The Costs of Agreement: Bargaining Venues and Interchamber Resolution in the United States Congress*

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Abstract

Conference committees are commonly used by Congress to resolve legislative differences. The conventional wisdom suggests conferences are used for important legislation, but this is not always the case. Sometimes the chambers use amendment trading rather than conferences, and sometimes, even for important or complicated legislation, the chambers do not even need to resolve their differences using one of these venues. What explains the frequency of conferences and amendment trading? I claim the interchamber resolution process is a bargaining game where chambers make offers during the initial passage process which can be accepted or rejected by the other chamber. If an offer is rejected, the chambers must use one of the two bargaining venues. A formal model is developed to find the conditions under which conference committees will be used, and empirics are used to measure the validity of the model. The results show that as the costs of using conferences increase, the more likely the chambers are to avoid post-passage bargaining altogether or use the amendment trading process.

Introduction

Conference committees are often used after initial passage when the House and Senate need to reconcile their differences on a particular bill. The resolution of different bills sometimes occurs, though not always, when legislation is large, complicated, or politically sensitive. While conferences must now be conducted in public, much of the real bargaining between Representatives and Senators occurs in private offices or behind closed doors.

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This makes conferences and the post-passage bargaining process in general particularly difficult to study because the process is often opaque and largely unobservable. It has been remarked that conference committees are among the areas of Congressional action about which scholars know the least (Ferejohn 1975, Longley & Oleszek 1989).

While a brief period of research activity focused on which chamber “won” during the conference process, there was little systematic examination of how conferences operated or the purpose they served within the larger context of Congressional activity. The increasing interest in bicameralism has led to new examinations of the importance and role of conference committees. This new research is moving away from the “who wins” question and instead focuses on conferee selection and the implications of conference committees for theories of party influence and interchamber bargaining outcomes. While this line of research has helped clarify how conferences affect bargaining outcome, it is still unclear what role conference committees serve in the larger bargaining process between the two chambers.

There is little theory addressing why the chambers use conferences at all or why they are used instead of some other bargaining mechanism available to the House and Senate. The conventional wisdom claims conferences are used only for important or complicated legislation. This is an unsatisfying explanation for a number of reasons. First, it is not well supported by empirical evidence. Often, very important legislation does not go to conference or does so only nominally. For example, the 2009 American Reinvestment and Recovery Act (the Stimulus Package) did go to conference, but the conference only lasted one day and was a formality. All the important bargaining had been done during the process of initial passage in both chambers.

Other examples abound. The 110th Congress passed comprehensive energy legislation on December 18, 2007. The legislation had major implications for, among other things, corporate average fuel economy standards, biofuel usage, and energy usage in government buildings. The chambers did not go to conference but instead used an amendment exchange process. In this instance, Democrats blamed Republican Senators for blocking
conferee appointment, but there was at least some evidence that Democrats preferred not to use a conference because of the difficulty the House leadership had in holding together a coalition.

Often, the chambers not only bypasses conference committees, but do not engage in post-passage negotiations at all. The recent “Cash-for-Clunkers” extension is a good example of this. Despite the reservations of some key Senators, the bill was ultimately passed by the Senate without any changes to the House version. What explains the unwillingness of the Senate to amend the bill and request a conference with the House?

The lack of a theoretical basis for conference committees (and post-passage bargaining as a whole) is the second reason why the conventional wisdom is unsatisfying. The idea that important bills go to conference has little connection to other theories about the effects of bicameralism or the bargaining process within a bicameral chamber. This idea cannot be used to explain other questions scholars may be interested in, especially those relating to legislative outcomes within a bicameral legislature. Further, the lack of a theory means any variation in the use of conferences cannot be explained. The role of conferences seems to be changing as amendment trading has become a more important tool in recent Congresses. Does this mean Congress is passing less important or complicated legislation?

Question and Motivation

The question examined in this paper is when are conferences used to resolve interchamber differences and what does their use tell us about interchamber bargaining? Conference committees were used as the main reconciliation tool by the first Congresses (Longley & Oleszek 1989), despite the lack of any Constitutional specified dispute resolution mechanism for interchamber disagreement. Today, conferences are used for most notable legislation, but certainly not all. Congress has other reconciliation tools at its

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disposal, including the use of amendment trading between the chambers or some combination of conferencing and amendment trading. Often overlooked are cases when one chamber simply passes the same version of the legislation as the other chamber. These instances should also inform our understanding of the interchamber bargaining process.

