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Agenda Power in the U.S. Senate, 1877 to 1986

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Introduction

There are numerous dissimilarities between the two chambers of the U.S. Congress. Aside from the basic differences in chamber size, member term lengths, and constituencies, the Senate's internal decision-making procedure is distinguished by its uniquely open rules governing floor debate and bill amending. The permissibility of the Senate's internal decision-making procedure is said to make it atomistic and far less partisan than the House of Representatives. By contrast to other legislative chambers, specifically the House, these rules empower the individual and make even fairly small sized minorities formidable antagonists to the majority party. Ripley (1969), for example, has argued that, "The Senate naturally gravitates toward individualism. Changes generated by large numbers of senators are almost always aimed at spreading power" (16).[2] Since that time, these rules have changed little.[3] More recently, Binder (1997) argues that "Unlike the House – in which partisan majorities have been able to mold chamber rules to their liking – no such majoritarian character has taken root in the Senate. *Control of the Senate agenda … has never been structured to reflect the interests of a partisan majority*" (168, emphasis added).

The following analysis is an attempt to better understand the processes and implications of agenda control within the U.S. Senate. In particular, we study the extent to which the Senate

majority party exercises *negative agenda control*—the ability to prevent bills that the party dislikes from being approved by the Senate. We look at Senate originated bills and executive nominations that make it to the chamber floor for a final passage vote. The *cartel agenda model* presented by Cox and McCubbins (2001) provides the theoretical framework for our analysis (henceforth, we refer to this as the "cartel model"). We extend this model to the Senate, and perform tests similar to those presented in Cox and McCubbins' study of the lower House.

The Senate presents a hard case for the cartel model. The Senate's lack of restrictions on floor debate and relevance of amendments has far reaching effects. Possibly the most important of these effects is the constraint that it places on simple majorities. It is difficult for a simple majority to gain control over the chamber's rules and use the rules to stack the deck procedurally in its favor. In the House, the majority party obtains much of its power at the beginning of each congressional session by using the rulemaking power to design the legislature's structure and processes in a self-benefiting manner. Simple majorities in the Senate are not so privileged. Because the Senate has been deemed a continuing body, its rules continue from one session to the next. That is, they do not begin each new congressional session with a new set of rules. This makes majority party cartel-like behavior[4] more difficult as there is always a minority with an incentive to protect those minority empowering prerogatives. Since the rules have remained more consensual, majority party domination of the legislative agenda is, at least theoretically, much more of a challenge in the upper chamber.

Upon closer inspection of the current procedure to attain floor consideration of a bill or resolution, we can see just how the Senate's consensus favoring rules challenge the majority party. After a committee(s) reports out a bill, it automatically goes on the Senate's Calendar. Unlike the House's Speaker, the Senate lacks a powerful presiding officer. Any senator has the

right to make a motion to consider; however, by precedent it is the Majority Leader, in consultation with the Minority Leader, who decides the order in which bills on the Calendar should come to the floor for action. The Majority Leader, or someone acting at his behest, makes the motion. Under the Senate's standing rules, however, even the motion to consider is debatable, and with the Senate's lack of debate restrictions, it is vulnerable to a filibuster.[5] Additionally, Rule XIV permits a senator to bypass the committee system altogether and have a bill placed directly on the Calendar, if he/she fears that the relevant committee will be unsympathetic. That same rule also provides that if a committee fails to act on a referred bill, the sponsoring senator may re-introduce a new bill with exactly the same provisions and get it directly on the Calendar. Finally, the general lack of restrictions on germaneness of amendments permits senators to present issues to the Senate floor with what appears to be little regard for the committee system or preferences of the Majority Leader. A senator can do this by offering his or her bill in the form of an amendment to a bill already under consideration. This list of methods by which a senator can bring something to the Senate floor suggests that the chamber's agenda is extremely permeable.

Given what appears to be an open agenda setting process, it would seem that a model positing universal control of the floor agenda might best describe the process. Universal control means that there is no particular group with privileged access to the agenda and that the agenda is determined by majority vote on the chamber floor, and thus by the median legislator (Krehbiel 1993). We refer to this model as the *floor agenda model* (henceforth, the "floor model").

Access to the floor calendar is important, but an item still needs to be scheduled in order to pass the Senate. The power to schedule lies with the Majority Leader. While it is true that the Majority Leader typically acts in concert with or consults the Minority Leader, when determining

if, when, and how something will be brought up for debate and vote, it is the Majority Leader or someone acting at his behest that makes the motion. There is one exception to this rule: non-germane amending. An item can be brought up as an amendment to something already receiving floor consideration. The Majority Leader, however, is not without recourse should there be attempts to commandeer the floor agenda in this manner. The Leadership has two tools to manage this problem: the motion to table and the motion to recommit. The motion to table takes precedence over a motion to amend, and it is not debatable. In fact, only a few motions take precedence over the motion to table: motions to adjourn, motions to recess, and motions to proceed to executive business. Tiefler (1989: 660) notes, "The rules and practices for the motion to table may be summed up thusly: it evokes a considerable degree of majority party loyalty, and it is procedural, privileged, and nondebatable." Alternatively, after all amendments have been offered and voted on, the Majority Leader may make a motion to recommit--which is used to strip all amendments from a bill. Another common technique used by the leadership is filling the amendment tree. If the Majority Leader fears that there may be unwanted amendments offered, he may use his right to first recognition to exhaust all of the available slots in the amendment tree and then release them to loyal senators as need be. Finally, the option to filibuster is available to majority party members just as it is available to the minority. A filibuster can be orchestrated to potentially kill an unwanted amendment. These are just a few examples of options available to the majority leadership to deal with non-germane amending. The point is that we should be wary of exaggerating the power of the minority prerogative to filibuster. The question at issue for the partisan model remains: Can majority leaders in the Senate control the agenda? If agenda control in the Senate centers on the power to manipulate floor scheduling, a contrasting theoretical perspective emphasizing party control might be in order.

