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Political Institutions: The Neglected Side of the Story

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Political institutions serve two very different purposes. On the one hand, they help mitigate collective-action problems, particularly the commitment and enforcement problems so debilitating to political exchange, and thus allow the various actors in politics to cooperate in the realization of gains from trade. On the other hand, political institutions are also weapons of coercion and redistribution. They are the structural means by which political winners pursue their own interests, often at the great expense of political losers.

If we are to understand where political institutions come from and why they take the specific forms they do, we have to pay serious attention to both sides of their theoretical story. This seems pretty obvious, and most everyone who studies institutions can probably agree with it. It also seems pretty obvious that rational choice as a general methodology is equally well-suited to the telling of either side of the story, and, more than that, is capable of integrating the two into a single, coherent perspective on institutions. So far, however, the analytic power of rational choice is being put to selective use.

Over the last decade, as the positive theory of political institutions has developed as an intellectual enterprise and taken on a distinctive character of its own, the thrust of what it has to say about the nature and rational foundations of political institutions has given far greater emphasis to the first side of the story than the second. The theme that gets driven home again and

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again is that political institutions help mitigate collective-action problems and that this is why they exist and take the forms they do. While positive theorists are well aware that politics is a game of winners and losers and that institutions are crucial means by which the winners win and the losers lose, this is not an equally important theme. All too often, it is not even discussed.[1]

In this article, I have a few basic purposes. First, I want to suggest why I think the positive theory of institutions has in practice neglected one side of the story in favor of the other. The reason for the neglect, when all is said and done, inheres in the path-dependent logic by which the field has developed.[2] Its core technology, built initially around social choice and later augmented by the new economics of organization (Moe, 1984), encourages certain lines of inquiry and discourages others (as any core technology in any field does). Positive theorists recognize the second side of the story, but their analytical apparatus points them most often toward the first.

Having argued as much, I want to go on to explore the neglected side of the story, clarifying what I consider to be the important foundations for structural choice and suggesting what they seem to imply about how institutions arise out of the struggle to control and exercise public authority. Substantively, my focus throughout is on public bureaucracy. While these institutions, more than any others, are characteristic of modern government—indeed, modern government, whether democratic or undemocratic, *is* bureaucratic government—they have so far played only the most minor role in this literature.

Positive theorists' apparent disinterest in bureaucracy is no accident, but a part of the methodological syndrome I am talking about here. The institutions on which they focus their attention—legislatures—are bound up with (and bolster) the analytic technology that points so compellingly to the first story. When we shift our explanatory concerns to public bureaucracy, on the other hand, this is no longer the case. In fact, it is impossible not to pursue the neglected side of the story.

Most of my analysis centers on American public bureaucracy, but my concerns are more general. I want to be explicit about two of these here at the outset, because, while my own ideas on these topics are still rather poorly formed, I think the topics themselves are especially important for the future development of the field. The first has to do with issues that have virtually dominated the other theoretical traditions within the "new institutionalism": issues about the state and about the state's autonomy from social interests (March and Olsen, 1984, 1989; Evans et al.; Nordlinger). The second has to do with crucial differences between the American separation-

1. This has not always been so. Early work within positive theory was often centrally concerned with the politics of winning and losing. See, for example, Riker.

2. On the concept of path dependence, see Arthur.

of-powers system and the parliamentary systems of other Western democracies—differences in their politics of structural choice, differences in the kinds of institutions that emerge.

What I have to say on these counts is, I hope, at least suggestive. But if positive theorists were to tackle them head-on, I am convinced they would make dramatic progress in short order, that they would transform the "new institutionalism," and that they would impose a much-needed measure of coherence on what is now an incredibly eclectic body of political theory and research. For this to happen, however, some sort of methodological shift must first take place within positive theory, a shift that directs serious attention to the neglected side of the story.

1. POLITICS, ECONOMICS, AND ORGANIZATION

The positive theory of institutions has two basic concerns. One is to explain institutions—where they come from, why they take the forms they do. The second is to understand their effects for political and social behavior. These are not, of course, really separate. Institutions arise from the choices of individuals, but individuals choose among structures in light of their known or presumed effects. A theory capable of explaining institutions, therefore, presupposes a theory of institutional effects. The reverse, on the other hand, need not hold; it is quite possible to understand the effects of institutions without having any idea where the institutions come from. The two basic concerns of the field can thus be reduced to one fundamental question: what explains institutions?

At this point, I want to propose one very broad answer: most political institutions arise from the politics of structural choice.[3] This does not take us very far, I realize, and it may seem obvious. But it does get the ball rolling by highlighting an important weakness in the literature as it has so far developed. The problem is that positive theorists, most of them political scientists, have too often gone about explaining institutions by wringing most of the politics out of structural choice.

In part, this has happened because the positive theory of institutions inherits a distinctive orientation to politics from its social-choice ancestry (Arrow). The analytical world of social choice is a world of voting. Citizens vote on candidates and parties, legislators vote on public policies. In the typical state of nature, voters are taken as equals; everyone has the right to cast one vote, and the social choice is determined by preexisting rule, usually majority rule.

3. I say "most" because some institutions—for example, the norm of reciprocity within Congress—are not products of explicit choice, but have emerged informally over time through repeated interaction and adaptive adjustment among participants. My focus in this article is primarily on formal institutions.

The basic theme running throughout the social-choice literature is one of instability. When voters are allowed to have heterogeneous (multidimensional) interests, their efforts to pursue these interests through majority-rule voting—which may involve them in shifting coalitions, in vote-trading, in opportunistic reneging on agreements, and the like—generally fail to yield equilibrium social choices, and in fact may yield choices that cycle over the entire outcome space (McKelvey; Mueller).

The positive theory of institutions is perhaps best understood as a reaction to this basic theme, for it recognizes that, in the reality of politics, social choices are not chaotic. They are quite stable. Its explanation is that social choices are not simply governed by majority rule, but rather by all sorts of institutions that constrain how majority rule operates—what alternatives get considered, in what order, and by whom. Politics is stable because of the distinctive roles that institutions play. The new task is thus to understand what these roles are and, more fundamentally, where these institutions come from in the first place (Shepsle, 1979, 1986).

Almost all of this new work on institutions focuses on legislatures, and, in particular, on the United States Congress (especially the House of Representatives). No one claims that these are the only institutions of consequence in American government. The presidency, the bureaucracy, and the courts are obviously crucial to the American institutional system, just as Congress is. But the substantive importance of these institutions has had little bearing on what positive theorists have chosen to study. Legislatures take center stage because legislators vote, because their jobs and incentives are structured by their "electoral connection" to voters in their home districts, and because the entire technology of social choice is built to analyze voting. When it comes to explaining institutions, then, most of this literature turns out to be addressing a highly specialized issue: what accounts for the various aspects of legislative structure—committees, exclusive jurisdictions, seniority, closed rules, and the like—that, in constraining majority rule, produce the kinds of stability that we observe? (See, e.g., Weingast and Marshall, 1988; Shepsle, 1986.)

In their efforts to explain these structures, positive theorists have increasingly moved beyond the voting technology of social choice to take advantage of the new economics of organization, especially transaction-cost economics and agency theory (see Moe, 1984, 1990; Weingast, 1989a). These bodies of theory were already reasonably well-developed before they found their way into political science. Although they dealt in novel ways with general issues of traditional concern to the study of organizations—issues of hierarchy, control, cooperation, and specialization, among others—they were ultimately "economic" theories, designed and developed by economists to explain basic features of economic organization, especially those pertaining to business firms.

Positive theorists recognized that the analytics of these theories could just as well be applied to the study of political organization. But as they proceeded to do work along these lines—work that, on the whole, is enormously promising—they carried along most of the economic baggage with them. In important respects, they sought to understand politics as though it were an extension of economics. This economic methodology, like the methodology of social choice, has left its stamp on how positive theorists have gone about explaining political institutions.

The new economics of organization, like economics generally, is about voluntary exchange among autonomous actors (Williamson). It presumes an existing legal system that specifies and enforces property rights, granting each actor the authority to make choices about the disposition of his own property and to claim legal possession of its proceeds. Within this secure legal context, actors seek to realize gains from trade by entering into exchanges with one another. The basic question is: How does structure emerge out of this structure-free context of voluntary exchange?[4]

Sometimes, actors carry out their trades almost costlessly and without explicit contracts—as, for example, when a builder hires a day laborer for unskilled work. These sorts of exchanges tend to be left to the (structure-free) market. But for others the market may not work so well. This is especially so when they depend on privately held information or specialized investments, when they entail future performance, or when they are contingent on future events—all of which, in a world of opportunistic agents, may make agreements about exchange very difficult to design and enforce. These situations call for special contractual arrangements that impose an appropriate structure on the actors' current and future behavior, one that allows them to overcome their collective-action problems and cooperate in realizing gains from trade.

In transaction-cost economics, the focus is on business firms, which are understood as "governing structures" that arise out of markets to economize on the transaction costs of arriving at enforceable agreements (Williamson). In agency theory, the substantive focus is much the same, but the analytics are oriented by the "principal's problem" of designing a contractual structure that can induce a consenting agent to take action in the principal's interests (Pratt and Zeckhauser). In either case, economic organizations and institutions are explained in the same way: they are structures that emerge and take the specific forms they do because they solve collective-action problems and

4. I use "structure-free" here because that is how many theorists tend to think of these states of nature and because the term helps highlight the absence of the more elaborate organizational forms we usually find in empirical settings. Strictly speaking, however, neither the political nor the economic state of nature is really structure-free. Majority rule is itself a political structure that constrains how individuals must make collective decisions. Similarly, economists typically assume that market exchange takes place within a legal structure that defines and protects property rights.

thereby facilitate gains from trade. They are good things. They make everyone involved better off.

This is so even though they typically involve authority relationships and thus the sorts of interpersonal asymmetries that, in the sociology of organizations, have long been associated with social inequities (Perrow). In an economic world of voluntary exchange, authority is beneficial (and agreeable) to superior and subordinate alike and arises endogenously as part of the voluntary structure of mutual advantage. They give up their initial equality in the economic state of nature (the structureless market) and arrange themselves hierarchically because they expect to be better off that way; and, should this expectation be proved wrong, each is free to escape the asymmetry. Voluntarism assures that authority, like other aspects of structure, is mutually beneficial.

