

LEGISLATIVE DEBATES AND DEMOCRATIC DELIBERATION IN PARLIAMENTARY SYSTEMS

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1. Introduction

In the words of Jürgen Habermas (1996: 296), “the central element of the democratic process resides in the procedure of deliberative politics.” Democratic theory clearly has taken a deliberative turn the last couple of decades and the central theoretical principles underlying deliberative democratic theory have been extensively analyzed (e.g. Dryzek 2010). This theory, or rather theories, contains many empirical assumptions and assertions. Not all of them are well documented and well understood, and some are contested. But also the empirical literature is growing fast, for example experimental studies of the effects of deliberation in small and medium sized groups or empirical

investigations of jury deliberations and behavior (Chambers 2003). An important question in this respect is the epistemic value of deliberative arrangements. Is deliberation a tool by which citizens and their representatives in legislative assemblies can “track the truth” and make “right” decisions? Is it a way to avoid the perils of preference aggregation without entering into similar or even worse problems?¹

Modern representative democracies can be seen as deliberative. It is a form of government “that combines accountability to the people with reflection and reason giving” (Sunstein 2006: 49).

Further, with reference to American presidentialism:

“The very structure of the U.S. government, with its bicameral legislature and its complex allocation of authority among the three branches, can be seen as an effort to ensure a high degree of deliberation with reference to relevant information, as well as a large measure of accountability.” (Sunstein 2006: 49.)

The author does not locate the deliberative features or arenas more precisely, but it is fair to assume that plenary debates in the house and senate are central to the deliberative qualities of the system.²

The study of deliberative politics in legislatures has been pioneered in a recent comparative analysis by Steiner et al. (2004). They take normative theories of deliberative democracy as point of departure, and embark on the task of measuring and evaluating the quality of parliamentary discourse. In the opening paragraph it is stated:

“Our main argument will be that talk matters: the nature of speech acts inside legislatures is a function of institutional rules and mechanisms, and bears an influence on political outcomes that transcends those rules and mechanisms. Our main vehicle of analysis is a Discourse Quality Index (DQI), which measures the quality of deliberation.” (Steiner et al. 2004: 1.)

¹ The doctrinal paradox (Kornhauser and Sager 1993) or, in its general form, the discursive dilemma (Pettit 2001) is an example of problems of judgment aggregation (cf. List and Pettit 2004). The discursive dilemma is structurally close to Ostrogorski’s paradox, which is about aggregation of preferences over sets of (independent) issues (Pigozzi 2005). The discursive dilemma illustrates the difficulty of translating interconnected individual judgments into consistent group judgments; the decision is depending on whether the participants focus on each of the premises on which a conclusion is drawn, or they focus on the conclusion. Other problems than those related to judgment aggregation may however represent more serious challenges to deliberative decision making, such as undisclosed information, information cascades, amplification of cognitive errors, group think and group polarization (Sunstein and Hastie 2008; Sunstein 2006, 2006a).

² See Bessette (1994) for an elaboration of the deliberative interpretation of the U.S. institutional set up.

I fully agree that the functioning of parliamentary debates have to be understood on the background of institutions and (formal and informal) rules, but these institutions and rules tend to destroy the potential for true deliberation in the plenary of legislative assemblies. Legislatures typically devote a tremendous amount of time to debates. The mechanism of voting is nevertheless the central act of legislative decision making, and it is not possible to understand parliamentary debates independent of the various voting institutions in place.³ This claim will be substantiated in the paper by pointing to the likely effects of agenda setting rules, amendment rules, time constraints, voting order rules, and the like for parliamentary debates.

I begin (in section 2) with a sketch of the concept of deliberation and a discussion of some basic features of parliamentary debates. Section 3 discusses the implications of agenda setting rules for parliamentary debates. The fourth section brings in the possibility of strategic amendments and strategic voting. The fifth section contains some very preliminary concluding remarks.

2. Deliberation and Parliamentary Debates

2.1. Deliberation

Many authors today do not see a political process as democratic unless deliberation is an integral part of it. But what is meant by deliberation? A wide variety of definitions exist. Most of them seem to have the Aristotelian view (in *Rhetoric*) of deliberation as an exchange of arguments as part of its core; participants provide information and give reasons for or against. A deliberative democracy “facilitates free discussion among equal citizens” (Cohen 1997: 412). It is a system that “includes decision making by means of arguments offered *by* and *to* participants” who, furthermore, as

³ This is in line with Riker’s (1982: 5) more general remark that “all democratic ideas are focused on the mechanism of voting” and that “voting ... is the central act of democracy.” Mackie (1998: 71) reminds us that “democracy involves both voting and discussion, and discussion is obviously at least as important to democracy, descriptively and normatively, as voting.” I do not in any way try to settle the divergence between the two, but instead claim that it is not possible to understand parliamentary debates – which are one form of discussion – without paying regard to the voting institution surrounding the debates.

Habermas, Rawls and many others emphasize, are “committed to the values of rationality and impartiality” (Elster 1998: 8). Decisions – or a kind of consensus – are eventually reached by means of “processes of judgment and preference formation and transformation within informed, respectful, and competent dialogue” among the set of participants (Dryzek 2010:3). Deliberation is a “form of discussion intended to change the preferences on the bases of which people decide how to act” (Przeworski 1998: 140). Stokes (1998: 123) similarly speaks of deliberation as “the endogenous change of preferences resulting from communication”; it is a type of discussion in which “individuals are amenable to scrutinizing and changing their preferences in the light of persuasion (but not manipulation, deception or coercion) from other participants” (Dryzek and List 2003: 1).

