November 1987

Congress, the Constitution, and the Politics of Taxation

Randall W. Strahan

Follow this and additional works at: https://digitalcommons.coastal.edu/jops

Part of the Political Science Commons

Recommended Citation
Available at: https://digitalcommons.coastal.edu/jops/vol15/iss1/4

This Article is brought to you for free and open access by the Politics at CCU Digital Commons. It has been accepted for inclusion in Journal of Political Science by an authorized editor of CCU Digital Commons. For more information, please contact commons@coastal.edu.
CONGRESS, THE CONSTITUTION, AND THE POLITICS OF TAXATION

Randall Strahan

When considering the question of how the Constitution governs American politics, there are two basic approaches one might take.* The first would be to consider the Constitution as a statement of the commitments and goals of the American republic and examine the extent to which the goals embodied in the document are realized in American political life. A second approach would be to view the Constitution as a set of institutional forms that govern the day-to-day practice of American politics. This essay takes the second approach, looking at the changing role of constitutional forms in an important area of domestic policymaking.

Article One, Section Seven of the United States Constitution contains what has been termed the originating clause: "All bills for raising revenue shall originate in the House of Representatives." The Senate, according to the same provision, "may propose or concur with amendments as on other bills," but it may not vote new revenue legislation before action is taken in the House. Although the power to amend revenue bills has often made the Senate an equal participant in determining the final content of tax measures, the sequence of action specified in the Constitution has long been an important factor influencing the politics of taxation in Congress. During the 1980's, however, the constitutionally-mandated sequence for approving tax legislation has been all but ignored on a number of occasions, with the result that previously established institutional roles for the House and Senate have become increasingly blurred. This historical pattern makes taxation an interesting case in which to consider how institutional forms defined by the Constitution influence American politics.

The most dramatic recent example of congressional action inconsistent with the originating clause occurred in 1982, when the Senate took the lead in assembling and passing deficit reduction legislation that included a $98 billion tax increase. Some have argued that the initiative exercised by the Senate in 1982 represents a "dangerous violation" of the restraints and balances built into the American constitutional system by the Founders. The bicentennial of the Constitutional Convention seems, therefore, an especially appropriate time for reexamining the place of the Constitution in the politics of taxation. Moreover, the large federal deficits of recent years and the debate about and enactment of tax reform have focused attention on the adequacy of the institutions and processes involved in determining national budget and tax policy. In light of these concerns, the purpose of this article is to consider how the Constitution governs the politics of federal taxation. Since the Constitution assigns final responsibility for setting tax policy to Congress, the focus of the article is on politics in the legislative branch.

The analysis offered here is based on the premise that whether one is concerned with the politics of taxation, or with explaining patterns of congressional decisionmaking in other policy areas, three basic types of variables must
be taken into account: 1) institutional factors (including but not limited to constitutionally-mandated structures and procedures); 2) the policy context associated with a specific issue or policy area; and 3) leadership by those in key institutional positions. The article will show how changes in these factors converged in the early 1980's to undercut the traditional importance of the constitutional originating clause as a factor governing tax decisionmaking. In the concluding section, the article will examine the consequences of these changes and the longer term prospects for the influence of the Constitution in the tax policy process.

TAX POLITICS IN THE POSTWAR CONGRESS

During the 1950's and 1960's, careful observers of congressional politics found a consistent pattern in the politics of major tax legislation. This pattern was attributable in part to the influence of the originating clause of the Constitution. “The right of the House to originate revenue legislation,” John F. Manley pointed out in his 1970 book, *The Politics of Finance,* “can be and has been important as a strategic factor in House-Senate deliberations.” Specifically, Manley explained, there was a "standing decision" on the part of the Senate "to await House action in all but the most usual cases, i.e., situations in which House action is problematical and Senate pressure, or pressure on the Senate, is irresistible.”

