end{array} \end{array}$

B. $\begin{array}{cccccc} & \ldots & \ldots & \ldots & \ldots & \ldots \\ \hline \begin{array}{cccc} x^1 & x^3 & x^{c1} & x^h \end{array} & \begin{array}{cc} x^5 & x^{c2} \end{array} \end{array}$

$x^{c1}$, $x^{c2}$, and $x^h$ are ideal points for committee 1, committee 2, and the chamber respectively.

propose her/his ideal point as an amendment. This amendment would subsequently win and be unbeatable by any other amendment. Accordingly, C1 will report a bill to the
floor only if the resultant $x^h$ is closer to $x^{c1}$ than is the status quo, $x^0$ or, formally, the conditions $||x^0 - x^{c1}|| > ||x^h - x^{c1}||$ (where $||*||$ represents the standard Euclidean norm) are satisfied.

Thus any status quo not in the interval $[x^h, x^1]$ is not in equilibrium and will gain a proposal from C1. For example, suppose the status quo resided at the point $x^{c2}$. In this case C1 reports a bill, either its median or the chamber median, and the outcome is $x^h$. This is because under an open rule the point $x^h$ dominates (i.e., defeats) all other points. Note briefly the characteristics of equilibrium points. While all equilibrium points in the interval $[x^h, x^1]$ are retentive, only the chamber median $x^h$ is attractive. This means simply that if a status quo point lies within the interval $[x^h, x^1]$ that status quo will not change as long as the preferences of the actors do not change or there is some exogenous shock to move the status quo. If the status quo lies outside the interval just noted then the outcome will be the chamber median, $x^h$.

Joint Referral

The results above recreate Denzau and MacKay’s findings for a single committee under sophisticated behavior. I now compare these results to situations under
multiple referral.

Consider again figure 4.1A. Recall that in order for a bill to reach the floor, both committees must concur. Under an open rule this means that for each committee that receives a bill jointly, the median of each must be closer to the chamber median than to the status quo or for each \( C_i \), \(||x^0 - x^{ci}|| > ||x^h - x^{ci}||\) in order for a bill to reach the floor.

Thus for the two committees in figure 4.1A, any \( x^0 \) to the left of \( x^h \) attracts a proposal by \( C_1 \) and \( C_2 \). All other points however are in equilibrium because one or both committees would refuse to report a bill. Suppose, for example, that the status quo were at the point \( x^2 \). \( C_1 \) makes a proposal but \( C_2 \) obstructs since \( x^2 \) is preferred by \( C_2 \) to the chamber median \( x^h \).

In the configuration in figure 4.1B similar results hold. Any status quo in the interval \([x^1, x^2]\) is an equilibrium. In both configurations all equilibria are retentive while \( x^h \) alone is attractive.

Note several implications. First, while the retentive/attractive properties of the equilibria in the joint referral case are equivalent to those in the single referral case, in many cases the equilibria sets for a joint referral are larger than under single referral. The only type of joint referral that will not increase the
size of the equilibria set (assuming no discharge) is one where the added committee lies between the committee, which would otherwise receive the bill singly, and the chamber median.

This suggests that multiple referral adds veto points to the legislative process thus making bills less likely to make it to the House floor. Such a finding is generally consistent with early empirical observations (Davidson et al 1988). As noted in chapter two, part of the intent of the failed Patterson committee was to give the Speaker more power over recalcitrant committees. Though the reforms were not adopted by the House formally, the Speaker has gained through precedent the power to discharge multiply referred bills from all committees involved. While it is not clear that the Speaker formally uses such power, the early tendency towards obstruction has lessened in recent Congresses. I return to this issue in detail later.

Second, in general, the more committees participating in a joint referral the more likely obstruction will occur. Though not demonstrated here, depending on the configuration of median ideal points, the equilibria sets grow larger with the addition of more committees.

Third, the floor can be made worse off than it would be otherwise because of the joint referral. Referring to
figure 4.1A, under a single referral to C1 a status quo at point $x^2$ results in a proposal by C1 and the outcome $x^h$. Under a joint referral to C1 and C2 the outcome is the status quo, in this case $x^2$.

**Sequential Referral**

I turn now to sequential referral under an open rule. The most immediate difference between sequential and joint referrals is that the initial committee of reference is greatly advantaged relative to the secondary committee in a sequential referral. First, the primary committee enjoys the power to obstruct. Reconsider figure 4.1B. Suppose that C1 receives a single referral and the status quo is at point $x^3$. If C1 reports a bill, C2 can request a sequential referral. Under an open rule C1 chooses to obstruct the bill thus ensuring the outcome $x^3$. C2 is powerless to affect the outcome despite C2 preferring $x^h$ over $x^3$.

Second, the secondary committee can not obstruct. Again consider figure 4.1B only this time with $x^4$ as the status quo. C1 prefers the chamber median $x^h$ to the status quo $x^4$. C2 however prefers $x^4$ to $x^h$. C1 as the initial committee reports a bill at $x^{c1}$ or $x^h$. C2 then requests a sequential referral and attempts to offer an amended bill of $x^{c2}$. The ultimate outcome however is $x^h$ thus making C2 worse off. Had the bill been jointly
referred to both C1 and C2, the outcome would have been the status quo $x^4$.

The overall finding in the sequential case - with C1 as the committee of initial reference - is essentially the same as with a single referral with C1 as the lone committee of reference. All points in the interval satisfying the criteria $||x^0 - x^{c1}|| < ||x^h - x^{c1}||$ are equilibria with H alone being attractive. In figure 4.1A points in the interval $[x^h, x^l]$ are equilibria, while in figure 4.1B the points in $[x^l, x^h]$ are equilibria.

Thus, in the case of an open rule, there is little leverage available to the secondary committee. This suggests both a big incentive on behalf of committees to be initial committees in a sequential referral or to garner a joint referral. Also, the Speaker clearly holds a point of leverage in choosing a sequential versus a joint referral.

Closed Rule

I turn now to consideration of committee behavior under a closed rule beginning first with a repeat of the Denzau and MacKay results under single referral and then proceeding through joint and sequential referrals. Under a closed rule no amendments to committee proposals may be made on the floor.
Single Referral

Consider figure 4.1A with C1 as the committee of lone reference. In this case the points in the interval \([x^h, x^{C1}]\) are equilibria. Note that under a closed rule the equilibrium set for the single referral case is smaller as compared to the open rule case (given the same preference configuration). Also, \(x^{C1}\) is now attractive from any point to the right of \(x^{C1}\). Each point in the open interval \((x^h, x^1)\) is an attractor to one corresponding point to the left of \(x^h\).

Joint Referral

In the case of a joint referral under a closed rule, in order for a status quo point to be altered, there must be some alternative available that is preferred by both committees and the chamber median. In figure 4.1A all status quo points residing in the interval \([x^h, x^{C2}]\) are equilibria while in figure 4.1B elements in the interval \([x^{C1}, x^{C2}]\) are equilibria.

Suppose in figure 4.1A the point \(x^2\) is the status quo. Both committees have the incentive to produce a bill since they both can be made better off by an alternative. Actual outcomes depend on bargaining but will clearly be within the interval \([x^{C1}, x^{C2}]\). An outcome at \(x^3\), for example, makes both committees better off relative to \(x^2\) but both can agree that the point \(x^{C2}\), at minimum, is
preferable to \(x^3\). I will remain agnostic as to bargaining outcomes. C2 may, for example, be able to make itself better off by threatening not to report a bill if C2 is not the outcome. However, the threat is not credible since reaching no compromise makes C2 worse off.

As for properties of the equilibria, points in the interval \([x^{C1}, x^{C2}]\) in both figures - between the two committees are attractive over a limited set of points in the alternative space.

Given the conditions specified the equilibrium sets are considerably smaller for the joint referral case under a closed rule as compared to the joint referral case under a open rule. One potential result is mitigation of the pareto sub-optimal outcome in the open rule case. Under a closed rule both committees as well as the chamber median can be made better off than they would be under an open rule. For example, suppose the status quo were \(x^2\) in figure 4.1B. Under an open rule, C2 obstructs in order to prevent the ultimate outcome \(x^h\). However, under a closed rule C2 and C1 are willing to report some compromise within the open interval \((x^h, x^2)\). Thus both committees as well as the chamber median are made better off.

This suggests one important role for restrictive rules in tandem with joint referrals. Other authors have noted that multiple referrals tend to garner restrictive
rules or come out under suspension of the rules, a
procedure which disallows amendments (Bach and Smith 1988;
Davidson et al 1988; Cooper 1990). One rationale might be
to guarantee that the bargains made among committees hold
on the floor. Another may be, as the results here
suggest, to prevent committees from obstructing. In
subsequent chapters, rules selection is made endogenous to
the models, and empirical issues regarding rule selection
are tested.

**Sequential Referral**

Turning now to sequential referral under a closed
rule requires a return to the comment at the beginning of
this chapter regarding sequential referral and closed
rules. Secondary committees in a sequential referral do
not have the power to formally obstruct a bill. In all
cases a time limit is imposed by the Speaker on the
referral. Thus if the secondary committee chooses not to
report the bill it is automatically discharged.

Modeling a sequential referral under a pure closed
rule is difficult - for this type of model - because the
initial committee never has an incentive to compromise if
it knows that the sequential committee can not obstruct
the bill. What the primary committee faces is a choice
between compromise or facing the secondary committee’s
amendments on the floor.

For now I model the sequential referral as follows: The initial committee of reference chooses to report or not report a bill. If the initial committee reports, the secondary committee can then request and receive a referral. If the secondary committee prefers a change in the initial committee's proposal, it offers a proposal on the floor as a single amendment under what essentially would be a modified closed rule (this problem is solved in chapter five when procedure is made endogenous).

Begin with figure 4.1A with C1 as the initial committee. Elements in the interval \([x^h, x^{c_1}]\) are in equilibrium with C1 alone being attractive. Suppose the status quo were \(x^2\). C1 proposes its median \(x^{c_1}\). C2, obviously unhappy with this turn could offer an amendment like \(x^{c_2}\) which would be voted down by H.\(^4\)

What would happen, however, if C2 were the primary committee? In this case the equilibria points reside in \([x^h, x^{c_2}]\). Suppose the status quo were \(x^3\). If C2 proposes its ideal point, \(x^{c_2}\), C1 counters with an amendment of C1 on the floor which passes. The resultant fear of losing on the floor keeps C2 from opening its gates thus ensuring the sub-optimal outcome \(x^3\). Were this a single referral, with C2 as the committee of reference, the outcome would have been \(x^{c_2}\) and were it a joint referral, with a closed
rule, the outcome likely would have been $x^{C2}$ or some point slightly to the left of $x^{C2}$.

The implication is that the sequential referral under the (modified) closed rule forces an extreme outlying committee, like C2 in this example, to obstruct despite the outcome being pareto sub-optimal. Clearly the culprit here is the ability of the secondary committee to propose an amendment on the floor. However, the model gets at an important strategic aspect of multiple referrals. Some committees may obstruct a bill in order to prevent the sequential referral from occurring at all. This suggests that the actual numbers for sequential referrals are lower than they would be otherwise but the suggestion is obviously counter-factual. Anecdotal evidence does exist. For example it has been reported that the Agriculture Committee traditionally avoids reporting a bill on pesticide reform for fear of the actions of the Commerce Committee, a likely recipient of a sequential referral (Dwyer 1991).

An analysis of figure 4.1B suggests another interesting property: $x^h$ is an attractive equilibrium. Suppose C1 were the intital committee and $x^1$ the status quo. C1 can propose $x^{C1}$ but C2 would offer an amendment on the floor of $x^5$ which succeeds on the floor. An outcome of $x^5$ makes C1 worse off than the status quo $x^1$. 
To pre-empt such a strategy by C2, C1 can simply offer the unbeatable proposal of $x^h$.

Discussion

To provide an overview, figure 4.2A and 4.2B present equilibria points for each type of referral under open and closed rules for the preference configurations represented by figures 4.1A and 4.1B. Each status quo within the sets, marked $+$, is invulnerable to alteration.

The models presented here are exceedingly simple yet yield some basic insights into the impact that multiple referral specifically - and alternative institutional arrangements generally - have on political outcomes without a change in preference configuration. One implication needs elaboration. This is the issue of the increased tendency towards obstruction because of joint referrals. Under both an open rule and a closed rule, it is easy to see that - sans discharge by the Speaker - multiple referrals are more likely to be obstructed than are single referrals. The question, of course, is whether or not the increased tendency towards obstruction occurs empirically.

Early usage of multiple referral suggests that joint referrals led to increased obstruction. Table 4.1 presents the numbers of reported bills for all multiple and single referrals during the 94th (1975-1976) through
Figure 4.2A
Comparison of Equilibria Points

Open Rule

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Closed Rule

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Figure 4.2B

Open Rule

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Closed Rule

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+ Equilibrium Point - Non-Equilibrium Point
the 101st (1989-1990) Congresses. While at first it is clear that multiple referrals were much less likely to be reported than were single referrals, over time the tendency changed dramatically. In the first Congress of multiple referral use, only 3.3% of all multiply referred bills were reported. In contrast, in that same Congress, 8.0% of all single referrals were reported. Beginning with the 96th Congress (1979-1980) the picture changes dramatically. In that Congress the percentage of reported multiply referred bills was 11.8% with single referrals being reported at a rate of 12.2%. Since that time multiple referrals have been reported at roughly the same rate as single referrals. Why the report percentages change so dramatically is not clear. Most of the Speaker’s gains in power over time limits occurred after 1980. The change may be related to the tremendous drop in overall legislative business that began in the 96th Congress (see table 2.1).

Unfortunately reported bills data, as a measure of committee obstruction, is misleading in a number of ways. First, sequential referrals, as noted, are by definition reported out of a committee. This substantially increases the multiple referral numbers. Second, just because one committee reports a bill does not mean that the other committee(s) in a joint referral does so. Many bills fail
<table>
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<th>96th Congress</th>
<th>97th Congress</th>
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<th>101st Congress</th>
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<td><strong>Reported as a Percentage of Referred</strong></td>
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<td>Singly Referred</td>
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<td>8.8</td>
<td>12.2</td>
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<td>11.3</td>
<td>10.5</td>
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<td>11.2</td>
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<tr>
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<td>4.4</td>
<td>11.8</td>
<td>11.7</td>
<td>14.0</td>
<td>12.6</td>
<td>12.4</td>
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<td>12.2</td>
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<td>10.8</td>
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<tr>
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<td>9.8</td>
<td>15.1</td>
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<td>19.2</td>
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<tr>
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<td>16.3</td>
<td>17.5</td>
<td>17.5</td>
<td>18.4</td>
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**SOURCE:** Adapted from Young and Cooper 1993: 214.
to go on after being reported by one committee and not by the other committees in a joint referral. In the 100th Congress, 34% of joint referrals that were reported by at least one committee were not reported by all committees of reference and failed to move forward in the legislative process. Finally, with the increased use of suspension of the rules many committees find it useful to simply bring a bill to the floor without first reporting it (see Cooper 1990).

As an alternative I have developed a measure of all singly and jointly referred bills that "survived" committee during the 100th Congress. Using as a data set all public measures of a non-procedural nature, a bill is counted as having survived if it was debated on the floor or was reported by all committees of reference. Note several aspects about this variable. First, I do not require that all committees report the bill. In the case of less than all committees reporting, if the bill proceeds to the floor it counts as having survived committee. This accounts for cases where a measure goes to the floor under suspension of the rules, a procedure typically requiring acquiescence of all referenced committees (Bach and Smith 1988; Cooper 1990).

Second, I do not take into account situations where the bill is obstructed after being reported by all
committees. This might occur, for example, near the end of a session when committees in a joint referral can not reach compromise. It might also occur if the Rules Committee obstructs. Third, cases in which the leadership uses its discharge powers are counted as surviving if the bill goes to the floor.

During the 100th Congress, 14% of single referrals survived while 9% of the joint referrals survived. However, there are a number of relatively uncontroversial measures which, by and large, tend to be more successful than other bills and do tend to be singly referred. These are primarily commemorative bills which generally serve the purpose of pleasing, in a non-controversial way, narrow constituencies. Examples of this type of measure include declarations of "National Child Abuse Prevention Week" and resolutions honoring sports champions. Congressional production of commemoratives has grown over time and now make up a considerable proportion of all House legislation passed (Haas 1988: 1198). In the 100th Congress, 93% of all commemoratives were singly referred. I defined commemorative as any bill with the Legi-Slate subject terms "celebrations and memorials."

The presence of such non-controversial measures among the single referral may tend to inflate the number of surviving singly referred bills. To test this I performed
a logit estimation using survival as the dependent variable and dummy variables for commemoratives and joint referrals as explanatory variables. The results are in table 4.2. Note that the coefficient for the joint referral variable is negatively associated with survival while the commemorative variable is positively associated with survival. Both variables are statistically significant.

Given the statistical relationship between bill survival and multiple referral, how large is the impact? To determine this I estimated the impact of a joint referral versus a single referral while varying the commemorative variable from 0 to 1. Table 4.3 shows the results. Non-commemorative bills are considerably less likely to survive the committee stage than are commemorative bills regardless of referral type. In the case of a non-commemorative bill and a multiple referral versus a non-commemorative bill and a single referral, the latter is less likely to survive by a margin of 0.04.

<table>
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<td>Multiple Referral</td>
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</tr>
<tr>
<td>Commemorative</td>
<td>0.94*</td>
<td>0.159</td>
</tr>
</tbody>
</table>

* Statistically Significant at .01
Log Likelihood =-2405.13
N=6260
Table 4.3
Estimated Probabilities of Bill Survival for Joint and Single Referrals

<table>
<thead>
<tr>
<th>Referral</th>
<th>Ceremony</th>
<th>Pr(Y=Survival)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint/Split</td>
<td>No</td>
<td>.09</td>
</tr>
<tr>
<td>Single</td>
<td>No</td>
<td>.13</td>
</tr>
<tr>
<td>Joint/Split</td>
<td>Yes</td>
<td>.21</td>
</tr>
<tr>
<td>Single</td>
<td>Yes</td>
<td>.28</td>
</tr>
</tbody>
</table>

Overall, all bills are not likely to survive committees - in fact the statistical model always predicts non-survival. While multiple referrals are less likely to survive than single referrals, the effect is not overwhelming. Also, it turns out that if we look at just joint referrals, increasing the number of committees in the referral actually increases the probability of survival (though the relationship is not statistically significant). While the great majority of multiply referred bills go to just two committees (80.2% in the 100th Congress), a number do go to more than two. During the 100th Congress such legislation as the omnibus trade bill and clean water bill went to more than two committees (six and five respectively) while bills went to as many as thirteen total committees. Table 4.4 shows the logit results while table 4.5 indicates the changes in probability as we increase the number of committees in the referral. As the number of committees increases from two to ten the probability of
non-commemorative bills surviving goes from 0.08 to 0.19, a
probability of survival that is higher than that for non-
commemorative singly referred bills.