Despite disagreement on the finer characteristics, most of its supporters see the ideal of deliberative democracy as inclusive, judgmental and dialogical (Pettit 2001: 269-271). It is inclusive rather than elitist because everyone is entitled to participate on an equal footing. Institutionally, then, decision making processes need to be concluded by voting. The judgmental constraint requires members to deliberate on common concerns before voting takes place. To be dialogical, this deliberation should be open and unforced.

Steiner et al. (2004: 19-24) discuss six central aspects of the ideal type of deliberation in their analysis of parliamentary discourse. The first one has to do with *participation*: all citizens should be included on an equal level. The next three characteristics are related to the form and content of the discussion (or deliberation). Everyone should express their views *truthfully*. Assertions and validity claims should comply with requirements of *logical justification* and sound reasoning. The merits of arguments in deliberative processes should be articulated in terms of the *common good*. Then there are two characteristics that primarily deal with how participants relate to others: They are willing to really *listen*, and, thus, show genuine respect and they are willing to *yield to the better argument*. The latter, of course, refers to Habermas’ “unforced force of the better argument.” In the deliberative

setting persuasion by truthful and sound arguments vested in concerns for the common good is the vehicle of preference formation and change.

A good example of a deliberative process is captured in the film classic *Twelve Angry Men*,⁴ where a group of jurors meet to decide on a murder case (see Landemore 2008). The jury discussion opens with a preliminary show of hands. The vote indicates that 11 of the 12 jurors are in favor of a guilty sentence. Deliberation brings in new information and new perspectives to help interpret the available evidence and testimonies. Gradually, as demonstrated in a series of open and secret votes taken throughout the film, jurors shift from “guilty” to “not guilty” one after the other and eventually acquit the accused; changes in preferences are mainly generated by changes in beliefs as the discussion proceeds and the quality of information increases. The decision-making situation is however very simple in the sense that only *two alternatives* exist: Jurors vote either guilty or not guilty, and the decision rule is *unanimity* for conviction as well as acquittal (“remember that this is twelve to nothing either way” the jury chairman emphasizes in his introduction).⁵ Although one easily gets the impression from the film that discussion is everything, the voting rule is essential in shaping what happens *before* final voting takes place.⁶ It is not difficult to imagine that the discussion had taken a different path if the jury had operated under qualified majority rule.

It is worth noting that discussion, talk, conversation or debate is not necessarily the same as deliberation. For a discussion to be deliberative in the proper sense of the word, a potential “dynamism” of the type described above need to be present. Deliberation refers to a *process* by which reasoning is utilized to form preferences and reach a collective decision. A real exchange of arguments has to take place and participants must be willing to adjust their opinions – both beliefs

⁴ United Artists, 1957. The film is directed by Sidney Lumet and has Henry Fonda as the lead actor (and co-producer).

⁵ The quoted sentence can be heard at 0:11:18 in the following link:
<http://www.youtube.com/watch?v=gE5QZvXeB0U&feature=related>

⁶ On the effects of different voting rules for jury decision making, see e.g. Schwartz and Schwartz (1991, 1995); Gerardi and Yariv (2007).

and desires – over the course of the debate, before the debate is closed by a collective decision of some kind.⁷ If nothing of this happens during a debate it of course still can be called a discussion, or even a form of arguing, but it cannot be characterized as deliberation.⁸ The fact that some people talk in sequence on some matters from the same rostrum is not sufficient to make it a deliberative process. Nor is it deliberation if participants in a discussion do nothing more than state the reasons for their own views or opinions, without an element of interdependence or reciprocity in the exchange of arguments. Figure 1 illustrates a central difference between debate and deliberation. Note, however, that in the literature less demanding concepts of deliberation might be used.

Figure 1. Deliberation versus debate.

2.2. Parliamentary Debates

Are debates in real world legislatures deliberative? Are legislative decisions reached by means of argumentative processes in the plenary before final voting? Research on parliamentary debates is sparse. It is of course possible to find good examples of real deliberation on the floor of assemblies, i.e. instances where at least some legislators are prepared to change their views and voting after listening to arguments from others. Still, this is the exception rather than the rule. At the same time

⁷ Mercier and Landemore (2010: 8) also define deliberation as a (reasoning) process: “An activity is deliberative to the extent that reasoning is used to gather and evaluate arguments for and against a given proposition.” For genuine deliberation to take place, the authors continue, “there must be a *feedback loop* between reasoning from at least two opinions.”

⁸ I believe this to be a fairly standard distinction in much of the literature (cf. Przeworski 1998). For example, Austen-Smith and Feddersen (2005: 271) in a more technical sense understand deliberation as a subset of debate and clarify that “in deliberation at least two privately informed individuals engage in unmediated cheap talk *over a collective decision to be made by these same individuals under a given voting rule*; in debate at least two privately informed individuals engage in unmediated cheap talk *prior to a decision being made*” (my emphasis).

it is important to emphasize that we do not deal with a simple dichotomy, but rather a continuum: it seems reasonable to imagine varying levels of deliberation – or discursive quality – in parliamentary debates (cf. Steiner et al. 2004). However, for several reasons *the level of deliberation in general will be low in parliamentary debates* on legislation (although the amount of time used for plenary talk may be relatively high).