Along with certain institutional differences between the House and Senate, adherence to the sequence of decision required by the originating clause produced a certain degree of regularity in tax policymaking across the two chambers. In the House, tax decisionmaking was insulated from particular groups and interests seeking favorable tax treatment by institutional arrangements which effectively delegated control over tax decisions to the Ways and Means Committee. This committee, staffed primarily with senior members from electorally-secure districts, drafted tax bills in closed-door sessions, then submitted them to the House for approval under a special procedure (the “closed rule”) which prohibited amendments by non-committee members.

The members of the postwar Ways and Means Committee normally exercised their power cautiously, seeking to build a broad consensus behind the bills they reported to the House. Close observers of the committee noted among its members a sense of responsibility for guarding the revenue prerogatives of the House and a concern for protecting the fiscal integrity of the federal government. As Manley commented after conducting an extensive series of interviews with members of the panel: “... the job of Ways and Means, as the members see it, is to balance the fiscal realities with the plethora of demands for tax reductions or special provisions.” As evidence that the committee usually struck a successful balance between maintaining fiscal objectives on the one hand and responding to particular demands for favorable tax treatment on the other, during the postwar years tax bills re-
ported by Ways and Means almost always won majority support when submitted to the House for approval.\(^5\)

Tax politics in the postwar Senate looked much different. First, the relatively closed nature of the tax decisionmaking process in the House tended to focus lobbying activity on the Senate. Thus, the limited opportunities to influence tax legislation in its early stages in the House often made the Senate the primary forum for the myriad clientele and constituency groups seeking to bring about or prevent changes in the tax code. A second difference between the two chambers was that the Senate Finance Committee, and the decisionmaking process in the Senate generally, were more oriented toward responding to these particular groups and interests than their House counterparts.

Richard F. Fenno, Jr. offered the following description of the Senate tax committee in his comparative study of congressional committees published in 1973:

Finance members can help themselves by helping clientele groups. They are encouraged in this stance by the conditioning force of the legislative sequence in which they always act after the House has passed its bill and in which they always are besieged by groups appealing House decisions. [Finance] Committee members have standardized their decision context by assuming that the House has given general form to the bill and that their task is to deal, by amendment, with the remaining “hot spots” in that bill. Their decision strategy, then, is to give remedial assistance to clientele groups who appeal to them for redress from House decisions.\(^6\)

To be sure, some tax legislation during the postwar years did not fit this pattern. But in most cases, the House initiated action on tax bills in Congress and set the basic outlines for major policy changes. The Senate then revised the legislation, often responding to clientele and constituency group appeals. Policy outcomes in the House tend more toward maintaining federal revenues; those in the Senate tended to bear a greater imprint of particular interests seeking reduces tax burdens.\(^7\) As Manley and Fenno documented, these patterns were in part traceable to an established sequence of decision-making arising from constitutional requirements for passing tax legislation. In this respect, the Constitution governed tax politics in the postwar Congress.

**TAX POLITICS IN THE “NEW CONGRESS”**

Just as the studies of the postwar Congress discussed above began to appear in the early 1970's, Congress was embarking on a major period of reform. Many of the structural and procedural arrangements which influenced the politics of the postwar institution were dismantled or recast. By the end of the decade some observers of legislative politics were even
speaking of a “new Congress” due to the impact of reforms and other changes on established patterns in congressional politics. Of particular importance for understanding changes in tax politics were two sets of institutional reforms enacted during this period: 1) reforms in the House affecting the Ways and Means Committee; and 2) the creation of a new budget process.

As has been shown in a series of essays by the political scientist Catherine Rudder, the Ways and Means Committee was a major target of house reformers during the 1970's. The Ways and Means reforms occurred partly because the tax committee's closely-held power clashed with the new participatory politics of the period, and partly because the political balance in the House has shifted in favor of liberal Democrats who had long been frustrated by the committee's caution in initiating new social and economic programs. According to Rudder, the following reforms brought about significant changes in the politics of tax issues:

1. secret ballot selection of committee chairmen instead of complete reliance on the seniority system;
2. modification of the closed rule under which Ways and Means bills could be considered on the House floor without amendment;
3. open committee proceedings, including House-Senate conferences, except when a majority of the committee agrees by a roll call vote to close a meeting;
4. enlargement of the Ways and Means Committee by one-third;
5. transfer of House Democratic committee assignments from Ways and Means to the Steering and Policy Committee; and
6. creation of Ways and Means subcommittees.