Table 4.4
Relationship between
Number of Committees in a Joint or
Split Referral and Obstruction
Logit Estimates Pr(Y=Survival)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Estimate</th>
<th>StdErr</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intercept</td>
<td>-2.63</td>
<td>0.212</td>
</tr>
<tr>
<td>Number of Committees</td>
<td>0.12</td>
<td>0.073</td>
</tr>
<tr>
<td>Commemorative</td>
<td>2.05*</td>
<td>0.500</td>
</tr>
</tbody>
</table>

* Statistically Significant at .01
Log Likelihood -371.91
N = 1215

Table 4.5
Estimated Probabilities of Bill
Survival by Number of Committees
in a Joint Referral

<table>
<thead>
<tr>
<th>Number Comms.</th>
<th>Ceremony</th>
<th>Pr(Y=Survival)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>No</td>
<td>.08</td>
</tr>
<tr>
<td>6</td>
<td>No</td>
<td>.13</td>
</tr>
<tr>
<td>10</td>
<td>No</td>
<td>.19</td>
</tr>
</tbody>
</table>

Thus, while there is modest support for the
expectation that joint referrals increase the likelihood of
obstruction there is no support for the expectation that
more committees in a joint referral lead to more
obstruction. In fact the opposite is true. Some possible
explanations points the way for the rest of this study.
One possibility is that the drafters of legislation avoid writing a bill to gain a multiple referral in cases where the likely companion committee(s) are likely to obstruct. A more narrow bill and a resultant single referral may be the result. Thus bill proponents opt out of joint referrals to avoid obstruction.

A second, perhaps more likely possibility, is the role of the Speaker. Recall that the models I presented here assume away the possibility of discharge for joint referrals. As noted in chapter one, over time the Speaker gained the power to impose time limits on all committees involved in a multiple referral. While such a time limit is not formally imposed with great frequency for joint referrals it is, of course, quite possible that the Speaker’s threat to remove a bill from a committee is sufficient to induce the committee to release the bill. I explore this issue in considerable detail in subsequent chapters.

Finally, a few words about sequential referrals. As discussed above, when conditions for obstruction exist in the sequential case in which no time limit is imposed on the initial committee of reference, the initial committee will obstruct and no sequential referral will occur at all. Thus we may see bills that are singly referred be obstructed because they would have become sequential
referrals. The problem here is that knowing which single referrals would become sequential referrals is not possible. Clearly however incentives exist for committees and the Speaker in regard to affecting how referrals are made.

Conclusion

As the results indicate, there is little doubt that referring a bill jointly to multiple committee decreases the chances that a bill will survive committee and become law. This is despite the fact that jointly referred bills are subject to discharge by the Speaker. But the results do suggest that either because of the strategic behavior of committees or the influence of the Speaker, joint referrals do not result in as much obstruction as we might think. The purpose of the next several chapters is to consider the role of the Speaker, as an agent of the majority party, in influencing the legislative process by manipulating referral conditions. To do this I must first include a role for the Speaker in spatial models being utilized. In the next chapter I develop such a role for a legislature using single referral and then, in subsequent chapters, return to multiple referral.
Notes to Chapter Four

1. As will be explained further on in the discussion I treat split referrals and joint referrals as equivalent.

2. Admittedly, however, perfect information models like the one I present here can not predict one occurrence, that is when a committee’s package loses on the floor.

3. Sequential referrals also occur in tandem with joint and split referrals. This type of case is not demonstrated here but the extension is straightforward.

4. C2 could threaten some amendment, \(x^h\) for example, in an attempt to coerce C1 into proposing something more amenable to C2. C2’s threat would not be credible since an outcome of \(x^h\) makes the committee even worse off than an outcome of \(x^{c1}\).

5. Note again here the possibilities under a bargaining model.
Chapter Five:

Party, Procedure, and Committee Behavior

In the previous chapter I developed several simple models for evaluating the impact of multiple referral on the legislative process. The task of this and the subsequent chapter is to complicate those models by incorporating other legislative components that may have an impact on behavior. An important aspect of the models in chapter three is the treatment of the choice of procedure (namely an open or closed rule) as being exogenous. While this is consistent with most formal models,¹ it is unfortunate for at least two reasons. First, political scientists from a variety of different theoretical perspectives long have argued that the choice of procedure directly affects the ultimate substance of legislation (See e.g., Froman 1967). Second, a substantial body of theoretical and empirical work suggests that the choice of procedure is directly related to the behavior of the committee(s) involved, the nature of the legislation being considered, as well as the role and behavior of other components of the legislature, e.g., party (See, e.g., Shepsle 1986; Denzau and MacKay 1983; and Aldrich 1988).

An important theoretical step, then, is to make the choice of procedure part of the legislative process being
modeled. I do so here by adding to the models a Rules Committee which, under the control of the majority party leadership, chooses to grant an open or closed rule. Besides including an important role for political party (something quite rare in formal models) the model has a rich set of empirical predictions that contrast nicely with the distributive and informational perspectives discussed in chapter two. This chapter provides a theoretical "bridge" to subsequent chapters since here I focus strictly on single referrals.

A Single Committee System with a Rules Committee

A single committee (C) is charged with reporting legislation to the chamber (H). Committee and chamber median ideal points are represented by \( x^C \) and \( x^H \) respectively. Any proposal by the committee must first, before consideration by the chamber, be granted a rule which sets the procedural conditions for the proposal's consideration on the floor. The rule is granted by a second committee (R), known simply as the Rules Committee. On decisions regarding the granting of rules, R is assumed to be equivalent to the median point of the majority party as represented by the Speaker. This assumption is defended below.

R can choose one of two rules - open or closed - and
does so by picking the rule that results in the best outcome for \( R \). For now I assume that \( R \) may not obstruct the bill, although this assumption later is relaxed. Once \( R \) chooses a rule, the bill goes to the floor and \( H \) maximizes given the constraints of the rule. Further I assume that \( C \) does not make frivolous proposals (e.g., a proposal when the status quo is \( x^h \)). Finally, I assume that the Rules Committee's proposed rules are always adopted unamended. Empirically, very few of Rule's proposals are either amended or defeated.

Discussion

Several aspects of the model needs elaboration,

The Role of Political Party

The approach I use here is based on the argument presented in chapter two. Partisans share common policy and re-election goals and the creation and support of a central agent helps further those goals. For my purposes, this role devolves to the leader of the majority party, or for the House, the Speaker.\(^2\) Party leadership, namely the majority party leadership, asserts their power by controlling the procedure under which the committee proposal is considered on the floor.\(^3\)

Speaker's Control of the Rules Committee

An important component of the models presented here
is that the Speaker controls the behavior of the Rules Committee. While this assumption would have been highly dubious before the reforms of the 1970s, such an assumption accurately reflects the contemporary House for a number of reasons. First, in response to the obstructive actions of the then controlling conservative coalition on the committee, the Rules Committee was expanded in size in 1961. The Speaker has subsequently appointed loyal party members to the committee (Cummings and Peabody 1963; Bach and Smith 1988). Currently nine of the thirteen members of Rules are Democrats, and the Democrats appointed to the committee tend to be among the most loyal of partisans (Cox and McCubbins 1993). Second, the Democratic party caucus retains the right to instruct the Democratic members of the committee how to vote on a rule (Oppenheimer 1977; Bach and Smith 1988). While rarely used formally, the potential use of such a procedure presumably reduces the committee’s discretion to go against the party caucus. Finally, the Speaker nominates and renominates members to the committee, subject to caucus approval, thus assuring the Speaker has strong influence over the Democratic members of the committee (Oppenheimer 1977; Bach and Smith 1988). Accordingly, I assume that the Speaker controls the Rules Committee’s choices regarding rules.
Constraints on Party Members

Finally, members are free to vote for the alternatives closest to their ideal point both in committee and on the floor. Thus party membership does not entail the sacrifice of one's right to vote as one chooses. What the majority party does is control the procedural conditions and, accordingly, helps shape the alternatives that are offered. The only exception in this regard is the majority party members on the Rules Committee. I assume that the Rules Committee in the selection of special rules reflects the wishes of the majority party. On other issues the Rules Committee would, by the standard median voter assumption, reflect its own median. As I will show in later chapters, it turns out empirically that the Rules median and the majority party median are quite similar.

Model Results

The model works as follows. First, the committee of referral (for now the single committee of referral) makes a proposal, \( x' \), to alter the status quo, \( x^0 \). The proposal then goes to the Rules Committee where that committee chooses a closed or open rule. R's choice function for rules is as follows,
\[ R(\text{open}, \text{closed}) \equiv \begin{cases} \text{open iff } ||x^R - x'|| \geq ||x^R - x^h|| \\ \text{closed iff } ||x^R - x'|| < ||x^R - x^h|| \end{cases} \]

The Rules Committee chooses a rule based on the outcome that comes closest to the Rules Committee's median ideal point. For example, if a closed rule results in an outcome more beneficial to Rules, the choice is a closed rule. Upon granting of a rule the legislature votes on the proposal and amendments (if allowed by the rule).

Figure 5.1 illustrates the three generic preference configurations for the actors. These three configurations represent all possible alignments of actors excepting the mirror opposites, configurations which are conceptually equivalent. Considering Figure 5.1A, suppose for example the status quo were at point \( x^0 \). In this case \( R \) is willing to grant a closed rule for any proposal by \( C \) that would make \( R \) better off than both the current status quo, \( x^0 \), and the chamber median, \( x^h \). Consequently, \( C \) can make itself best off by proposing \( x^1 \), a proposal which garners a closed rule by \( R \) and is accepted by \( H \).

Alternatively consider Figure 5.1C. Suppose for example the status quo is at point \( x^0 \). \( C \) prefers to propose its ideal point, \( x^C \), but doing so attracts an open rule by \( R \)
Figure 5.1
A Committee, a Rules Committee, and a Chamber

A. \[ \begin{array}{ccccccc}
| \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \\
x_c & x_r & x^1 & x_h & x^0
\end{array} \]

B. \[ \begin{array}{cccc}
| \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} |
\end{array} \]
\[ x^0 \quad x_r \quad x^1 \quad x_c \quad x_h \]

C. \[ \begin{array}{ccccccc}
| \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \hspace{1cm} | \\
x_r & x_h & x_c & x^1 & x_0
\end{array} \]

\( x_c \) and \( x_h \) are median ideal points for a committee of single reference and the chamber respectively. \( x_r \) represents the ideal point for the majority party at the chamber level.

and the ultimate outcome \( x_h \). Since \( C \) prefers \( x_h \) to \( x^0 \), it agrees to open the gates. If however \( x^1 \) is the status quo, \( C \) keeps its gates closed in order to prevent being worse off - relative to the status quo - with the resultant \( x_h \) outcome under an open rule.

Without walking through every conceivable scenario it is possible to make general statements about the obstruction/rule type characteristics of the models.

Proposition 5.1A: Any proposal the substantive committee is willing to make (i.e., that it prefers to the status quo) will receive a closed rule if and only if the Rules Committee median and the substantive committee median lie on the same side of the chamber median.

Under the configurations noted in Figures 5.1A and 5.1B, \( x_r \) and \( x_c \) lie on one side of \( x_h \). There are no
possible proposals that C is willing to make that would garner an open rule regardless of the distance among the three actors and possible status quo points. C will always be better off proposing either a bill that R prefers to \( x^h \) or by keeping its gates closed. Thus C chooses to make a proposal to alter the status quo if conditions are as follows,

\[
\exists \ x' \ s.t. \ ||x^r-x'|| < ||x^r-x^h|| \quad \text{and;}
\]

\[
||x^c-x'|| < ||x^c-x^0|| \quad \text{and;}
\]

\[
||x^h-x'|| < ||x^h-x^0||
\]

Proposition 5.1B: Any proposal the committee is willing to make (i.e., that it prefers to the status quo) will receive an open rule if and only if the chamber median lies between the Rules Committee median and the substantive committee median.

With R and C lying on opposite sides of H, it is impossible for R and C to mutually agree on a proposal that both prefer to \( x^h \). Consequently, C does not make a proposal unless it prefers the chamber median position to the status quo. Thus C makes a proposal under the condition:

\[
||x^c-x^h|| < ||x^c-x^0||
\]

Additionally, the model yields predictions about committee obstruction that are more specific than was the
case with the procedural commitment model utilized in chapter three,

Proposition 5.2A: When the substantive committee and Rules Committee lie on the same side of the chamber, the substantive committee will obstruct any proposal to change a status quo that is in the interval \([x^c, x^h]\)

Given proposition 5.1A, under this alignment R grants a closed rule for any proposal C is willing to make. Accordingly, C always makes a proposal if \(x^0\) lies outside the interval \([x^c, x^h]\). Interestingly, the absolute difference between \(x^r\) and \(x^c\) does not affect C's propensity to propose (as long as the alignment condition is met). Thus the issue is not relative partisanship of the proposing committee per se, what matters is the alignment of the committee relative to the majority party and the chamber.

Proposition 5.2B: When the chamber median lies between the substantive committee and the Rules Committee, the substantive committee will make a proposal iff \(\|x^c - x^0\| > \|x^c - x^h\|\).

Based on Proposition 5.1B, under this alignment R grants any proposal by C an open rule. Thus C only makes a proposal when it prefers \(x^h\) to the \(x^0\). Note again, what matters - once the alignment is taken into account - is not the distance between \(x^r\) and \(x^c\) but instead the distance between \(x^h\) and \(x^c\) (and \(x^0\)).
The above results yield specific predictions about the conditions under which a committee makes a proposal to amend a status quo as well as the conditions under which the Rules Committee grants an open versus a closed rule. The broader empirical implications of the predictions are discussed below.

It is worth considering, however, the impact that Rules obstruction has on committee behavior. Up to now I have assumed that Rules may not obstruct unwanted bills from moving to the floor. This, of course, runs counter to a long history of the Rules Committee obstructing legislation. Despite an initial drop-off in the committee's tendency to obstruct (Oppenheimer 1977), the committee now obstructs legislation on pace with the pre-expansion/pre-House reform era (Bach and Smith 1988). Accordingly, as a second cut on the models presented above, I relax the assumption that Rules may not obstruct legislation. Instead I assume that Rules obstructs any legislation that will result in an outcome - regardless of the rule granted - that makes Rules worse off relative to the status quo. The conditions for R to obstruct are,

$$R(\text{obstruct}) \equiv \begin{cases} \text{obstruct iff } \|x^R-x'\| > \|x^R-x^0\| \text{ and;} \\ \|x^R-x^0\| < \|x^R-x^h\| \end{cases}$$
Accordingly, the conditions for obstruction (i.e., either R or C obstructs) are the following,

\[ ||x^R-x'|| < ||x^R-x^0|| \text{ and;} \]

\[ \exists x' \text{ s.t. } ||x^C-x'|| < ||x^R-x^0|| \text{ and;} \]

\[ ||x^h-x'|| < ||x^h-x^0|| \]

Under the previous models R could only use its power over procedure to make itself as well off as possible but it could still end up being worse off than under the status quo. Consider Figure 5.1B. Suppose for example the status quo is at the Rules Committee median \(x^R\). C prefers a number of points to the right of \(x^R\) and, if R could not use its obstructive powers, C would make a proposal of its own ideal point \(x^C\). R would then grant a closed rule since R prefers \(x^C\) to \(x^h\). However, if R held the power to block C's proposal, it would do so resulting in the outcome of the status quo, \(x^R\).

Note that R still grants a closed rule in cases where both \(x^R\) and \(x^C\) lie on one side of \(x^h\) (i.e., configurations in Figures 5.1A and 5.1B) while granting an open rule when \(x^h\) lies between \(x^R\) and \(x^C\) (i.e., the configuration in Figure 5.1C). Given the conditions, three further propositions follow:
Proposition 5.3A: Under an alignment where the committee median and the majority party median lie on the same side of the chamber median, as the distance between committee median and the majority party median becomes greater, the Rules Committee becomes more likely to obstruct.

Proposition 5.3B: Under an alignment where the chamber median lies between the committee median and the majority party median, as the distance between chamber median and the majority party median increases, the Rules Committee becomes more likely to obstruct. Proposition 5.3C: Under an alignment where the majority party median lies between the chamber median and the committee median, chances for obstruction are not affected.

Two implications are evident. First, the addition of the Rules Committee veto likely results in larger equilibrium sets (depending on the location of ideal points and the status quo). Second, R’s veto power gives it significant leverage over the proposals that C will make. Consider, for example, Figure 5.1B. Suppose the status quo is the point \( x^0 \). Under the assumption that R can not obstruct, the outcome is a proposal by C of its ideal point, a closed rule, and the outcome \( x^C \). Using an assumption of R having obstructive power, however, yields some result between \( x^R \) and \( x^C \) that makes R better off than \( x^0 \). The outcome \( x^1 \) is likely, though much depends on the nature of the bargaining process between C and R.

Discussion

The inclusion of party into the Denzau and MacKay-like spatial model greatly increases the predictive power of the models. Where before procedure was simply assumed
to be exogenous, the models here predict specific rule choices given particular conditions. The rule predictions contrast sharply to those made by both informational and distributive perspectives. Additionally the models lend insight into other factors of legislative process, namely the strategic behavior of committees to maximize outcomes under constraints and of a party leadership, working on behalf of the party membership, seeking to garner outcomes advantageous to the party's national electoral fortunes but without stripping away all incentives for committees to be active.7

The model yields a number of interesting empirical implications. First, it predicts the conditions under which a committee obstructs a proposal. Propositions 5.2A and 5.2B suggest that as the distance between the committee and the chamber median increase, the committee is more likely to obstruct. Thus committees that are preference outliers relative to the chamber are more likely to obstruct bills than are committees that are closer to the chamber. This suggests that a variable accounting for distance between the committee and chamber is an important addition to the obstruction equation estimated in chapter three. Also, this suggests that the party leadership has the incentive to monitor the selection of members onto committees in order to prevent
committee's from becoming too homogeneous in the direction of the minority party.

