

Minority Party Power in the Senate and House of Representatives

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Abstract

Studies of party power in the U.S. Congress have become ubiquitous in recent years, with a vast majority of such studies focusing exclusively on majority party power. On those occasions when *minority* party power has been considered, coverage has typically been limited to the House of Representatives. In this chapter, we focus on a key facet of minority party power – specifically, the minority’s ability to exert *negative agenda control*, or block legislation that a majority of its members opposes – and examine such power, first, in the Senate and, second, across the Senate and House. Consistent with conventional wisdom, we find some evidence that the Senate minority party possesses greater negative agenda control than the House minority party, especially on legislative vehicles where such control theoretically should be in evidence. However, contrary to conventional wisdom, the clearest formal source of the Senate minority’s negative agenda control – the filibuster – appears *not* to be a significant instrument of power across a range of legislative vehicles.

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Over the past decade and a half, the study of party power has dominated the scholarly literature on the U.S. Congress. After a long period in which party decline, partisan demobilization, and strategic individualism defined the research agenda in American politics, and especially Congress, scholars began to revive the notion that political parties were important analytical units in structuring congressional behavior and legislative organization more generally. A set of “strong party theories” emerged, notably the conditional party government theory (Rohde 1991; Aldrich 1995) and the party cartel theory (Cox and McCubbins 1993, 2005), to challenge the conventional view of weak parties of the previous decades. Critiques of these new party theories soon followed, led by Krehbiel (1993, 1998), and the subsequent period has been spent refining party and non-party theories and developing appropriate methodologies to identify and test for party effects.

While the strides made by congressional scholars in pursuit of a general understanding of party power have indeed been significant, we have still only begun to scratch the surface. Two clear limitations exist in the literature, as studies of party power in Congress have focused almost exclusively on (a) the House of Representatives and (b) within that domain, the *majority* party. This has reinforced scholars’ implicit assumption that party power – to the degree that it exists – resides within the majority, due to its ability to control the legislative agenda (in either a positive or negative way). And the mechanisms for such agenda control are considered to be stronger in the House, wherein a formal set of institutional arrangements – such as the speakership and the Rules Committee – have long been established. Thus, our knowledge of *minority* party power is quite limited, and those few studies that have examined it specifically have done so

solely within the confines of the House (see, e.g., Aldrich and Rohde 2000; Krehbiel and Meirowitz 2003; Evans and Renjalian 2004; Jenkins, Crespin, and Carson 2005).

When considering minority party power across the Senate and House, the conventional wisdom has been that the minority is considerably stronger in the Senate. This follows from the same premise that implies majority party weakness in the Senate: formal authority to initiate as well as block legislative proposals is much more decentralized in the Senate than in the House. Thus, the institutional deck is stacked against majority party agenda control and in favor of obstruction by minority coalitions, including the minority party. For example, any minority coalition, should it include at least 41 members in the post-1975 period, can filibuster the majority's attempts to alter status quos.¹ Moreover, should the majority's legislative proposal make it to the Senate floor, the minority can introduce any number of non-germane amendments to raise issues that it wants considered, with the intent of either killing the majority's bill or altering the bill's content (which could potentially roll the majority or produce legislation that is consensual). Informal procedures also exist in the Senate, such as the "hold," which allows a single member to object to the content of a legislative proposal (Evans and Lipinski 2005). As a result of these various formal and informal institutional arrangements, scholars typically view the Senate as an arena in which leaders of the majority and minority parties negotiate a legislative agenda in advance, which results in a considerable amount of business being transacted via unanimous consent agreements (Sinclair 2000; Oleszek 2004; Smith 2005; Smith, Roberts, and Vander Wielen 2006).

¹ Since 1975, the majority needs at least 60 votes to invoke cloture (i.e., to break a filibuster, or cut off debate). Between 1917 and 1975, the majority needed at least 2/3 of the members present and voting to invoke cloture.

In this chapter we explore this conventional wisdom. If the Senate's institutional arrangements do confer more power on the minority party as compared to the House's institutional arrangements, then standard measures of party power should reflect that reality. Recently, we investigated the parallel conventional wisdom for the majority party and uncovered little empirical support for it, finding no significant difference in a type of agenda power exhibited by the Senate majority relative to the House majority (see Gailmard and Jenkins 2007). Thus, conventional wisdom as it relates to party power across the legislative chambers cannot be taken for granted, especially for the minority party as it has been largely ignored in the scholarly literature. We also go a step further and examine several determinants of party power in the Senate and compare them to those in the House.

