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*Nonlegislative Hearings and Policy Change in Congress**

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Theory: A theory of conflict-expansion and issue-redefinition is used to explain jurisdictional changes among congressional committees.

Hypotheses: Strict rules regulate the jurisdictions of committees considering legislation, but greater freedom is allowed in nonlegislative hearings. Therefore entrepreneurial committee and subcommittee chairs will use nonlegislative hearings to claim future jurisdiction over new issues and to force recalcitrant rival committees to take action they might not otherwise take.

Methods: All committee hearings from 1945 to 1986 covering drug abuse, nuclear power, pesticides, and smoking are analyzed using various statistical techniques. Interviews with committee staff supplement the analysis.

Results: Both legislative and nonlegislative hearings are shown to be subject to considerable jurisdictional change over time. Nonlegislative hearings are shown to be particularly important in the process of issue-redefinition and in the efforts of legislative entrepreneurs to encroach on established jurisdictions of other committees.

Nonlegislative Hearings and Policy Change

When Senator Edward Kennedy assumed the chair of the Administrative Practices and Procedure Subcommittee of the Judiciary Committee in 1969, he inherited a weak unit with little legislative clout or public visibility. Within five years he changed the direction of federal policy in a dramatic way, however, even without expanding the legislative mandate of his subcommittee. While the "Ad Prac" subcommittee had statutory jurisdiction over only a limited number of topics, it had an extremely broad mandate for administrative oversight and investigation. With virtually the entire federal bureaucracy open to his investigation, Kennedy searched for areas where he could make a mark. After a few years of issue-jumping, he enlisted the assistance of Harvard Law Professor Stephen Breyer in 1974 to help the subcommittee focus on a

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specific issue area. After a year of planning and research, the Ad Prac Subcommittee held oversight hearings on deregulation of the airline industry. The resulting attention to the idea eventually forced Congress to act. When President Carter signed the Airline Deregulation Act of 1978, he asserted that “for the first time in decades, we have actually deregulated a major industry” (quoted in Brown and Stewart 1993, 83; see also Simon 1977; Breyer 1982, 197ff.; Brown 1987). The net result of these oversight hearings and subcommittee investigations was not only the deregulation of the airline industry but indeed a wave of deregulations of a variety of industries, constituting one of the greatest changes in federal practices in decades.

This case hints at the dynamics between policy and committee jurisdictions and at the role of investigative and oversight hearings in this process. The standard view of committee jurisdictions is that they are stable, with areas of specialization compartmentalized, allowing congressional “barons” to establish “fiefdoms.” Bills are referred to substantive committees according to their established jurisdictions, and committees are proscribed from initiating bill hearings where they lack jurisdiction (see, for examples of the “classic” view, Fenno 1966, 1973; Froman 1967). This system, it is often alleged, hampers meaningful change by granting agenda control to those with a vested interest in the continuation of the status quo. This standard view of congressional jurisdictions has an important element of truth. Committee jurisdictions are important. However, they are not immune from change. Further, entrepreneurial members of Congress know that to make their mark they must often stretch the limits of their statutory authorities, or use the committees where they do have influence to force action within the committees where they do not have such sway.¹ In our example, Kennedy used oversight hearings where he had scant jurisdictional claim. Nonetheless, his pressure led to action in another committee and eventually by Congress as a whole.

Recent work in the area of committee jurisdictions has given greater attention to the dynamics of committee control. Studies of the postReform-era Congress note that jurisdictional monopolies are less frequent and that statutory jurisdictions increasingly overlap. The percentage of bills jointly referred to more than one committee has increased dramatically, for example (Dodd and Oppenheimer 1981; Collie and Cooper 1989; Young and Cooper 1993; King 1994). The substantive content of bills is largely affected by the committee that considers them, so

¹For an especially compelling treatment, see King (1996).

jurisdictional control is central to the legislative process (Jones, Baumgartner, and Talbert 1993).

Leaders of congressional committees and subcommittees use nonlegislative hearings for two important purposes: to justify future claims for jurisdiction over legislation and to force rival committees to act on matters that they might prefer to avoid. Legislative hearings are those that consider bill referrals. All others, including oversight and investigative, are considered nonlegislative. Nonlegislative hearings are important in jurisdiction-grabbing because there are few restrictions on the topics that any subcommittee may investigate. Committee leaders are adept at using nonlegislative hearings in order to claim future legislative referrals. This threat is often enough to cause rival committees to act to protect their own jurisdictional claims. Nonlegislative hearings have a greater effect on the legislative process than has been recognized in the literature.

