

To: DCSI Students  
From: Jane Geiger  
Date: 4/14/2019  
Subject: Institutional Rules within Congress

**Overview:** This memo details the way in which institutional rules within both houses of Congress have been used or altered in order to serve parties to polarizing ends. The polarization that can be seen as a result of Congressional rules can be looked at through the lens of Ideological Divergence.

\*key terms are highlighted in red\*

### **Causes of Ideological Divergence and Polarization within Congressional Rules:**

1. Examples of Polarizing Congressional Rule Changes
  - **House:** One clear change in House rules can be seen by the way in which the House records votes in the Committee of the Whole. This rule change has made it easier for amendments to be proposed on legislation. Often, the new amendments are unrelated to the bill and are simply added to create a “**Christmas Tree Bill**.” This can polarize legislation further and give the opposition more reasons to reject legislation.
    - i. **CRITICISM:** Some scholars argue this is false because it is only utilized in the House, and increased polarization in the Senate cannot be explained in the same manner. Also, scholars argue that because this rule change occurred in the 1970s, it cannot explain the continued growth in polarization over 40 years later. The use of “Christmas Tree Bills” can also help pass legislation by pacifying individual Congress members and interest groups.
  - **Senate:** The **Presidential Veto** and **Senate Filibuster** are inherent aspects of the US constitutional powers. However, due to polarization, they have become key features of polarization and related gridlock. Support is given not to the median legislator, but rather the individuals pushing against vetoes and for filibusters on specific pieces of highly-contested legislation. The passage of the **Byrd Rule**, stating that Congress members are not allowed to filibuster any reconciliation budget bills, has failed to decrease polarization. This type of legislation can only have deficit-increases effects for 5 to 10 years, meaning most pieces of fiscal policy passed within the Senate have become temporary fixes. Finally, the change in threshold for a **Cloture Vote** to end debate changed from 2/3rds to 3/5ths in 1975.
    - i. **CRITICISM:** Most scholars agree that the changing in threshold change in Cloture Votes has done nothing to stifle polarizing, even though it was the goal.
2. The Harm of Majority Party Control on Bipartisanship
  - The majority party in either house has increased control over the legislature and legislative agenda since the 1970s. This has led to an increase in party branding and end in major bipartisanship efforts.
    - i. **EXAMPLES:** Republican Party is the “Party of Reagan;” Democrats advocate for universal health care; Republicans support gun rights
3. The Breakdown of Bipartisan Norms and Teamsmanship
  - With the increased ability of technology, most congress members do not move/relocate their families to DC. This causes less of a bridge between the parties within Congress and increased interaction with only members of the like-party.

- i. **EXAMPLES:** End of cross-party sports leagues in DC; decreased bipartisan travel (*furthered in Mary Oliva's memo*)
- 4. The Effect of the Centralization of Party Leadership on Increased Polarization
  - Party leadership within the House and Senate has grown drastically since the late 20<sup>th</sup> century. Gingrich invented/ perfected what Americans dislike the most about Congress, honing the idea that “the majority wins when Congress accomplishes less (Representative Steny Hoyer, D-MD).”
  - This growth of power allowed the Speaker to appoint key committee chairmanships, allowing parties to gain power and re-election by allocating spending towards district projects/ demands within committees.
    - i. **EXAMPLE: Earmarking** doubled during Gingrich's reign as speaker, from 7.8 billion in 1994 to 14.5 billion a mere three years later. Cobb County, GA (the home district of Gingrich) received more federal funding than any other district barring Arlington, VA (home to the Pentagon and federal agencies) and Brevard Country, FL (home to Cape Canaveral and the Kennedy Space Center).
  - Speakers and Majority Leaders have increased their ability to force representatives to vote on party lines in exchange for committee membership. This can be seen because bills that pass with overwhelming majorities are free from party ideology because party leaders know they will pass. True ideology can be seen on close-vote bills. Comparing the two show the increased influence of Congressional party leaders on representatives.
  - **Fragmented Parties**
    - i. **CRITICISM:** Blamed for the breakdown of bipartisan cooperation and teamsmanship. However, argues that party leaders do not make that much of a difference, but that individuals can gain power in Congress from outside groups. This leads to party infighting due to conflicts in leadership.
  - **Networked Parties**
    - i. **CRITICISM:** Other scholars argue that parties should be called “networked” due to interactions between candidates, officeholders, activists, donors, media, etc.). This still lessens the importance and power of party leaders by the dissolution of the top-down structure, but focuses on the influence of individuals other than representatives on Congress. Because ideologies and activists play a larger role in funding and electing candidates, it makes sense why parties lean to extremes.
- 5. The Impact on the Publicized Ethics Process on Polarization within Congress
  - Blame for the public nature of ethics processes is also placed on Newt Gingrich. However, it is clearly within the powers of both the House and Senate to hold investigative committees into the ethics of individuals both inside and outside the realm of politics and hold impeachment hearings. The argument made by Senator Ted Kennedy (D- MA) is that through polarization, ethics investigations turn “...a serious constitutional process into a partisan process...” that can destroy campaigns, careers, and reputations on the basis of party affiliation.
    - i. **EXAMPLES:** Speaker Jim Wright; President Bill Clinton; Newt Gingrich; Hillary Clinton

### **Citations and Bibliography:**

Devins, Neal. "Measuring Party Polarization in Congress: Lessons from Congressional Participation as Amicus Curiae." *Case Western Reserve Law Review*, vol. 65, no. 4, June 2015, pp. 933–1026.

The author's main focus within this article was the "internal" and "external" factors that enable polarization within the United States. This highlighted "internal" factors were more helpful to determine the major rules-based causes within Congress that enable polarization. One of the most effective portions of the article was the label of "supermajoritarian institutions" including both presidential veto power and Senate filibuster rule changes. It not only emphasizes the similar polarization tendencies in the two processes, but also explains the way in which the distance between the pivotal senators (40<sup>th</sup> and 60<sup>th</sup> for cloture and 33<sup>rd</sup> and 67<sup>th</sup> for filibuster or vetoes) can demonstrate polarization. A great deal of analysis was completed within the article to determine the changes over time in the placement of the pivotal senators and the separation between them. Overall, the article seems to highlight the more liberally-biased reasons behind polarization, but generally does an excellent job presenting a clear, detailed, and intellection observation.

Fechner, Holly. "Managing Political Polarization in Congress: A Case Study on the Use of the Hastert Rule." *Utah Law Review*, vol. 2014, no. 4, July 2014, pp. 757–771.

Masket, Seth. "Our Political Parties are Networked, not Fragmented." *Monkey Cage blog*, 2/14/2014

Mathew, Nicole Asmussen. "Evangelizing Congress: The Emergence of Evangelical Republicans and Party Polarization in Congress." *Legislative Studies Quarterly*, vol. 43, no. 3, Aug. 2018, pp. 409–455. EBSCOhost, doi:10.1111/lsq.12200.

Negotiating Agreement in Politics, Chapter 3; Aldrich and Rohde (1997, 2000, 2005), Cox and McCubbins 2005; Sarah Binder, Frances Lee

Ornstein, Norm. "Yes, Polarization is Asymmetric—and Conservatives are Worse," *The Atlantic*, 6/19/2014

Pildes, Richard. "How to fix our polarized politics? Strengthen political parties," *Monkey Cage blog*, 2/6/2014

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Seitz-Wald. "How Newt Gingrich Crippled Congress." *The Nation*. 1/30/2012.