

The Investiture Vote and the Formation of Minority Parliamentary Governments

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1. Introduction

The number of democracies in the world today is higher than in any other time. The majority of these democracies adopt a constitution that is based on assembly confidence (Cheibub 2007). Assembly confidence regimes are those in which governments, in order to come to and stay in power, must be *at least* tolerated by a legislative majority. In some cases, the government is assumed to have the confidence of the parliament as long as no majority expresses itself *against* it; in other cases, confidence exists only if a majority explicitly expresses its support for the government through voting. The former are cases usually referred to as *negative* parliamentarism; the latter, as *positive* parliamentarism (Bergman 1993; de Winter 1995; Seyd 2002; Siaroff 2003; Golder 2009).

The notion of positive and negative parliamentarism has been invoked primarily to account for differences in the government formation process and the type of government (minority or majority) that results from it. We depart from this usage in that we argue that the distinction between positive and negative parliamentarism is systemic and that it matters not only for the process of government formation and termination, but also for several important aspects of the operation of the government *during* its existence.

Schematically, we propose that there are two sets of instruments of positive parliamentarism: those that refer to the existence of the government, and those that pertain to the government's agenda setting powers, which affect its ability to pass legislation and ultimately govern. The first set of instruments, those related to the making and breaking of governments, includes, to begin with, formation rules and non-confidence procedures. Formation rules vary in terms of whether an explicit vote is required for the installation of the government (investiture vote); the specific decision rule it employs (negative majority, simple majority, absolute majority); or at what point in the bargaining process for the formation of a government the investiture vote takes place. Non-confidence procedures, in turn, vary in terms of the decision rules that are employed and the constraints on setting a vote of no confidence (number of signatures, temporal and substantive restrictions, requirement that an alternative government be presented at the time of a no-confidence vote). In each of these dimensions choices may be made, which, in combination, place the system closer or farther away from a positive type of parliamentarism.

The second set of instruments, those related to the government's agenda setting powers includes the confidence vote (the government's constitutionally guaranteed right to invoke a confidence vote on any bill, which varies, like the no-confidence procedures, in terms of the decision rules adopted and the constraints on calling it); decree powers (which also varies in terms of temporal and substantive restrictions, as well as to the kind of required parliamentary action); and instruments, such as the "guillotine" and the block vote, which place limits on the parliament's ability to amend bills and allow the government to "package" a bill for a legislative floor vote

in the way it sees fit (Huber 1996a and b; Cox and McCubbins 2005; Rasch and Tsebelis 2011; Cheibub and Limongi 2011). All these institutions are considered to matter for the type of government that is observed in parliamentary democracies (majority versus minority), for the duration and overall stability of the government, and for the government's legislative and governing capacity.

This broader view of positive parliamentarism is not in contradiction with the usage we find in the literature. It differs, however, in that it also considers instruments that are relevant for the government's governing capacity *once the government is formed*. In this sense, our thinking about parliamentary systems rejects the implicit assumption of the vast majority of studies of government formation and termination in these systems, according to which the way the government functions during its time in office is mostly determined by the way it is formed (see Cheibub and Limongi 2011 for a critical review).

Specifically, the paper focuses on the vote of investiture. Our goal is to engage with the literature that sees the existence of a vote of investiture as being consequential to the functioning of parliamentary democracies, to describe the different ways investiture votes are regulated across these democracies, and to propose some hypotheses about how specific details of the investiture process affect the government formation process. We see this as a first, and incomplete, step in the direction of our broader objective of considering the varied instruments of positive parliamentarism in conjunction. This paper is part of a broader project that seeks (1) to develop the distinction between negative and positive parliamentarism and clarify its institutional implications; (2) to trace the origins of the institutions associated with negative and positive parliamentarism; and (3) to study their consequences for the way parliamentary governments come to, maintain and are removed from power.

2. Negative and Positive Parliamentarism

In the 1997 general election in Norway, the incumbent prime minister of the Labor minority government, Torbjørn Jagland, did not reach his stated goal of at least as many votes as in the previous election (his 36.9 percent ultimatum to the voters), and handed in his resignation a few hours after the votes were counted. The opposition parties were sharply divided with no broadly-based alternative coalition in sight. One of the leaders of the opposition, Kjell Magne Bondevik from the Christian People's Party, had campaigned intensely for a centrist coalition government with the Center Party and the Liberals. Altogether the three parties received only 26 percent of the votes, and few observers (and voters) really regarded the center by itself as a viable government coalition. In Norway, it is the privilege of the outgoing prime minister to make recommendations to the Monarch with regard to the next government. The prime minister either can suggest a *formateur* (i.e. the PM designate) or ask the Monarch to involve the President of the Parliament as a kind of *informateur* (a person who examines possible coalitions and

come up with a name to be proposed as the prime minister). The Head of State has always followed the advice of the prime minister. The same happened this time. Jagland suggested that the King should ask Bondevik to form the next government, and Bondevik shortly thereafter presented a centrist minority coalition, which controlled no more than a quarter of the seats to the parliament. The new government clearly had no majority support, and it could be formed only on the basis of a vague and implicit backing from the outgoing prime minister's Labor Party. Or more correctly: Labor, with nearly 40 percent of the seats after the 1997 election, in reality blocked any possibility for other opposition parties to launch a successful no-confidence attack on the incoming prime minister. Labor never gave active support to the Bondevik government, which lasted until March 2000.

The Norwegian example illustrates the essential feature of *negative parliamentarism*: parties can enter executive office even without visible and explicit support from a majority of the chamber. This contrasts with systems in which incoming governments need to secure the support of a parliamentary majority in a formal vote of investiture. The investiture requirement represents a first hurdle that the government must pass before taking office or being confirmed in it. The vote can be carried out in a variety of ways and at differing stages of the government formation game, meaning that the procedures in place may be more or less demanding. A country where a formal vote is required before the government can exercise its full powers has what is called *positive parliamentarism* but the exact form of positive parliamentary government, as we will argue here, is dependent upon the type of investiture rule.¹ Another way to see the distinction is to consider that under negative parliamentarism a potential government has to avoid an active majority against it holding power, whereas under positive parliamentarism a government has to obtain the explicit support of a majority in favour of it holding power. Seen as a decision rule, "no majority against" the government is *weaker* than "majority in favour"; presumably, it is easier to avoid being opposed by a majority than to gain support from a majority.

