



The Nature of Congressional Committee Jurisdictions

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## THE NATURE OF CONGRESSIONAL COMMITTEE JURISDICTIONS

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*Jurisdictions are the defining characteristics of committee systems, and they are central in any discussions about the U.S. Congress; yet we know little about them. Where do committee property rights come from? Are they rigid? Are they flexible? I introduce a distinction between statutory jurisdictions (which are written in the House and Senate Rules) and common law jurisdictions (which emerge through bill referral precedents). Turf is gained through common law advances, not through formal rules changes (like the "reforms" passed by the House in 1946, 1974, and 1980). Jurisdictional change is ongoing and incremental. The analysis draws on an examination of hearings held by the House Commerce Committee from 1947 through 1990.*

Jurisdictions ("turf," or "policy property rights") are the defining characteristics of committee systems, and they are central in any discussions about Congress. Unfortunately, we know little about them. That is, we know that members seek seats on committees based largely on turf (Shepsle 1978), and we know that who has jurisdiction over an issue can have a tremendous impact on what policies, if any, eventually emerge (Jones, Baumgartner, and Talbert 1993; Tiefer 1989). But how did we end up with the committee system we now have? Where do jurisdictions come from in the first place? How do they change? These are critical questions.

If jurisdictions rarely change, then legislatures are not good at adapting when new issues like child care, sex discrimination, and industrial competitiveness emerge. If turf is carved out so that lawmakers can institutionalize logrolls and make it easier to distribute benefits back home (Weingast and Marshall 1988), then many of us might want to undermine those property rights in the name of the public interest. However, if property rights are granted to committees as rewards for specializing in complicated policy areas (Krehbiel 1991), then there might be good reasons for reinforcing the ways jurisdictions are arranged.

Where do jurisdictions come from? Are they rigid? Are they flexible? These questions are rarely asked, because jurisdictions have been fundamentally misconceived by many political scientists. Jurisdictions are *not* rigid institutional facts that rarely change. Rather, they are turbulent battle grounds on which policy entrepreneurs seek to expand their influence. What Washington insiders call "the jurisdiction game" is widely played on Capitol Hill, and that game has much to teach us about the dynamics of legislative institutions.

I shall describe the nature of committee jurisdictions, with an emphasis on understanding the role of periodic jurisdictional reforms (like those in 1946 and 1974). As such, the foundation is laid for a theory of jurisdictional change discussed in more detail elsewhere (King 1992). Most of my examples will draw on the House of Representatives, though the basic nature of committee jurisdictions is the same in

the Senate and is similar in a majority of the state legislatures.

First, I introduce a critical distinction between common law jurisdictions, which emerge out of bill referral precedents, and statutory jurisdictions, which are written down in the House and Senate rules. I then examine the House Commerce Committee's jurisdiction for the emergence of common law issues. Finally, I show that jurisdictional "reforms" amount to little more than the codifications of common law jurisdictions. So if we want to understand how jurisdictions (and legislatures more generally) change, we should focus less on reforms and more on incremental day-to-day adaptations in unwritten (but often binding) rules.

### THE SOURCES OF JURISDICTIONAL LEGITIMACY

Turf is hotly contested in Congress, and for good reason. One committee staff director described it this way: "Jurisdiction boils down to whether you'll have a seat at the table when important decisions are being made. If you're not at the table, you're a nobody."

#### Statutory Jurisdictions

There are two ways to get a seat at the table. One is to be on a committee that has turf hard-coded into the House or Senate rules, which I shall call "statutory jurisdiction," because turf is voted on by a majority of the House and Senate when adopting written rules. In practice, the rules of a preceding Congress are used by subsequent sessions with minor and infrequent changes.

Most committees have 10 to 15 specific issues listed under their jurisdiction in the rules. For example, child labor is under the control of the House Education and Labor Committee because it is included among the 14 issues granted the committee in House Rule X, clause 1. Political scientists almost exclusively studied statutory jurisdictions and concluded that jurisdictions rarely change merely because the writ-

ten rules rarely change (Maass 1983; Collie and Cooper 1989; Smith and Deering 1990). Statutory jurisdictions are easy to find, footnote, and quantify, but the written rules are just one source of jurisdictional legitimacy.

### Common Law Jurisdictions

The second way to get a "seat at the table when important decisions are being made" is to be on a committee that has been granted common law jurisdiction. When jurisdictionally *ambiguous* bills are introduced, they still have to be referred to one committee (or sometimes several committees) within 24 hours. As will be explained, the House and Senate parliamentarians—unelected but powerful clerks—refer bills and resolve jurisdictional ambiguities. These referrals establish binding precedents for all future bills on the same subjects, thereby resolving jurisdictional ambiguities. For example, in addition to child labor laws, House Education and Labor (as opposed to the Judiciary Committee) has long claimed a set of juvenile delinquency bills, but that property right is not actually written down in the rules (*Congressional Record* 1959, 1027).

"The law should be stable," wrote Justice Holmes, "but never stand still." So, too, for jurisdictions. The comparison between statutory and common law jurisdictions parallels the distinction lawyers and judges make between statutory and case law. Edward Levi writes that "the basic pattern of legal reasoning is reasoning by example" (1949, 1), and this also applies to committee property rights.

With few exceptions (Davidson and Oleszek 1994; Jones, Baumgartner, and Talbert 1993; Oleszek 1989), political scientists have acted as if the written rules are the sole source of jurisdictions. Smith and Deering (1990) count the number of statutory issues in a committee's jurisdiction to estimate fragmentation. Sullivan (1984) does something similar when distinguishing between "general" and "functional" committees. Such measures completely miss issues that committees gain through the strategic introduction of bills and the establishment of referral precedents. And while the written rules in the House and Senate rarely change, some observers wrongly believe that jurisdictions also rarely change. "Stories of jurisdictional infighting are legion," write Collie and Cooper "and turf protection is so pronounced as to have frustrated all but the most minor changes in committee jurisdictions since 1945" (1989, 253).

I shall demonstrate that the received wisdom, reflected in the quote from Collie and Cooper, is simply not true. Stories of jurisdictional infighting are legion, and so are jurisdictional advances made through the strategic use of bill referral precedents. Consumer protection, national energy strategy, insurance regulation, and "fair" trade are just a few not-so-minor issues that have been claimed by committees since 1945. And for every committee that wins jurisdiction, there are many more that do not. Some committees now employ staffers called "border

cops," whose jobs involve protecting turf and looking out for new areas to conquer.

Precedent-setting referral decisions are made by the House and Senate parliamentarians *routinely* (in several senses of the word). They use a predictable and nonpartisan set of decision rules for handing out turf (King 1992), and players in the jurisdiction game have come to count on these decision rules when drafting legislation (Tiefer 1989; Zorack 1990). The resolution of jurisdictional ambiguities is also commonplace. From 1935 through 1963, an average of 18 new common law expansions were recorded every year in Cannon's *Procedure*, and that underestimates the true number, because many were only recorded in the *Congressional Record* (Cannon 1963).

Interview evidence consistently points to changing jurisdictions. When one of the House parliamentarians learned that some observers think of turf as what is written down in the rules, implying that jurisdictions are largely static, he replied

PARLIAMENTARIAN: I can see why, from a political scientist's standpoint, there would be some confusion. But we simply have to use past referral decisions to guide what we do. You just never know what new things are going to come up.

INTERVIEWER: Then through referral precedents, jurisdictions can change. Do you think they have changed much in your time here?

PARLIAMENTARIAN: Oh heavens yes, they're much different than when I came to Congress. Yes there are changes. There are always changes. Look at the battle over OCS [outercontinental shelf]. Look at the jurisdiction over national parks and the Interior Committee. Look at what constitutes a fee and what is a tax. There are too many like these to name. (Interview by author, 14 June 1991)

The strategic value of playing the jurisdiction game is well known to members of Congress. Because they have considerable say over their own agendas, committee and subcommittee chairs are more likely than junior members to lead jurisdictional forays. Former representative James Florio (D-NJ) was a subcommittee chair in the mid 1980s, and the following statement by him is typical of many I encountered during not-for-attribution interviews: "We're expanding our jurisdiction. We've got authority over the FTC [Federal Trade Commission], and that gets you to anti-trust and regulation. We've begun to deal with some trade issues. There was a headline the other day, "Florio on Trade." The legislative credentials and the jurisdiction give you a forum on almost everything. From the forum you affect public opinion and from that you get clout" (quoted in Loomis 1988, 168).

