

on at home has not been observed. For lack of observation, political scientists have tended to downgrade home activity as mere errand running or fence mending, as activity that takes the representative away from the important things—that is, making public policy in Washington. As one small example, the “Tuesday to Thursday Club” of House members who go home for long weekends—have always been criticized out of hand, on the assumption, presumably, that going home and doing things there was, *ipso facto*, bad. But no serious inquiry was ever undertaken into what they did there or what consequences—other than their obvious dereliction of duty—their home activity might have had. Home activity has been overlooked and denigrated and so, therefore, have those extra policy aspects of representation which can only be studied at home.

Predictably, the home activities described in this book will be regarded by some readers as further evidence that members of Congress spend too little of their time “on the job”—that is, in Washington, making policy. However, I hope readers will take from the book a different view—a view that values both Washington and home activity. Further, I hope readers will entertain the view that Washington and home activities may even be mutually supportive. Time spent at home can be time spent in developing leeway for activity undertaken in Washington. And that leeway in Washington should be more valued than the sheer number of contact hours spent there. If that should happen, we might then ask House members not to justify their time spent at home, but rather to justify their use of the leeway they have gained therefrom—during the legislative process in Washington. It may well be that a congressman’s behavior in Washington is crucially influenced by the pattern of support he has developed at home, and by the allocational, presentational, and explanatory styles he displays there. To put the point most strongly, perhaps we can never understand his Washington activity without also understanding his perception of his various constituencies and the home style he uses to cultivate their support....

SARAH BINDER

From *Stalemate*

Writing in 2003, Sarah Binder identifies some reasons for congressional stalemate—gridlock—that became even more pronounced after the 2004 election. First, Binder draws distinctions between lack of legislative action and action based on compromise. She discusses divided government versus control of both houses of Congress and the presidency by the same party. Binder makes the important point that even when the same party controls both branches, stalemate can still happen. As the parties have become more extreme and distant from one another, compromise is less likely. America’s bicameral legislature, too, contributes to stalemate. Finally, Binder touches on the Senate filibuster rule that requires a supermajority of 60 votes to end a filibuster as another reason for inaction. Binder’s conclusion is that gridlock is a situation not easily remedied and perhaps intrinsic to the “unusual political times” we live in.

GRIDLOCK IS NOT a modern legislative condition. Although the term is said to have entered the American political lexicon after the 1980 elections, Alexander Hamilton complained more than two centuries ago about stalemate, at the time rooted in the design of the Continental Congress. In the very first *Federalist*, Hamilton bemoaned the “unequivocal experience of the inefficacy of the subsisting federal government” under the Articles of Confederation.

More than two hundred years later, innumerable critics of American politics still call for more responsive and effective government. The pre-dominance of divided party government in recent decades disheartens many critics. They charge that divided government brings “conflict, delay, and indecision” and frequently leads to “deadlock, inadequate and ineffective policies, or no policies at all”....

In many ways, stalemate, a frequent consequence of separated institutions sharing and competing for power, seems endemic to American politics. Periods of lawmaking prowess are the exception, rather than the norm. When they occur, we give them enduring political labels, like the New Deal and the Great Society. Outside of these episodes of significant policy change, the frequency of gridlock varies considerably, variation that has attracted the attention of political observers and political scien-

tists. In this book, I probe these trends in legislative performance, asking questions about the dynamics of lawmaking. How often does gridlock occur? What explains the historical ups and downs in policy stalemates? What are the consequences of Congress's uneven performance over time? How does legislative performance shape the ambitions of members of Congress, their electoral fortunes, and the reputation of the institution in which they serve? . . .

Why study policy gridlock? Normatively, exploring the causes of stalemate is important, regardless of one's party or ideology. Lawmaking is the process by which governments "legitimize substantive and procedural actions to reshape public problems, perhaps to resolve them." If we care about whether and when our political system is able to respond to problems both new and endemic to our common social, economic, and political lives, then explaining the conditions that underscore policy change and stability is a valuable and worthwhile endeavor.

Some might object that interest in gridlock implies a normative preference for legislative activism and liberal policy change. As Jefferson's maxim implies, "that government is best which governs least." If Jefferson was always right, then gridlock might always be a welcome feature of legislative politics. But views about gridlock tend to vary with one's political circumstance. Former Senate majority leader Bob Dole put it best: "If you're against something, you'd better hope there is a little gridlock." Because legislative activism can move the law in either a conservative or liberal direction, calls to end gridlock are not the exclusive province of liberal interests. In some respects, the confusion lies in the choice of words, as we often use the terms *gridlock*, *stalemate*, and *deadlock* to describe legislative inaction. In this book, I too refer to stalemate and gridlock, but more precisely. I am exploring Congress's relative ability over time and issues to broach and secure policy compromise on issues high on the national agenda. Framed in this way, a study of legislative performance should interest any keen observer, participant, or student of national performance, regardless of her party or ideology. . . .

