RESOLVING DIFFERENCES: BICAMERAL DISAGREEMENT AND RECONCILIATION IN THE POSTREFORM CONGRESSES

By

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To my parents, for it is in your footsteps I follow, and to Christine, for her unwavering support of my academic endeavors
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RESOLVING DIFFERENCES: BICAMERAL DISAGREEMENT AND RECONCILIATION IN THE POSTREFORM CONGRESSES

By

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This dissertation is about the “marriage” of the House and Senate, a metaphor juxtaposing two features of the U.S. Constitution: the distinct personalities imposed upon the two chambers and the requirement that the House and Senate consent to identical versions of legislation. This “bicameral partnership” is defined, like any relationship, by the frequency and severity of conflict and disagreement.

The main findings of this dissertation are as follows. Chapter 2 shows that House and Senate have experienced more frequent and more severe bicameral disagreements over the past thirty years. I attribute these trends to growing compositional asymmetries between the House and Senate. Moreover, I find that pro-majority House passed legislation has become especially prone to bicameral gridlock over this period. Chapter 3 describes the process of resolving House and Senate policy disputes via conference committee. Using multivariate spatial modeling, the results show that resolving differences is multidimensional in nature and that the greatest amount of variation in conference roll call patterns is a process of compromise and concession. Chapter 4 explores conference outcomes at the bill-level. I find that, over the past thirty years, there has been: (1) an increase in the variability of conference
outcomes, (2) an increase in pro-minority conference outcomes, and (3) an increase in compromise and concession in conference. Using the multivariate spatial coordinates estimated in Chapter 3, a final section of Chapter 4 finds that conference committees operate in a majoritarian fashion. Chapter 5 concludes by examining resolving differences through formal models of agenda setting. The results show that partisan models of agenda control perform best when we examine all final passage votes, but when we examine bills that went to a conference committee or were shuttled between the chambers, a non-partisan model outperforms all rivals.

The overarching narrative is this: while it is true that parties in Congress have enjoyed enhanced organizational capacities over the postreform period, the majority party has simultaneously faced growing bicameral constraints. This “bicameral hurdle” has manifested in more frequent and more severe House and Senate policy disputes. These developments are paradoxical given the conventional wisdom about parties-in-Congress.
CHAPTER 1
INTRODUCTION: BICAMERAL DISAGREEMENT AND RECONCILIATION IN THE POSTREFORM CONGRESSES

The Marriage of the House and Senate

This dissertation is about the “marriage” of the House and the Senate. Codified in Article 1, Section 7 of the Constitution, which requires the concurrence of both houses on identical versions of legislation, the union of the House and Senate has been surprisingly resilient. This stands in contrast to Edmund Randolph’s claim during the Constitutional Convention that “two such opposite bodies…could never long co-exist” (quoted in Wood, 1998, 556). Though history has thus far proven Randolph wrong, it is true that, as with any “marriage,” the House and Senate frequently disagree when attempting to enact legislation. Often these disagreements are easily resolved, especially when the policy differences are minor. But in some cases the two chambers prefer widely different policies and quick, amicable solutions are difficult to reach. And in the most dramatic cases, the House and Senate are unable to reach a consensus, preserving a status quo unfavorable to a majority (or supermajority) in each chamber.

To understand the marriage of the House and Senate, this project is the first to explore two critical stages in the legislative process—bicameral disagreement and reconciliation—jointly. The topic of this dissertation is animated by two overarching premises. First, our understanding of how the House and Senate interact in the policy process is critical to understanding Congress’s organization and day-to-day operation. Second, the relationship of the House and Senate is variable, and thus amenable to systematic study, rather than constant. These two premises stand in contrast to the tendency in congressional research to examine the operation a single chamber. While single chamber studies are important because they help researchers isolate key
organizational features, institutions, outcomes, they are limited—inherently—in their ability to explain certain historical developments and aggregate patterns. And at the same time, many single-chamber studies discriminate between competing organizational theories—the distributive, partisan, informational and majoritarian theories—while ignoring the central feature of congressional organization—the effects of its bicameral structure.

Some of the central questions addressed in this dissertation are: What role do political parties play in our system of constitutional checks and balances? How have the increases in polarization and the organizational strength of parties altered the functioning of legislative checks and balances? How do competing parties and chambers resolve bicameral disagreements? How do conference committees affect policy outcomes and how have these patterns changed over the postreform period?

**Constitutional Beginnings**

The marriage of the House and Senate was forged in the adoption of a bicameral congress. This decision stands in sharp contrast to the unicameral legislature of sovereign states established by the Articles of Confederation. But while many items generated considerable controversy and discussion during the Constitutional Convention, once a confederated form of government was abandoned by the delegates,¹ a federal congress with two chambers was “agreed to without debate” (Wood 1998, 553). Thus, during the Founding era the salient debates regarding

---

¹ That is to say, once the Antifederalists had lost the debate over preserving a confederated system of government and debate turned toward the Federalist plan of fashioning a new national government (see Wood 1998, 547-562).
bicameralism concerned two issues: how to apportion each chamber and how to select members.

Out of the conflict between states of varying population sizes emerged the well-known “Connecticut compromise” (aptly named for members of the Connecticut delegation who proposed the solution). This constitutional compromise established an upper house, the Senate, with two representatives from each state and a lower chamber, the House, with representatives in proportion to each state’s population. Thus, unlike some bicameral legislatures—where the interaction of both chambers is ameliorated by “congruent bicameralism”—the Framers of the U.S. Constitution fashioned a congress with two dissimilar chambers.\(^2\) This decision was not a foregone conclusion or without controversy. Indeed, Madison’s original “Virginia plan” called for a bicameral legislature with each house apportioned according to population.\(^3\) Moreover, a handful of delegates, most famously Edmund Randolph, thought the establishment of two distinct chambers would create a fatal tension between the two bodies.\(^4\) Ultimately, however, the Framers’ established a House and Senate with inherent tensions, due to the compromise creating differences in apportionment, thus establishing bicameral cooperation and conflict as a central aspect of Congressional operation.

Though the House and Senate’s organization reflected a compromise, the relationship of the two chambers reflected the purported virtues of legislative checks

\(^2\) Examples of “congruent bicameralism” include Italy, Japan, the Netherlands and Norway (Tsebelis and Money 1997).

\(^3\) Of course, the Virginia plan called for members of the House to be elected by the general population and members of the Senate to be elected by the state legislatures.

\(^4\) The introduction quoted Randolph’s claim that “two such opposite bodies…could never long co-exist” (quoted in Wood, 1998, 556).
and balances.\textsuperscript{5} This principle is most clearly explicated in \textit{Federalist no. 51}, where Madison discusses solutions to the problems of “faction.” He notes that one solution is to “divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit.”\textsuperscript{6} James Wilson echoed Madison’s sentiment, arguing that “Every bill will, in some one or more steps of its progress, undergo the keenest scrutiny. Its relations, whether near or more remote, to the principles of freedom, jurisprudence, and the constitution will be accurately examined…In this manner, rash measures, violent innovations, crude projects, and partial contrivances will be stifled in the attempt to bring them forth.”\textsuperscript{7} Contemporaries have endorsed these claims, noting that the virtues of a bicameral legislature is that it limits what the Framers’ referred to as “majority tyranny” and increases the stability of enacted policies (Riker 1992; Tsebelis and Money 1997).

The principle of legislative checks and balances was implemented in a few ways. First, the new congress was made to represent diverse interests. In particular, out of the Connecticut Compromise emerged an inherent tension between state interests (vested in the Senate) and national interests (vested in the House), a principle known as “federal bicameralism.” As Madison noted in \textit{Federalist no. 62}, “No law or resolution can now be passed without the concurrence first, of a majority of the people, and then

\textsuperscript{5} For example, even Madison’s original Virginia Plan called for differences in the election of each chamber.

\textsuperscript{6} All references to the \textit{Federalist Papers} in this manuscript are in reference to Clinton Rossiter’s (1961, ed.) \textit{The Federalist Papers}.

of a majority of the states.” Though this feature reflected a compromise, rather than “higher order” decision making (Jillson and Eubanks 1984), the effects reflected the spirit of legislative checks and balances nonetheless. Second, there was an explicit attempt to focus the energies of each chamber on qualitatively different policy domains. This principle was codified in the varying tenure of lawmakers. With senators serving six-year terms and representatives two-year terms, the upper chamber would focus its energies on long-term issues that require “continued attention.” At the same time, with longer terms senators were insulated from short-term fluctuations in public opinion, or “popular whims and passions,” while the House was thought to be more responsive to exogenous changes. Third, many of the Framers believed in the normatively beneficial effects of bicameralism on public policy, arguing that a second chamber would enhance proper legislative decision making. In fact, it was argued during the Founding that the Senate, because of greater policy expertise, longer terms, and historical precedent, would “correct” legislation passed by the House and delay the passage of defective policy (Federalist nos. 62 and 63). Or as Madison famously put it, the Senate would protect the people “against the transient impressions into which they themselves might lead” because it operates “with more coolness, with more system, and with more wisdom, than the popular branch.”

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8 In Federalist no. 63, Madison wrote that “The proper remedy for this defect must be an additional body in the legislative department, which, having sufficient permanency to provide for such objects as require a continued attention, and a train of measures, may be justly and effectually answerable for the attainment of those objects.”

9 In Federalist no. 62, Madison wrote that the Senate will serve to “correct” the “impulse of sudden and violent passions” and of “factious leaders.”

10 Quoted in James Madison’s notes of the debates in the 1787 Constitutional Convention.
Though it can be problematic to speak about the Framer’s “intent” as if their constitutional decisions were based on instrumental rationality alone,\textsuperscript{11} we can speak about the presumed effects of the legislative institutions they conferred us—irrespective of their rational or materialistic intentions (Jillson and Eubanks 1984). In this respect, a belief in normatively beneficial effects of inter-chamber cooperation and conflict remained an overriding organizational principle.\textsuperscript{12} Thus, bicameral disagreement and reconciliation are not simply “inevitable” or “perfunctory” in our system of government, mere byproducts of our constitutional framework, they are the manifestations of one of the central features of legislative organization. What do we know about bicameral disagreement on the one hand, and the process and patterns of resolving those disagreements on the other hand?

\textsuperscript{11} The problem is one of backward induction, a common historical-institutionalist critique of rational choice theory’s functionalism. For example, during the Constitutional Convention the Federalists argued that the Senate would represent the states and the House the people only \textit{after} the Connecticut compromise had been established (Wood 1998, 558). Indeed, Madison’s original “Virginia plan” called for a bicameral legislature with each house apportioned according to population. A number of Madison’s preferred plans failed to make their way into the Constitution (for example his plan for a “national veto” over state legislation). Moreover, Lee and Oppenheimer (1999) note that the Framers favored a bicameral legislature \textit{before} discussing the issue of the Senate’s apportionment. Thus, in these cases at least, it would be difficult to argue that our Constitution’s design was based solely on future political outcomes. Rather, these Constitutional decisions occurred within a particular historical context. Or, as John P. Roche (1961, 815) put it, the Constitution was “a patchwork sewn together under the pressure of both time and events by a group of extremely talented democratic politicians” (quoted in Jillson and Eubanks 1984). But as I point out, we can use the Framer’s discussions concerning what they perceived as the ultimate effects of the institutional structures they gave us—irrespective of their rational or irrational intentions—in order to consider the functioning of our current Congress.

\textsuperscript{12} And though one constitutional difference between the two chambers was undone with the passage of the 17\textsuperscript{th} amendment (Bernhard and Sala 2006; Crook and Hibbing 1997), core constitutional differences remain in place.
What We Know About Bicameral Disagreement and Reconciliation

Bicameral Disagreement

Because inter-chamber bargaining is an explicit and central feature of congressional organization, it is surprising that a systematic examination of the frequency and severity of bicameral disagreement is absent from the congressional literature. Some may say this lacuna represents “major gap” in our current understanding. With few exceptions, the extant discussion of disagreement between the House and Senate focuses on one or a few cases of major conflict (usually as part of a more ecumenical study). From the Contract with America, the “Bush era tax cuts” and the Comprehensive Immigration Reform Act of 2006 to NAFTA, “Obamacare” and the 9/11 Commission’s recommendations, conflict between the House and Senate has structured numerous landmark policy outcomes.

Among the cases of bicameral disagreement cited in the congressional literature the Contract with America has received the lion’s share of attention. For example, reviewing the first session of 104th Congress, Ornstein and Schenkenberg (1995) point out that while the House successfully passed numerous Contract items in the “first hundred days,” the Senate balked at or moderated the majority of those policies. Indeed, studies of this landmark period contend that Republicans faced not only the usual challenge of a rival president, but the additional challenges created by ideological divisions within their party across the House and Senate (Connelly and Pitney 1997; Koopman 1996; Ornstein and Schenkenberg 1995). Additional discussion of bicameral disagreement in the 104th Congress can be found in landmark studies by Tsebelis and Money (1997, 54), Brady and Volden (2006, 142-159) and Binder (1999, 524). The failure to enact immigration reform in the 109th Congress is another landmark case of
bicameral disagreement cited in the congressional literature. For example, Baker (2008) notes that while most issues in the modern Congress divide lawmakers along ideological and/or partisan lines, the debate over immigration reform in the 109th “was as much institutional as it was partisan…It was a conflict between Republicans in the House and Republicans in the Senate” (212-213). In the end, the reform effort died in a conference committee as negotiators appointed by both chambers were unable to find a workable solution. Conflict between the House and Senate over the North American Free Trade Agreement (NAFTA) is yet another case of consequential bicameral disagreement. In one analysis, Wirls (1998) shows us that the Senate’s apportionment scheme created critical tensions between the two chambers on NAFTA. He concludes that even in a Congress with similar preferences in both chambers, the distribution of those preferences can have major effects on the success or failure of legislation.

The aforementioned studies detailing instances of major House and Senate policy disagreement have three general strands. First, as a matter of scope and method, none of these studies concern bicameral disagreement exclusively. Rather, House and Senate policy conflict is a component of a broader or more ecumenical study. Second, each study suggests that disagreement between the House and Senate is structural—stemming from institutional characteristics—rather than idiosyncratic. Though this is a simple observation on its face, it suggests that we should look at the institutional causes of bicameral disagreement rather than looking exclusively at exogenous factors such as whether one party controls both chambers. And third, most of the aforementioned studies suggest (quite explicitly) that ideological differences across the House and Senate arising from within the parties are powerful determinants
of House-Senate conflict. But while we know intuitively that Democrats (Republicans) in the House often disagree with Democrats (Republicans) in the Senate, this observation has yet to be incorporated into a systematic theory or subject to empirical examination. This latter point will be developed more fully in a subsequent section.

In addition to the cases of bicameral disagreement cited by congressional scholars, related research offers us some clear expectations. Indeed, the topic of bicameral conflict is subsumed by the literature on policy production (Mayhew 1974; Binder 1999, 2003, 2008; Krehbiel 1996, 1998; Brady and Volden 1998, 2006; Chiou and Rothenberg 2008a, 2008b) and policy durability (Hammond and Miller 1987; Maltzman and Shipan 2008; Ragusa 2010; Riker 1992).

As will be evident, for the present project the most theoretically relevant study of policy productivity is Binder’s research on post-War gridlock (Binder 1999, 2003, 2008). Binder’s work focuses on what I will refer to throughout this manuscript as “aggregate gridlock.” That is, her gridlock measure combines agenda items that failed on the House and Senate floor, failed because of bicameral disagreement and failed because of a presidential veto. Nonetheless, disagreement between the House and Senate receives some explicit discussion in her 2003 book Stalemate. For example, Binder estimates that 46.4% of her agenda items died in the second-acting chamber after being passed by the first-acting chamber. Further, she reports that 49.0% of her agenda items were passed by the House but died in the Senate while 43.7% were passed by the Senate but died in the House. Thus, bicameral disagreement is quite common and—because Binder’s agenda items concern major policies—consequential. This alone makes the systematic study of bicameral disagreement a worthy endeavor.
But Binder also notes a curious “surge in bicameral roadblocks at the end of the 1990s” (50). This, she says, “suggests that even when the same party controls both chambers of Congress, we cannot simply assume that the two chambers hold similar sets of views on major policy issues” (50). But because Binder’s work focused on modeling gridlock in the aggregate, the aforementioned items are the only bits of information specific to bicameral disagreement. Thus, though Binder’s research has informed the topic of this dissertation in important ways, the congressional literature still lacks a systematic study of the determinants of bicameral disagreement or the causes of the apparent increase in bicameral roadblocks in the 1990s. It is my hope that this dissertation builds on Binder’s lead in this regard.¹³

A second feature of Binder’s research relevant to the topic of bicameral disagreement is her conclusion that that the ideological distance between the House and Senate medians is a powerful determinant of aggregate gridlock in the post-WW II era. In fact, Binder finds that “bicameral distance” has the most substantively important effect on the overall levels of gridlock (greater in magnitude, for example, than divided party control). As she notes, this finding helps explain instances of stalemate during unified government. Or as she put it, “[bicameral distance] helps explain why students of Congress have been ‘overly optimistic’…about the prospects for governance under unified government in the 103rd Congress” (1999, 528). Her finding has been confirmed elsewhere. For example, Maltzman and Shipan (2008) look at differences between the chambers on the durability of legislation, finding that enacted laws are less likely to be amended when there are major differences between House and Senate (Ragusa 2010).

¹³ I would like to thank Sarah Binder for providing helpful correspondence on components of this project.
However, in two separate papers, Chiou and Rothenberg (2008a and 2008b) challenge Binder’s result in this respect (largely along methodological lines). In Chapter 2, I develop a theory and set of hypotheses that hopefully reconciles these divergent findings.

In sum, the literature on bicameral disagreement is underdeveloped. This is surprising given that the formal interaction of the House and Senate is a critical feature of legislative organization and the day-to-day operation of the U.S. Congress. The relevant literature on this topic focuses on either one or a few cases of major policy conflict (rather than a systematic examination) or speaks to the topic of bicameral disagreement tangentially through larger or more ecumenical research (policy productivity or policy durability). Given the frequency of bicameral stalemate and the landmark legislation which has experienced bicameral disagreement, an exclusive examination of House-Senate policy conflict is long overdue. But despite the somewhat limited state of the literature, we can piece together the following expectations: (1) bicameral disagreement is structural, due to systematic variation in bicameral design, rather than purely exogenous, a function of party control; (2) the distribution of preferences within each chamber (particularly within-party House and Senate cleavages) is a primary determinant of bicameral conflict; and (3) disagreement between the chambers increased around the 1990s. This dissertation will return to these important issues in Chapter 2.

**Resolving Differences**

Though the Constitution is silent on how the House and Senate should resolve their (inevitable) policy disputes, two extra-constitutional methods guide the two chambers in merging competing versions of public policy—one a formal institution, the
other a procedural mechanism. These methods are the convening of a conference committee and amendment trading (respectively).

Amendment trading

The first form of bicameral reconciliation is a mechanism known as amendment trading (also referred to as the “navette,” “ping-ponging,” “shuttling”). This procedure is characterized by the two chambers agreeing to identical versions of legislation after messaging the original bill back and forth with amendments. In modern practice, the second chamber to act will typically substitute its preferred statutory language (an amendment in the nature of a substitute) in the initiating chamber’s bill or “legislative vehicle” (Oleszek 2007; Palmer and Bach 2003). Other versions of this process allow the second chamber to “insert” its own language or “strike” certain provisions. After the first amendment to the initiating chamber’s bill, the modified proposal returns to the first chamber which has the options of approving the second chamber’s counteroffer, amending the bill further or letting the proposal “die” (thereby preserving the exogenous status quo). Only “two degrees” of amending are in order under House and Senate rules (Palmer and Bach 2003). That is, each chamber has one opportunity to amend the first amendment of the other chamber. A third degree amendment is allowed by unanimous consent in the House and Senate or by suspension or special rule in the House. Of course, further degrees of amending are allowed without objection (Oleszek 2004, 259). Thus, the process of resolving differences by amendment trading is analogous to what game theorists call sequential bargaining.

With the exception of Chapter 5, this dissertation examines conference committees as the means of resolving bicameral differences. On the one hand this substantive focus reflects methodological necessity. Conference committees, unlike
amendment trading, provide easily comparable and simultaneous roll call votes (where pre-conference House and Senate votes can be directly compared to post-conference House and Senate votes). On the other hand, conference committees typically reconcile disagreements on the most salient and consequential bicameral disputes. Thus, conference committees are, in my view, more worthy of systematic study.

**Conference committees**

If at any time during the legislative process one chamber *insists* on its proposal and formally disagrees with the other chamber’s offer, the two houses are said to have reached the “stage of disagreement.” At this point a second bicameral sequence is initiated—the formation of an ad hoc joint conference committee (for an excellent review see Longley and Oleszek 1989). Though conference committees are not mentioned in the Constitution, they have been a distinct feature of Congressional organization since the very first session of the first Congress (Longley and Oleszek 1989). The earliest lawmakers realized soon after the founding that conference committees are efficient solutions to bicameral stalemate. Compared to amendment trading, conference committees are usually convened when the policy differences of the two chambers are large or the bill is controversial. Once conferees have completed negotiations, a simple majority of each chamber’s delegation is needed to approve a “conference report”—a document detailing the proposed compromise. The conference report is then sent back to both chambers who vote on the compromise bill (Longley and Oleszek 1989; Oleszek 2007). If both approve the conferees’ solution, the bill is “enrolled” and forwarded to the president’s desk for his signature or veto. Further and more complex steps are
possible, including amendments in true\textsuperscript{14} or technical\textsuperscript{15} disagreement. However these procedures seldom arise (Oleszek 2007).

**What Do We Know About Resolving Differences?**

The limited research on bicameral disagreement is matched by the lack of research on resolving differences. In their seminal work on this topic, Longley and Oleszek (1989) remarked that post-passage politics is, “the most significant aspect of the congressional legislative process about which we know the least” (2). Krehbiel (1991, 194) notes that “the theoretical lenses through which to view data on postfloor behavior are not well-polished.” Or as two authors bluntly put it, “there are significant holes in this literature” (Hines and Civettini 2004, 1). In fact, in the last twenty years, only two books have been dedicated to conference committees (Longley and Oleszek 1989; Van Beek 1995), a few journal articles (Nagler 1989; Lazarus and Monroe 2007; Vander Wielen 2010) and couple of book chapters (Smith 1989; Krehbiel 1991). This is regrettable not only because of the pivotal role of resolving differences for policy outcomes but also because of the significant attention scholars have paid related topics such as standing committees and bicameralism.

Resolving differences is a critical stage in the legislative process, one worthy of scholarly attention. By my count, of the non-commemorative public laws enacted from 1977 to 2008, 34% were originally passed by both chambers in disagreement. Of these

\textsuperscript{14} True disagreement occurs when conferees are unable to resolve certain bicameral differences. In these cases the chambers may opt to resolve these matters through the normal shuttling process. The non-controversial items are usually approved in normal fashion via a partial conference report.

\textsuperscript{15} House and Senate conferees are limited to policy proposals that fall within the “scope of the disagreements.” The House is also bound by its germaneness rule. If conferees exceed this scope or violate the House’s germaneness clause the conference report can be challenged via a point of order.
laws, 16% were reconciled in a conference committee while 18% were reconciled by amendment trading. And the frequency of bicameral reconciliation only rises when we consider *landmark* legislation (Smith 1989; Longley and Oleszek 1989). Indeed, resolving differences has determined the fate of many laws of national significance. Thus, if we are to understand topics such as legislative checks and balances, congressional organization, policy productivity and policy outcomes, we need to examine the critical stage of resolving differences.

During the 1960s and 1970s, the pervasive question posed in research on conference committees was: Which *chamber* dominates the conference process? Or more colloquially: Who “wins” in conference? This question was initially posed (and answered) by Steiner (1951)—the House. Fifteen years later with the publication of Richard Fenno’s *The Power of the Purse* (1966) a different answer was offered—the Senate. More than a stylized fact, Fenno proposed a theoretical explanation for this pattern. First, he noted a type of “negativity bias” (Weaver 1986), where the Senate regularly asked for the higher of the two appropriations figures, making it easier for the House to modify its position without sacrificing its preferred proposals. More importantly still, Fenno identified the Senate’s membership homogeneity (relative to the House) as the primary determinant of Senate dominance. Subsequent work agreed with Fenno’s conclusion and theoretical propositions (Manley 1970 and Vogler 1970). Most significant in this line was Strom and Rundquist’s (1977) research, which posited an additional explanation of Senate dominance. They maintained that chamber dominance

\[^{16}\] The data for all public laws was compiled from the Policy Agendas Project “Public Laws” database. The data on all conference committees and amendment trading in this period was compiled by the author.
is not a function of Senate leverage per se, rather the chamber to act second in the conference process (which is usually the Senate) is more likely prevail or “win.”

A shift in the questions addressed by scholars writing on conference committee outcomes occurred under the auspices of neo-institutional theory. Two pioneers in this new direction, Shepsle and Weingast (1987), reshaped our understanding of standing committee power. They successfully shifted the debate over the ubiquitous observation that congressional committees dominate the legislative process beyond the oft-repeated “deference norm” explanation in favor a rational choice account. In doing this they placed conference committees at the fore of the strong committees thesis. Their overarching conclusion was that standing committees possess an “ex post veto” via bicameral sequences. Specifically, since standing committee members are almost always named as managers in conference committee, they possess the ability to either modify the policy back to its original committee-approved position or simply defeat the proposal (the latter denoting the ex post veto). While Shepsle and Weingast’s theory proved fruitful during a legislative era marked by high committee autonomy and relatively weak congressional parties, subsequent researchers questioned the accuracy of their predictions under modern (a decentralized committee structure and strong parties) legislative conditions.

Highlighting the departure from the strong committees thesis, Steven Smith (1989) explored challenges to conference committee autonomy by the parent chamber through devices such as the exchanging of amendments in disagreement and the rejection of conference agreements. Smith found "a substantial weakening of committee autonomy at the conference stage” (1989, 232). Keith Krehbiel (1991)
proposed an additional rival to the strong committees thesis. He sought to identify whether the main features of U.S. legislative organization are primarily distributive—where the policy process is marked by competition among legislators for a limited set of political goods—or informational—where legislators pursuit of policy advance the "collective good" through policy expertise and the transmission of information. In his book-length research, Krehbiel dedicates a chapter to examining conference committee organization. He poses three questions: "What legislation goes to conference? Who goes to conference? Does a well-worn path exist on which legislation traverses after its initial passage by the House?" (194). The answer to the first question is that specialized committee bills, not highly distributive bills, tend to go to conference. In regards to the third question, Krehbiel asserts, much like Smith (1989), that the ex post veto/committee dominance theory incorrectly assumes an equilibrium (routine) path through the conference stage.

The answer to Krehbiel's (1991) second question, who goes to conference, is particularly relevant for this dissertation. Krehbiel notes that, at first blush, the Speaker's unlimited power to name conferees may seem "oligarchic and partisan" (216). That is, taking a distributive perspective we would expect "high-demanders" or "preference outliers" to be overrepresented in conference committee. But, if we apply an informational lens and consider the role of expertise in conference committee procedure, we can see that "majoritarianism lurks (perhaps deeply) beneath the surface of these alleged institutions of oligarchy" (Krehbiel 1991, 216). Armed with data from the 99th Congress, Krehbiel demonstrates that after controlling for expertise the coefficient on "preference outliers" is negative: suggesting that the distributive model is
untenable regarding conferee selection. Thus, the Speaker restrains his or her partisan impulses as managers for the House are not typically ideologues but policy experts likely to produce majoritarian outcomes (244).

With the rise of political polarization and partisanship, new theories have shifted the conventional wisdom about conference committee outcomes. Collectively dubbed the “partisan theories of lawmaking” (Cox and McCubbins 1993, 2005; Dion and Huber 1996; Aldrich 1995; Aldrich and Rohde 2001; Rohde 1991), these perspectives posit that the majority uses institutional mechanisms and procedures to skew legislative outcomes away from the median member of the chamber toward the majority party’s preferred policy position (a “non-centrist,” “pro-majority” outcome). Though primarily formulated for standing committees and floor activity, these theories are ubiquitous in political science scholarship and have recently been applied to conference committee politics.

The first attempt to identify the strategic calculus involved in selecting conferees is Nagler’s (1989) game-theoretic approach. Using a revised version of Shepsle and Weingast’s (1987) ex post veto theory, Nagler links the strategic selection of conferees, determined to be a function of the member’s ideological proximity to the Speaker, and the outcome of conference committees. In a related study, Carson and Vander Wielen (2002) find that as party polarization increases, seniority is less predictive of conference committee assignment while ideology increases in significance. Thus, they argue that by the mid-1990s seniority and ideology were equally important determinants of conference committee selection. Both studies suggest that the selection of conferees has a strong ideological component.
Lazarus and Monroe (2007) take the next logical step. They propose that when “the Speaker has reason to believe that a delegation composed solely of jurisdictional-committee members will produce a party-damaging conference report, the Speaker can use his appointment power to select a preferable conference delegation” (4). Thus, Lazarus and Monroe’s perspective is consistent with modern partisan theories of lawmaking. Using data from the 97th through 106th Congresses they demonstrate that under the conditions identified by their theory\(^{17}\) the Speaker will name partisans as conferees in addition to committee members. This strategic maneuver, dubbed “packing the conference,” \(^{18}\) maintains the norm of naming conferees that are familiar with the bill while presumably allowing the Speaker to put the party stamp on legislation. A recent, but as of yet unpublished, study by Vander Wielen and Smith (n.d.) finds that conference delegations are similarly biased in a pro-majority direction in the Senate as well. However, while link between a biased conference delegation and partisan conference outcomes is certainly logical, no study has empirically verified it.\(^{19}\) Chapter 4 will test this linkage.

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\(^{17}\) The first condition identified by Lazarus and Monroe is when there is a significant difference in the position of the jurisdictional committee and the Speaker. The second condition is when members of the jurisdictional committee are able to “write the outlying policy position into a conference report” (p. 4).

\(^{18}\) In this dissertation I will use the terms “stacking the conference”, “packing the conference” and “additional non-jurisdictional members” interchangeably.

\(^{19}\) Nagler (1989) offers some descriptive evidence.
Scope and Method: Why Study Bicameral Disagreement and Reconciliation in the Postreform Era?

What is the “Post-Reform Era”?

Critical developments in Congress’s rules, procedures and organizational structures often delineate one era in Congressional history from another. Within the congressional literature, researchers identify the early to mid-1970s as a historical cut-point demarcating two periods—the pre-reform or “textbook” era (1912-1968) and the “post-reform” or contemporary era (1975-present). Congressional reforms straddling the textbook and post-reform eras, the culmination of efforts spanning more than two decades (Dodd and Oppenheimer 1997), undermined the seniority system and weakened the power of committee leaders, enhanced the power of subcommittees though the “subcommittee bill of rights,” installed a new budgetary process, strengthened the parties’ leadership structures (particularly the House Speaker’s formal powers), made party leaders more responsive to the rank-and-file, and expanded the parties’ whip systems (Dodd 1986; Rohde 1991; Zelizer 2006; Dodd 1979; Cooper 2005; Deering and Smith 1997; Stewart 2001).

The most consequential effect of the reforms of the mid-1970s was the redistribution of organizational power away from committees and committee chairmen and the centralization of power within the parties and party leaders. Thus, following the reform period, Congressional researchers identify an increase in the majority party’s capacity to manipulate and control the policy process (leading to increasingly pro-majority policy outcomes). Indeed, the majority in the contemporary Congress controls consequential organizational decisions such as the naming of committee and subcommittee chairmen, the appointment of committee members, control over the
legislative agenda, and (in the House) the ability to elect a Speaker who, in turn, names members to the powerful Rules Committee.

With these developments in mind, one popular theory posits that political parties behave as a “legislative cartel.” That is, parties derive their institutional authority by manipulating the “structural power of the House” (Cox and McCubbins 2005, 15; but see also Cox and McCubbins 1993 and 2007). In particular, the majority controls the consideration of policy—known as negative agenda control—through powers such as scheduling and amending. In this way the cartel model posits that the majority advances legislation to final passage when the proposal is preferred by its members to the status quo. This allows lawmakers within the majority to simultaneously vote their sincere preferences while fostering an electorally beneficial party record.

Though sharing a number of empirical predictions, the theory of conditional party government (Aldrich 1995; Aldrich and Rohde 1997; Rohde 1991) emphasizes a fundamentally different causal mechanism underlying the parties’ organizational power in the modern Congress: intra-party preference homogeneity and inter-party preference divergence. These two factors are, in fact, the “condition” in conditional party government. When these two conditions are met, the majority’s rank-and-file delegates greater authority to the leadership which, in turn, exploits institutional rules and powers to ensure members of the party act in a way consistent with their collective goals. As Aldrich and Rohde explain (2001, 284), “As conflict increases, so do the negative consequences to members of either party from a legislative victory by their opponents.”

With growing ideological polarization within Congress, “the minority’s policy is likely to

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20 Sinclair (1995) argues that the majority leadership frequently employs both strategies.
make the majority very unhappy [and in this circumstance] members of the majority would have a lot more incentive to empower their leaders to prevent a minority victory on legislation than in the former case” (284). In short, the power of parties to produce non-centrist policy outcomes varies according to the distribution preferences within the chambers.

**Scope**

The postreform era is a theoretically interesting period with respect to bicameral disagreement and reconciliation for a few reasons. One is the simple fact that, as previously reviewed, these twin topics are severely understudied individually and have never been studied jointly. In a recent discussion of areas for needed research, Rohde (2002, 347) noted “We just don’t know a lot about conference committees… in particular we don’t know whether and how their patterns of operation have changed in the current era of strong partisanship.” Rohde’s point is true of bicameral disagreement as well.

But being under-studied does not make a topic worthy of systematic examination (though it certainly helps). Thus, the central reason why studying bicameral disagreement and reconciliation in the postreform period is theoretically interesting is that the current literature presents *contradictory expectations* with respect to the functioning of legislative checks and balances in this period. On the one hand, political parties been cited by political scientists for over a century as a solution to the policymaking inefficiencies built into the Constitution. From Woodrow Wilson (1885), E.E. Schattschneider (1942) and V.O. Key Jr. (1942) to more recent political scientists like Cutler (1988), Kernell (1991) and Sundquist (1988), the conventional view is that strong parties bridge the gaps created by the Constitution and facilitate policy production and active government. In fact, in 1950, the American Political Science
Association’s Committee on Political Parties published a report calling for a “more responsible” two-party system. Because parties were seen as “weak,” the reforms advocated in APSA’s report were designed to increase the homogeneity of each party’s ideological platform (thus encouraging active government and electorally responsible parties). Much like conditional party government, one of the central themes of these studies was that polarization would spur strong parties. But while recent researchers have found empirical support for the claim that parties bridge legislative-executive checks and balances (Binder 1999, 2003; Conley 2002; Edwards and Barrett 2000; Cameron 2000; Alt and Lowry 1994; Cutler 1988; McCubbins 1991; Kelly 1993; Edwards, Barrett and Peak 1997), no work has explored this process vis-à-vis legislative checks and balances: at least not directly. Theoretically, however, we would expect the same effects. That is, as the parties have polarized and become more internally homogenous, and as legislative reforms over the postreform period have delegated greater control over congressional organization to the majority party, we would expect the majority to increasingly circumvent the hurdles established by Framers between the House and Senate and coordinate legislation across chambers. As V.O. Key Jr. (1942) aptly put it: "the obstructions of the governmental structure must be overcome, and it is the party, through extra-constitutional expedients, that accomplishes this end" (quoted in Sundquist 1988, 618).

However, a clear paradox exists, revealing the limits of our current understanding. A handful of researchers have cited too much polarization as the cause of stalemate and gridlock (Binder 2003; Dodd and Schraufnagel 2009). This is in contrast to the “responsible party government” advocates who predicted the opposite. It is worth
quoting Binder (2003, 26) at length on this issue, as she is one of the few authors to identify this contradiction:

The alternative hypothesis, if true, suggests that polarization might be counterproductive to securing policy responsiveness of political parties, turning the argument of the responsible party school on its head. Given the institutional structure of Congress and the separation of powers that distributes vetoes across the system, party polarization might ironically make major policy change less, rather than more, likely (26).

Research by Dodd and Schraufnagel (2009) and Binder (2003) are the only attempts to reconcile this issue. Dodd and Schraufnagel (2009) propose that the relationship between polarization and policy activity is curvilinear. At the extremes—high and low polarization—governing institutions are increasingly stalemated whereas during eras of moderate polarization lawmakers are actively engaged in policy creation and change. The theoretical basis for this relationship is a belief that moderate conflict enhances policy negotiation and deliberation: both fundamental to passing major policies (Dahl 1967). Binder (2003) proposes a different mechanism and relationship. Citing work by Fiorina (2001), she maintains that the negative effect of polarization on policy activity is due to a decline in the number of moderates in Congress. With the disappearance of moderates, the population of lawmakers who find it politically expedient to compromise have disappeared as well, making the task of legislating more difficult (Binder 2003, 80).

While I find both arguments convincing, ultimately this dissertation argues that a different causal mechanism drives the relationship between polarization and stalemate. The key insight is this dissertation’s argument (presented more fully in the next section) that polarization has occurred asymmetrically across the House and Senate. Indeed, researchers typically discuss legislative polarization in the aggregate without
considering inter-chamber differences (or the consequences thereof). There are logical reasons to expect the cause-and-effect relationship between polarization and policy activity to be disjointed within each chamber. In the House, with greater polarization and greater intra-party homogeneity, there should be less stalemate over the postreform era, not more. This is due to the fact that the House’s organizational design affords significant advantages to a ideologically coherent majority. This hypothesized effect follows Rohde’s conditional party government thesis and is consistent with the earlier views advocated by the responsible party theorists (Committee on Political Parties 1950, E.E. Schattschneider 1942; V.O. Key Jr. 1942). I find some clear empirical support for this proposition. Figure 1-1 presents the percentage of House bills that were successfully cleared by the House from the 95th to the 110th Congress (calculated as House bills passed / House bills introduced). These observations are publically available on the Congressional Bills Project webpage.21 We can see an obvious positive trend over the postreform period (in fact, the percentage of House bills passing the House has doubled over this time). In the Senate, however, we would expect that polarization has caused either greater stalemate or greater policy moderation. Because sixty votes are increasingly needed to break a filibuster in period of high polarization, the votes of moderates (Binder 2003) and/or legislative deliberation (Dodd and Schraufnagel 2009) are critical to securing passage of Senate bills. Figure 1-2 presents the percentage of Senate bills that were successfully cleared by the Senate for the same time period (calculated as Senate bills passed / Senate bills introduced). We can

21 The author is grateful to E. Scott Adler and John Wilkerson for making their database publically available. Any errors are my own. These data are available at: http://www.congressionalbills.org/
see no clear, statistically meaningful trend. This is in contrast to the notion that polarization is a direct cause of stalemate.

The prior empirics suggest that the link between stalemate and polarization is not due to developments that exist at the passage stage but historical developments that exist at the postpassage stage—due to greater bicameral disagreement, greater challenges resolving differences or both. Polarization may not cause stalemate because of a lack of moderates or a lack of deliberation within each chamber per se (though these are certainly indirect causes), rather, polarization creates an increase in bicameral disagreement which naturally increases stalemate.

Though perhaps a roundabout way of answering this section’s initial question, studying bicameral disagreement and reconciliation over the postreform period (explicitly) is a worthwhile endeavor because we lack a full understanding of an essential question: How have increased polarization and the strengthening of parties over the last 30 years altered the patterns of bicameral gridlock and policy conflict? The literature established paradoxical relationships and expectations. I propose that exploring bicameral disagreement and reconciliation exclusively (rather than looking at gridlock in the aggregate) provides an avenue to better understand this matter.

**Method**

Finally, from a methodological perspective, though the reforms compromising the “reform period” spanned much of the early- to mid-1970s, the 95th Congress was selected as the starting point for this research because of an important congressional reform which began in full at the opening of the 95th. In January of 1975 (the 94th

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22 Though there is a negative trend shown in Figure 1-2, that trend is far from significant. The estimated linear trend coefficient is -.0006 with an associated standard error of .001 (p=.64).
Congress) a change in House rules was proposed that would open conference committee proceedings to the public. The rule was subsequently adopted. Prior to this period, conference committees met in secret, without members of the media or lobbyists present. After some debate, the Senate adopted a similar rule in November of that year (Longley and Oleszek 1989, 53). Thus, the 95th Congress was the first in which all conferences were open to the public. This reform was consistent with the so-called “sunshine reforms” of the period which were designed to open the legislative process to the public (for example, an additional development was the creation of C-SPAN). Authors have noted that this reform altered a crucial aspect of how the House and Senate resolve differences: their secrecy. Indeed, Longley and Oleszek (1989) suggest that conference committees following the open-conference reform appear to be marked by greater electoral politics including more grandstanding, contentiousness, and less efficiency (Longley and Oleszek 1989, 50-61). In response, conferees have increasingly bargained informally before a conference committee officially convenes or meet formally in a manner that discourages outsiders from attending (Longley and Oleszek 1989). These critical developments in the operation of conference committees and their potential effects on the nature of resolving differences are reason to begin the analysis with the 95th Congress.

**Theoretical Structure and Empirical Expectations**

This manuscript can be thought of as containing two sections. Chapter 2 explores bicameral disagreement while Chapter 3, Chapter 4 and Chapter 5 examine the process of resolving differences. Given this structure, I find it beneficial to present the

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theoretical discussion and empirical expectations in the relevant chapters. Here I provide a limited overview of the overarching theoretical tenets and core empirical expectations guiding this project.

**Bicameral Disagreement**

Since 1885, political scientists have claimed that parties bridge the constitutional gaps created by the Constitution. Thus, as Congress has experienced greater polarization and as the parties have become organizationally stronger over the postreform period, we would logically expect a decrease in bicameral disagreement (as the majority carefully controls the passage of legislation). But contrary to these expectations, there have been a number of high profile bicameral disagreements since 1994 (even during unified government). Two recent examples include the Patient Protection and Affordable Care Act, which was heavily moderated because of bicameral disputes, and the Comprehensive Immigration Reform Act of 2006, which died in a House-Senate conference. These cases—among others—provide the impetus for reconsidering the link between strong, polarized parties and bicameral conflict. Certainly there are good institutional reasons to suspect that the two chambers have polarized at different rates over postreform period and that this “polarization asymmetry” has caused a parallel increase in the frequency and severity of bicameral conflict.

The theoretical connection between House and Senate differences in polarization and bicameral conflict draws on the logic of spatial-theory and the model of “pivotal politics” (Krehbiel 1999; but see also Tsebelis’ 2002 “veto-players” model). Such models—ubiquitous in studies of Congress, separation of powers and gridlock—propose that the distribution of preferences within a political institution, typically arranged on a left-right policy space, are critical to determining the performance of that
organization. In particular, I argue in Chapter 2 that polarization asymmetry has created greater tension between pivotal House and Senate actors in three areas: (1) greater distance between each chamber’s median member, (2) increasing intra-party bicameral differences, and (3) a growing gap between the House median and Senate filibuster pivot. Thus, contrary to popular expectations, the theory I outline suggests that the House and Senate have become increasingly dissimilar over postreform period, in terms of the ideological location of pivotal members, leading to greater bicameral conflict. This theory and its expectations present a plausible solution to the paradoxical relationships between polarization, the strength of parties and policy outputs.

**Resolving Differences**

The theoretical discussion and empirics presented in Chapter 2 regarding bicameral disagreement partly inform the remaining chapters on resolving differences. The two stages are, after all, inexorably linked. On the one hand bicameral disagreement has direct effects on the capacity of House and Senate negotiators to successfully merge competing versions of legislation. If the pre-conference disagreements are severe, for example, there is a lower probability that negotiators will be able to find a workable solution. On the other hand the nature of bicameral disagreements can affect the precise outcomes reached by negotiators. As just one example, if the disagreements are major in scope and/or salience, irrespective of the specific political or institutional cleavages animating the conflict, there may be a tendency for conferees to make greater concessions and compromises. On the latter point, as the House and Senate have become increasingly dissimilar over the postreform period in terms of the spatial location of pivotal lawmakers, it is plausible that resolving differences has become increasingly strained. Rather than a smooth process
of resolving bicameral disputes, where minor policy solutions are able to satisfy
competing actors, over the postreform period major changes are increasingly needed to
reconcile complex policy stalemates. I hypothesize that this pattern most constrains the
actor that wields the greatest unilateral control over the pre-conference legislative
process—the House majority party.

In Chapter 3 I also present a series of conceptual arguments regarding the
process and patterns of resolving differences. The central question is best summarized
colloquially: What does resolving differences “look like”? One of the overarching
premises is that resolving differences is a multidimensional process. By
“multidimensional” I mean to suggest that the methods of resolving House and Senate
disagreements are intrinsically complex in terms of both the divisions among political
actors and the policy issues involved. The natural effect of complex, multidimensional
disagreements is that it creates challenges to successfully mending competing versions
of public policy. In addition to the challenges facing conferees due to
multidimensionality, I argue that resolving differences is a process marked by great
uncertainty and significant transaction costs which, ultimately, create an incentive for
risk averse legislative decisions. In short, I argue that seeking compromise with political
rivals at the conference stage is a utility maximizing choice (where at earlier stages in
the policy process legislative failures are much less costly or politically damaging).
Ultimately these various conceptual arguments regarding conference committees work
hand-in-hand and make a single overarching prediction—that resolving differences is,
first and foremost, majoritarian in nature. That is, I argue that the primary principle
structuring the operation of conference committees, and by extension the key
determinant of conference outcomes, is *compromise and concession* (as opposed to non-centrist, partisan outcomes or inter-chamber conflict).

**Content of the Dissertation**

The empirical chapters have a natural progression. Chapter 2 explores the “passage stage” in the legislative process, paying specific attention to the frequency and severity of bicameral disagreement over the post-reform period. Logically, the subsequent chapters examine the “post passage stage,” where the House and Senate attempt to resolve disagreements. Chapter 3 explores the macro-level patterns in this process while Chapter 4 examines the bill-level patterns. The final empirical chapter—Chapter 5—addresses a potential counterclaim to the argumentation of the prior three chapters, providing further evidence in support of this dissertation’s claims.

Chapter 2 is motivated by the overarching question: How have growing ideological polarization and the strengthening of parties-in-Congress affected inter-chamber conflict? Relying on an original dataset that records both the frequency and severity of House-Senate disagreements, Chapter 2 reveals that over the postreform period the two chambers have come into greater conflict when trying to pass legislation. In other words, I find that the “bicameral hurdle” has grown significantly over the last thirty years. Furthermore, the results show that pro-majority or “partisan” House passed legislation has become especially prone to bicameral gridlock. I find evidence that this effect is due to increasing distances between the medians of each chamber as well as growing intra-party disagreements that manifest across the House and Senate. The congressional literature has been largely silent on these developments. Noting that polarization has occurred at a faster rate in the House than in the Senate, I attribute the
increase in bicameral conflict to growing bicameral compositional asymmetries. These compositional asymmetries include: (1) greater distance between each chamber’s median member, (2) increasing intra-party bicameral differences, and (3) a growing gap between the House median and Senate filibuster pivot.

Chapter 3 explores (at the macro-level) how the House and Senate resolve differences when they arise, referred to as the “post-passage stage.” I begin this chapter by developing a unified typology of how the House and Senate might resolve differences, one that hopefully contributes to our conceptual understanding of this process. Using roll call data from all conference committees convened from the 95th to the 110th Congresses, I operationalize the typology using multidimensional spatial modeling. There are two primary findings in this section. First, I uncover evidence of multidimensionality in the process of resolving differences. In particular, I find that three qualitatively distinct dimensions—reconciliation, partisan conflict and bicameral conflict—explain over 80% of the variation in the conference committee roll call patterns. Second, I find that the first dimension of resolving differences (i.e. the one that explains the greatest amount of variation) is a process of reconciliation, defined here as “the process of resolving bicameral disputes by compromise and/or concession.” Thus, contrary to the direction of the literature over the past few decades, I do not find that partisanship is the leading determinant of post-passage bargaining. This finding is particularly consequential when juxtaposed with Chapter 2’s findings about the growing bicameral hurdle facing the majority party.