Any current list of House committees gaining common law turf is topped by Energy and Commerce, chaired by John Dingell (D-MI), followed perhaps by Ways and Means under Dan Rostenkowski (D-IL); Natural Resources since 1991, when George Miller (D-CA) took over as chair; and Science, Space, and

Technology since 1990, when George Brown (D-CA) became chair. The list of jurisdictionally expansive committees may change from time to time, but the basic underlying strategies for gaining common law turf have been used since the institutionalization of the parliamentarian's office following the 1910 revolt against Speaker Cannon (King 1992).

Common law jurisdictions advance into the "grey areas" between committees when bills on jurisdictionally ambiguous issues are referred by the parliamentarians. Is there any value to political scientists in distinguishing between common law and statutory jurisdictions? Yes, for three reasons. First, it is a distinction that players in the jurisdiction game make implicitly. Some also distinguish between "literal" and "unwritten" jurisdictions. Others talk about "formal" and "informal" turf. But in any event, common law jurisdictions are just as binding as what is written in the rules. Second, if it can be shown that jurisdictions change through bill referral precedents, then we may gain insight into how legislatures change more generally. Most observers have focused on specific reform periods in which the written rules changed (Rieselbach 1986), but if institutional change is ongoing and reforms simply codify common law changes, then we should pay more attention to how institutions are changing day to day. Third, if institutional change happens through common law adaptations, understanding that process will help us better evaluate the competing claims of distributive politics theorists (Weingast and Marshall 1988) and organization and informational efficiency theorists (Krehbiel 1991; Polsby 1968).

## THE PARLIAMENTARIANS

House and Senate parliamentarians are central to the jurisdiction game, but these institutional guardians have been long overlooked by scholars, perhaps because they guard their anonymity carefully. Journalists on Capitol Hill know the parliamentarians as important players who are reluctant to be interviewed and do not like to be photographed. In the House, the parliamentarians update the books of precedents, assist the Rules Committee on technical issues related to floor management, advise members of both parties on parliamentary procedure, and refer all bills to committees (no matter how jurisdictionally ambiguous those bills may be). As congressional employees, the parliamentarians are unelected either by voters or by members of Congress (Siff and Weil 1975).

According to the House rules, the Speaker is charged with referring bills to committees, but in practice the Speaker has rarely been involved in these decisions since the revolt against Speaker Cannon in 1910. It is well understood by members, their staffs, and Washington lobbyists that the parliamentarians are the central figures in bill referrals (Tiefer 1989).

There are five parliamentarians in the House, four of whom work under the head parliamentarian, who

serves, ostensibly, "at the pleasure of the Speaker." But the parliamentarians are surprisingly independent of the Speaker (King 1992; Tiefer 1989; Zorack 1990), and they pride themselves on making nonpartisan decisions. It is also common for members of the minority party to praise the parliamentarians as nonpartisan, which one would not expect if they were simply doing the Speaker's handiwork. Trained as lawyers, the parliamentarians are expected to serve Congress for most of their professional lives (Lewis Deschler was head House parliamentarian from 1928 to 1974, serving under nine Speakers), and they think of themselves as institutional guardians.

When deciding where to send a jurisdictionally ambiguous bill (thereby granting common law turf to the committee that gets the bill), the parliamentarians use a decision rule called "the weight of the bill," which is similar to the legal construct "the weight of the evidence." This decision rule is self-consciously used so that the expertise of members in a "close-by" jurisdiction can be tapped. In this way, the parliamentarians help reinforce the kind of informationally efficient committee system that Krehbiel (1991) envisions. But like judges, the parliamentarians can only adjudicate jurisdictional disputes after a case is brought to them in a bill referral, and the entrepreneurial activity among members that drives the search for "hot" jurisdictionally ambiguous issues is best understood in a distributive framework (Weingast and Marshall 1988).

With respect to one jurisdictionally ambiguous issue—magnetically levitated trains—this dynamic has been tested empirically (King 1992). Institutional change involves both distributional incentives at the individual level (Weingast and Marshall 1988) and an institutional response, through the parliamentarians, that promotes an informationally efficient committee system (Krehbiel 1991).

Almost all jurisdictional change happens in "new" areas or in old areas that are being recast in the light of new events (Jones, Baumgartner and Talbert 1993). Most border wars are not fought along well-trenched lines with one committee trying to take away another committee's turf. A few recent works have focused on attempted takeaways (LaRue and Rothenberg 1992; Shipan 1992, 1993; Krehbiel and Lavin 1993), but House and Senate rules are strongly protective of established property rights.<sup>1</sup> Rather, the real action is over unclaimed territory, over the resolution of jurisdictional ambiguities. When the parliamentarians adjudicate jurisdictional ambiguities by referring a bill to one committee (and sometimes several committees), their decisions are binding. As one former staff director put it, "If you lose with the parliamentarians, you've lost forever."

## Multiple Referrals

Since 1975 in the House (and informally, many years earlier in the Senate), it has been possible for one bill to be referred to more than one committee (Davidson and Oleszek 1992; Young and Cooper 1993). In recent

years, 15–20% of all House bills have been multiply referred, though the actual percentage of all public laws that were first multiply referred is somewhat less.<sup>2</sup> There are, in practice, two types of multiple referrals: joint and sequential.<sup>3</sup> Joint referrals, in which one bill is sent to more than one committee *at the same time*, is the most common, comprising more than 94% of all multiple referrals in the Ninety-Ninth Congress, 1986–86 (Davidson, Olsezek and Kephart 1988). With sequential referrals, additional committees may get a chance at a bill only after (and only if) it is reported out of a lead committee.

At first, it might appear that multiple referrals could lead to jurisdictional free-for-alls, with identical bills going to multiple committees. Collie and Cooper (1989) argue that through multiple referrals, committees have sacrificed autonomy over their own issues for jurisdiction over issues in other committees. In practice, committees have most assuredly *not* surrendered autonomy. Though not specified in the written rules, the practice under joint referrals is that committees are limited to working only on issues within their established domain (Young and Cooper 1993). To do anything else welcomes challenges at the Rules Committee and on the floor, something most committees are eager to avoid. Jointly referred bills reinforce, rather than tear down, jurisdictional walls (King 1992). Committees under multiple referrals may share a bill, but they do not share jurisdictions. In fact, much of the jurisdiction game is geared to avoiding sharing turf at all.

I turn now to an examination of the House Commerce Committee's jurisdiction. On Capitol Hill, Commerce is considered the most jurisdictionally expansive House committee. We look at this committee to give the null hypothesis (the hypothesis that jurisdictions are static) its toughest test. If we fail to find common law adaptations here, we should not expect to find them anywhere. The strategies that committee entrepreneurs employ when going after new issues and appealing to the parliamentarians are the same regardless of the committee.

## JURISDICTION OF THE HOUSE COMMERCE COMMITTEE

Originally named the Committee on Commerce and Manufacturers and dating from 1795, Commerce is one of the House's oldest committees. Its broad mandate was to "take into consideration all such petitions and matters of things touching the commerce and manufacturers of the United States" (U.S. House 1795, 376). The committee's jurisdiction was split in two in 1819, creating the Committee on Manufacturers (which was eliminated in 1911) and the Committee on Commerce. Commerce was renamed Interstate and Foreign Commerce in 1892 and became Energy and Commerce in 1981.

## Statutory Jurisdiction of House Commerce

House Commerce's statutory jurisdiction is reported in Figure 1. The issues are listed in the order in which they appeared in the Rules. Much of the committee's statutory jurisdiction dates to the 1946 Legislative Reorganization Act (LRA). Beyond "interstate and foreign commerce generally," the committee was given property rights over civil aeronautics, communications, securities and exchanges, and public health, among other things. Some apparent gains and losses happened in 1974 and 1980, based on the 1974 Hansen-Bolling reforms (HR 988, 93d Congress) and the 1980 energy reforms (HR 549, 96th Congress).

Commerce's jurisdiction is exceptionally broad, partly because the committee's fortunes have been tied to the Constitution's commerce clause, which has been a base from which federal powers have expanded since the Great Depression.