In sum, we have two opposing models of agenda control. If access to the floor and the ability to place something on the Calendar is the more important factor in setting the Senate agenda, the floor model will better explain the process. If control over floor scheduling—i.e., the if, when, and how things are brought up—is the more relevant factor in Senate agenda setting, then the cartel model will better explain the process. In the following analysis, we find that agenda-setting in the modern Senate is quite similar to agenda-setting in the House, inasmuch as the majority party exercises substantial control. The set of bills and nominations that make it to the floor for final passage in the 'modern'[6] Senate is largely consistent with the cartel model and inconsistent with the floor model. Despite much dissimilarity between the two chambers, the House and Senate have a number of important characteristics in common. It is these basic similarities that we believe engender the majority party's desire and ability to influence the legislative agenda in a self-benefiting manner. Before turning to each model's predictions, we briefly delineate the emergence and evolution of Senate Floor Leadership as it changes dramatically during the period under study, 1877-1986, which substantially affects the potential for partisan versus universal control of the floor agenda.

Emergence and Evolution of Senate Floor Leadership

The modern Senate's majority party leadership institutions are much like the House. The locus of party power lies with the party caucus. Until about the 1870s, strict party allegiance in the Senate was confined to organizational matters. Lacking a partisan floor leader, party in caucus and party on the floor often acted discretely on substantive policy matters. While it took the Senate nearly thirty years to formally establish the positions of Majority and Minority Leader, the origin of Senate party leadership can be traced to the 1890s with William Allison

(IA) and Nelson Aldrich (RI) for the Republicans and Arthur Gorman (MD) for the Democrats (Gamm and Smith 2000a, Rothman 1966).

Elected as the Republican caucus chairman in the late 1890s, William Allison, working closely with Nelson Aldrich, began using Senate institutions, such as the committee system and the Republican Steering Committee, to further the Republican party's control and engender loyalty in ways previously unseen. Arthur Pue Gorman (MD), Democratic caucus chairman in the 1890s, pioneered early floor leadership for his party. Like his Republican counterpart, Allison, Gorman controlled the Democratic Committee on Committees and Steering Committee, which gave him command over both committee assignments and the legislative agenda. Together, Allison, Aldrich, and Gorman set the precedent of increasing party unity and strength by extending the elected position of caucus chair to the Senate floor.

Unlike the emergence of a standing committee system, which occurred rather quickly in the Senate (Gamm and Shepsle 1989), the floor's formal leadership positions formed in stages over a number of years. By the mid-1920s, however, these positions were firmly in place. Since these changes, the modern Senate leadership structure looks remarkably similar to the House.

In what follows, we will layout a simple spatial model of partisan agenda control applied to the U.S. Senate. We then look at the model's point estimates for data on majority and minority rolls and roll rates.[7] We then present comparative statics for the partisan model along with the null, the pivot model. This is followed by our regression results for predictions of these two competing theories governing the Senate agenda setting process.

Modeling Agenda Control in the Senate

Building on Cox and McCubbins's (2000) analysis of agenda control in the House of Representatives, we seek to determine who, if anyone, has primary control over what bills and nominations are permitted to come up for final passage vote on the Senate floor. To summarize, Cox and McCubbins (2001: 5-6) argue two main points:

(1) The majority party's formal agenda powers allow it to, and are used to, keep issues off the floor agenda that would foreseeably displease significant portions of the party. This *negative agenda power* is *unconditional*, in the sense that its exercise should not theoretically and does not empirically vary with the similarity of the party's members' (constituency-induced or personal) ideas of good public policy.

(2) In addition to its power to stop new legislation, thereby preserving past gains, the majority can also propose changes to existing policy. However, the size of the majority party's agenda (i.e., the volume of new policies it seeks to implement) waxes and wanes, depending on how similar party members' policy goals are because leaders do not wish to waste their time leading where their followers will not (or cannot be induced to) follow. That is, *positive agenda control* is ever present, but the frequency with which the party uses this power varies with the degree to which the party membership agrees on what the party's collective reputation should be, hence on what should be done.

In this analysis, we will be conducting an initial test of the first of these two claims—i.e., the majority party should have relatively unconditional *negative* control over the legislative agenda in the Senate.

Cartel Agenda Model

Cox and McCubbins deduce the above claims from a simple spatial model of agenda control, adapted from Shepsle (1979) and Shepsle and Weingast (1981, 1987a, 1987b). In this model, space is Euclidean and each point represents separate policy positions along any number of policy dimensions. Individual legislator utility is a function of the distance between his or her ideal point, or preference, and the final policy position. Legislators seek to maximize the utility that they derive by minimizing the sum of the distances between their ideal points and the final policy outcomes along the various issue dimensions. Individual preferences, as well as the status quo points, are assumed to be common knowledge as is strategic voting.

