CRITICAL ELECTIONS AND CONGRESSIONAL POLICY MAKING

DAVID W. BRADY

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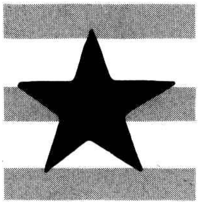

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STANFORD STUDIES IN THE NEW POLITICAL HISTORY

Allan Bogue, David W. Brady, Nelson W. Polsby, and
Joel H. Silbey, Editors

To my mother, who taught me at an early age that politics matter

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Preface

THE CONTEMPORARY CONGRESS is viewed as an institution whose structure and policy are essentially shaped by incumbent members' reelection desires. The dominance of the reelection motive has had, it is believed, an adverse effect on public policy. In light of this, Richard Fenno once observed that we need a book on Congress when its major goal is to make good public policy. In one sense this is such a book. I analyze the House of Representatives during critical periods when it has legislated major policy changes. The Congresses of the Civil War, 1890's, and New Deal eras were responsible, in part, for outpourings of new comprehensive public policies.

In showing how critical elections affect both the institution and the policies it passes I do not refute the consensus on how the contemporary House works. Rather, the argument is that certain elections are national in focus, and that the newly elected majority party has both comprehensive policy goals and the unity required to pass its policy shifts. In this sense, then, the book is about Congress when its goal is to make good public policy. Moreover, it should be added that in each of these critical periods the policy changes legislated by the Congress established a new equilibrium in American politics.

In the process of writing this book I have picked up obligations—intellectual, institutional, and other. My primary institutional obligations are to Rice University, which generously supported this work, and to the Center for Advanced Study in the Behavioral Sciences, Stanford, California. While at the Center my work was supported by the National Science Foundation (grant number BNS8011494). I owe Gardner Lindzey a special thanks for his support, both personal and institutional. I also received a Project 87 grant in 1979 that allowed me to start this project. My primary intellectual debt is to my colleagues in the History of Congress Group: Nelson Polsby, Allan Bogue, and Joel Silbey. I am equally indebted to Joseph Cooper, John Ferejohn, and

Morris Fiorina. At one point or another each of them forced me to reach for better explanations, and without them this book would not have come to fruition.

I am also indebted to other scholars who have in various ways made contributions to this work: John Alford, James Anderson, Rick Wilson, Richard Fenno, Ken Shepsle, Charles Bullock, Sam Patterson, Paul Joskow, Robert Bates, Peter Mieszkowski, Bob Stein, Harold Hyman, Roger Noll, Lance Davis, and Bernie Grofman, among others. I was fortunate enough to have two editors, Muriel Bell and Barbara Mnookin, whose careful work caught and thus saved me from errors of both style and substance.

Last, but certainly not least, I thank my wife Carolyn and our daughters Emily, Elizabeth, and Anna, who put up with having their lives disrupted for a year so that I might finish.

D.W.B.

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CHAPTER ONE

Introduction

THE FOUNDING FATHERS created a constitutional system designed to keep majorities from enacting public policy of a broad, decisive nature with unreasonable haste. Some 200 years later, it is clear they succeeded: scholars and observers of the U.S. Congress attest to its inability to legislate major policy changes. To cite a particularly trenchant comment: "Congressional decision making sometimes resembles a meat slicer, reducing large public problems to a series of discrete, unrelated, and often contradictory tidbits of policy." And another: "After viewing recent events in Washington, more than a few skeptics maintain that the U.S. House of Representatives has already joined the ranks of the dead."[1] Looking at the present Congress, the founding fathers might well be pleased to see that it does not hastily enact public policies. They would, however, be puzzled by the House of Representatives' role in the policy process. The House of Representatives was created as *the* democratic institution. "Here, sir, the people govern," Alexander Hamilton announced. "Here they act by their immediate representatives."[2] But the authors of the Constitution feared that as the people's branch, the House would act quickly and chaotically. Therefore, they created an indirectly elected upper chamber, which they hoped would use reason and judgment to temper the House's passions. The founding fathers would indeed be surprised by the continuity, stability, and policy incrementalism that characterize the modern House.

Criticism of the House is not restricted to the post–World War II period, to be sure. As early as 1831 Alexis de Tocqueville found the House "remarkable for its vulgarity and its poverty of talent." He believed that it might even cause the country to "perish . . . miserably on the shoals of democracy."[3] Davy Crockett wrote that he and his fellow House members "generally lounge or squabble the greater part of the session."[4] And in a famous speech in 1925, House Speaker Nicholas

Longworth said, "I find that we [the House] did not start being unpopular when I became a Congressman. We were unpopular before that time. We were unpopular when Lincoln was a Congressman. We were unpopular even when John Quincy Adams was a Congressman. We were unpopular even when Henry Clay was a Congressman. We have always been unpopular."[5] One of the major causes of the House's unpopularity has been its inability to legislate broad public policies.

