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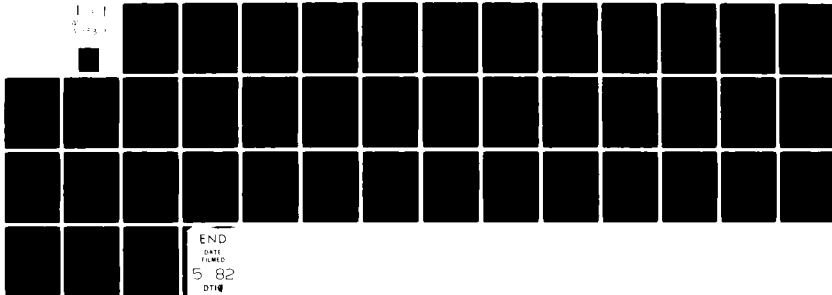
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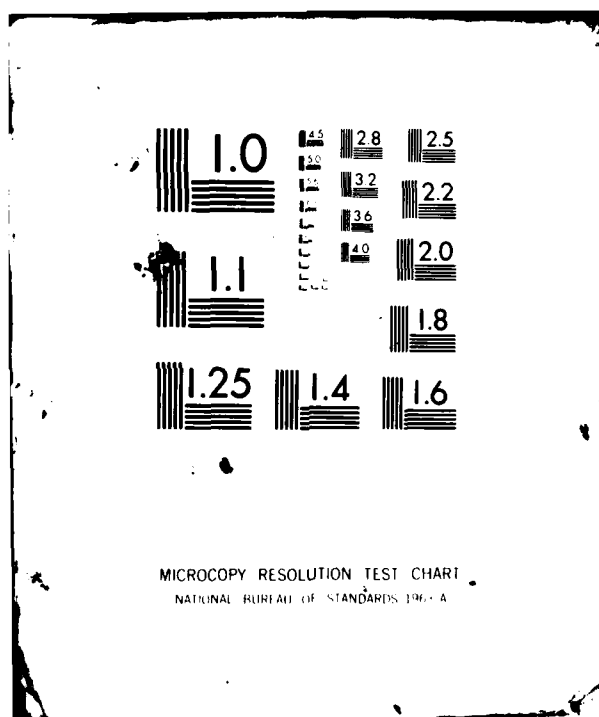
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REPRESENTATION IN THEORY, LEGISLATURES, AND BUREAUCRACIES

Ellen L. Marks

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PREFACE

This paper is based upon research for a graduate seminar on comparative political behavior at the political science department, University of Minnesota. It reviews and integrates the literature on the concept and practice of representation, proposes an extension of analysis to bureaucracies, and suggests a research design.

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REPRESENTATION IN THEORY, LEGISLATURES, AND BUREAUCRACIES

The subject of representation has long been the topic of debate and discussion, an issue for pragmatic and normative consideration, and, more recently, an item for empirical and methodological investigation. Although there is minimal consensus on what representation is, should be, or how it should be studied, there is nevertheless extensive agreement among analysts, observers, and participants that the concept and practice of representation is of critical importance to modern states and societies. Representation is the core of the creation, existence, and maintenance of governments: accepting Easton's definition of politics as the "authoritative allocation of values for a society,"¹ we immediately inquire who is doing the allocating, what makes these political actors legitimate, on what basis decisions are made, and how the society responds to these choices.

The primary goal of this paper is to extend the concept of representation to the bureaucracy in the United States and propose a research design to examine the representation of interests in bureaucratic policymaking activities. This paper is organized into four sections: in the first part I discuss some of the major theoretical works on representation; the second section considers the primary empirical investigations of representation; in the third section I review the existing literature on representative bureaucracy; and the fourth part contains the proposed research design. I suggest expanding this to other countries, and discuss the potential knowledge to be gleaned from this enterprise.

Theories of Representation

Students of the social sciences who seek to tease apart the normative and empirical aspects of societal or governmental phenomena usually create artificial chasms between the two. Lest this student be accused

¹David Easton, The Political System, Alfred A. Knopf, Inc., New York, 1971 (2nd edition), pp. 125-134.

of perpetuating the same sort of myth, let me assure the reader that these aspects of representation are separated in this paper for organizational convenience and conceptual clarity rather than for reasons attributable to value judgments.

Philosophers attentive to the study of representation had centuries of history that could contribute evidence from the practice of representation. As Birch notes, normative theories rarely arise until their subject of discourse has been around for some time.¹ He traces representation to views of ascending and descending theories of political authority that emerged in the medieval ages; the former held that authority came from the people and was ascribed to their leaders, while the latter attributed authority as derived from divine sanction.

Thomas Hobbes is often cited as the first philosopher who addressed the issue of representation via his theory of sovereignty. Like others who followed him, Hobbes opted for the ascending theory of authority. His Leviathan is replete with desires to eliminate the anarchic state by its people consenting to transfer their rights and liberties to a sovereign who will provide for their "peace and common defence."² Hobbes stated:

A commonwealth is said to be instituted, when a multitude of men do agree, and covenant, every one, with every one, that to whatsoever man, or assembly of men, shall be given by the major part, the right to present the person of them all, that is to say, to be their representative; every one, as well he that voted for it, as he that voted against it, shall authorize all the actions and judgments, of that man, or assembly of men, in the same manner, as if they were his own, to the end, to live peaceably amongst themselves, and be protected against other men.³

Thus, to insure a peaceful and safe state, Hobbes would have its citizens (however defined) delegate their rights to a sovereign, whether an individual or a body of individuals.

¹ A. H. Birch, Representation, Praeger Publishers, New York, 1971.

² Thomas Hobbes, Leviathan, Chapter 17, Michael Oakeshott (ed.), Collier Books, New York, 1962, p. 132.

³ Ibid., Chapter 18, p. 134 (emphasis deleted).

Hobbes could be designated as a totalitarianist for the unchecked and unlimited authority given to the sovereign. One suspects that Hobbes envisioned a benevolent philosopher-king who would seek the public good through just means as evidenced by his concern that majority will be exercised. However, by contemporary standards, the populace had to yield extraordinary authority to the sovereign: no new covenants without the consent of the sovereign, no possibility for the sovereign to breach the covenant, no expression of dissent or minority views, no punishment for the sovereign, no opportunity for anyone other than the sovereign to judge what means were necessary or desirable, no one other than the sovereign to determine civil laws, and so forth.¹ (It is interesting to note in passing that offensive as some of these concessions may be to liberals, many are the basis of present day "democratic" political systems and institutions that require subservience to a single authority--e.g., the Constitution of the United States, although this document does contain procedures for its amendment.)

Jean-Jacques Rousseau argued that the covenant that Hobbes felt was essential for the formation of a political system would insure the system's demise.² In his Discourse on the Origin of Inequality Rousseau contends that the creation of government caused the creation of despotism, which in turn caused citizens to lose their natural state of freedom.³ The Social Contract provides his proposed solution for limiting the exercise of central powers while maintaining individuals' strengths and freedoms requisite for self-preservation. The answer is found when:

. . . each of us contributes to the group his person and the power which he yields as a person, and we receive into the body politic each individual as forming an indivisible part of the whole.⁴

¹ Ibid., pp. 134-141.

² Hanna Fenichel Pitkin (ed.), Representation, Atherton Press, New York, 1969, p. 10.

³ Jean-Jacques Rousseau, "A Discourse on a Subject Proposed by the Academy of Dijon: What is the Origin of Inequality among Men, and Is It Authorized by Natural Law," The Social Contract and Discourses, translated by G.D.H. Cole, Dutton (Everyman's Library), New York, 1973, pp. 27-113.

⁴ Jean-Jacques Rousseau, "Of the Social Pact," The Social Contract, in Sir Ernest Barker, Social Contract, Oxford University Press, London, 1969, p. 181.

Rousseau believed that the only legitimate exercise of power was to be found when the general will of the people was being sought. The general will was to be discovered by majority rule of all citizens since "[s]overeignty . . . consists essentially of the general will, and will cannot be represented."¹ His society was to be ordered by all people present and voting to express the general will; the declaration of general will was to be the law.² Only individuals are able to know and state their will, Rousseau claimed. Given this, the general will--producing a set of laws--cannot be determined except by the individuals themselves for "the moment a People begins to act through its representatives, it has ceased to be free."³ He envisioned a society imitating Greek city-states and Swiss cantons where the people constantly met as a body to rule their society. The only government other than this body politic was to be an administrative entity that would implement laws and maintain civil and political liberty by following the dictates of the declared general will.

It is logical to deduce that Edmund Burke's concern with the national interest parallels Rousseau's concern with the general will. Burke called for Parliament to be "a deliberative assembly of one nation, with one interest, that of the whole--where not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole."⁴ This tenet is but one of several that Burke held; together they form a coherent whole that justify Burke's belief in virtual representation (i.e., representative as trustee). One principle that bears on this is Burke's insistence on including context and detail in the making of political decisions (as well as basing political theory on context and detail). He said that "circumstances . . . give in reality to every political principle

¹ Ibid., "Of Deputies or Representatives," p. 260.