Our first broader goal in this chapter is to continue making strides toward a deeper theoretical understanding of the institutional foundations of party power in Congress. Such an understanding, we believe, requires moving beyond insular, chamber-specific analyses to search for patterns of party power that transcend the individual institutional features of the Senate or House. Our prior paper suggests that the dominant explanation for the perceived wisdom that the House majority is more powerful than the Senate majority – specifically, that the institutional features of the House confer more agenda-setting power on the majority – is at best only part of the story. That is, the similarity in success achieved by the House and Senate majorities in restricting agenda access suggests that some additional feature, perhaps common to both chambers, is necessary to include in any explanation of party power. Here, we examine whether the conventional wisdom associated with minority party power across the Senate and House also gives

way, thereby providing additional evidence that the traditional chamber-specific explanations and theories must be augmented in some capacity.

A second broader goal in this chapter is to spur methodological advances in the study of Congress by further emphasizing the Senate and House as comparisons and benchmarks for each other. Notably, Koger and Oppenheimer and Hetherington adopt a similar comparative strategy in their contributions to this volume. Koger uses it to parse out relevant differences between House and Senate, amidst a sea of similarities, that are candidates in principle to explain salient differences in their majority party organization and structures. Oppenheimer and Hetherington point to differences in the coalition building process across chambers in their analysis of why the Senate majority party has been less able than the House to govern from the party rather than chamber center. This type of comparison has been underemphasized in a literature that has tended to focus on each chamber in isolation, and disproportionately the House. In aggregate, a significant portion of this volume as well as our prior research (Gailmard and Jenkins 2007) suggests that scholars of Congress have much to learn from such comparisons. The chambers have adopted or evolved structures for handling internal chamber business that in some cases are very similar (e.g., standing committees), but in others are strikingly different in form if not always effect (e.g., agenda restrictions available to party leaders). The extent and effects of these differences has a great deal to say about the role of these institutions in Congressional representation and the policy process.

The chapter proceeds as follows. In the next section, we discuss the data and measures that we rely on to explore minority party power in the Senate, and provide preliminary evidence of such power across three different legislative vehicles: Senate-

originated bills, confirmation votes, and conference committee reports. In doing so, we also make explicit comparisons between minority party power in the Senate and House. Following this, we examine the determinants of minority party power in the Senate for the three legislative vehicles in question, and then compare these determinants to those associated with minority party power in the House on similar legislative vehicles.

I. Minority Party Power: Concept, Measurement, and Preliminary Evidence

In examining minority party power, we focus our attention on *negative agenda control*, or the minority's ability to keep bills opposed by a majority of its members from receiving floor consideration. This is a key feature of party power in the cartel theory espoused by Cox and McCubbins (2002, 2005; see also Campbell, Cox, and McCubbins 2002).² As mentioned, the conventional wisdom is that the Senate minority party wields substantial negative agenda control, considerably more than the House minority party, thanks to the minority-friendly institutional structure in the Senate. The filibuster allows a large enough minority to obstruct on both substantive and procedural matters, thereby thwarting the majority. In addition, the minority possesses the ability to offer non-germane amendments (or riders) to bills that do gain floor consideration, which, if successful, can stymie the majority's intent and cause said bills to fail. Thus, the filibuster and non-germane amendments provide the minority with significant blocking power. As Smith (2005, p. 256) states: "The absence of general limits on debate and amendments [in the Senate] limits the value of majority status and having a strong majority leader." The House minority party is not provided with these institutional

² *Positive agenda power*, or a party's ability to ensure floor consideration for bills supported by a majority of its members, is more in line with the conditional party government theory espoused by Rohde (1991) and Aldrich (1995), among others.

allowances – no filibuster exists and non-germane amendments are prohibited – which, according to the conventional wisdom, severely limits its negative agenda power.

To explore negative agenda power, we adopt party “roll rates” as our measure (Cox and McCubbins 2002, 2005). When a party majority opposes a bill on the floor, but it nonetheless passes, the party is said to have been “rolled.” A party roll rate in a Congress is then just the ratio of party rolls to final-passage votes. Roll rates can thus be thought of as an empirical marker of negative agenda control, in that rolls are observed failures of the party to successfully stop measures that its membership opposes. If a party is able to block potential agenda items at the pre-floor stage – or, alternatively, to prevent pre-floor decisions from being compromised via some floor-based mechanism – then rolls should be less frequent than if a party does not possess these abilities. Greater negative agenda power is thus associated with (and is indicated by) lower party roll rates.³

The empirical expectations, then, are straightforward. Given that the Senate minority party possesses meaningful blocking instruments, such as the filibuster, the hold, and the ability to offer non-germane amendments, while the House minority party does not, Senate minority party roll rates should be lower than House minority party roll rates, all else equal.

To evaluate these expectations, we collect minority party roll rate data on all final-passage votes that elicited a roll call in the Senate and House from the 45th through

³ For a critique of roll rates as a measure of majority party agenda power, see Krehbiel (2007). We acknowledge that roll rates may not be an ideally perfect measure, but for our purposes of comparing the chambers, it is not necessary for roll rates to be isomorphic to negative agenda control. Problems with the measure in general should affect its application to either chamber, so that comparing across chambers is still valid. It is crucial that roll rates be defined consistently across legislative vehicles and chambers and at least correlated with negative agenda control. These conditions are plausible even though, as Krehbiel points out, roll rates may be “small” even if parties have no power.