In order to assess the relative importance and size of statutory as opposed to common law jurisdictions, we need a way to measure both. How should one go about it? The Smith and Deering (1990) approach, in which the number of issues listed in the rules plays an important part, fails to capture common law jurisdictions. A second approach might exploit committee calendars, but indexing schemes vary widely from committee to committee and from year to year. A third method—counting the number of entries in the books of precedents—is better. But Cannon's *Procedure* has not been published since 1963, and even if it were published regularly, not all referral precedents are recorded in such lists.<sup>4</sup>

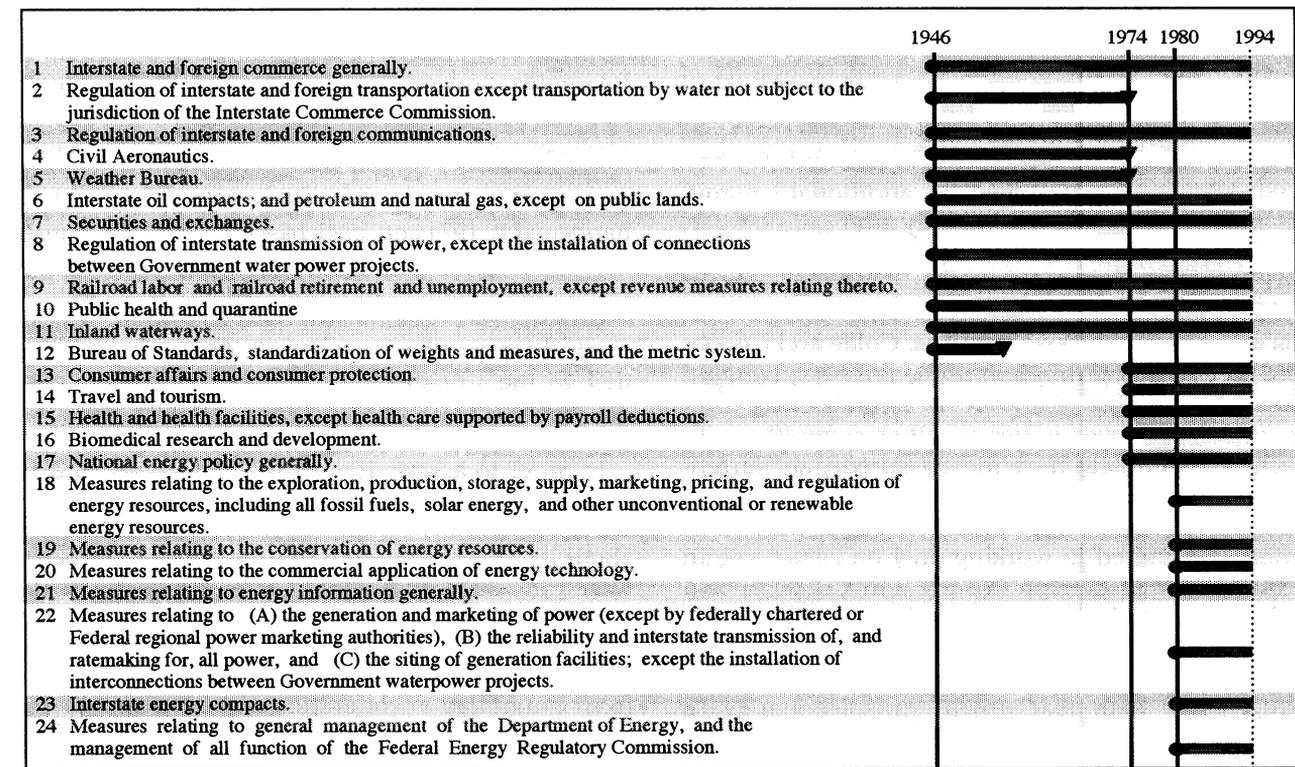
I employ a method based on committee hearings.<sup>5</sup> The Congressional Information Service maintains a computerized listing of all published hearings. For Commerce Committee records, I extracted the number of days the committee held hearings, the number of pages of hearing documents printed, and the number of bills associated with each hearing. After reading one-to-two-page descriptions, each subject raised in a hearing was coded. From 1947 through 1990, 2,534 hearings were examined, and 221 distinct topics were identified. This allows me to construct a time series of the rise and fall of issues in the Commerce Committee.

Beyond identifying issues, each topic was categorized as either based on the committee's statutory jurisdiction or based on bill referral precedents. Here it was important to be conservative and to err on the side of overestimating the percentage of the committee's activities based on the House rules. For example, for 1947, the following hearing topics were all identified as justifiable based on the committee's statutory jurisdiction (in parentheses): agreements between carriers (interstate trucking), Alaska airports (civil aeronautics), amendments to the Natural Gas Act (interstate pipelines), and iodized salt (public health). But also in 1947, the committee authorized the creation of the National Science Foundation, which may have its merits but is not even remotely mentioned in the 1947 House Rules Manual. The

**FIGURE 1**

**Statutory Jurisdiction of the House Commerce Committee**

● Statutory Jurisdiction Established  
▼ Lost Jurisdiction



National Science Foundation was coded as part of the committee's common law jurisdiction.

Figure 2 shows the percentage of the Commerce Committee's hearing activity on issues in the committee's statutory jurisdiction.<sup>6</sup> Oversight hearings in which no bills were referred are excluded from the data set because it is the referrals, not simply the hearings, that establish binding precedents. The data span the period between the 1946 and 1974 reform acts.<sup>7</sup> Hearing activity is measured by the percentage of the printed pages in hearings that were devoted to each topic.

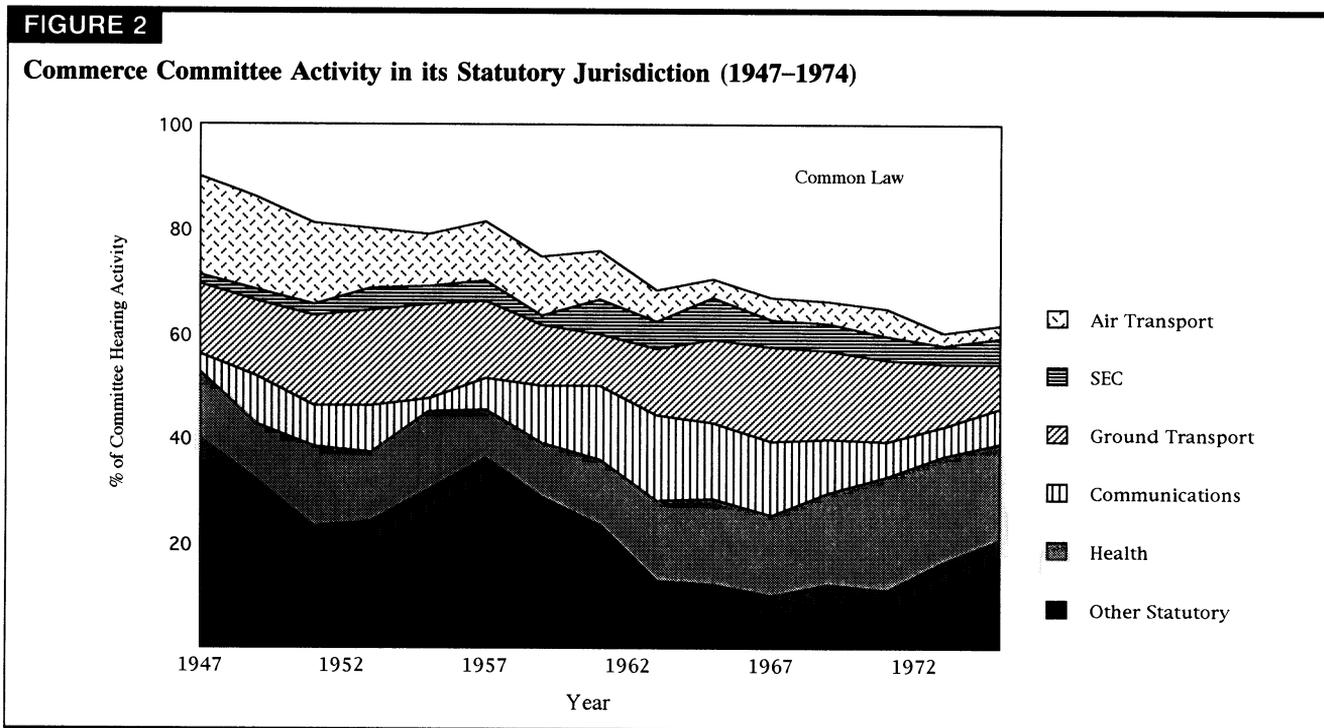
Several things stand out in Figure 2. First, immediately after the 1946 LRA, more than 90% of the committee's hearing activity was on issues in the committee's statutory jurisdiction. The rules of this period were remarkably accurate descriptions of what the committee was actually doing. For the most part, George Galloway (1946) and the other reformers apparently accomplished what they set out to do, but in the decades that followed, their jurisdictional specifications slowly collapsed in the face of new issues and gradual adjustments. Second, by 1974, the year before new jurisdictional wordings were incorporated into the rules, more than a third of the Commerce Committee's activities were on issues not in the statutory jurisdiction of the committee. If we extended the time line, we would see that merely a third of the committee's activities in 1990 were

