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978-1-107-06315-0 - Too Weak to Govern: Majority Party Power and Appropriations  
in the U.S. Senate

Peter Hanson

Excerpt

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## I

## The Limited Influence Theory of the Senate

The short walk under the Capitol dome from the House to the Senate connects two sharply different institutions. The framers of the Constitution aimed to give the House of Representatives and the Senate distinctive roles and personalities in the American political system. The House was meant to have an “immediate dependence on, and an intimate sympathy” with the people, while the Senate was meant to be insulated from popular passions and a “defence to the people against their own temporary errors and delusions.”<sup>1</sup> The designs of the two chambers reflect these divergent goals. House members are elected for two years, senators for six. House members represent small, often homogenous districts, while senators represent much more diverse state populations. Today, the framers’ enduring stamp on the two chambers is evident in the fiery, tempestuous character of the House and the staid, tradition-bound Senate.

Other crucial distinctions between the House and Senate do not stem from the Constitution but from the rules that have been adopted by each chamber. The rules of the Senate protect the right of individual senators to participate in the legislative process but place a low priority on the efficient passage of legislation, while the rules of the House restrict a member’s opportunity to participate in order to expedite the passage of bills. These rules, in combination with the constitutional design of the two chambers, give each a unique and equally important impact on the production of legislation. Despite this fact, the Senate is more poorly understood than the House is. Scholars of Congress have filled the pages of academic journals and books with studies of the House because its large membership and

<sup>1</sup> Federalist 52 and 63.

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firm rules of majority party control have made it amenable to quantitative analysis. The Senate has been comparatively neglected.

There has been a welcome change in that trend in recent years. Rising polarization in Congress has led to renewed interest in the role that political parties play in the Senate, and there is an emerging debate over the extent of the power they wield. Scholars have generally concluded that powerful majority parties are more likely to be found in the House than in the Senate because the rules of the House more easily lend themselves to majority party control (Aldrich and Rohde 2001; Cox and McCubbins 2005). The Senate has been viewed as an idiosyncratic institution in which power rests with individual senators and political parties are on the sidelines (Fenno 1989; Sinclair 1986; Smith 2005). The Senate's rules empower members with the right to unlimited debate and to offer amendments on any subject. So armed, individual senators can tie the chamber in knots with delaying tactics or force a vote on a policy of their choosing. The breadth of this power has led the majority party to coordinate closely with the minority and to accommodate the needs of individual members in order to move legislation toward passage.

The traditional view of the Senate is being challenged by new evidence. Recent studies describe a variety of ways in which political parties shape legislative outcomes in the Senate. By one account, the two parties exacerbate gridlock and make it harder for the nation to address critical problems (Sinclair 2002). As reaching an accommodation has grown more difficult, Democrats and Republicans have taken advantage of Senate rules to block action by the other side, and the two parties coexist in a frustrating legislative stalemate. Another contingent of scholars maintains that the Senate bears important similarities to the House of Representatives (Den Hartog and Monroe 2011; Gailmard and Jenkins 2007; Monroe and Roberts 2008). Party leaders have adopted new legislative strategies to help them pass legislation tilted toward the views of the majority. The Senate majority can take on the minority in fierce legislative battle and often win the day rather than accept compromise.

This book offers a new perspective on the role of the Senate majority party that I call the theory of limited influence (Hanson 2014). I study the majority party's management of the annual appropriations process to show that it has an important but constrained ability to influence legislative outcomes on the Senate floor. The appropriations process is well suited to the study of majority party power because it occurs annually, and variation in the majority's method of passing spending bills can be observed over time. Congress traditionally follows a routine set of practices known

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as the “regular order” to pass spending legislation. In the regular order, a dozen bills to fund the government are written in committee in the House and Senate and brought to the floor of each chamber for debate, amendment, and final passage. I show how the Senate majority party manipulates the appropriations process by abandoning the regular order and instead packaging bills together into massive “omnibus” bills. The one-two punch of skipping individual debate on a bill and then creating a package helps the majority party limit troublesome amendments and pass the budget at the cost of reducing the opportunity for all members to participate in lawmaking. The majority party protects its reputation and strengthens the reelection prospects of its members with this strategy, but it cannot systematically secure its policy goals.