106th Congresses (1877-2000).⁴ This interval is suitable because it begins shortly before the rise of floor leadership in each chamber (Campbell, Cox, and McCubbins 2002; Cox and McCubbins 2005) and covers the post-Reconstruction era in congressional history, wherein the same two-party system has operated and politics have been regular (or reasonably so) across the entire time period. We examine roll rates on three different legislative vehicles: chamber-originated bills (S bills in the Senate, HR bills in the House), conference committee reports, and confirmations of executive nominees. These three categories provide important variation with regard to negative agenda power, which we discuss at length in the next section.

Senate minority party roll rates, along with House minority party roll rates on similar legislative vehicles (where applicable), are presented in Table 1.⁵ The “per-Congress average” treats every Congress as an equally weighted observation regardless of the number of final-passage votes that took place in it. The “series average” is the ratio of rolls to final-passage votes on each vehicle, aggregating over the entire time span for both the numerator and denominator without regard to the Congress in which the vote occurred.

[Table 1 about here]

Looking first at the numbers in the top half of the table, we find that the minority is rolled relatively frequently across chambers and across legislative instruments as compared to the majority party, which is almost exclusively in the single digits (see

⁴ Final-passage votes can change policy, and thus directly affect a member’s utility, position taking, and reelection chances. Thus, following Cox and McCubbins, we use these votes to define roll rates. Final-passage votes that require a supermajority for passage are excluded from the analysis.

⁵ There is no counterpart to Senate confirmation votes in the House.

Gailmard and Jenkins 2007).⁶ At the same time, there is substantial minority-party variation, from a series-average low of 19.6% on S bills in the Senate to a per-Congress average high of 36.2% on conference reports in the House. The observed Senate minority party roll rates are lower than the observed House minority party roll rates on all comparable legislative instruments (chamber-originated bills and conference reports), regardless of whether per-Congress averages or series averages are used.

In the bottom half of the table, we compare House and Senate minority party roll rates on comparable legislative instruments in a more systematic way. We examine differences in unconditional roll rates, to determine if they are significantly different from zero.⁷ We find that the Senate-House differences on chamber-originated bills are indeed significant, regardless of whether we focus on per-Congress ($p = 0.048$) or series averages ($p = 0.0001$). Thus, the Senate minority party is rolled significantly less often than the House minority party, a result that is consistent with the aforementioned notion that the Senate minority party possesses a greater array of institutional weapons to ward off the majority party's advances. A different story emerges for votes on conference reports, however, as Senate-House differences prove *not* to be significant in both per-Congress ($p = 0.768$) and series average ($p = 0.292$) comparisons. On conference reports, then, the Senate and House minority parties are rolled at statistically-indistinguishable rates, a finding that is at odds with the conventional wisdom regarding the Senate minority party's greater institutional advantages.

II. Minority Negative Agenda Control in the Senate

⁶ The one exception is the per-Congress majority party roll rate of 10.2% on confirmation votes.

⁷ Difference-in-means tests are used for per-Congress average comparisons, while difference-in-proportions tests are used for series average comparisons.

The previous section compares minority roll rates across legislative vehicles and chambers unconditionally, without regard for the political circumstances in which they were generated. However, these unconditional levels of minority roll rates can be broken down into two parts: (i) the political context and conditions in the chamber that the party leadership faces in attempting to exercise control, and (ii) the party's ability to translate any particular set of conditions into a favorable outcome – in the case of roll rates, stopping the consideration of measures that its members generally oppose but can win in a floor vote. While the average figures in Table 1 blend these two components, the extent of party power has more to do with (ii) than with (i). The issue is not so much what conditions the party leadership inherits, but rather what it does to secure the party's desired outcome in the face of those conditions. Put differently, the party leadership can be viewed abstractly as a function. It maps conditions it faces into observed levels of party roll rates or other measures of party achievement. What is of interest in assessing party power is the function, not the domain values it acts upon.

In concrete terms, to assess the degree to which the Senate minority party exhibits meaningful negative agenda control, exogenous factors that may affect the legislative environment also need to be considered. Such factors would include whether (a) the Senate and House or (b) Senate and President are controlled by similar or different parties. If these outside actors – the House majority or the President – can influence the Senate's agenda, and the choice of bills that are considered on the floor, then this will affect the Senate's raw roll rate averages. For example, if the minority party in the Senate is the *majority* party in the House – that is, if there is divided congressional government – this may limit the number of Senate bills proposed by the Senate majority

that will roll the minority. Such bills will likely not pass muster in the House, given the difference in partisan control. Thus, under divided congressional government, more consensual legislation – bills that will be favored by both the majority and the minority – may be chosen. This will likely have the greatest effect on conference reports, legislation that is constructed largely by majority party conferees from *each* chamber. Likewise, if the Senate majority and the President are divided, which would mean that the Senate minority and President are of the *same* party, this may lead to the Senate minority being rolled at a lower rate. The threat of a Presidential veto may limit the ability of the Senate majority to select legislation that would roll the minority. In addition, under divided Senate-Presidential control, executive nominations would likely be very amenable to the preferences of the minority. In short, to determine the degree to which the Senate minority party can influence its roll rate, salient factors both inside and outside the chamber that also potentially affect its roll rate must be taken into account.