² Ibid., p. 261.

³ Ibid., p. 262.

⁴ Edmund Burke, "The English Constitutional System," in Pitkin, op. cit., pp. 175-176.

its distinguishing color and discriminating effect."¹ The people capable of taking appropriate circumstances into account would be those in Parliament paying heed to the national interest. Burke also had faith in a natural aristocracy to hold moral, intellectual, and aesthetic values of the society.² Natural aristocrats could come from any segment of society, but it was through them that a society's values were made known, discussed, and chosen among.

Combining these elements of national interest, full knowledge of circumstances, and elitism, Burke derived his belief in the trustee model of representation where the populace elected to Parliament men in whom should be vested confidence to decide affairs of state. Under no circumstances was the voting population to take a passive role; rather, they were to communicate their preferences and opinions, and their representative was to pay close attention and indeed promote constituency wishes. However, the representative's opinion, judgment, and conscience should predominate: "Your [the constituents'] representative owes you not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion."³

Like Burke, John Stuart Mill felt the elite of a society should be accorded a greater role in the political decisionmaking apparatus for that society. However, Mill would give the elite (specifically, the intelligentsia, as measured by status in an occupational hierarchy) plural votes which, he hoped, would outweigh the whims of the less-knowledgeable population possessing the franchise.⁴ Mill is also different from Burke since he seems to call for voters' preferences to influence representatives' behavior more systematically. One of his arguments in favor of his proposed reform of proportional representation is that the relationship between the electors and the elected

¹Edmund Burke, Reflections on the Revolution in France, quoted in William T. Bluhm, Theories of the Political System, Prentice-Hall, Englewood Cliffs, 1971, p. 427.

²Bluhm, op. cit., p. 439.

³Burke, in Pitkin, op. cit., p. 175.

⁴Bluhm, op. cit., p. 498.

"would be of a strength, and a value, of which at present we have no experience. Every one of the electors would be personally identified with his representative, and the representative with his constituents."¹ Perhaps more importantly, Mill discusses proportional representation as a means to control the potential tyranny of majority rule by allowing for the representation of minority wishes.

Mill introduces the concept that democratic government in a complex society may require activities to be undertaken by some who are not directly accountable to the voting population. Thus, elections serve to control the representative assembly, but the representative assembly serves to control policymakers. For example, he proposes a Commission of Codification which would write laws for the will as expressed by the Parliament.² In a similar fashion, he argues that the Parliament should be a deliberative and decisionmaking institution "while doing [i.e., administration] . . . is the task not of a miscellaneous body [i.e., the Parliament] but of individuals specially trained to it."³ In this arena, the proper role of Parliament is to serve as a watchdog to insure proper administration. (The similarities between these sentiments and our contemporary expectations for independent regulatory commissions and Congressional oversight should be noted.)

The legal concept of "agency" has been suggested by several writers as being germane to the study of representation,⁴ but few have sought to explore in detail the legal meaning and practice of agency relationships. These relationships can be summarized as "qui facit per alium facit per se:" who acts through another, acts himself.⁵ The Restatement of the Law of Contracts published by the American Law Institute

¹ John Stuart Mill, "On Representative Government," in Pitkin, op. cit., p. 194.

² Ibid., pp. 185-186.

³ Ibid., p. 188.

⁴ See, for example, Birch, op. cit.; Hannah Fenichel Pitkin, The Concept of Representation, University of California Press, Berkeley, 1967; and Harold Foote Gosnell, "Representative Democracy," in Pitkin, op. cit., 1969.

⁵ Len Young Smith and G. Gale Roberson, Business Law, West Publishing Company, St. Paul, 1977 (4th edition), p. 311.

defines agency as "the fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act."¹

Perhaps political analysis incorporating the agency concept in the study of representation would be better served by clarifying this term. An agent can be distinguished from both a servant and an independent contractor by the type of services performed or the scope of authority. A servant usually performs services of a ministerial or personal nature; an independent contractor is not subject to control for the physical conduct necessary to perform the specified activity; and an agent is a person authorized by a principal to work on the principal's behalf. In none of these relationships is the "agent" or principal completely controlled or completely able to exercise free will over the other. The law takes into account the mutual intent of the parties, surrounding circumstances, and the best interests of society in determining responsibilities and liabilities of principals, agents, and third parties. Moreover, political theorists using this concept have consistently overlooked (or ignored) the role of the third party in agency relationships: who is this person contracted with by an agent (representative) for a principal (constituents)?

Applying some of the principles and methods of ordinary language philosophy, Hannah Pitkin has written what many consider to be the authoritative work on representation to date.² Pitkin traces the use of the concept by noted philosophers, and adds to this her interpretation of the meaning of representation as applied in different contexts. She defines representation as "re-presentation, a making present again."³ Pitkin asserts that the basic dispute in studying representation can be reduced to the independence-mandate controversy: should a representative obey the dictates of his conscience, or should he use his

¹Quoted in Henry Campbell Black, Black's Law Dictionary, West Publishing Company, St. Paul, 1979 (5th edition), p. 58.

²Pitkin, op. cit., 1967.

³Ibid., p. 8.

judgment to do what is best? She postulates that it is the very definition of representation that causes the philosophical paradox:

. . . a thing [must] be simultaneously present and not present. . . . The mandate theorist keeps trying to tell us that nothing will count as representation unless the absent thing is really made present in some meaningful sense. . . . The independence theorist keeps trying to tell us that nothing will count as representation if the absent thing is literally present, acting for itself.¹

A major contribution that Pitkin has made has been largely overlooked by later empirical analysts. This is her contention that "political representation is primarily a public, institutionalized arrangement involving many people and groups, and operating in the complex ways of large-scale social arrangements."² Certainly this is difficult to operationalize, but it cautions us not to treat representation as any single, discrete act--whether of granting authority, electing, instructing, trusting, communicating, or holding to account. Instead, it would be wise for us to broaden our scope of inquiry to include institutional arrangements and constraints, and patterns of multiple activities that result from the act of representing.

This brief literature review, by no means an exhaustive one, was to touch upon some of the major themes present in the writings of theorists and philosophers. Let us now turn to the work of analysts who have attempted to measure representation.

Empirical Measures of Representation

With the birth and extensive use of survey research to tap public opinion and attitudes, political analysts were provided the opportunity to apply the quantitative tools of their trade. Interestingly (and perhaps unfortunately), the work that has been done in this area has focused almost exclusively on the degree of congruence between policy

¹Pitkin, op. cit., 1969, pp. 12-20.

²Pitkin, op. cit., 1967, p. 221.

preferences held by constituents and legislative representatives, and representatives' roll call voting in the U.S. House of Representatives. For the most part, we are left with the following impressions: the absence of policy congruence (that is, delegate representation) implies the presence of constituents deferring to their elected officials' judgment (trustee representation); "involuntary representation" occurs where representatives respond to some other influences such as political party or the administration. We are also left with the impression that legislator-constituency relationships are the most, if not the only, legitimate form of representation.

Studying representation in this manner opens a Pandora's box of questions and concerns that are both exciting and frustrating, for we have all too often subordinated our research agenda to the law of available data. Using constituents' attitudes as revealed by public opinion research presents a host of difficulties. First, we are not sure who we should be studying in the constituency--all voters, party identifiers, or those who voted in particular contests. Secondly, we often impose a set of policy items for the respondent's consideration rather than letting the respondent discuss, without prompting, what interests her in the political arena. Third, we have not allowed different priorities or degrees of salience to be attached by respondents to their issue preferences. Fourth, we have assumed that policy preferences are the only legitimate basis for the representational relationship rather than other possibilities, such as ability to resolve constituent problems with the bureaucracy or "I likes the looks of his face." Lastly, we have had to aggregate individual opinions from small samples to measure against roll call behavior.

When we examine our measurement activity from the representative's side, we discover a different set of difficulties. First, we are limiting representation to discrete acts of the member of Congress' job and not concerning ourselves with the whole phenomenon (e.g., symbolic representation or ability to obtain pork-barrel perquisites for their districts). Secondly, we are not incorporating anything other than the final act of voting (or the singular policy preference of the representative) when we know that there are a number of points

at which a member can represent constituent or personal preferences, such as at committee hearings or by introducing a bill. Next, we have denied the effects of institutional norms and constraints that may help to explain the representative's behavior. Fourth, we have yet to figure out how to get some indirect measure for the presence or absence of constituency influence; this is not to say that members of Congress are always dishonest in response to our questions, but that paths of influence--whatever their source--may be highly subliminal. Finally, we have been unable to reconcile what is essentially an agree-disagree choice presented the constituents with the breadth of opinion that a vote for or against any particular bill necessarily means for the representative; for example, at the present time one would be hard-pressed to find citizens who are opposed to controlling inflation, but the representatives' choice of the mechanisms to achieve this goal are hardly clear-cut.

