

Partisan Trends in Bicameral Negotiations: A roll-call analysis*

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Abstract

Conference committees are a crucial part of the legislative process but remain poorly understood. In particular, the literature on conferences fails to take adequate account of the importance of parties, while prominent theories of parties in Congress rarely consider the role of conference negotiations. However one area where this connection is made is in the ability of the Speaker to strategically appoint conferees for potentially partisan purpose. This paper evaluates the implicit claim that this behavior could actually produce the desired effect in conference through an argument as to why conferences, traditionally known for big battles between the House and Senate, can be a battleground for partisan politics as well. Additionally the paper presents a stylized example of how strategic behavior to appoint more partisan conferees can influence policy outcomes. These expectations are tested using roll call votes associated with conference reports spanning the 97th and 101st-110th Congresses. Looking at changes in House minority support from the pre-conference bill to the conference reports the analysis presents evidence that such shifts can be predicted by measures of the partisanship of a conference, bipartisanship in the Senate, and the decision of members to sign the report.

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What they are doing is avoiding a conference...because in conference the House and Senate majority controls.

– Rep. Charles Rangel (D-NY)¹

I remain disappointed, however, in the process followed by the House-Senate conference, which not only excluded Democratic Members from key meetings and deliberations but also excluded the public. Sadly, the deficient process of the PATRIOT Act conference is characteristic of the manner in which too many conferences have been conducted in recent years...

Unfortunately, our opening statements turned out to be our closing ones, because we never met again as a conference. The flawed process of the conference produced a flawed result. Because it fell short of what the conference could have achieved, I joined my fellow Senate Democratic conferees in not signing the conference report.

– Sen. Jay Rockefeller (D-WV)²

Introduction

When negotiating over the price of a car does it matter who is at the bargaining table? Of course – the type of car bought, accessories, and the final price will all be influenced by the preferences and positions of those making the deal. Similarly the type of deal struck between bill managers in U.S. House and Senate will be reflective of the individual preferences and loyalties of the conferees tasked with reconciling differing versions of a bill. Given the integral role conference committees play in in shaping legislation, the composition of conferee delegations exerts a potentially powerful force on policy outcomes. While the conferee selection process varies between the House and Senate, the literature highlights a number common of factors which influence selection: seniority, membership on a committee of jurisdiction, and general support for the chamber's position (McCown, 1927; Longley and Oleszek, 1989). Perhaps the greatest difference in the rules surrounding conferee selection is that House Speaker ultimately has sole authority to appoint conferees (Beth, 2006), whereas the Senate process is subject to floor approval usually given via unanimous consent (Rybicki, 2007c).

¹As quoted by Mike Soraghan in "It's Ping-Pong For Energy Bill" *The Hill* 10/11/07.

²*Congressional Record*. 2006. 109th Cong., 2nd sess. p. S1611.

Party centered approaches to Congress such as Conditional Party Government (Rohde, 1991; Aldrich and Rohde, 1998) and Cartel theory (Cox and McCubbins, 1993, 2005) suggest that the majority should use procedural advantages to achieve non-majoritarian policy goals. Building on these approaches a number of scholars have made note of the possibility for the Speaker to strategically use her appointment power to potentially influence conference negotiations. Namely, the Speaker, acting as an agent of the majority, might consider partisan factors in addition to the selection norms mentioned above (Nagler, 1989; Carson and Vander Wielen, 2002; Hines and Civettini, 2004; Ladewig and Bourbeau, 2005; Lazarus and Monroe, 2007). Implicit in these works is the claim that changing the composition of the conference delegation produces the desired policy effect. While this line of work establishes that partisanship, in one form or another, is increasingly predictive of whether a member is selected to a conference, it is not clear that strategic partisan appointments result in legislation more consistent with the preferences of the House majority.³

Once the conference begins, all bets are off. It may not be the case that a more partisan House delegation appointed by the Speaker has the desired effect when the goals of Senate conferees are taken into account. Furthermore, individual conferees, like all members of Congress are pulled in many directions and must balance numerous interests which may easily be in conflict. When working out the details of a compromise between House and Senate versions of a bill, the conferees in the bargaining room are essentially agents to multiple principals. In addition to the implication from the literature on selection that conferees are agents to their party and leadership, they have also been characterized as agents to their parent chamber (Ferejohn, 1974; Fenno, 1966; Vogler, 1971), to the committee through which they were most likely appointed (Shepsle and Weingast, 1987; Krehbiel, 1991), and to their own personal projects and electoral interests (Becker, 2003; Vander Wielen, 2006). With all of these potential forces at work

³Nagler (1989) is one such exception with three examples of minimum wage legislation in the 1970s where conferees in the House may have shifted the conference report away from the position preferred by committee of jurisdiction.

the question remains whether partisan features of the conference delegation ultimately influence the conference report.

This paper aims to address this question as implied by the literature on conferee selection and parties in Congress. Specifically, I consider whether the appointment of more partisan conference delegations in the House indeed yields more extreme policy. Yet, just as the details of a car purchase are conditional on the preferences of both the buyer and the salesperson, the conference outcome is likely to be influenced by the composition of the delegations from both the House and Senate. To this end, I compare whether shifts before and after conference in partisan support for a bill covary with changes in the partisan composition of conference delegations as well as aspects of pre-conference support in both chambers. In addition to extending the logic behind the strategic appointment of partisan conferees to actual policy implications, this paper also is part of renewed effort to better understand the contemporary conference process. The data and analysis that follows sheds light on a number of aspects of congressional conference committees that have barely been engaged in political science since Longley and Oleszek's (1989) thorough undertaking.