It should not be assumed chambers have the same legislative preferences on a bill, even when they pass the same version. Agreement without modification may be the most expedient solution because the difference in preferences may not be that great, or because the costs of negotiating with the other chamber are particularly high. Therefore, instances of chambers passaging legislation without amendment and without using conference committees should also be explained in any theory of the post-passage bargaining process.

I claim conference committees are a costly dispute resolution mechanism. Conferences will only be observed if first, the expected utility of bargaining on legislation is higher than the utility to the majority party for simply accepting the other chamber’s offer, and second, if conferences are a cheaper dispute resolution venue than amendment trading. Because a conference committee is costly, as the costs of conferencing increase, the less likely one is to observe them.

Tests of this theory are conducted using one measure of the costs to the majority party for going to conference, the number of standing committees a bill is referred to. Members from each of the standing committees will be appointed to a conference with the other chamber (Sinclair 1983, Smith 1988), but as the number of standing committees represented on the conference increase, the weaken the bargaining strength of the chamber becomes. A larger coalition of chamber members must be satisfied to approve the conference report which increases the costs to the within chamber coalition. Therefore, the strongest bargainer will have a smaller set of preferences to satisfy and will receive a larger share of the surplus. This theory is explained in detail and proved in the formal model. The empirical results presented here demonstrate that a multiple referral of a bill decreases the probability of observing a conference.
Conferences and Interchamber Disagreement

Distributive theory was the first theory of legislative organization to propose a specific role for conferences and conferees. According to distributive theory, because standing committees from both chambers simply distribute goods, the reconciliation process is little more than a means for each chamber’s standing committee to coordinate distribution between the two chambers. Shepsle & Weingast (1987) say, “The conference may be less an arena for bicameral conflict than one in which kindred spirits from the two chambers get together to hammer out a mutually acceptable deal.”

More recent work on conference committees, especially those which incorporate an explicit role for parties, take seriously the idea that conference committees serve as a way for conflicting chambers to engage in non-cooperative bargaining with the purpose of resolving policy conflicts (Tsebelis & Money 1997). In this view, conferences are venues in which the conferees from each chamber attempt to protect their preferences and the preferences of the parent chamber or party. The House and Senate rely on their conferees to fight for the chamber or party position (Lazarus & Monroe 2007, McQuillan & Ortega 1992) and ensure the bill reported back to the chamber is satisfactory to a majority of the members. This view is typified by Longley & Oleszek (1989) who call conference committees “an arena of power” because enormous substantive changes can be made during the post-passage bargaining process.

This view of conferences more closely matches the original intent of the Framers. They created a bicameral legislature because they believed two chambers would generate additional interchamber conflict relative to a unicameral legislature. The Framers sought to create a legislative system where policy was stable (Hammond & Miller 1987). By creating two chambers, the Framers attempted to balance responsiveness with a legislature that would not be subject to the whims of a temporary majority. Madison says in Federalist 51, “In republican government, the legislative authority necessarily predominates. The remedy for this inconvenience 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 com-
mon dependence on the society will admit” (Madison 1788). Even when the chambers
are ideologically similar, there is no theoretical reason to expect them to have the same
preferences (Tsebelis & Money 1997). The recent debate in Congress about health care
reform demonstrates how divergent majority preferences can be despite unified party con-
trol.

The idea that conferences provided a venue for chambers to bargain for their pre-
ferred policy motivated early work which examined chamber bargaining strength and
how strength translated into policy outcomes. Studies of which chamber “wins” during
the post-passage bargaining process examine bill content to determine which chamber
achieves more of its preferences in the final legislative compromise (Fenno 1966, Ferejohn
1975, Strom & Rundquist 1977, Volger 1970). Fenno (1966) focuses exclusively on ap-
propriations and finds the Senate usually “wins”. Shepsle, Van Houweling, Abrams &
Hanson (2009) find the House uses conferences to modify Senate spending priorities,
though only to a small degree. Exactly how the interaction between the chambers af-
facts policy content when public goods are distributed remains an open question. For
example, when is the House able to exert more influence in interchamber bargaining and
what factors affect each chamber’s ability to get what they want during the conference
process?