Where Chapter 3 examines the aggregate patterns in post-passage bargaining, Chapter 4 takes a look at individual conference committee outcomes. Following
Chapter 3, the first section estimates separate spatial models for the pre-Republican Revolution and post-Republic Revolution periods. These separate models show that the first and second dimensions—reconciliation and partisan conflict, respectively—exhibit stability over time, indicating that even in the contemporary Congresses (where partisan roll call patterns are more pronounced) the process of resolving differences remains a multidimensional process governed by consensus and compromise first and foremost. The second section explores the individual dimensions at the bill-level using spatial mappings. I find that over the postreform period there has been: (1) an increase in the variability of conference outcomes, (2) an increase in pro-minority conference outcomes, and (3) an increase in the extent of compromise and concession in conference. Overall, these findings suggest that over the postreform period the so-called “bicameral hurdle” has becoming increasing salient when competing parties and chambers attempt to resolve differences and that this hurdle has increasingly constrained the majority party. Finally, the third section of Chapter 4 uses the multivariate spatial coordinates to examine the factors structuring conference outcomes. The main findings are as follows. First, greater pre-conference disagreement necessitates greater reconciliation. Second, partisan legislation is moderated in a pro-minority direction in conference. And at the same time, there is no evidence that the strategic procedure dubbed “packing the conference” yields a pro-majority outcome. Third, the more widely a bill passes one chamber relative to the other chamber the more the conference outcome shifts in the direction of the rival chamber. Taken as a whole, the findings from this section suggest that conference committees operate in a majoritarian rather than distributive fashion.
Chapter 5 concludes the empirical chapters by examining the process of resolving differences through formal models of agenda setting. Critics of the prior chapters may argue that the majority introduces and passes legislation in each chamber beyond their median ideal point so that, in negotiations with the other chamber, they are able to concede a few minor provisions and ultimately emerge from conference with their “true” preferred policy. The central question of Chapter 5 is thus: How does resolving differences affect the capacity of parties to control the legislative agenda? I address this question using a modified version of the “win rate” that captures bill-level variation in agenda control. Armed with this dataset, competing formal models of agenda control are compared. The results show that partisan models of agenda control perform best when we examine all final passage votes. However, when we restrict our analysis to bills that went to a conference committee or were shuttled between the chambers in disagreement, a non-partisan, majoritarian model outperforms all rivals. This highlights how parties manage, successfully or unsuccessfully, varying institutional hurdles and shows that the majority party typically concedes some of its preferred policies when legislation goes to conference or is resolved via amendment trading.

Chapter 6 concludes the dissertation. In the first part I place this dissertation’s findings in historical context. I note that while the House and Senate’s institutional relationship has been remarkably resilient throughout history, despite some fears during the Constitutional Convention, it has evolved in consequential ways since 1787. Thus, thinking legislative checks and balances—its historical variation and effects on the day-to-day operation of Congress—is absolutely critical. In the second part of the conclusion I offer a simple narrative that summarizes this dissertation’s main findings.
The narrative I present is that, while it is true that parties in Congress have enjoyed enhanced organizational capacities over the postreform period, the majority has simultaneously faced growing bicameral constraints because of an increase in House and Senate compositional differences. Third, I discuss the main implications of this research. One implication is that this dissertation offers a parsimonious solution to the paradoxical relationship between polarization, strong parties and policy productivity. Thus, as a practical matter, the present work helps us understand a fairly intuitive observation: while the majority is strong within the House and Senate, occasionally the two bodies’ preferred policy is moderated or fails outright because of disagreements across the chambers (even during unified government). At the same time, the findings force us to reconsider our conceptualization of “strong parties” and acknowledge the existence of a secondary process that has come to rival or limit the organizational strength of the majority. Finally, I discuss the normative undercurrents of this research. The findings of this dissertation are normatively “good” to the extent that one favors limited government and strong legislative checks and balances. The findings are normatively “bad,” on the other hand, to the extent that one is troubled by Congress’s sluggish response to social and economic problems (due, in part, to bicameral constraints).
Figure 1-1. Percentage of House bills cleared by the House. Percentage calculated as total bills passed by the House divided by House bills introduced. Source: Congressional Bills Project.

Figure 1-2. Percentage of Senate bills cleared by the Senate. Percentage calculated as total bills passed by the Senate divided by Senate bills introduced. Source: Congressional Bills Project.
CHAPTER 2
ESTIMATING THE BICAMERAL HURDLE

Republicans in the 104th Congress "have redefined success as getting legislation through one house." – Barney Frank (D-MA)\(^1\)

In January of 1995, the Republican Party assumed control of the House and Senate for the first time in forty years.\(^2\) Emerging from their status as the "permanent minority," Republican lawmakers faced an unfamiliar challenge: the task of governing. Among the challenges was the fact that, despite their unity in the electoral arena, their victory in 1994 came with more salient intra-party divisions. Indeed, as Chapter 1 argues, one of the biggest hurdles facing Republicans at the opening of the 104th Congress was how to manage their caucus across two constitutionally separate and distinct chambers. Of the 1994 midterm election, one congressional observer noted that while the incoming Speaker and Senate Majority Leader had their electoral "dreams come true," only Gingrich "was smiling" (Hager 1994, 3226).

In the waning days of 1994, Speaker-elect Gingrich promised votes within the first 100 days on each item comprising the Republican Contract with America, the most ambitious policy agenda since the Great Society. House Republicans followed through on Gingrich’s promise, passing nine of ten Contract items before the end of April (the exception being a constitutional amendment imposing congressional term limits). But at the close of the first 100 days, only two Contract bills had been enacted into law, with a surprising number having failed in the Republican-controlled Senate. Though academics and journalists typically view the “Contract Congress” though inter-branch

\(^1\) Quoted in Ornstein and Schenkenberg (1995, 203).

\(^2\) The 83rd Congress (1953-1984) had Republican majorities in both chambers.
lenses—detailing conflict between Clinton and congressional Republicans—few discuss the critical role of inter-chamber bargaining.\textsuperscript{3}

The mixed success of the Contract with America raises a series of theoretical questions. For example: What role do political parties play in our constitutional system of checks and balances? This is an enduring question. But in particular, the limited success of the Contract with America raises the question: How have the increases in ideological polarization and the organizational strength of parties—the most notable Congressional developments in the last thirty years—affected the functioning of legislative checks and balances?

This chapter argues that the Contract with America and its mixed success can be explained by larger developments that occurred over the postreform period. The central thrust of this chapter is the finding that the House and Senate have become increasingly dissimilar over the postreform period in terms of their internal compositions (in particular, the ideological location of pivotal lawmakers in each chamber). I note three areas of increased bicameral dissimilarity: (1) greater distance between each chamber’s median member, (2) increased intra-party bicameral distance, and (3) a greater gap between the House median and Senate filibuster pivot. The effects of these developments have been greater bicameral gridlock and more severe policy disagreements between the two chambers. Moreover, I show that bicameral gridlock has become especially pronounced for pro-majority, “partisan” House initiated legislation. Paradoxically, the findings show that Congressional polarization and the

\textsuperscript{3} Two notable exceptions are Binder (1999, 2003, 2005) and Riley (1995).
strengthening of parties have had a homeostatic effect on the capacity of the majority to pass its preferred policies, as polarization has lead to a higher bicameral hurdle.

**Political Parties and Inter-Branch Bargaining**

Political parties have been at the center of inter-branch bargaining (i.e. “divided government”) research since at least the 1940s. The conventional wisdom holds that parties bridge the space erected between Congress and the presidency, attenuating the natural obstacles created by our constitutional framework.

The academic discussion concerning the role of parties in our nation's constitutional structure can be traced to Woodrow Wilson (Ranney 1951). In *Congressional Government* (1885), Wilson lamented what he saw as the inefficiencies of the Constitution—in particular its limitation on legislative powers—favoring instead a Westminster form of government. According to Wilson, political parties possess a redeeming quality in our flawed system as they help the executive and legislative branches bargain in concert. In 1942, E. E. Schattschneider echoed this sentiment famously noting that “modern democracy is unthinkable save in terms of parties” (1). That same year, V.O. Key Jr. remarked that "the obstructions of the governmental structure must be overcome, and it is the party, through extra-constitutional expedients, that accomplishes this end” (quoted in Sundquist 1988, 618). And in 1950, the American Political Science Association's Committee on Political Parties published a report calling for a “more responsible” two-party system. Parties would be rendered “responsible” in the sense that, with clear inter-party ideological differences, homogenous intra-party preferences and unified governing control, new majorities would act decisively and with a popular mandate, giving voters a clear vision of the
parties’ successes and failures. In sum, in the 1940s and 1950s there was surge in research advocating “strong parties” as a solution to policy inaction and stalemate. Unfortunately for these writers—sometimes dubbed “party theorists”—divided party control would become a reoccurring condition.

With persistent split-party control, the scholarly discussion of parties and inter-branch bargaining shifted. Four decades removed from the beginning of the “responsible parties” movement, Sundquist (1988, 625) noted that the traditional party government thesis advocated by Schattschneider, V.O. Key Jr. and others “presupposed one essential condition: there would in fact be a majority party in control of both branches of government. Rereading the literature of the midcentury, one is struck with how easily this condition was taken for granted.” In fact, the swearing in of the 84th Congress in 1955 marked the beginning of what one noted political scientist has called “divided government as usual” (Fiorina, 1996, 1). More than a stylized feature of American politics, political scientists and observers alike have lamented divided government as the cause of legislative gridlock (Cutler 1988; Kernell 1991; Sundquist 1988).

But then in 1991, David Mayhew turned the conventional wisdom about the negative effects of divided government on its head. Examining the supply of “landmark” legislation over the post-WW II era, Mayhew found that important legislation passes in approximately the same proportion during times of divided and unified government. Subsequent work confirmed Mayhew’s basic premise (albeit with caveats). For example, Jones (2001) demonstrated that party polarization and party seat division increase the likelihood of gridlock independent of divided government (which has null
effects). At the same time, the Pivotal Politics model elaborated by Krehbiel (1996, 1998) and Brady and Volden (1997, 2006) further validated Mayhew’s core premise. The central question, according to these authors, is: Why does gridlock occur just as often during unified party control? The answer according to Krehbiel and Brady and Volden is that models which examine party control through the lens of simple majoritarianism significantly underestimate institutional factors that affect the size of legislative coalitions at final passage—namely the supermajoritarian veto pivot and Senate filibuster pivot. Thus, Pivotal Politics, as with Mayhew’s account, is entirely preference based (without an explicit role for legislative parties).

Of course, consensus on the effects of divided government is nonexistent. If anything, the balance of evidence lies on the side of those who find that divided government is associated with a decrease in policy production (though recent work by Ragusa (2010) finds symmetrical effects on the overall supply of legislation). Edwards and Barrett (2000) examine presidential initiatives and demonstrate that the president is able to initiate a larger percentage of his preferred policies during unified party control while Conley (2002) shows us that the president is more likely to veto significant legislation during periods of split-party control (Cameron 2000). Others have found evidence that divided government leads to higher budget deficits (Alt and Lowry 1994; Cutler, 1988; McCubbins, 1991). Kelly (1993), using data on legislation deemed landmark by observers at the time of enactment and years after the fact found that divided control limits the supply of landmark legislation—in direct contrast to Mayhew’s finding. Edwards, Barrett and Peak (1997) examine the consequences of divided government from the “demand side.” In their analysis of significant legislation that was
proposed but *did not* pass, they concluded that “the pre-Mayhew conventional wisdom was correct: divided government inhibits the passage of important legislation” (562). And Binder (1999, 2003), using a measure of gridlock that taps the total number of failed legislative policies divided by the size of the policy agenda, finds that a larger percentage of her agenda items fail during periods of split-party control.

In summary, despite disagreement in the literature, the contemporary wisdom holds that political parties bridge our system of legislative-executive checks and balances, easing the bargaining process between Congress and the president and positively affecting the overall supply of legislation.

**Political Parties and Inter-Chamber Bargaining**

Little research exists on political parties and inter-chamber bargaining. Instead the vast majority of research on parties and legislative productivity has looked at constitutional tensions between *Congress* and the presidency. But as Binder (1999, 530) notes, “House-Senate differences, not simply legislative-executive conflicts, have structured patterns of gridlock in postwar American politics.”

A leading study on parties and legislative checks and balances is Binder’s (1999, 2003, 2008) research on the effects of “bicameral distance.” In three studies, Binder finds that the ideological distance between the House and Senate medians is a powerful determinant of legislative gridlock over the post-WW II era. In fact, in both her 1999 *APSR* article and her 2003 book *Stalemate*, Binder reports that bicameral distance has the most statistically meaningful effect in her gridlock model (greater in magnitude, for example, than divided party control). As she notes, this finding helps explain instances

In two separate papers, Chiou and Rothenberg (2008a and 2008b) challenge Binder’s result concerning the negative effects of bicameral distance on policy productivity. In their initial paper (2008a), Chiou and Rothenberg note that Binder uses W-NOMINATE scores to compare the ideological location of the House and Senate medians. These scores, Chiou and Rothenberg note, are not comparable across chambers. Using Poole’s (1998) “common space” scores—which scale the House and Senate as a single chamber using lawmakers who served in both houses as “bridge” observations—Chiou and Rothenberg (2008a) find no evidence that bicameral distance positively affects gridlock. Though Binder later (2008) concurs with Chiou and Rothenberg’s critique, she notes that a separate measure of bicameral distance using conference report votes confirms her original findings (2003, Appendix D). However, in a second paper Chiou and Rotenberg (2008b) respond that Binder’s decision to treat voice votes on conference reports as evidence of bicameral unanimity is seriously flawed.

Theorizing About Bicameral Compositional Differences

The Link Between Bicameral Distance and Gridlock

It is necessary to begin our discussion by noting a conceptual disconnect between the independent variable “bicameral distance” and the outcome “gridlock.” The disconnect between these two factors is due to fact that the distance between the House and Senate medians leads to one of two mutually exclusive outcomes: (1) a decrease in the likelihood that the two chambers will pass similar agenda items
(hereafter, “bicameral gridlock”) and (2) an increase in the ideological distance between each chamber’s policy proposal (hereafter, “bicameral disagreement”). Though bicameral gridlock is directly comparable to aggregate gridlock, in cases where the two chambers disagree over the content of legislation but subsequently engage in bicameral bargaining there can be a decrease in the likelihood of aggregate gridlock. Failing to account for this distinction may have contributed to the mixed results observed by Binder and Chiou and Rothenberg. The following informal spatial models illustrate these two effects using the 99th and 110th Congresses as an example.

Assume we have a game played by three actors—the House (H), Senate (S) and president (P)—who have single peaked Euclidian ideal points. Further assume for simplicity that the policy space is unidimensional and that the two chambers have majoritarian voting rules. Figure 2-1 and 2-2 present the estimated spatial location of the House, Senate and president in the 99th and 100th Congresses (respectively) using Poole’s (1998) common space scores. Notice that in the 99th Congress, because rival parties controlled the House and Senate, the distance between the two chambers (denoted BD for “bicameral distance”) was large in comparison to the 100th Congress. Thus, in the first stage of the game when one chamber passes a bill and submits it to the second chamber for consideration, there is a greater likelihood that that legislation in the 99th Congress will experience bicameral gridlock compared to the 100th Congress. That is to say in the 99th Congress there is a greater chance that the Senate will reject bills passed by the House (and vice versa). In the second stage of the game, if the chambers attempt to resolve differences and formally bargain over the content of the final bill, each chamber’s initial proposal would require greater moderation before
“enrollment” (when it moves to the president’s desk) in the 99th Congress as compared to the 100th Congress. If we assume that this bargaining process yields a bill located at the midpoint of the House and Senate positions (denoted M for “midpoint”), then the likelihood of a presidential veto is given by the distance between the president and that midpoint (denoted VD for “veto distance”). Notice that in the 99th Congress though the likelihood of bicameral gridlock is high compared to the 100th, the likelihood of a veto is dramatically larger after bicameral bargaining compared to the 100th Congress.

The previous discussion highlights the following. On the one hand increases in bicameral distance will cause bicameral gridlock if the ideological distance between the chambers creates irreconcilable differences. However, if the two chambers engage in inter-chamber bargaining, a moderated bill might decrease the likelihood of a presidential veto. Regarding the link between overall gridlock and bicameral distance, the connection between these factors hinges on the two chambers’ capacity for resolving disagreements. Thus, the true effect of bicameral distance manifests in two mutually exclusive ways: (1) a decrease in the likelihood that the chambers will pass each other’s proposals (an increase in “bicameral gridlock”) and (2) an increase in policy disagreement between each chamber (an increase in “bicameral disagreement”).

In short, it is important to examine these two causal paths.

**The House and Senate Medians in the Postreform Era**

Despite her excellent work on the topic, Binder provides only a limited discussion of historical patterns in the distance between the House and Senate. This is not a criticism; Binder’s primary focus was on the factors that cause gridlock (bicameral distance was simply one of many factors). At the same time, her analysis ended with
the 106th Congress in 2001. The eight years following Binder’s research helps reveal
the forthcoming trends.

So the question is: Are there any meaningful trends in the distance between the
House and Senate medians over the postreform era? As it turns out, there are. Figure
2-3 presents the distance between the House and Senate medians from the 95th to the
110th Congresses according to Poole’s (1998) common space scores.4 From the Figure
it is clear that when rival parties control the House and Senate (the 97th, 98th, 99th and
107th Congresses) the distance between the two chambers is rather large. This is to be
expected during “quasi-divided government.” However, despite the fact that three out of
the four episodes of quasi divided government occurred in the first half of the postreform
period, there is a visible positive trend in bicameral distance. If we remove these
periods from the Figure for a moment, given that we can safely account for the spikes in
the time, the temporal trend is stark (Figure 2-4). The linear fit in Figure 2-4 is given by:
\[ |HM – SM| = 0.73 + 0.0074 \times \text{Cong}. \]
The slope is statistically significant at .05 level with only
twelve observations. Based on these estimates, we can conclude that over the post-
reform period the distance between the medians of the two chambers has increased by
.12 in the first dimension. To put this estimate into perspective, the mean bicameral
distance score for the pre-104th Congresses (before the Republican Revolution in 1994)
was only .013 while in the post-Republican Revolution era (the 104th to 110th) the mean
bicameral distance score is .075 (a nearly six-fold increase). To add some context to
this development, a difference of about .07 in the first-dimension is equivalent to the

4 For this data I follow Chiou and Rothenberg’s (2008a) recommendation and use the
ideological distance in the first-dimension between the House and Senate medians using
Poole’s (1998) common space scores.
ideological distance that separates Senators Joe Lieberman (D-CT) and Harry Reid (D-NV). Thus, and perhaps surprisingly, over the postreform period I find that as the parties have polarized and become more internally homogenous within their respective chambers, the two chambers have become increasingly dissimilar.

**Polarization Asymmetry**

Before analyzing the effects of House and Senate ideological distance on bicameral gridlock and disagreement, the pertinent question to ask is: *Why* has the distance between the House and Senate medians increased so dramatically over the postreform period? A clear development such as this must have an equally apparent causal mechanism. In this section I will argue the positive trend in bicameral distance can be connected to two major developments over the postreform period which have operated in concert: (1) electoral and geographic polarization and (2) Congressional reforms. I argue that both developments have spawned greater polarization in the House than the Senate, leading to bicameral “polarization asymmetries” and, ultimately, greater House and Senate compositional differences.

Though discussion as to the “Framer’s intent” is sometimes controversial, their belief that the House and Senate would function differently cannot be argued. For example, Lee and Oppenheimer (1997) counter the functionalist claim that the Framer’s desire to protect “federalism” or “minority rights” drove the decision to allot each state two senators. Rather, they note that the Framer’s believed in the supremacy of a bicameral legislature before addressing the question of apportionment (Wood 1998, 553). Nonetheless, for the present purposes at least, we can safely discuss the
Framer’s thoughts on the effects of our nation’s bicameral design (irrespective of debates about their rational intentions or overarching goals).

For instance, Madison argued in *Federalist No. 62* that the “dissimilarity in the genius of the two bodies” would limit legislative abuses of power and protect basic liberties. The “dissimilarity” to which Madison alluded was thought to derive from House and Senate representational and deliberative differences. Contemporaries have echoed this sentiment, noting that one of the merits of a bicameral legislature is that it limits what the Framer’s referred to as “majority tyranny” (Riker 1992; Tsebelis and Money 1997). Regarding representational differences, the tensions between equal-state representation and popular representation (i.e. federal bicameralism) leaves each chamber beholden to fundamentally different constituencies. Though no issue pits “small states” against “big states” *per se* (Lee and Oppenheimer 1997), tensions between the chambers can arise when factors that correlate with state size—like geography—enhance the scope of policy conflict. Immigration is one perennial example.⁵ At the same time, the Senate’s longer terms and staggered elections created further differences in representation between the chambers, with the House focused on short-term, or popular issues and the Senate alert to long-term, or “permanent” issues (cf. *Federalist nos. 62, 63 and 51*). For example, Madison in *Federalist no. 51* noted that the solution for “faction” is to “divide the legislature into different branches; and to

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⁵ For example, in the 98th Congress conferees met 10 times attempting to reconcile between immigration reform bills S 529 and HR 1510. The parallel bills represented the second attempt in as many congressional sessions to enact sweeping immigration reform. Ultimately, the main factor which killed the bill in conference was a disagreement about how to reimburse border-states for the increasing financial obligations created by the surge in new citizens under the legalization provision. Conference committee members from states with large illegal alien populations believed the billion dollar block grant to offset social service costs stemming from legalization was too low (Cohodas 1984)
render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit.” And finally, regarding deliberative differences between the House and Senate, it was believed during the founding that the Senate, because of greater policy expertise, longer terms and historical precedent, would review legislation passed by the House on the merits, delaying the passage of defective policy (cf. Federalist nos. 62-63;).⁶

In short, our nation’s constitutional framework creates natural divisions and compositional tensions between the House and Senate. This is not a novel claim. However, if we juxtapose this rather simple observation with what is the dominant and most dramatic development of the postreform period—greater ideological polarization in Congress—we arrive at a powerful hypothesis. Based on what we know about House and Senate representation, we would logically expect the House and Senate to polarize very differently over time. The difference is not qualitative but of degree; we would expect the House to polarize at a greater rate than the Senate. This is due to the simple fact that senators typically represent more diverse constituencies and are constitutionally insulated from exogenous changes while representatives typically represent more homogenous constituencies and are more responsive to exogenous factors. It is helpful to briefly review the sources of congressional polarization.⁷

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⁶ In Federalist no. 62, for example, Madison contends that the Senate will serve to “correct” the “impulse of sudden and violent passions” and of “factious leaders.”

⁷ Because of space constraints a few sources of polarization are not reviewed here. These include lingering political and policy disputes (Dodd 1991; Uslaner 2000) and the recasting of political issues (Sundquist 1983; Adams 1997; Leege et al. 2002; Green, Palmquist and Schickler 1996; McCarty, Poole and Rosenthal 2006; Carmines and Stimson 1989).
The most frequently cited explanation of polarization in the House and Senate is electoral and geographic realignment (Stonecash, Brewer and Mariani 2003). For example, it has been argued that changing migration patterns aided southern Republicans electorally while the resulting political realignment splintered the southern Democratic Party (Jacobson 2000; Polsby 2004; Rohde 1991). These regional dynamics led to a “more responsible two party system” (Polsby 2004, 109), characterized by a more homogenously liberal Democratic party and reduced electoral competition for southern Republicans. More recent work has linked polarization throughout the United States with more general migratory patterns. Scholars have begun to advocate that population mobility—the increased ability of Americans to relocate geographically—causes individuals with similar ideologies to “cluster,” referred to sometimes as partisan or ideological “sorting” (Bishop and Cushing 2008; Gimpel and Schuknecht 2003). According to this view, preferences for particular geographic locations and places correlate with political, economic and religious preferences.

Some authors cite gerrymandering as an additional electoral cause of greater polarization in Congress (but there are significant disagreements in the literature). Abramowitz et al. (2006) find no significant effect of gerrymandering in periods following redistricting while Oppenheimer (2005) notes that parallel increases in polarization have occurred in the U.S. Senate. However, a recent study by Carson et al. (2007) reports that when districts undergo significant changes to their boundaries, there is a corresponding increase in polarization. These authors are careful to note, however, that this modest effect is but one of multiple causes of increased congressional polarization.
Among these electoral and geographic developments there are clear reasons to suspect that House districts have polarized more than states. Since population mobility almost certainly declines as geographic distance increases, *intra-state* mobility will create homogenous House districts while having *absolutely no effects* on the overall state composition. Logically, the only way electoral polarization can occur equally in the House and Senate is if migrators are just as likely to relocate across states lines as they are within state lines. At the same time, to the extent that gerrymandering affects polarization the effects can only manifest in the House, as state lines are fixed while district lines are not. Overall, then, to the extent that electoral and geographic trends affect polarization—which many authors cite as the leading causes—that effect has almost certainly polarized House districts more than the states.

A number of prominent studies add institutional reforms to the determinants of postreform era Congressional polarization. Ultimately, though these reforms are not a function of constitutional design *per se*, the effects of these reforms have contributed to polarization asymmetry in the same manner as the electoral-geographic causes. Legislative reforms in the 1970s, for example, simultaneously decentralized Congress—weakening the power of committee chairmen—and enhanced the formal power of the majority. These reforms, however, were uneven across the House and Senate. For example, the House reforms included the revival of the Steering and Policy Committee (including the Speaker as its chair), the expansion of the whip system and the empowerment of the Speaker to name members to the influential Rules Committee (Davidson 1981; Deering and Smith 1997; Dodd 1979; Dodd and Schott 1979; Rohde

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8 This is so because the U.S. Constitution allows the two chambers to fashion their own rules.
major changes to its committee system in this period—in particular Senate reformers cut the number of committees and sub-committees and reorganized committee jurisdictional borders—no consequential changes were made to the Senate’s party or camber procedures (Davidson 1981; Deering and Smith 1997).

A similar narrative is applicable to the reforms implemented after the 1994 congressional mid-term. Though the Senate reforms in this period made the upper chamber more like the House (particularly with the adoption of a secret-ballot to name committee chairs), the implemented reforms were less consequential in terms of strengthening the two parties (Davidson 1981; Deering and Smith 1997; Zelizer 2006). Term limits, designed to enhance the responsiveness of committees and leaders to the rank and file, were less stringent in the Senate compared to the House.\(^9\) While the House cut the number of committee staff by one-third, the Senate made no corresponding cuts. And finally, while the House leadership was given enhanced power over the selection of committee chairmen no such powers were afford the Senate leadership. Ultimately, of the Senate reforms implemented during the 104\(^{th}\) Congress, Deering and Smith (1997, 51) note: “There were no dramatic rules changes, no elimination of committees, and no changes to the authority of party leaders.”

Figures 2-5 and 2-6 explore whether the previous hypothesis—polarization asymmetry—is supported empirically. Figure 2-5 charts polarization in the Senate and House (separately) over the postreform period using the distance between the median

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\(^9\) For example, the six-year term limit for committee chairmen in both chambers included subcommittee chairmen in the House. Also, where the house included an eight-year limit for the Speaker, no formal limits were adopted for the Senate majority leader.
Democrat and median Republican in each chamber. Higher values indicate greater polarization. For these estimates I am again using Poole’s (1998) common space scores because they are comparable across chambers. Parallel trends in this Figure are evidence against polarization asymmetry. Figure 2-6 reports the difference in each chamber’s polarization score such that higher values indicate the House is more polarized while lower values indicate the Senate is more polarized. A flat trend in this Figure is evidence against polarization asymmetry.

The trends in both figures are unambiguous and support the earlier discussion: since the 95th Congress the House has polarized more rapidly than the Senate. For example, at the start of the series in the 95th Congress we can see that the Senate was slightly more polarized than the House. The difference was small however (about .05 in the first-dimension). In the 96th Congress, the House and Senate were about equally polarized according to both figures. But by the 110th Congress, we can see that the House had become much more polarized than the Senate. In the House the average distance between the median Democrat and median Republican was .84 in the first dimension while the same distance in the Senate was .73. Thus, in the most recent Congresses the House is about 15% more polarized when compared to the Senate.

The next question we must address is: What does it matter if the House and Senate have polarized at different rates? I hypothesize that bicameral variation in polarization and the resulting compositional differences between the House and Senate has increased the frequency (bicameral gridlock) and severity (bicameral disagreement) of bicameral policy disputes. The theoretical connection between differences in polarization and bicameral conflict draws on the logic of spatial-theory and the model of
“Pivotal Politics” (Krehbiel 1991; but see also Tsebelis’ 2002 “veto-players” model). Such models—ubiquitous in studies of Congress, separation of powers and gridlock—propose that the distribution of preferences within a political institution, typically arranged on a left-right policy space, are critical to determining the performance of that organization. Specifically, each player has a fixed, Euclidian preference in a unidimensional policy space where the spatial location of each player determines organizational outputs. Without the support of a few “pivotal actors” or “veto players,” organizational outputs exist within a “gridlock interval” where preservation of the status quo or “reversion point” is most likely. Of course, the spatial-locations of pivotal actors are not static: quite the contrary. Thus, if polarization asymmetry describes patterns in the distribution of preferences across the House and Senate, we would logically expect this effect to increase the distance between pivotal actors. For example, since the chamber median in a two-party system almost always lies on one party’s side of the continuum, as the two parties polarize the location of the median will shift toward the extremes as well.

Of course, our conceptualization of “pivotal actors” represent an abstraction. Lawmakers rarely consult the “true” chamber median and draft legislation to his or her liking. Thus, there may be pivotal actors that we should consider in addition to the House and Senate medians. As I argue in the following section, differences in the rate of polarization across the House and Senate can be theoretically linked to two additional types of bicameral compositional tensions. And though the theoretical discussion borrows from the general intuition of pivotal politics, unlike many gridlock models my argumentation is purely empirical rather than mathematical. But like the formal theories
on which this research is founded, the theory begins with some basic assumptions and uses logical deduction to generate a set of testable hypotheses.

**Two Additional Bicameral Consequences of Polarization Asymmetry**

**Intra-party Bicameral Distance**

For the same reasons that polarization asymmetry affects the distance between the medians across chambers, we would also expect an increase in the bicameral distance *within* the two parties. By “within party bicameral distance” I mean the distance between each party’s median Senator and their median Representative. But though academics and observers regularly note that Democrats in the House often disagree with Democrats in the Senate (and vice versa for Republicans), no work has built this simple observation into a single metric. However, as the discussion in the introductory section illustrates, landmark policies such as those items comprising the Contract With America can be greatly affected by exactly this source of bicameral tension. It is worthwhile, therefore, to systematically examine this phenomenon.

Figure 2-7 presents this factor (*Intra-party Bicameral Distance*) over the post-reform era. To construct this metric I average the distance between each party’s median member in the House and their median member in the Senate. Higher values indicate greater within-party bicameral distance. From Figure 2-7, in the pre-Republican Revolution era (95th to 103rd Congresses) the mean distance between each party’s median Senator and their median Representative is .03 where in the post-Revolution era Congresses (104th to 110th) the mean intra-party bicameral distance is .10 (a more than threefold increase). Recall from earlier that a difference of about .07 in the first-dimension is about the distance between Joe Lieberman (D-CT) and Harry Reid (D-NV);
so the change in within-party bicameral distance over the postreform period is greater than that.

It is worth pointing out two notable qualities of this measure. First, one of the most contentious debates in the congressional literature surrounds the conceptual distinction between partisan effects and preference effects. The two sides rarely see eye-to-eye. Krehbiel (1993) summarizes the central dividing issue asking if lawmakers “vote with fellow party members in spite of their disagreement about the policy in question, or do they vote with fellow party members because of their agreement about the policy in question?” (238, emphasis in original). Both bicameral distance (Binder 1999, 2003) and the House-filibuster pivot distance (forthcoming) are non-partisan in nature, focusing instead on the role of raw preferences. In contrast, intra-party bicameral distance melds the effects of parties and preferences into one measure. Indeed, though the measure is operationalized using preferences, it incorporates the pivotal role that parties play in the contemporary Congress. In fact, we can look to partisan theories of lawmaking to understand why differences in polarization might cause House-Senate policy conflict. According to the theory of conditional party government, polarization caused the growth in the parties’ organizational capacity to produce non-centrist outcomes. It follows that if one chamber exhibits greater power in this regard (the House), it is likely that the majority leaderships of both chambers will advocate and advance different proposals. This possibility is often overlooked. As Smith and Gamm (2009, 142) point out, “there are long-standing differences between the nature of party leadership in the House and Senate that are too often ignored.”
A second notable quality of this measure is that it offers a within-parties explanation for the majority party’s policy failures. This is an important concept to formalize given the history and importance of intra-party divisions. For example, in 1910 the organizational power of the House was undermined in the famous “revolt” against Joe Cannon, where progressive Republicans joined Democrats in enacting a series of reforms that severely limited the Speaker’s power (Baker 1973; Rohde 1991; Riley 1995). Intra-party divisions were also critical to the passage of the 17th amendment. Wirls (1999) demonstrates that, contrary to the conventional wisdom, regional intra-party divisions were the key factor structuring roll call voting on the direct election of senators. As a third example, numerous authors have noted that Democratic intra-party divisions during the 1960s stymied efforts to enact civil rights reform. James MacGregor Burns (1963), for example, famously argued that deadlock was due to systematic differences between northern and southern Democrats as well as between Northeastern and Midwestern Republicans. And finally, intra-party divisions also structured—in part—policy conflict over the Contract With America. Despite the narrative of Republican unity and decisive action, Ornstein and Schenkenberg (1995) point out the inherent tension between Republicans who wanted to balance the budget and those who wanted to dismantle government. As they note, “On the surface, the two themes are mutually reinforcing. In reality, they are not. Indeed, there is enough tension between them that they may be close to mutually exclusive” (Ornstein and Schenkenberg 1995, 198).

House-Filibuster Pivot Distance

On the one hand, both bicameral distance and intra-party bicameral distance are majoritarian in nature. That is, they fail to take into consideration differences in the
institutional rules governing the House and Senate. Where the House is a majoritarian institution—because a simple majority is necessary and sufficient to pass legislation—the Senate is (often) a supermajoritarian institution—where, because of unlimited debate, 60 votes are frequently needed to pass legislation.

A comprehensive examination of bicameral differences must account for the distinction in the rules governing the House and Senate. Accordingly, a systematic examination of bicameral compositional differences must account for the pivotal role exercised by the supermajoritarian Senate (Krehbiel 1996, 1998; Brady and Volden 1998, 2006). In particular, we would expect polarization asymmetry to have increased the consequences of the filibuster pivot on House and Senate negotiations. As Brady and Volden (2006, 38) show, strong parties actually stretch the gridlock interval as legislation located at the party median in the Senate is more likely to face a filibuster from the minority. However, where most researchers model the filibuster pivot as an intra-cameral measure—using the distance between the Senate median and the filibuster pivot—here I am interested in the distance between the House median and the Senate filibuster pivot. Indeed, because a simple majority on the House floor is need to concur with, amend or reject legislation passed by the Senate, examining variation in the location of the filibuster-pivot vis-à-vis the House median helps us assess the effect of the Senate’s supermajoritarian requirement on bicameral bargaining.

Figure 2-8 presents this data over the postreform period using the absolute distance between the House median and Senate filibuster pivot (the 40th or 60th Senator, depending on party control, whose vote is pivotal for enacting cloture) using Poole’s (1998) common space scores. Since the filibuster pivot is almost always on the
minority party’s side of the aisle, the filibuster pivot gives the minority party some leverage. However, the contribution of conceptualizing the filibuster pivot in this manner is that, as we can see Figure 2-8, as the two parties have polarized the size of the interval between the House median and the filibuster pivot has grown. This is because both the filibuster-pivot and the House median have moved toward the extremes over the postreform period. Certainly, the minority is filibustering to a greater extent today than in years past. As with the previous two measures of bicameral differences, as the parties have become more homogenous and distinct—presumably a source of greater party power and pro-majority policy outcomes—they have had to contend with a greater bicameral hurdle that might constrain their power. In this particular case, though the House majority can easily pass policies at its discretion, those policies are increasingly likely to encounter bicameral gridlock and disagreement given the increasing distance of the filibuster pivot.

**Methodology: Estimating the Bicameral Hurdle**

The previous discussion proposed two qualitatively different, but related, forms of bicameral conflict. Formally, “bicameral gridlock” occurs when one chamber passes a bill that dies in the other chamber. Whether the bill passed by the first chamber was “dead on arrival,” died in committee or was rejected on the chamber floor, the initiator’s proposal was not preferable to the status quo in the second chamber. On the other hand, “bicameral disagreement” occurs when one chamber passes a bill and the other chamber counters by passing a different bill. Whether the counterproposal was an entirely different bill or a slightly modified version of the initial chamber’s bill, the initiator’s proposal was not preferable to the status quo in the second chamber without
some modification(s). Though both measures tap bicameral policy conflict, bicameral gridlock is a latent measure—where we know conflict exists though that we cannot systematically observe its nature—while bicameral disagreement is a formal measure—where, because each chamber made a tangible proposal, we can systematically observe differences in the policy content of each bill.

To assess bicameral gridlock I coded data on every bill passed by the two chambers over the post-reform period (95th Congress to the 110th Congress). The primary observation is whether the second chamber in the policy sequence passed the initiating chamber’s bill (coded 1 if pass, 0 if fail). Fortunately, these observations are publically available on the Congressional Bills Project webpage and required only minimal additional coding.10 To assess bicameral disagreement, I created an original database that identifies every attempt by the House and Senate to resolve differences. Specifically, “resolving differences” includes every attempt to reconcile House and Senate policy disputes by convening a conference committee or engaging in amendment trading.11 Using each chamber’s final passage vote, I recorded the midpoint of both proposals using Poole’s (1998) first-dimension common space scores. The midpoint of a roll call vote is the position in the liberal to conservative (“first”) dimension that separates the “yeas” and “nays.” Thus, estimating the differences in the

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10 The author is grateful to E. Scott Adler and John Wilkerson for making their database publically available. Any errors are my own. These data are available at: http://www.congressionalbills.org/

11 This data was compiled primarily using the Library of Congress’s Thomas.com website. The data on conference committees was checked against data provided by Michael C. Brady. All errors are my own.
midpoint of each chamber’s proposal allows us to assess ideological differences in the policy content of the two bills.

Though mutually exclusive, the two measures are related. In fact, breaking bicameral gridlock is a precondition for observing bicameral disagreement. This creates a selection effect, by definition. This effect affects the observation of bicameral disagreement in two ways (bicameral gridlock is unaffected). First, it may be that a majority in the Senate agrees with a proposal passed by the House but, because a minority of senators are able to sustain a filibuster, the Senate is unable to pass the House bill. This effect would artificially increase the amount of disagreement and cause the forthcoming models to overestimate the salience of the filibuster pivot. But at the same time, a second selection effect removes the most salient disagreements from the analysis. This occurs when one chamber chooses inaction as a means of killing the other chamber’s proposal (a common occurrence). That is, rather than waste time drafting and passing legislation destined to fail, the second chamber ignores the initiating chamber’s bill and addresses some other bill or issue. This effect would decrease the actual amount of disagreement.

**Bicameral Conflict in the Postreform Era**

As a first look at bicameral conflict I present descriptive statistics of bicameral gridlock and bicameral disagreement over the postreform period. Figure 2-9 charts bicameral gridlock for each Congress during this period, calculated as the inverse percentage of House and Senate passed bills that cleared the second-acting chamber. Figures 2-10 and 2-11, by comparison, chart the mean bicameral disagreement score
per Congress, calculated as average first-dimension midpoint distance between bills passed by House and Senate in disagreement.

For bicameral gridlock, the raw data reveal that 53.4% of bills passed by the initiating chamber were successfully passed by the other chamber. Thus, 46.6% of bills passed by the initiating chamber died in the second chamber without passage (the postreform rate of bicameral gridlock). In the aggregate, this estimate is surprisingly comparable to Binder’s (2003) overall gridlock estimate (Table 3-2). For example, Binder reports that 46.4% of her “agenda items” died in the other chamber without passage. Moreover, she reports that 49.0% of her agenda items were passed by the House but died in the Senate while 43.7% were passed by the Senate but died in the House. According to the bicameral gridlock data reported in Figure 2-9, the comparable statistics are 46.1% (died in the Senate) and 47.7% (died in the House). As Binder notes, this small difference in the passage rate for House and Senate agenda items refutes the notion that the modern Senate simply “reviews” legislation and limits the “passions” of House (Binder 2008, 15-17). Indeed, both her agenda measure and my data show that the Senate is no more to blame for policy inaction than the House.

The more notable trend in Figure 2-9 is the linear increase in bicameral gridlock over the postreform period (representing a decrease in the percentage of House and Senate initiated bills that passed the other chamber). The estimated linear trend line is given by: \( \text{Pr}(\text{B}_i \text{C}_j \text{Gridlock}) = -0.57 - 0.010(\text{Cong}) \). Thus, from the 95th to 110th Congresses the percentage of House or Senate passed bills gridlocked by the second chamber increased 1% per Congress (15% over the entire time series). If we use the average number of bills passed per Congress as a benchmark, a decline of 15% over the
postreform period accounts for 95 fewer House passed bills passing in the Senate per Congress and 47 fewer Senate passed bills passing in the House per Congress. This is certainly a consequential development.

Another interesting feature visible in the time series is the relatively minor (or perhaps non-existent) decrease in the probability of bill passage during periods of congressional split-party control. At first blush we might expect that “quasi-divided government” is associated with a growth in bicameral gridlock. But, on the other hand, formal models of inter-chamber bargaining suggest that during congressional split-party control there is greater strategic bill introduction and passage. For example, Rogers’ (1988) game theoretic model shows us that during periods of quasi divided government state houses introduce less enacted legislation relative to unified party control. And Taylor’s (2008) semi-formal model shows us that party leaders strategically initiate legislation according to the second chamber’s composition of preferences. Given this prior work and the results here, it seems that party leaders in rival chambers use their agenda control powers to limit the introduction and passage of bills that have little chance of securing a majority in the other house.

Figures 2-10 and 2-11 present data on the average per Congress House and Senate ideological disagreement. Figure 2-10 presents the entire time series. As we can see from Figure 2-10, there is clearly greater bicameral disagreement during periods where different parties occupied the two chambers. As we would expect, when rival parties control the House and Senate they tend to pass ideologically different proposals. However, consistent with the results for bicameral gridlock, Figure 2-11 shows a linear increase over time in bicameral disagreement once we (crudely) control
for periods of quasi-divided government (by removing them from the Figure). The estimated linear trend line in Figure 2-11 is given by: \(|\text{HB, Mid} – \text{SB, Mid}| = 1.813 - 0.0048(\text{Cong})\). Thus, over the postreform period the average ideological disagreement between the two chambers has increased by .072 in the first-dimension. As discussed previously, a difference of .07 in the first-dimension is about the distance between Joe Lieberman (D-CT) and Harry Reid (D-NV).

The increases over the postreform period in both bicameral gridlock and bicameral disagreement are trends that have gone largely unreported in the congressional literature. This is surprising given that these are fairly clear trends and given the potential consequences of these developments. The only reference to similar trends which I am aware is discussion by Binder of a parallel pattern in her gridlock data. Table 2-1 reported here reproduces for the 95th to 110th Congresses Binder’s Table 3-3 (titled “Legislative Roadblocks After Initial Chamber Passage”). Based on her data, she notes a “surge in bicameral roadblocks at the end of the 1990s” (50). This, she says “suggests that even when the same party controls both chambers of Congress, we cannot simply assume that the two chambers hold similar sets of views on major policy issues” (50). Thus, the data for bicameral gridlock and bicameral disagreement support Binder’s descriptive statistics while extending the time series beyond the 106th Congress. It is worth repeating, however, that the present research focuses on these trends in greater theoretical and analytical depth. Ultimately, my results should be interpreted as extending Binder’s prior work (1999, 2003).

Finally, comparing patterns in both figures for 106th Congress might raise a few questions. Given the general positive relationship between bicameral gridlock and
bicameral disagreement, it is perhaps surprising that in the 106th Congress both trend lines spike in opposite directions. Curiously, this indicates that during the 106th Congress there was simultaneously a higher second-chamber passage rate (lower bicameral gridlock) and greater ideological disagreements between the two chambers. This pattern highlights the fact that both constructs—though similar—are different.

On the one hand, Republicans were only moderately successful in terms of clearing legislation during the 106th Congress, though they enacted a number of important bills (Mayhew 2005). The successes included codification of permanent normal trade relations with China (HR 4444), major banking and financial reform (S 900), enactment of the Ed-Flex Program (HR 800), legislation closing the loophole on 527 PACs (HR 4762), a $7.8 billion program to restore Florida’s everglades (S 507) and enactment of the Y2K Dispute Resolution bill (HR 775). But, on the other hand, there were a number of important failures. While a number of these failures stem from Clinton vetoes12 there were also a number of high-profile failures due to inter-chamber disputes. For example, along strict party lines, the House passed the Patients’ Bill of Rights Plus Act (HR 2990). The Senate’s substitute proposal (S 1344), though also partisan, was much more moderate. Trying to merge the different bills was described by observers as a “Herculean task” (“2000 Legislative Summary: Managed Care”). Ultimately, Republicans were unable to find a workable solution within their party and the two bills died in conference. Cases such as these contribute to bicameral disagreement but not bicameral gridlock. On the flip side, bills passed by both

12 Clinton’s most famous vetoes in this period include bills repealing the estate tax (HR 8), “marriage penalty” (HR 4810) tax, and bills banning “partial birth” abortion (HR 1833 and HR 1122)
chambers and enacted into law contained significant initial disagreements. The most historically important law enacted by the 106\textsuperscript{th} Congress is a clear example: the “Gramm-Leach-Bliley Act” (S 900), which repealed Glass-Steagall (Parks 1999). Though the Senate’s bill passed along strict party lines, the House bill (HR 10) passed with wide, bipartisan support.\textsuperscript{13} The substantive differences between the two bills are reflected in midpoints for each final passage vote. The midpoint for the much more moderate House bill was -.504 while the midpoint for the partisan Senate bill was -.067. It turns out that this difference (.437) is near the mean for the 106\textsuperscript{th} Congress (.468).

The overall point is that during the 106\textsuperscript{th} Congress there were many policy failures and disagreement that occurred after each chamber passed a bill. And at the same time a number of bills enacted into law contained contentious inter-chamber differences prior to bicameral reconciliation. This combination can lead to lower bicameral gridlock and higher bicameral disagreement. Thus, it is important to distinguish between bicameral gridlock and bicameral disagreement as well as take account of the myriad ways in which bicameral differences can affect policy outcomes.

**Independent Variables**

Having found some consequential developments in bicameral conflict over the postreform period, and argued for a causal link between the growth in bicameral conflict and increasing House and Senate compositional asymmetries, I now turn to modeling the determinants of bicameral gridlock and bicameral disagreement. Given the proximity of this project to prior work on policy productivity, I adopt Binder’s (2003)

\textsuperscript{13} S 900 passed 5/6/1999 by a margin of 54-44 with only one Democrat joining every Republican in support (roll call 105). HR 10 passed 7/1/1999 by a margin of 343-86 with 138 Democrats joining 205 Republicans in support (roll call 276).
gridlock model as a reference (but see also Brady and Volden 1998, 2006; Chiou and Rothenberg 2003; Krehbiel 1996, 1998; Mayhew 19991). But because the present research differs from a traditional gridlock model, not all factors are the same or have the same expectations.

The variable *Divided Government* is an indicator coded “1” if the House and Senate were controlled by the president’s rival party and “0” if control of all three bodies was unified. On the one hand, because this dissertation examines the passage and post-passage stages, it is expected that the president’s effect is somewhat limited (at least in comparison to traditional models of gridlock). Nonetheless, because lawmakers are strategic actors, it is plausible that they “pre-empt” a presidential veto and moderate their policy proposals prior to passage. If this form of strategic behavior is pervasive, we would expect a decrease in both bicameral gridlock and bicameral disagreement during divided government. The assumption is that moderate policy is more likely to secure passage and is less ideologically divisive.

*Budget* measures the size of the federal government’s budget surplus as a percentage of federal government outlays. The expectation is that budgetary surpluses will decrease the prevalence of both bicameral gridlock and bicameral disagreement as lawmakers have an easier time passing new laws with fewer financial constraints.

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14 These data are available on the Office of Management and Budget’s webpage: [http://www.whitehouse.gov/omb/budget/Historical](http://www.whitehouse.gov/omb/budget/Historical)
The variable *Party Mandate* records the number of prior Congresses a new majority was in the minority averaged for both chambers.\(^{15}\) When a new majority comes into power with a popular mandate, the expectation is that they will act decisively and break the conditions of gridlock. The Republican Revolution is a classic example. In the present application, the expectation is that party mandates are associated with less bicameral gridlock and less bicameral disagreement.

The variable *Mood Lag* uses Stimson’s (1999) biennial public mood data lagged one Congress as an indicator of the public’s preference for liberal or conservative policies. Higher values indicate a more liberal public and a preference for active government while lower values indicate a more conservative public and a preference for less active government. The expectation is that periods when the public prefers a more active federal government are associated with less bicameral gridlock. During conservative eras, by contrast, the expectation is that there will be an increase in bicameral gridlock. I also expect that periods where the public prefers an active federal government will be associated with less bicameral disagreement.