Modern legislatures operate under severe time constraints and have strictly regulated their activities in constitutions, laws and internal bodies of rules (Döring 1995). Cox (2006) has used the metaphor of a “legislative state of nature” in an analysis of why legislatures are organized as they are. Imagine that all the business in an assembly were conducted without any rules, which in practice would mean decisions by an unrestricted and unregulated plenary. In this situation it would be easy to delay or block any decision, and the assembly would not really get anything done. To produce legislation at all, some form of organization and procedural rules are necessary. Thus, it seems to be a universal pattern that legislative decisions are taken by majorities (rather than broad consensus or unanimity on the floor), that offices endowed with agenda-setting powers are created (presiding officers, committees, cabinets), and that access to plenary time is restricted in legislative processes (although the plenary everywhere plays a role in passing legislation). According to Cox (2006: 144), “(a)ll busy legislatures will evolve rules that create inequalities in members’ access to plenary time and diminish ordinary members’ ability to delay.” It could equally well be said: It diminishes ordinary members’ ability to deliberate freely on the floor; open access to the plenary does not exist in working legislative assemblies of today.⁹

⁹ This is essentially Proposition 1 in Cox and McCubbins (2006). Their expression “busy assemblies” describe legislatures with a crowded agenda. On classification of legislatures, see the contributions in Norton (1990) and Copeland and Patterson (1994). Rasch (2011) discusses the importance of access rules for legislative behavior in a statistical analysis of two types of parliamentary questioning in the Norwegian parliament. The two procedures differ in their access rules. Restricted access makes the party leadership more active as coordinators behind the scene and in asking questions themselves. Relatively open access not surprisingly activated backbenchers, and made individual, electoral considerations and self-promotion more salient.

Access to the plenary can be more or less severely restricted. Restrictions concern two types of activities that are relevant in our context. First, rules may regulate who can talk and when they can talk. Time constraints make it necessary to allocate speaking time between parties and then between legislators belonging to the same party. Some legislatures allocate speaking time by using some kind of proportionality formulae (e.g. Hare's largest remainders), but often smaller parties are systematically overrepresented in debates. Secondly, rules may regulate who can formulate proposals and when they can do so. With increasing scarcity of time for plenary activity in modern legislatures, it has become more and more difficult to get spontaneous proposals – born out of the heat of a parliamentary debate – on the agenda for final voting. In many cases, motions from the floor are not possible at all, or the majority is given the authority to allow or reject such proposals.

Time constraints and access regulations give parliamentary debates a ritualized and rigid character. Committees typically appoint one or more rapporteurs – and perhaps “shadows” from opposition parties – and they talk first. The cabinet minister dealing with the issue area also may be among the first speakers. Some debates are confined mainly to representatives from the committee who has prepared a report and formal motions on the issue, while others include a broader set of representatives. In many parliamentary debates, speakers have prepared written notes or written the entire speech in advance (but there are important differences between parliaments in this respect) and the debates therefore lack spontaneity. In some cases a speech is a result of coordinated and cooperative efforts of several representatives and even outside actors.

Representatives from the same party may emphasize different arguments or aspects of the issue at hand (as a result of some form of coordination), but it is not surprising to observe that legislators from the same party group repeat the same set of arguments or counter-arguments over and over again during the debate. And they often do it, as many have remarked, before almost empty chambers – the chair and perhaps the next couple of speakers. For speakers it will seldom be a real option to conclude their speech with a new motion from the floor, reflecting, for example, new solutions or a new consensus generated by the debate. In this sense, parliamentary debates are rigid

(but of course a debate-generated new consensus is highly unlikely in the first place). It should also be noted that outcomes of legislative processes almost never take the participants or observers with surprise; when the parliamentary debates begin, everyone typically knows what the outcome of final voting on the issue will be. Surprising results occur from time to time, but not because MPs have changes their views (first preferences) or because new proposals have emerged during the debate. Rather, they are caused by factors related to the final voting stage (revelation of second preferences, order of voting effects, strategic maneuvers, etc.).

There are of course different types of debates in legislatures. My interest is in debates ending in a legislative decision, not general policy debates, debates on white papers, debates on the Queen's or King's speech, and the like, which do not typically result in immediate voting on available proposals.¹⁰ It is mainly in the former type of situation that deliberation is a relevant process, i.e. where reasoning potentially may affect the content of a decision (cf. Figure 1). Are parliamentary debates, then, deliberation or something else? Deliberation presupposes relatively open access to the rostrum, a willingness to engage in reasoning, readiness to listen to other participants and to yield to the better argument as the debate proceeds. It follows that relatively open proposal rights also is required for parliamentary debates to be really deliberative.¹¹ This is not what we typically observe. The institutional setting is not of a type that encourage deliberative decision making.

If parliamentary debates are not deliberative, what kind of process is it then? Debates cannot reasonably be described as bargaining either, for the same reasons that make debates non-

¹⁰ Constitution making debates in constituent assemblies, as analyzed by Elster (e.g. 1998a), are for example something very different.

¹¹ This is because legislative processes tend to be much more complex than the jury example we discussed earlier. In the film *Twelve Angry Men* there were two predefined, fixed alternatives to consider – “guilty” or “not guilty.” As preferences changed and consensus emerged, new decision making alternatives were not needed. In a parliamentary debate a more realistic scenario would be one in which a new solution or a compromise emerged as a consequence of preference change, rather than a situation where one side of the assembly get others to support their position (e.g. as if opposition MPs simply changed to the government position).

deliberative in nature.¹² Debates take place *before* voting and *after* bargaining and deliberation on preparatory stages of the legislative processes.¹³ In most cases, they take place after committees have been in action and clarified the support for the various solutions those involved have suggested. Rather than being an arena for reasoning, parliamentary debates become an arena for explaining one's views on the bill in question. MPs state their reasons – beliefs and preferences – in public. They argue in favor of their preferred proposal and try to undermine its alternatives. In short, they clarify why they act (or vote) as they do. In a sense, then, parliamentary debates become a first, integral part of the voting stage. In parliamentary debates, information on policy positions is provided and made public, but the debates are not autonomous mechanisms for information aggregation.

