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Policy Errors in Executive and Legislative Decision-Making

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-Abstract-

Governments in the United States – including both the federal and state governments – develop public policies in both the executive and legislative branches of government. Nominally, the legislative branch of government produces policies that the executive branch then executes, but in reality substantial powers over the creation of public policy rest with the executive branch. This paper shows that the executive branch is more likely to make policy errors than the legislative branch because of the way that the two branches are organized. Both branches listen to expert opinion on policy matters, but a key feature of public policy-making is that in both branches individual elected officials are inclined to choose policy experts whose views are close to their own. However, legislative policy experts are drawn from a wider spectrum of policy beliefs, and if accurate policy analyses tend to look more persuasive than inaccurate analyses, policy errors will be reduced by the influence of policy experts in the legislative decision-making process, but not in the executive decision-making process. The normative conclusion is that if more power over public policy is given to the legislative branch relative to the executive branch, policy errors will be smaller. The paper extends a tentative analysis to parliamentary governments, and argues that they have more in common with the U.S. executive branch than with the legislative branch of government.

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Governments in the United States – including both the federal and state governments – develop public policies in both the executive and legislative branches of government. Nominally, the legislative branch of government produces policies that the executive branch then executes, but in reality substantial powers over the creation of public policy rest with the executive branch. This paper shows that the executive branch is more likely to make policy errors than the legislative branch because of the way that the two branches are organized. Both branches listen to expert opinion on policy matters, but a key feature of public policy-making is that in both branches individual elected officials are inclined to choose policy experts whose views are close to their own. However, legislative policy experts are drawn from a wider spectrum of policy beliefs, and if accurate policy analyses tend to look more persuasive than inaccurate analyses, policy errors will be reduced by the influence of policy experts in the legislative decision-making process, but not in the executive decision-making process. The normative conclusion is that if more power over public policy is given to the legislative branch relative to the executive branch, policy errors will be smaller.

While the analysis here is intended to apply primarily to the American form of government, its conclusions can be applied to parliamentary governments, where after an election, one party or a coalition of parties runs the government. Parliamentary government is shown to resemble executive decision-making more closely when evaluating public policy options, leading to more policy errors in parliamentary government than in legislative decision-making in the United States.

Design Features of Government

The government described in this model follows closely the design of the U.S. federal government and the governments in the U.S. states. The executive branch is run by a chief executive, who corresponds to the President of the United States or to the governor of an individual state. The legislative branch is run by a legislature composed of individuals who run on their own individual platforms, and while they may be party members, they run on their own with the support of their parties but are not selected by their parties. This is a key distinction between the U.S. model as depicted here and parliamentary systems where candidates are chosen by their parties. The reason this distinction is important in the model that follows is that legislators in the U.S. system are able to make policy decisions that are independent of their party leaders' decisions, whereas in parliamentary systems (discussed later in the paper) the assumption is that party members follow the party line that is determined by the party leadership. In the framework of the model, both the executive branch and the legislative branch take stands on policy issues. Each individual legislator, and the chief executive in the executive branch, retain experts who support that politician's policy stand. However, the persuasiveness of the experts is assumed to be a function of how accurate their policy predictions are, allowing the policy position of the legislature as a group to be modified by expert opinion.

In the model that follows, policies are defined as continuous variables. For example, one might propose a new government program that is going to cost a certain amount, and the policy variable is the cost of the program. As another example, one might consider entering into a military conflict, and policy variables would be the number of lives lost in the conflict, or the total cost of the military operation. As yet another example, one might propose a tax cut, and the policy variable would be the revenue reduction that would result from the cut. As these examples show, policy choices rest on an accurate assessment of the policy outcome, should the policy be undertaken. What is being analyzed here is not the final policy outcome – should we go to war? should we pass the tax cut? should we implement the new government program? – but rather

what the policy outcome would be if the program were implemented. The ultimate decision to adopt a policy or not is likely to depend on the expected outcome if the policy were adopted.

