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Judge, David (2008) *Institutional theory and legislatures*. In: Debating Institutionalism. Manchester University Press, Manchester. ISBN 9780719076787

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Pierre, J., Peters, B.G and Stoker, G. (2008) *Debating Institutionalism*, Manchester University Press.

Chapter 6

Institutional theory and legislatures

David Judge

How useful is an 'institutional' approach to the study of legislatures? The answer depends of course upon what type of 'institutionalism' is under consideration. There are, as Guy Peters points out in the introductory chapter of this volume and in his book-length study (1999), several versions of 'new' institutional theory in current use. Little would be served here, however, in providing yet another overview of the main institutional theories. Instead, what needs to be noted at this stage is that these diverse approaches are united by the belief that 'institutions matter', that 'institutions make a difference', that institutions persist over time, and that the behaviour of individuals is influenced by the institutional configurations within which they locate themselves. On the other hand, what separates them are different understandings of what an institution is, what an institution does, what constitutes institutional design and the facility with which institutional change can be brought about. Overall, however, institutional theories 'simply ... consider institutions the central component of political life' (Peters, 1999: 150).

The objective of this chapter is to review different institutional approaches to the study of legislatures, and to do so by asking three related questions. First, how do institutions become institutions? Second, how do institutions organize themselves and operate as institutions? In other words, what is entailed in 'being' an institution? The third question is how well do institutional theories explain the 'real world' of institutions? The answers to these questions are structured around an analysis of three discrete strands of 'new institutional' theory. This does not mean that each specific question is neatly answered by a single approach. Manifestly this is not the case, but in seeking to answer each question from the perspective of a particular discrete theory, the analytical differences, and the problems associated with each approach, can be highlighted. The first strand of theory – 'institutionalization' – is reviewed to see how well it answers the question of how do institutions become institutions. Without giving too much away at this stage, the conclusion is 'not too well', given

that the phenomenon of institutionalization remains, even after nearly four decades of intensive study, under-conceptualized and under-measured. The second strand of theory – rational choice – is examined to gauge its utility in providing answers to the second question. Here again, despite extensive model building and the amassing of empirical data, the capacity of these theories to provide adequate explanations of how and why institutions operate in the way they do, and how and why institutions change, can be questioned. Threaded implicitly throughout the discussion of the institutionalization and rational choice approaches is an answer to the third question of how well do new institutionalist perspectives deal with the ‘real world’. An analysis of ‘historical institutionalist’ accounts of the emergence of representative institutions is used to provide a more explicit answer. In fact, historical institutionalists themselves have no hesitation in proclaiming that their studies address ‘real world questions of interest to educated publics’ (Pierson and Skocpol 2002: 697). Yet other institutionalists remain to be convinced that historical institutionalism is constructed with sufficient rigour, either in terms of theory or methodology, to provide ‘real world’ answers.

While there can be no doubts that ‘new institutionalism’ approaches have revitalized the study of institutions generally and reinvigorated the study of legislatures specifically, doubts remain as to whether they constitute significant increments of understanding upon more traditional and established institutional approaches.

Institutional studies of legislatures: neither ‘old’ nor new?

Before reviewing ‘new institutional theory’ it should be noted in preface that a variant of ‘institutionalism’ has survived in legislative studies since the 1960s. This approach was neither necessarily ‘old’ nor ‘new’ in the senses outlined by Peters (1999). ‘Old institutionalism’ has been stereotyped as atheoretical and descriptive and concerned excessively with details and formal procedures (John, 1998: 39; Peters, 1999: 6). Certainly, throughout this period, analyses of the House of Commons were open to the charge that they were ‘overdescribed’ while remaining ‘under-researched, under-conceptualized and isolationist’ (Judge, 1981: 1).

Nonetheless, proto-theories were clearly discernable in legislative research. One classic example was provided by the seminal work of Wahlke, Eulau, Buchanan and Ferguson (1962). Despite the opening sentence of Wahlke et al.’s *The Legislative System* pronouncing that, ‘[t]he research to be reported did not begin with a theory to test nor did it end with one’ (1962: 3), the rest of the book is concerned with developing a ‘role-theory model’ of legislators’ actions and behaviours. What is particularly noteworthy for present purposes is that Wahlke et al. explicitly acknowledge that:

the behaviour of legislators is clearly 'institutional behaviour' not merely aggregated or symbiotic behaviour of individuals. Institutions, it has been said, are regularities or uniformities of behaviour. The concept of role associated with a position of membership of any institutionalized group refers to precisely those behavioural uniformities or regularities which constitute the institution. (1962: 10)

The essential point for Wahlke et al. is that individual actions are located within a determinate institutional framework – in this case a legislature. In this sense, and in retrospect, their work is 'compatible with modern forms of neoinstitutionalism' (Searing, 1994: 3; Saalfeld and Müller, 1997: 8).

Correspondingly, a whole host of empirical studies, which loosely conform to Peter's categorization of 'empirical institutionalism' have filled the pages of *Legislative Studies Quarterly*, and latterly the *Journal of Legislative Studies*. While essentially empirical, such studies have 'indwelling ... an argument that formal structuring of interaction does determine, or at least influence behaviour' (Peters, 1999: 95). It is not the intention to review these studies but merely to note, before examining studies consciously framed by 'new institutional' approaches, that an older established institutionalist tradition has continued to produce empirical studies designed to test propositions derived from theory. But these studies do not fit neatly into a categorization of 'new institutional' studies.

Institutionalization

The first question to be addressed in this chapter is: how do institutions become institutions? One answer provided by theories of 'institutionalization' is through a longitudinal process of development. The focus of 'institutionalization' is thus upon organizational transition over time. In this sense, as Guy Peters points out in his introductory chapter to this volume, it is a 'process theory' which moves beyond the specification of a dichotomous variable – either an institution exists or it does not, to a continuous variable – whereby an institution can be more or less institutionalized. But if institutionalization is conceived in this latter sense then the specification of independent variables and measurement of the degree of institutionalization become crucial to the understanding of the process. The essence of the argument presented here, however, is that both specification and measurement have been deficient in the study of the institutionalization of legislatures.

Institutionalization: conceptualization

Samuel Huntington provides a classic definition of institutionalization as 'the process by which organizations and procedures acquire value and stability' (1968: 12). For Huntington institutions themselves are 'stable, valued, recurring patterns of behaviour', and institutionalized organizations are defined by

their adaptability, complexity, autonomy and coherence (1968: 12). By identifying common criteria and measures, Huntington believed it would be possible to perform comparative analyses of institutionalization in political systems generally and in political organizations specifically. The same belief has driven subsequent studies of institutionalization in legislatures. What this chapter argues, however, is that the comparative potential of the concept of institutionalization has been limited by a failure to use common criteria and measures of institutionalization. In fact, other than in agreeing that institutionalization is a process whereby legislatures develop discrete modes of internal organization which help to differentiate them from their political environment, there is little agreement as to exactly what its defining core characteristics are. As a corollary, given the differences over how an institutionalized legislature is conceptualized, there are corresponding differences in the variables deployed to measure the level of institutionalization. In other words, legislative studies have tended to hold different conceptions and use different measures of the process of institutionalization.

Conceptual variety has been apparent from the outset. Polsby's seminal 1968 article, which provided the first detailed empirical study of institutionalization in legislatures, while citing Huntington, chose not to use his specified four criteria. Indeed, Polsby did not advance a formal conceptualization of the process at all, offering instead three characteristics of institutionalization. An institutionalized organization for Polsby was: first, relatively well differentiated from its environment; second, internally complex; and, third, operated in accordance with universalistic and automatic decision-making processes (1968: 145). Subsequent studies have either been side-tracked by Polsby's partial stipulation of the characteristics of legislative institutionalization, or have had to abandon Polsby's characterization and develop other definitions of institutionalization. For example, Loewenberg and Patterson (1979: 22) identify two defining criteria of institutionalization – 'habitual behaviour' and 'organisational complexity'. Yet Patterson, writing later with Copeland (1994: 4), defined an institutionalized legislature in terms of four criteria: autonomy, formality, uniformity, and complexity. Philip Norton (1998a: 8) reduces the 'basic features' of institutionalization to 'regularity' (in terms of rules and behaviour) and 'structural specificity'. In contrast, Sisson (1973) provides a more complex conceptualization which seeks to explain the internal organizational development of legislatures in terms of their environmental adaptation. The relationship between external environment and internal organization is analysed through three indices: the structural, the cultural, and the character of compliance (1973: 25). In turn, the structural indices are subdivided into two categories – institutional autonomy and organizational complexity – and these are then linked to the representative functions of legislatures and a capacity for self-regeneration (1973: 29).

From this brief survey it can be seen that while there is agreement that

institutionalization is a process of internal organizational development and external differentiation, there is little agreement as to exactly what its defining core characteristics are. Even if any particular definition was to be adopted there is little indication in existing studies as to the priority and ranking of criteria within each conceptualization. As will be demonstrated in this chapter's review of institutionalization studies, there is no indication as to whether each variable carries equal weight and is equally important for conceptualization; or whether there is a hierarchy of variables; or, alternatively, if there is a single core criterion without which institutionalization does not occur.