Despite the similarity with Binder’s gridlock model, some important differences must be accounted for given the uniqueness of the forthcoming models. The first, as previously mentioned, is that I follow Chiou and Rothenberg’s (2008a) recommendation and operationalize *Bicameral Distance* using Poole’s (1998) common space scores. Second, I exclude Binder’s *Moderation* variable from the forthcoming models. Since

\(^{15}\) For example, the value for the 104th Congress is 12 (Republicans were in the minority in the House for 20 previous Congresses and were in the minority in the Senate for 4 previous Congresses). Given that the goal is to model a party’s “mandate” and explore if that mandate helps the new majority coordinate policies across chambers, it makes sense to average the House and Senate figures rather than model them separately.
moderation taps polarization in Congress, it is highly collinear with the primary independent variables measuring bicameral differences. And because the prior discussion cited polarization asymmetry as the cause of greater bicameral differences, I believe the three measures of bicameral differences are the more proximate factors affecting House-Senate conflict. Third, unlike Binder’s gridlock model I include a variable *Omnibus* as an estimate of the number of omnibus bills introduced per Congress. This control variable accounts for the possibility that the declining likelihood of second chamber passage is a function greater bill size. Fourth, I include a variable that records the number of bills passed in a given Congress (labeled *House/Senate Pass*). As a matter of legislative workload, it makes sense that when one chamber passes a greater volume of legislation there is a natural decline in the organizational capacity of the second chamber to respond. Both the omnibus and workload controls are specific to the bicameral gridlock models.

Finally, an important variable concerns partisan divisions at the passage stage. The variable capturing this effect (*Partisan*) is the difference in the percentage of the majority to minority voting to pass a bill added for each chamber. A value of 0 indicates the two bills passed along perfectly nonpartisan lines (such as a unanimous vote) while a value of 2 indicates that every member of the majority in the House and Senate voted

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16 As a technical matter, this variable only records the number of omnibus bills mentioned by CQ Almanac per Congress. Thus, there may be a few omnibus bills per Congress not captured by this variable.

17 The omnibus data were coded from the Policy Agendas Project Congressional Quarterly Almanac dataset: [http://www.policyagendas.org/](http://www.policyagendas.org/) The data were originally collected by Frank R. Baumgartner and Bryan D. Jones, with the support of National Science Foundation grant number SBR 9320922, and were distributed through the Department of Government at the University of Texas at Austin and/or the Department of Political Science at Penn State University. Neither NSF nor the original collectors of the data bear any responsibility for the analysis reported here.
against every member of the minority. The roll call data used to construct this measure is available on Keith Poole’s webpage. This factor is expected to have mixed-effects. In the bicameral gridlock models, the expectation is that partisan House passed legislation is less likely to pass the Senate, owing to the Senate’s supermajoritarian requirement and it’s more moderate character. For partisan Senate passed legislation, the opposite logic and expectations exist (i.e. less bicameral gridlock). In the bicameral disagreement models, it is expected that the partisan variable will decrease the amount of bicameral disagreement. The logic is that when both chambers pass partisan legislation there is greater ideological coherence in those proposals. By comparison, when one chamber passes a partisan bill and the other passes a moderate bill (a situation represented by lower values on this variable) there is less ideological coherence between the two chambers’ proposals.

Bicameral Gridlock

Trends in Bicameral Gridlock

As an initial modeling strategy, I examined in greater detail the increase in bicameral gridlock over the postreform period. On its face, this trend is evidence of an important constraint on the majority’s capacity to enact its preferred policies, in direct contrast to the efficient policymaking and “bridge” between the chambers that strong parties are thought to foster. But party theorists might counter this trend is to be expected: as the two parties have polarized and become more internally homogenous (e.g. Aldrich 1995; Rohde 1991) they increasingly use powers such as negative agenda control (Cox and McCubbins 1993, 1999, 2007) to block bipartisan legislation (allowing

\[18\] http://www.voteview.com/
pro-majority legislation to pass unimpeded). Thus, the increase in bicameral gridlock over the postreform period is actually evidence in favor of the strong parties thesis. Model 1 and Model 3 explore this matter for the bicameral gridlock data (respectively) using multilevel random-coefficient models (Rabe-Hesketh and Skrondal 2008). The models are given by:

$$\log\left(\frac{\pi_{ij}}{1 - \pi_{ij}}\right) = \beta_0 + \beta_1 \text{Partisan}_{ij} + u_{0j} + u_{1j}\text{Partisan}_{ij}$$

Each model includes a random-intercept for each Congress and a random-coefficient for the variable Partisan. The benefit of a multilevel random-intercept model in this context is its flexibility. With logit and probit models we must impose a particular functional form on the temporal components (treating them as fixed-effects). Multilevel models, by contrast, allow these effects to vary in accordance with the data. However, as a robustness check, I report analogous probit models using a linear time trend (Congress) and an interaction between time and the partisan passage variable (Partisan Pass*Cong). These models are reported as Model 2 and Model 4 for the House and Senate bicameral gridlock data (respectively).

The multilevel models presented in Table 2-2 include three random-effects estimates. The first ($\delta^2_{U_{Cong}}$) reports the amount of between-Congress variation in the likelihood of second chamber passage. In both the House and Senate models this variation is statistically significant. The analogous logit results show that the overall

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19 This statement requires a qualification as the results reported above do not show significant between-Congress variation in the Senate data. As I report in the text, for the Senate model the analysis rejects the multilevel random-coefficient model. However, a subsequent analysis rejects a standard logit model in favor of a multilevel random-intercept model (Rabe-Hesketh and Skrondal 2008). In the latter model the between-Congress variation is statistically
The two additional random-effects estimates ($\hat{\delta}_{UPartisan}^2$ and $\hat{\delta}_{UPartisan\_Congress}^2$) in Models 1 and 3 explore whether the effect of Partisan varies over the postreform era as well. This directly tests if partisan legislation has become increasingly more or less likely to pass the second chamber over time. Likelihood ratio tests reject the null hypothesis that these additional estimates are jointly zero in the House multilevel model but do not reject the null hypothesis in the Senate multilevel model. For the House model, Figure 2-12 plots the estimate effects of Partisan for the pre-104th Congresses while Figure 2-13 plots the same estimates for the post-103rd Congresses (with the Republican Revolution demarcating the two periods). We can see that in the second half of the postreform period (Figure 2-13) the effect of Partisan is increasingly negative (as given by the large negative slopes). By contrast, in the pre-104th era (Figure 2-12) a handful of the effects of Partisan are nearly parallel (indicating no change over time) or have slightly positive slopes. The conclusion is that partisan House passed legislation has become less likely to pass the Senate in the latter half of the postreform period. This effect is confirmed by Model 2 as the interaction effect ($Partisan\ Pass^\_Cong$) is negative and statistically significant.

significant. Further evidence of significant between-Congress variation is confirmed by the Senate logit model.
Overall, these results indicate something substantively important for our discussion about the strength of parties and inter-chamber bargaining: over the postreform period, partisan House passed legislation has become *more likely* to end in bicameral gridlock (less likelihood of securing passage) because of bicameral disagreement with the Senate while bipartisan House passed legislation has become *less likely* to end in bicameral gridlock (greater likelihood of securing passage). This is in direct contrast to the purported benefits of strong parties: namely their capacity in the postreform period to foster active government. However, I find that this effect does not apply to Senate passed legislation. With these preliminary results established, we are ready to turn toward the main estimates.

**Main Bicameral Gridlock Estimates—House Initiated Bills**

This section takes a comprehensive look at the factors which cause bicameral gridlock. It is important to make two points at the outset. First, once we include the full range of covariates—in particular those capturing House and Senate compositional differences—the between-Congress variation ($\hat{\sigma}_u^2$) estimated previously becomes statistically *insignificant*. On the one hand this suggests that bicameral differences explain the negative trends in the likelihood of passage reported previously. At the same time, this means we are justified in estimating fixed-effects models (Rabe-Hesketh and Skrondal 2008). Second, it is important to note that the variables *Filibuster-House Distance* and *Intra-party Bicameral Distance* are highly collinear. Though they represent different constructs in terms of how the House and Senate might differ in their composition, I speculated that both factors are derived from the same
causal mechanism (polarization asymmetry). Rather than exclude one factor or crudely combine them into a single index, I estimate separate models with each variable.

The results listed in Table 2-3 contain the House estimates. Model 5 includes the intra-party bicameral distance variable while Model 6 includes the House-filibuster pivot variable. In both models a number of covariates are statistically significant and correctly signed. I find that an increase in the distance between the two chamber medians (Bicameral Distance) decreases the likelihood that the Senate will pass legislation initiated by the House. This confirms Binder’s main finding (1999, 2003) albeit with a different dependent variable.\textsuperscript{20} If we compare the pre-Republican Revolution mean bicameral distance score with the post-Republican Revolution mean bicameral distance score (excluding cases of quasi divided government), bicameral distance has decreased the likelihood of Senate passage by between 3% (Model 5) and 6% (Model 6). I also find in both models that partisan House passed legislation is less likely to pass the Senate. Indeed, the coefficient on Partisan is statistically significant and negative. This indicates that, irrespective of growing compositional differences, partisan House passed legislation is prone to Senate gridlock. Finally, the results in both models support the two additional sources of bicameral differences as significant contributors to bicameral gridlock in the postreform era. In Model 5 the negative effect on Intra-party Bicameral Distance is such that an increase in distance between the parties across chambers of .06 in magnitude (the real amount of change from the 95\textsuperscript{th} to the 110\textsuperscript{th} Congresses) is estimated to have decreased the likelihood of Senate passage by 10%. And in Model 6 the negative effect of House-Filibuster Distance is such that an increase

\textsuperscript{20} It is not surprising that we find this link as bicameral gridlock is most closely linked to overall levels of gridlock (as the prior theoretical discussion points out).
of .34 in magnitude (the real amount of change from the 95th to the 110th Congresses) is estimated to have decreased the likelihood of Senate passage by 15%. Together, these results confirm the general hypothesis that House and Senate compositional differences are a main determinant of gridlock and that the historical increase in these factors has fostered greater bicameral conflict. Overall, these results suggest that differences between the two chambers have a more complex and substantively powerful effect on policy productivity than Binder (1999, 2003) reported.

The results listed in Table 2-4 include interaction effects between our three measures of House and Senate compositional tensions and the partisan passage variable. These interaction effects allow us to assess whether variation in these factors explain the earlier finding that partisan House passed legislation has become especially gridlocked in the Senate. Looking at the results in Table 2-4, the models confirm this hypothesis for the Bicameral Distance and Intra-party Bicameral Distance interaction effects as given by the negative and statistically significant coefficients on the interaction terms. However, there is no evidence of such an effect corresponding to the filibuster distance. Figure 2-14 and 2-15 present the predicted probability of Senate passage based on interaction effects for Intra-party Bicameral Distance and Bicameral Distance (respectively) for the 95th Congress and 110th Congress. For these estimates I vary Partisan Passage from 0 (a perfectly bipartisan bill) to 1 (a perfectly pro-majority bill) along the X-axis. I compare the 95th Congress, where both bicameral distance measures are low, to the 110th Congress, where both bicameral distance measures are high. We can see in both figures that the predicted probabilities of passage diverge as Partisan increases. For example, according to Model 7 in Figure 2-14, a perfectly
bipartisan bill is 5% less likely to pass in the 110th Congress compared to the 95th Congress. However, a perfectly partisan bill is 31% less likely to pass in 110th Congress compared to the 95th Congress. And according the Model 9 in Figure 2-15, a perfectly bipartisan bill is 13% less likely to pass in the 110th Congress compared to the 95th Congress while a perfectly partisan bill is 28% less likely to pass in 110th Congress compared to the 95th Congress. Thus, with these models we have an explanation for the historical increase in bicameral gridlock for partisan House passed legislation. That source stems from increasing distances between the medians of each chamber as well as intra-party disagreements across the House and Senate.

Main Bicameral Gridlock Estimates—Senate Initiated Bills

Model 11 and Model 12 contained in Table 2-5 are probit estimates of the likelihood that Senate passed legislation will pass the House. Because Model 3 and Model 4 in the earlier estimates revealed no evidence that the effect of Partisan varies over time I do not report models interacting the bicameral differences measures with Partisan (analogous to Models 7-10). However, I can confirm that those effects are all insignificant.

Generally speaking, the Senate models do not perform very well. In the results, there is mixed evidence that bicameral distance reduces the likelihood that Senate passed bills will pass the House. Though the coefficient is negative in Model 8 it is statistically insignificant. In Model 9, however, the effect is negative and statistically significant, indicating that the greater the distance between the House and Senate medians the less likely a Senate passed bill will pass the Senate. This is consistent with the House models. The positive effect on Party Mandate in both models indicates
that the longer a new majority was in the minority, the greater the likelihood Senate passed legislation will pass the House. Finally, though both *Intra-party Bicameral Distance* and *House-Filibuster Distance* are negative in both models, as expected, they are statistically insignificant. The null result for the filibuster pivot is unsurprising, however: we would expect the filibuster pivot to have a more pronounced effect on House passed legislation as it arrives *into* the Senate (and the House models confirm this effect).

Overall the evidence reported in Table 2-5 suggests that compositional differences have little to no effect on the success or failure of Senate passed bills. This is in stark contrast to the robust findings for the House initiated bills in this regard. Though the effect of bicameral distance is significant and negative in one specification, this is mixed evidence at best. On the one hand these null results may be due to the low sample size. With 418 total observations, there is an average of just twenty-six observations per Congress. But at the same there are reasons to suspect that these null results reflect reality. Given that there is less variation over time in the likelihood of Senate passage, it may be that the upper chamber has experienced little decline in the success of its proposals in the House. This may be due, in part, to the fact that the Senate tends to be the more moderate chamber. Of the sixteen Congresses in our sample, the Senate median was more extreme in absolute value compared to the House in only five (31%) of those periods (95th, 97th, 101st, 102nd, 106th). As the more moderate body with a supermajoritarian voting requirement, the Senate has greater bargaining leverage over the House. Regarding this effect, it is natural to invoke Washington’s claim that “we pour legislation into the senatorial saucer to cool it.” The findings suggest that
reverse of Washington’s claim does not hold—that the House saucer cools Senate legislation.

**Bicameral Disagreement**

**Trends in Bicameral Disagreement**

Our attention now turns to bicameral disagreement: where the House and Senate pass ideologically different bills in disagreement. Consistent with the previous section, as an initial step I begin by modeling the postreform trends in bicameral disagreement. But where the dependent variable in the previous section was dichotomous, here the dependent variable is continuous. Because the data for bicameral disagreement follow a non-normal distribution\(^{21}\) I used Generalized Linear Models (a generalization of the linear model) in each specification. After estimating a series GLMs, the “best fit” was provided by a negative binomial model with a power (1) link function.\(^{22}\) In the first part for the multilevel models I used the Generalized Linear Latent and Mixed Models (GLLAMM) routine in Stata 10 (Rabe-Hesketh, Skrondal, and Pickles 2004, 2005). Unfortunately, the negative binomial family is not currently available in GLLAMM. Thus, for the multilevel estimates I used a poisson family and log link function which provided the second best model fit. Those estimates are given by:

\[
\log(Y_{ij}) = \beta_0 + \beta_1 Partisan_{ij} + U_{0j} + U_{1j} Partisan_{ij}
\]

The multilevel results reported in Table 2-6 reveal mixed findings concerning trends in bicameral disagreement (though the best performing model provides evidence

\(^{21}\) The majority of the observations are clustered just above 0 or “minor disagreement” and decline exponentially in the positive direction thereafter.

\(^{22}\) Model fit was determined by the model with the lowest scaled deviance and Bayesian information criterion.
of a significant positive trend). On the one hand, both the multilevel random-coefficient model (Model 13) and the multilevel random-intercept model (Model 15) are rejected by likelihood ratio tests in favor of a fixed-effects specification (Rabe-Hesketh and Skrondal 2008). That is to say, the three random-effects parameters ($\hat{\sigma}^2_{U\text{Congress}}$, $\hat{\sigma}^2_{U\text{Partisan}}$, and $\hat{\sigma}^2_{U\text{Partisan,Congress}}$) indicate statistically negligible variation. Indeed, the additional generalized linear model interacting Partisan and a linear time trend (Model 14) reveals three coefficients that are statistically insignificant. However, when we estimate a generalized linear model without the (insignificant) interaction effect (Model 16), both Partisan and the linear time trend are statistically significant and correctly signed. The linear trend (Congress) is in the same direction as the descriptive statistics, suggesting that the House and Senate have experienced more severe policy disagreements over the postreform period. The model also shows that partisan legislation typically contains fewer bicameral disagreements compared to bipartisan legislation. This is the exact opposite of bicameral gridlock, which is consistent with expectations. The finding suggests that when the majority coordinates the passage of partisan legislation across chambers, assuming it can get the legislation through both house, the result is ideological coherence among the two bills.

**Main Bicameral Disagreement Estimates**

Table 2-7 reports the results for the full specification, including all covariates. Because the previous results showed no evidence of an interaction between Partisan and time, I do not estimate interaction effects in the full models. At the same time, the variables Budget, Omnibus, and Total Pass are not included among the covariates as these factors pertain to gridlock rather than disagreement. That is, poor budgetary
situations, the increased use of omnibus bills and an increase in the number of total bills passed are all logically connected to the frequency with which the House and Senate pass parallel proposals, but there are no compelling reasons to think that, once the two chambers successfully pass parallel proposals, these factors would affect ideological disagreement on those bills.

As with earlier, the results presented in Model 11 and Model 12 include the effect of intra-party bicameral distance and the House-filibuster distance (respectively). In both models the coefficient on Partisan is statistically significant and negative, indicating that when the two chambers pass highly partisan legislation in concert, the differences between those bills in terms of their policy content is limited.23 In Model 11, only the effect of intra-party bicameral distance is statistically significant alongside the partisan passage variable. The positive coefficient indicates that as the distance between the median senator and median representative within each party increases, the divergence between each chamber’s policy proposal likewise increases. To put this effect into context, a change in intra-party bicameral distance from .029 to .091 (the real change from the 95th to 110th Congress) is estimated by the model to increase the differences in the policy content of each chamber’s bill by .11 in the first-dimension. Recall that earlier I cited the fact that a difference of .07 is equivalent to the distance between Joe Lieberman (D-CT) and Harry Reid (D-NV). Thus, within party bicameral divisions represent a significant bicameral hurdle for the House and Senate as intra-party

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23 Because the passage models were disaggregated for the House and Senate, I was able to estimate how partisan the bill was in each chamber. Here, I combine those estimates into a single additive index. The variable now ranges from 2, where in both the House and Senate every member of the majority voted in favor of the bill while every member of the minority voted against the bill, to 0, a perfectly bipartisan bill passed by both chambers.
divisions simultaneously cause greater bicameral gridlock (reported previously) and greater bicameral disagreement (reported here).

In Model 12, both the House-filibuster distance and bicameral distance are statistically significant and positive. However, these coefficients are each only significant at the .10 level, so these effects should be considered marginally significant. The positive coefficients indicate that as the distance between the House median and filibuster pivot has increased, and as the distance between the chamber medians increases, the ideological distance between each chamber’s policy proposal similarity increases. To put the filibuster effect into context, a change in the distance from the House median to the filibuster pivot from .12 to .46 (the change from the 95\textsuperscript{th} to the 110\textsuperscript{th}) is estimated by the model to increase the divergence between each chamber’s bills by .20. At the same time, a change in bicameral distance from .02 to .20 (the change from the 95\textsuperscript{th} to the 110\textsuperscript{th}) is estimated by the model to increase the divergence between each chamber’s bill by .10.

Overall the less robust results in the models for bicameral disagreement (compared to the models of bicameral gridlock) are understandable. As discussed earlier, bicameral gridlock has a selection effect that likely tempers the amount of disagreement between the two chambers. When the true level of disagreement is large, the likelihood of bicameral gridlock increases and, when one chamber kills the initiating chambers bill, those disagreements are not included in the present measure. On the other hand, formal work on bicameral bargaining notes that the chambers strategically consider the other chamber’s position and moderate their proposals accordingly. Thus,
in cases of major bicameral differences there may be greater moderation before passage.

Despite these processes which mute the true level of bicameral disagreement, there is some evidence that bicameral differences affect the level of bicameral disagreement. On the one hand the evidence for Binder’s (1999, 2003) bicameral distance measure is limited. This is consistent with the initial theoretical discussion. Indeed, I postulated that the differences between bicameral disagreement and bicameral gridlock might explain the conflicting results uncovered by Binder’s gridlock model and Chiou and Rothenberg’s replication of her results (2008a, 2008b). In fact the robust results for bicameral gridlock and the mixed results for bicameral disagreement may contribute to ambiguous effects in aggregate gridlock models. Distinguishing between these two outcomes is therefore important. At the same time, I find that the distance between the House median and Senate filibuster pivot is positive and significant, but only .10 level. However, the results do confirm the effect of within party bicameral distance as a leading contributor to bicameral disagreement. As was the case with the Contract With America, the two chambers can pass similar bills where major disagreements arise because internal party differences (particularly the majority). Ultimately, the fate of these bills is determined by how well the chambers can resolve those disagreements (the subject of the forthcoming chapters).

**Discussion**

I posed a few overarching questions at the outset of this chapter. Broadly speaking, this chapter speaks to the enduring question: What role do parties play in our system of constitutionally limited powers? But in particular, this chapter answers: How
have the increases in ideological polarization and the strengthening of parties-in-Congress—the most notable developments over the last thirty years—affected the functioning of legislative checks and balances?

Relying on data of postreform House and Senate policy conflict, this chapter presented a series of findings that speak to the prior questions. I began by reassessing the link between overall gridlock, as defined by Binder (1999, 2003) and others, and two forms of House and Senate conflict—bicameral gridlock and bicameral disagreement. Descriptive statistics and multilevel modeling showed us that both forms of bicameral conflict have increased over the postreform period. This is an important development, though it has gone largely unnoticed. Next, I introduced the concept of polarization asymmetry, a term used in reference to House and Senate differences in the rate of polarization over time. I then argued that polarization asymmetry has caused a growth in bicameral compositional differences over the postreform period. In particular, I identified three areas where the House and Senate have become increasingly dissimilar over the postreform period in terms of their internal makeup: (1) greater distance between each chamber’s median member, (2) increasing intra-party bicameral differences, and (3) a growing gap between the House median and Senate filibuster pivot.

The remainder of the chapter explored the consequences of House and Senate compositional differences on bicameral disagreement and gridlock. One of the main findings from these sections is the finding that partisan House passed legislation has become increasingly gridlocked in the Senate. Surprisingly, I found that this effect is due to a growing gap between the medians of each chamber as well as growing intra-
party ideological differences across the House and Senate. And in a final section I modeled the severity of bicameral disagreement and sought to explain its increase over the postreform period. The evidence suggests that this trend can be explained by the increasing distance between the party medians across chambers, with limited evidence that the House-filibuster pivot distance and raw bicameral distance play a role as well.

Overall, these findings help make sense of two paradoxical and seemingly contradictory findings in the literature over the past 60 years. On the one hand, prior to postreform period scholars were citing the lack of polarization as a reason for decreased legislative productivity (Burns 1963; Dodd and Oppenheimer 1977; Schattschneider 1942; Key 1942). But today, a number of authors cite greater polarization as a powerful determinant of increased gridlock and less legislative productivity (e.g. Binder 1999, 2003; Bond and Fleisher 1990; McCarty, Poole and Rosenthal 2006). This disparity has yet to be fully resolved. The only attempt to reconcile these disagreements is recent work by Dodd and Schraufnagel (2009). Dodd and Schraufnagel posit a curvilinear relationship between polarization and gridlock. At the extremes—high and low polarization—governing institutions are increasingly stalemated while during eras of moderate polarization lawmakers are actively engaged in policy creation and change. The theoretical basis for this relationship is a belief that moderate conflict enhances policy negotiation and deliberation (Dahl 1967). Or as Dodd and Schraufnagel (2009, 396) explain, moderate polarization (1) allows parties to adopt ideological positions, thereby engendering meaningful policy debates and (2) affords enough ideological heterogeneity for successful coalition formation at final passage.

This present work adds an additional explanation for the paradoxical effect of polarization on legislative productivity. In contrast to the work of Dodd and
Schraufnagel (2009), I identify an institutional mechanism—one the puts legislative checks and balances at the center. The novelty of this work is that it is capable of operating from within the strong parties thesis. I show that as the parties have polarized and become more internally homogenous, they have exacerbated the natural differences between the House and Senate. As I have shown, a major component of this process has been growing intra-party bicameral differences. Additional discussion of these matters can be found in Chapter 6.

But despite the present chapter, we have only a partial look at the overall policy process (and in particular how the House and Senate interact when trying to pass legislation). In this chapter we discussed conflict between the chambers: how conflict has changed over the postreform period and the factors that drive patterns of conflict. However, we have said nothing about how the House and Senate resolve those conflicts when they arise. The next three chapters explore this matter.
Figure 2-1. A spatial representation of the 99th Congress. Spatial locations based on Poole’s (1998) Common Space scores. BD is calculated as the distance between the House and Senate medians (H and S). M is the midpoint of a House and Senate post-passage bargain. P is the president’s spatial location (Reagan). VD represents the likelihood of a presidential veto after a post-passage bargain.

Figure 2-2. A spatial representation of the 100th Congress. Spatial locations based on Poole’s (1998) Common Space scores. BD is calculated as the distance between the House and Senate medians (H and S). M is the midpoint of a House and Senate post-passage bargain. P is the president’s spatial location (Reagan). VD represents the likelihood of a presidential veto after a post-passage bargain.
Figure 2-3. Bicameral distance. Bicameral distance is calculated as the distance between the House and Senate medians. Source: Poole’s (1998) Common Space scores.

Figure 2-4. Adjusted bicameral distance. Adjusted bicameral distance is calculated as the distance between the House and Senate medians with periods of quasi divided government excluded. Source: Poole’s (1998) Common Space scores.
Figure 2-5. Polarization in the House and Senate. Polarization is calculated as the distance between the median Democrat and median Republican in each chamber. Source: Poole's (1998) Common Space scores.

Figure 2-6. Polarization asymmetry. Polarization asymmetry is calculated as the absolute difference between the House and Senate’s polarization scores. Source: Poole’s (1998) Common Space scores.
Figure 2-7. Intra-party bicameral distance. Intra-party bicameral distance is calculated as the average distance between each party’s House and Senate median averaged. Source: Poole’s (1998) Common Space scores.

Figure 2-8. Filibuster-House distance. Filibuster-House distance is calculated as the distance between the filibuster-pivot and the House median. Source: Poole’s (1998) Common Space scores.
Figure 2-9. Bicameral gridlock. Bicameral gridlock is calculated as the inverse percentage of House and Senate passed bills that cleared the second-acting chamber. Source: Congressional Bills Project.

Figure 2-10. Bicameral disagreement. Bicameral disagreement is calculated as average first-dimension midpoint distance between House and Senate in disagreement. Source: Congressional Bills Project and Poole’s (1998) Common Space scores.
Figure 2-11. Adjusted bicameral disagreement. Adjusted bicameral disagreement is calculated as average first-dimension midpoint distance between House and Senate in disagreement with periods of quasi divided government removed. Source: Congressional Bills Project and Poole’s (1998) Common Space scores.
Figure 2-12. *Partisan* random effect (pre-Revolution). The slopes represent the estimated effect of *Partisan* (x-axis) on the log-odds of second chamber passage (y-axis) for each Congress.
Figure 2-13. *Partisan* random effect (post-Revolution). The slopes represent the estimated effect of *Partisan* (x-axis) on the log-odds of second chamber passage (y-axis) for each Congress.
Figure 2-14. Predicted probability of Senate passage by *Intra-party* partisan (model 7).

Figure 2-15. Predicted probability of Senate passage by *Bicameral* partisan (model 9).
Table 2-1. Binder’s Legislative roadblocks after initial chamber passage

<table>
<thead>
<tr>
<th>Congress (years)</th>
<th>Percent killed by bicameral disagreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>95th (1977-78)</td>
<td>2.94</td>
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<tr>
<td>102nd (1991-92)</td>
<td>4.35</td>
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<tr>
<td>103rd (1993-94)</td>
<td>12.5</td>
</tr>
<tr>
<td>104th (1995-96)</td>
<td>0</td>
</tr>
<tr>
<td>105th (1997-98)</td>
<td>26.67</td>
</tr>
<tr>
<td>106th (1999-2000)</td>
<td>21.43</td>
</tr>
</tbody>
</table>

Notes: [Reprinted with permission from Sarah Binder (2003). *Stalemate: Causes and Consequences of Legislative Gridlock*. (Page 49, Figure 3-3). Brookings Institution Press]
Table 2-2. Temporal trends in the bicameral gridlock

<table>
<thead>
<tr>
<th></th>
<th>House passed bills</th>
<th></th>
<th>Senate passed bills</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 1 (MLM)</td>
<td>Model 2 (Probit)</td>
<td>Model 3 (MLM)</td>
<td>Model 4 (Probit)</td>
</tr>
<tr>
<td>Fixed-effects</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.67*** 0.21</td>
<td>9.59*** 2.82</td>
<td>0.42 0.47</td>
<td>-6.56 9.32</td>
</tr>
<tr>
<td>Congress</td>
<td>-0.03*** 0.01</td>
<td>0.01</td>
<td></td>
<td>-0.08*** 0.02</td>
</tr>
<tr>
<td>Partisan*cong</td>
<td>-0.10*** 0.03</td>
<td>0.03</td>
<td>0.07 0.09</td>
<td></td>
</tr>
<tr>
<td>Alpha</td>
<td>0.24*** 0.08</td>
<td>3.90*** 0.85</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Random-effects</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$\delta^2_{U_{cong}}$</td>
<td>0.06 0.03</td>
<td></td>
<td>0.23 0.17</td>
<td></td>
</tr>
<tr>
<td>$\delta^2_{UPartisan}$</td>
<td>0.46 0.27</td>
<td></td>
<td>0.78 1.55</td>
<td></td>
</tr>
<tr>
<td>$\delta^2_{U_{cong}Partisan}$</td>
<td>0.10 0.06</td>
<td></td>
<td>-0.23 -0.40</td>
<td></td>
</tr>
<tr>
<td>N-level 1 (bills)</td>
<td>3325 3325</td>
<td>418 418</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N-level 2 (cong)</td>
<td>16 16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LR test</td>
<td>Chi2(3)=95.19***</td>
<td></td>
<td>Chi2(3)=7.03*</td>
<td></td>
</tr>
</tbody>
</table>

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that 1=second chamber bill passage and 0=bill fail. Negative coefficients therefore correspond to greater bicameral gridlock. Standard errors are robust.
Table 2-3. Determinants of bicameral gridlock

<table>
<thead>
<tr>
<th></th>
<th>House passed bills</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 5 (Probit)</td>
<td>Model 6 (Probit)</td>
<td></td>
</tr>
<tr>
<td>Bicameral distance</td>
<td>-1.24**</td>
<td>-2.54***</td>
<td>0.46</td>
</tr>
<tr>
<td>Divided</td>
<td>0.01</td>
<td>-0.06</td>
<td>0.08</td>
</tr>
<tr>
<td>Mood lag</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
</tr>
<tr>
<td>Party mandate</td>
<td>0.01</td>
<td>0.02*</td>
<td>0.01</td>
</tr>
<tr>
<td>Budget</td>
<td>0.38</td>
<td>-0.28</td>
<td>0.38</td>
</tr>
<tr>
<td>Omnibus</td>
<td>&lt;-0.01</td>
<td>&lt;-0.01</td>
<td>&lt;-0.01</td>
</tr>
<tr>
<td>Total pass</td>
<td>&lt;-0.01**</td>
<td>&lt;-0.01</td>
<td>&lt;-0.01</td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.50***</td>
<td>-0.48***</td>
<td>0.07</td>
</tr>
<tr>
<td>Intra-party bicameral</td>
<td>-3.96**</td>
<td>1.67</td>
<td></td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td></td>
<td>-1.17***</td>
<td>0.28</td>
</tr>
<tr>
<td>Alpha</td>
<td>0.47</td>
<td>-0.12</td>
<td>0.57</td>
</tr>
</tbody>
</table>

N = 3325

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that 1=second chamber bill passage and 0=bill fail. Negative coefficients therefore correspond to greater bicameral gridlock. Standard errors are robust.
Table 2-4. Determinants of bicameral gridlock with interaction effects

<table>
<thead>
<tr>
<th></th>
<th>Model 7 (Probit)</th>
<th>Model 8 (Probit)</th>
<th>Model 9 (Probit)</th>
<th>Model 10 (Probit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bicameral distance</td>
<td>-1.49**</td>
<td>-2.58**</td>
<td>-0.64</td>
<td>-2.01***</td>
</tr>
<tr>
<td>Divided</td>
<td>-0.01</td>
<td>0.06</td>
<td>-0.01</td>
<td>0.05</td>
</tr>
<tr>
<td>Mood lag</td>
<td>&lt;0.01</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
</tr>
<tr>
<td>Party mandate</td>
<td>0.02</td>
<td>0.02*</td>
<td>0.02</td>
<td>0.01</td>
</tr>
<tr>
<td>Budget</td>
<td>0.23</td>
<td>-0.31</td>
<td>0.49</td>
<td>-0.22</td>
</tr>
<tr>
<td>Omnibus</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
</tr>
<tr>
<td>Total pass</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.01</td>
<td>-0.25</td>
<td>-0.28***</td>
<td>-0.27**</td>
</tr>
<tr>
<td>Intra-party bicameral</td>
<td>-2.28</td>
<td>1.77</td>
<td>-4.18**</td>
<td>1.69</td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td>-1.01***</td>
<td>0.30</td>
<td>-1.18***</td>
<td>0.28</td>
</tr>
<tr>
<td>Intra-party*partisan</td>
<td>-6.35***</td>
<td>2.07</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Filibuster*partisan</td>
<td>-0.79</td>
<td>0.53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bicameral*partisan</td>
<td>-2.71***</td>
<td>0.98</td>
<td>-2.66***</td>
<td>0.98</td>
</tr>
<tr>
<td>Alpha</td>
<td>0.59</td>
<td>0.64</td>
<td>0.40</td>
<td>0.57</td>
</tr>
</tbody>
</table>

N                                | 3325             | 3325             | 3325             | 3325              |

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that 1=second chamber bill passage and 0=bill fail. Negative coefficients therefore correspond to greater bicameral gridlock. Standard errors are robust.
Table 2-5. Determinants of bicameral gridlock

<table>
<thead>
<tr>
<th></th>
<th>Senate passed bills</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Model 11</td>
<td>Model 12</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Probit)</td>
<td>(Probit)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bicameral distance</td>
<td>-1.58</td>
<td>1.87</td>
<td>-3.57***</td>
<td>1.37</td>
<td></td>
</tr>
<tr>
<td>Divided</td>
<td>-0.33*</td>
<td>0.19</td>
<td>-0.22</td>
<td>0.18</td>
<td></td>
</tr>
<tr>
<td>Mood lag</td>
<td>0.05</td>
<td>0.04</td>
<td>0.03</td>
<td>0.03</td>
<td></td>
</tr>
<tr>
<td>Party mandate</td>
<td>0.08**</td>
<td>0.03</td>
<td>0.07**</td>
<td>0.03</td>
<td></td>
</tr>
<tr>
<td>Budget</td>
<td>1.17</td>
<td>2.04</td>
<td>-1.17</td>
<td>1.06</td>
<td></td>
</tr>
<tr>
<td>Omnibus</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>0.01</td>
<td>&lt;0.01</td>
<td></td>
</tr>
<tr>
<td>Total pass</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td></td>
</tr>
<tr>
<td>Partisan</td>
<td>0.29</td>
<td>0.25</td>
<td>0.30</td>
<td>0.25</td>
<td></td>
</tr>
<tr>
<td>Intra-party bicameral</td>
<td>-8.55</td>
<td>5.57</td>
<td>-0.78</td>
<td>0.82</td>
<td></td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alpha</td>
<td>-2.55</td>
<td>1.92</td>
<td>-2.03</td>
<td>1.90</td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>418</td>
<td>418</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that 1=second chamber bill passage and 0=bill fail. Negative coefficients therefore correspond to greater bicameral gridlock. Standard errors are robust.
Table 2-6. Temporal trends in bicameral disagreement

<table>
<thead>
<tr>
<th></th>
<th>Model 13 (RC-GLLAMM)</th>
<th>Model 14 (GLM)</th>
<th>Model 15 (RI-GLLAMM)</th>
<th>Model 16 (GLM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixed-effects</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Partisan pass</td>
<td>-0.53** 0.21</td>
<td>0.27 0.67</td>
<td>-0.53** 0.21</td>
<td>-0.19*** 0.03</td>
</tr>
<tr>
<td>Congress</td>
<td>0.01 0.01</td>
<td>-0.01 0.01</td>
<td>0.006** 0.003</td>
<td></td>
</tr>
<tr>
<td>Partisan*cong</td>
<td>-0.01 0.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alpha</td>
<td>-0.90*** 0.13</td>
<td>-0.59 0.72</td>
<td>-0.90*** 0.13</td>
<td>-0.26 0.32</td>
</tr>
<tr>
<td>Random-effects</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$\hat{\sigma}^2_{U_{Cong}}$</td>
<td>&lt;0.01 &lt;0.01</td>
<td>&lt;0.01</td>
<td>&lt;0.01</td>
<td></td>
</tr>
<tr>
<td>$\hat{\sigma}^2_{U_{Partisan}}$</td>
<td>&lt;0.01 &lt;0.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$\hat{\sigma}^2_{U_{CongPartisan}}$</td>
<td>&lt;0.01 &lt;0.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N-level 1 (bills)</td>
<td>346 346</td>
<td>346 346</td>
<td>346 346</td>
<td>346</td>
</tr>
<tr>
<td>N-level 2 (cong)</td>
<td>16 16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LR test</td>
<td>Chi2&lt;.01</td>
<td></td>
<td>Chi2&lt;.01</td>
<td></td>
</tr>
</tbody>
</table>

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The multilevel models were estimated with a poisson family and log link function. A negative binomial family is not currently available in the GLLAMM package. The GLM models, however, use negative binomial. The response is coded such that higher values represent greater ideological distance in the first-dimension between House and Senate passed bills. Standard errors are robust.
Table 2-7. Determinants of bicameral disagreement

<table>
<thead>
<tr>
<th></th>
<th>Model 17 (GLM)</th>
<th>Model 18 (GLM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bicameral distance</td>
<td>0.20</td>
<td>0.45*</td>
</tr>
<tr>
<td>Divided</td>
<td>0.02</td>
<td>-0.02</td>
</tr>
<tr>
<td>Mood lag</td>
<td>-0.01</td>
<td>-0.01</td>
</tr>
<tr>
<td>Party mandate</td>
<td>-0.01</td>
<td>&lt;0.01</td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.18***</td>
<td>-0.18***</td>
</tr>
<tr>
<td>Intra-party bicameral</td>
<td>1.50**</td>
<td>0.60</td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td>0.40*</td>
<td>0.22</td>
</tr>
<tr>
<td>Alpha</td>
<td>0.73***</td>
<td>0.66</td>
</tr>
</tbody>
</table>

N Level 1 (bills) 346 346

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that higher values represent greater ideological distance in the first-dimension between House and Senate passed bills. Standard errors are robust.
CHAPTER 3
THE DIMENSIONALITY OF RESOLVING DIFFERENCES

At the conclusion of Chapter 2 I summarized the main findings in the following manner: (1) over the postreform period the House and Senate have come into more frequent and more severe conflict when trying to enact legislation; (2) the increase in bicameral conflict is a function of growing compositional asymmetries and greater ideological tension between pivotal actors in each chamber; (3) partisan House passed legislation has become especially vulnerable to bicameral gridlock over the postreform period. I argued that these findings help make sense of the paradoxical claims scholars have made regarding the link between polarization, strong parties and policy productivity. In the final paragraph I noted that despite Chapter 2’s findings, we have only a partial look at how the House and Senate operate when trying to enact legislation. Though it is important to understand conflict between the House and Senate—and in particular how these patterns have changed over time—it is equally important to understand how the two chambers resolve those conflict. The present chapter explores this process at a high level of abstraction by examining the dimensionality of resolving differences.

The limited research on bicameral disagreement (e.g. Binder 1999, 2003, 2008; Chiou and Rothenberg 2008a, 2008b; Riker 1992) is matched by the limited work on how the House and Senate resolve differences. Furthermore, the body of existing research on resolving differences is of limited conceptual scope (though see Longley and Oleszek 1989). What I mean is that the body of existing work examines resolving differences as a means of discriminating between competing theories of legislative organization. During the 1960s and 1970s the pervasive question was: Which chamber
dominates the reconciliation process? Studies by Steiner (1951), Fenno (1966), Manley (1970), Vogler (1970), Ferejohn (1975) and Strom and Rundquist (1977) provided competing answers to this question. And in the 1990s and 2000s, the leading studies have explored whether the primary features of congressional organization were majoritarian or partisan. Krehbiel (1991) argued that inter-chamber bargaining fosters informational advantages, favoring lawmakers with policy expertise, and fosters majoritarian policy outcomes. On the other side, Nagler (1989), Carson and Vander Wielen (2002), Lazarus and Monroe (2007) and Vander Wielen and Smith (n.d.) argue that post-passage politics advances the majority party’s policy goals. Such an outcome, these authors argue, is attributable to the Speaker and Senate majority leader’s power over the composition of conference committees.

Taken as a whole, the body of existing work on resolving differences has posited the existence of three distinct dimensions of resolving differences—one bicameral, one majoritarian and one partisan. But given the ecumenical focus of these prior studies, these dimensions have been explored in isolation. In addition, existing research has ignored what I argued is the central feature of inter-chamber bargaining—consensus and compromise (Ferejohn 1975). Or as Manley (1970, 271) aptly put it, the “overriding ethic” of resolving differences is “one of bargaining, give-and-take, compromise, horse-trading, conciliation, and malleability by all concerned…Small wonder that each side claims victory, because most everyone does win—something, somehow, sometime.”

In this chapter I develop a unified typology of how the House and Senate resolve differences; it is my hope that this typology contributes to our conceptual understanding of this process. In the first section, I ask what resolving differences might “look like.”
Using roll call data corresponding to all conference committees convened from the 95th to the 110th Congresses, I operationalize the typology using multivariate spatial modeling. This method identifies the policy space in which resolving differences occurs. There are two primary findings in this section. First, I uncover evidence of multidimensionality. In particular, I find that three qualitatively distinct dimensions—reconciliation, partisan conflict and bicameral conflict—explain over 80% of the variation in the conference roll call patterns. Furthermore, the results reveal that no single dimension captures a majority of the roll call variation. In providing these results concerning, this finding supports, albeit perhaps only indirectly, some emerging research which finds evidence of greater dimensionality in the roll call record (Crespin and Rohde 2010; Roberts, Smith and Haptonstahl 2009; Talbert and Potoski 2002).

Second, I find that the primary dimension of resolving differences (i.e. the one that explains the greatest amount of variation) is a process of reconciliation, defined here as “the process of resolving bicameral disputes by compromise and/or concession.” Thus, contrary to the direction of the literature over the past few decades (Nagler 1989; Carson and Vander Wielen 2002; Vander Wielen and Smith n.d.; Lazarus and Monroe 2007), I do not find that partisanship or ideology is the leading determinant of post-passage bargaining. This second result is particularly consequential when juxtaposed with Chapter 2’s findings.

A Unified Typology of Resolving Differences

The process by which the House and Senate resolve policy disputes is poorly understood. This is true from a theoretical standpoint but also in a conceptual sense. Though recent work has begun to fill the void, mostly on the theoretical side of the ledger, Longley and Oleszek’s (1989, 2) claim rings true today: that post-passage
politics is “the most significant aspect of the congressional legislative process about which we know the least.” The goal of this first section is to sketch a view of the policy space in which the House and Senate resolve differences. In other words: What does resolving differences “look like”?

The present research on resolving bicameral differences is concerned with two primary analytical units: parties and chambers. Thus, the conceptual framework has four primary actors—(1) the majority party in the House of Representatives, (2) the majority party in the Senate, (3) the minority party in the House of Representatives and the (4) minority party in the Senate. In a game theoretic sense, resolving differences can yield for each of these four actors one of three mutually exclusive outcomes. In the first outcome, resolving differences yields a final policy closer to the actor’s ideal point compared the initial chamber passed bill (denoted “+”). In other words, the actor secured favorable concessions during inter-chamber bargaining. In the second outcome, resolving differences yields a final policy further from the actor’s ideal point compared to the initial chamber passed bill (denoted “-”). This outcome is a product of inter-chamber bargaining where the actor either voluntarily conceded or lost desirable policy provisions during inter-chamber bargaining. And in the third outcome, resolving differences yields a final policy that is neither further nor closer to the actor’s ideal point compared to the initial chamber passed bill (denoted “0” for “no change”). Conceptually, the third outcome occurs when the final policy proposal is preferred equally to the initial chamber passed bill; either no consequential changes were made or the policy gains were equivalent to the policy losses.
As a first step in mapping the reconciliation policy space I invoke one assumption—our four actors are linked by their partisan and chamber nodes. That is, I assume intra-chamber and intra-party preference similarity. The suggestion of intra-party convergence is clear and non-controversial. Indeed, roll call votes frequently pit Democrats and Republicans across chambers against one another (Poole and Rosenthal 1997; Poole and Rosenthal 2006). But the notion of intra-chamber preference similarity requires some additional discussion and clarification. What I suggest is that, when we think about bargaining between the House and Senate, there are often policies packaged within legislation that many members within the chamber support independent of other considerations (like partisanship or ideology). This pattern manifests most frequently when competing voting blocs reach a compromise on the floor that is crucial for passage of the larger bill. An obvious example is Bart Stupak’s amendment in Patient Protection and Affordable Care Act of 2010. Though Stupak’s amendment prohibited federal funding for abortion, the policy was defended by many liberal Democrats, including Speaker Pelosi, because it was vital to secure passage of the larger bill. As New York Times columnists David Herszenhorn and Jackie Calmes (2009) aptly put it, Pelosi had to do “the unthinkable. To save the health care bill she had to give in to abortion opponents.” The argument here is simply that this is a systematic feature of bicameral bargaining.

Once we invoke the prior assumptions, the process of resolving differences reduces to fifteen mathematically possible reconciliation outcomes. It is fundamental to keep in mind that this typology represents the patterns of resolving differences, not the
aggregate policy outcome.¹ A quote by Strom and Rundquist (1977) is a fitting illustration of this distinction. They maintain that conference committees are “less like battles to be won and more like the peace talks that occur after major battles have been fought” (450). When we chart these fifteen possible outcomes in a tabular form, we uncover three qualitatively distinct forms of resolving differences (with sub-divisions for zero-sum and positive-sum conflict).

Reconciliation

In this chapter, reconciliation is defined as the process of resolving House and Senate policy disputes by compromise and/or concession. In the current usage, reconciliation occurs when all four actors have similar preferences for the bicameral agreement as compared to their initial chamber passed bill.

In the first form, denoted by four positive signs, reconciliation yields a final policy closer to each actor’s ideal point as compared to their chamber’s initial proposal. This form of bargaining, often referred to by political scientists and observers as a “logroll” or “vote trading,” is most likely to manifest when the initial policy provisions proposed by each chamber are non-overlapping (giving negotiators the option of avoiding difficult cuts). Research into the effects of bicameralism on policy outcomes supports the existence of this form of inter-chamber bargaining. For example, in a comparative

¹ For example, consider a case where the majority party in each chamber passed bills at or more extreme than their ideal points (i.e to the left or right or the party median). And during reconciliation, a few of the relatively minor proposals were removed from the final bill. As a result, either (1) a few majority party members switch their vote to “no”, (2) a few minority party members switch their vote to “yes” or (3) both occur. The overall process described here indicates partisan conflict during reconciliation as the final outcome shifted toward the minority. However, this does not mean that the aggregate bill is “moderate.” Indeed, the final bill may still be closer to the majority’s ideal point than the chamber median.
analysis of bicameral legislatures, Heller (1997) found that gridlock is typically overcome by higher government spending.

In the second form of reconciliation, denoted by four negative signs, bicameral bargaining yields a final proposal further from each actor’s ideal point as compared to their chamber’s initial proposal. This process is one where a moderated bill is preferable to the status quo than no bill at all (colloquially referred to as a “half a loaf” or “split-the-difference” compromise). Support for this form of reconciliation can in the literature on bicameralism as well. For example, a number of studies posit that bicameralism leads to more stable policies because of greater policy moderation (Lijphart 1984; Riker 1992; Tsebelis and Money 1997). This form of resolving differences is most likely to manifest when the policies advocated by each chamber are overlapping (where difficult cuts are simply unavoidable).

