Chapter 5: Divided Authority and Reform within King and Council Governments

A. Divided Governance and the Market for Power

The previous chapters provide informational and secessional explanations for why we rarely observe a king without a council or a council without a king. An advisory committee improves a proprietor's information and thereby his decisions as well. A chief executive similarly improves the information available to a board of directors and the monitoring of the organization's team members. Transitions between successive governments can be routinized by allowing the king to appoint new council members and a council to select or affirm new chief executives. These informational and secessional advantages of divided government, however, do not provide a rationale for moving very far beyond nearly polar forms of the "king and council" template in which the formeteurs and their successors hold veto power over all policies, and exercise considerable agenda control.

If there were not further advantages from divided government, these results would provide a rationale for conventional work that focuses almost exclusively on extreme models of political decisionmaking, because considerable insight into the policies of nearly polar forms of the "king and council" template can be obtained by focusing on dictatorship and parliamentary rule. On the other hand, to neglect relatively weak branches of government entirely clearly understates their influence on policy. Even advisory councils must be listened to in a manner that impacts policies if serious advice is to be obtained. Similarly, appointed administrators often control policy-relevant information and so normally have some discretion on implementation of directives from their board of directors or legislature (Niskanen 1968; Breton and Wintrobe 1975). More important for the purposes of this book, analysis of the extreme cases necessarily neglects the wide range of intermediate cases that can emerge through time as significant policymaking power is shifted among parts of government.

The properties of divided governments have received surprisingly little attention in the rational choice–based political science and political economy literatures.[40] For example, Schap (1986) and Carter and Schap (1987) demonstrate that an executive veto can affect the decisions of the legislature and policy outcomes in general. They demonstrate that an executive veto can also contribute to stability in policy choices. Persson, Roland, and Tabellini (1997) demonstrate that electoral feedback can induce a divided government to adopt policies that are more favorable to voters than would have been adopted by unified governments when candidates are not systematically different with respect to policy preferences. Dixit, Grossman, and Faruk (2000) analyze self-enforcing divisions of political or economic surplus between two parties within a democracy that interact repeatedly through time and find that stable rules for dividing a nation's resources can emerge in a divided government that is entirely self-interested, but whose relative power shifts randomly through time.

These lines of research, however, generally assume that the division of policymaking power is exogenous for the purposes of analyses. This is a reasonable assumption for short-run analysis, but less so for long-run analysis. Institutional evolution and conservatism, as noted above, imply that organizational policymaking procedures tend to be stable in the short run, but often require adjustments as external or internal conditions change through time.

Policymaking Authority

The persons who can adjust the procedures through which an organization's policies are chosen are all insiders, that is, they occupy policymaking "offices" within the organizations of interest. Insiders, as noted above, tend to have good reasons to support

[40] The modern analytical literature on democracy and democratic constitutions is very large. See Mueller (2000) or Persson and Tabellini (2000) for comprehensive discussions of the main strands of these literatures. The literature on dictatorship is much smaller. A good place to start is Wintrobe (1998), Tullock (1987), and Olson (2000), who collectively provide a good overview of the choice settings and historical evidence regarding the public-policy choices of dictatorships.

the existing procedures and assignments of policymaking authority, but this does not mean that they are opposed to all changes in the procedures through which their organization's policies are chosen, nor does it imply that they are always opposed to changes in the procedures through which high "officials" in their organization are selected. Insiders have interests in wealth, status, and fame that are not always perfectly aligned with their induced organizational interests that support the status quo.

Note that pursuing personally advantageous procedural reforms would produce only internal organizational conflict if "power" is one dimensional. In such cases, any increase in the authority of one person must reduce that of another, who would naturally resist such reforms.

Policymaking authority, however, is not one dimensional, because policy decisions are separable and control of policy itself can be subdivided in various ways. For example, a person or committee might control all areas of policy or a subset of the policy areas addressed by their organization. Control itself may be complete or partial. Complete control over an area of public policy can be said to exist whenever a single decisionmaker has complete veto power and agenda control over that policy. Such persons can choose which possibilities to consider and unilaterally decide whether to accept or reject them. A person or committee may be said to have partial control if he, she, or they have veto power, but not agenda control, or if veto power is distributed among several decisionmakers or centers of authority.