granted to them in the rules in 1947. The remaining two-thirds of the committee's hearings have been on issues that were either given the committee through the 1974 and 1980 rules changes or taken by the committee through bill referral precedents. Further, the committee's common law jurisdiction more than tripled from 1946 to 1974 as the committee's turf expanded to include (among other things) certain patent infringements, daylight savings time, automobile insurance, and solid waste disposal.

**Common Law Jurisdiction of House Commerce**

Common law jurisdictions grow when an argument can be made that a new issue is closely related to something that a committee is already doing. One referral precedent is used to justify making another referral precedent, and so on. As a result, the nature of committee jurisdictions is that their expansion is dependent on the path that previous bill referrals have taken. Like the view of evolution in Stephen Jay Gould's (1989) *Wonderful Life*, committee jurisdictions would emerge differently if we reran the clock of history (see also Arthur 1988; David 1975; Dopfer 1991). Just one changed bill referral a generation ago could have made for a dramatically different constellation of jurisdictions today.

The path-dependent nature of jurisdictional change is evident in the Commerce Committee's



acquisition of health policy issues in the 1800s. Beginning with the “protection of American international and domestic trade markets and shipping rights,” the committee was referred bills relating to navigation safety, which soon came to include quarantine provisions at seaports. Through the Commerce Committee in 1798, Congress created the Marine Hospital Service to oversee quarantines of immigrants at entry ports (United States, Public Health Service, 1976).

A second part of the path leading to the health turf grew from the dangers of steamboat travel. Beginning in the 1830s and continuing through the end of the century, steam-powered merchant ships ran a booming business. Boiler explosions were common, especially during the 1850s. From 1848 through 1852, 1,155 lives were lost in boiler explosions on the western rivers alone (Hunter 1949). The Marine Hospital Service located hospitals along heavily traveled rivers where boiler explosions and other maritime disasters were likely. When yellow fever and cholera epidemics hit later in the century, the Marine Hospital Service, soon renamed the U.S. Public Health Service, was the only federal health organization capable of helping out.<sup>8</sup> By the close of the nineteenth century, the Commerce Committee had gained “broad jurisdiction over bills relating to the subject of health generally” (Hinds 1907, 4:743). None of this was put into the committee’s statutory jurisdiction until 1946. It was clever to link quarantine bills and navigation safety to exploding boilers and marine hospitals, but the strategy of drawing analogies between issues that a committee wants and issues that it already controls is typical.

From 1947 through 1990, the Commerce Committee was referred bills on 133 issues that expanded the

committee’s jurisdiction. That is an average of three precedent-setting bill referrals every year. Often, those expansions were minor. Commerce used its jurisdiction over travel and tourism in 1983 to solidify its claim to a bill related to international sporting events (United States, House, Committee on Energy and Commerce 1983). But the committee also took major steps into new territory. From its jurisdiction over interstate and foreign transportation, the committee gained jurisdiction over automobile safety in 1956.<sup>9</sup> And the committee was then well positioned to respond to the regulatory challenges posed by Ralph Nader in the mid-1960s.

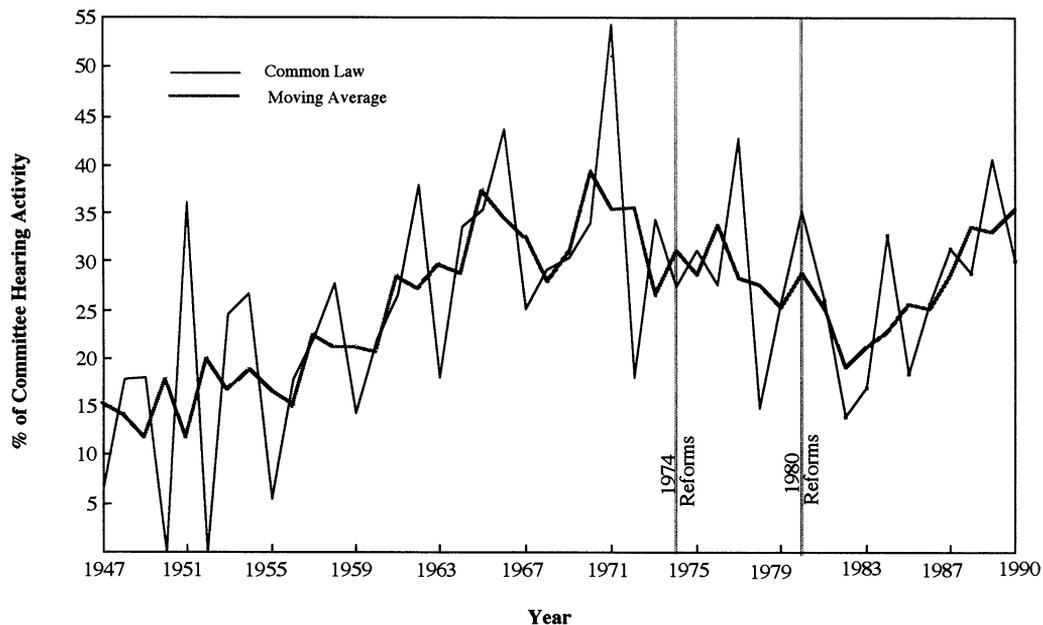
Of the 133 issues over which the Commerce Committee established a referral precedent from 1947 through 1990, 110 (82.7%) were issues raised in conjunction with a bill over which the committee had already established jurisdiction. Again, jurisdictional change is path-dependent.

Figure 2 provided some evidence that the Commerce Committee’s common law jurisdiction expanded between the 1946 and 1974 reforms. A closer look at the growth of common law turf is provided in Figure 3. The figure is based on a content analysis of 1,485 hearing documents published by the Commerce Committee from 1947 through 1990.<sup>10</sup> Only hearings on referred bills (52% of all hearings during the period) are reported.

From 1947 to 1974, the Commerce Committee’s agenda gradually included more and more common law issues. Much of the increase was from consumer protection problems like the testing of food additives (1957), product-labeling laws (1958), seat-belt regulations (1962), the safety of children’s toys (1969), and deceptive advertising (1971).

FIGURE 3

## Growth of Commerce Committee's Common Law Jurisdiction 1947-1990



There are two trend lines in Figure 3: the percentage of common law hearing activity and a three-year moving average. The moving average indicates gradual upward change, but there are also wide swings from year to year as the committee launched into new areas. In 1958, for example, Commerce worked on a medical education bill (which could have gone to Education and Labor) and on air pollution legislation. The next year, its common law activity dropped by half as it turned its attention to the Securities and Exchange Commission and to railroad unemployment, both of which are in its statutory jurisdiction. Still, an upward trend is unmistakable between 1947 and 1974. Use of the committee's common law agenda peaked at 54.23% in 1971 with extensive hearings on air pollution control, solid waste recycling, cigarette labeling, and automobile safety, none of which was yet in the committee's statutory jurisdiction.

Between the 1974 and 1980 reforms, the percentage of the committee's hearing activity spent on common law issues averaged about 30% with no general trend up or down. The common law percentage did not drop after the 1974 reforms because Commerce launched into energy issues not yet in its statutory jurisdiction just as consumer protection issues (codified in the rules in 1974) began to die down. During the late 1970s, nearly all of the committee's common law activities were on energy-related issues such as synthetic liquid fuels, energy conservation, solar energy, and a national energy strategy. None of these issues was in the jurisdiction of any other committee during this period, so the committee staked a claim and then worked to protect it.