These limitations notwithstanding, the study of representation has proceeded apace. Following the landmark study of Miller and Stokes,¹ studies measuring representation have emerged in roughly five areas: equivalence of indicators, burdens on either the representative or the constituency, differences between winners and losers of Congressional races, comparative studies, and new theoretical concerns. Each of these is discussed below.

Let us begin by giving all due homage to the founders of this realm of inquiry, Warren Miller and Donald Stokes. Their landmark study has served as a wellspring for a component of the discipline. Acknowledging the possibility that there may be linkages "between Representative and constituent that have little to do with issues of public policy," they opt to analyze policy congruence since "the question of how the representative should make up his mind on legislative issues is what the classical arguments over representation are all about."² Their work

¹Warren Miller and Donald Stokes, "Constituency Influence in Congress," American Political Science Review, Vol. 57, March 1963, pp. 45-56; and Warren Miller and Donald Stokes, "Constituency Influence in Congress," in Angus Campbell et al., Elections and the Political Order, John Wiley and Sons, Inc., New York, 1966, pp. 351-372.

²*Ibid.*, 1966, p. 354.

is well known and need not be discussed in great detail here; suffice it to say, they covered three major areas. First, Miller and Stokes cited conditions necessary for constituency control of representatives: (1) the representative's votes must agree with his own policy views or his perception of his district's views; (2) attitudes governing the representative's behavior must conform to the actual opinions of the constituency; and (3) voters must be somewhat concerned with the policy preferences of candidates. Second, the authors then did a path analysis of four variables: constituency attitude, representative's attitude, representative's perception of constituency attitude, and representative's roll call behavior. Third, their conclusion was that even though the conditions for constituent influence were not fully or equally satisfied, the voting population is able to exert some control over its representatives. Representatives' behavior most nearly conforms to the instructed delegate model in the issue domain of civil rights; social welfare issues fall into the responsible party model of representation; and foreign involvement decisions are in great part explained by the executive influence and trustee models.

One segment of the literature that has emerged from the Miller and Stokes tradition deals with the equivalence of indicators to measure representation--that is, the "goodness" or accuracy of variables. Stone reviews some of the major operational and statistical problems in this area, and orders them into three categories: conceptual and analytical measures of representation, definition of constituency, and the dynamic nature of public opinion.¹

The first category--conceptual and analytical measures of representation--leads us back to some of the very same issues that have been of concern to political analysts for centuries. Stone notes that to make our inquiry manageable, we often ignore some of the finer elements of representation that are integral to the concept; for example, we assume that "constituency interest" is equivalent to "constituency

¹Walter J. Stone, "Measuring Constituency-Representative Linkages: Problems and Prospects," Legislative Studies Quarterly, Vol. 4, November 1979, pp. 623-639.

opinion."¹ Related to this, measurement of constituent opinion from small samples often attenuates the degree of congruence, as discussed by Erikson,² who compared the actual data used by Miller and Stokes to simulated constituency opinion based on demographic data--but simulation creates some of its own problems.³

Use of the correlation coefficient to gauge the degree of congruence creates another set of measurement problems. Achen observes that the Pearson's r can change due to variance while the unstandardized regression b 's stay constant.⁴ In a later piece, Achen⁵ agrees with Weissberg⁶ that the issue of proximity between representative and represented needs attention. Achen's concern is that "leaders' opinions can correlate strongly with those of constituents even though the representatives are distant from electors, and they can correlate weakly when the representatives are close by."⁷ Weissberg points out that we may obtain high correlations that are misleading except when the scales that they are derived from have "end points . . . [that] are substantively identical."⁸ Yet, this is not achieved by current research where citizen preferences and legislative votes are compared.

The second category of equivalence indicators that Stone addresses asks the question: who is the constituency? Stone shows that for at least civil rights and domestic welfare issue areas, it makes a difference whether we analyze district-wide opinion, the opinions of those

¹Ibid., p. 624.

²Robert S. Erikson, "Constituency Opinion and Congressional Behavior: A Reexamination of the Miller-Stokes Representation Data," American Journal of Political Science, Vol. 22, August 1978, pp. 511-535.

³See, for example, David Seidman, "Simulation of Public Opinion: A Caveat," Public Opinion Quarterly, Vol. 39, Fall 1975, pp. 331-342.

⁴Christopher H. Achen, "Measuring Representation: Perils of the Correlation Coefficient," American Journal of Political Science, Vol. 21, November 1977, pp. 805-815.

⁵Christopher H. Achen, "Measuring Representation," American Journal of Political Science, Vol. 22, August 1978, pp. 475-510.

⁶Robert Weissberg, "Assessing Legislator-Constituency Policy Agreement," Legislative Studies Quarterly, Vol. 4, November 1979, pp. 605-622.

⁷Achen, op. cit., 1978, pp. 475-476.

⁸Weissberg, op. cit., p. 609.

identifying with the majority party, or partisan minority opinion.¹ Fenno heightens our sensitivity to this topic by discussing four types of constituency perceived by members of Congress--geographical, re-election, primary, and personal.² Fenno suggests as an area for further research the relationship between "home style" and "Washington style" (i.e., between district relations with the various constituencies and Washington behavior) as a linkage in the study of representation that is, as yet, largely unexplored.³

Public opinion changes. Although this appears to be obvious, Stone contends that the shifting nature of public opinion has not been sufficiently investigated vis-à-vis representation. A result is that "recognizing that change is possible (or even likely) pushes us to develop dynamic conceptions of representative-constituency linkages and cautions against inferring too much from a single cross-sectional analysis."⁴ The most complete data set we have is from the 1950s; given the quiescence of that period relative to later years,⁵ this problem may be quite significant.

A second major theme that has emerged in empirical studies of representation can be described as the "burdens" that constituents or representatives must bear. This theme follows from Miller and Stokes' conditions for representation and refers to perceptions, goals, and behavior incumbent on the partners in the legislator-citizen endeavor. Fenno again provides us with a rich source of information regarding how members see their own and their varied constituencies' responsibilities in the partnership.⁶

¹Stone, op. cit., pp. 630-631.

²Richard E. Fenno, Jr., Home Style: House Members in Their Districts, Little, Brown, and Company, Boston, 1978.

³Ibid., pp. 232-247.

⁴Stone, op. cit., p. 635.

⁵See, for example, Gerald M. Pomper, Voters' Choices: Varieties of American Electoral Behavior, Dodd, Mead and Company, New York, 1975; and Norman H. Nie et al., The Changing American Voter, Harvard University Press, Cambridge, 1976.

⁶Fenno, op. cit.

Mayhew postulates that members of Congress will act so as to enhance the likelihood of reelection.¹ Accepting this proximate goal, we could argue that the representative will choose, consciously or not, different models of representation in different situations to achieve reelection. Alpert agrees with this proposition and posits a subjective decisionmaking model where the choice of any particular legislative role is not static or narrowly confined, "but instead reflects a broader concern for the reduction of uncertainty about district opinion."² McCrone and Kuklinski explicate further the prerequisites for representatives to act as delegates, which is the fashionable model for contemporary analysts.³ When (1) legislators perceive themselves as delegates and (2) constituents express consistent preferences on (3) salient issues, "district opinion is a rather powerful determinant of roll call behavior."⁴

A third area of study that has received attention in the literature is what can be called the "winners and losers" approach, or a concern with what difference it makes for representation if certain people are elected instead of others. In research described as normative by the author, Achen proposes three indicators by which representation can be measured: ideological proximity between legislator and constituents; degree of centrism for the representative to the constituency (i.e., minimization of distances); and responsiveness where the degree of congruence between representatives and constituents is examined according to liberal-conservative preferences.⁵ Using these indicators as the dependent variable for the same data used by Miller and Stokes, Achen offers the conclusion that two showed losers to be

¹David R. Mayhew, Congress: The Electoral Connection, Yale University Press, New Haven, 1974.

²Eugene J. Alpert, "A Reconceptualization of Representational Role Theory," Legislative Studies Quarterly, Vol. 4, November 1979, p. 588.

³Donald J. McCrone and James H. Kuklinski, "The Delegate Theory of Representation," American Journal of Political Science, Vol. 23, May 1979, pp. 278-300.

⁴Ibid., p. 297.

