

# Harry Reid and the Study of Senate Party Leadership

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Harry Reid—the senator from Searchlight—is a surprise. While his ambition and determination have been evident throughout his career, Reid does not talk or look much like a national leader. Reid is reserved and sometimes dour, tends to speak softly and even seems to mumble, and smiles infrequently, at least in public settings. He has a quick temper, exhibits a sharp tongue for the opposition, and occasionally blurts out comments that get him into trouble. First elected to the Senate in 1988, he was known as a pro-business, social conservative who was somewhat out of step with most of his Senate Democratic colleagues. Reid served rather quietly as co-chair of his party's policy committee from 1995 through 1998 and then as whip from 1999 through 2004. He was promoted to floor leader in 2005 after Tom Daschle lost his bid for reelection in South Dakota by 4,508 votes. Reid became majority leader after his party gained a majority in the 2006 elections, which they held through 2014.

Reid quickly acquired a reputation for an effective style as his party's floor leader. In time, he was appreciated for being a good listener, for carefully observing, recording, and accounting for his colleagues' interests and requests, and for being ideologically flexible. While he is not considered to be a deep thinker, Reid is very capable of identifying issues, compromises, and trades that win the support of his colleagues and usually keep his party unified. He talks freely about his own limitations and brings into leadership roles colleagues whose talents complement his own. Remarkably, he shows considerable deference to committee leaders, avoids the use of task forces to shape party policies and strategies, and prefers to let others take the lead in writing legislation.<sup>1</sup>

Although some observers see Reid as an ineffective spokesman for his party, he plays a leading role in every legislative battle in the Senate. This is not intentional. It is a product of circumstances. Reid performs the long-standing role of a floor leader and exhibits many of the personal skills common to effective floor leaders, but he does so under conditions that are unique in Senate history. Sharply polarized parties combined with a nearly universal minority obstructionism force issues to the floor and stimulates parliamentary maneuvering on an unprecedented scale. With his duties as a floor general, manager of his party's activities, and intermediary with the president, these developments place the floor leader squarely in the middle of the parliamentary, policy making, and political struggle that accompanies action on nearly all significant legislation.

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<sup>1</sup> On Reid's personality, style, and early reputation, see Kady 2006; Ota 2005; Taylor 2001, 2004; Walsh 2005.

This essay is about what we can learn about Senate party leadership from the experience of Harry Reid. The nature of Senate leadership and the forces that motivate Senate leaders remain somewhat mysterious to outsiders and are not well articulated by political scientists and journalists. I am guided by political science fundamentals about congressional parties and leadership—about the goals of congressional parties and their leaders, about the functions that modern leaders perform, and about the political forces that drive variation in leaders’ strategies over time.

### Theoretical Fundamentals: Party Goals, Leadership Functions, Dynamics

The maxim that leaders emerge to reflect their context or environment and behave in ways constrained by their followers and competitive context are central themes of the political science of congressional leadership. Scholars of congressional party leaders fill in the details by defining the more specific expectations, functions, or tasks of leadership for leaders elected to head congressional parties. Those expectations, functions, and tasks reflect the policy and electoral goals of individual legislators and the associated collective party goals of majority party status and enacting or blocking legislation (Smith 2007).

Political science also has settled on some basic propositions about the nature of congressional parties and their leaders. This literature is heavily influenced by studies of the House and its speaker—a majority party leader who also serves as a chamber’s presiding officer—and I forgo a list of citations to that expansive literature. The House minority leader (Jones 1970) and Senate leaders are given much less attention, although Lyndon Johnson, the one Senate floor leader to have served as president, has attracted frequent attention from historians and political scientists (Baker and Davidson 1991; Caro 2002; Dallek 1991; Evans and Novak 1966; Stewart 1971).

### Party Goals

The central theme of the literature on the congressional leadership is somewhat obvious: The behavior of leaders is a product of the needs and expectations of the members of the congressional parties. The preponderance of evidence from contests for leadership positions and important episodes in the life of congressional parties is that legislators expect party leaders to pursue both electoral and policy goals (Peabody 1976; Sinclair 1983; and Smith 2007). Legislators have personal electoral and policy goals, but party reputations and creating legislative majorities require collective action and coordination that party organizations and leadership posts are created to provide. Over the decades, majority parties have asserted their majority size to acquire certain rules and precedents that give them certain procedural advantages that they can exploit if they are reasonably cohesive, which has led some theorists to label legislative parties “procedural cartels” (Cox and McCubbins 1993, 2004). These rules and precedents are deeper and wider in the House than in the Senate.

## Leader Positions and Functions

Modern political science has given the development of House and Senate party leadership positions little attention, although Jenkins and Stewart (2013) have made a significant contribution to our understanding of the modern House speakership. Gamm and Smith are working on a more comprehensive account for the Senate and have produced a series of papers on the subject (Gamm and Smith 2000, 2002a, 2002b, 2012). We know that the basic leadership positions and the responsibilities of modern leaders evolved over many decades (Jenkins and Stewart 2013; Ripley 1969a, 1969b; Smith and Gamm 2012). In the case of the Senate, a recognized floor leader emerged among minority party Democrats in the 1890s and 1900s and both parties had floor leaders in the 1910s, about a century and a quarter into the history of the institution. Before the 1910s, there were no party rules governing leadership posts or the assignment of powers to leaders.

In studying modern leaders, congressional scholars have emphasized the functions performed by elected party leaders in pursuit of party goals. The functional categories have varied, but, as Democratic leader Alben Barkley explained in 1949, the main functions are managing the party conference, scheduling floor action, serving as the chief intermediary with the president, building coalitions, and serving as spokesman for the party (Barkley 1949; Gamm and Smith, forthcoming; Ripley 1969a; Sinclair 1983, 2001). Since the work of Sinclair (1983), these studies also have emphasized how the performance of these functions is adapted to changing circumstances.

In the 85 years since Joe Robinson (D-AR) served as the Democrats' leader in the 1930s, Senate Democrats have elected 10 floor leaders and the Republicans have elected 13. These 23 floor leaders had much in common. They were known as students of human nature, good listeners, and skilled voter counters who were naturally attentive to detail, responsive to the political and personal needs of their colleagues, and committed to Senate traditions. Nevertheless, Senate floor leaders varied widely in style. Alben Barkley, Lyndon Johnson, Mike Mansfield, Hugh Scott, Howard Baker, Bob Dole, Robert Byrd, George Mitchell, and the others varied in their negotiation skills, patience for floor activity, mastery of the rules, effectiveness on television, and assertiveness in devising policy and setting party strategy. Indeed, successive leaders often proved very different in their approaches to their jobs. With remarkable regularity, each new leader has been described as compensating for the weaknesses of his immediate predecessor and adapting to changing political circumstances.

## Leader Resources and Coercion

It is commonplace to observe that congressional leaders have weak coercive tools. "The power to persuade" is used to describe the limits of congressional leaders' tools even more than for presidents. The rewards and punishments at the disposal of congressional leaders are limited to some influence over their colleagues' committee and party positions and using their agenda-setting

prerogatives to favor or disfavor legislators' policy initiatives. As a general rule, they are not strong enough to guarantee or deny reelection and their party colleagues would seldom want them to be used in a way that would do so.

Senate party leaders may be more constrained than their House counterparts in coercing cooperative behavior from their colleagues. The Senate majority leader relies on unanimous consent to conduct the routine business and supermajorities to overcome minority obstructionism. Senators' cooperation might be encouraged by selective use of rewards and punishments, but the pervasive need to acquire unanimous consent keeps the majority leader operating in a mode of accommodating colleagues far more than demanding compliance with his requests. An alienated colleague, even a minority party colleague, can make life quite difficult for a floor leader.