Previous literature

The approach outlined above draws from two major threads of the literature on conference committees in the U.S. A study of how conference outcomes relate to conference delegation composition draws from an established literature on "who wins?" in conference and a literature on conferee selection. Recounting both of these provides an important context for the theoretical claim of partisan involvement in conference politics, the empirical approach taken in the paper, the temporal nature of the results, and ultimately the directions for future research.

Historically, the conference politics literature has neglected the potential for parties and leaders to influence the process. The question of "who wins?" dominated the study of conference committees prior to the late 1980's. Steiner (1951) was one of the first to

address the “who wins?” question across multiple bills and congresses. Drawing from comparisons of the conference report to the original version, reports on the intensity of key provisions to each chamber, and comments from key conferees Steiner found that of the 56 cases he considered from the 70th to 80th Congresses the Senate won only 15. Yet, most studies following Steiner’s seemed to show at least a slight win margin in favor of the Senate. Fenno (1966), shows that the Senate’s total dollar amount was closer to the final version in 187 of 331 appropriations bills he considered. A number of other studies employed this approach to investigate the Senate advantage in conference committees. Vogler (1970), relying on reports from *Congressional Quarterly* shows that the Senate won in 65 percent of the 268 cases he considered spanning the 79th, 80th, 83rd, 88th, and 89th Congresses. Then, Strom and Rundquist (1977), used subjective decisions from multiple coders in their study of conference bills in the 92nd Congress found that of conference bills where a winner was declared the senate won 60%. While these studies along with others (Manley, 1970; Kanter, 1972; Ferejohn, 1974) explored this question issue of Senate dominance in conference committee outcomes, there were many different theories on the nature of this advantage.

Most of these theories view conferees primarily as loyal to their parent chamber and the relevant committee of jurisdiction. For example, Fenno (1966) theorized that the Senate’s advantage lies in a closer relationship between its conferees and parent chamber which translated into more bargaining power in conference. Vogler (1970, 1971) thought that the advantage was a function of whether a chamber’s conferees came from a more prestigious committees than their counterparts. While these two theories of one-chamber conference dominance relied primarily on support of the parent chamber and conferee prestige, Strom and Rundquist (1977) argue that conference success is mainly a correlate of whichever chamber was “in control of the papers” (i.e. the last to act before conference and usually the first to act after). Unfortunately since much of the legislation that is destined for conference today is developed simultaneously in both chambers, and there are countless stories of inter-chamber bargaining prior initial

passage it is not clear whether this type of first mover advantage still applies.

Perhaps one of the biggest drawbacks to the House versus Senate approach to conference outcomes, is the implied limitation on who the winners and losers can be and the politics involved in the process. In these works chamber loyalties and committee assignments are theorized to exert influence on outcomes, but notably absent is any accounting for individual interests or parties to make gains or losses in conference politics. Furthermore, it is not always clear what it means for one chamber to win over the other. When the potential actors are as big as the House and Senate, and the legislation at stake is extremely complex it may be impossible to determine a single winner/loser. For example, in appropriations legislation the best measure might not be the bottom dollar amount, but rather specific aspects which are of value to certain members, committees, or parties. On any given bill there may be many winners and losers, but the implication of who they are on policy may be most what is most interesting.

Along the lines of this critique research on conferences shifted focus away from the classic House versus Senate depiction. Shepsle and Weingast (1987) draw on the fact that conference committees are essentially extensions of the original committees of jurisdiction. Consequently the conferees could take advantage of the “take it or leave it” aspect of conference reports to undo any changes made on the floors of either chamber. Thus, they argue conferees have an *ex post* veto over legislation which serves to emphasize the power of committees in shaping policy outcomes. More recently, others have emphasized the personal agendas of individual conferees to secure provisions consistent with their own goals (Vander Wielen, 2006), and their positions of influence in the parent chamber (Becker, 2003).

More recently, a few scholars have engaged the intersection of party with conference politics. While most of this work is focused on conferee selection others consider how partisan forces might fit into the framework of “who wins” in conference. Peterson and Wrighton (1999) follow earlier work and focus on predictors of compromise in appropriations legislation from 1981 to 1996. While they test for an effect of leadership support

in predicting the direction of conference compromise this measure is not significant in a multivariate context. Unlike the bulk of the earlier literature their results interestingly find that the House seems to “win” more often in this period. Their findings are also show that a divided congress in this period advantages the chamber of controlled by the President’s party and that relative win margins in both chambers prior to conference are significant.

Two other notable works examine party-based collusion between the majorities of the House and Senate in conference. Van Houweling (2003) argues that conferences provide an opportunity for majority Senators to get outcomes closer to their personal preferences by allowing the more extreme House to “win.” This approach is most likely to work in unified Congresses and relies on the observation that conference bills are generally free from amendments and points of order, provided a single up-or-down vote, and considered “must-pass.” Another study suggests that conferences are used to preserve the Senate majority in a unified Congress. Since, as they argue, the control of the Senate is comparatively more at risk, collusion at the conference stage could help these Senators retain the majority (Ortega and McQuillan, 1996).

Assuming that conferees indeed influence conference outcomes, most of the recent work which considers the potential for party politics to influence the process focuses on conferee selection. These studies generally consider multivariate models predicting whether a member is appointed as a conferee as a function of various individual characteristics including seniority, committee membership, party loyalty, etc... For instance, McQuillan and Ortega (1992) show that party loyalty is much higher among majority conferees than non-majority conferees. Similarly, Carson and Vander Wielen (2002) show that while seniority is a dominant predictor of selection as a conferee, a member’s ideological extremity is an increasingly significant factor since the 101st Congress. Hines and Civettini (2004) also present evidence that partisan factors such as proximity to the party median increases the frequency of conferee selection during the 104th through 106th Congresses. Finally, Lazarus and Monroe (2007) show that the likelihood the

Speaker appoints conferees from outside the committee of jurisdiction increases with the distance from the House median.