To this end, we analyze variation in Senate minority party roll rates, and their conditional expectations given covariates, on Senate-originated bills (S bills), conference committee reports, and confirmations of executive nominees. This allows us to explore outside-actor effects on the Senate minority party's negative agenda control across different legislative vehicles. The unit of analysis in these models is a single Congress, and the data incorporate all Congresses between the 45th and 106th (1877-2000). We estimate the conditional mean of the Senate minority party roll rate for each legislative vehicle as a function of Senate majority party disagreement with the House and President. These disagreements are captured by dummy variables: one if divided-party control of each set of institutions, zero if unified-party control. We also include a continuous

variable to account for the size of the minority party “roll zone,” which is measured as the absolute difference between the first dimension DW-NOMINATE scores of the median member of the minority party and the overall Senate median (see Cox and McCubbins 2002, 2005).⁸ A larger roll zone should be associated with a higher roll rate. In addition, we examine one aspect of the aforementioned conventional wisdom directly, by incorporating a dummy variable to indicate when the minority party controlled a filibuster pivot.⁹ Such control should reduce the minority party’s roll rate, as the filibuster should block out a portion of the minority’s roll zone. Finally, to avoid spurious associations due to trends, we also included a linear time trend.¹⁰

The results are based on ordinary least squares estimation; to avoid inference problems due to heteroskedasticity or serial correlation,¹¹ we used Newey-West (heteroskedasticity-autocorrelation consistent) standard errors. The OLS parameter estimates are presented in Table 2 with Newey-West standard errors in parentheses.

[Table 2 about here]

Looking first at S bills (column 1 of table 2), divided government, whether in terms of House-Senate differences or Senate-President differences, does not reduce minority party roll rates. Substantively this suggests that external actors do not significantly influence whether the minority party opposes Senate-originated legislation

⁸ For a description and discussion of NOMINATE scores, see Poole and Rosenthal (1997, 2007).

⁹ We assume that the minority party controlled a filibuster pivot if (a) since 1975, it maintained at least 41 members in the chamber; (b) between 1917 and 1975, it maintained at least $1/3 + 1$ members in the chamber; and (c) before 1917, it maintained at least one member in the chamber. Thus, before 1917, we assume the minority always controlled a filibuster pivot, since there was no formal cloture rule in place.

¹⁰ Based on Dickey-Fuller tests, the time series of the dependent variable is difference stationary, but not trend stationary. Therefore, we include a time trend in the regressions and do not pursue first differencing or transformations appropriate for an integrated series.

¹¹ We allowed for second order autocorrelation in the error term, e.g., in case of an election year effect. But first vs. second order did not greatly affect the results.

that passes in the chamber. In addition, since the coefficient on minority control of the filibuster pivot is not significantly different from zero, there is little evidence of Senate minority negative agenda control. In contrast, the “roll zone” variable, the distance between the floor and minority-party medians, is positive and significant as expected.

The results for the confirmation vote and conference report regressions indicate more interesting influences from outside the Senate. In the confirmation vote model, the divided Senate-President variable is negative and significant, as expected, indicating that minority party roll rates decline when the President and the minority are of the same party. In the conference report model, the divided House-Senate variable is negative and significant, as expected, indicating that minority party roll rates decline when conference reports are generated by a cross-chamber committee that is divided by party. In both models, the roll zone variable is positive and significant, similar to the S bill model. Finally, just as in the S bill model, the coefficient on minority control of the filibuster pivot in both models is not significantly different from zero. Thus, these regressions provide little evidence to suggest that the Senate minority party successfully deploys the filibuster to reduce its roll rate. However, the trend variable in the conference report model is negative and significant, indicating that the minority is more successful over time at blocking unfavorable legislation. This constitutes some indirect evidence for minority party negative agenda control on one legislative vehicle. (More will be said about indirect evidence in the next section.)