A central theme of scholarship on the House is that the sum of the rewards and punishments placed in the hands of central party leaders varies in response to the polarization of the two parties. Polarized parties—particularly, a homogeneous majority party—license their leaders to be assertive and grant them parliamentary tools to influence rank-and-file members. A cohesive majority party both boosts the formal power of its leader and enjoys a successful legislative record. Leaders' styles are more strongly influenced by the composition of their parties' electorates and the associated cohesiveness of the party colleagues than they are by the personal attributes of the leaders. This is the central argument of Cooper and Brady (1981) in their important paper on the differences in the leadership styles and influence of House Speakers "Uncle" Joe Cannon and Sam Rayburn. The dynamic character of party strength and leadership influence is labeled "conditional party government" (CPG) to reflect how power is centralized in the majority party leadership when parties are polarized (Aldrich and Rohde 2001; Rohde 1991). For the House, this produces a cyclical pattern that reflects the evolution of American electoral parties (also see Brady and Hahn 2006; Green 2007; Rohde 2013; Sinclair 2006; Strahan 2002; Theriault 2008).

### Transactional and Transformative Leaders

The political science of Senate leadership hardly mentions transformative leaders—leaders who manage to rise above their circumstances to change the direction of their institution or their parties in fundamental ways. The institutional location of Senate leaders limits their opportunities for transformative leadership. A bicameral, separation-of-powers system confines most of their activities to just one of the three major policy-making institutions (Senate, House, president) and, while a Senate leader is a national figure, he or she cannot compete with the president for public or media attention. If transformative leadership involves reconstituting party coalitions, redefining party reputations, or reframing the issue agenda, Senate leaders work at the margins.

What about Lyndon Johnson? Johnson deserves credit for his effectiveness, but few observers would say that the Senate of 1960 was much different from the

Senate of 1955 when Johnson became majority leader. He left no procedural reforms of great significance; he pursued unanimous consent agreement more aggressively but invented no parliamentary strategies that were emulated by his successors; he left his party much larger in 1960 but few give him much credit for the Republican debacle of 1958. Senate leaders, perhaps even more than House leaders, have been treated as products of the expectations of their colleagues and the traditions of their institution. The effective leaders are successful tacticians and very seldom given credit for grand strategy.

Oddly, the two most important procedural developments in the Senate during the last 50 years, reducing the threshold for cloture in 1975 and changing the threshold for cloture on nominations in 2013, were adopted under the leadership of Mike Mansfield and Reid, respectively. Neither majority leader championed reform, both advocated respect for Senate traditions, both stood in the way of reform for years before it was adopted, and both made considerable effort to make the reform as modest as reformers would permit.

#### Translating House-Motivated Theory for Senate Parties and Leadership

House and Senate leaders appear to share the same party goals and perform similar functions for their parties. The necessity of obtaining majorities to pass legislation gives majority parties a natural minimum role in preventing passage of legislation disapproved by most majority party members. This *negative* agenda control by the majority party is thought to be a common feature of partisan parliamentary bodies and elected leaders implement the strategy (Gailmard and Jenkins 2007; Rasch and Tsebelis 2011). The tools of negative power can take many forms—committees acting as gatekeepers for the parent parties, an agenda-setting committee like the House Rules Committee operating on behalf of the majority party, procedural advantages for disallowing or defeating minority proposals, a presiding officer who controls the recognition of members to make motions, or some combination of these features.

In contrast, there is considerable question about whether party dynamics—the variation in the centralization of power and in the *positive* power to pass a legislative program—are similar in the two chambers. There are reasons to doubt that they are.

The CPG thesis, developed as an account of variation in centralization in the House (Rohde 1991), rests on the ability of the majority to create and retract the formal powers of the majority party's leader, the Speaker. Those powers may be found both in the Speaker's parliamentary and organizational prerogatives as presiding officer of the House, such as in the right to recognize a member to make a motion, and as leader of the party, such as chairing the committee assignment committee of the party. When the majority party is not cohesive, many members of the majority party do not want a strong central leader, prefer policy making to devolve to committees, limit the Speaker's ability to direct the legislative process, and leave the Speaker to bargain with his colleagues and facilitate the work of

committees. When the majority party is cohesive, majority party members are more willing to license the Speaker to act on their behalf, grant the Speaker more power within party and the House, and encourage the Speaker to influence the few wayward party colleagues when necessary.

The Senate does not have some of the features that are taken for granted in the House. First, the presiding officer of the Senate is not the leader of the majority party. The majority party might assign more or less responsibility over party affairs to its floor leader, but it would make little sense for the party to empower a presiding officer, the vice president, who may not be of the same party and is likely to have much closer bonds with the president than his or her fellow partisans in the Senate (Gamm and Smith 2000). This fundamental difference in parliamentary settings is more often ignored than any other in comparisons of the two houses.<sup>2</sup>

Second, the Senate rules allow a sizable minority to block legislation by preventing cloture and enable senators more freedom to offer amendments. Minority blocking power reduces the positive power that certain majority advantages (most notably, the right of first recognition for the majority leader) confer, and can be a source of leverage with the majority in the minority's effort to gain votes on measures it favors, reducing the blocking power the majority would otherwise enjoy. Moreover, the Senate lacks a general germaneness rule for floor amendments, which enables the minority to propose alternatives and even measures on new issues unless the majority can successfully employ blocking strategies of its own. And the Senate minority can gain some protection by killing measures through procedural votes—cloture motions, most notably—for which there is no parallel in the House. Combined, these Senate practices reduce both the positive and negative power of the Senate's majority and its leader.

Third, the rules of the Senate are changed only with difficulty when opposed by a large minority. Rule XXII requires a two-thirds majority to invoke cloture on a measure that changes the standing rules. Consequently, most Senate majority parties are unable to modify the standing rules without minority party support, which is unlikely to be found for a proposal to enhance the ability of a simple majority or the majority party and its leader to pass legislation.

Keen observers note that the majority party and its floor leader are not helpless when confronting an aggressive minority (Den Hartog and Monroe 2011; Lee 2009). Appeals to party loyalty are an important part of everyday Senate politics. The use of some procedural motions (motions to table amendments, points of order) may give majority party senators political cover and give the majority leader an edge in blocking minority proposals. Filling the amendment tree to prevent minority amendments from being offered can be a useful majority

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<sup>2</sup> For example, see Monroe, Roberts, and Rohde (2008), an edited volume in which several chapters make the case for the similarity of party influence in the two houses but fail to even mention the presiding officer of the Senate. Also see Den Hartog and Monroe (2011) and Lee (2009).

tactic when the majority wants to avoid votes on certain propositions. Moreover, from time to time the majority has imposed changes in parliamentary practice through points of order, thus avoiding the super-majority requirement for cloture on a change in the rules.

In addition, strengthening the hand of the floor leader through party rules and practices may help influence fellow partisans whose votes are needed from time to time. Perhaps most important, leaders can influence committee assignments that are valued by senators. Indeed, in 2004, at the urging of conservatives, Senate Republicans gave their leader the ability to fill half of the vacancies on the major committees that year in order to exercise more influence over moderate colleagues (Ota 2004).<sup>3</sup> It is noteworthy that Democrats have had their leader chair the Steering Committee, which makes committee assignment recommendations to the full conference, for a century and have not changed that practice. Of course, leaders may consider loyalty as a factor that influences their decisions about floor scheduling, campaign support, appointment to commission, boards, and joint committees, and other matters.