Using the same juxtaposition as was performed in the House analysis (Cox and McCubbins 2001), we can address this question about the two competing, polar conclusions about who controls the legislative agenda. In one model, they assume that the floor agenda is determined by majority vote on the floor, hence by the chamber's median legislator. This is the floor model, and its predictions about what the floor agenda will look like form the null hypothesis to their theory. In contrast to the floor model, the cartel model contends that agenda control is partisan in nature. The partisan driven model asks, "if the majority party leadership determined the floor agenda, what might that agenda look like?"

To restate, in the cartel model, Cox and McCubbins argue that the majority party is in control of the agenda, acting through their leadership. For modeling purposes, they assume that the majority party leader is the median of his or her party (or acts in the median's interests) and has the unilateral power to put bills on or keep them off the chamber floor. In the Senate, as in the House, an equivalent assumption would state that the agenda is set as if by majority vote in

the majority party's caucus. Cox and McCubbins (2001: 13-14) submit the following results for the *cartel agenda model*:

> **Result 1**: No dimension on which a majority of the majority party prefers the status quo to the floor median's ideal point is ever scheduled for floor consideration.
>
> **Corollary**: Every bill passed results in policy being moved closer to the median majority-party agent's ideal point.
>
> **Result 2**: No bill opposed by a majority of the majority party's members ever passes.

Floor Agenda Model

The floor model provides the null hypothesis. Cox and McCubbins assume that the bills to be considered on the floor are determined by majority vote of the floor. Under the floor model, all dimensions with status quo points not equal to the floor median are considered. If the status quo is to the left of the floor median, then the median and legislators to the right will vote to consider a bill and then to pass it (as amended if amended). The inverse would be true if the status quo is to the right of the floor median.

Where might the predictions of these two models diverge? In other words, will a majority of the majority party ever vote against the placement of a bill on the floor agenda in the floor model; will they ever oppose a bill on final passage? Cox and McCubbins (2001: 17-18) submit the following results:

> **Result 1**: For a given dimension, a majority of the majority party will vote against putting a bill on the floor agenda (but will lose) if and only if the status quo is

closer to the ideal point of the median member of the majority party than is the ideal point of the floor median.

Corollary: The probability that a majority of the majority party unsuccessfully opposes placing an issue on the floor agenda is a function of (1) how large the interval is between the ideal point of the median member of the majority party and the ideal point of the floor median; and (2) the distribution of status quo points.

Result 2: A majority of the majority party will vote against a bill pertaining to a policy dimension on final passage (but will lose) if and only if the status quo on that dimension is closer to the ideal point of the median member of the majority party than is the ideal point of the floor median.

Corollary: The probability that a majority of the majority party unsuccessfully opposes a bill on final passage is a function of (1) how large the interval is between the ideal point of the median member of the majority party and the ideal point of the floor median; and (2) the distribution of status quo points on that dimension.

Note that similar results hold for the minority party. Just substitute "minority party" for "majority party" and "the ideal point of the median member of the minority party" for "the ideal point of the median member of the majority party" in the above claims.

Cartel and Floor Agenda Model Point Estimate Predictions

The *cartel* and floor model*s* have testable implications that can be stated in terms of a legislative "roll." A Senate roll is identified by examining how the membership of each party voted on final bill passage and nomination votes. Because this is solely an analysis of Senate agenda control, bills are confined to Senate originated bills. If the "nay" votes exceeded the

"aye" votes for one party and the bill or nomination passed regardless, then the vote is coded as a roll for that party.

The cartel model predicts that the majority party never gets rolled, and how often the minority party gets rolled increases as the distance between the median ideal point of the minority party and the median ideal point of the legislature increases. The floor model says that the majority party may be rolled less often, as often, or even more often than the minority, depending on the location of the majority, minority, and floor medians, and on how the status quo points are distributed on each dimension. To demonstrate the contrast between the two models, according to the floor model, the majority and minority medians would have to be in the exact same location on each dimension to predict that the majority party never gets rolled (assuming that there are no areas of zero density in the distribution of status quo points). While such a situation is in principle possible, it seems unlikely.

We should note that these models admittedly do not capture important variables, such as opportunity costs, consideration costs, and proposal costs as well as uncertainty and/or incorrect information about preferences and the location of policy. The two models and resulting predictions are meant to be understood as baselines for evaluating the underlying theoretical arguments with respect to predominant locus of agenda power and legislative organization.

Majority and Minority Party Roll and Roll Rate Results

To assess the predictions, we turn first to final passage and nomination votes on the Senate floor. This set of votes is taken from votes receiving a roll call between the 45th and 99th Congresses, inclusive.[8] Each final bill passage and nomination vote was coded as either ordinary (only a majority required for passage) or extraordinary (a super-majority of two-thirds required for passage). We excluded the latter from the analysis as the above models' claims are based on

simple majority requirements. The analysis begins in 1877, before the emergence of formal Senate floor leadership and popular election of senators. Both are crucial elements to the cartel model and hence, provide an interesting comparative static between these very different institutional environments in addition to the juxtaposition of the *cartel* and floor model*s*—a point we will return to later in discussion.

The first cut at the data generally supports the cartel model. For Congresses 45-99, the number of majority and minority party rolls, as well as their respective roll rates, are shown in Table 1. The modal number of times, by congressional session, that the majority party was rolled on a final passage and/or nomination vote on the Senate floor is ***zero***. Between Congresses 45 and 99 (1877-1986), the majority party was not rolled on a single final passage or nomination vote in 26 of the 50 congresses. By contrast, the minority party had no rolls in only 4 congresses (62^{nd}, 66^{th}, 70^{th}, and 72^{nd} Congresses).