In the last three decades, the most dominant parties in the Senate have been likely to follow the regular order. Majority parties that are small, divided, and ideologically distant from the minority have been likely to depart from this tradition. They have shut down debate and created omnibus packages that reduce the transparency of the legislative process and centralize decision-making authority in a few key players. This finding appears counterintuitive from the standpoint of some partisan theories of Congress, but it is consistent with a broader understanding of party power. Majority parties in a dominant position in the Senate can meet their goals without taking unusual steps to influence the legislative process. Those in a weaker position use their influence to manage a floor that is slipping out of their control.

In the remainder of this chapter, I lay the groundwork for these arguments. The chapter begins with a general review of party power in Congress and turns to focus on the debate over the role of parties in the Senate, weaving in the words of former Senate majority leaders Tom Daschle and Trent Lott and other policy makers to give additional insight into academic debates. I explain the annual budget and appropriations process and why scholars have used it as a window into Congress to view larger trends. I integrate theories of parties and omnibus formation in a way that takes full account of the Senate’s distinctive role in the constitutional system. Finally, I draw a set of expectations from this new theory to test in chapters to come.

## PARTY POWER IN CONGRESS

What does it mean to say that a political party in Congress is powerful? The answer to this question begins with the individual members who

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make up parties. It has been common since the publication of David Mayhew's *Congress: The Electoral Connection* (1974) and Richard Fenno's *Congressmen in Committees* (1973) to characterize individual members of the House and Senate as strategic actors who systematically pursue a set of goals. The first goal is the desire to win reelection. Individual senators can only stay in office with the periodic approval of the voters of their states in elections. To meet this goal, they cast votes aimed at winning the support of voters and avoid issues that will cause them trouble. They send out press releases and give interviews to the media to generate name recognition and claim credit for their accomplishments. They hire staff devoted to solving the problems of their constituents (Fiorina 1989). They secure funds to support projects such as constructing a bridge or purchasing equipment for law enforcement (Evans 2004). They raise money to build campaign war chests. The list goes on. Members have other goals in addition to winning election, such as the adoption of particular policies or gaining influence in the chamber, but reelection is generally regarded as the first and most important goal since it is the prerequisite to accomplishing anything else.

Political parties are valuable because they help members meet their goals. A member's party identification acts as a "brand name" that conveys key information about the member's views to the electorate and helps voters identify like-minded candidates on Election Day (Aldrich 2011). Members also benefit at the ballot box by associating with a party that has a positive reputation for legislative accomplishment (Cox and McCubbins 2005; Lee 2009). Parties provide members with resources such as money, staff, and advice to run political campaigns (Jacobson 2009). Finally, they offer an organizational structure that allows members to coordinate to meet common legislative goals (Aldrich 2011). They can exercise negative agenda control to keep troublesome issues off the floor, or positive agenda control to help push desired legislation to final passage.

The strength of a political party in Congress is typically defined in terms of its ability to influence the legislative process so that the results will meet the goals of its members (Aldrich 2011; Aldrich and Rohde 2001; Cox and McCubbins 2005; Kiewiet and McCubbins 1991; Krebbiel 1998; Smith 2007). As John Aldrich explains, "[A] party will be 'strong' when it helps its members win what they collectively desire as partisans rather than winning what might be achievable from a majority formed on some other basis" (2011, 220). The 100 members of the Senate could theoretically form a variety of different winning coalitions

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to pass legislation. Many of these coalitions could “roll” the majority party by passing legislation that most of its members oppose. For example, forty-nine members of the minority party could join together with two members of the majority party to form a winning coalition for a bill that is opposed by the remaining members of the majority party. A “strong” party is one that can influence the legislative process to narrow the list of potential outcomes to those that meet the goals of the members of the majority party.