Because the chambers often have very different preferences, understanding the pro-
cess of agreement is critical to understanding how Congress mediates competing legislative
preferences both within and across chambers. Only by understanding the broader process
of interchamber bargaining will we understand when proposed policies will be successful,
when interchamber bargaining will break down, and what the content of new legislation
will be. Conferences are only one way in which chambers may come to agreement and
therefore are only one part of the Congressional bargaining process. By understanding
when conferences are used and when they are not, we will understand more about the
bargaining process as a whole.
The Bargaining Model and Assumptions

The parties in each chamber will bargain on a particular legislative item only under very specific circumstances. In general, bargaining models are only relevant if both chambers agree to move policy in the same direction away from the status quo but the chambers also disagree on exactly where the new legislation should be located in the policy space. The House and Senate will not conference if they disagree on the direction the new status quo should be moved in. If this is the case, there is no possible policy the chambers can agree on which makes each chamber better off relative to the status quo. In these situations, neither conference committees nor any other bargaining should be observed between the two chambers. By definition, these are not bargaining situations and therefore not one in which a dispute resolution mechanism is necessary. Therefore, by assumption, the bargaining model should only explain cases in which the chambers broadly agree on policy movement.

In most cases, when chambers lie on opposite sides of the status quo, their refusal to bargain is unobservable. Either legislation on the public agenda is ignored by by both chambers, or one chamber passes legislation and the other chamber refuses to act. It may rarely be the case that chambers act on a policy agenda item, but their preferences want them to move policy in opposite directions. However, given rational expectations and anticipation, parties and members within each chamber will be loathe to waste their time on legislation which has no chance of passing the other chamber.

For the purposes of the formal model and measurement, any legislation which is not passed by both chambers is not subject to bargaining. This simplifying assumption means neither chamber enters a conference committee with the explicit intent of causing it to fail. I also make the more general assumption that a majority of the members on the conference committee want it to be successful. The rules of the chambers require the leadership in each chamber to appoint members who are in agreement with the legislation. These assumptions eliminate all legislation passed by one chamber and ignored by the other, or legislation which one chamber would pass but does not because it knows
the other chamber will not act. Again, by definition, these are not bargaining situations.

Although chambers may agree on policy movement, they must also act. Members of Congress are reelection oriented and want to meet constituent demands (Mayhew 1974). The House and Senate therefore have an incentive to work together to find policy items on which a compromise is possible. The individual members of each chamber must have some record of legislative accomplishments on which to run because their constituents expect it. Voters care about public outcomes and will punish members and parties who they feel have been unproductive (Jacobson 2007), or who have pursued policies they disagree with (Canes-Wrone, Brady & Cogan 2002, Erikson, MacKuen & Stimson 2002). Further, parties acting as institutions, also have an incentive in achieving collective action through the passage of policies the party wants (Aldrich 1995, Rohde 1991).

The two majority party in each chamber are the actors in the interchamber bargaining game. Parties, as stable, durable majorities, coordinate members, solve the collective action problem present among members of the majority, and try to pass legislation which benefits the party (Aldrich 1995, Rohde 1991). Passage of the majority party’s preferred policies benefits all party members, maximizes the probability of reelection for the most amount of members, and ensures future party majorities. Parties have an interest in realizing collective action, have policy preferences, and pursue those preferences by passing legislation. Action on party policies may be accomplished through agenda control (Cox & McCubbins 1993, Cox & McCubbins 2005) or some other mechanism.

While parties seek to pursue their legislative agenda, they are not able to address every possible agenda item within a given Congressional session or term. The party and its members are constrained by the costs of action. They are only able to get so much done given limitations on their time and energy. The resources available to parties or an individual member are extremely limited. The “...public agenda exceeds the legislature’s capacity,” (Adler & Wilkerson 2007) and acting on one legislative item means inaction on other important issues. Time has been called the sine qua non of legislatures because of its critical constraining role which helps shapes legislative priorities (Cox 2006).
Like any other action within a chamber, resolving bicameral differences requires effort. The process can be especially onerous when the two chambers have very different ideal points and are highly resolved or committed to their legislative preferences. Some conference committees take weeks or months to resolve issues, while others are unable to reach agreement at all. The resolution process in general, including amendment trading or informal negotiations prior to initial passage, extract costs from both the majority party and the individual members tasked with resolving the differences between the chambers.