Our example of Senator Kennedy and the Ad Prac Subcommittee provides a further illustration of this point. One of the most important aspects of the subcommittee's investigation of the Civil Aeronautics Board (CAB) involved gaining jurisdiction from the Commerce Committee. In fact, the Commerce Committee and its Subcommittee on Aviation strongly objected to Ad Prac plans to hold hearings. Senator Magnuson and Senator Cannon sent Kennedy a memo arguing that "the issues which have been raised by your staff are properly within the jurisdiction of the Committee on Commerce" (Simon 1977). While Kennedy responded to the letter by delaying the hearing, the Ad Prac Subcommittee continued its plans for the full investigation, which established the Ad Prac Subcommittee as an authority in the area and formalized its claim to more jurisdiction. These jurisdictional battles are sometimes controversial, and sometimes go unnoticed, but they are a constant part of congressional life.

Public and official definitions of policy issues often change over time, as we have shown in previous work (Baumgartner and Jones 1991, 1993; Jones, Baumgartner, and Talbert 1993). Changes in these issue-definitions are often closely related to jurisdictional change in Congress. When issues come to be understood in new ways, different committees are able to claim new areas of jurisdiction. For example, regulation of pesticides was long the exclusive domain of the agriculture committees in the House and the Senate, as the chemicals were considered simply as the tools of farmers. However during the 1960s and 1970s the environmental aspects of the industry became more salient publicly and a new set of congressional committees took an interest in these matters. We have shown in previous work that the dual processes of issue-definition

and jurisdictional change often combine in an interactive manner to reinforce rapid changes in public-policy outcomes.

In this article we show that nonlegislative hearings often play a central role in issue-definition, and therefore have a great impact on the policies eventually produced by Congress. Committees may begin with nonlegislative hearings on a particular element of an issue well established within the jurisdiction of another committee. If they are able to convince others that the issue actually has several dimensions, and that they have a jurisdictional claim to one of them, they may be able to claim some future jurisdiction. Activities by challenger committees may also force those committees faced with losing jurisdiction to act in order to forestall greater losses, as in the case of Kennedy and the CAB. Oversight hearings, which are not so tightly controlled by the Office of the Parliamentarian, by the party leadership, nor by strict rules of precedence, are often used by committees to claim new areas of jurisdiction or force rival committees to act.

In the pages that follow, we first discuss how oversight hearings are used by congressional committees to influence jurisdictional boundaries. Second, we examine empirical evidence using four diverse issues to demonstrate this process. Our evidence comes from examining all congressional hearings on the topics of pesticides, smoking, drug abuse, and nuclear power from 1945 to 1986, and from personal interviews conducted with members of congressional committee staffs.² We also make use of extensive coding of witnesses appearing in hearings on the topics of smoking and pesticides during the same period. Finally, we place our findings in the broader context of the literature on oversight and agenda studies, posing new questions about how congressional oversight may be used as a tool in the policy process.

Committees and Jurisdictions

The organization of the workload through a specialized committee structure is one of the most important elements of how Congress works,

²Interviews were conducted with 25 staff members of congressional committees in both the House and the Senate during September 1993. The House committee staff members were from the Energy and Commerce; Education and Labor; Judiciary; and Ways and Means. The Senate committee staff members were from the Finance; Labor and Human Resources; and Energy and Natural Resources. The interviews were not taped, but notes were taken during the interviews, and they were transcribed more completely immediately following the interview. The interviews consisted of open-ended questions, beginning with questions about the staff-member jobs and duties, progressing to more focused policy issues. Most interviews lasted about 45 minutes, with a few stretching to nearly two hours. All of those interviewed were promised total confidentiality, and we have done our best to provide it.

and it has been one of the most often studied aspects of that institution (Masters 1961; Fenno 1966, 1973; Cooper 1977; Shepsle 1978, 1979; Krehbiel, Shepsle, and Weingast 1987; Gilligan and Krehbiel 1990; Smith and Deering 1990; Krehbiel 1991; Hall 1993; Browne 1995. On oversight of the bureaucracy, see Aberbach 1990; Arnold 1979, 1990; Bibby 1966; Dodd and Schott 1979; Ogul 1976, 1981; Ripley and Franklin 1987). These jurisdictions are neither automatically enforced nor straightforward to determine. In fact, turf battles have long been a part of the congressional process. These battles are not simple personality conflicts among ambitious politicians, but they have important policy consequences as well.

While cable television regulation had a foundation in the Energy and Commerce Committee, it was eventually referred to the Judiciary Committee as anti-trust legislation. A staff member from the House Judiciary Committee explained this referral by emphasizing the power of the chair, not previous jurisdictional control. "Our chair wanted that bill [Cable Television Regulation Bill of 1992] because it was an important issue. Since he is powerful and intimidating, he usually gets what he wants" (Staff Interviews 1993). President Clinton's health-care-reform effort involves turf wars between the House Ways and Means Committee, the House Energy and Commerce Committee, and the House Education and Labor Committee, with similar conflicts in the Senate. "It is an internecine fight that pits congressional committee against committee" (Rubin 1993). Battles for jurisdictional control have long been an important element of the legislative process, but they have only recently become the object of serious scholarly analysis.