Second, assuming that the Rules Committee/Speaker represents the majority party median, as parties become more homogeneous ideologically the use of restrictive rules will increase. As parties become more homogeneous, the median point of the chamber and the median point of the majority party will diverge - assuming no change in the size of the party's majority. Also, it is likely that party membership in each committee will tend to be more reflective of the overall party (since the overall pool from which to choose committee members will be less varied). Thus it is likely that the preference configuration of the House looks more like Figure 5.1B than it does 5.1C.8

Several empirical observations seem to support this. First, the two House parties have become more homogeneous in the last twenty years (Rohde 1991). For example, the party unity scores for Southern Democrats have gone up markedly since the 92d Congress (1971-1972) consequently making Northern and Southern Democrats much less distinctive ideologically (Rohde 1991: 55). Second, the majority party takes party support into account when committee appointments are made (Cox and McCubbins 1993; but see Krehbiel 1991). Third, the use of restrictive
rules have increased over the same period (Bach and Smith 1988).

Third, the model predicts when the Rules Committee will obstruct. As of yet there has been little effort to explain Rules Committee obstruction (see, e.g., Bach and Smith 1988). The model predicts obstruction based on alignment and relative distance between R and the other two actors.

Finally, committees aligned on the same side of the chamber relative to the Rules Committee will tend to receive more restrictive rules. This prediction differs significantly from that provided by both the distributive and informational perspectives. Distributive models predict a positive relationship between distributive content and restrictive rules; informational theory suggests that committees receive restrictive rules as incentives to fully reveal the relationship between policy proposals and outcomes.

These empirical implications are testable and I test most of them in subsequent chapters. The next task however is to return to the main issue of concern, multiple referral. In the next chapter I take the model developed here and add joint and sequential referral. In addition I consider the additional issues of discharge from committees and the Speaker's choice of referral type.
Notes to Chapter Five

1. Notable exceptions include Gilligan and Krebsier 1989a; Baron and Ferejohn 1989; see also Dion 1992.

2. While my conception of party leadership - as central agent - is similar to that utilized by Aldrich (1988 1989) mine differs in terms of the actual physical role the leadership plays. In Aldrich's work, majority and minority leaders are granted proposal/amending powers by their respective caucuses. Leaders then maximize within a policy space granted by the caucuses. The models I present here are different in that committee proposals are not made by competing majority and minority party committee factions. Instead, proposals are made by the single committee median, the majority party asserts its influence through the Rules Committee (see also Weingast 1989).

3. A key issue is who does the Speaker represent? Implicit in Informational Theory, for example, is that s/he represents the chamber median by carrying out such activities as ensuring the committees are microcosms of the House. For my purposes, I assume that the Speaker represents the party median. After all, s/he is elected by the majority party, not the chamber. How much "shirking" the Speaker does in terms of pursuing her/his own interests is an important but little studied question. Empirical evidence as to where Speaker's have traditionally been located ideologically - relative to the majority party and chamber - is mixed. On this latter issue see Truman (1959) and Blair, McAleavy, and Anderson (1992).

4. I mean this regarding all votes excepting those for special rules. On rules votes I assume that the majority party membership supports the leadership.

5. Why this is the case is an interesting question in itself. I shall explore the issue in a future paper.

6. While it is possible to discharge rules from the Rules Committee, the procedure is laborious and rarely successfully (Oleszek 1989: 135-136).

7. What are the incentives for a member to belong to, and be active on, a committee? If all committee proposals either reflect, or are amended to, the chamber median, then the committee would essentially be producing a public good. The only benefit to committee activity then would
be for obstructive reasons i.e., to keep unwanted proposals from going to the floor. If committees do not have the power to obstruct then the collective action problem becomes more severe. The party theory developed here suggests that there is some reason to belong to a committee though the benefits garnered certainly do not have to be distributive in the pork sense only. As argued in chapter one, distributive can be defined in terms of "who wins."

8. If we consider the left side of the continuum to be "liberal," then it is unlikely that the arrangement in Figure 5.1A - where the committee lies to the left of the party - will occur. Empirically, the only committee to the left of Rules during the 99th and 100th Congresses is District of Columbia.
Chapter Six

Modeling a Legislature with Multiple Referral and a Rules Committee

In the previous chapter I developed a model of legislative decision-making under single referral that endogenized procedure. The chapter serves as a theoretical "bridge" since it allows us now to move to our chief concern, the impact of multiple referral on legislative decision-making. In this chapter I adapt the earlier model to multiple referral. The model yields a number of insights into the legislative process under multiple referral and sets the stage for the empirical analysis that follows in subsequent chapters. This chapter is arranged as follows. First, I add joint and sequential referrals to the single referral model of chapter five. I then discuss a variety of implications of the models and follow the discussion with a look at referral choice and the use of discharge by the Speaker.

A Decision Making Model Under Multiple Referral

Consider a single issue dimension with two committees sharing jurisdiction over the dimension. Any introduced legislation within the the dimension must be referred to both committees before it can be considered by the chamber. The nature of the referral however may be one of two types, joint or sequential.
Under a joint referral both committees (C1,C2) receive a bill concurrently. In order for the bill - amended or not - to reach the chamber floor, both committees must report it. For now, no form of discharge exists in the joint case. Under a sequential referral, the introduced bill is first referred to one committee and, if reported by that committee, it is referred to the second committee. I shall refer to the two committee's as the initial committee and the secondary committee respectively. In cases where the initial committee reports the bill the secondary committee must either report it also - with whatever amendments it desires - or be discharged of the bill. The initial committee may not be discharged of the bill.

Once a bill is reported - or discharged - by each committee, the committees may or may not agree on a compromise version of the bill. In the former case, the compromise goes to the Rules Committee (R) which chooses an open or closed rule. The Rules Committee's criteria for choosing an open or closed rule (as before) is utility maximization. If the two committees fail to compromise then Rules chooses either an open rule or a modified closed rule. Under the latter scenario, each committee is allowed to make one amendment apiece on the floor. The winning amendment then faces the status quo.
As with the latter model in chapter five, \( R \) may obstruct a bill from moving to the floor if the ultimate outcome makes \( R \) worse off relative to the status quo. As before, I assume that all rules are accepted unamended on the floor.

Note two simplifying assumptions made above. These were the assumptions that discharge does not occur in the joint referral case and that the type of referral is exogenous to the model. Both assumptions are relaxed below.

Treating the committees as generic and ignoring mirror images, six basic preference configurations exist. These are shown in figure 6.1. To illustrate, consider Figure 1A. Suppose, for example, the status quo is at point \( x^0 \). Under a joint referral, both \( C_1 \) and \( C_2 \) have the incentive to open their gates by making a proposal. The only proposal they can agree on mutually however is the chamber’s median \( x^h \). \( C_2 \), for example, will not agree to a proposal to the left of \( x^h \). This is because it can make itself better off by refusing such a deal and winning on the floor - under either an open rule or a modified closed rule - by offering the unbeatable amendment \( x^h \).

Accordingly the committees can agree on \( x^h \) and receive an open rule by \( R \) or go to the floor and receive \( x^h \) by amendment. \( R \) agrees not to obstruct, since the only
possible outcome of $x^h$ makes $R$ better off than $x^0$ and $R$ chooses an open rule — by an epsilon — over any other rule.

In this case, equivalent outcomes occur under either type of sequential referral. Suppose $C_2$ were the initial committee. First, it prefers to make a proposal since no conceivable

![Figure 6.1](image)

**Figure 6.1**

*Two Committees, a Rules Committee, and Chamber*

A. $\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\bar{\ba...
outcomes under sequential and joint referrals are not always the same.

The conditions for \( R \) to grant an open and a closed rule in response to a proposal \( x' \) are as follows,

\[
R(\text{open, closed}) \equiv \begin{cases} 
\text{open iff} & ||x^r - x'|| > ||x^r - x^h|| \quad \text{and;} \\
& ||x^r - x^h|| < ||x^r - x^0|| \\
\text{closed iff} & ||x^r - x'|| < ||x^r - x^h|| \quad \text{and;} \\
& ||x^r - x^h|| < ||x^r - x^0||
\end{cases}
\]

In words, in order for a proposal to garner any rule, either the chamber median or the proposal must be closer to the Rules Committee median than the status quo. Once that condition holds then the criteria for a proposal garnering a closed rule is that it must be closer to the Rules Committee median than is the chamber median.

Necessary conditions for the substantive committees, \( C_1 \) and \( C_2 \), to make a proposal are as follows,

\[
\exists \ x' \ s.t. \quad ||x^{c_1} - x'|| < ||x^0 - x^{c_1}|| \quad \text{and;} \\
||x^{c_2} - x'|| < ||x^{c_2} - x^0||
\]

or simply that some alternative must exist that both committees prefer to the status quo. The chamber median may be such a point.

As was the case under single referral, it is
possible to state some general propositions about rule choice based on alignment. Two general types of committee alignments are important for our purposes. The first is what I will call a heterogeneous alignment. Here, the two committees lie on different sides of the chamber median e.g., $x^c_1 > x^h > x^c_2$. One of the committees, then, lies on the same side of the chamber median as does the Rules Committee. A homogeneous alignment is when both committees lie to one side of the chamber median e.g., $x^h > x^c_1 > x^c_2$. Finally, two types of homogeneous alignments can exist. The first I will refer to as a partisan homogeneous alignment. This is when both committees lie on the same side of the chamber median as does the Rules Committee, e.g., $x^r > x^c_1 > x^c_2 > x^h$. A non-partisan homogeneous alignment occurs when the two committees lie on the opposite side of the chamber median relative to Rules e.g. $x^r > x^h > x^c_1 > x^c_2$. Note that by partisan I mean partisan in the sense that the alignment is on the majority party side.

Proposition 6.1A: Regardless of referral type, under a partisan homogeneous alignment any proposal the substantive committees are willing to make receives a restrictive rule (i.e., closed or modified closed) as long as the Rules Committee’s conditions for non-obstruction are met.

In cases where all the committees are on one side of $H, R$
makes itself best off by allowing a restrictive rule (either closed or modified closed) and consequently garners an outcome more advantageous to $R$ (and the other committees) than the outcome $x^h$.

Proposition 6.1B: Regardless of referral type, under a non-partisan homogeneous alignment or a heterogeneous alignment, any proposal the substantive committees are willing to make receives an open rule unless $||x^r - x^i|| < ||x^r - x^h||$ in which case a restrictive rule is granted (assuming no obstruction by the Rules Committee).

To see this consider figure 6.1A. There is no proposal under any multiple referral possibilities that garners a restrictive rule unless the status quo is in the half-open interval $[x^1,x^r)$. As noted earlier, a status quo of $x^0$, for example, ultimately yields the outcome $x^h$. If however, the status quo is in the interval $[x^1,x^r]$ then a different situation rises. Given that $R$ will obstruct a possible outcome of $x^h$, $C_1$ and $C_2$ have the incentive to agree on a single proposal that $R$ prefers to the status quo and, accordingly, grants a closed rule.

Additionally it is possible to make two general statements regarding obstruction by the substantive committees,

Proposition 6.2A: Regardless of alignment type, under a joint referral the chances for committee obstruction increase as the distance between any one substantive committee and the chamber median increases.
Proposition 6.2B: Regardless of alignment type, under a sequential referral the chances for committee obstruction increase as the distance between the initial committee and the chamber median increases.

Where the models yield the most interesting results is in relation to the literature on multiple referral. Consider first the argument that multiply referred bills are more likely, ceteris paribus, to garner restrictive rules relative to singly referred bills. Multiple referral forces pre-floor interaction - either implicitly or explicitly - among the committees of reference. In many cases, the committees put together a compromise package which they then take to the floor. A restrictive rule granted by the Rules Committee facilitates compromise because the rule prevents either committee from reneging on the floor.

The reneging problem asserts itself clearly in the models. Consider figure 6.1B with a status quo at $x^0$. Suppose the committees agreed to a compromise package that granted $C_1$ its ideal point $x^{c_1}$. If the proposal were to go to the floor under an open rule, $C_2$ would have the incentive to break its deal with $C_1$ and propose its ideal point, $x^{c_2}$ as an amendment to $x^{c_1}$. This would be victorious. The ultimate outcome, of course, is $x^h$. Knowing this, $C_1$ obstructs in such a circumstance. A closed rule for the proposal $x^{c_2}$ however makes $C_1$, $C_2$, and
R better off since the bargain is protected against amendment on the floor.

The empirical literature however says very little about the conditions under which the Rules Committee has the incentive to grant a restrictive rule, or the conditions under which the committees have the incentive to agree to a compromise in the first place. Both of these become clear in the models presented here.

What the models suggest is that the Rules Committee will only reward a compromise package with a closed rule in those cases where such a compromise makes the majority party better off (relative to either the status quo or H). Thus not all compromises are "rewarded."

There are cases where committee compromise packages do not get rewarded by the Rules Committee with a closed rule. In figure 6.1E, for example, under a status quo $x^0$, C1 and C2 may prefer to reach some compromise position, say the half-way point between the two committees. Despite this compromise R will grant an open rule and force the outcome $x^h$. Thus the majority party mitigates the overall impact of these types of outlying committees instead of blindly rewarding a closed rule in exchange for a single bill to take to the floor.

A second role the party leadership plays on multiply referred legislation is that of arbitrator. Here the
leadership, often by using the Rules Committee as the forum, brings together discordant committee elements and proposals and hammers out a compromise. Indeed, an aggressive leadership role here may be absolutely vital if committee conflict is overcome and a proposal reached.

Consider figure 6.1B. Under the status quo $x^0$ all actors involved prefer some set of possible proposals to $x^0$. If C1 and C2 both reported and agreed on some proposal within the interval [C1, C2], R would obstruct since either of the possible outcomes ($x'$ under a closed rule or $x^h$ under an open rule) make R worse off relative to the $x^0$. Refusal by the two committees to compromise leads to the same result since the two possible outcomes here ($x^{C1}$ under a modified closed rule or $x^h$ under an open rule) also make R worse off relative to $x^0$. Thus, both committees have the incentive to compromise on some proposal that will not be obstructed by R and, accordingly, is granted a closed rule. Presumably this will be a proposal as close to the two committee medians as possible while still being preferred by R to $x^0$. R does not face a reneging problem since it gets the last shot at the legislation. If the two committees bring forward a package unacceptable to R, R simply obstructs. Thus, the party leadership is able to use potential obstruction by Rules as leverage to essentially arbitrate
an outcome more favorable to the party than would be obtained otherwise.

Another aspect of multiple referral that is evident from the models - one that differs sharply from the single referral models - is the relationship between the substantive committees and the floor. In a nutshell, multiple referral forces the committees involved to bid for the favor of the floor. Consequently, the floor ends up being better off than it is under single referral and the substantive committee that is advantaged generally is the committee most similar to the chamber (i.e., has the median closest to the chamber median).

The effect is most notable under a heterogeneous alignment. This occurs, for example, under the configuration in figure 6.1A. Consider the status quo \( x^0 \) regardless of referral type. Both committees will make a proposal. This might be their respective ideal points \( x^{c1} \) and \( x^{c2} \). The committees will not be able to reach a compromise (unless they simply settle for \( x^h \)). \( C_2 \) knows that it can force an outcome of, at worse, \( x^h \), \( C_1 \) knows the same is true for itself. Consequently neither committee would agree to a proposal not at \( x^h \). Thus they either agree to \( x^h \) or go to the floor without a compromise.

Regardless of whether or not \( R \) grants an open rule
or a modified closed rule, the ultimate outcome is $x^h$.
Suppose $R$ granted a modified closed rule. Under such a rule both committees propose one amendment to $x^0$. If $C_1$ goes first what would it propose? If $C_1$ proposes any point to the left of $x^h$, $C_2$ responds with a proposal to the right of $x^h$ but that is slightly closer to $x^h$ than $C_1$'s proposal. Knowing this response $C_1$ simply proposes the unbeatable amendment $x^h$. The same outcome occurs under an open rule.

Compare this to a single referral scenario with $C_1$ being the lone committee of reference. The outcome here is $x^{C_1}$ under a closed rule since $R$ prefers $x^{C_1}$ to $x^h$. Thus, the addition of the extra committee changes the ultimate outcome.

The same effect occurs under the other configurations as well. Even when both committees lie on the same side of the chamber median the tendency is for the committee closest to the chamber median to be advantaged. This occurs regardless of the position of $R$ (as long as conditions for a proposal being made are met). Under the configuration in figure 6.1B, for example, a status quo at $x^1$ results in the ultimate outcome $x^{C_2}$ regardless of the referral type. This is because $C_2$ knows that it can achieve its ideal point by refusing to compromise with $C_1$. The result is the outcome $x^{C_2}$ on the
floor under a modified closed rule (which \( R \) would grant since it prefers \( x_0^C \) to the open rule outcome \( x_0^H \)). By using the floor position as a source of leverage, the committee closer to the floor is advantaged and can force an outcome more in line with the chamber's preference. Such an outcome has much in common with the theoretical results obtained by Gilligan and Krehbiel (1989) and Austen-Smith (1993). Multiple referral essentially increases the overall heterogeneity of the personnel considering legislative business thus increasing the likelihood of majoritarian outcomes.

However, there is a cost. And that cost, absent the role of a strong Speaker and her/his use of discharge is the increase in veto points brought on by multiple referral. As I demonstrated in chapter three, joint and sequential referrals increases the overall size of the equilibrium sets, consequently decreasing the overall size of the space from which status quo points may be amended. Politically this means that existing policy may be harder to change if the policy touches on jurisdictions shared by more than one committee.

Committee Advantages in Bargaining and on the Floor

That multiple referral may lead to majoritarian outcomes suggests that committee leverage is based not just on proposal and gatekeeping powers but also on
position. Committees in an advantageous position ideologically (i.e., the committees most like the floor) are able in many cases to force an outcome closer to their ideal point. Under most possible conditions, the committee closest to the chamber median is in the advantageous position while bargaining with the other committees of reference and in amendment fights on the floor. The only circumstance where this is not the case is when the party majority forces a different outcome as the price for not obstructing the legislation. For example, under configuration 6.1D, the status quo \( x^0 \) is altered to \( x^1 \). While \( C_1 \) prefers to force a compromise at \( x^{c_1} \) - or win such an outcome on the floor under a modified closed rule - the committees know that \( R \) will offer an open rule. \( C_1 \) and \( C_2 \) can make themselves better off by offering \( x^1 \). \( R \) accepts this under a closed rule since it prefers the proposal to \( x^h \). Similar outcomes occur if the status quo is sufficiently to the left of \( x^h \). In this case, the majority party acts as an anchor against the outlying committees. Under an exogenously determined closed rule, \( x^0 \) would be amended by an alternative from \( [x^{c_1}, c^{c_2}] \).