And finally, in the third form reconciliation, denoted by four zero signs, bicameral bargaining yields a final proposal that is preferred by each actor equally to their chamber’s initial bill. This form of reconciliation embodies a compromise where conferees located the conference agreement in a spatial location where the gains and concessions were equivalent across our four actors. Typically, this occurs when only minor changes were necessary to create a workable solution.

Taken as whole, these three outcomes reflect “reconciliation” because the initial House and Senate disagreement(s) were resolved in a way where the concessions accommodated all sides equally in a qualitative sense. No one actor or team of actors

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2 Of course, this view is predicated on the notion that each chamber has dissimilar preferences. When preferences are convergent, like in some bicameral system, this argument breaks down (Heller 1997; Lijphart 1984)
was able (or willing) to impose its will on the others and extract a biased conference agreement.

**Partisan Conflict**

Partisan conflict is the process of resolving House and Senate disputes according to inter-party policy disagreement. In this way, the node linking the majority and minority across chambers drives the process of resolving differences such that the status quo shifts toward one party’s median. This dimension posits the existence of preferences that are systematically different across the parties, where bargaining will make one party better off.

Conceptually, partisan conflict can take two very different forms: either one party gets what it prefers at the expense of the other party or one party gets what it prefers without a corresponding shift for the other party. If the form of partisan conflict is the former—where utility maximization is countervailing—this is a *zero-sum* form of reconciliation. That is, when the majority (minority) gains concessions in bicameral negotiations the outcome shifts further from the minority’s (majority’s) ideal point. The latter form of partisan conflict—where utility maximization for one party is associated with no change in utility maximization for the rival party—represents a *positive-sum* form of reconciliation. That is, one party gains or losses policy concessions in bicameral negotiations where the concessions are not offset by changes for the other party. The logic of partisan conflict is prevalent in the literature on the U.S. Congress (e.g. Aldrich and Rohde 1997; Rohde 1991; Cox and McCubbins 1993, 2005). Moreover, this view is prominent in the study of post-passage bargaining. Studies by Lazarus and Monroe (2007) and Vander Wielen and Smith (n.d.), for example, propose that in both the House and the Senate, the authority granted the leadership over the membership of
bicameral committees confers significant control over the range of policies considered as solutions to inter-chamber disagreements. According to these studies, partisan conflict should be the primary dimension governing resolving differences and we should observe a preponderance of pro-majority shifts.

**Bicameral Conflict**

Bicameral conflict is the process of resolving House and Senate disputes according to inter-chamber policy disagreement. In this way, the node linking the majority and minority within each chamber drives reconciliation. In other words, the status quo shifts in conference toward one chamber’s median. This dimension posits the existence of preferences that are systematically different across the two houses, where bargaining will make one house better off.

As with partisan conflict, this form of reconciliation can take two different forms: either one chamber gets more of what it wants at the expense of the other chamber (zero-sum) or one chamber has a sizable ideal point shift (positive or negative) without a corresponding shift for the other chamber (positive-sum). The literature on post-passage bargaining supports the existence of such a dimension. In fact, the question of which chamber “wins” in a conference committee is quite old. Despite Steiner’s (1951) original answer to this question—the House—subsequent work has proclaimed the Senate the winner on average. Fenno (1966) argued that the Senate tends to ask for the higher appropriations Figure, making it harder for the House to take away monies, and that the Senate bargained as a more homogenous collectivity. Subsequent work agreed with Fenno’s conclusion and theoretical propositions (Manley 1970; Vogler 1970). Most significant in this line is Strom and Rundquist’s (1977) research, which posited an additional explanation of Senate dominance. They maintained that chamber
dominance is not a function of Senate leverage per se, rather the chamber to act second (which was usually the Senate) is more likely prevail or “win.” Overall, the point is that a third dimension likely exists in the process of resolving House and Senate disputes—one marked by conflict between the two chambers.

**Tsebelis and Money’s Typology**

Tsebelis and Money’s (1997, 15-16) formal work on inter-chamber bargaining reveals qualitatively similar dimensions. Using cooperative and non-cooperative game theory, Tsebelis and Money distinguish between bicameral bargaining that is “efficient” versus “political.” According to them, the “efficient dimension” is marked by bargaining where the final outcome makes both chambers better off. Or, in other words, the status quo is shifted along the line connecting each chamber’s median. Ultimately, the outcome is legislation that is of higher quality and less likely to be reversed in future policy contests (where “high quality” legislation is legislation closer to the status quo of the citizenry). This dimension is similar to my reconciliation typology. The “political dimension,” by contrast, reflects bargaining where the final decision is closer to one chamber’s ideal point. In other words, the status quo is shifted along a line toward one chamber’s median and simultaneously away from the other chamber’s median. This dimension is similar to my bicameral conflict typology. As Tsebelis and Money note, research focuses almost exclusively on either the political or efficient dimension.³ Though there are similarities between the typology presented here and that proposed

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³ On 15 Tsebelis and Money (1997) write “we summarize the contemporary debate on bicameralism, which tends to emphasize either the political or the efficient dimension of bicameral legislatures” (emphasis in original).
by Tsebelis and Money, the key difference is that the present work adds a second (partisan) political dimension to the analysis.

**Theoretical Expectations for Conference Outcomes**

One of the overarching premises guiding my expectations for resolving differences is that both the *process* and *issue space* are inherently multidimensional. By “multidimensional” I mean that the methods of resolving House and Senate disagreements are inherently complex in two ways: (1) the divisions among political actors competing for favorable outcomes and (2) the policy issues involved.

On the process side, I believe there is significant complexity involved in satisfying competing pivotal actors during bicameral disputes. Longley and Oleszek (1989, 193, emphasis in original) offer perhaps the best articulation of this point: “Conference committees can best be viewed as *multilateral* rather than *bilateral* affairs.” Indeed, when the House and Senate pass policies in disagreement, there are typically significant tensions between one or multiple pivotal actors. Though policy differences are a staple of legislative politics, those tensions are minimized when the House and Senate pass legislation without disagreement. By virtue of reaching the “stage of disagreement,” the process of resolving differences only exacerbates and exposes these latent tensions. Potential cleavages include those between the two chambers, the majority and minority, the parties’ rank-and-file across chambers, the parties’ leadership across chambers and key committee leaders in each chamber. These tensions are derived, in part, from basic constitutional differences between the House and Senate. Specific to conference negotiations, we know that House members typically play the part of “policy expert” in conference negotiations given their service on only a few committees. Senators, by comparison, are said to behave in conference as
“generalists” who consider the larger implications of the legislation (Carmines and Dodd 1985; Longley and Oleszek 1989, 99-100).

Resolving difference is also characterized by significant issue space complexity. As with the political cleavages, I believe this is an inherent feature of resolving differences. When policy problems occupy the political agenda, compelling a Congressional response, often the two chambers draft and pass very different solutions to those problems (no matter how uniform the external signal may appear). Though many times the differences are similar in nature, often bills in disagreement contain “non-overlapping” policy proposals. For example, the House and Senate may pass legislation to curb global warming, falling within the domain of environmental policy, but the House bill contains provisions pertaining to strategic petroleum reserve while the Senate bill contains provisions pertaining to nuclear power. What began as two clean, uni-dimensional bills—where the issue space for each bill was easy to comprehend—each chamber’s bill suddenly requires a multidimensional solution. Simply including or excluding all non-overlapping policy proposals is an impracticable solution as it risks upsetting coalitions in each chamber.

Complexity among pivotal actors and in the issue space is exemplified by the 9/11 Commission’s Recommendations Act in the 108th Congress. Though both chambers passed similar bills under conditions of unified government, there were key differences between the House proposal and the Senate proposal. Specifically, the House bill focused on immigration reform as a national security issue (such as enhanced border security) while the Senate bill contained no such provisions. There was also non-partisan House and Senate conflict over how to allocate funds to the states (Baker
In this case, as is true for many bicameral disagreements, conferees had to work within multiple issue spaces—immigration and national security—simultaneously, making successful resolution challenging. Moreover, there was real tension between the relevant committee chairmen within and across the chambers, who wanted to project their jurisdictional terrain, and party leaders responsive to their chamber’s rank-and-file (Fessenden 2004). After the conference committee drafted a compromise, the Speaker of the House—Dennis Hastert—delayed bringing the conference report to the House floor for a vote, fearful that his caucus would reject the compromise (Kady 2004).

The natural effect of complex, multidimensional disagreements is that it creates challenges to successfully mending competing versions of public policy. These challenges, I propose, are likely to bias conference outcomes in a certain direction and create a "general pattern" of resolving differences. That outcome is an increase in compromise, concession and policy moderation. Simply put, majoritarian outcomes are necessary in conference committee in order to prevent stalemate. No one single political actor is able to manipulate the process of resolving differences precisely to their liking under such circumstances. Instead, outcomes must be carefully located toward the center of the policy space, nearest to all pivotal actors. Both formal and empirical research supports this contention. For example, Heller (1997) has shown that the greater the number of actors who can affect the content of legislation, the greater the number of compromises that must be made in order to pass budgetary legislation; the result is higher budget deficits. Researchers have noted a similar effect with respect to legislative-executive checks and balances (Alt and Lowry 1994; Cutler 1988; McCubbins 1991).
In addition to the challenges facing conferees due to multidimensionality and the difficulty satisfying competing pivotal actors, resolving differences is a process marked by uncertainty and significant transaction costs which, untimely, create an incentive for risk averse legislative decisions. Regarding uncertainty, frequently there are doubts among lawmakers before a conference committee convenes concerning the ability of each chamber’s negotiators to find a bicameral solution. Indeed, a handful of conference committees fail each year. As one example, landmark immigration reform died in conference during the 109th Congress. There is also uncertainty with respect to the preferences of the pivotal lawmakers in each chamber. This is revealed by the fact that prior to any conference committee, the initiating chamber made a formal policy proposal and that proposal was rejected by the second chamber. Moreover, pivotal actors in each chamber have an incentive to misrepresent their true position. Conferees will typically argue that that certain provisions will never pass their chamber, either because of procedural matters like the Senate’s filibuster pivot or House’s germaneness requirements. As Longley and Oleszek (1989, 2004) note: “Ploys, procedures, and psychology are among the devices that conferees use to feel each other out in an attempt to gain preliminary advantage.” In short, because of uncertainty, successful reconciliation is a challenging endeavor and is not a foregone conclusion.

I also believe there are significant transaction costs involved in resolving differences. In particular, there are “information” and “bargaining” costs involved in both the passage and postpassage stages (for example, those associated with drafting, marking up, and passing legislation in each chamber as well as those associated with studying the policies in disagreement, considering rival solutions, identifying the position
of relevant actors and, most importantly, debating and drafting a workable solution).

The decision to incur these costs is an important legislative decision. At any given point there may be multiple bills in conference committees and countless other bills waiting to receive consideration in standing committees or on the chamber floor. Because time is finite, there is an incentive *ceteris paribus* to adopt an efficient solution—a low cost compromise that quickly satisfies competing actors while maintaining provisions in the original proposal.

In short, because of significant uncertainty and the costly nature of bicameral bargaining, there is an incentive for conferees, committee chairmen and party leaders to adopt a risk averse bargaining strategy. Once legislation reaches the conference stage the majority of the work is complete. Suffice it to say that any member who voted for the initial bill has invested their limited legislative resources (time, money, bargaining power, vote trading, hearing time, campaign promises, staff expertise, etc.) in the legislation waiting in conference. If conferees, party leaders or committee chairmen try to push a political outcome at this late stage it may upset fragile voting coalitions and/or spur the minority to engage in dilatory tactics (a forthcoming section reviews these possibilities). Simply put, if a conference bill dies, or the agreement causes significant delays in adoption of a conference report, the cost to lawmakers who voted to pass the bill or invested resources in a conference committee may outweigh the costs of advocating a simple compromise from the outset. Thus, seeking compromise at the conference stage can be a utility maximizing choice (where at earlier stages of the policy process legislative failures are much less costly or politically damaging).
The expectation that conference committees are characterized by compromise, concession and majoritarian outcomes is supported Krehbiel’s (1991) informal theory. He views delegation—in all legislative institutions, not just conference committees—as a decision driven by informational gains. Simply put, his “information theory” posits that legislative institutions are organized in order to collect, analyze and transmit policy information back to the chamber. Based on principal-agent theory—where the principal is the chamber median and the agents are the committees—the basic logic is that information is costly to obtain and evaluate (a problem committees solve). Using data on the preferences of conference committee delegations, he finds that, consistent with his informational theory, conferees represent the preferences of their parent chamber rather than their committee or party. Thus, according to Krehbiel, despite the rules which give party leaders the power to name partisan conferees, “majoritarianism lurks (perhaps deeply) beneath the surface of these alleged institutions of oligarchy” (216).

We would expect conference outcomes to be majoritarian rather than partisan for procedural reasons as well. First, conference agreements are debatable in the Senate, giving the minority the option of filibustering (Oleszek 2007; Palmer and Bach 2003). Since the minority almost always possesses the votes to sustain a filibuster, manipulating conference committees for partisan gain risks killing an entire bill which the majority has invested significant costs. The minority in the Senate can also block a conference committee from convening. This was common occurrence in the 108th Congress where Senate Democrats, upset about being blocked from conference committees on a pair of earlier bills (HR 1, the Medicare drug bill, and HR 6, an energy bill) blocked the opening of numerous subsequent conference committees (HR 1904,
HR 7, HR 3108). Such a maneuver forces the majority into a more costly reconciliation process (using informal negotiation, amendment trading or passing a new bill). Thirdly, the range of policy solutions available to conferees is restricted by “interval rule” (Longley and Oleszek 1989; Lazarus and Monroe 2007; McCown 1927). This rule states that conference agreements must be within the interval connecting each chamber’s proposal. Extraneous provisions may not be added to a conference report—sometimes called “airdropping.” When airdropping occurs, a point of order can be raised against the conference report in either chamber. Thus, the majority is constrained from revising legislation in conference however they see fit. Finally, the rules of each chamber governing voting on conference reports give wide latitude to conferees. One a conference agreement is struck, it returns to each chamber privileged (meaning it cannot be blocked from receiving a vote) and under a closed rule (a rule preventing further modification). Thus, if conferees propose a genuine compromise rather than a “partisan outcome,” the conference report returns to each chamber in a take-it-or-leave it form. Though the leadership can advance a motion to recommit the bill to a conference with instructions, not only are those motions rare (Tsebelis and Money 1997, 201) but the instructions to conferees are non-binding. In sum, there are significant procedural constraints on the majority when they attempt to use a conference to seek partisan outcomes.

“Observing” Resolving Differences

To assess the process of resolving bicameral disputes we need the revealed preferences of representatives and senators for proposals that were, first, passed by the two chambers in disagreement and, second, successfully reconciled. Armed with this information we can explore how each chamber’s initial proposal was modified during the
post-passage stage. To obtain this information in a systematic fashion over the entire post-reform era I rely on roll call votes. The strength of such an approach is its conceptual clarity. Though bicameral disagreement and reconciliation are complex and often veiled processes, we can straightforwardly explore the contours of inter-chamber bargaining as the two votes (pre- and post-conference) lie in the same policy space. In other words, the contours and severity of pre-conference disagreement are easily compared to the contours and severity of the post-conference agreement for our four actors. But roll call votes contain some apparent limitations in this application.

One possible limitation of using roll call votes for this type of analysis is that it limits our generalizability to the so-called *formal* bicameral disagreements. This is in contrast to informal bicameral disagreement and reconciliation. For example, we know that party leaders and committee chairmen frequently coordinate the introduction and passage of legislation with their counterparts in the other chamber. Though this form of reconciliation cannot be observed in a systematic fashion because it occurs “behind the scenes,” there are good reasons to believe that the methodology utilized in this chapter provides some level of generalizability to these cases.

First, it is important to keep in mind that Article I sec. 7 of the Constitution (the “Presentment Clause”) requires the House and Senate to interact in *every* attempt to pass legislation. And though they may not bargain formally, the institutional constraints still affect each chamber’s strategic behavior (Sin and Lupia 2004; Taylor 2008; Rogers 1998, 2005). Thus, the absence of formal bicameral bargaining does not indicate the absence of the bicameral hurdle and its effects. Second, and more importantly, it is important to understand how, exactly, the so-called “formal” process of bicameral
reconciliation works. During a series of personal interviews I conducted as part of this project, House and Senate legislative and committee staff described to me a multi-tier, hierarchical conference negotiation process that typically occurs before a formal conference committee is convened. On the lowest tier of the hierarchy are the routine, non-controversial provisions that are resolved during informal meetings among junior staff. Internal committee documents called "side-by-sides" are used to clearly demarcate on a provision-by-provision basis the statutory differences between the House and Senate bills. Disagreements at this stage are “passed up the ladder.” On the middle tier, policy disagreements are either more consequential or those that a conferee is “taking a stand on.” At this stage bargaining usually occurs among the conferees’ chiefs of staff. Any disagreements at this stage are passed up to the third tier—the most contentious issues. These issues are negotiated with direct conferee involvement. For the most consequential and divisive issues, negotiations are sometimes limited to the “big four” (the two committee chairmen and two ranking members) or the “big eight” (the big four plus key staff members for the two jurisdictional committees).

The previous discussion has two points relevant to generalizability of the present methodology. First, the vast majority of bicameral bargaining associated with a formal conference actually takes place behind the screens. By one account, 90% of the disagreements are resolved by staff at the lowest two tiers. But second, even the most contentious issues are sometimes resolved before a formal conference is convened. In my interviews, legislative staff routinely reminded me that conference committees are
“for show,” “photo-ops” or “window dressing.” Or as Charles Grassley\(^4\) once recalled on the Senate floor, “I can tell my colleagues that in nearly all cases, conferees debate the issues in private. Nearly all of the toughest decision come down to private negotiations between the two chairmen.” Thus, restricting the analysis to the so-called “formal” disagreements still speaks to the larger process of inter-chamber bargaining as the formal and informal processes are interrelated.

Thus, to observe the process of resolving differences in a systematic fashion over the postreform period, four observations were recorded for every conference committee where the disagreements were successfully resolved—the chamber yeas and nays for the majority and minority on approving the original chamber-passed bill (t-1) and the chamber yeas and nays for the majority and minority on the final conference report (t). This data was used to estimate “shift parameters” for the two parties (P) in each chamber (C). These shift parameters are constructed as the difference in the roll call from the post-conference vote to the pre-conference vote. Mathematically, a positive shift parameter indicates actor \(P_iC_j\) increased its vote share from the original chamber passed bill to the conference report while negative shift parameters indicate the actor \(P_iC_j\) decreased its vote share between the two periods. A value of zero indicates no change in vote share. Conceptually, the shift parameters reveal how the process of resolving differences affected legislative outcomes from the perspective of competing parties and chambers and allows us to assess the policy space.

\[
\text{Shift Parameter } P_iC_j = \left(\frac{P_iC_j \text{ Aye}_t}{P_iC_j \text{ Voting}_t}\right) - \left(\frac{P_iC_j \text{ Aye}_{t-1}}{P_iC_j \text{ Voting}_{t-1}}\right)
\]

It is important to point out that in this application usable votes are the exception rather than the rule. This is because the methodology requires four roll call votes on a single proposal—one for the original House passed bill, one for the original Senate passed bill, one for the House approving the conference agreement and one for the Senate approving the conference agreement. Unfortunately, unanimous consent and voice votes are common on at least one of these votes (especially in the Senate and on conference report votes). Overall, though the data collected for this study contains more than a thousand conference committees convened during the post-reform period, only about one in five (n=206) have four usable roll call votes.

It is also important to point out that the missing observations differ from the non-missing observations in at least one important way—they are the least partisan issues. This intuition is born out in the data as statistically meaningful.\(^5\)\(^6\) Though prior work has simply assumed that voice votes on a conference report indicate unanimity (Binder 2003), I concur with Chiou and Rothenberg (2008a and 2008b) who argue that such an assumption underestimates the true extent of bicameral disagreement (but see Binder's 2008 reply). In fact, the problem of assuming unanimity is only magnified when

\(^5\) Using the roll call data I calculated the difference between the proportion of each party voting “aye” on the initial chamber passed bill in each house. This measure reveals partisan differences in the roll call in the form of percentage (where 1 is a perfectly partisan bill and 0 is a perfectly bipartisan bill). In the House, the means are .27 and .36 for the missing and non-missing observations (respectively). In the Senate the means are .13 and .23 for the missing and non-missing observations (respectively). Both differences are statistically meaningful (t= -4.06 for the House and t= -5.56 for the Senate), indicating that the missing cases are less partisan than the cases included in my sample.

\(^6\) Of course it is true that in looking at “resolving differences,” this paper explores those successful conferences. Though these are ultimately partisan issues, the low likelihood of failure at this stage indicates that larger point—about a bias in the direction of finding a partisan dimension—still holds.
constructing the shift parameters.⁷ In the end, because the missing values tend to be
the least partisan bicameral disagreements in the population, the shift parameters used
in the forthcoming principal components analysis are likely biased in a direction that
overestimates the partisan dimension: a bias that favors the conventional wisdom
(Carson and Vander Wielen 2002; Lazarus and Monroe 2007; Nagler 1989; Vander
Wielen and Smith n.d.). At the same time, because we have a bias in favor of the most
contentious issues, the sample used in the forthcoming analyses contains the most
salient and important policy disputes throughout the postreform period. Overall, I regard
this bias as strengthening the study’s scope and value.

It is also important to state very clearly what the shift parameters tell us. It may be
appealing to regard the conference shift parameters as the utility of our four actors for
the final outcome. This is not the case. Rather, the conference shift parameters reveal
the utility of our four actors for the final outcome relative to the bill at final passage. So,
for example, we may find that a conference committee modified the original bill in a
direction unfavorable to the Senate minority. This does not mean the Senate minority
“lost” on the aggregate outcome (in fact, they may have gotten most of what they
wanted on the main details of the policy). Thus, the shift parameters help us assess the
patterns of conference operation—their aggregate nature, determinants and historical
patterns—but not how “conservative” or “liberal” the final policy is.

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⁷ This occurs because invoking the unanimity assumption (Binder 2003) often results in very
large, positive shift parameters, creating a massive skew in the direction favoring reconciliation.
Only rarely in the data containing complete roll call votes do we observe total agreement on the
conference report.
Principal Components Analysis

The typology outlined theoretical discussion outlined earlier suggests that the process of resolving differences is multidimensional. By “multidimensional” I mean that the process of resolving House and Senate disagreements is: (1) intrinsically complex and (2) that no single deductive logic or overarching theoretical perspective adequately explains the overall process. Though prior work on the topic of inter-chamber bargaining does not dispute this point, the slate of existing studies have yet to address the matter theoretically or empirically. As such, this section advances our understanding of resolving differences by discriminating between competing theoretical traditions and, ultimately, providing a broader conceptual look at the patterns of inter-chamber bargaining.

Given the hypothesis of multidimensionality, an analysis of the shift parameters using univariate statistics—means, medians, frequencies, etc.—or bivariate statistics—correlations, regressions, etc.—would result in a loss of information and limit our ability to understand the data generating processes. Indeed, conference outcomes can fall along multiple dimensions. Consider the following case. In July of 1999, Clinton signed a law preempting lawsuits arising from the so-called “Y2K” computer glitch (106th Congress, HR 775). At the passage stage, 95.6% of House Republicans supported their chamber’s bill compared to only 13.4% of House Democrats. In the Senate, by comparison, 92.5% of Republicans supported their version of the legislation compared to only 26.1% of Senate Democrats. Though these aggregate figures are comparable, the House and Senate bills contained notable differences, with the House bill characterized as a more partisan bill compared to the Senate proposal (Ota 1999). After a conference between House and Senate negotiators, at the postpassage stage
98.6% of House Republicans supported the conference report compared to 89.8% of House Democrats while 96.3% of Senate Republicans supported the conference report compared to only 64.4% of Senate Democrats. What we see quite intuitively in these roll call patterns is that the conference agreement was preferable to all four actors compared to the initial House and Senate bills. Clearly this is a case of reconciliation. But at the same time, we can see that the conference agreement was especially preferable for Democrats. Clearly, the conference agreement falls along two dimensions simultaneously—a compromise and a pro-minority outcome. A quick review of some contemporaneous accounts of the negotiations supports this claim. Of the agreement, Republican Orrin Hatch stated on the Senate floor that “the final bill reflects the spirit of compromise. But I must admit that I believe the original Judiciary and Commerce Committee bills--along with the House bill--would have been far more effective…than the current compromise measure.” Univariate statistics would obscure these nuanced patterns; thus, I turned to multivariate analysis.

A branch of statistics concerned with the interdependence of multiple variables, multivariate analysis allows the researcher to describe meaningful patterns in complex processes (where data of high dimension are difficult to interpret graphically or through simple correlation plots). In particular, the multivariate results presented in this chapter

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8 In conference, Clinton and congressional Democrats accepted a cap on punitive damages for small business, a provision to waive civil penalties for small business and a scaled-back version of an original provision that would have limited the ability of financial institutions to collect debt payments from individuals negatively affected by the Y2K glitch. These concessions were favored by Republicans. Democrats, on the other hand, gained a provision in conference requiring lawsuits seeking over $10 million in damages to be filed in federal court, keeping many possible class action lawsuits in state court, as well as a provision that increased the liability of defendants who cause economic damages. For a an overview of these issues see Ota (1999).

were derived from principal components analysis. Principal components analysis\(^\text{10}\) (or PCA) is a statistical technique used to simplify multivariate data by transforming a series of input variables into a low-dimensional data configuration (in political science, see Heckman and Snyder 1997). PCA achieves this by producing a series of linear combinations of the original input variables that explain variance in the original variables. The first principal component contains maximal overall variance, the second principal component contains maximal remaining variance and so on, until all the variation contained within the input variables is represented via the estimated components. And because the components are orthogonal, they represent qualitatively different bits of information.

Inferential methods using principal components analysis is based on the assumption of multivariate normality (Rabe-Hesketh and Everitt 2007).\(^\text{11}\) As it turns out, this assumption is violated by all four shift parameters.\(^\text{12}\) In particular, the data are leptokurtotic, meaning there are many observations around the mean, resulting in a “high peak,” and a number of extreme observations, producing “fat tails.” On the one hand, this is a natural feature of bicameral reconciliation. Only rarely are major changes made to a bill at the conference stage, particularly when each chamber’s provisions are overlapping. But occasionally, when the provisions contained in each chamber’s bill are

\(^{10}\) All analyses were conducted in STATA 10. All techniques employed in this chapter followed two STATA reference manuals (Rabe-Hesketh and Everitt 2007; StataCorp 2009). In addition, I consulted Jackson (2003).

\(^{11}\) It is important to recognize that the descriptive aspects of principal components analysis are unaffected by this assumption—only inference based the estimated standard errors (StataCorp 2009).

\(^{12}\) I used the omninorm routine in STATA 10. This routine produced a test statistic of 780 (p<.001).
non-overlapping, major changes are simply unavoidable. Despite the leptokurtosis we can attempt to normalize the data using a variety of transformations.\textsuperscript{13} These transformations result in the normalization of three out of the four shift parameters (the shift parameter for the Senate majority is still kurtotic). Though the data have been dramatically improved in terms of satisfying the assumption of multivariate normality, ultimately this assumption is still violated.\textsuperscript{14} Since the descriptive aspects of the principal components analysis are \textit{unaffected} by the violation of multivariate normality (StataCorp 2009), those results are discussed substantively. The inferential discussion, where multivariate normality becomes potentially problematic, makes use of the transformed data as well.

A decision has to be made at the outset concerning the appropriate number of components to retain from the principal components analysis. The literature contains two recommendations (Jackson 2003 or Borg and Groenen 2005). The first is to keep any component with an eigenvalue larger than one. The second is to retrain any component with an eigenvalue above the “elbow” in a scree plot. Figures 1 and 2 present scree plots with confidence intervals for the untransformed and transformed data. Since there is no clear elbow in either plot, I retrained the first three components. Though the eigenvalue for the third component is estimated at less than one, it remains within acceptable bounds based on the confidence intervals.

\textsuperscript{13} First, kurtosis was corrected using an arctan transformation (arctan((X_i - \mu)/\sigma)). Second, skewness was corrected using the \texttt{lnskew0} routine in STATA 10.

\textsuperscript{14} With the transformed data, the test of multivariate normality yields a test statistic of 39. Though this is still a significant departure from multivariate normality, the data has “improved” by over 9000%.
The Spatial Dynamics of Resolving Differences

The results from the principal component analysis scaling the entire time-series (95th to 110th Congresses) can be found in Tables 3-2 to 3-5. Tables 3-2 (untransformed data) and 3-3 (transformed data) present the component loadings for each shift parameter. The component loadings represent the correlation between the shift parameter and the revealed dimension. Thus, the greater the influence of each shift parameter on the revealed component the greater the “load.” Examining the magnitude and, most importantly, the direction of these loadings allows us to interpret each dimension in relation to the theoretical forms of resolving differences (see the row labeled “interpretation”).

The component loadings in Tables 3-2 and 3-3 reveal some clear patterns regarding what resolving House and Senate policy differences “looks like.” The large, positive and approximately equally sized loadings for our four shift parameters on the first component reflect a process of reconciliation. Recall that reconciliation is defined as “the process of resolving bicameral disputes by compromise and/or concession.” Thus, the equally signed loadings indicate that all four shift parameters fluctuate in the same direction (either positive or negative). When all four shift parameters are positive, each actor \( P_i C_j \) increased its utility after a conference committee met to resolve bicameral differences. Conceptually, this outcome reflects a form of bargaining analogous to logrolling or vote trading. On the other hand, when all four shift parameters are negative in the first dimension, each actor \( P_i C_j \) decreased its utility after a conference committee met to resolve differences. This outcome has been described colloquially as the “half a loaf” or “split-the-difference” compromise: where moderation of the original bill is preferred to the status quo than no bill at all.
The oppositely signed loadings by party on the second component reveals a process of inter-chamber bargaining marked by partisan conflict. These loadings indicate that as one party increases its utility after conferencing the other party decreases its utility. Thus, partisan conflict is the second leading form of resolving differences. It is important to note that the oppositely signed loadings of relatively large and equal magnitudes suggest that this form of reconciliation is zero-sum partisan conflict, where in some cases the majority party gains favorable provisions at the expense of the minority (a pro-majority shift), and in the other cases the minority party gains favorable provisions at the expense of the majority (a pro-minority shift). I find no evidence of positive-sum partisan conflict in the results. This comports with classic conceptions of an ideological and/or partisan policy space (that the parties have Euclidian single-peaked preferences that anchor opposite ends of linear dimension). However, though the results show that partisan conflict is an important component of resolving differences, they also show that partisan conflict is not the leading determinant of this process (contrary to the conventional wisdom).

And finally, the oppositely signed loadings by chamber on the third component indicate a process of bicameral conflict.\textsuperscript{15} The loadings reveal that as the majority and minority in one chamber increase their utility as the result of a conference, the majority and minority in the rival chamber decrease their utility. As with the second dimension, this is a zero-sum form of resolving differences where one chamber’s gains are roughly

\textsuperscript{15} The flipped signs for the component loadings in dimension three across the transformed and untransformed datasets are not consequential. This difference merely reflects how the algorithm arranged the linear combination of the original shift parameters for this dimension. What is important are the magnitude of the loadings and their signs within each dimension relative to one another.
equal in magnitude to the other chamber’s losses. This also supports the conventional wisdom suggesting that our institutional design occasionally pits distinct interests in the chambers against one another. However, because it is the third of three components, the implication is that bicameral conflict is less salient a form of resolving differences than reconciliation or partisan conflict.

**Cases in Each Dimension**

**Reconciliation**

Recall that the scaling procedure revealed that the first dimension of resolving differences is reconciliation. Also recall that within this dimension, positive coordinates reflect a reconciliation process where all four actors increased their utility or vote share after a conference committee (a process of logrolling or vote trading). On the other side of the dimension, negative coordinates reflect a reconciliation process where all four actors decreased their utility or vote share after a conference committee (a “half-a-loaf” compromise). The legislative history of the Telecommunications Act of 1996 exemplifies the former while the 2001 transportation appropriations bill exemplifies the latter.

Once enacted into law, the Telecommunications Act of 1996 made sweeping changes to communications policy by increasing long-distance telephone competition, deregulating the cable television industry and reversing limits on media ownership. In short, this law followed the deregulatory trends of the 1980s and 1990s. Though both the Senate bill (S. 652) and House bill (H.R. 1555) passed by comfortable margins (81-18 and 414-16), the overall complexity of both proposals created a number of contentious inter-chamber disputes (Carney 1995). The two main areas of contention concerned the regulation of cable rates and the concentration of media ownership.
Though there were overlapping provisions in each bill, each chamber’s proposal “underwent major surgery in conference” (Aufderheide 1999, 59). House Republicans believed Senate Republicans sacrificed too many provisions to the Democratic minority while Senator Robert Dole (the majority leader) complained about the lucrative giveaways to broadcasters contained in the House bill (Carney 1995). Comparing the debates in both chambers on the conference agreement reveals the nature of the compromise. Of the agreement, Edward Markey (D,MA) said\textsuperscript{16} the conference report “reflects a series of compromises between the House and Senate…it is a much-improved piece of legislation. It scales back or removes many of the problematic provisions of H.R. 1555 while retaining pro-competitive, pro-consumer measures.” And from the other side of the aisle, John Linder (R,GA) explained\textsuperscript{17} that “what we have before us is a complex piece of legislation that is the product of many long months of negotiation. I believe that the conferees have worked in good faith to create a balanced bill...” The compromises leading to this “much-improved piece of legislation” is reflected in the roll call patterns used in the principal components analysis. On the House’s original pre-conference proposal, 92% of Republicans and 50% of Democrats voted to pass the bill while 100% of Republicans and 92% of Democrats voted to pass the conference report. On the Senate’s original pre-conference proposal, 94% of Republicans and 65% of Democrats voted to pass the bill while 98% of


Republicans and 91% of Democrats voted to pass the conference agreement. Clearly, the agreement struck between House and Senate negotiators was more palatable to all sides as compared to the original chamber-passed bills; thus, this case reflects reconciliation in the positive direction.

On the other side of the reconciliation dimension—where the scaling procedure produces negative first-dimension coordinates—competing actors sacrificed preferred provisions in order to reach agreement (a “half a loaf” or “split the difference” compromise). An example in the dataset is the 2001 transportation appropriations bill. The House initiated the spending proposal, a $55.2 billion measure, by a vote of 395-15 (“Legislative Summary: Transportation”). Seven Republicans and six Democrats voted against the House bill, which did little more than establish authorization levels for transportation agencies and programs. The Senate acted second, passing an amended version of the House bill by a vote of 99-0. With a price tag of $54.8 billion, on its face the Senate bill resembled the House proposal. But unlike the House bill, the Senate bill contained a number of narrow policy provisions such as the establishment of national drunk-driving standards, new regulations on the amount of rest required of truck and bus drivers and language to block recently enacted rollover standards (“Legislative Summary: Transportation”). Under the compromise forged in conference, the drunk-driving standards and rest regulations were given delayed implementation deadlines while the language striking the rollover standards was removed from the final agreement. To make these difficult agreements more palatable, $3 billion in last minute earmarks were included in the conference agreement. Because there were a number of nonoverlapping issues in each chamber’s bill and cuts were unavoidable, a number of
lawmakers in both chambers withdrew their support for the final legislation. In the end, the House passed the conference agreement 344-50, with 32 Republicans joining 5 Democrats in switching their original “yes” vote to a “no” vote on the compromise. And in the Senate, the conference reported passed 78-10, with 7 Republicans joined by 3 Democrats in switching their original “yes” vote to a “no” vote. Clearly, the agreement struck between House and Senate negotiators made a number of tough changes to the original chamber-passed bills, though no one chamber disproportionately benefited or sacrificed.

**Partisan Conflict**

Recall that the scaling procedure revealed that the second dimension of resolving differences is partisan conflict. Also recall that negative coordinates reflect partisan conflict where the minority party secured favorable concessions at the expense of the majority (a “pro-minority” agreement). The Intelligence Reform and Terrorism Prevention Act of 2004 (the 9/11 Commission Recommendations bill discussed earlier) is one example of this form of resolving differences.

The bills passed by the House and Senate implementing the 9/11 Commission’s recommendations sought to overhaul the nation’s intelligence agencies as well as centralize power in a new agency with expanded budgetary and legal powers. The Senate acted first, passing a bipartisan bill (S 2845) that hewed closely to the 9/11 Commission’s recommendations (“2004 Key Votes: A Mix of Hits and Misses For Republican Leadership”). The House, on the other hand, passed its own version of reform (HR 10) along strict party lines (only eight Republicans voted against the proposal compared to 125 Democrats). The major differences between the two proposals included the amount of power afforded the new national intelligence director.
and a series of immigration restrictions and law enforcement provisions added to the House bill. Because of these differences, as well as major intra-party bicameral disputes among Republicans (Baker 2008), Democrats held a strategic advantage. By siding with Senate Republicans, Democrats in both chambers were able force concessions in conference from House Republicans ("2004 Key Votes: A Mix of Hits and Misses For Republican Leadership") Ultimately, 67 House Republicans voted against the compromise proposal compared to only 8 on the initial House passed bill. House Democrats, on the other hand, voted 183-8 in favor of the conference report compared to only 69-125 in favor on the original bill. Though the Senate roll call patterns are much less dramatic (because the bicameral compromise tracked the Senate’s original bipartisan bill), many Republican senators were openly dismayed at their party’s sacrifices in conference. The most conservative member of the Senate, James Inhofe (R-OK), voted against the agreement even though it was nearly identical to the bill he supported just a few months earlier. On the Senate floor18 Inhofe lamented items in the House bill that were struck form the conference agreement—namely the strict immigration provisions.19 He noted that “I saw several things in the House bill I liked. I have a very short list of things that were taken out of the House bill in conference. This disturbs me.” Thus, in both chambers, the minority party (Democrats)

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19 The immigration provisions excluded from the final agreement included a provision requiring proof of lawful presence in the United States, enhanced licensing requirements, restrictions on the states’ ability to accept foreign documents and language to close a gap on the U.S.-Mexico border near San Diego.
improved their utility after the conference while the majority (Republicans) sacrificed a number of their preferred provisions (namely on immigration).

**Bicameral Conflict**

Recall that the scaling procedure revealed that the third dimension of resolving differences is bicameral conflict. Also recall that within this dimension positive coordinates reflect a pro-House outcome. This reconciliation outcome is embodied in the American Jobs Creation Act of 2004 (H.R 4520).

Though the bill enacted into law made some of the most significant changes to the corporate tax structure in nearly 20 years, the bill began in the House as an attempt to repeal U.S. export subsidies that the World Trade Organization had deemed illegal. Despite bipartisan agreement on replacing the subsidies, significant disagreements existed over what to enact in their place (“2004 Legislative Summary: Corporate Tax Overhaul”). The House bill favored reducing taxes on U.S. multinational corporations and included a buyout for tobacco farmers. Because the tobacco provision was in direct contrast to the Senate’s position on the issue, before moving to conference the Senate took the rare step of adding a provision to its bill after passage, one that matched the tobacco buyout with greater FDA tobacco regulations. A separate Senate provision also required that the law not add to the deficit (“2004 Legislative Summary: Corporate Tax Overhaul”). In conference, negotiators accepted the Senate proposal that limited tax shelters, reducing the cost of the law. However, not only did the tobacco buyout remain in the final compromise, but the FDA regulations were stripped from the conference agreement. According to observers, the explanation for the Senate’s dramatic losses in conference is that House Republicans, aided by a handful of House Democrats, were able to vote in complete unity (Mullins 2004). As the close of the 108th
Congress drew near, the status quo (raising WTO sanctions) was worse than letting the bill die. Though Senate Democrats were especially unhappy with the outcome, a number of Senate Republicans were as well. On the Senate floor, Mike DeWine (R, OH), who voted for the initial Senate bill, explained his decision to reverse and vote against the conference agreement, saying the Senate “should be sending a message...[that we] we are not going to tolerate this Senate passing this bill, this FDA reform, sending it on to the House, and then having it stripped out of this conference report. It is too serious an issue.” Unhappy with the conference agreement, 14 Senate Democrats and 3 Senate Republicans switched their “yes” vote on the original Senate passed bill to a “no” vote on the conference report. Across the Capitol Rotunda the opposite was true; 26 House Democrats and 3 House Republicans switched their “no” vote and voted in favor the conference agreement. The House was the clear winner in this case.

**The Explanatory Power of Each Dimension**

The prior results and discussion contribute to our broader understanding of how the House and Senate resolve disagreements. Such an analysis of post-passage reconciliation has been conspicuously absent from the congressional literature. But in addition to classifying conference outcomes, we can also explore the relative explanatory power of the three dimensions. For example: How much variation in the patterns of resolving differences does the three-dimensional typology explain? To what extent does reconciliation—the first dimension—explain the roll call patterns vis-à-vis

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partisan and bicameral conflict? Answering these questions moves us beyond the conceptual contribution and allows us to discriminate between competing theoretical accounts of congressional organization and legislative politics.

Table 3-4 (untransformed data) and Table 3-5 (transformed data) present the amount explained variation captured by each dimension. The first column contains the eigenvalue for each component while the second column contains the percentage of explained variation. For the percentage of explained variation I also estimate confidence intervals, allowing us to compare the relative importance of the various dimensions.

Tables 3-4 (untransformed data) and 3-5 (transformed data) reveal that the first three components explain 84% of the variation in the shift parameters. Though this is quite strong and validates the three-dimensional typology, it also suggests that 16% of the variation in conference outcomes is driven by alternative forms (perhaps a fourth dimension). For example, it could be that the Senate minority, aided by its ability to exploit unlimited debate, is able to extract concessions that it favors relative to the other three actors. Though such a dimension is mathematically capable of manifesting in the results, in the end this dimension does not capture enough variation in the original shift parameters. The implication, then, is that any fourth form of post-passage bargaining and conflict is rare compared to the three main dimensions.

Looking more closely at Tables 3-4 and 3-5 we can see that the first component (reconciliation) accounts for between 34% and 38% of the explained variation in the transformation.

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21 Though I followed the recommendation in the literature to not retrain any component with an eigenvalue less than one, I explored the fourth dimension regardless. I was unable to discern a meaningful logic in the shift parameter loadings. This suggests that the fourth dimension is weak and probably captures idiosyncratic instances of reconciliation.
shift parameters depending on whether we analyze the untransformed or transformed
data (respectively). The results also reveal that the second component (partisan
conflict) accounts for between 24% and 29% of the variation in the shift parameters.
And finally, the third component (bicameral conflict) accounts for between 21% and 22%
of the variation in the shift parameters. For both the partisan conflict and bicameral
conflict the loadings revealed that these outcomes were zero-sum.

The fact that no single dimension captures a majority of the variation in the
process of resolving differences is further evidence for the multidimensionality
hypothesis. However, closer inspection of the confidence intervals shows that the
explained variation captured by reconciliation is statistically larger than the explained
variation for partisan conflict. In the untransformed data, the p-value of a difference of
means test is .056 (reported in the Table notes). In the transformed data, were
inferential statistics should be more valid because of the data transformations, the p-
value of this test is less than .001. Thus, where the vast majority of studies find that roll
call voting in the House and Senate is driven almost entirely by an ideological
dimension separating liberals (Democrats) and conservatives (Republicans) in the
postreform period, these results suggest that resolving House and Senate policy
disagreements is driven, first and foremost, by a qualitatively different process—one
governed by compromise and/or concession. This finding stands in direct contrast to
the conventional wisdom about conference committees: that they are manipulated by
the Speaker and Majority leader in order to produce a pro-majority biased outcome.
Though certainly true in some cases, I find that partisan conflict this is not the
overarching function of resolving differences. Moreover, though partisan conflict is the
second leading component, additional tests reveal inconclusive results concerning the significance of the meaningfulness of the difference between dimensions two and three. In the untransformed data, the results appear significant at .01 level according to a differences of means test while in the transformed data the differences are not significant (p=.20). Thus, it is theoretically and substantively interesting that bicameral conflict cannot be distinguished between partisan conflict (at least when we scale the entire time series).

As one additional piece of evidence supporting the finding of multidimensionality, I estimated the spatial “scores” for each individual conference committee in the dataset (Rabe-Hesketh and Everitt, 2007). These scores identify a point in the three-dimensional resolving differences policy space corresponding to the dimension or dimensions that explain the individual conference outcome. This allows us to create a visual map of how resolving differences affected the final policy and quite literally “observe” the effects of a conference committee. Recall that in the first dimension negative values indicate that our four actors lost vote share after a conference committee while positive values indicate that our four actors increased vote share. In the second dimension negative values indicate the minority “won” at the expense of the majority while positive values indicate the majority “won” at the expense of the minority. And in the third dimension negative values indicate the senate “won” at the expense of the House while positive values indicate the House “won” at the expense of the Senate.

Figures 3-3 maps these outcomes in three dimensions.22 The values in each of these figures were scaled in three dimensions so that the origin (the point at X=0, Y=0,

22 For this I used MATLAB.
Z=0) has a real interpretation—it is the point in the space where all shift parameters equal zero, indicating that the changes made during conference negotiations had no effect on the pre-conference House and Senate roll call patterns. Such a pattern typically arises when the changes made in conference were relatively minor relative to the full bill. You can notice in Figure 3-3 that most of the observations are located around the origin of the three-dimensional coordinate system. This indicates that, overall, major changes in the pre-to-post conference roll call patterns are rare. Previously I cited research by Strom and Rundquist (1977) who noted that conference committees are "less like battles to be won and more like the peace talks that occur after major battles have been fought" (450). The clustering of observations around the origin of Figure 3-3 lends credence this characterization of conference committee outcomes. Further, notice that the variation away from the origin is seemingly random. That is, conference modifications are not predominantly located on one or two dimensions but distributed, relatively evenly, across all three. This visual evidence confirms the prior argument about the multidimensional character of conference outcomes.

Though the prior findings are unique in that they apply to specific aspect of the legislative process, and help us understand the functioning of a conference committee, they also addresses a major debate in the congressional literature. A majority of studies in the congressional literature—both empirical and formal—follow Poole and Rosenthal's (1997, 2007) lead in conceptualizing the policy space and roll call voting as uni-dimensional (particularly during the post-reform period). Of course, Poole and Rosenthal (1997) famously found that additional dimensions beyond the “first-
“dimension” (liberal to conservative) did not appreciably improve roll call predictions. To be fair, the approach used here is different in important ways compared to the traditional roll call study. Namely, the present work examines a process of resolving disagreements which is *dynamic* and thus qualitatively different than a one-shot roll call vote at the passage stage. Further, Poole and Rosenthal are not “wrong” in any sense. At the macro-level, what reaches the roll call stage often pits Democrats against Republicans, liberals against conservatives. Still, the finding of multidimensionality—and to a lesser extent the finding that party conflict is not the leading component—is important in the context of emerging work which has begun to challenge the universality of a unidimensional Congress.

For example, Roberts, Smith and Haptonstahl (2009, n.d.) find that the predictive power of uni-dimensionality is a function of aggregating roll call votes at the two-year, Congress level. At the level of individual bills, they find that multidimensionality is the norm for most major legislation in the House and Senate. As they note in the abstract, “complexity in voting patterns of individual bill episodes is the norm.” Talbert and Potoski (2002) analyze dimensionality in the “policy debate stage” using cosponsorship and find evidence for at least three dimensions. But at the “decision stage” (i.e. on the floor) a low-dimensional space exists. Crespin and Rohde (2010) report evidence of multidimensionality using Poole and Rosenthal’s W-NOMINATE scaling procedure for a subset of votes on appropriations legislation. Though their methodologically was distinct from Roberts, Smith and Haptonstahl’s (2009) approach, the conclusions are very similar—that the process of aggregating roll call votes at the Congress level masks evidence of high dimensionality. In short, though the present analysis is
methodologically different than all three previous studies, the results support those, albeit perhaps only indirectly, who find evidence of greater dimensionality at the bill level.\textsuperscript{23} Simply put, there is a great deal of complexity in bicameral bargaining and reconciliation.

\textbf{Quasi-Divided Government}

In a series of separate analyses I explore the conference patterns for instances of quasi-divided government—when the House and Senate are occupied by rival parties. In the post-reform era, there have been four instances of quasi-divided government (the 97\textsuperscript{th}, 98\textsuperscript{th}, 99\textsuperscript{th} and 107\textsuperscript{th} Congresses). I aggregated these periods into a separate sample given their theoretical distinctiveness from the entire time series. Ultimately, because of the low sample size (n=35), there are some challenges to identifying each dimension and making clear inferences. Nonetheless, we can glean some meaningful results.