It is instructive to compare the parameter estimates for each variable across models. Such a comparison addresses, for example, where external actors have their greatest influence on the minority party’s ability to keep unwanted proposals off the

agenda, and whether internal chamber conflict has a greater effect on minority agenda control for some legislative vehicles than others. As we pointed out in our work on majority party negative agenda control (Gailmard and Jenkins 2007), an adequate comparison across models requires a hypothesis test because the coefficients are realizations of random variables. Wald (χ^2) tests provide one way to make the desired comparisons. For these tests, which essentially compare entries across rows of table 2, the null hypothesis is that the coefficient on a given variable is identical across models, and the alternative hypothesis is two sided. The test informs a judgment of whether the effect of a given variable is systematically greater on one legislative vehicle than another.¹²

In Table 2A, we compare coefficients across the three models in this way. The chief result is that divided partisan control affects the legislative instrument over which it has the most natural substantive relationship. The divided Senate-President coefficient on confirmation votes is significantly different from the divided Senate-President coefficients in the other two models. The divided House-Senate coefficient in the conference report regression is significantly different from the House-Senate coefficients in the S bill regression. Also interesting is that the relationship between the size of the minority party roll zone and the minority roll rate does not differ across the three legislative vehicles. Finally, the time trend in the conference report regression is significantly different from the time trend in the other regressions; thus, the minority party is more successful at lowering its roll rate across time on conference reports but not on confirmation votes or S bills.

[Table 2A about here]

¹² Gelman and Stern (2006) make a similar point more generally, and explore problems of comparing significance levels.

These findings, by themselves, offer little to suggest that the Senate minority party wields significant negative agenda control. There is no direct evidence, based on minority control of the filibuster pivot, and there is only mild indirect evidence, based on the time trend variable and the significant, negative effect it exhibits in the conference report regression. This is actually somewhat at odds with conventional wisdom about the Senate, which holds that minority coalitions in general, and the minority party in particular, have potent weapons to block chamber business. But negative agenda control may be difficult to assess in one chamber in isolation because there is no natural benchmark of what counts as a “large” or “small” degree of it. To determine whether the Senate minority party exercises significant negative agenda control, a benchmark that exhibits weak channels of party strength and negative agenda control is useful. A natural candidate for such a benchmark, based on conventional wisdom, is the House minority party. Thus, we set out to determine how strong the Senate minority party’s negative agenda control is in a relative sense through a set of cross-chamber roll rate regressions and parameter-estimate comparisons.

III. Minority Negative Agenda Power in the Senate and House

A slight reinterpretation of conventional wisdom about the Senate minority party is that, whatever its absolute level of negative agenda power, it possesses substantially more of it than its counterpart in the House. This is because the Senate is a consensual body with significant blocking power held by minority coalitions in general, and the minority party in particular, while the House is a rigidly majoritarian body.

We apply the same distinction from the previous section – between a function itself and the underlying domain values on which it operates – to assess this conventional wisdom. We compare regression models for the Senate and the House that specify minority roll rates on two legislative vehicles, chamber-originated bills and conference reports, as a function of conditions in the chamber and other institutions in the lawmaking process. The results are presented in Table 3. The columns for S bills, HR bills, Senate conference reports, and House conference reports all present a model for minority roll rates on that legislative vehicle in that chamber. The Senate models are recapitulations of the results from Table 2. The House models are new estimates for Table 3.

[Table 3 about here]

The results across the two legislative vehicles are mixed. On chamber originated bills, the House minority roll rate is significantly more sensitive to the distance between the minority party median and chamber median than the Senate minority roll rate. On the other hand, the intercept term in the House model is significantly *lower* than in the Senate model: for any given set of conditions, the House minority has a baseline ability to protect the chamber agenda that the Senate minority does not have. The passage of time has seen significant erosion of the House minority's negative agenda control but not the Senate minority's. On conference reports, *none* of the covariates specifying political conditions has a significantly different effect in the House than the Senate.

These comparisons allow us to further probe the degree of Senate minority party power. While our most explicit measure of formal negative power for the Senate minority – a filibuster pivot that is a member of the minority party – indicates no evidence of such

power, other measures may suggest indirect evidence. For example, in the chamber-originated bill models, the difference in the trend variable across the chambers suggests that the House minority finds its roll rate increasing over time while the Senate minority is able to maintain its status quo roll rate. In addition, the effect of the size of the minority roll zone (as captured by the distance between the minority party median and chamber median) and the minority roll rate is significantly larger in the House than in the Senate. These two differences may indicate that the Senate minority party uses its non-filibuster institutional advantages to (partially) ward off the advances of the majority. For example, by exploiting the Senate's relatively open amendment process, the minority party may be able to offer amendments, germane or non-germane, that make a bill it opposes more to its liking. This is not authority to unconditionally block agenda access for undesired initiatives, but rather authority to make proposals on the agenda more desirable on the margins to the minority party. The overall effect is nevertheless that the minority party does not have to take undesirable agenda items as given. Because the House minority possesses no such advantages, it cannot withstand majority incursions onto the agenda, which leads to an increasing roll rate over time (a positive and significant trend variable, which is significantly different from the negative trend for the Senate minority) and a higher roll rate for every marginal increase in the size of the roll zone (79.88 versus 41.45 for the Senate minority).