[Table 1 about here]

Looking at the *roll rates* (i.e., the number of times a party was rolled in a session divided by the total number of ordinary final passage or nomination votes), we see that that majority party has a weighted average roll rate of .064. When compared to the minority party's weighted average roll rate of .316, we see that the minority party's roll rate is nearly five times that of the majority party's.

The average number of times the majority party is rolled in a congress is 1.68 and the median number is again 0. Yet the average number of rolls for the minority party is 6.58 with a median of 4. The average number of ordinary final passage votes and nominations per congress is 29.54, and the median is 16.5.

Given the received wisdom about the Senate's decentralized power, individualistic senator behavior, and permeable agenda setting process, the majority party's rolls and roll rates should have been much higher. The data here suggests that there may be something to our claim that what is really important here is control over scheduling rather than just access to the Senate Calendar. The differences between the frequency of rolls on final passage and nomination votes for the majority and minority party meet the expectations of the cartel model quite well.

Since the beginning of the 20th Century, the majority party roll rates rarely exceed 10%, with only the 66th, 70th, 80th, 84th, and 85th Congresses being exceptions. Moreover, even in these exceptional cases, there was only a total of eleven rolls/observations. Looking at the data over the entire time series, we see that the big drop in majority party rolls occurred shortly before the turn of the 19th century—i.e., as numerous states introduced popular control of senators and the concomitant emergence of Senate floor leadership. Prior to the emergence of formal leadership positions, we see partisan floor management as early as the mid-1890s through the Republican Steering Committee. As Gamm and Smith (2000b: 2) note, "With the development of steering committees, control over day-to-day business shifted from the caucus itself to a relative handful of senators."

We argue that this transition of senatorial accountability from the state legislatures to the popular voters was a key episode in the Senate's history and critical to understanding its internal dynamics and organization. The Seventeenth Amendment, mandating the direct election of senators, in addition to being a key event in the development of the modern Senate, significantly affects a crucial premise to the cartel model—that legislators care about their collective party reputation.

As part of the Progressive Era reforms, the push for a constitutional amendment on the direct election of senators took root in the 1870s.[9] By 1905, 31 of the 45 state legislatures had formally requested that congress take up a constitutional amendment on direct election. Long before its enactment, numerous legislatures in the West and North Central states self-imposed some form of popular control–e.g., the binding primary or referendum–on the senators they sent to congress. Moreover, by the 1890s, the non-binding direct primaries of one-party states, as in the South, nearly had the effect of general popular elections. Even though the legislature was not legally bound to the primary decisions, they rarely deviated from the popular choice in these one-party states. Furthermore, Haynes (1960: 104) notes citing the *Boston Herald*,[10] "So rapid became the sweep of senatorial primaries under Oregon's lead that in December, 1910, before the state legislatures had been convened which were to elect senators, it was declared: '*Fourteen out of thirty Senators who take the oath of office at the beginning of the next Congress, have already been designated by popular vote*'" [emphasis added].[11] The enactment of the Seventeenth Amendment in 1913, rather than a clear demarcation between two different methods of choosing U.S. senators, was instead the official confirmation of a transition nearly complete.

Assuming that senators are purposeful actors and that they desire to be re-elected, this change in their means of re-election implies a change in their incentives and behavior, all else constant. With the popular election of senators, there was an increased value in a having a strong collective reputation, also known as brand name or party label. A strong party label requires collective action by party members within the chamber. Collective action is most often difficult. Moreover, the increasing demands for strong party reputations came at the same time as the increase in legislative workload, in terms of individual demands for legislation, and the resulting scarcity of floor time at the turn of the century.[12] The evolving process of senatorial

accountability, from the legislatures to popular voters, and the evolution of the Senate's leadership positions go hand in hand. We argue that the party leaders provided the coordination mechanism needed to address these newly developing collective action problems that senators were facing. Until the formal leadership positions were in place, the steering committees became the coordinating mechanism and clearinghouse through which party members must navigate their proposals.

In short, according to the *partisan cartel model*, it is this need to maintain a strong, consistent collective party reputation that engenders delegation to a central authority. With popular elections, senators developed a need for a strong, consistent party reputation in the legislature. This motive caused them to delegate authority to a central authority, the majority party leadership, and thus provide the leadership with the means to influence the Senate floor agenda. Shortly thereafter, we see the institutionalization of formal floor leadership positions.

Turning back to the data, the significant drop in the majority party roll rate at the turn of the 19th century is exactly what the cartel model would have predicted given the changing electoral environment. This drop was not mirrored by the minority party, providing further evidence in support of the notion that party status is quite relevant in the modern Senate.

Received wisdom aside, the data here suggests that the cartel model merits further investigation in the Senate. To perform a more systematic test, we now turn to a comparative statics analysis. Before doing so, however, we expand briefly on the theoretical discussion to improve its applicability to the Senate case.

Pivot Model

Recently, Krehbiel (1998) has advanced a refined account of the floor agenda model. In the case of the Senate, this model is more appropriate since it incorporates two non-majoritarian

features of U.S. policy-making: the Senate filibuster and the presidential veto. Because of these features, the *pivot model*, unlike the floor model, features a "gridlock zone." Similar to the cartel model, there is a zone of protected status quo points.