Ultimately the substantive interpretation of our three dimensions remains the same even during periods of quasi divided government. However, the interpretation of the partisan dimension requires some additional discussion. As with earlier, negative values in the partisan dimension indicate that the minority in both chambers gained favorable concession in conference. Given split-party control, this indicates greater bill

\footnote{\textsuperscript{23} I leave it up to the reader to decide the extent to which these findings confirm the earlier work. At worst, the evidence I report only tangentially supports these earlier authors. On the one hand, the earlier work looked at roll call votes on the actual policy content of the legislation. My work, by comparison, looks at dimensionality in the reconciliation domain (in particular policy shifts in conference). Though these are different legislative actions, they concern the same goal: implementing public policy for the social and/or economic betterment of society or electoral gain. Further, nothing in my methodology constrains the PCA results to be multidimensional. If conference outcomes were mostly ideological that result could, mathematically speaking, manifest in the results.}
moderation, as it did previously. However, positive values in the partisan dimension indicate that the majority in both chambers gained favorable concessions in conference. Ultimately, as we shall see, outcomes loading onto the second are driven by pro-minority shifts (negative values) that represent greater bill moderation and centrist outcomes. Positive values are very rare.

The results from the quasi-divided government principal components analysis for the untransformed series are available in Tables 3-6 and 3-7. The component loadings in Table 3-6 reveal the presence of the same three main dimensions of bicameral reconciliation reported previously. However, the interesting finding is that during quasi-divided government partisan conflict is the first principal component. The oppositely signed loadings by party in the first component indicate that as one party increases its vote totals after conferencing, the other party decreases its vote totals. Moreover, the explained variation for this component (Table 3-6) is 47%. This is the highest proportion of explained variation among the results. The second principal component represents reconciliation (the first principal component over the entire time series). This dimension of resolving differences explains 30% of the variation in the shift parameters. However, it should be noted that two of the shift parameters in the second dimension have low loadings (.0349 and .0292 for the House majority and Senate minority respectively). This is likely a function of the low sample size (n=35). And finally, the third estimated component represents bicameral conflict. The positive loadings for the House and negative loadings for the Senate indicate that, in this dimension, the vote share of each chamber moves in opposite directions after

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24 The results from the transformed series are not substantively interpretable due to instability in the data from the low sample size and data transformation. Those results are not reported.
conferencing, irrespective of party differences. However, the loading for the Senate minority is low (-.0261), probably as a result of the low sample size. This final dimension explains 18% of the variation in the shift parameters.

It is important to keep in mind what, exactly, drives the increased salience of partisan conflict during quasi-divided government. Though Chapter 4 takes a more comprehensive look at each dimension in isolation, some discussion is necessary here. As a technical matter, the increase in the explanatory power of this dimension represents a combination of greater pro-majority shifts and greater pro-minority shifts. But in this particular case, there are good reasons to suspect that the results stem from greater pro-minority shifts. Because rival parties control each chamber, a pro-minority shift indicates a majoritarian (moderated) outcome. This outcome makes sense as each party has what amounts to a legislative veto over the policy content of any bill. Let’s use the 99th Congress as an example. Assume that we have a game played by our four actors and that they have single peaked Euclidian ideal points that exist in a unidimensional policy space (liberal to conservative). Further assume (for simplicity) that the two chambers have majoritarian voting rules. Figure 3-4 presents an informal spatial model. The House acts first passing a bill at its chamber median (-.122, denoted HB). The Senate acts second, making a counteroffer located at its chamber median (.067, denoted SB). In the initial round of the game, the House proposal is .468 away from the House minority Republicans (-.122-.346, denoted HMin) while the Senate proposal is .408 away from the Senate minority Democrats (.067-.341, denoted SMin). Assume in the second round of the game a conference committee meets and negotiators “split the difference,” locating an agreement at the midpoint between the
House and Senate bills (-.0275). The agreement after reconciliation is now .374 away from the House minority Republicans and .314 away from the Senate minority Democrats. Thus, under these conditions we would expect the minority in each chamber, despite the fact that they are of the opposite party, to gain favorable concessions in conference.

As empirical verification of this spatial model and the prior argumentation, the shift parameters for our four actors during periods of quasi divided government where the principal components load onto the partisan dimension are -.065 and -.02 for the House and Senate majority (respectively) and .15 and .16 for the House and Senate minority (respectively). This indicates that partisan conflict in conference during periods of quasi-divided government is driven by greater pro-minority shifts.

**Discussion**

Little work has explored how, exactly, the House and Senate resolve disagreements when they arise. Furthermore, the body of existing research on this topic is of limited scope (though see Longley and Oleszek 1989). Indeed, existing work on resolving differences explores this stage in the legislative process as a means of discriminating between competing theoretical perspectives of legislative organization—looking almost exclusively at the tension between competing chambers or the explanatory power of distributive, majoritarian or informational theories. Thus, the conceptual dimensions of resolving differences have been explored in isolation. More problematic is that existing research has overlooked what is the central feature of inter-

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25 I used any bill that loaded onto the second dimension at .5 or higher.
chamber bargaining—consensus and compromise (but see also Ferejohn 1975; Manley 1970).

In this chapter I developed a unified typology of how the House and Senate resolve differences; one that I hope contributes to our broader understanding of the process. Using roll call data from all conference committees convened from the 95th to the 110th Congresses, I operationalized the typology using multidimensional spatial modeling. There are two primary findings. First, I found evidence of multidimensionality in the process of resolving differences. In particular, I find that three qualitatively distinct dimensions—reconciliation, partisan conflict and bicameral conflict—explain over 80% of the variation in the conference committee roll call patterns. Furthermore, the results revealed that no single dimension dominates the process. This provides some much needed conceptual clarity concerning how the House and Senate resolve differences. However, in providing these descriptive results the findings support an emerging view that roll call voting in both chambers contains greater dimensionality than most authors acknowledge (Crespin and Rohde 2010; Roberts, Smith and Haptonstahl 2009; Talbert and Potoski 2002). Second, I find that the first dimension of resolving differences (i.e. the one that explains the greatest amount of variation) is a process of reconciliation, defined here as “the process of resolving bicameral disputes by compromise and/or concession.” Thus, contrary to the direction of the literature over the past few decades (Nagler 1989; Carson and Vander Wielen 2002; Vander Wielen and Smith n.d.; Lazarus and Monroe 2007), I do not find that partisanship is the leading determinant of post-passage bargaining. This finding is particularly consequential when juxtaposed with
Chapter 2’s findings concerning the growing salience of bicameral hurdle faced by the majority party.

Though this chapter has described the patterns of resolving differences, and applied those descriptive results to theoretical debates about congressional organization and roll call voting, we have not explored the patterns of resolving differences with each dimension in isolation. For example, what explains the ability of conference negotiators to engage in successful reconciliation? Is the second dimension driven by pro-majority shifts or pro-minority shifts? Does one chamber “win” at the expense of the other, as initial researchers of conference committees wondered? And finally, how have the patterns of resolving differences changed over the postreform period? Chapter 4 explores these questions in detail.
Figure 3-1. Scree plot for the untransformed data.

Figure 3-2. Scree plot for the untransformed data.
Figure 3-3. 3-D spatial map of resolving differences. The dots represent how conferees modified the original House and Senate passed bills according to the principal components analysis reported in Table 3-2. The point at 0,0,0 has been constructed to represent “no change” to the initial roll call patterns.

Figure 3-4. Spatial representation of the 99th Congress. Spatial locations based on Poole’s (1998) Common Space scores. HMaj is the median of the House majority party (Democrats), Hmin is the median of the House minority party (Republicans), SMaj is the median of the Senate majority party (Republicans) and SMin is the median of the Senate minority party (Democrats). HB represents a bill passed at the House median and SB represents a bill passed at the Senate median. CA represents a bill reconciled at the midpoint of the House and Senate bills.
Table 3-1. A typology of resolving differences

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<td></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>0</td>
<td>+</td>
<td>+</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>-</td>
<td>-</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Interpretation:
- Bicameral Reconciliation
- Partisan Conflict
- Bicameral Conflict

Notes: N=206. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.

Table 3-2. Component loadings (untransformed data, 95th to 110th)

<table>
<thead>
<tr>
<th>Shift Parameter</th>
<th>Dimension 1</th>
<th>Dimension 2</th>
<th>Dimension 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Majority</td>
<td>.4453</td>
<td>-.6078</td>
<td>.3688</td>
</tr>
<tr>
<td>House Minority</td>
<td>.4848</td>
<td>.4439</td>
<td>.6662</td>
</tr>
<tr>
<td>Senate Majority</td>
<td>.5828</td>
<td>-.3571</td>
<td>-.4779</td>
</tr>
<tr>
<td>Senate Minority</td>
<td>.4765</td>
<td>.5532</td>
<td>-.4379</td>
</tr>
</tbody>
</table>

Interpretation: Bicameral Reconciliation Partisan Conflict Bicameral Conflict
### Table 3-3. Component loadings (transformed data, 95th to 110th)

<table>
<thead>
<tr>
<th>Shift Parameter</th>
<th>Dimension 1</th>
<th>Dimension 2</th>
<th>Dimension 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Majority</td>
<td>.4778</td>
<td>-6959</td>
<td>-.0811</td>
</tr>
<tr>
<td>House Minority</td>
<td>.5459</td>
<td>.0532</td>
<td>-6531</td>
</tr>
<tr>
<td>Senate Majority</td>
<td>.5042</td>
<td>-.0613</td>
<td>.7522</td>
</tr>
<tr>
<td>Senate Minority</td>
<td>.4686</td>
<td>.7136</td>
<td>.0342</td>
</tr>
</tbody>
</table>

**Interpretation:**
- Bicameral Reconciliation
- Partisan Conflict
- Bicameral Conflict

**Notes:** N=206. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.

### Table 3-4. Explained variance by dimension (untransformed data, 95th to 110th)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained Variance</th>
<th>SE</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.37</td>
<td>.34</td>
<td>.03</td>
<td>.29 .39</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>1.14</td>
<td>.29</td>
<td>.02</td>
<td>.24 .33</td>
</tr>
<tr>
<td>Partisan Conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>0.84</td>
<td>.21</td>
<td>.02</td>
<td>.17 .25</td>
</tr>
<tr>
<td>Bicameral Conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:** N=206. The explained variances were estimated via principal components analysis. T-test Dim1 to Dim2 = 1.586 (p=.056); T-test Dim2 to Dim3 = 2.4307 (p<.01); T-test Dim1 to Dim3 = 4.113 (p<.001)

### Table 3-5. Explained variance by dimension (transformed data, 95th to 110th)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained Variance</th>
<th>SE</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.53</td>
<td>.38</td>
<td>.03</td>
<td>.33 .44</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>0.99</td>
<td>.24</td>
<td>.02</td>
<td>.20 .29</td>
</tr>
<tr>
<td>Partisan Conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>0.89</td>
<td>.22</td>
<td>.02</td>
<td>.18 .26</td>
</tr>
<tr>
<td>Bicameral Conflict</td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:** N=206. The explained variances were estimated via principal components analysis. T-test Dim1 to Dim2 = 3.9550 (p<.001); T-test Dim2 to Dim3 = 0.8378 (p=.20); T-test Dim1 to Dim3 = 4.7947 (p<.001). All significance tests are two-tailed.
Table 3-6. Component loadings (untransformed data, 97th to 99th and 107th)

<table>
<thead>
<tr>
<th>Shift Parameter</th>
<th>Dimension 1</th>
<th>Dimension 2</th>
<th>Dimension 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>House Majority</td>
<td>-.6549</td>
<td>.0349</td>
<td>.3993</td>
</tr>
<tr>
<td>House Minority</td>
<td>.2152</td>
<td>.7143</td>
<td>.6311</td>
</tr>
<tr>
<td>Senate Majority</td>
<td>-.2163</td>
<td>.6983</td>
<td>-.6645</td>
</tr>
<tr>
<td>Senate Minority</td>
<td>.6913</td>
<td>.0292</td>
<td>-.0261</td>
</tr>
</tbody>
</table>

Interpretation: Partisan Conflict  Bicameral Reconciliation  Bicameral Conflict

Notes: N=35. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.

Table 3-7. Explained variance by dimension (untransformed data, 97th to 99th and 107th)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained Variance</th>
<th>SE</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.86</td>
<td>.47</td>
<td>.07</td>
<td>.32  .61</td>
</tr>
<tr>
<td>Partisan Conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>1.21</td>
<td>.30</td>
<td>.06</td>
<td>.18  .43</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>0.71</td>
<td>.18</td>
<td>.04</td>
<td>.09  .27</td>
</tr>
<tr>
<td>Bicameral Conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: N=35. The loadings were estimated via principal components analysis. T-test Dim1 to Dim2 = 1.7230 (p<.05); T-test Dim2 to Dim3 = 1.6547 (p<.10); T-test Dim1 to Dim3 = 3.4649 (p<.001). All significance tests are two-tailed.
CHAPTER 4
RESOLVING DIFFERENCES IN TIME AND SPACE: MODELING BILL-LEVEL
CONFERENCE OUTCOMES

Chapter 2 examined the frequency and severity of House and Senate conflict over
the postreform era. One of the more consequential findings of Chapter 2 is that the
House and Senate have experienced more frequent gridlock and more severe
ideological disagreements when trying to enact policy in the latter half of the postreform
period. The results linked this trend to growing compositional asymmetries between the
two chambers. These compositional asymmetries include greater distance between
each chamber’s median member, increasing intra-party bicameral differences and a
growing gap between the House median and Senate filibuster pivot. The evidence also
showed that bicameral gridlock has become increasingly pronounced in the
contemporary era for partisan House initiated legislation and that the primary
determinant of this effect has been growing intra-party bicameral cleavages. The
overarching narrative given these findings is that the enhanced organizational
-capacities of the House and Senate majority have coincided, oddly, with a growing
“bicameral hurdle” that disproportionately constrains the majority.

Chapter 3 then explored the next logical stage in the policy process: How the
House and Senate resolve disagreements when they arise. Using multivariate spatial
modeling I identified the conceptual features of resolving differences using pre- and
post-conference roll call votes. There were two primary findings. First, the process of
resolving differences is multidimensional. That is, three qualitatively distinct
dimensions—reconciliation, partisan conflict and bicameral conflict—explain over 80%
of the variation in conference committee outcomes, with no single dimension capturing
a majority of the explained variation. On the one hand these findings provide some
conceptual clarity concerning how, exactly, the House and Senate resolve differences. Second, the results in Chapter 3 showed that the first dimension of resolving differences (i.e. the one that explains the greatest amount of variation) is a process of compromise and concession. Thus, contrary to the direction of the literature, I do not find that partisanship is the leading force structuring conference committee outcomes (though it certainly plays an important role).

But despite the research and findings reported in Chapter 3, we are yet to explore the patterns of resolving differences in great detail. Indeed, Chapter 3 examined the macro-level patterns of resolving differences. Though these aggregate patterns are useful, especially given the dearth of research in this area, it is worthwhile to examine conference outcomes at the bill-level. The present chapter takes up this issue by: (1) examining postreform changes in policy space governing resolving differences; (2) presenting bill-level conference outcomes using multidimensional spatial coordinates; and (3) modeling the determinants of bill-level conference outcomes.

Reestimating the Resolving Differences Policy Space by Era

This section examines historical patterns in the process by which the House and Senate resolve differences in conference. As noted at various points in this dissertation, little research exists on bicameral disagreement and reconciliation. This is especially true when we consider temporal trends in how the House and Senate meld competing policy proposals. In a recent chapter discussing areas for needed research, Rohde (2002, 347) recently noted “We just don’t know a lot about conference committees… in particular we don’t know whether and how their patterns of operation have changed in the current era of strong partisanship.”
The multivariate spatial models estimated in Chapter 3 revealed that resolving differences is a multidimensional process. That is, the policy space in which parties and chambers resolve bicameral disputes is marked by three qualitatively distinct dimensions—consensus and compromise, partisan conflict and bicameral conflict (in that order, from most to least explanatory power). To examine if and how this process has changed over time, I reestimated the dimensions for the pre- and post-Republican Revolution periods. On the one hand, the Republican Revolution was selected as the cut-point because it marks a period of heightened partisanship (Bond and Fleisher 2000; Stonecash et al. 2003) driven in large part by Gingrich’s leadership style (Critchlow 2004; Dodd and Oppenheimer 2005). But more important for the present purposes, it has been suggested that Gingrich’s leadership style permeated bicameral bargaining in particular. During a series of interviews conducted as part of this project, senior committee staff described an informal norm developed during the 104th Congress referred to by Republican leaders as the “conference simplification procedure.”¹ According to this “procedure,” Gingrich strategically appointed a small, “loyal cadre” of conferees. Rather than “pack” a large conference committee, as is commonly thought, Gingrich was able to influence conference outcomes by appointing smaller, more predictable sets of House managers.

Thus, to identify historical developments in resolving differences I followed Chapter 3’s methodology with the sole difference being that, this time, I estimated separate policy spaces for the pre-Republican Revolution (95th to 103rd Congresses)

¹ It was suggested that this procedure is attributable to Dick Armey (R-TX).
and the post-Republican Revolution (104th to 110th Congresses) eras. The interested reader should refer to Chapter 3 for the methodological details.

The component loadings for the untransformed pre-Revolution data are contained in Table 4-1 while the component loadings for the untransformed post-Revolution data are contained in Table 4-2. The component loadings for the transformed pre-Revolution data are contained in Table 4-3 while the component loadings for the transformed post-Revolution data are contained in Table 4-4. The corresponding estimates of explained variation by component are reported in Tables 4-5, 4-6, 4-7 and 4-8. For comparability across time, periods of quasi divided government were not included in these analyses. Unfortunately, because of instability across the transformed and untransformed estimates in the pre-Revolution period we are unable to make definitive conclusions about the explanatory power of the dimensions across time. Nonetheless, the descriptive statistics are unbiased (StataCorp 2009) and shed light on some temporal patterns. Further, we can safely discuss the amount of explained variation in the post-Revolution sample and make statistical comparisons.

---

2 We would get a biased look at the two period with these Congresses included in the samples as three periods of quasi divided government occur in the pre-Revolution sample compared to only one in the post-Revolution sample.

3 Indeed, recall that the virtue of reporting the results of the transformed data series is that it produces less biased results.

4 Recall from the previous chapter that descriptive principal components results are unaffected by violations of multivariate normality. But because the inferential results are potentially biased (namely the confidence intervals around the estimates of explained variation), I include a second set of estimates from a transformed dataset. Comparing the estimates for these two series reveals some contradictory results. While reconciliation is identified as the first dimension in both datasets across time, partisan conflict and bicameral conflict switch places as the second component in the pre-Revolution transformed and untransformed samples. In both cases, the third dimension is uninterpretable. Since these estimates are meant as a descriptive look at the process of resolving differences, I rely on the untransformed series. Given the
According to the untransformed data, reconciliation is the leading dimension of resolving differences in both the pre-Revolution and post-Revolution periods while partisan conflict is the second leading dimension in both periods as well (Tables 4-1 and 4-2). These results are identical to those reported in Chapter 3 where the policy space was scaled over the entire postreform period. Thus, even in the contemporary Congresses where partisan roll call patterns are more pronounced (Poole and Rosenthal 1997, 2006), it is telling that resolving differences remains a process of consensus and compromise first and foremost. This an important result in terms of our ability to characterize the overall process of resolving bicameral disputes as well as the present chapter’s attempt to make claims about how conference outcomes have changed over time.

It is important to point out that there is instability across the untransformed and transformed data sets in the pre-Revolution period. Thus, we are unable to draw definitive conclusions about the explanatory power of each dimension across time. However, in the post-Revolution sample we can examine the amount of explained variation in the transformed dataset. In Table 4-8 we can see that though the amount of explained variation by the reconciliation dimension is larger than the partisan dimension, that difference is only significant at the .10 level. Given that this difference was significant at the .05 level over the entire time period (reported in Chapter 3), this result suggests that the partisan dimension has increased in salience over time (though instability in the results we are unable to make definitive conclusions about the explanatory power of the dimensions in relation to one another or over time.

5 Though reconciliation remains the leading component in both series, the second dimension switches between bicameral conflict and partisan conflict (and in transformed pre-reform series the third dimension is not interpretable).
perhaps only modestly). The subsequent section will take up this issue in greater detail, as this can be evidence of growing pro-majority outcomes, pro-minority outcomes or both.

One interesting postreform development is evident if we compare the loadings for the third dimension in our two time periods. When we modeled the policy space for the entire time period in Chapter 3 the third component was identified as bicameral conflict. This was revealed by the oppositely signed loadings by chamber. In the post-Revolution untransformed sample (Table 4-2) this finding holds. However, in the pre-Revolution untransformed sample the third dimension exhibits instability. Notice that in Table 4-1 the component loadings for the Senate are both negative and modestly sized while the loading for the House majority is also negative (but close to zero). For unambiguous evidence of bicameral conflict the latter loading should be positive and modestly sized along with its House minority counterpart (as it is in the post-Revolution sample). Though this feature may be a manifestation of the smaller sample size, it suggests that in the first half of the postreform period bicameral conflict was not as salient as during the second half of the postreform period. Though far from definitive, this finding supports Chapter 2’s conclusion that conflict between the House and Senate has increased in salience over the postreform period.

Taken as a whole, the findings from this section suggest that the historical patterns in conference outcomes exhibit stability across the two periods. Though roll call voting in Congress is more reliably partisan in the latter half of the postreform period, resolving differences remains—first and foremost—a process of compromise and concession. Nonetheless, there is some limited evidence that partisan conflict and bicameral conflict
have increased in salience over the postreform period. A closer inspection in the next section will reveal what, exactly, these developments tell us.

The Winners and Losers: Mapping Conference Outcomes

To explore conference outcomes at the bill-level I estimated the spatial “scores” for each successful conference committee in the dataset. These scores, discussed briefly at the close of the Chapter 3, identify a point in the three-dimensional resolving differences coordinate system corresponding to the dimension or dimensions that explain the bill-level conference outcome (Rabe-Hesketh and Everitt, 2007). This is in contrast to the earlier multivariate results which looked solely at the aggregate patterns of resolving differences. This methodology allows us to create a visual map of the shift-parameters and quite literally “observe” the policy effects of a conference committee.

Recall from Chapter 3 that in the first dimension negative values indicate that our four actors had a decrease in their policy utility after a conference committee while positive values indicate that our four had an increase in their policy utility. In the second dimension negative values indicate the minority “won” at the expense of the majority while positive values indicate the majority “won” at the expense of the minority. And in the third dimension negative values indicate the senate “won” at the expense of the House while positive values indicate the House “won” at the expense of the Senate.

Figures 4-1 and 4-2 map all conference outcomes in three dimensions for the pre-Revolution and post-Revolution periods (respectively). At the end of Chapter 3 these two periods were combined into a single Figure to observe dimensionality in resolving differences. I scaled the values in each Figure so that the origin (the point at X=0, Y=0,

---

6 As with earlier, both figures reported here were created using MATLAB.
Z=0) has a real interpretation—it is the point in the space where all shift parameters equal zero.\(^7\) Thus, the origin indicates that the changes made during conference negotiations had absolutely no affect on the initial House and Senate roll call patterns for our four actors (the House and Senate majority and minority). This typically occurs when the changes made in conference were very minor relative in scope to the full bill.

As we saw in Chapter 3, in Figures 4-1 and 4-2 most of observations are located around the origin of the three-dimensional coordinate system. This indicates that major changes to bills reconciled by conference committees are less frequent than minor changes. And as with earlier we can see visual evidence of multidimensionality in the spatial scores. However, even a cursory examination reveals an obvious difference in conference outcomes across these two periods. In the post-Revolution sample (Figure 4-2) there is greater \textit{variability} in the spatial coordinates compared to the pre-Revolution sample (Figure 4-1). That is, where conference outcomes are located around the origin (0,0,0) in the pre-Revolution Figure, in the post-Revolution Figure there are a greater number of points in three dimensions toward the edges of the coordinate system. Substantively, this increased variability suggests that the process of resolving differences (writ-large) is affecting greater modifications to the initial House and Senate proposals in the contemporary Congresses as compared to thirty years ago. Where minor changes to bills passed by both houses typically satisfied competing chambers and parties before the Republican revolution, larger modifications are necessary to satisfy our various actors in the contemporary period. This is evidence that the process of resolving

\(^7\) Fortunately an observation in the sample has four usable roll call votes and identical pre- and post-conference roll call patterns. Thus, setting the coordinates so that the origin has this “no change” interpretation simply requires subtracting the scaled values for this observation from all observations.
of resolving differences is under greater strain in the modern Congresses, supporting
the notion that competing parties and chambers have come into greater conflict over
this period. To assess whether this increased variability is statistically meaningful
(versus a simple “white noise” process) I estimated each coordinate’s Euclidian distance
from the origin using the formula:

\[
Euclidian\ Distance = \sqrt{(Dim1\ Bill_{ij} - 0)^2 + (Dim2\ Bill_{ij} - 0)^2 + (Dim3\ Bill_{ij} - 0)^2}
\]

Higher values indicate greater distance from a point in the policy space that indicates
“no change” in the passage stage roll call vote. According to the data reported in
Figures 4-1 and 4-2, the average Euclidian distance from the origin in the pre-
Revolution sample is 1.02 whereas in the post-Revolution sample the Euclidian distance
from the origin is 1.54.\(^8\) With standard errors of .12 and .13 (respectively), the
difference between the two periods is statistically significant at the .01 level. Thus, we
can safely conclude that conference committees are affecting greater changes to pre-
conference House and Senate passed legislation in the post-Revolution period.

We can obtain a more refined look at patterns in the policy space for both periods
by parsing the three dimensional Figure into a series of three two-dimensional plots.
Figure 4-3 presents these plots. In the sub-sections (representing the pre- and post-
Revolution periods) the top Figure plots reconciliation (X-axis) against partisan conflict
(Y-axis), the middle Figure plots reconciliation (X-axis) against dimension bicameral
conflict (Y-axis) and the bottom Figure plots partisan conflict (X-axis) against bicameral
conflict (Y-axis). Notice that in these figures not all reconciliation outcomes are located
exclusively on one dimension or the other; some bills are located in the corners of the

\(^8\) These values have no substantive interpretation.
coordinate system. This highlights the usefulness of multidimensional spatial modeling in this application—outcomes need not be exclusively instances of “partisan conflict,” “bicameral conflict” or “reconciliation” but can exhibit features of two or more dimensions. For example, bills located in the upper left corner of the first plot in Figure 4-3 are those that experienced reconciliation in the negative direction and partisan conflict in the positive direction. Substantively, this indicates that all actors sacrificed provisions in conference (reconciliation), with the minority party sacrificing the greatest share of those provisions (a pro-majority outcome). Conversely, bills located in the lower right corner of the first plot in Figure 4-3 experienced reconciliation in the positive direction and partisan conflict in the negative direction. Substantively, this indicates that all actors gained provisions in conference (reconciliation) while the minority party gained the greatest number of provisions relative to the majority (pro-minority outcome).

Again we can see greater variability in the conference outcomes in the post-Revolution mappings. The additional bit of information revealed by the two-dimensional maps is that we can see that the increased variability over time appears to occur in all three dimensions simultaneously. Though these two-dimensional mappings provide a more refined look at each dimension relative to the three-dimensional mapping, additional trends are challenging to spot. The only other trend apparent in these figures is a shift over time in the partisan dimension (dimension 2) in the negative direction. Though there is increased variability in the second dimension over time (including larger values in the positive direction), the observations in the negative direction appear to be both greater in proportion and greater in magnitude. This suggests that in the contemporary Congresses there are more frequent and more consequential pro-
minority policy modifications made during conference negotiations. This is an intriguing finding given the increasing strength of parties over the post-reform period. In other words, it is counter to what the conventional wisdom suggests.

Finally, to look in even greater detail at patterns of resolving differences over the post-reform period, I estimated the median coordinate within each dimension for every Congress in the sample (95th to 110th). Because of the unique nature of reconciliation, I also estimate the median absolute coordinate for this dimension. The median coordinate reveals in which direction resolving differences has shifted within each dimension over time (if any) while the median absolute coordinate in the first dimension reveals trends in reconciliation writ-large (whether it be greater compromises or greater concessions). The temporal patterns are presented in Figures 4-4, 4-5, 4-6 and 4-7. Also included is a linear trend.

Two trends are apparent in these figures. First, and as noted earlier, there appears to be a shift over time in the partisan dimension in the negative direction. That is, the negative values in the latter half of the time series in Figure 4-6 indicate that resolving differences is increasingly generating pro-minority policy outcomes in the contemporary period. The second trend is an increase in absolute value of reconciliation (Figure 4-5). This suggests that resolving differences is affecting greater compromises and concessions in the contemporary Congresses. Note that there does not appear to be any systematic change in the direction of reconciliation (compromise or concession) as evidenced by Figure 4-4. There also do not appear to be any patterns in bicameral conflict over the postreform period as evidenced by Figure 4-7. Though earlier results suggest that bicameral conflict has increased in salience over time, these
results suggest that this trend has not occurred in one direction (pro-House or pro-Senate) exclusively.

Overall, these two findings (along with the increased variability noted earlier) fit into a developing narrative that, over the postreform period, the so-called “bicameral hurdle” has becoming increasing salient. This fits the overall narrative presented in Chapter 2. But in contrast to Chapter 2, which found a similar growth in the bicameral hurdle with respect to bicameral gridlock and bicameral disagreement, here the effects of this hurdle are growing challenges resolving differences (including greater reconciliation and pro-minority conference outcomes). Taken as a whole there is a latent symmetry to the historical patterns in bicameral disagreement and reconciliation.

**Determinants of Conference Outcomes**

Finally, we can use the principal component scores presented in the previous figures to model the determinants of conference committee outcomes. This approach follows the conventional lens though which prior work has assessed conference committees and bicameral bargaining. Recall from the review of the literature that the earliest conference committee researchers (e.g. Steiner 1951; Fenno 1966; Manley 1970; Vogler 1970) focused on which chamber “wins” during a conference. Though the multivariate spatial models identified bicameral conflict as the third dimension (in order from most to least important), the results confirm that conflict between the House and Senate is indeed a salient characteristic of resolving differences. More recent work has addressed a different question: Which party “wins” during a conference? The conventional wisdom is that the majority party possesses a kind of “ex-post veto” (Shepsle and Weingast 1987) and therefore “wins” in conference. This has been
attributed to the fact that the Speaker and Majority Leader wield the power to name conference managers (Lazarus and Monroe 2007 Vander Wielen and Smith n.d.). Thus, the majority has the ultimate power to amend or kill legislation in conference. And finally, this dissertation argues that the process of *reconciliation*—marked by consensus and compromise rather than conflict—plays a critical role as well. In fact, unlike prior work on conference committee outcomes, I have shown that reconciliation is the leading dimension or pattern in resolving differences. But because the previous results showed that the process of resolving differences is multidimensional, it does not make sense to simply look at “who wins” on average. Rather, to assess the “winners and losers” in conference, we will be looking the conditions under which one actor wins at the expense of the other. This allows us to assess conference committee outcomes with respect to conventional theoretical debates about legislative organization.

**Modeling the First Dimension: Reconciliation**

The multivariate spatial model reported in Chapter 3 revealed a first dimension marked by reconciliation where positive coordinates indicate a conference committee outcome where all four actors increased their vote share (sometimes called a logroll) while negative values indicate all four actors decreased their vote share (a moderated bill). These coordinates serve as the dependent variable in this section. However, because we are interested in greater or lesser reconciliation, irrespective of the particular compromise reached, we want to model the absolute value of this dimension.\(^9\)

\(^9\) The raw coordinates were analyzed using the covariates listed in this section. Such an approach models whether House and Senate negotiators produced a compromise where all sides lost or gained vote share (i.e. why conferees engage in log rolling versus bill moderation). The effect of *Budget* approached statistical significance and was positive, indicating that during times of budgetary surpluses all four sides gain favorable provisions in conference negotiations while during times of budgetary deficits all four sides lose favorable provisions in conference
The response is therefore coded such that higher values indicate greater changes were made to the original pre-conference bills (greater compromises or greater concessions) while lower values indicate fewer conference changes. Because of this transformation the response is not normally distributed. Thus, to properly model the data I estimated a series of generalized linear models (GLMs). After multiple specifications it was determined that the best fit was provided by a gamma family and log link function. Because the residuals are heteroscedastic, robust standard errors were used.\\(^1\)

Two bill-level factors model the policy content of each chamber’s initial pre-conference proposal. *Midpoint Divergence* captures ideological differences in the content of the two chambers’ bills. This variable is coded as the absolute distance between the midpoint of House and Senate bills in the first dimension using Poole’s (1998) common space scores. Recall that this factor was the dependent variable—*bicameral disagreement*—in Chapter 2. The expected effect is negative, indicating that when the House and Senate pass ideologically different bills, conferees are forced to make greater compromises and concessions in order to create a workable solution (i.e. greater overall reconciliation). The second bill-level covariate, *Partisan*, is an index of the majority party’s support for the pre-conference bill minus the minority party’s support added for both chambers.\\(^1\)

Substantively, this factor captures the majority party’s pre-conference formal and informal powers over House and Senate outcomes. A value of

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\(^{10}\) This was determined by a Breusch-Pagan/Cook-Weisberg test (*hottest* in STATA 10)

\(^{11}\) The roll call votes are available on Keith Poole’s Voteview webpage: [http://www.voteview.com/](http://www.voteview.com/)
2.0 indicates that both chambers passed perfectly pro-majority partisan bills while a value of 0.0 indicates that both chambers passed perfectly bipartisan bills.\textsuperscript{12} Negative values indicate both chambers passed pro-minority pre-conference bills. From the "strong parties" perspective, if conference committees are easily manipulated by the majority (as the conventional wisdom holds) we would expect a negative effect, indicating that for pro-majority bills conferees enact few changes, thereby preserving the initial House and Senate passed bills. In other words, if the pre-conference bills passed by both the House and Senate are party median (e.g. Aldrich and Rohde 1997; Rohde 1991; Cox and McCubbins 1993, 2005) little to no change in conference reflects a pro-majority outcome. However, if conference committees produce majoritarian or centrist outcomes the expected effect is positive, indicating that partisan bills experience greater reconciliation in conference.

The remaining variables tap the effect of institutional and contextual factors on patterns of reconciliation in conference. The variables \textit{Divided Government}, \textit{Budget}, \textit{Party Mandate} and \textit{Mood Lag} are the same as those used in Chapter 2 (Binder 1999, 2003).\textsuperscript{13} The effect of divided party control is expected to be positive. Such an effect

\textsuperscript{12} For example, a "perfectly partisan bill" is one where the majority party voted 55-0 and 255-0 in support of their chamber’s respective bill while the minority party voted 45-0 and 180-0 against their chamber’s respective bill. A "perfectly bipartisan bill," by contrast, is one where the majority voted 28-27 and 128-127 in support of their chamber’s respective bill while the minority voted 23-22 and 90-90 in support of their chamber’s respective bill. This latter Figure is an approximation of as "perfectly" bipartisan bills are mathematically impossible if all 435 members of the House vote.

\textsuperscript{13} \textit{Divided Government} is an indicator coded “1” if the House and Senate were controlled by the president’s rival party and “0” if control of these three bodies was unified. \textit{Budget} measures the size of the federal government’s budget surplus or deficit as a percentage of government outlays. The variable \textit{Party Mandate} records the number of prior Congresses a new majority was in the minority averaged for both chambers. And \textit{Mood Lag} uses Stimson’s (1999) biennial public mood data lagged one Congresses as an indicator of the public’s preference for liberal policies.
indicates that as legislation approaches the president’s desk (where a conference committee is typically the last stage in the policy process where changes can be made), the hurdle created by legislative-executive checks and balances has a greater effect on conference negotiations. Thus, I expect that divided government is associated with greater reconciliation. The remaining three effects are expected to yield negative effects. When the budgetary situation is favorable, the majority has a popular mandate and the public mood favors activist government, we would expect conferees to affect fewer changes to the original House and Senate bills.

Finally, I include the effects our three sources of bicameral conflict identified in Chapter 2: Bicameral Distance, Intra-party Bicameral Distance, and Filibuster-House Distance. Recall that because the distance between the parties across chambers and the filibuster pivot distance are so highly correlated, we must estimate these effects in separate models (Models 1 and 2, respectively). Consistent with the findings from Chapter 2, the expectation is that these factors—representing compositional differences between the House and Senate—are associated with greater reconciliation as they create bicameral hurdles which conferees must overcome. However, it is very likely that these effects are attenuated by the bicameral disagreement measure (Midpoint Distance). Indeed, Chapter 2 showed us that these three factors cause greater bicameral disagreement at the passage stage. Thus, it is very likely that these factors affect reconciliation by creating greater bicameral disagreements which, in turn, affects the need for conferees to propose compromises and concessions. Including these factors will determine if compositional asymmetries have independent effects on
resolving differences or whether their effects are simply antecedent (funneled through bicameral disagreement).

The GLM estimates of reconciliation are contained in Table 4-9. Overall the models perform adequately as they explain between 12% and 11% of the variation in reconciliation outcomes. In both models the effect of divided government is statistically significant and positive, as expected. This indicates that in conference negotiations the president plays an important role in fostering compromises and concessions. We know from historical accounts as well as prior work on that sometimes the president often plays a direct role in negotiating with House and Senate conferees as well as House and Senate leaders (Longley and Oleszek 1989). But at the same time, the president’s influence can be indirect as legislation in conference is very close to the “enrollment stage” (i.e. going to the president’s desk for his signature or veto). Thus, legislative-executive constraints play a role in how conferees resolve disagreements (whether direct or indirect).

The results in both models also show that the ideological distance between the pre-conference House and Senate bills increases the magnitude of reconciliation outcomes. This is as expected. Substantively, when the House and Senate pass ideologically different bills before a conference is convened, greater compromises and concessions are needed to resolve disagreements. This is consequential because it provides a clear answer to the increase in reconciliation outcomes over the postreform period. This increase can be attributed, at least in part, the growing pre-conference House and Senate conflict (reported in Chapter 2). However, the effect of our sources of bicameral conflict—*Bicameral Distance, Intra-party Bicameral Distance* and
— are all positive (as expected) but insignificant. As was speculated at the outset, these factors affect the nature of the initial pre-conference disagreement and this factor affects the nature of resolving differences. Thus, the significant positive effect of bicameral disagreement captures the effect of increasing compositional asymmetries on reconciliation outcomes. Compositional asymmetries, in other words, have an antecedent effect in this domain.

The remaining factors are all insignificant. This includes the effect of Partisan, which was considered to be an important factor prior to the estimation. Ultimately there is no evidence to support either the partisan or majoritarian perspectives when it comes to determining reconciliation outcomes. Of course, this effect is most likely to manifest in the partisan dimension.

**Modeling the Second Dimension: Partisan Conflict**

The multivariate spatial model reported in Chapter 3 revealed a partisan dimension where positive coordinates indicate a pro-majority conference outcome while negative coordinates indicate a pro-minority conference outcome. These coordinates serve as the dependent variable in this section. Because the response is approximately normally distributed, the estimates were derived via OLS. And because the residuals are heteroscedastic, robust standard errors were used.\(^\text{14}\)

Both bill-level factors reported previously are included in the forthcoming models as there exist strong theoretical expectations that they have important effects on partisan outcomes. *Midpoint Divergence* is expected to yield a negative effect, indicating that when the House and Senate pass ideologically different bills the majority

\(^{14}\) This was determined by a Breusch-Pagan/Cook-Weisberg test (hottest in STATA 10)
party sacrifices favored provisions in conference (resulting in a pro-minority outcome).

On the effect of *Partisan*, if conference committees produce majoritarian outcomes the expected effect is negative, indicating that partisan bills experience greater pro-minority conference outcomes. The partisan perspective, on the other hand, would predict either a positive effect or a null effect.\textsuperscript{15} Thus, the majoritarian perspective has a much larger hurdle to overcome. In two auxiliary models I disaggregated *Partisan* into each chamber’s partisan roll call vote (*House Partisan* and *Senate Partisan*). I also include an interaction between these two covariates (*X-Partisan*). This interaction modeling strategy allows us to explore differences across the two chambers as well as model the effect of “partisan divergence” (where one chamber passes a partisan bill and the other chamber passes a bipartisan bill). Indeed, we know that the House passes partisan legislation to greater extent than the Senate (where bills routinely pass with supermajorities).

Where the partisan passage variables tap the majority party’s procedural power over legislation at the passage stage (either in committee or on the floor), two additional variables capture the majority party’s direct procedural power over conference committee outcomes. For example, Lazarus and Monroe (2007) maintain that when the Speaker has reason to believe a conference delegation composed solely of jurisdictional-committee members will produce a party-damaging conference report, he or she uses his or her appointment power to select a preferable conference delegation. Consistent with modern partisan theories of lawmaking, this strategic maneuver,

\textsuperscript{15} The expectation of a null effect follows the logic that if a conference committee resolves differences by making no change to the initial House and Senate bills the aggregate outcome is pro-majority (as indicated by the pre-conference roll call vote).
dubbed—“packing” the conference—maintains the norm of naming conferees that are familiar with the bill while simultaneously allowing the Speaker to put the party stamp on legislation. Recent work by Vander Wielen and Smith (n.d.) finds evidence that Senate conference committees are similarly biased. Thus, following these studies the variables *House Outsiders* and *Senate Outsiders* record the percentage of non-jurisdictional committee conferees serving in conference for the House and Senate. This was achieved by, first, identifying the standing committee(s) that received referral of the bill and, second, coding whether each named conferee was a member of this committee(s).\(^\text{16}\) Higher values indicate a “packed” conference and, presumably, a pro-majority conference outcome. It is important to point out that this prior work (Lazarus and Monroe 2007; Vander Wielen and Smith n.d.) examines the conference *delegations* as the unit of analysis rather than the actual conference *outcome*. Thus, the link between packing the conference and a pro-majority outcome has been inferred rather than empirically verified. This study is the first to take this critical next step.

The remaining variables tap the effect of institutional and contextual factors on patterns of partisan conflict in conference. As with earlier, I include *Divided Government, Budget, Party Mandate* and *Mood Lag*. The effect of divided party control is expected to be negative. Such an effect indicates that when the president is of the rival party to the majority the hurdle created by legislative-executive checks and balances yields pro-minority conference outcomes. The remaining three effects are expected to yield positive effects. When the budgetary situation is favorable, the

\(^{16}\) For the committee lists I used Nelson’s dataset for the 95\(^{th}\) to 102\(^{nd}\) Congresses and Stewart III and Woon’s dataset for the 103\(^{rd}\) to 110\(^{th}\) Congresses. Both datasets are publically available on Charles Stewart’s Congressional Data Page: http://web.mit.edu/17.251/www/data_page.html
majority has a popular mandate and the public mood favors activist government, we would expect the majority to wield greater power over conference outcomes. Finally, I also include our measures of House and Senate compositional differences: Bicameral Distance, Intra-party Bicameral Distance, and Filibuster-House Distance. Recall that because the distance between the parties across chambers and the filibuster pivot distance are so highly correlated we must estimate these effects in separate models (Models 3 and 4, respectively). And as was discussed earlier, there is reason to believe that the bicameral disagreement measure will attenuate any effects of these variables as Chapter 2 showed that the latter causes the former. Nonetheless, the expected effects are all negative, indicating greater pro-minority conference outcomes as the distance between the chamber's increases.

Table 4-10 contains the main estimates while Table 4-11 contains the estimates disaggregating Partisan into its constituent parts and interacting them. All four models perform very well as they explain 20% to 25% of the variation in pro-majority conference outcomes.

In all four models the effect of divided government is statistically significant and negative, as expected. This effect indicates that in conference negotiations the president plays an important role in terms of structuring partisan outcomes. In some cases the majority shepherds a bill through the House and Senate knowing that the bill(s) cannot survive a presidential veto with the intention of moderating the proposal during the post-passage stage (Longley and Oleszek 1989). Other times the president plays a more direct role, negotiating with conferees over the compromise policies (Longley and Oleszek 1989). Whether the influence is direct or indirect, when the
president is of the rival party, conference outcomes shift in a pro-minority direction as we would expect.

I also find that the effect of party mandates is positive and significant, also as expected. This effect shows that House and Senate majorities who were in the minority for an extended period of time wield greater power over conference outcomes (due to a unified agenda and popular mandate). Such was the case with Republicans in 104th Congress.\footnote{I have repeatedly argued that the Republican Contract With America was an example of significant bicameral conflict and, ultimately, had mixed successes. Thus, it is important to remind the reader that this effect captures all party mandates, not just the 104th Congress.} Though frequently vetoed by Clinton, Republicans were able to draft a number of partisan conference outcomes (as evidenced by the original shift parameters). The Work Opportunity Act of 1995 (HR 4) is one example.\footnote{The Work Opportunity Act of 1995 loads strongly onto the second dimension because Senate Democrats defected en masse from the conference report on HR 4. Where eleven Democrats voted against HR 4 at the passage stage, 45 voted against the conference report.}

One of more consequential results in Tables 4-10 and 4-11 are evident with respect to majority party’s procedural power over conference outcomes. Contrary to the conventional wisdom, I find no evidence in any of the four models that the procedure known as “packing” the conference yields a pro-majority outcome. The percentage of House outsiders has a negative effect on pro-majority outcomes in all four models, contrary to popular accounts. And though the percentage of Senate outsiders has a positive effect in all four models, the coefficients are small relative to their associated standard errors. This is in direct contrast to the conventional wisdom which maintains that the power afforded the Speaker and Senate Majority Leader over the composition of conference committees affords the majority party greater influence over bicameral
bargaining. Recall that these prior studies tested delegation under the assumption that such strategic behaviors affect outcomes in the partisan direction. This study is the first to directly test this presumed link, finding no evidence to support it.

Consistent with the lack of evidence for the majority’s direct procedural conference power, there is clear evidence in the results that the majority party’s pre-conference agenda control has a negative or “countervailing” effect on conference outcomes. The results unequivocally support a majoritarian perspective. In all four models the covariates indicating how partisan the House and Senate bills were at final passage are all negative and statistically significant. This indicates that partisan legislation is moderated in conference, producing a pro-minority outcome. In models three and four in Table 4-10 the effect of Partisan is negative and significant, while in models 5 and 6 in Table 4-11 each of the individual terms (House Partisan and Senate Partisan) are negative and significant as well. Thus, partisan legislation is biased in a centrist direction in conference.

Of course, a counterclaim to the previous discussion is that the opposite direction of the prior effects is evidence for a pro-majority conference outcome: that bipartisan legislation emerges from conference shifted in a non-centrist or partisan direction. Logically, this argument undermines itself. Indeed, such an argument forces us to assume that the majority has little power over chamber outcomes (i.e. at the passage stage) in order to derive the logic of a partisan conference outcome. In other words, the necessary argument would be that parties are strong in conference but not in standing committees or on the House and Senate floors. Nonetheless, this interpretation is rejected by the data as well. First we need to describe the variable Partisan and
calculate its predicted effects on partisan outcomes. Figure 4-8 presents a histogram of the partisan passage data. The mean value is 0.52 with a standard deviation of 0.54. Thus, the average bill passes the House and Senate on the majority party’s side of the aisle (as we would expect). Moreover, 83% of the observations are above 0 (the location of a bipartisan outcome). This means that, given the negative coefficients on the partisan passage variables, 83% of the observations are estimated to yield a pro-minority outcome. But even among the 17% of observations where the effect of Partisan contributes to a pro-majority outcome, the estimated pro-majority shifts are very small. As we can see from Figure 4-8 that the negative values on Partisan are small in absolute value. For example, of the pro-majority partisan bills (Partisan > 0) the average estimated effect in Model 3 is a pro-minority conference outcome of 0.31 in magnitude (a 31% change in the roll call). For the pro-minority partisan bills (Partisan < 0) the average estimated effect in Model 3 is a pro-majority conference outcome of only .05 in magnitude (a 5% change in the roll call). Thus, though the negative effect on Partisan can be interpreted (mathematically) to mean that moderate legislation is skewed in a pro-majority direction in conference, these outcomes are not only rare (17%) but very small in magnitude.