The 1980 reforms locked the Commerce Committee's energy jurisdiction into the House rules, and the committee's common law agenda fell from 35% to 15% in two years. The gradual, incremental process of common law expansion began anew: the committee has successfully staked claims to jurisdiction over the insurance industry, international trade, and some securities-related banking activities.

The rate of jurisdictional expansion under Chairman John Dingell (D-MI) in the 1980s was almost identical to the rate of expansion under Oren Harris (D-AK), who chaired the committee from 1957 through 1965. This might surprise some observers of Congress, because John Dingell is a "recognized master of territorial expansion" (*Congressional Quarterly Almanac* 1988, 357), while Oren Harris was sometimes dismissed as an unaggressive old southern Democrat. However, there is much more to the jurisdiction game than personalities. Put John Dingell in charge of the Merchant Marine and Fisheries Committee and he would still be a policy entrepreneur, but he would not have as many successes as he has had on Commerce because the Merchant Marine's jurisdiction is not as broad to begin with. Entrepreneurs need to be able to make a plausible claim that a jurisdictionally ambiguous issue is proximate to their committee's established turf. In the jurisdiction game, the rich get richer and the poor get the same old bills.

Two lessons seem clear from this look at the Commerce Committee's jurisdiction. First, jurisdictions are malleable through common law referral precedents. Second, the trend toward common law issues appears incremental, as committees gradually

move away from some issues and embrace others. What, then, of periodic jurisdictional reforms?

## JURISDICTIONS AND THE CONSEQUENCES OF REFORMS

Reform seems to imply a plan, a thoughtful way to get from how things are to how things ought to be. Congressional reforms are marked by commissions, special committees, and hoopla. The 1946 LRA was widely supported in and reported by the news media, and attention focused on congressional reform a generation later through the 1974 Bolling Committee. In both cases, efficiency experts were called upon to help Congress run more "efficiently" and "effectively."<sup>11</sup> And in both cases, Congress passed reform legislation.

Perhaps, as implied by the way the 1946 and 1974 jurisdiction reforms are sometimes portrayed, congressional reforms are purposeful and collectively ratified breaks from the past (Galloway 1955; Rieselbach 1986). Thus one interpretation of congressional reforms is that they are sporadic but highly significant tools for changing the institution: proposals are carefully planned and collectively ratified. Call this the *rational problem-solving model*.

Former Speaker Thomas Reed described reform situations as times when "an indefinable something is to be done, in a way nobody knows how, at a time nobody knows when, that will accomplish nobody knows what" (quoted in Henning 1989, 233). Rational problem solving is often unrealistic: "However attractive such an orderly reformation might be, its preconditions—consensus on goals and precise calculations of means–ends relationships—are rarely realizable in real-world situations" (Davidson, Kovenock and O'Leary 1966, xii).

Of course, the truth about what congressional reforms accomplish likely lies someplace between Speaker Reed's characterization and the rational problem-solving model. When legislatures vote on reform proposals, the reforms are indeed well-planned and highly publicized events, but what do they really change? Some reforms, like those following the revolt against Speaker Cannon in 1910, are clear and significant breaks from the past, and it is now in fashion to call recent Congresses "post-reform," as if the mid-1970s qualitatively changed the institution. What of the landmark 1946 LRA, the 1974 Bolling Committee jurisdiction reforms, and the 1980 changes in energy jurisdictions (Davidson and Oleszek 1977; Galloway 1955; Uslaner 1989)? These three reforms are first pointed to when one takes jurisdictional change seriously. If these are to be our models for how the internal structures of Congress are reformed, what lessons can they teach us?

I shall argue that formal rules changes (like the writing of statutory jurisdictions) often *follow* institutional changes (such as common law adaptations in committee turf). If we want to understand change,

we should focus not on "reforms" but on the incremental day-to-day changes in the unwritten rules. Former representative Richard Bolling (D-MO) understood the limitations of formal rules changes, calling them "the product of modification, change, and codification" (1965, 110). Codification comes last.

### 1946 Legislative Reorganization Act

World War II Congresses were widely ridiculed for alleged inefficiency, myopia, and (most of all) obstruction of President Roosevelt's war efforts (La Follette 1943; Perkins 1944). Congress, designed for a horse-and-buggy age, was said to be unprepared for the blitzkrieg of politics in the 1940s and beyond. President Franklin Roosevelt seemed to have had the upper hand in legislative battles, resorting to veiled threats if Congress failed to pass his bills by set deadlines.

In early 1941, the American Political Science Association's Committee on Congress (1945) launched a study of congressional mechanisms (see also Matthews 1981). Both the Committee on Congress report, *The Reorganization of Congress* and the National Planning Association's *Strengthening the Congress* (Heller 1945) emphasized the need to restructure committee jurisdictions and powers so that Congress could be a more potent check on the executive branch. These reports helped bring about the formation of the Joint Committee on the Organization of Congress in 1945, which was cochaired by Wisconsin Senator Robert La Follette, Jr. and Oklahoma Representative Mike Monroney. Perhaps the most important impact of the American Political Science Association committee's report was that it helped launch George Galloway, the report's author, into the position of staff director of Congress's special joint committee on reform.

Galloway, La Follette, and Monroney were the primary architects of the 1946 LRA. Leading their list of objectives were streamlining committee structures, eliminating the use of select committees, and clarifying committee jurisdictions (Galloway 1955, 591). The reformers were also political operators, and they knew they would have to confront committee chairs who were content with their perks and powers under the status quo. Reformers also had to mollify the House and Senate Rules Committees, which specifically precluded the Joint Committee from making recommendations that would overturn any of the House or Senate Rules.

The 1946 LRA reduced the number of standing committees from 33 to 15 in the Senate and from 48 to 19 in the House. Fifty-eight percent of the committees disappeared overnight. Also, for the first time in the history of Congress, committee jurisdictions were carefully delineated in the House and Senate Rules.<sup>12</sup> On the face of it, these seem like remarkable achievements. Galloway set the tone for most subsequent commentaries on the act, calling it "the outstanding development in the organization and operation of Congress during the past fifty years" (1961, 57). Then

again, Galloway had a vested interest in writing a favorable history.

The 1946 LRA passed with the help of committee chairs. Since over half of them were guaranteed to lose their positions, why did they support the reforms? The answer is that chairs of inactive committees were assured that they would benefit from the increase in staffs even though they would lose their committee staffs, and less-senior chairs were promised seats on more prestigious panels (Ripley 1969; Polsby, Gallaher and Rundquist 1969). Politically pragmatic deals like these, not a keen eye for the most "efficient" committee structure, drove the consolidation of committees.

How would one go about streamlining a committee system that begins with 48 committees in the House? Reformers began by aiming for committees with 25 to 27 members each, and they wanted to limit almost every member to one committee assignment. The number of postreform committees was simply derived by dividing the number of representatives (435) by the desired size of committees (25) and rounding up, yielding 19.

Starting with 48 committees, there were 1,128 possible pairwise combinations that could have been used to create 19 committees, and the apparent decision rule employed in selecting among all the possible pairwise combinations was to emphasize prereform patterns of shared committee memberships, because that is what was politically expedient. It was expedient because committees that shared large numbers of members were, in a sense, already working together, and the prereform committees could be made into postreform subcommittees on a single panel.

The hypothesis that prereform intercommittee memberships were central to the postreform structure is tested in Table 1, where possible pairwise combinations of committees are ranked by the sum of joint memberships (Two committees each sharing 25% of their members would score 50%.) Nine committees<sup>13</sup> with nine or fewer members are excluded because their small size would skew the percentages and because eight were combined into the House Administration Committee. This leaves 39 committees, or 741 possible pairwise combinations of prereform panels. For these 39 committees, 44 pairwise combinations were actually used. Of all the possible ways of shoehorning the committees together, 10 of the 15 committees with the highest shared memberships ended up together. That rate is much higher than one would expect by chance ( $p = .000454 \times 10^{-6}$ ).