3. The Investiture Vote and Minority Governments

The presence of institutions of positive parliamentarism, such as the vote of investiture, is thought to be consequential for the type of government that predominates in parliamentary systems. To cast the issue in terms of the example from Norway, the question is whether the minority government headed by the Christian People's Party Kjell Magne Bondevik would have come into existence had it been required to face an open vote in parliament. Some analysts believe that Labor, who did not give active support to the Bondevik government, would not have supported it in an open vote; consequently, the investiture requirement would have

¹ It is worth noting that investiture requirements are related to the parliamentary *decision* to establish a government, not to the government itself. Thus, a minority government can be the outcome even where a majority needs to vote in favor of installing this government.

prevented the formation of that particular government. Others may argue that Labor had always the option to initiate a vote of no confidence against the Bondevik government; the fact that it did not suggests that it would have voted to support his investiture in an open vote. In this sense, the formal investiture requirement would be irrelevant since its existence would not alter the outcome of the government formation process.

Theoretical development of the relationship between the investiture mechanism and government type has been scarce. Investiture requirements, and for that matter, any other institutional aspect of government formation have been ignored by early work. As we know, early office-oriented approaches to who gets to govern under parliamentarism, originating from rational choice accounts of party behaviour, emphasised government formation as a behavioural game involving the distribution of a fixed prize (generally conceived of as seats at the cabinet table). Work on political coalitions emphasised the *minimal winning* character of optimal bargaining – coalitions should contain only as many parties as was necessary to achieve a legislative majority. Riker (1962) proposed a modified version of this theory, suggesting that coalitions would likely be *minimum winning* - in other words, composed of parties who together hold closest to as 50 per cent + 1 of the seats in parliament. In contrast to these office-oriented perspectives, later accounts focused on policy-based motivation in coalition formation. Axelrod (1970) suggested that multiparty governments are likely to be ideologically 'connected.' For example, political parties at different ends of the salient political spectrum are assumed unlikely to coalesce. De Swaan (1973) suggested that coalitions of parties should be ideologically compact.

Departing from the institution-free nature of both the office- and policy-based approaches just described, and in tandem with the new institutionalism of the 1980s, coalition scholars began investigating the role of rules and institutions in shaping government formation. These rules were considered complex and varied greatly from country to country. In a number of political systems, for example, provisions are made for *informateurs* or *formateurs*. Clearly, such details potentially matter in determining which real-world coalitions emerge. Austen-Smith & Banks (1988) and Baron (1991) focus on the role of *formateurs* and the importance of the order in which different players get to attempt to form a government. These rules, the literature suggests, impacts which parties will govern. Laver and Shepsle's (1996) portfolio allocation model similarly elevates the importance of institutions, suggesting that how cabinets work, and more specifically the degree to which individual cabinet ministers enjoy policy autonomy, shapes the preferences of parties with regard to coalition government.

It is in the context of models such as these that other work focused on some of the specific parliamentary rules presiding over government formation. After all, government formation is said to be a core function of parliaments in parliamentary systems (Laver and Shepsle 1996). Of particular interest to scholars of government formation is the presence or absence of an investiture requirement. In some

political systems, parliament most vote to invest a government; in other systems this is not the case. Strøm (1990) suggests that the presence or absence of an investiture vote matter for whether or not governments are likely to be majority or minority. A minority government is one where the parties in cabinet do not hold a majority of seats in the legislature. Minority cabinets tend to be common in some countries, such as Denmark, Sweden and Norway (Rasch 2011). Minority governments could be more likely to occur where the government can survive by building ad hoc policy-based majorities for specific proposed legislation. In contrast, a formal investiture vote may represent a significant hurdle because parties outside the minority government may be less disposed to support the coming into office of a government if which they are not part. As Strøm, Budge, and Laver (1994: 311) note, “some parties may find it acceptable tacitly to lend their weight to a government that they could not openly support in an investiture vote.” This logic, they suggest, differentiates investiture rules from confidence rules.

Arguing that parliamentary rules governing coalition formation in parliamentary democracies are important, Bergman (1993) differentiates between ‘positive parliamentarism’ (a situation where an incoming government needs to be supported by the parliament) and ‘negative parliamentarism’ (a situation where the government must only be ‘tolerated by’ the parliament). Looking at patterns of government formation in 15 West European parliamentary democracies between 1945 and 1987 and focusing only on countries with electoral systems likely to return “hung” parliaments, Bergman finds evidence that 48 per cent of governments are minority governments in systems with negative parliamentarism as compared to 25 per cent in systems with positive parliamentarism. This, he takes as evidence that “a negatively formulated government formation rule facilitates minority governments” (Bergman, 1993: 61). It is worth noting that although Bergman discusses the significant levels of variation in investiture procedures in Western Europe, the empirical analysis focuses on just one aspect of the investiture process: whether the rules are positively formulated or negatively formulated.

Subsequent empirical research appears to confirm the relationship between investiture rules and patterns of minority government. In what was arguably the most complete empirical investigation of competing theories of government formation, Martin and Stevenson (2001), test 17 hypothesis with 220 coalition bargaining situations in 14 countries, including the suggestion that “potential governments controlling a minority of seats in the legislature are less likely to form in the presence of an investiture vote” (p37). Their evidence confirmed that minority governments are less likely to form in countries with an investiture vote, providing the first multivariate confirmation of Strøm (1990) and Bergman (1993).

Yet the impact of investiture rules remains ambiguous. The primary argument as to why investiture rules should not matter relates to what some see as the complimentary impact of confidence procedures. As Strøm, Budge, and Laver (1994: 311) note, it could be argued that “obviously, all governments implicitly face an investiture vote whenever they first expose themselves to the possibility of a

parliamentary no confidence vote.” Thus, the defining feature of parliamentarism – the need for government to maintain the support of the legislature – trumps in significance whether or not the legislature must formally offer its support through an investiture process. Golder, Golder, and Siegel (2012: 430), summarise the logic of this argument as follows:

Ultimately, a parliamentary government may be removed from office any time a majority of legislators decides that this is what should happen. As a result, any incoming government must be able to survive a vote of no confidence and, hence, enjoy the support of a legislative majority even if it never has to explicitly demonstrate this through an actual vote.

Evidence that investiture rules are insignificant tends to rely on scholarship exploring how long it takes governments to form. In the real world, government formation has lasted from a matter of hours to, in the case of some countries, months after the general election. If investiture rules matter, they should add to the bargaining complexity and thus the amount of time it takes a coalition to form. All else equal, a lack of investiture rules should result in relatively faster government formation.