Within the unitary hierarchical governments favored by Hobbes, there are few opportunities for constitutional exchange, because by definition, only one formal assignment of policymaking authority is possible. The sovereign of an undivided government always retains complete control over policy. Even in such organizations, however, it is possible to reallocate delegated authority among offices to take advantage of the talents and interests of persons in the organization, although such changes formally require the approval of the sovereign and can be changed by the sovereign at will.

Within divided governments, however, both the degree of control and assignment of authority among policy areas can be varied among policymakers and among centers of policymaking authority. Alternative distributions of policymaking authority allow a nearly continuous spectrum of divided governments to be characterized. Such divisions of authority create numerous possibilities for shifts of policymaking authority. And, as in ordinary markets, it will at least occasionally be possible for policymaking authority to be "reallocated" among insiders in a manner that advances the interests of all those whose authority is changed.

Chapter 5 analyzes some short- and long-run implications of possible assignments of agenda control and veto power within the king and council template for governance and discusses how the reassignment of such powers can be used to strike constitutional bargains.[41] The analysis focuses on standing territorial governments that have passed beyond their formeteur stage, which are consequently led by persons who take the organization's present assignment of power as "given." In such cases, the initial assignments of policymaking authority can be regarded as "political property rights," whether the status quo distribution of authority is characterized in writing or not. To the extent that authority can be shifted among policymakers, this potentially creates a "market for power" through which policymaking and selection procedures can be peacefully and lawfully reformed.[42]

[41] Veto power is occasionally shared, as in the settings with multiple veto players analyzed by Tsebelis (2000), although this possibility is neglected in the present analysis. If veto power were the only policymaking authority available, such divisions would often lead to stalemates and worse in "zero sum" settings, as implied by Hobbes' (1651) analysis of divided sovereignty, and would more often produce conflict than opportunities for constitutional reform. Buchanan and Yoon (2000) discuss the problem of multiple veto powers in their piece on the "anti-commons." Tsebelis notes that fully rational participants in a government with multiple veto players will take the interests of other veto players into account to avoid complete deadlocks.

[42] Chapter 5 is partially based on a paper presented at the Millennium Plenary Session of the European Public Choice Society Meetings in 2000, which was subsequently published in *Constitutional Political Economy*. The author would like to thank several participants of that session, Mario Ferraro, Gordon Tullock, Dennis Mueller, Robin Hanson, and two anonymous referees for a variety of helpful comments and suggestions that helped the development of the paper and this chapter.

The analysis of constitutional exchange in such markets for power requires somewhat more complex models; so the mathematical representations of the choice settings examined in the next few chapters are more elaborate than those used in the first part of the book. The analysis is written in a parallel structure so that readers may follow the logic of the argument without working through the mathematics. Examples from European history are used to illustrate the relevance of the analysis.[43]

Chapter 6 analyzes an important special case of constitutional exchange in which the council (parliament) has veto power over new taxes. Chapters 7 and 8 analyze how shifts in interests among government leaders can induce reforms of the process through which members of a royal council or parliament are chosen. Chapters 5-8 together provide a theory of constitutional reform that is sufficient to explain the gradual and peaceful emergence of parliamentary democracies from governments that are initially dominated by their executives (emperors, kings, princes, barons, and so on). Outsiders may occasionally affect insider incentives to change policymaking procedures, but it is insiders who hold the pens that draft new rules.

B. The Geometry of Agenda Control and Veto Power within King and Council Governments

Black (1948) and Arrow (1963) demonstrated that committees that choose policies using majority rule will not always be able to reach a final decision because of the possibility of majoritarian cycles. This implies that it cannot simply be assumed that the council will always make consistent recommendations or consistently exercise its veto power. However, alignments of council member ideal points exist that do not suffer from the cycling problem, as noted by Black (1987) and Plott (1967). Such alignments produce “decisive councils,” rather than nondecisive ones.