The two models reported in Table 4-11 disaggregating the effect of partisan into separate covariates for the respective chambers lends additional support to the prior discussion. However, these models add some nuance to the overall effect of partisan pre-conference legislation on conference outcomes. The positive and significant

\[ \text{Substantively, a value of .52 indicates that the size of the majority party’s coalition voting to pass the bill was about 25% larger in both chambers compared to the size of the minority party’s coalition. This would indicate a party unity vote if 75% of the majority voted against 50% of the minority.} \]
interaction term in both models indicates that when one chamber passes a partisan bill and the other chamber passes a bipartisan bill the outcome is increasingly pro-minority. This is further evidence in favor of a majoritarian perspective of conference outcomes because, in reality, the Senate frequently passes bills in a bipartisan direction while the House frequently passes bills in a much more partisan direction. But the converse is indeed true in this case. When the leadership in both chambers coordinate their legislative proposals and pass simultaneous partisan bills, there is an *attenuating effect* on pro-minority outcomes. The use of “attenuating” to describe this effect was chosen carefully because the aggregate outcome—once we calculate the overall effect—remains in the direction of a pro-minority shift. Figure 4-9 plots estimated outcome of Model 5 for bills passing each chamber with identical partisan roll call votes. For this Figure, I calculated the estimated effect for identical House and Senate partisan bills from -.20 (an extreme pro-minority bill in the sample) to 1.0 (an extreme pro-majority bill in the sample). This variation is captured on the X-axis. The Y-axis is the estimated effect on partisan conference outcomes according to Model 5. We can see that around 0.6 on the X-axis the estimated effect switches directions becoming positive at values larger than 0.6 (where a positive value indicates a pro-majority outcome). But even when the House and Senate pass identical and perfectly pro-majority partisan bills (X=1.0), the aggregate outcome is still a pro-minority conference outcome. As was discussed earlier, the Figure reveals that pro-minority House and Senate pre-conference bills do experience pro-majority shifts in conference (the upper left quadrant of Figure 4-9). However, according to the data, in only nine out of 149 cases (6%) did the House and Senate pass bills that were *both* on the minority side. For the same
reasons discussed earlier, the frequency and magnitude of pro-majority conference outcomes are minor given the distribution of the primary independent variable.

Modeling the Third Dimension: Bicameral Conflict

The multivariate spatial model reported in Chapter 3 revealed a third dimension marked by bicameral conflict where positive coordinates in this dimension indicate a pro-House conference outcome while negative coordinates indicate a pro-Senate conference outcome. These coordinates serve as the dependent variable in this section. Because the response is approximately normally distributed, the estimates were derived via OLS.

The only prior variable included in the estimates of bicameral conflict is Budget. The expectation is that this effect will be positive in the present estimates, indicating that when the budgetary situation is favorable the House gets more of what it wants at the expense of the Senate. Indeed, Fenno (1966) showed us that the Senate typically appropriates larger sums of money compared to the House and that this feature accounts for the Senate’s leverage in conference negotiations (as increasing appropriations amounts is politically easier than cutting appropriations amounts). Based on this logic, it follows that when the budgetary situation is strong the Senate loses some of its typical leverage (thus a pro-House conference outcome). The remaining variables used in the previous two sections are not included as there are no theoretical reasons to include them in a model of bicameral conflict.

Included in the estimates are a series of additional bill-level factors. The first is a dummy variable indicating whether the bill was initiated by the House. The effect of House Initiate is expected to be positive, indicating that the House “wins” at the expense of the Senate on bills it passes first (and vice versa). This expectation stems from prior
research which finds that the chamber which initiates legislation has a “first-mover advantage” (Rogers 1998, 2005). Also included are bill-level variables derived from the pre-conference roll call record. In the previous models the pre-conference roll call served as an important factor as it relates to the policy content of each chamber's bill. There we were interested in partisan divisions. Here we are interested in how widely a bill passes each chamber, irrespective of party. In a strategic sense, when one chamber passes a bill by a wide margin the second chamber has a strategic advantage in that it can propose cuts from the other chamber’s proposal without the risk of killing the entire bill. Stated in the opposite direction, when a bill passes by a narrow margin in one chamber, that chamber’s conferees can credibly claim to lack “wiggle room” on the details of final bill. Thus, House Passage and Senate Passage are coded as the raw percentage of each chamber voting to pass the bill. The expected effect is negative with respect to a pro-chamber outcome (negative for the House and positive or the Senate). The effect of the filibuster pivot on House-Senate negotiations is subsumed in this measure. Indeed, we would expect the effect of the House passage variable to be greater in magnitude than the Senate passage variable, indicating that a narrowly passed Senate bill will experience less moderation than a narrowly passed House bill. An auxiliary model was estimated where divergence in the passage rate was modeled. This additional factor combined the two passage variables by using the differences between House Passage and Senate Passage. Thus, for Passage Divergence higher values indicate the House passed its bill by a larger margin than the Senate.

Finally there are two contextual, Congress-level factors included in the estimates of bicameral conflict. Both factors—House Majority and Senate Majority—tap the size
of the majority party in both chambers. These variables are simply the percentage of
majority party lawmakers to total members. Larger majorities are expected to enhance
each chamber’s bargaining leverage.

The findings are presented in Table 4-12. Overall the models perform extremely
well as they explain between 46% and 47% of the variation in bicameral conflict. In
both models the substantive results are identical. The coefficient on Budget is
statistically significant and positive, as expected. This indicates that during periods of
budgetary surpluses the House tends to secure favorable conference outcomes while
during periods of poor budgetary surpluses the Senate tends to secure favorable
conference outcomes. This result follows Fenno’s (1996) prior work on Senate
conference leverage. Surprisingly, the results do not support the claim that the
chamber which initiates legislation secures favorable outcomes in conference
negotiations. Of course, the prior work in this area suggests that the chamber that acts
first secures favorable outcomes in the aggregate. Here we are looking exclusively
conference outcomes. Ultimately, this null result does not invalidate the previous
findings though it is contrary to expectations.

In both models the results show that when one chamber passes a bill with a large
majority voting in support of the chamber’s proposal that chamber is likely to lose
favorable provisions at the conference stage. The negative coefficient on House
Passage in Model 7 indicates that as the passage rate increases the conference
outcome shifts in a pro-Senate direction while the positive coefficient on Senate
Passage indicates that as the passage rate increases the conference outcome shifts in
a pro-House direction. The same conclusions hold for Model 8 where divergence in the
passage rate for both chambers was modeled. The negative coefficient on *Passage Divergence* indicates that as the House passes a bill by wider margins than the Senate the outcome shift in a pro-Senate direction (and vice versa for when the Senate passes a bill by wider margins than the House). These effects are attributable to the strategic advantage of passing a bill by a narrow margin. Additional tests reveal that the effect of House passage is greater in magnitude than Senate passage (*f*=3.11, *p*<.05). Thus, the House is predicted to lose a greater share of provisions when it passes a bill by a 60% margin compared to an identical bill passing the Senate with a 60% margin. This feature reflects the different rules governing the two bodies (namely the Senate’s Rule 22). Overall, these effects are majoritarian in nature, as conference outcomes benefit the chamber with the fewest pre-conference votes.

Finally, the results show that the larger the majority in each chamber the more likely that chamber is to prevail at the conference stage. The positive coefficient on *House Majority* indicates that as the majority party’s House margin increases conference outcomes shift in a pro-House direction while the negative coefficient on *Senate Majority* indicates that as the majority party’s Senate margin increases conference outcomes shift in a pro-Senate direction. Thus, the strength of parties over conference outcomes in this dimension is not due to some procedural advantage (i.e. naming partisan to serve in conference) but its numerical size.

**Discussion**

In Chapter 3 we examined the macro-level patterns for how the House and Senate resolve policy disagreements in conference. The present chapter took a second look at this process, examining conference outcomes at the bill level.
In the first part I reexamined the multivariate spatial model presented in Chapter 3, estimating separate spaces for the pre-Republican Revolution and post-Revolution periods. I found that the first and second dimensions (reconciliation and partisan conflict respectively) exhibit remarkable stability over the postreform period. Thus, even in the contemporary Congresses where partisan roll call patterns are more pronounced, resolving differences remains a multidimensional process governed by consensus and compromise first and foremost. I also reported some modest evidence that partisan conflict and bicameral conflict have increased in salience in the post-Revolution period, consistent with Chapter 2’s findings.

The second section explored each dimension at the bill-level using spatial mappings of conference outcomes. The spatial scores used in these mappings identify a point in the three-dimensional policy space corresponding to the dimension or dimensions that explain the individual conference outcome. The first finding in this section was that most conference outcomes are located around the origin of the three-dimensional coordinate system. Second, the average Euclidian distance of each observation from the origin has increased significantly between the pre-Revolution and post-Revolution periods. Thus, there has been a significant increase in the variability of conference outcomes over time, indicating greater changes to the pre-conference House and Senate passed bills. Consistent with Chapter 2’s findings, this is evidence that bicameral bargaining is under greater strain in the modern Congresses, supporting the notion that competing parties and chambers have come into greater conflict over time. Third, both two-dimensional scatter plots of conference outcomes as well as the line plots of the median spatial location of conference outcomes in each dimension
indicate that over the postreform period: (1) conference outcomes have increasingly shifted in a pro-minority direction over the postreform period; and (2) there has been an increase in reconciliation, suggesting that resolving differences is affecting greater compromise and concession in the contemporary Congresses. Overall, the findings from the second section suggest that over the postreform period the so-called “bicameral hurdle” has becoming increasing salient in the realm of resolving differences (in addition to in the realm of bicameral conflict) and that the effects of this hurdle have created the greatest challenges for the majority party in both chambers.

Finally, the third section of the analysis used the multivariate spatial coordinates to examine the factors structuring conference outcomes. The first finding is that the greater the extent of disagreement between the House and Senate at the passage stage the greater the manifestation of reconciliation—compromise agreements or concessions. Second, there are unambiguous majoritarian trends in partisan conference committee outcomes. The main finding is that when partisan House and Senate passed legislation goes to conference it typically emerges resolved in a pro-minority direction. At the same time, there is no evidence in any of the four models that the strategic procedure dubbed “packing the conference” yields a pro-majority outcome. Though published work has examined the composition of conference committees, finding pro-majority biases in the House and Senate, no work has directly tested this important claim. And third, pro-House and pro-Senate outcomes are determined largely by how widely the pre-conference bills pass each chamber. The more widely a bill passes a chamber relative to the other chamber, the more the conference outcome shifts in the direction of the rival chamber. This is further evidence of majoritarian
conference outcomes. However, I do find that chambers with larger majority party cohorts gain favorable concessions in conference, suggesting that strong parties play a role in the bicameral dimension.

Despite this chapter's argumentation, there remains a way to interpret these findings as evidence of strategic, pro-majority behaviors. In the simplest of terms, opponents of the prior two chapters might argue that the majority party introduces and passes legislation in each chamber beyond their median ideal point so that, in negotiations with the other chamber, they are able to concede a few relatively minor provisions and ultimately emerge from conference with their “true” preferred policy. Chapter 5 explores this issue in greater detail.
Figure 4-1. 3-D spatial map of resolving differences in the pre-Revolution era. The dots represent how conferees modified the original House and Senate passed bills according to the principal components analysis in Table 4-1. The point at 0,0,0 has been constructed to represent “no change” to the initial roll call patterns.
Figure 4-2. 3-D spatial map of resolving differences in the post-Revolution era. The dots represent how conferees modified the original House and Senate passed bills according to the principal components analysis in Table 4-2. The point at 0,0,0 has been constructed to represent “no change” to the initial roll call patterns.
Figure 4-3. 2-D spatial map of resolving differences by era. The dots represent how conferees modified the original House and Senate passed bills according to the principal components analysis reported in Tables 4-1 and 4-2. The point at 0,0,0 has been constructed to represent “no change” to the initial roll call patterns.
Figure 4-4. Reconciliation median coordinate. The data were calculated as the median spatial coordinate in the first dimension. Higher values indicate greater compromise and lower values greater concessions.

Figure 4-5. Reconciliation median absolute coordinate. The data were calculated as the median absolute spatial coordinate in the first dimension. Higher values indicate greater reconciliation (compromise or concession) and lower values less reconciliation.
Figure 4-6. Partisan conflict median coordinate. The data were calculated as the median spatial coordinate in the second dimension. Higher values indicate pro-majority conference outcomes and lower values indicate pro-minority conference outcomes.

Figure 4-7. Bicameral conflict median coordinate. The data were calculated as the median spatial coordinate in the third dimension. Higher values indicate pro-House conference outcomes and lower values indicate pro-Senate conference outcomes.
Figure 4-8. Distribution of partisan pre-conference bills. Observations to the right indicate pro-majority House and Senate passed bills while figures at 0 indicate perfectly bipartisan House and Senate passed bills.
Figure 4-9. Estimated effect of identical House and Senate partisan bills on pro-majority conference outcomes.
Table 4-1. Component loadings (untransformed Data, 95\textsuperscript{th} to 96\textsuperscript{th} and 100\textsuperscript{th} to 103\textsuperscript{rd})

<table>
<thead>
<tr>
<th>Shift parameter</th>
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<th>Dimension 3</th>
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<td>-.0047</td>
</tr>
<tr>
<td>House minority</td>
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<td>.8213</td>
</tr>
<tr>
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</tr>
<tr>
<td>Senate minority</td>
<td>.2923</td>
<td>.8297</td>
<td>-.3642</td>
</tr>
</tbody>
</table>

Interpretation: Reconciliation Partisan conflict ---

Notes: N=78. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.

Table 4-2. Component loadings (untransformed data, 104\textsuperscript{th} to 106\textsuperscript{th} and 108\textsuperscript{th} to 110\textsuperscript{th})

<table>
<thead>
<tr>
<th>Shift parameter</th>
<th>Dimension 1</th>
<th>Dimension 2</th>
<th>Dimension 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>House majority</td>
<td>.4078</td>
<td>.5873</td>
<td>.6697</td>
</tr>
<tr>
<td>House minority</td>
<td>.4684</td>
<td>-.5704</td>
<td>.3816</td>
</tr>
<tr>
<td>Senate majority</td>
<td>.5124</td>
<td>.4568</td>
<td>-.5820</td>
</tr>
<tr>
<td>Senate minority</td>
<td>.5931</td>
<td>-.3480</td>
<td>-.2591</td>
</tr>
</tbody>
</table>

Interpretation: Reconciliation Partisan conflict Bicameral conflict

Notes: N=93. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.

Table 4-3. Component loadings (transformed data, 95\textsuperscript{th} to 96\textsuperscript{th} and 100\textsuperscript{th} to 103\textsuperscript{rd})

<table>
<thead>
<tr>
<th>Shift parameter</th>
<th>Dimension 1</th>
<th>Dimension 2</th>
<th>Dimension 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>House majority</td>
<td>.4786</td>
<td>-.5911</td>
<td>.5978</td>
</tr>
<tr>
<td>House minority</td>
<td>.5614</td>
<td>-.2861</td>
<td>-.4707</td>
</tr>
<tr>
<td>Senate majority</td>
<td>.5456</td>
<td>.3129</td>
<td>-.4079</td>
</tr>
<tr>
<td>Senate minority</td>
<td>.3976</td>
<td>.6862</td>
<td>.5047</td>
</tr>
</tbody>
</table>

Interpretation: Reconciliation Bicameral conflict ---

Notes: N=78. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.
Table 4-4. Component loadings (transformed data, 104th to 106th and 108th to 110th)

<table>
<thead>
<tr>
<th>Shift parameter</th>
<th>Dimension 1</th>
<th>Dimension 2</th>
<th>Dimension 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>House majority</td>
<td>.4707</td>
<td>.4264</td>
<td>.6780</td>
</tr>
<tr>
<td>House minority</td>
<td>.4927</td>
<td>-.6093</td>
<td>.3290</td>
</tr>
<tr>
<td>Senate majority</td>
<td>.4843</td>
<td>.5807</td>
<td>-.4343</td>
</tr>
<tr>
<td>Senate minority</td>
<td>.5488</td>
<td>-.3213</td>
<td>-.4935</td>
</tr>
</tbody>
</table>

Interpretation: Reconciliation Partisan conflict Bicameral conflict

Notes: N=93. The loadings were estimated via principal components analysis. The component loadings represent the correlation between the shift parameter and the dimension. The magnitude and direction of the loadings help us interpret the dimension.

Table 4-5. Explained variance by dimension (untransformed data, 95th to 96th and 100th to 103rd)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained variance</th>
<th>SE</th>
<th>95% confidence interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.63</td>
<td>.41</td>
<td>.05</td>
<td>.32 .50</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>1.02</td>
<td>.25</td>
<td>.04</td>
<td>.18 .33</td>
</tr>
<tr>
<td>Partisan conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>0.83</td>
<td>.21</td>
<td>.03</td>
<td>.15 .27</td>
</tr>
</tbody>
</table>

---

Notes: N=78. The explained variances were estimated via principal components analysis. T-test Dim1 to Dim2 = 2.6253 (p<.01); T-test Dim2 to Dim3 = .9809 (p>.16); T-test Dim1 to Dim3 = 3.6490 (p<.001). All significance tests are two-tailed.

Table 4-6. Explained variance by dimension (untransformed data, 104th to 106th and 108th to 110th)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained variance</th>
<th>SE</th>
<th>95% confidence interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.40</td>
<td>.35</td>
<td>.04</td>
<td>.27 .43</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>1.12</td>
<td>.28</td>
<td>.03</td>
<td>.21 .35</td>
</tr>
<tr>
<td>Partisan conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>.79</td>
<td>.20</td>
<td>.03</td>
<td>.14 .25</td>
</tr>
<tr>
<td>Bicameral conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: N=93. The explained variances were estimated via principal components analysis. T-test Dim1 to Dim2 = 1.3106 (p>.10); T-test Dim2 to Dim3 = 1.7517 (p<.05); T-test Dim1 to Dim3 = 3.0433 (p<.001). All significance tests are two-tailed.
Table 4-7. Explained variance by dimension (transformed Data, 95th to 96th and 100th to 103rd)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained variance</th>
<th>SE</th>
<th>95% confidence interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.53</td>
<td>.38</td>
<td>.04</td>
<td>.29 .47</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>1.09</td>
<td>.27</td>
<td>.04</td>
<td>.20 .35</td>
</tr>
<tr>
<td>Bicameral conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>0.77</td>
<td>.19</td>
<td>.03</td>
<td>.13 .25</td>
</tr>
</tbody>
</table>

---

Notes: N=78. The explained variances were estimated via principal components analysis. T-test Dim1 to Dim2 = 1.9153 (p<.05); T-test Dim2 to Dim3 = 1.6925 (p<.05); T-test Dim1 to Dim3 = 3.6170 (p<.001). All significance tests are two-tailed.

Table 4-8. Explained variance by dimension (transformed data, 104th to 106th and 108th to 110th)

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Eigenvalue</th>
<th>Explained variance</th>
<th>SE</th>
<th>95% confidence interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension 1</td>
<td>1.69</td>
<td>.42</td>
<td>.04</td>
<td>.34 .50</td>
</tr>
<tr>
<td>Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 2</td>
<td>0.95</td>
<td>.24</td>
<td>.03</td>
<td>.17 .30</td>
</tr>
<tr>
<td>Partisan conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dimension 3</td>
<td>0.83</td>
<td>.21</td>
<td>.03</td>
<td>.15 .26</td>
</tr>
<tr>
<td>Bicameral conflict</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: N=93. The explained variances were estimated via principal components analysis. T-test Dim1 to Dim2 = 3.5649 (p<.001); T-test Dim2 to Dim3 = .6957 (p=.24); T-test Dim1 to Dim3 = 4.2696 (p<.001).
Table 4-9. Determinants of reconciliation outcomes

<table>
<thead>
<tr>
<th></th>
<th>Model 1 (GLM)</th>
<th>Model 2 (GLM)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Divided</td>
<td>0.82***</td>
<td>0.82***</td>
</tr>
<tr>
<td>Mood lag</td>
<td>0.01</td>
<td>0.04</td>
</tr>
<tr>
<td>Party mandate</td>
<td>-0.02</td>
<td>&gt;-0.01</td>
</tr>
<tr>
<td>Budget</td>
<td>1.03</td>
<td>1.96*</td>
</tr>
<tr>
<td>Midpoint distance</td>
<td>0.54**</td>
<td>0.55**</td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.17</td>
<td>-0.16</td>
</tr>
<tr>
<td>Bicameral distance</td>
<td>2.15</td>
<td>2.34</td>
</tr>
<tr>
<td>Intra-party bicameral distance</td>
<td>1.55</td>
<td>5.85</td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td></td>
<td>-0.69</td>
</tr>
<tr>
<td>Alpha</td>
<td>-1.77</td>
<td>-3.02</td>
</tr>
</tbody>
</table>

R-squared .12 .11
N 149 149

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such higher values indicate greater reconciliation (either greater compromise or greater concession) while lower values indicate less reconciliation. Standard errors are robust.
Table 4-10. Determinants of partisan outcomes

<table>
<thead>
<tr>
<th></th>
<th>Model 3 (OLS)</th>
<th>Model 4 (OLS)</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Divided</td>
<td>-0.66***</td>
<td>0.17</td>
<td>-0.70***</td>
<td>0.16</td>
</tr>
<tr>
<td>Mood lag</td>
<td>0.09</td>
<td>0.07</td>
<td>0.04</td>
<td>0.05</td>
</tr>
<tr>
<td>Party mandate</td>
<td>0.13***</td>
<td>0.04</td>
<td>0.10***</td>
<td>0.04</td>
</tr>
<tr>
<td>Budget</td>
<td>0.66</td>
<td>3.07</td>
<td>-2.23*</td>
<td>1.23</td>
</tr>
<tr>
<td>Midpoint distance</td>
<td>&gt;-0.01</td>
<td>0.21</td>
<td>-0.02</td>
<td>0.20</td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.43**</td>
<td>0.19</td>
<td>-0.47**</td>
<td>0.19</td>
</tr>
<tr>
<td>House outsiders</td>
<td>-0.44</td>
<td>0.39</td>
<td>-0.48</td>
<td>0.40</td>
</tr>
<tr>
<td>Senate outsiders</td>
<td>0.14</td>
<td>0.30</td>
<td>0.13</td>
<td>0.30</td>
</tr>
<tr>
<td>Bicameral distance</td>
<td>-5.95**</td>
<td>2.52</td>
<td>-6.39***</td>
<td>1.88</td>
</tr>
<tr>
<td>Intra-party bicameral distance</td>
<td>-2.31</td>
<td>7.80</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td></td>
<td></td>
<td>1.44</td>
<td>1.22</td>
</tr>
<tr>
<td>Alpha</td>
<td>-2.31</td>
<td>3.37</td>
<td>-2.02</td>
<td>2.9</td>
</tr>
<tr>
<td>R-squared</td>
<td>.20</td>
<td></td>
<td>.21</td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>149</td>
<td></td>
<td>149</td>
<td></td>
</tr>
</tbody>
</table>

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that higher values indicate a pro-majority outcome and lower values indicate a pro-minority outcome. Standard errors are robust.
Table 4-11. Determinants of partisan conference outcomes

<table>
<thead>
<tr>
<th></th>
<th>Model 5 (OLS)</th>
<th>Model 6 (OLS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Divided</td>
<td>-0.64***</td>
<td>-0.69***</td>
</tr>
<tr>
<td></td>
<td>0.17</td>
<td>0.16</td>
</tr>
<tr>
<td>Mood lag</td>
<td>0.07</td>
<td>0.05</td>
</tr>
<tr>
<td></td>
<td>0.07</td>
<td>0.05</td>
</tr>
<tr>
<td>Party mandate</td>
<td>0.12***</td>
<td>0.11***</td>
</tr>
<tr>
<td></td>
<td>0.04</td>
<td>0.04</td>
</tr>
<tr>
<td>Budget</td>
<td>-1.20</td>
<td>-1.93</td>
</tr>
<tr>
<td></td>
<td>2.86</td>
<td>1.20</td>
</tr>
<tr>
<td>Midpoint distance</td>
<td>-0.04</td>
<td>-0.05</td>
</tr>
<tr>
<td></td>
<td>0.21</td>
<td>0.20</td>
</tr>
<tr>
<td>House Partisan</td>
<td>-0.72**</td>
<td>-0.73**</td>
</tr>
<tr>
<td></td>
<td>0.35</td>
<td>0.36</td>
</tr>
<tr>
<td>Senate Partisan</td>
<td>-1.90***</td>
<td>-1.83***</td>
</tr>
<tr>
<td></td>
<td>0.47</td>
<td>0.53</td>
</tr>
<tr>
<td>X-Partisan</td>
<td>2.14***</td>
<td>2.03**</td>
</tr>
<tr>
<td></td>
<td>0.70</td>
<td>0.81</td>
</tr>
<tr>
<td>House outsiders</td>
<td>-0.39</td>
<td>-0.42</td>
</tr>
<tr>
<td></td>
<td>0.40</td>
<td>0.41</td>
</tr>
<tr>
<td>Senate outsiders</td>
<td>0.06</td>
<td>0.06</td>
</tr>
<tr>
<td></td>
<td>0.30</td>
<td>0.30</td>
</tr>
<tr>
<td>Bicameral distance</td>
<td>-6.16***</td>
<td>-6.33***</td>
</tr>
<tr>
<td></td>
<td>2.28</td>
<td>1.79</td>
</tr>
<tr>
<td>Intra-party bicameral distance</td>
<td>-0.93</td>
<td>7.25</td>
</tr>
<tr>
<td>Filibuster-House distance</td>
<td></td>
<td>0.77</td>
</tr>
<tr>
<td>Alpha</td>
<td>-3.05</td>
<td>-2.13</td>
</tr>
<tr>
<td></td>
<td>3.24</td>
<td>2.35</td>
</tr>
<tr>
<td>R-squared</td>
<td>.24</td>
<td>.25</td>
</tr>
<tr>
<td>N</td>
<td>149</td>
<td>149</td>
</tr>
</tbody>
</table>

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that higher values indicate a pro-majority outcome and lower values indicate a pro-minority outcome. Standard errors are robust.
Table 4-12. Determinants of bicameral conflict conference outcomes

<table>
<thead>
<tr>
<th></th>
<th>Model 7 (OLS)</th>
<th></th>
<th>Model 8 (OLS)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget</td>
<td>3.12***</td>
<td>1.01</td>
<td>3.05***</td>
<td>1.02</td>
</tr>
<tr>
<td>House Initiate</td>
<td>-0.05</td>
<td>0.13</td>
<td>-0.07</td>
<td>0.13</td>
</tr>
<tr>
<td>House Passage</td>
<td>-4.40***</td>
<td>0.45</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senate Passage</td>
<td>3.93***</td>
<td>0.48</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passage Divergence</td>
<td></td>
<td></td>
<td>-4.22***</td>
<td>0.44</td>
</tr>
<tr>
<td>House Majority</td>
<td>7.94**</td>
<td>3.33</td>
<td>7.89**</td>
<td>3.32</td>
</tr>
<tr>
<td>Senate Majority</td>
<td>-15.08***</td>
<td>5.33</td>
<td>-14.89***</td>
<td>5.36</td>
</tr>
<tr>
<td>Alpha</td>
<td>4.19***</td>
<td>1.35</td>
<td>3.73</td>
<td>1.32</td>
</tr>
<tr>
<td>R-squared</td>
<td>.47</td>
<td></td>
<td>.46</td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>206</td>
<td></td>
<td>206</td>
<td></td>
</tr>
</tbody>
</table>

Notes: *** P<.01, ** P<.05, * P<.10. All significance tests are two-tailed. The response is coded such that higher values indicate a pro-House outcome and negative values indicate a pro-Senate outcome. Standard errors are robust.
CHAPTER 5
RESOLVING DIFFERENCES: FACILITATOR OF, OR IMPEDIMENT TO, MAJORITY PARTY AGENDA SETTING?

In Chapter 2 I reported that bills passed by the House and Senate have experienced greater bicameral gridlock over the postreform period. On its face, this suggests a weakening of the link between strong or “responsible” parties and effective governance. A counterargument might be that this trend is due to the majority’s use of agenda control to block bipartisan legislation (allowing pro-majority legislation to pass across the two chambers unimpeded). I proceeded to show that this intuition does not hold and, in fact, the opposite is true: partisan House passed legislation has become increasingly vulnerable to bicameral gridlock over the postreform period. Chapter 4 reported a number of findings regarding how the House and Senate resolve disagreements when they arise. Key among those findings were the conclusions that over the postreform period there has been an increase in pro-minority conference outcomes, greater strain in the reconciliation process, a lack of evidence that “packing the conference” yields a pro-majority outcome and strong evidence that partisan legislation is most likely to emerge from conference shifted in a pro-minority direction. A general counterargument to these findings is that they actually reflect strategic, pro-majority agenda control. In simple terms, opponents of Chapter 4 might argue that the majority party introduces and passes legislation in each chamber beyond their median ideal point so that, in negotiations with the other chamber, they are able to concede a few relatively minor provisions and ultimately emerge from conference with their “true” preferred policy. This chapter explores this issue in greater detail.

The central question of this chapter is thus: How does a bicameral sequence—formal forms of resolving differences—affect the capacity of parties to control the
legislative agenda? Virtually all existing research, though only implicitly, treats this form of institutional variation as inconsequential. The importance of this question has been elaborated by Gailmard and Hammond (forthcoming, 1): “single-chamber models of legislative organization are under-specified, and empirical evidence on key features of legislative organization…may not be properly interpretable in light of single-chamber models.”

I address the question of how a bicameral sequence affects the majority’s agenda control using a modified version of the popular “win rate” measure (Lawrence, Maltzman and Smith 2006). The primary observation of interest is the rare, but nonetheless revealing, occurrence of agenda setters—agents who propose policy (Cox and McCubbins 2002)—voting against their own proposals at final passage. The measure is designed to capture bill-level variation in agenda control, allowing us to straightforwardly compare bills that do not traverse a bicameral sequence—where unicameral specifications are most appropriate1—with those that do traverse a bicameral sequence—where intercameral bargaining and reconciliation almost certainly matter. Competing formal models of agenda control are then compared in terms of their explanatory power. The goal is not to challenge the conventional wisdom; in fact, the present chapter lends support to a number of the conventional claims (Lawrence, Maltzman and Smith 2006). Rather, this chapter offers an important qualification to our understanding, highlighting how parties manage, successfully or unsuccessfully, varying institutional hurdles. Moreover, the findings reveal that the effects demonstrated in

1 Of course, this far from saying that unicameral specifications are “appropriate.” Indeed, research shows that, even without direct inter-chamber interaction, the presence of a second chamber creates strategic hurdles each chamber must consider when proposing legislation (Taylor 2008).
Chapter 4 stem from processes of bill moderation and bicameral reconciliation rather than strategic majority party behaviors.

**Theoretical Foundations for Agenda Control**

The capacity of parties to manipulate legislative rules, procedures and individual lawmakers in pursuit of non-majoritarian (pro-majority) outcomes is aptly documented in the contemporary congressional literature. This ability is derived in a myriad of ways: naming members to positions within the leadership, approving committee assignments and chairmanships, scheduling legislation, adopting rules of procedure, managing debate and wielding the power to defeat or amend any motion or bill on the chamber floor. Though part and parcel to the aforementioned items, a party’s central legislative power stems from their ability to manipulate the *agenda*—the collection of policy proposals considered by the chamber. In response to Keith Krehbiel (1993), Gary Cox and Mathew McCubbins (2002, 145) argue that agenda control is “where the party is.”

As elaborated by Gary Cox and Matthew McCubbins (1993, 2005, 2007), political parties behave as a “legislative cartel” that derive their institutional authority by manipulating the “structural power of the House” (2005, 15). In particular, the majority party controls the consideration of policy—known as *negative* agenda control—through powers such as scheduling and amending. In this way the cartel model posits that the majority advances legislation to final passage when the proposal is preferred by its members to the status quo. This allows lawmakers within the majority to simultaneously vote their sincere preferences while fostering an electorally beneficial party record.

In addition to their formal work, Cox and McCubbins marshal empirical evidence supporting the cartel model. For example, Cox and McCubbins (2002) demonstrate that instances when the majority is “rolled”—that is, when a majority of the party votes on the
losing side of a formal vote that ultimately passes occurs on less than .07% (or 4 out of 5628) of committee reports. Elsewhere, Cox and McCubbins (2007) use “party leadership votes” votes where the leadership of both parties voted against each other—to show that there has been no decline in the level of party voting throughout the post-New Deal era. Independent tests have yielded complementary results (Carson, Monroe and Robinson 2009) often coming at the expense of alternative theoretical perspectives (Lawrence, Maltzman and Smith 2006). Though typically constrained to the House, recent work finds empirical support for the cartel model in the Senate (Campbell, Cox, and McCubbins 2002; Gailmard and Jenkins 2007). In fact, one study found statistically indistinguishable levels of party power in both chambers (Gailmard and Jenkins 2007).

Though sharing a number of empirical predictions, the theory of conditional party government (Aldrich 1995; Rohde 1991) emphasizes a fundamentally different causal mechanism underlying party agenda control: intra-party preference homogeneity and inter-party preference divergence. When these two conditions are met, the majority’s rank-and-file delegates greater authority to the leadership which, in turn, exploits institutional rules and powers to ensure members of the party act in a way consistent with their collective goals. Thus, conditional party government (or “CPG”) emphasizes what is referred to as positive agenda control—the ability to manipulate outcomes, usually on the chamber floor (Finocchario and Rohde 2008; Sinclair 1995). Though the effect of conditional party government is more pronounced in the House, powers wielded by the Senate majority party such as the right of first recognition and the ability

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2 Sinclair (1995) argues that the majority leadership frequently employs both strategies.
to bypass committees suggest that both chambers are affected by polarized preference arrangements. These points are reviewed in a forthcoming section.

**The Bicameral Sequence**

Congressional scholars have long noted that legislative sequence matters. In fact, sequence is fundamental to mathematical models of agenda setting (Romer and Rosenthal 1978). A “typical” sequence assumes the following game-theoretic form: (1) a member introduces a bill; (2) the bill is reported to the floor by a committee and; (3) the floor votes on the bill. As is often the case, especially on non-controversial legislation, the second chamber “rubber stamps” the initiating chamber’s proposal—approving it verbatim, without change.\(^3\) In these cases a unicameral model is adequate to understand legislative politics (though see Taylor 2008 and footnote 1 in this chapter). However, when the second chamber modifies the initiating chamber’s proposal, as is often the case, a *bicameral sequence* is initiated. Such sequences are characterized by one of two formal forms of bicameral reconciliation\(^4\); where the third option is simply the preservation of the exogenous status quo.

As reviewed in Chapter 1, the two ways in which the House and Senate formally resolve policy disagreements are the shuttling of legislation (also referred to as “amendment trading,” “ping-ponging” or the “navette”) and the conference committee. Shuttling is characterized by the two chambers agreeing to identical versions of legislation after messaging the original bill back and forth with amendments. After the

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\(^3\) For example, of all public laws enacted during the 110\(^{th}\) Congress originally introduced in the House, 69% were enacted without Senate disagreement. This statistic was compiled by the author using *Thomas.com*.

\(^4\) Though both can occur on a single bill, this rarely occurs.
initial amendment, the modified proposal returns to the initiating chamber where the initiator has the options of approving the second chamber's counteroffer, amending the bill further or letting the proposal "die," thereby preserving the status quo. Thus, the reconciliation process of shuttling is analogous to what game theorists call sequential bargaining. If at any time during the legislative process one chamber \emph{insists} on its proposal and formally disagrees with the other chamber's offer, the two houses are said to have reached the "stage of disagreement." At this point the two chambers typically form an ad hoc joint conference committee (for an excellent review see Longley and Oleszek 1989). Conferees from both chambers act in what is similar to a unicameral system with majority rule. That is, once conferees have completed negotiations, a simple majority of each chamber's delegation is needed to approve a conference report—a document detailing the proposed compromise. Both chambers then vote on the conference report and, upon passage, the bill is forwarded to the president's desk (Oleszek 2007).

Despite the centrality of sequence for research on agenda setting, hardly any work considers a bicameral sequence. One exception is a recent study by Sean Gailmard and Jeffery A. Jenkins (2007). Gailmard and Jenkins explore agenda setting in the context of Senate bills, confirmation reports and conference reports. Conceptually, variation in the rules governing these three legislative vehicles provides a natural experiment to test how constitutional features affect agenda control.\footnote{For example, Article I Section 7 requires conference reports to have the approval of both chambers while confirmations, because of Article II Section 2, require only Senate approval.} Using congressional-level roll rates as the dependent variable and analogous datasets for the House and Senate, Gailmard and Jenkins (2007) find significant variation in agenda
control across legislative vehicles. Of note for the present chapter is their finding that the majority’s agenda control is attenuated in the Senate by the House majority on conference reports and the president on confirmations. However, on Senate bills, the Senate majority party is unconstrained by either of these two institutional features. In testing this latter finding against an analogous model for House originated bills, Gailmard and Jenkins report statistically indistinguishable findings. Thus, “in terms of keeping unwanted measures from receiving floor consideration, the Senate majority party is no less successful than the House majority party when it faces disagreement from some nonmajority party actor” (699). Since this finding is the main thrust of their article, and likely due to space limitations, they afford little discussion to the fact that their results suggest conference committees attenuate the majority party’s control over the agenda.

In one sense, the present chapter extends Gailmard and Jenkins’ (2007) finding regarding conference committees. But rather than simply reestimating their model, the present paper adopts a more wide-ranging test. This occurs in two ways. First, Gailmard and Jenkins test the effect of conference committees as a dummy variable coded “1” if control of the House and Senate was split between the two parties (sometimes referred to as “quasi divided government” (Binder 1999, 2003)). This confines the effect to only a few Congresses and obfuscates a more theoretically interesting possibility: that conference committees limit the majority party’s agenda control even when the same party controls both chambers. That is, the effect of a conference committee on the policy process transcends partisan arrangements.

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6 They were unable to model presidential confirmations since this is not a prerogative of the House.
Second, I test the effect of shuttling proposals between the chambers, a feature unexplored by Gailmard and Jenkins (2007). At the macro-level, the results speak to larger questions about the dynamics of bicameralism, the majority party’s agenda setting power and intercameral bargaining. As the subsequent two sections will show, there is disagreement about these dynamics in the congressional literature. In addition, the results address whether the findings in the previous chapters concerning the importance of reconciliation and limits of partisanship in conference are due to strategic pro-majority control over the congressional agenda.

**Bicameral Sequence and Agenda Control**

This section reviews research which, directly or indirectly, advocates that the majority is able to maintain or extend agenda control when legislation traverses a bicameral policy sequence. The first part evaluates this matter regarding conference committees, where the literature speaks to the issue directly, while the second part discusses the shuttling of legislation, where the literature is more general in this regard.

**Conference Committees: The “Ex Post Veto”**

On conference committees, Shepsle and Weingast’s (1987) often cited “ex post veto theory” identified bicameral sequence as the foundation for committee agenda control. Because standing committee members are almost always named as managers in conference, and because conference agreements are considered under what amounts to a closed rule in the House, the standing committees wield the ability to modify any policy altered on the floor back to its original committee-approved position (or simply defeat it). Nagler (1989), using a revised version of Shepsle and Weingast’s model, linked the selection of conferees by the Speaker and the outcome of conference committees. The ultimate power conferred by the ex post-veto, and by extension the
ability to manipulate what gets considered for an “up or down” vote, rests with the majority, according to Nagler (1989). Lazarus and Monroe (2007) advanced this line of work further. They demonstrate that under certain conditions the Speaker will name partisan loyalists as conferees in addition to committee members. This strategic maneuver, dubbed “packing the conference,” allows the Speaker to ensure his or her party obtains its preferred outcome in conference negotiations. More recent work finds that this selection power, though less prominent, exists in the naming of Senate conferees as well (Vander Wielen and Smith n.d.).

**Amendment Trading: Agenda Control in the House and Senate**

Though published research on conference committees is limited, even less research explores the process exchanging amendments between the chambers. Therefore, discussion of the majority party’s agenda control in this regard turns to a discussion about the power of the majority in the House and Senate more generally. Because of space constraints, I adopt a cursory review of this power in the House, since the literature has been well rehearsed elsewhere, in order to provide more discussion of the Senate, where expectations are less well established.

In the House, the majority party selects a Speaker—who has the power to schedule legislation, recognize members on the floor and suggest members to serve on the Rules Committee—as well as standing committee members and their chairpersons (Oleszek 1989). Conceptually, then, party leaders and committees should be responsive to the demands of their individual members. But perhaps the most significant power exercised by the majority party in the House stems from the Rules Committee. Whether acting independently (Dion and Huber 1996) or as an arm of the leadership (Cox and McCubbins 2005), the Rules Committee can limit the terms of
debate, a significant departure from the Senate, and limit amending activity on the floor (Romer and Rosenthal 1978). For example, special rules have been shown to confer significant procedural control over the agenda (Finocchiaro and Rohde 2008; Romer and Rosenthal 1978). At the same time, increased party homogeneity, characteristic of the modern House, allows the majority to coordinate policymaking through shared preferences and the delegation of greater power to the leadership (Aldrich 1995; Rohde 1991). In the contemporary era, this means the majority party has greater positive agenda power to go along with their historically strong negative agenda power (Cox and McCubbins 2002).

In the Senate, recent research has posited a significant degree of agenda control through procedures such as filling the amendment tree, tabling motions, policy coordination, the use of reconciliation and through non-referral. The first two correspond to agenda control through the majority party’s right of first recognition while the latter three relate to the majority’s ability to circumvent institutional actors (the other chamber, the filibuster pivot and standing committees) that might compete with the party over the agenda.

The procedure known as “filling the amendment tree” occurs when any senator offers an amendment to a bill and subsequently offers amendments to those amendments (known as second degree amendments). Because of first recognition, filling the amendment tree allows the majority to restrict the agenda in a manner analogous to the House’s closed rule and protect legislation on the floor from conflicting amendments (Sinclair 2000a). Filling the amendment tree is especially important for the
shuttling process since both processes operate according to the rules governing amending activity.

A second power of the majority in the Senate over the agenda is through the motion to Table. A motion to Table, which, unlike a roll call to defeat an unfavorable amendment is not subject to unlimited debate, can be used to quickly dispose of any pending question a simple majority of senators want to avoid taking up. Thus, it represents a relatively costless way to constrain the agenda (Den Hartog and Monroe 2008). Crespin and Monroe (2005) report that Table motions occur regularly—one third of all roll call votes during the 101st – 104th were Table motions—and that the majority party is rolled only about 10% of the time. As they maintain, the Senate floor is not an “individualist free-for-all,” as is commonly believed (16).

Third, the majority may mitigate the attenuating effects of bicameral sequence because of greater policy coordination and shared preferences. When preferences within the majority are homogenous and divergent from the minority (Aldrich 1995; Rohde 1991), when the chambers allocate power-arrangements in accordance with each other (Sin and Lupia 2004), or when party leaders strategically coordinate the introduction of proposals (Taylor 2008) we may expect a narrow, non-majoritarian range of policy proposals as well as greater use of restrictive rules and procedures to protect those items. At the same time, any deviation from the majority party’s preferred agenda in the initiating chamber may be “corrected” in the second chamber. Indeed, others have pointed out that it is common for drafts of legislation to be circulated for comment and strategies for passage coordinated in both chambers (Oleszek 2004, 257; Taylor 2008).
Of course, the majority can use reconciliation to circumvent the constraints imposed by the Senate’s cloture requirement. Such was famously the case with Republican tax cuts during the Bush era as well as health care reform in 2010. The majority party can also circumvent committees by placing a House-passed bill directly on the calendar without committee review (Evans and Oleszek 2000). Thus, two institutional actors often thought to compete with the majority party in the Senate—the filibuster pivot and committees—can be wholly circumvented.

**How Bicameral Sequence Aids the Majority Party**

In summary, scholars have put forward a number of good reasons to expect that the majority party is able to exercise significant control over the policy agenda even when the policy sequence involves resolving differences. Regarding conference committees, the existing literature suggests that the strategic selection of conferees allows the majority to skew policy outcomes toward its preferred location and/or defeat damaging proposals. In this way, the majority has an effective veto over legislation at the conference change and can manipulate the range of policies considered as solutions to inter-chamber disagreement. Regarding the shuttling of legislation, rules and procedures in each chamber favorable to the majority (specifically those that governing floor activity) afford them significant control over policy outcomes. That is, once a bill is passed by the initiating chamber, the majority party in the second chamber can protect the other chamber’s bill from hostile amendments or rival bills, or amend it in a manner favorable to the majority in both chambers. In sum, in the context of Chapter 3 and Chapter 4, an argument can be made that the majority uses reconciliation to its advantage and that the votes lost by the majority after inter-chamber bargaining are the result of losing relatively minor provisions strategically included in legislation to facilitate
bicameral reconciliation. As is clear at this point in the manuscript, the theoretical argumentation and prior findings predict the opposite.

**Formal Models of Agenda Control**

In this chapter, I test four models of agenda control following Lawrence, Maltzman and Smith (2006). The first two models are without an effective party role (or preference based). These models assume that simple majorities dictate outcomes. In these specifications, if voting occurs along a single ideological dimension a member’s distance from some pivotal lawmaker(s) determines their likelihood of securing favorable outcomes. The *Median Voter* model assumes that when the chamber median prefers some policy to the status quo, that policy is introduced and summarily adopted. Because a simple majority is responsible for consequential agenda setting outcomes—such as adopting rules, electing the Speaker or discharging a bill from committee—the floor median wields significant power over outcomes. The second model makes the same simplifying assumptions but incorporates the constitutional requirements of a presidential signature. That is, according to the *Pivotal Voter* model, successful proposals must be preferred by the president or the lawmakers needed to circumvent the president. Members located between these two pivotal actors are expected to uniformly support successful proposals relative to the status quo; the expected utility for all other members declines linearly relative to their distance from the nearest pivotal actor.

The third and fourth models of legislative behavior posit parties are the main factor affecting the behavior of lawmakers. The *Majority Party* model holds that introduced and enacted policies are favored by members of the majority. Parties use “inducements”—such as campaign resources, favorable committee assignments and
favorable policies—as well as an electorally beneficial party label to persuade members
to vote with their cohort. This model predicts uniform party effects. The second party
model posits that the majority’s median member controls access to the floor. According
to the “cartel” or Agenda Control model, when the majority party favors a proposal to the
status quo the policy advances to the floor for a vote. Minority party members closest to
the chamber median have a greater likelihood of joining the majority and securing some
preferred outcome. The predictions are thus non-uniform.

Figure 5-1 presents the theoretical implications of these four theories. The Y-
Axis represents the likelihood a lawmaker will vote to approve some proposal at final
passage. Each model assumes the policy space is unidimensional. As Lawrence,
Maltzman and Smith (2006) note, these four models make unique predictions about the
nature of agenda control. The goal is to identify the theory that best represents actual outcomes

Data and Methods

Agenda setting studies typically analyze trends in the “roll rate”—the percentage of
bills a majority of the majority party opposed but nonetheless passed. Aggregated at
the congress level (though see Carson, Monroe and Robinson 2009), a low roll rate is
evidence that the majority party infrequently “lost” on policy outcomes during a two-year
period. In their study, Lawrence, Maltzman and Smith (2006) developed an analogous
measure constructed at the individual-congress level. Their “win rates” measure
records the percentage of times in a given two-year Congress a member voted with the
winning side on all final passage roll call votes.

Unfortunately, these existing measures are not designed to address the
questions raised by the present chapter. Instead, the central research questions require
a measure sensitive to *bill-level* institutional variation, such as intercameral policy sequences, as well as sensitive to subtle, but nonetheless consequential, changes in the range of policies being considered by each chamber. Indeed, the conventional measures are non-dynamic, final-stage operationalizations. Constructed via backward induction, these measures assume the final roll call vote reveals the optimal outcome preferred by the majority party relative to the status quo.

Fortunately there is an intuitive way to develop a bill level measure of agenda effects analogous to the conventional measures. The comparability of these two measures is demonstrated statistically in a forthcoming section. Recall that an “agenda setter” is defined as an agent who proposes some policy for his or her chamber’s consideration (Cox and McCubbins 2002). Methodologically, we need to identify two things: (1) members who have made agenda setting proposals and (2) the agenda setter’s preference for the final product at the end of the legislative sequence. For the latter, I follow convention and use final passage roll call votes. If the proposal is not modified by the second chamber this is simply a final passage vote. For legislation shuttling between chambers this is the final passage vote immediately preceding consideration by the president (the “enrollment stage”). If the proposal goes to conference, I use the vote approving the conference report. If the proposal was exchanged between the chamber’s via amendment trading, I use the last final passage vote. To identify agenda setting proposals, I use the slate of bill sponsors and cosponsors. These individuals are, quite literally, agents who have proposed some policy for consideration by the chamber (before action by committees or floor amendments).
This coding scheme taps into the majority party’s agenda control for a number of reasons. First, research shows that party leaders base their agenda setting decisions on the signals provided by bill sponsors and cosponsors (Kessler and Krehbiel 1996; Koger 2003; Wawro 2000). Of course, sponsoring and cosponsoring is an institutionally costless endeavor; there is no agenda control over who sponsors or cosponsors legislation. However, if we restrict the data collection to bills with final passage votes, the various institutional gatekeepers (committees, party leadership, floor, etc.) favored the proposal to the status quo based on the simple fact the bill was enacted into law. That is, either the sponsor or cosponsor’s proposal was favored by gatekeepers at various stages of the policy process or the proposal was successfully modified to satisfy those gatekeepers. Thus, in these cases, the majority party has exercised significant agenda control.

