

Private Members' Initiatives and Amendments¹

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Introduction

In many classical theories of democracy and representation, political parties can only be found in the shadows. Parties only create disruption, it was claimed, and thus were regarded as illegitimate. The classical republican tradition required that citizens and leaders alike should have a desire to achieve the public good, and not, simply, their own interests. This view came together with the fear of factions, as James Madison called them, and later of political parties, because they were believed to consist of citizens pursuing their own, restrained interests rather than the general public good and, thus, were a danger to the republic (Sartori 1976:Chapter 1; Hofstadter 1969:2 et passim; Dahl 1994:7).

Instead, theories focused on the individual representatives and their civic virtue. The prevalent nineteenth-century liberal view of a good legislature was one composed of independent men. The ideal Member of Parliament was a detached and skilled individual, able to give voice and strength to the people's will and who should act in the public interest of the nation. This ideal has probably never been realised, although it may have been approached during the so-called golden age of parliament in the United Kingdom. In those days (the late eighteenth and early nineteenth century), the time of parliament was, as Philip Norton points out, much occupied by bills introduced by private members. Eventually, however, the House of Commons became an arena for private interests competing for passage of bills that would benefit them personally (1994:13).

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Although the early democratic ideal of a Parliament relied on individuals, we know that history has now reversed (or at least changed) the positions of individuals and parties. During the last few decades, the development of West European democratic Parliaments has put political parties on the centre stage and made the members primarily party representatives - conditions that are obviously reflected in the initiation of legislation.

The implementation of the principles of parliamentarism is an important factor in this development. Parliamentary constitutions put the emphasis on popular sovereignty and unitary government. This is characterised by the direct election of parliament, which, in turn, appoints (or at least tolerates the appointments of) the executive government. Presidential constitutions, on the other hand, are characterised by separate elections of parliament and chief executive and a formal balance of the powers of the two branches. The different relations between legislature and executive in the USA and Great Britain, for instance, is illuminating for the initiation of legislation, as Harold J. Laski has already pointed out. Due to the strong leading roll of the British executive:

“the initiative of the private member has a much narrower field of activity. He may, as in America and France, present his bills in unlimited numbers; but he knows beforehand that the timetable and the procedure of the assembly are under the control of the government, and that there is, broadly, no serious prospect of an important measure finding its way to the statute-book unless it secures the guardianship of the government” (1925:347).

Legislatures in presidential systems, like the USA, normally introduce bills themselves, whereas parliamentary legislatures mainly operate on government bills, which renders agenda control into the hands of the executive (see Rasch 1994:2).²

In addition to the establishment of the principles of parliamentarism, the development of party institutionalisation has contributed to a downgrading of the importance of independent individual actions. By the turn of the century, party cohesion was well established in the British Parliament and the task of the House of Commons became one of supporting the government's bills (Norton 1993:17). “Political parties have served to ... constrain the freedom of individual action by members of a legislature”, writes Philip Norton with reference to Western Europe

2 This picture should, however, not be overdrawn. As Charles E. Lindblom already pointed out in the 1960s, even congressmen depend on executive leadership, especially in the initiation of policies. He estimated that 80 per cent of bills enacted into law originate in the executive branch (Lindblom 1968:86). In their recent examination of the influence of Congress parties, Gary W. Cox and Mathew D. McCubbins enhance the legislative role of the party leadership (1993).

and in contrast to the United States (1990a:5). Individual members' influence on legislative matters is constrained by political parties, but - as is the nature of most institutions - parties also enable individual members to attain effective influence, as he or she can act within the party group to create support for his or her cause.

Not only in the House of Commons, but also in the other West European Parliaments, individual rights and possibilities to initiate laws and amendments have been circumscribed. The dominance of the executive as well as the institutionalisation of the parties in parliament have given way to party government, putting individuals in a remote corner. Members of Parliament are not considered as free representatives, but as puppets on their parties' strings.

Despite governmental domination over legislation, there are good reasons to devote a study to private members' rights to initiate legislation and propose amendments. The reasons can be traced from both a theoretical as well as a practical or political starting point.

In recent decades, theoretical approaches to parliaments, relying heavily on methodological individualism, have made their way into the field of legislative studies. This includes different rational choice approaches in general, and game theory and public choice in particular. Due to their emphasis on the individual actors and their preferences, these approaches initially neglected the institutional boundaries to individual members' freedom of action, or took them for granted. However, political institutions should be regarded as limitations on the set of actions available to individual actors. This approach is followed within the neo-institutional branch of rational choice theory. Here, structural features (the division and specialisation of labour in committees, leadership organisation, staffing arrangements, and parties) and procedures (rules of debate, amendment, and other legislative procedures) - the most fundamental variables in the traditional empirical approaches to legislative research - are taken into account for an elaboration of theoretical generalisations. As Kenneth Shepsle points out, explanations of social outcomes are not only based on agent preferences and optimising behaviour, but also on institutional features (1989:135). This development has, thus, given way to a renewed interest in the impact of political institutions on individual behaviour and reinforced the ambition to say something about the way in which institutions, in this case parliaments, actually work.

An example of this from the present research project could be illuminating. Within the project's framework, we will make an effort to investigate the production of laws from a public choice perspective. (see Döring's presentation of the project in this volume.) A hypothesis put forward by Herbert Döring is:

“if individual legislators possess many rights of initiative and amendments, then an underproduction of highly aggregated collective-benefit bills and an overproduction of many petty bills of a regional or narrow

sectional special-benefits character (in Italy aptly called *leggine*) is likely to occur" (Döring 1993:7).

We thus assume that forms of legislative organisation bear on legislative output as well as on the general performance of the parliament. For instance, Keith Krehbiel (1992) claims, that the assignment of parliamentary rights to individual Members of Parliament or to parties shapes the collective expression of policy objectives and the level of expertise that is embodied in legislation that seeks to meet legislative objectives. Moreover, we can assume that, at the micro level of neo-institutional theory (see the chapter by Strøm for a presentation of this theory), forms of legislative organisation bear directly on the performance of individual Members of Parliament. Without the rights to propose legislation, to debate the content and consequences of legislation, to propose amendments, and to negotiate compromises an MP cannot contribute meaningfully to legislation (Krehbiel, 1992:2).

But the rights and opportunities of individual members are also of crucial importance in more traditional approaches to parliaments. Asking whether a legislature is a policy-making body or otherwise classified, Loewenberg and Patterson emphasise that major public policies should be initiated within the assembly (1979:197). When the US Congress is regarded as being important in the policy-making process, it is often done so with reference to the importance of the individual members' position. The power element rests on the autonomy and expertise legislators have been able to build up and maintain (Rasch 1994:2). It is, therefore, not surprising that many approaches to Congress are based on individual legislators' goals; whether this be reelection (Mayhew 1974) or also includes additional goals such as influence and good policy (Fenno 1973). Michael Mezey sums up the theoretical consequences for congressional research:

"Preoccupied with questions of individual behaviour, congressional research employed theories and methods derived from sociology, psychology, and (most recently) economics, to produce a highly quantitative and increasingly formal literature. This work has depicted the legislator as a purposive political actor motivated primarily by electoral and constituency factors outside the institution and bargaining processes within it" (Mezey 1994:430).

Studies of parliamentary systems, he continues, have, on the other hand, been based more on the party and state theories of comparative politics. The behaviour of private members has been assumed to be dictated by party loyalty and, for MPs of the governing party, by the executive. As a result, the legislature rather than the individual legislator has been the prime unit of analysis. The behaviour of individual Members, it has been assumed, is explainable solely in terms of party. This assumption is, however, seldom subject to empirical evaluation.

There are, therefore, good theoretical reasons to investigate the individual's role in the legislative process and to see whether there is a variation among the parliaments under study.

From a practical or political perspective, the problem of individual members' rights of initiation could be illustrated by two issues presently being deliberated in Sweden. The first concerns the internal working conditions in the Riksdag. Too many Private Member's Bills dealing with trifling issues and being repeatedly introduced each year, although their prospect of success are very low, indeed make parliamentary work inefficient. In order to raise efficiency, limitations of the right to initiate bills have been considered by an internal commission in the Riksdag (Riksdagsutredningen 1993:Chapter 6). The second problem is related to the hypothesis of an underproduction of highly aggregated collective-benefit bills mentioned before. The rather unrestricted right to submit Private Member's Bills in the Riksdag, in combination with the obligatory preparation in committees of all bills, has led a government commission to conclude that these rights ought to be restricted in order to prevent bills dominated by subgroup selfishness and thereby enable a more restrictive budgetary process. This conclusion should be seen in the light of the large deficit in the state budget during recent years in Sweden (Lindbeck et al. 1994). Thus, for all parliaments facing similar problems and for those concerned with parliamentary reform, a comparison of individual members' right of initiating and amending legislation should be of relevance.