Some recent policy measures appear to have turned on such estimates. For example, when President Bush pushed Medicare's prescription drug benefit in 2003, some argued that the true cost of the program was underestimated, and that if later (and presumably more accurate) measures had been publicized prior to the vote in Congress, the legislation would not have passed. The aftermath of the U.S. war in Iraq is another example. Prior to the invasion, the expectation among many was that after the war, Iraq would be able to move rapidly to establish an independent government, allowing U.S. troops to leave. Quite possibly, if the actual length and cost of the occupation had been known ahead of time, the invasion would not have been undertaken. Certainly that argument would apply to the U.S. war in Vietnam decades earlier.

Whether actual policies are undertaken goes beyond what is being modeled in this paper. The model here is limited to policymakers' judgments about the actual outcome of policies, should they be undertaken. This information would then be used (in a decision-making process not considered here) to decide on whether to undertake the policy.

Politicians and Their Policy Experts

A key assumption that drives the results of this model is that elected officials choose policy experts who support their own positions on issues. Because this assumption is an important determinant of the model's outcome, it warrants some additional discussion. Some models use different assumptions about the behavior of elected officials. For example, Battaglini (2004) assumes that elected officials are simply looking for the correct answer to the policy question, and do not know the biases of policy experts. Modeling the issue like this appears to be at odds with political reality for several reasons.

First, while one would hope that elected officials sincerely do want to arrive at the correct policy conclusion, they do enter the process with their own priors, not as a *tabula rosa* hoping to learn from experts and then form an opinion. Therefore, in reality elected officials tend to choose

advisors whose policy opinions support their own opinions, not because they are looking for biased policy experts, but because they find experts whose beliefs mirror their own more credible based on their priors.

This leads to a second issue, which is the knowledge that policy makers have about the biases of policy analysts. The actual policy opinions of experts are known ahead of time, because policy analysts are chosen based on their past records of policy analysis. It may be true that on any one issue, a politician would not know exactly where a specific policy analyst stands on that issue before the issue is discussed or considered. But any policy analyst whose advice is actually used in the policymaking process will have a history of advice that is well-known to politicians before that analyst is consulted. Indeed, that past record almost defines what it means to be an expert. Politicians choose experts whose policy opinions have supported their priors in the past.

Even in issues where a politician has no prior about the issue itself, the politician seeking a policy position will have a prior about policy analysts, and will more readily accept the analysis of analysts who have sided with that politician's priors in the past. For example, conservative politicians will tend to listen to conservative analysts and liberal politicians will tend to listen to liberal analysts to help them form their opinions. Thus, even in cases where an uninformed and unbiased (on that issue) politician is seeking information about an issue to form a position, there is still a bias in the process by which the politician's opinion is formed that leads the politician to choose a policy analyst with a particular point of view that mirrors the politician's own point of view on past issues.

The opinions of policy experts may contain "noise" in the sense that the opinions may not be exact representations of the true policy outcomes, and may even contain a systematic bias in one direction with regard to true policy outcomes, but there is no noise with respect to how the opinions of policy experts stand relative to those who seek their counsel. Because politicians seek out like-minded advisors, any biases, noise, or errors in their policy judgments are not relevant to the issue. When analyzing this type of public choice issue, it may be interesting to

make different assumptions about the motivations of elected officials and about how much is known about the biases of policy advisors, but when looking at the way the process actually works, it is realistic to assume that (1) elected officials know the biases and opinions of the policy advisors they use, and (2) that elected officials select policy advisors whose opinions on policy matters mirror their own opinions.

A Model of the Chief Executive's Policy Analysis

Assume that a policy outcome falls somewhere on a two-unit line, so the outcome will be somewhere between 0 and 2. This continuum could be viewed as representing the cost of a program, the length of time of a military conflict, or some other continuous policy outcome that would be produced if the policy is adopted. Elected officials then want to estimate the actual policy outcome. Further assume that, unknown to the policymakers, the actual policy outcome is 1.0, in the middle of the continuum, and that individual estimates of the policy outcome are uniformly distributed along that line. The executive branch of government is run by a chief executive, and the chief executive's prior belief about the policy outcome is drawn from a uniform distribution on the 0-2 continuum. This is illustrated in Figure 1.