This understanding of the character of parliamentary debates seems to be in line with findings in numerous case studies. It is a view that is consistent with electoral considerations few legislators can afford to ignore. Calvert (1998: 3) notes that speakers often link to general principles in their speeches and emphasizes that “voters will be more favorably disposed toward a result that was reached, or votes that were cast, if they have been connected with arguments rather than merely with bargains.” Caulfield and Bubela (2006: 8) describe how nuances and subtleties are lost because in parliamentary debates “one is expected to take sides.” The plenary of legislative assemblies can be used as an arena for electorally oriented activities such as advertising, credit claiming and position taking (Mayhew 1974). In the words of Slapin and Proksch (2010: 335):

“Legislative speeches give the government a chance to advertise and defend its policy positions not only before the parliament, but before the media and voters as well.

¹² Elster (1998: 5) writes: “When a group of equal individuals are to make a decision on a matter that concerns them all and the initial distribution of opinion falls short of consensus, they can go about it in three different ways: arguing, bargaining, and voting. I believe that for modern societies this is an exhaustive list.”

¹³ This is of course a simplification. Some parliaments conduct plenary debates before committee deliberations, e.g. Denmark, Ireland and the UK according to Mattson and Strøm (1995), and there may be several readings – and debates – on the same bill. Bicameralism further complicates the matter.

Opposition parties take the opportunity to criticize the government and to highlight programmatic differences.”

Amendments are seldom formulated on the floor during legislative debates, reflecting that these debates are not truly deliberative. Note that this does *not* mean that legislatures have to be passive and marginal in legislative processes. On the contrary, many are both very active in initiating and formulating proposals and highly influential in law-making. It does however mean that the influence mainly is exercised at the (parliamentary) committee stage of the process or earlier (i.e. in a parliamentary system, even before a bill is sent to the parliament). Some numbers can be illustrative, but first a little bit more on the institutional framework.

Figure 2. Sketch of the lawmaking process...

Take a look at the simplified model of the final stages of the legislative process in parliamentary systems in Figure 2. The government may draft a bill and send it to parliament. If the bill is sent to the assembly, the legislators have three options. They can accept, amend or reject it. If the government does not want new legislation and is inactive, the parliament may either remain silent or draft a bill itself (Private Member Bill). The government, thus, cannot close the gates and avoid proposals in that way. In this setting, five types of legislative outcomes are possible. Status quo is retained either because neither the government nor parliament wants new legislation or because the parliament rejects the government’s bill. New legislation is produced in three ways. The parliament may accept the government bill without any changes, or they may redraft it. In addition, legislation may be passed without any contribution from the government.

In parliamentary systems, most of the legislation is introduced by the executive. It varies a lot, but typically more than 90 percent of the bills are proposed by the government (Tsebelis 2002: 93). Few of them are rejected; in some countries the rejection rate is almost zero (e.g. Austria, Finland and Norway). Cheibub et al. (2004: 578) report an average rejection of 20 percent of government bills in parliamentary systems. Successful government bills will either be of type 5 (unamended) or type 4

(amended) in Figure 2, and available data from a handful of countries seem to suggest that the former type is more frequent than the latter.¹⁴ Bills introduced by opposition parties are everywhere less successful than government bills, but in some countries they make up a substantial share (Bräuninger and Debus 2009; Bräuninger et al. 2008). Table 1 illustrates some combinations.

Table 1. Success rates for (non-financial) bills.

Variation in success rates, both for government bills and private member bills, reflect institutional differences as well as parliamentary capacity and resources. Döring (1995; 2001) and Mattson (1995) for example point to the fact that not every parliament has the authority to rewrite government bills during the review process; few parliaments have authority to relatively freely formulate alternative proposals late in the legislative processes. Table 2 gives an overview for a selection of European countries. Similarly, many parliaments lack the expertise and other resources necessary for formulation of laws, and therefore have to rely on the government apparatus; lack of resources may make formal proposal rights illusory:

“If the government has a tight grip on the parliamentary timetable and a near-monopoly of both the information and the drafting skills needed to prepare legislation, then it may be very difficult for opposition parties to get significant draft statutes onto the legislative agenda. This will effectively prevent the legislature from imposing specific policies on an unwilling cabinet.” (Laver and Shepsle 1994: 295.)

Table 2. Institutional regulation of amending activity in selected countries (lower houses only in bicameral systems).

¹⁴ In Norway after 1946, around 20 percent of government bills are amended in a politically relevant way (not only editorial) each parliamentary year. A maximum was reached under Prime Minister Jagland (Labor minority government) in 1996-97, when almost 50 percent of the government bills were changed during the parliamentary proceedings. (See Rasch 2011a.)

3. Agenda Setting and Legislative Debates in Parliamentary Systems

Agenda setting and agenda control are ambiguous concepts. Often the terms are used in a rather weak sense, simply as an ability to initiate or raise political issues for consideration. For instance, Sinclair (1986: 35), in a study of congressional committees, defines agenda setting as “the process through which issues attain the status of being seriously debated by politically relevant actors.” A vast literature similarly deals with how mass media force attention to certain issues (e.g. McCombs and Shaw 1972). Agenda setting is interesting because it is related to influence. By forming agendas actors affect decision-making processes. Often it is assumed that those who initiate proposals also “will tailor the policy content to have a chance to win” (Mouw and Mackuen 1992: 87). Agenda setting does not necessarily imply agenda *control* in the sense of strict control over the *outcome* of a decision-making process (see e.g. Feld et al. 1989).