Perspective, Aim and Method

A basic democratic norm of representative democracy is that private members should have the right to raise matters of importance to them and their constituents. Consequently, according to traditional parliamentary practice, every individual Member of Parliament has the right to introduce bills to parliament. This right has been truly institutionalised in most democratic parliaments (see Table 29 in *Parliaments of the World*).

Political institutions - in our case constitutions and parliaments - are important, since they contribute to the determination of the social order. For instance, they give meaning to organisational activities, have an impact on actors' preferences, enable joint actions and legitimise power. Thus, the Members' right to initiate legislation and propose amendments to bills is institutionalised in the constitutional rules and/or parliamentary practice in most democracies.

However, although these political institutions both enable and legitimise individual members' participation in the legislative process, the right is not unconditional. The reason is that the same institutions also constrain an individual member's optional set of actions. Individual members are restrained by formal rules and behavioural norms. We will look at individual members' rights to initiate and

amend legislation from this "negative" perspective and, thus, use it as a base to describe differences and similarities across countries.

We started off by claiming that the individual members' role in the legislative process is in decline, but even if party dominance is the general pattern in Western Europe, there is, however, still room for variation between parliaments regarding the individual right to initiate legislation and amendments. The primary aim of this study is, thus, to describe these variations and to classify the countries on an ordinal scale.

An initial difficulty to be surmounted when carrying out the task is to decide how we should deal with formal rules (i.e. constitutions, standing orders, common laws and contracts) and informal norms (i.e. codes of conduct, norms of behaviour, conventions and customs). In parliaments that mainly rely on customs, behavioural norms can be as equally restrictive as formal restrictions manifested in the written constitutions or standing orders in other countries.³ Thus, we must take both formal rules and informal norms into account whenever they constrain the individual member's right. As a consequence, we cannot only focus on constitutional rights, but must also study legislative behaviour. Thus, studying individual rights means looking for the actual obstacles to the initiation of legislation and amendments, rather than for the formal rules: what restrictions exist to constrain the set of optional actions available to individual members in the parliaments under study; or in other words, what obstacles are there to individuals' opportunities to execute their assumed democratic right of initiating legislation?

A second difficulty is how to estimate the effect of different restrictions on the rights to initiate legislation. For example, are time limits on initiatives more restrictive than technical requirements? I will return to this difficulty later when describing the method I have chosen to deal with it in this study.

Another difficulty concerns the identification of pure individual initiatives. How can we trace the real sources of legislation? It is not unusual for individuals to act on behalf of the party. So, even if the bill is signed by one person alone, it could still be a party initiative. In Portugal, for instance, it seems that most of the time the members who undersign bills (*Projectos de Lei*) have little to do with the drafting of the actual proposals: Private Members' Bills from members of the

3 There is a wide spectrum of cases at hand. On the one side, there are parliaments such as the British Parliament, which relies heavily on customs, and on the other side of the spectrum, there are parliaments such as the Swedish Riksdag with its rather detailed rules on procedures written in to the Instrument of Government and the Riksdag Act. There is also a variation regarding the extent to which the written rules are effectively in operation, or only reminiscent of former ambitions.

government party are sometimes drafted by government departments.⁴ They are presented as Private Members' Bills for reasons of political strategy and opportunity. It is widely known that Members of Parliament in Portugal belonging to the government party have signed several bills without having a thorough knowledge of their contents. The same thing happens with Private Members' Bills from opposition parties, where important bills often originate from specific party agencies. Of course, the opposite may also occur. In Sweden, for instance, it is common for individuals to ask colleagues (normally, but not exclusively from the same party) to sign their bills, and in return, he or she is prepared to sign a bill proposed by the colleague. There is, in fact, bound to be ambiguity about what precisely counts as legislative initiative. This ambiguity arises at the moment one departs from the purely formal submission of bills. We lack any generally accepted standard by which we can distinguish the innovator from the messenger in the legislative process.⁵

In addition to the difficulty of tracing the original initiator, the whole undertaking is made more complex by the fact that bills are usually not registered in the parliamentary records as individual or collective, but as Government or Private Member Bills. In most parliaments, it is no use consulting the printed parliamentary records if one wants to know the number of signatories of a bill. Instead, one must search for the specific bill itself. This has not been possible within the framework of this article, but remains an interesting area for further research.

4 Marsh and Read point out that few people claim to recognise the scale of government involvement in such processes in the United Kingdom. Private Members' Bills are used by the government to get minor pieces of their own legislation passed through (1986:45).

5 Individual members can, of course, also try to influence the framing of government Bills. Thorstein Magnusson identifies four ways that this can be done in a general way in Iceland. Members who hold leadership positions in pressure groups can gain influence on government policies since interest organisations are important sources of government legislation. Parliamentary party meetings, which are also attended by ministers of the respective parties, provide individual members with an opportunity to seek support for legislation among party colleagues. Since the Althingi is a small organisation, it is very easy to lobby the minister personally. Finally, members' bills sometimes find popular appeal among the public and therefore motivates the government to take over the initiative by introducing a Government Bill. The minister will thereby take credit for legislation initially presented by an individual member. Moreover, individual members can influence the actual formulation and drafting of government legislation through their work in governmental commissions, since it is here that the important investigation and formulation of government policy is made (1987).

Yet another difficulty is the fact that, in some parliaments, Private Members' Bills are restricted to legislative initiatives, whereas in other Parliaments, such bills may also be submitted in terms of other types of parliamentary decision-making. An example of this is the use of a resolution in parliament to initiate legislation in an indirect way.

Describing and comparing parliamentary procedures is always somewhat tricky. The general difficulty in comparing institutions with similar names but different meanings and/or functions often calls for detailed descriptions of formal rules. It is also claimed that each procedure must be interpreted in its own setting. In this chapter, however, we will try to compare the rights of initiation and amendment from the individual members' perspective, thereby, and unavoidably, simplifying the situational context for each parliament's procedures.

In the first step of this chapter, we attempt a purely descriptive classification of parliaments. The description is primarily based on information gained from a questionnaire sent to project participants in their function as country specialists, and in addition to this, from documentation published by the Inter-Parliamentary Union on parliamentary procedures.

The next step is to evaluate the individual MP's role in legislative processes based on the observations made concerning individual members' rights to initiate legislation and to propose amendments.

Legislative Initiatives

As I have claimed already, it is a basic democratic norm of representative democracy, that individual Members of Parliament have the right to initiate legislation. So, from a theoretical point of view, the initiative in law making should rest primarily within the parliament. Yet, in all West European countries, parliament's right to introduce laws is shared with the government. In practice, the actual initiation of laws is dominated by the executive. It is the government that generally takes the initiative in drafting and introducing legislation.

In addition to the Members of Parliament and the government, certain parliamentary bodies in some of the West European countries make use of the right to introduce legislation. This applies particularly to parliamentary committees (in Austria, Iceland, and Sweden; also the Finance Committee and Bank Committee in Finland). For Members of Parliament who are also members of these parliamentary bodies, there exists an additional opportunity to initiate legislation besides that made possible by their membership of parliament.

Bills can also originate from popular initiative. In many countries, citizens have an opportunity to propose legislation to parliament through the medium of

petition. This is the case in Austria, Italy, and Switzerland, where the right is enshrined in the constitution or in parliamentary practice. In other countries, persons outside parliament may, in an informal way, hand in suggestions to their Members of Parliament, who, if they wish, may introduce a bill in parliament. Occasionally, the Members of Parliament in some countries will forward the bill even if the member himself or herself does not approve of its content and, as a consequence, will not actively support its progress in parliament. This is the case in Norway. Of course, in this case the function of submitting a Private Members' Bill is purely symbolic and has little or no instrumental function in the legislative process.

Popular initiatives through an approach to Members of Parliament can have an impact on their conduct. In the United Kingdom, proposals for initiatives from constituency members or interest organisations are frequent. For those MPs who frequently attend their constituency offices, this can both be a source of inspiration for initiatives in parliament as well as forcing the parliamentarian to act, albeit sometimes reluctantly.

In *Back to Westminster*, Philip Norton and David Wood suggest that over the past 15 years or so, constituency activities have become increasingly important for British MPs. These activities seem to have an electoral connection, since the personal vote has also grown over the same period. The voter casts his or her vote more independently of party and seems to base the decision to some degree on the reputation and activities of the individual MP in his or her constituency. From this analysis, we can also discern a constituency connection to individual members in parliamentary democracies, which might have an impact on individuals' behaviour in parliament, making them more independent of party.

A corresponding phenomena can be found in Italy, where legislators used to maintain very busy local offices in their electoral district. These offices were autonomous from their party and often better staffed than local party organisations. They were a forum for local citizens to forward demands and at the same time a channel for the parliamentarians themselves to demonstrate, for instance, through legislative initiatives, what they were doing for the constituency (Cotta 1994:63-64).