Looking at Western Europe, de Winter (1995) found that governments take on average 33 days to form in systems with negative parliamentarism as compared to an average of 41 days in systems with positive parliamentarism. Subsequent multivariate analysis reaches different conclusions: Diermeier and van Roozendaal, (1998) find that investiture fails to influence cabinet formation durations (although investiture requirements influence the *duration* of cabinets).² Golder (2010) returns to the logic of bargaining complexity and bargaining delay, noting that “the task of forming a government should be less complex if the potential cabinet simply needs to avoid provoking a majority of legislators from voting against it rather than getting a majority to vote for it” (Golder, 2010: 15-16). She is unable to find evidence to corroborate the hypothesis, but suggests that future work needs to limit the study of investiture rules and the time it takes to form a government to cases of minority governments: “positive parliamentary rules should only add to bargaining complexity when a minority cabinet is trying to take office—proposed government cabinets that control a legislative majority should have no problem passing an investiture vote” (p.16).

² Diermeier and van Roozendaal follow convention by treating investiture rules as a dichotomous variable. Yet they acknowledge that “in a bargaining model the details of investiture requirement specifies whether a majority or a mere plurality of legislators is decisive in installing a new cabinet. But since any such requirement is common knowledge among the negotiators, we expect *no difference* with respect to formation times” (621-622).

Our own analysis suggests no effect of the presence of an investiture requirement on the likelihood of minority governments. In Table 1 countries are ranked from those that typically have majority governments to those mainly governed by minority cabinets. As we can see, investiture votes are required in countries located in every section of the table: the presence of an investiture requirement combines with majority as well as minority governments. The message from Table 1, thus, seems to be more mixed than the widely accepted assertion that "a negatively formulated government formation rule facilitates minority governments" (Bergman (1993:61). Together, the countries with an investiture requirement have had majority governments 74 percent of the time covered by the table (roughly from 1961, or year of independence, through 2009).³ Countries with negative formation rules spent 64% of the time under majority governments, not a dramatic difference.⁴ If we remove the three Scandinavian "outliers," Denmark, Iceland and Norway, the proportion of time spent under majority governments in countries with negative formation rules increases to 92 percent. Thus, excluding Scandinavia, minority governments are more common in Western European countries with investiture requirement than in those without. If we restrict the calculation to the new democracies of Eastern Europe, *all of which require investiture votes for government formation*, we find that they spent 86% of the time under majority governments. These calculations are of course very crude as they are based on averages over a relatively long period of time. They do nevertheless indicate that the relationship between formation votes and type of government is more complex and ambiguous than has been appreciated so far.

Our numbers, thus, are in contrast with Bergman's (1993) findings. We believe that this is so for two reasons. First, we have a different and larger set of countries, which only partially overlap. Conclusions depend on which countries are included. Second, some of Bergman's classifications of countries are dubious: The Netherlands in fact has no investiture vote, and the UK and Canada (which are excluded from our calculation anyway) both have a kind of investiture (in both countries, the vote on the speech from the throne following the state opening of parliament is a confidence vote). As we noted above, Bergman's findings have been confirmed by a number of multivariate studies using the investiture requirement as an independent (dummy) variable. But these results are also sensitive to the cases included as having an investiture vote.

³ The following countries are included in the calculation: Belgium, Germany, Ireland, Italy, Spain, Luxembourg, Greece, Hungary, Slovenia, Slovakia, Lithuania, Bulgaria, Estonia, Latvia, Croatia, Poland, Czech Republic and Romania. Canada and UK is not included. Finland instituted an investiture requirement in 2000, but is not part of the calculation.

⁴ Iceland, Netherlands, Portugal, Austria, France, Denmark, Sweden and Norway. New Zealand and Japan also belong to this category, but are not included in the calculation.

Table 1: Share of time with majority governments and share of minority governments

<i>Country</i>	<i>Share of Time Majority Governments</i>	<i>Share of Minority Governments</i>	<i>N</i>	<i>Time, begin</i>	<i>Time, end</i>
Belgium* ¹⁾	100 %	0 %	23	26.03.1961	10.06.2007
Germany*	100 %	0 %	22	17.09.1961	27.09.2009
Greece*	100 %	0 %	21	29.10.1961	04.10.2009
Iceland	100 %	0 %	18	09.06.1963	25.04.2009
Luxembourg	100 %	0 %	10	07.06.1964	07.06.2009
Hungary*	<i>100 %</i>	<i>0 %</i>	7	<i>23.05.1990</i>	<i>30.04.2008</i>
UK*	98 %	17 %	12	15.10.1964	05.05.2005
Finland*	97 %	11 %	27	04.02.1962	18.03.2007
Netherlands	97 %	13 %	16	15.05.1963	22.11.2006
Austria	96 %	10 %	20	18.11.1962	28.09.2008
Slovenia*	<i>92 %</i>	<i>25 %</i>	8	<i>12.01.1993</i>	<i>21.09.2008</i>
Portugal* ²⁾	88 %	6 %	16	25.04.1976	27.09.2009
Slovakia*	<i>85 %</i>	<i>44 %</i>	9	<i>12.01.1993</i>	<i>17.06.2006</i>
France	80 %	17 %	29	18.11.1962	10.06.2007
Lithuania*	<i>79 %</i>	<i>30 %</i>	10	<i>10.12.1992</i>	<i>26.10.2008</i>
Italy*	78 %	21 %	42	28.04.1963	13.04.2008
Bulgaria*	<i>77 %</i>	<i>33 %</i>	6	<i>08.11.1991</i>	<i>25.06.2005</i>
Spain*	74 %	20 %	10	15.06.1977	09.03.2008
Estonia*	<i>73 %</i>	<i>33 %</i>	9	<i>21.10.1992</i>	<i>04.03.2007</i>
Latvia*	<i>71 %</i>	<i>40 %</i>	15	<i>08.07.1993</i>	<i>05.12.2007</i>
Ireland*	66 %	44 %	16	04.10.1961	24.05.2007
Croatia*	<i>65 %</i>	<i>38 %</i>	8	<i>08.09.1992</i>	<i>25.11.2007</i>
Poland*	<i>61 %</i>	<i>53 %</i>	15	<i>23.12.1991</i>	<i>21.10.2007</i>
Czech Rep.*	<i>55 %</i>	<i>50 %</i>	8	<i>01.01.1993</i>	<i>04.10.2006</i>
Norway	25 %	86 %	21	11.09.1961	14.09.2009
Romania*	<i>24 %</i>	<i>67 %</i>	12	<i>13.11.1992</i>	<i>30.11.2008</i>
Sweden* ²⁾	13 %	82 %	17	18.09.1960	17.09.2006
Denmark	11 %	83 %	23	15.11.1960	13.11.2007

Countries marked with * currently have investiture requirement. ¹⁾Formation vote (confidence type) is not defined in or required by the constitution. ²⁾Formation vote with negative decision rule.