A different picture emerges in the conference report models, however, as the cross-chamber differences in all coefficients are statistically insignificant. At first blush, these non-differences seem to reflect that the Senate minority party is no more advantaged than the House minority party when considering conference reports. As

discussed previously, outside of the filibuster, the Senate minority's chief procedural weapon is its ability to offer non-germane amendments, which can change the substance of legislation and potentially sidetrack the majority's legislative intent. But as Oleszek (2004, p. 280) notes: "Both chambers require conference reports to be accepted or rejected in their entirety; they are not open to amendment." Thus, the non-germane amendment weapon is removed from the Senate minority's arsenal during consideration of conference reports. The ability for the Senate minority (or a single member of the Senate minority) to sidetrack unanimous consent, via a "hold," for example, also has little bite on conference reports. This is because conference reports are privileged; in response to an objection to unanimous consent, "the majority leader can offer a nondebatable motion to take up the conference report" (Oleszek 2004, p. 280). Thus, other than the filibuster – which does not appear to be a significant weapon for the Senator minority on conference reports, or any other legislative vehicle for that matter – the Senate and House minorities are quite similar in their ability to wield negative agenda control on conference report votes.

The difficulty that our results present for this explanation is that the Senate minority roll rate is no more responsive to the size of the chamber roll zone on conference reports than on S bills (cf. table 2A). We do not find that Senate minority power erodes on conference reports relative to S bills, despite the foreclosure of some agenda control tactics on conference reports as described above. Rather, we find that the House minority is *less* responsive to its own internal roll zone on conference reports than on HR bills. As its procedural tools of negative agenda control are no weaker on conference reports than HR bills (and are weak in both cases), the nature of this change in

the fate of the House minority is not particularly well aligned with conventional wisdom. In other words, while conventional wisdom might predict our finding that the House and Senate minorities are more similar on conference reports than on chamber bills, the prediction is at best right for the wrong reasons. The specific reason for the increased similarity across chambers on conference reports is not anticipated by the conventional wisdom.

Overall, then, the results in Table 3 offer some evidence consistent with the conventional wisdom about House and Senate minority party agenda control, but other evidence – in particular, the reason for the increased similarity across chambers for conference reports – that is not consistent with it. To put these findings in context, compare them to the results on majority negative agenda control across the Senate and House in Gailmard and Jenkins (2007). There we found only *one* significant difference in parameter estimates (including intercept terms and time trends) across chambers: on divided congressional government on chamber-specific legislation. While the majority party results reveal a striking similarity across chambers, given the mismatch of institutional tools of agenda control that the chamber majorities each possess, the minority party results reveal a similarity that is present but less pronounced.

IV. Discussion and Conclusions

Our goal in the chapter has been to investigate minority party power in the Senate and House, specifically negative agenda control as measured by roll rates. The minority party has often been ignored in studies of party power in Congress, and when it has been considered, it is typically within a study of the House exclusively. Therefore focusing on

the minority party can help achieve the broader goal of understanding the institutional foundations of party power in Congress.

Our results show that the Senate minority party does not enjoy a lower roll rate, on average, when the filibuster pivot (on the minority side of the median) is a member of the minority party. This is somewhat at odds with conventional wisdom on the Senate minority and its procedural tools, because the filibuster is perhaps the most conspicuous procedural instrument for negative agenda control in the Senate. On the other hand, the Senate minority party's roll rate on chamber-originated bills is less sensitive to conflict with the chamber median than the House minority's roll rate on HR bills. This is more consistent with the conventional wisdom that Senate minority coalitions, including the minority party, have greater institutional advantages in preventing undesired agenda items from successful consideration in the chamber. Our results provide only circumstantial evidence that one such advantage is the more open amendment process in the Senate, and further research is necessary to establish the effect of this factor directly.

Between the results in this chapter and our earlier work on majority negative agenda control in the Senate and House (Gailmard and Jenkins 2007), a set of empirical conclusions begins to emerge. Here, we find mixed evidence that the Senate minority possess greater ability to restrict its chamber's agenda than does the House minority. In our previous work, we found consistent evidence that the Senate and House majorities have about the same ability to resist agenda incursions from outside political actors. Together, these findings are consistent with the contention that blocking power and negative agenda control in the Senate are broadly distributed. On the other hand, negative agenda control in the House is concentrated in the hands of any coalition larger

than a majority that is willing, for whatever reason, to vote together. A coalition of any size has an easier time “gumming up the works” in the Senate than in the House; this translates into greater minority blocking power in the Senate than the House (cf. Oppenheimer and Hetherington, this volume for a demonstration of the effects of this power on coalition formation and hence the content of legislation), and majority blocking power in the Senate that matches that in the House without the strictly majoritarian procedural tools to sustain it.