A further problem arises in the absence of agreement as to what constitutes the end point of institutionalization – what a 'fully' institutionalized legislature looks like. In Huntington's classic conceptualization organizational adaptability and longevity are the hallmarks of a highly institutionalized organization. 'The more adaptable an organization ... the more highly institutionalized it is ... the longer an institution has been in existence, the higher the level of institutionalization' (Huntington, 1968: 13). Similarly, Patterson and Copeland identify representative institutions as being particularly prone to frequent organizational change. For them 'legislatures or parliaments may be highly adaptive institutions' (1994: 7). In contrast, however, Loewenberg and Patterson (1979: 21) maintain that 'a highly institutionalized legislature has organizational inertia'.

From the outset, therefore, it needs to be recognized that institutionalization is a general concept illuminating a process of institutional change, but one that has great difficulty in specifying what the end point of the process is and whether there are common processes at work.

Institutionalization: measurement

Given the differences over conceptualization, it is not surprising to find that there are corresponding differences in the specification of independent variables and the measures of institutionalization. An inherent problem of Polsby's pioneering approach was that, although the characteristics ascribed to an institutionalized legislature were deemed to be universal in nature, the variables used to measure the extent of institutionalization were largely specific to a particular type of legislature – the US Congress. As is widely acknowledged, however, the US Congress is not a 'typical' legislature. In fact, Polsby (1975) was crucially aware of the distinction between 'arena' and 'transformative' legislatures – having made the analytical distinction himself. Nonetheless, the criteria deployed in his study of legislative 'institutionalization' were appropriate essentially for a particular type of legislature – the transformative variant.

Transformative legislatures are characterized by their 'independent capacity, frequently exercised, to mold and transform proposals from whatever sources into law' (Polsby, 1975: 277). In contrast to the study of arena legislatures, the

focus of analytical attention for students of transformative legislatures, Polsby believes, are internal structures and institutional norms. In the discussion of institutionalization this focus finds reflection in Polsby's concentration upon committee structures, appointment processes, institutional socialization processes, regulation of interests, rules of procedure and customs such as seniority. Measures of institutionalization in the US Congress, a transformative legislature, are not necessarily the most appropriate measures of institutionalization in 'arena' legislatures. The latter 'serve as formalized settings for the interplay of significant political forces in the life of a political system' (Polsby, 1975: 277). In these legislatures the function of 'lawmaking' is not their exclusive preserve and the locus of decision-making may be indeterminate – and, in fact, may extend to party systems or political executives beyond the organizational bounds of legislatures. What is of particular significance to the discussion here, however, is that the concept of an 'arena' legislature recognizes the linkage between external social forces – constituted variously as parties, social classes, functional groups, or electors – and internal procedures of legislatures. As Polsby (1975: 285) acknowledged: 'the identification of a legislature as an arena points the scholar away from the detailed examination of the legislature per se and toward the study of outside institutions such as party or stratification systems'.

Nelson Polsby: the institutionalization of the US Congress

In essence Polsby was engaged in a comparative study – a cross-time comparison of the organizational structure of a single institution. The empirical measures used to determine the degree of institutionalization at any point in time were: first, boundedness; second, complexity; and, third, automaticity of internal decision-making. 'Boundedness' was measured primarily in terms of career opportunities; with stability of membership and the professionalization and persistence of House leadership roles used as indicators of increased institutionalization. The second variable – the growth of internal complexity – was harder to quantify. Polsby proceeded, therefore, to measure the development of internal complexity in terms of the growth in the autonomy and importance of committees, in the growth of specialized agencies of party leadership and in the provision of allowances, accommodation, staff and back-up facilities. The measures of the growth of internal complexity were, by Polsby's own admission, based upon an 'anecdotal accounting procedure' (1968: 153) and 'weak' indicators (1968: 160). Similarly the move from discretionary toward automatic decision-making, as measured in terms of the development of committee seniority and the settlement of contested elections on merit, was again partly based upon anecdotal evidence and the 'testimony of a number of quotes'. On the basis of this less than robust data Polsby concluded that 'one of the main long-run changes in the US House of Representatives has been toward greater institutionalization' (1968: 164). Indeed, it is worth noting at this point

that Polsby's initial purpose was to describe in what sense the House was an institutionalized organization. Only when he had established the degree of institutionalization did Polsby then proceed to offer 'a number of speculative observations about causes, consequences, and possible lessons to be drawn from the institutionalization of the House' (1968: 144). In so doing he raised three questions: 'What caused it? What follows from it? What can this case tell us about the process in general?' (1968: 164).

In the event, however, the answers proved illusive to Polsby who could offer little more than 'theoretical guesses'. The first guess was that institutionalization was correlated with institutional size and increased workload. Polsby based this guess on the notion of 'density' and the idea that as the responsibilities of national government grew then the agencies of national government institutionalized. Equally, as national government institutions grew in size so the organizational necessity increased for a division of labour and for rules and precedents to structure modes of internal working.

The tentative answer to the second question was provided in four parts. First, there was a partial displacement of goals, with, for example, legislators' personal goals focused upon maximization of status and power rather than the enhancement of public policies. Second, the development of specialization enhanced the policy influence of both legislators and the legislature. Third, decentralization of power within the House increased the attractiveness of service therein. Fourth, institutionalization promoted professional internal norms (1968: 166).

As for the third question, the answer was pitched at the high level of generality that hierarchical structures are not a necessary feature of the institutionalization process.

Problems with Polsby

A major advantage of Polsby's study is that it is comparative and, in its attempt to explain the House of Representatives in different time periods, it seeks to understand and develop wider hypotheses about institutional change. In explaining change over time, Polsby directs attention to exogenous as well as endogenous factors. But he does so only partially and tentatively. For example, he reduces the analysis of boundedness to the question of whether boundaries are open or closed, and uses tenure patterns as the primary measure of closed boundaries. In so doing he narrows the consideration of the impact of external factors to one closely specified variable. In measuring boundedness exclusively in terms of personnel differentiation, Polsby measures the impact of external factors through a single facet of linkage. Other elements of 'boundedness', such as the existence of a distinct normative system or internal managerial autonomy, are thus ignored in the concentration upon Congressional tenure patterns (Rosenthal, 1996: 186).

Similarly, when Polsby analyses the consequences of complexity he does so by treating the House of Representatives as a 'a closed system in all regards because of its degree of closure in a single regard [career patterns]' (Cooper and Brady, 1981: 997). Moreover, Polsby largely side-steps the analysis of the relationship between internal structural variables and external factors by focusing exclusively upon 'complexity' and reducing other structural features – specialization, centralization and formalism – to the status of 'consequences' of institutionalization. The result is that 'because of Polsby's assumptions regarding system closure and his focus upon complexity and universal norms as the prime internal variables, his approach cannot deal with the range of structural variation that actually exists' (Cooper and Brady, 1981: 997).

Indeed, in their general review of diachronic analyses of Congress, and in a specific critique of Polsby's article on institutionalization, Cooper and Brady (1981) conclude that the primary independent variables explaining structural change within Congress over time are environmental. They identify four categories of variables to be of crucial importance: the scope and complexity of demands for legislative outputs; the nature of executive roles and resources; the character of the electoral and party systems; and the impact of 'aspects of democratic values that define the more precise content of broad values, such as majority rule, equality, openness' (Cooper and Brady 1981: 998). According to Cooper and Brady it is these external variables which provide the impetus for institutional change. Although the actual relationship between institutional change and environmental context is exceedingly complex, nonetheless, they are convinced that 'structural change can be conceptualized, operationalized, and explained in terms of an organization theory approach which emphasizes external determinants and organizational needs' (Cooper and Brady, 1981: 998). What needs to be remembered, however, is that legislatures are embedded in wider representative processes of elections, constituency linkages and wider systemic relations with executives, bureaucracies, and organized interests. These external variables provide powerful constraints upon internal organization. 'As a consequence [legislatures are] not free to accommodate [their] organizational needs through the variety of structural arrangements that are open or possible in other organizational contexts' (1981: 997).

Institutionalization in comparative perspective

In Polsby's formulation at least, the concept of 'institutionalization' fails to provide causal or relational propositions. One consequence is that his analysis provides no conceptual framework for explaining or predicting change. Hence, even within the specific context of the US Congress, Polsby's approach is of limited value in explaining change across time. Both conceptualization and measurement of institutionalization are tied to a particular institution and to 'particular historical circumstances whose determinants and interrelationships

remain unspecified' (Cooper and Brady 1981: 997). Hence, if Polsby's seminal study of legislative institutionalization is deficient even in the context of the US Congress, then expectations might not be high that it would provide suitable conceptualization and appropriate variables for comparative analysis. Nonetheless, such low expectations have failed to dissuade analysts from undertaking comparative studies of institutionalization using Polsby's conceptualization and variables.

While there is a ritual of paying tribute to Polsby's pioneering study and acknowledging its utility in providing a starting point of analysis, it becomes apparent fairly rapidly that his conceptualization does not travel well. Even within the US political system, at state level, successive legislative analysts have encountered difficulties in operationalizing Polsby's conceptualization and measures. Squire's study of institutionalization in the Californian Assembly found that Polsby's criteria had to be modified considerably if the concept was to retain its utility (1992). 'Boundedness' had to be qualified to take account of the high turnover rate of Californian Assembly members. 'Complexity' was quantified by an array of measures, but only one – number of committees – corresponded to Polsby's initial measure. Similarly, Polsby's notion of 'universalistic' decision-making, as evidenced in a seniority system, had little resonance in the Californian state legislature (Squire, 1992: 1046).