Now that I have provided a little background, let me return to my earlier complaint: that positive theorists have taken too much of the politics out of the politics of structural choice. The problem has two important sources. The first is that the positive theory of institutions is heavily oriented by the methodology of social choice, which sees politics largely in terms of voting. The second is that positive theorists are increasingly taking advantage of the new economics of organization, which sees politics as an extension of economics.

Two recent contributions to the positive theory of institutions, one by Weingast (1989a) and the other by Shepsle (1989), help to illustrate how these methodologies are reflected in political analysis. I focus on these articles because their authors are among the most influential writers in the field, and what they have to say is representative of the explanatory logic that guides most recent work. I also focus on them, however, because they do something that sets them apart: they argue that politics is afflicted by special problems that lend distinctive features to structural choice and political institutions. My interest is in the kinds of problems they choose to emphasize.

Weingast's purpose is to suggest what the new economics has to tell us about the rational foundations of political institutions. He is interested in talking about the study of political institutions in general. His focus, however, is Congress, and he devotes most of his article to an explanation of its internal structure.[5] He goes about this, in effect, by imagining a structure-free state of nature in which autonomous legislators, each concerned with representing the interests of his own district, make majority-rule decisions. Their problem in such a state of nature is that their efforts to realize gains

5. The most comprehensive statement of Weingast's theory of congressional organization can be found in an earlier article (Weingast and Marshall). I should add that not all of Weingast's work has been on Congress. See, for example, North and Weingast, and Milgrom et al.

from trade through political exchange—to strike the deals or contracts necessary for durable winning majorities—are plagued by serious transactions costs, due largely to the absence of enforcement mechanisms for putting a rein on their ample opportunities and incentives to renege.

What these legislators need, then, is a set of institutions that will help them solve this collective-action problem, and thus make them all better off than in a structure-free world of majority rule. And this, Weingast argues, is precisely what the well-known features of legislative organization—committees, exclusive jurisdictions, seniority, and all the rest—serve to do: they constrain everyone's opportunities and incentives to renege, thus facilitating credible commitments, durable legislative deals, and the mutual realization of gains from trade.[6]

The organization of Congress is thus explained in the same way as the organization of business firms. Both mitigate collective-action problems that plague exchange, and both thereby make everyone involved better off. As Weingast puts it, "While the specific forms of transaction problems found in legislatures differ from those in markets, the general lessons of the new economics of organization hold. Institutions are necessary to mitigate these problems in order for the gains from exchange to be captured" (1989a:2).

What is different, then, about politics? At bottom, the difference is that political actors cannot simply engage in market exchange, as economic actors can; they must make decisions under majority rule, which is inherently unstable as a result of the insurmountable transaction problems of striking durable contracts. Political actors therefore face transaction problems that economic actors do not—problems that are "fundamentally *political* in origin" (Weingast, 1989a:9) because of their anchoring in majority rule. This is reflected in the kinds of institutions they ultimately adopt.

Shepsle (1989) also puts the new economics of organization to use in understanding political institutions. In this particular article, his focus is not on Congress, but on the general problem of government commitment. Taking his lead from North and Thomas, who argue that governments in the western world have historically been able to promote efficient economic organization by "getting property rights right," Shepsle notes that some governments have been much less successful at doing so than others. The

6. Within the literature on Congress, the institutional debate has undergone something of a transformation. Until recently, work by Weingast and other positive theorists focused on committee agenda control, strict jurisdictions, seniority, and the like and sought to argue their rational foundations. But while they were formulating their arguments (and even before), congressional institutions were changing. Committee power gave way to subcommittee power, jurisdictional boundaries gave way to competition and ambiguity, seniority was violated in important cases, and new structures—multiple referrals, open rules, mechanisms of leader control—took on importance. The recent literature by positive theorists has largely sought to argue the continuing importance of the old structures, as well as to explain why the new ones are consistent with the rational self-interest of members. (See, e.g., Weingast, 1989b; for an alternative perspective, see Smith.)

reason, he suggests, is that "part of 'getting property rights right' involves the commitment of government authority" (1989:39)—which is highly problematic. His analysis is about why this is so and what it has to tell us about political institutions.

Governments have difficulty committing to regimes of property rights—indeed, to any public policies—for essentially the same reasons that Weingast's legislators cannot strike durable deals under unfettered majority rule. There is no external enforcement mechanism (no higher level of authority) to police agreements once they are struck, majorities and governments at time t cannot bind those at time $t + 1$, and the incentives to renege are often substantial. As a result, actors throughout society cannot rely on government promises, and policies that are designed to enhance social efficiency will not induce them to take the kinds of optimal actions that credible commitments would.

This is a collective-action problem that can be mitigated through the design of appropriate political institutions. Shepsle notes that these may take various forms, but his major illustration is the internal structure of Congress: its committee system (etc.) severely constrains the instabilities of majority rule and allows Congress to commit to stable policies on which external social actors can subsequently rely in making their own decisions. An important explanation for the specific forms taken by political institutions, then, is that they help solve the problem of government commitment, thereby enabling government to take effective action in seeking to enhance social efficiency.

An unanswered question in all this is why legislators and other politicians, given the way their own incentives are structured, would care about social efficiency to begin with. But putting this issue aside, Shepsle's perspective on political institutions is congruent with Weingast's (and the literature's more generally). Their analyses interweave aspects of social choice and the new economics of organization. From social choice comes a heavy emphasis on the instabilities of majority rule and the inclination to see these problems as what is most distinctive about politics. From the new economics comes a framework for explaining how political institutions can mitigate these collective-action problems and allow political actors to realize gains from trade that would otherwise be unattainable. While the form of these institutions can be expected to differ from those in the private sector, owing to the special problems they are designed to address, institutions in both sectors are explained in the same way. They facilitate cooperation and are beneficial to all concerned.[7]

7. For another critique of the gains-from-trade perspective dominant in positive theory, see Krehbiel. See also Gilligan and Krehbiel.

2. PUBLIC AUTHORITY AND POLITICAL INSTITUTIONS

It is always risky to generalize about a body of literature. Diversity is unavoidable, and someone can always find a counterexample (usually in his own work). Yet I think that, when positive theorists have gone about explaining how political institutions arise from the choices and interests of individuals, their arguments typically reflect the logic and approach I have just outlined. This is the basic explanatory thrust of the literature.

What this line of theory has to say is quite valid as a partial view of the whole. In important respects, institutions *are* solutions to collective-action problems that facilitate gains from trade and make everyone better off. But there is another part of the theoretical story that tends to go untold, one that is equally if not more important to an understanding of what institutions are all about. Let me now try to suggest what this part of the story looks like and how we might structure our thinking in pursuing a systematic analysis along these lines.[8]

To begin with, voting is not what is fundamental or distinctive about politics. People vote on all sorts of things in the private sector, just as they do in the public sector. Politics is distinguished by what people in the public sector are voting *about:* they are voting to determine how public authority will be exercised. Politics is fundamentally about the exercise of public authority and the struggle to gain control over it.

The unique thing about public authority is that whoever gets to exercise it has the right to tell everyone else what to do, whether they want to do it or not. When two poor people and one rich person make up a polity governed by majority rule, the rich person is in trouble. He is not in trouble because majority rule is unstable. Nor is he in trouble because the three of them will have difficulty realizing gains from trade. He is in trouble because they will use public authority to take away some of his money. Public authority gives them the right to make themselves better off at his expense. Their decisions are legitimate and binding. They win and he loses.

This kind of outcome—a redistribution that makes some people better off and some people worse off—is alien to the economic world of voluntary exchange. People do not enter into exchanges that they know will leave them worse off. The reason it happens in politics is that people can be forced to do these things by whoever controls public authority. This is what makes politics so different, and why it cannot be well understood in terms of voluntary exchange and gains from trade.[9]

8. See Moe (1990) for a more complete discussion.

9. I am not, of course, making the empirical claim that coercion never occurs in private transactions. My concern here is with the strategy of inquiry by which political and economic institutions can best be understood, and my claim is that we are wise to begin with simple

Most political institutions are instances of the exercise of public authority. They arise out of a politics of structural choice in which the winners use their temporary hold on public authority to design new structures and impose them on the polity as a whole. These structures are simply vehicles by which they pursue their own interests, often at the expense of losers. Some structures may administer programs that supply the winners with any manner of benefits. Others may extract resources or costly behavioral adjustments from losers. Still others may impose new constraints on the way the political game will be played in the future, constraints that give today's winners advantages over their opponents in tomorrow's jockeying to exercise public authority.

It seems to me that, if we want to understand how political institutions arise and what forms they take, the internal organization of Congress is not the best place to begin. It is too easy, given this focus, to leave out the politics—to proceed as though public authority is really not involved in the choice of political institutions, as though the basic problem is one of exchange, as though institutions are mutually agreeable solutions to the problem, and as though this is somehow *representative* of political institutions generally. While I would argue, given the space, that even these "internal" institutions would be better understood if the neglected side of the story were taken seriously,[10] a more instructive move is simply to shift the focus to a different class of political institutions: public bureaucracy.

Public bureaucracy is an especially useful target of explanation. There is

models that highlight a very basic distinction: economics is essentially about voluntary exchange, politics is essentially about the (inherently coercive) exercise of public authority. Putting aside all the complicating quibbles about how pure these distinctions really are in practice, we are likely to get a lot of theoretical mileage by proceeding—as economists traditionally have, in their own domain—with models that are as clear and simple as possible.

10. The usual explanations of existing congressional organization implicitly harken back to a majority-rule state of nature in which all legislators are equal and (in effect) operate under a veil of ignorance. The reality, of course, is that new structures always arise out of prior structures in which different legislators occupy different positions, wield different amounts of power, have different stakes in the institutional status quo, and associate very different consequences with institutional alternatives. A shift from one set of arrangements to the next is brought about by political battles among these legislators, as some attempt to use the prevailing rules in pressing for new structures that would leave them better off—and as those benefiting from the status quo (party leaders during the Progressive period, committee chairs during the modern period) use their power under the existing system to defend it from attack. The result in each case is typically coercive and redistributive: the winners impose new structures on the losers through the legitimate exercise of authority. Moreover, it is important to emphasize that the entire sequence of development for congressional institutions, like political institutions generally, is path dependent: the forms new institutions take are crucially dependent on the immediately prior institutions that structure the roles and powers of participants. State-of-nature reasoning misses all this. It also leads to odd explanations. For example, recent attempts to argue the rationality of subcommittee government, multiple referrals, open rules, and the like find themselves implicitly referring back to the very same state of nature that supposedly gave rise to committee government, strict jurisdictions, and closed rules. The reality is that the new arrangements emerged from the old ones—their development was path dependent and the result of intense political battle, and they can only be understood as such.

no avoiding the fact that public agencies are created through the exercise of public authority (Seidman and Gilmour). Thus, any attempt to explain why these institutions exist and why they take the forms they do must eventually confront the theoretical role of public authority—and tell the neglected side of the story. Moreover, public agencies are the business firms of the public sector: they produce its goods and services. It is reasonable to suggest that, if we want to appreciate what the new economics of organization has to say about political institutions, as well as to determine if there is perhaps something special about politics that distinguishes it from economics, the best way to do this is to focus on those political institutions most analogous to business firms.