Though this paper primarily focuses on the potential impact of increased partisan based conferee selection in the House on policy outcomes it expands on and develops the existing literature in multiple ways. Longley and Oleszek (1989) in reacting to the classic literature on “who wins?” offered the following suggestion for future research:

...the preoccupation of scholarly research with House and Senate success scores has been at the cost of needed investigation into the *political and policy consequences of conference committees*... The question Who wins? then truly does become central to conference committee politics, but in far broader terms than just chamber victories. (emphasis in original)

First, this paper furthers the linkage between partisan and conference politics. Then, by connecting the literature on partisan conferee selection to outcomes, it expands on parties as potential winners and losers while also shedding light on the potential policy consequences of more partisan conference politics.

Theory - connecting strategic selection to “who wins”

As mentioned earlier, the literature on strategic conferee selection shows that over the last 15 years or so partisan factors have played an increasing role in the House Speaker’s decisions to appoint conferees. Yet these studies also raise questions regarding the extent of partisan influence in the conference process. For example, do more partisan slates of conferees lead to more partisan conference outcomes? Does this relationship hold for both chambers’ delegations or is it truly a function of the Speaker’s almost absolute appointment power? The literature on the Speaker’s appointment power suggests that the answer to both of these questions should be “yes,” but this simple expectation requires one to connect why political parties and leaders such as the Speaker might be able to take advantage of conference politics and how changing the conference delegation might help them achieve this goal.

Both the Conditional Party Government [CPG] (Rohde, 1991; Aldrich and Rohde, 1998) and Cartel theory (Cox and McCubbins, 1993, 2005) are primarily focused on legislation in the House. In both approaches, the leadership is expected to use its control over members and/or the agenda to move policy toward the majority's preferred position. In the cartel approach, party members give leaders power over the agenda to create "a favorable record of legislative accomplishment" (Cox and McCubbins 2005, p.7). The CPG approach is similar but emphasizes that party influence on legislation should vary not only by Congress but also with the leadership's agenda. Yet, creating "a record of legislative accomplishment" requires success in the bicameral context, which includes conference committees, rather than just on the House floor. Consequently, to the extent that parties and leaders are successful in achieving non-majoritarian outcomes and pulling legislation toward their median position, they should be active in protecting these gains in conference, perhaps achieving more.

Unique attributes of the conference process as opposed to "bouncing" legislation back and forth between chambers also offer potential means for parties and leaders to achieve their goals. For example, the conference process can be a more efficient (Longley and Oleszek, 1989). Conferences are privileged matters in both chambers that are available for floor action at almost any time and are decided by a single up-or-down vote that is usually not subject to amendment (Rybicki, 2007*a*). This can allow leaders to bring a conference report to a vote at anytime with minimal risk that any gains made before or after conference will be amended. While not absolute, the procedural options such as the discharge petition are cumbersome, and rarely employed (Krehbiel, Shepsle and Weingast, 1987).

A second important feature is that conference votes frequently occur towards the end of a session. This heightens the "must pass" nature frequently associated with conference reports. The costs of recommitting a conference report or failing to approve it are already high given previous legislative investments, but when the option to try again if a measure fails removed by timing then passage is even more likely. If the

control of the agenda and the conference overlap this potentially allows the leadership to achieve outcomes closer to their preferred position. As Senator Byrd (D-WV) noted towards the end of the 108th Congress:

Legislation is passed by the Senate and then, all too often, hastily rewritten in a conference report behind closed doors marked, as it were, "no minority view admitted." All too often during the 108th Congress, the party leadership has held bills until just before a recess and then employed disingenuous rhetoric about, "Oh, last opportunities, these are the last opportunities to get something done."⁴

Third, going to conference can protect members from having to make potentially dangerous roll call votes and provide cover for the insertion of controversial provisions that were previously voted down or that have not been considered. While meetings of conference committees are generally open to the public, conferees are publicly accountable only for the decision to sign off on the entirety of the report. Furthermore members also only have to cast a vote a final passage of the report rather than face the prospect of multiple votes on the floor.⁵

While the leadership in the House always exerts an iron fist over control of the agenda this is not necessarily the case in conference. These potential gains for the leadership are not free. Leaders are essentially putting the fate of their legislation in the hands of just a few conferees (Shepsle and Weingast, 1987; Kiewiet and McCubbins, 1991). Thus, perhaps one of the most important tools at the disposal of leaders is control over who is in the bargaining room. Whether the intention is to protect partisan gains made on the floor or make further gains in bicameral negotiations party leaders have an interest in ensuring that the conference delegation shares these goals. Though

⁴ *Congressional Record*. 2004. 108th Cong., 2nd sess., Vol. 150, pt. 138.

⁵ An example of this in hindsight is the provision included by Sen Arlen Specter (R-PA) into the 2007 reauthorization of the PATRIOT act which may have provided the legal backdrop for the supposed firing of federal prosecutors on the basis of partisanship. This provision amounted to little more than a sentence in a report that spanned over 100 pages. See Dan Eggen and John Solomon. "Firings Had Genesis in White House." *washingtonpost.com*. March 13, 2007.

norms of appointment in the Senate limit the ability of the majority leader to "stack" a delegation with supporters, the House Speaker does have this authority (Beth, 2006; Rybicki, 2007*b*). Thus, just as the literature on strategic conferee selection suggests the Speaker to be an agent of the party interested in furthering the party label she can use this power to maximize the potential for partisan gains in conference.⁶

How then might the decision to appoint a more extreme conference delegation actually influence outcomes? To illustrate how this is possible and to help motivate specific empirical predictions consider a stylized example of a one-dimensional, liberal-conservative spatial model. Since we are considering the potential influence of the speaker's decision to appoint a more partisan delegation on policy it is helpful to frame this example from the perspective of the House leadership. As in CPG and Cartel theory assume then that the Speaker's goal as an agent of majority is to minimize the distance between the conference report and the majority party median. Thus in the context of the literature on "who wins" the potential winners and losers are the Speaker and the House minority.