The potential power of the agenda setter is illustrated in Romer and Rosenthal (1978), who formulate a “setter model” with two players—a proposer and a veto player—and two stages of decision-making. In the first stage, a committee—or a cabinet in a parliamentary system—sets the agenda by introducing a proposal to the parliament. Then, in the second stage, the parliament votes on whether to accept the proposal. If the parliament uses its veto and the proposal is rejected, status quo prevails. In the model, the parliament as a second stage actor is not allowed to amend the government or first stage proposal. Thus, the decision-making power of the parliament is severely restricted, and actually reduced to a take-it-or-leave-it choice. If the ideal points of the government and the legislative assembly (median legislator) deviate, the agenda control described above makes it possible for the government to move the status quo towards its own ideal point.

The agenda setter in Romer and Rosenthal’s (1978) model has both *positive* and *negative* agenda power (cf. Cox 2006). Positive agenda power is the authority to propose changes to the status quo, and to ensure that these proposals are brought onto the legislative agenda. Negative agenda power is the ability to prevent proposals from entering the legislative agenda (gatekeeping power), the

ability to delay considerations of proposals (a weak form of gatekeeping), or the ability to block changes of the status quo (veto power). In the setter model, the first mover has proposal and gatekeeping power. The second mover can neither introduce proposals nor make amendments. In the vetoing parliament, proposals are considered under a closed rule rather than an open rule, meaning that no amendments are allowed. Obviously, the agenda setter *controls* the agenda in an absolute sense. Any proposal or amendment that the agenda setter deem unacceptable is kept off the legislative agenda. In this way, the agenda setter also controls policy changes; “no proposal should be forthcoming unless the proposer prefers the vetoer’s ideal point to the status quo” (Heller 2001: 785).

Formally at least, the government in a parliamentary system can hardly be described as a gatekeeping proposer interacting with a parliament without any positive agenda power (as also is the case in the scheme of Figure 2). If the government does not have other means to obtain control, such as the right to propose amendments to parliamentary amendments, which Heller (2001) calls *last offer authority*, we certainly must conclude that the government does not really have institutional control over the legislative agenda.¹⁵ Thus, governments in parliamentary systems do not actually possess institutional instruments that are sufficiently strong to control the legislative agenda, even though most bills considered by parliament are drafted by the government.

Table 3: The Setter Model and the Standard Parliamentary System

¹⁵ According to Heller (2001:780), “the authority to make ‘last offer’ amendments protects the government from losing control of legislative content and being forced to watch bills it dislikes become law”. This probably indicates that governments without last offer authority easily get rolled; they do not have full control of the legislative agenda. In Heller’s sample of 15 Western European countries, 40 percent of them have some form of last offer authority. Several of the last offer instruments are however rather weak, and hardly sufficient to move the outcome away from the median legislator.

Legislative decision making is both intricate and complex. Nevertheless, two simple types of processes dominate the picture when it comes to the handling of government bills in parliament, provided the government cannot just “dictate” the legislature in a form of unitary action (cf. the outline of legislative processes in Froman 1967). The first is *anticipated reactions*, a kind of “implicit” bargaining where the parties’ offers and counteroffers are unknown or remain vague. The government must anticipate the parliament’s preferences (majority preferences), and draft and introduce bills accordingly. If this mechanism works successfully, every government bill will be adopted without changes and all private members’ bills will be rejected. A government which lacks agenda control or similar means will have to lean heavily on anticipated reactions in its day-to-day proceedings. This means that a government bill not necessarily reflects the ideal point or first preference of the government, but rather the best possible bill as seen from the government’s perspective, given that the bill need to attract a majority on the floor.

The second process is a more traditional kind of *bargaining* or explicit coalition building. It has as its purpose to establish a majority coalition in the committee and on the floor by such mechanisms as persuasion, problem solving, compromise, side-payments and logrolling. In this case, the government introduces a bill and negotiations and deliberation of some sort take place in corridors and behind closed doors in committees. Eventually, the bill gets adopted on the floor in its original or redrafted form.

The institutional details regulating executive-legislative relations and the making of legislative proposals also affect the character of debates. Those who formulate proposals will – if they want to further their interests in an effective way – have to consider what likely will happen at the floor voting stage. Proposals are designed in such a way that the final outcomes will be as good as possible. Given that legislative debates primarily are an arena for stating reasons and for legitimizing and explaining ones views on the existing proposals, proposal making virtually also determines the content and development of the debates. Thus, imagine two situations where the actors have

identical preferences. In one situation the government drafts a bill under a closed rule, and in the other it operates under an open rule. In the latter case the government will be challenged by an amendment if it does not fine-tune the bill to the realities on the floor. As it is (almost) always a cost associated with losing a vote, the government will most likely try to adjust to the floor median. In the case of a closed rule, the government can stick closer to its own preferences (if preferences diverge) without being challenged. But whatever proposal the government settles for, it have to treat it as its first preference in the parliamentary debate – and state the reasons for it (and perhaps the arguments against other solutions or proposals as well).

4. Strategic Amendments, Strategic Voting and Legislative Debates

Assuming open rule, legislators formulate different types of amendments to government bills, although far from all of them are really meant for adoption. According to Heller (2001:786) we find three kinds of amendments. The first one is *friendly amendments*. They are intended to correct flaws and omissions in government proposals. Correcting technical errors and minor language editing may be typical examples. They will achieve support from the government and are not of much interest here. The second kind is *credit-claiming* or *advertising* amendments (see also Mayhew 1974). They help parties to signal their policy commitments and legislative efforts to voters and party members. Typically, such amendments are not really designed for adoption, and those who introduce them expect them to fail on the floor. Most amendments probably fall into this category.¹⁶ The third kind is *opposition amendments*. They are intended to change or replace the government bill; they are policy-oriented in a much stronger sense than advertising amendments.