Over the years, positive theorists have expanded outward from their core work on legislatures to consider issues of public bureaucracy. The early work along these lines centered on the allegedly dominating power of congressional committees to control bureaucratic agencies—through oversight, new legislation, budgets, appointments, and agenda powers over the legislative majority (Weingast and Moran; Weingast, 1984; McCubbins and Schwartz). Recent work has broadened the analytical scope—and, without openly admitting it, dropped its earlier claims of "congressional dominance."[11] The focus is no longer on just the committee–bureau control relationship, but rather on the difficult control problems faced by an "enacting coalition" that wants an agency to do its bidding. More importantly, explanatory concerns are no longer so narrowly focused on the legislative side of the equation. There is now a genuine concern for explaining the structure of public bureaucracy (McCubbins et al., 1987, 1989; Horn and Shepsle; Horn).

This work unavoidably helps to shed light on the neglected side of the story. Yet it does so implicitly and indirectly, because this is not the primary story that positive theorists see themselves as telling. They are well aware that public authority is being exercised, that winners are imposing structural outcomes on losers, and that the resulting institutions—quite unlike economic institutions—are therefore not simply solutions to collective-action problems that facilitate gains from trade. Their logic and explanatory themes are nonetheless the same ones that pervade the literature on the internal organization of Congress. Politics is like economics. Institutions are solutions to collective-action problems. All the basic lessons of the new economics and social choice hold for public bureaucracy.

11. While it may seem surprising, given the scientific aura that surrounds positive theory, the problems in the earlier work have never been explicitly acknowledged by positive theorists, and the corrections introduced into their recent work are not presented for what they are. Instead, the earlier work is continually cited with uniform approval, published criticisms laying out these problems in graphic detail (notably, as I must say, my own—Moe, 1987) are consistently treated as though they do not exist, and new work gives the impression that it is simply building on the unqualified achievements of past efforts.

Nothing is really any different about how institutions are understood. Positive theory has begun to conquer bureaucracy, but the study of bureaucracy has done little to change positive theory—so far, anyway. The methodology by which positive theorists have gone about explaining bureaucratic structure is a natural extension of their methodology for explaining legislative structure.

(i) Legislators remain the key actors and the center of theoretical attention. When positive theorists talk in apparently general terms about "politicians" or "public officials" making choices about bureaucratic structure, they are almost always referring exclusively to legislators.

(ii) Because legislators make choices collectively, the focus is ultimately on the "enacting coalition" of legislators who, by virtue of the internal organization of their institution and prevailing political conditions, are able to control the legislative outcome on a particular issue of bureaucratic structure.[12]

(iii) The enacting coalition engages in structural choice for the purpose of ensuring that public agencies act in the best interests of the coalition's members. They seek to avoid and correct for "bureaucratic drift."[13]

(iv) Structures are explained by reference to the collective-action problems that they mitigate—problems that (depending on the analysis) inhere in the relationship between the legislature and the agency, between legislators and their constituents, or among factions within the enacting coalition itself.

Again, I do not mean to suggest that this approach is somehow wrong. Collective-action problems and "bureaucratic drift" are clearly fundamental

12. Sometimes labels other than "enacting coalition" are employed, but the basic concept is the same. This concept, I should add, almost always reflects a very troublesome ambiguity. Who, exactly, is *in* the enacting coalition? The general answer is that they are the ones who win the political struggle and get to write the new legislation. But this leaves crucial questions unanswered. While the typical power struggle begins with opposition between well-defined interests, the eventual triumph of one over the other usually entails substantial compromise over time, punctuated by a series of controversial votes, with the final package of legislation effectively designed, written, and passed by a huge, heterogeneous majority that includes a large number of opponents (the losers), whose ideal is to have no legislation at all. What is the enacting coalition? Everybody (the real winners plus many losers) who votes yes in the end? Those who win out on the early, key votes, but not necessarily those who support the final bill? Does it include interest groups, too, or just public officials? Positive theorists have never been clear about this; they use the term in various ways, without recognizing the ambiguities. These sorts of conceptual issues make an enormous difference when the basic claim of the theory is that bureaucratic structure is a reflection of what the enacting coalition wants. My own view is that it is much simpler and clearer to focus on politicians and groups as the actors of relevance—on their interests, their strategies, their favored structures. An understanding of coalitions arises naturally out of this. Treating the enacting coalition—however it is defined—as an actor of central analytical importance is both unnecessary and confusing.

13. This is the enacting coalition's major concern in McCubbins et al. (1987, 1989). Horn and Shepsle (1989) rightly point out that the enacting coalition should also seek protection from what I call political uncertainty. I will discuss this concept in the text in the analysis to follow. It is developed more fully in Moe (1989, 1990).

to an understanding of bureaucratic structure. My complaint is not with what this approach has to contribute, but with what it tends to downplay or overlook, and thus with the unbalanced perspective on political institutions that it threatens to promote.

In the sections that follow, I suggest more specifically why this is so by discussing certain aspects of political institutions that take on prominence when attention centers, first and foremost, on public authority rather than voting and legislative choice. While I can only scratch the surface here, I hope at least to illustrate what the neglected side of the story might look like.

3. PUBLIC AUTHORITY AND EFFECTIVE ORGANIZATION

The issue of effective organization is right at the heart of the politics of structural choice. Groups want to ensure that their favored policies and programs are carried out as effectively as possible. They evaluate their structural options accordingly, and this strongly influences the positions they take and the strategies they pursue in the political struggle. Much the same applies for their opponents—except that opponents typically press for structures that depart from or even directly undermine effective performance (see below).

Both sides, then, are strategically concerned with the connection between structure and effectiveness, and their beliefs about the requirements of effective organization will go a long way toward determining what they do in the politics of structural choice. This means that those of us who want to understand political institutions must pay special analytical attention to issues of effective organization, and thus to the same sorts of issues that are central to public administration, organization theory, and the new economics of organization.

But so far these issues have played almost no role in the positive theory of institutions. The reasons are deep-seated, having to do once again with the fields in which positive theorists are trained and the methodology they routinely employ to structure their thinking and analysis. In this case, the most consequential symptom is the peculiar way they conceptualize the enacting coalition's problem of hierarchical control: they tend to construe it as a problem legislators face in correcting for "bureaucratic drift." This is overly narrow, and appears to have arisen unchanged out of earlier work on political control of the bureaucracy by congressional committees. Hierarchical control, on this view, is a means of preventing "runaway bureaucracy" (Weingast and Moran).

Most of this work is framed by the analytics of agency theory, part of the new economics of organization. In agency theory, however, hierarchical control is really about two things at once. It is about keeping the agent on target—that is, doing the job he is supposed to be doing rather than some-

thing else. It is also about ensuring that the agent does this job as effectively as possible. The structural choices of the principal are designed to do both, resulting in an organization (a structure, a set of contractual arrangements) that is built to do a job and do it well. The principal's problem of hierarchical control, then, is a problem of designing an effective organization in its entirety.

In the positive theory of institutions, the enacting coalition's concern for "bureaucratic drift" tends to be interpreted as a strategic problem of keeping public agencies on target—of keeping them from drifting. It is a matter of political control, narrowly construed. In the realm of structural choice, this translates into a central focus on "procedures"—like the Administrative Procedures Act or the 1977 amendments to the Clean Air Act—whose presumed purpose is to constrain agencies from moving off in the wrong directions. Almost no attention, meantime, is paid to the more general problem of effective organization, nor therefore to the kinds of structures agencies must be endowed with if they are to do their jobs well—structures whose form would depend on technology, professionalism, and a host of other factors that populate mainstream organization theory and public administration.[14]

For now, these general issues of organizational design are largely foreign to the positive theory of institutions. They are not, however, foreign to the new economics of organization, whose institutional concerns are substantively rooted in organizations that—unlike Congress—actually produce goods and services. For the new economics, structural choice is not about "procedures" or "controls" or "drift," but about building organizations that can carry out their productive missions.

By taking a narrow view of the legislature's hierarchical control problem, then, the positive theory of institutions takes a correspondingly narrow view of the politics of structural choice and overlooks some of the most important issues that bear on the structure of public bureaucracy: issues of effective organization. In the process, it fails to cultivate what ought to be common theoretical ground with the new economics—and organization theory and public administration as well.

4. PUBLIC AUTHORITY AND POLITICAL UNCERTAINTY

It is useful to think of the politics of structural choice in terms of two fundamental problems that decision-makers must confront and somehow

14. These articles do talk about "stacking the deck" by structuring an agency so that it will be disposed to do the bidding of the enacting coalition. While this appears to be a general point about structural design, the aim is still the limited one of ensuring that the agency stays on target. There is no accompanying analytic concern for the kinds of structures that would be necessary for (or might undermine) effective performance. The enacting coalition's job is to "control" the agency through structure, but "control" is not interpreted to mean the engineering of effective performance.

resolve. The first is hierarchical control, which is the general problem of building an organization that will take action conducive to the best interests of its creators. In both the public and private sectors, this set of strategic concerns is obviously crucial.

Implicit in all economic analyses of hierarchical control, however, is a key assumption: that the designers have secure property rights. In entering into exchanges with others, some of which lead to mutual agreements about structure, they act in the knowledge that they have legal ownership of their property and its proceeds—and that these cannot simply be seized by others without compensation and in violation of the law. The institution of legal property rights thus provides the foundation for the kinds of voluntary exchanges that give rise to economic organization. Without guaranteed property rights, people would approach their exchanges and agreements very differently. And they would create very different organizations as a result.