These reforms altered the tax decisionmaking process in the House in a number of important ways. First, the expansion in the size of the Ways and Means Committee and the change to open committee and conference sessions increased the opportunities for participation in tax decisions. By the same token, these reforms substantially reduced the institutional “counterweights” which had traditionally limited the responsiveness of House tax decisionmakers to demands from clientele and constituency interests for more favorable tax treatment. The other changes adopted by the House during the 1970's — a new selection process for committee chairmen, a revision in the closed rule to allow floor votes on amendments approved by the Democratic Caucus, and transfer of the committee assignment power from Ways and Means to the Democratic Steering and Policy Committee — created new opportunities for the exercise of influence over committee decisions by the majority party and its leadership in the House.

The new budget process set up by the Budget and Impoundment Control Act of 1974 also created new channels for influencing tax policy decisions in Congress. Although no real consensus existed at the time regarding the policy objectives to be pursued through a more centralized budget process, the ap-
parent breakdown of an informal, decentralized process for making revenue
decisions, and challenges to congressional spending authority from the Nixon
Administration, led to the passage of the Budget Act. The budget reforms
established a new set of organizational units (the House and Senate Budget
Committees and the Congressional Budget Office) and a new procedure (the
budget resolution) for coordinating tax and spending decisions. Most observers
agree that the budget process had a relatively limited impact on tax and spending
decisions during the 1970's. But the existence of the new process created
the institutional underpinnings for major changes in congressional politics during
the following decade.

How, then, have tax issues been decided in the "new" Congress? In some
respects, congressional tax politics changed dramatically in the aftermath of
the 1970's reforms. As Rudder has shown, the formulation of tax legislation
in the House is no longer dominated by a consensus-oriented Ways and Means
Committee as had been the case during the postwar years. In 1974 and 1975,
for example, the House Democratic caucus intervened in the development of
tax bills, and throughout the late 1970's amendment or even defeat of tax
legislation reported by the Ways and Means Committee became common­
place. Even with these important changes in the House, however, the Con­
stitution continued to govern the sequence of tax decisionmaking during the
1970's. In each of the seven major tax bills enacted between 1971 and 1980,
review by the Ways and Means Committee and House passage preceded the
reporting of a bill by the Finance Committee and final action by the Senate
(see Table 1).

| Table 1 |
| CONGRESSIONAL ACTION ON MAJOR TAX LEGISLATION DURING THE 1970'S |
| Bill | House | Senate | Action |
|      | Reported* | Passed | Reported** | Passed | Completed |
| Tax Reduction Act of 1975 | 2/19/75 | 2/27/75 | 3/17/75 | 3/22/75 | 3/26/75 |
| Tax Reform Act of 1976 | 11/12/75 | 12/4/75 | 5/27/76 | 8/6/76 | 9/16/76 |
| Energy Tax Act of 1978 | 6/30/77 | 8/5/77 | 10/21/77 | 10/31/77 | 10/15/78 |
| Revenue Act of 1978 | 8/4/78 | 8/10/78 | 10/1/78 | 10/10/78 | 10/15/78 |

Source: Schick, Congress and Money, pp. 546-547, Congressional Quarterly Almanacs.

*Date on which the House Ways and Means Committee voted to report the bill to the House.
**Date on which the Senate Finance Committee voted to report the bill to the Senate.