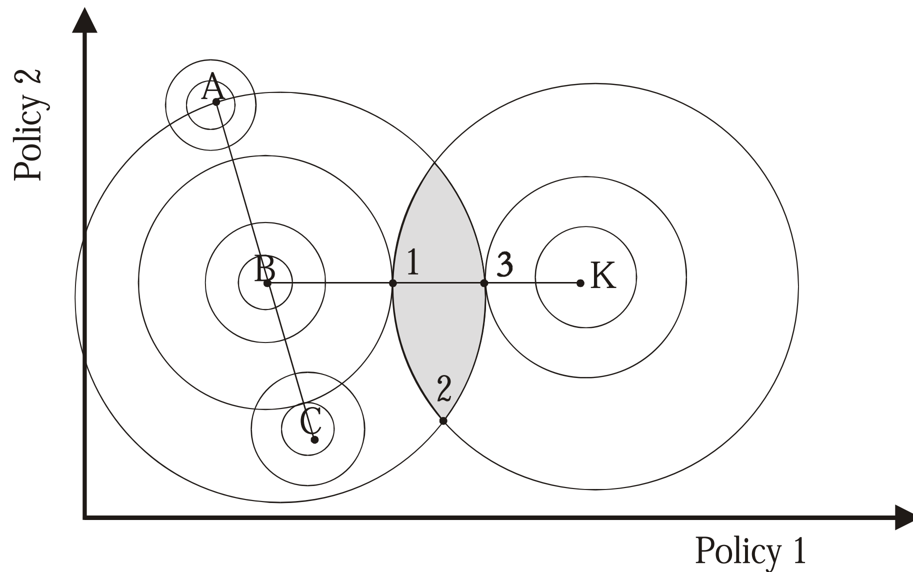
Veto and Agenda Control with Decisive Councils

Consider, first, the case in which the king initially has both veto and agenda control, and has a decisive council. An example of a “decisive” alignment of council preferences is depicted in figure 5.1, with the three committee members’ ideal points lying on a straight line and denoted with the capital letters *A*, *B*, *C*. The ideal point of the king is denoted with the letter K. The government exercises control over two separate dimensions of policy. The issue of interest is the effect of granting the council veto power or agenda control over the policies to be decided. The authority to propose policy alternatives is important, because it determines the alternatives to be considered by those with veto power. The authority to block proposed moves away from the status quo is also important, because it may be used to protect the status quo or to affect the direction and extent of reform.

Note that if the initial policy is “K” and circumstances are stable, the king can shift either veto power or agenda control to the council at essentially no cost. On the one hand, if the king gives the council veto authority and retains agenda control, he can always propose K, which confronts the council with a “choice” between K and K. Because only K is possible, K continues as the law of the land, regardless whether the council vetoes the policy or not. On the other hand, if the king retains veto power and the council is granted agenda control, he can veto any proposal made by council to move away from K. In stable times, retaining either agenda control or veto power is sufficient to protect the king from reforms that would make him worse off. In such circumstances, there are no costs associated with sharing policymaking authority, apart from a slight increase in decisionmaking costs.

[43] As emphasized above, informational constraints will also affect the feasible domain of policy. A government cannot select something of which it is unaware.

Figure 5.1. Effects of Veto and Agenda Power



Similarly, if the council initially had both agenda control and veto power, the council could agree to share power with the king at little cost. In this case, the initial policy is *B* (the median council member's ideal point). Note that if the council gives the king agenda control, the pivotal council member can simply block any policy proposal by the king (chief executive) that makes the median council member worse off. On the other hand, if the council gives the king veto power and retains agenda control, it can simply propose that policy *B* be continued, and policy combination *B* will remain in place regardless of the king's action. *Either branch of government's ideal point can be defended by that branch as long as it has either veto or agenda control in stable circumstances.*

Consequently, in a stable setting, an initially dominant branch of government can give the other branch some authority over policy choices without affecting policy in the short run. In such settings, sharing power with the weaker branch of government is surprisingly inexpensive for the initially stronger branch. The willingness of the weaker branch to "purchase" authority from the stronger would consequently be very limited in stable times, unless the possibility of exercising power increases the prestige of office, or the weaker chamber expects more turbulent times to emerge in the near future.

During unstable periods, however, power sharing arrangements affect the policy adjustments that will be adopted, and so may be of greater interest. To see this, suppose that political circumstances change because of technological or political shocks that change the ideal points of both council members and the king. (Such a shift does not require a change in tastes, only in the perceived consequences of the policies.) To illustrate this case using the same diagram, suppose that after the change in circumstances, the status quo (reversion point) is policy combination "2" in figure 5.1, which is now interpreted as the previous ideal point of the stronger branch of government. In the absence of a veto by the weaker chamber, the stronger chamber would have simply adopted its new ideal point as the official policy of the realm, K or B. However, if the weaker chamber has veto power, it can now block such moves.