These majority party advantages can be exaggerated. In evaluating the importance of these majority party advantages, several factors must be taken into account:

- Even a fully cohesive majority party cannot overcome a cohesive minority that is large enough to prevent cloture. Unlike the House, where a cohesive majority party is expected to have success in passing its program, a Senate majority party of small or moderate size may find that increasing polarization reduces its prospects of success (Gamm and Smith 2005; Rohde 2013).
- The value of the majority party's procedural tools is contingent on being able to invoke cloture when facing an obstructionist minority. For example, filling the amendment tree to block minority amendments and still finding the votes to pass the underlying bill require that the majority is able to invoke cloture, which is a high hurdle in many circumstances.
- Procedural votes, such as votes on motions to table amendments and cloture motions, often give little political cover to senators when outside groups are paying close attention (Smith, Ostrander, and Pope 2013; Smith 2014).
- To the extent that procedural votes give political cover, the minority can avail itself of procedural votes too. Cloture votes, particularly, may be used to avoid direct votes on bills.
- The Senate majority leader's supply of rewards and punishments are more useful in seeking to influence fellow partisans than members of the minority party, whose votes often are required to invoke cloture.

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<sup>3</sup> They already had required their top committee leader to stand for election among committee members and limited them to six-year terms.

Naturally, leaders must worry about alienating colleagues when discriminating among them in allocating rewards. Nevertheless, there is no doubt that being in the majority, appeals to party loyalty, and using approaches that require only majority support give the Senate majority leader responses to minority tactics that are useful at the margins.

These considerations yield an important hypothesis about party dynamics: The amplitude of the cyclical pattern of centralized and decentralized policy making—the ability of the majority party to pass its legislative program—is much greater in the House than in the Senate (Gamm and Smith 2013; Smith 1985). Even a cohesive Senate majority party cannot readily add to the stock of rewards and sanctions that a majority leader can deploy. Changing the Senate's standing rules to accomplish that would face obstruction from the minority. In most circumstances, changing the majority party's internal rules and practices would have little effect on the party's ability to maneuver around an obstructionist minority. As in the House, changes in party-based activity—largely new informal practices that place the majority leader more or less at the center of important legislative episodes—can be expected when like-minded partisans demand it, but the changes in informal practices are not likely to be backed by lasting changes in the majority leader's repertoire of strategies for influencing policy outcomes.

The CPG argument for the House is that increasing majority party cohesiveness adds to the positive influence of the majority party leadership and does so beyond the value of the additional cohesiveness alone. That is, an increasing returns to scale process is generated by the multiplier effect of cohesiveness on the Speaker's power. Both increasing party cohesiveness and greater leadership influence increase party success. This separates the CPG argument from the Cooper-Brady argument that deemphasizes leadership influence in favor of the dominant effect of party cohesiveness.

The expectation for the Senate is not so clear. It is reasonable to hypothesize that the majority leader becomes more active in policy making and building coalitions as the parties become more polarized. But, because of two features unique to the Senate, the increasing returns to scale are likely to be small or nonexistent. First, the Senate majority leader's formal powers under the standing rules are seldom changed so increasing party cohesiveness may not yield the increasing returns in leadership influence and success that are hypothesized for the House. Second, with the 60-vote threshold for cloture and typical party sizes in the Senate, increased leadership influence may not generate enough votes to improve the majority party's rate of floor success. Since 1971, the average Senate majority party size has been 54.7 seats (91st-113th Congresses).

With polarized parties of average size, the Senate majority leader struggles. His party colleagues will trust him to take the lead in policy making, attention will be focused on his public comments, and the floor agenda will be directed from his office, but the minority may choose to obstruct his efforts on the floor. Managing expectations may be difficult. Frustration with stalemated parties may produce

tensions within the majority party and differences of opinion about appropriate strategies, most of which directly involve the majority leader's approach to managing the Senate floor.

It bears noting that, in most circumstances, it is the minority that triggers the supermajority threshold. The decision rule—a simple majority or a supermajority—is not fixed and settled. Remarkably, we have little theory and empirical analysis of minority strategies. Without a better (analysis? understanding?) of minority strategies, we are missing an important element of the context that shapes the behavior of majority leaders. The Senate's supermajority threshold for cloture makes size and cohesiveness of both parties conspicuous factors in understanding the Senate majority leader's strategic context and behavior. Size and cohesiveness for a congressional party tend to be inversely related so we seldom have large and cohesive majority parties that can readily overcome minority obstruction on most measures.

Not surprisingly, the frequency that the minority has forced the majority to gain cloture on motions to proceed, on bills and nominations, on House amendments, and on conference reports has varied widely over the decades. There is little doubt that the degree of partisan polarization influences the frequency of obstructionism, but so might the relative size of these coalitions and parties, the nature of demands placed on senators from the larger political environment, and the value of Senate obstruction that is shaped by the political preferences of the House and president. Even simply slowing Senate business to a crawl to limit the ability of the majority to process legislation may serve minority interests.

While the political science of congressional leadership properly focuses on the political circumstances that majority leaders' confront, any account of a limited number of leaders must account for more personalistic factors. In the case of Senate leaders, the personal pursuit of higher office cannot be ignored. Senate party leaders, far more than the top leaders of House parties, have been candidates for higher office. Senators Charles Curtis, Oscar Underwood, Joseph Robinson, Alben Barkley, Robert Taft, William Knowland, Lyndon Johnson, Howard Baker, Bob Dole, Tom Daschle, and Bill Frist had political ambitions that consumed time and shaped their leadership strategies, at least at times.

#### Harry Reid's Senate: From Deep to Intense Polarization

Reid became the Democratic floor leader after Tom Daschle's 2004 election defeat (Table 1). His party was still in the minority in both houses of Congress and Republican George W. Bush had just won a second term in the White House. Two years later, in Bush's second midterm election, Democrats won majorities in both houses. Reid became majority leader without opposition, although there was talk that Christopher Dodd (D-CT) would challenge him. He continued to serve as majority leader through 2014. Democrat Barack Obama won the White House in 2008 and was reelected in 2012, but the Republicans won a House majority in the 2010 elections.

[Table 1 about here]

For most of Reid's years as majority leader, his efforts to acquire a three-fifths majority for cloture could be stymied by a reasonably cohesive minority. In eight years as majority leader, Reid's Democratic conference reached 60 members for only a seven-month period in 2009 and early 2010. Al Franken (D-MN) was sworn into office on July 7, 2009, after a long vote recount, giving the Democratic conference 60 members, but on February 4, 2010, Scott Brown (R-MA) took a seat to replace Edward Kennedy (D-MA), who had died in August and was temporarily replaced with a Democrat. In the other three Congresses, Reid struggled to lead the Senate with smaller majorities of 51, 53, and 55 senators. As has often been the case in the Senate over the last few decades, majority control was in doubt as the 2012 and 2014 elections approached.

Throughout Reid's years in the leadership, senators' policy preferences were deeply polarized by party (Figure 1). Demonstrating the polarization between the parties is deceptively easy with the roll-call voting record. Because senators' voting decisions reflect party strategies to force or avoid votes on substantive and procedural propositions, the roll-call voting record can be misleading about senators' most preferred outcomes. Nevertheless, the evidence is overwhelming that party polarization during Reid's four Congresses as majority leader ran deep. In the period since 1980, both parties lost moderate senators, with the Republicans moving in the conservative direction somewhat more than the Democrats moved in a liberal direction. Democrats, once the more diverse of the two Senate parties, had become at least as cohesive as the Republicans.

[Figure 1 about here]

At the time he became minority leader, there was some question about Reid's fitness for the job. Reid's skill at negotiating, vote counting, and procedural maneuvers was not in doubt; he had proven himself during six years as whip. The question was whether he could manage the larger tasks of setting a direction for his caucus and be an effective spokesman for his party. It was obvious that representing his party on television would be a challenge for Reid, who claimed that he did not even like public gatherings (Taylor 2004). More troubling for some was that Reid may not fit a caucus that was more liberal than he was (Steinhauer 2013). By the time Democrats won a majority in the 2006 elections, however, Reid had moved strongly in a more liberal direction (Figure 1) and established himself as a strong partisan who could be trusted to represent his party aggressively on the floor.