During the early 1980's, however, a clear break appears in this pattern
as new political forces worked to eclipse constitutionally-mandated procedures
in shaping decisionmaking on tax issues. The first indication of a shift away from the institutional roles mandated by the Constitution came in 1980. That year Congress had strengthened the reconciliation procedure of the budget process, thus creating and effective mechanism for ensuring that standing committees in each house would report legislation needed to achieve budgetary goals. When the new procedure was first invoked, the Senate initiated a budget reconciliation bill in July of 1980 that raised $3.6 billion in new federal revenues during fiscal year 1981. The House did not approve its version of the reconciliation measure until early September. Thus, under the new reconciliation procedure a modest revenue increase was originated by the Senate.\textsuperscript{13}

Tax politics in Congress during 1981 and 1982 continued to depart from traditional patterns. In February of 1981, President Ronald Reagan submitted to Congress a proposal to cut personal and business taxes by $718 billion over fiscal years 1981 through 1986. Although most in Congress supported some form of tax reduction, support for the Reagan proposal was mixed. In particular, many Democrats argued that the cuts were too large and weighted unfairly in favor of upper-income taxpayers.

After the House Ways and Means Committee completed hearings on the Reagan proposal, informal talks between House and Senate leaders on compromise proposals began in May. When the talks broke off without results in early June, the Republican-controlled Senate Finance Committee broke with the tradition of awaiting House action and went directly to the task of drafting new legislation based on the Reagan proposal. Senate floor debate on the Finance Committee bill had already begun when the Ways and Means Committee reported its version of the tax bill to the House on July 23. Also before the House at this point was an Administration bill that had been assembled by Republicans and conservative Democrats.

On July 29 the House rejected the Ways and Means Committee bill, passing instead the substitute proposal supported by the Administration. The same day, the Senate voted approval of its tax reduction package. In deference to the originating clause, the Senate returned its version of the bill to the Senate Calendar, then substituted its own language for that of the House bill before voting final passage on July 31. The formal requirements of the constitutional provision were satisfied, but there was no doubt that the Senate had moved well beyond the reactive role it normally played in tax politics during the postwar years.

In 1982 the Senate made an even more dramatic break with its traditional role by initiating a major tax increase that clearly encroached on the constitutional prerogatives of the House. With the passage of major tax cuts in 1981 and the onset of a serious recession, deficit projections quickly began to reach what many considered alarming levels. In response to Administration budget proposals that were seen as politically unrealistic, House and Senate leaders met informally with White House officials early in 1982 (the so-called “Gang of 17”) to try to negotiate a compromise plan which would result in lower deficit figures.
When no agreement could be reached by late April, Democratic leaders in the House decided to leave to the Republican Senate the political risks associated with initiating the tax increases and spending cuts needed to reduce the deficit. Senate Republican leaders continued to negotiate with the White House, and were able to reach agreement on a compromise budget. The Senate then passed a budget resolution based on the compromise agreement on May 21. The Senate resolution called for $95 billion in new revenues over fiscal years 1983 through 1985. After voting down eight alternative versions, the House followed suit with adoption of a similar resolution on June 12. Once the final form of the resolution was agreed to by both Houses, the two tax committees were faced with the responsibility for drafting actual legislation to raise the new revenues.

The Constitution and tradition notwithstanding, many House Democrats seemed more than happy to allow the Republican-controlled Senate to write the election year tax increase. As a result, the House found itself in a reactive position — i.e., facing the need to act on a major tax bill drafted by the Senate. Chairman Robert Dole (R-Kansas) of the Finance Committee moved quickly to develop a bill to raise the new revenues. On July 2 the Senate committee approved a $98 billion tax increase in the form of an amendment to a minor tax bill that had previously passed the House. The Finance Committee bill was approved by the Senate on July 23 by a vote of 50 to 47.

Chairman Dan Rostenkowski (D-Illinois) of the House Ways and Means Committee called a caucus of committee Democrats on July 21 to discuss a tentative framework for a House bill, but a majority of Democrats preferred instead to allow the Senate bill to set the terms of the tax increase. After the Senate had completed action on the tax measure, the Ways and Means Committee voted on July 28 to go to conference with the Senate on the minor bill to which the tax increase had been attached. Later the same day the full House voted to accept the committee's recommendation. Although Ways and Means members exercised some influence over the final form of the legislation during conference negotiations, the politics of the 1982 tax bill reduced the constitutional originating clause to little more than a bare formality.