As noted earlier it is not enough to consider the House in isolation. At first glance there are many important potential players: the status quo, committees of jurisdiction (Shepsle and Weingast, 1987), the Speaker (Nagler, 1989), the chamber medians (Vander Wielen, 2006; Lazarus and Monroe, 2007), the majority and minority medians, and the positions of the actual conference delegations. With set of potential pivots there are 10 factorial or over 3.5 million arrangements, before accounting for symmetry. Thus, to actually make this simple one must make a number of assumptions. First, assume that government is unified and both chambers are on the right side very distant from the status quo (sq). Then assume that the House median is more extreme than the Senate

⁶A student of Congress might could raise a reasonable objection to this logic by pointing out that the Speaker does not always use this power. Yet, it may not always be necessary. In an era of high partisan loyalty and multiple referral the Speaker may not have to worry about the agency of the conferee pool. Even in the case where the potential pool of conferees may be out of line with her goals, the costs of violating norms or appointing enough additional outsider conferees may be too high (Lazarus and Monroe, 2007). It could also be the case that the legislation under consideration is of minimal importance to the party agenda (Rohde, 1991).

(which is true for every unified Congress in the data below).

Since we are interested in considering the potential policy effect of appointing a more extreme House delegation, we need to be able to compare the expected position of the conference report with no strategic selection to that of a report produced with a partisan House delegation. Essentially this requires comparing two possible contract curves. Following the conventions of conference negotiations conferees are restricted to only make compromises that fall within the differences between the two versions of the bill. Though this is difficult to enforce and never raised (Rybicki, 2007*b*). The recent practice of dropping earmarks into bills during conference is a good example of conferees acting outside this authority. Thus a better approach might be to define the contract curve using the positions of those doing the bargaining.

So following Krehbiel (1998) assume the Senate, which is constrained by more open rules and the filibuster threat, will pass a less extreme version of the bill (S_v), but that the conferees are representative of the committee of jurisdiction (S_c). Then drawing from a partisan view assume that the House with control over the agenda passes legislation more reflective of the Majority median (H_{maj}) (Cox and McCubbins, 2005), but that the relevant committee in the House (H_c) represent the default conference delegation. In both cases the committees are roughly representative of the chamber median (the House median is denoted as H_m), but slightly more extreme, with the House majority even more so. This approach mirrors that of Shepsle and Weingast (1987) where their contract curve is drawn between the committees of jurisdiction.⁷ The key differences in this example are that the House speaker represents a more extreme position (H_l), the Speaker can use her appointment power of conferees to change the contract curve, and that the House bill as passed is more extreme than the originating committee's preference.

[Figure 1]

⁷Similarly, Vander Wielen (2006) also uses the conference delegations to define the contract curve and compares different scenarios of how this curve relates to one defined by the chamber medians.

Figure 1 illustrates this stylized setup. That being said, it serves to motivate how the appointment of a more partisan delegation in the House could influence policy in the direction of the majority and leadership's preference. Note that the default contract curve represented by the distance between S_c and H_c would pass both chambers but would be diluted from the original bill at H_{maj} . However, by appointing a conference delegation more extreme than the committee's position and even more so than H_{maj} the contract curve expands to include the House's original position. Though what is possible depends on the status quo and what might eventually pass the Senate's filibuster, this example also shows how the Speaker via appointment may be able to achieve more extreme outcomes than originally passed. At best, extreme appointments minimize the loss to the House leadership relative to the likely conference compromise.

Though as presented, this example cannot account for the countless arrangements of pivotal actors the assumptions, while many, are not unreasonable. Certainly, there are arrangements that would not yield this result. Yet, there are also scenarios described in the selection literature where the Speaker would not stack the delegation (Nagler, 1989). This example along with the theory and literature presented above suggests a number of general expectations about covariates with shifts on liberal-conservative scale from pre- to post-conference from the perspective of both the House and Senate. The next section discusses the empirical approach used to address the expectation and develops hypotheses specific to the data.

1. *Ceteris paribus, the conference report should be more moderate in the House and more extreme in the Senate relative to the bill positions prior to conference.*

As pointed out in the assumptions behind figure 1, the House version of the bill in recent years is likely to be more extreme than the Senate version. To the extent any compromise is reached in conference the outcome will be between these points.

2. *Echoing the implications of the selection literature, more partisan conference delegations in the House will be associated with smaller losses or even gains in the House relative to the pre-conference position.*

This follows from the above discussion about the effect of stretching the contract curve in the direction of the House majority. This relationship should exert a balancing effect in light of the above expectation and may outpace it.

3. *Policy shifts relative to the initial House position should decrease when a bill enjoys massive support in the Senate*

The more bipartisan the Senate bill is the more the contract curve is likely to expand away from the House's position.