In the most recent Congresses, then, Reid has operated as a floor leader under conditions of sharply polarized parties that would predict centralized policy making, assertive leadership, and majority party success. There were complicating factors: divided party control of the House and Senate, with a Democratic president, a party conference with far fewer than 60 senators; and continued party

control of the Senate often in doubt. These factors might limit the size of his agenda, put a premium on public relations, and undermine the value of passing legislation in the Senate. Nevertheless, the CPG thesis implies that, under the conditions the Senate has exhibited, Senate Democrats would centralize more power in its floor leader who would use his stock of rewards and punishments to aggressively influence senators and improve the party's success in passing its program.

### Reid's Performance of Party Leadership Functions

CPG fits the Senate only in limited ways. Consistent with the view that Senate parties experience dampened responses to party polarization, Reid was central to policy making and became aggressive in pursuing his party's interests, but, overall, his centrality to the process was not matched by his influence over the outcomes. He did not enjoy any significant new power. No one has argued that he was more influential than the three previous Democratic floor leaders dating back to the 1970s. Party success, outside of the half year in which he enjoyed 60 members in his conference, was limited. Eventually, minority obstruction restricted his policy agenda.

To give the discussion of Reid's strategies some structure, I use the Gamm and Smith categories of leadership activities, which are adapted from those proposed by Ripley (1969a) and Sinclair (1983). They are not intended to be mutually exclusive or exhaustive, but highlight the major activities that leaders describe for themselves. I provide a brief review of Reid's leadership under these headings and then provide a summary assessment.

#### Policy Leader

As majority leader, Reid generally faced a 60-vote threshold for building winning coalitions on his party's legislation. He contributed to this process. As minority leader in 2005-2006, Reid joined a succession of minority leaders of both parties who had more aggressively delayed or blocked majority party legislation and nominations. The pattern dated to the days of Bob Dole, who, along with a more aggressive party conference, blocked Democratic measures and nominations in the early Clinton administration. After Clinton assumed the presidency, Dole and the Republicans obstructed floor action on health care legislation, a few other major bills, and, most notably, numerous nominations (Figure 2).<sup>4</sup> The experience generated a steep increase in obstruction and the use of cloture by the majority party—primarily by the majority leader—which lasted through Reid's two-year stint as minority leader. It was during Reid's term as minority leader that Majority Leader Bill Frist threatened the nuclear option but found his effort blocked by the "Gang of 14," a group of seven Democrats and seven Republicans who refused to

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<sup>4</sup> Figure 2 reports the number of bills and resolutions and the number of nominations that were associated with at least one cloture petition at some stage of the process (motion to proceed, measure, amendment, post passage, and so on). Many measures and nominations were subject to multiple petitions.

support simple majority cloture for judicial nominations, as Frist urged, and agreed to move forward on some of the nominees.

[Figure 2 about here]

Minority obstructionism was considered rampant by Frist and the majority party Republicans in the early years of the 21st century. No one anticipated that the minority would become even more obstructionist after the Democrats gained a majority in the 2006 elections. It did. Nearly every major bill in Reid's first two Congresses as majority leader involved minority delay and cloture (Figure 3).

[Figure 3 about here]

The dip in the frequency of cloture petitions in the 112th Congress (this is repeated in the 113th, which is incomplete at this writing) surely reflects the impasse between the Republican-controlled House and Reid's Democratic-controlled Senate. Both houses showed a sharp fall-off in legislative activity in these Congresses and the number of major bills fell off even more (although Congressional Quarterly continues to identify about 25 key votes anyway). The real floor agenda of the Senate was considerably smaller in these Reid Congresses.

Treating minority obstruction, particularly when cloture petitions are used as the trace indicators, as exogenous to majority leaders' behavior can be misleading. The real frequency of obstruction may not correspond in a simple way with the number of cloture petitions filed by the majority. The majority leader may decide to more or less frequently bait the minority with legislation he knows will produce obstruction; he may vary in his willingness to compromise or to block minority amendments; or at times he may keep legislation off the floor that the majority intensely favors but would generate obstruction and require cloture if brought to the floor.

Moreover, cloture petitions are filed by the majority leader most of the time and thus are a direct measure of the majority leader's behavior rather than minority behavior. During the 1961-2012 period, over 70 percent of cloture petitions were filed by the majority leader and another 21 percent by other majority party senators. Harry Reid filed over 90 percent of the cloture petitions during the 2007-2012 period.

Nevertheless, no one who follows the Senate closely questions that the rising frequency of minority obstruction roughly corresponds to the outlines of Figures 2 and 3. Republicans sometimes complain that Reid is too quick to file cloture petitions, but there is little doubt that Reid has faced a more oppositional minority that was far less likely to grant unanimous consent to bring up legislation and approve a path to final passage votes. This became a fundamental condition of the Reid years as majority leader. In fact, controlling for the number of hours in session, the 112th Congress (and again the 113th) shows more frequent use of

cloture (Figure 4), which is consistent with the *Republican* leader's assertion that 60 votes is the *normal* threshold for action in the Senate (Smith 2014).

[Figure 4 about here]

Reid succeeded in reaching the cloture threshold for health care reform in 2009 after playing a central role in merging plans developed by committees and forging agreements with a handful of Democrats whose support proved difficult to acquire (Washington Post 2010; Jacobs and Scopol 2012; Levey and Hook 2009). His success appeared to be dependent on the election of Senator Al Franken (D-MN) in mid-2009 at the completion of a long election recount process. Since early 2010 (the second session of the 111th Congress), when the health care bill was enacted, Reid's rate of success has been quite low. Indeed, the overall gap between bills introduced, which has been about average under Reid, and bills passed, which has been far below average under Reid, has reached modern records in the recent Reid Congresses.

[Figure 5 about here]

While Reid consulted with bill managers and his conference, Reid was granted a free hand in developing procedural strategies to manage unrelenting minority obstructionism. His political options were limited, however, by the opposition of the House majority to nearly any legislation that produced partisan divisions after Democrats lost their House majority in the 2010 elections. Using reconciliation to creative ways, tucking legislative provisions into appropriations measures, and avoiding filibusters by coordinating the adoption of identical legislation in both houses were infeasible during most of Reid's service as majority leader. Opportunities for claiming credit for his party or himself would be very limited—legislative victories could not have been frequent or significant. Much of the game would be to avoid blame to his own party and attribute blame to the opposition.

Operationally, Reid's strategies were designed to (1) keep his party as unified as possible in order to improve the odds of passing desirable and necessary legislation and (2) avoid creating opportunities for the minority to score political points against his party colleagues. Reid relied on others to write legislation, but his meticulous attention to his colleagues' views and interests, eagerness to find ways to attract votes, and control over floor strategy kept him central to every major battle.

Most of the details of Reid's procedural strategies are documented elsewhere so they may be summarized with a few observations (for more detail, see Smith 2014).

1. To reduce the time required to process legislation, Reid frequently and quickly filed a cloture petition on the motion to proceed and measures.

2. To gain leverage with the minority and limit the public relations value of votes on minority amendments, Reid more frequently sought to control amending activity by filling the amendment tree.
3. To avoid creating public relations opportunities for the opposition and to reserve time of other measures, Reid avoided bringing legislation to the floor for which he was unlikely to find sufficient votes for cloture and was not critical to his party's reputation.
4. To encourage cooperation from his party colleagues, he deferred as much as possible to committee leaders for the development of substantive policy proposals and inserted himself only when required to solve problems.

The second observation, that Reid frequently filled the amendment tree, deserves special emphasis. Although their own floor leader, Bill Frist, had begun to use the amendment tree more frequently in 2005 and 2006, Republicans complained bitterly about being denied the opportunity to freely offer amendments and to force Democrats on the record on their proposals. At times, they asserted that they opposed cloture on a bill because they were denied votes on their amendments. Reid and the Democrats often used the tactic to gain some leverage with the Republicans—if the Republicans would support cloture on the bill, a limited number of Republican amendments would be allowed. It often did not work, with the parties left in stalemate. The technique could not be used to completely block minority amendments without votes to invoke cloture.