The House has, however, reasserted its originating function in major tax legislation adopted since 1982, raising the question of whether the cases in the early 1980's were temporary aberrations caused by extraordinary circumstances. In 1984, the Ways and Means Committee took the lead in assembling a deficit reduction package that included $49 billion in new tax revenues over fiscal years 1984-1987. The committee completed work on the bill on March 1, 1984, and the full House approved the measure on April 11. The Finance Committee reported its version of the bill on March 21, followed by Senate passage on April 13. By taking the initiative in the development of the basic outlines for the revenue package in 1984, the House had clearly moved back toward its traditional role in the tax area.

The sequence of action in Congress on the major tax reform proposal introduced by the Reagan Administration in 1985 also represented a return in some respects to more traditional patterns in tax politics. The Ways and Means Committee drafted a tax reform package in the fall of 1985, which (after an
initial procedural defeat) passed the House of Representatives on December 17. The Senate Finance Committee then began work on a bill in the spring of the following year, reporting its version on May 7, 1986. Passage of the Finance Committee bill by the Senate on June 24 paved the way for the most sweeping overhaul of the tax code in decades. The 1986 tax reform act appeared to confirm the reemergence of the constitutional originating clause as a major factor shaping tax politics in Congress. Other signs, though, suggest caution in drawing the conclusion that the sequence of action required by the originating clause has again become a given in congressional tax politics. The key to understanding the role of the Constitution in this area is to take a broader look at the range of important factors affecting this area of congressional politics.

FACTORS GOVERNING CONGRESSIONAL TAX POLITICS

In September of 1986, just as the historic tax reform legislation was approaching final passage in Congress, House Ways and Means Committee members balked at a proposal by Chairman Dan Rostenkowski to raise excise taxes by $6.4 billion in order to reduce the budget deficit. According to the Wall Street Journal, staffers indicated that the sentiment among Ways and Means Democrats was that “the committee would wait for the Senate to act first to increase taxes.” This most recent example helps to illustrate that the Constitution’s originating clause continues to be only one of a number of shifting factors affecting congressional decisionmaking in the tax area today. An overview of developments related to three basic sets of factors will help to explain the uncertain status of the Constitution in contemporary tax politics.

Institutional Change

Institutional arrangements are the first major factor influencing decision-making patterns in Congress. Structures, rules and established practices serve to channel the behavior of those who become involved in the legislative process. The basic institutional framework for congressional politics is set forth in the United States Constitution — including the requirement that tax bills must originate in the House. There have not been any major changes in the basic constitutional framework for congressional politics over the period considered in this article but there have been other institutional changes, some of which have created tensions or even direct conflicts with constitutional requirements in the tax area.

The importance of the congressional reforms of the 1970’s for the politics of taxation has already been noted. From an institutional perspective, some of the 1970’s reforms substantially undermined the ability of the House to exercise the originating function. First, reforms in the House designed to broaden participation and increase the influence of the majority party also had the effect of weakening the Ways and Means Committee. After the reforms, the larger,
more open committee often experienced great difficulty in developing tax legislation which could attract the support of a majority in the House. The reforms resulted in a more volatile, fractious decisionmaking process in the House which all but invited the Senate to adopt a more assertive role regarding those tax issues on which its members could reach a consensus.

Congress instituted new budget procedures during the 1970's which also created the potential for conflicts with the originating clause. Under the budget process, each house is responsible for formulating an overall plan for tax and spending decisions, and each has a budget committee to manage the job. The traditional sequence of House-Senate action in tax and appropriations measures has not carried over into budget-making; "each budget committee puts together its budget resolution de novo with respect to the other chamber." The reconciliation procedure makes it possible for the Senate to initiate either spending or revenue measures through the budget process. As Allen Schick has commented, "the Senate is no longer in a reactive role vis-a-vis the House." When conditions make skirting the originating clause appear advantageous to Congress, the budget process provides a effective mechanism for doing so.