Samuel Huntington argued that the intensity of criticism of Congress "varies inversely with the degree and dispatch with which Congress approves the President's legislative proposals."[6] The House's power, he wrote, is the power to obstruct legislation. And certainly in an era of executive governments, the U.S. Congress has retained greater obstructionist power than other Western parliaments. Indeed, it sometimes seems that one could make an even larger claim than Huntington's: that the House's power lies in its ability to obstruct broadly purposeful public policies.

Yet for all these long-standing criticisms of the House, we know that at certain critical points it *has* legislated major public policy changes. As recently as 1965 the second session of the 89th Congress was hailed as "the most productive congressional session ever held" and "the Congress of realized dreams"; polls indicated that "fully 71 percent of the American electorate [gave] a favorable rating to the job done by Congress in 1965."[7] Certainly the Congresses of the New Deal, Civil War, and 1890's eras, like the 89th Congress, were responsible, in part, for outpourings of new, comprehensive public policies.

This book confines itself to the House of Representatives. Its purpose is to account for such outpourings in the Houses of those eras. How and under what conditions does the House—noted for obstructionism—create majorities capable of governing? The answer put forward is that critical elections create conditions in the House that enable the majority party to legislate significant policy changes.

How do critical elections create conditions for major shifts in public policy? Any answer depends on our view of the way the House normally operates. The assumption of this study is that "motivational, institutional, and environmental features hang together in a sort of equilibrium, with changes in one affecting and constraining adaptive responses in the other."[8] This assumption is best understood in the light of a problem set forth by William Riker in *Liberalism Against Populism*. Loosely stated, the problem is that whereas the deductive models of social choice theorists show that political instability is endemic,[9] the observations of behavioral scholars indicate a substantial degree of political stability. And in the case of the House, students of

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that body find almost nothing but stability: "Congress equals continuity plus stability."[10]

How do these "motivational, institutional, and environmental features" hang together in the contemporary House? To begin with, the primary motive of House members is election and reelection, and one assumes that members rationally pursue this goal. In most parliamentary democracies, members' election bids are heavily dependent on the party loyalty of the voters and on the party as organization.[11] That is, the electorate is divided into two or more groups who express a preference for candidates bearing the appropriate party label. Candidates are nominated and funded via the party organization, and withdrawal of party support is normally tantamount to electoral defeat. Thus members' motivations are tied to their environment through the party organization of the electorate. In addition, the structure of the legislature itself reflects the importance of party as a linkage between environment, motives, and institutional arrangements. In the United States political parties are, and have been, weaker than their counterparts elsewhere. Members of Congress today seek nomination and election by and large on their own. Candidates win nomination via a primary election within the party, which means that they must create their own campaign organization. Funds, workers, schedules, contacts, and so forth are arranged by candidates, not parties. In the general election the party may be of peripheral help, but members rely primarily on their own organization to appeal to voters.[12] Add this organizational schema to a system that features weak party preferences and local and regional diversity, and you have a system in which members of the House have relatively greater individual control over their electoral fate than their counterparts in other representative democracies.

House members in the United States engage in neutral political activities like voter contacting and constituent service because such activities increase their chances for reelection.[13] Once elected they choose, within limits, committee assignments that enable them to serve constituents, thereby furthering their reelection prospects. Overall, this process results in a committee system characterized by Riker as a set of congealed preferences.[14] Members of the Agriculture, Commerce, Interior, and Appropriations committees, for example, all have related preferences, and since policy is largely made in committees, stable policy is the result. Members not on a particular committee do not seriously challenge its bills on the floor since they know that their own committee's policies could be similarly challenged. Shepsle and Weingast demonstrate the universalism of this norm, and the attendant logrolling that results.[15] Under these conditions, policy is clearly stable and change thus incremental.

Given this theoretical approach, anyone interested in explaining nonincremental change must necessarily be concerned with both the exogenous electoral conditions and the internal structural arrangements that account for stability. For major changes in policy to occur, either electoral conditions or the structural arrangements that support incrementalism, or both, must change. This, of course, assumes that the members' reelection or election motive is constant.[16] In the sections that follow, both the structural factors and the environmental factors that promote stability are examined in greater detail, since without an understanding of those factors, we cannot know how certain elections change conditions such that they result in new public policies.