The policies that can be proposed by the agenda setter, but are unlikely to be vetoed, are identified by the shaded lens or football shaped area. Note that the presumed status quo policy combination 2 is preferred by the king to B, and by the median council member to K. In the new setting, the best result that a king with agenda control can achieve is policy 3, given the veto power of the council. In the converse regime, the best policy that an agenda-setting council can hope for is policy 1, given the veto power of the executive.

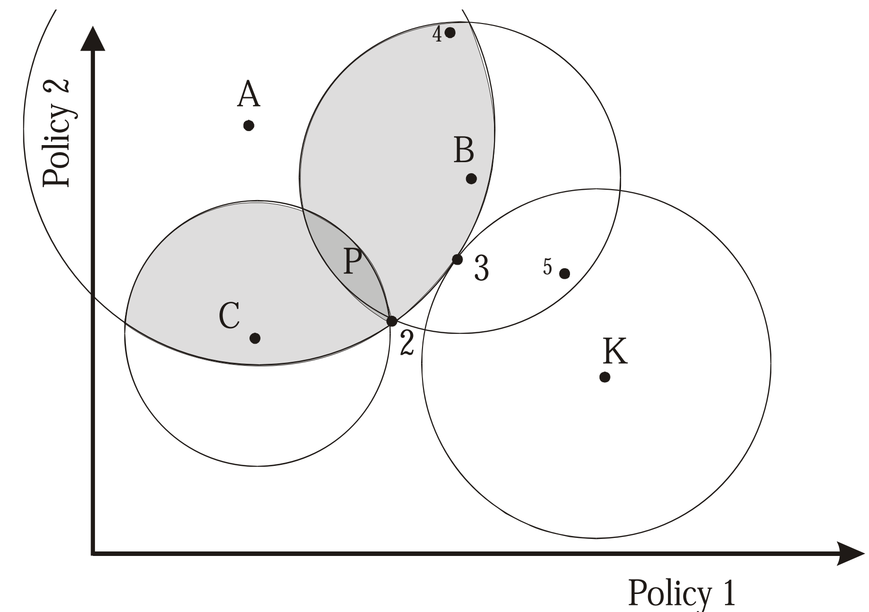
In unstable circumstances, assignments of veto power and agenda control are no longer identical, but have significant affects on the policy outcome. The party with agenda control does better in each case relative to the party with veto power.

These cases also demonstrate that policy shifts are moderated by divided forms of king and council governance. Elementary geometry implies that the policy shifts induced by political shocks are generally smaller and cannot be larger than those that would have been associated with either pure form of government. (A movement from 2 to either 1 or 3 is smaller than a movement from 2 to either K or B.) Insofar as stable policies tend to promote economic growth by making the legal framework more predictable for both firms and consumers, intermediate forms of the king and council template may be said to promote economic development in an uncertain world.

Veto Power and Agenda Control with Nondecisive Councils

Consider next the case in which the council is *nondecisive* and thus "weak" in the sense that no pivotal voter exists. The geometry of figure 5.2 illustrates such a case, in which the preferred policies of council members are such that they cannot make a final decision because of majoritarian cycles. Every possible proposal can be defeated by some counter proposal. Cycles of this sort are observable to those outside government only as a lack of decisiveness. Such councils might be regarded as weak, factional, and disorganized. In such cases, it may be argued that only one division of agenda control and veto power is actually feasible, because nondecisive councils can veto some policy alternatives, but is incapable exercising agenda control. In such cases, the executive branch can use agenda control to stabilize the government policies and to obtain very good results for the executive.[44]

Figure 5.2 Agenda Control with a Weak Council



To see this, suppose, as above, that some political or technological shock has changed the ideal points of the council and/or king so that the status quo policy is no longer near the ideal points of the king, nor in the Pareto set of the council. Assume, for purposes of illustration that the status quo is policy 2, which is Pareto-dominated among council members by policies within lens-shaped area P. Note that a king with agenda control can propose policy 3, which will secure majority approval over policy 2, which is a stable outcome as long as the king will only propose policies that make himself better off. If, however, a series of policy proposals can be voted on, the nondecisive distribution of

[44] This point was first developed by Schap (1986), although his analysis differs somewhat from that developed here.

voter ideal points potentially allows the king to secure his own ideal policy combination—notwithstanding the veto power of the council (McKelvy 1976).