¹⁶ No-confidence motions often are similar. Williams (2011) have found that only about 5 percent of no-confidence motions in advanced parliamentary democracies after 1960 have been successful in bringing down governments. In an overwhelming share of the cases, MPs know in advance that the motion will be rejected. Williams do however show that opposition parties that challenge the government by means of no-confidence motions often gain on the electoral arena even though the motion fail.

The immense volume of legislative amendments in many assemblies that are not meant for adoption is in itself challenging the idea of parliamentary debates as deliberative.¹⁷ These amendments have no decision making role in the legislative process; voters and the general public are the addressees, not fellow legislators on the floor. But also more policy-oriented amendments may undermine prospects for genuine deliberation. At the same time, as long as legislative debates primarily serve as an arena for stating reasons and explaining ones position and votes, the debates also form a barrier against strategic amendments and insincere or strategic voting (here meaning not voting directly in accord with one's preferences at each stage of multi-stage voting processes).

I will mention two examples that might shed further light on the relationship between legislative proposals and legislative speech. The first one is so-called killer amendments in the context of the amendment procedure for legislative voting. The second one is strategic voting in the context of the successive procedure for legislative voting. In European parliamentary systems, the amendment procedure and the successive procedure completely dominate floor voting (Rasch 1995; 2000).

Figure 3. The amendment (or elimination) procedure of parliamentary voting...

4.1. Killer Amendments

A killer amendment causes a bill that otherwise would pass to fail (Enelow and Kohler 1980). Saving amendments is a related phenomenon that also could be dealt with here: Amendments designed to save a losing bill. These are amendments that are not intended for adoption, but they nevertheless play a decisive role in the legislative process if successful. Figure 3 shows what could happen after introduction of a new amendment to an existing bill. There are three actors or groups (I, II and III), all of which separately controls less than half of the votes. Assume that any combination of two actors

¹⁷ See chapters in Rasch and Tsebelis (2011) for data on amendment activity in selected countries.

make up a majority. At the outset in situation A, therefore, the proposed bill has majority support. Actor III, who supports the status quo, stands to lose. This actor also understands that the intensity of support for the bill varies, and exploit the fact that actor I is not strongly committed to the original bill and therefore could support an amended version of it. The amendment possibly might be seen as a kind of compromise, although it is not a true compromise in the situation at hand.

Given that the assembly uses a structured version of the amendment procedure to reach a decision, as shown by the voting three in Figure 3, the amended bill will win on the first stage (sincere voting). But it will lose on the second stage when placed against status quo. In the second vote, then, actor III is assumed to support status quo rather than its own amendment. In this sense the amendment only have been a strategic or tactical tool, and not really intended for adoption. At the same time, insincere voting has been assumed away in the example so far: Actor I could have brought about a better result than status quo – the original bill – by refusing to take the bait of the amended bill and instead vote in favor of the bill at the first ballot (i.e. vote in favor of the second preference rather than the first preference). However, this kind of strategic voting seldom seems to occur in legislatures using the amendment procedure (Denzau et al. 1985; Austen-Smith 1987). Insincerity is too difficult to justify and explain in public, as one certainly has to be prepared to do. It also turns out to be difficult to find instances of killer amendments in practice (Wilkerson 1999; Finocchiaro and Jenkins 2008). This is not very surprising. In the story of Figure 3, a successful killer amendment requires that actor III votes sincerely. But this actor also have introduced and promoted the amended bill, only to vote against it in the final vote. This behavior is hard to defend in an assembly that debate legislation publicly immediately before votes as taken. As seen from the perspective of the debate – where actors give reasons for their policy positions – renouncing one's own proposal at the end of the legislative process would be equivalent to insincere voting.

Figure 4. The Successive procedure of parliamentary voting ...

4.2. Strategic Voting under the Successive Procedure

Strategic voting also has been hard to find in assemblies using the successive procedure (Rasch 1987). The successive procedure work by voting alternatives one-by-one, up or down, in a pre-specified order. If a single alternative gets a majority of votes, it is adopted and no more votes are taken. Thus, all other existing alternatives are eliminated even without voting on them. If, however, a majority decides against the first alternative, this alternative is removed and a new vote is taken. Figure 4 shows a simple voting three of such a process with three feasible alternatives (B taken first, and then a binary choice of the two remaining alternatives A and C if B is rejected). Assume that C will be adopted under sincere voting. Given the voting order in Figure 4, an actor with preferences $A > B > C$ has an incentive to support B (second preference) rather than A (best outcome) to avoid C (worst outcome). Strategic voting would mean to vote in favor of B, and if B wins there will not be a vote at all on A (first preference) versus C. Successful instances of strategic voting are extremely rare. It would require interrupted voting sequences (necessary condition), but they are hardly found in practice. The reason, again, is related to the fact that debates proceed floor voting. Strategic voting is a type of behavior that is difficult to defend in public and explain to voters, and it would have been visible to everyone if the actors in question had promoted a different alternative in the debate. With reference to Figure 4, for example, it is difficult to vote for B *before* A has had the chance to enter the agenda, provided one has argued for A as the best option throughout the debate.

An “implicit” version of strategic voting could however be a possibility. A thought experiment in a survey to MPs in the Norwegian parliament is illustrative. The MPs were asked to consider a hypothetical situation with an incentive for strategic voting. It was emphasized to the MPs that they (or their party) were not responsible for the introduction or formulation of any of the proposals. In this sense, they were not committed to any position at the preparatory stages of the legislative process. A clear majority of them answered that they would in fact vote in a strategic manner (this word was not used in the questionnaire), as shown in Figure 4. Presumably, then, they also would have defended alternative B in the debate before voting, in order to appear consistent. This type of

strategic voting, then, would look exactly like sincere voting. And their reasoning in the debate would be strategic as well, in the sense that they would go for the second-best option publicly even though the first-best option was available.