For a committee system in which most legislators served on only one panel, the results in Table 1 are striking. Intercommittee memberships drive the results. Sixty percent of the members of the Public Lands Committee also served on the Committee on Irrigation and Reclamation, and 39% of the Public Lands Committee served on Mines and Mining. Likewise, 37% of the Mines and Mining members served on Indian Affairs, and 30% of the Indian

TABLE 1

**Intercommittee Memberships of House Committees Consolidated by the 1946 Legislative Reorganization Act**

POSSIBLE PAIRWISE COMBINATIONS <sup>a</sup>	SUM OF JOINT MEMBERSHIP <sup>b</sup> (%)	COMMITTEE AFTER 1946 LRA <sup>c</sup>
Public Lands, Irrigation	117	Interior
Mining, Indian Affairs	76	Interior
Public Lands, Mining	72	Interior
Public Lands, Indian Affairs	70	Interior
Public Buildings, Pensions	66	—
Irrigation, Insular Affairs	65	Interior
Irrigation, Indian Affairs	62	Interior
Civil Service, Claims	59	—
Flood Control, Roads	58	Public Works
Public Buildings, Patents	58	—
Claims, Revision of Laws	56	Judiciary
Expenditures, Accounts	55	—
Irrigation, Mining	53	Interior
Civil Service, Census	52	Post Office
Rivers, Territories	52	—

<sup>a</sup>This analysis excludes the nine prereform committees that had nine or fewer members. This leaves 741 possible pairwise combinations of prereform committees. Eight of the nine small committees excluded from this analysis were combined into one committee, House Administration. The ninth, UnAmerican Activities, was unaffected by the reforms.

<sup>b</sup>This column reports the sum of two percentages: (1) the percentage of committee A that is also in committee B and (2) the percentage of committee B that is also in committee A. (These two percentages are rarely the same, because committee size varies.)

<sup>c</sup>Of the 741 possible pairwise combinations, 44 were used in the 1946 LRA. This column reports the destination committee for the combinations that were actually used.

Affairs members were on Irrigation. Is it any surprise that these committees were bundled together? The postreform committees embraced membership patterns found before the reforms, thereby reinforcing coalitions rather than forging new ones.

Were committee jurisdictions significantly changed by the 1946 LRA? No. Jurisdictions were *codified*, but they were not significantly changed. Ten of the 19 postreform committees were spared being consolidated with other committees, and they were jurisdictionally identical in every way to their prereform counterparts. The remaining 9 committees embraced established patterns of jurisdictional coordination. In almost every case, the specific descriptive words used to list committee jurisdictions, though new to the written rules after 1946, were taken verbatim from earlier books of precedents compiled by Asher Hinds and Clarence Cannon.

#### 1974 Jurisdictional Reforms

Committee reform was on the agenda once again in 1974 in the form of the Bolling Committee, whose

express purpose was “a wholesale realignment of jurisdictions and a limitation of one major committee per member” (*Congressional Quarterly Almanac* 1974, 634). The Bolling Committee proposals faced stiff opposition from committee chairs, and almost all of the reform suggestions were defeated in the House Democratic Caucus (Davidson and Oleszek 1977). A second committee, chaired by Washington Democrat Julia Butler Hansen, was established by the Democratic Caucus to offer scaled-down alternatives to the Bolling Committee recommendations. HR 988 primarily reflected the more modest Hansen Committee recommendations and passed the House on 8 October 1974. Noticeable changes were made in the statutory jurisdictions of committees, including transportation, health, and banking. Most transportation issues were transferred to the Public Works Committee, renamed the Committee on Public Works and Transportation. This included aviation and surface transportation (from Interstate and Foreign Commerce) and mass transit (from the Committee on Banking and Currency). Interstate and Foreign Commerce was given jurisdiction over “health and health facilities, except health care supported by payroll deductions” (which went to the Ways and Means Committee). The Banking and Currency Committee, renamed Banking, Currency, and Housing, was given jurisdiction over federal monetary policy, urban development, and international finance, among other issues. The Foreign Affairs Committee lost jurisdiction over international monetary organizations.

Like the realignment of committees in 1946, these and other jurisdictional realignments *appear* to have been significant reforms shifting issues from committee to committee and adding otherwise overlooked subjects to committee agendas. The 1974 reforms changed the Commerce Committee’s statutory jurisdiction by adding four issues and deleting three. The committee gained consumer affairs and consumer protection, travel and tourism, health and health facilities, and biomedical research and development. Lost to other committees was the committee’s jurisdiction over the Weather Bureau, civil aeronautics, and almost all transportation issues except railroads.

Looking just at the Rules Manual (recall Figure 1), Commerce’s acquisition of consumer protection issues seems to be an important (though delayed) institutional response to the calls for consumer protection legislation throughout the late 1960s. In fact, though, the Commerce Committee helped define what we mean by “consumer protection” by its actions in the 1960s (Nadel 1971). Even before consumer protection began to be thought of as a certain cluster of issues, the Commerce Committee expanded its common law jurisdiction to include health and safety problems. Paired with its statutory jurisdiction covering aviation, the committee regulated food inspections of agricultural products shipped by air in 1954. In 1957, the committee held hearings on seven related bills to “prohibit the use of new chemical food additives without adequate pretesting for safety” (U.S. House Committee on Interstate and

Foreign Commerce 1957). The committee began staking out jurisdiction on the deceptive labeling of automobile stickers a year later. Hearings on the regulation of cigarette advertising were held in 1965, followed by investigations into the safety of children’s toys and radiation from household electric devices. Through the active efforts of California Democrat John Moss, the committee was referred a series of product labeling bills, and by the time “consumer protection” began to be understood in its modern sense, the Commerce Committee had already established a precedent-setting track record on consumer issues. Consumer protection had unquestionably become part of the committee’s jurisdiction. When the Consumer Product Safety Act was introduced in Congress in 1971, the bill was naturally, and without objection, referred to the Commerce Committee—this, four years before the Hansen Committee added consumer protection to Commerce’s statutory jurisdiction.

A similar pattern of referral precedents confirms that most health issues were in the Commerce Committee’s jurisdiction before the 1974 reforms, as well. Because of the 1946 LRA, Commerce claimed “public health and quarantine” as part of its statutory jurisdiction, and throughout the 1950s, more than a quarter of the committee’s activity was related to this general jurisdictional grant. However, the committee also moved into health issues that were not necessarily implied by the 1946 reforms. The committee was working on a national health insurance program by 1949. By 1957, committee staffers were investigating the quality of instruction at dental schools, an issue that could have been legitimately claimed by the Committee on Education and Labor. The humane treatment of animals used in medical research was the subject of two bills referred to the committee in 1962. And as drug abuse problems became more acute, the committee claimed new and politically relevant turf by drawing parallels between drug abuse and public health problems. This eventually led to the committee’s oversight of several programs overseen by the Drug Enforcement Agency, a function that might seem more naturally to belong to the Judiciary Committee.

The Bolling Committee’s original plan was to recast the Committee on Interstate and Foreign Commerce as the Committee on Commerce and Health, and this was to include wrestling Medicare issues from the Ways and Means Committee. Medicare issues were often approached through amendments to the Social Security Act, which had been in the statutory jurisdiction of the Ways and Means Committee since 1946. The Hansen Committee compromise maintained the preexisting distinction between the committees by precluding the Commerce Committee from extending into “health care supported by payroll deductions.” With respect to health, the net effect of the 1974 reforms was to write down in the Rules Manual the established common law jurisdictions governing bill referrals on health issues.

Travel and tourism issues were codified in the

House Rules in 1974, but the Commerce Committee reported a bill establishing the U.S. Travel Bureau as early as 1948. The committee also established the Office of International Travel and Tourism in 1960 to encourage foreign tourism in the United States. The Travel Bureau was established within the Department of the Interior, but it was subject to Commerce oversight (not Interior Committee oversight) because of the referral precedent. When the Interior Committee was referred a bill on the Arctic Winter Games in 1972, Chair Wayne Aspinall (D-CO) asked that the issue be rereferred to the Commerce Committee because it involved tourism. Finally, bills related to biomedical research and development had been referred to both the Commerce and Science Committees, but Commerce was working actively on the issue at the time that the jurisdictional reforms were being contemplated. During September 1974 alone, the Commerce Committee held hearings on 11 bills dealing with biomedical research and development.