In effect the king can play the three council factions off one another in a series of votes leading to his preferred policy, although this will often require the king to sacrifice his own interests strategically in the short run, as with proposal 4, rather than 3, which allows the more desirable policy combination 5 to be achieved in the next round. How long this might take in real historical time is beyond the scope of the present analysis, but this possibility suggests that a strong forward-looking king faced by a weak (nondecisive) council can offer veto power in exchange for council acquiescence on other pressing issues or as compensation for service to the crown at a very low cost in both stable and unstable circumstances.

The mere *appearance of power* may make council membership a more attractive positional good and allow the king to secure a more talented council at a lower cost. It may also serve to legitimize the regime for those outside government, if outsiders believe that their interests are better represented by the parliament than by the king. The executive's risk in the long run for granting veto power to the council is limited to cases in which the council becomes decisive (has a median voter) at the same time that the king's ideal policy changes.

A forward-looking council can rationally make concessions to the king or provide extraordinary services in exchange for veto power or agenda control for strictly constitutional reasons, if they anticipate future policy decisions on which the council may be decisive. Such decisive councils may be deemed very unlikely by the king, as implied by most analyses of voting in multidimensional issue spaces, and so gains to constitutional exchange may well emerge at times when the king needs the support of parliament or substitutes the appearance of authority for monetary rewards. Better policies in the short run may be obtained for the king in exchange for a relatively unlikely future circumstance.

In the long run, however, such constitutional exchanges can provide future decisive councils, however unlikely, with greater power over policy than even a hard-pressed king would have agreed to. And, as will be seen in part II of this book, such decisive councils did emerge in the eighteenth and nineteenth centuries, as new economic interests and new ideological interests affected the policy positions of members of parliament.

C. Divided Governance as an Institution for Avoiding Losses from Unproductive Internal and External Conflict

In addition to securing extra services from parliament, power sharing arrangements can also be used as a method of reducing losses from internal and external conflict. In organizations that are not perfectly managed and territories that are not perfectly secure, the decisions of a governing body may be resisted within and outside the organization. Conflict does not always involve violence or threats of violence, but nonetheless tends to reduce organizational output and surplus by consuming time, attention, and other scarce resources. Such losses are naturally taken into account when an organization is initially formed and subsequently reformed as circumstance change.

Table 4.1 illustrates the advantage of avoiding losses associated with both "civil" and "uncivil" conflict and characterizes some essential features of an asymmetric game of conflict when two parties clash on the control of some policy, territory, or theology. The case of interest is one in which the weaker of the two parties is able to resist the stronger, so that complete control is very costly for the stronger party to implement. The weaker party benefits from resisting the stronger party, because resistance achieves a better result than surrender. The Nash equilibrium of this game implies that both parties devote resources to the "power struggle," because investments in conflict are independently profitable. Each party's own payoff increases as it invests more resources in the conflict, other things being equal. The equilibrium that emerges under existing procedures, however, is clearly suboptimal for the organization as a whole and for the strong and weak parties, because scarce resources are unproductively consumed by the conflict. In the illustration, eight units of resources are wasted at the Nash equilibrium [8 = (6+14) – (2+10)].

Table 5.1 Asymmetric Power Game				
		Stronger Party		
		Little Aggression	Moderate Aggression	Intense Aggression
Weaker Party	Little Resistance	**6, 14**	3, 16	0, 18
	Moderate Resistance	7, 10	4, 12	1, 14
	Intense Resistance	8, 8	5, 10	**2, 12**

As in a conventional rent-seeking game, both parties would be better off if they could alter the contest so that they achieve the same result without consuming so many resources in conflict. In such cases, revising the game's rules and procedures the change the nature of the conflict or reduce its intensity may benefit both players (Buchanan 1975, Congleton 1980, and North 1987).