5. Concluding Remarks

In general, plenary debates on legislation in assemblies of (at least) parliamentary systems tend not to be deliberative. Arguing seldom affects information and preferences in a way that become important at the final voting stage. Outcomes almost always are known in advance. Plenary debates lack the dynamic elements that are central to any deliberative process marked by conflicting preferences. Instead, it is much more common for legislators to use plenary debates as an arena for stating their reasons, revealing their preferences and explaining their vote – primarily to outside party members, media and the general public.

Legislative debates are not in practice deliberative in modern assemblies. Should they have been? This is a difficult normative question I have avoided. It should nevertheless be noted that from an epistemic perspective it could hardly be any positive consequences from making plenary debates more deliberative (which also, among other things, require more open floor amendment rules).

Parliaments in (at least) parliamentary systems lack the necessary expertise and capacity to legislate themselves, and redrafting legislation directly from the floor – as true deliberation would have to make possible – is not a relevant option in any legislature.

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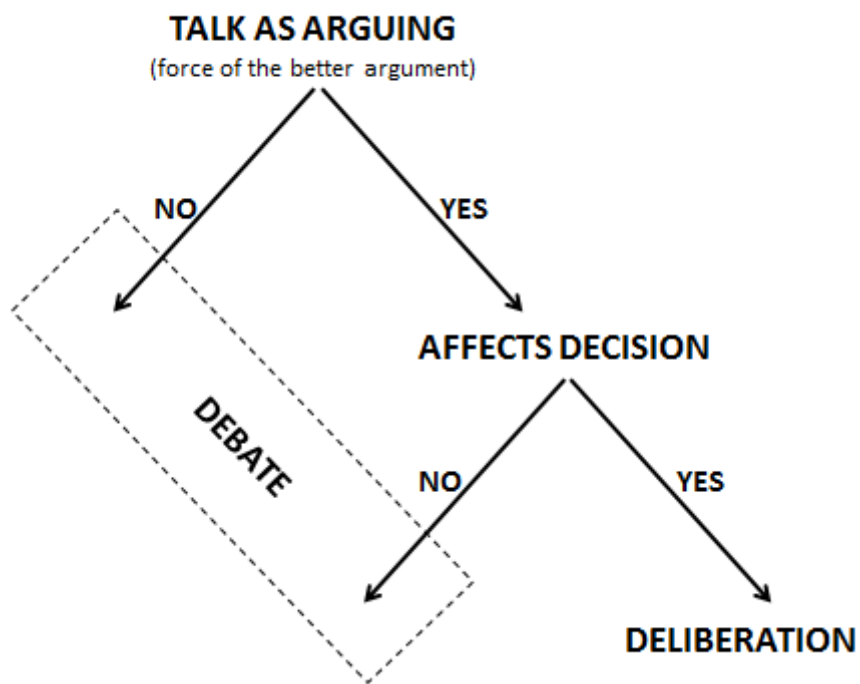


Figure 1. Deliberation versus debate.

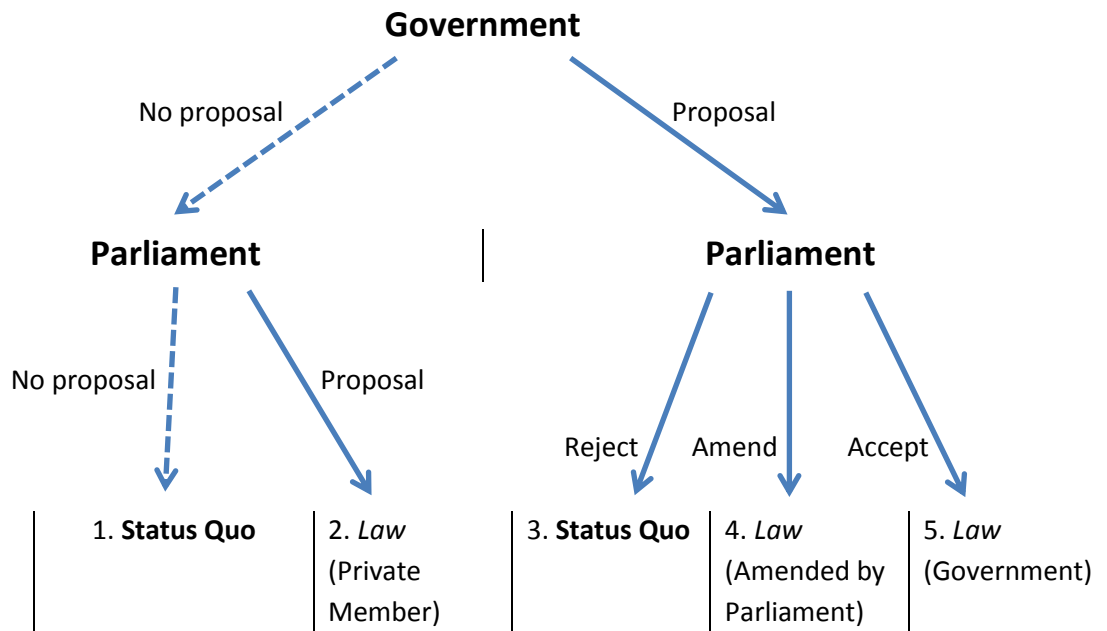
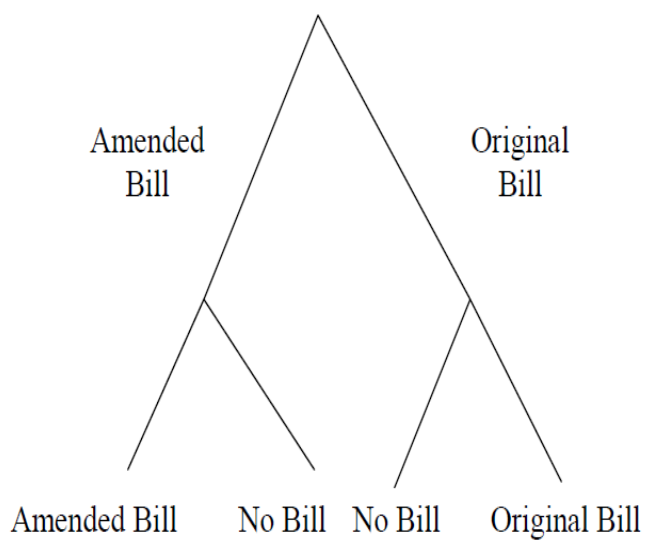