Although there are other ways of initiating legislation, for example by the Head of State in some of the countries in our study, our discussion will focus on the Private Members' initiation of legislation and amendment proposals.

There are certain institutional aspects that affect the opportunity for the individual member to initiate legislation. For parliaments with two chambers, the right to initiate legislation raises a special problem when the chambers have unequal status. This concerns Norway in particular, where the right to initiate legislation is restricted to members of the Lagting and also the Netherlands, where

members of the First Chamber lack the right of initiation. Also, in the parliaments of Austria and Spain, all bills must commence their passage in the lower chamber. Moreover, in Germany and Austria there is a difference between initiation in the two chambers. The Federal German Council and the Austrian Federal Council can only initiate legislation collectively. In France, Great Britain and Ireland, the right to initiate financial legislation is restricted to the popular chamber, and in Ireland, bills designed to amend the constitution can only be introduced in the lower house. (See the chapter by Rasch and Tsebelis in this volume for further details on bicameral parliaments.)

The mere existence of two chambers can actually be an obstacle to individual (as well as other) legislation, due to the long-winded procedures of co-ordinating the chambers' decisions. If both chambers have to approve the same proposition, sometimes an almost never-ending game of Ping-Pong is set in progress, which severely delays decision-making. The analysis by van Schoor on Belgium, for instance, indicates that in the 1960s, about five per cent of the bills approved by one chamber did not manage to get approved by the other chamber within the parliamentary term (van Schoor 1972).

Restrictions

Let us now turn to the constraints on individual members. There are different kinds of restrictions on individual members' rights to initiate legislation. These are:

- 1) numerical limits,
- 2) time limits,
- 3) technical requirements,
- 4) limitations on the contents, and
- 5) killing in committees.

1) Numerical Limits

Even if the right to initiate legislation is generally an individual right, some parliaments restrict the right to collective initiative.⁶ The principle behind this requirement is the desire to prevent bills that lack substantial support from consuming precious parliamentary time.

6 There are, actually, also three countries with a reversed rule, maximising the number of initiators. As for Belgium, there is a maximum limit of ten MPs signing a bill (Art. 64 in the Standing Orders of respective Chamber). The corresponding figure is five for Luxembourg and 20 for Portugal (SO, art. 134 num. 1). The aim of this limit is to prevent a member from binding too many Members of Parliament before the bill has been examined.

The most severe numerical limit can be found in Germany. In the Bundestag, only parliamentary parties or at least five per cent of the Members of Parliament, but not individual members, have the right to introduce bills (§ 76.1 Rules of Procedures). This means that after unification, when the total number of MPs increased from 519 to 662 (including six *Überhangsmandate* in 1990-1994), the backing of 34 Members of Parliament are necessary to submit a bill. The right to initiate legislation is given to groups of Members of Parliament and parliamentary parties in order to make sure that only serious propositions have a chance in Parliament (Engels 1993:241). This is intended as a mechanism of rationalising the work of the Bundestag (Jekewitz 1989:1041).

The right to initiate legislation in Germany is tied to party factions, *Fraktionen*. These factions are equipped with far-reaching powers and tasks and, as claimed by Suzanne S. Schüttemeyer (1994), have become the gatekeepers of legislation. A bill that reaches the committee stage has passed the scrutiny of at least one *Fraktion*. The individual members have not only been deprived of the right of initiation, but the *Fraktionen* also determine who may speak in debates. It is also the *Fraktionen* that appoint committee members, etc. "A deputy who is not a member of a *Fraktion* is reduced to almost complete powerlessness" (Schüttemeyer 1994:37).

Due to the experiences of the Weimar Republic it is understandable that the Constitution of Germany aims to restrict the rights of initiative in order to avoid ineffective decision-making (Kershaw 1990). Germany, however, is not the only country which has a numerical restriction on legislative initiatives. They can also be found in less demanding forms in Austria, Italy and Spain.

In Austria, the support of eight deputies was needed until 1989. Since then the support of five MPs is sufficient.

In the Italian Chamber of Deputies, propositions may be tabled by the chairman of a political group or at least ten Members. As for the Senate, Italian Senators may sign no more than six propositions in any one year.

In Spain, propositions of law (the form used for initiatives) can either be presented by any one Deputy backed by the signatures of fourteen more Deputies, or by a parliamentary group. The Spanish Constitution does not give the legislative initiative to MPs, but to parliament as a whole.

In Belgium, a Private Members' Bill can be submitted by a single member, but, before the bill can be deliberated on, it needs the support of five Members of Parliament.

2) Time Limits

A further restriction on individual initiatives concerns some form of limitation as to *when* Private Members' Bills can be introduced. As a rule of thumb, Private

Members' Bills can only be submitted during actual sessions, and not when parliament is in adjournment. This will not be regarded as a restriction on the members rights, but there are other kinds of time limits that should. Time limits are the main restriction to individual initiatives in Sweden where introduction is limited to the General Period of submitting Private Members' Bills. During 15 days in January - in connection with the presentation of the Budget Bill - Private Members Bills concerning any issue may be introduced. For the rest of the session, propositions from individual Members of Parliament are restricted to bills relating to a Government Bill already submitted.

The same goes for Finland regarding Budget Motions (a financial proposal relating to a supplementary budget proposal), which may be submitted "only during the period which begins when parliament has been notified of the arrival of the State budget proposal and ends at noon on the fourteenth day ... thereafter" (Section 32 of the Parliamentary Act).

A time limit for both Government and Private Members' Bills has been applied in Iceland since 1985. Government and Members may submit as many bills as they wish, but legislative initiatives that are distributed six months after the annual opening meeting of Althingi may only be put on the agenda with the consent of a majority of the House (Art. 36(2) of the rules of procedures). Since this restriction applies to all kind of bills it does not change the balance in terms of individual versus government, at least not formally. The fact that it is possible for individual Members to submit bills at any time within the six months, as long as the parliament is not in adjournment, makes Iceland a country portraying a non-restrictive procedure for individual initiatives.

However, time restrictions can be much more severe on individual initiatives when it comes to the overall scarcity of time available to parliament. Most parliaments' timetables are largely dominated by the scrutinisation of measures proposed by the government for implementing its own policies. Only a small amount of time is devoted to the examination of Private Members' Bills. In some parliaments, this is actually the main obstacle to individual initiatives. It is most conspicuous in countries where the government controls the parliamentary agenda. (see also the chapter by Döring in this volume.) As a consequence of the restricted timetable, bills can be "talked-out" in several cases. However, in other countries, Government Bills do not take priority over Private Members' Bills during discussions in Parliament.

As for the United Kingdom, the time available for the consideration of Private Members' Bills is limited; confined to about ten Fridays and taking up less than five per cent of the time of the House each session. This means that most Private Members' Bills actually introduced are not debated at all. Furthermore, those which are debated still face considerable hurdles if the government opposes

them. No bill which has been the subject of a division on second reading has subsequently been promulgated without government time being provided. However, not even the support of the government guarantees passage, since opponents can try to obstruct the proceedings, for instance, by talking the bill out. If the debate is not concluded at 2.30 p.m., the bill under consideration falls to the back of the queue on subsequent Fridays, where it can be blocked (Norton 1993:78).

The procedures for Private Members' Bills in the United Kingdom is, at least from the ignorant outsider's perspective, astonishing. A baffling aspect is that one way of introducing bills is through ballots. Private Members' Bills can be introduced through a ballot at the beginning of each parliamentary session (Standing Order No. 13). The chances of winning in this lottery are very low. One MP has pointed to one peculiar consequence of this:

“As a back-bench Member I am in somewhat of a difficulty when constituents ask why, after 30 years, I am for the first time introducing a private-member's bill on a Friday. It is difficult to explain to them that the privilege of standing here on a Friday is the result of getting fifth prize in a raffle” (Quoted in Marsh and Read 1988:7).

Besides balloted bills, there are three different ways for individual members to initiate Private Members' Bills. They may be introduced under the ten-minute rule, which allows a ten-minute speech, for and against, on the floor of the House. They may also be introduced without debate under Standing Order 37. These bills shall be debated after the balloted bills have been dealt with, which means that they have very little chance of any debate (Marsh and Read 1988:11). Finally, a backbencher may take up a Bill which has passed the House of Lords (Griffith et al. 1989:385-392).

Although there are various ways of introducing Private Members' Bills, the procedures ensure that very few contested bills succeed (Marsh and Read 1988:7). These procedures give the government precedence over the agenda of Parliament, and in effect, the government controls Parliament's legislation.

Corresponding time restrictions also operate in Greece, the Irish Republic and Italy. In Greece, individual law proposals may only be debated once a month. As a consequence, most of them do not even reach this stage and, thus, die without having been previously debated.