[Figure 1 about here.]

The expected value of the draw for the chief executive's policy belief is 1.0 – its true level – but the variance around that expected value is 0.5, which means that one can expect on average that the chief executive's belief will err by 0.5. Sometimes it will be closer to the true value of 1.0, sometimes further away, but the average distance will be 0.5. Assume, to provide an illustration of the model, that the chief executive's prior policy belief is in fact 0.5. As suggested in the section above, further assume that elected officials choose policy experts with the same policies beliefs that the officials themselves have. If so, the chief executive's policy experts confirm the chief executive's policy belief of 0.5 even though the true policy outcome is 1.0. Because the chief executive chooses policy advisors that support the executive's views, any policy errors in the chief executive's views will be mirrored by the executive's advisors.

The Legislature's Policy Analysis

Under many circumstances a legislature will arrive at a policy estimate with a lower error than the chief executive. The simplest case would be to draw the priors of legislators from a random sampling from that same 0-2 continuum. With a large number of legislators, the expected value of the median legislator's policy opinion would approach 1.0, the true level of the policy outcome. Under this circumstance, it is clear that the median legislator would hold a policy estimate more accurate than that of the chief executive. However, it may be that the policy opinions of members of the legislature are not uncorrelated with the policy opinion of the chief executive.

Assume, for example, that the population that elects the chief executive is the same population that elects members of the legislature, and because both are elected by, and reflect the opinions of, the same electorate, any errors in policy perceptions held by the chief executive are representative of similar errors in legislators. If this is true, legislators will on average have the same errors in their policy priors as the chief executive. If this is the case, that assumption can be implemented in the model by assuming that the median legislator also will, on average, err by 0.5 in policy belief, and that the policy beliefs of the rest of the legislature are symmetrically and uniformly distributed around the median legislator's policy belief. For simplicity, assume that the range of legislator policy beliefs extends 0.5 from the median, so the median legislator's policy belief is 0.5 from the true policy, with the legislature's range of beliefs extending 0.5 in either direction. The median legislator's policy beliefs are therefore the same as the chief executive's, but whereas there is only one chief executive, there are many legislators whose beliefs are symmetrically distributed around the median.

Assume, for example, that the chief executive and the median legislator share an expected policy belief of 0.5, which is 0.5 away from the true policy outcome of 1.0. The legislature's policy beliefs are then uniformly distributed from 0 to 1.0. The prior beliefs of the chief executive and

the median legislator are identical, but there is some variance in the beliefs of members of the legislature and no variance in the belief of the chief executive.

All legislators get their own policy experts to advise them on the likely policy outcome, and as with the chief executive, all legislators choose experts whose conclusions on the expected policy outcome are the same as their own. Thus, the policy experts also have beliefs uniformly distributed from 0 to 1.0 in this example. The crucial assumption in this model is that the closer the policy expert's conclusion is to the actual policy outcome, the more persuasive is that expert's conclusion. This assumption is consistent with Kessler's (2005) model in which elected representatives become more informed by studying issues. For simplicity, assume a linear persuasiveness function so that the persuasiveness of a correct policy assessment of 1.0 is given an index of 1, which linearly declines to zero for policy conclusions at the extremes of 0 and 2. This persuasiveness function is depicted as the upward-sloping line in Figure 1 beginning at 0 and extending to intersect the vertical line rising from 1.0.

Legislators can now be persuaded change their opinions based on the policy analysis they see. The key difference between the legislature and the executive is that in the executive branch, the chief executive is in charge and makes all decisions, and others in the executive branch work for the chief executive and carry out the chief executive's orders. Thus, all policy experts are chosen by the chief executive and share the chief executive's priors. In the legislature, members have different opinions, but must arrive at a single legislative decision based on some collective decision-making process, meaning that few if any legislators will get exactly the outcome they most favor, and that legislators must compromise to reach a group decision. In the process, some legislators must persuade others to vote for outcomes that are not their first choices.