Indeed, a broader study of state legislative development, concluded that 'if the test of institutionalization is that it is susceptible to quantification and that measures are available which are faithful to the concept, then institutionalization has limited applicability to state legislatures' (Rosenthal, 1996: 185). Although Rosenthal maintains that 'with some modification the concept can lend powerful support to explanations of current trends in state legislatures', it is only by ditching Polsby's initial formulation that he can sustain this argument. The dismembering of Polsby's conceptualization is apparent in Rosenthal's statement that:

Legislative bodies can become institutionalized without adopting universalistic standards or establishing seniority systems. Nor has complexity been conceptually justified as a major dimension of institutionalization, and the indicators employed to measure it provide little meaning for the term. The difference between more and less institutionalized bodies is not, even in part, a difference in the number, authority, or specialization of committees or of other legislative agencies. Universalism and complexity work neither in theory nor in practice as indicators of institutionalization in state legislatures. (1996: 185)

All that is left of relevance is thus the notion of 'boundedness' which Rosenthal identifies as the conceptual core of institutionalization. But even here Polsby's idea of legislative boundedness is seen to have been too narrowly conceived (Rosenthal, 1996: 186). The idea of a 'conceptual core' of institutionalization will be examined later in this chapter, but for now attention will be focused upon how well the concept has travelled beyond the USA.

The short answer is that Polsby's formulation has not travelled well. Successive comparative studies of legislatures have encountered significant difficulties in trying to operationalize the concept of institutionalization. One of the earliest attempts, an edited volume by Kornberg (1973), sought to structure its contributions around the theme of institutionalization. From the outset, however, the editor had to concede 'failure'. Kornberg sought to explain the inability of his contributors to focus their analyses upon institutionalization as 'a function of the lack of scholarly agreement on even a nominal definition of that concept' (1973: 1–2).

Similarly, Patterson and Copeland (1994: 9) in their comparative study asked their contributors to appraise the institutionalization of legislatures, and to analyse 'contemporary pressure for organizational change and the resulting adaptations of these assemblies'. They identified institutionalization as a process, and clearly subscribed to the view that parliaments '*become* institutions' (1994: 3). An institution in their view is 'by definition, an organization that has been around quite a while; it has a life history' (1994: 3). There was a partial echo of the characteristics identified by Polsby in that a highly institutionalized legislature 'exhibits autonomy, formality, uniformity and complexity' (1994: 4). Also in line with Polsby, Patterson and Copeland believed that the concept refers to 'the phenomenon of the regularity of collective behaviour' and involves 'establishing and maintaining organizational structures, and linking the organization to its environment' (1994: 4). While recognizing that legislatures are embedded in their environments, and in this sense they are 'constituent institutions', the environment is closely defined in terms of the exhibition of 'congeries of linkages to geographical and other constituencies' (1994: 6). In this formulation, however, the environment is no longer an independent variable (or set of variables) explaining institutional change and internal organizational adaptation. The crucial research question is lost and replaced by the maxim that '[i]nstitutionalized organizations are organizations that work' (1994: 152).

In asking their contributors 'to think about the degree to which the parliament in their study is institutionalized', Copeland and Patterson eschewed 'strict frameworks or operational definitions', nor did they identify 'a checklist for institutionalization' (1994: viii). As a result, the questions of how and why institutions change are posed, but never systematically addressed or answered. Notably, only one chapter makes explicit, but fleeting, reference to Polsby's criteria and seeks to operationalize his measures of institutionalization (Hibbing and Patterson, 1994: 147–9). Most other chapters simply ignore Polsby.

Even when Polsby's indicators are deployed in a comparative context they can lead to the conclusion that an established and stable organization, 'that has been around quite a while', namely the British House of Commons, turns out to be 'not very institutionalized' (Hibbing, 1988: 707). Although Hibbing's study of the British parliament identifies 'many elements of the evolution of the Commons [which] are consistent with those predicted by the concept of

institutionalization', even so he concedes that the evidence is 'spotty' (1988: 707). 'Some trends predicted by institutionalization are not as evident as others. Other trends simply do not occur at all, and still others exhibit frequent reversals of direction' (1988: 707). This leads Hibbing to ask the question: 'What does all this mean for the ability of institutionalization to act as a model of legislative change?' His answer is that such a model is 'gross at best; it illustrates a general tendency, but with facets that fall victim to politics at particular moments' (1988: 708).

In reaching this conclusion Hibbing proposes that the way forward is 'to pose and attempt to answer questions regarding the nature of the relationship between legislative change and the environment within which the legislative change is evolving' (1988: 708). Exactly the same proposition was made earlier by Polsby and reiterated more forcefully by Cooper and Brady. In the end, however, Hibbing laments:

no-one has undertaken the work of empirically relating measures of environmental change to indicators of legislative change ... Instead we are treated to pleasant stories regarding how some specific events in the history of legislatures can be seen as responses to occurrences in the larger polity. These stories are nearly always plausible, but they also tend to sound extremely post hoc. (1988: 710)

Institutionalization and democratization in new legislatures

'Story telling' continues to characterize the study of institutionalization in the newly emergent parliaments in East and Central Europe (ECE) after 1989. The edited volume of Olson and Norton (1996) which examined ten legislatures in transition, discerned 'a process of institutionalization' and could point to 'a degree of institutionalization' in each of the new parliaments. The measures used to reach this conclusion were professionalism, staff, resources and the formal division of labour as evidenced in the use of committees. The editors identified that 'we can thus see institutional development taking place, and we would expect this to continue' (1996: 239). But there was little attempt to utilize the variables identified by Polsby to collect systematic data across all ten legislatures, or to relate internal organizational characteristics to external variables. The emphasis of the volume was primarily upon description.

At one level such a descriptive approach is understandable given the newness of both the institutions and of the political science profession in ECE. There were, however, notable attempts to break out of this descriptive orthodoxy. Thus, for example, Simon (1996) undertook a diachronic analysis of the Polish Sejm at three time points (pre-1989, 1989–91, and 1991–93) to identify a process of institutionalization. Importantly, Simon looks beyond the Sejm to examine the 'opportunity structure' provided by the changing environment of Polish politics during the initial post-communist period. External political

variables are identified – especially the emergence of a competitive electoral process and a multi-party system and the development of a hybrid presidential–parliamentary constitution. Equally, a time-comparative assessment of the internal organizational development of the Sejm is undertaken. In essence, therefore, Simon poses the standard questions about the relationship between legislative change and the wider environmental context within which such change occurs. Once again, however, the actual linkage is left untested empirically.

Similarly, Crowther and Roper (1996) in their comparative study of institutional development in the Romanian and Moldovan legislatures are sensitive to the external variables which impact upon the internal organizational development of legislatures. In noting the distinctly different patterns of evolution of the two legislatures in the relatively short period since the breakdown of the communist regimes in 1989–90, Crowther and Roper (1996: 155–6), point to the importance of ‘institutional inheritance’, the ‘general policy environment’. They reach the conclusion that while neither legislature is highly institutionalized the Romanian legislature had achieved ‘a greater degree of institutionalization than its counterpart in Moldova’ (1996: 158). This conclusion was based largely upon qualitative data derived from legislators’ evaluations of the respective distribution of functions between the legislature and the government, and of the legislature as a democratic institution. The qualitative data was supplemented with data on levels of parliamentarians’ participation in legislative activities (1996: 155). The measures of institutionalization were thus different to those employed in other studies of institutionalization. Moreover, the data did not directly measure the impact of external variables upon internal structures and organization. Ultimately, therefore, Crowther and Roper have to concede that their data is merely ‘suggestive’ that ‘more research needs to be conducted’ (1996: 155).

The most notable attempt to break from storytelling is provided in Kopecky’s (2001) *Parliaments in the Czech and Slovak Republics*. This book analyses the relationship between the concepts of institutionalization, democratic transition and consolidation in two post-communist political systems. From a preliminary review of the ‘analytical issues related to the institutionalization of parliament’ Kopecky (2001: 13) draws a distinction between the ‘direction’ and ‘degree’ of institutionalization. The former focuses attention upon formal internal structures and organization, while the latter ‘directs attention to the capacity of parliament to reproduce itself and to resist social intervention’ (2001: 14) Of particular significance in Kopecky’s study is the exploration of the connection between internal organizational development and changes in a legislature’s external environment.

Kopecky provides an impressively detailed analysis of the development of the origins of the Czech and Slovak parliaments, the impact of electoral systems and the role of political parties, the nature of executive–legislative relations

and the organization and behaviour of political parties. While making the case that institutionalization has to be understood in the interconnection of external and internal dimensions, and that both should be studied simultaneously 'so as to capture the implications of the external relationship for the dynamic of parliament's internal development and vice versa' (2001: 207), hypotheses about the direction and degree of institutionalization remain largely unformulated. Ultimately, institutionalization is still conceived by Kopecky as a single process that is 'long-term' and can be 'completed at some point' (2001: 15). In the end, despite his best endeavours, Kopecky concedes the need 'for better conceptual tools to reveal the complexity of interactions between structures, institutions and agents' (2001: 240).

