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978-1-107-00646-1 - Agenda Setting in the U.S. Senate: Costly Consideration and Majority Party Advantage

Chris Den Hartog and Nathan W. Monroe

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Agenda Setting in the U.S. Senate

This book proposes a new theory of Senate agenda setting that reconciles a divide in the literature between the conventional wisdom – according to which party power is mostly, if not completely, undermined by Senate procedures and norms – and the apparent partisan bias in Senate decisions noted in recent empirical studies. Chris Den Hartog and Nathan W. Monroe’s theory revolves around a “costly-consideration” framework for thinking about agenda setting, where moving proposals forward through the legislative process is seen as requiring scarce resources. To establish that the majority party pays lower agenda consideration costs as a result of various procedural advantages, a number of the chapters in this volume examine partisan influence at several stages of the legislative process, including committee reports, filibusters and cloture, floor scheduling, and floor amendments. Not only do the results strongly support the book’s theoretical assumption and key hypotheses, but they shed new light on virtually every major step in the Senate’s legislative process.

Chris Den Hartog is an assistant professor of political science at California Polytechnic State University. He has published articles and chapters about the legislative process in Congress, its evolution, and its effects on congressional policy making. Professor Den Hartog’s work includes studies of the 19th-century House of Representatives and the contemporary House and Senate.

Nathan W. Monroe is an assistant professor of political science at the University of California, Merced. His work has appeared in journals such as the *Journal of Politics*, *Legislative Studies Quarterly*, *Political Research Quarterly*, *Public Choice*, and *State Politics and Policy Quarterly*. Professor Monroe previously held faculty positions at Michigan State University and the University of the Pacific.

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Costly Consideration and Majority Party Advantage

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and

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Preface

Discourse regarding the contemporary U.S. Senate bemoans the legislative paralysis that is perceived to be endemic to the chamber and the adverse effects of the paralysis on national policy making. The sources of this perception are plain to see. News coverage of the Senate is rife with stories of hostile speeches, petty bickering, and partisan warfare, and often emphasizes the role of filibusters and holds in facilitating deadlock. From another perspective, however, this characterization is puzzling; the current Congress (the 111th) has enacted several major, controversial policies, including a massive economic stimulus, a far-reaching health care overhaul, and a sweeping reform of the financial system. How could a Congress producing such major changes be seen as gridlocked? One goal of this book is to reconcile these disparate views by explaining how obstruction and policy making exist side by side in the Senate.

Another goal is to address a similar and closely related puzzle that exists among Senate scholars: we all know how easy it is for an individual senator or a small group of senators to tie the chamber in knots, and we all know that the majority wins divisive policy battles. But we do not know how to square these seemingly contradictory beliefs, which are at the heart of many debates about the Senate.

In a sense, our involvement in this debate began on May 24, 2001, when Senator Jim Jeffords announced that he was leaving the Republican Party to become an independent and would side with Senate Democrats on organizational votes. In early 2003 we began writing a paper about the Jeffords switch, which we saw as a golden opportunity to test two competing theories of legislative decision making. One theory is Cox and McCubbins's (2005) cartel model, in which the majority party strongly

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influences legislative decisions; the other is Krehbiel's (1998) pivot model, in which legislators' preferences determine outcomes and parties have no impact. During our first round of journal reviews, an anonymous reviewer wrote, "The spatial model presented in [the paper] does not present a case for strong parties or one that conforms to the contemporary Senate. The author(s) have adapted Cox and McCubbins's House party cartel model to fit the Senate floor.... Given that the Senate has no germaneness and amendment restrictions (and only a right of first recognition for the majority leader), does this negative proposal power exist? Second, unlike the pivot model, the majority party cartel model suggests that the leadership would propose bills when the status quo is in the F and R interval. While they may propose those bills, can they pass them with 60 votes? In short, the party cartel model applied to the Senate suggests only a weak (and questionable) negative agenda control."

The reviewer expanded on this critique elsewhere in the review and in another review that followed revisions, making clear that, although our results seemed to show party effects in the Senate, it was simply implausible that the majority party was able to overcome the Senate's legislative obstacles. In short, according to the reviewer, there was no theory that satisfactorily incorporated the procedures and norms of the modern Senate that *also* predicted a majority party advantage.

The reviewer's comments, as well as audience reactions to presentations of the Jeffords paper, made two things clear. First, we realized that the anonymous reviewer was not alone. Despite the results we presented (as well as a growing number of other papers with findings of majority party advantage in the Senate), many congressional scholars had difficulty believing that the majority party influences outcomes given the chamber's procedures. In the years since, as we have presented various results from this book as stand-alone papers, we have continued to encounter objections based on the same skeptical question: *how could* the majority party achieve a policy advantage in the face of unanimous consent agreements, holds, filibusters, nongermane amendments, and a general lack of party discipline?

Second, it became clear that if we were going to make serious strides toward addressing these issues, we were going to need a lot more space than could be allocated to a journal article. Over time, we came to see our task as threefold. First, we needed a new theory, parsimonious enough to test and compare with other theories of lawmaking, but also with enough verisimilitude to Senate practices that people would see it as a reasonable analogy to the chamber. Second, we needed to carefully consider Senate

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procedures and practices with an eye toward better understanding the sources of the majority party advantage. An abstract theory, we knew, would still be unsatisfactory if its assumptions were not grounded in the Senate's legislative process. Third, we needed to test the theory on its own merits. Like any new theory, it had to explain what we already knew but also correctly predict something new. As the reader will find, this threefold thinking ultimately informed the three-part organization of the book; each part revolves around one of these tasks.