Assume that opinions across the distribution of legislator opinions are weighted by multiplying that opinion by the persuasiveness of the policy analysis that supports it. For example, the policy opinion of 1.0 is multiplied by 1.0 because of the persuasiveness of its supporting analysis, the policy opinion of 0.5 is multiplied by 0.5 because of the persuasiveness of its supporting analysis, and the persuasiveness of the policy opinion of 0 is multiplied by 0.0 because of the

persuasiveness of its supporting analysis, as reflected by the persuasiveness function. Looking at Figure 1, the outcome will be some number X such that the area under the persuasiveness function below X equals the area under the persuasiveness function above X .

Geometrically, the area below X is the triangle formed by the persuasiveness function from 0 to X , which is $1/2(X*X)$. The base and the height of the triangle are equal because of the assumption that both the true policy outcome and the persuasiveness function at the true outcome are 1.0. The area under the persuasiveness function between X and 1.0 is $(1-X)*X + 1/2(1-X)^2$. To find the median, weighted by the persuasiveness of the policy opinions, the two areas have to be equal, so

$$1/2(X*X) = (1-X)*X + 1/2(1-X)^2 \quad (1)$$

and solving this yields $X = 0.707$. That means that after weighting legislative beliefs about the policy outcome (which are uniformly distributed from 0 to 1 in Figure 1) by the persuasiveness of each belief (which grows linearly from 0 to 1, which is the true policy result), the legislature will arrive at a policy opinion of 0.707.

As the figure indicates, under the assumptions made here, the legislative process, which allows a greater variety of policy experts to be heard, and which finds more accurate policy analysis to be more persuasive, yields a policy opinion of 0.707, which is closer to the true policy outcome of 1.0 than the policy opinion of 0.5 which is held by the executive. After policy opinions are weighted by the persuasiveness of their supporting analyses, the legislature's policy opinion shifts toward the true policy.

Obviously, the actual numbers used in the example are illustrative and are the result of the model's assumptions, so they cannot reflect how much smaller legislative policy errors will actually be than executive policy errors. However, the simplicity of the model reveals that with only a few realistic assumptions, legislative decision-making will produce more accurate estimates of the effects of public policies than will executive decision-making. The model shows that policy errors tend to be smaller in the legislative branch of government than in the executive

branch because, first, the legislative branch has a wider variety of policy analysis, and second, policy analysis is more persuasive the more accurate it is.

Discussion of the Model

The conclusions of the model rely on several assumptions regarding the facts about policy analysis in the executive and legislative branches of government. Even though initially the median legislator shares the same policy opinion with the chief executive, assumptions about policy analysis in the two branches pull the legislative branch toward a more accurate policy appraisal, but do not affect the executive branch. Consider actual government institutions to see whether this is reasonable.

There are two factors that tend to make policy conclusions less subject to change in the executive relative to the legislative branch of government. First, there is only one chief executive who does not have to compromise with others. In the executive branch, the opinion of the chief executive is the opinion of that branch, and all others working in the executive branch are working directly or indirectly for the chief executive, and are carrying out the chief executive's policies.¹ In the legislature, leaders must gain majority support of the legislature to implement policy. This means that the views of others must be taken into account. Second, because of the greater variety of opinion in the legislature, a wider range of expert opinion will be solicited when compared to the executive branch.

When George W. Bush was elected to his second term, he replaced many of his cabinet secretaries. Most visibly, he replaced Secretary of State Colin Powell with Condoleezza Rice. The popular press analysis of this change was that Rice's views on foreign policy were more in line with those of Bush, and that he was substituting an advisor whose opinions were further from his for an advisor whose opinions were more a mirror of his. A number of other less visible policy appointments were made for, analysts suggested, similar reasons, leading the popular press to argue that Bush was trying to surround himself with others who shared his views, and was trying to limit dissenting opinions. Similar charges were made against Bill Clinton, Bush's predecessor.