This is what happens in politics and is, perhaps above all else, what distinguishes the politics of structural choice from the economics of structural choice. In the public sector, the analogous "property rights"—the rights to exercise authority over specific property and its proceeds—are not guaranteed. The reason lies in the nature of public authority.

In democratic polities (and most others), public authority does not belong to anyone. It is simply "out there," attached to various public offices, and whoever succeeds under the established rules of the game in gaining control of these offices has a right to exercise it. This is a wonderful thing for today's office-holders, who, along with the interest groups and constituents that influence them, are thus empowered to design and impose public structures of their own choosing. Were public authority not involved, their strategic task would reduce to the universal problem of hierarchical control.

But, precisely because public authority is involved, they also face a second fundamental problem of structural choice: the problem of political uncertainty (Moe, 1989, 1990).[15] While the right to exercise public authority happens to be theirs today, other political actors with different and perhaps opposing interests may gain that right tomorrow, along with legitimate control over the policies and structures that their predecessors put in place. Whatever today's authorities create, therefore, stands to be subverted or perhaps completely destroyed—quite legally and without any compensation whatever—by tomorrow's authorities.

Because the dangers of political uncertainty can be anticipated from the outset, however, today's authorities need not leave their creations unprotected. They can fashion structures to insulate their favored agencies and programs from the future exercise of public authority. In doing so, of course,

15. See also Horn, Horn and Shepsle, and Fiorina (1986), which also recognize that this type of problem is an important determinant of structural choice.

they will not only be reducing their enemies' opportunities for future control; they will be reducing their own opportunities as well. But this is often a reasonable price to pay, given the alternative. And because they get to go first, they are really not giving up control—they are choosing to exercise a greater measure of it ex ante, through insulated structures that, once locked in, predispose the agency to do the right things. What they are moving away from—because it is dangerous—is the kind of ongoing hierarchical control that is exercised through the discretionary decisions of public authority over time.

There are various ways of doing this (again, see Moe, 1989, 1990). The most direct way is for today's authorities to specify, in excruciating detail, precisely what the agency is to do and how it is to do it, leaving as little as possible to the discretionary judgment of bureaucrats—and thus as little as possible for future authorities to exercise control over, short of passing new legislation (see below). Thus, agency goals, decision criteria, timetables, internal procedures, personnel rules, and virtually anything else affecting agency performance can be exhaustively and minutely specified in the original legislation, sinking a vast range of behaviors in formal concrete and shielding them from political influence.

Obviously, this is not a formula for creating effective organizations. In the interests of political protection, agencies are knowingly burdened with cumbersome, complicated, technically inappropriate structures that undermine their capacity to perform their jobs well. Nor, obviously, is this a formula for effective hierarchical control by democratic superiors. Insulationist devices are called for precisely because those who create public bureaucracy *do not want* a truly effective structure of democratic control.

These are trade-offs that the political prime movers consciously make because, in the exercise of public authority, they are threatened by political uncertainty. They want their organizations to be effective, and they also want to control them; but they do not have the luxury of designing them for effectiveness and control. Economic decision-makers do have this luxury—because their property rights are guaranteed. They get to keep what they create. The "firms" in the public and private sectors, therefore, are likely to be structured very differently.[16]

16. I realize that property rights in the private sector are never ironclad; also, some private actors—managers in a corporation, for instance, who do not have property rights to their jobs—might experience the analog of political uncertainty in their economic situations. My point is not that nothing of the sort is ever relevant in the private sector, but that political uncertainty is absolutely fundamental to the public sector and goes hand in hand with public authority. As I argued in an earlier note, it is important for modeling purposes to focus on clear, essential differences and not to be distracted—certainly at this early stage—by qualifications and caveats. The extent to which political uncertainty might help explain structural arrangements in the private sector is an interesting question for further study.

5. PUBLIC AUTHORITY AND POLITICAL COMPROMISE

So far, I have proceeded as though public structures are wholly designed by the current winners of the struggle to control public authority. The losers play no role in this, and, at least until they are able to capture public authority for themselves, are forced to live with whatever structures the winners impose on them. This is a useful way to begin thinking about structural choice, but it does ignore certain dimensions that turn out to be quite important to the kinds of choices that get made. One has to do with the ambiguity inherent in the notions of winners and losers, especially in American politics, and with the implications of compromise for bureaucratic structure. That is my focus in this section. The other has to do with the very different types of players that make up political coalitions—and, specifically, with (a) the distinction between public officials and nongovernmental actors (interest groups and constituents), and (b) the distinction between two types of public officials, legislators and presidents. These will figure prominently in the sections that follow.

In a system such as the American, in which public authority is purposely fragmented, compromise is typically necessary if the contending political forces are to get a measure of what they want. When the labor unions wanted a new, powerful public agency to regulate job health and safety, for instance, they could not expect simply to write their own ticket, even though political conditions at the time (1970) were highly favorable. They could count on the support of some public officials who were firmly prolabor, but they also had to appeal to others who were not—and the latter were lobbied hard by business groups, whose ideal was to have no new agency at all. The result, of course, was a compromise. Labor "won," in the sense that it shifted the status quo by achieving legislation embodying some of what it wanted. Business "lost," because it failed to prevent a shift in the status quo—but it nonetheless had a major influence on the content of the legislation (Moe, 1989).

To students of American politics, this may seem like ho-hum stuff. But in fact I think it is crucial to an understanding of political institutions. The standard way of thinking about structure, whether in traditional public administration, business management, or the new economics of organization, is as a means to an end. For public agencies, the ends in question would seem to be their policy mandates, and structure is commonly understood as the means by which these mandates are implemented. Our discussion of political uncertainty has already helped sever the link between structure and mandate by showing that structures are often protective devices for insulating agencies from political enemies, not for building effective organization.[17]

17. Another way to put this, however, is that political protection is necessary if agencies are

Attention to the inevitable compromises that make up the politics of structural choice, however, reveals problems that are still more devastating.

First, consider what gets compromised. The politics of structural choice is part and parcel of what most people simply refer to as the policy-making process. In this process, there can be no meaningful separation of structural issues from policy issues. Because everyone knows that whatever structures are chosen will influence the content, direction, and effectiveness of public policy, virtually all aspects of structure and policy are up for grabs as separate items for political compromise. Structural items can be traded for policy items, and vice versa—the underlying currency is the same. In the resulting package, the agency gets a structure and a mandate, but the former is not designed or adopted because it is a means to the latter. From a political standpoint, they are both very much the same thing. They are political reflections of the underlying balance of forces.

This would not be so, of course, if the winners could truly have their way, because they want organizations that can pursue their ideal policies most effectively (subject to political uncertainty protections). But they cannot have their way. Worse, as the labor–business conflict suggests, they may well have to enter into compromises with opponents who are going to be made worse off by a shift in the status quo, and who, if they are forced to accept a new agency, will try to see that the agency is structured in such a way that it *cannot* do its job effectively. Because American politics is unavoidably a process of compromise, then, public agencies will tend to be structured in part by their enemies—who want them to fail.

All this, again, is due to public authority. Economic actors make compromises all the time as they engage in exchange, hammer out contracts, and create structures. But they enter into these arrangements voluntarily and can leave them voluntarily. In politics, this is not so. There are winners and losers, and the losers cannot leave—but instead, trapped within the system, they participate in the design of agencies and programs that they oppose, and they use what power they have to create organizations that cannot do their jobs.

6. PUBLIC AUTHORITY, AUTONOMY, AND FEAR OF THE STATE

While it is convenient to talk about winners and losers, it is important to be clear about who they really are and what they want. Above all else, perhaps, it is important to distinguish between the public officials who make the

to pursue their mandates as effectively as possible—and thus that the link is not severed at all. I put it as I do in order to emphasize that organizations with apparently identical goals would be structured very differently across sectors. Politics and public authority lead to the adoption of protective structures that get in the way of effective performance, and that typically would not be adopted (or are much less likely to be) in the private sector.

authoritative decisions, on the one hand, and the social actors—interest groups and constituents—who support, oppose, and influence them on the other.

In the positive theory of institutions, the public officials are almost always legislators motivated by reelection. Their preferences over issues of policy and structure are induced by the preferences of other social actors, particularly in their constituencies, who are most relevant to their electoral popularity. What interest groups and constituents want, then, is implicitly incorporated in the ideal points of legislators as they go about their authoritative decision-making.

Most of the time, as a result, analyses of structural politics are really just about legislators—about their preferences, their strategies, their coalitions, their choices. Interest groups are sometimes mentioned as the theoretical story unfolds, but they are not treated as calculating players whose distinctive preferences, strategies, coalitions, and choices may set them apart from legislators and add important new dimensions to the politics of structure. They are relegated to the background. Legislators are the prime movers, and they are the ones whose behavior drives the structural outcomes.

What this misses is fundamental to an understanding of political institutions. Part of the reason is apparent when the relationship between legislators and these other actors is construed in principal-agent terms. In general, it is well-known that principals usually cannot exercise perfect control over their agents, and, given the costs of control, do not find it rational even to try. Some slippage—some shirking by the agent—is to be expected. This applies with a vengeance to politics: constituents and groups, as principals, cannot perfectly control the public officials who are presumably their agents—and, indeed, because they are so often lacking in information, resources, and organization, there would appear to be room for lots of official shirking.

In the politics of structural choice, then, the ideal points of legislators will not simply be a reflection of what constituents and groups want, but will also reflect what the legislators themselves want. At least to some extent, legislators are in a position to pursue their own ends, which, in principle, may be quite at odds with the ends of the social actors they are presumed to be representing. To put it in terms that resonate with the broader literature on political institutions: they have a measure of autonomy.

But is this autonomy of real consequence for structural choice? Do legislators want anything that is different from what constituents and groups want? The answer is easy enough if we depart from the standard assumption that legislators are motivated purely by reelection. If we recognize that real-world legislators actually value income, policy, power, status, and any number of other things, with reelection coming into play as but a means to

these ends, it is clear that legislators have many incentives to shirk. I should emphasize, however, that they will also be motivated to shirk even if they are assumed to care only about reelection. Certain types of structures—for example, those that insulate them from future political conflict by "shifting the responsibility" to the bureaucracy (Fiorina, 1982a,b)—may be highly desirable to them on electoral grounds, even though constituents and groups may currently pressure for very different structures (Moe, 1990).