In the four areas (consumer protection, health, tourism, and biomedical research) over which the Commerce Committee gained statutory jurisdiction in 1974, common law jurisdictions had already been established. The Hansen Committee took the path of least resistance, embracing the status quo in the name of reform. However, the Commerce Committee also lost three areas of jurisdiction in 1974. If statutory jurisdictions ratify common law jurisdictions, then we would expect to find that Commerce's activity on the issues that were lost (primarily transportation-related) had diminished significantly from 1947 to 1974.

This jurisdictional "loss" can be examined by looking at the percentage of committee hearings that were related to transportation issues. Immediately following the 1946 act, about a quarter of the committee's attention went to transportation (primarily aviation). The committee oversaw the development of a national system of airports and held investigations into accidents. Committee staffers in the Eightieth and Eighty-First Congresses devoted to transportation a great deal of attention that could easily have gone to other issues. By 1974, the committee activity on transportation issues had dropped below 5% of the committee's pages of hearings per Congress. Of that 5%, almost all of the attention went to the routine business of overseeing and maintaining long-established airports. The committee was not sponsoring new transportation projects. Removing transportation policy from the Commerce Committee's statutory jurisdiction was no great loss because they had let the turf fallow for years.

While the Commerce Committee largely ignored transportation issues throughout the 1960s and early 1970s, Public Works was increasingly active, in part because it oversaw the Highway Trust Fund and could pay for new programs out of its own committee. When the 1974 reforms were codified, jurisdictional changes in transportation that had been underway since the end of World War II were simply written into the Rules. The 1974 "reforms," whether expanding or subtracting from a committee's statu-

tory jurisdiction, reflected the incremental common law changes that had been in force, in some cases, for decades.

### 1980 Energy Jurisdiction Reforms

In 1980, the Congress passed a jurisdictional reform proposal that was originally intended to focus energy issues in one committee, but like the 1974 reforms, this latest round of statutory changes merely updated the rules and locked in common law turf that had been taken during the 1970s.

The jurisdictional tangle on energy issues seemed especially acute in the late 1970s as the country faced its second energy crisis in the decade (Jones and Strahan 1985). A report by the House Select Committee on Committees decried the consequences of common law jurisdictional expansions, noting: "The present operational structure in Congress for energy jurisdiction is fragmented among numerous committees. It is now as much a product of legislation initiated by a particular committee or assigned to it by the Parliamentarian as it is the result of carefully circumscribed rules and procedures" (quoted in Davidson and Oleszek 1977, 53).

After several years of what Eric Uslaner calls "jungle warfare over jurisdictions," two reform proposals, one by the House Select Committee on Committees and another last minute substitute by the Select Committee's chair Jerry Patterson (D-CA), were aimed at creating a new Energy Committee and taking all energy issues away from Commerce, Interior, and Public Works.

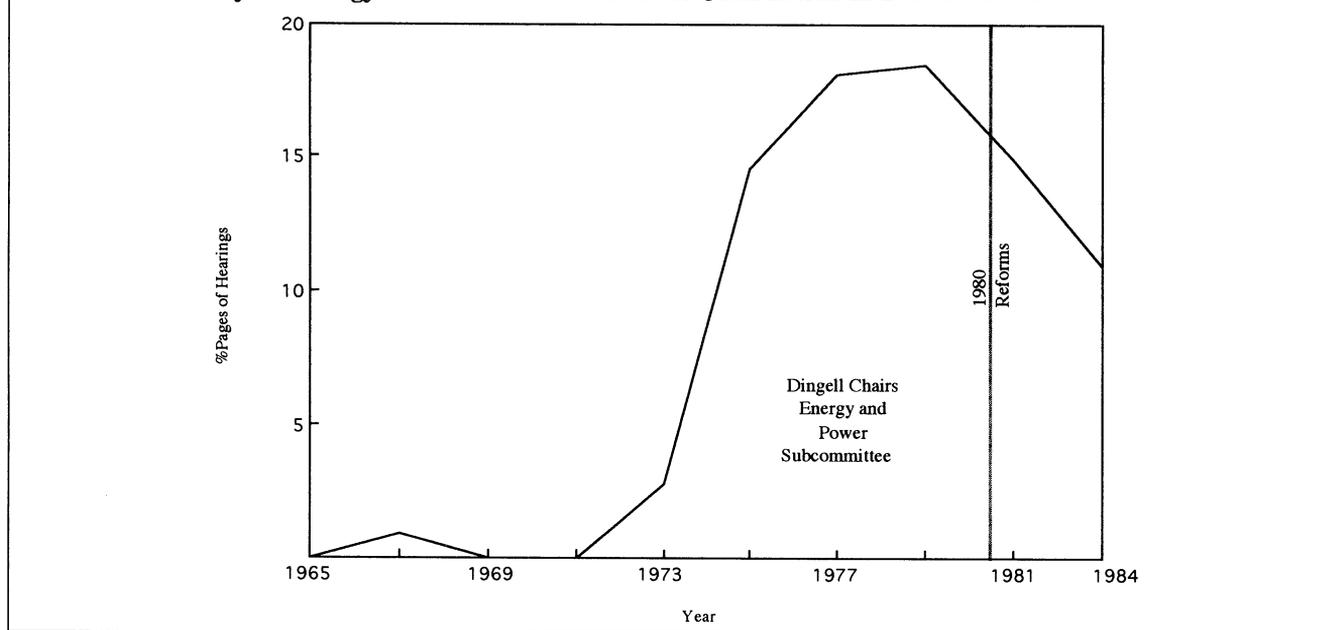
John Dingell, on the verge of becoming the Commerce Committee's chair, led the other committee chairs in a floor fight against the Select Committee proposal, which would have stripped Dingell's Energy and Power Subcommittee of much of its jurisdiction and given it to a new and separate energy committee. A Commerce Committee alternative proposal was offered that solidified Commerce as the panel with principal jurisdiction over national energy policy. The attempt to take energy away from Commerce was thwarted, and the apparent reforms amounted to little more than updating the written rules to reflect reality.

The real battle over energy jurisdiction did not happen between Dingell and the 1980 Select Committee. Rather, the Commerce Committee gained important parts of the energy turf during the mid-to-late 1970s. From his newly created Subcommittee on Energy and Power, John Dingell managed, during the late 1970s, to gain jurisdiction over a wide variety of jurisdictionally ambiguous energy issues, like conservation and a "national" energy policy. Though the Commerce Committee had done little to expand its energy jurisdiction before 1974, that was certainly not true of other committees.

Figure 4 reports the Commerce Committee's hearing activity on energy issues that were granted to the committee in the 1980 reforms. In the year before the reforms, more than 18% of the committee's efforts

**FIGURE 4**

**Commerce Activity on Energy Issues That Were Granted Jurisdiction in 1980 Reforms**



were on energy issues not yet formally granted to them in the rules. From the time that John Dingell's Subcommittee on Energy and Power was created in 1975, the committee sought to establish binding referral precedents over otherwise unclaimed energy turf.

With a subcommittee in place, hearings on proposed oil import taxes were held, followed quickly by investigations into synthetic liquid fuels, solar energy, and energy from helium. Soon the committee began publishing a biennial compilation of energy-related acts within the jurisdiction of the committee. Dingell also hosted widely publicized hearings outlining a national energy strategy, hearings so extensive that they filled eight large volumes. In 1977, Commerce reported a bill creating the Department of Energy: its oversight would firmly establish the Commerce Committee as a major player in all energy legislation.

As with the earlier reforms, the Commerce Committee's common law jurisdiction had expanded before its statutory jurisdiction was recast. Uslaner aptly called the 1980 jurisdictional changes "deja vu" reforms, "a reinforcing of the status quo in the name of reform" (1989, 154).

Reform is not synonymous with change. Our focus should not be on the temporary floor majorities mustered to pass the 1946, 1974, and 1980 "reforms." Rather, jurisdictional change happens through bill referrals, and our attention should be on policy entrepreneurs and the parliamentarians.

**DISCUSSION**

It is time to recast how political scientists talk about congressional committee jurisdictions and how they

think about congressional reform. Within the rules of the jurisdiction game, turf is up for grabs in legislatures. With clever bill drafting and incremental moves into new territories (strategies discussed in King 1992), the nature of congressional committee jurisdictions is lively indeed. Jurisdictional fragmentation is a direct result of so many committees trying to stake out claims to pieces of larger issues like the environment and national health care. Devoid of common law jurisdictions and the politics of bill referrals, no static notions about Congress can account for the ongoing border wars among committees.