References

- Aldrich, John. 1995. *Why Parties? The Origin and Transformation of Political Parties in America*. Chicago: University of Chicago Press.
- Aldrich, John H., and David W. Rohde. 2000. "The Consequences of Party Organization in the House: The Role of the Majority and Minority Parties in Conditional Party Government." In Jon R. Bond and Richard Fleisher, eds. *Polarized Politics: Congress and the Presidential in a Partisan Era*. Washington: CQ Press.
- Campbell, Andrea C., Gary W. Cox, and Mathew D. McCubbins. 2002. "Agenda Power in the U.S. Senate, 1877-1986." In David W. Brady and Mathew D. McCubbins, Eds., *Party, Process, and Political Change in Congress: New Perspectives on the History of Congress*. Stanford: Stanford University Press.
- Cox, Gary W., and Mathew D. McCubbins. 1993. *Legislative Leviathan: Party Government in the House*. Berkeley: University of California Press.
- Cox, Gary W., and Mathew D. McCubbins. 2002. "Agenda Power in the U.S. House of Representatives, 1877-1986." In David W. Brady and Mathew D. McCubbins, eds. *Party, Process, and Political Change in Congress: New Perspectives on the History of Congress*. Stanford: Stanford University Press.
- Cox, Gary W., and Mathew D. McCubbins. 2005. *Setting the Agenda: Responsible Party Government in the U.S. House of Representatives*. Cambridge: Cambridge University Press.
- Evans, C. Lawrence, and Christopher B. Renjilian. 2004. "Cracking the Whip in the U.S. House: Majority Dominance or Party Balancing?" Paper presented at the Annual Meeting of the American Political Science Association, Chicago, IL.
- Evans, C. Lawrence, and Daniel Lipinski. 2005. "Obstruction and Leadership in the U.S. Senate." In Lawrence C. Dodd and Bruce I. Oppenheimer, eds. *Congress Reconsidered*, Eighth Edition. Washington: CQ Press.
- Gailmard, Sean, and Jeffery A. Jenkins. 2007. "Negative Agenda Control in the Senate and House: Fingerprints of Majority Party Power." *Journal of Politics* 69: 689-700.
- Gelman, Andrew, and Hal Stern. 2006. "The Difference Between 'Significant' and 'Not Significant' is not Itself Statistically Significant." *The American Statistician* 60: 328-31.
- Jenkins, Jeffery A., Michael H. Crespin, and Jamie L. Carson. 2005. "Parties as Procedural Coalitions in Congress: An Examination of Differing Career Tracks." *Legislative Studies Quarterly* 30: 365-89.

- Koger, Gregory. Parties in the House and Senate: A Comparison. 2007. THIS VOLUME.
- Krehbiel, Keith. 1993. "Where's the Party?" *British Journal of Political Science* 23: 235-66.
- Krehbiel, Keith. 1998. *Pivotal Politics: A Theory of U.S. Lawmaking*. Chicago: University of Chicago Press.
- Krehbiel, Keith. 2007. "Partisan Roll Rates in a Nonpartisan Legislature." *Journal of Law, Economics, and Organization* 23: 1-23.
- Krehbiel, Keith, and Adam Meirowitz. 2002. "Minority Rights and Majority Power: Theoretical Consequences of the Motion to Recommit." *Legislative Studies Quarterly* 27: 191-218.
- Oleszek, Walter J. 2004. *Congressional Procedures and the Policy Process*, Sixth Edition. Washington: CQ Press.
- Oppenheimer, Bruce and Marc Hetherington. 2007. Catch 22: Cloture, Energy Policy, and the Limits of Conditional Party Government. THIS VOLUME.
- Poole, Keith T., and Howard Rosenthal. 1997. *Congress: A Political-Economic History of Roll Call Voting*. New York: Oxford University Press.
- Poole, Keith T., and Howard Rosenthal 2007. *Ideology and Congress*. New Brunswick, NJ: Transaction Publishers.
- Rohde, David W. 1991. *Parties and Leaders in the Postreform House*. Chicago: University of Chicago Press.
- Sinclair, Barbara. 2000. *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress*, Second Edition. Washington: CQ Press.
- Smith, Steven S. 2005. "Parties and Leadership in the Senate." In Paul J. Quirk and Sarah A. Binder, Eds., *The Legislative Branch*. New York: Oxford University Press.
- Smith, Steven S., Jason M. Roberts, and Ryan J. Vander Wielen. 2006. *The American Congress*, Fourth Edition. New York: Cambridge University Press.