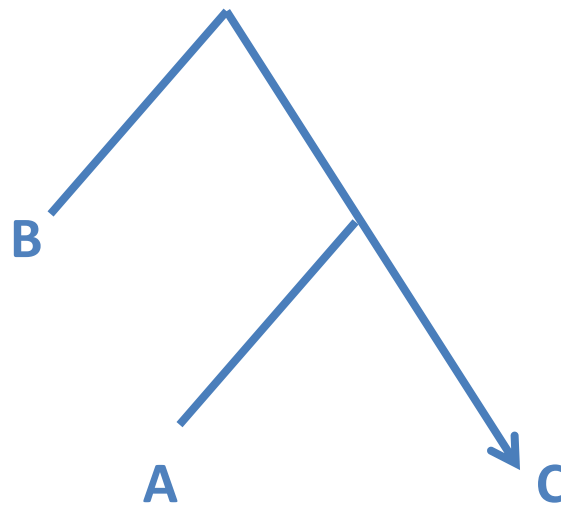
Figure 2. Sketch of the lawmaking process in a parliamentary system of government.



A. Situation before amendment	I	II	III
First preference	Bill (weak support)	Bill (strong support)	Status Quo
Second preference	Status Quo	Status Quo	Bill

B. Situation after amendment	I	II	III
First preference	Amended Bill	Bill	Status Quo
Second preference	Bill	Status Quo	Amended Bill
Third preference	Status Quo	Amended Bill	Bill

Figure 3. The amendment (or elimination) procedure of parliamentary voting and an example of the introduction of a killer amendment.



“Assume that you regard alternative A as the best alternative and C as the worst, with B somewhere in the middle. It has been decided that B should be voted first. If B is defeated, A is voted against C. If B loses, it is expected that C wins. Would you vote in favor of or against B?”

Percent

Vote in favor of alternative B (the second preference)

55,1

Vote against alternative B (and open for a vote over A and C)

20,3

Other answers

24,6

Figure 4. The successive procedure of parliamentary voting and an example of covert strategic voting. Results from a survey thought experiment in the Norwegian parliament in 1985. N = 69 MPs

Table 1. Success rates for (non-financial) bills.

Success Rate of Private Member Bills	Success Rate of Government Bills	
	High	Relatively Low (Well Below Average)
Substantial	Austria, Germany	France
Very Low	Nordic Countries	Portugal

Sources: Bräuninger and Debus (2008); Andeweg and Nijzink (1995); Rasch and Tsebelis (2011).

Table 2. Institutional regulation of amending activity in selected countries (lower houses only in bicameral systems).

Country	Amendments on the Floor by Individual Members without Advance Notice	Authority of Parliamentary Committees to Rewrite Government Bills
Austria	No	3
Belgium	Restricted	4
Denmark	No	1 ¹⁾
Finland	(Yes)	4
France	Restricted	1
Germany	No	4
Greece	Yes	2
Iceland	Restricted	4
Ireland	Yes	1 ¹⁾
Italy	No	4
Luxembourg	Yes	3
Netherlands	Yes	1
Norway	No	4
Portugal	Yes	3
Spain	No	4 ¹⁾
Sweden	No	4
United Kingdom	Restricted	1 ¹⁾

Sources: Mattson (1995: 475) on floor amendments and Döring (1995: 236) on rewriting authority. Some entries have been updated.

Key (from more to less government control):

1. House considers original government bill with amendments added.
2. If redrafted text is not accepted by the relevant minister, chamber considers the original bill.
3. Committees may present substitute texts which are considered against the original text.
4. Committees are free to rewrite government text.

¹⁾ Plenary may decide on principle in plenary before the bill is sent to committee, and may in some cases leave little room for substantial changes. (See Döring 1995: 234.)

Note: All countries with “yes” in the second column, except Portugal, have higher success rates for government bills than the average for parliamentary countries (as reported in Cheibub et al. 2004). Information in the second column will be updated, elaborated and made more precise.

Table 3: Overview of agenda setting mechanisms.

	SETTER MODEL	STANDARD PARLIAMENTARY SYSTEM
GOVERNMENT	Proposal Power Gate-keeping Power	Proposal Power ADDITIONAL INSTRUMENTS: Threat of Resignation (Confidence Vote) Dissolution Power Last Offer Authority
PARLIAMENT	Veto Power (Closed Rule)	Proposal Power Amendment Power (Open Rule) ADDITIONAL INSTRUMENTS: Threat of Removal (No-Confidence Vote)
Implications:	Government-Monopolized Agenda Power (Agenda Control)	Government Agenda Power Significantly Constrained