Unified party control of government cannot guarantee the compromise necessary for breaking deadlock in American politics. As David Mayhew has argued, looking solely at the *structural* component of the American political system—the separation of powers between Congress and the president—tends to obscure important dynamics in American lawmaking. As the analysis suggests, it is the *pluralist* component that deserves our more focused attention. The distributions of policy views within and across the two major political parties have predictable and important effects on the legislative performance of Congress and the president. The

timing of party politics also matters. Long-frustrated congressional minorities often capitalize successfully on electoral mandates when their party gains unified control of Congress. Intrabranched politics, it seems, may be as important as the usual culprit of conflict between the branches. . . .

Two . . . other factors shaping Congress's policy performance command attention: the impact of parties and the consequences of bicameralism. First, consider party effects. My findings suggest that it is premature to reject the idea that political parties influence patterns of legislative outcomes. To be sure, the configuration of party control helps explain just a small portion of deadlock in contemporary politics. But . . . elections do more than divide control of the two major branches. Elections also determine the mix of ideologies within each major party. Such ideological divisions within the parties were decried in the 1950s by the "party government" school whose adherents believed that internal party divisions made it nearly impossible for the major parties to assemble and enact party agendas once they took office.

What is striking about the impact of parties in the latter half of the twentieth century is how strongly that impact differs from the expectations of the party government school. As the American Political Science Association's Committee on Political Parties argued in its often-cited 1950 report, cohesive political parties that offered distinctive choices to the electorate were critical for ensuring responsive and accountable government. The consequences of weak parties were steep: "The very heartbeat of democracy," the committee warned, was threatened by the state of the political parties. Democracy was contingent on organizing and responding to majorities, and cohesive parties were deemed the only viable instrument for doing so.

As the two parties have polarized and the political center has stretched thin over the recent past, little evidence indicates that legislative performance has risen in lockstep. Paradoxically, far from ensuring that voters will be given meaningful choices between competing party programs, the polarization of the parties seems to encourage deadlock. Why should polarization have this effect? One prominent scholar of Congress and electoral politics observes that legislators' desire to be responsive to active constituencies affects the incentive to compromise. "I do not think that one must be overcome by nostalgia," notes Morris P. Fiorina, "to imagine that Everett Dirksen, Mike Mansfield, John McCormack, and Gerald Ford [House and Senate party leaders in the 1960s and 1970s] would have found some common ground and acted. Many of today's leaders, however, would rather have issues to use in the upcoming election than accomplishments to point to." There may be a personal element to these tempo-

ral differences in leadership styles, but more likely the differences reflect changes in the makeup and activities of contemporary parties, as party organizations are increasingly defined by issue activists, constituency groups, and large-scale financial contributors with pointed policy and ideological agendas. With limited electoral ties to the mass and moderate middle, legislators have only limited and occasional incentive to craft moderate policy compromises to public problems. The statistical evidence . . . backs up this impression: the larger the political center and the less polarized the Congress, the greater the prospects for measurable policy compromise and change. Parties do affect Congress's capacity to legislate but not strictly according to whether their control is unified or divided.

Bicameralism is perhaps the most critical structural factor shaping the politics of gridlock. Bicameralism—rather than the separation of power between executive and legislative branches—seems most relevant in explaining stalemate in the postwar period. To be sure, both the separation of powers and bicameralism were central to the framers' late-eighteenth-century beliefs about the proper construction of political institutions. Still, with important recent exceptions, the policy consequences of divided government, not bicameralism, feature prominently in theoretical and empirical treatments of legislative gridlock.

Bicameral differences arise of course because structural differences between House and Senate elections ensure that policy views will not be distributed and aggregated identically in the two chambers. Even when both chambers are controlled by the same party, we cannot assume that the two chambers desire the same policy outcomes. The impact of bicameral differences can be seen clearly in the fate of a patients' bill of rights measure in the 106th Congress (1999–2000). Although both chambers passed a version of the bill with the support of Republican majorities, no final agreement emerged from conference negotiations that took place over several months in mid- to late 2000. As one House Republican observed in trying to explain the bicameral impasse, "Just appreciate the fact that Republicans in the House and Senate sometimes have a gulf as large if not larger than some Republicans and Democrats." "The looming presence of a Democratic president ready to veto a bill deemed too responsive to the health insurance industry certainly influenced the Republicans' negotiating strategy, as they probably preferred no bill to the more moderate House bill that the president would have signed. But ideological differences between the two chambers also precluded policy compromise, no matter the views of the president. Given median Senate Republican preferences, Senate Republicans had little incentive to compromise with House Republicans in pursuit of a moderate agreement."

Some speculated that the chief Senate Republican negotiator, Don Nickles of Oklahoma, would move closer to the more moderate House bill if vulnerable Republican senators seeking re-election in 2000 could convince Nickles of the electoral imperative to compromise with the House and pass a bill. Despite some senators' efforts to persuade Nickles, no such compromise toward the House bill occurred. As it turned out, this mattered little to the Democrats, as bicameral negotiations were taking place in the run-up to the tightly contested 2000 presidential election. "For us, it's a win-win," explained Senator Minority Leader Tom Daschle (D-S.D.). "We win if we don't get a bill, politically. We win politically and legislatively if we do get a bill." Not only did bicameral differences limit the feasibility of reaching a conference agreement, the polarization of the parties and the electoral rewards of doing nothing limited the incentive to compromise.