Not all scholars have accepted that parties have a meaningful ability to influence legislative outcomes. Keith Krehbiel (1992, 1998) maintains that most legislative outcomes can be explained as the result of the preferences of members and that the two parties at best offset each other in their efforts to influence the legislative process. In Krehbiel’s view, the passage of a bill on which sixty members of the majority party in the Senate agree simply reflects the shared preferences of members. The existence of the party did not contribute in a meaningful way to the outcome of the vote. One result of his challenge was to lead scholars to a more careful identification of ways in which parties add value to members’ efforts above and beyond what they can achieve on their own. A substantial body of research on party influence in the House of Representatives has since satisfied most scholars that parties do influence legislative outcomes, at least in the House (Aldrich 2011; Binder 1997; Cox and McCubbins 2005; Smith 2007). As I discuss later in this chapter, there is far more contention about the existence of party influence in the Senate.

A brief survey of partisan theories of Congress reveals a wide-ranging debate about the conditions under which the majority party is able and likely to influence outcomes and whether it meets policy or electoral goals through its efforts. One well-known framework is the theory of Conditional Party Government (CPG) in which members who are unified and have preferences distinct from the minority delegate authority to their leaders to influence outcomes in order to pursue shared policy goals (Aldrich and Rohde 2001). Smith offers an alternative framework in which party influence is exercised to pursue electoral and policy goals “when the party’s small size or lack of cohesiveness puts floor victories at risk. Weakness in the majority party generates the need for influence” (2007, 78). A third alternative is the “cartel” theory in which party members have a continuous ability and incentive to influence legislative outcomes in order to enhance their party reputation in the pursuit of reelection goals (Cox and McCubbins 2005). These three frameworks are quite different in spirit. In the first, a dominant majority party uses its

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influence to extend its control over the floor. In the second, a struggling majority party uses its influence to stave off defeat. In the third, the majority party influences outcomes without regard to the strength or weakness of its position.

The diversity of these approaches reveals a problem in the common shorthand used by political scientists to describe a party that can influence outcomes as “strong” and one that cannot as “weak.” This language unhelpfully conflates a party’s descriptive characteristics with its ability and inclination to influence outcomes. The implication is that parties observed wielding influence are also strong in other ways, such as being large and unified. This conclusion tacitly endorses the argument that influence arises out of majority party dominance and masks the important debate about the conditions under which a party is able and likely to influence legislative outcomes. As Smith notes, a large and unified party might not be observed influencing outcomes because it has no need to do it. “A large majority party can win votes without the support of some of its members. A very cohesive majority party can win votes without having to ask its members to vote differently than they would otherwise. A large and cohesive party makes life particularly easy for the majority party leadership” (Smith 2007, 78).

The most serious problem with the standard jargon is that it may obscure the real situation on the floor. A small and divided majority party that finds itself in deep trouble on the floor and influences the legislative process to escape is considered “strong” by the standard definition. A party that is so large and unified that it gets its way without influencing the legislative process appears “weak” because it has taken no observable action to shape the outcome. Black is white. Up is down. Shorthand jargon that was intended to simplify matters has now confused them. A more useful approach, and the one I take in this book, is to use the terms “strong” and “weak” as summary descriptions of the majority party’s ability to meet its legislative goals based on its overall strategic position in the chamber. Large and unified parties are strong. Small and divided parties are weak. In the Senate, a large ideological gulf between the two parties weakens the majority by intensifying minority opposition and raising the risk of gridlock.

I use the term “influence” to refer to the majority party taking action that shifts legislative outcomes away from what would occur without the party’s efforts. Influence may be directly observable, such as when the House adopts a closed rule, or indirectly observable through measures such as majority party roll rates. The task of legislative scholars is

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to identify different forms of influence, the conditions under which the majority party is able and likely to use them, and the goals it can achieve by doing so. As I show in this book, abandoning the regular order and forming an omnibus bill are directly observable forms of influence that the Senate majority party is most likely to use when it encounters serious trouble on the floor because it is weak. The majority party's influence over the legislative process helps it meet electoral goals and protect its party reputation by limiting amendments and passing a budget.