Few things in Congress are more highly sought than committee turf over politically "hot" issues. Subsequent jurisdictional changes ripple through the institution, affecting the power and prestige of the committees. It is no secret why House Commerce has become an especially attractive committee assignment in the last 20 years (Munger 1988): its turf is large and rewarding.

One can scarcely read journalistic reports about Congress without seeing evidence of border wars (Moore 1993; Stanfield 1988). Yet, oddly, political scientists are only now beginning to pay close attention to institutional change in Congress. For the last 20 years at least, the scholarly emphasis has been on finding sources of institutional stability and on specifying the nature of equilibria (Shepsle 1986). But for all the attention equilibria have received, we should never lose sight of the forces that push institutions toward incremental change (Riker 1980; Rowe 1989).

We need a new vocabulary for talking about jurisdictions. Statutory jurisdictions (the usual way political scientists talk about turf) are written down in the House and Senate Rules. Common law jurisdictions emerge through binding bill referral precedents. The

real dynamics of committee jurisdictions are found in referral precedents, not in dusty old books of rules. Also, we need to think about institutional change. It has been shown that jurisdictional "reforms" (i.e., the 1946, 1974, and 1980 changes in the House Rules) simply codified bill referral precedents. Common law jurisdictions were written into the rules, yielding little more than the appearance of change. In the work-a-day world of Congress, institutional change may be glacial, but it is always happening. Instead of focusing all of our attention on what brings about periodic reforms (Rieselbach 1986), we should pay more attention to how rational-actor legislators interact with and shape institutions day to day (Dodd 1986, 1993).

The policy consequences of the jurisdiction game are only now beginning to be understood. Baumgartner and Jones (1993) show how committees can redefine old issues (e.g., by recasting tobacco policy from "agricultural" to "health"). Over time, this breaks down issue monopolies. At the same time, however, the relentless pursuit of turf has left the House and Senate committee systems highly fragmented. There seems to be an almost inevitable tension between gridlock and how accessible a committee system is to various groups. Maybe it is the old trade-off between representation and governance (Shepsle 1988) but in a slightly different form. Only with a view of jurisdictions as malleable and committees as political battle grounds over turf can we begin to think about the causes and consequences of jurisdictional fragmentation.

I do not know how common it is for political institutions to go through "reforms" only to codify incremental and long-standing changes. It happens in the U.S. Congress, and I suspect it happens in every majority-rule institution. Because it takes a majority to update the written rules of most political bodies, the easiest thing to agree on is to embrace the status quo. Does that mean that the status quo is itself stable? Certainly not. It does not take an act of Congress to change the status quo. That happens every time written rules are reinterpreted, every time behavior is modified, and every time a precedent is set. We need to pay more attention to how and why these things are done.

## Notes

Thanks are due Lawrence Dodd, Richard Hall, John Jackson, Bryan Jones, John Kingdon, Kirsten Syverson, and the congressional lobbyists, staffers, and legislators who shared their insights with me.

1. LaRue and Rothenberg (1992), Shipan (1993), and Krehbiel and Lavin (1993) all focus on a turf war involving the House Appropriations Committee. But turf wars involving the Appropriations Committee are atypical and may give the impression that property rights can be easily undermined: they cannot. In general, turf wars are over new territory, not over established ground. The Appropriations Committee is not supposed to write (authorize) legislation on spending bills. By the House Rules, authorizing legislation is something the authorizing (or policy) committees are supposed to do

(House Rule XXI-2). That kind of "turf war" is often done with the acquiescence of the authorizing committee, and it sets no binding precedent.

2. During the Ninety-Eighth Congress, 7.2% of all jointly referred measures were ultimately passed on the House floor. This compares to a success rate of nearly 17% for all singly referred measures during the same period. Oleszek, Davidson, and Kephart speculate that jointly referred bills are less likely to succeed because "by their very nature, bills that are sent to two or more committees are complex and multifaceted. As a general proposition, this raises the possibility of conflict and controversy" (1986, 44). But the parliamentarians suggest another reason. "A great many jointly referred bills are dead on arrival anyway," said one, "so there's no harm in giving everyone a piece of the action."

3. A third type of multiple referral—a split referral—is allowed through the House Rules, but it is no longer used. With split referrals, a bill is supposed to be divided up by sections or titles and given to the committees of jurisdiction. That is time-consuming. Instead, joint referrals serve the same function. Whole bills are given to multiple committees with the explicit understanding that they will work only on sections over which their committees have jurisdiction.

4. Cannon's (1963) *Procedure* has been replaced by Deschler's (1977) *Precedents*, which does not list common law issues separately.

5. In some respects, this approach is a descendant of the uses of hearings by Dodd and Schott (1979, 168–79) and Price (1979). My coding differs in that I specifically look at the distinction between common law and statutory issues and record how and when new issues are linked in a hearing to existing issues.

6. Figure 2 is based on 746 hearing documents from 1947 through 1974. This number only includes hearings on referred bills. A three-year moving average is reported. Subjects in Figure 2 were categorized in the following manner. Health included public health and quarantine generally, drug abuse, alcohol abuse, and children's health. Communications included the regulation of interstate and foreign communications generally, telephones, telegraphs, radios, and television. Ground transportation included regulation of interstate railroads, hazardous materials transportation, regulation of interstate busses, regulation of interstate trucks, regulation of interstate pipelines, railroad labor, railroad retirement, and railroad unemployment. Securities and exchanges included Security Exchange Commission issues generally and mergers and acquisitions. Air transportation included civil aeronautics (primarily accident investigations and airport construction) and postal rates on air mail. Other statutory issues not otherwise classified included interstate and foreign commerce generally, barriers to foreign trade, the Weather Bureau, interstate oil compacts and petroleum and natural gas (except on public lands), inland waterways, the Bureau of Standards, standardization of weights and measures, the metric system, the regulation of interstate transmission of power (except the installation of connections between government water-power projects), war claims, committee housekeeping, and general oversight hearings.

7. To reiterate a point made in the text, Figure 2 excludes hearings for which there was no bill referral, because committees can hold oversight hearings on issues not in their legislative jurisdiction. Since the mid-1970s, only about half of the committee's hearings have focused on referred bills, but during 1947–74, 83% of the hearings addressed referred bills.

8. It is because of the lineage of the Marine Hospital Service that the U.S. surgeon general's official seal still includes a ship's anchor. That, in turn, came from the House Commerce Committee's jurisdiction over international shipping.

9. This followed the creation by Commerce of the House Special Subcommittee on Traffic Safety. In a fairly typical pattern, the committee first received a bill, HR 9836, in the Eighty-Fourth Congress establishing Interstate Commerce Commission authority over the transportation safety regulations for migrant farm workers. This was justified at the

federal level because migrant farm workers often cross state lines (see United States, House, Interstate and Foreign Commerce Committee, 1956b). One month later, the Traffic Safety Subcommittee conducted investigatory hearings into other safety problems (see U.S., House, Interstate and Foreign Commerce Committee 1956a).

10. As is discussed in the text, the hearing documents are maintained by the Congressional Information Service and were accessed through their CD-ROM records.

11. Of course, the meaning of the words *efficient* and *effective* cannot be divorced from one's political views. Alexander Hamilton, as secretary of the treasury in Washington's first administration, complained that it would be inefficient to create a House Ways and Means Committee to oversee the national treasury. He pushed hard to keep the purse in the executive's hands by waving the "efficiency" flag. Among the 1946 reformers, one's view of what an effective legislature might look like was strongly related to whether one chafed at President Franklin Roosevelt's programs. A strong president seemed to imply a weak Congress, which was more troubling to Republicans than Democrats in the 1940s.

12. The 1946 Legislative Reorganization Act most important accomplishment has nothing to do with these two reform elements and is often overlooked; it set in motion the professionalization (and proliferation) of congressional staff (Davidson 1990; Dodd and Schott 1979).

13. The nine excluded were Disposition of Executive Papers; Elections 1, 2, and 3; Enrolled Bills; the Library Committee; Memorials; Printing; and the Committee on Un-American Activities.

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