Sources: For countries in italic: Courtenay Ryals Conrad & Sona N. Golder, "Measuring Government Duration and Stability in Central Eastern European Democracies". *European Journal of Political Research*, January 2010 (Vol 49, No. 1, pp. 119-150). Caretaker governments excluded. Used «duration» variable for time, and defined majority as «government» < 4. Minority is defined as «government» = 4 or 5. For the other countries: Klaus Armingeon, David Weisstanner, Sarah Engler, Panajotis Potolidis, Marlène Gerber, Philipp Leimgruber. *Comparative Political Data Set 1960-2009*, Institute of Political Science, University of Berne 2011. Time is measured in days, and number of governments is a count of the variable «gov_chan». Majority government is defined as gov_type < 4

Table 2 provides an illustration of this fact. In this table we replicate table 11.8 in Clark, Golder and Golder (2009: 425), in which they report a negative and statistically significant effect of "investiture vote" on the formation of minority governments. The probability that a minority government will emerge in situations in which there is no party holding more than 50% of the seats is consistently increased when opposition influence is high (as coded by Laver and Hunt 1992) and when there is a party that holds at least 40% of seats. Yet, as we can see in models 1-4, the effect of "positive parliamentarism," variously coded, although always negative, is never statistically significant, with standard errors considerably larger than the coefficients whenever estimation is clustered by country.⁵

Table 2: Probit regression: Replication of Table 11.8 in Clark, Golder and Golder (2009: 425)

	(1)	(2)	(3)	(4)
	Minority government	Minority government	Minority government	Minority government
Investiture Requirement	-0.235	-0.167	-0.163	-0.235
	(0.331)	(0.409)	(0.308)	(0.157)
Opposition influence	0.275*	0.285*	0.276**	0.275***
	(0.107)	(0.114)	(0.104)	(0.047)
Strong party	0.481*	0.468*	2.325	0.481**
	(0.214)	(0.218)	(1.284)	(0.148)
Constant	-1.717***	-1.794***	-2.413***	-1.717***
	(0.454)	(0.468)	(0.494)	(0.255)
Observations	362	362	362	362
Pseudo R ²	0.097	0.094	0.090	0.097
ll_0	-245.584	-245.584	-245.584	-245.584
ll	-221.838	-222.490	-223.421	-221.838

Sample: Western European Countries with legislatures in which no party holds more than 50% of the vote. Standard errors in parentheses; * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Model 1-3, standard errors clustered by country. Model 1: Investiture requirement includes Belgium, Germany, Greece, Ireland, Italy, and Spain.; no investiture requirement includes the remaining Western European countries. Model 2: Investiture requirement includes Germany, Greece, Ireland, Italy, Spain and the UK. Model 3, investiture variable same as in model 2 and "strong party" = share of seats of largest party; Model 4: Investiture variable same as in model 2.

⁵ In bivariate analyses with nine different ways of coding the investiture variable (not presented), we found that the variable was negative in all of them but statistically significant in only two of them.

Note that in *all* of the existing studies (including the results contained in tables 1 and 2), investiture is conceived as a requirement that is either present or absent, which is captured by a dummy variable. Even Strøm Müller, and Smith (2010) in their essay titled “Parliamentary Control of Coalition Government” suggest that the investiture vote can be understood and interpreted on the basis simply of being required or not required. Yet, given the weakness of existing empirical results, it may be the case that what matters is not so much whether there is an investiture requirement, but the way the requirement is structured. As we will see, the investiture requirement comes in a wide variety of types, from very weak ones to those that represent real hurdles in government formation processes; we believe that, by collapsing these different forms, a dummy variable for the simple presence of the requirement fails to capture the instances in which it may actually matter for the formation of minority governments.

Arguably, acknowledging as most coalition scholars now do that institutions should matter should lead us to expect that systematic variation in the precise rules of investiture should be of intrinsic interest and could matter – for example, for which party or parties get to govern or for how long it takes a government to emerge. Given that government formation is one of the central roles of parliament under parliamentarism, it is perhaps astonishing that such little emphasis has been placed on the formal rules of government formation within the legislature. This, we suggest, may partly explain why theories of government formation have tended to enjoy only limited empirical support (Golder, Golder and Siegel 2012).

4. Investiture Vote vs. Investiture Procedures

Although the study of coalition government is one of the most theoretically and empirically advanced branches of comparative politics, surprisingly little attention has been devoted to the design and consequences of the investiture rule in parliamentary democracies. Largely missing from existing research is an assessment of how variation in the details of investiture rules matter. In reality, the rules of investiture vary significantly. Formation votes can occur *ex ante*, with the chamber selecting, for example, a prime minister from among various candidates presented to it. Alternatively, the formation vote may be *ex-post*, with parliament merely asked to confirm the choice made by another player in the political system. The decision rule may require a simple, an absolute and, in rare but occasional cases, a qualified majority for a successful investiture. The investiture process may be a short one, or it may allow for successive investiture attempts; failure may mean the ultimate dissolution of parliament or choice by different actors. The real world of investiture procedures involves significant variation in design and detail. What are these details and do they matter for the degree to which the majority control the assembly?

Understanding better the variation in the role of parliaments in selecting and/or confirming the government is important for a number of reasons. The selection of the government is well recognized as a key function of national parliaments under

parliamentarism, but we know very little about the real impact of parliaments in choosing who governs. The complexity of rules is not well understood, despite the ample recognition in legislative studies and comparative politics scholarship that decision rules and institutional details matter. Depending on how they are designed, investiture rules may or may not act as a bargaining constraint in the game of government formation, thus affecting the type of government that can emerge. In addition, the formation vote can be important for other reasons. In the Irish case for example, the investiture vote is used by parties and individual legislators as a signalling or advertising device, which allows parties to attempt to implement pre-electoral coalition agreements before subsequently defecting and supporting a different, post-electoral, coalition (Martin 2013). The investiture requirement may also lead to greater levels of legitimacy (Blais et al. 2007), to governments that last longer (Warwick 1994), or, arguably, to policies that are closer to the parliament's median voter. Here we will focus only on the impact investiture may have on the likelihood that a minority government will emerge.