Empirically, a scenario like the one just noted is unlikely. What is required for \( R \) to impose an outcome on the committees is for either the status quo to be on the
side of R away from H, or for all committees to be on the side of R opposite to H. In the contemporary House such circumstances are unlikely if we treat the ideological dimension in question as being a liberal-conservative continuum. Few committees are likely to have a median more liberal than the chamber's majority party median. In chapter six I demonstrate that during the 100th Congress the only committee of this nature was District of Columbia. Generally speaking, then, the committee advantaged in terms of garnering outcomes closest to its ideal point is the committee closest to the chamber median. Empirically this means that such committees should be the "winners" of compromises with the other committees and should be more successful promoting or defeating amendments.

Impact of Referral Conditions

The type of referral (i.e., joint or sequential) and the sequence of reference in a sequential referral dramatically alter outcomes. While no committees in a multiple referral have exclusive proposal power, they do face differential obstructive power based on the conditions of the referral.

Under a joint referral, all the committees in the reference may obstruct the legislation (assuming the
Speaker does not use her/his discharge power). The reason for the increased size of the equilibrium sets is based on two related factors: 1. more committees with veto power increases the chances that at least one committee is close to, and prefers the status quo over, possible proposals and; 2. shared proposal power decreases the chances that a mutually-agreeable (pareto optimal) outcome exists. In figure 6.1A, for example, a status quo to the right of $x^h$ and a single reference to C1 likely results in an outcome to the left of H under a closed rule. A joint referral to both C1 and C2, however, results either in obstruction by C2 or the outcome $x^h$. The combination of C2’s added obstructive and proposal powers guarantees that such a status quo either remains the status quo or is altered in a less dramatic fashion. Either way, the single committee C1 is not as well off as it would have been under a single referral. Note too that in such circumstance the majority party is limited by the chamber median.

A sequential referral however takes away the ability of the secondary committees to obstruct. For the circumstance just noted, if C2 were the secondary committee in a sequential referral and the status quo were in the set $(x^h, x^{c2}]$, C2 would be powerless to stop a proposal from reaching the floor. However, it can alter the final outcome by making a competing proposal and
forcing the final outcome $x_h$. Thus while the advantage in such a situation clearly goes to the committee of first reference, this advantage is far from absolute and considerably different than in the case for single referral.

Indeed, the threat of a sequential referral may keep the committee of first reference from making a proposal at all. For example, under the configuration noted in figure 6.1C, with the status quo $x^0$, consider the case of C1 being the referenced committee under a single referral. The outcome here would be $x^{c1}$ under a closed rule. However, suppose C1 were the initial committee in what will be a multiple referral if C1 reports. Suppose C1 reported it's ideal point $x^{c1}$. C2 would respond with a proposal - probably $x^h$ - that R prefers to $x^0$ (in order to prevent R's obstruction). Because of this possibility, C1 would instead simply choose to obstruct. There is no proposal that C1 can make that guarantees that it will be better off relative to $x^0$ for the simple reason that C2 will always have the incentive to make a counter-proposal - and force an amendment battle on the floor if necessary.

**Multi-Dimensional Considerations**

As discussed in chapter three, the models I present here make the simplifying assumption that the issue space of concern is single dimensional. My justification for
this is simply that multiple referral entails shared jurisdiction among committees and it is within these areas of shared concern that present the best area for initial exploration. The models have the added benefit, however, of suggesting some strategic considerations in multi-dimensional space. Namely, the potential of committee interaction on a shared dimension forces committees to restrict their concern to fewer - but unshared - dimensions. Ironically, the result is that multiple referral may result in bills of lesser scope.

Suppose for example a committee held jurisdiction over two issue dimensions, x and y. On the y dimension the committee holds exclusive jurisdiction (i.e., any proposal to amend the status quo along this dimension will be singly referred). On the x jurisdiction, however, the committee shares jurisdiction with another committee. Thus, any proposal that affects issue dimension x is multiply referred in some fashion. If the committee in question fears the impact of the second committee then it may choose to draft a bill that affects only dimension y.

A variety of other similar scenarios are possible as well. For example, in order to prevent a joint referral, a bill upon introduction, may affect only dimension y. Upon referral of the bill to the committee the bill is
revised to affect x also. While this leads to the second committee receiving the bill under a sequential referral, at least the secondary committee will not have the power to obstruct. We can envision further scenarios in which a committee of reference allows a bill to remain more narrow than preferred in order to limit the impact of other committees.

This is ironic for the following reason: Multiple referral was passed in part to allow a comprehensive approach to law making. Under a completely single referral system, bills that cross committee jurisdictions go singly to one committee - the committee of preponderant jurisdiction. This allows one committee to have an impact on broad bills (though plenty of jurisdictional infighting could and does occur). The guarantee that all committees with legitimate jurisdictional claims could gain reference might serve however to reduce the incentives for broad, comprehensive bills. Such a claim should not be overstressed however; there are scenarios under which a broad bill is more attractive to a bill's proponents because of the multiple referral. Plus, it has been argued that multiple referral has given committees the incentive to exercise claims on areas not previously claimed (Davidson and Oleszek 1992).
Speaker Choice of Referral Conditions

Since referral conditions are not neutral it is likely that the Speaker attempts to shape the referral conditions for the majority party's advantage. The leadership does not have to be neutral in choosing referral conditions anymore than it has to be neutral in choosing rules. House rules give the Speaker discretion over the type of conditions placed on multiple referrals. One of these conditions is whether or not the Speaker wishes to impose a joint or sequential referral. While presumably the Speaker considers such issues as the amount that a bill overlaps the different committee jurisdictions, he/she may also choose to make a sequential versus a joint referral based on the relative partisanship of the committees involved. For example, under the configuration in figure 6.1A with a status quo in the interval \([x^h, x^{c2}]\), the Speaker may choose to make a sequential referral - with C1 being the initial committee - thus ensuring that a proposal reaches the floor. This is not always the case, however. It is possible that under the configuration like that in figure 6.1C the Speaker prefers to make the initial referral to the less partisan committee in order to prevent the more partisan committee from obstructing. What is necessary for the figure 6.1C case is that status quo be to the left of \(R\).
Such an alignment - of committees and the status quo - seems unlikely since it means that not only is a committee more liberal than the party majority median but also that the status quo is to the left of the committee.

Assuming that the Speaker chooses the reference based solely on the outcome for the majority party, the following proposition holds,

Proposition 6.3: In choosing reference conditions, a sequential referral to the committee closest to the majority party median weakly dominates a joint reference (with no discharge) and a sequential reference to the committee farther away from the majority party median. This assumes no existence of the following (unlikely) alignments, $x^0 > x^c1 > x^r > x^n > x^c2$ or $x^0 < x^c1 < x^r < x^n < x^c2$.

Thus it would be expected empirically that the more partisan committees will be the committees of initial referral, though as I argue shortly, such partisan considerations are clearly not the only criteria the Speaker uses. The prediction is clearly counter to that of Austen-Smith (1993). He argues that the most informationally efficient referral, under most conditions, is one in which the most outlying committee - relative to the chamber - goes first.

One aspect of the model that clearly does not capture reality is the prediction that sequential referrals should occur more often than joint referrals. Sequential referrals, however, are rarely used. Why? As
noted, Rule X of the House Rules require the Speaker to refer introduced legislation in order that "each committee which has jurisdiction...over the subject matter of any provision thereof will have responsibility for consideration such provision and reporting to the House with respect thereto." The Speaker, of course, is given considerable discretion regarding the exact conditions of the referral, including the type of referral. In practice it appears that Speakers make sequential referrals in two circumstances. The first is when the preponderant portion of a bill covers the jurisdiction of one committee, a circumstance that might be rare given the severity of jurisdictional overlap. The second, and perhaps more frequent, circumstance is when a committee of initial (and originally single) referral amends the introduced bill in such a way as to affect the jurisdiction of other committees. This latter circumstance has important strategic implications, as discussed above, but does not reflect an opportunity for the Speaker - at the outset, when the bill was originally introduced - to use the conditions of referral to some advantage. This can occur with the Speakers designation of time limits and jurisdictional responsibility for the secondary committees. A further likely factor is the Speaker's power of discharge.
As discussed at length both here and in chapter four, as well as in much of the literature on multiple referral, joint referrals add veto points to the legislative process. Politically this means that the processing of passing legislation is made even more difficult under multiple referral. Given the importance of many multiply referred bills this points to a problem faced by the leadership. As noted in chapter one, this was part of the complaint about joint referrals heard by the Patterson committee. What I have ignored thus far, of course, is the fact that the Speaker has the power of discharge for all committees in a multiple referral and this power is much easier to impose than for single referrals. An interesting next step then, is to relax the no discharge assumption for joint referrals and evaluate the strategic implications.

If we assume that the Speaker may discharge any bill in a joint referral then the equilibrium points for each alignment collapse to the interval \([x^r, x^h]\). For example, under the configuration in figure 6.1D suppose the status quo were \(x^{c1}\). Fearful of R granting an open rule both committees would likely obstruct if given the opportunity. By discharging both committees, R can force the outcome \(x^h\). Generally, the committee more likely to be discharged is the one farthest away from R. The exception, as with
the sequential referral case, is with an alignment like that in figure 6.1C. Under a status quo of $x^{C1}$, for example, R discharges C1.

The credible threat of, or actual use of, discharge allows the Speaker to use joint referral extensively and still prevent increased obstruction. Indeed, under many conditions the equilibrium sets for joint referrals with discharge are smaller than the equilibrium sets for single referrals. Given that Speakers did not develop full powers of discharge until after 1980, it may be the case that previous to that time sequential referral was much more frequent. Unfortunately I do not have pre-1980 data.

Discussion

This chapter has covered a number of different issues and it will be worthwhile to briefly restate a number of the claims made:

- The models predict that multiple referrals are more likely to receive restrictive rules than are single referrals (in the aggregate). However, not all multiple referrals are created equal. While restrictive rules usefully prevent reneging on the floor - and thus lead to consummation of pre-floor committee bargains - the Rules Committee (Speaker) can also use restrictive rules and the obstruction by the Rules Committee to force favorable outcomes for the majority party. Generally, but not always, the more (majority) partisan committees receive the more favorable rules.

- Similar to the findings of Gilligan and Krehbiel (1989) and Austen-Smith (1993), the presence of multiple
proposers (in this case committees) increases the chances of majoritarian outcomes because the committees must bid for the floor's support.

- However, the models also point to the non-majoritarian possibility of increased obstruction due to multiple referral. The problem is alleviated if the Speaker has complete control over the choice between a sequential or a joint referral or if the Speaker has discharge power over all committees in a joint referral.

- To prevent a multiple referral committees may fashion bills more narrowly than preferred. The opposite occurs as well.

Many of the theoretical claims that I have made here are subject to empirical falsification. In the next several chapters I attempt to test most of the claims made here using data primarily from the 100th Congress.
Chapter Seven

Conditions of Referral, Committee
Obstruction, and Discharge

In the next two chapters I test a number of the
different empirical predictions made by the party centered
models developed in the two previous chapters. Where
possible I consider the predictions made by the
distributive and informational perspectives as well.

In this chapter I address four issues. First, I
consider the Speaker’s choice of referral type. Second, I
consider the sequence in which sequential referrals are
made by the Speaker. Third, I analyze committee
obstruction under single and multiple referrals. Finally,
I consider the issue of Speaker discharge of joint
referrals.

The Speaker and Choice of Referral

House Rules grant the Speaker discretion over the
choice of referral conditions. While the rules restrict
the Speaker to referring legislation to all committees
with a reasonable jurisdictional claim over a bill’s
subject matter, whether the referral made is sequential,
joint, split, or some combination thereof remains up to
the Speaker as do other factors like the use of discharge.

Presumably, then, the Speaker uses this discretion
to facilitate or hinder bill passage and the ultimate
content of the legislation. If we restrict our legislative world to interaction among committees to just one dimension then we would expect the choice of sequential versus a joint referral to be based strictly on what outcome the Speaker prefers to see.

If we assume the Speaker has full discharge powers over all the committees in a referral then the difference between sequential referrals and joint referrals disappears in the party centered model. If any prediction here is made it is a prediction of a joint referral in order to save time. All committees could begin work immediately instead of going through the chain of the first committee reporting, the second committee receiving the bill and so on (see Austen-Smith 1993: 17).

If we reconsider the party centered model in chapter six, sans discharge for joint referral, it turns out that sequential referral weakly dominates joint referral. Though for most distributions of ideal and status quo points sequential and joint referrals yield equivalent results, under a number of cases sequential referral yields results preferred by the Speaker. To see this consider figure 7.1. Suppose the status quo is $x^0$. Under a joint referral (without discharge) C2 obstructs because any alteration in the status quo necessarily makes C2 worse off. Under a sequential referral, with C1 being the
committee of first reference, the situation is dramatically different. C1 reports a proposal, C2, faced with a time limit, can not stop the bill but will also refuse to settle with C1 on any proposal other than \( x^h \). The chamber median, \( x^h \), is thus the outcome. Under such a scenario the Speaker (who is equivalent to R), chooses ex ante a sequential referral.

**Figure 7.1**
Choice of Referral

\[
\begin{array}{cccccc}
\text{---} & \text{---} & \text{---} & \text{---} & \text{---} & \text{---} \\
\times r & \times c1 & \times h & \times 0 & \times c2 \\
\end{array}
\]

Interestingly, informational theory also predicts that sequential referral weakly dominates joint referral. Depending on the distribution of the committee ideal points, the Speaker chooses between a joint and sequential referral (Austen-Smith 1993). Note that under informational theory the Speaker is strictly an agent not of party but of the chamber. Thus any action the Speaker takes is taken for benefit of the institution generally and not the majority party specifically.

While for most distributions of ideal points informational efficiency for sequential versus joint referrals are equivalent, for particular asymmetric distributions of ideal points sequential referral strictly
dominates joint referral. Specifically, the alignment must be heterogeneous (e.g., $x^{C1} < x^h < x^{C2}$) and the alignment must not be symmetric (i.e., $x^{C1} = -x^{C2}$). Also, the distribution of committee ideal points is constrained within particular intervals that are relatively close to the chamber median (Austen-Smith 1993: 17). ¹

While determining committee locations regarding the exact intervals is difficult, it is possible to imperfectly test the Austen-Smith prediction by simply comparing heterogeneous alignments with homogenous alignments of committee medians. Recall that in a heterogeneous alignment, the committees of reference straddle the chamber median. From this modified Austen-Smith prediction stems the following hypothesis,

**Hypothesis 7.1:** Under a heterogeneous alignment of committees, sequential referrals are more likely than joint referrals.

To test the hypothesis I need to be able to estimate the alignment of the different actors involved. Since most of the predictions made in this study revolve around partisan alignments it is necessary to determine the dispersion of relative partisans. To do this I utilize a new measure meant to reflect the underlying "party" voting dimension. Briefly, using all roll call votes multi-dimensional scaling was utilized to determine the
dimensionality of the voting space. The two dominant dimensions that were produced were then used to ascertain the underlying party dimension. This was done - essentially - by regressing the two dimension scores on the party affiliation of each member thus bisecting the two orthogonal dimensions.

With the resulting estimates the primary dimension was then rotated onto the x-axis thus providing the party measure. Though this general type of approach has been criticized (see e.g., Snyder 1992; Koford 1989), this particular technique is unique and it offers a party measure with considerable face validity. Looking at individual members in the 100th Congress, the Democrats and Republicans tend to have little overlap and those that do overlap are among the members most often associated with low party support. For example, the Democrat the furthest to the "right" from his fellow partisans is Timothy Penny of Minnesota. Considering the state and a 1987/1988 ADA average of 64, Penny seems an unlikely person to rank low on partisanship. Yet during the 100th Congress Penny represented a Republican district, generally presented himself as a conservative, and he opposed Democratic positions more than any other Northern Democrat (Duncan 1991: 784). The other "non-conforming"
Democrats are well-known for their frequent opposition to Democrat party lines. They include Charles Stenholm and Ralph Hall of Texas as well as Dan Daniel of Virginia. Republicans overlapping onto the Democratic side include Frank Horton and Bill Green of New York and Silvio Conte of Massachusetts, all belong to the near extinct liberal wing of the Republican party.

The distribution of committee medians also reflect the general conventional wisdom regarding the partisan and ideological dispositions of committees. Table 7.1 lists the committee, chamber, and partisan medians based on their partisanship scores for both the 99th and 100th Congresses. Looking at the 100th Congress, the committees most removed from the Democratic median are Standards of Official Conduct (a committee with equal partisan representation), Armed Services, Veteran’s Affairs, and Agriculture. Closest to the Democratic median are District of Columbia, Rules, House Administration, and Education and Labor. The measure thus appears to reflect party alignment without necessarily being simply a measure of ideology as the Penny case demonstrates.

To test the referral hypothesis, the party scores for the committees and chamber were used to determine alignment; the alignments were then compared with referral type, joint versus sequential. Since the Austen-Smith
model analyzes only dual referrals, I excluded all referrals with greater than two committees.

The results are given in table 7.2. First, most multiple referrals with two committees are in a heterogeneous alignment. While on a percentage basis sequential referrals are more likely to be in a heterogeneous alignment than are joint referrals (65% versus 57%) the differences are not pronounced.