David King (1991, 1994) reports that the power of committees to expand their jurisdictional boundaries is influenced by the relationships between bill-drafting committee members and the parliamentarian. In order to get a referral, legislators write bills with certain language, often in close contact with the office of the parliamentarian. Members often seek the advice of the parliamentarian, asking where bills drafted in particular ways will be referred. In reference to upcoming health reforms, a senior health-policy advisor from the House Energy and Commerce Committee described "jurisdictional fishing" where the committee chair consults the committee parliamentarian, who consults the House parliamentarian on phrasing and constructing bills to insure referral. The jurisdictional boundaries for health care revolve around the Energy and Commerce Committee and the Ways and Means Committee in the House. The jurisdictional fishing suggested by the Energy and Commerce Committee member was to allow the proposed bill to get as close as possible to tax issues (clearly under Ways and Means jurisdic-

tion) without actually mentioning taxes (Staff Interviews 1993). If they could avoid certain language, they hoped to get the referral, and they wrote the bill with this in mind. Clearly, referrals do not just happen. They are the result of planning, strategy, and negotiation.

Claims of specialized information and established expertise play an important role in the referral game. This relationship was confirmed by a staff member from the Senate Labor and Human Resources Committee, who reported that the more specialized information the committee possessed on new issues, the greater their chances to claim future jurisdictions. For example, when asked about the new health reform, the staff member responded, "we are the experts on this issue, our chair has been pushing it for years, we *have* to get the referral" (Staff Interviews 1993). Shortly after the Clinton health-care-reform package was released, the House Education and Labor Committee released a report detailing their claims to relevant portions of the plan (Rubin 1993, 2735). In addition to the report, the committee also announced plans to hold investigative hearings, or as one staff member said, to "flex their muscles." A staff member for a House committee chair commented that hearings are often useful to gauge the positions of other committees. "The hearings are basically for show, but they allow us to flex our muscles, and provide a record of our position. Then we can find out who is with us, and who is against us" (Staff Interviews 1993). After such position taking, the committee usually receives communication from other committees expressing their concerns and interests in the problem. This record allows the committee to know their competition and claims to the issue any other committees may have. It also provides a useful argument for future discussions with the parliamentarian over which committee should be granted jurisdiction over which legislation. Nonlegislative hearings are used to claim future legislative authority. Committee leaders and their staffs establish their records as experts in the area so that future legislation is more likely to be referred to them.

Hearings have been labeled a two-edged instrument, in that they may promote some problem or seek to remove it from public debate (Griffith 1951). "Booster" hearings are often held to focus on the seriousness of some public problem and to build government support. On the other hand, in "critical" hearings, executive policies and programs are attacked. Aberbach (1990) finds that most often oversight hearings are of the booster variety, and he shows clearly how oversight hearings are held in a context of policy advocacy. Hinckley adds that "hearings may provide the opportunity for representation of different interests, although chairs have been known to 'pack' the hearings with spokesmen

for one point of view” (Hinckley 1971). Clearly, hearings are held with strategic purposes in mind. From the topics chosen to investigate to the list of witnesses invited to testify, nonlegislative hearings are always held in the context of future legislation.

A staff member for a Republican member of the House Energy and Commerce Committee restated this point, complaining that “hearings are not much use to us because the chairman is from the other party, and the hearings are usually stacked against us.” In order to get a witness put on the list to testify at hearings, the staff member responded that “it was possible, but it would expend considerable resources, of which we have very little” (Staff Interviews 1993). As a general rule, the hearing process serves to frame a debate from the perspective of the committee that holds them. Thus, stacking is a common practice to allow the committee to control the hearings and to encourage a particular definition of the problem. If this reframing process is successful the committee may be able to claim control of legislation in the area in the future.

Research Design, Data, and Results

We expect to show two simple, related facts concerning nonlegislative hearings: they are an important means by which entrepreneurial chairs frame issues in new ways favorable to future jurisdictional claims; they help dismantle previously established jurisdictional monopolies enjoyed by others.