The pivot model works much like the floor model. Now, only bills and nominations that fall outside the gridlock zone should make it onto the floor agenda. If the status quo policy lies in this zone, then the model predicts no policy change. Instead of focusing on the floor median, we look at the left and right pivot points with the pivot model. This is illustrated by Figure 1. In this diagram, let *M* be the majority party median; let L_p be the left pivot point; let L_r be the right pivot point; let *F* be the floor median; and let *SQ* denote the status quo. In this example, because *SQ* lies to the right of the right pivot point, policy would be brought inside of the *LP – RP* range.

[Figure 1 about here]

Because the pivot model and the cartel model both have zones of "protected" status quo points, it's important to clarify how they differ in their empirical implications—i.e., how do they differ in predicted roll rates? If a status quo point falls outside the gridlock zone and inside the majority party roll region, then the majority party will be rolled on that dimension according to the pivot model.[13] Using the spatial example above in Figure 2, in a session where the majority party has a slim majority, the majority party median will fall at approximately the 25th percentile of Senate ideal points and the left pivot will fall at the 40th percentile ideal point. This being the case, the pivot model predicts that the majority party's roll rate will be positive.

Comparative Statics Tests of Cartel Agenda and Pivot Models

While the (complete information) cartel model *predicts* no majority party rolls, there are a few as we discussed above. That the roll rate for the majority is low, but not zero, suggests that

some omitted considerations—such as uncertainty or divided government (which is more fully explored below)—may be producing an occasional roll of the majority party.

Like the floor model, according to the pivot model, the probability that the majority party loses a final passage or nomination vote increases with the distance between the majority and floor median for all dimensions, while the probability that the minority loses such a vote increases with the distance between the minority and floor medians for all dimensions.[14] Under the cartel model, only the second of these comparative statics expectations holds—the opposition should lose more often as its median member is more distant from the floor median. The first comparative static is not true for the cartel model. The majority party should never lose and any fluctuations in its roll rate should be unrelated to the distance between the majority party and floor medians.

To measure the distance between the party medians and the floor median, Poole and Rosenthal's D-NOMINATE multidimensional scaling was used to estimate the average location of the party and floor medians across all dimensions in a congressional session. Because of the estimation problems implied by simply estimating the probability of a roll on the distance between party medians and floor median,[15] the following equation was estimated:

$$ROLL\_RATE_{ct} = \chi_c + \beta_c D_{ct} + \varepsilon_{ct} \quad (1)$$

where $ROLL\_RATE_{ct}$ is the roll rate for each party c in congress t.[16] To estimate the equation, we performed the minimum logit chi square (MLCS), suggested by Maddala (1983: 18-30). This technique should approximate a logit regression on $ROLL_{cjt}$ without exaggerating our number of observations and biasing the tests.

[Table 2 about here]

Table 2 summarizes the hypotheses for both models. The pivot model predicts that the coefficient β_c in Equation (1) will be positive and significant for both the majority and minority parties. That is, the pivot model predicts that as D_{ct} increases, the likelihood that the majority(minority) party is rolled on vote *j* increases. The cartel model, in contrast, predicts that the coefficient β_c for the majority party will be zero: the likelihood that the *majority* party is rolled on vote *j* is not systematically related to D_{ct}. However, β_c is predicted to be positive for the *minority* party.

While we have decided that the MLCS technique is the most appropriate technique to estimate the model, we present the OLS results below as well. In the tables that follow, the results for the majority and minority parties are presented by technique along the rows.

[Table 3 about here]

The results presented in Table 3 agree with the predictions of the cartel model and differ with the pivot model*'s* predictions. Specifically, $\hat{\beta}_c$ is positive and significant in both the OLS and MLCS regressions for the minority party. We cannot reject the null hypothesis that $\hat{\beta}_c$ is zero for the majority party in either the OLS or MLCS estimations. As predicted by the *cartel agenda model*, the distance between the majority party median member and the floor median is not significantly related to the incidence of being rolled for the majority party, however, it is significant for the minority party. That is to say, party status matters. If the floor model*'s* predictions bore out, the $\hat{\beta}_c$ for both majority and minority party regressions should have been positive and significant.

With our system of separated powers, and the closer inspection of majority rolls in the previous section, it has been suggested that divided government might be an important variable

affecting agenda control especially with the Senate's unique responsibilities regarding nominations. Especially since our data includes executive nominations, we explore this further.

Next, we add a variable to examine the effect of divided government on majority and minority party rolls. The results are presented in Tables 4a and 4b. As before, Majority $\hat{\beta}$ and Minority $\hat{\beta}$ are the coefficients for D_{ct} for the minority and majority parties. In addition, Majority $\hat{\alpha}$ and Minority $\hat{\alpha}$ are the coefficients for divided government. The divided government variable identifies division between the Senate and the president (divided government between the House and Senate was never significant any of the regressions).

[Table 4 about here]

The inclusion of divided government affected the OLS results. Presenting the same coefficients as in Table 3, we see now that $\hat{\beta}_c$ for the majority party is positive and significant (upper left cell of Table 4a).[17] However, when we look in the more appropriate technique for our data in Row b. for MLCS, we see that the majority coefficient is no longer significant. As before, the $\hat{\beta}_c$ for the minority party is always positive and significant.

Turning to the results for divided government variable, Table 4b presents the coefficients for the minority and majority parties in the OLS and MLCS regressions. Divided government is among the Senate and President. In both the OLS and MLCS estimations, the incidence of divided government has a *negative* and significant affect on the minority party's roll rate. By contrast, the incidence of divided government has a *positive* affect on the majority party's roll rate. In other words, divided government increases the majority party's and decreases the minority party's respective roll rates. These results suggest, as we might expect, that by nature of its unique institutional responsibilities (e.g., executive nominations) and internal rules, there are some things that the Senate majority party has a hard time keeping off the floor. Despite

these limitations, however, the majority party does remarkably well with negative agenda control.