While the evidence provides little support for the alignment hypotheses, three strong caveats regarding these results are in order. First, the Austen-Smith prediction is not completely specified in the test. While a heterogeneous alignment is a necessary condition for sequential referral to strictly dominate joint referral it is not a sufficient condition. Sufficiency requires knowledge about the intervals within which the two committees lie. Second, as Austen-Smith notes, there may be a cost differential between joint and sequential referral. Namely, sequential referrals do tend to be strung out timewise because the committees do not act on legislation concurrently but instead they do so sequentially. Adding such a costs may make joint referrals preferable to sequential referrals.²

Finally, the most likely explanation for the dearth of sequential referrals, and the lack of a relationship
Table 7.1
Alignment of Committees
Based on Party Score Medians
99th and 100th Congresses

<table>
<thead>
<tr>
<th>Unit</th>
<th>99th Congress Median</th>
<th>100th Congress Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Republicans</td>
<td>-1.56</td>
<td>Republicans</td>
</tr>
<tr>
<td>Armed Services</td>
<td>0.05</td>
<td>Standards</td>
</tr>
<tr>
<td>Standards</td>
<td>0.08</td>
<td>Armed Services</td>
</tr>
<tr>
<td>Veteran's Affairs</td>
<td>0.09</td>
<td>Veteran's Affairs</td>
</tr>
<tr>
<td>Agriculture</td>
<td>0.12</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Merchant Marines</td>
<td>0.21</td>
<td>Merchant Marines</td>
</tr>
<tr>
<td>Energy &amp; Commerce</td>
<td>0.27</td>
<td>Energy &amp; Commerce</td>
</tr>
<tr>
<td>Science</td>
<td>0.29</td>
<td>Banking</td>
</tr>
<tr>
<td>Banking</td>
<td>0.31</td>
<td>Science</td>
</tr>
<tr>
<td>Chamber</td>
<td>0.36</td>
<td>Chamber</td>
</tr>
<tr>
<td>Interior</td>
<td>0.38</td>
<td>Interior</td>
</tr>
<tr>
<td>Small Business</td>
<td>0.39</td>
<td>Government Ops.</td>
</tr>
<tr>
<td>Judiciary</td>
<td>0.42</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Government Ops.</td>
<td>0.44</td>
<td>Budget</td>
</tr>
<tr>
<td>Budget</td>
<td>0.46</td>
<td>Small Business</td>
</tr>
<tr>
<td>Public Works</td>
<td>0.49</td>
<td>Ways and Means</td>
</tr>
<tr>
<td>Ways and Means</td>
<td>0.53</td>
<td>Public Works</td>
</tr>
<tr>
<td>Post Office</td>
<td>0.57</td>
<td>Post Office</td>
</tr>
<tr>
<td>Education &amp; Labor</td>
<td>0.68</td>
<td>Foreign Affairs</td>
</tr>
<tr>
<td>House Admin.</td>
<td>0.69</td>
<td>Appropriations</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>0.77</td>
<td>Education &amp; Labor</td>
</tr>
<tr>
<td>Appropriations</td>
<td>0.79</td>
<td>House Admin.</td>
</tr>
<tr>
<td>Democrats</td>
<td>0.87</td>
<td>Rules</td>
</tr>
<tr>
<td>Rules</td>
<td>0.89</td>
<td>Democrats</td>
</tr>
<tr>
<td>D.C.</td>
<td>1.09</td>
<td>D.C.</td>
</tr>
</tbody>
</table>

between the type of committees involved in the choice of referral, is not so much Speaker discretion between sequential and joint referrals as much as it is a function of jurisdictional responsibilities in the House and the behavior of committees. The above predictions were predicated on the condition that two committees shared a full jurisdictional dimension and the bill introduced and
Table 7.2
Choice of Joint Versus Sequential Referrals
by Alignment of Committees

<table>
<thead>
<tr>
<th>Alignment</th>
<th>Joint</th>
<th>Referral</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>57%</td>
<td>65%</td>
</tr>
<tr>
<td>(559)</td>
<td></td>
<td>(24)</td>
</tr>
<tr>
<td>Homogenous</td>
<td>43%</td>
<td>35%</td>
</tr>
<tr>
<td>(422)</td>
<td></td>
<td>(13)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>100%</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>(981)</td>
<td></td>
<td>(37)</td>
</tr>
</tbody>
</table>

referred to both committees was introduced with that dimension being covered. In reality, most sequential referrals occur for two reasons. The first is when the great preponderance of the bill covers just one committee's jurisdiction. A few small sections may affect other committee's but not enough to warrant granting the full bill to all committees. The second, and perhaps more frequent, circumstance is when a committee of initial (and single) referral amends the introduced bill in such a way as to affect the jurisdiction of other committees. This latter circumstance has important strategic implications, as discussed in chapter six, but does not reflect an opportunity for the Speaker to choose between a sequential or joint referral when the bill is introduced.

This last problem hampers a second set of predictions made by the Austen-Smith model and my party
centered model. This regards the issue of which committee goes first in a sequential referral.

Who Goes First?
Committee Sequence Under Sequential Referrals

It is well known that the sequence in which actors move in a political scenario often greatly affects outcomes. According to Austen-Smith, in regard to sequential referral, the most informationally efficient sequence, typically, is one in which the committee which is the greatest preference outlier goes first. Conversely, the party centered model predicts that with the exception of one, generally unlikely, alignment, the committee that goes first is the committee whose median is closest to the majority party median. The unlikely alignment is \( x_0 > x_i > x_r > x_j \) or \( x_0 < x_i < x_r < x_j \). In the contemporary Congress for this to occur one of the committees of reference must be to the left of the party majority and the status quo must be to the left of that committee. Given that the only committee that lies to the left of the party majority during the 100th Congress is the District of Columbia Committee (table 7.1), and given that that committee participated in no sequential referrals during that Congress, such a possibility can be safely ignored.

Given this, the party centered model yields the
following hypothesis,

**Hypothesis 7.2:** For sequential referrals, the committee closest to the majority median is more likely to go first in the referral than the committee(s) further from the majority party median.

The Austen-Smith prediction yields the hypothesis,

**Hypothesis 7.3:** For sequential referrals, the committee farthest from the chamber median, relative to the other committees is more likely to go first in the referral than the committee(s) further from the majority party median.

I tested these two hypotheses by simply analyzing the forty-six purely sequential referrals that occurred in the 100th Congress. Using the party score medians for each committee, and the chamber and party medians as well, I determined the number of times the Austen-Smith prediction proved correct as compared to the party centered prediction. Note, that in some cases both models make the same prediction since it is often possible for the most outlying committee relative to the chamber to be the most partisan committee as well. For example, H.R.285 was a sequential referral first to Education and Labor (party score median = 0.717) and then to Judiciary (party score median 0.479). In this case the party centered model predicts that Education and Labor goes first since it is closer to the majority party median (0.843); Austen-Smith makes the same prediction since Education and Labor
is farther from the chamber median (0.426) than is Judiciary. It is also possible for both models to make incorrect predictions at the same time.

Neither model predicts particularly well. The Austen-Smith model predicted correctly on eighteen of the forty-six, the party centered model predicted correctly on twenty-two of the forty-six and neither predicted correctly on eighteen of the forty-six. While the party centered model predicted slightly better than the Austen-Smith model (48% to 39%) neither model achieves the modest threshold of 50%. This points once again to the argument that I made earlier regarding the way sequential referrals typically work.

If a sequential referral begins as a single referral and then, because of the initially referenced committee’s amendments, becomes a sequential referral, predictions made by the models described here will not be particularly useful. Indeed, the best predictive variable for what committee goes first in a sequential referral has nothing, directly, to do with the committee’s preference composition. The best predictor is the committee on which the person who introduced the bill sits. Of the forty-six bills which were sequentially referred in the House forty-two (91%) went first to the committee of the person who introduced the bill. This, of course, makes perfect
sense. Committee membership implies a certain amount of interest and expertise on a subject; members are likely to have bills drafted so that they will have maximum influence over them. The best way to assert influence is to be on the committee which hears the bill. As I discussed in chapter six, when faced with the potential for a multiple referral, members often have the incentive to structure the bill, as originally drafted, in order to ensure that bill’s referral to the member’s committee. Language affecting other committees can always be added, depending on the strategic context, after the bill goes to the first committee. An excellent example of this is the product safety bill of the 100th Congress. In this case, a member of Energy and Commerce - Bill Richardson (D-NM) - had the bill drafted to concern product safety while the true intent of Richardson, and other members of Energy and Commerce, was to revise tort laws. Had the bill been drafted so broadly from the start the likely referral would have been a joint referral to Judiciary and Energy and Commerce. Given Judiciary’s extreme opposition to tort reforms it seems unlikely that the bill would have made it out of that committee.

While it would be interesting to go back in time and analyze the Speaker’s use of sequential referrals before the advent of the discharge powers around 1980, there is
very little evidence that the Speaker uses discretion over
the choice between sequential and joint referrals to
achieve whatever advantage may be sought (whether partisan
or institutional (informational)). Currently, the great
bulk of multiple referrals are joint referrals and it will
be useful to consider the behavior of committees and the
Speaker in regard to the processing of joint referrals as
compared to single referrals. In the next two sections I
analyze two issues, committee obstruction and the
Speaker’s use of discharge for joint referrals.

Why Do Committees Obstruct?

Virtually all attempts to describe the foundations
of committee power point to committee gatekeeping: the
ability of committees to obstruct legislation from
proceeding further in the legislation process. While a
number of theorists analyze gatekeeping power in
considerable detail (e.g., Denzau and Mackay 1983), it is
interesting that there has been no empirical work
performed predicting the conditions under which a
committee obstructs or does not obstruct legislation. 3

Theoretical Predictions Regarding Obstruction

Informational Theory

An important assumption made in the informational
models developed by Gilligan and Krehbiel is that
committees do not have the ability to obstruct legislation. Yet it is often observed that committees do indeed stop a great deal, in fact most, legislation from proceeding passed the committee stage. Epstein (1993) argues that committees which are more informationally efficient, namely the more heterogenous committees, are granted greater gatekeeping powers than are the less informationally efficient committees. Since the decision to obstruct constitutes a signal regarding a bill’s value to the floor (and to the committee) the floor is more likely to accept such a signal from the more credible source i.e., a committee which closely reflects the floors preferences. We might also expect the floor to prefer the committee to obstruct when a bill is heavily laden with distributive content. An easy way to prevent distributive losses is to simply keep the bill from being considered at all.

Distributive Theory

Committee obstruction is, of course, an important component of distributive theory. Where are committees most likely to obstruct? First, committees in this perspective are more likely to obstruct if the chances of altering the status quo in favor of the committee is low. Presumably, committees that are relative outliers to the
floor find themselves subject to hostile legislative proposals more so than non-outlying committees. Thus, under distributive theory the expectation is that outlying (or homogeneous) committees are more likely to obstruct.

A second prediction made by distributive theory regards the distributive content of the legislation involved. The logic here is the relationship between re-election and provision of particularistic benefits to election constituencies. Non-distributive bills on potentially controversial topics (e.g., abortion) increase the chances that a member forced to take a position on the floor will be hurt by the vote in a future election (Mayhew 1974; Arnold 1990). Pork bills, however, provide members with generally non-controversial and electorally beneficial resources. This same line of reasoning also suggests that pure position taking bills, like the ceremonial bills described in chapter three, are less likely to be obstructed by committees.

Party Centered Theory

Party centered theory makes specific predictions about obstruction both generally and in regard to multiple referral. First, obstruction increases as a function of the distance between the referenced committee and the chamber median. Second, multiple referrals increase the likelihood of obstruction. Third, the propensity of
obstruction under multiple referrals is directly related to the dispersion of the committees. In a heterogeneous alignment obstruction increases as the distance between the most outlying committees on each side of the chamber median increases. Consider figure 7.1. Under this heterogeneous alignment, as C1’s median moves further to the left and C2’s median moves further to the right the distance between the two committees increases. Consequently the size of the equilibrium set increases as does the chances for obstruction. Under a homogenous alignment what matters is the distance from the most outlying committee and the chamber median. This is assuming no discharge by the Speaker.

Hypotheses

The three perspectives yield several hypotheses. First, each predicts that obstruction is related to the distance between the committee of reference and the chamber median for single referrals. Thus the hypothesis, Hypothesis 7.4: The more extreme are a committee’s member’s preferences relative to those of the House, the greater will be the committee’s probability of obstructing legislation.

Both informational and distributive theory predict that distributive content is related to obstruction. Informational theory predicts a positive relationship
between obstruction and distributive content while
distributive theory predicts the opposite. What of the
party centered model? As I have argued earlier, if bills
overladen with particularistic programs have a potentially
negative impact on the re-election fortunes of the
majority party members generally then the majority party
membership has the incentive to stop highly distributive
bills from moving to the floor. The question is where
would the bill be stopped? Presumably this would occur at
the Rules Committee stage since under the party centered
model committees are free to report whatever legislation
they like. I leave the issue of Rules Committee
obstruction to future research. For now, then, the party
centered model makes no prediction regarding the
relationship between committee obstruction and
distributive content of legislation. Stating the
hypothesis from the informational perspective yields the
following,

**Hypothesis 7.5:** As the distributive content of a bill
increases the likelihood of its survival decreases.

The two party centered predictions regarding
multiple referral yield three further hypotheses,

**Hypothesis 7.6:** Joint referrals are less likely to survive
than single referrals.
Hypothesis 7.7: For joint referrals, the more committees involved in the referral the less likely is bill survival.

Hypothesis 7.8: For joint referrals, bill survival is negatively related with the relative preference extremity of the committees of reference.

Data and Results

To test the hypotheses I return to the dataset utilized in chapter four. Included are all non-procedural public measures from the 100th Congress. A measure is counted as having survived if it was reported by all committees of reference or if it was debated on the floor.

Using a measure devised by Krehbiel (1991), the distributive content of legislation was determined by utilizing keyword terms from the Washington Post database Legi-Slate. Legi-Slate assigns each measure keywords depicting the content and intent of the legislation. These keywords number in the thousands and include great detail. Distributive content was determined by calculating the total number of keywords in the measure plus the number of states affected divided by the total number of states affected. Among the top ten highest scoring legislation in the 100th Congress were the Agricultural Research Commercialization Act, the Water Quality Act, the Acid Deposition Control Act, and the Military Construction Authorization Act.

The party score explained above was used to
determine distances from the chamber median and, where relevant, distances between the two most outlying committees. This was done simply by taking absolute differences. Thus, in accordance with hypothesis 7.4, and 7.8, the expectation is that as the distance variable increases, chances for bill survival decrease.

The variables for multiple referral and number of referrals include a straightforward dummy variable and a committee count respectively. In addition, two control variables are utilized. The first is the ceremonial variable used in chapter four. This is a dummy variable for measures dealing with ceremonies or memorials. The second variable accounts for identical measures. In each Congress, a number of bills introduced are exact duplicates of other bills. The reason for this is typically for position taking purposes.

Logit was used for the estimates. Results for all referrals are listed in table 7.3. First, as in chapter four, multiple referral is negatively associated with bill survival and the relationship is statistically significant. As shown in table 7.4, setting each variable at its mean (modal) category and toggling the multiple referral variable from 0 to 1 decreases the probability of survival from 0.13 to 0.06, a finding quite similar to that in the less specified equation from
### Table 7.3
Determinants of Bill Survival
Single and Joint Referrals
Logit Estimates

<table>
<thead>
<tr>
<th>Variable</th>
<th>Estimate</th>
<th>Std.Err.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>-1.98*</td>
<td>0.08</td>
</tr>
<tr>
<td>Multiple Referral</td>
<td>-0.74*</td>
<td>0.23</td>
</tr>
<tr>
<td>Distributive Content</td>
<td>11.70*</td>
<td>1.90</td>
</tr>
<tr>
<td>Distance</td>
<td>0.32</td>
<td>0.51</td>
</tr>
<tr>
<td>Identical</td>
<td>-1.49*</td>
<td>0.44</td>
</tr>
<tr>
<td>Ceremonial</td>
<td>0.80*</td>
<td>0.17</td>
</tr>
<tr>
<td>Multiple Referral x Distribution Content</td>
<td>1.73</td>
<td>4.43</td>
</tr>
<tr>
<td>Multiple Referral x Distance</td>
<td>0.60</td>
<td>1.00</td>
</tr>
</tbody>
</table>

N = 5969  
Log Likelihood = -2175.81  
* Statistically Significant at 0.05

chapter four. Thus multiple referrals, even with the discharge powers available to the Speaker, reduces a measure's chances for survival.

The major surprise in table 7.3 is the direction of the distributive content variable. The estimate is positive and statistically significant. In regard to substantive impact, increasing the distributive content measure from its mean by one standard deviation increases the chances of bill survival a modest 0.03. Thus contrary to informational theory and in support of distributive theory, highly distributive bills do not get blocked at the committee level as much as do non-distributive bills. In the next chapter I consider the issue of whether or
Table 7.4
Estimated Probabilities of Bill Survival by Different Values of Independent Variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>Net Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple Referral</td>
<td>-0.07</td>
</tr>
<tr>
<td>Distributive Content</td>
<td>0.03</td>
</tr>
<tr>
<td>Distance</td>
<td>0.01</td>
</tr>
<tr>
<td>Ceremony</td>
<td>0.13</td>
</tr>
<tr>
<td>Identical</td>
<td>-0.10</td>
</tr>
</tbody>
</table>

Base Probability of Survival [All Variables set to mean (modal) values] = 0.13

For interval variables net change is determined by setting all explanatory variables to their mean (modal) values and then adding one standard deviation to the relevant variables mean. Discrete variables are set to zero - with all others at their mean (modal) values and then changed to one.

not these bills, once they reach to floor, are advantaged or disadvantage by the rules chosen by the Rules Committee.

The distance variable is in the right direction for informational theory but is not statistically significant. Testing the actual impact of the variable reveals a very modest impact of 0.01 increase in the likelihood of survival given a one standard deviation change in the value of the distance variable. Quite expectedly, the two control variables - for ceremonial bills and identical bills - are statistically significant in the expected direction and have a fairly substantial impact on the chances for bill survival.
The results then are a mixed bag. Controlling for preference characteristics of committees does not affect the survival rate of either multiple referrals or single referrals thus calling into question the obstruction predictions made by the party centered models in chapters four and five. Looking at just joint referrals (table 7.5) reveals similar results. Also,

Table 7.5
Determinants of Bill Survival Joint and Split Referrals

<table>
<thead>
<tr>
<th>Variable</th>
<th>Estimate</th>
<th>Std.Err.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>-2.90*</td>
<td>0.24</td>
</tr>
<tr>
<td>Number Referrals</td>
<td>0.12</td>
<td>0.08</td>
</tr>
<tr>
<td>Distributive Content</td>
<td>12.91*</td>
<td>3.90</td>
</tr>
<tr>
<td>Distance</td>
<td>0.31</td>
<td>0.94</td>
</tr>
<tr>
<td>Identical</td>
<td>-0.19</td>
<td>0.77</td>
</tr>
<tr>
<td>Ceremonial</td>
<td>0.37</td>
<td>1.11</td>
</tr>
</tbody>
</table>

as in chapter four, the number of referrals variable is positively related to survival though not statistically significant.

While multiple referrals increase the chances of bill obstruction, the relationship is not particularly dramatic. The obvious explanation for this, but which is extremely difficult to examine empirically, is the Speaker’s power of discharge. In the next section I discuss some issues related to discharge and joint referrals.
Speaker Discharge Powers

Multiple referral, especially after the discharge precedents the Speaker gained around 1980, increased dramatically the potential power of the Speaker in forcing committees to make floor proposals. As noted in chapter two, the Speaker has the authority to discharge any committee involved in a multiple referral. Theoretically this means that any status quo not in the interval between the chamber median and the majority party’s ideal point is subject to alteration. Interestingly, for single referrals the Speaker’s power is not quite as absolute. Discharging a single referral without the referenced committee’s consent requires either a discharge petition or extraction by the Rules Committee. The former is difficult to implement; the latter is very rarely done (Oleszek 1989: 133-135). Of course, the Speaker’s power in regard to discharge of joint referrals may be merely symbolic. Formally, joint referrals are very rarely discharged by the Speaker. In fact, during the 100th Congress, a Congress led by the supposedly authoritarian Jim Wright (D-TX), the Speaker never formally used discharge on a joint referral. Those joint referrals that were discharged were discharged through suspension of the rules or by consent on the floor; both procedures typically require the acquiescence of all
committees involved. The dearth of formal discharges suggests one of two possibilities. Either the Speaker holds the power in name only but is not able to use it due to extreme opposition of committees or the Speaker never has to use the power formally, the threat is enough.