⁵Achen, op. cit., 1978.

more "representative" of their districts than winners, with only the third measure balancing out as winners being more representative.¹

Combining attitudinal measures from competitors in 1966 House contests and simulated constituency opinion, Sullivan and Uslaner² test the marginality hypothesis as derived from Downs' theory of vote maximization.³ Simply stated, this theory proposes that the more competitive elections are, the more parties/candidates will converge to the center in order to capture the largest proportion of the vote. Sullivan and Uslaner find that:

- o Candidates are more dissimilar in marginal districts;
- o Winners are closer to constituency opinion in marginal districts;
- o Candidates are more similar in non-marginal districts; and
- o Losers are closer to constituency opinion in non-marginal districts.

They attribute these unexpected findings to the recruitment process, incumbency, and seniority.

We can treat Weissberg's work on aggregate versus single legislator-single constituency representation as belonging to the category of winners and losers studies if we twist our logic somewhat to consider constituents as either winners or losers.⁴ Weissberg argues that instead of treating representation as the relationship between a legislator and her district, we should take a larger view and examine the relationship between the representative body (i.e., the House) and constituencies writ large (i.e., the nation). He finds that: (1) even random voting by legislators would make a majority of citizens winners in that their

¹Ibid., p. 494.

²John L. Sullivan and Eric M. Uslaner, "Congressional Behavior and Electoral Marginality," American Journal of Political Science, Vol. 22, August 1978, pp. 536-553.

³Anthony Downs, An Economic Theory of Democracy, Harper and Row, New York, 1957.

⁴Robert Weissberg, "Collective vs. Dyadic Representation in Congress," American Political Science Review, Vol. 72, June 1978, pp. 535-547.

preferences would get "re-presented;" (2) representation in the aggregate is more congruent with national opinion than representation at the micro level; (3) representation of minority interests is found in the collective concept; (4) it is not necessary to have electoral control to obtain "good" representation; and (5) the prevalence of citizen apathy for Congressional elections can be explained by the collective model.¹ Thus, Weissberg concludes that all citizens are ultimately winners in one way or another.

A fourth area of inquiry found in the empirical literature on representation examines the concept as evidenced in other countries. Surprisingly, the studies reviewed for this paper broaden "representation" beyond legislator-constituency policy congruence. Perhaps American political scientists have allowed for this as an attempt to overcome their natural biases when studying other countries; or, possibly, proportional representation systems cannot be studied in the typical U.S. manner.² Since these studies are most interesting, the lessons should not be lost for those investigating representation in the United States.

In a thorough study on representation in Italy, Samuel Barnes examined the quality of linkages between elites and masses.³ The primary focus of his study--electoral representation--identified as being important to these linkages ideological agreement, some tendencies for class consciousness, issues, personal contacts, and an overwhelming (with rare exception) reliance on the political party. Barnes asked the Italian public in his sample a most intriguing question: "To defend the interests of people like yourself, on whom do you count the most?" and respondents were allowed to rank-order unions and professional organizations, parties, and elected officials.⁴ He notes that relatively few mentioned the party at all, and postulates that political parties are salient for electoral contests, while unions and professional

¹Ibid., p. 547.

²I am grateful to W. Phillips Shively for this suggestion.

³Samuel H. Barnes, Representation in Italy: Institutionalized Tradition and Electoral Choice, University of Chicago Press, Chicago, 1977.

⁴Ibid., p. 133.

organizations--which received the greatest amount of favorable responses --are critical for policy decisions.

Bruce Cain et al. essentially replicate Richard Fenno's research on the home style of legislators for British Members of Parliament.¹ Contrary to conventional wisdom about the preeminence of party for the MP, Cain and his colleagues found significantly different styles for different MPs--styles that are remarkably similar to those identified by Fenno in the United States. What is more relevant for our purposes, they also found that almost all of the MPs they studied "reported a considerable degree of personal attention to their constituencies,"² usually in the form of casework. This finding strongly argues for the presence of an "electoral connection" even in this parliamentary party model.

Converse and Pierce studied mass and elite perceptions about representative roles in France, generally acknowledged as having a disciplined party structure.³ They discovered marked differences: both elected and contending deputies rated the party caucus as having the strongest bearing on vote choices, followed by their own conscience, and then constituent preferences, while the mass public consistently preferred the deputy's conscience over the party, and voters over conscience.⁴ Interestingly, Converse and Pierce discovered that when deputies diverged from the parties' position, it was in a direction that moved them closer to the wishes of their constituencies.⁵

The last theme that emerges from contemporary work on representation brings us full circle since it is a return to theoretical

¹ Bruce E. Cain et al., "The House is Not a Home: British MPs in Their Constituencies," Legislative Studies Quarterly, Vol. 4, November 1979, pp. 501-523.

² Ibid., p. 518.

³ Philip E. Converse and Roy Pierce, "Representative Roles and Legislative Behavior in France," Legislative Studies Quarterly, Vol. 4, November 1979, pp. 525-562.

⁴ Ibid., pp. 533, 549-550.

⁵ Ibid., p. 557.

considerations. (To be fair, most empirical analysts call for more theory development--but few heed their own prescriptions.) In an introduction to an issue of Legislative Studies Quarterly devoted solely to representation Jewell and Loewenberg critique the policy congruence emphasis and then summarize the state-of-the-art as "students of representation have become sensitive to the shortcomings of the congruence model, and . . . tinkering with new models is actively under way."¹

A conceptually rich proposal has been offered by Eulau and Karps, who take as their starting point Pitkin's contention that representation should be studied as a systemic property.² They aver that political scientists have erroneously (1) accepted and promoted policy congruence as the only legitimate form of representation, and/or (2) substituted theory construction, often in the form of statistical machinations, for theorizing. Eulau and Karps assert that the key to representation is found in Pitkin's concept of responsiveness, and they posit four components of responsiveness that when taken as a whole constitute representation: policy, service, allocation, and symbolic.³ Thus, both objective indicators and subjective assessments of an elected official's performance and constituency interests make the concept of representation meaningful. In a different paper, the authors proceed to operationalize the systemic nature of representation by explicating representational situations as pervasive, blocked, conflictual, and dissonant for one of the four components--policy responsiveness.⁴

¹Malcolm E. Jewell and Gerhard Loewenberg, "Editors' Introduction: Toward a New Model of Legislative Representation," Legislative Studies Quarterly, Vol. 4, November 1979, p. 497.

²Heinz Eulau and Paul D. Karps, "The Puzzle of Representation: Specifying Components of Responsiveness," Legislative Studies Quarterly, Vol. 2, August 1977, pp. 233-254.

³Ibid., pp. 241-247.

⁴Paul D. Karps and Heinz Eulau, "Policy Representation as an Emergent: Toward a Situational Analysis," paper presented at the 1977 Annual Meeting of the American Political Science Association.

Empirical studies of representation are as varied as the imaginations and skills of political analysts will allow. Fraught as this area is with confusion and contradictions over definitions, units of analysis, methodologies, emphases, and interpretations, it is nonetheless an area of political science to which numerous authors have made some valuable contributions as noted above. The study of bureaucratic representation has not been quite as fortunate, as discussed in the next section.

Bureaucratic Representation

Until fairly recently, the study of representation has focused almost exclusively on the legislator-constituency relationship. We should be surprised only if this were not so given the pivotal and central role of legislatures in modern democratic societies. Yet, the concept and practice of representation can be appropriately exported to the study of other relationships as we realize and continue to investigate those elements of government in which representation is found. Broadening the institutions studied, we can examine representation along the lines of linkages between elites and masses. Analysts of the judicial system have done this, usually by comparing demographic and socioeconomic characteristics of judges and the public;¹ analysts of political parties have compared the attitudes and policy preferences of convention delegates and party identifiers;² and there are some

¹See, for example, C. Herman Pritchett, "Voting Behavior on the United States Supreme Court," American Political Science Review, Vol. 35, 1941, pp. 890-898; Kenneth N. Vines, "Federal District Judges and Race Relations in the South," Journal of Politics, Vol. 26, 1964, pp. 337-357; Sheldon Goldman, "Voting Behavior on the United States Courts of Appeals Revisited," American Political Science Review, Vol. 69, 1975, pp. 491-506; David W. Rohde and Harold J. Spaeth, Supreme Court Decision Making, W. H. Freeman and Company, San Francisco, 1976, especially Chapters 7 through 9; and James L. Gibson, "Race as a Determinant of Criminal Sentences: A Methodological Critique and a Case Study," Law and Society Review, Vol. 12, Spring 1978, pp. 455-478.