We have coded each of nearly 3,000 congressional hearings that appeared in the *CIS Index to Congressional Hearings* from 1945 to 1986 for each of four issues: pesticides, smoking, drug abuse, and civilian nuclear power. First, the hearings were coded according to which committees and subcommittees held them. This allows us to determine which committees have jurisdiction, and whether or not this jurisdiction is dominated by a small number of committees or shared by several. Further, we distinguish between those hearings scheduled to review a bill and all others. These nonlegislative hearings may be investigatory or oversight in nature. The rules of jurisdictional assignment that apply to bill-referral hearings do not apply when there is no legislation, so our simple distinction between “legislative” and “nonlegislative” hearings corresponds to an important element in the jurisdiction game. Finally, as we have done in previous work, we group the committees and subcommittees into jurisdictional blocks or venues for each issue. These are groups of committees or subcommittees that might share a policy view or orientation (see Baumgartner and Jones 1993; Jones, Baumgart-

ner, and Talbert 1993). From this venue measure we create an index of jurisdictional monopoly, which is simply the percentage of all hearings in a given year held in one of two rival venues.³ This measure of jurisdictional monopoly allows us to distinguish between issues firmly within the jurisdictional control of a single committee or a group of like-minded committees and those subject to serious jurisdictional disputes between hostile groups of committee entrepreneurs with different attitudes towards the policy in question.

For the cases of smoking and pesticides, we have also coded every witness who appeared at the hearings. For each of these two issues, we distinguish among those witnesses representing a specific group or professional interest: agricultural, environmental and health, or other and uncodeable. Agricultural witnesses are those that come from agricultural backgrounds such as farmers, USDA employees, pesticide manufacturers. Environmental and health witnesses are those that represent the medical profession, health officials, EPA employees or representatives, and others likely from their professional affiliation to focus on health and environment issues. Over 6,000 witnesses appeared in 386 hearings on pesticides matters during this period; 3,625 witnesses spoke before Congress in 313 hearings on smoking and tobacco matters.

Who Testifies before which Committees?

In both nonlegislative hearings and those scheduled to review a bill, the planning for witness testimony tends to be rigidly controlled, usually under the direction of the committee chair. For the air transportation example, Senator Kennedy planned the oversight hearings for over a year, down to the smallest detail. Each witness was carefully selected and reviewed in order to best make the point that Kennedy wanted the hearings to emphasize (Simon 1977).

Table 1 and Table 2 show which types of witnesses are invited to testify before which committees, for both bill-referral and nonlegislative hearings. If our expectations are correct, the nonlegislative hearings would be home to a greater degree of bias than the referral hearings, and indeed this is the case. Based on nearly 10,000 witnesses coded for the two issues, nonlegislative hearings appear typically to show a greater bias than bill referral hearings, although neither could be seen as anything approaching neutral.

³In the four cases we study in this article, each can be neatly divided into only two rival venues. Other issues could be more complicated, and the measure of jurisdictional control that we use here might not be appropriate.

Table 1. Congressional Testimony on Smoking/Tobacco before Agriculture Committees versus Testimony before Health and Taxation Committees, 1945–1988

Venue of Hearings	Type of Witnesses Testifying			
	Agriculture and Trade	Health	Taxation	Total
Agriculture and trade committees	91	4	4	100.0 (1141)
Health committees	34	66	0	100.0 (472)
Taxation committees	20	21	58	100.0 (221)
Total	68	22	10	100.0 (1834)

Gamma = .83; tau-*b* = .61; Chi-squared (4 d.f.) = 1322.2 ($p < .001$).

B. Nonlegislative Hearings

Venue of Hearings	Type of Witnesses Testifying			
	Agriculture and Trade	Health	Taxation	Total
Agriculture and trade committees	98	2	0	100 (1378)
Health committees	21	79	0	100 (357)
Taxation committees	27	0	73	100 (56)
Total	81	17	2	100 (1791)

Gamma = .97; tau-*b* = .81; Chi-squared (4 d.f.) = 2509.1 ($p < .001$).

Note: N's reported in this table refer to witnesses, not hearings. There were 144 bill referral-hearings and 169 nonlegislative hearings on smoking during this period.

Table 1 shows that 91% of the witnesses invited to testify before an agriculture-venue committee considering legislation on smoking or tobacco were themselves from the agriculture industry. For nonlegislative hearings, the degree of bias is even greater: 98% of the witnesses before agriculture committees are from the industry. In the rival committee-venue, we see a similar, but less marked, tendency to invite those with whom one already agrees: 66% of those testifying before health or environmental committees considering legislation on smoking were themselves health experts. In nonlegislative hearings before the health-related committees, 79% of the witnesses were from the "home venue." We can note two important lessons here. First, committees neither seek nor receive complete information. Rather, they seek to promote certain views of their issues to bolster their abilities to produce

Table 2. Congressional Testimony on Pesticides before Agriculture Committees in Congress versus Testimony before Health or Environmental Committees, 1945–1988

Venue of Hearings	Type of Witnesses Testifying		Total (N)
	Agriculture and Industry Representatives	Health and Environment Representatives	
Agriculture and related committees	70	30	100 (1396)
Health, environment, and related committees	30	70	100 (977)
Other committees	48	52	100 (325)
Total	53	47	100 (2698)

Gamma = .69; tau-*b* = .39; Chi-squared (1 d.f.) = 375.6 ($p < .001$).