Empirical approach

Unfortunately empirical research on conference committees is plagued by the complexity of the type of legislation traditionally slated for conference (Sinclair, 2007) and the relative “black box” nature of the actual negotiations. While the type of data on what occurs in conference is limited we can collect data before and after the conference. Utilizing searches on thomas.gov and the *Lexis Congressional Database* I was able to identify every conference report issued since the 93rd Congress (1973) and any bill which was slated for conference. Since it is possible that a bill could be associated with multiple conference reports if a report was defeated or recommitted on the floor of one chamber, I created a separate observation each bill-report pair.⁸ For each of the observations I collected information on all of the pre- and post-conference roll calls from both chambers, the list of conferees appointed in both chambers, which conferees signed the conference report, and which chamber acted first after conference.⁹ Due to constraints on the availability of conferee information online this data is only compiled for the 97th and 101st to 110th Congresses (1981-1982 and 1989-2007).¹⁰ Common Space scores (Poole and Rosenthal (1997), www.voteview.com) were merged for each conferee and for all relevant roll calls.¹¹ The data collected to date contains information related to 666 unique bills and an additional 17 reports across a period of 26 years (with

⁸Of the bills I have considered spanning the 97th and 101st-110th Congresses only fifteen have double entries, two of which have three.

⁹I am grateful to Nathan Monroe and Jeff Lazarus for providing me with their list of conference and house conferees from the 93rd - 107th congresses

¹⁰I am in the process of filling in the missing congresses, but collecting data earlier than the 97th is especially challenging with regard to identifying the conferees appointed. Prior to the 101st Congress the data collection for signatories requires going to the printed record. Consequently when beginning to code earlier congresses I started with the most distant in order to be able to compare results to a slightly earlier period

¹¹Common Space scores were chosen to maximize the comparability of measures between the House and Senate

the gaps noted above).¹²

In order to empirically model the expectations outlined earlier the dependent variable needs to capture the ideological shift between the pre-conference bill and the conference report for each chamber. Changes in minority support for roll call votes before and after conference are perhaps one of the most readily available proxies.¹³ This variable *House minority shift* is simply the difference between the proportions of minority votes cast in support of the conference report and the similar proportion for the vote on the House's bill prior to conference. Thus, if the conference report is more moderate than the pre-conference version this value should be positive. While lobbying, presidential influence, changes in the larger political climate, or even a basic shift in opinion could contribute to such position changes, the most likely source of systematic variation in the measure is in the actual conferences. Since almost 82% of conference reports in this period became public laws with few changes, understanding the influences on a conference report in this data is akin to understanding policy outcomes.

Another drawback of this operationalization is that it requires a roll call vote was held before and after conference. Unfortunately this essentially reduces the effective number of observations in half since one or both of the pre-conference bill and the conference report passed by voice vote. Unsurprisingly, these observations disproportionately fall in the earlier congresses in the data when roll calls were less frequent, with 50% of these "lost" observations falling prior to the 103rd Congress.

In addition to this dependent measure the expectations call for a number of independent variables. To capture the partisan extremity of a conference delegation I calculated a number of potential measures. First and most basic, *Majority conference%* measures the percentage of conferees from the majority party. While the majority party always

¹²Of these observations there are 84 cases where a bill was slated for conference but a conference report was never filed. In these cases at least one chamber appointed conferees, but either the other chamber failed to act, the bill moved forward outside of conference, or the conference failed to issue a report.

¹³Another possibility is to compare changes in estimates of the bill position pre and post that are derived from roll call scaling techniques. While possessing nice empirical properties, this approach introduces a host of assumptions involved in the accuracy of the estimation of the actual bill positions. Still, Vander Wielen (2006) uses these types of estimates in his analysis of conferences with some success.

comprises a majority of conferees, the Speaker is allowed to determine the actual ratio (Beth, 2006). *Conference extremity* represents the 1st dimension distance in common space between the median member of the delegation and the median member of the majority party. This measure parallels the idea discussed above that if the Speaker is attempting to minimize moderation of the House bill one way is to appoint conferees more to bring the delegation closer to or beyond the preferred position. This measure is calculated so that positive values indicate a delegation more extreme than the median member of the majority party and negative values correspond to more moderate delegations.

I also include two measures of bipartisanship in the opposing chamber to account for the expectation that when the opposing chamber's bill enjoys a large amount of support the contract conference report is even more likely to be moderate with respect to the House's initial position. First, *Rice index* is a classic measure of how partisan a roll call vote is. It is simply calculated by taking absolute difference of the proportion of Democrats voting yes and Republicans voting yes (Rice, 1928; Cox and Poole, 2002). The value of the index is adjusted so that large positive values represent a bipartisan vote. I also calculated *Minority support* which is just the proportion of minority members who supported the pre-conference bill.

In an attempt to peek into the "black box" and to capture a different aspect of whether partisan divisions of the conference influence policy outcomes. I also calculated *Minority signatories* which is simply the proportion of minority members from a delegation which signed the conference report. If the conference process was truly party driven then fewer members should sign the report. This also provides a more direct connection between the conference negotiation and outcomes.

Lastly, it is necessary to include the *Chamber minority support* in models predicting minority shifts in the House. It is quite likely that the size of a minority surge could be entirely dependent on the amount of minority support pre-conference. More minority pre-conference support leaves fewer minority members to shift support in favor of the

conference report.

Clearly these variables run the risk of multicollinearity issues since many of the components of the measures overlap and I suggest multiple variables designed to capture similar concepts from the theory. Thus in the empirical models I make use of different specifications that all follow the same general form:

$$\text{House minority shift} = f(\text{House conference extremity measures, Senate bipartisanship measures, Minority signatories, Chamber minority support})$$

Before turning to the analysis and results, we can restate the theoretical expectations with respect to the independent variables.

- H1: Both *Majority conference%* and *Conference extremity* will have a negative relationship with *House minority shift*. Thus, as measures of conference extremity increase the support among minority voters in the house should be smaller or even negative.
- H2: *Rice index* and *Minority support* should have a positive relationship with *House minority shift*. With the rice index re-scaled so that larger values are indicative of a more bipartisan vote prior to conference increases in these measures serve as proxy for the extent to which the House conference committee might have to compromise.
- H3: *Minority signatories* and *House minority shift* are expected to exhibit a positive relationship. As the proportion of minority conferees who sign the bill increases the partisan aspect of the conference should be smaller. Thus support post-conference is likely to increase.
- H4: *Chamber minority support* should trivially have a negative relationship with *House minority shift*.