In *Parliaments in Asia*, Norton (1998b: 191) also maintains that more scholarly attention should be paid to institutionalization and to parliaments generally in Asia. Norton adopts a narrow conception of institutionalization as 'regularity' and 'structural specificity', and concludes that all parliaments in the seven country survey are autonomous in that they are free-standing institutions, but the extent to which they can exercise power is limited by the control exercised by party groups. All experience high levels of membership turnover. All have developed some form of a committee system as a crucial element of structural specificity. Ultimately the conclusions are reached: first, that 'though parliaments are developing institutionally they lack some of the features of institutionalized legislatures'; and, second, that though the parliaments 'are not highly institutionalized, they are clearly more institutionalized than they were' (1998b: 190). Unfortunately, what remains unstated is how levels of institutionalization are quantified and categorized.

Legislative institutionalization: more research!

The call for 'more research' is endemic to writings on legislative 'institutionalization'. What current research reveals is that legislative institutionalization is neither 'some uniform, monotonic, and homogenizing process' (Hibbing, 1988: 707) nor is it a 'unidirectional and finite process' (Longley, 1996: 23). Future research, therefore, might profit from a conceptual distinction between 'becoming' an institution (boundedness) and 'being' an institution in terms of internal organizational structures and the development of institutional norms. This distinction is already implicit within some analyses. For example, one of the goals of Copeland and Patterson was to understand how legislatures 'become institutionalized, and how they continue to change once they are institutionalized' (1994: viii). This distinction could be made more explicit in a separation of measures of 'becoming' from measures of 'being' – with the latter focused upon analysing institutional change.

Moreover, it would help the process of conceptualization if an explicit acknowledgement was made that 'institutionalization is a subspecies of organization theory' (Hibbing, 1999: 156). As a general theory,

institutionalization is of value in explaining how institutions become organized and how they become differentiated from other political organizations, but equally other organization theories (dealing with specialization, professionalization, procedural rules, normative development, etc.) might more usefully be deployed to explain institutional change thereafter. The utilization of different organization theories would avoid the ambiguities associated with a single process of 'institutionalization' and the converse process of 'deinstitutionalization'. Instead, legislatures could be conceived as more, or less, specialized in terms of an internal division of labour; or more or less 'professionalized' in terms of membership characteristics and performance of legislative roles; or more or less routinized in terms of rules of procedure; or more or less structured by behavioural norms. Different processes, different time periods and differing constitutional contexts would allow for differentiated assessments of internal organization and so reduce expectations that there is a single uniform trajectory of 'institutionalization', or that there is some ineluctable process whereby legislatures can become 'fully' institutionalized. If this was accepted then 'legislative institutionalization itself should not be expected to be identical across legislatures in different political systems' (Hibbing, 1999: 162).

The logic of this argument identifies 'boundedness' as the conceptual core of institutionalization (in agreement with Rosenthal 1996: 189). But boundedness, as defined by Polsby, in terms of the differentiation of personnel, is insufficient in itself, and is certainly inappropriate in other non-Congressional legislative systems. To take one obvious example, highlighted by Hibbing (1999: 158), '[o]nce we move outside the US it becomes virtually impossible to consider institutionalization without considering parties'. In turn, the reason why parties limit institutionalization (as measured using the variables identified for transformative legislatures) is because of the different constitutional context within which they operate. 'Boundedness' is inhibited in parliamentary systems by the intrusion of pronounced party competition, party organizations and hierarchies. Moreover, where party leadership roles are conjoined with executive hierarchies, as in Westminster systems, then the constitutional design of those systems mitigates against boundedness and the autonomy of legislatures as defined by Polsby. In this sense they would be prevented, in Polsby's terms at least, from becoming 'fully institutionalised'. In fact, as Campbell (1977: 129) notes, the initial choice of Congress as a model of institutionalization has resulted in most of the world's legislatures being 'set up ... for failure'.

Nonetheless, the establishment of boundaries remains of crucial importance to the concept but needs to be redefined to include legislatures which have a reasonable degree of autonomy and which have been able to establish themselves as relatively permanent and viable parts of the wider political system. Moreover, as Hibbing (1999: 161) notes, the very essence of legislatures as

representative institutions constitutes an inherent limitation upon the trajectory of institutionalization. In his words: 'If institutionalization is the process of an organization isolating itself from its environment ... legislatures are simply unable to go very far down the road of institutionalization' (1999: 161–2). In identifying 'boundedness' as the conceptual core of institutionalization an implicit assumption is made that in the process of establishing definitive boundaries an institution becomes 'an institution'. The contours of a legislature's environmental boundaries may vary from one political system to another, most obviously from presidential to parliamentary systems. Nonetheless, the ability to demarcate boundaries – to develop 'boundedness' in Polsby's terms, or 'autonomy' in Huntington's terminology – leads to an analytical concern with exactly how, why and when an institution achieves distinctive boundaries. This is akin to Ragsdale and Theis's (1997: 1284) notion of an 'external' process of institutionalization.

In addition Ragsdale and Theis identify an 'internal' institutionalization process which reveals 'how the organization's structures and procedures establish stable relationships and a unique identity among its units and staffs' (1997: 1284). Such an 'internal' focus would draw attention to Huntington's notions of 'complexity' and 'coherence' and upon Polsby's variables of 'complexity' and 'automicity'. In making this distinction between 'external' and 'internal' processes of institutionalization the orthodoxy of institutionalization as a singular process is challenged, and recognition is afforded to two serial processes of, first, 'becoming an institution', and, second, 'becoming a more organisationally complex institution'. If this distinction is made then institutional change can be conceptualized, operationalized, and explained from the analytical perspective of organization theories rather than from a single undifferentiated theory of 'institutionalization'.

Rational choice institutionalism

If institutionalization is a theory concerned with how and why legislatures become institutions, then most rational choice perspectives are concerned to explain why, within particular institutional frames, legislators go about their business in particular ways and with what effects. The key advantage of rational choice approaches is that they offer 'clear and refutable statements about what is expected to happen, under what circumstances, and why' (Gilligan and Krehbiel, 1994: 211). In reducing propositions to restricted 'stylized facts', however, rational choice models are open to the accusation that they are 'unrealistic' and fail to capture the complexities associated with the 'real world' of legislatures. A main disadvantage is that rational choice approaches are prone to generate over-simplified models which require complex statistical manipulations to validate their relatively simple propositions. The danger is that 'tedious

claims about legislative politics asserted from the rational choice perspective ... [may] provoke fruitless and empty, if statistically elegant, empirical enquiries' (Patterson, 1995: 23). The following section examines these advantages and disadvantages by reviewing some of the major rational choice studies of the US Congress and of the European Parliament. However, the intention here is not to review the diversity of rational choice analyses, but, instead, to focus attention more narrowly upon models of internal legislative organization and of the choice of legislative procedures.

By way of introduction, however, it should be noted that rational choice institutionalists are united in their objective of discovering the importance of institutions in channelling and controlling individual behaviour (Peters, 1999: 44). If institutions shape behaviour and outcomes, then some explanation is required of how they are created and sustained by rational actors. Hence, rational choice institutionalists seek to locate the utility-maximizing decisions of individuals within an institutional context. Institutions determine the behaviour of individuals who in turn produce political outcomes (Saalfeld, 1995: 48). In this manner it is believed that formal institutional arrangements influence legislative processes. However, the exact nature of adaptation and of the interactions between individuals, institutions and outcomes varies amongst rational choice perspectives.

US congressional organization and rational choice theories

Although rational choice theories have been applied to a range of legislatures (see for example, Döring, 1995; Huber, 1996; Döring and Hallerberg, 2004), it remains the case that most theorizing and empirical testing of rational choice theories has focused upon the US Congress. Indeed, instrumental rationality has been the 'theoretical engine' driving the study of Congress in recent years (Shepsle and Weingast, 1994: 149). What is important for present purposes is that at the core of seemingly disparate theories is a logic which holds that institutions represent solutions to particular forms of transaction problems. In essence, each theory maintains that 'institutions provide the means by which cooperation dividends [for their members] are captured' (Shepsle and Weingast, 1994: 166).

In reviewing formal models of legislative institutions (or more accurately Congress as an institution) Shepsle and Weingast (1994: 146) identified three main categories of rationales or explanations which underpinned studies of congressional organization and decision-making over a period of two decades. These are informational, partisan and organizational rationales. All three models examine in their different ways the interaction of individual actors and institutional structures, and, in part, the differences among the theories can be explained as theoretical responses to the changing institution of Congress itself. All three also were responses to the initial lack of attention paid to institutional constraints in first-generation rational choice models.

In this first generation, the works of Fenno (1973) on committees, Mayhew (1974) on the electoral connection, and Fiorina (1974) on roll-call voting, drew upon the insights offered by rational choice theories. The emphasis of the early studies was upon distributive policies and how legislators secured favourable distributions through exchange and concerted action. Theories of distribution are essentially individualistic in focus and identify the principal task of a legislature as the allocation of policy benefits. In these theories the institutional structure, the procedures and the internal organization of Congress featured only tangentially. The first-generation formal models, in the words of Shepsle and Weingast, were 'institutionally sparse' (1994: 151). Moreover, these early models were also couched at a level of abstraction which made it difficult to relate them to the real world of congressional politics.