B. Nonlegislative Hearings

Venue of Hearings	Type of Witnesses Testifying		Total (N)
	Agriculture and Industry Representatives	Health and Environment Representatives	
Agriculture and related committees	74	26	100 (766)
Health, environment, and related committees	27	73	100 (2089)
Other committees	41	59	100 (466)
Total	40	60	100 (3321)

Gamma = .77; tau-*b* = .43; Chi-squared (1 d.f.) = 523.2 ($p < .001$).

Note: N's reported in this table refer to witnesses, not hearings. There were 134 bill-referral hearings and 252 nonlegislative hearings on pesticides during this period.

favorable legislation. Second, bill-referral hearings tend to be slightly more balanced than nonlegislative hearings. There is probably greater pressure to allow dissenters to speak in hearings considering actual legislation. Nonlegislative hearings appear not only to allow greater jurisdictional freedom, but also to be the forum to preach to the converted.

Table 2 shows a similar, though slightly less pronounced, pattern in the case of pesticides. Health or environmental witnesses comprise 70% of all witnesses testifying before health or environmental committees considering bill referrals, and 70% of those testifying on similar issues before agriculture committees are from agriculture or industry them-

selves. Slightly higher for nonlegislative hearings, these percentages are 73% for health committees, and 74% for agriculture.

There is clearly extensive stacking of witnesses in hearings, but the practice seems more prevalent in nonlegislative hearings. The tactic seems to have been particularly important in the case of smoking policies. This pattern may be strongest where two fundamentally opposing dimensions of a single issue are home to powerful protective venues in Congress. The smoking case is remarkable in that two powerful and well-established sets of committees have clearly established jurisdictions over different parts of the same issue. Agriculture committees discuss tobacco; health committees discuss cancer and other health effects. Each invites those with a similar perspective to speak, and each attempts to promote broader acceptance of their conception of the issue.

These findings should make clear the pitfalls inherent in any analysis of committee jurisdictions that does not consider the actions of rival committees. Smoking and tobacco policy is made neither by the agriculture committees acting in isolation nor by the health committees alone. Rather, both sets of committees are involved, and the policies eventually chosen by Congress are the net result of these shared jurisdictions. Many analyses of jurisdictional control or "government by subgovernment" may be misleading if the evidence comes from the patterns surrounding any single committee or allied set of committees. In many cases, a firmly entrenched interest with cozy relations to a set of congressional allies may still be opposed by a rival group hostile to its interests. This would only be evident if the analysis, like that presented here, were based on the issue and not the committee. By following an issue rather than a committee, we allow for the possibility of split jurisdictional control, and we can observe its importance.

Jurisdictional Control over Time

If the redefinition of issues occurs more easily through the oversight process than in legislative hearings, we would expect that jurisdictional dominance, the extent to which an issue is controlled within one committee's jurisdiction, would be more affected by the former. We expect nonlegislative hearings to provide a better arena for staking out new jurisdictional claims than bill-referral hearings. In particular, nonlegislative hearings would be more useful vehicles than referral hearings for breaking up issue monopolies.

Jurisdictional dominance is the extent to which hearings in an issue area are scheduled by a single committee, or a group of related committees that share a common view on the topic. There are good reasons for expecting related committees to hold similar views on an issue be-

cause of the tendency of issues and the coalitions that form around the issues to bifurcate (see Baumgartner and Jones 1993; see also Sabatier 1993). Since reversals of dominance are possible in which one side of an issue, previously not dominant, becomes dominant, jurisdictional dominance is calculated to have a maximum score when there is no conflict and a minimum score when there is even competition between two rival venues. This is done by calculating the percentage of hearings held in the dominant venue in a given year (ranging from 0% to 100%), subtracting 50, and reporting the absolute value of the result. This resulting variable has a maximum score of 50, indicating complete jurisdictional control by one set of committees, and a minimum of 0, indicating an even split in control.

Finally, we base the analysis on the number of distinct bodies (full committees or different subcommittees) holding hearings each year, rather than on the raw number of hearings. The number of distinct congressional bodies is a more critical indicator of jurisdictional control (Jones, Baumgartner, and Talbert 1993). We have recreated the analysis that follows using both indicators, and there are scant differences in the results. As more bodies are involved, the number of hearings increases proportionately.⁴

If our model is correct, we would expect nonlegislative hearings to be at least as important as bill-referral hearings in accounting for any declines in jurisdictional dominance. If a committee or subcommittee wanted to investigate some aspect of nuclear power, for example, but lacked statutory jurisdiction, it could still hold oversight hearings on the topic in an attempt to define the issue from this new perspective. If its efforts were successful, future hearings to consider legislation would more likely be taken away from the previously dominant set of committees. We have argued elsewhere how one of the most powerful and secretive committees in the postwar Congress, the Joint Committee on Atomic Energy, was undone by precisely this kind of issue-redefinition. The Joint Committee was designed and used to limit jurisdictional control. However when the issue became understood as one of environmen-