During a series of phone calls in late 2005 and early 2006, we finally settled on a way to think about Senate agenda setting that we believe bridges the gap between the strong-party theories developed in the context of the House of Representatives and the complex legislative process in the Senate. Rather than thinking of the Senate game as one focused on blocking, we turned the notion on its head and instead chose to think of it as a bargaining environment in which proposals do not move forward unless someone makes an effort to move them forward. This "costly-consideration" framework became the heart of our solution to the problem posed by the reviewer.

Having a solution in our heads was one thing; turning it into an end product was quite another. It has required the support, advice, and effort of many people and organizations, whom we gratefully acknowledge.

It is impossible to overstate our appreciation for all that Mat McCubbins has done for each of us. He offered invaluable substantive feedback on this project and provided an opportunity to present the theory to a very thoughtful group of scholars at the University of Southern California Law School. More fundamentally, as our graduate school adviser, he ingrained in us the appreciation for theory and scientific method that sits at the core of this project; he pushed us to refine our thinking and our research designs; he devoted countless hours to our intellectual and professional development; he showed patience as we worked to make use of all the guidance he offered. Time and again he has gone above and beyond what can be expected of an adviser, supporting us explicitly and tacitly as we have tried to make our way in the profession and providing good humor and sage advice. Mat has been a great mentor and is a great friend.

Gary Cox also deserves special thanks for both his input on this project and his mentorship. He participated in the earliest conversations about the Jeffords paper and offered a number of extremely useful suggestions as the book progressed. Moreover, we both benefited immensely from observing and assisting him in his research. Gary is a remarkably clear, efficient thinker, and we have tried to mimic those qualities whenever

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possible. In particular, his approach to creating and testing theories and his conceptualization of parties have had a substantial impact on our scholarship; we are truly fortunate to have had him as a mentor.

Larry Evans was the editor of *Legislative Studies Quarterly* when we submitted the Jeffords paper. Not only did Larry improve that paper through his investment of time and attention, but his arguments and suggestions helped plant the seeds for many of the central ideas in this book. Since then, in addition to offering detailed comments on drafts of a number of papers that became chapters here, Larry has given us advice on a variety of data issues, has answered many of our questions, and has provided encouragement at every turn. He also went well above and beyond in the final stages of the project, helping us to secure interviews with top-level Senate staff members and guiding us in preparing for those interviews. We are very grateful to him for all he has done.

Similarly, we thank Dave Rohde, who has also gone out of his way to support this project on a number of occasions. In addition to offering countless insightful conversations and helpful suggestions, Dave funded a conference on party effects in the Senate that provided a chance to present the earliest version of the theoretical argument and hosted a book seminar at Duke University once the first full draft was complete, where we got excellent, essential feedback. Through the Political Institutions and Public Choice (PIPC) program, he also provided support for research assistance.

The book is much better than it would otherwise have been due to the input of many individuals. Andrea Campbell, Chuck Finocchiaro, Sean Gailmard, Jeff Jenkins, Greg Koger, Jason Roberts, and Greg Robinson offered repeated help and attention and deserve special recognition for their efforts. Bob Dove, Walter Oleszek, Marty Paone, and Lee Rawls were all wonderfully generous in allowing us to interview them; we are deeply appreciative of their time and insights, which substantially improved our understanding of the Senate. Robi Ragan and Jacob Montgomery deserve thanks for a number of helpful comments, but we are particularly indebted to them for guiding us in extending the formal model beyond one dimension, as presented at the end of Chapter 3. We also thank Scott Adler, Sarah Anderson, Nathan Batto, Matt Beckman, Lauren Bell, Rick Beth, Sarah Binder, Jon Bond, Jamie Carson, Mike Colaresi, Mike Crespín, Erik Engstrom, Garrett Glasgow, David Karol, Ira Katznelson, Frances Lee, Beth Lowham, Michael Lynch, Tony Madonna, Neil Malhotra, Forrest Maltzman, Bruce Oppenheimer, David C. W. Parker, Brian Sala, Eric Schickler, Wendy Schiller, Scot Schraufnagel, Barbara Sinclair, Eric Smith, Steve Smith, Melanie Springer, Michiko Ueda, Rick Valelly, Rob

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Nate

Brad Franca, Chris Hudelson, and C. W. Smith, friends for 27 years and counting, have provided unending (and quite welcome) distractions; they have each been there when I needed them most, and I am truly grateful. Arjuna Farnsworth has been a constant source of intellectual stimulation and support and has proved to be as good a friend as anyone could hope for; I consider myself lucky to know him. My sister Amy is one of my favorite people to laugh with, and after I've spent hours staring at a computer screen, a good laugh goes a long way. I hope she knows how much I love and appreciate her for it. My parents, Keith and Mary, cheered us on at every step of this project, no matter how small the step, which is a microcosm of the love and support they have offered my whole life. I can only hope that my kids someday feel about me the way that I feel about them. Liz, my wife, has shown incredible patience and understanding, even as this project has at times robbed her of my presence and attention. Her love and belief in me are always felt and deeply appreciated. Finally, this book might have been done months sooner if not for all the hide-and-seeking, pony riding, playing "bad," and golf-carting that Will and Abby (who never did finish Chapter 4) suckered me into ... and I loved every minute.

For Liz, Abby, and Will – NWM

For my family, Lee Rawls, and Tommy L. – CFD