²For example, Herbert McClosky et al., "Issue Conflict and Consensus Among Party Leaders and Followers," American Political Science Review, Vol. 54, June 1960, pp. 406-427; John W. Soule and James W. Clark, "Amateurs and Professionals: A Study of Delegates to the 1968

indications that analysts of interest groups have begun to look at or will soon be examining relationships between leaders and members.¹

In this section, I will review some of the literature on representation in the bureaucracy of the United States (as well as the few works on this topic for other countries). As the country has grown and the presence of government has expanded in everyday situations, it has become accepted as a fact that bureaucrats, though unelected, share in the "authoritative allocation of values for a society" by helping to set the agenda of pertinent issues, identify and choose from possible courses of action, and make policy decisions simply by implementing Congressionally-approved programs. There is something about the election of legislators that makes them legitimate in democratic or quasi-democratic governments (even given ever-decreasing voter turnout rates), so that at worst, bureaucrats are illegitimate political actors; at best, they need to be carefully selected and watched. The literature on representative bureaucracy falls into four categories (with obvious overlap): demographic similarities, subgovernments, oversight, and attitudinal congruence. Each of these is discussed below.

Most of the research on representation in the bureaucracy examines the degree of similarity between bureaucrats and the public insofar as their social backgrounds--that is, demographic characteristics--are concerned.² The quest for and interest in demographic congruence follows a simple, though often unstated path of thought:

Democratic National Convention," American Political Science Review, Vol. 64, September 1970, pp. 888-898; Jeanne Kirkpatrick, "Representation in the American National Conventions: The Case of 1972," British Journal of Political Science, Vol. 5, July 1975, pp. 265-322; and Thomas H. Roback, "Motivation for Activism among Republican National Convention Delegates: Continuity and Change 1972-1976," Journal of Politics, Vol. 42, February 1980, pp. 181-201.

¹Two such studies are Mancur Olson, The Logic of Collective Action, Harvard University Press, Cambridge, 1965; and Terry M. Moe, The Organization of Interests, The University of Chicago Press, Chicago, 1980.

²Of course, demographic similarities are also of interest to legislative analysts. For a recent example, see Irwin B. Arief, "97th Congress Has a Younger Look," Minneapolis Tribune, February 15, 1981, pp. 9A, 16A.

- o Whereas, bureaucracies are expanding in scope and size, and
- o Whereas, bureaucracies are increasingly responsible for political decisions, and
- o Whereas, bureaucracies are the institutions most sheltered from public scrutiny and accountability,
- o Therefore, let us investigate the degree to which bureaucracies are mirror images of society, since
- o The more similar bureaucracies and societies are, the more likely the interests of the society will be represented in bureaucracies.

J. Donald Kingsley's study of the British civil service is the first empirical (but nonquantitative) investigation of the demographic similarity thesis.¹ He found that the bureaucracy in England was highly unrepresentative of the public because of structural inequalities in the British system. More specifically, Kingsley cited the processes of public education, traditional curriculum, lack of scientific training, recruitment, and virtual absence of advancement within the civil service as causal factors.² Nonetheless, Kingsley concluded that Britain did have a representative bureaucracy because it mirrored the dominant forces in the society: the ruling middle classes.³

The representative qualities of the United States' bureaucracy was first discussed by Norton E. Long⁴ whose argument has often been trivialized by later authors as being "our bureaucracy is representative simply by virtue of its large size." A careful reading of Long's work does not produce this assessment; rather, Long was attempting to examine the national institutions of the United States as to their representativeness while acknowledging the role of bureaucrats in policymaking. In this regard, he found the bureaucracy "a medium for registering the

¹J. Donald Kingsley, Representative Bureaucracy, Antioch Press, Yellow Springs, 1944.

²Ibid., especially pp. 141-185.

³Ibid., pp. 282-283.

⁴Norton E. Long, "Bureaucracy and Constitutionalism," American Political Science Review, Vol. 46, September 1952, pp. 808-818.

diverse wills that make up the people's will and for transmuting them into responsible proposals for public policy" and a better institution than the Congress for its attention to "long-range and broad considerations, the totality of interests affected, and the utilization of expert knowledge by procedures that ensure a systematic collection and analysis of relevant facts."¹ Furthermore, Long claimed that the bureaucracy was more diverse than the Congress in its social origins, income levels, and associations. Free from the force of elections that often gave more power to campaign backers than voters, bureaucrats, by virtue of their heterogeneity, were more likely to respond to the "desires and needs of the broad public."² Far from arguing the supremacy of the bureaucracy--actual or desired--Long found the combination of the United States' national institutions vital and in satisfactory working order for a constitutional democracy.

Expanding the concept of representative bureaucracy to a comparative study, Subramaniam examined the social backgrounds of civil servants (defined by father's occupation) for Denmark, Great Britain, France, the United States, Turkey, and India.³ Surprisingly, he found remarkably similar overrepresentation of the middle class across countries for higher civil servants (an undefined term), with the middle classes composing between 80 and 95 percent of this portion of the bureaucracy.⁴ This is even more surprising when we take into account the relative proportion of the middle class as a segment of any single country's populace (e.g., 9 percent in India as opposed to 60 percent in the United States). Subramaniam rather simplistically explains this finding as due to "skills and qualities cultivated by the middle class" such

¹Ibid., pp. 810-811.

²Ibid., p. 813.

³V. Subramaniam, "Representative Bureaucracy: A Reassessment," American Political Science Review, Vol. 61, December 1967, pp. 1010-1019.

⁴Ibid., p. 1016. It should be noted that Subramaniam's data, rather than having been collected at a single point in time, has a spread of up to 15 years (e.g., Denmark's data is from 1945, while Turkey's is from 1960).

as "intelligence, a certain level of education, and eagerness to compete."¹

Continuing in the comparative vein, Krislov sought to broaden the concept of representative bureaucracy in two ways.² First, rather than using only social class as an indicator of representativeness, he asserted that we should incorporate other demographic variables such as race, sex, and ethnicity. Second, we should acknowledge the linkage between representational participation for symbolic and legitimizing reasons, and active participation of varied groups since the argument for the former is that it leads to functional effectiveness.³ Krislov also argues that it is advantageous to have representative bureaucracies to decide among policies not only on the basis of their surface merits, but also to create choices palatable to the larger populations from which the bureaucrats are drawn. Examination of the empirical evidence gives support to his contentions. India, for example, has been unable to achieve societal responses to new policies, particularly with regard to the "untouchables," even when the political system has acted; Krislov suggests that this is due to an unrepresentative and unresponsive bureaucracy.⁴ On the other hand, Belgium has been able to contain potential conflict over language differences (and their underlying cultural and nationality schisms) by active governmental compromises and establishment of ratios in the government for those who speak Dutch and those who speak French.⁵ Krislov summarizes his discussion: ". . . bureaucratic effectiveness at the societal level--the degree of governmental penetration in societal interaction--is . . . related to participation in the bureaucracy."⁶

Instead of postulating that representative bureaucracy is desirable for proactive reasons as Krislov did, Meier examines the concept

¹ Ibid., p. 1017.

² Samuel Krislov, Representative Bureaucracy, Prentice-Hall, Inc., Englewood Cliffs, 1974.

³ Ibid., pp. 36-40, 129.

⁴ Ibid., pp. 83-88.

⁵ Ibid., pp. 92-94.

⁶ Ibid., p. 130.

in a reactive sense--specifically, as a means of control over bureaucratic responsiveness and competence.¹ Meier criticizes the theorists of representative bureaucracy on four grounds: (1) the concept should not be substituted for traditional controls on the bureaucracy until the effectiveness of such controls (e.g., administrative hierarchy, judicial review, legislative oversight) has received systematic, empirical investigation; (2) linkages between demographic indicators and held values are suspect; (3) adult socialization experiences are neglected; and (4) the bureaucracy is treated as a monolithic entity in lieu of a more appropriate analysis that would separate out the higher-level policymakers from those performing more routine tasks, as well as separating different bureaus and agencies.² Using quite a melange of data, Meier then proceeds to atone for some of these past failings with an emphasis on the U.S. civil service. For the bureaucracy as a whole, his Lorenz curves support earlier findings that the United States has a fairly representative executive branch in terms of father's occupation, age, education, and income with most discrepancies falling in the tails (i.e., more extreme values) of the distribution. However, the bureaucracy becomes consistently more dissimilar from the population as we move from the lower to the higher grades of the civil service; the same pattern is discovered for the British case.³ A brief look at representativeness by agency confirms Meier's hunch: there are varying degrees of representation by bureau, with the Department of Agriculture ranking worst and the Post Office scoring the greatest amount of representativeness as measured by father's occupation.⁴

¹Kenneth J. Meier, Politics and the Bureaucracy: Policymaking in the Fourth Branch of Government, Duxbury Press, North Scituate, 1979, especially pp. 169 ff.; and "Representative Bureaucracy: An Empirical Analysis," American Political Science Review, Vol. 69, June 1975, pp. 526-542.

²Ibid., 1975, pp. 528-530.

³Ibid., pp. 531-538.

⁴Ibid., p. 540. Other bureaus for which data are given, ranked from worst to best are: other executive departments; other executive agencies; Health, Education, and Welfare; Veterans' Administration; Defense; and Treasury.