⁴Shared jurisdictions are important in breaking down legislative monopolies because of the increased attention generated by different committees holding respective hearings, even if they are on similar topics. That several subcommittee chairs have shown interest in the same question at the same time is usually a sign that significant legislative movement may be imminent, thus inducing more attention by other members of Congress. Five hearings held by five different bodies would therefore be potentially more important than five hearings held by the same subcommittee. In any case, the empirical consequences of these differences are few because they are so closely related.

tal degradation and consumerism rather than one of national security and economic growth, rival congressmen from other committees insisted on a change in the rules. The committee was abolished as a result, its jurisdiction split between several previous rivals (Baumgartner and Jones 1991, 1993).

Model and Results

In each of the four cases we have studied the jurisdictional dominance of particular committee-venues declines over time. Further, this decline is associated with increases in the number of hearings conducted and in the number of different bodies holding the hearings, as we have reported before (Jones, Baumgartner, and Talbert 1993). The relative roles of nonlegislative and referral hearings have not previously been reported, but these also conform to our expectations. Increases in oversight hearings can lead to increases in referral hearings, as proponents of the status quo fight attempted issue-redefinitions and to avoid subsequent losses in jurisdiction. Nevertheless, we expect that increases in nonlegislative hearings by hostile committees and subcommittees will be related to later declines in the percent of hearings held in the rival venue, even when we control for referral hearings.

In Table 3, we estimate the model:

$$J_t = a + b_1x_{1t} + b_2x_{2t} + b_3y_{t-1} + e_t.$$

where J_t is the venue or jurisdictional dominance variable in year t ; x_{1t} is the number of bodies (committees or subcommittees) holding nonlegislative hearings in a given year; x_{2t} is the number of bodies holding referral hearings in that year; and y_{t-1} is the value of the jurisdictional-dominance variable in the previous year. This lagged variable is included because our approach to the strategic use of hearings implies that most hearings will be held in a dominant venue, so that we want to hold that value constant in estimating the impact of nonlegislative hearings. We also include a measure of committee and subcommittee activity on bill-referral hearings in order to assess the uncontaminated effects of each type of hearings. Again, we expect that increases in *either type* of hearing will lead to declines in jurisdictional dominance, but that nonlegislative hearings will be more important in bringing about the decline of jurisdictional monopolies. We expect, first, that the coefficients for both referral and oversight hearings will be negative; and, second, that the number of bodies holding oversight hearings will have a larger negative coefficient than the number of bodies holding referral hearings. If our

results are robust, they should stand even after controlling for previous levels of jurisdictional control. Hence our hypotheses may be stated as follows:

$$b_1 < 0;$$

$$b_2 < 0;$$

$$b_3 > 0;$$

$$b_1 < b_2.$$

Table 3 offers the information for the appropriate statistical estimates for our model of oversight and jurisdictional control. In that table, we present OLS regression estimates for the model described above, for each of our four policy areas. Appropriate tests indicate that autocorrelation is not a problem, with the Lagrange multiplier test showing no significant autocorrelation “spikes” for five lags (Greene 1993).

In three out of four cases, the model predicts as hypothesized. The coefficients for the number of bodies conducting oversight hearings are significant and in the proper direction, while the coefficients for the number of bodies conducting referral hearings are smaller, and do not reach accepted significance levels. That is, when appropriate controls are instituted, referral hearings do not contribute significantly (in a statistical sense) to the decline of jurisdictional dominance. Nonlegislative hearings, on the other hand, are significant. For all of our policy areas except for drug abuse, the number of bodies holding oversight hearings is negatively and significantly related to declines in jurisdictional dominance. For three of the four policy areas, referral hearings are negatively related to dominance, as expected (but the results are insignificant), while in the case of pesticides, referral hearings are positively (but again insignificantly) related to dominance. Our expectations are met in almost every case. Most importantly, the data show that nonlegislative hearings appear to play a particularly important role in breaking apart policy monopolies.