The limited floor agenda and frequent effort to control amendments altered the mix of other floor tactics Reid (and his predecessor, Bill Frist) employed. Most obvious, perhaps, was the sharp decline in the use of motions to table to dispose of amendments. Political scientists have sometimes attributed the frequent use of motions to table amendments to the majority leader's interest in using a procedural motion to pick up votes that might be lost on a direct vote on amendments. The more persuasive argument is that motion to table expedites business by bringing debate on an amendment to an end (Smith, Ostrander, and Pope 2013). Once amendments were more frequently managed under cloture and with filled amendment trees, the occasions in which a motion to table was useful declined.

[Table 6 about here]

Reid did not follow some advice that is often given to a Senate majority leader: Expose the minority's obstructionism by forcing minority senators to conduct extended debate. The rationale behind this advice usually is that the majority needs to make the minority pay a political price for its obstruction, a price that can be generated by showing the C-SPAN audience that minority senators are holding up the public's business by their filibustering. Reid, like other majority leaders, does not believe this works. First, the minority picks legislation or nominees to filibuster that is opposed by most voters in their electoral coalition; there is little price to be generated by forcing "speaking filibusters." Second, other

business is delayed while trying to wear down the opposition on one measure. And third, by the time Reid became majority leader, obstruction had become so commonplace that another filibuster was hardly newsworthy. In fact, Reid might be blamed for the gamesmanship.

### Floor Manager

Reid fit the long-standing pattern of managing the floor personally on a daily and hourly basis. Henry Cabot Lodge and Mike Mansfield were the only majority leaders to have turned this duty over to an assistant leader or whip. Lodge relied heavily on Charles Curtis and Mansfield eventually relied on Robert Byrd to manage the flow of motions and legislation on the floor. Both Curtis and Byrd would eventually become majority leader. Reid entrusted Richard Durbin (D-IL) with floor duties with considerable frequency, but, like most leaders, assumed personal responsibility for managing the floor most of the time.

### Intermediary with the President

Reid assumed primary responsibility for representing his party with President Barack Obama and, like all modern leaders of the president's party, has had regularly scheduled meetings with the president. Moreover, the White House deferred to Reid at critical moments in the first Obama Congress as health care legislation was being prepared for floor action in the Senate. When Reid was quoted in a book as saying that the president was "light-skinned" and had "no Negro dialect, unless he wanted to have one" in early 2010, Reid was widely recognized to have built a very good working relationship with the president, and it showed in the quick and supportive responses of both Obama and Reid (Zeleny 2010).

For the most part, Reid championed the Obama administration's legislative priorities and executive and judicial branch nominations. There have been very few exceptions. In 2014, Reid, whose views comported with many of his party colleagues, rejected the president's request to pass trade promotion legislation that would establish a fast-track process for the Pacific Rim and European Union trade agreements that were being negotiated (Bradner and Raju 2014). That same year he questioned the president's judgment in nominating a person to a district court judgeship.

The most serious problems that Reid has had with the president have not been about priorities or the desirability of enacting legislation, but rather concerned approaches to negotiating with Republicans. After the 2010 elections and the stresses of dealing with both a House Republican majority and obstructionist Senate minority began to take a toll, the relationship between Reid and Obama became strained. Reid was unhappy with the outcome of the president's direct negotiations with Republicans on the 2011 debt limit measure, and, in 2012, the relationship was complicated by the role in negotiating with Republicans that Vice President Joseph Biden was granted by the president on

fiscal cliff legislation. Reid appeared to take a dimmer view of the likelihood of successful negotiations with Republicans; Obama wondered about Reid's ability to hold his caucus together.

A meeting between Reid and Obama in July 2013 helped to clear the air and put them on a path of refusing to negotiate with the Republicans on debt limit and spending bills that were facing deadlines in the fall (Babington and Pickler 2013; Stein and Grim 2013). Their success in forcing the Republicans to back down (in no small part due to the split among House Republicans) seemed to cement a good relationship.

### Party Manager

The task of managing the party—serving as both conference chair and majority leader—naturally fell to Reid. Reid's most notable "innovation" was to reverse years of practice in both Senate parties of relying on task forces to address major issues and plan party strategy. His predecessors, dating back to the 1980s under Howard Baker on the Republican side and Robert Byrd on the Democratic side, used task forces on major issues to exploit the talents of colleagues who did not serve on standing committees of jurisdiction, to reward loyalists, to develop a party consensus, and to sharpen partisan strategy. Reid promised to return to the "regular order," by which he meant to rely on committees and their chairs and to do away with task forces.

The return to a reliance on standing committees is inconsistent with the CPG-based proposition that policy-making processes would become even more centralized and party-based in a more intensely partisan Senate. In fact, Reid relied on more informal communications, party conference meetings, and his own initiatives, and deliberately reached out farther among his colleagues on a personal basis for advice than did Daschle (Reid 2008). This placed him in the middle of negotiations on nearly all important issues.

### Party Spokesman

Reid always has been known as reserved but armed with a sharp and loose tongue. This did not make him an ideal spokesman for his party and sometimes made him a source of embarrassment to his colleagues. More than most floor leaders since Byrd, Reid avoided political interview programs and made his public statements from prepared scripts on the floor and at brief press conferences. From his first days as floor leader, he has appeared to be happy to promote his party colleagues with the media (Stolberg 2004; Taylor 2004).

Nevertheless, Reid is a partisan combatant. In late 2004, just after Daschle lost his seat, the Democrats lost a net of four Senate seats to sink to a total of just 44, and he became his party's floor leader, Reid created the Senate Democrats' "war room." As advocated by Senator Hillary Clinton, the idea was to create a quick response, high-tech, public relations operation run by talented staff and

designed to counter the Bush White House and Senate majority message efforts (Bolton 2008; Grove 2005; Kane 2004). Within a year, the office grew to more than 25 staff members. (In due course, Republicans followed Reid's model by building their own modernized communications staff.)

### Cause and Effect

Reid's detractors often give a very personalistic interpretation by his strategies. His impatience is associated with quickly filing for cloture. His temper is blamed for filling the amendment tree to block minority amendments. His personal limitations in dealing with the media and public, along with his partisanship, are blamed for creating a war room and deepening party polarization. His power, some even claim, inspires fear in his party colleagues, who line up behind him on all issues.

It is true that Reid's personality influences his behavior, but we hardly need such a psychological account to explain most of Reid's leadership behavior. A fair observation is that minority obstructionism pre-dated Reid and was intensified after Republicans became the minority and President Obama took office. It is hard to imagine that minority obstructionism, which actually prevents action on numerous measures, is entirely or even mostly endogenous to Reid's personality. To make that argument is to argue that minority senators willingly undermine their own best policy outcomes because they are upset with Reid—a narrative that would be about the minority's psychological makeup as much as Reid's. The no-compromise attitude of Senate Republicans originates elsewhere, not in Reid's pugilism.

### The Events of 2013

Insight on Senate majority party leadership may be gained from what will be the most remembered episode in Reid's service as leader, the forced end to filibusters on presidential nominations. Frustration with minority obstruction generated strong pressure from liberal Democrats to force a change in Rule XXII, the cloture rule. The leading reformers argued that Republican obstruction to a reform resolution should be overcome with a point of order. The point of order would be that Article I, Section 5, of the Constitution implies that a simple majority can invoke cloture on a change in the rules at the start of a Congress. The presiding officer might rule against them, but they could set aside the ruling with a simple majority to table an appeal. Their reforms were modest by past standards: limit debate on the motion to proceed, tighten the rule on holds, cut the time for post-cloture debate, compel obstructing senators to conduct debate, and guarantee both parties a few amendments before a cloture vote on a bill (this account is based on Smith 2014, Chapter 6).