A second theme that emerges in the literature on bureaucratic representation concerns the substantive representation of interest group preferences in policymaking. Whether they are termed iron triangles, whirlpools of power, or subgovernments, the basic thrust of this phenomenon is the confluence of pertinent actors from the Congress, the bureaucracy, and interest groups. For the study of representation, what is relevant is the "re-presenting" of nongovernmental policy choices as the institutionalized government (i.e., the Congress and the bureaucracy) is effecting policy.

Douglass Cater is widely cited as the first analyst who identified the existence of subgovernments.¹ As a long-time observer and reporter of the Washington scene, Cater wrote about government as it really operated instead of textbook prescriptions or literal Constitutional interpretation;² on the whole, his evaluation was quite favorable. It is in his description of the distribution of power that Cater describes subgovernments as "comprising the expert, the interested, and the engaged."³ He then provides us with two case studies of subgovernments: one on the sugar economy where the subgovernment won out over President Kennedy's desire to move toward more global arrangements rather than country-by-country dealings; and a more extensive inquiry into the military-industrial community where various actors seek dominance for one of the services, a doctrine, or a particular weapon. Cater finds the presence of subgovernments to be nonlethal elements of the U.S. system. In fact, he suggests that in and of themselves they strengthen the system because of their competitiveness, expertise, and dialogues, while being subject to controls that hinder possible abuse.

J. Leiper Freeman proposed to explain subgovernments' existence and persistence as due to areas neglected or avoided by traditional political bodies.⁴ The Congress has deferred to committees, the President

¹As a somewhat facetious side note, one can only imagine the dismay of political scientists that this was first articulated by a journalist!

²Douglass Cater, Power in Washington: A Critical Look at Today's Struggle in the Nation's Capital, Random House, New York, 1964.

³Ibid., p. 17.

⁴J. Leiper Freeman, The Political Process: Executive Bureau-Legislative Committee Relations, Random House, New York, 1965.

has delegated responsibilities to the bureau level, and political parties have conscientiously shunned firm stances on issues, leaving this to interest groups. Freeman explores the patterns of influence used by participants in the subsystem for Indian affairs over a 15-year period (but gives comparatively little attention to interest groups). He concludes that "the resolution of issues tends to be accomplished through specialized lesser units . . . bureaus, committees, and interest groups . . . [that] enjoy considerable autonomy in the special policy areas with which they are concerned."¹

There is a crisis of public authority, Theodore Lowi argues, directly attributable to the predominance of interest group liberalism at the expense of legitimate policymaking activities.² I suggest that Lowi's concerns are the same as preponderant subgovernments concomitant with the growth of positive government and shirking of political responsibilities by political officials. Lowi describes this model:

1. Organized interests are homogeneous and easy to define. Any duly elected representative of any interest is taken as an accurate representative of each and every member.
2. Organized interests emerge in every sector of our lives and adequately represent most of these sectors, so that one organized group can be found effectively answering and checking some other organized group as it seeks to prosecute its claims against society. And
3. The role of government is one of insuring access to the most effectively organized, and of ratifying the agreements and adjustments worked out among the competing leaders.³

Thus, Lowi charges the government in general and legislators in particular with abdicating to the powerful and the organized. In other

¹Ibid., p. 120.

²Theodore J. Lowi, The End of Liberalism, W. W. Norton and Company, New York, 1979 (2nd edition).

³Ibid., p. 51.

words, political leaders have deferred to organized interests so completely that governmental policy is today epitomized by representation--and choices--of these interests, especially in the area of distributive policies.

Ripley and Franklin extend this notion that the role and potency of subgovernments may differ, given different policy domains.¹ After examining various instances (including the infamous sick chickens saga), they conclude that patterns are found: subgovernments are strongest in distributive policy, and play a lesser role in regulatory, redistributive, foreign, and defense policies. They, too, are concerned that interests may be too strongly represented since subgovernments are not always benign; to overcome this, they suggest opening up subgovernments and strengthening Congressional oversight.²

Heclo challenges the concept of subgovernments by offering "issue networks" as a rival.³ He feels that the former concept is too rigid and confining; issue networks are more fluid phenomena characterized by a "large number of participants with quite variable degrees of mutual commitment or of dependence on others in their environment."⁴ Heclo's argument should be somewhat reassuring to those who fear hegemony of subgovernments in the democratic state because network activists are issue-skilled rather than power-prone (however useful this may be, it is marred by an absence of empirical evidence, as is much of Heclo's work). Thus, interests get represented from a base of knowledge rather than a base of mere organization and influence. He finds both advantages and disadvantages for government of this sort: favorable points include consistency with some larger changes in society (e.g., decline of party identification), formation of linkages between Congress and the executive branch, and opportunities to shape coalitions of support

¹Randall B. Ripley and Grace A. Franklin, Congress, the Bureaucracy, and Public Policy, Dorsey Press, Homewood, 1980 (revised edition).

²Ibid., pp. 211-231.

³Hugh Heclo, "Issue Networks and the Executive Establishment," in Anthony King (ed.), The New American Political System, American Enterprise Institute, Washington, 1978, pp. 87-124.

⁴Ibid., p. 102.

or opposition; unfavorable aspects include questions for democratic legitimacy, lack of Presidential control over political appointees, and accountability of a political technocracy.¹

A third type of thought found in the literature on bureaucratic representation deals with Congressional oversight activities as an indirect mechanism for the representation of citizen interests. More specifically, there are some analysts who suggest that members of Congress serve as a medium for the transmission of constituent preferences to the bureaucracy. Indeed, Eulau and Karps note that at times "the representative may actually serve as an advocate and even lobbyist for special interests in his district vis-à-vis the legislature, departmental bureaucracies, or regulatory agencies."²

Seymour Scherr looked at the oversight of independent regulatory commissions by reviewing 23 years of hearings and reports, and conducting interviews with members of Congress on relevant committees.³ He offered a rational actor model to explain the relative absence of committee attention to the regulatory commissions: given the demands on a Congressman's time and given structural and political disincentives to pursue actively oversight undertakings, legislators would be acting rationally if they did not get enthused about or promote this area of their jobs. Nevertheless, there is oversight, and, furthermore, there are periods when it is vigorous. Scherr proposes several reasons for bursts of oversight activity, one of which is "when the committee leadership or powerful committee members believe that constituent or group interests important to them cannot be satisfied by the routine personal intercessions between Congressman and agency, committee review tends to be used as a substitute."⁴ Scherr finds examples to back his claim in the review of the National Labor Relations Board by special investigations and more regular committee hearings. In these instances,

¹Ibid., pp. 116-123.

²Eulau and Karps, op. cit., p. 244.

³Seymour Scherr, "Conditions for Legislative Control," Journal of Politics, Vol. 25, 1963, pp. 526-550.

⁴Ibid., p. 542.

affected groups had expressed dissatisfaction to sympathetic members of Congress for several years. Scherr also gives several examples of how members of Congress constantly refer to specific groups--and their own constituencies--in questioning bureaucrats.

A most interesting analysis of Congressional communication to the bureaucracy was done by Kirst who sought to identify the nonstatutory techniques used by the former to issue directives to the latter.¹ He examined the language of committee hearings and floor debate in the appropriations process to see how the bureaucracy was given either mandates or suggestions for proceeding with their business. Time and again, a member spoke of his or her home district:

Representative Horan (R-Wash.): I want to insist, though, and especially in my state that [several agencies] be counted in this group.²

Senator Mundt (R-S.D.): I have been advised in the 1959 revised program you may be neglecting the Thunder Butte School . . . I just wanted to make sure that you were in no sense neglecting the Thunder Butte School in South Dakota.³

Senator Byrd (D-W.V.): Earlier this year . . . I wrote [to the Director of the Forest Service] and expressed interest in an experimental forest. I went to the state with [the Director of the Office of Regional Research] and spent several days in West Virginia visiting various counties. I am informed the Forest Service looks with favor on an experimental station there.⁴

Ogul cast a critical eye on the oversight process and agreed with Scherr that "the legislator's primary focus is typically elsewhere than on oversight."⁵ However, he found that oversight was performed, often

¹Michael W. Kirst, Government without Passing Laws, University of North Carolina Press, Chapel Hill, 1969.

²Ibid., p. 25.

³Ibid., pp. 27-28.

⁴Ibid., p. 9.

⁵Morris S. Ogul, Congress Oversees the Bureaucracy, University of Pittsburgh Press, Pittsburgh, 1976, p. 183.

as a by-product of the day-to-day activities engaged in by members of Congress. One such activity is casework when members respond to constituent requests for assistance with the bureaucracy. Ogul discusses the impact of these constituency requests in producing two types of outcomes. Casework causes indirect consequences in that: (1) members of Congress gain both knowledge of and appreciation for bureaucratic procedures; (2) legislators become cognizant of deficiencies or problems in the implementation process; (3) members develop attitudes toward bureaucrats; and (4) certain Congressmen build reputations in specific areas. Casework also resulted in direct consequences for the interaction between the Congress and the executive branch when members made floor speeches, conducted investigations, and introduced legislation.¹ It is specifically because of these citizen-initiated requests that certain actions follow--and these actions can correctly be seen as representation of citizen interests.