Whether such conflict reducing procedures exist and can be adopted or not depends in part on the setting. In a hierarchical organization, such procedures might simply be imposed on lower levels by higher levels of authority, but this is not always a cost-effective solution, as indicated by the matrix of payoffs. Even the stronger party benefits from finding new procedures that reduce unproductive conflict. Consequently, negotiation and compromise is often a fruitful strategy.

The fact that the parties disagree about specific policies does not imply that they cannot agree to changes in policymaking procedures. For example, a new council representing the interests of the weaker party might, for example, be formed and given limited control over future policy, as with agenda or veto power (Congleton 2004). Alternatively, the weaker party may be given seats in an existing council and votes among members may be weighted in some way. Interests in such procedures clearly differ, but insofar as conflict within political institutions tends to be less costly than on the battlefield or within an organization's production teams, such procedures may well be acceptable to both parties.[45] The possibility of reducing the cost of conflict provides another explanation for the use of representative boards within small- and medium-sized organizations, family-based organizations, and territorial governments.

Such organizational refinements do not usually imply that policymaking authority is equally shared, because whatever procedure is used, it must advance the interests of both the stronger and weaker parties. For example, the weaker party may be given veto authority over a small policy domain of particular interest, while the stronger party retains essentially complete control in other policy areas. Insofar as such arrangements are supported by norms, continuous dealings, or hostages of one kind or another, stable "monopoly franchises" may also emerge for specific geographical territories or areas of policy and be sustained through time.

The same logic also implies that changes in the nature of the underlying equilibrium tends to induce changes in the distribution of policymaking authority to be revised insofar as new gains arise. Modest procedural reforms do not require existential threats to be worthwhile for pragmatic governmental leaders. Reforms are not imposed by the stronger party on the weaker in situations in which resistance is rational, but rather the details are bargained over and accepted by both parties. The stronger party may benefit more than the weaker from the reforms adopted, but the reform would not be successful unless the result also benefits the weaker party and thereby reduces unproductive conflict.[46]

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[45] Tax revolts have historically at least occasionally led to significant shifts in policymaking authority. For example, the Magna Carta was obtained from King John as a consequence of a strike threat made by an organized group of English barons.

[46] An effective collective choice mechanism does not eliminate all losses from conflict, but reduces the cost of conflict by encouraging the use of more "civil" forms of rivalry (Congleton 1980). Persuasion and coalition building may replace warfare on the battlefield, assassination, and counter-assassination, or tax compliance may replace tax avoidance when less confiscatory tax instruments are used to raise revenue (Hobbes 1959, Bush 1972, and Buchanan 1975).

D. Historical Examples of Kings and Councils and Reforms

Divided governments based on the king and council template existed throughout medieval Europe. Grand councils and *tings* often met to advise the kings of Northern Europe and affirm new kings at times of accession who often signed accession contracts as a condition of office. In late medieval Europe, most of Europe's kings became hereditary monarchs and established new advisory councils and parliaments that had significant control over public policy, including veto power over taxation, as in England, Denmark, France, Spain, and Sweden. Some of these medieval parliaments continue to the present day in modified form. Many others were created during the nineteenth century, as new countries adopted new constitutions and as old nations reformed older political arrangements. For example, constitutional monarchies were established in Norway (1814), France (1814), the Netherlands (1815), Belgium (1830), Denmark (1849), Greece (1864), Italy (1861), Germany (1871), and Japan (1889).

These councils and parliaments were usually not merely advisory, nor was the distribution of authority between the king and council entirely static. For example, the roots of the present English parliament extend back before the thirteenth century to the ancient Great Council (Magnum Concilium), which was composed of lay and ecclesiastical magnates. The Great Council met with the English king on affairs of the realm, including taxation. The Magna Carta of 1215 formally established an elected council of 25 barons to monitor and enforce implementation of that compact between the English king, church, and nobility.[47] The English parliament emerged a half century later, following another period of turmoil, during the reign of Edward I. The early English parliaments voted on tax matters, heard petitions from the public, petitioned the king to address various grievances, and occasionally impeached senior government officials (Lyons, ch. 34).