In Ireland, private members' time is restricted to Tuesdays and Wednesdays between 7 p.m. and 8 p.m. Bills which have passed the first reading are debated at the second reading on private members' time for a maximum period of six hours (Dooney and O'Toole 1992:55-6). The government will almost always oppose a Private Members' Bills, which, consequently, has small chance of passing even its second stage (Morgan 1990:102-3). Moreover, since each party may only have one Private Member's Bill before the House at any one time, and all

Private Members' Bills must be approved by a party, scarcity of time on the parliamentary agenda becomes the eye of the needle, through which all bills must pass. This is all in addition to potential governmental hostility towards it in the first place.

In Italy, the rules of procedure of Chamber and Senate prescribe that the "conference of the group chairmen" and the President of the respective chamber have to take into account priorities indicated by the government when setting the agenda for their chamber. Individual law initiatives do not enjoy such a privilege. Private Members' Bills are constantly adjourned until the end of the legislative period.

If we turn our attention to France, we find another type of governmental control of the agenda preventing individual initiatives from becoming inputs in the legislative process. The government decides what bills are to be discussed and how much time is to be allocated to debate on parts of a bill. It has to give its approval for the examination of Private Members' Bills (*proposition de loi*). A bill, which has been initiated by a Member of Parliament can only be put on the complementary agenda, whereas the priority agenda is reserved for Government Bills (*projet de loi*). "In France, parliamentary officials do not determine the agenda. Instead, a priority agenda is established by the government, which "informs" the Presidents' Conference about matters to be taken up in parliament. A complementary agenda is determined by the speaker of each chamber and approved by it, but at least in the Assembly, this decision is strongly influenced by the government majority" (Safran 1991:176). This is where most bills stop in France. Due to the fact that Government Bills have priority on the agenda, only few of the bills passed originated with private members, and most of these passed because the government raised no objections, or even encouraged them (Hancock et al. 1993:118).

Another type of time restriction is practised in Italy, where a bill, which has been adopted or rejected by parliament, cannot be reintroduced until a certain period of time has elapsed after its original introduction. A similar requirement is found in Switzerland, where an MP cannot initiate a so-called parliamentary initiative, if the Federal Council has already presented a bill pertaining to the same issue, or if a committee has already presented a report on the same issue. In France, a rejected bill is temporarily banned for the duration of one year. A bill rejected by the Icelandic Althingi may not be introduced again during the same session. The same goes for Portugal (CPR, art. 170, num. 5). This type of time limitation must, however, be regarded as very mild, and will therefore be neglected in future.

3) *Technical Requirements*

To avoid faulty initiatives from a legal standpoint, technical requirements on Private Members' Bills are demanded in some parliaments. An Act of Parliament is normally very complex. Preparing a bill requires not only a good idea, but also knowledge of law and specialist competence within the particular field. Individual Members of Parliament do not normally possess enough technical facilities to prepare a comprehensive draft law. In this sense, technical requirements of bills can be an important obstacle to individual initiatives of legislation.

Legislative Bills can take various forms, but in most countries the proposal is basically a draft law. In most countries, bills must be submitted in writing, whereas oral initiation, as the exception, is allowed in some (i.e. Denmark and Portugal, where there is no such formal requisite, but where they are, nonetheless, usually submitted in writing; in the United Kingdom only the title must be submitted in writing, though in a very informal way). These bills may propose new laws; or either amendments to, or abrogation of existing laws. Amendment of the constitution is generally subject to special procedures (see the chapter by Rasch in this volume).

A rather mild technical requirement is to be found in the Netherlands, Switzerland and Spain, where all bills must be accompanied by a statement of motives. This may concern the principles behind the proposition, or the financial consequences of its adoption.

Technical obstacles to individual initiatives of a more severe kind can be found in Denmark. When a bill is introduced in the Folketing it must be formulated as a definite law, which means it has to be structured and divided into sections and articles in a such way, as would make it directly applicable by the administration and the courts. The formalities surrounding the formulation of a bill are very demanding and are written in the Standing Orders of the Folketing (Busck 1988:33). In Finland, France, Iceland and Portugal, the bill must also be presented in the form of a law. One must keep in mind, however, that for amendments of laws or for minor pieces of legislation, this is not a decisive obstacle to individual initiatives. We could as a consequence expect private initiatives to be concerned with less comprehensive measures than Government Bills, but it does not necessarily mean that individual members will refrain from initiating legislation.

As for Belgium, the Speaker must agree with the proposal before it can be translated, printed and distributed amongst the members of the House in question with all the relevant attached materials (motivation, background, general aims and specific documents). If the Speaker is opposed to a bill's consideration, the proposal is transmitted to the Conference of leaders of parliamentary groups (*Conférence des Présidents*), which will have to decide whether the proposal be

distributed. If the relevant materials, which were not yet attached to the proposed bill, have not been handed over to the Steering Committee of this House (*Bureau de la Chambre*) within a month of the deposit of the bill, it is considered as null and void. If the bill is accepted, its author asks for registration of the bill on the agenda of his or her House for the bill then to be taken into consideration. If at least five MPs support this "consideration" proposal, it is accepted for further deliberation. Afterwards, the Chairman requests the agreement of the House to discuss and, possibly, to put the bill to the vote or decides to send it to the competent parliamentary committee, which is usually the case (Art. 64 of the Standing Orders). In practice, both Houses only refuse further deliberation for the proposed introduction of manifestly unconstitutional bills. We must, therefore, regard the Belgian technical requirements as being relatively mild.

In France, private members get help from *attachés parlementaires* (parliamentary attachés) to prepare a bill. This facilitates the private members' bill-writing, surmounting the obstacle of technical requirements.

A method for individual members of some parliaments to circumvent the technical requirements is to submit resolutionary motions. These can require that the government initiates a bill on the issue, thereby applying a certain policy. The government must then prepare and submit a Government Bill. In this case, of course, the original initiator is the private member, not the government. There are obvious advantages for individual members in choosing this method, as is illuminated by the Danish procedures for draft resolutions. The proposer is relieved of the very demanding work relating to the formulation of a bill; the political value and viability of the idea behind the proposal is discussed in committee; and the responsibility and work of formulating the proposal in a legal and precise way, which also corresponds to the idea behind the resolution, is placed with the minister and the experts connected to the ministry (Folkman and Hilden 1985:77). In sum, we should not, therefore, regard technical requirements as a decisive restriction of individual members' right to initiate legislation.

4) *Limitation of Contents*

A general provision for legislative initiatives is that they concern matters within parliament's competence. In the case of France, for instance, there is a sort of "organic" condition of acceptability. If the government considers that the proposal is beyond the scope of the chamber concerned, it can refuse examination of the bill. Corresponding rules exist in other countries. One area that is generally not considered as belonging to parliaments' tasks regards the internal organisation of cabinets, which is not subject to legislation and, thus, up to the governments themselves to decide upon. Although there might be a difference in this re-

spect between parliaments, it is not a decisive factor. There are, however, more specific rules that can be an obstacle to individual initiatives.

The most common limitation on contents regards financial issues. In Italy, amongst other countries, the Budget is reserved to the government's sphere of legislation. In general, the members' right to initiate legislation is restricted, if it intends increasing expenditure, or reducing revenue. Hence, Private Members' Bills with financial implications cannot be raised at all. Private Members' Bills cannot deal with a subject which will have the raising or spending of money as its outcome. If a private member wishes to initiate a proposition which has impact on financial matters, he or she must choose other means, for example, introducing a resolution urging the government to consider the proposal.

Turning to Greece and Spain, financial bills must be approved by the government before submission. Greek legislative proposals submitted by individual Members of Parliament pertaining to salary increases are not accepted. A corresponding rule exists in the Irish Republic. Here, bills involving expenditure (as most bills do) must receive a positive money resolution from the government (i.e. a resolution to provide public funds) prior to their proceeding to the third reading. As a consequence, the government can make a bill lapse at this stage if such a resolution is not put forward (Dooney and O'Toole 1992:56).

In the British House of Commons, it is not possible to propose increased expenditure or taxation unless the bill is accompanied by a money resolution moved by the government. Private Members' Bills can not make a charge on public revenue.

In the French National Assembly, Private Members' Bills are referred to the Bureau of the Assembly which decides whether they are admissible. It does this under specific terms of Article 40 of the Constitution, which says that bills may not involve a reduction in public funds or an increase in public expenditure.

Private members' legislation is also excluded with regard to the Dutch general budget law, whilst Private Members' Bills with financial implications are allowed. A further limit on content is that Dutch MPs may not submit bills concerning the King, the Regent or a potential successor to the Throne. This is reserved for the government alone.