The case of drug abuse represents an interesting deviation from the patterns observed in the other three areas. We have examined graphs of each of the variables in this study, and for the cases of pesticides, smoking, and nuclear power, we observed sustained declines in monopoly jurisdictional controls within reasonably short time spans. For drug-abuse policy, however, the jurisdictional monopoly collapsed within a single year (1968). Throughout the period 1945 through 1967, the na-

Table 3. Percentage of Hearings Held in the Dominant Venue and Number of Bodies Conducting Hearings in a Given Year, 1945-86

Policy Area	R ²	Constant	Number of Bodies Conducting Nonlegislative Hearings	Number of Bodies Conducting Referral Hearings	% Hearings Conducted in Dominant Venue Previous Year	Durbin's H	Lagrange Multiplier Statistic
Nuclear power	0.67	47.67* (6.41)	-1.27* (.43)	-1.11 (.77)	-0.04 (.12)	0.35	**
Drug abuse	0.63	24.88* (6.84)	-.20 (.42)	-1.15 (.80)	0.45* (.14)	-1.12	**
Smoking	0.32	30.18* (6.59)	-2.30* (.73)	-0.26 (1.43)	0.17 (.14)	1.73	**
Pesticides	0.48	36.18* (5.70)	-2.61* (.84)	0.30 (1.31)	0.16 (.13)	1.33	**

Note: Entries are unstandardized regression coefficients (standard errors in parentheses). N = 42 (1945 to 1986) for each case but drug abuse (N = 41; 1946-86). There were no drug abuse hearings in 1945).

* p < .05, two-tailed test.

** Lagrange multiplier statistic indicates no significant autocorrelation for 5 lags.

tion's drug policy was dominated by an enforcement mentality, and those policy efforts that were mounted at the national level were exclusively directed toward control and interdiction. Then, as the drug problem reached the national agenda, the number of hearings dramatically rose (from three in 1967 to eight in 1968 and 39 in 1969). The hearings focused both on enforcement-interdiction and on education-treatment, causing a breakup of policy monopoly of the enforcement agencies. After the dramatic collapse of the enforcement monopoly, numerous hearings were held in both venues, but oversight hearings increased as budgetary outlays in both areas increased. Moreover, to some degree the enforcement venue reasserted itself during the Reagan years. So while nonlegislative hearings were intimately bound up with the initial collapse of the enforcement monopoly during the late 1960s, they performed a different role thereafter. This problem of dual roles (and the exceptional collinearity among the two types of hearing for drug policy) explains the lack of significance for *either* kind of hearing.⁵

Table 4 provides a direct assessment of the dynamics of national drug policy. We estimate the relative roles of legislative and nonlegislative hearings, as in Table 3, but we have included an intervention-type dummy variable which shifts value in 1968. The upsurge in total number of hearings (as well as the total number of bodies holding hearings) is very tightly associated with the intervention dummy. Because of potential autocorrelation problems we have estimated this equation using GLS. The intervention variable, denoted monopoly collapse, is clearly significant. While neither referral nor oversight hearings are significant, they both operate in a *positive* direction (that is, in a direction contrary to the hypothesis).

This suggests a modification to our theory of jurisdictional change. When jurisdictional monopolies become fully competitive, then nonlegislative hearings may shift roles, moving from devices for the strategic claiming of jurisdictional "turf" to the more traditional device of overseeing the bureaucracy (and perhaps making symbolic statements). They are no longer as useful as devices for attacking the status quo. We might see a jurisdictional struggle as involving three stages, each characterized by a different use of nonlegislative hearings. In the first stage, actors within a particular policy venue use nonlegislative hearings as devices to oversee the bureaucracies under their jurisdiction. This is the traditional view of the oversight function. In the second stage, "poaching" committees may use nonlegislative hearings to raise new aspects of the policy, thereby claiming part of the turf. If the turf battle

⁵ Compare this to Jones, Baumgartner, and Talbert (1993, 668) where the combined totals of referral and nonlegislative hearings are significantly related to the collapse of jurisdictional control in the drug-policy area.

Table 4. Generalized Least Squares Estimation of Relationship between Percentage of Hearings Held in Dominant Venue and the Number of Bodies Conducting Nonlegislative and Referral Hearings on Drug Abuse in a Given Year, 1946 to 1986

Policy Area	R^2	Constant	Number of Bodies Conducting Referral Hearings	Number of Bodies Conducting Referral Hearings	Number of Hearings in the Dominant Venue in the Previous Year	Monopoly Collapse ^a	Durbin's H
Drug Abuse	.079	28.32* (4.90)	.55 (.28)	0.22 (.55)	0.40* (.10)	- 31.77* (5.65)	- 0.46

^a Variable equals 0 from 1946 through 1967; 1 thereafter.

* $p < .05$, two-tailed test. $N = 41$.

is won, the new structure may become competitive or the competing committees may reach an accommodation on the division of the jurisdictional spoils. In such a case, both sides may use nonlegislative hearings as oversight devices once again. This appears to have been the pattern in the case of drug abuse policy. What had once been a single area dominated by enforcement concerns has become two distinct areas: one still concerned with enforcement, another powerful group concerned with education and treatment. Considering the tremendous increases in federal funding in this area, there seems room for both, whereas in the past there was greater competition.