Which is the case is quite hard to determine because the problem is counterfactual. There are a number of instances, the omnibus trade bill for example, where the Speaker did publicly threaten to discharge legislation but the intent of the threat was not necessarily to force a committee to report as much as it was to force a committee to report sooner than it wanted. One possible way to get at the issue, but which unfortunately will have to wait for future research, is to compare the survival rates for joint referrals over time. Presumably, early joint referrals were quite prone to obstruction because the Speaker had no authority to discharge joint referrals. As time went by, and the Speaker gained full discharge power, the obstructive tendencies probably dropped. Also, such changes in discharge power probably also affected the use of sequential referrals relative to joint referrals. From the start the Speaker could discharge the secondary committees in a sequential referral. Because of this, the Speaker in many cases had the incentive to make a sequential referral where, presently, a joint referral
would be preferable. Thus the ratio of sequential referrals to joint referrals should drop over time.

Conclusion

To summarize briefly, in this chapter I considered four empirical issues. First, what decision criteria does the Speaker use when choosing between joint and sequential referrals? I found that the choice between joint and sequential referrals was not related to the preference composition of the committees involved in the referral. The most likely explanation is that committees, after receiving a single referral, alter the original bill to affect other committee's jurisdiction. This altered bill is then referred to subsequent committees under a sequential referral.

Second I ask the question: given a sequential referral, what committees go first? The answer simply is the committee of the person who wrote the bill. Once again the preference composition of the committees did not matter except in encouraging or discouraging the sponsor from formulating the bill in the first place. Third, I considered the issue of committee obstruction. The findings here reinforced the earlier finding that joint referrals are relatively more prone to obstruction than are single referrals. The impact is not substantially huge and the likely reason for this is the Speaker's power
of discharge. While the preference composition of the committee's did not affect survival rates, the distributive content of the legislation did, though the substantive impact is modest.

Finally, the issue of discharge remains unresolved. Given the relatively modest impact on bill survival that joint referrals have, it is likely that the Speaker's power of discharge has an impact. In lieu of the formal use of discharge, however, demonstrating this is empirically difficult.

In the subsequent chapter I consider the legislative process at the post-committee stage. Specifically I consider the conditions under which restrictive versus non-restrictive rules are chosen.
Notes to Chapter Seven

1. Over a one dimension space \([-1,1]\), the location of one of the committees must be in the interval \([0,\frac{1}{8}]\) while the other committee must be in the interval \([\frac{1}{8},\frac{5}{24}]\) (Austen-Smith 1993: 17).

2. In informational theory it is always assumed that committees do not have the power to obstruct legislation. Thus the problem with larger equilibria sets for joint referrals - under the condition of no Speaker discharge - does not apply. The point is simply that if joint referrals add veto points to the process then this cost may swing the Speaker's referral preference back to sequential referral. As I noted in passing in chapter six, presumably the use of sequential referrals have decreased since the Speaker gained full power to discharge legislation from committees in joint referrals.

3. The closest exception to this is Krehbiel's (1985 1986) analysis of the relative "representativeness" of outcomes in a legislature which allows (sophisticated) committee obstruction.

4. The alignment of committees is quite similar to that developed by Ornstein et al (1990: 206) utilizing support for the conservative coalition. Interestingly all the major committees lie on the Democratic party side of the chamber. This clearly supports the argument that the majority party seeks to place loyal partisans on the most important committees. Note, however, that since medians are utilized here the statistical difference between the committee medians and party medians can not be ascertained. On the committee composition issue generally see Krehbiel (1990a 1990b; Cox and McCubbins 1989; Hall and Grofman 1990).

Another interesting result from the party measure regards the committee chairs. With one exception (Montgomery (D-MS) of Veteran's Affairs) all the committee chairs lie to the Democratic side of the chamber median; all but six lie to the left of the Democratic median; and all but one (Montgomery) are to the Democratic side of their respective committee medians. Though, once again, the statistical significance of these differences need to be ascertained by using other measures, the consistency of this finding raises the issue of who chairs represent. See, e.g., Blair, Anderson, and McAlleavy (1993).
Chapter Eight
The Partisan Basis of Rules Selection

If you let me write procedure and I let you write substance, I'll screw you every time.

- John Dingell\(^1\)

Political observers long have realized that the ability to dictate or influence procedural conditions constitutes a considerable political advantage. In recent years, a growing body of theoretical literature has demonstrated the advantage that agenda control yields to agenda setters (e.g., McKelvey 1979) as well as the impact that different types of amendment rules in the House have on committee behavior and outcomes (Denzau and MacKay 1983; Gilligan and Krehbiel 1989).

Despite the recognition that rules play a vital part in determining political outcomes, few empirical works attempt to examine and predict the conditions under which particular type of rules are chosen. The chief exception to this is Krehbiel's (1991) rigorous comparison of the predictions made by the informational and distributive perspectives. Additionally, Bach and Smith (1988) examine aggregate trends of rule selection.

In chapters five and six I developed a party centered model which produces predictions for the
selection of rules. It is the task of this chapter to test those predictions. Using data from the 99th and 100th Congresses I first pit hypotheses derived from my party centered model against the hypotheses derived by Krehbiel in his test of the informational and distributive predictions. While the test for singly referred bills is straightforward, testing rules predictions for multiply referred bills proves more difficult because of the need to determine status quo points. For this reason I also examine a particular case study in which the status quo point can be reasonably determined.

Predictions of the Party Centered, Informational, and Distributive Perspectives

Informational Theory

Under informational theory, in order to maximize the efficient transmission of information from committee to chamber, the legislature utilizes rules and procedures in such a way as to give committees both the incentive to specialize and to fully reveal the information acquired. Informational theory predicts the conditions under which restrictive rules will be granted to committees. Specifically it predicts that restrictive rules are "positively associated with committee specialization, non-outlying committees, and heterogeneous committees" (Krehbiel 1991: 165).
While as of yet there has not been any direct modeling of multiple referral which examines the impact of restrictive rules within the Gilligan and Krehbiel framework, some early conclusions regarding information, multiple referrals, and rule choice is possible. Austen-Smith (1993) finds that multiple referrals tend to be informationally superior to single referrals under the open rule. The reason is simply that increasing the number of information providers (signalers) makes the floor better able to ascertain the actual relationship between policy outputs and likely policy outcomes. Thus multiple referral resembles the heterogeneous committee game developed by Gilligan and Krehbiel (1989). As Krehbiel (1991: 182-183) implies in his analysis of the relationship between multiple referral and rule choice, it is reasonable to conclude that informational theory predicts that multiple referrals are more likely to garner restrictive rules than are single referrals and that the more committees participating in a referral the more likely a restrictive rule is used.\textsuperscript{2}

**Distributive Theories**

Recall that under the distributive perspective, restrictive rules aid in the construction of committee coalitions because they help to prevent reneging. Because
of this, distributive theory predicts more restrictive rules for legislation high in distributive content, and more restrictive rules to hasten the construction of winning, and stable, coalitions (Krehbiel 1991: 160). While these predictions run counter to those made by informational theory, both perspectives predict that multiple referrals garner more restrictive rules than do single referrals. The logic behind each prediction, however, differs considerably. As noted in chapter three, Barry Weingast (1992) argues that restrictive rules for multiply referred legislation helps lead to the consummation of intercommittee coalitions. It lets committees take their different proposals to the floor at the same time and, if the rule is restrictive, prevents reneging by members of the coalition. Where the two perspectives differ, however, is in regard to the relationship between distributive content of legislation and multiple referral. Where presumably distributive theory predicts that restrictive rules are most likely to occur in tandem with multiple referrals if the bill in question is highly distributive, informational theory predicts the opposite (see Krehbiel 1991: 183).

Party Centered Theory

In the party centered models developed earlier rule choice is determined by policy preferences of the majority
party. In order to garner favorable outcomes for the majority party the Rules Committee chooses rules based on the composition of the committee. Thus, for single referrals, committees with a composition more in line ideologically with the the majority party are more likely to receive restrictive rules.

In regard to multiple referral, the party centered theory makes predictions along two lines. First, like informational and distributive theories, party centered theory predicts that multiple referrals are more likely to garner restrictive rules than are single referrals. As argued in chapter six, restrictive rules aid the Rules Committee in facilitating bargains among contentious committees and committees in particular cases find it to their advantage to create a compromise position that the Rules Committee grants a restrictive rule. Second, in particular types of alignments, the Rules Committee awards the committees’ proposal(s) with a restrictive rule. While multiple referrals are more likely to garner restrictive rules than single referrals generally, it is not the case that the restrictive rules are always granted even when all committees agree on a single proposal.

While not a direct result from the spatial models, the party leadership has the incentive also to restrict the amount of distributive content in legislation. Recall
that one role of the leadership in this perspective is to aid in the re-election efforts of the majority partisans. Each individual in the chamber has the incentive to garner as many particularistic benefits for her/his district as possible. This leads to a collective action problem. Members always have the incentive to vote themselves more pork while dispersing the costs of each program over the entire nation. Were some central agent not in place a natural result is the overproduction of pork and, ultimately, a decrease in the probability of re-election for each member.

Note further that the majority party does not have the incentive to hoard all the pork for itself. As explained in chapter three the minimal result of such an action would be the complete revolt of the minority party members. Likely organizational difficulties would not serve the interests of the majority party.

Granting the Speaker the authority to limit distributive content of legislation thus aids the majority party membership's re-election chances, even if it means limiting how much pork each member gets (Cox and McCubbins 1993).

Empirical Claims About Rule Choice

As Krehbiel (1991) explains, a number of other more empirically minded scholars make claims regarding the
choice of rules. For example, Bach and Smith (1988: 54) argue that in cases where legislation is quite urgent, e.g., debt ceiling extensions, time pressure demands lead to the use of restrictive rules. Also, Bach and Smith argue that bills of wide substantive scope, e.g., omnibus bills, often garner restrictive rules because the great size of the bills and time pressures on the floor warrant them. Clearly on this latter relationship one would expect a strong positive relationship between scope and multiple referral. Restrictive rules - and suspension as well - help cement intercommittee bargains, reduce time pressures on the floor, and help keep highly complex legislation relatively coherent (Davidson et al 1988).

Two further empirical claims identified by Krehbiel concern distributive content and Speaker personality. While in distributive theory restrictive rules are utilized to hold together particularistic packages, some argue that restrictive rules prevent the piling on of more goods through the amendment process (Shapiro 1987; Robinson 1963). Allowing a tariff bill, for example, to go to the floor under an open rule may result in a considerable widening of the goods protected. On the other hand, Bach and Smith (1988: 115) argue that committee compromises hold together on the floor not because of amendment restrictions but instead due to
cross-committee deference. To Bach and Smith open rules, not closed ones, facilitate logrolling because amendments necessary for bill passage may be added on the floor.

Finally, Bach and Smith (1988: 123) claim that particular speakers may be more or less inclined to push for restrictive rules. Jim Wright, for example, is commonly cited as having been more prone to choose restrictive rules than either his immediate predecessors or his successor.

The four perspectives just presented provide a large set of, often conflicting, arguments regarding the choice of restrictive rules. In the next section I develop a set of hypotheses from the party centered models and compare these with the distributive, informational, and empirical hypotheses derived by Krehbiel (1991).

**Predicting Rule Choice**

**Hypotheses**

In regard to multiple referral, all the perspectives discussed predict that multiple referrals are more likely to garner restrictive rules and that as the number of committees in the referral increases, the likelihood of a restrictive rule increases. Two hypotheses thus follow,
Hypothesis 8.1: Multiple referrals are more likely to garner restrictive rules than are single referrals.

Hypothesis 8.2: As the number of committees in a referral increases, the likelihood of a restrictive rule increases.

In addition, the party centered model makes specific predictions regarding what types of referrals - according to the alignment of the committees and the status quo points - are more likely to garner restrictive rules. Recall from chapter six the three types of: heterogeneous, partisans homogeneous, and non-partisan homogeneous.

Under a partisan homogeneous alignment the model always predicts a restrictive rule (either modified closed or closed). For the other two alignments, whether the rule is restrictive or non-restrictive depends on the exact configuration of actors and as well as the status quo. Unfortunately, testing hypotheses from these predictions requires estimation of status quo points. This is quite difficult to do, especially when dealing with a data set composed of a number of different bills. In order to consider these predictions I develop, in the subsequent section to this chapter, a particular case where the status quo point can reasonably be ascertained. In this first set of tests, then, it is not possible to directly test the complete multiple referral prediction made by the party centered model.

Finally, the models make predictions regarding the
relationship between the distributive content of legislation and multiple referral. Informational theory and the party centered theory predict that multiple referrals with more distributive content are less likely to garner restrictive rules than otherwise; distributive theory predicts the opposite.

**Hypotheses 3.8**: For highly distributive legislation, the probability of use of restrictive rules will be increasing in the number of committees to which legislation is referred (Krehbiel 1991: 183).

The party centered model developed in chapter five does yield a testable hypothesis for single referrals. This is based on the alignment prediction in Propositions 4.1A and 4.1B. The predictions yield the hypothesis,

**Hypothesis 3.9**: Committees aligned on the same side of the chamber median with the majority party median are more likely to receive restrictive rules than otherwise.

**Informational Theory**

Informational theory yields a set of further hypotheses regarding the choice of rules for particular bills. These stem from the informational predictions regarding committee specialization, committee heterogeneity, and confirmatory signaling from differentially preferred members.

Given that informational efficiency drops, ceteris paribus, with the amount that a committee is an outlier to
the chamber, it follows that outlying committees will be less likely to receive restrictive rules. Thus the hypothesis,

**Hypothesis 8.5:** The more extreme are a committee’s member’s preferences relative to those of the House, the lower will be the committee’s probability of receiving restrictive rules for its bills (Krehbiel 1991: 165).

Additionally, informational efficiency increases with increases in specialization. (Gilligan and Krehbiel 1987). Thus the hypothesis:

**Hypothesis 8.6:** The greater is a committee’s level of specialization, the greater will be its probability of receiving restrictive rules for its bills (Krehbiel 1991: 165).

Gilligan and Krehbiel find that committees that are relatively more heterogeneous (in regard to preference distribution) are more informationally efficient. Thus the hypothesis:

**Hypothesis 8.7:** The more heterogeneous are a single committee member’s preferences, the greater will be the probability of the assignment of a restrictive rule (Krehbiel 1991: 165).

Finally, Gilligan and Krehbiel argue that a bill with bipartisan support demonstrates to the chamber that it is supported by a diverse (i.e., heterogeneous) group. Support of the bill by the minority party thus constitutes a confirmatory signal that all information has been
revealed. Thus the hypothesis,

**Hypothesis 8.8:** The greater is the minority party’s support for a committee’s bill, the greater will be the probability that the bill receives a restrictive rule (Krehbiel 1991: 166).

Distributive Theory

Distributive theory yields a set of hypotheses related to the protection of committee’s exclusive control over their jurisdictions and the protection of cross-committee coalitions. Restrictive rules on distributive legislation is consistent with the need to protect bargains. Thus the hypothesis,

**Hypothesis 8.9:** To enforce gains from trade, restrictive rules will be used on distributive legislation (Krehbiel 1991: 162).

The second prediction is simply that legislators value benefits in the short-run relative to the long run (because of the need for re-election). Given that closed rules make final agreement easier we have the following (see also Baron and Ferejohn 1989; Baron 1991),

**Hypothesis 8.10:** To hasten agreement regarding the distribution of particularistic benefits, restrictive rules will be used on distributive legislation (Krehbiel 1991: 163).

**Empirically Based Hypotheses**

The empirical literature suggests a number of other
rationales for the choice of restrictive rules. First is urgency. It is argued that legislation that is badly needed or urgent is likely to receive restrictive rules (Bach and Smith 1988: 54). Thus the hypothesis,

Hypothesis 8.11: Urgent bills are more likely to garner restrictive rules than otherwise.

Note that since the majority party is likely to be most concerned with the passage of urgent bills (debt ceilings for example), the expectation of restrictive rules on urgent bills is consistent with the party centered theory above.

Another empirical claim regards the relationship between the scope of a bill and increased chances for a restrictive rule. For example, a large and complex omnibus bill might receive a restrictive rule since considering all provisions would, at minimum, be quite time intensive (Bach and Smith 1988: 95). Thus the hypothesis,

Hypothesis 8.12: Bills that are greater in scope are more likely to receive restrictive rules than otherwise.

Finally, there is the issue of differences across leadership. Bach and Smith (1988) have noted that Jim Wright was more likely to grant restrictive rules than was Tip O'Neil. Given that political context was generally
the same for both O'Neil and Wright (e.g., party
coalition, divided government, issue
environment), these perceived differences in behavior
presumably stemmed from the respective personalities of
the two speakers. Thus the hypothesis,

Hypothesis 8.13: Restrictive rules were more likely to be
granted during the 100th Congress than during the 99th
Congress.

We have then a very large set of theoretically
derived hypotheses that are available for empirical
testing.

Data Analysis

The next task is to subject the party centered
hypotheses, as well as those derived from the
informational, distributive, and empirical perspectives,
to empirical tests. I do so by specifying a statistical
equation that includes the various counter-predictions for
restrictive rules, using data on legislation from the 99th
and 100th Congresses. I first explain the measures used
for each of the variables and then present results.

Restrictive Rule

The Rules committee normally reports one of four
types of rules: open, modified open, modified closed, and
closed. Open rules allow any germane amendments to the
proposal while closed rules allow only an up or down vote. Modified rules allow something in between. All rules that were accepted by the floor were included in the data set. Rules were coded restrictive if they allowed no amendments or limited the amendment rights of non-committee members. Rules were coded non-restrictive if they were completely open or made minor limits in amendment rights (see Krehbiel 1991: 167-168).

Multiple Referrals

Two different variables were used for multiple referrals for two different estimations. First, a dichotomous variable was scored for multiple versus single referrals with multiple referrals being scored 1. Second, a number of referrals variable was scored with the value being the number of committees in the referral.