Special provisions are set up in some countries with bicameral systems regarding the right to initiate propositions on the Budget. In Ireland, France and the United Kingdom, Private Members' Bills involving finance may only be introduced in the popular Chamber. The reason for this is the basic principle, that the people should give their consent to increased taxes. Thus, motions proposing increased expenditures should only be allowed in the elected popular Chambers. Indeed, in many cases these chambers were actually established for this very purpose: to give the people's consent to taxation and state spending.

Not only are budgetary matters reserved for the government. In Italy, this is also true of the annual laws referring to Common Market affairs, the conversion of government decrees into laws, the ratification of international treaties, the approval of agreements with religious communities or the approval of regional statutes. Restrictions of the same kind do also exist in other countries. However, beside budget restrictions, limitations of contents have relatively little impact on individual members' opportunity to initiate legislation.

5) *Committee Killings*

Some bills manage to make it to the committee stage, but do not progress further. Burying bills in committees is a way to stop initiatives reaching further deliberation, as these bills will not be voted on, if the committee does not report on them. Killing bills in committees is a method of restriction usually used in Austria, Belgium, Denmark,⁷ Finland, Iceland, Luxembourg and Portugal.

In Belgium (which has no other severe restrictions), Private Members' Bills are usually stopped at the committee stage. Van Schoor's analysis of legislative activity in the 1960s reveals that six out of ten bills referred to a committee were never discussed. For those that have been discussed, only half of the proposals manage to have a committee report drafted. Hence, committees only report on about one out of six proposals sent to them (1972).

Committee killing is a widely observed phenomenon. Yet on the other hand, in Norway and Sweden, committees must report to the Chamber on all bills sent to them. This provides individual members with the added insurance that their bills cannot die in committee.

6) *Other Kinds of Restrictions*

There are other kinds of restrictions that have not yet been dealt with. As shown in Table 14.1, in some countries, legislative initiatives must commence from the lower House, and, in other countries, initiatives with financial consequences are restricted to the lower House. Neither of them can be considered as a decisive restriction in our context. However, the special procedures in Luxembourg, must be seen as such. Most private initiatives, here, are stopped by the time they get to the procedures of approval by the Council of State. The procedures applied in Luxembourg do not have correspondent effects in the other countries. There are, of course, various additional difficulties in all the parliaments under study, but as far as I can judge, the restrictions displayed in Table 14.1 are the most relevant.

7 A vote is taken on the floor of the Danish Folketing before the bill is submitted to a committee (Figure 3 in Döring's chapter in this volume).

The European Parliament has not been mentioned yet, and it will only be dealt with marginally in this chapter. For many years, the European Parliament lacked the right to initiate legislation, at least in a formal sense. However, according to the Maastricht Treaty (art. 138b) it now has the right to request that the Commission undertake studies and to submit to it the appropriate proposals. Thus, the Parliament has been given the equivalent of the right that the Council had already formally enjoyed for many years. The Parliament had been making informal proposals to the Commission prior to this by other procedures, e.g. "own initiative" reports or motions for resolution. But it was not until Maastricht (1992) was passed that it gained a restricted formal right of initiative.

The right of initiation is, however, not an individual right. The Treaty ascribes the right to Parliament and not its Members. Moreover, the minimal right is constrained by a long list of formal Treaty restrictions on the Parliament's ability to initiate legislation. We can conclude that the individual right is non-existent in the European Parliament.

Table 14.1 summarises the observations made so far. Only in a few countries there is no indication of a severe limitation in any respect. These are Norway, Sweden and Switzerland. In Sweden, the individual members' rights are only restrained by a time limit. On the other hand, all initiatives are scrutinised in committee and thereafter voted on in the Chamber, making parliamentarians' right to initiate legislation, here, stronger than in many other countries. Most individual members' initiatives are, however, turned down by the committees which scrutinise them, and the bills will normally not receive support from a majority in the Chamber (see Mattson 1992; Sannerstedt 1992; Sjölin 1993).

Table 14.1: Restrictions on Individual Members of Parliament's Right to Initiate Legislation

	Type of restriction					
	Numerical	Time	Technical	Contents	Committee Killing	Others
Austria	x	-	-	x	x	• ¹⁾
Belgium	•	-	•	-	x	
Denmark	-	-	x	-	x	
Finland	-	•	x	-	x	
France	-	x	x	x	-	• ²⁾
Germany	x	-	-	-	-	
Greece	-	x	•	x	-	
Iceland	-	•	x	-	x	
Ireland	-	x	-	x	-	• ²⁾
Italy	x	x	-	x	-	
Luxembourg	•	-	-	-	x	x ³⁾
Netherlands	-	-	-	x	-	• ¹⁾
Norway	-	-	-	-	-	• ¹⁾
Portugal	-	-	x	x	x	
Spain	x	-	•	-	-	• ¹⁾
Sweden	-	•	-	-	-	
Switzerland	-	-	•	-	-	
UK	-	x	-	x	-	• ²⁾
EP	-	-	-	-	-	x ⁴⁾

- = no restriction

• = mild restriction

x = severe restriction

1) Initiative must commence from the lower house (Norway: *Odelstinget*).

2) Financial initiation restrained to the lower house.

3) Must be approved by the Council of State before examination.

4) Individual initiatives do not exist.

A similar situation is at hand in Norway, where bills cannot be stopped by a committee (Rules of Procedure art. 29), but where the lion's share of all individual members' motions are turned down by a committee in a report to the Chamber and where voting is a pure formality with a predictable result. Not even a perfect speech by the initiator during the debate will change the situation. In Switzerland, most individual law proposals are stopped by a vote in the Chamber after a pre-check by a committee, but prior to the proper committee stage. Only

a pre-check by a committee, but prior to the proper committee stage. Only about 10-20 per cent of individual law proposals are referred to a committee for intensive scrutinisation.

Classification of Countries

Is it, then, possible to classify parliaments according to the rights of individual members? I admit that such a classification cannot be made without difficulty, involving several hard choices. In this section, however, a tentative ordinal scale classification will be attempted. This means that the parliaments will be classified in mutually exclusive categories and ranked in relation to each other. We will thus be talking of more or less restrictive procedures. It will, however, only be possible to reveal the sequence of parliaments from this classification, not the distance between the categories.

From our individual-oriented perspective, the most severe restrictions on members' rights are those which limit the individual's set of available actions. Thus, the most severe restrictions to the individual parliamentarians' right of initiation of legislation are those which: prevent initiatives from being submitted at all; obstruct the process of the legislative initiative at an early stage so that the issue cannot be debated; and do not allow the proposition to be voted on in the Chamber. There are, as we have seen, various ways to inhibit initiatives. Germany, Austria, Italy and Spain apply numerical restrictions as an obstacle to individual initiatives, whereas the ballot has become the eye of a needle, through which Private Members' Bills must pass in Great Britain. In France, Greece, and Ireland, the government controls the agenda to such an extent that individuals have no hope of initiating legislation without the support of the government. The Council of State fulfils a corresponding function in Luxembourg. I classify the countries applying these rules as the most restrictive parliaments, claiming that they effectively inhibit individual initiatives, whereas the other countries are classified as less restrictive.⁸ The classification made here is shown in Table 14.2.

⁸ Thus, the less restrictive countries do not apply any of the *severe* restrictions of the following types in Table 14.1: Numerical restriction; Time limit; or Other restrictions.

Table 14.2: Inhibition of Individual Members' Right to Submit Law Initiative

<i>Yes</i>				<i>No</i>
<i>Numerical requirement</i>	<i>Ballot</i>	<i>Government control of the agenda</i>	<i>Council controls the agenda</i>	
Austria Germany Italy Spain	United Kingdom	France Greece Ireland	Luxembourg	Belgium Denmark Finland Iceland Netherlands Norway Portugal Sweden Switzerland

I will not make any attempt here to present a fully-fledged explanation of the differences in the members' rights, since the classification will be part of future research in the second step of this project. However, we can make some general, tentative observations. The first observation regards the size of Parliament.

In organisational theory, it is common to distinguish between small and large organisations. It has been claimed that the size of the organisation has an impact on the individual (see for example Hall 1982:58). Many other features of parliament may change, but the size will generally remain stable. We also know that size varies considerably between parliaments in different countries. In light of these facts, the size of parliament is probably an underestimated structural feature in parliamentary research. When comparing a small legislative body, like the Luxembourg Parliament, which consists of 64 Members with a large one, like the British Parliament, where 650 persons meet in the House of Commons and more than 1100 persons are members of the House of Lords, it seems reasonable to assume that the role of individuals differs.

Consider for a moment the small, fragmented Danish Folketing, where it has often been possible to count the number of members in several parliamentary party groups on the fingers of one hand. It is obvious, that in comparison to the main British parliamentary parties, here, the private member's access to the party leadership, the possibility of labour division and specialisation, the decision-making style in the group, the organisational complexity of the group, the organ-

isational capacity, the relationships between the members, etc. must all be quite different.