Policy Context

If institutional changes in the 1970's created the possibility for a more active Senate role in revenue decisions, shifts in budget and tax issues in the early 1980's were the impetus for such new patterns of decisionmaking. In this sense, changes in the policy context have also been important in determining the extent to which the Constitution governs tax politics. Two changes in the policy context associated with tax issues have been most important: (1) the emergence of large budget deficits, and (2) the partisan dynamics which have surrounded budget and tax issues in the 1980's.

Large deficits have focused the attention of Congress on the overall budget picture, making the budget process much more important for congressional politics than it was before. The budget process provides the primary institutional setting within which deficit reduction measures involving both spending and revenues can be negotiated and implemented. As was noted above, the revenue originating function of the House is not recognized in the organization of the budget process. Either house may originate action under the process. Therefore, as long as large deficits continue to encourage the initiation of revenue legislation through the budget process, the influence of the Constitution over tax politics will be uncertain.

The second important policy-related factor has been change in the partisan dynamics of tax issues. The political configuration which resulted from the 1980 election, i.e. Democratic control of the House, with Republican control of the White House and the Senate, encouraged a more active role for the Senate in the early 1980's. In 1981, Senate Republicans were unified in support of the President's tax proposal, and were unwilling to wait for the Democratic House before beginning work on tax reduction legislation. In 1982, the partisan dy-
namics of tax policy also encouraged a more active Senate role as House Democrats were reluctant to initiate a major tax increase to offset deficits resulting from the Administration's economic program. Under these conditions the desire to let the other party take the political heat became a major factor in tax decisionmaking. The existence of divided partisan control in Congress during the 1980's, then, has also created tensions with the constitutionally-required procedures for enacting tax legislation.

Leadership

Within the constraints defined by institutional and policy-related factors, the behavior of congressional leaders may also have an important effect on how decisions are made in Congress. Tax decisionmaking is no exception. In each case where conditions created the possibility for a more assertive role for the Senate, individual leaders took the initiative in building coalitions behind Senate bills. Senator Pete Domenici (R-New Mexico), Chairman of the Senate Budget Committee, and Senator Robert Dole (R-Kansas), Chairman of the Senate Finance Committee, exercised skillful leadership in engineering budget and tax initiatives in the early 1980's.

The new tax and budget politics of the 1980's, in conjunction with the institutional changes of the previous decade, created the conditions for a major shift in the established institutional roles of the House and Senate. When Senate majorities decided to take the initiative in enacting new revenue legislation in 1980 and 1982, the assignment of the originating power to the House by the Constitution was overshadowed by other factors. Therefore, the question, "Does the Constitution Govern?" cannot be answered with a simple yes or no in this important area of national politics. All other things being equal, Congress continues to follow constitutional procedures in enacting tax legislation. But legislators have shown an increasing willingness in recent years to violate this provision if fiscal conditions or political expediency make a more active Senate role appear desirable. Looking toward the beginning of the third century under the Constitution, an appropriate conclusion for this article is a reconsideration of the importance of the originating clause in federal tax politics.