Similarly the parliament of Sweden (the Riksdag) evolved from the ancient Scandinavian and German institution of the *ting (ting, lagting,* or *althing),* which had powers similar to those of the Great Council. *Tings* were deliberative assemblies that met at regular intervals to settle disputes, pass sentences on law breakers, and elect kings. They existed at both local and regional levels. As such, *tings* combined aspects of modern judicial and legislative branches of government. As Sweden emerged as a state in the fourteenth century, a formal Swedish council was established by law in 1319 in exchange for oaths of fealty by the great men of the realm at the time that Magnus Eriksson was elected king. Council members had veto power over taxation and some policy decisions. At approximately the same time, a Danish council of state was established with veto power over war and some authority over new taxes (Danstrup 1947: 37).

The French Estates General also originated around 1300, at which time the king (Philip the Fair) called representatives form the nobility, burgers, and clergy to form a grand council, which was consulted on all major decisions. A smaller group composed of judges and lawyers, the Parlement, was also consulted on a more regular basis. That group remained relatively influential throughout French history. The Estates General played a significant role in medieval France, but had only a minor role in the century of absolutism before the French Revolution (see Bély 1998: 33, 58, 62, and 75). In that century, the various judiciary parliaments served as the main check on the king's authority.

Palmer and Colton (1965: 31) suggest that more or less similar representative institutions emerged throughout Europe during the thirteenth century.

> "Parliaments, in this sense, sprouted up all over Europe in the thirteenth century . . . The new assemblies were called *cortes* in Spain, *diets* in Germany, estates general in France, parliaments in the British Isles. Usually they are referred to generically as "estates," the word "parliament" being reserved for Britain, but in origin they were essentially the same." (Palmer and Coulter 1950: 30–31)

47 The council of barons was formally empowered to protect "the peace and liberties we have granted and confirmed to them by this our present Charter." The rights of the Magna Carta were gradually extended to include lesser landowners, merchants, and eventually the nonpropertied classes (Strayer and Gatzke 1979).

In most cases, the constitutional documents characterized parliaments that had limited agenda and veto powers and whose members were elected via quite narrow electorates.[48]

In essentially all of these cases, there were subsequent formal agreements that shifted power from kings to councils (or parliaments) and back again to kings, as well as many informal agreements. For example, in 1414 the English King Henry V proclaimed that all new laws be adopted with the assent of both chambers of the British parliament, a decision that was later affirmed by the British courts. In 1534 the British parliament proposed and the king accepted rules for future accession to the crown. Similarly, new formal documents marked periods when parliamentary power was on the rise in Sweden. The first Riksdag Act was adopted in 1617. It required that the king consult the four estates before declaring war or forming alliances. In 1660 a protocol calling for the routine meeting of parliament was adopted, which made parliament a self-calling institution. In 1720–23, constitutional reforms led to a half century of parliamentary domination of policymaking—from 1719–72, the so-called Swedish "Age of Freedom."

Such patterns of negotiation and reform were also present outside of Europe. For example, Japanese governance used various forms of king and council rule at national and local levels during its Edo period. The Tokugawa shogunate period of 1603–1868 includes a number peaceful shifts of authority between the shogun and his council. During much of this period, the *shogun* gradually transferred authority to his council and the bureaucracy for day-to-day rule, and regional governments gradually secured increased autonomy (Mason and Caiger 1997: 215–16). The shift in policymaking authority fluctuated somewhat, but tended to be in the direction of council rule and regional autonomy. Two centuries of bargaining on the distribution of policymaking authority gradually produced a complex decentralized largely unwritten constitution, in which hereditary councils in the central and regional governments and their respective bureaucracies controlled most day-to-day policy decisions, and the *shogun* and the major *daimyo* lived comfortable lives of high politics and leisure in Edo.

Similar fluctuations occurred in late medieval France and Denmark as the Estates General and the State Council, became relatively more important when "subsidies" were needed by the crown, and less so during periods in which they were not. In these last two cases, however, the crown was eventually able to circumvent the veto authority of their parliaments, which allowed periods of "absolutism" to occur in the seventeenth century, in which the estates were not called and new less representative councils were created for advisory and administrative purposes.

Both the above analysis and late medieval history suggest that the value and cost of partial shifts of policymaking power to the council, whether veto or agenda control, depends on the anticipated political environment in which the new division of policymaking power will be applied and the extent of the power transferred. Technological and ideological shocks did not always favor parliament in those periods, although they rarely lost all of their authority over public policy.[49]

A central claim of this book is that analysis of divided forms governance sheds light on a wide range of governments and government reforms that were adopted in the eighteenth and nineteenth centuries.