Results and analysis

Before moving directly to the multivariate analysis, it is instructive to get a descriptive sense of the data and of the distribution of observations across the period under consideration. Figure 2 shows, by Congress, the distribution of conferences and observations where both a pre- and post-conference roll call were held. Perhaps most intriguing is that the raw number of conferences markedly declined over the last two decades. On the

other hand the number of observations remains relatively constant, though it is clear that bills going to conference are more likely have roll calls both before and after conference. These points should underscore the analysis that follows, in that, the results are more representative of the period beginning with the 104th Congress (1995).

[Figure 2]

Table 1 on reports the summary statistics for the key variables, some of the underlying components, and some analogous measures for the Senate. It is worth noting that consistent with the initial expectations the minority shift in the house suggests an average increase of four percent while the minority shift in the Senate is negative. On average the the House delegation has a higher number of majority party members than the Senate, while the pre-conference versions in the Senate garner more minority support. Lastly, while it is true that most conferees ultimately sign the conference report, it is almost pro forma for majority members, but not necessarily for the minority.

[Table 1]

While valuable for giving a sense of the data overall, the summary statistics fail to capture the overall and temporal distribution of the key variables. Figure 3 is a boxplot comparing the minority and majority shifts over the Congresses available. As indicated in the summary statistics the variation in changes of minority support are minimal and centered around zero. This is indicative of the expectation that House bills are are dominated by majority interests and conference reports, while depressing majority support slightly, are not drastically changing majority voting. Especially impressive are the extremely small changes in majority shifts since 1993. On the other hand, minority shifts show much more volatility in almost every Congress. This is consistent with the decision to use this variable as a measure of the effect of conference policy.

[Figure 3]

The conferee selection literature and the corresponding conference extremity hypothesis suggest that, on average, House delegations should be more extreme than the Senate. We might also expect conference extremity to increase temporally as Congress has polarized in recent years. It could be the case that the only reason House delegations are more extreme is simply because the House is known to be more extreme than the Senate as measured by roll call scaling. Thus, if the selection and conference extremity expectations are true, House delegations should outpace polarization over this period. Figure 4 plots the absolute value of the conference medians and chamber medians over time. Clearly both values are becoming more extreme over time and the House more so than the Senate. While the Senate conferences are initially representative of the chamber median they are generally more extreme in recent years. Yet as expected, the conference delegations in the House consistently outpace polarization of the chamber median until the 109th Congress.¹⁴

[Figure 4]

Table 2 reports the results of a typical OLS multivariate regression to test the hypotheses of the previous section. Since the theory presented here is in the context of a unified Congress, splitting the model based on whether the observation was in a divided Congress strongly suggests that the results do not pool. While this could be because of limited observations since the only cases are from the 97th and 107th Congress, it could also be an artifact of one or both of these congresses. Regardless and for robustness table 2 only includes observations from unified congresses. Since the bills exist in the multilevel structure of individual congresses where there is potential higher order effects, I report the models with standard errors clustered by Congress.¹⁵

¹⁴Since common space scalings are not yet available for the 110th Congress it is excluded in this figure and any analysis where these scores are used.

¹⁵If the specification is changed to include Congress fixed effects the substantive results are similar though in the full model (specification 1) conference extremity and the rice index are clearly insignificant. In these models the only significant fixed effects are for 106th and 107th Congresses. Also, the results are also substantively similar if Congress level controls such as majority size, a time trend, and divided government are included instead. Of these additional variables majority size is associated with smaller shifts, the time trend is not significant, and divided government yields larger shifts

[Table 2]

The results generally find support for all of the hypotheses outlined earlier. The first specification includes all of the possible independent variables without regard to multicollinearity. The other two specifications only include one measure of conference stacking and of Senate pre-conference support. Still, across the three specification there is support for each variable consistent with expectations. Increases in the proportion of majority members on the House delegation is negative and significant both times offering support for the hypothesis that House delegations stacked with majority members is associated with more partisan conference outcomes. Conference extremity while not significant in the full specification is a significant predictor the the majority conference% is excluded. Again this is evidence that more ideologically extreme conference delegations are likely to yield more partisan outcomes that garner less support from the minority.

The results in table 2 also provide support for the prediction that increased bipartisanship in the Senate prior to conference should increase the likelihood that he House bill will be watered down in conference. The rice index, while only significant when not paired with raw minority support in the Senate, is positive as expected. Also the more minority support the Senate version has pre-conference is associated with smaller Minority shifts in the House.

Lastly, as the proportion of minority members who sign the conference report increases so does minority support in the House. This offers evidence that when the conference report is more reflective of minority interests, floor voting responds accordingly. Also, as expected the House minority support prior to conference is inversely related to the shift in support. Thus a bill with a lot of support before is more likely to lose support. and vice versa.

Conclusion

This paper has built off of the implication of the literature of partisan conferee selection in the House and linked attributes of conference politics policy outcomes. The results

above provide strong evidence that more extreme conferences are indeed associated with more extreme policy. If the House Speaker chooses to strategically appoint conferees on the basis of partisanship and change the composition of the House delegation this is likely with the goal of manipulating the possible deals that might be made in conference. The results herein suggest that over the past 20 years this strategy is a good bet if the Speaker's goal, as the literature suggests is to protect or further partisan gains made prior to conference.