A relevant empirical indication of the impact of parliamentary size on the individual Members, which is of current interest, is provided by Germany. The experience of enlarging the Bundestag after unification has been a matter of debate and demands have been made for a reduction in the number of deputies. It is claimed that 656 deputies constitute a too large an organisation with respect to opportunities for participation by ordinary Members (Schüttemeyer 1994:54).

Table 14.3: Size of Parliament and Individual Members' Rights to Initiate Legislation

<i>Size of Parliament (Lower House)</i>	<i>Individual initiatives inhibited</i>	<i>Individual initiatives not inhibited</i>
Large	France Germany Greece Italy Spain United Kingdom	Sweden
Small	Austria Ireland Luxembourg	Belgium Denmark Finland Iceland Netherlands Norway Portugal Switzerland

Key:

Large Parliament: 300 members and more

Small Parliament: less than 300 members

Sources: Parliaments of the World. Table 1. (Complementary information has been collected for Iceland and Germany.)

As is shown in Table 14.3, there is a correlation between size and the individual Members' right to initiate legislation.⁹ The rights are more restricted in large par-

⁹ Also analysis of correlation coefficients (number of MPs measured on a continual scale) provides evidence to the same conclusion. (Pearson's corr. is - 0.52.)

liaments than in small ones.¹⁰ There are only four exceptions to this general pattern: Austria, Ireland, and Luxembourg on the one hand and Sweden on the other.

The particular theoretical explanation of this correlation can be traced to the costs of decision-making. A decision-making cost arises when two or more persons have to reach an agreement. The cost normally increases as the number of persons involved in reaching the agreement grows, due to the time and resources each individual must invest in the bargaining process. If we only look at this one aspect, the most efficient method of decision-making is exercised by one person alone (Buchanan and Tullock 1962:97-99; cf. Sartori 1987:Chapter 8).¹¹ If this assumption is right, that a high number of decision-makers increases the internal decision-making costs, only small parliaments may be able to afford to foster individual Members' rights of initiation, whilst large parliaments cannot, due to the high number of applicants involved.

Size, however, is but one relevant factor. Other external factors have also an impact on the parliaments' organisation, functioning and performance. We can reasonably expect that the political context of the parliaments is relevant for their working methods. From an ocular examination of the parliaments in Table 14.4 it appears to be the Scandinavian countries together with the consociational democracies which apply least restrictive procedures for individual Members.

When we take a closer look at the countries we find an interesting pattern. Arend Lijphart has made an effort to grasp the entire institutional system of democratic regimes and tried to classify democracies according to their general pattern of majority rule and minority rights. Lijphart distinguishes majoritarian from consensus types of democracy. The majoritarian model is characterised by power concentrated in the hands of a simple majority, whereas, in the consensus model, power is dispersed to different centres, and conflicts resolved through compromises rather than majority voting (1984). Unfortunately, Lijphart has not included all West European countries in his study. However, if we study the countries that are included in Lijphart's study, we get the results shown in Table 14.4.

10 Since the size of Parliament approximately reflects the size of the population, there is also a correlation between population and the members rights.

11 I will here only take up one half of their argument. If we also consider the other part, we must take the external costs (external risks) into account as well. To ensure that decisions are backed by the citizens, it is valuable to include as many persons as possible in the process. There is a trade-off between internal and external costs.

Table 14.4: Individual Members' Rights in Majoritarian and Consensual Democracies

<i>Lijphart's classification</i>	<i>Individual initiatives inhibited</i>	<i>Individual initiatives not inhibited</i>
Majoritarian	Austria Germany Ireland United Kingdom	
Intermediate	France Italy Luxembourg	Iceland Norway Sweden
Consensual		Belgium Denmark Finland Netherlands Switzerland

Sources: Lijphart 1984:219; 1989:35.

In Table 14.4, dimension I of Lijphart's classification of majoritarian and consensus democracies is cross-tabulated with individual members' right to initiate legislation. This dimension is made up of five variables: (1) concentration of executive power versus executive power-sharing; (2) executive dominance versus executive-legislative balance; (3) two-party versus multiparty system; (4) one-dimensional versus multidimensional party system; and (5) plurality elections versus proportional representation (Lijphart 1984; 1989:35-36).

Our conclusion from Table 14.4 must be that individual initiatives are more restricted in majoritarian democracies than in consensus democracies. The result is not unexpected: restrictions of individual Members' rights are compatible with majoritarian rule. In sum, we can conclude that individual members' right of initiation is most restricted in large parliaments and where a majoritarian type of democracy is applied.

Finally, let us reflect somewhat on the relationship between the role of the individual member and the strength of parliament - an issue we raised earlier in the introduction. There are, I think, good reasons to expect a difference between so-called active parliaments and reactive parliaments regarding their approach to the individual member's role in the legislative process. Active parliaments are supposed to fulfil the legislative function more appropriately than reactive ones,

which should house an opposition more inclined to criticism than legislation. Reactive parliaments have the capacity to modify policies put before it, but they lack the capacity to formulate and substitute policy of their own (Mezey 1979). Most West European parliaments are classified as reactive, but there is still room for variations between the countries (Norton 1990b). The individual's right to initiative might serve as one indicator of the parliament's potential strength, but it is certainly not the only one.

When evaluating private members' rights in the legislative process, we should not only study the right to initiate legislation, we must also consider a complementary procedure, the right to submit amendments to bills under deliberation. It is to this matter that we turn in the next section.

Amendment Initiatives

In his proclamation of 14th January 1852, Louis-Napoleon Bonaparte declared that the Legislative Body would have freedom to discuss legislation and to accept or reject it but "it will not be permitted to indulge in any of that impromptu insertion of amendments which so often unbalance the whole economy of a system and distort the original lay-out of a bill" (quoted in Lidderdale 1958:214). But, despite this kind of objection to parliament's right to amend bills, the right to submit amendments, today, is generally recognised as one of the prerogatives of Members of Parliament in most democracies.¹² All the same, just as is the case with legislation initiatives, there are several types of restrictions on this right of amendment.

The right to initiate amendments is generally related to the right to initiate laws, since an amendment can be regarded as a limited form of initiation of legislation. In Finland and Sweden, the relationship between bills and amendments is so close, that there is actually no definitive distinction between an amendment and a competing bill. In the Netherlands, it is not customary for members to present amendments to propositions, but rather to proceed by means of alternative propositions. Similarly, in Austria, there is no single term that corresponds to the English for amendment. However, despite the close relationship of the two, the right to initiate amendments is generally less restrictive than the right to initiate legislation.

12 However, not in the second Chamber in Austria and the first Chamber in the Netherlands among the cases under study in this volume. These Chambers lack constitutional power to amend a bill from the other Chamber.

In most West European countries, the government has the right to submit amendments. However, this is not the case in France, Germany, Norway and Sweden, and as a consequence informal methods of submission have been introduced in these countries. If the governments in these countries wish to introduce an amendment, they have to have their loyal Members of Parliament submit it for them.¹³ As for Germany, Norway and Sweden, it remains open to any member of the government to speak and explain his or her views, whereas even this opportunity is closed off to French ministers. The French government nonetheless controls the amendment procedures strictly through various means (Safran 1991:176-8; Huber 1992).

Amendments are designed to modify bills and, if they are submitted early enough, they can be an important part of the documents dealt with in committees. Generally, they may also be presented later on in the legislation process, and in this case are debated and voted on in the Chamber, but their impact on the decision outcome is seldom effective.

We can identify three general stages (or phases) in the legislative process relating to amendments: initiation, scrutinisation and voting. During the first stage, a bill is introduced and submitted to the Chamber, then printed and distributed. Thereafter, time might be available for general discussion in the Chamber before submitting the bill to a committee. During the committee stage, the bills are scrutinised in detail. There is, finally, a third step starting after the committee has delivered its report and lasting until the Chamber votes on the matter. Prior to the voting procedures, there is, generally, at least one detailed discussion of the matter in the Chamber. Of course, there is a great variety of legislative procedures not covered by this model, but in general terms, it holds true for all parliaments in West Europe.

Table 14.5 illustrates the stages at which initiation of amendments by individual Members of Parliament are allowed. As a rule of thumb, one can say that in parliaments where amendments are allowed at more than one stage, the rules governing the tabling and discussion of amendments become more stringent after the first stage. In Sweden, for instance, amendments introduced during the voting phase should be concerned with relevant and detailed revisions, whereas amendments introduced in the initial phase are permitted on matters relating to the problem in general.

13 In some countries, the ministers who were not initially elected Members of Parliament, nonetheless, become members and have the same rights as elected members. In other countries, on the other hand, elected members are deprived of their membership of parliament when appointed ministers, and, thereby, also lose their rights as members. Rudy Andeweg and Lia Nijzink analyse these features at length in their contribution to this volume as well as Ulrike Liebert in her contribution.