While Clinton made some effort to attract a “diverse” group of policy advisors, including women and members of various racial and ethnic minorities, critics charged that they were all upper-income lawyers, and that while they might look diverse in some superficial way, their backgrounds and policy opinions were all similar, so the diversity was more apparent than real.

Given the goals of these chief executives, it is unclear why anyone would expect them to act any differently. The chief executives have agendas they want to carry out, and it makes sense for them to surround themselves with people who share their goals and who want to implement the same policies. Chief executives like Ronald Reagan and Margaret Thatcher came to office with explicitly stated political agendas, and would not have denied that they chose their policy advisors as the model hypothesizes. The result is that all policy analysis tends to support the chief executive, and other views are not considered. From a political standpoint, it is clear that when policy issues are concerned, members of the executive branch are expected to demonstrate “loyalty” and to support the position of the chief executive, not present alternative viewpoints. The model reflects this aspect of political reality. Chief executives want to accomplish their agendas, not reflect diverse points of view.

In the legislative branch, individual members have substantial independence from the legislative leadership, and individual members expect to – and have the power to – participate in formulating policy. Equally significantly, individual members can cast dissenting votes when they do not agree with their colleagues. This means that members trying to accomplish some policy goal must convince other members to support them. As a part of the process, staff analysis is undertaken and hearings are held to get expert testimony on issues. Public choice analysis has demonstrated that interest groups exert a substantial influence on this process,² but member ideology also plays a substantial role,³ and individual members try to steer testimony in hearings and staff analyses in a direction that supports the policies they are trying to pass.⁴ When comparing the model with political reality, there can be no doubt that legislators bring their own policy opinions with them, and that they try to enact legislation based on those opinions.

Perhaps the biggest question in connecting the model in this paper with political reality is the effect of expert opinion on the collective decisions of the legislature. Beyond a doubt legislators do try to solicit the testimony of “experts” who agree with their own policy opinions, and not necessarily for underhanded reasons. Surely legislators will tend to think that those policy experts who agree with them are correct, and so they want their colleagues to take those expert opinions into account. More tenuous is the assumption that the closer an analysis is to being correct, the more credibility it will have in the legislature, which then will translate into more political support for positions that find their credibility increased by the expert analysis. This requires, first, that more accurate analysis really is more persuasive, and second, that the persuasiveness of the analysis can affect the political support for a position. Both of these things seem plausible, although one can envision counterarguments against both.

One might argue that the more the political process is driven by special interests, the less effect accurate policy analysis will have on the outcome, but if interest groups are affected at the margin by the costs and benefits they face, if a more accurate assessment of a policy measure shows that the interest group will benefit less than they previously believed, the interest group’s support for a measure may fall. Similarly, if a more accurate assessment of the cost of a measure to benefit an interest group turned up evidence that it would be more costly than previously supposed, interests on the other side might work harder to defeat it. In a political marketplace along the lines described by Becker (1983), a more accurate assessment of the effects of public policy would have an effect. When comparing the model to the real world, there are good reasons to think that policy errors will be greater in executive than in legislative decision-making.

While the model represented in Figure 1 is intended only to illustrate the principle, note that in that model every policy opinion is to one side of the actual policy outcome; nobody was assumed to err on the other side. Realistically, some opinion probably would err in the other direction, moving the legislative opinion even closer to the actual opinion. This feature of the model biases

it toward reaching an inaccurate policy opinion. Even so, the model still shows that policy errors will be smaller in the legislative branch than in the executive.

Application to the U.S. Government

In 2003 the U.S. Congress gave President Bush the authority to invade Iraq if he determined that such an invasion was warranted. This transfer of power appears, on the surface, to be unconstitutional, because the Constitution of the United States, Article I, Section 8, gives Congress – not the president – the power to declare war. But constitutional issues aside, was it wise to give the President control over this policy choice? President Bush argued in favor of invasion based largely on the argument that under Saddam Hussein, Iraq was harboring weapons of mass destruction, although there was no evidence after the war of any such weapons. The post-war occupation was also longer and more costly than President Bush indicated it would be. In hindsight, some policy errors were made. Regardless of whether on net the invasion was a good idea, its rationale appears to be based on policy arguments that later turned out to be inaccurate.