In addition to satisfying the needs of the present study, using sponsorship and cosponsorship as the revealed preferences of agents who proposed some policy has a number of virtuous qualities. First, because no formal institutional constraints exist, the act of sponsoring or cosponsoring legislation more accurately captures the revealed preferences of lawmakers compared to roll call votes. Second, and most important, because cosponsorship occurs very early in the legislative process it allows the researcher to model the entire legislative sequence, rather than just the final moment (Woon 2008, 207).

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7 House Rule XII(2) states that a bill can be cosponsored up to the point where “the last committee authorized to consider and report the bill or resolution reports it to the House or is discharged from its consideration.”
Of course, this coding scheme assumes that the act of sponsorship and cosponsorship reveals information about the proposal’s initial location (Woon 2008). This position is supported by a number of existing studies which argue that cosponsorship reflects either convergence between the proposal and the ideology of the member or a member signaling the ideological content of the bill (Kessler and Krehbiel 1996; Krehbiel 1995; Wawro 2000; Woon 2008).  

Using this coding scheme, the primary observation is whether a member voted for (coded 1) or against (coded 0) their initial proposal at the final stage in the sequence. Conceptually, this variation distinguishes favorable from unfavorable agenda effects.

This methodology mirrors a coding scheme recently employed by Harward and Moffett (2010) used to assess the costs associated with cosponsoring legislation. Rather than

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8 Of course, some studies demonstrate that members may also engage in position-taking when cosponsoring legislation (Koger 2003; Woon 2008). Since the present paper cannot fully address this question due to space constraints, a more pertinent question is: How will position-taking, whether rare or frequent, affect the empirical results? I believe there are two options: (1) position-taking is constant from sponsorship to the time of final passage and thus white-noise or (2) based on the results of existing research, position-taking will be biased against the thrust of the present paper. Whichever is true (or, if both are true), position-taking will represent an additional hurdle the primary hypotheses must overcome and not type-one error.

On the fist point, Assume for a moment that sponsorship is, to some degree, a form of position taking. Following this argument to its logical conclusion, once a member has staked his or her electorally beneficial position, it is unlikely that they would reverse that position on the final vote (where their decision is even more visible and consequential). Thus, position-taking is not bias, because it is constant from t₁ to t₂, and appears in the statistical results as white-noise. On the second point, The answer to the question concerning how position-taking will affect the empirical results depends on which party, if either, is most likely to engage in position-taking when sponsoring legislation. I believe the intuitive answer is that members of minority, because of the difficulty they have effecting bill consideration on the floor (Cox and McCubbins 2005), are more likely to sponsor symbolically when the proposed policy is favored by their median constituent. Woon’s (2008) formal game theoretic and empirical analysis confirms this intuition. Using data on cosponsorship, he demonstrates that members cosponsoring legislation with "low agenda positions" have mostly “position-taking motivations” (215). For the present study, this means that any bias in the dependent variable (that is, if we accept that sponsorship represents position taking) may inflate the incidence of the minority “losing” during the legislative sequence and thus work against the proposed hypothesis.
aggregate win rates (Lawrence, Maltzman and Smith 2006), the measure indicates individual-level agenda setting wins.

The raw data for every House and Senate sponsor and cosponsor for the 94th to 110th Congresses is available on James Fowler’s webpage.\textsuperscript{9} For the House observations, I used Fowler’s corresponding bills data to match each sponsor and cosponsor to their final passage roll call vote. This was done by first matching each bill to David Rohde’s Votes database,\textsuperscript{10} importing the sequential roll call vote number and matching these observations to Keith Poole’s congress-by-congress roll call matrices.\textsuperscript{11} Three additional pieces of information were recorded: (1) if the bill became law (2) if the final passage vote was on a conference report and (3) if the bill was shuttled between the chambers. The public law data are available on the Policy Agenda’s Project website.\textsuperscript{12} The remaining pieces of information (i.e. whether either form of bicameral reconciliation was used) were compiled by the author.

Unfortunately, collecting parallel data for every sponsored or cosponsored Senate bills is not possible; existing datasets containing all required pieces of information do not currently exist. Manually collecting this data for every bill with a final

\textsuperscript{9}These data are available on James Fowler’s website: http://jhfowler.ucsd.edu/


\textsuperscript{11}These data are available on Keith Poole’s website: http://voteview.com/.

\textsuperscript{12}The data are available at: http://www.policyagendas.org/. The data were originally collected by Frank R. Baumgartner and Bryan D. Jones, with the support of National Science Foundation grant number SBR 9320922, and were distributed through the Department of Government at the University of Texas at Austin and/or the Department of Political Science at Penn State University. Neither NSF nor the original collectors of the data bear any responsibility for the analysis reported here.
passage vote is beyond the scope of this chapter. Fortunately, the primary focus on bills with a bicameral policy sequence limits the data collection to a much more manageable scope. Thus, for bills that had a conference committee or amendment exchange the corresponding data were manually collected using Thomas.com and the Database of Historical Congressional Statistics.\textsuperscript{13} Using the same process as described for the House, each sponsor and cosponsor was matched with their final passage vote using Keith Poole’s congress-by-congress roll call matrices.\textsuperscript{14}

Since this measure is an analogue to the “win rate” measure, and for ease of comparison, I replicate Lawrence, Maltzman and Smith’s (2006) analysis. On the one hand, replication is a key component of scientific research and the study by Lawrence, Maltzman and Smith is an important one. Thus, uncovering the same results will meaningfully add to the literature in its own right. At the same time, their analysis directly tested various formal models of agenda setting. Thus, replication represents a straightforward test of the previous theoretical discussion. Consistent with their approach, I construct independent variables discriminating the predictions of the agenda models described previously.

The Median Voter model is operationalized as the absolute distance of each member from the House median. The model predicts that agenda setters closest to the chamber median are most likely to win at final passage. The Pivotal Voter model is operationalized using two variables. The first variable is the distance from the House

\textsuperscript{13} The Database of Historical Congressional Statistics. Compiled by Elaine K. Swift, Robert G. Brookshire, David T. Canon, Evelyn C. Fink, John R. Hibbing, Brian D. Humes, Michael J. Malbin, and Kenneth C. Murtis.

\textsuperscript{14} These data are available on Keith Poole’s website: http://voteview.com/.
median for members on the opposite side of the ideological spectrum from the president. This coefficient is predicted to be negative. The second variable is the distance from the veto override pivot for members on the same side of the ideological spectrum as the president. Members to left (right) of the veto pivot during liberal (conservative) majorities are expected to have a decreased win rate while members located between the pivot and the chamber median should have an increased win rate. The Majority Party model is a dummy variable coded “1” for membership in the majority party. The coefficient is predicted to be positive. Finally, the Agenda Control model is operationalized using two variables. The first variable is the distance from the House median for members of the minority while the second variable is a dummy variable for members on the majority party’s side of the ideological spectrum. The model predicts a negative coefficient on the first term and a positive coefficient on the second term. All operationalizations use the exact same construction as Lawrence, Maltzman and Smith (2006). The raw preference data consists of first-dimension common DW-NOMINATE scores (Poole 1998).

Since the dependent variable is dichotomous, all models were estimated via logit. Standard errors were clustered by Congress to account for temporal heterogeneity. In the House, 1864 sponsors and cosponsors voted against their initial proposals at final passage. Though this reflects only a small fraction of the population

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15 Given the low variation in the dependent variable I also estimated each model using rare events logit (King and Zeng 2001). None of the substantive results changed. Since the rare events specification is unable to estimate information criterion (AIC and BIC), a decision was made to report the results of a standard logit model with cluster-robust standard errors.

16 For example, one source of heterogeneity is a rule prior to the 96th Congress that limited cosponsorship to 25 members.
of interest (about 2%), there are two important points to keep in mind. First, this paper does not dispute the fact that the majority party has strong powers over the agenda. This low variation, much like the very low variation in the roll rate, reflects this fact. But more importantly, instances in which sponsors and cosponsors vote against their own proposals are substantively important and provide a clean look at agenda effects.

**The 9/11 Commission Bills: An Example**

As an example of what the dependent variable captures, recall the legislative history of the act implementing the bipartisan 9/11 Commission’s recommendations (HR10 and S2845) in the 108th Congress. The House bill was introduced by Speaker Hastert with 26 Republican cosponsors including Roy Blunt (MO), Tom Delay (TX), John Boehner (OH), James Sensenbrenner (WI) and Duncan Hunter (CA). These members favored the House bill in general, but also a number of specific provisions they helped shepherd through committee. There were no Democratic cosponsors. The pro-majority location of the House bill contrasted sharply with the bipartisan location of the parallel Senate bill, which had a mix of Republican and Democratic cosponsors including John McCain and Hillary Clinton. The salient policy disagreements between each chamber’s bill centered on the authority afforded the proposed national intelligence director—with the Senate favoring a more authoritative director—and sweeping immigration changes contained within the House bill. Formal and informal bicameral negotiations proved difficult and broke down at least twice (Kady 2004). Unable to reach a consensus, the bill went to a conference committee. The final conference agreement effectively split the difference on these two key issues, limiting the power of the new intelligence director while striking some of the more controversial immigration provisions. These changes were unfavorable to many conservative
lawmakers, who happened to be in the majority. Only after intervention by the Bush administration did Speaker Hastert bring the conference report to the House floor for a vote (Kady 2004). Among the 75 “no” votes on the conference report in the House (67 of which were Republicans) were five of the initial cosponsors, including James Sensenbrenner (R-WI), Phil Gingrey (R-GA), Mark Green (R-WI), Darrell Issa (R-CA) and Scott McInnis (R-CO).

As the prior example shows, despite the low variation in the dependent variable, the present measure cleanly captures variation in agenda control from introduction to final passage (including after a conference or amendment exchange). In this regard, consider that the majority party in the previous example was not “rolled” at final passage; thus, the conventional measures would cite the 9/11 Commission law as an example of majority party agenda control, though intuition tells us that the majority party sacrificed some of its preferred proposals—namely immigration provisions.

Findings

The findings are contained in eight tables. Tables 5-1 through 5-6 present the results for the House while Tables 5-7 and 5-8 present the results for the Senate. Tables 5-1, 5-2 and 5-3 contain pooled estimates for all Congresses in the dataset (94th – 110th) while Tables 5-4, 5-6 and 5-7 contain estimates restricted to the “post-Republican Revolution era” (104th – 110th). For the House data, three specifications are tested: (1) all final passage votes (intended as both a reference group and for consistently with Lawrence, Maltzman and Smith’s (2006) study); (2) all conference report final passage votes; (3) all amendment exchange final passage votes. Recall that the data for all Senate final passage votes is not available. Also, it was discovered after the data were collected that the occurrence of Senate sponsors and cosponsors
voting against their proposals at final passage is significantly rare compared to in the
House.\textsuperscript{17} Only two cosponsors voted "no" after an amendment exchange. Thus,
estimation of the Senate models was only possible for conference report votes. Two
Senate tables are reported, all conference report votes for the pooled sample (5-7) and
all conference report votes for the post-revolution sample (5-8).

The first set of results in Tables 5-1 and 5-2 for the House confirm \textit{almost exactly}
the findings reported by Lawrence, Maltzman and Smith (2006). When we explore all
final passage roll call votes three of the four models have significant and correctly
signed coefficients. Only the non-president’s side coefficient is insignificant, as it is in
Lawrence, Maltzman and Smith. The only difference between the present results and
LMS is that the present analysis uncovers a (correct) negative coefficient on both pivotal
voter terms. All other results are exactly—statistically and substantively—those
reported by Lawrence, Maltzman and Smith. In both the pooled model (5-1) and the
post-Revolution model (5-2) I find that both party based models outperform the
preference based models according to the information criterion. Of these two, the
majority party agenda control model outperforms the uniform majority party model.

These results are important for two reasons. First, it demonstrates the robustness
of Lawrence, Maltzman and Smith’s (2006) findings; an important study for our
understanding of the U.S. Congress. Indeed, despite the contribution of this project and
its frequent majoritarian (non-partisan) conclusions, I can confirm that in the aggregate
that the majority wields significant agenda control. This is consistent with my

\textsuperscript{17} This stems mainly from the facts that the Senate tends to “win” more often on intercameral
disputes (Fenno 1966; Manley 1970; Strom and Rundquist 1977; Vogler 1970) and because
much of the Senate is governed by unanimous consent agreement (thus there are not usable
final passage votes).
qualification that the results of this dissertation should not be interpreted to mean that parties are “weak” or “ineffectual” in the House and Senate. Second, it demonstrates the validity of the dependent variable used in this study. Though the constructions of my dependent variable differs from convention out of necessity, these findings suggest that my response and the response used by Lawrence, Maltzman and Smith tap the same construct.

The larger contribution of the present chapter is the results reported for the conference report and amendment exchange models (Tables 5-3 through 5-6). These results speak to the debate concerning the effect of resolving differences on the ability of legislative actors to control the congressional agenda. The results clearly support the view that resolving differences—the use of conference committees and the shuttling of legislation between chambers—is *majoritarian* in nature. Whether we examine the entire post-reform era (94th – 110th) or simply the post-Revolution era (104th – 110th), the median voter model outperforms all rivals on these bills.\(^{18}\) Substantively, the main finding is that when the House passes legislation that is subsequently amended by the Senate and the two chambers engage in bicameral negotiations, the agenda shifts in a direction toward the House median (rather than away from the House median). This supports the intuition that bicameral bargaining is dominated by the space connecting the medians of the House and Senate rather than the ideal points of the majority party. For example, in the pooled sample for conference report votes (Table 5-3) I find that House lawmakers two standard deviations removed from the chamber median are three times more likely to vote against their proposal at final passage compared to the median.

\(^{18}\) However, none of the models for the 104th-110th subset achieve statistical significance in the amendment exchange analysis.
member when the bill goes to a conference committee. For bills exchanged between
the chambers as amendments (Table 5-4), lawmakers two standard deviations removed
from the chamber median are about two times more likely to vote against their proposal
at final passage.

The uniform majority party model performs second best across all four
specifications. The model has statistically significant and correctly signed coefficients in
both conference committee models. In the pooled analysis, the majority party model
outperforms the pivotal voter model, which is also statistically significant and correctly
signed, as indicated by the information criterion. This is the only model in which both
pivotal voter variables obtain statistical significance. In none of the specifications does
the majority party agenda control model reach statistical significance.

The results in Tables 5-7 and 5-8 for the Senate lend some support to the
majoritarian findings reported regarding conference committees. In the full analysis for
the 94th to the 110th Congresses (Table 5-7) only the median voter model is statistically
significant and correctly signed. I find that Senate lawmakers two standard deviations
removed from the chamber median are two times more likely to vote against their
proposal at final passage compared to the median member when the bill goes to a
conference committee. However, these results are not statistically significant when we
constrain the analyses to the post-Republican Revolution era (Table 5-8). In this
analysis, only eight Senators voted against their proposal so the insignificant results are
probably the result of inadequate statistical power.

**Comparing Conferencing and Amendment Trading**

One final issue that we can address with the data is whether agenda setting
differences exist between conferencing and amendment trading. As we have seen, for
both forms of resolving differences the median voter model outperforms all rivals. This indicates that resolving differences is a majoritarian process first and foremost. But is one form more majoritarian than the other? There are strong theoretical reasons to suspect the answer is yes. With an amendment exchange, though the challenges of resolving differences remain—such as the difficulty satisfying pivotal actors, multidimensionality in the policy space, the uncertainty and the risk involved, etc.—there is one critical advantage enjoyed by majority party that does not exist with respect to conferencing. Specifically, an amendment exchange is governed by the same rules in each chamber that confer organizational and agenda setting advantages to the party leadership (namely control over amendments). For example, the majority in the House can control amendments to a Senate bill with a special rule from the Rules Committee or by simply defeating the amendment on the floor. In the Senate, the majority can control amendments to the House bill by filling the amendment tree or by using tabling motions. In a conference, by contrast, the majority delegates their authority to a group of actors who, in return, make an unamendable proposal. Thus, we would expect the median voter model to perform better during a conference committee as compared to shuttling.

To test the previous hypothesis I ran an additional logit model with all observations for shuttling and conferencing combined. In addition to the median voter variable, I included a dummy variable for whether the bill went to a conference (labeled Conference) and an interaction between the median voter variable and the conference dummy variable (Chamber median distance * Conference). The prior hypothesis predicts that the interaction effect will be statistically significant and negative. Such an effect would
indicate that lawmakers furthest from the chamber median are significantly less likely to vote for legislation they cosponsor after a conference committee compared to an amendment exchange. The results are presented in Table 5-9.

The results presented in Table 5-9 confirm the previous hypothesis. In both the full sample (94th to 110th) and the post-Revolution sample (104th to 110th) the interaction term is negative and statistically significant. This indicates that representatives closest to (furthest from) the chamber median are more (less) likely to vote for legislation they cosponsor after a conference committee as compared to an amendment exchange. In simple terms, though both forms of postpassage bargaining are majoritarian in nature, conference committees have more pronounced majoritarian effects on policy outcomes.

To see the differences in these effects I calculated the predicted probability of a cosponsor signing their legislation on the final roll call vote using representatives ranging from 0.0 in the first-dimension (those the chamber median) to 0.5 (a fairly conservative or liberal lawmaker).\(^{19}\) Conference committees are represented by squares while amendment exchanges are represented by diamonds. The solid lines denote the full sample while the dotted lines represent the post-Revolution sample.

The estimated effects tell two interesting stories. First, we can see that at about 0.4 in the full sample and 0.55 in the post-Revolution sample the estimated probability of a cosponsor voting for their legislation is the same for a conference committee and an amendment exchange. In these two samples lawmakers to the left of these points (closer to the chamber median) are more likely to vote for their legislation after a

\(^{19}\) For example, Carroll et al. (2008) show that roughly 90% of the Senate’s ideal points fall between -0.511 and 0.516 in the first dimension and 90% of the House’s ideal points fall between -0.545 and 0.587 in the first dimension throughout Congressional history.
conference committee compared to a shuttle while lawmakers to the right of these points (closer to their party’s ideological extreme) are less likely to vote for their legislation after a conference committee. This confirms the main hypothesis. The other interesting effect is the slightly positive slope on the estimated effect for shuttling in the post-Revolution sample. Compared to the entire sample, where the shuttling estimate has a slight negative slope, this indicates that amendment exchanges have become slightly non-centrist in recent Congresses. Thus, as the parties have become stronger over the postreform period amendment trading has become an increasingly pro-majority procedure. This adds further support to the main hypothesis tested in this section. However, it is important to qualify these statements with the fact that Table 5-6 shows that this effect is statistically insignificant.

**Discussion**

This chapter has sought to advance our understanding of agenda control by considering the topic from a bicameral perspective. Indeed, the contemporary literature focuses almost exclusively on unicameral, House-centric models. The central question was: How does a bicameral sequence—specifically, formal forms of bicameral reconciliation—affect the capacity of parties to control the legislative agenda? Using a modified “win rate” measure constructed at the bill level, I found that conference committees and the shuttling of legislation between chambers produces suboptimal outcomes from the majority’s perspective. This highlights an important qualification when considering the topic of agenda control as well as highlights how parties manage, successfully or unsuccessfully, varying institutional hurdles.

These findings are especially important given the findings reported in Chapter 3 and Chapter 4. Chapter 3 reported a number of findings concerning how the House and
Senate resolve disagreements when they arise. Key among those findings were the conclusions that over the postreform period there has been an increase in pro-minority conference outcomes, greater strain in the reconciliation process, a lack of evidence that “packing the conference” yields a pro-majority outcome and strong evidence that partisan legislation is most likely to emerge from conference shifted in a pro-minority direction. A general counterargument to these findings is that the evidence actually reflect strategic pro-majority agenda control. In the simple terms, opponents of might argue that the majority party introduces and passes legislation in each chamber beyond their median ideal point so that, in negotiations with the other chamber, they are able to concede a few relatively minor provisions and ultimately emerge from conference with their “true” preferred policy. The present chapter debunks this counter claim. The majority party typically concedes some of its preferred policies when legislation goes to conference or is resolved via amendment trading.

Though the main contribution of this study concerns the limits of majority party agenda control, this should not be regarded as a dismissal of the strength of the majority in the contemporary era. In fact, the initial portion of the study confirmed that on all final passage votes the majority exhibits significant agenda control (Lawrence, Maltzman and Smith 2006). At the same time, however, the results demonstrate that we cannot generalize across bills. That is, lumping together bills that were engaged in a bicameral sequence with those that did not experience a bicameral sequence ignores important institutional variation in this regard.
Table 5-1. All House final passage votes, 94th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-2.02***</td>
<td>-0.32</td>
<td>-4.51***</td>
<td>1.20***</td>
</tr>
<tr>
<td>Chamber median distance (non-pres. side)</td>
<td>-0.32</td>
<td>-0.32</td>
<td>-0.32</td>
<td>-0.32</td>
</tr>
<tr>
<td>Distance from veto Pivot (pres. side)</td>
<td>-4.51***</td>
<td>-4.51***</td>
<td>-4.51***</td>
<td>-4.51***</td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td>1.20***</td>
<td>1.20***</td>
<td>1.20***</td>
<td>1.20***</td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td>.79***</td>
<td>.79***</td>
<td>.79***</td>
<td>.79***</td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td>4.90***</td>
<td>4.38***</td>
<td>3.46***</td>
<td>3.87***</td>
</tr>
<tr>
<td>N</td>
<td>99481</td>
<td>99481</td>
<td>99481</td>
<td>99481</td>
</tr>
<tr>
<td>AIC/BIC</td>
<td>15525 / 15544</td>
<td>15515 / 15550</td>
<td>15357 / 15377</td>
<td>15339 / 15368</td>
</tr>
</tbody>
</table>

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.

Table 5-2. All House final passage votes, 104th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-2.48***</td>
<td>-0.70</td>
<td>-7.52***</td>
<td>1.36***</td>
</tr>
<tr>
<td>Chamber median distance (non-pres. side)</td>
<td>-0.70</td>
<td>-0.70</td>
<td>-0.70</td>
<td>-0.70</td>
</tr>
<tr>
<td>Distance from veto pivot (pres. side)</td>
<td>-7.52***</td>
<td>-7.52***</td>
<td>-7.52***</td>
<td>-7.52***</td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td>1.36***</td>
<td>1.36***</td>
<td>1.36***</td>
<td>1.36***</td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td>.58*</td>
<td>.58*</td>
<td>.58*</td>
<td>.58*</td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td>5.39***</td>
<td>4.68***</td>
<td>3.61***</td>
<td>4.40***</td>
</tr>
<tr>
<td>α</td>
<td>5.39***</td>
<td>4.68***</td>
<td>3.61***</td>
<td>4.40***</td>
</tr>
<tr>
<td>N</td>
<td>61825</td>
<td>61825</td>
<td>61825</td>
<td>61825</td>
</tr>
<tr>
<td>AIC/BIC</td>
<td>8334 / 8352</td>
<td>8332 / 8359</td>
<td>8312 / 8330</td>
<td>8290 / 8317</td>
</tr>
</tbody>
</table>

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.
Table 5-3. All House conference report votes, 94th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-3.19***</td>
<td>-1.78**</td>
<td>-4.46***</td>
<td></td>
</tr>
<tr>
<td>Chamber median distance (non-pres. side)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from veto pivot (pres. side)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td>1.30***</td>
<td>.04</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td></td>
<td>-2.41***</td>
<td></td>
<td></td>
</tr>
<tr>
<td>α</td>
<td>4.85***</td>
<td>4.24***</td>
<td>2.96***</td>
<td>4.24***</td>
</tr>
</tbody>
</table>

| N                            | 6600         | 6600          | 6600           | 6600           |
| AIC/BIC                       | 1390 / 1403  | 1432 / 1452   | 1404 / 1418    | 1387 / 1407    |

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.

Table 5-4. All House shuttle final passage votes, 94th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-1.81**</td>
<td>3.42</td>
<td>-.97</td>
<td></td>
</tr>
<tr>
<td>Chamber median distance (non-pres. side)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from veto pivot (pres. side)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td>.26</td>
<td>-.28</td>
<td>-.90</td>
<td></td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td></td>
<td>5.00***</td>
<td>3.96***</td>
<td>4.13***</td>
</tr>
<tr>
<td>α</td>
<td>5.00***</td>
<td>3.96***</td>
<td>4.13***</td>
<td>4.67***</td>
</tr>
</tbody>
</table>

| N                            | 3982         | 3982          | 3982           | 3982           |
| AIC / BIC                    | 557 / 570    | 552 / 571     | 566 / 579      | 568 / 587      |

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.
Table 5-5. All House conference report final passage votes, 104th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-4.03*** (1.03)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chamber median distance (non-pres. side)</td>
<td>-1.20 (.94)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from veto pivot (pres. side)</td>
<td>-8.78*** (1.86)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td></td>
<td>1.68** (.69)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td></td>
<td>-6.6 (.79)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td>5.69*** (.62)</td>
<td>4.51*** (.46)</td>
<td>3.06*** (.45)</td>
<td>5.40*** (.52)</td>
</tr>
<tr>
<td>α</td>
<td>4.70*** (1.11)</td>
<td>3.68*** (.86)</td>
<td>4.71*** (.62)</td>
<td>7.04*** (1.55)</td>
</tr>
</tbody>
</table>

N: 2563
AIC / BIC: 461 / 472

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.

Table 5-6. All House shuttle final passage votes, 104th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-1.12 (1.22)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chamber median distance (non-pres. side)</td>
<td>4.64 (3.64)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from veto pivot (pres. side)</td>
<td>4.76** (2.40)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td></td>
<td>-.67 (1.28)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td></td>
<td>-3.00 (1.93)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td>4.70*** (1.11)</td>
<td>3.68*** (.86)</td>
<td>4.71*** (.62)</td>
<td>7.04*** (1.55)</td>
</tr>
<tr>
<td>α</td>
<td>4.70*** (1.11)</td>
<td>3.68*** (.86)</td>
<td>4.71*** (.62)</td>
<td>7.04*** (1.55)</td>
</tr>
</tbody>
</table>

N: 2754
AIC / BIC: 411 / 422

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.
Table 5-7. All Senate conference report votes, 94th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-2.13**</td>
<td>(.94)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from filibuster pivot</td>
<td>0.36</td>
<td>(2.00)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from veto pivot</td>
<td>0.14</td>
<td>(1.59)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td>.55</td>
<td>(.80)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td>-1.70</td>
<td>(1.80)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td>-5.13**</td>
<td>(2.53)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>α</td>
<td>5.51***</td>
<td>(.52)</td>
<td>4.77***</td>
<td>4.45***</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>1630</td>
<td>1630</td>
<td>1630</td>
<td>1630</td>
</tr>
</tbody>
</table>

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses. The AIC and BIC are not reported since only one model performs according to expectations.

Table 5-8. All Senate conference report votes, 104th – 110th Congresses

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Pivotal voter</th>
<th>Majority party</th>
<th>Agenda control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chamber median distance</td>
<td>-.99</td>
<td>(1.00)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from filibuster pivot</td>
<td>.89</td>
<td>(2.13)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distance from veto pivot</td>
<td>-1.74**</td>
<td>(.81)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party membership (1/0)</td>
<td>1.06</td>
<td>(.97)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Majority party side of median (1/0)</td>
<td>-0.27</td>
<td>(1.31)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority distance from chamber median</td>
<td>0.94</td>
<td>(.60)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>α</td>
<td>4.83***</td>
<td>(.36)</td>
<td>4.20***</td>
<td>3.80***</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>705</td>
<td>705</td>
<td>705</td>
<td>705</td>
</tr>
</tbody>
</table>

*** p<.01, ** p<.05, *p<.10; cluster-robust standard errors in parentheses. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. The AIC and BIC are not reported since none of the models perform according to expectations.
Table 5-9. Conference and shuttle interaction effects

<table>
<thead>
<tr>
<th></th>
<th>Median voter</th>
<th>Median voter</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>94th – 110th</td>
<td>104th – 110th</td>
</tr>
<tr>
<td>Chamber median distance</td>
<td>-.39</td>
<td>.56</td>
</tr>
<tr>
<td>Conference</td>
<td>1.21</td>
<td>.73</td>
</tr>
<tr>
<td>Chamber median distance * Conference</td>
<td>-2.80**</td>
<td>.83</td>
</tr>
<tr>
<td>α</td>
<td>3.64</td>
<td>.60</td>
</tr>
<tr>
<td>N</td>
<td>10582</td>
<td>5317</td>
</tr>
</tbody>
</table>

Notes: *** p<.01, ** p<.05, *p<.10. The response is coded such that 1=a cosponsor voting for their bill on the final roll call vote and 0=a cosponsor voting against their bill on the final roll call vote. Cluster-robust standard errors in parentheses.
Figure 5-1. Formal models of agenda control.
Figure 5-2. Conference and chamber median interaction effects. This Figure was created based on the estimated reported in Table 5-9.
CHAPTER 6
CONCLUSIONS

The Marriage of the House and Senate in Historical Perspective

This project has been the first to investigate two decisive stages in the legislative process—bicameral disagreement and reconciliation—jointly. One of the central premises animating the research was that the formal interaction of the House and Senate is a critical, but often neglected, feature of Congress’s organizational structure. As such, the scope of this project differs from our tendency as congressional researchers to examine a single chamber in isolation. Though such studies are valuable because they closely examine key features of legislative politics, they often overlook what I have argued is the central feature of congressional organization: legislative checks and balances. And if there were one all-encompassing conclusion from this dissertation, it is that inter-chamber cooperation and conflict are variable—evolving in consequential fashion throughout history—rather than constant. Indeed, the marriage of the House and Senate has changed considerably since 1787.

The Honeymoon Period

From 1789 (the first session of the first Congress) until around the 1830s, the marriage of the House and a Senate was characterized by a legislatively dominant House or Representatives and a less active and less prestigious Senate. Henry Clay’s early career is a fitting illustration of the two chambers’ original union. Clay, one of the most prominent figures in congressional history, began his federal legislative career in the Senate before running for election to the House in 1810. Though such Senate-to-House career paths are unthinkable today, it was quite common in the early Congresses; senators were just as likely to leave for the House as were representatives
to leave for the Senate (Baker 2008, 16). Because of its connection to the public
through direct elections, stronger internal organization and authority over revenue bills,
the House played a larger role in debating and crafting national policy (Carmines and
Dodd 1985; Baker 2008). Indeed, in the first few decades of the Republic, national
politics was focused on domestic—usually agrarian—issues (Carmines and Dodd
1985). According to one estimate, legislative activity in the early House outpaced that
of the Senate by three to one (Binder 1995). Taken as a whole, the House and
Senate’s initial relationship was commensurate in many respects with Constitutional
design. In fact many of the Framers believed that the Senate should (and would) be
politically quiescent and function primarily as a legislative “check” on the popular actions
of the House.¹ Indeed, Binder (2003, 16) points out that there was no discussion of the
opposite relationship during the Founding era—that the House might be designed to
simply “check” the actions of the Senate.

The Emergence of an Activist Senate

Of course, the House and Senate began to evolve vis-à-vis each other soon after
the first session of the first Congress. Emblematic of this transition, Henry Clay
returned to the Senate in 1831, a move Baker (2008, 16) says “reveals much about the
change in the status of the upper chamber.” The debate and subsequent passage of
the Missouri Compromise in 1820 was a critical juncture in this evolution (Baker 2008;

¹ In Federalist no. 62, Madison writes: “The necessity of a senate is not less indicated by the
propensity of all single and numerous assemblies to yield to the impulse of sudden and violent
passions, and to be seduced by factious leaders into intemperate and pernicious
resolutions...All that need be remarked is, that a body which is to correct this infirmity ought
itself to be free from it, and consequently ought to be less numerous. It ought, moreover, to
possess great firmness, and consequently ought to hold its authority by a tenure of considerable
duration.”
but see also Wirls 2007). Not only did the Senate disagree to the House’s initial proposal, but, after a conference committee met, it was the Senate that drafted and passed the amendment establishing the southern border of Missouri as the dividing line between free and slave states (Woodburn 1893, 258-265). Thus, passage of the Senate’s proposal, in addition to the Senate’s significant role in debating the Missouri Compromise, cemented the upper chamber’s position in national politics. While some have characterized this period as the so-called “golden age” of Senate debate (e.g. de Tocqueville), more recent work characterizes the House and Senate of this period as coequal bodies in terms of debating national political issues (Wirls 2007).

While the Senate developed an active role in national politics, the rapidly expanding size of the House—growing from 59 members in 1789 to 186 members by 1820—made restrictions on debate inevitable. On the one hand, this physical development eroded some of the House’s prestige (Baker 2008) though, on the other hand, the development of the previous question rule—which limited debate in the House—helped enhance the House’s organizational capacity and ability to act decisively. Following the Civil War, rapid economic growth made Congress, both the House and Senate, a more powerful political institution. This expansion of Congress’s authority, coupled with the rising salience of foreign affairs issues, further extended the Senate’s influence in national politics vis-à-vis the House. As Carmines and Dodd (1985) explain, Congress was a more dominant national institution and bicameralism was “more balanced than the Framers had planned.” (285).

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2 The previous question rule was adopted in 1811.
In sum, the marriage of the House and Senate underwent significant change from 1789 to the dawn of the 20th Century: from a politically subordinate Senate that tended to review the policies passed by the more prestigious House to what may be described as an equal partnership. As Binder (2003) put it, “The emergence of the Senate, in short, probably made interchamber bargaining over the terms of policy change a more central and frequency component of the legislative process” (18, emphasis in original). Indeed, writing in 1885, Woodrow Wilson remarked that there was a “latent unity” between the two chambers (quoted in Baker 2008, 20).

“The End of Bicameralism as the Founders Conceived It”

The relatively equal partnership of the House and Senate in the early 20th century was dramatically altered in the 1910s. There were two major developments. The first major development was, of course, the passage of the 17th Amendment. The 17th Amendment to the Constitution—establishing the direct election of senators—made the Senate a more democratic and politically responsive body. Bernhard and Sala (2006) show that after the 17th Amendment passed senators were much more likely to moderate their policy positions in response to looming elections while Crook and Hibbing (1997) find that the direct election of senators led to a less aristocratic upper chamber3 and made the Senate more responsive to the public mood. Cook and Hibbing (1997, 852-853) aptly summarize the effects of the 17th Amendment on the House and Senate’s relationship this way: “For better or for worse, direct election rendered the Senate less sedate and more closely tied to the people, synchronizing it with the House and the presidency; in fact, it often looks much like a smaller version of

3 In particular, they find that senators had fewer characteristics resembling the state lawmakers who previously appointed them.
the House.” Indeed, prior to 1914, six of the eleven changes in party control were the “constitutionally intended” kind, where the House initiated the transition, compared to only one of nine changes after 1914 (Alford and Hibbing 2002).

The second major development in the early 20th century was legislative reforms. Prior to 1910, and despite the emergence of a politically active Senate, the House retained some of its leverage over the Senate because of its more robust rules and procedures. This structure was strengthened in both 1889 and 1903 during the influential speakerships of Thomas Reed and Joseph Cannon. In 1889, House reforms known as “Reed rules” enhanced the organizational capacity of the majority party and undermined the ability of the minority to block legislation (Rohde 1991). Among the changes implemented in the 51st Congress, the reforms enhanced the Speaker’s power of first recognition, ended the parliamentary tactic known as the “disappearing quorum,” and gave the Speaker the power to refer legislation directly to committee (Forgette 1997; Rohde 1991). Reed further consolidated his power by appointing loyal Republicans as chairmen of influential committees such as Ways and Means and Appropriations (Rohde 1991). Then in 1903, with the election of Joseph Cannon as Speaker of the House, organizational power was further centralized in the hands of the majority. As Speaker, Cannon added to Reed’s reforms by assuming the chair of the influential Rules Committee. As Rohde (1991, 4) explains “Control of the Rules Committee permitted him to determine which bills go to the floor, and his powers as presiding officer enabled him generally to dictate their fate once there.” Thus, from 1889 to 1910 the House retained some of its leverage in the legislative process because of the power enjoyed by the Speaker and the House’s capacity for decisive
action. Though the Senate experienced an increase in majority party rule during this period, its organizational structure was not nearly as robust (Smith and Gamm 2009).

However, in 1910, the organizational power of the majority in the House was undermined in the famous “revolt” against Joe Cannon. This watershed moment in congressional history transformed the relationship between the House and Senate in relatively short order. The coup against Cannon was driven by within-party ideological divisions; namely, progressive Republicans joined Democrats in enacting a series of reforms which removed the Speaker from the influential Rules Committee and deprived the Speaker of the authority to name committee chairmen and committee members (Baker 1973; Rohde 1991). What emerged after the reforms was a system of “committee government.” The characteristic features of committee government were less hierarchical leadership, the diffusion of power across the House—particularly among the committee chairmen—and growing regional divisions within the Democratic party (Cooper and Brady 1981; Dodd and Oppenheimer 1977; Rohde 1991). As a result, the legislative process was marked by greater bargaining on the House and Senate floor and more frequent cross-party coalition formation at final passage (Smith and Gamm 2009). Though the House and Senate experienced similar transformations during this period, the Senate reforms were much less dramatic and consequential (Carmines and Dodd 1985). Thus, a major element keeping the House and Senate in a coequal relationship at the turn of the century—the House’s hierarchical organizational structure—was undone in the 1910s. Carmines and Dodd (1985, 286) aptly summarize the alteration of the bicameral partnership in the following way:

This weakening of the power of congressional leaders marked the end of bicameralism as the founders conceived it...But with the demise of strong
central leadership and the subsequent rise of committee government, fragmentation and immobilism resulted. Rather than a restraint on an aggressive Congress, bicameralism now became an inducement toward weakness, a constitutional provision that helped increase the leverage of the executive and judiciary over the legislative branch.

**The Textbook and Reform Eras**

Compared to the developments in each of the earlier periods, from 1789 to 1913, during the committee government or “textbook era” (1912-1968) there were no *major* changes in the relationship of the House and Senate. Both houses remained nearly coequal partners, with the Senate still regarded as it was in the early 20th century as the more prestigious chamber (because of its longer terms, role in foreign affairs, smaller size and greater visibility). Moreover, the Senate remained a more nationally focused body while the House maintained its parochial spirit (also due to the Senate’s longer terms, role in foreign affairs and greater prestige). This is not to say that consequential institutional developments never occurred during the textbook era: quite the contrary. Rather, the major developments of this period occurred in similar fashion within each body. For example, both chambers experienced a period of committee dominance, where senior and disproportionately southern committee chairmen exerted unequal influence over policy outcomes (Rohde 1991; Sinclair 2005). Of course, the House was marked by committee government to a greater extent than the Senate, which maintained an individualistic character (Sinclair 2007). Another major development was the general decline in Congress’s governing capacity in relation to the president: a change experienced jointly by the House and Senate (Carmines and Dodd 1985; Cooper 2005; Dodd 1981; Sinclair 2007). Finally, both chambers experienced a growth in incumbency during textbook period (Ansolabehere and Snyder 2002; Mayhew 1974) leading to a more “professional” legislature. In sum, the major institutional
developments of textbook period occurred along similar trajectories in each body. Compared to the earlier periods, the marriage of the House and Senate was relatively stable.

Calls for reforming the textbook era Congresses began as early as the 1950s (Dodd and Oppenheimer 1997; Zelizer 2006). The impetus for these efforts was a decline in each chamber’s organizational capacity, marked by the tendency of southern Democrats to block civil rights legislation, and a decline in Congress’s institutional legitimacy in relation to the Supreme Court and president (Cooper 2005; Carmines and Dodd 1985; Dodd 1981; Rohde 1991; Sinclair 2007). A number of political scientists joined the calls for reform, advocating institutional changes designed to foster ideological coherence within the two parties and create the conditions for greater efficiency in the policy process (Schattschneider 1942; Key Jr. 1942). With an influx of new, and more liberal, lawmakers in both the House and Senate in 1958, formal efforts to consolidate organizational power within the parties and undermine the committee system begun. These efforts culminated in the reforms of the 1970s (documented more fully in earlier sections of this dissertation). The reforms implemented in the early- to mid-1970s undermined the seniority system and weakened the power of committee leaders (which had empowered southern Democrats in their efforts to stymie civil rights legislation), enhanced the power of subcommittees though the “subcommittee bill of rights,” installed a new budgetary process, strengthened the parties’ leadership structures (particularly the role of the Speaker) and made party leaders more responsive to the rank-and-file (Dodd 1986; Rohde 1991; Zelizer 2006; Dodd 1979; Cooper 2005; Deering and Smith 1997; Stewart 2001). Thus, following the reform
period (1968-1974), congressional researchers identify a redistribution of organizational power away from committees and their chairmen and an increase in the organizational capacity of the parties. It is within the context of these reforms, and the succeeding era in Congressional history, that the present research is positioned.

The Postreform Period

In earlier chapters (Chapter 1 and Chapter 2 in particular) I highlighted two consequential developments during the reform (1968-1974) and postreform (1974-present) periods that affected the formal interaction—the so-called “marriage”—of the House and Senate. First, House reforms in the mid-1970s and in 1995 enhanced the organizational power of the majority to a greater extent than the parallel reforms which occurred in Senate. For example, though the Senate made major changes to its committee system in the 1970s—in particular, Senate reformers cut the number of committees and sub-committees and reorganized committee jurisdictional borders—no consequential changes were made to the Senate’s party or chamber procedures (Davidson 1981; Deering and Smith 1997). This is in contrast to the House reforms of the 1970s which revived the Steering and Policy Committee (including the Speaker as its chair), expanded the whip system and empowered of the Speaker to name members to the influential Rules Committee (Davidson 1981; Deering and Smith 1997; Dodd 1979; Dodd and Schott 1979; Rohde 1991; Sinclair 1988, 1989; Shepsle 1989; Zelizer 2006). A similar narrative applies to the reforms implemented after the 1994 congressional mid-term. Though reforms implemented in 1995 bequeathed the Senate an organizational structure resembling the House (particularly with the adoption of a secret-ballot to name committee chairs), the implemented reforms were again much less consequential in terms of strengthening the parties compared to the House reforms.
(Davidson 1981; Deering and Smith 1997; Zelizer 2006). As Smith and Gamm (2009, 159) aptly put it, “‘Centralization’ is not a term that any modern senator would apply to his or her institution.” Thus, the reforms of this period created a centralized and efficient House—where the majority can easily exploit rules and procedures to pass legislation—while the Senate’s organizational structure became more fractured and the legislative process more unpredictable—because the chamber is marked by great individualism as well as partisanship (Sinclair 2005, 2007).

The second major development of the postreform period in the relationship between the House and Senate has been the growth of polarization within Congress. Though primarily an external development, electoral-geographic polarization has affected the marriage of the House and Senate due to constitutional variation in the selection and apportionment of the two bodies. As I argued in Chapter 2, due to basic features of constitutional design, we would expect the House and Senate to polarize very differently: with the House polarizing at a faster rate than the Senate. Indeed, the Framers established a system of legislative checks and balances where the House and Senate were designed to respond to exogenous factors very differently. And though the 17th amendment has resulted in “electoral convergence” between the House and Senate (Alford and Hibbing 2002), the fact that only 1/3rd of the Senate is replaced each cycle maintains polarization asymmetries. The empirics presented in Chapter 2 confirmed this effect—a factor I labeled polarization asymmetry. Though no work that I

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4 Term limits, designed to enhance the responsiveness of committees and leaders to the rank and file, were less stringent in the Senate compared to the House. While the House cut the number of committee staff by one-third, the Senate made no corresponding cuts. And the House leadership was given enhanced power over the selection of committee chairs while no such powers were afforded the Senate leadership.
am aware has labeled this phenomenon, polarization asymmetry is consequential because, as I have shown, it has caused greater tension between pivotal members in each chamber (between the chamber medians, party medians, and the filibuster pivot). The effects of these compositional tensions has been greater bicameral conflict and growing challenges resolving differences. Moreover, I have shown at repeated points in this dissertation that these challenges have been experienced disproportionately by the majority party.

**How the House and Senate Coevolve**

Viewed through the lens of over two hundred years of institutional development, the marriage of the House and Senate has been characterized by remarkable stability and gradual, but consequential, change. The former point stands in contrast to Edmund Randolph’s claim during the Constitutional Convention that “two such opposite bodies…could never long co-exist” (quoted in Wood, 1998, 556). This stability is due, in part, to the fact that the Constitution prevents the two chambers from radically altering the terms of their original union, as the Article 1 explicitly codifies key factors of the bicameral partnership such as their members’ duration in office and as well as their apportionment principles. Only the Senate’s method of selection has formally changed (with the 17th Amendment). Nonetheless, throughout Congressional history, two areas of change have consistently affected the relationship of the two houses.

The first area of bicameral change stems from the fact that the Constitution is silent on the rules governing each chamber. Article 1 Section 5 of the Constitution states in unequivocal language that “Each House may determine the Rules of its Proceedings.” This has given the House and Senate great leeway over the terms of their union. Internal reforms—most notably in 1910 and in the mid-1970s—have led to
important developments in the terms of the bicameral partnership by altering the
balance between centralization and decentralization. Specifically, these reform periods
altered the bicameral relationship by weakening and strengthening (respectively) the
organizational capacity of the majority in the House: one of the lower chamber’s key
sources of power vis-à-vis the Senate.

The second area of bicameral changes stem from exogenous developments which
have affected the relationship of the House and Senate. One feature of this effect has
been socio-structural. Changes in the physical size of the House throughout the 1800s
undermined the deliberative and democratic foundation of the lower chamber while the
rise of major national issues (the Missouri Compromise, the Civil War, WWI, etc.)
spurned to action the more nationally focused Senate. The other feature of exogenous
development has been the fact that exogenous changes have manifested very
differently in each chamber. These differences in the effects of external developments
are due to fundamental institutional differences between the House and Senate.
Indeed, unlike some bicameral legislatures, the U.S. Congress is not marked by
“congruent bicameralism.” The growth of polarization, in particular, has manifested very
differently in each chamber resulting in growing tensions between the House and
Senate.

In short, like the historical developments which undermined the House’s legislative
dominance in the early 1800s, which created a coequal relationship between the
chambers in the mid- to late-1800s and gave rise to a dominant Senate in the 1910s,
the major historical changes I note in this dissertation stem from the confluence of

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5 Examples of “congruent bicameralism” include Italy, Japan, the Netherlands and Norway
(Tsebelis and Money 1997).
exogenous developments (polarization) and internal reforms. The key effect of this confluence has been more frequent and more severe bicameral conflict.

**Overarching Conclusions**

Summarized in a paragraph, the findings and implications of this dissertation are as follows. While it is true that parties in Congress have enjoyed enhanced organizational capacities over the postreform period, leading to a surge in pro-majority policy outcomes, the majority has simultaneously faced growing bicameral constraints because of an increase in House and Senate compositional differences. As the empirical chapters have shown, these compositional differences have caused a growth in both the frequency and severity of bicameral disagreement which have, in turn, created challenges when the House and Senate attempt to resolve differences. These developments are paradoxical because they suggest that ideological polarization simultaneously empowers the majority—for the reasons outlined by the theory of Conditional Party Government—as well as creates a larger bicameral hurdle that the majority must contend with when the two chambers attempt to not just pass but enact legislation. All told, polarization has had what may be called a “homeostatic” effect on policy activity and outcomes. Moreover, the empirics have repeatedly shown that the process of resolving differences is majoritarian in nature—marked by consensus and compromise first and foremost—rather than partisan. As with bicameral conflict at the passage stage, the findings reveal that the majority party has become increasingly constrained at the postpassage stage. The main implications, discussed more fully in a moment, are as follows. First, this paradoxical relationship offers a parsimonious solution to a clear contradiction in the congressional literature. For over a hundred years scholars have cited “strong parties” as a solution to the constitutional barriers to
active government (Wilson 1885, Schattschneider 1942; Key Jr. 1942) while more recent work has cited polarization as the cause of growing stalemate (Binder 1999, 2003; Dodd and Schraufnagel 2009). The present work reconciles these two views. Thus, as a practical matter, the present work helps us understand a fairly intuitive observation: while the majority is strong within the House and Senate, occasionally the two bodies’ preferred policy is moderated or fails outright because of disagreements across the chambers (even during unified government). Because of these findings and implications, I believe it is apt to characterize the modern legislative process as one of great risk. Policy outcomes and policy production have become bipolar, marked by growing pro-majority outcomes as well as more frequent failures and pro-minority outcomes.