This conception of party power fits poorly with CPG and the cartel theory, but these theories were written to describe the House of Representatives rather than the Senate. An obvious point of disagreement is that Aldrich and Rohde (2000; 2001) predict majority party homogeneity both creates the ability to influence the legislative process and increases the likelihood that influence will be observed. I show that members are able and more likely to package bills together when they are divided. One of the broad objectives of this book is to demonstrate that common conceptions of party power such as CPG do not fit well in the Senate because they were not designed with its distinctive rules in mind. This is less an indictment of CPG, which by many accounts fits well in the House of Representatives, than it is a statement about the need for a partisan theory of the Senate. This book takes an important step toward creating such a theory by demonstrating the important but limited nature of majority party influence in the Senate and the conditions under which it is likely to be used.

## MAJORITY PARTY INFLUENCE IN THE SENATE

The traditional understanding of the Senate places its emphasis on the majority party's inability to influence legislative outcomes. This understanding originated in the 1980s as researchers took note of a rising degree of activism among individual senators. Once, members respectfully deferred to those with seniority and labored patiently in committee for years to develop policy expertise. The new Senate was more independent and entrepreneurial. Senators were active in dozens of policy areas, offering amendments and speaking their minds in a way that would have violated deeply held norms in the decades before. In this freewheeling arena, power rested with individual senators, and the majority party was seen as having little ability to change legislative outcomes beyond what could be achieved on the floor (Fenno 1989; Sinclair 1986; Smith 1989).

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The individualistic Senate rests on a foundation created by two crucial rules that make it difficult for the majority to control the agenda. First, debate in the Senate is famously unlimited, and most parliamentary motions are debatable. Members can speak for as long as they wish unless sixty votes are secured for cloture (Koger 2010). Second, senators are generally free to offer amendments regardless of their germaneness to the topic at hand (Smith 2005).<sup>2</sup> The combination of these two rules is potent. Together, they are said to make it virtually impossible for the majority to conduct the routine business of the chamber without the cooperation of the minority or to exercise firm control over the legislative agenda. Instead, the majority governs the Senate through “unanimous consent” agreements negotiated with the minority that set the terms of debate for legislation. In the words of Senate scholar Barbara Sinclair: “Keeping the Senate functioning as a legislature requires broad accommodation; it dictates satisfying every senator to some extent. A reasonably cohesive majority party can run the House without consulting the minority. The Senate only runs smoothly when the majority leader and the minority leader cooperate and not always then” (Sinclair 2005, 13).

An important consequence of the Senate’s rules in the traditional understanding is that the policies that emerge from the chamber are likely to be the product of decisions on the floor rather than the majority’s preferred policy (Smith 2005). Senators are free to amend any legislation put forward by the majority and can delay matters indefinitely to enforce that right if necessary. In the absence of effective tools to control the agenda, the policies favored by the typical member of the majority party are likely to be moderated as they are amended to the satisfaction of the senators whose support is needed to win passage on the floor. It is also difficult for the majority to avoid voting on issues it would prefer to leave off the agenda. Democrats demonstrated this principle in 1996 when they offered a non-germane amendment raising the minimum wage to every bill that came to the floor and brought the Senate to a standstill until the Republican majority agreed to allow a vote on it (Sinclair 2012). The amendment passed.

As parties in Congress have grown more ideologically unified and distinct from each other, scholars have turned their attention toward

<sup>2</sup> There is an exception to the rule that amendments do not have to be germane. Amendments to appropriations bills must be germane according to Rule 16 of the Standing Rules of the Senate and may be challenged on those grounds if a senator raises a point of order during debate.