The forms that political institutions ultimately take, then, depend not simply on the underlying social interests that, via the electoral connection, find their reflection in the preferences of legislators. They also depend on the distinctive preferences of the legislators themselves, and on the latter's autonomy to pursue them in the politics of structural choice. If we are to appreciate why political institutions look and perform as they do, we need to pay attention to the interests they are intended to serve, and thus to the roles that different types of actors play. When legislators are taken as the prime movers and their structural preferences are implicitly merged with those of groups and constituents, much of what is interesting and important about the politics of structural choice is overlooked.

These points about shirking and autonomy readily follow from the familiar logic that attaches to principal-agent relationships. The line of reasoning is the same, whether we are talking about entrepreneurs and workers in the private sector or constituents and legislators in the public sector. The principals (entrepreneurs, constituents) are trying to control their agents (workers, legislators) to best advantage, but they can do so only imperfectly. In economics and politics both, agents typically have a measure of autonomy, and the choices that they make—including, in politics, the structural choices they make for society—will reflect their own shirking as well as the principal's interests.

But there is much more to the story than this, because politics is ultimately not like economics. Politics involves the exercise of public authority. And this transforms the familiar principal-agent relationship into something that is provocatively different from the kinds of straightforward applications that tend to populate most political analyses (including mine, above).

Consider the relationship between constituents and legislators. In the hierarchy of democratic authority, "the people" are sovereign and legislators are their representatives, so it only makes sense to take constituents as principals and legislators as agents (as positive theorists do when this relationship is their concern). The "principal's problem" is the constituents' problem of gaining control over legislators.

Here's the twist: while citizens are nominally the superiors in this hierarchy, it is the legislators who actually hold public office and have the right to make law. Their role, as agents, is to exercise public authority, backed by the police powers of the state, in telling their principals what to do.

This is fundamentally unlike the usual (private) principal–agent relationship in two respects. First, it is the agent who has effective authority, not the principal. Second, the relationship is essentially involuntary: in private-sector authority relationships, the subordinate (the agent) is free to reject or leave a structure of authority if he does not think it advantageous, whereas in the public sector, the subordinate (the principal) cannot avoid being subject to public authority and must remain in the relationship even if it is disadvantageous.

An important implication is that the usual "principal's problem," in which the principal imposes structure on the agent, misses most of the action. Public authority is in the hands of the agents—and, because they have a measure of autonomy, they can use their authority *to structure the behavior of their principals,* who are not free to leave. This is a far cry from simple shirking behavior. The agents are in charge: setting the structure, exercising control, taking steps to ensure that the *principals* comply with their wishes. The tables are turned.[18]

Of course, citizens do get to elect their officials. This is the primary mechanism of popular control. But even the authority to make laws about elections—and thus to structure the electoral behavior of citizens—rests with the public officials themselves. They are the ones that set rules governing voter qualifications, campaign contributions, the form of the ballot, the role of political parties, and virtually anything else they want to regulate about how the public can legitimately "control" them. While their structural choices on these matters are partly a reflection of what citizens want, they are also a reflection of what public officials want—things, presumably, like more electoral security and more autonomy.

The upshot is that citizens commonly have two enemies to fear in politics: other citizens (with opposing interests) and public officials. Other citizens would be feared, I should point out, even if these political control problems were somehow eliminated. Because the citizenry as a whole is heterogeneous, different public officials would be (perfectly) responsive to different social interests, and the various factions in society would still have to worry about opposing interests gaining access to public authority and making undesirable laws. This is just the familiar problem of winners and losers. It does not go away if political control is perfect. It is inherent in public authority.

When control is imperfect, however, the political threats to citizens may be considerably greater. For then they have to worry not only about opposing factions, but also about public officials—including the ones that are supposedly their allies and representatives. As long as public officials have a measure of autonomy, they will sometimes pursue their own interests at the

18. To my knowledge, this public-sector twist on the principal–agent relationship has not been explicitly set out or explored anywhere, but some aspects of it are apparent in Calvert, and Fiorina and Shepsle, both of which address leader–follower relationships.

expense of their constituents'. Moreover, they are particularly dangerous, because they have the force of law behind everything they do. Citizens have good reason to fear their public officials. They have good reason, in other words, to fear the "state."

Now let me apply all this more specifically to issues of bureaucratic structure. In the politics of structural choice, the social actors of major importance are organized interest groups, not ordinary citizens. The latter, to the extent they follow politics at all, care almost entirely about issues of policy. Interest groups, on the other hand, are politically active and well-informed about matters affecting their interests; they are well-aware that policy and structure are integrally connected; and arcane issues of structure—how agencies are designed, where they are located in government, oversight procedures, personnel rules, and the like—are matters on which they make demands and exert pressure. Structural politics is a process in which interest groups and public officials make decisions about the structure of government.

Interest groups know that, in creating a bureaucratic organization, they are doing more than creating an agent to do their bidding. They are doing just what ordinary citizens do when they elect legislators: they are endowing an agent with public authority. The groups will henceforth be subordinate to this agent, who will have the right to structure their lives by making laws they are obliged to obey. The bureau becomes part of the state—and it is to be feared.

If political control were perfect, groups could act through elected officials—the bureaucrats' superiors in the hierarchy of democratic authority—to eliminate bureaucratic autonomy. Then their only fear (still a big one) would be that other groups with opposing interests would gain access to power. But, alas, not only is control destined to be imperfect in political practice, it is destined to be doubly imperfect: there is slippage as groups try to control politicians, and there is slippage as politicians try to control their bureaucratic subordinates. Bureaucrats will therefore have a measure of autonomy, perhaps a substantial measure—and they can use the coercive power of public authority to pursue their own interests at the expense of their creators'.

Groups fear this, and they seek protection through structure. As we saw earlier, political uncertainty also drives them to seek protection through structure—but that is protection from a different threat: the threat that opposing interests will capture public authority and subvert their bureaucratic creations. The threat we are now talking about comes from the autonomous, authoritative actions of bureaucrats themselves. Even if there were no political uncertainty, and winning groups could count on continued access to superior public authority into the future, their control over bureaucrats would still be imperfect—bureaucrats would still have autonomy in the

exercise of public authority, and groups would still want to protect themselves from unwanted acts of legalized aggression by the state.

How can they do this through their choice of structures? One means is to open up the oversight process to allow greater control—through sunset laws, detailed reporting requirements, legislative veto provisions (constitutionally phrased), and the like. If political uncertainty is a problem, however, as it typically is in practice, this raises the threat that opponents can eventually turn that control to their own ends. Another approach is to impose procedures on agencies that enable winning groups to participate actively and influentially in decision-making; still another is to ensure that important agency decisions can be appealed to the courts. In both cases, however, this must be done so that the deck is securely stacked against participation and appeal by opposing interests—for if they are able to play these roles, there may be a heavy price to pay.

In light of these political dangers, perhaps the most attractive means of protection against bureaucratic autonomy is not to try to control how it gets exercised over time, but instead to limit it ex ante through detailed formal requirements—criteria, standards, rules, deadlines—that are written into the law. This structural maneuver, unlike the others, simultaneously protects against problems of political uncertainty: by locking in controls ex ante, not only are bureaucrats highly constrained in how they can use their official positions, but opposing groups are effectively shut out.

In any event, protection against the state will entail structures that make it more difficult, perhaps extraordinarily so, for the agency to do its job well—just as protection against political uncertainty did. There is essentially no getting around this. In politics, it is rational for social actors to fear one another, to fear the state, and to use structure to protect themselves—even though it may hobble the agencies that are supposed to be serving them.

In sum, then, if we are to understand the forms that political institutions take, we must be clear about who the different actors are and what they want their public structures to do. When we focus entirely on legislators, or when we implicitly treat legislators and interest groups (and constituents) as though they can be lumped together, we miss aspects of politics that are crucial to an understanding of structural choice. We miss the sharply diverging interests that can set public officials apart from groups and constituents. We miss the theoretical role of autonomy. And we fail to appreciate that social actors seek protection not simply from one another, but from the state.

7. PRESIDENTS AND LEGISLATORS

Just as it is important to distinguish state actors from social actors, so it is also important to distinguish among the various state actors—particularly elected

officials, who hold superior authority. In American national politics, two types of elected officials are most responsible for making authoritative choices about structure: legislators and presidents. The rational foundations of public bureaucracy cannot be understood without serious attention to both.

So far, the positive theory of institutions does not have much to say about presidents. Legislators are the center of attention, and presidents are usually either ignored or referred to in passing. When they do enter the analysis explicitly, the focus is almost always on their legislative role: they can veto legislation, and this allows them to affect legislative outcomes (see, e.g., Ferejohn and Shipan). What they want, meantime, is usually left unclear. Presidents are assumed to have ideal points, but little attention is paid to why they have the ideal points they do. Throughout all this, presidents are not really regarded as interesting targets of analysis in their own right. They are interesting mainly because they are constraints on what legislators do.

Briefly, let me outline three basic reasons why presidents ought to be far more central to a theory of political institutions. The first is that they are powerful players in the politics of structural choice, and their basis for power extends far beyond their formal role in vetoing legislation. Most obviously, the president is the chief executive and, as such, exercises an array of formal powers in managing and controlling the public bureaucracy. In practice, these powers have grown substantially since the New Deal and have been exercised largely through the Office of Management and Budget, the White House Office, the National Security Council, and other units within the Executive Office of the President (Moe, 1985).

The key point here is simply that the president can make lots of important structural choices *on his own,* without going through the legislative process. Some of these can be reversed by legislative action later on. But because the American separation-of-powers system makes legislative victories quite difficult to achieve, regardless of who is trying to achieve them, this is unlikely. The result is that the president has a trump card of tremendous consequence for the structure of public bureaucracy. He can act unilaterally in many matters of structure, while Congress must go through a difficult process of legislation—in which the president gets to participate and, if he disagrees, to veto. Moreover, if Congress does act (with presidential participation and consent) to design and create a new public agency, the president can subsequently *add on* new structures that, in qualifying the way the legislatively imposed structures work, are more conducive to the president's own interests.

This brings us to a second reason why presidents are of such great consequence: the interests they pursue in the politics of structural choice are often very different from the interests legislators pursue. This is partly due to their constituencies. Legislators are tied to the relatively narrow interests of dis-

tricts and states and thus are highly responsive to the appeals of special interest groups, while presidents are not. Their heterogenous national constituency leads them to think in grander terms about social problems and interests and to resist specialized appeals.