With regard to that specific episode, the arguments in this paper suggest that the policy errors would have been reduced had the decision as to whether to invade had remained with Congress rather than having been delegated to the President. With regard to war powers more generally, this paper gives an argument for placing the power to declare war with Congress, as the U.S. Constitution actually does, rather than allowing it to be delegated to the President. More generally, the paper suggests the logic for making policy decisions in a legislature that allows policy debate among its members, and in which individual members are free to vote as they believe appropriate on policy issues. Extending the argument more generally beyond the issue of going to war, there is good reason for public policy to be designed by the legislature rather than allowing the executive branch to make policy.

The delegation of the power to enter wars is a forceful example, but there are many other less visible cases in which the legislature passes vague legislation, leaving implementation decisions up to the executive branch which will carry out the legislation. In many cases this amounts to delegating the legislature's policy-making powers to the executive branch agencies that implement the policies. The argument developed here suggests that this has the undesirable effect of creating the potential for greater policy errors than if the exact policies are spelled out by the legislature and not left to the executive branch to design. Perhaps with an increasing scope of government and a legislature of limited size such delegation to the executive branch is inevitable, but it implies that the quality of policy decisions will decline as a result.

Applications to Parliamentary Systems of Government

In many democratic countries, members of the legislature, or parliament, are elected as members of a party, rather than running on their own individual merits. Parties select the candidates that run under their umbrella, and once elected those party members are obligated to vote with their parties rather than being allowed to independently judge the merits of the policies they vote on. While every country varies to some degree, two major variants are the case where one party gains a majority and thereby controls the government (as is typical in Britain), and the case where no one party gains a majority, so the government is formed by a coalition of parties (as is typical in Germany).

Where a single party controls the government, the result would appear to be a government that more closely parallels the way that executive rather than legislative decision-making was modeled above, which would bring with it larger errors in policy analysis. In coalition governments, there is more opportunity for dissent within the parties that control the government, which may lead to a broader spectrum of policies being considered, and more accurate policy assessments. One key factor here is the assumed requirement that legislators vote their party lines rather than develop independent assessments of policy. However, a mitigating factor is that those members outside the majority, while their policy assessments do not directly determine

policy, may have an indirect effect because public dissemination of minority party viewpoints may affect public opinion, and through public opinion may affect the policies of the majority.⁵ This analysis suggests applications of the above model to parliamentary systems, but actual outcomes are likely to vary from country to country, and given the structure of the model, depend upon the degree to which policy analysis that diverges from the conclusions favored by party leaders play a role in determining actual policy outcomes. It does appear likely, however, that because parliamentary systems impose party discipline on their members, any analysis with policy conclusions different from those of party leaders are less likely to be taken into account, which would lead parliamentary systems to be more likely to err in their analysis of the effects of proposed public policy measures.