We describe investiture procedures on the basis of an on-going data collection effort that, at the moment, comprises constitutional and non-constitutional documents for 30 countries between 1946-2010 (or the date they became independent). Our unit of analysis is the "constitution," understood here not as the formal document but as the combination of constitutional procedures that compose an investiture process. This process is defined by the role played by the head of state in nominating and appointing the government, by the four dimensions of investiture that we will discuss in the remainder of this section, and by the head of state's and/or government's power of assembly dissolution. Thus, a new constitution exists any time that there is a change in the provisions regarding any one of these dimensions. In the 30 countries for which we have data so far, we observed 40 constitutions, 26 of which require a vote of investiture for the formation of a new government.

Governments may change after elections or between elections. If an investiture exists, it will always be used to establish the new government in both types of situations.⁶ Some countries almost never change governments in the middle of election terms, and a demanding investiture mechanism could be part of the reason. Early elections, however, may be used as a tool to reconfirm or adjust the government.

Actual investiture procedures vary considerably. One dimension of variation is the timing of the investiture vote: at what point *in the bargaining process* for the

⁶ In our dataset we found that only 12 of the 26 cases in which investiture was required explicitly indicated that the same investiture procedure was to be adopted for governments formed in the middle of the legislative term. Greece is the only country in our survey where, although the investiture procedure remained the same, the head of state is granted considerable more discretion to nominate the prime minister for governments that do not follow elections. See article 38, 1975 constitution. In 1986 this article was amended to require that that head of state appoint the person proposed by the party of the outgoing prime minister, thus eliminating the head of state's role in the nomination process.

formation of the government does the investiture vote take place? Is it at an early stage or at the (supposed) end of the formation process? We can distinguish between an *ex-ante* and an *ex post* type of investiture. In the latter case, the (presumed) incoming government is compared to the formal status quo (or to no government), and it is in reality a confidence vote: the issue is whether the legislators have confidence in the Prime Minister designate, his or her government platform, and the personnel chosen to compose the new government. The former, *ex-ante* case can be quite different. It is, in reality, an act through which parliament selects (or elects) a *formateur* of the new government; a significant part of the bargaining process to establish a policy platform and allocate portfolios may take place after the investiture vote.

The *ex ante* – *ex post* distinction is not trivial. It can be illustrated with a reference to the so-called setter model (Romer and Rosenthal 1978). At the time of a confidence-type investiture vote the parliament de facto operates under a closed rule. A single government alternative is considered, and the parliament cannot alter any aspect of this alternative (not the prime minister, not the portfolio distribution, or not the policy platform) without beginning the entire government formation process anew. This gives a relatively strong agenda setting position to the *informateur* (or outgoing prime minister) and/or the *formateur* (typically the incoming prime minister). As the agenda setter, the *formateur* can exploit the fact that the parliament simply is given a take-it-or-leave-it choice to obtain outcomes closer to her own preference. In comparison, the *ex ante* type of investiture is more flexible. The parliament operates as if under an open amendment rule, and more than one coalition alternative might – at least implicitly – be on the table when the investiture vote takes place. Some parliaments even have elaborate procedures to handle the possibility of multiple alternatives.⁷ Thus, it is plausible to suppose that the timing of the investiture vote may matter for the number of formation attempts and the duration of the formation period (with *ex ante* votes involving multiple attempts and therefore taking more time), as well as for the congruence between the government policies and the preferences of the prime minister.⁸ More importantly

⁷ According to the 1991 Slovenian constitution (article 111), the process of government formation is initiated with a vote on a candidate proposed by the President. If the candidate does not obtain an absolute majority, a second round of voting takes place, during which multiple candidates may be proposed (including by the President, who may choose to renominate the same candidate or nominate a new one). If multiple candidates are proposed, voting takes place sequentially, beginning with the President's candidate and followed by candidates in the order that they were proposed. If no candidate obtains an absolute majority, the parliament has 48 hours to decide (by simple majority) to proceed with the election of the Prime Minister. In this case, only a simple majority is required and voting takes place sequentially: the President's candidate, followed by candidates who participated in the previous ballot (ordered by the number of votes gathered in that round), followed by new candidates. If the parliament does not decide within 48 hours to continue with the vote for the prime minister, the President dissolves the assembly.

⁸ Huber (1996) shows that under the vote of confidence, prime ministers are more likely to obtain policy outcomes closer to their preferences. Given that the *ex-post* vote of investiture is functionally equivalent to the request of a vote of confidence (as even the language used in constitutions suggests), we should expect a similar result.

for this paper, as we will discuss in the next section, the timing of the vote matters for whether the investiture requirement constrains the government formation process in such a way as to prevent the emergence of minority governments.

Our preliminary data, thus, shows that of the 26 constitutions with an investiture requirement, 9 (in as many countries) have *ex ante* votes, 14 (in 11 countries) have *ex-post* votes, and 2 (in 2 countries) have a mixed procedure. By mixed we mean, instances in which parliament votes to elect a prime minister in the beginning of the government formation process *and* votes on the government (its program and/or composition) once it is formed. For instance, article 92 of the 1991 constitution of Lithuania stipulates that "the prime minister shall, with the approval of the Seimas [the parliament], be appointed or dismissed by the President of the Republic." But it also states that "the Prime Minister, within 15 days of being appointed, shall present the Government which he or she has formed, and which has been approved by the President of the Republic, to the Seimas and shall submit the program of its activities to the Seimas for consideration." The government program is to be approved by simple majority. In the 2003 Serbian constitution (articles 27 and 35), parliament votes on a prime minister and then on a list of ministers proposed by the prime minister. In Ireland, the parliament votes on the prime minister and, once the prime minister is appointed, on her choice for the other members of the cabinet.

Another important dimension of investiture procedures has to do with the number of formation attempts that are allowed. Of the 26 constitutional regimes in our survey that require an investiture vote, twelve explicitly allow more than one formation attempt: one allows for two formation attempts;⁹ nine allow for three formation attempts;¹⁰ and two allow for four formation attempts.¹¹ The remaining fourteen cases of constitutions with an investiture vote are silent as to the number of attempts are allowed. Only practice, the observation of which requires further study, will allow us to assess what the prevailing pattern is in these cases.