Table 14.5: Stages in the Legislative Process at Which Amendments May Be Introduced by Individual Members

	<i>Stages in the Legislative Process</i>		
	<i>Introduction</i>	<i>Committee</i>	<i>Prior to voting</i>
Austria	- ²⁾	- ²⁾	- ⁴⁾
Belgium	-	+	• ⁵⁾
Denmark	-	• ³⁾	• ¹⁾
Finland	+	• ³⁾	+ ⁶⁾
France	+	+	• ¹⁾
Germany	-	+	- ²⁾
Greece	+	+	+
Iceland	+	+	• ¹⁾
Ireland	-	+	+
Italy	+	+	• ¹⁾
Luxembourg	+	+	+
Netherlands	-	+	+
Norway	+	• ³⁾	+
Portugal	+	+	+
Spain	+	-	-
Sweden	+	-	+
Switzerland	+	+	+
United Kingdom		• ³⁾	• ⁷⁾
European Parliament	+	+ ⁸⁾	

Key:

- + = allowed
- = prohibited
- = restrained

Notes:

- 1) Notice in advance necessary.
- 2) Numerical restriction.
- 3) Committee members only.
- 4) Orthographic and stylistic changes only.
- 5) Restriction is applied only after deliberation is closed.
- 6) Second reading only.
- 7) Theoretically, an MP could move to amend the title during the first reading when the bill's title is read out.
- 8) Generally speaking, only an individual right at the first reading in committee. At other stages, amendments can only be introduced by a committee after a simple majority vote.

The restrictions to amendments are very similar to those already encountered in the study of legislative initiatives. In Germany, amendments must be signed by five per cent of members and may only relate to those clauses to which amendments have been made on second reading. They are also restricted during the third reading. There are also numerical requirements in Austria, where the backing of eight members is required in the Nationalrat and the backing of three in the Bundesrat. In the Irish *Seanad* a *seconder* is required when proposing amendments.

Restrictions also exist regarding the content of amendments. The most common being that amendments must be relevant to the bill. But there are also restrictions on financial matters relating to those mentioned before with regard to the initiation of financial legislation.

Amendments from individual members may also be stopped via the so-called “guillotine” procedure or the related procedure of the Closure. These two procedures are used to secure the passage of contentious Government Bills. The principal feature of the guillotine is that all questions must have been put by a certain point of time. The Closure is used for amendments and is applied to a single discussion only.

Financial restriction	Guillotine	Closure
Austria France Greece Ireland Italy Portugal United Kingdom	France Greece Ireland United Kingdom	Austria Denmark Germany Ireland Norway United Kingdom

The importance of the closure differs between the countries in which it operates, depending on the parliamentary tradition. Its actual application varies, depending on the extent to which the government has control over the order of business and agenda priorities in parliament (see the chapter by Döring in this volume.)

Discussion

The right to initiate legislation and the right to propose amendments are very important, but merely a brief glance at the percentage of Private Members' Bills passed in Table 14.6 and Table 5.4 in Rudy Andeweg and Lia Nijzink's chapter,¹⁴ suffices to illustrate the fact that individual members have not been very effective as initiators of legislation in any of the countries under study. In Greece, for instance, only two law-proposals by MPs have reached the statute book. Also, if we study the share of all laws originating from Private Members' Bills, we see that most laws originate from Government Bills (Table 5.4 in Andeweg and Nijzink). Although the available statistics reveal a small variation between parliaments, the general observation is, that the vast majority of the enacted bills have been initiated by governments, while the vast majority of those not enacted have been proposed by private members.

The individual members' rights are important, but as W. F. Dawson has pointed out in reference to Canada, the rights can be elusive:

“The existence of private members' business is, of course, based on the parliamentary fiction that all members are alike in the House and that it is the duty of every member to bring his suggestions for legislation before Parliament. Today few members even bother to assert the equality of all in the House. The facts are obvious. The Government has its rights and responsibilities and the official Opposition has its rights. Any independents ... who attempt to move amendments in the Address debate and on similar occasions, rapidly discover the elusive nature of their equality” (quoted in Hyson 1974:262).

The exception from the main rule, that the executive dominates legislation, might be Iceland. Until recently, the Althingi legislated extensively on the basis of private initiatives covering major policy areas (Arter 1990:139). Yet, even in Iceland most Private Members' Bills are sponsored by more than a single member, and co-operation on bills extends only to a limited degree across party lines, as a great majority of these bills are one-party bills, implying party influence on private initiatives (Magnusson 1987). Moreover, Private Members' Bills are, on the whole, less important than Government Bills, in that they do not have a far-reaching impact on society. This difference is, according to Thorsteinn Magnusson, even more pronounced when it comes to those bills that are adopted. In

14 Statistics for individual member's initiatives are not available for most of the countries under study. We must, therefore, rely on statistics for Private Members' Bills here.

Table 14.6: Number of Private Members' Bills

	<i>Total no. of Private Members' Bills 1971-1990</i>	<i>% of Private Members' Bills passed 1971-1990</i>	<i>Total no. of amendments 1971-1990</i>
Austria	559 ¹⁾	37,7	no data available
Belgium	4 548	7,3	no data available
Denmark	1 499	9,6	no data available
Finland	5 153	no data available ²⁾	no data available
France	6 759	32,3	166 756
Germany	³⁾	⁴⁾	no data available
Greece	190 ⁵⁾	⁶⁾	no data available
Iceland	1 428	23,7 ⁷⁾	no data available
Ireland	35 ⁸⁾	0	no data available
Italy	12 887	14,1	no data available
Luxembourg	133	27,8	no data available
Netherlands	86	no data available ⁹⁾	13 466
Norway	approx. 83 ¹⁰⁾	n.a.	no data available
Portugal	2 310	29,8 ¹¹⁾	no data available
Spain	309	46 ¹²⁾	no data available ¹³⁾
Sweden	approx. 59 900	n.a.	n.a. ¹⁴⁾
Switzerland	122	only a few	no data available
UK	1 320	13,5	no data available
EP	--	--	56 775

Blanks indicate that no information was given.

Notes:

- 1) 04.11.1971 - 18.05.1983
- 2) app. 1 / 1000
- 3) Total no. 1971 - 1990: 444
- 4) Individual MPs do not have the right to introduce bills.
- 5) 1977 - 09.03.1990
- 6) Bill proposal by MPs do not succeed in Greece.
- 7) Including Committee Bills (ca. 2%)
- 8) (1971-87)
- 9) Between 1965 and 1985 31 out of 93 individual initiatives became law.
- 10) (1977-90)
- 11) 1976 - 1990, no data for 1985/1986
- 12) 1979 - 1986
- 13) December 1982 - December 1983: 3389.
- 14) Approximately 16 700 (28%) of the Private Members' Bills were submitted as a consequence of a Government Bill with the purpose to rejecting or amending it.

fact, all major bills that the Althingi adopts are, indeed, Government Bills (1987:384-5, 398).

In Italy, too, a rather large share of legislation originates from Private Members' Bills (or maybe we should say originated, since we cannot yet appreciate the full impact of recent constitutional reforms). As we have previously seen, these bills are not purely individual, since Italy applies a numerical restriction on legislative initiatives. Nevertheless, it is sometimes claimed that, despite strong party organisations and pre-eminence of external party leadership,

“... the Italian parliament has always shown a very significant degree of parliamentary individualism. Italian members of parliament have been extremely active at introducing legislation, and even if only a small part of it eventually makes it through the legislative hurdles, the final share of the total of bills enacted by the parliament is not altogether insignificant” (Cotta 1994:63).

From Table 5.4 in Rudy Andeweg and Lia Nijzink's chapter 5 in this volume we can see that a rather large share of legislation in Portugal originates from Private Members' Bills. Portugal is without doubt an exceptional parliament in this respect. A closer look at the bills reveals, however, that they are not initiatives from independent individuals, but connected to party initiatives. Almost all *Projectos de Lei* are subscribed by more than one MP, and they are registered as being from a parliamentary group (source: questionnaire).

Moreover, there are good reasons to assume that all over Western Europe most of the Private Members' Bills enacted, are uncontroversial, minor pieces of legislation. Thus, the two laws enacted by the Greek Parliament, resulting from initiatives by individual members, dealt both with issues of restricted range.¹⁵ Regarding the United Kingdom, Denis van Mechelen and Richard Rose have pointed out, that most of the bills that have reached the statute book have been uncontested and concerned with uncontroversial measures. Furthermore, they are generally simpler than government legislation. The mean number of pages is less than one-quarter the length of the average for new government acts. Presumably, this is because backbench Members are not in a position to draft complex legislation (1986:76).

15 One dealt with the administration of the Church of Maria on the island of Tenos and the other acclaimed a day of remembrance of the violent death of Greeks in the Black Sea in 1922.