**Specific Conclusions**

Chapter 2 is motivated by the overarching question: How have growing ideological polarization and the strengthening of parties-in-Congress affected the operation of inter-chamber bargaining? Relying on an original dataset that records both the frequency and severity of policy disagreements between the House and Senate, Chapter 2 reveals that over the postreform period the two chambers have come into greater conflict when trying to pass legislation. In other words, I find that the “bicameral hurdle” has grown significantly over the last thirty years. Furthermore, the results show that pro-majority or “partisan” House passed legislation has become especially prone to bicameral gridlock. I find evidence that this effect is due to increasing distances between the medians of each chamber as well as growing intra-party disagreements across the House and Senate. The congressional literature has been largely silent on these developments. Noting that polarization has occurred at a faster rate in the House than in the Senate, I
attribute the increase in bicameral conflict to growing compositional asymmetries between the two chambers. These compositional asymmetries include: (1) greater distance between each chamber’s median member, (2) increasing intra-party bicameral differences, and (3) a growing gap between the House median and Senate filibuster pivot.

Chapter 3 explores (at the macro-level) how the House and Senate resolve differences when they arise, known as the “post-passage stage.” I begin this chapter by developing a unified typology of how the House and Senate might resolve differences; one that contributes to our broader understanding of this process. Using roll call data from all conference committees convened from the 95th to the 110th Congresses, I operationalize the typology using multidimensional spatial modeling. There are two primary findings in this section. First, I uncover evidence of multidimensionality in the process of resolving differences. In particular, I find that three qualitatively distinct dimensions—reconciliation, partisan conflict and bicameral conflict—explain over 80% of the variation in the conference committee roll call patterns. Second, I find that the first dimension of resolving differences (i.e. the one that explains the greatest amount of variation) is a process of reconciliation, defined here as “the process of resolving bicameral disputes by compromise and/or concession.” Thus, contrary to the direction of the literature over the past few decades, I do not find that partisanship is the leading determinant of post-passage bargaining. This finding is particularly consequential when juxtaposed with Chapter 2’s findings about the growing bicameral hurdle facing the majority party.
Where Chapter 3 examines the aggregate patterns in post-passage bargaining, Chapter 4 takes a look at the micro-level, examining individual conference committee outcomes. Following Chapter 3, the first section estimates separate spatial models for the pre-Republican Revolution and post-Republic Revolution periods. These separate models show that the first and second dimensions—reconciliation and partisan conflict, respectively—exhibit stability over time, indicating that even in the contemporary Congresses (where partisan roll call patterns are more pronounced) the process of resolving differences remains a multidimensional process governed by consensus and compromise first and foremost. The second section explores the individual dimensions at the bill-level using spatial mappings of conference outcomes. I find that over the postreform period there has been: (1) an increase in the variability of conference outcomes, (2) an increase in pro-minority conference outcomes, and (3) an increase in the extent of compromise and concession in conference. Overall, these findings suggest that over the postreform period the so-called “bicameral hurdle” has becoming increasing salient when competing parties and chambers attempt to resolve differences and that this hurdle has increasingly constrained the majority party. Finally, the third section of Chapter 4 uses the multivariate spatial coordinates to examine the factors structuring conference outcomes. The main findings are as follows. First, greater pre-conference disagreement necessitates greater reconciliation. Second, partisan legislation is moderated in a pro-minority direction in conference. And at the same time, there is no evidence that the strategic procedure dubbed “packing the conference” yields a pro-majority outcome. Third, the more widely a bill passes one chamber relative to the other chamber the more the conference outcome shifts in the direction of
the rival chamber. Taken as a whole, the findings from this section suggest that conference committees operate in a *majoritarian* rather than distributive fashion.

Chapter 5 concludes the empirical chapters by examining the process of resolving differences through formal theories of agenda setting. Opponents of the prior chapters may argue that the majority introduces and passes legislation in each chamber *beyond* their median ideal point so that, in negotiations with the other chamber, they are able to concede a few minor provisions and ultimately emerge from conference with their “true” preferred policy. The central question of Chapter 5 is thus: How does resolving differences affect the capacity of parties to control the legislative agenda? I address this question using a modified version of the “win rate” measure designed to capture bill-level variation in agenda control, allowing us to straightforwardly compare bills that do not traverse a bicameral sequence with those that do traverse a bicameral sequence. Armed with this data, competing formal models of agenda control are compared. The results show that partisan models of agenda control perform best when we examine *all* final passage votes. However, when we restrict our analysis to bills that went to a conference committee or were shuttled between the chambers in disagreement, a non-partisan, majoritarian model outperforms all rivals. This highlights how parties manage, successfully or unsuccessfully, varying institutional hurdles and shows that the majority party typically concedes some of its preferred policies when legislation goes to conference or is resolved via amendment trading.

**Additional Empirics**

Two additional sources of information speak to the postreform developments in how the House and Senate resolve differences. These two are: (1) the rate with which legislation in disagreement is referred to a conference committee and (2) the rate with
which conference committees fail to reach a compromise. What follows is a limited discussion of these topics; both could be the subject of an entire article or chapter. Despite this limited discussion, the descriptive statistics I present dovetail quite nicely with the findings and implications of this dissertation.

The first additional source of information is the rate with which legislation passed by the House and Senate in disagreement is referred to a conference committee. Recall that the convening of a conference committee is a voluntary decision, one made almost exclusively by the majority party (specifically the party leaders and the jurisdictional committee chairmen). And because there are other avenues to resolving differences—including amendment trading or passing a new bill—it is logical to regard the decision to appoint conferees as a strategic one. It is no doubt curious, then, that the data collected for this study shows a clear decline in the use of formal post-passage bargaining strategies—both conference committees and amendment trading. Ryan (2010) notes this trend as well. For example, my data reveal that in the 95th Congress, out of the 634 bills enacted into law, 227 (36%) were enacted after amendment trading while 144 (23%) were enacted after conferencing. In the 110th Congress, by comparison, out of the 460 bills enacted into law, 79 (17%) were enacted after amendment trading while only 9 (2%) were enacted after conferencing.6 Thus, not only has the use of conference committees declined over the postreform period but that decline has been fairly steep.

The question becomes: What has caused this decline? Ryan (2010) correctly, in my opinion, attributes the decline to growing ideological polarization in Congress. He

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6 The data for all laws enacted come from the Resume of Congressional Activity.
notes that with greater polarization there have been fewer bipartisan votes and smaller winning coalitions on bills typically referred to a conference committee (making bicameral negotiations more challenging and non-conference options more attractive). In addition, he argues that the Senate minority has increasingly used procedural motions to block or delay the move to conference (such as filibustering the naming of conferees). Ultimately, Ryan suggests that the majority is intentionally avoiding conference committees and amendment trading. This sentiment was echoed by Steven Smith in his recent testimony before the U.S. Senate. Smith (2010, 167) testified that “the minority’s moves have motivated majority party leaders to leave nothing to chance…it has moved Majority Leaders to take a closer look at non-conference mechanisms to avoid debatable conference motions.”

The declining use of conference committees has important implications for this dissertation. First, my central claims in Chapters 3, 4 and 5 are: (1) that resolving differences is a process of compromise and concession first and foremost; (2) that resolving differences is becoming increasingly strained and; (3) that this strain has resulted in greater pro-minority conference outcomes. These claims stand in direct contrast to the conventional wisdom which holds that the majority party’s power to name conference managers yields pro-majority outcomes. If the pro-majority outcomes were the dominant pattern in conference, we would see more bills going to a conference, not fewer. Indeed, backward induction tells us that the majority’s strategic decision to avoid a conference committee stems from the suboptimal outcomes that result. Thus, the decline in conferencing is further evidence in favor of this dissertation’s central arguments. Second, in Chapter 2 I presented evidence that within-party bicameral
differences have become worse over the postreform period creating a growth in bicameral hurdles. Such a development is problematic for the majority. According to partisan theories of lawmaking, the parties' main duty is to foster an electorally beneficial party record. As Cox and McCubbins (2005, 22) put it: “Most important for our theory…the party label itself is a public good (for party members) that is subject to free-rider problems. Managing the party label is the primary collective action problem that members of a party must solve.” The move to non-conference reconciliation options reconciles these two matters. That is, non-conference reconciliation options—which are *informal* and thus *hidden* from public view—serves the majority's goal of promoting a beneficial party record while satisfying the need to merge two bills in disagreement. In colloquial terms, non-conference reconciliation options hide the parties' “dirty laundry.”

The second additional source of information is the rate with which conferees appointed to resolve House and Senate disagreements fail to reach a compromise. Though such instances are rare, they are dramatic cases of policy deadlock. On the one hand, the rarity of “conference failure” supports the notion that there are significant incentives to compromise at the post-passage stage. As I argued in Chapter 1, once legislation reaches the conference stage there are enormous resources—time spent drafting legislation, committee hearings, debate, vote trading, etc.—or “sunk costs” invested in pending legislation. Simply put, the costs associated with failure are significant. All in all, the rarity of conference failure dovetails with my general characterization of conferencing: that it is a process of compromise and concession rather than distributive politics first and foremost. But on the other hand, we can
examine the conference failure rate as an additional piece of evidence to help us characterize postreform developments in resolving differences. The partisan theories of lawmaking—particularly conditional party government—would predict that the failure rate has declined over time as the parties have become stronger (in particular, as the parties have become more internally homogenous). However, this project’s central thesis—that bicameral conflict has grown over the postreform period and that this conflict has been especially problematic for the majority—would suggest an increase in the failure rate. Of course, even though bicameral conflict has grown over the postreform period, its effect on the conference failure rate is muted.7 Nonetheless, we should be able to glean some results.

To identify “conference failures,” I identified all instances where both chambers named conferees but a conference report was never filed. Next, using the Library of Congress Thomas.com website, I coded if a similar bill existed.8 For these observations—the initial bill and the similar bill—I identified and read CQ Weekly articles detailing the legislative history of each bill. Based on those contemporaneous accounts, I classified every observation as a “major failure,” a “moderate failure,” or “no failure.”9

7 Indeed, as chapter four has shown, we have seen greater pro-minority shifts in conference over this period, suggesting that there has been an increase in policy moderation during the conference stage. Such moderation will not affect the failure rate even though growing moderation is clear evidence of weakened majority party influence at the conference stage. Thus, an examination of the failure rate is biased against the central hypotheses of this project.

8 http://www.thomas.gov/

9 A major failure is one where conferees were unable to draft a workable compromise and no similar bill was enacted into law. Thus, the conference failure killed the entire proposed policy. A moderate failure, by comparison, is one where conferees were unable to draft a workable compromise but a similar bill was subsequently enacted into law. This code was typically applied in two scenarios: when a moderated version of the original bill was enacted at a later date or major elements of the original bill were enacted as part of another bill. And finally, the code of “no failure” was applied when the conference committee ended its efforts because an
Because CQ Weekly Online was used as the primary historical source, the data can only be extended back to the 98th Congress.

The raw data for conference failures are reported in Table 6-1. What we can see immediately is that conference committees rarely fail to produce a compromise. I find that 6% of conference bills end in moderate failure while only 2% end in major failure. Also, and most importantly, there are no visible historical trends in the data. For example, before the 104th Congress the average moderate failure rate was 7% while after the Republican Revolution the average moderate failure rate was 6%. The average major failure rate was 2% in the pre-Revolution period and 3% in the post-Revolution period. These differences are not statistically significant according to a difference of means test. Thus, it would appear that the failure rate offers no way to discriminate between our two perspectives.

However, we need to consider one additional piece of information: the fact that major legislation has become larger in magnitude over the postreform period. This pattern includes conference legislation. Figure 6-1 presents the average public law length (measured in pages) for all laws referred to a conference committee.\(^{10}\) Unfortunately, these data are only available beginning with the 101st Congress. Nonetheless, the trend is clear even in this limited historical time span. In the 101st Congress the average public law referred to a conference committee was 86.6 pages in length. In the 110th Congress, the average public law referred to a conference

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\(^{10}\) To obtain this data, I downloaded the search results in the Lexis Congressional Public Law query. Contained within the results is the length of each law. The actual public law length (in pages) was matched to each conference bill.
committee was 196.3 pages in length. Thus, public laws referred to a conference committee have more than doubled in size from 1989 to 2008.

The overall conclusion is this: Even though conference committees have failed at roughly the same rate over the postreform period, there is good reason to suspect that those laws which do fail are much larger on average in the latter half of this period. The result is that a greater volume of “potential policies”—those drafted and passed by both chambers—are failing to make their way into law. This is consequential because many representatives, senators, staff, lobbyists, interest groups, etc. put effort into passing these failed policies (which were very close to enactment). The overall conclusion is that the postpassage stage has become increasingly costly over the postreform period for all political actors, but particularly the majority. As a simple exercise, consider the political, economic and social implications if the following (recent) bills that went to conference had failed at the post-passage stage—“No Child Left Behind” (107th, HR 1), the “Medicare Prescription Drug, Improvement, and Modernization Act of 2003” (108th, HR 1) and the “Energy Independence and Security Act of 2007” (110th, HR 6).

Implications

Strong Parties or Weak Parties?

Over the past two decades, the most debated issue in the congressional literature has been the effect(s) of political parties, if any, on legislative organization. During this period, Keith Krehbiel (1991, 1993, 1996, 1998) has been the most influential critic of the so-called “partisan theories of lawmaking.” Krehbiel’s overarching conclusion is that parties have no effects on congressional behavior independent of the parties’ members’ individual preferences. Krehbiel has posed his central challenge this way: “do individual legislators vote with fellow party members in spite of their disagreement about the policy
in question, or do they vote with fellow party members because of their agreement about the policy in question?” (1993, 238, emphasis in original). Numerous researchers have answered Krehbiel’s call. In fact, and as detailed in the prior chapters, the body of existing work currently sides with those who find important partisan effects in both the House and Senate (Aldrich 1995; Aldrich and Rohde 1997; Binder, Lawrence and Maltzman 1999; Carson, Monroe and Robinson 2009; Cox and McCubbins 1993, 2005, 2007; Finocchario and Rohde 2008; Kiewiet and McCubbins 1991; Lawrence, Maltzman and Smith 2006; Rohde 1991). While the original aim of this project was to assess the formal interaction of the House and Senate in the policy process, inevitably the findings speak to the parties-in-Congress debate. In this first section I review the implications of this dissertation’s findings for partisan theories of lawmaking.

Chapter 2’s findings are especially relevant for the theory of conditional party government (Aldrich 1995; Aldrich and Rohde 1997; Rohde 1991). Conditional party government—the dominant explanation of historical variation in the strength of parties—posits that the distribution of preferences within the two chambers is consequential for the parties’ organizational power. Specifically, CPG emphasizes two observable constructs: intra-party preference homogeneity and inter-party preference heterogeneity. These two factors are, in fact, the “condition” in conditional party government. When these two conditions are met, it is expected that the majority party’s rank-and-file will delegate greater authority to the their leaders who, in turn, exploit institutional rules and powers to ensure all members behave in a way consistent with the party’s collective goals. In simple terms, when Democrats and Republicans are ideologically distinct and the majority party is homogenous there are serious
consequences for a legislative victory by the minority. In this context there is an incentive for the rank-and-file to cede some of their authority to the leadership—a solution to the proverbial collective action problem. The opposite pattern, less delegation to party leaders, holds for periods where the majority is heterogeneous and has overlapping preferences with the minority. Thus, according to CPG, there is a positive relationship between ideological polarization within Congress and the strength of the two parties.

What, then, are the implications of the present research for our understanding of conditional party government and the parties-in-Congress literature? First, as a technical matter, nothing in the dissertation is a direct challenge to conditional party government. Indeed, the theoretical tenets of CPG are predicated on a single-chamber conceptualization of congressional organization; nothing is the preceding chapters challenges the utility of CPG in the House or Senate exclusively. In fact, CPG informs much of this dissertation. For example, recall Chapter 2’s finding that within-party bicameral distance has increased over the postreform period and that this development has contributed to growing bicameral disagreement and gridlock. According to CPG, as the governing parties in each chamber enhance their formal powers, they also become more intractable in their policy positions because of greater homogeneity. Thus, because of greater within-party bicameral distance, the satisfaction of the “condition” in CPG will only exacerbate these very bicameral tensions. This is especially true if one chamber—the House—is highly polarized and has centralized party structures while the other chamber—the Senate—is less polarized and more individualistic. And for the exact same reasons, we can look to CPG for an explanation of the growing gap
between the Senate’s filibuster pivot and the House median. As organizational power has become increasingly centralized in the House over the postreform period, bicameral negotiations with the filibuster pivot (almost always on the minority party’s side of the aisle) have become increasingly contentious. The opposite is also true; if the Senate passes legislation that satisfies the filibuster pivot, that proposal is less likely to pass the House when the majority is homogenous and polarized. The point, in both cases, is that we can look to CPG and its theoretical tenets to understand growing bicameral disagreement over the postreform period.

The extent to which conditional party government informs the present work is unsurprising; both are based on the logic of spatial theory and posit, as a core premise, that the distribution of preferences within Congress matters greatly for legislative organization and policy outcomes. However, there remain crucial differences. Most obvious is the fact that, where CPG looks at variation in the distribution of preferences within each chamber, the present work explores variation in the distribution of preferences across the chambers. Because of these different empirical vantage points, the findings are not simply different but countervailing. This is the main implication of the present work for the partisan theories of lawmaking. Specifically, the findings show that when we examine the distribution of preferences across, rather than within, the House and Senate, what we see are patterns of growing bicameral conflict and challenges to resolving differences over the postreform period. As the empirics have shown, though increased bicameral conflict has created greater hurdles and challenges for Congress’s governing capacity writ large, this burden has fallen disproportionately
on the majority party. Furthermore, I have shown that one of the key determinants of this effect is the growth in *within party* bicameral distance.

But while this dissertation and CPG work in tandem in a number of respects, there is at least one important challenge or admonition to CPG contained within this work. The challenge hinges on how one conceptualizes the “strength of parties.” Unlike the cartel model (Cox and McCubbins 1993, 2005), CPG hinges on the concept of *positive agenda control*—the ability of lawmakers to manipulate policy outcomes, usually on the chamber floor, in a proactive manner. Crafted with the reforms of the 1970s in mind, CPG is modeled after the efforts of liberal Democrats to wrestle power away from their southern brethren who stymied civil rights reform in the 1960s. Thus, institutional reforms were implemented to weaken the southern committee chairmen, diffuse power throughout the House and Senate, and empower the party leadership in the House. These reforms embody *positive* agenda control because they were enacted with the goal of helping Democrats *pass* new legislation, rather than simply block policies they oppose. In the context of bicameralism and legislative checks and balances, we would expect cohesive parties to act unilaterally and coordinate legislation with their cohort in the other chamber (with whom they presumably have similar policy views). But the present work has shown, fairly unequivocally, that there has been an increase in both the frequency and severity of bicameral conflict over the postreform period. Even Binder (2003), in her database of agenda items, notes a curious “surge in bicameral roadblocks at the end of the 1990s” (50). This, she says “suggests that even when the same party controls both chambers of Congress, we cannot simply assume that the two chambers hold similar sets of views on major policy issues” (50). Though these findings
and implications do not negate conditional party government, it does require—at a minimum—that we acknowledge the existence of a secondary process that has come to rival or limit the organizational strength of the majority. Certainly one could argue that the “true” strength of parties lies in their ability to manipulate laws, not bills (though see Cox and McCubbins 1993, 2005). Laws, after all, alter the status quo: bills do not.

Of course, the prior discussion would be moot in a number of respects if this project had examined bicameral disagreement in isolation. Indeed, a central premise of this research is that to understand the operation of the House and Senate, we need to explore bicameral disagreement and reconciliation. The logic for this is that, if there has been an increase in bicameral conflict over the postreform period but those disagreements are resolved in a pro-majority fashion at the post-passage stage, the implications of Chapter 2 for our understanding of parties-in-Congress would be limited (though, of course, bicameral stalemate remains a consequential issue in such a scenario). And while the literature on resolving differences is underdeveloped (Hines and Civettini 2004, 1; Krehbiel 1991, 194; Longley and Oleszek 1989, 2), some recent work has advocated in favor of the pro-majority theory. While link between a biased conference delegation and partisan conference outcomes is indeed logical, no study has empirically verified it.\(^{11}\) Chapter 4 did exactly this, finding no evidence for this link. In many ways, the opposite seems to be true.

On the one hand, this evidence negates a potential counterclaim to Chapter 2’s findings—that bicameral disagreements at the passage stage are simply resolved in a pro-majority fashion as the post-passage stage. But on the other hand, these findings

\(^{11}\) Nagler (1989) offers some descriptive evidence.
have implications for the cartel theory (Cox and McCubbins 1993, 2005). As with the prior discussion of conditional party government, these implications are not direct challenges—in part because cartel theory is based on a single-chamber model—but important qualifications or admonitions. In point of fact a significant portion Chapter 5 confirmed that on all final passage votes the majority exhibits significant control over the policy agenda (Lawrence, Maltzman and Smith 2006), partly confirming the cartel theory. However, the results also showed that when we restrict our analysis to bills that went to a conference committee or were shuttled between the chambers in disagreement, a non-partisan, majoritarian model outperforms all rivals. Thus, in the area of resolving differences, we see a significant weakening of the majority’s influence over the agenda. At the risk of defeat or delay, and because resolving differences is complex, the majority cedes some of its negative agenda control at the postpassage stage and allows unfavorable modifications to the original chamber passed bill. The implication is that the majority party’s influence over the policy process is not absolute and that there is consequential variation in agenda control at the committee level (in this case, conference committees). Let me repeat an earlier statement: I do not regard parties as organizationally weak or ineffective. Nonetheless, the implication is, yet again, that while parties exert significant influence in many areas of the policy process, especially on the chamber floor at the passage stage, at the postpassage stage partisan theories of lawmaking have considerably less explanatory power.

So what is the overall narrative for contemporary legislative politics? Does this dissertation advocate “strong parties” or “weak parties”? My personal view, based on the present research, is that the majority’s organizational power varies historically in
accordance with the tenets of conditional party government. However, the overall
narrative I advocate in this dissertation is that while the organizational capacity of the
majority in the House and Senate has grown over the postreform period, this does not
mean that legislating is somehow easy or perfunctory: quite the contrary. Rather, I
believe that conditional party government and the present work *jointly* make sense of
what we know intuitively—that while the majority is strong within the House and, to a
lesser extent, the Senate, quite often each chamber’s preferred policy is severely
moderated or fails outright because of bicameral disagreements (even during unified
government). What we need to acknowledge, in my opinion, is that the “strong parties
or weak parties” divide glosses over the fact that parties are homogenous and “strong”
in some legislative contests and divided and “weak” in other legislative contests.

Instead, I believe a proper characterization of modern lawmaking is that the
legislative process is marked by significant legislative *risk*. Risk, in economics, refers to
the amount of chance or volatility in the distribution of economic outputs. Economic
exchange, under conditions of high risk, only occurs when the average or expected
return is higher than the costs incurred. With respect to legislative politics, I believe that
in the modern Congress parties do indeed receive higher payoffs on most bills,
consistent with conditional party government and the partisan theories of lawmaking. In
the context of this work, these high reward outcomes occur on those bills that pass the
House and Senate verbatim (without amendment), where the majority’s organizational
strength and ideological homogeneity are paramount. In the introduction, I noted that of
the non-commemorative public laws enacted from the 95th to the 110th Congress, 34%
experienced reconciliation (either a conference committee or amendment trading).\textsuperscript{12} Thus, 65% of bills are unaltered by the second chamber. At the same time, Sinclair (2000b) shows us that the likelihood of a bill becoming law increases dramatically when restrictive rules are used in both the House and Senate.

But a failure rate of 34\% is a sizable Figure. Moreover, the number of bills that enter into a bicameral sequence only increases when we consider\textit{ landmark} legislation (Smith 1989; Longley and Oleszek 1989). In these cases, growing polarization and has contributed to increasingly\textit{ costly} policymaking; for these bills we have seen either greater bicameral stalemate or growing pro-minority outcomes.

It is timely, with the previous discussion in mind, to address two important issues—one an additional implication and one a limitation of the present research. Both hinge on how we conceptualize negative agenda control. Recall that negative agenda control, the primary construct animating the cartel theory (Cox and McCubbins 1993, 2005, 2007), posits that the leadership of the majority controls the consideration of policy and only advances legislation to final passage when the proposal is preferred by a sufficient number of its members relative to the status quo. Likewise, and most importantly, the leadership \textit{blocks} proposals that are hostile to the interests of the majority. The primary metric supporting these tenets is the “roll rate”—the percentage of times a majority of the majority party votes on the losing side of a formal vote that ultimately passes. For example, Cox and McCubbins (2002) demonstrate that instances when the majority is “rolled” occurred on less than .07\% (or 4 out of 5628) of committee reports. The two

\textsuperscript{12} The data for all public laws was complied form the Policy Agendas Project “Public Laws” database. The data on all conference committees and amendment trading in this period was compiled by the author.
issues that I would like to highlight with respect to negative agenda control are best explained by way of example.

Recall from Chapter 5 discussion of the first 9/11 Commission Recommendations Act in the 108th Congress (HR 10 and S 2845). At the passage stage, the House bill and Senate bill contained major differences. What emerged from conference was a moderated bill were the majority—particularly in the House—lost a handful of preferred provisions. In particular, the conference report lacked a number of Republican backed provisions imposing more stringent immigration policies. Voting on the conference report in the House, there were 67 Republican “no” votes (compared to only eight at final passage) including 5 of the bill’s initial cosponsors. Now juxtapose this case with a policy that occupies the exact same issue space: the second 9/11 Commission Recommendations Act in the 110th Congress (HR 1 and S 4). The second time around, now with Democratic majorities in both chambers, the House and Senate once again passed different versions of legislation. Both chambers passed their respective bills with a majority of Democrats in voting favor of the proposal and a majority of Republicans in opposition.\(^\text{13}\) As observers noted “Conference negotiators had to work out compromises where, in some cases, the House, Senate and administration each had different positions” (Yoest 2007). One of the major compromises struck in conference was approval of a provision, favored by Republicans, protecting individuals who report suspicious activity to law enforcement from criminal and civil lawsuits (Yoest 2007). Voting on the conference report, only one Democrat switched his original yes vote to a no vote. However, 150 Republicans in the House and 37 in the Senate now

\(^{13}\) The vote on the House bill (HR 1) had 231 Democrats in favor and 128 Republicans against while the vote on the Senate bill (S 4) had 49 Democrats in favor and 38 Republicans opposed.
supported the legislation where, prior to conference negotiations, these members were opposed to the legislation—an increase of 45% and 61% in each chamber, respectively.

Based on the prior discussion, the two implications I want to highlight are these. First, the Recommendations Act in the 108th Congress is a clear example where the majority ceded or lost some degree negative agenda control. The changes made in conference to the House’s initial proposal stripped the immigration provisions that were clearly critical for many Republicans’ support of the larger bill (as evidenced by these members’ defection on the conference report). However, and I believe this is an important point, if we were to examine only the final vote on the conference report, we would conclude that the majority was not “rolled” (as is the convention in most agenda setting studies). Indeed, despite the clear moderation of the bill, Republicans voted 152 in favor of the conference report and 62 against. The implication is that the roll-rate is in certain ways too blunt a measure to capture the more subtle (but nonetheless consequential) features of agenda control. An examination of policy modifications made in conference, and the measures I have used in this dissertation, show a greater degree of variation in agenda control than the conventional wisdom reveals. More research is needed examining agenda control using measures other than the roll-rate.

The second implication, unlike the first, is an important weakness of the present work. In the second Recommendations Act (during the 110th Congress), while it is clear that the minority gained a favorable conference outcome, it is not clear that the majority “lost” in the aggregate details of the bill (though of course they made some sacrifices). Indeed, the second Recommendations Act implemented most of the remaining 9/11 Commission recommendations, a major Democratic campaign promise in 2006. In the
end, Democrats delivered on many of their stated goals including distributing more
funding to state and local governments with a greater risk of terrorist attack and
expanding the screening of international cargo. Thus, a limitation of the measures used
in this study is that, in some cases, we see postpassage bargaining where the
aggregate outcomes may be ambiguous. That is, I can show critical changes as
legislation traverses the bicameral sequence, and discuss patterns in those changes,
but those changes sometimes tell us little about how “conservative” or “liberal” the final
policy was.

The Constitution, Political Parties and Bicameralism

In addition to the previous implications for the parties-in-Congress debate, the
findings offer a parsimonious solution to an inconsistency in the congressional literature.
On the one hand, political parties have been cited for over a century as a solution to the
policymaking inefficiencies built into the Constitution. From Woodrow Wilson (1885),
E.E. Schattschneider (1942), V.O. Key Jr. (1942), to more recent political scientists like
Cutler (1988), Kernell (1991) and Sundquist (1988), the conventional view is that strong
parties bridge the gaps created by the Constitution and facilitate active government.
But while researchers have found support for this claim with respect legislative-
executive policy productivity and change (Binder 1999, 2003; Conley 2002; Edwards
and Barrett 2000; Cameron 2000; Alt and Lowry 1994; Cutler 1988; McCubbins 1991;
Ragusa 2010; Kelly 1993; Edwards, Barrett and Peak 1997), no work has explored this
process vis-à-vis House-Senate policy productivity. However, a clear paradox exists,
revealing the limits of our current understanding. More recently, a handful of
researchers have cited too much polarization—a key determinant of strong parties—as
one cause of growing stalemate and gridlock (Binder 2003; Dodd and Schraufnagel
2009). This is in contrast to the “responsible party government” advocates who predicted the exact opposite.

Two researchers have attempted to reconcile this lacuna. Dodd and Schraufnagel (2009) propose that the relationship between polarization and policy activity is curvilinear. At the extremes—high and low polarization—governing institutions are increasingly stalemated because of a decline in deliberation (Dahl 1967). Binder (2003), citing work by Fiorina (2001), maintains that the negative effect of polarization on policy activity is due to a decline in the number of moderates. With the disappearance of moderates, the population of congressmen willing to compromise with political rivals has disappeared as well (Binder 2003, 80).

The findings reported here offer a slightly different perspective on the determinants of the paradoxical relationship between polarization, strong parties and stalemate. The explanations offered by Dodd and Schraufnagel (2009) and Binder (2003) posit that the link between polarization and gridlock exists at the passage stage. That is, stalemate occurs caused when lawmakers are unable to pass legislation out of the House or Senate (either because of too few moderates or too little deliberation). The present research, by comparison, portends the existence a causal mechanism at the postpassage stage. This postpassage perspective reconciles the core premise of the earlier work—that polarization has contributed to gridlock in recent decades—with the fact that legislating has not declined over the postreform period in either chamber. Earlier I showed that, in the Senate, roughly the same amount of introduced legislation is passed in the most recent congresses as during the initial post-reform congresses. And in the House, I showed that legislation is actually passing at a greater rate. This
makes good sense as, in the House, with greater polarization and greater intra-party homogeneity, we would expect less stalemate over time, not more (consistent with the tents of conditional party government). What reconciles this matter is the finding that polarization has occurred at different rates in each chamber over time and the evidence that this factor has caused an increase in the frequency and severity of bicameral conflict. Thus, though legislative-executive conflict certainly plays a role in growing stalemate (Conley 2002), I find clear evidence that postpassage conflict between the House and Senate plays a central role as well.

In summary, much like the implications with respect to the parties-in-Congress literature, the findings offer a solution to some contradictory historical patterns. But unlike the academic strength-of-parties debate, the relationship between polarization and bicameral conflict has very real implications. Namely, this issue gets at the heart of how our macro-level institutional arrangements function. The normative implications can be viewed as either “good” or “bad” depending on how one views stalemate. Either the constraining effect of bicameral conflict is a positive, because the limits on single-party control enhance representative lawmaking and foster stable public policies, or a negative, because the bicameral hurdle has diminished Congress’s institutional will and hampers its democratic spirit. In the following pages I present both views and leave it up to the reader to form their own opinion.

On the positive side, one might conclude that our system of checks and balances—at least with respect to legislative checks and balances—is functioning in a manner consistent with what the Framers envisioned. Indeed, many delegates to the Constitutional Convention were wary of “faction”—a label used to describe like-minded
political coalitions, including political parties. For example, in his farewell address to the nation, George Washington argued that “the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.” And Gordon Wood summarizes the mindset of Constitutional delegates, particularly those who favored scrapping the Articles of Confederation, this way: “In the minds of the Federalists the measure of a free government has become its ability to control factions” (502). Though property owners and an “overbearing majority” were the primary factions considered by the Framers, factions *writ large*, including organized parties, were seen as problematic. In fact John Paul Stevens cited Federalist 10 in *California Democratic Party v. Jones* noting that “Parties ranked high on the list of evils that the Constitution was designed to check.”¹⁴ And a bicameral legislature composed of dissimilar men would help accomplish the ends of mixed government and ensure each group’s interests were sheltered from the vices of majority rule (Wood 1998, 503).

As stated previously, it can be problematic to speak about the Framers’ “intent” as if their constitutional decisions were based on instrumental rationality alone. Nonetheless, it is worthwhile to juxtapose how the Framers envisioned the operation of our bicameral legislature with the trends and effects this dissertation has uncovered. In particular, it is an interesting parallel that empowerment of the parties over the postreform period, due in large part to growing polarization, that fundamental differences in the distribution of preferences across the House and Senate have increased in salience as a check on the organizational power of parties. Indeed, differences in the composition of each chamber (from differences in each chamber’s

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selection, apportionment and the length of terms) were thought to be a crucial check on the vices of faction (e.g. parties). Thus, to the extent that one favors limited government and legislative constraints on single-party rule, the conclusions from this dissertation might be regarded as welcome news that our system of government—at least in this area—is functioning in a manner resembling the Framers’ intent. One is reminded of Will Roger’s famous quip: “There is good news from Washington today. Congress is deadlocked and can’t act.” Or as Binder (2003, 5) aptly put it, “For defenders, gridlock signals the health of the Madisonian system.” This conclusion may be welcome news for many citizens, in fact, as public opinion polls show that Americans prefer checks on government power (Lewis-Beck and Nadeau 2004 or Sigelman, Wahlbeck, and Buell, 1997, 880). Therefore even if parties capture both houses of Congress and the presidency, are ideologically motivated and empowered by the rules of the House and Senate, our Madisonian system presents additional hurdles.

In contrast, the conclusions of this dissertation are normatively troublesome to the extent that one favors active government over limited government. Indeed, while the Framers implemented obvious constraints on simple majority rule, they also envisioned an effective government. As Charles O. Jones (1995, 2) put it, “it is worth remembering that the Founders were seeking to devise a working government.” The Constitutional Convention is inherent proof of this. Indeed, the reason for convening the Convention in the first place was to modify or undo the Articles of Confederation and establish a more centralized and active form of government. In Federalist no. 40, James Madison, a leading opponent of the Articles of Confederation, asks: “Let [opponents of the Constitution] declare, whether it was of most importance to the happiness of the people
of America, that the Articles of Confederation should be disregarded, and an adequate government be provided, and the Union preserved.” Woodrow Wilson was perhaps the first political scientist to articulate the limitations of constitutional checks on active government. Wilson, of course, lamented our system of limited government, favoring a constitution with an explicit party role. In one passage, Wilson (18855) argued “our government is a living, organic thing, and must. . .work out a close synthesis of active parts which can exist only when leadership is lodged in some one man or group of men. You cannot compound a successful government out of antagonisms” (quoted in Ranney 1951, 35, emphasis added). Subsequent political scientists echoed these calls, advocating reforms to promote more active government (Burns 1963; Schattschneider 1942; Key Jr. 1942; Cutler 1988; Kernell 1991; Sundquist 1988).

Thus, the negative implication of the link between polarization, strong parties and bicameral constraints is that the resulting growth in House-Senate conflict is problematic because it fosters legislative inaction. Such inaction is bad for two reasons. On the one hand, legislative inaction can lead to an abdication of Congress’s governing authority. Needless to say, diminishing congressional authority can be problematic for representative democracy. Such an argument has been applied most famously to the textbook era Congresses (1912-1968). For example, after the reforms which undermined the organizational capacity of Congress in 1910, Carmines and Dodd (1985, 280) maintain that “bicameralism now became an inducement toward weakness, a constitutional provision that helped increase the leverage of the executive and judiciary over the legislative branch.” On the other hand, legislative inaction has more immediate and tangible effects when government is unable to respond to a social or
economic crisis. Congress’s response to the 2007-2008 housing and financial crisis is a case in point.

By January of 2008, the U.S. housing market had been in a 2-year decline due in large part to the collapse of the subprime mortgage market. In May of 2007, the year Democrats regained control of the House and Senate for the first time since 1995, the House acted in response to the crisis with the passage of HR 1427, a bill to regulate mortgage firms Fannie Mae and Freddie Mac and create a housing trust fund to bolster the housing market. The House bill died in the Senate, the second effort in as many years. Indeed, despite unified Republican control in the previous Congress, similar legislation failed because of disagreements between the House and Senate proposals ("Attempts to Rein In Mortgage Giants Stall"). In November of 2007, the House again passed legislation in response to the housing crisis. This second bill, HR 3915, was designed to curb predatory lending practices and regulate mortgage brokers through uniform standards. Though Chris Dodd—Chairman of the Senate Banking, Housing, and Urban Affairs committee—introduced a similar bill in the Senate, there were “significant differences” between each chamber’s proposal (“Tightening Reins on Mortgage Lenders”). Dodd’s bill failed to make it out of committee. The two chambers came close to addressing the crisis a third time when both houses passed separate bills expanding the power of the Federal Housing Administration to guarantee mortgage loans (HR 1852 and S 2338). Despite the obvious crisis, the bills were never reconciled in conference or via amendment trading in large part because of major disagreements over an affordable housing fund included in the House bill (“Tightening Reins on Mortgage Lenders”). This fund was also passed in a separate House bill (HR 2895),
though it died in the Senate. In sum, by the end of 2007, in addition to the bills stuck at various stages within each chamber, the House had cleared four separate bills responding to the housing crisis while the Senate passed one. None made it to the postpassage stage in large part because of significant bicameral differences.

By February of 2008, the House and Senate began drafting a larger reform package combining elements of the bills drafted and/or passed in 2007. The Senate acted first, clearing its package (HR 3221) on April 10 along bipartisan lines (84-12).¹⁵ The central element of the Senate package was a series of reforms to the FHA’s mortgage program. These provisions were similar to previous efforts that failed in House and Senate negotiations (HR 1852, S 2338) (Ives 2008). The House acted second, substituting the text of the Senate’s proposal with three amendments, clearing its package on May 8th. As with the earlier efforts, there were key differences between each chamber’s proposal.¹⁶ In particular, the House plan included a new federal regulator for Fannie and Freddie as well as provisions containing the original housing trust fund. The Senate acted third, offering a (second-degree) amendment to the House proposal in June of 2008. The two chambers were now engaged in formal reconciliation via amendment trading. The substitute proposal passed by the Senate was a compromise worked out by Dodd and Richard Shelby (the Ranking Member of Senate Banking, Housing, and Urban Affairs Committee). Though the House and Senate proposals were more consonant than in February, critical differences remained.

¹⁵ HR 3221 began as an energy bill. The Senate deleted the original text of HR 3221 and inserted the reform package.

¹⁶ The key differences centered on the fact that the House bill increased the limit the FHA could insure loans to over $700,000 while the Senate bill would increase the limit up to $417,000 (Ives 2007).
The House and Senate’s amendment exchange was disrupted on July 13th when Henry Paulson—the U.S. Treasury Secretary—asked Congress for sweeping authority to invest capital into, and potentially take over, Fannie and Freddie. Though his request represented a significant abdication of Congressional authority, further Congressional inaction was potentially cataclysmic. The seriousness of the housing and financial crisis spurned congressional action and Paulson’s sweeping authority was added to HR 3221 (“Treasury Gets Keys to Fannie, Freddie”). In large part because of the escalation of the housing and financial crisis, compromises on the remaining disagreements were quickly worked out between key House and Senate lawmakers. The House inserted the compromise plan into HR 3221 and passed it 272-152. The Senate followed suit, passing the same bill on July 26th by a vote of 72-13. Of final version passed by both chambers, Barney Frank stated that “It is inconceivable to me that anybody would like everything in this bill — it is a product of a very significant set of compromises” (“Treasury Gets Keys to Fannie, Freddie”).

It is true that in the 110th Congress partisan divisions between Democrats and Republicans, the Senate’s supermajority requirement and veto threats by the White House all played a role in Congress’s sluggish response to the housing crisis. However, even when there was wide bipartisan agreement on the core provisions of a Congressional response, disagreements between legislation passed by House and Senate remained. Thus, more than a year after the first bill had passed the first chamber, the House and Senate finally reached an acceptable compromise. That compromise was reached only after competing proposals were merged into one larger package and a lengthy process of amendment trading took place. Surprisingly, this
package did little more than combine the earlier House and Senate proposals died. However, in one of the biggest crises of the past fifty years, the House and Senate were marked by significant disagreement resulting in delayed action. Moreover, Congress delegated significant power to the executive branch (the Treasury): unwelcome news for Democrats, Republicans, representatives and senators alike.

**The Nature of Resolving Differences**

The findings of this dissertation also have implications of for how we characterize conference committees and postpassage bargaining. Indeed, it is my hope that the multivariate results presented in Chapter 3 and 4 provide a descriptive richness to the complex patterns by which competing chambers and parties merge bills passed by the House and Senate in disagreement. But while these implications exist with respect to our basic understanding how conference committees function, the implications are also applicable to our larger theories of congressional organization. As mentioned throughout this manuscript, we lack a strong understanding of these matters.

The oldest perspective on conference committees and resolving differences is the bicameral conflict paradigm. During the 1960s and 1970s, the pervasive question posed in research on conference committees was: Which chamber dominates conference outcomes? As reviewed at multiple points in this dissertation, the consensus suggests that the Senate wields greater leverage in the conference process (Fenno 1966; Manley 1970; Vogler 1970; Strom and RUndquist 1977).

A second perspective falls under a larger class of theories known as distributive politics (Weingast 1979; Tullock 1967; Shepsle and Weingast 1987a 1987b). Distributive politics posits that, because lawmakers’ primary goal is reelection, congressional behavior is a function of their constituency’s interests first and foremost.
In order to best represent their district or state and distribute legislative goods to their constituents, lawmakers self-select onto beneficial committees. As a result, committees are unrepresentative of their chamber. Behavior among members according to distributive politics is typically cooperative in the production of public policy, particularly behavior such as logrolling (Tullock 1967). Regarding conference committees, Shepsle and Weingast's (1987) often cited “ex post-veto theory” falls under this general class of theory. Shepsle and Weingast identified the bicameral sequence as the foundation for committee agenda control. Because standing committee members are almost always named as managers in conference, and because conference agreements are considered under what amounts to a closed rule in the House, committees wield the ability to modify any policy altered on the floor back to its original committee-approved position (or simply defeat it). Thus, conference outcomes are determined by the committee (rather than the majority or chamber).

A second general class of theory is Krehbiel's (1991) “information theory,” which posits that legislative institutions are organized in order to collect, analyze and transmit policy information back to the chamber. Based on principal-agent theory—where the principal is the chamber median and the agents are the committees—the basic logic is that information is costly to obtain and evaluate (a problem committees solve). Policy outcomes, according to information theory, will be chamber median. Krehbiel has analyzed information theory with respect to conference committees. Krehbiel (1991, 216) notes that, at first blush, the Speaker’s unlimited power to name conferees may seem “oligarchic and partisan.” That is, taking a distributive perspective we would expect “high-demanders” or “preference outliers” to be overrepresented in conference
committee. But, if we apply an informational lens and consider the role of expertise in conference committee procedure we can see that “majoritarianism lurks (perhaps deeply) beneath the surface of these alleged institutions of oligarchy” (Krehbiel 1991, p. 216).

Finally, partisan theories of organization propose that legislative institutions are organized to benefit the majority party. These theories emphasize the fact that the majority party controls consequential organizational decisions in the House and Senate such as the naming of committee and subcommittee chairs, the appointment of committee members, control over the legislative agenda, and (in the House) the power to elect the Speaker who, in turn, names members to the powerful Rules Committee. Like the informational model, the partisan perspective sees committees as agents in the principal-agent relationship. However, unlike the information theory, the principal is the party’s leadership. Thus, committees are organized to represent the party not the chamber. In this way, like distributive theory, committees are composed of preference outliers and policy outcomes are non-majoritarian. With respect to conference committees, studies have argued that the Speaker and Senate Majority Leader’s power to name managers yields the naming of a biased conference and thus a pro-majority outcome (Lazarus and Monroe 2007; Vander Wielen and Smith n.d.).

The view of conference committees—their primary characteristics and patterns—explicated in this dissertation differs in many ways from the prior perspectives. It is important to stress that the theoretical tenets guiding the present work do not represent a full elaboration of legislative organization. Rather, the work is specific to conference committees and postpassage bargaining. Though I make a variety of theoretical
arguments, the view I present is perhaps best labeled as “functionalism.” What I mean by this label is that the primary role of a conference committee is one of successfully and efficiently merging bicameral proposals passed in disagreement. Thus, my view emphasizes compromise and majoritarianism as the overarching characteristics of conference outcomes.

First, I believe the methods of resolving House and Senate disagreements are typically complex in terms of the political divisions among pivotal actors and multidimensional in the issue-space. The findings in Chapter 3—using multivariate spatial modeling to uncover the latent dimensions of resolving differences—support these two tenets, finding that, indeed, conference committee roll call patterns exhibit evidence of high dimensionality. The rather simple point is that straightforward, unidimensional outcomes are less frequent in conference than difficult policy changes and broad compromises. In addition to these inherent challenges, I argued that resolving differences is a process marked by uncertainty, significant transaction costs and, untimely, risk averse legislative decision-making. That is, there is great uncertainty about what pivotal actors in each chamber and party will accept as legitimate compromises (hence, why bicameral disagreement exists in the first place). And because the legislative transaction costs have already been incurred when a bill reaches the postpassage stage (such as time spent studying, drafting, marking up and passing legislation) there is great risk associated with conferencing. Simply put, if a conference bill dies, or the agreement causes significant delays in adoption of a conference report, the cost to lawmakers who voted to pass the bill or invested their limited resources in the policy outweigh the costs of proing a simple compromise.
Because of these issues, I have argued there is an incentive *ceteris paribus* to adopt an efficient solution—one that quickly satisfies competing actors. Compromise, in other words, is an efficient, utility-maximizing strategy, even for the majority.

Though there are certainly cases in my dataset of pro-majority or pro-chamber outcomes, the empirical evidence across the chapters supports the notion that majoritarian outcomes are the rule rather than the exception in conference. The implications for how we characterize postpassage bargaining are clear. Beyond the descriptive account of conference committee patterns, the main implication is that we have tended to overlook what is *the* central feature of conference committee politics: the role of compromise. This is despite the claims of some of our leading scholars:

The “overriding ethic” of resolving differences is “one of bargaining, give-and-take, compromise, horse-trading, conciliation, and malleability by all concerned…Small wonder that each side claims victory, because most everyone does win—something, somehow, sometime.” (Manley 1970, 271)

“If politics is the art of the possible and the essence of the legislative process is compromise then the conference committee is the epitome of legislative politics.” (Jewell and Patterson 1986, 169)

Conference committees are “the epitome of legislative politics’ in terms of such processes as negotiation, bargaining, and compromise.” (Longley and Oleszek 1989, 2)
“I shall attempt to demonstrate that recognition of the cooperative behavior between the House and Senate conferees can lead to a much different interpretation of data on conference decision-making.” (Ferejohn 1975, 1035)

But less clear are the implications for how we think about key features of legislative organization. One implication is that, contrary to our tendencies are researchers, not all aspects of legislatures are organized or operate an identical fashion at the micro-level. In fact, key features of legislative organization need not operate in complimentary fashion but can, instead, rival one another. Indeed, and as I have stated, my personal view is that the respective chambers are organized in a partisan manner. Parties control too many consequential organizational decisions to have limited effects at the passage stage. However, I have argued in this dissertation that the same perspective does not explain the operation of conference committees (both their general patterns of operation and historical developments). Thus, an implication for future research is that we need not adopt universalistic perspectives but should, instead, consider the possibility that institutional variation at lower levels of aggregation create kaleidoscopic patterns (Schickler 2001), as not all bills are subject to the same institutional arrangements or the same organizational factors (Maltzman 1998). In one area of the policy process one perspective may dominate (such as the partisan perspective at the passage stage) while in other areas of the policy process another perspective may dominate (such as a non-partisan perspective at the postpassage stage).
Table 6-1. Conference committee failure rate

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<th>Congress</th>
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<th>Major failure</th>
<th>Total conferences</th>
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<th>Major failure rate</th>
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</table>

Notes: Compiled by the author using CQ Weekly summaries.
Figure 6-1. Average public law length for bills referred to conference. This data was compiled by the author from Lexis Nexis Congressional.
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BIOGRAPHICAL SKETCH

Jordan Ragusa received his Ph.D. from the University of Florida in the summer of 2011. His research and teaching interests are in the fields of American politics and institutions, political methodology, empirical theory, and political behavior with specific substantive interests in bicameralism, the policy process, legislative procedure, and political parties. In the fall of 2011 he joined the Department of Political Science at the College of Charleston at the rank of assistant professor.