We end this section by emphasizing the role of votes on nominations in agenda control. In measuring our dependent variable—whether or not the majority is rolled on final votes—we have included votes on whether or not to approve presidential nominations. In fact, there is ample reason to believe that in many cases, such as cabinet appointments, it is *not* feasible for the Senate majority to prevent the nominee from receiving a vote on the Senate floor. This suggests that, when the executive and Senate are controlled by opposite parties, the president can sometimes use nominations as a way of circumventing majority party gatekeeping and bring a matter to a floor vote.

Indeed, when executive nominations are not included in the dependent variable, the significant positive relationship between divided government and majority roll rates disappears.[18] It appears as though the shared agenda control with the executive is confined to executive nominations and not bills.

Conclusion

With a few exceptions, the Senate has fallen wayside in the contemporary congressional organization debate. Rather, it has been predominantly a debate about House organization. In this analysis, we are attempting to bring the Senate into the mainstream, and in doing so, we discovered a few interesting things:

In contrast to the conventional wisdom and a few of the claims made in the introduction, it appears as though the Senate majority party *does* have the ability to affect the floor agenda. We saw this in a direct comparison of majority and minority party rolls and roll rates as well as the comparative statics results.

Second, consistent with partisan models of congress—i.e., those that believe they are useful units of analysis—the majority party rolls dropped dramatically at the turn of the 19th Century concomitant with the popular control of senators and the emergence of formal Senate party leadership. This drop in rolls was *not* paralleled by the minority party.

Lastly, divided government may have an affect on the Senate's majority party's ability to control the agenda in ways unseen in the House. We saw that divided government had a positive affect on the majority party's roll rate and a negative affect on the minority party's, despite the *cartel model*'s predicted comparative statics. So, while quite strong, majority party negative agenda control may not be *unconditional* as Cox and McCubbins found it to be in the House.

Returning to the broader issue of whether or not characterizations of the Senate as atomistic, individualistic, and unresponsive to partisan control are justified, the data here suggests otherwise. In comparison to the House, party control of the chamber is definitely more challenging. Despite these challenges though, the majority party in the modern Senate does a remarkably good job of keeping matters offensive to a majority of its membership off of the chamber floor for final vote.

Table 1: Senate rolls on final passage and nomination votes for majority and minority parties, by congress

CONGRESS		MAJORITY ROLLS	MAJORITY ROLLRATE	MINORITY ROLLS	MINORITY ROLLRATE	TOTAL VOTES	MAJORITY PARTY
45	1877-1849	11	17.7%	15	24.2%	62	Republicans
46		3	12.5%	4	16.7%	24	Democrats
47		11	15.7%	24	34.3%	70	Republicans
48		5	12.5%	20	50.0%	40	Republicans
49		11	18.6%	9	15.3%	59	Republicans
50		2	10.0%	9	45.0%	20	Republicans
51		1	2.6%	23	59.0%	39	Republicans
52		2	10.0%	7	35.0%	20	Republicans
53		3	12.5%	13	54.2%	24	Democrats
54		4	44.4%	1	11.1%	9	Republicans
55	1897-1899	0	**0.0%**	8	40.0%	20	Republicans
56		0	**0.0%**	2	50.0%	4	Republicans
57		0	**0.0%**	5	83.3%	6	Republicans
58		0	**0.0%**	2	40.0%	5	Republicans
59		0	**0.0%**	2	40.0%	5	Republicans
60		0	**0.0%**	3	75.0%	4	Republicans
61		0	**0.0%**	3	50.0%	6	Republicans
62		0	**0.0%**	0	**0.0%**	6	Republicans
63		0	**0.0%**	1	33.3%	3	Democrats
64		0	**0.0%**	4	36.4%	11	Democrats
65	1917-1919	1	10.0%	2	20.0%	10	Democrats
66		2	40.0%	0	**0.0%**	5	Republicans
67		0	**0.0%**	4	26.7%	15	Republicans
68		0	**0.0%**	2	13.3%	15	Republicans
69		0	**0.0%**	1	16.7%	6	Republicans
70		1	14.3%	0	**0.0%**	7	Republicans
71		1	4.8%	8	38.1%	21	Republicans
72		0	0.0%	0	**0.0%**	10	Republicans
73		1	9.1%	5	45.5%	11	Democrats
74		0	**0.0%**	6	50.0%	12	Democrats
75	1937-1939	0	**0.0%**	7	70.0%	10	Democrats
76		1	4.5%	7	31.8%	22	Democrats
77		0	**0.0%**	2	25.0%	8	Democrats
78		0	**0.0%**	7	41.2%	17	Democrats
79		0	**0.0%**	2	15.4%	13	Democrats
80		4	25.0%	2	12.5%	16	Republicans
81		1	4.8%	6	28.6%	21	Democrats
82		1	10.0%	3	30.0%	10	Democrats
83		0	**0.0%**	3	23.1%	13	Republicans