Alignment

In order to determine alignment of committees relative to the majority party median and chamber median, I determined each committee median, chamber median, and majority party median using the party score described in chapter seven. Committee medians on the same side of the chamber median with the majority party median were scored 1. Alignment of the different committees is listed in table 8.2. Committees with party median scores lower than
Table 8.1
Listing of Hypotheses

Hypothesis 8.1: Multiple referrals are more likely to garner restrictive rules than are single referrals.

Hypothesis 8.2: As the number of committees in a referral increases, the likelihood of a restrictive rule increases.

Hypotheses 8.3: For highly distributive legislation, the probability of use of restrictive rules will be increasing in the number of committees to which legislation is referred (Krehbiel 1991: 183).

Hypothesis 8.4: Committees aligned on the same side of the chamber median with the majority party median are more likely to receive restrictive rules than otherwise.

Hypothesis 8.5: The more extreme are a committee’s member’s preferences relative to those of the House, the lower will be the committee’s probability of receiving restrictive rules for its bills (Krehbiel 1991: 165).

Hypothesis 8.6: The greater is a committee’s level of specialization, the greater will be its probability of receiving restrictive rules for its bills (Krehbiel 1991: 165).

Hypothesis 8.7: The more heterogeneous are a single committee member’s preferences, the greater will be the probability of the assignment of a restrictive rule (Krehbiel 1991: 165).

Hypothesis 8.8: The greater is the minority party’s support for a committee’s bill, the greater will be the probability that the bill receives a restrictive rule (Krehbiel 1991: 166).

Hypothesis 8.9: To enforce gains from trade, restrictive rules will be used on distributive legislation (Krehbiel 1991: 162).

Hypothesis 8.10: To hasten agreement regarding the distribution of particularistic benefits, restrictive rules will be used on distributive legislation (Krehbiel 1991: 163).

Hypothesis 8.11: Urgent bills are more likely to garner restrictive rules than otherwise.
Hypothesis 8.12: Bills that are greater in scope are more likely to receive restrictive rules than otherwise.

Hypothesis 8.13: Restrictive rules were more likely to be granted during the 100th Congress than during the 99th Congress.

the chamber medians received a 0 while those with party median scores higher than the chamber medians received a 1. All committees had the same alignment, relative to the chamber median, for both the 99th and 100th Congresses.

Committee Outliers

This variable is the absolute difference between the chamber median and the referenced committee's median as determined by group ratings from Americans for Democratic Action (Krehbiel 1991: 172-173).

Specialization

The two variables utilized by Krehbiel (1991: 171) are used here as measures of committee specialization. First is the average seniority (in terms of time spent on the actual committee) for the committee. The second measure is the number of laws cited. The idea behind this latter measure is that the greater the number of laws cited, the more successful the committee has been in the past at passing legislation (thus suggesting specialization in the area). See Krehbiel (1991: 171) for more detail.
Table 8.2
Alignment of Committees
Based on Party Score Medians
99th and 100th Congresses

<table>
<thead>
<tr>
<th>Unit</th>
<th>99th Congress Median</th>
<th>100th Congress Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Republicans</td>
<td>-1.56</td>
<td>Republicans</td>
</tr>
<tr>
<td>Armed Services</td>
<td>0.05</td>
<td>Standards</td>
</tr>
<tr>
<td>Standards</td>
<td>0.08</td>
<td>Armed Services</td>
</tr>
<tr>
<td>Veteran’s Affairs</td>
<td>0.09</td>
<td>Veteran’s Affairs</td>
</tr>
<tr>
<td>Agriculture</td>
<td>0.12</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Merchant Marines</td>
<td>0.21</td>
<td>Merchant Marines</td>
</tr>
<tr>
<td>Energy &amp; Commerce</td>
<td>0.27</td>
<td>Energy &amp; Commerce</td>
</tr>
<tr>
<td>Science</td>
<td>0.29</td>
<td>Banking</td>
</tr>
<tr>
<td>Banking</td>
<td>0.31</td>
<td>Science</td>
</tr>
<tr>
<td>Chamber</td>
<td>0.36</td>
<td>Chamber</td>
</tr>
<tr>
<td>Interior</td>
<td>0.38</td>
<td>Interior</td>
</tr>
<tr>
<td>Small Business</td>
<td>0.39</td>
<td>Government Ops.</td>
</tr>
<tr>
<td>Judiciary</td>
<td>0.42</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Government Ops.</td>
<td>0.44</td>
<td>Budget</td>
</tr>
<tr>
<td>Budget</td>
<td>0.46</td>
<td>Small Business</td>
</tr>
<tr>
<td>Public Works</td>
<td>0.49</td>
<td>Ways and Means</td>
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<tr>
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<td>Public Works</td>
</tr>
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<td>Post Office</td>
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<tr>
<td>Education &amp; Labor</td>
<td>0.68</td>
<td>Foreign Affairs</td>
</tr>
<tr>
<td>House Admin.</td>
<td>0.69</td>
<td>Appropriations</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>0.77</td>
<td>Education &amp; Labor</td>
</tr>
<tr>
<td>Appropriations</td>
<td>0.79</td>
<td>House Admin.</td>
</tr>
<tr>
<td>Democrats</td>
<td>0.87</td>
<td>Rules</td>
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<tr>
<td>Rules</td>
<td>0.89</td>
<td>Democrats</td>
</tr>
<tr>
<td>D.C.</td>
<td>1.09</td>
<td>D.C.</td>
</tr>
</tbody>
</table>

Heterogeneity

The standard deviation of the reference committee’s ADA score minus the House’s standard deviation yields the heterogeneity measure. A positive measure thus reflects relative heterogeneity of the committee (see Krehbiel 1991: 173) which according informational theory is positively associated with the allocation of restrictive
rules (hypothesis 8.7).

Confirmatory Signaling

This is simply the number of Republican co-sponsors of the bill (Krehbiel 1991: 173). Support of minority partisans for a piece of legislation suggests, according to informational theory, that the reporting committee fully revealed information (hypothesis 8.8).

Distributive Content

This is Krehbiel’s measure of distributive content based on the content of keywords which describe the bill as used in chapter seven. Specifically, the measure is the ratio of states affected by the bill divided by the total number of keywords plus the number of states.

Urgency

This is a dummy variable for urgent or not urgent. A bill was scored urgent if it was a debt ceiling extension, continuing resolution, or a supplemental appropriation (Krehbiel 1991: 168). Bach and Smith (1988) argue that urgent bills are more likely to garner restrictive rules (hypothesis 8.11). Scope

Scope was determined by the number of Legi-Slate keyword terms associated with the bill (Krehbiel 1991: 169). Based on Bach and Smith’s (1988) logic, bills greater in scope should receive more restrictive rules
(hypothesis 8.12).

Leadership

Tip O'Neil served as Speaker during the 99th Congress while Jim Wright served as Speaker during the 100th Congress. To test the Bach and Smith claim regarding Wright's propensity to award more restrictive rules a dummy variable was created with the 100th Congress being scored 1 (hypothesis 8.13).

Results

Expectations for direction and/or significance of the individual variables are listed in table 8.3. The probability that a bill garners a restrictive rule was estimated using logit. The results are listed in table 8.4.

Note first the alignment prediction for single referrals only. The relationship is in the expected direction suggesting that a partisan alignment - where the referenced committee lies on the same side of the chamber median as does the majority party median - is positively associated with the allocation of restrictive rules. Also, removing the money committees (Ways and Means, Budget, and Appropriations) all of which were aligned on the same side of the chamber median with the majority party median, does very little to the results. Thus the
relationship is not simply an artifact of the money committees perceived tendency to garner restrictive rules because of the nature of their jurisdiction.

How large is the impact of the alignment variable? Setting all explanatory variables to their mean values (modal for dichotomous variables) yields a 0.47 probability that a restrictive rule is chosen. The modal value for the alignment

<table>
<thead>
<tr>
<th>Variable</th>
<th>Party</th>
<th>Informational</th>
<th>Distributive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiply Referred</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Number Referrals</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Multiply Referred x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributive Content</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alignment</td>
<td>+</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Outlier</td>
<td>0</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Laws Cited</td>
<td>0</td>
<td>+</td>
<td>/</td>
</tr>
<tr>
<td>Seniority</td>
<td>0</td>
<td>+</td>
<td>/</td>
</tr>
<tr>
<td>Heterogeneity</td>
<td>/</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>Republican</td>
<td>-</td>
<td>+</td>
<td>0</td>
</tr>
<tr>
<td>Cosponsor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributive Content</td>
<td>-</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>Urgency</td>
<td>+</td>
<td>/</td>
<td>/</td>
</tr>
<tr>
<td>Scope</td>
<td>/</td>
<td>/</td>
<td>/</td>
</tr>
<tr>
<td>Leadership</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

+ Theory predicts positive relationship
- Theory predicts negative relationship
/ Theory makes no prediction
0 Theory predicts variable not discernible from zero

variable is 1 so this includes the positive impact of that variable. Toggling the alignment variable from 1 to 0 shifts the probability of a restrictive rule from 0.47 to
0.01, a rather dramatic effect. Thus, given the explanatory variables set at their mean (modal) values, a partisan alignment boosts the probability of a bill receiving a restrictive rule from virtually zero to almost one-half.

The other results for the singly referred bills are generally reminiscent of Krehbiel's findings though a number of the statistically insignificant variables - in both Krehbiel's and my analysis - shift direction. Like Krehbiel, I find that distributive content of legislation is negatively associated with restrictive rules. A finding supporting both the party centered and informational theories but which is contradictory to distributive theory.

Note also the finding regarding leadership. While the relationship for that variable in all three equations is positive, thus suggesting that restrictive rules were more likely to be granted during Jim Wright's 100th Congress, the relationship is not statistically significant nor particularly substantial.

The two equations estimating restrictive rules for all bills indicates an interesting finding. The two equations are identical except that equation one has a variable for the number of committees referred (as well as a distributive content/number of committees interaction
term) while equation two has a dummy variable for multiple referral versus single referral (and the corresponding interaction term). The number of referrals variable in equation one is positively associated with restrictive rules and statistically significant, the multiple referral variable in equation two, while also positive, is not statistically significant. Indeed the standard error is larger than the coefficient.

Recall that most multiple referrals go to just two committees. Removing the bills with more than two committees referenced and re-estimating equation two reveals a positive relationship for the multiple referral variable but the standard error is considerably larger than the coefficient. Conversely, dropping the two committee referrals and keeping the greater than two committee referrals results in a substantially large positive and statistically significant result.

Thus, what is driving the relationship between restrictive rules and multiple referral is not related so much to the existence of the multiple referral but instead to the number of committees involved. The more committees, the more likely the use of a restrictive rule. Indeed, setting all the explanatory variables to their mean (modal) values for equation 1 reveals the relationships in table 8.5. While a bill referred to just
### Table 8.4
Logit Estimates of Restrictive Rule Choice

<table>
<thead>
<tr>
<th>Variable</th>
<th>Single Referrals</th>
<th>All Bills</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Eqxn.1</td>
<td>Eqxn.2</td>
</tr>
<tr>
<td>Constant</td>
<td>8.31</td>
<td>-1.47*</td>
</tr>
<tr>
<td></td>
<td>(6.02)</td>
<td>(0.51)</td>
</tr>
<tr>
<td>Multiply Referred</td>
<td>#</td>
<td>0.54</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.73)</td>
</tr>
<tr>
<td>Number Referrals</td>
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<td>0.61*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.31)</td>
</tr>
<tr>
<td>Number Referrals x</td>
<td>#</td>
<td>-3.34</td>
</tr>
<tr>
<td>Distributive Content</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(4.01)</td>
<td></td>
</tr>
<tr>
<td>Multiply Referred x</td>
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<td>-2.70</td>
</tr>
<tr>
<td>Distributive Content</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>(7.02)</td>
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</tr>
<tr>
<td>Alignment</td>
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</tr>
<tr>
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<td></td>
</tr>
<tr>
<td>Outlier</td>
<td>-1.09</td>
<td>#</td>
</tr>
<tr>
<td></td>
<td>(0.60)</td>
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</tr>
<tr>
<td>Laws Cited</td>
<td>0.07</td>
<td>0.06*</td>
</tr>
<tr>
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<td>(0.14)</td>
<td>(0.03)</td>
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<tr>
<td>Seniority</td>
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</tr>
<tr>
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<td>(0.91)</td>
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<td>Heterogeneity</td>
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</tr>
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<td>Republican Cosponsors</td>
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<tr>
<td></td>
<td>(0.07)</td>
<td>(0.02)</td>
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<tr>
<td>Distributive Content</td>
<td>-55.59*</td>
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</tr>
<tr>
<td></td>
<td>(20.67)</td>
<td>(5.74)</td>
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<tr>
<td>Urgency</td>
<td>0.22</td>
<td>2.13</td>
</tr>
<tr>
<td></td>
<td>(1.66)</td>
<td>(1.33)</td>
</tr>
<tr>
<td>Scope</td>
<td>-0.01</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>(0.01)</td>
<td>(0.01)</td>
</tr>
<tr>
<td>Leadership</td>
<td>0.03</td>
<td>0.02</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Preference Outlier x</td>
<td>0.01</td>
<td>#</td>
</tr>
<tr>
<td>Laws Cited</td>
<td>(0.02)</td>
<td></td>
</tr>
<tr>
<td>Distributive Content x</td>
<td>0.10</td>
<td>#</td>
</tr>
<tr>
<td>Committee Seniority</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(0.08)</td>
<td></td>
</tr>
<tr>
<td>Distributive Content x</td>
<td>2.26</td>
<td>#</td>
</tr>
<tr>
<td>Preference Outlier</td>
<td>(0.91)*</td>
<td></td>
</tr>
<tr>
<td>Distributive Content x</td>
<td>30.15</td>
<td>4.17</td>
</tr>
<tr>
<td>Urgency</td>
<td>(26.04)</td>
<td>(18.67)</td>
</tr>
<tr>
<td>Log Likelihood</td>
<td>-30.09</td>
<td>-65.94</td>
</tr>
<tr>
<td>N</td>
<td>183</td>
<td>240</td>
</tr>
<tr>
<td>Predicted Correctly</td>
<td>86%</td>
<td>71%</td>
</tr>
<tr>
<td>Baseline (i.e., Y=0)</td>
<td>66%</td>
<td>63%</td>
</tr>
</tbody>
</table>

* Stat. Sig. at .05 (two tail) # Not in equation
one committee has a 0.47 probability of receiving a restrictive rule, adding one committee drives the probability to 0.62. The relationship exceeds 0.9 at five committees and approaches 1.0 at ten committees.

The empirical evidence, then, strongly supports the theoretical predictions regarding multiple referral and choice of rules. However, as already noted, all three theoretical perspectives make that prediction. In order to differentiate more clearly among the three perspectives, the next step is to more directly test the prediction regarding alignments made by the party centered model in chapter six. I do this by presenting a case study of the 99th Congress Superfund bill discussed briefly in this study's introduction. I then proceed to an analysis of all restrictive rules that stemmed from multiple referral in order to ascertain what committees were "advantaged" by the Rules Committee's choice of rules.

<table>
<thead>
<tr>
<th>Number Comms.</th>
<th>Pr(Y=Restrictive Rule)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>.47</td>
</tr>
<tr>
<td>2</td>
<td>.62</td>
</tr>
<tr>
<td>3</td>
<td>.75</td>
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<tr>
<td>4</td>
<td>.85</td>
</tr>
<tr>
<td>5</td>
<td>.91</td>
</tr>
<tr>
<td>10</td>
<td>~1.00</td>
</tr>
</tbody>
</table>

Table 8.5
Estimated Probability of Restrictive Rules by Number of Committees in the Referral
Case Study:
The Superfund Re-Authorization of 1985

The struggle over re-authorization of Superfund during the 99th Congress provides an interesting case for analyzing rules selection for a number of reasons. First, the bill resulted in a great deal of conflict due to partisan, ideological, and cost/benefit concerns. Second, it was a multiply referred bill with two committees sharing the main substantive thrust of the bill and a third, Ways and Means, holding sole authority over the revenue section of the bill. Thus it is possible to compare the type of amendment activity the Rules Committee allowed in its rule. Third, the rule produced by the Rules Committee was generally an open rule - though, as I will explain, one very important section was closed - despite the compromise developed by the committees and despite the strong incentives that each committee had to renege on the floor. Finally, Superfund is a case where the status quo point can be ascertained in a reasonable manner. Accordingly, it is possible to test the main prediction from the party centered model in chapter six regarding alignment.

In this section I first briefly review the details of the case leading up to the granting of the rule. I then consider the three different theoretically
predictions regarding the type of rule granted and compare these with the actual outcome.

Efforts to Re-Authorize Superfund

Since the funding source for the program was set to expire on September 30, 1985, re-authorization of Superfund was a major issue from the beginning of the second session of the 99th Congress. Superfund, first created in 1980, funds the Environmental Protection Agency's (EPA) clean-up of toxic waste sites and allows the federal government to sue producers for costs. In general there was never a doubt as to the future re-authorization of Superfund, the substance of the re-authorization however was in question. Environmentalists wanted to pass tougher legislation with stated cleanup deadlines that would force the Reagan controlled EPA to increase its efforts. Oil and chemical producers wanted to decrease the Superfund tax on petroleum and chemical feedstocks in favor of a general and broad industry tax. Business interests generally assumed that since a bill would be passed that their best strategy was to forge as friendly a bill as possible.

An initial attempt to pass a pro-environmental bill had been successful in the House but unsuccessful in the Senate in 1984. As discussed in the introduction, James Florio (D-NJ), chair of the Energy and Commerce sub-
committee on Transportation, Tourism, and Hazardous Materials, spent the early part of the year attempting to construct a coalition behind his, not yet introduced, Superfund bill. Ultimately he was rolled in his own sub-committee, and then defeated in the full committee by a more business oriented coalition led by Dennis Eckart (D-OH) and Energy and Commerce chair John Dingell (D-MI).

When introduced, the Eckhart bill (H.R.2817) was referred to Energy and Commerce, Public Works and Transportation, and Ways and Means. The referral included a formal split of jurisdictions with titles I and II, excepting section 206, being shared by Energy and Commerce and Public Works and Transportation. Section 206 as well as title III went to Energy and Commerce. Title IV went to Ways and Means. The sections granted to both Energy and Commerce and Public Works would cover most of the major issues in the bill including site prioritization, cleanup standards, and cleanup time tables. Ways and Means enjoyed exclusive jurisdiction over revenue.

The bill passed the full Energy and Commerce committee by a 31-10 vote on July 25th. All ten dissenters were Democrats who saw the bill as too weak. Energy and Commerce filed their committee report on August 1. That same day Judiciary and Merchant Marines and Fisheries received sequential referrals. The two
committees were required to report their versions within ten days after the bill was reported by either Public Works or Ways and Means. As with the other referrals, these two committees were limited to those parts of the bill which fell within their respective jurisdictions.