In response to this institutional myopia, second-generation theorists in the early 1980s sought to locate the actions of self-interested individuals within the constraints of institutional structures. They sought a theoretical perspective which could accommodate institutional features approximating to the operations of Congress itself. While the focus was still upon distributive politics, institutional arrangements were identified as exogenous variables with which to explain legislators' strategic interactions. Distribution was now set in the context of multiple jurisdictions and heterogeneous political interests. In particular, it was assumed that policies of concern to some representatives would be of little interest to others. But, as Fiorina (1987: 338) contends, 'if opportunities to make the same sorts of trades are expected to occur repeatedly, transactions costs can be cut by institutionalizing the trades'. The logic of exchange and cooperation was that institutional solutions had to be discovered to cope with the need for exchange and the trading of influence.

In the second-generation models the committee system was identified as the institutional solution which secured the necessary exchanges and bargains. The logic was that legislative organization revolved around committees because this institutional form helped to fulfill individual legislator's distributive goals. The dominant concern was with who received benefits from legislative policy choices and at whose expense. The question asked about legislative institutions was subsequently, how can institutional design assist legislators capture gains from trade?

While drawing upon the logic of exchange and cooperation, third-generation models treated institutional structures as endogenous variables and provided alternative rationales for the internal organization of Congress and institutional practices. These alternative rationales – informational, partisan and organizational – are those identified by Shepsle and Weingast (1994).

a) Informational rationales

The foundations of informational theories, like distributional theories, are rooted in individualistic axioms: 'The key to understanding the creation and

maintenance of legislatures that perform well lies in harnessing self-interest' (Krehbiel, 1991: 264). But the difference between the two sets of theories is to be found in the exact status of institutional arrangements in the legislative process.

For informational theorists, such as Krehbiel (1991), the creation and maintenance of institutional form is endogenous. In particular, committees are conceived as more than distributional devices based on a division-of-labour. They are also 'specialization-of-labour devices' (Krehbiel, 1991: 80). Hence, a key difference from a distributional perspective is that 'committee types, rules, and resources arise from within informational models because of the constitutional provision that the legislature determines the rules of its proceedings' (1991: 80). Institutional arrangements reflect a need to acquire and disseminate information. Rules are seen as informational devices that are chosen by the legislature to maximize the organizational effects of committees (1991: 191). In turn, committees with special powers provide incentives for legislators to specialize in order to achieve their political goals. The ultimate challenge of legislative institutions, therefore, is to secure gains from specialization while minimizing the degree to which enacted policies deviate from majority-preferred outcomes. In short, Krehbiel's argument is that uncertainty of policy outcomes engenders institutional arrangements that reward expertise and specialization.

b) Partisan rationales

While 'informational' models emphasize the organizational logic behind the creation and maintenance of a strong committee system, they do so without direct reference to parties. As Cox and McCubbins (1993: 6) note, these theories have 'a committee system and a House, but no parties'.

In *Legislative Leviathan* (1993), Cox and McCubbins seek to redress this imbalance through a re-evaluation of the role of committees in a partisan context. Their contention is that parties are intentionally designed in order to solve collective dilemmas confronting legislators. These collective dilemmas are 'situations in which the rational but unorganized action of group members may lead to an outcome that all consider worse than outcomes attainable by organized action' (Cox and McCubbins, 1993: 84). The 'solution' is organizational in 'the creation of leadership posts that are both attractive and elective' (1993: 84). In essence, congressional parties are conceived of as a species of legislative cartel, which endow their members with differential power and facilitate and stabilize legislative trades which benefit their members (1993: 278). The primary purpose of the cartels is to secure the control of the legislative agenda for its members. In *Setting the Agenda* (2005) Cox and McCubbins further develop 'procedural cartel theory' and examine more broadly the basic contention that parties seek to exert control over the legislative agenda rather than controlling votes. In institutional terms '[a]genda power is delegated to offices, and the governing coalition takes most of these offices; however the occupants of those

offices are then free to act as they please' (2005: 11). In the US House of Representatives the main agenda-setting offices are the committee chairs, membership of the Rules Committee and the Speakership.

In asserting control of the agenda the majority party seeks to exercise control over legislative organization to ensure that institutional design maximizes the gains of legislative outputs for its members. Again this is a reassertion of the point common to most rational choice institutionalist perspectives: that institutional solutions are devised to deal with collective dilemmas, externalities and public goods issues. But variables such as committee composition and leadership power, which are exogenous in second-generation models, are treated as endogenous in Cox and McCubbins's model.

c) Organizational rationale

Explicit recognition of the importance of institutional creation and design to individual choice is also found in the 'organizational' approach associated with Kiewiet and McCubbins (1991), and Lupia and McCubbins (1994; 1998). For Kiewiet and McCubbins's legislative committees constitute one dimension of principal-agent relationships. From the dual observations that Congress has delegated significant authority to its committees and subcommittees, and that parties exert a strong and systematic influence upon national policy-making, Kiewiet and McCubbins construct a theory which seeks to link delegation to partisan politics. Their focus is on how organizational bases of collective action revolve around nested principal-agent relationships. The essence of Kiewiet and McCubbins's argument is that parties have successfully managed the delegation of authority both inside Congress and beyond (1991: 222). Congressional parties thus use delegation to pursue their policy objectives (1991: 234). Institutional design reflects 'delegation designed to aid congressional parties in pursuing their policy goals' (1991: 184).

McCubbins in his joint work with Lupia (1994; 1998) revisits the 'agency problem' inherent in delegation. The focus of McCubbins's attention is redirected back to the informational rationale and explores the conditions under which legislators can learn about the actions of experts. Using principal-agent theory Lupia and McCubbins seek to explain 'how legislators can realize the potential benefits of delegation without abdicating their control over policy' (1994: 368). An essential ingredient of their explanation is that '[l]egislative rules, procedures, and practices, though created for other purposes, often establish the conditions for learning' (1994: 369). In which case, 'much of the scholarship which concludes that legislatures are powerless has missed the implication of procedures and practices that entail the payment of observable opportunity costs: these institutions enable learning' (1994: 369). Institutional design becomes the key, therefore, to the existence of competition between information providers.

Rational choice simplifications and the 'real world'

Clearly the reality of the House of Representatives is that it is organized around parties *and* committees *and* involves information exchange *and* delegation among representatives. Yet rational choice theories are prone to the criticisms that their assumptions are unduly restricted and overly simple. Thus, for example, Krehbiel's informational model can be criticized for postulating a unidimensional policy space, for omitting parties and the impact of congressional leaders (see Krehbiel, 1991: 260–1). Correspondingly, Cox and McCubbins's assumption of representativeness of party contingents on committees has led to the accusation that 'their treatment of the manner in which individual party members' preferences are aggregated into a collective partisan view is not satisfactory' (Shepsle and Weingast, 1994: 170–1). Cox and McCubbins's (1997: 1386) assumption that decreasing party homogeneity leads to institutional powers for majority party leaders, while increasing homogeneity will lead to greater institutional powers fails to match the complexity of Congressional politics (Schickler and Rich, 1997: 1372). Equally, Lupia and McCubbins's reduction of a legislature to a unitary actor is a conceptual over-simplification. They assume that 'legislators' preferences, legislators' abilities, and the legislature's structural characteristics have already interacted to produce a single-peaked legislative utility function' (1994: 379). For 'expositional simplicity' they also assume that both agent and principal are completely informed about maintaining the existing policy but that only the agent is completely informed about the consequences of the principal's decision to accept the proposal.

Moreover, rational choice perspectives have a tendency to plough increasingly deep but still narrow furrows as the internal logic of each model is refined in the light of criticisms from other perspectives. Other criticisms are that it often proves difficult to operationalize the causal variables identified by each approach, and the studies are often time specific and fail to develop quantitative measures of change in key variables over time (Schickler, 2000: 271). Nonetheless, deficiencies of modelling and conceptualization in rational choice models of legislative organization have a positive by-product in prompting subsequent theoretical refinements and further empirical testing. Thus from a recognition that 'it is not parties *or* committees that are consequential in Congress, but often parties *and* committees', Aldrich proceeds to develop 'a model of a legislature which is organized by parties and into committees' (Aldrich, 1994: 314; 335). Yet, while acknowledging this interconnection, Aldrich's own model still bases its propositions on 'an idealized account of the US House of Representatives' (1994: 326) and one that is ultimately applied only to the 'simplest of agendas' (1994: 335). Similarly, to take one further example only, Baron (2000) refines Krehbiel's (1991) and Gilligan and Krehbiel's (1990) signalling model of internal legislative organization by adding a 'screening stage'. The resultant 'legislative screening model' (Baron, 2000: 487–90) proposes that the

legislature chooses an arrangement to govern the work of a committee before it begins its legislative work (2000: 486). On this basis Baron makes seven predictions of informational theories of legislative organization (2000: 502–3). Whether Baron's predictions are necessarily dependent upon his elaborate modelling is a moot point. Sceptics might contend, for example, that 12 pages of statistical notation are not actually required to predict, among other things, that 'less information is transmitted and the floor is worse off the greater the preference divergence' (2000: 502).