E. Usefulness of the King and Council Model of Governance and Reform

Division of policymaking authority within most organizations begins with delegation, as various day to day policy decisions are granted by a king to his council or to a chief executive by his or her council. Similar considerations induces delegation of some problem solving responsibilities to others within the organization, who are given limited authority to make rules that bind others on policy matters they have direct knowledge of

[48] An exception to this institutional regularity is the king and parliament of contemporary Netherlands, which had not existed until Napoleon's intervention at the end of the nineteenth century. Before that, the Independent Provinces of the Netherlands had been organized as a confederal republic in the late sixteenth century, with a relatively powerful council and weak executive *(stathouder),* but no king.

[49] Although few political histories devote significant attention to the ebb and flow of political authority between king and council, numerous illustrations from medieval England are provided by Field (2002) and examples from other parts of Europe are discussed in Erman (1997).

or expertise about.[50] In some cases, shifts of policymaking authority move beyond delegation. As noted above, there are many settings in which *policymaking authority can be used as a tradable good* within an organization that can be used to "purchase" improved results for formeteurs. In settings in which the most powerful person in the organization lacks the power to costlessly impose new rules and procedures on all within the organization, dividing policymaking authority may reduce various losses from unproductive conflict. In other cases, modest grants of power to the council may be used by a proprietor as a relatively inexpensive form of compensation for council members, or in exchange with other centers of authority to advance mutual interests.

Such bargaining settings exist in all organizations, including territorial governments, because in practice, very few kings or dictators have lacked advisory councils of one kind or another, and very few democracies have lacked an executive branch headed by a single agent. Divided forms of the "king and council" template are commonplace and may well be more so than either of the better analyzed extremes. Intermediate forms of the king and council are widely used in nonpolitical organizations, as within commercial firms (CEO and board of directors), military organizations (commander and war council), and the church (pope and congress of cardinals). King and council decisionmaking procedures are also commonplace within most large organizations, which routinely use the "chair and committee" format for policy analysis and decisionmaking. Moreover, essentially all modern democratic governments use the king and council template for policymaking with an executive branch (headed by a president or prime minister) and a legislative branch (a multimember congress, assembly, or parliament), each of which has significant policymaking responsibility.

Most accounts of constitutional reform neglect underlying continuities in the fundamental architecture of governance that are possible within divided governments. As a consequence, most historians neglect the ebb and flow of authority within king and council systems and also largely ignore the continuation of royalty after democracy emerges. A divided governance approach, by contrast, suggests that internal reforms are central to understanding the evolution of governmental reform. If parliamentary rule can emerge gradually as policymaking power is gradually shifted from king to a broadly elected council without departing from the king and council template, then revolution is not a prerequisite for the rise of parliament, and the rise of parliament does not necessarily transform monarchies into republics. Moreover, analysis of power sharing within a king and council government suggests that the rise of parliament is neither inevitable nor irreversible, as gains to trade between a parliament and a king or prime minister may also shift power from parliament to the executive during times of domestic or international crisis.[51]

The theory of governance developed to this point provide a rational choice explanation for the general architecture of government, for peaceful governmental reform, and for the existence of divided governance. To explain the transition to the contemporary architecture of Western Democracy, however, requires that more specific aspects of governance and opportunities for reform within the king and council template be examined. This more narrowly focused analysis is undertaken in the next three chapters.

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[50] It is largely the extent of one's authority to bind others that determines one's level within a hierarchical organization. Policies made at "top" levels of the hierarchy bind others "below them" within the organization who may also have authority to make significant internal policy decisions. In this manner, hierarchical organizations emerge as gradually as a method of economizing on information and decision costs.

[51] Mommsen (1995: 11–14), among others, suggests that the German Constitution of 1871 was adopted by Bismarck in large part to counter liberal and socialist lobbying groups that emerged in rapidly industrializing Germany. Such groups produced both arguments for insiders and nonviolent demonstrations by outsiders in support of constitutional reform. Considerable power was transferred from the monarchs of Sweden and the United Kingdom to their respective parliaments during the nineteenth century without significant bloodshed or departures from the rule of law. (See Morgan 1997, Verney 1957, or Voigt 1999a, b). These cases are developed at length in part two of the book.