Of course this ability to influence conferences via appointment is not absolute. McCown (1927) notes in her work on the development of conference committees through the early Twentieth Century that conference bargaining are built on a foundation of compromise and efficiency. As the House majority is more efficient at passing legislation on the floor that is non-majoritarian the best case scenario in conference may be to minimize compromise. While the conference process might produce benefits for the majority party the minority is losing out. Given comments like that of Rep. Rangel at the start of this paper it is not surprising that the Senate minority has worked to hold up conference proceedings. This has led partisan Democrats in the House to lash out at the Senate. In light of this frustration Rahm Emmanuel (D-IL) said, "As an amateur student of constitutional history and as a member of Congress, I have come to the conclusion that the Senate was a historic mistake."¹⁶

While these types of comments are similar to the early research on which chamber dominated in Congress, the tone is different. Partisanship has invaded the conference room, and this paper argues that conference committees can play a strategic role in producing more partisan legislative outcomes. In a unified Congress the winners and losers may not be the House and Senate but rather the majority and Senate minority. Kiewiet and McCubbins (1991) writing on the outcomes of appropriations legislation under unified Democratic control made a similar comment:

Who wins in conference committees, the House or Senate? – is thus neither.

¹⁶As quoted by David M. Herszenhorn in "All the Makings of a Carnival, Except the Fun." *The New York Times*, December 7, 2007.

Given their hold on both chambers during most of the past sixty years, the real winners of conference committee proceedings have usually been the Democrats.

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Tables

Table 1: Summary statistics

Variable	Mean	(Std. Dev.)	Min.	Max.	N
House minority shift	0.044	(0.29)	-0.985	0.963	353
House majority shift	-0.018	(0.153)	-0.887	0.96	353
Senate minority shift	-0.049	(0.237)	-0.886	0.823	199
Senate majority shift	-0.019	(0.159)	-0.98	0.942	199
House majority conference%	0.614	(0.028)	0.476	0.714	629
Senate majority conference%	0.569	(0.049)	0.4	0.8	643
Conference extremity	0.014	(0.133)	-0.42	0.402	629
House rice index	0.367	(0.317)	0	0.976	514
Senate rice index	0.237	(0.284)	0	1	382
Senate minority pre-support	0.752	(0.304)	0	1	382
House minority pre-support	0.598	(0.342)	0	1	514
House minority signatories	0.74	(0.391)	0	1	642
House majority signatories	0.905	(0.263)	0	1	629
Senate minority signatories	0.75	(0.385)	0	1	661
Senate majority signatories	0.883	(0.293)	0	1	643

Table 2: OLS results predicting shifts in House minority support pre- and post-conference

Variable	(1)	(2)	(3)
Majority conference %	-1.03* (0.5)	-1.39** (0.4)	
Conference extremity	-0.20 (0.1)		-0.35*** (0.09)
Senate rice index	-0.085 (0.06)		0.19** (0.07)
Senate minority support	0.30*** (0.04)	0.24*** (0.06)	
House minority signatories	0.26*** (0.07)	0.25** (0.08)	0.26** (0.07)
House minority support	-0.66*** (0.1)	-0.66*** (0.1)	-0.61*** (0.1)
Constant	0.61 (0.3)	0.91** (0.3)	0.24** (0.07)
Observations	220	220	220
R^2	0.42	0.41	0.39

Congress clustered standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Figures

Figure 1: An example of when strategic partisan appointment might yield more partisan conference outcomes