There is no question, however, that rational choice studies of Congressional organization have amassed impressive amounts of empirical data. Undoubtedly, rational choice theorists are masters at analysing substantial and impressive varieties and quantities of data. The 'empirical success' of rational choice perspectives is one of the positive benefits brought to the study of Congressional organization (Miller, 2000: 537). Equally, it is evident from the studies mentioned above that submitting propositions derived from theory to empirical validation is at the heart of rational choice analysis. Unfortunately, if rational choice models have the advantages of theoretical clarity and parsimony, they also have the disadvantages of over-reductionism and a desiccated approach to political phenomena. Thus, for those who do not count themselves among the 'true believers' of rational choice 'sometimes the rational choice lingo and formalization are more an interruption than illuminating' (Patterson, 1994: 467).

Rational choice: EU legislative processes and inter-institutional Bargaining

In reviewing the development of theories of European integration since the 1990s Mark Pollack (2005: 358) noted that many scholars had come to view the European Union (EU) as 'analytically more similar to the US political system than to other international organizations'. Certainly, in the case of the European Parliament, the US House of Representatives was identified as a more appropriate comparator than other parliamentary institutions in EU member states (Kreppel, 2006: 245; Shackleton, 2005: 138). It was perhaps unsurprising, therefore, that the formal models that had provided the 'theoretical engine' for studies of the US Congress came to be deployed in the study of the European Parliament (EP). These models (or what Pollack calls 'off-the-shelf theories of legislative politics' (Pollack, 2005: 374)) provided potentially powerful analytical lenses through which legislative behaviour and organization within the EP, and the EP's broader interinstitutional interactions, could be viewed and understood. As Simon Hix (2005: 76) acknowledged: 'three generations of institutional rational choice research [in the USA] ... help us to understand how the EU legislative process works'. The implicit question raised in this statement, however, is just how 'good a fit' are these 'off-the-peg' theories to the shape and contours of the EP's institutional form?

Off-the-peg theories

Procedural spatial models

With the significant increments in powers that accompanied successive treaty revisions after the 1986 Single European Act (SEA), the European Parliament attracted increasing attention from political scientists. US political scientists were particularly noticeable in surfing the early waves of analysis into the growing powers of the EP. One pre-eminent 'surfer', George Tsebelis, was explicit in his acknowledgement that 'my approach is part of a series of studies that attempts to apply the institutional approach developed through the study of American politics to the institutions of the community' (1994: 128). Many of these early studies drew directly upon spatial models that had been used extensively in the US.

Procedural spatial models revolve around two central concepts: veto power and agenda-setting power. They analyse the effects of institutions and procedures on policy choices and formulate conclusions on equilibrium policies on the basis of the preferences of political actors and the location of the status quo. Veto power enables an actor to block any decision and hence his/her preferences cannot be discarded. Veto power will not be used if the proposed legislation is closer to the preferences of the actor with such power than otherwise would be the case. Agenda-setting power is dependent upon the configuration of actors' preferences and the location of the current policy – the status quo. As Tsebelis (1994: 131) notes, agenda-setting power is when an actor can make it 'impossible, difficult, or costly for decision makers to modify their proposals'. Without outlining the complexities of the conditional agenda-setting model, the essence of Tsebelis's position was that under the cooperation procedure, introduced by the SEA, the EP was able to exercise considerable legislative power because the Council found it easier to accept a proposal from Parliament, if the Commission also accepted it, because acceptance required a qualified majority but amendment required unanimity in the Council. Throughout successive studies Tsebelis maintained that the EP's conditional agenda-setting power under cooperation was far from trivial (Tsebelis and Garrett 2000: 14).

However, other spatial analysts questioned Tsebelis's proposition that the EP had agenda-setting powers. Crombez (1996: 201), for example, used comparative spatial models of three EU legislative procedures (consultation, cooperation and assent) to argue that while the EP gained a significant veto power under the cooperation procedure – as it had the capacity to reject a Council common position (1996: 219) – it did not 'enjoy agenda-setting power' (1996: 220). Similarly, Moser disputed Tsebelis's model and concluded that under the cooperation procedure the EP had only limited powers and that these were derived from 'conditional veto rights' rather than a conditional agenda-setting capacity (Moser 1996: 838; 1997). According to Moser it was the Commission that remained the decisive agenda setter rather than the EP, and that in 'most cases

the EP [could] only beg the Commission and Council to reconsider' (1996: 837).

The introduction of the codecision-I procedure in the 1992 Maastricht Treaty simply served to widen the differences between the proponents of rational models. Nonetheless, Tsebelis et al. (2001: 579) resolutely maintained that 'the conditional agenda-setting powers provided by the co-operation procedure is more important for parliamentary influence on policy-making than the absolute veto power provided to the Parliament by the co-decision procedure' (see also Tsebelis and Garrett, 1996; 1997; 2000). Whereas under cooperation the EP was able to select the compromise closest to its ideal point, under codecision-I selection was delegated to the Council. The Council was thus an unconstrained agenda-setter under the new procedure (Tsebelis and Garrett, 2000: 23).

This claim brought Tsebelis and Garrett into conflict with other analysts using spatial models. Crombez (1999: 22; 2000: 36), for instance, was in no doubts that the EP had become 'a genuine co-legislature equal in stature to the Council'. For Scully (1997: 65), Tsebelis and Garrett's findings were 'invalid even *within* the logic of [their] own model' primarily because they failed to take into account the bargains reached at earlier stages of the legislative process. In response, Tsebelis and Garrett invoked the notion of 'backward induction' (Tsebelis and Garrett, 1997: 80). In essence, this meant that the Council could foresee what would happen at each stage of the procedure and so adopt a stance at the outset at the first reading. Or, in Tsebelis and Garrett's words, 'rational actors ... strategize "backwards" from the end of a game-tree to the beginning' (1997: 80). While in game theory the logic of backward induction might be 'impeachable', one-play extensive form games are rarely encountered 'in real life' (Dowding, 2000: 131). Certainly, the bargaining processes between Council and EP did not constitute a single game but rather represented 'a series of games over many issues, and bargaining in one game will affect moves in other games' (see Dowding, 2000: 131).

Ultimately '[d]espite the elegance and complexity of these models, the "findings" are still conjectures which might not be empirically true' (Steunenberg, 2000: 368). In turn, such conjectures are conditioned by the assumptions built into each model (see Rittberger, 2000: 568–70). From the outset, whether the entire codecision procedure, or only the last two stages of the procedure, are included in the model has a significant impact upon the predictions of each model. Equally, predictions are affected by the choice of assumptions: one dimensional versus n-dimensional spatial models; complete versus imperfect information; one-shot versus iterated games; and two unitary institutional actors versus one single player (EP) and a non-unitary actor (Council).

The difficulty for most scholars outside of the rational choice school was in determining which, if any, of the models was of most utility in understanding the EP's contribution to the EU's legislative process. Not the least of the problems in making such an assessment was how such models could be compared if they started from different assumptions and led to different conjectures. As

Dowding (2000: 139) notes: 'a model which differs from another in two assumptions differs by one assumption too much, if one really wants to compare them'. Indeed, Selk (2004a: 85) reached the conclusion that: 'currently there exists no model for which it could legitimately be claimed that it represents a better characterization of the European Union's legislative process than some other model does'.

Under codecision-II, the procedure as modified by the 1997 Amsterdam Treaty, the various proponents of procedural spatial models at least agreed that the EP had become a co-legislator with the Council, and that a 'truly bicameral' system had come into being (Tsebelis and Garrett, 2000: 15; Garrett and Tsebelis, 2001: 372; Crombez, 2000: 365). While Tsebelis and Garrett were unwilling to renounce their views on codecision-I they recognized that the EP under codecision-II had become 'unambiguously more powerful than it was under cooperation' (Tsebelis and Garrett, 2000: 11). The reason adduced by Tsebelis and Garrett was that the Council could no longer overrule the EP and that the two institutions bargained on an equal footing with no a priori bargaining advantage inhering to either institution. Crombez (2000: 35) on the other hand concluded that codecision-II 'in some case may lead to a loss of power for the Parliament, insofar as the Parliament has preferences close to the Commission's and little bargaining powers compared to the Council'.

By the start of the twenty-first century there was, therefore, agreement amongst spatial theorists that the codecision-II represented an increase in the legislative powers of the EP. But beyond this limited consensus little could be explained without significant refinement of the models' assumptions and notions of preferences. Plenty of possible refinements were on offer. Bueno de Mesquita (2004: 131), for example, provided a broad critique of models that assumed 'policy ideal points' and suggested refinements that would allow 'estimates of the feasible range of ideal points for individual decision-makers'. It has also been acknowledged that, if spatial models were to be developed, assumptions that the EP was a unitary actor with fixed preferences encompassing all policy fields would have to be refined. What was needed was a 'better understanding of preference formation and aggregation [that] would help us to abandon the hitherto static and over-generalized statements about the policy preferences of the Council, the Commission and the EP' (Hörl et al., 2005: 596). Similarly, the conceptualization of 'dimensionality' also required refinement. One-dimensional assumptions, where preferences were seen to be distributed on one-dimensional integration continuum, came to be supplemented in turn by an ideological dimension (see for example Hix et al., 2006: Chapter 9) and by multi-dimensional 'choice space' where preferences are also allocated along ideological and institutional dimensions (see Rittberger, 2000: 557–8). Further refinements were also proposed to the dimensions of conflict and issue space (see Selk, 2004b). While there might be some intrinsic value in refining formal models, there was still the danger, however, as Hörl et al. (2005:

593) contended, that theoretical development had 'reached a point of stagnation'.