In answering the question why policy incrementalism prevails under normal conditions, I shall focus first on the ways federalism, separation of powers, checks and balances, and single-member plurality elections limit the possibility of strong majority government. Second, I turn to an analysis of how these factors affect the three parts of a party system—party in the electorate, party as organization, and party as government.[17] Third, I analyze the ways the internal structure of the House reflects these institutional and party arrangements. At this point it becomes possible to hypothesize that realigning or critical elections create conditions under which majorities are capable of legislating clusters of policy changes. The rest of the book tests the thesis.

It is important to point out that I am not claiming that major policy shifts can only occur during critical election periods. It is simply that my emphasis is on periods when major policy change is most clearly linked to elections and institutions. It is, of course, a central feature of representative democracy that elections, institutions, and policy be linked together in some systematic fashion. Moreover, it has become increasingly clear that in the history of each nation-state, there are critical periods that define and shape the politics and policies of that state for a generation or longer. In one sense, this is a book about three such periods in American political history.

★ Historical Background

The U.S. Constitution was to a large extent a response to problems that the Articles of Confederation proved unable to solve. It reflects the founding fathers' recognition of the fact that any viable government must be organized to deal with the existing problems in the society and their attempt to deal with what they saw as the dominant political problems of their day. The first defining feature of the House's environment is that the American system of government is federal. The Articles of Confederation had proved unable to pull together the various and diverse state and sectional interests. Shay's Rebellion and other localized flare-ups attest to the sectional diversity of the United States.[18] Thus a critical problem for the drafters who gathered in Philadelphia in 1787 was that of creating a centralized government that would be effective but at the same time not so centralized that it would be repudiated by the various sectional interests. There was never any serious question of creating a uniform national government. Not only would the idea have been repugnant to many of those gathered in Philadelphia, but no practical possibility of creating such a government existed. Delegates to the Constitutional Convention were selected by each state, voting was by state, the various governmental proposals such as the Virginia and New Jersey plans were proposed by and named after states, and ratification was by state. Before, during, and after the Constitutional Convention, states' interests were an accepted fact of political life.

The federal nature of the system reflected the social, economic, and religious differences between states and sections. Indeed, many have argued that sectionalism has been and remains the mainspring to an understanding of American history.[19] Whether or not that thesis is correct, my purpose here is to show how the federal system of government promotes policy incrementalism in the House of Representatives. The most obvious effect is that to the extent that a federal system reflects and recognizes in government organization the social, economic, and religious differences between states, it demonstrates a "numerous and diverse population."[20] The father of the Constitution, James Madison, argued that such a population constituted a real check on the formation of a majority capable of acting in haste. From Alexander Hamilton's use of the Treasury Department to boost industrial and monied interests to the present competing claims of the sun- and snowbelts, different sectional interests have pressured Congress to pass legislation viewed as beneficial to one and inimical to others.[21] The Civil War, the 1896 realignment, and countless other events in American history all testify to the effects of sectional diversity on the American system of government. As a focal point for those differences, the House has had not only to deal with issues in a policy sense, but also to temper sectional demands by integrating sectional divisiveness. And of course, as Madison anticipated, such divisiveness made it difficult to form "hasty" majorities—which is to say, majorities capable of enacting significant policy changes.

Diversity was not a sufficient roadblock to potentially tyrannical majorities for the drafters. On the assumption that the concentration of legislative, executive, and judicial powers in the same hands would invite tyranny, they wrote into the Constitution the doctrines of separation of powers and checks and balances. These doctrines have resulted in an American system of government that is characterized by "separate powers sharing functions."[22] Thus one distinguishing feature of the U.S. House is that, unlike the British House of Commons, it shares power with an upper body, a chief executive, the courts, and the bureaucracy. The most immediate effect of the separation of powers and checks and balances on the House is that even when it can build majorities for innovative policies, the Senate or the courts may thwart them. Richard Neustadt and others have shown that each of these institutions has different constituencies to please and therefore different policy solutions even when they agree on where the problem lies.[23] Policy makers in either chamber are likely to compromise or water down strong policy proposals made by the other branches of government. The 1977 Energy Act is a case in point. The Senate's version of the bill was very different from the House bill, and the final bill altered the status quo much less than the House bill would have.[24] Such compromises, whether anticipated or forced, are readily associable with incremental public policy.