Table 3 lists the countries that have an investiture requirement by the number of attempts that can take place, whether the vote is *ex ante* or *ex post*, the decision rule employed in the first and last attempts, as well as the outcome if the parliament fails to invest a government. Nomination can be by the head of state or by the parliament. Nomination by the head of state is by far the most commonly adopted alternative, although a few constitutions constrain the choice by stipulating that the nomination must result from a process of consultation with parliamentary groups (Slovenia 1991, Bulgaria 1991, Spain 1977), must be made on the proposal of the majority parties (Albania 1998 and 2008), or must take the distribution of seats into consideration (Armenia 2005). Thus, while the head of state is given the freedom to pick the nominee in most, in a non-negligible minority the head of state is

⁹ Romania 1991.

¹⁰ Bulgaria 1991, Czech Republic 1993, Estonia 1992, Finland 1999, Germany 1949, Poland 1997, Portugal 1976, Slovakia 1993, Slovenia 1991.

¹¹ Poland 1992 and Sweden 1974.

constrained in that choice.¹² When the constitution stipulates that nomination should come from parliament, only in two cases does it specify the mechanism for such nomination: in both Sweden 1974 and Serbia and Montenegro between 2003 and 2005, nomination is by the Speaker of Parliament. Note that in a few constitutions (e.g., Poland 1992, Albania 1998 and 2008, and Germany 1949) the right to nominate the candidate alternates between the head of state and the parliament.

Table 3: Details of Investiture Procedures

Country	# Rounds	Timing	Decision Rule	Consequence of Failure
Belgium 1946	N/S	Ex Post	Absolute Majority	New Attempt
Belgium 1993	N/S	Ex Post	Absolute Majority Against	New Attempt
France 1946	N/S	Ex Post	Absolute Majority	N/S
Greece 1952	N/S	Ex Post	Lower Limit Plurality	New Attempt
Greece 1975	N/S	Ex Post	Lower Limit Plurality	New Attempt
Greece 2001	N/S	Ex Post	Lower Limit Plurality	New Attempt
Hungary 1990	N/S	Ex Ante	Absolute Majority	New Attempt
Ireland 1946	N/S	Both	Plurality	New Attempt
Italy 1948	N/S	Ex Post	Simple Majority	New Attempt
Japan 1947	N/S	Ex Ante	Simple Majority	New Attempt
Lithuania 1991	N/S	Both	N/S	N/S
Poland 1989	N/S	Ex Ante	N/S	N/S
Portugal 1982	N/S	Ex Post	Absolute Majority Against	New Attempt
Spain 1977	N/S	Ex Ante	Simple Majority	New Attempt
Romania 1991	2	Ex Post	Absolute Majority	Dissolution
Bulgaria 1991	3	Ex Post	Simple Majority	Dissolution
Czech Rep. 1993	3	Ex Post	Simple Majority	Parliament
Estonia 1992	3	Ex Ante	Simple Majority	Dissolution
Finland 1999	3	Ex Ante	Plurality	Govt. Formed
Poland 1997	3	Ex Post	Absolute Majority	Dissolution
Portugal 1976	3	Ex Post	Absolute Majority Against	Dissolution
Slovakia 1993	3	Ex Post	N/S	Dissolution
Slovenia 1991	3	Ex Ante	Absolute Majority	Dissolution
Germany 1949	3	Ex Ante	Absolute Majority	Head of State
Poland 1992	4	Ex Post	Absolute Majority	Dissolution
Sweden 1974	4	Ex Ante	Absolute Majority Against	Dissolution

The decision rule also may change from one formation attempt to the next, often in the direction of making it less demanding to form a government. We will discuss decision rules in more detail below. Finally, in the vast majority of cases with

¹² The Head of State is not constrained in the choice of nominee for Prime Minister in countries Poland 1992 and 1997, Hungary 1989, Estonia 1992, Germany 1949, Slovakia 1993, Albania 1991, Croatia 2000, Czech Republic 1993, Lithuania 1991, Moldova 2000, and Romania 1991.

explicit rules for multiple formation attempts, the outcome of successive failures is parliamentary dissolution. There are four exceptions, which rather than leading to dissolution, guarantee that a government will be formed at the end of the process. These are Finland 1999, Albania 1991, the Czech Republic 1993, and Germany 1949. In Finland government formation is guaranteed by the adoption of plurality as the decision rule in the third and final attempt; in Albania and the Czech Republic, formation is guaranteed by the fact that the president is allowed to appoint the prime minister if the first formation attempt fails. The difference is that in Albania the president is able to freely do so whereas in the Czech Republic appointment takes place at the suggestion of the Chairman of the Chamber of Deputies. Germany 1949 represents a special case since the failure of the third and last attempt implies a choice for the president to either appoint a prime minister who secured a plurality of votes or dissolve parliament.

The final important dimension of government investiture is the decision rule. Basically, three decision rules seem to be employed in practice: negative majority, simple majority and absolute majority. Qualified majority is not used anywhere, leaving absolute majority as the strongest requirement. Absolute majority means that at least 50 percent *of the members* of an assembly need to vote for an alternative to get it adopted. Simple majority means that at least 50 percent *of those voting* must support a proposition. Those not present or those abstaining are disregarded; what counts is the vote of only those casting a yes or no ballot. Abstentions make it easier for a *formateur* to pass the simple majority hurdle than reach absolute majority, as the committed supporters might constitute less than half of the assembly. Plurality rule is less demanding than simple majority: the alternative with more votes than any other feasible alternative wins, even if it is less than a majority. In our survey, we find that this decision rule is not used at initial stages of investiture votes; as seen above, it is only used in Finland (1999) and Germany (1949) for the third formation attempt.¹³ Note that plurality rule in almost all of these cases means effectively a simple majority requirement since candidates are voted one at a time.

What we here call *negative majority* is even weaker. This decision rule is just a formalization of negative parliamentarism: a feasible alternative is adopted as long as an absolute majority does not vote against it. A prime minister designate then could survive even if a simple majority voted against him or her (i.e. as long as this majority has less than half of the MPs). Sweden has an *ex-ante* version of this decision rule, and Portugal uses an *ex post* (or confidence vote) variant of the same rule.¹⁴

¹³ The 1952 constitution of Greece (article 78) required only a 2/5 majority in order for a vote of confidence to be approved (which the government must guarantee before coming into office). This is the only case in our survey of a low-threshold majority.