Fiorina links this form of representation in the bureaucracy to the changed nature of representation in the Congress. Addressing the phenomenon of vanishing marginals--that growing numbers of Congressmen are reelected to office with safe margins of victory--he argues that it is due to representatives' ever-increasing role as ombudsmen.² Fiorina notes that members of Congress can enhance their attractiveness and chances of reelection by adopting issue stances, obtaining benefits for the constituency, and performing favors or providing assistance to individuals. The first of these is sure to result in creating opposition as well as earning supporters. Thus, the more secure route for the representative is to take on "errand boy" responsibilities.³ Extending Fiorina's line of thought we might conclude that voters are casting ballots, and therefore forming the Congress, to a significant degree on the basis of their satisfaction with how their interests are being represented to the bureaucracy.

¹Ibid., pp. 162-175.

²Morris P. Fiorina, "The Case of the Vanishing Marginals: The Bureaucracy Did It," American Political Science Review, Vol. 71, March 1977, pp. 177-181.

³Ibid., p. 181.

The fourth and final theme that emerges as a component of the representative bureaucracy must have been inspired by empirical studies of legislative representation since it deals with the attitudes and policy preferences held by bureaucrats. Previously, some researchers have examined these attitudes but use as their measure of congruence the agreement (or political party) between the President and bureaucrats; that is to say, this area of inquiry has questioned the President's need and ability to exert control over members of the executive branch.¹ What is important for our purposes here is a new focus comparing the attitudes of bureaucrats and the mass public.

Meier and Nigro succinctly explain the reasoning behind this approach: "if the attitudes of administrators are similar to the attitudes held by the general public, the decisions administrators make will in general be responsive to the desires of the public."² Their study consisted of a mail survey of the federal supergrades (GS 16 through GS 18) with questions on demographic background (such as age, sex, race, geographic origins, and father's occupation) and policy attitudes. For the latter, they used the National Opinion Research Center's "national priorities questions" that ask respondents if they are in favor of increased, decreased, or a constant level of spending in numerous areas of policy. Despite this promising start, Meier and Nigro's analysis is amazingly disappointing. Rather than addressing the issue stated above, they use path analysis to determine correlations between the demographic and attitudinal variables! We are left with the less than surprising finding that the two do not correlate well. Meier and Nigro then offer an alternative model which postulates that agencies have a socialization effect on their employees--that agencies

¹For two recent examples see Joel D. Aberbach and Bert A. Rockman, "Clashing Beliefs Within the Executive Branch," American Political Science Review, Vol. 70, 1976, pp. 456-468; and Richard L. Cole and David A. Caputo, "Presidential Control of the Senior Civil Service: Assessing the Strategies of the Nixon Years," American Political Science Review, Vol. 73, June 1979, pp. 399-413.

²Kenneth John Meier and Lloyd G. Nigro, "Representative Bureaucracy and Policy Preferences: A Study in the Attitudes of Federal Executives," Public Administration Review, Vol. 36, July/August 1976, p. 458.

help to form the attitudes of their bureaucrats. They discover that "agency affiliation is a more likely predictor than origins."¹

Although these authors too quickly left behind the more interesting question of attitudinal congruence, Meier has studied this in other work. Almost as a small digression in an article discussed earlier in this paper he used the Survey Research Center's 1972 data to compare the issue positions favored by public employees and the general population (unfortunately, as he notes, the category of "public employees" cannot be separated out for federal, state, or local bureaucrats, much less for the supergrades with policymaking responsibilities).² He found that "public employees consistently took issue stands which were more 'liberal' than the American people," but few of the differences were statistically significant.³

In a later report, Meier apparently used the same data from the Meier and Nigro research, but presented it in a more fruitful manner. With regard to the question of preferring more, less, or the same amount of spending for policy areas, the differences between civil servants and the population generally are not large; the greatest percentage differences are found in the realms of crime control and drug abuse where the public, by 15 and 16 percentage points, respectively, wanted increased outlays over the bureaucrats.⁴ However, on a more general liberal-conservative continuum, bureaucrats fell more heavily on the liberal end than did the public.⁵

In sum, it is fair to say that the study of representative bureaucracy, like the study of legislative representation, has had a single focus, but has begun to branch out into other areas of investigation. There is as yet no inquiry into the responsiveness of the bureaucracy, although the responsiveness of the Congress is now central to studies of its representational nature. The next section offers a research design that may begin to fill this gap.

¹Ibid., p. 467.

²Meier, op. cit., 1975.

³Ibid., p. 541.

⁴Meier, op. cit., 1979, p. 172.

⁵Ibid., p. 173. Meier does not tell us if this is based on a self-report or if it is a constructed measure.

Representative Bureaucracy as Responsive Bureaucracy

I propose to study the substance of representation in the bureaucracy. Because of the nature of the rulemaking process in the United States there exists an empirical data base that provides an opportunity to study who communicates their desires to bureaucrats during the rule-making process and whether bureaucrats accept or reject these preferences.

Before proceeding to the research design, we might pause to consider why this question should be asked. There are several reasons. First, if we are interested in the decisionmaking process we should want to know who is involved and with what effect. For example, it is accepted practice to cite the participation of the American Medical Association in the field of health policy. However, there is scant evidence on what the AMA does as bureaucrats are drawing up rules and regulations, as well as virtually no evidence on the participation of other smaller groups or private interests. Secondly, since the Congress is continually delegating more and more policymaking authority to the executive departments and agencies, it is no longer satisfactory to halt our investigation of "power brokers" with the legislative branch. Third, the study of implementation has grown in relevance and magnitude; since much of what the bureaucracy does is implementation, we need to examine the particulars of this process. Fourth, attention to majority rule with the protection of minority interests can be studied in the context of administrative behavior and decisions. Lastly, we may begin to shed light on whether bureaucrats are autonomous decisionmakers immune from public pressures, or whether they incorporate the public's preferences when they are made known.

In 1946, the Congress, by unanimous vote of both houses, passed the Administrative Procedures Act¹ which "constituted the establishment, regularization, and yet at the same time creation and recognition, of the corpus of administrative law."² In no small way was the passage

¹P.L. 79-404, codified by P.L. 89-554 as 5 U.S.C.

²Jerre S. Williams, "Fifty Years of the Law of the Federal Administrative Agencies--and Beyond," Federal Bar Journal, Vol. 29, Fall 1970, p. 268.

of this bill caused by the plethora of New Deal programs that gave heretofore unheard of powers to executive branch departments and agencies. The APA attempts to check the potentially arbitrary and capricious behavior of agencies in their policymaking activities by establishing routinized procedures for rulemaking and the issuance of regulations, and also by providing for judicial review of agency activities. There are two types of processes involved in rulemaking and regulation writing. One of these is called "quasi-judicial" and refers to an agency hearing a claim that someone received wrongful treatment as a result of agency action; an example of this would be when a utility company had been denied a permit to build a nuclear power plant by the Nuclear Regulatory Commission. Although this is certainly an interesting process, in this paper we will be concerned with the "quasi-legislative" activities that occur when the bureaucracy is deciding the specifics for a policy or program--in other words, the proactive (rather than reactive) elements of the administrative process. Prior to the APA, there were few requirements for systematic processes or inclusion of public preferences --and those that existed were for the independent regulatory commissions. However, there came the acknowledgment that "the exercise of agency discretion is inevitably . . . the essentially legislative process of adjusting the competing claims of various private interests affected by agency policy."¹ The APA can therefore be seen as a mechanism to safeguard a basic tenet of democracy: that actors in the political process are somehow held in check.

The means by which rules and regulations are promulgated are extremely complex.² A grossly simplified version of the process will suffice here. After (and often during) the time that Congress passes a law an agency is designated by the Congress or a departmental Secretary

¹Richard B. Stewart, "The Reformation of American Administrative Law," Harvard Law Review, Vol. 88, June 1975, p. 1683.

²For a recent in-depth study of one example of this process, see Richard A. Rettig with the assistance of Ellen L. Marks, Implementing the End-Stage Renal Disease Program of Medicare, The Rand Corporation, R-2505-HCFA, Santa Monica, September 1980.

as having primary responsibilities for implementing it. The agency may name certain staff or set up task forces to determine legislative intent and identify all necessary steps and their alternatives to put a program or policy into place. Throughout this process decisions are constantly required that have minimal Congressional guidance--and certainly one can envision the relief of some bureaucrats at the absence of Congressional interference. However decisions are made, a Notice of Proposed Rulemaking (NPRM) is published in the Federal Register. A period of "public comment" is specified, usually 60 to 90 days, during which any interested party is able to communicate in writing support or disagreement with provisions in the NPRM. Bureaucrats responsible for the program supposedly take these desires into account, and then a "final rule" is published in the Federal Register, usually under the Secretary's signature after clearing all channels within the bureaucracy. Part of the final rule is a discussion of and response to the public comments received.