84		3	15.0%	4	20.0%	20	Democrats
85	1957-1959	3	13.6%	4	18.2%	22	Democrats
86		0	**0.0%**	7	31.8%	22	Democrats
87		0	**0.0%**	11	40.7%	27	Democrats
88		0	**0.0%**	11	57.9%	19	Democrats
89		0	**0.0%**	4	12.1%	33	Democrats
90		0	**0.0%**	4	13.8%	29	Democrats
91		0	**0.0%**	4	8.0%	50	Democrats
92		1	1.4%	1	1.4%	74	Democrats
93		4	2.9%	10	7.3%	137	Democrats
94		7	8.3%	10	11.9%	84	Democrats
95	1977-1979	0	**0.0%**	6	10.2%	59	Democrats
96		0	**0.0%**	8	9.1%	88	Democrats
97		0	**0.0%**	7	10.1%	69	Republicans
98		0	**0.0%**	5	17.9%	28	Republicans
99		0	**0.0%**	11	29.7%	37	Republicans
Weighted Average:		**1.68**	**6.40%**	**6.58**	**31.62%**	**29.54**	
Congressional Average:			**5.82%**		**28.74%**		

Table 2 Predicted Coefficients from the Cartel and Pivot Models

	Majority $\hat{\beta}$	**Minority $\hat{\beta}$**
Cartel Agenda Model	**0**	+
Pivot Model	+	+

Table 3 Estimated OLS and MLCS Coefficients, Senate Final Passage and Nomination Votes

	Majority $\hat{\beta}$	**Minority $\hat{\beta}$**
a. ROLL_RATE for Senate Final Passage Votes, estimated via OLS[19]	0.136 (0.068)	**0.453*** (0.094)
b. ROLL_RATE for Senate Final Passage Votes, estimated via MLCS[20]	0.281 (0.385)	**1.134*** (0.488)

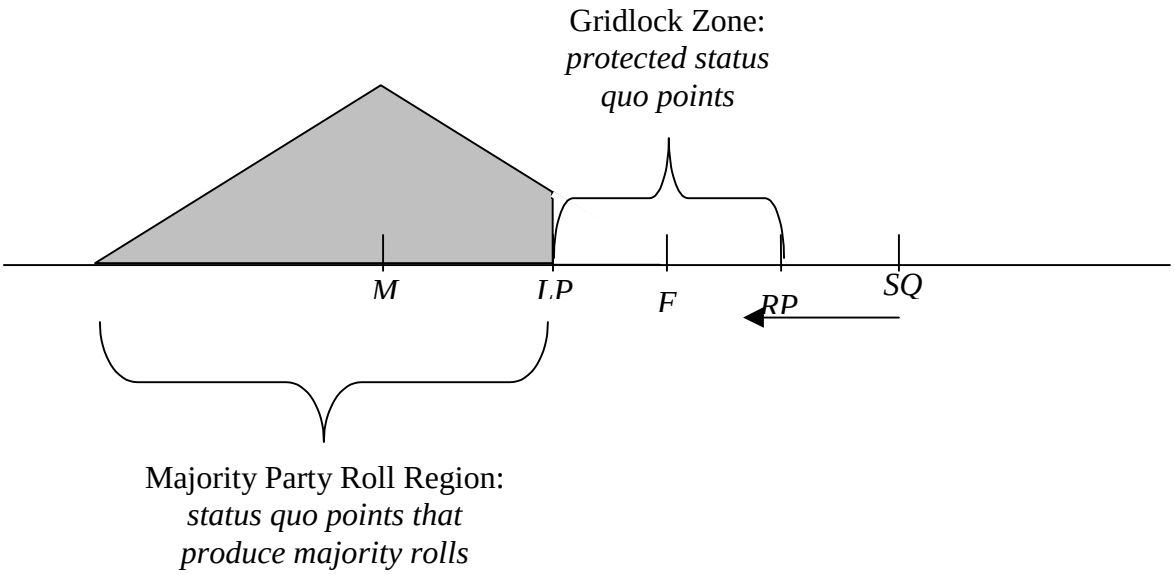
Table 4a Estimated OLS and MLCS Coefficients with Divided Government in Estimates

	Majority $\hat{\beta}$	**Minority $\hat{\beta}$**
a. ROLL_RATE for Senate Final Passage Votes, estimated via OLS[21]	**0.145*** (0.068)	**0.444*** (0.093)
b. ROLL_RATE for Senate Final Passage Votes, estimated via MLCS[22]	0.732 (0.367)	**1.307*** (0.440)

Table 4b Estimated OLS and MLCS Coefficients with Divided Government in Estimates – Predicted Divided Government ($\hat{\alpha}$)

	Majority $\hat{\alpha}$	**Minority $\hat{\alpha}$**
a. ROLL_RATE for Senate Final Passage Votes, estimated via OLS	**0.083*** (0.030)	**-0.119*** (0.052)
b. ROLL_RATE for Senate Final Passage Votes, estimated via MLCS	**0.714*** (0.200)	**-0.847*** (0.241)