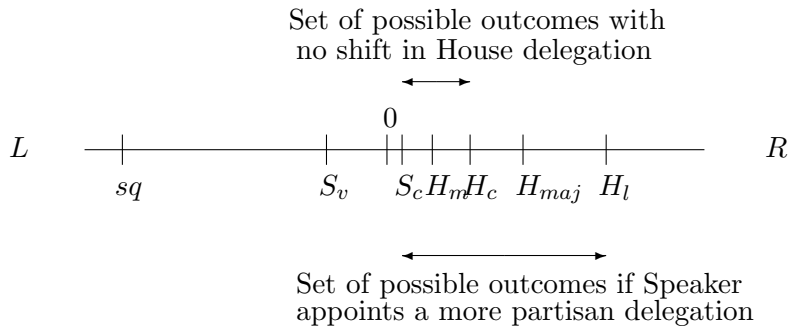


Figure 2: Conference reports and observations by Congress

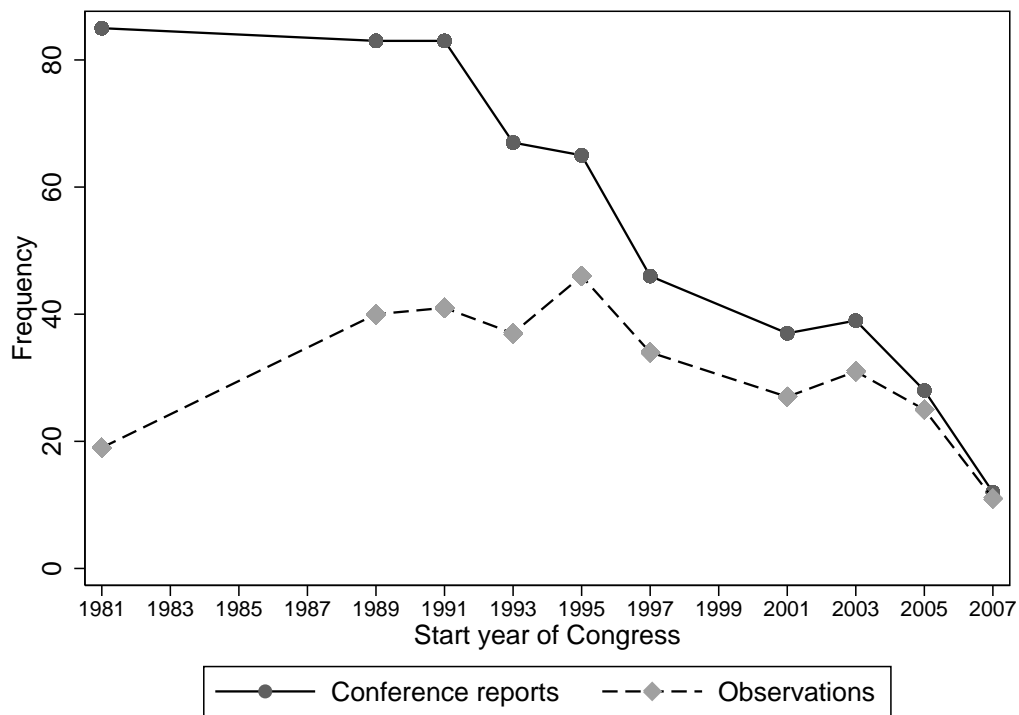


Figure 3: House shifts by start year of Congress

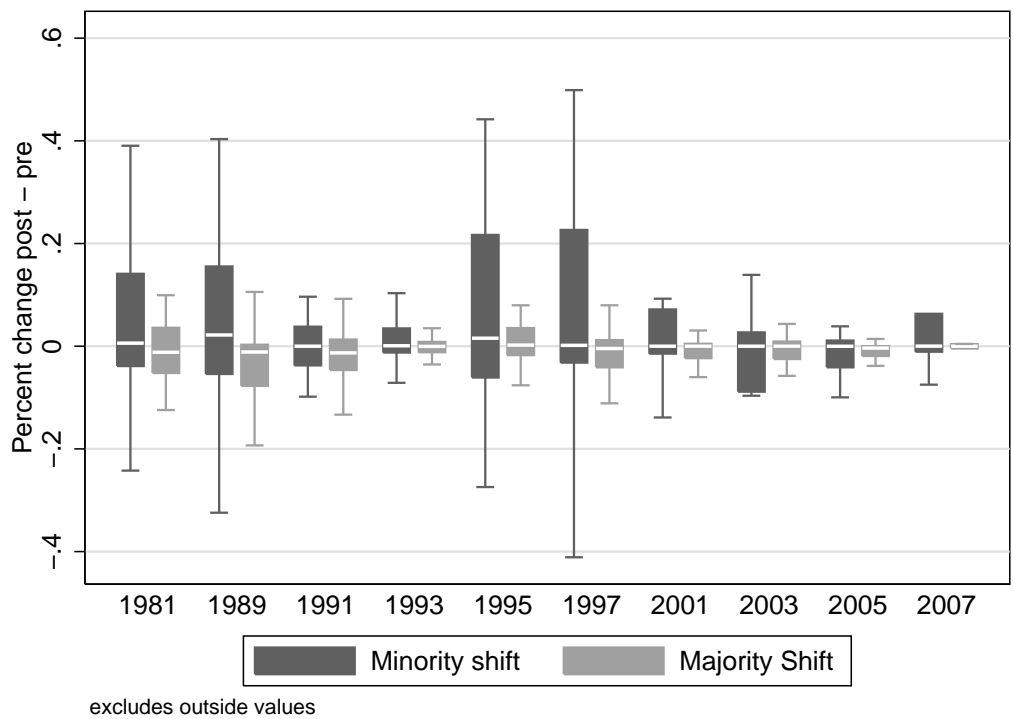
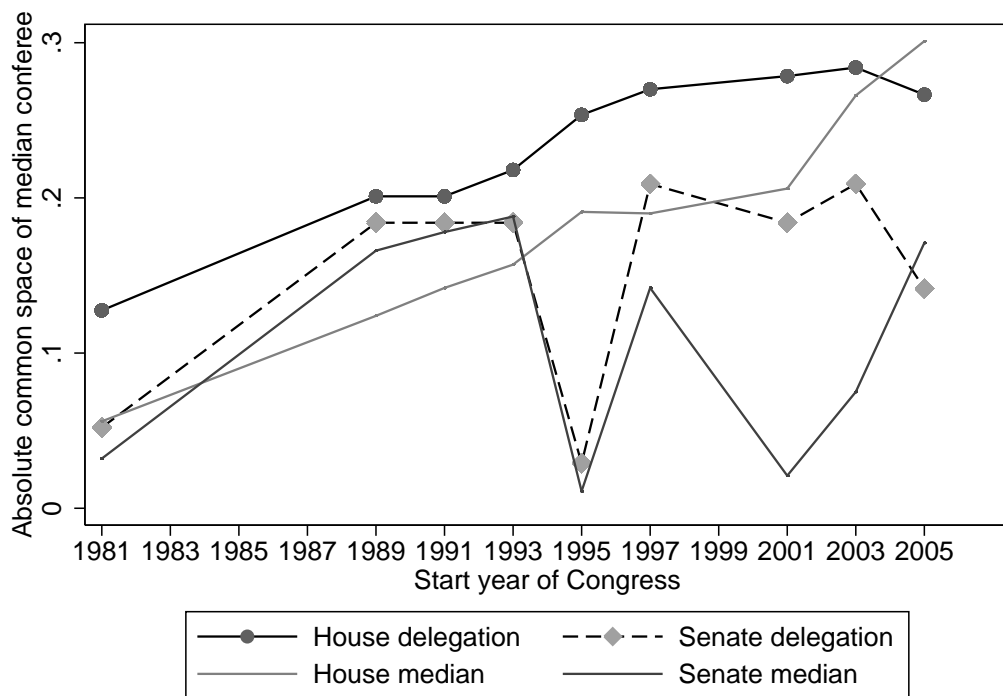


Figure 4: Median absolute conference extremity and floor medians by chamber



Values represent the 1st dimension of common space