Moreover, presidents are not driven by reelection. Indeed, in the second term it is not a factor at all. More than anything else, they are fundamentally concerned with governance. Unlike legislators, presidents are held responsible by the public for virtually every aspect of national governmental performance. When the economy goes bad, when an agency does its job poorly, when a social problem fails to be addressed, when a scandal hits the headlines, it is the president who gets the blame and whose popularity, reputation, and historical legacy are on the line. All presidents are acutely aware of this, and they respond by trying to build and deploy an institutional capacity for effective governance.

As a result, presidents are the only players in the politics of structure who are motivated to create a unified, coordinated, centrally directed bureaucratic system. They want a bureaucracy they can control from the top. Legislators, for their part, are not driven to create a unified congressional control structure. Congress is fragmented and decentralized, and individual legislators are highly responsive to interest groups—which, fearing one another and fearing the state, often want agencies that are insulated from politics and difficult to control. Legislators gladly build a bureaucracy, piece by piece, that makes no sense whatever as an organizational whole. For legislators, only the pieces matter. It is the president who cares about the whole (see Moe, 1985, 1989; Seidman and Gilmour; Dodd and Schott; Mayhew).

All this, finally, points to the third reason that presidents are of such great theoretical consequence: autonomy. Presidents and legislators are alike in the sense that neither can be perfectly controlled by their constituents. Both have a measure of autonomy—and both are to be feared. But the president is in a league all by himself. His large, heterogeneous, competitive constituency, along with the lower priority accorded to reelection, gives him substantial freedom to pursue his own distinctive vision of the public agenda, while his overriding concern for governance drives him to create coherent, centralizing structures that are not reflective of underlying political pressures.

Most importantly, presidents are substantially autonomous of the major social actors—organized interest groups—that animate the legislative politics of structural choice. These groups have their own, narrowly self-interested perspective on the kinds of structures they want to see adopted, a perspective that, for the most part, legislators can be counted upon to embrace. But presidents cannot. As far as these participants are concerned, presidents are unresponsive and out of control on basic issues of structure. Worse, presidents not only want structures of a different kind, they want

structures that *give them control* of public bureaucracy—when, of course, what the groups want is to control the various, uncoordinated pieces of the bureaucracy themselves.

Thus, while groups have rational grounds for fearing the state, they do not fear all state actors equally. They fear legislators a little. They fear presidents a lot. As they pursue their best interests in the politics of structural choice, then, they will favor protective structures that are disproportionately aimed at limiting presidential control.

As all this suggests, the kinds of political institutions one might expect to arise out of politics look dramatically different when presidents are taken into account. Interest groups play the game of structural politics differently. Legislators come under different structural demands and pressures. Presidents use their influence within the legislative process to engineer distinctively presidential bureaucratic structures—and, outside the legislative process, they take unilateral action to impose these same structures on top of whatever the legislative process actually produces.[19]

The result, by most any reasonable standard of organization, is a structural nightmare. American public bureaucracy is an organizational mess. But there is a rational explanation for it. It is not a mysterious mess, but one that we can understand by taking account of the powers, interests, and strategies of all the major players—not just the legislators.

8. SEPARATION OF POWERS AND PARLIAMENTARY SYSTEMS

Most work within the positive theory of institutions is about American government, especially Congress. The American separation-of-powers system, however, is hardly a representative case of Western democratic institutions. All the other democratic nations of the West have parliamentary systems of one form or another. A theory of political institutions would therefore have much to gain, in insight as well as generality, from analyses that move beyond the American case to explore the institutional features of parliamentary government. And new work by positive theorists has begun to do that.[20]

This work is an extension of the core technology that has guided the analysis of American institutions. It is built upon social choice, the new economics of organization, and a research tradition centered on political actors who vote. For now, public bureaucracy is not an important target of explanation. Analysis is devoted to legislatures, parties, and voters, and the kinds of institutions that arise to structure their behavior.

19. The relative roles of presidents and legislators are developed in more detail in Moe (1990). For several case studies illustrating how Presidents and legislators have actually participated in the politics of structural choice, see Moe (1989).

20. These efforts are quite new. See the discussion in Weingast (1989a). See also Laver and Shepsle.

The new actor on the analytical scene is the party, and perhaps the most important theoretical questions have to do with how parties form governments. These questions are essentially the same ones that orient analysis in the American setting. What are the collective-action problems—of commitment, of enforcement—that inhibit the formation of durable coalitions (deals, contracts), and what kinds of institutions arise to help mitigate those collective-action problems? The U.S. Congress has its committee system, European parliamentary governments have their ministry systems, and their purposes are much the same: to facilitate gains from trade among political actors who find it difficult to make durable contracts (Weingast, 1989a; Laver and Shepsle).

I am not an expert on comparative government or parliamentary systems, and I would probably be wise to steer clear of this topic altogether. But I am going to pursue it anyway, because there are provocative issues lurking about here that someone—someone else, presumably—ought to be exploring in depth. Again, these issues arise not because positive theorists are wrong in what they have to say about parliamentary institutions. It seems to me that these institutions are indeed explained in important measure by their capacity for mitigating various collective-action problems, and that this helps us understand political institutions more generally. In fact, for reasons I will discuss below, I think this perspective on why institutions exist and take the forms they do may well have more explanatory power in a parliamentary setting.

Still, there is another side of the story that needs to be told if the nature of their political institutions is to be fully appreciated. As in a separation-of-powers system, the various institutions that make up a parliamentary democracy are pervasively shaped by the exercise of public authority and the struggle to control it. They are important means of mitigating certain collective-action problems. But rational actors in a system of public authority will also see them as tools of legal coercion and redistribution—tools to be used against one's opponents, tools to be protected against, tools to be feared.

What I want to do here is to discuss a few ideas that strike me as relevant and possibly important to a comparative institutional analysis. As before, these will have to do with the politics of bureaucratic structure, since I think this is a better way of seeing the connection between public authority and political institutions.

In his new book on public bureaucracy, James Q. Wilson has a provocative chapter on how bureaucracies vary across nations. He points out that American bureaucracy is highly constrained and formalized, encumbered by a complex array of structural mechanisms that limit the discretion of agencies and their personnel. The bureaucracies of other Western democracies are not entirely unbureaucratic in these respects, but they are less formalized and constrained than American bureaucracies are. They are granted more discretion to pursue their policy missions as they see fit.

Let us assume Wilson is correct about this (I think he is) and begin here, because it suggests a structural difference across systems that cries out for explanation. Wilson's own explanation relies largely on culture. I have one to offer, however, that is an extension of the perspective I just developed on American bureaucracy.

One of the most important things to know about a separation-of-powers system is that it makes accomplishing anything through new laws—changing the legal status quo—very difficult. Conversely, when new laws are indeed achieved, the same system that made victory so difficult now works to protect these achievements from subsequent reversal. They become part of the legal status quo. As political actors struggle to harness public authority in pursuit of their own ends, therefore, they have strong incentives to embed their achievements securely in the law—to formalize through legislation. Whatever is formalized will tend to endure.

In the politics of structural choice, therefore, formalization is an extremely attractive strategy of protection. Political uncertainty and fear of the state drive decision-makers to try to protect their creations from subsequent control by their opponents, and the best way to do this is through detailed restrictions, formally embedded in legislation, on virtually every aspect of agency behavior. The pressures for formalization are intensified, moreover, by the independent roles of the president and the Congress. Groups and legislators heap on all sorts of formal restrictions to protect "their" agencies from troublesome presidents. And presidents, in turn, impose their own bureaucratic mechanisms to counteract those emanating from Congress. The theme running throughout structural politics in a separation-of-powers system is that everyone seeks protection—and *formal structure works* to provide it.

In drawing comparisons to parliamentary systems, it is useful to consider what the politics of structural choice might look like in the classic two-party case. Here, whichever party gains a majority of seats in parliament gets to form a government and, through cohesive voting on policy issues, is in a position to pass its own program at will. Similarly, should the other party gain majority status down the road, that party would be able to pass its own program at will—and, if it wants, to subvert or completely destroy everything the first party has put in place.[21]

A classic, highly competitive parliamentary system therefore takes the dangers of political uncertainty to their extreme: if the other side comes to power, they can pass whatever laws they want. This means that *formal structure does not work* as a protective strategy—at least, not in the simple, direct way that it works in a separation-of-powers system. Agencies cannot

21. Some of the analysis and conclusions that follow would obviously be different if we allowed for coalition governments, especially if support across parties were such that there was little prospect for real changes in the composition of government. This is an interesting avenue for future work. The most instructive place to begin, however, is with the simple two-party case.

be formally insulated from future public authority by embedding an intricate control structure in the law. And this, in turn, affects everyone's strategies in the politics of structural choice. There is no point in burying agencies under detailed formal restrictions—and hobbling their capacity for effective performance—if these restrictions serve no protective purpose.

Structural choice is also influenced by another distinguishing feature of parliamentary government: the executive arises out of the legislature and both are controlled by the majority party. Thus, unlike in the United States, the executive and the legislature do not take distinctive approaches to issues of structure; they do not struggle with one another in the design and control of public agencies; they do not push for structures that protect against or compensate for the other's political influence.

In very important respects, structural choice in a parliamentary system resembles what structural choice in the American system might look like if the president were solely in control of public authority. The analog to the president is the majority party. For now, we might think of the party as a unitary actor that has a huge, heterogeneous constituency and is strongly motivated by governance concerns. As it approaches issues of bureaucratic structure, the party, like the president, places great weight on building and maintaining a rational system of top–down control that facilitates effective governance.[22]

Organized groups, of course, have their own views on what kinds of structures are desirable. They want agencies that perform well, and they want protection from opposing groups. But they also want protection from the party itself. In American politics, organized groups have a special fear of the president, but their fears are limited by separation of powers: legislators share public authority with him—they check his power, have great power of their own, and are very open to what the groups want. The state is internally divided.

In a parliamentary system, organized groups fear the majority party for essentially the same reasons American groups fear the president. The party has its own agenda, its own views about what public bureaucracy ought to look like, and substantial autonomy to exercise public authority in ways contrary to group interests. But groups have much more to fear in this kind of system: because the party, unlike the president, has a monopoly of public authority. Groups are especially motivated, then, to find means of protecting themselves from the party—the state—and its capacity for autonomous action. Structural choice is strongly driven by fear of the state.