Conclusion

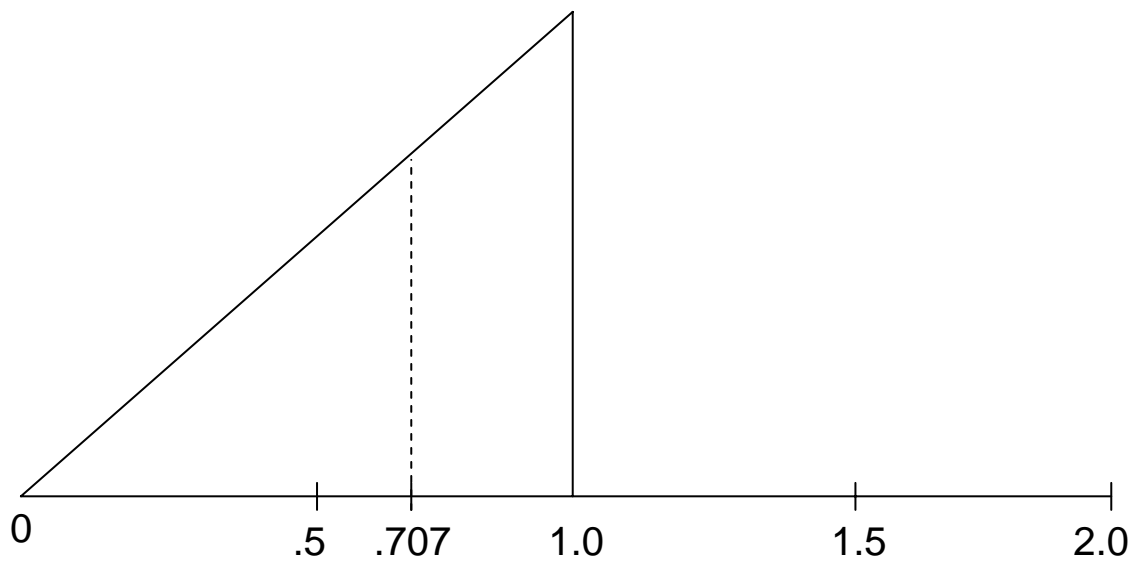
This paper suggests a good reason for the organization of government designed by the American Founders into the Constitution of the United States. As specified in the Constitution, public policy decisions are made by a legislature composed of many members, all of whom are independent in the sense that they can support policies as they see fit, without following any party or legislative leadership.⁶ Policy decisions made by this type of legislature are likely to be made on the basis of more accurate information about the actual outcomes of policy proposals than if those decisions were made by a single individual, such as the head of the executive branch of government. Once policy is determined, a more hierarchical structure may make sense to carry out specific policy decisions, so a division of powers where a legislature made up of many members designs public policy, and an executive branch headed by a single individual implements that policy, has some logic in its design.

As American government has evolved over more than two centuries, the chief executive has gained an increasing amount of power to create public policy, whether one is considering the president at the federal level or governors at the state level. This analysis indicates that the shift

in power from the legislative to the executive branch of government has likely led to greater errors in policy analysis.

Figure 1

Executive and Legislative Policy Positions



Footnotes

¹ Of course, subordinates do not always carry out the exact will of their superiors, because they may not understand the desires of their superiors, because their superiors give them incomplete instructions and so leave the subordinates with some discretion in their actions, and because subordinates sometimes have different agendas from their superiors and deliberately do not carry out their instructions exactly. Tullock (1965) discusses the politics of bureaucracy in this context, and the well-known analysis of Niskanen (1971) shows how bureaucracies often can determine their own agendas. On many issues, it is unclear that these tendencies would lead toward more (or less) accurate policy assessments, so is not directly related the issue discussed in this paper and is relegated to a footnote.

² Wittman (1989, 1995) argues persuasively that the influence of interest groups leads political decision-making toward efficient outcomes, but the bulk of public choice analysis appears to argue the other way. This analysis leans toward Wittman in that the influence of policy experts increases the accuracy of the collective legislative opinion, which pushes toward efficiency.

³ A substantial literature on ideology was begun by Kau and Rubin (1979). See also Kalt and Zupan (1984) and Peltzman (1984).

⁴ Legislative committees may be designed to have biased membership, as Niskanen (1971) has argued, but Gilligan and Krehbiel (1990) argue that the overall legislature has an incentive to prevent such biases. See Krehbiel (2001) for an overview of some issues.

⁵ Blankart and Mueller (2004) present an interesting assessment of the strengths and weaknesses of various governmental forms.

⁶ It is worth a footnote to remark that whereas parties are a part of the constitutional structure of many governments, there is no mention of parties at all in the U.S. Constitution. While over the centuries parties have become a central feature of American politics, it remains possible to be elected to public office without any party affiliation.

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