When reformers pushed these reforms at the start of the 112th and 113th Congresses (2011-2012, 2013-2014), Reid endorsed the general terms of the

proposals but he did not favor the point-of-order strategy. Instead, Reid expressed support for Senate tradition and engaged Minority Leader Mitch McConnell at the start of both Congresses to negotiate an understanding that he hoped to reduce minority obstruction. In 2011, the two leaders announced a “gentleman’s agreement” that involved McConnell’s promise to rarely filibuster the motion to proceed and to endorse a ban on secret holds and Reid’s promise to preserve minority party opportunities to offer amendments. Both leaders agreed to avoid using the point-of-order approach (known as the “nuclear” or the “constitutional” option) to reforming the rules during that and the following Congress. By the fall of 2011, it was plain that McConnell was not holding up his end of the bargain.

In 2013, again with Democratic reformers demanding action, Reid negotiated a package of temporary and long-term changes in the rules. The provisions of one resolution would expire at the end of the 113th Congress. The resolution created an alternative cloture procedure that limited debate to four hours on the motion to proceed and guaranteed each party two amendments on a bill. It also limited post-cloture debate to eight hours on lower-level executive branch positions and two hours on district court nominations. The resolution was adopted 78–16, with opposition from conservative Republicans and Vermont’s socialist Bernie Sanders. In effect, this resolution created a second cloture process that could be used by the majority leader, but its use would depend on the majority leader’s willingness to entertain minority amendments.

The second resolution changed the standing rules, which would remain in place until changed. The resolution barred debate on a motion to proceed if the associated cloture motion was signed by the two floor leaders and seven senators of each party. The cloture motion still had to be adopted by a supermajority, as under the previous rule, but now a bipartisan group could force immediate action on the motion to proceed once a cloture motion was adopted. The second resolution also combined the three motions to go to conference with the House (that is, to disagree or insist, to request a conference, and to authorize the appointment of conferees) into one motion. Debate on a cloture motion related to a conference motion was limited to two hours, and if the cloture motion was adopted, no further debate on the conference motion was allowed.

For the majority Democrats, the 2013 reforms promised a more streamlined process for considering legislation in the 113th Congress, but, in exchange, the resolutions guaranteed the minority the opportunity to offer amendments. Reid never used this alternative cloture process. Guaranteeing amendments made little sense to Reid if the Republicans still refused his efforts to acquire their commitment to allowing a vote on a bill. In fact, Republican obstruction continued with little relief. Action was blocked on both executive and judicial branch nominations, which produced repeated threats from Reid that he would force simple majority cloture on nominations through the point-of-order approach if the Republicans did not allow votes on the pending nominations.

By the spring of 2013, Reid's efforts to get McConnell and the Republicans to temper their obstructionism appeared to be a failure, at least in the view of most Democrats. By that time, Senate action on the secretary of defense nomination had been delayed and other significant executive branch nominations were held up. Reid threatened to undercut nomination filibusters if the Republicans did not give way by July. Last-minute negotiations allowed confirmation for most of the nominations, but soon three nominations to the DC Court of Appeals led Reid to issue his warning again. Again, Reid professed a negotiated settlement to gain action on the nominations and again a few Republicans scrambled to see if they could find a way to avert Reid's move. This time, however, most Republicans seemed unwilling to budge and, in late November, Reid moved to end filibuster of nominations backed by all but three fellow Democrats, enough to win a majority.

With his votes lined up, Reid went to the floor on November 21, three days after the last of the three nominations failed on a cloture motion. His point of order: "I raise a point of order that the vote on cloture under rule XXII for all nominations other than for the Supreme Court of the United States is by majority vote." Reid briefly reviewed his efforts to gain action on executive and judicial nominations during the year and insisted that he had an obligation to make the Senate work. Reid also chose a "brute force" approach in offering a point of order concerning the threshold for cloture on nominations rather than introducing a reform resolution. A reform resolution could have been filibustered, but the Democrats could have made the argument, practiced for many years by reformers, that the Constitution implies that, contrary to the text of Rule XXII, a simple majority may invoke cloture on a measure related to the rules. Reid also paid no attention to the argument that a simple majority should be allowed to consider changes in the rules at the start of a Congress. Reid ignored the constitutional arguments, made the simple argument about making the Senate work, and took the quickest and most direct procedural path to establishing a new precedent. It was vintage Reid. Exclusive emphasis on minority obstruction; frustration with the opposition; acting with a minimum of explanation.

Any reasonable explanation of the events in late 2013 cannot focus on Reid alone. Most observers, and probably most senators, expected the Senate to muddle through another episode by a compromise that allowed most but not all of the nominees to be confirmed. McConnell and other Republicans may have miscalculated. Reid, after all, continued to articulate support for the Senate filibuster tradition within the month of taking this step, much as had previous Democratic floor leaders. Probably most important, Republicans proved more intransigent on nominations to an important appeals court than expected, which led some Democrats, notably Diane Feinstein, to change their minds about moving to undercut filibusters on nominations by using the nuclear option.

Reid's personal frustration and reputation certainly played a role. He did not seem to be eager to proceed as he did and had been urged to move in this direction by many colleagues over several years. In 2013, he promised to act and Republicans were not making any concessions on the three nominations at issue.

Reid also appeared to make a lower estimate of the relative costs of “going nuclear” than he had in previous rounds (Raju 2013). A large part of the cost of pursuing the nuclear option had long been attributed to the prospect of minority retaliation. The retaliation would take the form of objecting to routine unanimous consent requests, requiring votes on every motion, and forcing cloture on every debatable motion, thereby slowing Senate business to a crawl. In November, Reid was giving plenty of notice that he was discounting the threat of retaliation. It would be difficult, he insisted, for Republicans to become even more obstructionist than they already were.

The Reid move is among the three or four most important events in the procedural history of the Senate. Ignoring the plain text of a standing rule, a majority of senators changed the effective rule by merely declaring it to be something else. The move was radical by Senate standards, but it was not a move championed by Reid. No senator or outside observer predicted that Reid would move successfully by the means he did. Circumstances, it is reasonable to propose, would have led nearly any Democratic majority leader to move when he did, if not sooner.

The circumstances that produced Reid’s move were not readily predicted by the institution’s long history. Senators surely expected that the nuclear option would be averted once again in the November impasse over judicial nominations, as it had been in July over executive nominations. Among scholars, one school of thought held that the threat of the nuclear option was enough to keep minority obstructionism in check. That proved wrong. Another school of thought insisted that the costs a minority could impose on the majority in the form of retaliatory obstruction were enough to keep the nuclear option from being exercised. That, too, proved wrong. Reid moved and senators changed their institution (Smith 2014, Chapter 9).

### Lessons from the Reid Years

In 2001, at a time when Senate parties were becoming more polarized, Sinclair observed that senators expected their floor leaders to be more pro-active in pursuing collective party interests, but the leaders had not been granted new resources by their institution or parties to do so. For the majority leader, she continued, “these expectations conflicted more frequently with the imperative that leaders keep the Senate functioning” (Sinclair 2001, 68). She was right. Nevertheless, ten years later, with an intensity of partisanship that Sinclair could not predict, the mismatch between expectations and leadership resources had been transformed into an entirely new set of expectations. I called this the “Senate syndrome” to capture the idea that the Senate’s worst tendencies of minority obstruction and majority restrictions had changed the character of the Senate in a fundamental way (Smith 2014).

Reid adjusted to his circumstances in several ways. He countered Republicans’ procedural moves with more frequent use of cloture, more frequently filling the amendment tree, and paring down the floor agenda to essential

legislation and his party's highest priorities. He intensified the party's messaging efforts to shape public opinion. He put more effort into understanding the interests and gaining the support of fellow partisans than any recent leader.