In sum, all of this suggests that the rational foundations of structural

22. An interesting difference between parties and Presidents, one I will not explore here, is that parties are *organizations* that essentially have infinite time horizons—they expect to play the political game again and again, into the distant future—whereas presidents are *individuals* who have to stop playing after two terms. This difference ought to show up in their political strategies, as well as in the strategies that other players adopt in dealing with them.

choice are different in important respects across these two types of democratic systems, and that their bureaucracies ought to be structured differently as a result. Other things being equal (see below), a parliamentary system is likely to be distinguished by the following.

(i) Public agencies are less encumbered by protective formal constraints, and their structures better suited to the jobs they are expected to do.

(ii) There is no layering of bureaucratic structures created separately within the executive and legislative processes.

(iii) The whole of public bureaucracy more closely resembles a rational, centralized, top–down structure of control.

(iv) Interest groups, in playing the game of structural politics, are especially motivated by fear of the state.

9. SOME (BLATANT) SPECULATIONS ABOUT PARLIAMENTARY SYSTEMS

Going much beyond these simple comparisons gets us into some complicated issues that call for much more extensive and careful treatment than I can give them here. The basic theoretical problem, however, is quite fascinating, and I do not want to conclude this article without talking a little about it.

Let us consider more specifically what kinds of structural choices ought to get made in a parliamentary system. The party is in total control of public authority (until it loses office), and it has governance reasons for wanting a coherent structure of public bureaucracy that it can control from the center. But the party is also a politician; it has electoral reasons for responding to what certain interest groups want, and they have their own views about structure. They want structures that will effectively provide them with benefits, but they also want structures that will protect them from opposing interests—and protect them from the party itself.

This is essentially a within-coalition problem of striking a durable deal. The majority party and its supporting groups want to strike a deal about structure: a deal to their mutual advantage, but one that could well impose substantial costs on members of the losing coalition. How can the winners strike a deal among themselves? In a separation-of-powers system, this would be much less of a problem. Precisely because the legal status quo is so difficult to change, any agreement about structure (or anything else) that is embedded in the law will be durable, and everyone knows it. Once a law is passed, the likelihood that anyone can successfully renege—by passing a new law that reverses it—is extremely unlikely. Thus, dominant coalitions can hammer out formal agreements about the kinds of institutions they want and impose them on the losers (and society as a whole), knowing they will stick.

In a parliamentary system, the prevailing government's monopoly on public authority—its power to make law at will—undermines the making of durable deals. There are two kinds of commitment problems at work here. First, the party can arrive at an agreement with supporting groups about aspects of bureaucratic structure, but its supreme authority allows it to turn around tomorrow and renege on the agreement. Second, it cannot commit future governments to the structures it agrees to today, because they will have the supreme authority to destroy whatever is agreed to.

The specific form that public bureaucracy ultimately takes in parliamentary systems, then, depends on the agreements that can be reached among parties and groups—and thus on how these commitment problems are solved. This is why, in introducing the last section's analysis, I suggested that positive theory's perspective on institutions—as solutions to collective-action problems—may carry more of the explanatory load for this kind of system. Of course, the commitment problems must be solved because the groups want to use institutions for coercive, redistributive purposes; the latter purposes remain central to their behavior, and central to an explanation of structural choice. But basic commitment problems loom larger here than in a separation-of-powers system.

As for how these problems get mitigated and what kinds of deals about structure actually get struck, I can only speculate at this point. As far as I can tell, theory cannot be counted upon to generate a definitive solution. Indeed, what it seems to suggest, most generally, is that there are many ways out of these sorts of suboptimal situations—many equilibria that would be preferable, if only they could be reached (see, e.g., Kreps, 1990). Let me mention several basic approaches that may promote durable deals among the winners, and thus may help to further an explanation of bureaucratic structure in parliamentary systems.

To begin with, both the party and the groups have incentives to search for institutional mechanisms that would tie the party's hands and thereby limit its capacity to exercise public authority at will.[23] Parliamentary government being what it is, however, it seems unlikely that legal restrictions on access to public authority can work very well, since there is only one supreme authority, and that authority can overturn any restrictions. While some formal means might be found to get around this—constitutions, two houses of parliament—other means are probably more important, I would think. For the most part, these alternative means are informal—or, at least, are not themselves backed by force of law.[24] My guess is that these extralegal as-

23. See Shepsle (1989) for a discussion of the government commitment problem. Shepsle relies heavily on Kydland and Prescott, whose theoretical argument, applied to this situation, suggests that the party would find it rational to find means of tying its own hands.

24. An exception, one that may be very important indeed, is the civil-service system. Of course, all personnel systems are established by law and can be changed at will, but there are

pects of politics are much more important in parliamentary systems than in separation-of-powers systems.

One set of extralegal constraints arises out of the dynamics of repeated play (see Axelrod; Kreps, 1990). The party deals with its support groups (and all other players) in a great many decision situations over time, whether or not it is in office. In these interactions, the party and the groups may settle upon or develop strategies (like tit-for-tat) that promote cooperation. Unavoidably, they will also develop reputations over time based on how they actually behave—reputations, for instance, bearing on whether they can be trusted to honor their commitments. A good reputation is valuable, something to be invested in and protected—and something, therefore, that will tend to prevent players from reneging on deals even when, like the party, they may have the power and short-term incentives to do so.

Cooperative strategies and reputations are imperfect, especially in a complicated world of unanticipated contingencies. But they can be bolstered in other ways. If the deal can be made public, with much fanfare, and if structural forms—like government corporations or independent commissions, say—are adopted that signal to everyone that the government is to keep its hands off, then the political costs of reneging by the party might be heightened. These maneuvers threaten long-term costs to reputation, as well as all sorts of short-term costs as the media and other groups react to violations of official "policy."

In addition, the new agencies can be instructed to hit the ground running—getting benefits in the hands of recipients, organizing recipients into support groups (or herding them into existing groups, which the latter would doubtless want), and otherwise building a powerful clientele that will strongly resist any attempt by the government, whether this one or those that follow it, to change anything about programs or structure. The more quickly and effectively this can happen, the more durable the deal will prove to be in practice (and the easier agreement will be ex ante).

Finally, there are two mechanisms that I will lump under the heading of *cooptation*—which I suspect is crucial in parliamentary systems. First, the groups can demand that they be made a formal part of the public bureaucracy, and thus that group representatives be granted an integral role in administrative decision-making and policy implementation. This minimizes one of their control problems, bureaucratic autonomy; it gives them inside information and expertise of strategic value; and it ensures that the party will eventually come to depend on them for effective bureaucratic performance.

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various practical, strategic, historical, and normative reasons (similar to those I will outline in the following discussion) why a strong, insulated system might be able to develop and survive—and protect deals once they are struck. Because civil service is such a complicated topic, however, an appreciation of its theoretical role would require a far more detailed treatment than I can give it here, so I will leave it to future work.

Of course, the party could always renege later on and toss them out. But this will become increasingly costly to do as the groups' "asset specificity" grows (Williamson, 1985). And the other mechanisms, listed above, help protect these cooptive arrangements in the meantime while the groups are digging in.

Second, the groups can demand to be incorporated into the party itself—not just as electoral supporters, but as integral participants in internal party decision-making. This is possible because the party is not really a unitary actor at all, of course, but a collective actor. The decisions the party makes, including decisions about whether to renege on deals, are made jointly by many individuals—and shaped, in turn, by the structural arrangements (within the party organization, within the cabinet) that govern their decision-making. If groups can become insiders, and particularly if internal structures are adopted to protect their interests (e.g., by giving them an effective veto on policies within their jurisdiction), then they are clearly more disposed to believe the party's promises and enter into deals.[25]

Both these cooptive mechanisms have another important payoff, one that heightens their strategic appeal considerably: groups that are incorporated into the public bureaucracy and into the party have far less basis to fear the state. By worming their way *into* the state, they at once protect themselves from its autonomous exercise of public authority—a protection to which they attach great value—and reduce their motivation to demand other kinds of protections. In a system in which formal structure does not work very well to protect one's interests, either from other groups or from the state, cooptation may well be fundamental to the makeup of political institutions.

The mechanisms I have just discussed are ways that groups and the party in power might arrive at deals about the structure of government. But there is a glaring problem—the problem of political uncertainty—that we have yet to confront: if the other party were to take over the government tomorrow, it would have the authority to wipe out everything that today's power-holders have agreed to. The latter can anticipate this, but is there anything they can do to protect their creations from tomorrow's public authorities? Empirically, it would seem the answer must be yes, because the fact is that new governments do not take office and begin demolishing the existing bureaucracy. The vast bulk of government seems pretty safe from this sort of thing.

At least part of the explanation may rest with some of the mechanisms we have already considered. For instance, when agencies move aggressively to entrench themselves in a supportive clientele—especially if, in response to political uncertainty, they purposely broaden that clientele as much as possible to tie in supporters of the other party—then a new government will

25. The ministerial system may in fact be structured to do this. See Laver and Shepsle, and Weingast (1989a).

have to pay a heavy political price if it dares to disrupt things. Similarly, if the public and media have been deluged (perhaps for years) with symbols and rhetoric about the great value of these arrangements and their legitimate independence from governmental restrictions, these political costs might be even heavier.

In the practice of politics, such things are likely to be quite important. Tampering with existing structures, especially when they have been around for awhile, is asking for trouble. There are two other responses to political uncertainty, however, that may also play a role here and are more intriguing on theoretical grounds.

The first arises from the repeated game the two parties are playing. Each knows that whatever it puts in place can be destroyed by the other party when it assumes power, and neither wants its own creations destroyed. Especially as the game is played out over time, then, they may find it mutually advantageous to adhere to a norm of reciprocity. The party in government will refrain from subverting the structures it inherits from its opponent as long as the opponent does the same when it is in power.

This sort of "understanding" may well be an important part of the normative structure of parliamentary government. It cannot, however, be a wholly reliable protection, even if it is bolstered by the more practical mechanisms of political protection outlined just above. For, at the very least, both parties will come under intense pressure from their group supporters to take action against those structures that are very costly to them. Yesterday's losers will demand to stop losing when their own party comes to power; they will demand a change in structure.

Whenever winners consider imposing costly structures on losers, therefore, everyone should anticipate that the losers will try to change those structures later on. If the losers are diffuse interests with little power, this may be of no consequence. But if they are powerful in their own right, then over the long run *it should be impossible to "stack the deck"* by building structures that are grossly skewed to favor winners at the expense of losers. What is quite possible in a separation-of-powers system is largely ruled out here.