Table 1. Minority Party Roll Rates, 45th through 106th Congresses (1877-2000)Unconditional Means, Senate and House

Roll Rate (%)	Senate			House	
	S Bills	Conference Reports	Confirmation Votes	HR Bills	Conference Reports
Per-Congress Average	24.4	34.7	21.6	34.4	36.2
Series Average	19.6	26.7	25.9	28.1	28.9
No. of Congresses	62	61	52	62	62
No. of Final-Passage Votes	1209	774	707	3804	1417

Comparison of Comparable Legislative Instruments across Chambers

Roll Rate (%)	Chamber-originated Bills			Conference Reports		
	Senate	House	<i>t</i> -/ <i>z</i> -test (<i>p</i> -value)	Senate	House	<i>t</i> -/ <i>z</i> -test (<i>p</i> -value)
Per-Congress Average	24.4	34.4	-2.87 (0.048)	34.7	36.2	-0.30 (0.768)
Series Average	19.6	28.1	5.85 (0.0001)	26.7	28.9	1.06 (0.292)
No. of Congresses	62	62		61	62	
No. of Final-Passage Votes	1209	3804		774	1417	

Note: Two-tailed *t*-tests for per-Congress average comparisons; two-tailed *z*-tests for series average comparisons.

Table 2. Regression Results, Minority Party Roll Rates in the Senate, by Legislative Vehicle, 45th through 106th Congresses (1877-2000)

Explanatory Variable	S bills	Confirmation votes	Conference reports
Minority party median – Floor median abs. distance	41.45** (15.73)	47.30*** (15.65)	44.06* (26.34)
Senate – House divided government	-5.51 (4.99)	-11.67** (5.46)	-21.09** (10.33)
Senate – President divided government	-2.84 (4.82)	-35.89*** (3.81)	5.23 (7.44)
Minority control of a filibuster pivot	-7.94 (11.66)	4.29 (5.95)	-13.33 (11.49)
Time Trend	-0.15 (0.16)	-0.13 (0.13)	-0.55** (0.22)
Constant	18.57 (16.27)	19.40 (11.91)	45.04** (20.56)
<i>F</i> statistic (No. obs.)	4.08*** (62)	33.28*** (52)	6.69*** (61)

Note: Each column is a separate model of the Senate majority party roll rate. Entries are OLS estimates with Newey-West standard errors in parentheses.

* denotes significance at $\alpha = 0.10$ or less; ** denotes 0.05 or less; *** denotes 0.01 or less

Table 2A. Tests for Differences in Effects across Senate Models

Explanatory Variable	S bills – Conference Reports	S bills – Confirmation votes	Conf. votes – Conference reports
Minority party median – Floor median abs. distance	0.01 (0.90)	0.07 (0.80)	0.01 (0.91)
Senate – House divided government	3.03* (0.08)	0.85 (0.36)	0.63 (0.43)
Senate – President divided government	1.50 (0.22)	26.29*** (0.001)	19.86*** (0.001)
Minority control of a filibuster pivot	1.29 (0.26)	1.07 (0.30)	2.39 (0.12)
Time Trend	5.99** (0.01)	0.01 (0.90)	3.24* (0.07)
Constant	4.25** (0.04)	0.001 (0.97)	1.45 (0.23)

Note: Entries are Wald (χ^2) test statistics for difference in parameter estimates across regression models from Table 2, with p -values in parentheses.

* denotes significance at $\alpha = 0.10$ or less; ** denotes 0.05 or less; *** denotes 0.01 or less

Table 3. Regression Results, Minority Party Roll Rates in the Senate and House, by Legislative Vehicle, 45th through 106th Congresses (1877-2000)

Explanatory Variable	S bills	HR bills	Wald test stat. (p-val.)	Senate conference reports	House conference reports	Wald test stat. (p-val.)
Minority party – chamber median distance	41.45** (15.73)	79.88*** (11.72)	3.25* (0.07)	44.06* (26.34)	52.03*** (14.77)	0.08 (0.78)
Senate – House divided govt.	-5.51 (4.99)	-1.98 (6.50)	0.20 (0.65)	-21.09** (10.33)	-5.61 (9.76)	1.01 (0.32)
Chamber – President divided govt.	-2.84 (4.82)	-5.31 (3.25)	0.25 (0.62)	5.23 (7.44)	-4.21 (7.35)	1.34 (0.25)
Minority control of filibuster pivot	-7.94 (11.66)	--	--	-13.33 (11.49)	--	--
Time Trend	-0.15 (0.16)	0.23** (0.11)	6.07** (0.01)	-0.55** (0.22)	-0.12 (0.21)	2.46 (0.12)
Constant	18.57 (16.27)	-12.64 (8.79)	3.81** (0.05)	45.04** (20.56)	14.91 (12.11)	2.11 (0.15)
<i>F</i> statistic (No. obs.)	4.08*** (62)	12.64*** (62)		6.69*** (61)	4.98*** (62)	

Note: Columns are separate models of the Senate or House majority party roll rate.

Entries are OLS estimates with Newey-West standard errors in parentheses. For tests that individual coefficients are different from 0, * denotes significance at $\alpha = 0.10$ or less; ** denotes 0.05 or less; *** denotes 0.01 or less

Wald (χ^2) statistics are from tests for difference in model coefficients across columns, with two-tailed *p*-values (*not* standard errors) in parentheses.