¹⁴ The investiture vote in Sweden in 1978 represents an extreme example of this scenario. The candidate for Prime Minister, Ola Ullsten, was supported by 39 out of the 349 members of the Riksdag. A majority of 66 MPs voted against Ullsten, and a total of 215 abstained. One year later Torbjörn Fälldin was a candidate. He was supported by 170 MPs. It did not matter that a majority of

In some of the cases of multiple investiture attempts, as the appendix shows, the last attempt adopts a weaker decision. Spain, for example requires an absolute majority in a first confidence-type investiture vote. If the government loses, support from a simple majority is sufficient in a second vote a few days later. Given this fact, simple majority is the real hurdle any incoming Prime Minister has to pass. Another example is Finland. Simple majority is the primary decision rule when the parliament elects a Prime Minister. If a candidate for Prime Minister does not get a majority, a new candidate has to be found. If this candidate also loses, a third open ballot will have to be arranged. On this occasion the plurality decides. Even if this third stage is never reached, its existence might be anticipated and result in a bargaining advantage for the candidate of the largest party in parliament.

Other features of the political system, of which we will only briefly mention two, may further complicate investiture procedures. Some bicameral systems have governments that are accountable to both houses (e.g., Italy, Japan). They also may require an investiture vote in both houses (Druckman and Thies 2002). Especially if the territorial basis of representation is different in the lower and upper houses, a double investiture typically is more demanding than a single investiture in a lower house (cf. Tsebelis 2002). Further, the parliament may elect or express confidence in a Prime Minister designate, the entire government – with its policy platform and portfolio distribution – or each government minister separately.

It is plausible to expect that investiture process create hurdles that affect the type of government that will be formed. If this is the case, positive parliamentarism and stricter investiture requirements should be associated with majority governments. Minority governments should be more likely to emerge, all else equal, under conditions of negative parliamentarism and when investiture rules are relatively relaxed (for example, requiring only a simple majority of members present and voting). In the next section we specify the institutional combination that characterizes each of these situations.

5. When Will Investiture Procedures Matter for the Type of Government?

As mentioned before, the alleged connection between the investiture requirement and majority governments is taken almost as axiomatic. Empirically, however, the evidence is not very strong. We argue here that the inconsistency of results is not surprising. We do not dispute the logic that connects the investiture requirement with the emergence of majority governments when no party holds a majority of seats. But we do dispute, however, how the *investiture requirement* is conceived and, as a consequence, how it is coded. To begin with, samples are dissimilar and cases

174 voted against Fälldin, as long as this number was less than an absolute majority of at least 175 MPs (i.e. 349/2).

that are coded one way in one study are coded the other way in another. Second, and more importantly, the presence of an “investiture vote” masks a degree of heterogeneity that makes it hard to argue that the cases coded as having the vote even belong together. Investiture procedures vary considerably and in ways that are very consequential for the government formation process. In particular, we argue, they vary along four main dimensions: (1) whether a *moment* of investiture is required; (2) the timing of the vote; (3) the decision rule adopted; and (4) the outcome of the final stage in the investiture process.

By the *moment* of investiture we mean a point in the government formation process where the parliament has the opportunity to express itself on the government in a way that is potentially consequential for the government. In principle this moment of investiture should be close, if not identical, to the instances that, in the existing literature, are coded as having an investiture vote. This, however, is not the case since the moment of investiture, as we conceive it, includes instances that in the literature would be coded as *not* having a vote of investiture (e.g., the UK, sometimes Belgium, sometimes Sweden). Moreover, it also includes cases in which the moment of investiture is not constitutionally mandated; rather, it is written in sub-constitutional documents (e.g., parliamentary standing orders) or is simply the product of convention. The details regulating the moment of investiture vary so much that some of the cases are, functionally, similar to cases of negative parliamentarism. As a consequence, we argue, we should not expect any difference in the frequency of minority governments in the two groups defined by the presence or absence of this factor.

Given that a moment of investiture happens in the process of government formation, the next relevant distinction concerns the timing of this moment. As we have seen, in some countries investiture means that parliament selects the individual who will be charged with the right to form a government; in other words, the parliament elects a prime minister. This prime minister, then, proceeds to compose a government; he/she is in charge of ultimately deciding which individuals from which parties will join the government and what the government program will be. After the selection of the prime minister, parliament as an institution plays no further role in the formation of the government. The government can, given the nature of the system, be removed from office; but this will happen only if parliament passes a motion of censure or rejects a vote of confidence initiated by the government.

Alternatively, in some countries the investiture moment occurs *ex post*. The head of state designates someone to form a government, who then proceeds to negotiate with parties about the program and composition of the government. Frequently negotiations must be completed within some pre-specified time, at the end of which the government must be subject to a parliamentary vote. This is functionally (and

often nominally) equivalent to a vote of confidence; if the government fails to obtain the confidence of parliament, it is not invested or, if already in office, must resign.¹⁵

It is plausible to expect that under similar conditions, minority governments will be less frequent when investiture is *ex post* than when it is *ex ante*. A party that votes to elect a prime minister is not necessarily committing to the specific policies the eventual government will implement. Although not identical to the cases in which no investiture is required, this situation is similar to it: a party does not publicly commit to much when it supports the election of a prime minister; the specific government program and cabinet composition is still unknown (although certainly expected). In turn, a party that votes to invest a government that is already formed is expressing support for a specific program and cabinet composition. Minority governments, therefore, should be less frequent since parties cannot give only tacit support to the government. Thus, we should expect to find the smallest proportion of minority governments in the cases where a moment of investiture exists and that moment is *ex post*. In other words, when investiture is on the government and its composition; when it is a confidence vote on the government.