Reid did not become the Senate's czar. Rather than moving legislative drafting into the leader's office, he left nearly all policy details to committee chairs and members, moving into the details only when he needed to find more votes. He did not seek, and was not granted, new formal powers by his party and certainly not by the Senate. He sought compromise with the minority leader on salient procedural matters to avoid procedural moves strongly advocated by many party colleagues. He took strong action on filibusters only when he seemed to have no choice, and then limited the new precedent to nominations for executive positions and lower court judgeships. He proposed nothing for filibusters on legislation.

The Reid years appear to support the proposition that the cyclical pattern of centralized and decentralized policy making—the ability of the majority party to pass its legislative program—is compressed in the Senate. Reid was given considerable freedom to pursue his party's interests, was sometimes under considerable pressure to do so aggressively, and often did so. But he received no new powers and translating his assertiveness into legislative victories proved difficult and often impossible.

Table 1. Harry Reid's Leadership Positions, Party Divisions, and Presidency, 1999-2014 (Majority Party in Bold).

	Reid's Leadership Position	House		Senate		President
		Democrats	Republicans	Democrats	Republicans	
1999-2000	<i>Minority Whip</i>	211	<b>223</b>	45	<b>55</b>	Democrat
2001-2002	<i>Majority Whip*</i>	213	<b>220</b>	50*	50*	Republican
2003-2004	<i>Minority Whip</i>	205	<b>229</b>	49	<b>51</b>	Republican
2005-2006	<i>Minority Leader</i>	201	<b>233</b>	45	<b>55</b>	Republican
2007-2008	<b>Majority Leader</b>	<b>232</b>	203	<b>51</b>	49	Republican
2009-2010	<b>Majority Leader</b>	<b>257</b>	178	<b>59</b>	41	Democrat
2011-2012	<b>Majority Leader</b>	193	<b>242</b>	<b>53</b>	47	Democrat
2013-2014	<b>Majority Leader</b>	201	<b>234</b>	<b>55</b>	45	Democrat

\*From January 3 to January 20, 2001, with the Senate divided evenly between the two parties, the Democrats were the majority party because of the deciding vote of the outgoing Democratic vice president. Reid served as majority whip at that time. Beginning on January 20, 2001, the Republican vice president held the deciding vote, giving the majority to the Republicans and Reid returned to minority whip. Senator James Jeffords (VT) announced his switch from Republican to Independent status, effective June 6, 2001, and caucused with the Democrats, giving the Democrats a one-seat advantage, changing control of the Senate back to the Democrats and Reid again became majority whip.

Figure 1. DW-NOMINATE Scores, Senate Parties and Harry Reid, 1971-2012.

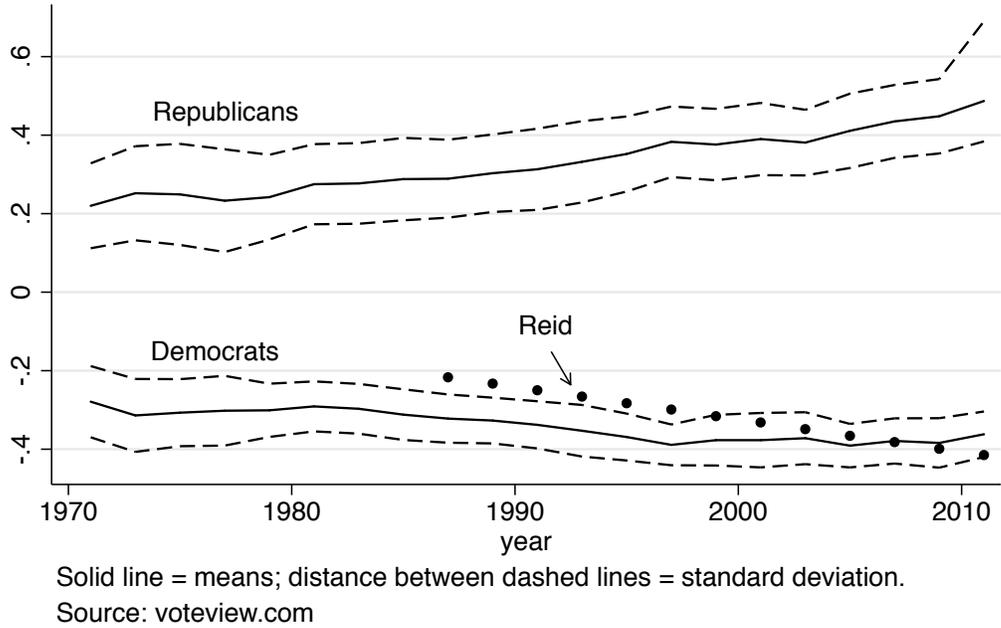


Figure 2. Number of Measures and Nominations Subject to a Cloture Petition, by Congress, 1961-2012.