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identifying whether the role of parties has changed. A common finding of this work is that unified parties that are ideologically distant from each other contribute to gridlock (Brady and Volden 2006; Rae and Campbell 2001). Sinclair explains that the compromises needed to run the Senate have grown more elusive as the parties have grown farther apart. Actual or threatened filibusters stemming from the predilection of individual members or minority strategy now routinely delay the passage of legislation in the Senate and force the majority to seek sixty votes for bills to clear the floor (Sinclair 2002). Lacking strong tools to control the floor, the majority is often powerless to push legislation through to passage. Sinclair describes the Senate as the “choke point” in the American legislative process and reports that “the Senate floor proved to be the single greatest obstacle and the place that the greatest attrition occurred” once bills clear committee (Sinclair 2002, 258–259). In a similar vein, Steve Smith reviewed a variety of procedural changes thought to enhance the power of the majority in the Senate in recent decades and concluded that they were part of a “parliamentary arms race” in which “the minority is quick to obstruct and the majority is quick to restrict” (Smith 2010, 1–2). In a polarized Senate, gridlock is a more likely outcome than a strong majority party grip on the floor.

Accounts such as these remain rooted in the traditional understanding of the Senate. They identify important party effects, but they do not maintain that the Senate majority party has strong tools of agenda control or can shift policy outcomes toward the party’s preferred position. Gridlock is a typical outcome precisely because the majority party lacks real power to control the agenda. This traditional understanding has come under challenge by a new group of scholars who argue that the Senate majority party has a greater ability to control outcomes than previously understood. The opening salvo in the revisionist account of the Senate came in a volume of collected essays entitled *Why Not Parties?* (Monroe and Roberts 2008). Nathan Monroe, Jason Roberts, and David Rohde argue in the introductory chapter of the book that party effects should be visible in the Senate even if they are not as pronounced as those in the House of Representatives. The book’s essays provide evidence for a variety of party effects, ranging from a majority party advantage in the distribution of pork barrel spending to evidence of negative and positive agenda control in the chamber. Subsequent work has developed this line of reasoning and identified disagreements over whether parties meet electoral or policy goals by influencing the legislative process.

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Frances Lee identifies a role for parties structuring conflict and meeting electoral goals in her book *Beyond Ideology* (2009). She finds that the efforts of parties to enhance their own party reputation and damage their opponent's are a major source of conflict on the Senate floor. Majority party members routinely support their leadership on procedural votes aimed at securing control over the agenda, while minority members seek to embarrass and disrupt the majority by forcing it to vote on politically damaging issues. These efforts do not lead to systematic policy "wins" for each side. Indeed, in Lee's account, much of this conflict lacks a clear ideological basis.

Other scholars find that the Senate majority party can exercise a substantial degree of agenda control. Sean Gailmard and Jeffrey Jenkins (2007, 698) describe a "coalescing theoretical agreement" in favor of negative agenda control in the Senate and present indirect evidence of it by demonstrating that the Senate majority party is rolled by the minority no more often than the House majority party. Chris Den Hartog and Nathan Monroe analyze the consideration of amendments and legislation that pass the Senate and conclude that successful legislation typically moves policy in the ideological direction of the majority party. "When it comes to pushing its proposals through various stages of the legislative process, the majority is never worse off than its opponents, and is often better off" (Den Hartog and Monroe 2011, 185). Together, these arguments challenge the heart of the traditional account of the Senate. A Senate majority party that can keep unwanted items off the agenda and push its own proposals through to passage can wield a substantial degree of influence and is more similar to the House majority party than has been commonly understood.

I evaluate both the traditional and revisionist assessments of the majority party in the Senate and conclude that neither accurately characterizes its influence. The evidence from the appropriations process shows that the majority party has more of an ability to influence legislative outcomes than traditionalists have found. The party can package bills together in a way that makes passage of the budget more likely and reduces the opportunity to offer amendments – clearly important forms of positive and negative agenda control. But the benefits it receives from its influence are constrained. There is little evidence that the majority party can systematically win the adoption of its preferred policies in the manner suggested by Den Hartog and Monroe. Over the last thirty-eight years, omnibus bills have been much more likely to win bipartisan support than to provoke partisan divisions. The majority party's ability to keep