In the American system opponents of policy changes have access to a large number of power points where a defeat for the majority position spells defeat until the next Congress forms.[25] The history of the Elementary and Secondary Education Act of 1965 corroborates the difficulty House leaders have in building coalitions capable of enacting major policy changes.[26] In the American system, having a policy majority does not readily translate into significant policy change. Those who seek to preserve the status quo always have a decided advantage. This contrasts with the way majorities are built in most other representative democracies.

The only popularly and directly elected body established by the Constitution is the U.S. House of Representatives. Each member of the House was to represent an approximately equal number of people, and more important, each was responsible to his constituents alone. There was no national party to supervise or control the nomination process. There was no mechanism to purge members who did not follow party principles. All this has nourished localized elections, as has an electoral method in which members win a district by a simple plurality.[27] Members elected on local issues by localized, limited constituencies owe little to House leaders and can behave as they choose as long as their constituency is happy.

An important policy consequence of localized elections is that an intense representation of local interests pervades the House across a broad range of issues. Representatives choose committees that will increase their reelection chances.[28] Members from agricultural districts serve on the relevant committees and subcommittees; members from other types of districts serve on committees and subcommittees relevant to their constituencies. Thus committees and policy outputs are dominated by local interests. This phenomenon has been called policy making or control by "little government," "the iron triangles" of interest-group liberalism, pork-barrel politics, and policy reciprocity.[29] The name matters little; what counts is that localized interests are recognized as congealed within the structure of the House's policy-making process. Forming majorities capable of enacting major policy changes against a backdrop of institutionally localized interests is a difficult task at best, impossible at worst.

Although many parameters of the doctrines of federalism, separation of powers, and checks and balances have changed to make the system more democratic and centralized, the American system of government remains fragmented and cumbersome. Shortly after the Constitution took effect, difficulties inherent in governing within its framework presented themselves. In response, Hamilton crossed executive boundaries and led pro-national factions in the Congress.[30] Over time these factions developed into political parties. Yet even though American parties were founded because the system was too cumbersome without them, the same system also inhibited their full development.

Perhaps the most distinguishing characteristic of American political parties is that their three roles—party in the electorate, party as organization, and party as government—are disjointed.[31] Certainly no one claims that American parties are mass parties in the European sense. Federalism, separation of powers, checks and balances, and single-member plurality districts are in no small way responsible for the fragmented nature of the American party system.

The most basic effect of a federal form of government on the American party system is that rather than a two-party system, we have a fifty-party system.[32] Each state's party system has demographic, ideological, structural, and electoral peculiarities. Thus the Democratic Party in the electorate and as organization in New York has been distinct from the Democratic Party in the electorate and as organization in Georgia. The same applies to the components of the Republican Party in these states. The heterogeneity of the state party systems means that at the level of party as government, *unlike*-minded men bearing the same party label will come together in the House of Representatives. Put another way, the federal system brings built-in differences between states and regions to the House. Although this may be useful in maintaining system equilibrium, it has most often been an extremely poor basis for building coherent congressional parties. The New Deal coalition of rural Southern and agricultural interests and urban Northern industrial interests is a case in point. Long after this coalition had passed its major policy changes, it served as an electoral base for the Democratic Party.[33] Such successful electoral coalitions, however, often are divided on major policy issues. In fact, on a number of major policy issues, such as civil rights and social welfare, the components of the New Deal coalition were poles apart.* American political history abounds with examples of successful electoral coalitions that cannot make major policy changes because of ideological differences. It is not difficult to surmise how such coalitions lead to static or incremental policy.

The separation of powers and the system of checks and balances contribute to the fragmentary, disjointed status of American parties. Parties formed out of numerous and diverse state party systems will emphasize electoral success and minimize policy cohesion (and thus policy success). When given the opportunity to compete for numerous offices (both appointive and electoral) in the various branches, national parties formed on the basis of a sectional coalition will be further fractionalized. Thus, for example, one faction of the party may be dominant in presidential politics, another in congressional politics; and since both have powers over the courts, an equal division of court appointments may result.[34] The Democratic Party from 1876 to 1976 was characterized by just such an arrangement. The Northern wing dominated presidential politics and elections, the Southern wing controlled congressional leadership posts, and both wings influenced court appointments. Such a system may help represent political differences, but it does little to elect House majorities capable of legislating public policy changes.

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*Sinclair, "Party Realignment." This phenomenon is deeply rooted in the American federal system. The Republican Party was divided over the gold-silver question before 1896 and was divided over the questions of welfare and government management of the economy during the post–Franklin D. Roosevelt period. The Democrats were divided on questions of civil rights through a large part of the 20th century.

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