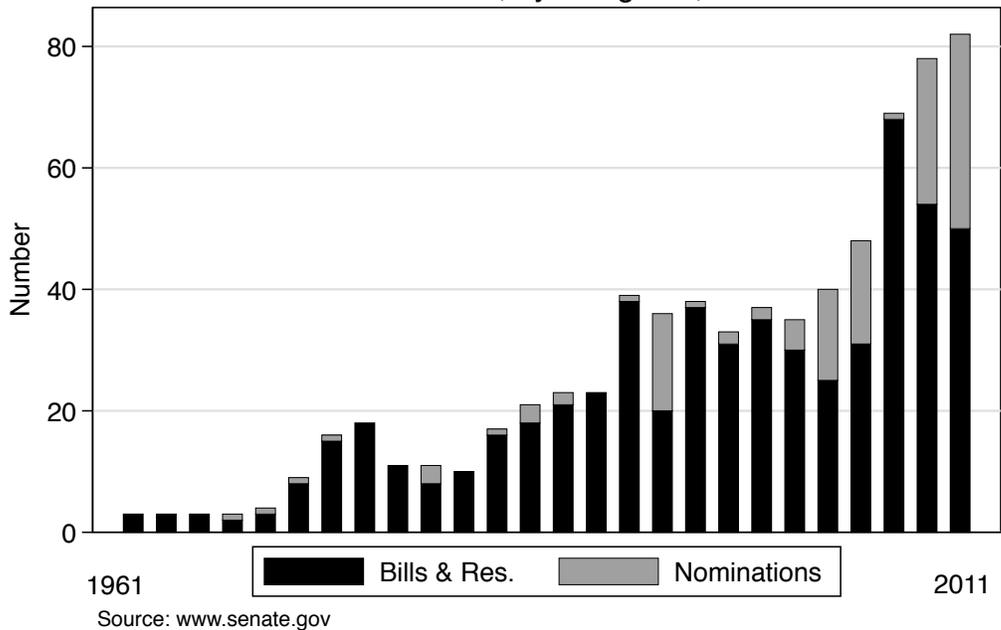
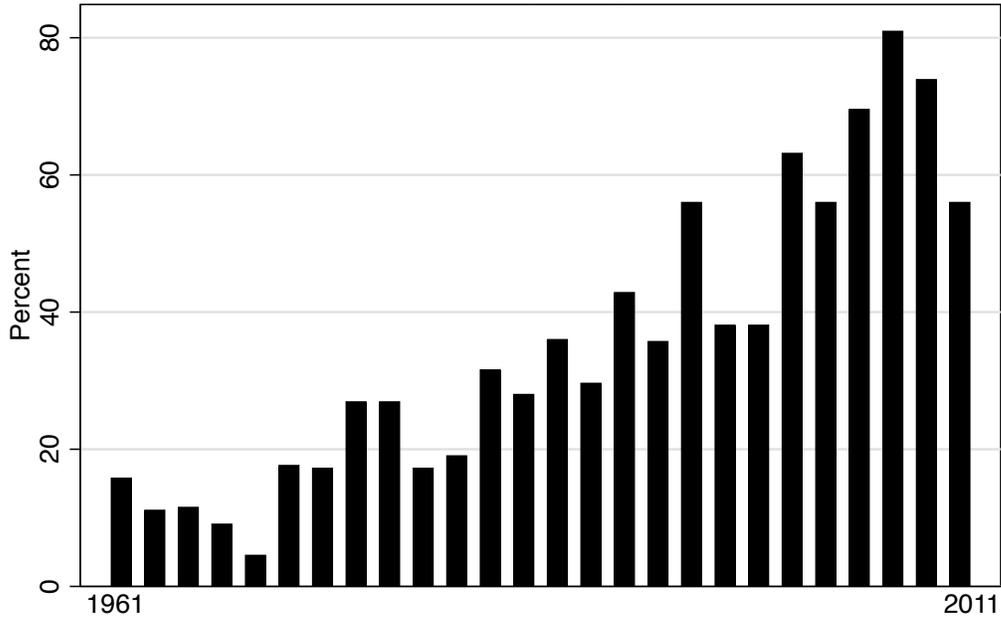
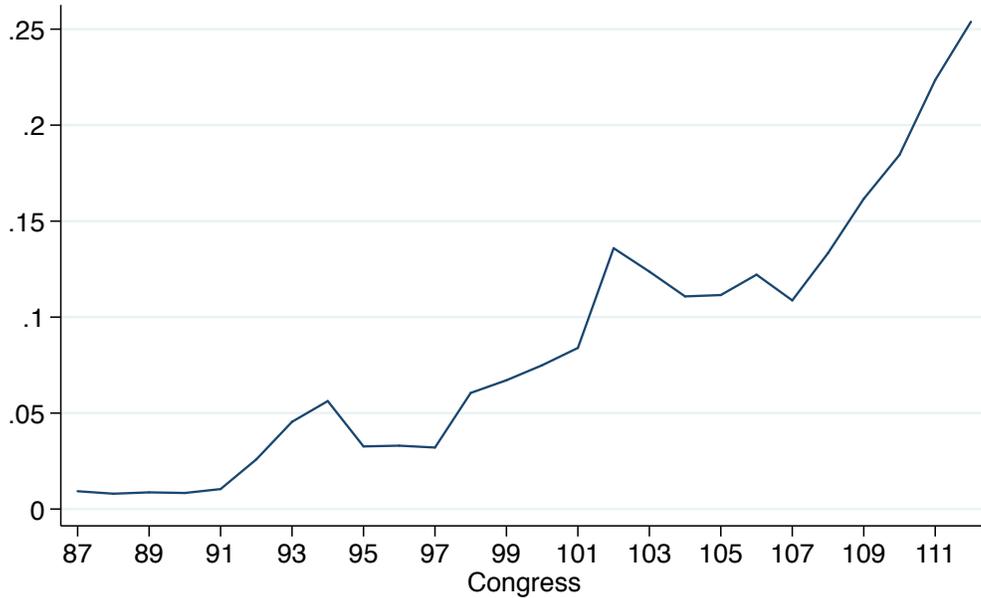


Figure 3. Percent of Key-Vote Measures Subject to a Cloture Petition, by Congress, 1961-2012.



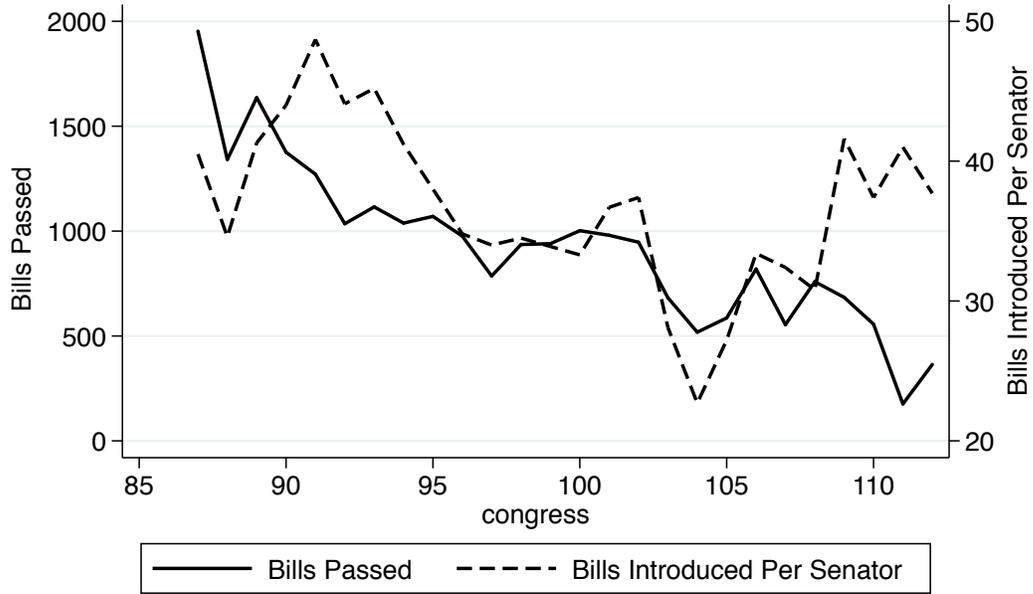
Source: Congressional Quarterly key vote and www.senate.gov

Figure 4. Measures Subject to Cloture Per Session Hour, 1961-2012.



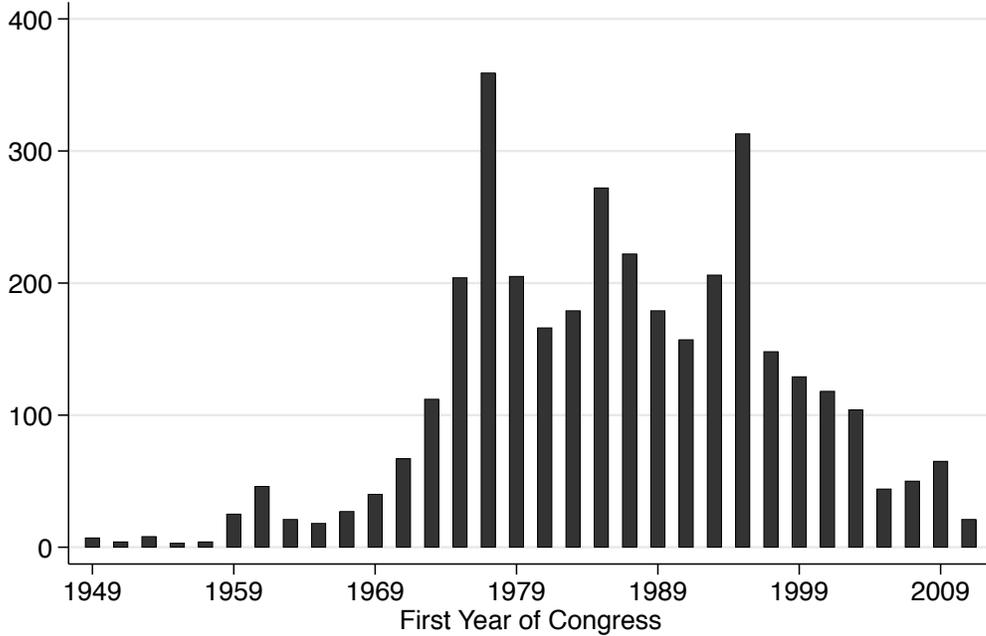
Source: www.senate.gov and Mann, Orstein, Malbin, and Rugg (2013).

Table 5. Number of Bills Introduced (Per Senator) and Bills Passed, 1961-2012



Source: Mann, Ornstein, Malbin, and Rugg (2013).

Figure 6. Number of Motions to Table Amendments, by Congress.



Source: Roll-call vote codebooks, www.voteview.com.

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