Figure 1: Pivot Model



Endnotes for Chapter 6

[1] The authors thank the National Science Foundation (SES-9905224) and the Committee on Research at the University of California, San Diego, for their generous financial support.
[2] On Senate individualism, see also Davidson (1985, 1989); Smith (1989); Smith and Flathman (1989).
[3] Because the Senate is considered a continuing body, the rules are not made anew at the beginning of each congressional session—i.e., the previous session's rules carry forward.
[4] See Cox and McCubbins (1993) for a thorough account of majority party cartel behavior with regard to chamber organization and policy-making procedure.
[5] Rule XXII, however, stipulates that a motion to proceed to consideration of a matter on the Executive Calendar is not debatable. Thus, nominations and treaties have one less hurdle to clear.
[6] By 'modern' we mean post-17th Amendment and institutionalization of formal Senate leadership positions.
[7] A "roll" is an empirical observation where a majority of a party opposes a bill or nomination, and it passes nonetheless.
[8] In order to identify final passage votes—as opposed to votes on amendments, etc.—we conducted a systematic search through ICPSR roll call codebooks. ICPSR has collected information on roll calls for every congress from 1789 to the present. The codebooks contain a one-paragraph description of every motion that received a roll call vote. The one paragraph descriptions for most final passage votes contain the words "to pass;" however, because not every final passage vote was described with these words, we also selected votes described with the word "passage" for our analysis. A similar procedure was conducted to compile all final nomination votes searching on language, such as "consent," "confirm," "appoint," and "nomination." Not included are votes with super-majority requirements. This includes votes on treaties and presidential veto overrides. Party divisions and rolls are observable only for recorded votes, i.e., roll call votes. It has been suggested that the resulting censoring problem may bias our findings, but to our knowledge, there are no means of evaluating this claim.
[9] In every congress between the 52nd and 57th except the 54th, the House overwhelmingly passed five separate resolutions calling for the submission of an amendment for popular election. With significant external pressure and a substantial portion of the Senate membership owing their positions to some form of popular will by 1911, the Senate finally allowed the issue to come up for vote. The issue failed twice on the Senate floor before a House-Senate deadlock was broken in May of 1912 with the House conceding to the Senate's version (Haynes 1960, volume 1).
[10] December 26, 1910.
[11] "Even before its adoption, the direct primary movement had already diminished the power of the legislatures, and by 1913 three-fourths of the candidates for the Senate were being nominated in direct primaries" (CQ 1976: 217).
[12] See Gamm and Smith (2000a) for evidence of change in patterns of floor activity with the emergence of formal Senate party leadership positions.
[13] Empirically, there were no cases where the majority party median fell within the pivot zone. If this were the case, the pivot model would also predict that the majority party would never be rolled.
[14] This is true as long as distribution of status quo points has no areas of zero density.

[15] The dependent variable has the value of either 0 or 1 for each vote, while the independent variables do not vary by vote, but rather by congress. For a complete discussion of the estimation challenges implied by the data, see Cox and McCubbins (2001).

[16] Equation (1) can be estimated by OLS because the number of observations that make up the denominator in the proportion, $ROLL\_RATE_{ct}$, averages more than 50 and thus $ROLL\_RATE_{ct}$ should approximate a normal distribution asymptotically. The data suffered from both heteroscedasticity, as the number of votes per congress varies by two orders of magnitude, and serial correlation which was dealt with by using the Huber-White sandwich estimator of variance. To correct for autocorrelation, one and two term lags of the dependent variable was included as right hand side variables. Further diagnostics of the regression suggested no other estimation problems.

[17] This result is limited to the D-Nominate scoring system. Using Poole and Rosenthal's DW-Nominate scores, the majority party distance coefficient is not significant regardless of technique or control variables.

[18] We do not report details of these estimations here; they are reported in Campbell (2001).

[19] The estimated constant term is –0.017 (majority) and 0.027 (minority). The estimated coefficients for the autoregressive terms are γ_1 = .161 (majority) and .059 (minority) for the first lag of the dependent variable and γ_2 = .131 (majority) and -.058 (minority) for the second lag. A joint test of the null hypothesis that $\gamma_1 + \gamma_2 = 0$ can be rejected for both the majority and minority parties N = 50, F(3, 46) = 2.86 (majority) and 9.94 (minority), Prob > F = .047 (majority) and .000 (minority), R-squared = .305 (majority) and .423 (minority).

[20] The estimated constant term is –1.107 (majority) and –1.251 (minority). The estimated coefficients for the autoregressive terms are γ_1 = .354 (majority) and .216 (minority) for the first lag of the dependent variable and γ_2 = .195 (majority) and .025 (minority) for the second lag of the dependent variable. A joint test of the null hypothesis that $\gamma_1 + \gamma_2 = 0$ can be rejected in both cases. The lags are significant for both the majority and minority parties. N = 50, F(3, 46) = 10.46 (majority) and 8.63 (minority), Prob > F = .000 (majority) and .000 (minority), Adjusted R-squared = .40 (majority) and .29 (minority).

[21] The estimated constant term is –0.031 (majority) and 0.074 (minority). The estimated coefficients for the autoregressive terms are γ_1 = .094 (majority) and -.000 (minority) for the first lag of the dependent variable and γ_2 = .127 (majority) and -.055 (minority) for the second lag. A joint test of the null hypothesis that $\gamma_1 + \gamma_2 = 0$ can be rejected for both the majority and minority parties N = 50, F(4, 45) = 3.91 (majority) and 13.79 (minority), Prob > F = .008 (majority) and .000 (minority), R-squared = .474 (majority) and .473 (minority).

[22] The estimated constant term is –1.158 (majority) and –1.256 (minority). The estimated coefficients for the autoregressive terms are γ_1 = .280 (majority) and .118 (minority) for the first lag of the dependent variable and γ_2 = .274 (majority) and .039 (minority) for the second lag of the dependent variable. A joint test of the null hypothesis that $\gamma_1 + \gamma_2 = 0$ can be rejected in both cases. The lags are significant for both the majority and minority parties. N = 50, F(3, 46) = 14.46 (majority) and 10.31 (minority), Prob > F = .000 (majority) and .000 (minority), Adjusted R-squared = .423 (majority) and .432 (minority).