What, then, is to be done in the short term? One response is for winners to take what they can while they have the chance, and then run for cover when the losers assume power. The short-term gains may justify this, but the long-term costs are likely to be high. The losers may engage in an orgy of reciprocal gouging; the continuity and stability of programs will be upset or destroyed; and programmatic effectiveness will suffer. When these sorts of things are valued—and parties (especially) and winning groups may both value them highly—then they must design their structures ex ante to ensure that losers do not go on a rampage later on.

This brings me to a second method, aside from norms of reciprocity, for

dealing with the dangers of political uncertainty: cooptation. As I argued earlier, the winning groups have incentives to favor cooptive structures that incorporate their own representatives into the bureaucracy, that make them regular, quasi-official decision-makers in bureaucratic policy-making and implementation. Because of political uncertainty, however, they may also have compelling incentives to *include the losers* in these cooptive arrangements—and thus to favor structural arrangements that turn over important bureaucratic functions to the "relevant" affected groups (the powerful ones), that allow for an internal accommodation of their interests, and yet still allow for (partial) party control from the top.

These cooptive arrangements ought to be quite stable. They would go a long way toward guaranteeing the programmatic and structural continuity that political uncertainty so threatens. Moreover, they do not mean that the winners cannot stack the deck in their favor at all. Most programs are inherently beneficial only to certain groups, and, however cooptive in design, cannot be neutralized unless they are completely destroyed.

An antipollution agency, for example, inevitably imposes costs on business, and a cooptive structure that allows business a quasi-official role (along with other groups) would not drop those costs to zero. It would presumably moderate them—enough (in combination with the other constraints I have discussed) so that business would be unwilling or unable to launch an all-out attack to kill the agency later on. The environmentalists who designed and created such an agency, then, stack the deck in their favor by giving it an antipollution mandate and endowing it with a structure that allows it both to fight pollution (as best it can) and to survive in a world of political uncertainty. Allowing business to participate is a survival mechanism.[26] It does not transform business from a loser into a winner; business remains a loser. When the party of business comes into power, the most likely outcome (if things have been designed right) is that business will play a larger role within the cooptive structure of the agency. It will have more influence, and the amount that it loses will drop. But it will still be a loser. And the environmentalists will still be winners.

What does all this add up to? Obviously, I am not exactly sure. It seems clear enough that the politics of structural choice is very different in parliamentary systems than in separation-of-powers systems, and that the two should have very different public bureaucracies as a result. In the previous section, I characterized a few of these differences in a very simple way, and

26. Cooptation has long been important within sociological organization theory, and for just this reason: it enhances survival. Note, however, that the standard sociological focus is on the organization (the agency), which engages in cooptation in order to enhance its own survival. In my own account, cooptation comes about because groups and public officials strategically *design* agencies to be cooptive. For a good review of the sociological literature on cooptation, and of the "institutional school" more generally, see Perrow.

for the most part I think they stand up. Bureaucracy in parliamentary systems appears to be "less bureaucratic"—less encumbered by formal restrictions, more informal and discretionary, free of the burdensome layering of executive and legislative constraints. It is also more likely, owing to the unchallenged authority of the party, to resemble a coherent, top–down hierarchy.

But some of the issues raised in the present section suggest that things are probably not very simple. A parliamentary bureaucracy may look more nearly like a Weberian hierarchy, for instance, but it may also turn out to be rather difficult to control, due to strategic colonization by groups. And while American agencies are clearly hobbled by excessive bureaucracy, it could be that cooptation by groups—an alternative form of protection—undermines the effective performance of parliamentary agencies.

Thus, while their structural forms are probably very different, they may hide many of the same problems: protective constraints, ineffective organization. Indeed, one of the interesting by-products of this comparative analysis is what it seems to say about the structural equilibria that may characterize different kinds of states. The classic parliamentary system has the appearance of a "strong" state. Yet precisely for that reason it is feared by groups, it is under pressure to grant protections, and it may well respond by creating a bureaucracy that is highly *penetrated* by groups—a characteristic usually associated with "weak" states. The American separation-of-powers system, on the other hand, is internally divided—it has the appearance of a classic "weak" state, but, because its formal structure works so beautifully as a protective mechanism, its bureaucracy is highly formalized and thus *far less penetrable* (a characteristic of "strong" states).

These sorts of things are interesting and worth pursuing. But perhaps the most important point to stress in all this is simply that the foundations of structural choice are very different in the two systems. These differences arise from the way public authority is allocated. In a separation-of-powers system, lots of players have authority, but it is extremely *difficult* to make law—and this very difficulty promotes extensive *reliance* on formal structure. In a parliamentary system, authority is concentrated in the majority party, and it is so *easy* to make law that the law itself *cannot be relied upon* for protection: most of the action surrounds informal and extralegal means of building desirable institutions. The theories by which we understand these systems' institutions, then, may well tend to come from slightly different branches of the literature. In parliamentary systems, structural choice appears to rely extensively on self-enforcing cooperative arrangements among the various participants, whereas in the American separation-of-powers system agreements about structure are in large measure enforceable by law. The political games are different.

10. CONCLUSION

The "positive theory of institutions" is my own label for the work that positive theorists have done on political institutions, especially that portion of the work that has come since the late 1970s in reaction to the chaos theorems of social choice. When positive theorists refer to their own literature, however, they often simply call it the "new institutionalism"—a term used by political scientists throughout the discipline to refer summarily to all the diverse schools of thought and research on political institutions. Given the ambiguity, I have never been quite sure why positive theorists prefer this label. But there is a certain irony in it that is worth pointing out, and that gets back to some of the basic points with which this article began.

Positive theorists may think of their work as the "new institutionalism," but in fact it is something of an outlier. This is true in a good sense. It is more rigorous and analytically powerful than the other streams of work on institutions, and (as far as I am concerned) stands out as the most promising. But it is also an outlier for reasons that are unfortunate. Positive theory does not concern itself with the major issues that virtually all the other streams have in common—issues of the state, of public bureaucracy, of autonomy, of the structural interconnection of state and civil society (via corporatism, cooptation, domination, and the like). As a result, many of the scholars who do work on political institutions regard positive theory as irrelevant to what they do. And to a large extent they are right.

How has this come about? Why is it that positive theorists, who actually call their own work the "new institutionalism," have so little to say about the major substantive concerns of the "new institutionalism"? The answer, I think, goes back to the path-dependent development of the positive theory of institutions. Its core technology, a combination of social choice and the new economics of organization, encourages a distinctive approach to the study of political institutions—an approach that organizes out many of the things that everyone else considers important and interesting about modern government. Other scholars want to know about bureaucracy and the state, but positive theorists tell them about legislatures. Other scholars want to know about the political foundations of institutions, but positive theorists tell them about gains from trade.

Path dependence notwithstanding, I think this is likely to be a short-term problem that will melt away as positive theorists continue moving outward from their base in legislatures and elections to explain other kinds of institutions. Their early efforts to explain bureaucratic structure, while overly legislative and economic in perspective (as one might expect), clearly suggest as much. I view my own argument in this article not as an attack on positive theory, but as a friendly warning about the autopilot features of their meth-

odology, and as a nudge to encourage mid-course corrections that might help accelerate their progress.

The key, I believe, rests with the neglected side of the story. I say this knowing that positive theorists will think I just do not understand the literature. They are quite aware that institutions are tools of coercion and redistribution—who is not?—and they know that their analyses of politics over the years have always been about conflicts of interest, winners and losers, and all the other features of the political struggle that I claim they deemphasize. This is true enough, at least as it applies to politics in general and policy-making in particular.

But they have treated institutions differently. They have generally not sought to explain institutional choices as political choices like all the others—as choices that are an integral part of the larger policy-making process in which political antagonists slug it out with one another. Institutions are not, as other acts of public policy are, typically thought of as authoritative means by which some people may legally force other people to accept outcomes they would never agree to voluntarily. Institutions seem to be thought of, most often, as rules and procedures by which political actors (legislators) agree to arrange their own affairs. They are solutions to collective-action problems.

Were positive theorists to reorient their perspective on institutions a bit, training their analytic arsenal on the neglected side of the story, I think the understanding of institutions they produce would be substantially different than it is now—and a great deal more interesting and consequential for scholars outside of positive theory. The easiest way to do this is to tackle the subject of public bureaucracy in a serious way. When this is done, the neglected side of the story automatically gets pursued, and aspects of politics and political structure that positive theorists have paid little attention to thus far become central to what institutions are all about. Among other things, this tack calls for inquiry into (1) the allocation of public authority and the struggle to control and exercise it—which, more than majority-rule voting, are the true foundations of politics; (2) the politics of structural choice—which generates the authoritative decisions about the design and imposition of most political institutions; (3) the structures conducive to effective organizational performance—which is a crucial strategic concern for most major players in the politics of structural choice (and a matter of great theoretical salience within the new economics of organization that begs for comparisons between firms and public agencies); (4) political uncertainty—which prompts actors to seek structures that protect them from one another and from the state, structures that often undermine the capacity for effective organizational performance; (5) political compromise—which allows the enemies of public organizations and programs to participate actively in their design, and thus to impose structures fully intended to promote failure;

(6) distinctions among different types of public officials—which recognize potentially crucial differences in power and motivation that, as with presidents and legislators, find their reflection in truly distinct "contributions" to the structure of government; (7) distinctions between public officials and social actors—which highlight differences in their structural preferences and point to the crucial role of state autonomy (and corresponding fear of the state) in shaping the strategies and outcomes of structural choice; and (8) distinctions between institutional settings, such as parliamentary and separation-of-powers systems—which allocate public authority very differently, provide strikingly different foundations for the politics of structural choice, and generate their own distinctive brand of political institutions.

Paying attention to these sorts of things does not, of course, mean ignoring collective-action problems or the role of institutions in mitigating them. These problems and solutions are pervasive in politics, and, as my comparison of separation-of-powers and parliamentary systems helps show, an adequate explanation of political institutions clearly makes them a fundamental theoretical concern.

But the fact is that, in practice, they are already fundamental to the stories that positive theorists tell about institutions. The problem is simply that this justifiable concern for collective-action problems needs to be more fully balanced by a correspondingly serious concern for exploring the neglected side of the story. Both have crucial roles to play—and, in a well-fashioned explanation, will not be separate at all, but integral parts of a coherent whole.

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