The persistence of bicameral effects across the postwar period also sheds some light on the impact of divided and unified government on legislative performance. Spurred by Mayhew's unconventional finding about the limited impact of divided government, recent studies have re-examined "unified gridlock," stalemate that occurs when a single party controls both chambers of Congress and the White House. Most often fingered as potential causes of unified gridlock are supermajority institutions that limit the policymaking capacity of political parties: procedural rules that require three-fifths majorities to limit debate in the Senate in face of a filibuster and constitutional rules that require a two-thirds majority to override a presidential veto. Because presidential vetoes are rare under unified government, I focus on the impact of the Senate filibuster. A recent and compelling argument is that because a supermajority is needed to pass major policy change in the Senate, the majority party's ability to secure policy outcomes favored by its party median is limited. Thus one cannot predict major policy change based on the policy views of the median legislator of the chamber and the majority party. Instead, the views of the sixtieth senator—the senator whose assent is required to invoke cloture and break a filibuster—are pivotal.

However, the severity of the filibuster threat showed little effect on the frequency of deadlock once bicameral differences and party polarization and control were taken into account. Are interchamber differences a more proximate cause of stalemate than supermajority Senate constraints? . . .

Gridlock under unified government may have more to do with differences between the majority party's House and Senate contingents than with supermajority constraints imposed by Senate rules. . . .

... If the frequency of deadlock is largely a function of bicameral differences and polarization of the parties, then Congress's legislative performance is a simple function of electoral outcomes and the evolution of constitutional design. There is little that legislators can do to reduce the barriers to legislative stalemate they typically encounter. Legislators can only wait out electoral change that bolsters the presence of moderates and accept the reality of bicameralism. We cannot engineer electoral outcomes, so we should learn to live with gridlock. In a sense, this perspective commits us to accepting the conventional wisdom about the intentions of the framers: legislative inaction was one of their key goals, and thus they designed a political system of checks and balances that would slow down and often thwart efforts to enact major changes in public law. I think there is some value to interpreting the causes of stalemate in another way...

It is fair to say that legislators today toil in somewhat unusual political times. The decline of the political center has produced a political environment that more often than not gives legislators every incentive not to reach agreement. There are steady partisan and ideological pressures on members not to compromise on firmly held positions. Legislators also work in a remarkably public environment, are followed by an intensely negative media, and face a revolution in communications technology that grants little time or space for methodical deliberation. Legislators also often face an agenda that requires imposing losses rather than distributing benefits, as the promise of budget surpluses has given way to economic downturns, tax cuts, and politicians' unwillingness to spend from Social Security reserves....

To be sure, the notion of "fixing gridlock" can be troubling. One person's stalemate is another's preferred legislative outcome. In the polarized and polarizing era that legislators inhabit today, it is doubtful that true differences over desirable ends and means can or should always be negotiated away. But neither can we depend on the emergence of cohesive political parties to resolve recurring episodes of gridlock, as we see now that the faith of party government scholars in disciplined parties was misplaced: gridlock only increases as the political center recedes.

GREGORY WAWRO ERIC SCHICKLER

From *Filibuster*

No feature of the U.S. Senate is more important to understanding the inner workings of the chamber than the filibuster. Every senator is allowed to debate a bill or a nomination for an unlimited amount of time, or at least until a supermajority of three-fifths of the Senate votes to end debate. While the filibuster is a custom of the Senate and not a constitutional provision, former James Madison would approve: an individual or a minority can be heard, protecting them from the majority's power. Gregory Wawro and Eric Schickler explain the origin of the filibuster as well as the closure rule to end a filibuster. The authors then present a case study of the use of the filibuster in the mid-2000s, when President George W. Bush nominated conservative federal judges whose nominations were filibustered by Democratic senators. Supermajorities, the "nuclear option," the vice president's tie-breaking role, and even cotorts for an all-night session are all part of Wawro's and Schickler's account; then fourteen senators, both Democrats and Republicans, engineered a compromise. One of the fourteen, Senator John McCain said, "If we don't protect the rights of the minority... if you had a liberal president, and a Democrat-controlled Senate, I think that it could do great damage." Enough said. The Senate filibuster offers a possible last refuge for the minority.

NO ACTIVITY IN THE UNITED STATES CONGRESS captures the attention of political practitioners, pundits, and the public like filibustering in the Senate. The issue of filibusters has tremendous power to get ink for editorial columns flowing and to rouse even the most somnolent students in lectures on Congress. Perhaps this has something to do with fundamental conflicting concerns about the principles of majority rule and minority rights. Perhaps it is simply that filibusters make good political theater, inducing nostalgia for the days when politics was more of a contact sport. Indeed, it is a supreme irony that some of the leftest democratic ideals like freedom of speech and minority rights are protected through astonishingly ignoble and bare-knuckle behavior. Whatever the reason, the filibuster is deeply ingrained in the political culture of the United States. Case in point: the word "filibuster" appears on a recently produced list of 100 words that is intended to provide a benchmark by