Legislative organization and parties

Spatial models have also underpinned several major analyses of voting decisions within the European Parliament. One major concern of these studies has been with the role of parties in solving collective action problems for elected representatives. Cohesive parties in legislatures are viewed as reducing the dimensionality of legislative politics and increasing the predictability of legislative decisions. What rational choice theories seek to explain, therefore, is why cohesion emerges, how it is sustained and what are its effects.

Kreppel's (2002) examination of the institutional evolution of the EP, and of the supranational party system within it, builds its theoretical framework upon 'existing American models of congressional development' (2002: 5). Two models were borrowed from the USA: a 'macro model', which is rooted in Polsby's notion of 'institutionalization'; and an adapted 'micro model' that posits that legislators act in purposive ways to fulfil specific goals in accordance with individual preferences. Kreppel maintained that the two models taken together 'prove extremely helpful in predicting the timing and character of the evolution of the internal organizational structures of the EP and the development of the supranational party group system' (Kreppel, 2002: 213). The danger, however, is that the models, in combination, become all encompassing. Indeed, in seeking to modify them 'to allow their application beyond the American congressional context' (2002: 213) the difficulty arises that the predictive statements become so vague, and their generalisability so generic, that the connection between specific theory and empirical findings derived from the EP is diluted. Undoubtedly, Kreppel's detailed empirical analysis added greatly to the understanding of the development of the EP; but the contribution to the development of rational choice analysis was less certain. This was apparent in Kreppel's belief that 'the following predictive statement can generalize the basic concept of this body of work':

Political actors ... will attempt to shape the institutions in which they work to maximize their ability to achieve their goals. Their action will be constrained by and reflect both the rules within the institution and the broader political environment. (Kreppel, 2002: 214)

Far more rigorous examination of a variety of formal theories – principalagent; agenda cartel theory of parties; coalition formation; and spatial analysis of dimensionality – has been undertaken in the copious works of Simon Hix, Abdul Noury and Gérard Roland (see as a representative sample Hix, 2001, 2002, 2004; Noury, 2004; Noury and Roland, 2002; Hix et al., 2006). Hix and colleagues tested perspectives on party formation and party cohesion against the roll-call voting behaviour of MEPs in nearly 15,000 recorded votes in the

first five elected parliaments between 1979 and 2004. Their findings revealed that left-right politics explained the overwhelming proportion of roll-call votes in the EP, that party cohesion had increased as the powers of the EP increased and that coalitions between parties occurred primarily along ideological lines. Hix et al. concluded that parties in the EP 'solve internal collective action problems within the legislature, in order to increase the predictability of voting patterns, reduce the dimensionality of politics, enhance the quality of legislation by adequate specialization and more efficient and comprehensive provision of public goods' (Hix et al., 2007: 216).

Committees

Rational choice perspectives – of informational, partisan and organizational rationales of legislative organization – have all been deployed in the analysis of the EP's committees. Whitaker (2005: 24), for example, concluded that his analysis of roll-call votes in the first year of the 1999 parliament produced findings that were consistent both with an informational perspective and a modified form of Cox and McCubbins's partisan selection model. In essence Whitaker's study demonstrated that the roll-call voting behaviour of committee members was largely representative of their national party delegations. While locating his analysis within rational choice perspectives, Whitaker conceded that his findings also support 'a simple and intuitive view of legislative politics in the EU: as the EP's actions matter more, so national parties are more concerned with what their MEPs do' (2005: 25).

McElroy (2006: 9–10) located her analysis of the representativeness of committee membership in the EP within the debate between distributional and informational approaches to the organizational logic of committees. On the basis of an analysis of roll-call votes in the 1999–2004 parliament she concluded that committees were basically representative of the EP as a whole in partisan, national and ideological terms. While recognizing that the analysis was only the first step in examining the committee system McElroy (2006: 26) was sufficiently sure of her results to suggest that 'the assignment process in the European Parliament is more consonant with the informational model of politics'. Hoyland (2006) approached the study of the allocation of codecision reports amongst party representatives in the EP's committees from the rational choice perspective of a 'signalling game with more than one sender' (Hoyland, 2006: 33). The model was based upon two institutions bargaining in a one dimensional policy space and with responsibility for proposing a new policy delegated to a sender in both institutions. The model then sought to identify the incentives of senders to be involved in the process. Empirical investigation of the allocation of codecision reports between 1999 and 2003 revealed that party size, shared policy preferences, and whether an MEP is from a 'governing party' were related to the allocation of reports (2006: 44).

Simplified models, the European Parliament and the real World

As a deductive method, rational choice uses simplified models to help conceptualize how actors might behave and then to test these assumptions empirically. Certainly, rational choice perspectives on the EP have been subject to a number of criticisms. The first is simply to state that on the basis of available evidence a particular formal model is 'wrong'. The contested assumptions of rational choice modeling have been noted above, but such modelling is also prone to accusations that there is a basic misinterpretation of the procedures under scrutiny. Scully (1997: 59), for example, criticized Tsebelis and Garrett's understanding of the codecision-I for being 'incomplete and seriously flawed'. More specifically, Burns (2004: 5; 2006: 234–5), highlighted the 'incorrect claims' made by Tsebelis and Garrett with regard to the position of the Commission under codecision-I; and deemed Crombez's claims about Commission proposals under codecision-II 'inaccurate' (2004: 14). Indeed, practitioners have been particularly dismissive of formal modelling, with a former Chair of the EP's Environment Committee observing: 'I do not know anybody who is involved in this business: from the Council side, in the Commission, or in the Parliament, who would argue [Tsebelis and Garrett's] case' (Ken Collins, MEP quoted in Wurzel, 1999: 5). Similarly, another MEP, Richard Corbett (2000: 3), notes that Tsebelis and Garrett's view of codecision-I was 'the opposite of the opinion of almost every practitioner – politicians and officials alike'. Indeed, Corbett raised broader doubts about the value of rational choice modelling given that 'much of the empirical evidence flies in the face of ... theory' (Corbett, 2000: 373; see also Corbett, 2001: 361–4). In other words, there was a perceived mismatch between rational choice theory and the 'real world' of EU decision making.

The restricted horizons of rational choice analysts and their exclusion of informal dimensions of decision-making from formal models also attracted criticism (see Corbett, 2000: 377; Judge and Earnshaw, 2003: 284). Subsequently, attempts have been made to build upon the assumptions of game theory by taking into account informal institutions and how they affect equilibrium selection (Farrell and Héritier, 2003). In doing so, however, what defines such an approach as 'game theoretic' and why it remains 'rational choice' is brought into to question; especially when the authors admit that 'our account has some similarities with recent work from neofunctionalist ... and historical institutionalist perspectives' (Farrell and Héritier, 2003: 595; see also Judge and Earnshaw, 2003: 291–2). Similarly, much of the testing of the formal models of the organizational form of committees in the EP is prone to the same criticism that has been levelled against rational choice more generally: 'at best, [it has] been used to restate what everyone already knows in a language few can understand and, at worst, that it has propagated entirely bogus explanations' (Hindmoor, 2006: 1).

Mantra: more data

Formal models have undoubtedly brought a 'paradigm shift' in the study of the EP and engendered a 'revolution' generally in the study of EU institutions (Pahre, 2005: 114). Given this shift, and with the danger of ever decreasing increments of utility stemming from theoretical refinements, the focus of academic attention has moved to empirical investigations. Ironically, the paucity of empirical data was one of the reasons ascribed in the first instance for the dominance of 'an overtly theoretical approach' and 'an inability to move beyond general theoretical arguments about procedure' (Kreppel, 2002: 785; see also Garrett and Tsebelis, 2001: 361). Increasingly a need was articulated for the collection of empirical data to test the predictive capacity of differing models, or to evaluate model comparability, or to test the goodness of fit between model and actual decision-making processes. Exactly what kind of data should be collected, and the significance of different types of data for model 'testing', remained open to dispute (see Steunenberg, 2000: 369–70; Pahre, 2005). What was not in dispute, however, was the need for more data (see Dowding, 2000: 13; Steunenberg, 2000: 369–70; Rittberger, 2000: 570; Garrett and Tsebelis, 2001: 361; Beuno de Mesquita, 2004: 136; Selck, 2004a: 85; Hörl et al., 2005: 602–3). Yet, the collection of more data, in itself, did not address the extant deficiencies of formal models – with their simplicities and stylized representations of decisionmaking.

Historical institutionalism

Historical institutionalists posit a far more complex world than do rational choice theorists. In the words of Pierson and Skocpol (2002: 702) historical institutionalism has 'macroscopic inclinations'. As such it is interested in 'interaction effects' and 'overarching contexts' (2002: 711) rather than in individual level behaviour or micro-processes evident in some variants of rational choice. At the heart of historical institutionalism is historically-grounded analysis. According to Pierson and Skocpol (2002: 695–6), historical institutionalism has three recurrent characteristics: first, a focus on explaining important or puzzling events or arrangements; second, a concern with overarching social context; and, third, the tracing of historical processes.