In general terms, this description fits well for all the parliaments included in our study.¹⁶ In Italy, the government is generally not distressed by a great number of *leggine* ("small laws"), instead these are initiated by Private Members' Bills or by government agencies (Di Palma 1977). Research on Portugal has also indicated a similar feature (Opello 1988; Bandeira and Magalhães 1993).

As we have already seen, there are several ways to restrict rights: through numerical obstacles, time limitations, technical requirements, contents restrictions and committee killings. We have also observed differences, in this respect, between the parliaments under study. As a next step, it will be interesting to see who makes use of these more or less restricted rights, for what purposes and with what effect.

Previous studies of parliaments indicate that members of majority parties are the least active. This holds true for Belgium, for instance, where research done by Lieven De Winter shows that members of the extreme opposition parties are the most active. The stronger the party is associated with governmental participation, the less its MPs introduce bills. This confirms that one of the roles of majority MPs is to facilitate governmental legislative initiatives, rather than introduce their own (De Winter 1992).¹⁷ Although we lack sufficient statistics for most countries in this study, answers to the questionnaire indicate similarities among all countries in this respect.

Due to the government's leading role in legislation, introducing Private Members' Bills has mainly become an activity for the members of minority parties. If members belong to a government party, they will try to convince the government to sponsor their bill and if this fails, they know that the prospect of success in the Chamber will be very small and will probably refrain from introducing it. If members do not refrain, they will possibly be urged by the government or parliamentary party group leadership to withdraw the bill. Private Members' Bills have therefore primarily developed into a means of opposition activity.

An important elementary reminder to be made here is that we cannot evaluate the legislative process without taking into account the impact of parties and the interplay between majority and opposition. Legislation must be studied within the framework of political parties and the way they influence individual members' behaviour. Individual members legislative work is generally formed by the par-

16 Similar results were presented by Thorsteinn Magnuson in his study of the Althingi. Private Members' Bills are generally briefer than Government Bills and propose modification of existing laws only (1987:381).

17 Furthermore, De Winter's study shows, ambitious MPs (in terms of having ambitions to ministerial office) to be more active lawmakers than the average member. Professional background also has an impact, implying that professional law experience produces lawmaking skills, and leads to higher involvement in lawmaking activities.

ties, and their own initiatives must first be backed by their own parliamentary party group before it can succeed (see the contribution by Damgaard to this volume).

Why then do individual members submit bills when they know that the prospect of success is so small? The answer must be that the aim of submitting bills is often a means of making manifest an opposition to government. Members of Parliament want to criticise, to attract media attention and to state an alternative to the policy of the government (Zahle 1987:54; Worre 1982:199). As for Belgium, van Schoor noted that a majority of Private Members' Bills could be labelled "demagogic", in the sense that their implementation would imply an increase in government spending and transfers, or a decrease in government taxation. Moreover, they are short. Van Schoor showed a majority of Private Members' Bills not to contain more than two articles. He also noticed that a considerable number of Private Members' Bills are introduced a couple of days or weeks before parliament's dissolution. These bills, of course, have no chance of being examined before the session ends, a fact that is very well known by the initiators themselves. They are introduced because they can serve as electoral propaganda towards the legislator's constituents and clientele groups. Hence, in many cases, the Members of Parliament actually do not care whether their proposals be examined or not, not to mention whether they become law. Van Schoor found that 15 per cent of Private Members' Bills introduced in the House were not taken into consideration, because the members did not introduce a written request to the House Bureau needed to take the bills into consideration. Moreover, authors of bills often fail to be present at the committee reading of their bill. Finally, about half of the Private Members' Bills are copies of bills previously introduced, but rejected (van Schoor 1972).

In Luxembourg, amendments may be introduced at all stages of the legislative process, but are more and more frequently introduced in plenary sessions as the opposition wants to give them publicity, thereby pressuring the government for changes. They may also be introduced in order to delay procedures, since amendments at this stage implies a new consultation of the Council of State. If amendments are tabled during the vote article by article, they must be sent back to the Council of State for mandatory advice (source: the questionnaire).

According to Guiseppe Di Palma, the use of Italian amendments points to a concurrence of government, parliament and opposition in the law-making process. Amendments are primarily introduced by members of small parties at the most visible stages of the process (1977:59-60).

These phenomena are not confined to Belgium, Italy and Luxembourg. (Recall the notes on Sweden in the introduction to this chapter.) On the contrary, they indicate a general feature of Private Members' Bills all over Western

Europe. The main reason for moving a Private Members' Bill is often to demonstrate an alternative to government policy or as mere propaganda campaigns. They are seldom moved in the belief that they will be passed.¹⁸ Submitting a bill often serves other purposes than initiating legislation. Therefore, some bills belong to the field of pseudo-legislation (for a definition, see the chapter by Trantas in this volume). As a consequence, Private Members' Bills have developed into a form of parliamentary activity, complementary to other means of control and opinion building measures, such as parliamentary questions. By raising questions, not presently dealt with in parliament, private members can try to attract public attention to an issue. If successful in their efforts, MPs can thereby set the future agenda for parliament.

For the individual members, Private Members' Bills may be a means by which to improve their personal image. They may initiate bills in order to please influential interest organisations, display results to the local party organisation, and/or show their constituency that they promote the electorate's interests. Private Members' Bills probably often contain pork-barrel favours to the members' constituencies. Legislative initiatives are thus a means to securing both renomination by local party organisation and reelection at the polls.

Many Private Members' Bills are, as we have observed above, small in scope, brief, uncontroversial and are of only minor financial impact. The costs are diffuse, but on the other hand, benefits in the electoral sense are concentrated. Such laws satisfy demands from various small groups and the legislative process is generally bipartisan.

As demonstrated by the Belgian example above, initiatives can also be used as a means of obstruction. This takes us to another general observation regarding legislation in Western Europe. Decision-making in many multiparty parliaments is characterised by negotiations (Sannerstedt 1993). Both the initiation of legislation and the proposal of amendments to bills must, therefore, be seen as resources that Members of Parliament employ in different ways to negotiate decisions and influence legislation (Di Palma 1977:59). We must consider this when we try to evaluate the individual member's role in the legislative process. Members of Parliament can bargain their way through decisions. Submitting bills or amendments are but two formalised ways of influencing legislation in this permanent negotiation process.

Studying the Danish government's annual Financial Bill, for instance, we must consider it not only as an account of its policy, but also as an invitation to negotiations with the opposition parties as well as the government's first bid in

18 I rely here on the judgement of country experts for each parliament, expressed in their answers to the questionnaire and personal correspondence.

the following bargaining process. Alternative propositions from the opposition must be regarded, subsequently, as their answer to the invitation, and their first return offers (Mattson forthcoming).

Bargaining in parliaments is generally conducted according to formal rules specifying who may make proposals and how they will be decided. Skilful negotiators can make strategic use of these formal rules when they are to their benefit, but may also be able to overlook them if they are an obstacle to their purposes. However that may be, bargaining outcomes depend on these rules and on the structure of the parliament. The legislative outcome, thus, reflects the institutional structure of both the agenda formation process and the voting mechanism. David Baron and John Ferejohn, for instance, claim that under a closed amendment rule (or, more realistically, restrictive rules), a majoritarian outcome results from the legislative bargaining process, whereas under an open rule, the outcome can be universalistic under certain circumstances (1989a:1182 *et passim*).

Baron and Ferejohn's theory is based on game-theory and their assumptions were made with one eye on the theoretical requirements for the game they chose and the other on the institutional setting of the American Congress. Some of their assumptions are evidently incompatible with institutional arrangements in Western Europe (see also Baron and Ferejohn 1989b). Nonetheless, their article is an example of comparative institutional analysis and is a potential source of universal generalisations. We can only evaluate their model by empirical examination.

As we approach the end of this chapter the wheel has thus come full circle. As stated already in the introduction of this chapter, procedures related to individual member's rights to initiate legislation and propose amendments have theoretical importance for parliamentary research. The primary aim of this chapter has been to investigate individual member's role in the legislative process by describing their rights to initiate legislation and propose amendment. Considering the effects of restrictive or open rules is, however, a quest for future research and will be left unsolved here.

In our discussion of functions, we have found that Private Members' Bills and amendments from individual Members of Parliament fulfil several, analytically distinct functions. It is, of course, still a means to initiate legislation and to influence the legislative process. This is true, not only in the sense that individual initiatives are formally submitted and put on the agenda of parliament, but also in the sense that individual bills are inputs in the ongoing negotiation process, of which parliament is the arena. Taking the electoral connection into consideration, Private Members' Bills are also a means for securing renomination and reelection.

In addition to these instrumental functions, we have also observed expressive functions. Private Members' Bills and amendments are devices by which Mem-

bers of Parliament are able to criticise the government and thereby bring the government to task. Such bills also enables discussion and publicity as ‘a means’ of mobilising public opinion.

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