CONGRESS, THE CONSTITUTION, AND TAX POLITICS: INTO THE THIRD CENTURY

During the 1980's, we have witnessed a major shift in the respective roles of the House and Senate in policymaking for taxation. No longer does the constitutional originating clause insure that the House will act first in enacting new policy decisions, and no longer is the Senate content to act in a reactive fashion. As long as the factors which brought about this shift continue to be part of the national political scene — especially the structural-procedural arrangements that emerged from the reforms of the 1970's and the large budget deficits that emerged in the 1980's — it is reasonable to expect continued volatility in the tax decisionmaking process. New procedures such as the Gramm-Rudman-Hollings balanced budget law add to the uncertainty regarding institutional roles.
How, then, should we view the prospect for continued erosion of constitutional procedures in the tax area? A look back to the founding period suggests that the framers' rationale for the originating clause is somewhat less compelling today than in the early years of the Republic. Based on English practice, the power to originate legislation was placed in the more democratic legislative chamber in order to keep this potentially dangerous power under close control of the citizenry. Many at the Constitutional Convention feared that the indirectly-elected Senate might abuse the power to raise revenues because of its independence from direct popular control. As Elbridge Gerry commented: "...by their appointments, the members [of the Senate] would be farther removed from the people, would have a greater and more independent property in their offices, would be more extravagant." 19

With the change to direct popular election in 1913, the Senate is no longer removed from control by popular majorities. Although one may still argue that the House provides a closer representation of American society than does the Senate, the original justification for assigning the originating function to the House is certainly less forceful today when senators as well as House members must stand for popular election.

Over the years, however, the originating clause had become an established part of American political practice, helping to bring stability in the difficult and potentially conflictual process of assigning tax burdens among the various interests in American society. An established sequence of tax decisionmaking helped a broad range of participants (both inside and outside of Congress) orient their actions and make sense of the process. The House could be expected to look at the "big picture" on tax issues, while the Senate would be more amenable to making policy adjustments requested by specific interests.

As conditions in the 1980's undermined adherence to the originating clause, the most troubling consequence of this trend has been the instability which has resulted in the process for developing federal tax policy. Some have argued that this recent volatility has made the tax decisionmaking process much less effective than in the past, with careful deliberation through normal institutional channels often giving way to ad hoc procedures dominated by short term concerns. 20 In spite of the changes in electoral procedures which call into question the initial justification for the originating clause, adherence to this provision helps to maintain a degree of stability and predictability that is much needed in contemporary tax politics. In an era of fiscal stress tensions will continue to exist between constitutional requirements for adopting tax legislation and pressures encouraging new channels for policymaking. Under these conditions, Article One, Section Seven of the Constitution has become only one of a number of important factors governing tax decisionmaking in Congress. Although it is unlikely that the erosion of constitutional procedures in the tax area will lead to the problems feared by those who drafted the originating clause two centuries ago, the instability created by continued violations of the constitutional mandate may bode ill for the quality of our contemporary tax policy.
NOTES

*The research on which this essay is based has been supported by a fellowship from the Lynde and Harry Bradley Foundation.


3Ibid. p.261. On two separate occasions during the postwar years (tax bills in 1950 and 1968) the Senate did take the initiative in voting approval of new revenue legislation.

4Ibid. p.279.

5Between 1945 and 1974, the House failed to pass only one major tax bill reported by the Ways and Means Committee—a tax cut in 1947 for which a two-thirds vote was needed because of a veto by President Truman. Otherwise, the committee’s recommendations on major tax bills passed unamended. See Thomas J. Reese, The Politics of Taxation (Westport, Conn.: Quorum Books, 1980), pp.125-126.


7See the analysis of tax legislation enacted during the period from 1947-1966 in Manley, pp.272-279. Earlier studies indicate that this pattern of House-Senate activity on revenue bills may traced back at least as far as the early decades of the twentieth century. See George H. Haynes, The Senate of the United States (Boston: Houghton Mifflin, 1938), Vol.1, pp.431-470.


15Members of the House of Representatives initiated two separate court challenges to the constitutionality of the 1982 tax bill. Both were dismissed at the district court level on the grounds that the House members involved lacked standing to challenge the act because they had not been personally harmed by it. In dismissing the suits the District Court also cited a “doctrine of equitable discretion” that precludes intervention by the courts in cases brought by members of Congress when the issue is one that could be resolved through the normal legislative process. Moore v. United States House of Representatives, Paul v. United States of America, 553 F. Supp.267 (1982).


18Schick, pp.40-41.

19Quoted in McDonald and Mendle, p.280.