A notable feature of historical institutionalism has been a concern with power and the asymmetrical mediation of power relations through institutions (Hall and Taylor, 1996: 940–1). In particular, this approach has been attentive to the relationship between institutions and ideas and beliefs (1996: 942). A unifying feature of different characterizations of historical institutionalism is the belief that institutions alone are not the only causal force in politics. Whether this constitutes a 'theoretically and methodologically coherent genre', as Pierson and Skocpol maintain (2002: 693), remains an open question.

In the study of legislatures there has been a keen understanding of the importance of history, but often in a descriptive or narrative tradition (see Polsby, 2004). What has been less in evidence, however, is theorization with a historical dimension of legislative institutions. Certainly there has been widespread agreement that 'institutions simply cannot be properly understood uprooted from their historical evolution' (Patterson, 1995: 14). From this perspective 'inquiry across time is inevitable and indispensable for assembling knowledge about legislative origins and purpose' (1995: 25). What is required, therefore, is 'fresh theorising and more determined deployment of historical data ... to give us a firmer purchase on institutional design, development and change' (1995: 25). In tune with this plea, attempts have been made to theorize the emergence of representative institutions in terms of their bargaining over the taxation powers of rulers. This is a central theme of Charles Tilly's *Coercion, Capital, and European States* (1992). Tilly's argument is that rulers, in pursuit of money to finance their wars, struck bargains with their subjects in which they conceded a parliament in exchange for tax revenues (1992: 64). Tilly's work however might just as easily be located in the 'sociological' stream of institutional theory (see Peters, 1999: 97–111) as it is primarily concerned with the variation in state-form and development over a period of a thousand years, rather than with the analysis of legislatures as such. Similarly, Moore (2004) uses a core causal model to explain differences in state-forms in terms of variations of the sources of state revenues. This encompasses analyses of the institutionalization of the fiscal authority of the western parliaments (2004: 299–304) which are then used to clarify comparative historical explanations of state development beyond Western Europe and to examine contemporary policy options. While a macro-historical paradigm is offered and the language of 'path dependence' (2004: 311) is deployed, Moore prefers to locate his approach within a 'fiscal sociology paradigm'.

Robert Bates (1991) provides a more focused analysis of the relationship between economics and the politics of democratization. As part of this analysis he notes that 'even a casual reading of the literature on the origins of parliaments reveals that these institutions arose as arenas in which monarchs bargained with citizens over taxes' (1991: 24). For Bates the nature of the economy, and in particular the nature of the tax base, strongly shaped the terms of the bargain between revenue-seeking monarchs and asset-owning citizens over securing representation and the creation of a parliament.

An explicit bargaining model of the development of parliaments is developed by Herb (1999). In this model, the ruler, after bargaining, trades a parliament for revenue. The collective action problem identified by Herb is the overcoming of potential barriers to establishing mutually binding commitments in such a trade. Chief among these is free-riding by taxpayers. If no sanction exists, few or no taxes will be collected and any bargain between taxpayers and the ruler will fail. Herb's answer is that the historical link between taxation and

parliaments is to be found in the role ascribed to the latter in assessing and collecting taxes. Representative institutions solved the problem of free-riding for the ruler and explain the bargaining power, in terms of taxation, that these institutions enjoyed against rulers. Specifically, what Herb's analysis points to is a qualitative difference in the role of taxation as the source of parliamentary power between the pre-absolutist period and post-absolutist period. In the former period the power of parliaments developed out of their influence over tax collection, in the later period new parliaments did not control the tax collection machinery. In other words, the origins of modern parliaments in the past two centuries have to be sought somewhere other than in taxation.

The value of Herb's historical institutionalist approach is that it attempts to theorize the origins of parliaments. The problem is that, in attempting to impose a single 'sparse theory of bargaining' (Herb, 1999: 15), other explanatory variables – such as socio-economic conflicts, military interventions, elite restructuring – are overlooked and remain untested. This raises a general problem with historical institutional approaches of identifying causality and of choice of independent variables. One issue concerns 'selection of dependent variable' – whereby one institution is identified at the centre of analysis and then a historical account is constructed around the focal institution. Equally, to start analysis from a suspicion that 'causal variables of interest will be strongly influenced by overarching cultural, institutional, and/or epochal contexts' (Pierson and Skocpol, 2002: 711) does not help to identify which contextual variables should be used for measurement. Ultimately, as Gorges (2001: 141) notes, 'while [the] acknowledgement of the complex nature of causality is laudable, it does make it difficult to disprove new institutionalist arguments or sort out the complex combinations of institutional and non-institutional variables that determine outcomes'.

Most of the works examined above, although concerned with legislatures do not necessarily have these representative institutions at the centre of their analytical attention. This deficiency was acknowledged by Katznelson and Lapinski (2006) who called for 'a turn to Congress' which would 'emplace Congress at the center of research' (2006: 251). Although Katznelson and Lapinski's point of departure was from the perspective of the academic subfield of 'American Political Development' (APD), they located APD within the 'larger family of Historical Institutionalism' (2006: 244) and understood institutions to be:

Implanted within historical dynamics and processes, often large-scale and transindividual, which shape their development. In turn, both individual and collective actors are set within these institutions that powerfully shape and constrain preference behaviour. (2006: 245)

In calling for 'a turn to Congress' and linking this with studies of policy substance Katznelson and Lapinski (2006: 245) believed that such an approach provided the chance to make better connections between structure and agency.

In turn, these connections would enable researchers ‘to treat legislative institutional arrangements as hinges joining matters of structure and agency together; and to link this enriched analysis to the biggest and most changing questions about the character of the American polity and its history of change, resistance, and transformation’.

These words resonate with the ‘macroscopic inclinations’, ‘interaction effects’ and ‘overarching contexts’ identified by Pierson and Skocpol as some of the key characteristics of historical institutionalism.

Conclusion

The simple question posed at the start of this chapter was: how useful is an ‘institutional’ approach to the study of legislatures? Certainly, the study of political institutions should be ‘part of the tool kit of every political scientist’ (Rhodes, 1997: 64). Traditionally, legislative scholars have retained institutional analysis as a vital part of their studies. However, just as no craftsman expects to use a single, universal tool to accomplish diverse mechanical tasks, so too political scientists should not expect a single unified theory to explain the origins and organizational development of all institutions. The basic contention of all institutional theories is that institutions matter. Beyond that simple consensus, however, creative tensions are apparent in explanations of why institutions matter.

Competing institutional approaches have had to recognize the nature of conceptual divergence and to respond to different empirical findings. As a result, some analytical convergence has occurred, and analytical syntheses have been sought (see for an overview Katznelson and Weingast, 2005), but conceptual conflict and empirical disputation is still embedded within ‘new’ institutionalism. This dynamic has been apparent within all the approaches reviewed here, but has been most pronounced in rational choice institutionalism. For instance, in the study of Congress the respective advocates of informational, partisan and organizational rationales have used conceptual differentiation as a means of maintaining their respective analytical integrity. Similarly, the study of the European Parliament has been enlivened and enhanced by internecine disputes among rational choice scholars. Correspondingly, students of ‘institutionalization’ have generated sufficient internal contestation to render external criticism almost superfluous.

In addition, proponents of any particular approach have also had to respond to the external interrogation of their assumptions. Thus, the parsimony of rational choice modelling is open to the accusation that it has been achieved by using propositions with only a tangential connection with the ‘real world’ of legislatures. Whereas rational choice theorists counter that the proclivity of historical institutionalists ‘to develop hypotheses more inductively, in the course

of interpreting the empirical material itself 'is inelegant and atheoretical' (Thelen and Steinmo, 1992: 12). 'Storytelling' is still a charge, therefore, which haunts historical institutionalists, particularly when they are unwilling, or unable, to disentangle causal variables in their macro-analyses of 'path dependencies' and of 'timing and sequencing'.

Out of disputation, however, certain commonalities and positive analytical syntheses have emerged within 'new' institutionalism. Thus, for example, rational choice scholars now recognize the advantages of testing multiple competing models, rather than restrictive testing of single models. Eric Schickler (2000) provides one notable example in his comparison of competing rational choice models of legislative organization – party cartel, conditional party government and ideological balance of power models. Equally noteworthy is the fact that Schickler's study adds a historical dimension to the measurement of key variables by examining Congressional rule changes across a period of 132 years.

The argument here is not that there is inevitable synthetic dynamic at work within 'new' institutionalism. What it points to, instead, is the growing sophistication of 'new' institutionalist analyses. And at this stage in the discussion a predictable call for still further research would seem appropriate. Certainly, further analytical advance would be welcome, but a far simpler conclusion is offered here: 'new' institutional approaches should not, and cannot be ignored. 'Institutionalists' (those who are neither 'old' nor 'new' – but who still believe in theoretically-informed empirical accumulations of knowledge – see for example Judge, 1981; 1990; 1993) and non-institutionalists may neither subscribe to, nor like, the variants of 'new' institutional theory reviewed here. Nonetheless, these theories need to be taken seriously and due acknowledgement should be made of their contributions to an understanding of the importance of legislatures as institutions. In this sense, the initial question posed in this chapter deserves a positive answer.

Note

The first section of this chapter was previously published as 'Legislative Institutionalization: A Bent Analytical Arrow?', *Government and Opposition*, 38: 4 (2003), 497–516, and is reproduced here by kind permission of Blackwell Publishing.

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