Public Works and Transportation moved on the bill next. Environmental groups, as well as Florio and other dissenters from Energy and Commerce, lobbied the committee to strengthen the bill. The lobbying included a substantial grassroots New Jersey effort focused at Public Works chair, James Howard (D-NJ) and Water Resources subcommittee chair Richard Roe (D-NJ).

As Public Works deliberated on the bill, pressure for Superfund re-authorization grew. The September 30 deadline passed with the bill still tied up in committee. The next day the House passed an extension of the Superfund taxing authority but the Senate, which had just passed its version of Superfund, refused to go along with the extension.

Finally, on October 10 Public Works ordered their version of the bill reported. Much to the delight of environmental interests the Public Works version was much closer to Florio’s original bill than the Energy and Commerce bill. The Public Works bill included tougher clean-up standards relative to the Energy and Commerce
version and the Public Works version alone required the
EPA to increase the number of priority sites. Additionally
the Public Works bill included a provision allowing
citizens to sue dumpers for clean-up. The bill passed
both the Water Resources sub-committee and the full
committee with little controversy and bi-partisan support.

By October 31 the other three committees had filed
their respective reports. Merchant Marines reported a
provision for oil spill liability and cleanup.
Additionally Merchant Marine bill struck two Energy and
Commerce provisions which had been intended to reduce
regulation requirements by the Interior department and
relax restrictions on state use of superfund money.
Judiciary expanded the litigation rights of citizens by
amending the Energy and Commerce language to allow
citizens to sue private parties or government agencies for
cleanup of sites posing hazards. Citizens would also be
allowed to challenge the type of cleanup methods chosen by
the EPA.

Finally, Ways and Means dealt exclusively, despite
Energy and Commerce "suggestions" as to taxation, with the
revenue title of the bill. The committee narrowly agreed
on a broad based tax on business for revenue as opposed to
the previously used tax on chemical and petroleum
feedstocks. Petrochemical companies strongly supported
this change as did some environmental interests who saw the broader tax as a more reliable revenue base. Business interests generally opposed being taxed for the cleanup of a problem seen as being primarily cause by the petrochemical industry.

Thus what came out of the five committees involved was a complex set of often contradictory provisions. Compromise was not quick in coming. Despite dire threats from EPA officials that funds for the program were quickly drying up and growing fear by many Democrats that a lessening of toxic waste cleanup was politically dangerous for the party, committee chairs were very slow in even commencing bargaining sessions, let alone reaching compromise.

Against a back drop of intense lobbying by a number of interests on both sides, Howard and Dingell commenced intense, private negotiations in late November. Failure to reach a compromise before the beginning of the scheduled Rules hearings meant that Rules would arbitrate a compromise or the disputes would be settled on the floor. On December 3, the two chairs along with representatives of the other committees and the leadership reached a compromise agreement. This was introduced as H.R. 3852 by then House Majority Leader Jim Wright (D-TX) and House Minority Leader Bob Michel (R-IL) the subsequent day.
That same day, the Rules committee adopted a rule in which the new compromise bill would be an amendment in the nature of a substitute to the original bill. The rule passed the House easily.

The Actual Rule as Compared to Predictions

Before going into the components of the actual rule in detail. It will be useful to stop and consider the theoretical issues involved with predicting the type of rule granted. As mentioned above, the Superfund case provides a rather unique opportunity to reasonably pinpoint the status quo point. Given that Superfund was scheduled to expire, one argument that can be made regarding the location of the status quo point is that it lay on the extreme conservative side of a left-right continuum. In figure 8.1A, the point $x^0$ is such a point. However, there was never an expectation by any of the active interests that Superfund would be allowed to expire completely. All the interests, even the producer interests generally opposed to Superfund, recognized the political popularity of the program and thus expected a new program. At minimum, then, the "real" status quo point was something very close to what already existed. Recall from the brief discussion in this study’s introduction that the original Superfund authorization was
generally more conservative than environmental interests and more liberal Democrats preferred. It is reasonable, then, to suggest that the status quo for the program, at the time of re-authorization, was somewhere to the right of the chamber median. Thus the actual status quo might have been a point like \( x^0 \) in figure 8.1B. What matters for the rest of my argument is not that the status quo point was any particular distance to the right of the chamber median.

\[ \text{Figure 8.1} \]

Possible Locations of Status Quo Points for Superfund

---

A. Status quo if Superfund expired completely

\[
\begin{array}{c}
\text{--------------------} \\
\text{-----------------------------} \\
\text{-----------------------------} \\
\end{array}
\]

\[ x^h \quad x^0 \]

B. Status quo if Superfund was renewed unchanged

\[
\begin{array}{c}
\text{--------------------} \\
\text{-----------------------------} \\
\end{array}
\]

\[ x^h \quad x^0 \]

\[ x^0 \] is the status quo point. \( x^h \) is the chamber median median, simply that it was to the right of the chamber median.

Consider now the committees involved. The two main committees that dealt with non-revenue issues were Energy and Commerce. Using the party score data - table 8.2 - it is possible to array the committees ordinally along the axis. The result looks something like that in figure
8.2A. Note that actual metric distance is not important, just ordinal alignment.

In figure 8.2A we see that Energy and Commerce lies to the right of the chamber median while Ways and Means and Public Works lies to the left. Adding the other committees (not done in figure 8.2) adds one committee to each side of the chamber median. For the section of the bill that went solely to Ways and Means, a separate figure is needed. This is figure 8.2B.

In chapter six I described three general types of committee-chamber-party alignments. These were the partisan homogenous, non-partisan homogenous, and heterogeneous alignments. The alignment in figure 8.2A is a heterogeneous alignment because committees lie to both sides of the chamber median. What does the model predict will be the rule choice? The model predicts that both the committees find themselves in a bidding war for the chamber median's support. Energy and Commerce does not have the incentive to agree to a compromise to the left of the chamber median because it knows that in bidding war on the floor - under a modified closed rule or under an open rule - it can guarantee itself, at minimum, the chamber median. The same is true for Public Works in regard to compromising to the right of the chamber median. Given the power of the chamber median in this circumstance, it
is likely that the Rules Committee simply awards an open rule.

**Figure 8.2**
Committee Alignments for Superfund

---

A. Alignment of Main Bill

```
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>_x_r</td>
<td><em>x</em>{wm}</td>
<td><em>x</em>{pw}</td>
<td><em>x</em>{h}</td>
<td><em>x</em>{ec}</td>
<td><em>x</em>{0}</td>
</tr>
</tbody>
</table>
```

B. Alignment of Bill Section Referred to Just Ways and Means

```
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>_x_r</td>
<td><em>x</em>{wm}</td>
<td><em>x</em>{h}</td>
</tr>
</tbody>
</table>
```

---

r=Rules Committee and chamber democrats
h=Chamber
wm=Ways and Means Committee
pw=Public Works Committee
ec=Energy and Commerce Committee

For the dimension that Ways and Means alone possesses, the prediction is the opposite. Ways and Means has the incentive to produce an alternative to the left of the chamber median and, as in chapter five, proposition 4.1A, the prediction is a closed rule.

What rule did the Rules Committee produce? For the section of the bill that was not revenue oriented the rule was open. For Ways and Means' revenue section only, the rule was generally closed with two amendments allowed.

While the party centered model predicted the rule
correctly, the general prediction made by the both informational theory and the empirical conventional wisdom is that the rule should have been closed. First, the committees involved did develop a compromise package. While the parties involved did agree informally not to renege on the floor, despite strong incentives to do so, the standard distributive explanation holds that such an agreement is essentially worthless. Once on the floor the committees, especially Energy and Commerce which wanted a more conservative package, had the incentive to renege. Because of this problem, the standard distributive explanation would predict a closed rule. However, it must also be noted that the Superfund bill was relatively low in terms of distributive content (as measured by the distributive content variable and compared to other bills in the same Congress which received rules). Thus the need for protecting projects was not present, just the need to protect the substance of the compromise.

In addition, because Superfund revenues were running out, there was great pressure to pass the bill as quickly as possible. Thus we might expect the need for a restrictive rule to facilitate passage. The rule structured the debate but did not limit amendments (except for the Ways and Means section of the bill). Finally, the scope of the bill was relatively high. For all bills
which receive a rule during the 99th Congress the average scope was 66.33. The scope for Superfund was 83. Thus, based on the scope argument made by Bach and Smith, one would expect a closed rule.

Though the evidence is hard to evaluate for a single case, it does appear as well that informational theory would predict a restrictive rule. First, the information being provided was coming from a heterogeneous set of sources. Multiple committees, arrayed across the ideological spectrum, were mutually presenting the same proposal to the floor. Based on Gilligan and Krehbiel’s (1989) results on heterogeneous committees this would suggest the granting of a restrictive rule.

Evaluating factors such as the amount the committees were preference outlyers or highly senior is more difficult to analyze. In table 8.6 I list from highest to lowest the committees that were most senior and least outlying relative to the chamber (using Krehbiel’s data for both). Only the committees which received a rule during the 99th Congress are listed. On the seniority measure the committees involved span the list with the relatively unimportant - for this bill - Judiciary Committee being most senior and the more important Public Works Committee being most senior. Given the mix it is hard to ascertain how seniority helped in the
determination of the rule. The most likely expectation would be greater amendment rights given to the more senior over the less senior committees. In this case at least that did not occur. It is true, however, that by Krehbiel's measure most of the committee's are relatively reflective of the chamber median in terms of preferences. This suggests a heightened chance for a restrictive rule. Clearly informational theory predicts the Ways and Means restrictive rule result as determined by seniority and representativeness of the chamber.

Table 8.6
Committees from Highest to Lowest in Terms of Seniority, and Preference Closeness to Chamber Median
Committees Receiving Rules in 99th Congress

<table>
<thead>
<tr>
<th>Senior</th>
<th>Outlier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriations</td>
<td>Ways and Means</td>
</tr>
<tr>
<td>Armed Services</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Judiciary</td>
<td>Public Works</td>
</tr>
<tr>
<td>Budget</td>
<td>Government Ops.</td>
</tr>
<tr>
<td>House Admin.</td>
<td>Budget</td>
</tr>
<tr>
<td>Ways and Means</td>
<td>Energy and Commerce</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Appropriations</td>
</tr>
<tr>
<td>Energy and Commerce</td>
<td>Merchant Marines</td>
</tr>
<tr>
<td>Banking</td>
<td>Science</td>
</tr>
<tr>
<td>Interior</td>
<td>Interior</td>
</tr>
<tr>
<td>Merchant Marines</td>
<td>Banking</td>
</tr>
<tr>
<td>Post Office</td>
<td>Foreign Affairs</td>
</tr>
<tr>
<td>Public Works</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Education</td>
<td>Education</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>House Admin.</td>
</tr>
<tr>
<td>Government Ops.</td>
<td>Armed Services</td>
</tr>
<tr>
<td>Science</td>
<td>Post Office</td>
</tr>
</tbody>
</table>
Conclusion

In general, the empirical results provide support for the party centered models. First, multiple referrals clearly are more likely to garner restrictive rules than are single referrals. A surprising finding, however, is that dual referrals are not particularly more likely to garner restrictive rules than are single referrals. The type of multiple referrals that do receive restrictive rules are those with more than two committees in the reference.

While the multiple referral finding supports the party centered predictions so does it also support both the informational and distributive predictions as well. Where distributive theory fails badly is in relation to the distributive content of legislation. Highly distributive bills are less likely to garner restrictive rules than bills with little distributive content regardless of the referral. Additionally, the interaction between distributive content and the number of referrals yields a negative result though the relationship is not statistically significant.

When it is possible to determine the status quo point, the party centered model performs well, at least for the Superfund case described. The model predicts a non-restrictive rule despite the proposal made by a
heterogeneous group of committees and the possible need for a cross-committee protection from reneging.
Notes to Chapter Eight


2. This conclusion, however, should be considered tentative in lieu of efforts to model multiple referral with restrictive rules within the informational framework. The issue at hand is whether or not restrictive rules increase the incentives for committees to specialize and then reveal their information. In light of the Gilligan and Krehbiel result on heterogeneous committees this appears to be the likely outcome especially given the Austen-Smith finding that under particular conditions and an open rule, some committees in a joint referral do not have the incentive to reveal their information.

3. My thanks to Keith Krehbiel for providing me with his data on the 99th Congress.

4. This case demonstrates the difficulty — and loss of information — when one attempts to boil down complicated situations into simple discrete numbers. For his analysis Krehbiel coded this bill as having been granted a restrictive rule. While one component of the bill was clearly restrictive — the section handled by Ways and Means — most of the bill was open.
Chapter Nine

Conclusion

Multiple referral was adopted and became important for two reasons. First, the severely overlapping committee jurisdictions in the House could not be adjusted. Second, overlapping jurisdictions created an organizational problem which forced House members to compensate. Multiple referral created its own problems but these proved to be more tractable than the political problem of reforming jurisdictions.

As discussed extensively in chapter two, at the time of the Bolling Committee reform attempts, the single referral system in the House coupled with severe jurisdictional overlap created a set of coordination problems that threatened the institution's ability to perform its work. Multiple referral was a creative and politically inexpensive method of alleviating the problem. The mechanism allowed jurisdictions to remain in place but at the same time gave the House a method for avoiding the sorts for fragmentation, committee infighting, and the like inherent in the pre-reform system. ¹

As seen in chapter four, what multiple referral also did, at first, was create a new coordination problem by increasing the chances for obstruction. Also, as others have noted, increasing the number of committees involved
greatly increased the complexity of an already difficult legislative process. Part of the solution came through the acquisition, by the Speaker, of greater powers of discharge. This power increased the Speaker’s ability to facilitate the passage of vital legislation to the point where multiple referrals are just slightly less likely than single referrals to survive the committee stage and, arguably, the most important bills, like trade in the 100th Congress, for example, are impregnable to minority attempts at termination.

While the processing of multiply referred bills remains complex, the difficulty in dealing with such bills has lessened over time with experience and the adaptation of procedure to fit the special needs of multiple referral. Suspension of the rules, for example, greatly facilitates the use of multiple referral because the procedure’s flexibility and ban against amendments aids committees in crafting compromises (Young and Cooper 1993).

Importantly, however, there is not a great deal of evidence that multiple referral has led to a jurisdictional "free for all" with imperialistic chairs like John Dingell co-opting every issue in sight. Jurisdictions were not dramatically revised in 1974 nor in 1980 because an important subset of the membership saw the
jurisdictional alignment as vital to their policy and re-election concerns. Indeed the primary opposition to the Bolling plan came not from conservatives but instead from moderate to liberal Northern Democrats protective of their hard earned sub-committee chairships. For multiple referral to persist, and grow in use, as it has dramatically, it follows that these same sort of members - many of whom are now full committee chairs - supported the mechanism’s use. While multiple referral forces committees in particular situations to share jurisdiction over legislation, committees continue to assert their old jurisdictions and gain new areas of jurisdiction in much the same fashion as discussed in chapter one. While jurisdictional disputes arise, and while strategic considerations are always paramount, interview evidence gathered by David King (1993, personal communication) suggests that multiple referral has not led to severe jurisdictional encroachment.

It is true that committees continue to perform the vital labor functions of the House, but the evidence presented in this study does suggest that the mechanism adds to the party based arsenal enjoyed by the Speaker. Majority partisans clearly want to protect the importance of committees but at the same time they share congruence on a great number of policy concerns and, as discussed,
they share a common electoral label that has consequences for their re-election goals. What has occurred is the Speaker controls a number of levers by which the majority party’s policy concerns can be addressed. These include the ability to discharge legislation, arbitrate bargains between committees, and control the use of restrictive rules. The models developed in chapter six and the empirical evidence presented in chapter eight, suggests that the Speaker utilizes restrictive rules on multiple referral both to increase the likelihood that the committees deliberate, report, and compromise on legislation and to protect packages important to the majority party.

Where the empirical evidence does not lend support to notions of Speaker discretion is in regard to the Speaker’s ability to manipulate the committees which receive referrals. The Speaker is not able to manipulate the referral arrangements (the sequence of committee referral, for example) to further party goals. To do so would completely undercut the jurisdictional perogatives of the committee system because it necessarily requires the Speaker to ignore the statutory and common law basis of committee jurisdictions and, consequently, undercut the very basis of the committee system, something majority party members are unlikely to tolerate.
Multiple referral in the House points once again, dramatically, to the impact that altering the structure of institutions, even in seemingly innocuous ways, can have on the dynamics of politics within the institution, and ultimately, on policy. Each step of the legislative process and each unit and actor in the House have been directly affected by the use of multiple referral. Bills must now be drafted with the potentially participating committees in mind. Committee deliberation must now take into account not just the future reaction of the floor to the committee's bill (or lack thereof) but also of the reactions and actions of other committees which hold claim to a bill's subject matter as well as consider and allow for the input of a Speaker who is more powerful simply because the efficient processing of multiple referral requires a facilitator.

Individual members and other political actors must take into account the opportunities and pitfalls of multiple referral as well. For members with special interest in a particular policy area, multiple referral provides the opportunity to affect the same bill while sitting on two or more committees which consider that bill. The opportunity for specialization and influence is thus heightened.

Opportunities and dangers for leadership clearly
exist. Committee chairs take a vital role while interacting with their counterparts while at the same time facing the overall loss of committee power that multiple referral helped accelerate (Young and Cooper 1993). The Speaker's influence over multiply referred legislation has been stressed throughout this study. Consider however the situation when a Speaker chooses a detached leadership style. In such a case multiple referral clearly can lead to stalemate among committees (Young and Cooper 1993).

Finally, what of extra-institutional actors, namely interest groups? Interest groups no longer enjoy the luxury of focusing their efforts on one or a few committees but instead must consider the potential actions of other committees. For interest groups long accustomed to a cozy relationship with the committee of, formerly, monopoly control over a subject, this presents the problem of developing new and broader relationships with committees which operate, perhaps, in a policy environment less congenial to the groups interests. The converse can be true as well. Groups shut out in the old system now may find themselves able to gain access.
Notes to Chapter Nine

1. This argument is reinforced by evidence from the U.S. Senate. Despite being used for a much longer period of time in the Senate relative to the House, multiple referral has never reached usage levels comparable to the House and the use of multiple referral in the Senate has been declining. One reason for this the greater access that senators have to all legislation (Davidson 1989). A second reason however is that jurisdictional overlap in the Senate is not as severe as that in the House due in part to a 1977 reorganization (Tiefer 1989: 70).
References