Nonlegislative hearings are more closely linked to changes in jurisdictional control than are referral hearings for three of the four cases we studied. While oversight and referral hearings are undoubtedly related (that is, the factors that stimulate more oversight hearings also seem to stimulate more referral hearings), the changes in oversight appear to have a greater impact on jurisdictional stability. Referral hearings are not as likely to bring a reduction in the jurisdictional control of the issue. First, there is wider variability in oversight hearings, because they are easier to schedule by an entrepreneurial committee or subcommittee chair. If the issue is of great interest, an entrepreneurial congressman can schedule hearings. If it is of low interest, oversight hearings are less likely to be scheduled, thereby leaving the field to those with the established jurisdiction. Second, often referral hearings occur in response to breaches in jurisdictional monopolies forged through the strategic use of oversight hearings, so their occurrence is stimulated by oversight activities. Hence the most radical declines in jurisdictional dominance tend to occur with upsurges in oversight hearings.

Conclusions

Oversight has traditionally been viewed as a process in which elected members of government watch over the administration of public policy. Given the complicated nature of this task, Congress generally seems to fall short of the goal of effective and consistent oversight. Our study proposes a new way to look at oversight and investigatory hearings in Congress. When these actions are considered as part of the broader legislative context in which rival congressional bodies search for ways to have a policy impact, they appear to play an important substantive role. Nonlegislative hearings are an important part of a process through which issues are raised, redefined, and put on the table for serious consideration. In fact, we concluded that models of oversight behavior by Congress must also include consideration of the indirect uses of the oversight function. Often, the justification of oversight is to claim future jurisdictional control from a rival committee which may

have a vested interest in the maintenance of the status quo. The importance of this strategic use of the oversight function will escape any analyst, assuming clear jurisdictional control rather than relying on a broader empirical observation that allows for competing congressional overseers.

We have examined these questions in several different ways by using data from four diverse policy issues over the last 40 years. Our evidence suggests that nonlegislative hearings are tremendously biased. Even more than in the case of bill-referral hearings, committee leaders stack the list of witnesses in nonlegislative hearings to insure that a certain viewpoint is heard. This witness stacking makes sense if we consider one of the main purposes of nonlegislative hearings: to focus on those aspects of a given policy that justify future claims to jurisdictional control by the committee. Second, we have argued that nonlegislative hearings are an attractive tool for committee entrepreneurs hoping to widen their jurisdictional boundaries. Referral hearings are subject to rules of precedence, and rival committees jealously guard their turf. One of the only ways to establish expertise in a new area is to begin with nonlegislative hearings focusing on a new element of an old issue. This indirect strategy may either force a rival committee to act in ways that it would not have done independently, or it may provide the justification for a future referral when legislation is being considered.

Finally, we have argued elsewhere that jurisdictional change in Congress often follows a punctuated pattern, with stable periods interrupted by rapid change (Jones, Baumgartner, and Talbert 1993). These periods of change are dominated by the extensive use of oversight hearings to encroach on established jurisdictional boundaries. Oversight hearings allow committees to investigate new issue areas and to build an increased base of information in these areas. As more oversight hearings are held in rival congressional venues, those committees that are put in the defensive posture must also increasingly hold hearings or risk their jurisdiction. Thus, oversight hearings can force reviews of current policy in a way that the more structured bill-referral process can not. Committee oversight is not only a check on the administrative agencies, but also a check on other committees. A derelict committee may be prodded into action by challenger committees seeking a piece of its jurisdiction. Once the jurisdictional claim is established, a new group has agenda-setting powers, and the resulting legislation may differ accordingly.

These jurisdictional dynamics conform to the notion of accountability through competition. Challenger committees will only be interested in other jurisdictions if they perceive a payoff. Therefore, members of the challenger committees must perceive public and political benefits

from increased attention to the issue. In all the cases we have reviewed, this appears to be the case. Challenger committees expanded their jurisdictions because the committees in control of the issues failed to act despite important changes in the public understanding of the underlying policies. While our discussion of these challenges emphasizes their successful occurrence, we should point out that such effective challenges are probably rare. Stability in jurisdictions appears to be the norm, but such periods of punctuation can occur, usually through the use of oversight hearings. When they do occur, they can have long-lasting policy consequences.

Our study also points to the importance of something that those in Congress know only too well: in order to maintain control, a committee must jealously guard its jurisdictional turf. Even though Congress is ruled by a number of parliamentary procedures and norms, these rules are not so strict, nor their application so obvious, as to be automatic. As analysts, we ignore at our peril the leeway that changing issue-dimensions give to jurisdiction-seeking members. If William Riker correctly distinguishes the "essential anarchy" of a political campaign, where rules of order and germaneness do not apply, from the relatively orderly rules of a formal debate or a court of law (Riker 1993, 84), then we must question where Congress fits on this continuum. We suspect that there is enough flexibility in the definition of issues to push even the highly structured process of congressional hearings closer toward the anarchical side than analysts have often allowed.

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