The relevant provisions of the APA are found in § 553 which states:

- (a) This section applies, accordingly to the provisions thereof, except to the extent that there is involved--
 - (1) a military or foreign affairs function of the United States; or
 - (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.
- (b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include--
 - (1) a statement of the time, place, and nature of public rule making proceedings;
 - (2) reference to the legal authority under which the rule is proposed; and
 - (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply--

- (A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or
- (B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.
- (c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose . . .
- (d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date . . .
- (e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.¹

Therefore, to determine bureaucracy responsiveness, we can review the notice of proposed rulemaking, public comment (which is public information and on file for a limited time), and the final rule. This research design is analogous to a scientific experiment where there is an observation, a treatment given to the subject, and then another observation.² What would be of most interest are any changes from the NPRM to the final rule. Although we could not rule out the possibility

¹5 U.S.C. § 553 (rule making).

²See Donald T. Campbell and Julian C. Stanley, Experimental and Quasi-Experimental Designs for Research, Rand McNally College Publishing Company, Chicago, 1963.

that change would occur regardless of public comment, we might be able to trace some changes to concerns at least raised by the public. Moreover, examination of the comments would, in and of themselves, be interesting to see who is doing the commenting (e.g., individuals or interest groups) and what their content is. Assuming that regulations are again being written since President Reagan's cease and desist order has expired, we could review the records for, say, a dozen programs that issued their NPRMs at about the same time.¹ A modified form of content analysis could be done for the NPRMs and the final rules, paying close attention to differences. The public comments could be coded on an instrument that would address such issues as:

- o The author(s) of the comment;
- o Substantive criticisms or preferences raised by the writer;
and
- o Whether the author offered alternatives.

(A more thorough study might include follow-up interviews with those who wrote to learn more about how they had heard about the NPRM, whether they had professional expertise to draw on to write their comments, and the like.)

Further, the following propositions could be tested:

1. When at all possible, the bureaucracy will defer to the public's wishes.
2. When there is disagreement between an organized interest group and private citizens, the bureaucracy will more often defer to the interest group.
3. Interest groups will activate letter-writing campaigns for their concerns.
4. The bureaucracy will more often defer to sophisticated comments (e.g., those that offer data and feasible choices) than to uninformed ones.

¹This would be no small task. In the Rettig and Marks study, op. cit., a cursory review of the public comments showed them to number more than 300,

5. The bureaucracy will defer to public preferences when they do not require major overhauls of preliminary plans or ongoing programs.
6. Comments from members of Congress will be given top priority and weight.

Each of these propositions is fairly obvious, but warrant some explanation. The first one adopts an image of bureaucrats who are not arbitrary and capricious power seekers, but who are genuinely desirous of seeking the best possible means to the end specified by Congressional directives. The second proposition is an adaptation of the pluralist nature of politics in the United States; simply stated, it is that the numerous and coherent will be more respected than the few and disparate. Proposition three also follows from the pluralist tradition and reflects the advantages inherent to organized groups. The fourth proposition is derived from political reality. Given proposition one, the bureaucracy will find it easier to accept the public's preferences if concrete evidence and options are offered instead of mere disapproval of a preliminary decision. Proposition five suggests the presence of inertial forces that may rule out or weaken bureaucratic responsiveness. These forces are twofold: (1) any new program (or modification of older ones) must fit into an existing political, structured system; and (2) the mere act of drawing up the NPRM may preclude radical changes. Lastly, the sixth proposition is derived from one of the traditional controls over the bureaucracy: the Congress as the primary legitimate decider of public policy.

Preliminary attempts to extend this research design to countries other than the United States have not been very successful, primarily due to the absence of information on rulemaking processes.¹ However, there are some possible avenues for further exploration to determine

¹The details of the rulemaking process are rarely found in political science works. The most fruitful source of this information is usually administrative law textbooks. Unfortunately, foreign textbooks written in English are not readily available, and locating them is outside the scope of this project.

the responsiveness of the bureaucracy in other countries. To the best of my ability, I have not been able to find any nations other than the United States with as routinized and systematic a process as that mandated by the APA; as a result, the research design would have to be appropriately adapted.

Although Canada has no overriding statute like the APA, some of its agencies have incorporated a "notice and comment" period into their rulemaking procedures. For example, the Broadcasting Act, RSC 1970, c.B-11, s.16 requires the Canadian Radio-Television Commission to do the following:

A copy of each regulation or amendment to a regulation that the Commission proposes to make under this section shall be published in the Canada Gazette and a reasonable opportunity shall be afforded to licensees and other interested persons to make representations with respect thereto.¹

In addition, there is some indication that Canada will be heading in the direction of more regularized participation in more agencies since the Law Reform Commission of Canada recently recommended that "procedures for rule-making should include . . . public notice identifying draft rules being considered . . . [and] allow time for interested persons to comment on them. . . ."²

I have been unsuccessful in locating any material on the rule-making process in France, but France's specialized system of administrative law courts may offer an opportunity for analysis.³ Access to the administrative courts is quite open and inexpensive.⁴ Cases before these courts typically fall into one of three categories for seeking

¹J. M. Evans et al., Administrative Law Cases, Text, and Materials, Edmond-Montgomery Ltd., Toronto, 1980, p. 229.

²*Ibid.*, p. 238.

³In all fairness, it is likely that this examination would more closely parallel the quasi-judicial components of administrative law in the United States rather than the quasi-legislative process, which is the focus of this paper's research design.

⁴L. Neville Brown and J. F. Garner, French Administrative Law, Butterworths, London, 1973, pp. 44-46.

redress: when the bureaucracy does not have discretion to act, but in fact has; when the administration has absolute discretion but has acted unjustly; and when there is doubt as to the nature and extent of bureaucratic authority.¹ Because court procedures in France include not only adversarial functions but also investigatory ones (where the court itself establishes records of facts), we could analyze these hearings as to who contributes what information. Even more pertinent, we could try to trace the effects of administrative court decisions back to changed bureaucratic practices.

West Germany may be ripe for analysis for bureaucratic responsiveness since its Joint Manual of Procedure states that "in the development of all major program proposals, the top interest organizations in the field may be heard."² There are two ways in which interest groups can make their demands known: (1) through "mixed" commissions of interest representatives and independent experts affiliated with particular sections of the bureaucracy; and (2) in the process of bureaucrats consulting with affected or interested parties.³ Again, it would be instructive to examine these interactions.

England appears to have a system of bureaucracy-public exchange quite similar to that found in West Germany in that it is often informal. However, in recent years the Parliament has begun inserting into statutes authorizing bureaucratic decisionmaking provisions that require consultation between ministers and certain groups.⁴ These bodies may be specifically named in the legislation, or it may be left to the minister's discretion as to whom should be consulted. Although the practice of consultation has been expanding in England, it "does not yet extend to any persons [as in the United States] who may consider themselves to be interested."⁵ In addition to these unsystematic

¹ Ibid., pp. 136-142.

² Renate Mayntz and Fritz W. Scharpf, Policy-Making in the German Federal Bureaucracy, Elsevier, Amsterdam, 1975, p. 136.

³ Ibid., pp. 131-144.

⁴ J. F. Garner, Administrative Law, Butterworths, London, 1970 (3rd edition), p. 73.

⁵ Ibid., p. 74; emphasis added.

procedures, Britain has frequently put in its authorizing statutes a requirement that proposed rules and regulation be "laid" before the Parliament, usually for a period of 40 days, before they become effective. Any MP may move "a prayer for annulment" during this time that voids the proposed provisions.¹ Needless to say, this system could be investigated in the same way as West Germany to determine participants and responsiveness.

In summary, the fortuitous nature of the administrative process in the United States provides a ready source of data to tap bureaucratic responsiveness--and there is some indication that this could be investigated in other countries. There are two significant limitations of the proposed research design. First, we would not be able to determine who participated in the making of preliminary choices and how decisions were reached. Second, we would not be able to see how the physical, purposive implementation of a program is responsive to public preferences since this is an ongoing process that comes after regulations have been issued. Despite these drawbacks, as well as the one mentioned earlier concerning our inability to attribute changes solely to public comment, we would nonetheless be able to start learning about bureaucratic responsiveness--a topic that can only grow in importance as legislatures in complex, advanced societies continue to delegate decisionmaking authority to bureaucrats.

¹Bernard Schwartz and H. W. R. Wade, Legal Control of Government: Administrative Law in Britain and the United States, Clarendon Press, Oxford, 1972, pp. 96-106.