But even this group is heterogeneous. The decision rule used in the investiture vote may considerably change the calculation of parties as they face the choice of supporting or not supporting a government. Decision rules can be negative or positive, and they can be demanding or loose. In Sweden and Portugal, for instance, the vote that takes place at the moment of investiture is negative: a government that presents itself to the parliament will *remain* in office unless a majority votes against it. The moment of investiture in these countries represents the formalization of negative parliamentarism; but it should not make the emergence of minority governments any less likely. In Greece, investiture is also *ex post*, but the government wins parliamentary confidence with a 40% majority; it is possible to imagine situations in which a government is invested with more than 40% but less than 50% of the votes but gets the tacit support of a party that is sufficiently big to form a majority legislative coalition. Finally the procedure put in place in Finland by the 1999 constitution shows how the decision rule may affect the parties' ability to "cover" their support for a government that does not formally control a majority of seats in parliament. In this case, investiture is to occur in three rounds: in the first two the parliament votes on a prime minister (who has previously negotiated the government program and composition) by simple majority; in the third and last round, the parliament votes by plurality. It is easy to see that a party with a plurality can force the occurrence of the last stage of formation and have its candidate elected prime minister; at the same time it can induce the tacit support of some other parties in order to govern as a minority cabinet. Thus, given that an *ex post* investiture vote is required, minority governments are unlikely only when the

¹⁵ In some cases, such as Belgium, the prime minister nominated by the King forms a government and holds the full power of the office *before* the vote of investiture. However, the vote is expected to happen soon after the government was formed and, if lost, the government must resign.

decision rule is tight, that is, when it, for instance, requires absolute or some qualified majority.

The final aspect has to do with the default position in case of failure of investiture. The most common situation in the countries included here is the silence of the constitution or any other written document. We interpret this as meaning that the investiture procedure keeps repeating under the same rules. Since these are all parliamentary systems, where, with the exception of Norway, assembly dissolution is a possibility, it should be clear that the end result of multiple investiture failures should be early elections. But, typically of the modal parliamentary constitution, this is left unsaid.

As we have seen, in many countries several investiture rounds are predicted in the constitution. In these cases, there are two possible default positions: the most common is the mandatory dissolution of parliament as the result of a last round failure; but one also finds cases in which the default position is the loosening of the decision rule to the point in which *some* government will be produced (e.g., Finland 1999), or the removal of the investiture prerogative from the parliament (e.g., Czech Republic 1993). We argue that the threat of dissolution is the only mechanism (from the existing ones) that is capable of deterring the formation of a minority government. The alternatives are, in fact, ways to force the emergence of a government, regardless of the formal support it has in parliament.

In conclusion, thus, when it comes to investiture procedures, having it or not having it is not sufficient to deter the emergence of minority governments. Other dimensions – related to the timing, decision rule and default situation – matter and modify the incentives for the formation of minority governments. We argue that, given the possible combinations of these dimensions, the only clear configuration that should significantly reduce the emergence of minority governments are the ones that occur when no party holds a majority of seats in parliament, investiture is required, it takes place *ex post*, under tight decision rules and under the threat of parliamentary dissolution.

On the basis of these considerations we construct an ordinal measure of investiture requirements. The lowest value is given to the systems with no investiture requirements, followed by those where investiture requirements are entirely *ex ante*, those where they are *ex post* but decisions are made with less than a simple majority and, finally, those where investiture is *ex post* and decisions are strict in the sense that they require an absolute majority for success. In the last case, failure implies parliamentary dissolution. Our expectation is, of course, that it is in this category that we will observe the lowest frequency of minority governments.

Table 4 presents the relevant figures. We can see that, as expected, the cases with the strictest rules of investiture – in order to come to power a government must win a vote of confidence on its program by an absolute majority, with early elections as the result of failure – have the lowest incidence of minority governments: 23.08%.

The difference, however, is not very dramatic. As the remainder of table 4 suggests, it seems that the sharpest difference in the incidence of minority governments comes from the rules that are used (although, oddly, the systems that require less than a majority for investiture have the same, relatively low, level of minority governments as those that require an absolute majority).

Table 4 Frequency of Minority Cabinet by Investiture Requirements

Type of System	Frequency of Minority Cabinets (%)	Number of Years
No Investiture	26.93	323
Ex Ante Investiture	27.21	136
Ex Post Investiture by Less than Majority	25.88	170
Ex Post Investiture by Majority	23.08	39
Investiture	26.09	345
No Investiture	26.93	323
Ex Ante Investiture	27.21	136
Ex Post Investiture	25.36	209
Less than Majority	22.88	118
Simple Majority	29.52	166
Absolute Majority	22.95	61

We leave the analysis at this point. We are buttressed by the numbers in table 4 and confident that the inclusion of more cases and multivariate analysis will yield results that conform to our expectations. Just to conclude, however, note that the mere existence of an investiture requirement makes no difference whatsoever for the frequency of minority governments.

6. Conclusion

Under classic parliamentarism, governments emerge from, and remain responsible to, the legislature. How parliament determines exactly who governs is a question of enormous theoretical and normative significance. Despite the advanced nature of coalition research, we still know relatively little about the rules of the government formation vote and how they impact the types and composition of governments that emerge under parliamentarism.

By questioning existing research on the relationship between positive parliamentarism and the prevalence of minority governments, and by noting how the detail of investiture rules vary cross nationally and, in some cases, over time,

this paper has sought to suggest the need for greater study of investiture rules and procedures. To complete this paper our goal is to extend the coding of investiture provisions to *all* parliamentary democracies that have existed since 1946 and to explore, both statistically and qualitatively, the impact of variation in investiture rules on the making and life of governments. Beyond shaping the formation process, do investiture rules impact the survival-rate of governments and in particular the longevity of coalition and minority governments? As with government formation, the 'breaking' of coalition governments is an advanced area of study in comparative politics. The general expectation is that governments facing an investiture process are more likely to last longer, all else equal (Warwick 1994). We want to investigate how variation in the detail of investiture rules, cross-nationally and also over time within the same legislature, impact the longevity of governments.

In addition, we want to explore in detail what we believe to be 'off the regression line' deviant cases. The deviant cases include countries such as Italy, Ireland, the Czech Republic and Sweden, which have an investiture mechanism but in which the rate of minority government is relatively high. This could occur because the investiture institution is weak or because of certain features of the party system (e.g. a large party close to the legislative median). Another set of deviant cases includes countries such as the Netherlands, Iceland and Austria, which have negative parliamentarism, not always majority parties, but in which we observe almost always majority governments. This could arise because there exist other norms or rules in these systems that are functionally equivalent to (or even stronger than) the investiture mechanism. We believe both types of deviant cases to be somewhat puzzling, particularly from within the generally accepted paradigm that institutions matter. We hope a closer analysis will provide new insights into, and information about, the nature of party politics, legislative rules, and the politics of government formation.

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