The Costs of Conference Committees

The best case scenario for the parties in each of the chambers is to agree on legislation during the process of initial passage within the chamber. When this occurs the bargain is termed “efficient” (Muthoo 2000) because neither party must engage in costly resolution activities. Unfortunately, this is unlikely to be the case for most legislation, and is increasingly unlikely as the complexity of legislation grows. The more bargaining required by the chambers to reach a satisfactory solution, the less efficient the bargain. As additional amounts of time and energy are spent reaching an agreement, an increasing amount of costs are subtracted from the benefit of the agreement which will eventually be reached. Efficiency also decreases because for each period of time during which the chambers are bargaining, they do not accrue any benefits from the bargain.

Using one of the dispute resolution venues is costly for the party and its leadership. It takes time and effort to evaluate possible conferees, their preferences, and their willingness to protect the position of the chamber in conference. The party leadership must select conferees it believes will do the best job representing the chamber party in the conference committee. Evidence suggests conferees are selected by the Speaker based on their party loyalty and their willingness to protect the party’s position (Lazarus & Monroe 2007, McQuillan & Ortega 1992, Smith 1989). Conferees may also have diverse preferences and it may require some effort by party leadership to ensure the conferees remain faithful to the goal of protecting the party’s preferences during the conference.
process and do not defect on a particular bill or part of a bill.

In addition to the costs of paying off conferees, it can be difficult, especially in the Senate, to get a majority of members to agree to a conference. In the Senate, going to conference is subject to a filibuster, as is the slate of conferees. Holding the floor for debate on conferences, seeking and getting approval from a majority of the party to go to conference, and evaluating and selecting the best slate of conferees all extract costs of the majority party leadership.

These costs require the party leadership in each chamber to make a decision about the usefulness of bargaining. If the party expects some payoff from bargaining higher than the costs of having to engage in the bargain, it will not accept the other chamber’s offer.\footnote{This assumes the offer made by one chamber is different than the ideal point in the other chamber. This will almost always be the case when the chambers deal with non-trivial legislation.}

For conference committees, the party leadership will choose to engage in a conference only if it believes the expected benefits from going to conference outweigh the potential costs the party would have to pay during the conference process. If the party thinks, prior to the conference, that it will not get much of its preferred policy during the conference process and that it will have to pay costs during conferencing, it will choose not to go to conference, all else equal. The costs of conferencing in this situation are higher than the possible benefits the party believes it will receive.

The expected benefits of bargaining with the other chamber, either in a conference or using the amendment trading process are a function of two parameters. The first is the payoff or the utility the party within the chamber receives from the outcome of the bargaining process. Clearly, the closer the eventual compromise is to the party’s ideal point, the higher benefit it receives. The second parameter is the probability of receiving that payoff. It may not be enough that the party expects some large benefit from bargaining. If the probability of receiving that payoff is extremely low, the expected benefit may also be very low.

Formally, call the payoff the chamber party receives from going to conference, $b_i$. Call the probability of receiving that payoff $p_i$ where $i$ is one of the two chambers. For both
chambers to go to conference, the expected benefit of bargaining in conference must be greater than the costs of conferencing, or \( (p_i)(b_i) \geq -c_i \). If this condition is met, a conference committee will occur. This condition is easier to satisfy as the probability of receiving the benefit increases, or as the size of the benefit accrued by the chamber party from the compromise increases. As the probability of receiving the benefit or the payoff from the compromise decreases, the less likely a conference is to occur.

To summarize, the two majority parties within each chamber are playing a bargaining game. The initial passage of a bill represents an offer, and the party in the other chamber, having observed an offer, may choose to accept or reject it. If the party rejects the offer, there are institutional mechanisms which allow the chambers to use one of two different formal procedures for adjudicating their competing preferences. Of course, there is no guarantee the two chambers will reach a compromise, and using the adjudication procedures requires each chamber to devote additional resources to the legislation. Also, at any time one of the chambers is free to walk away from the bargaining process. I use this basic logic to create the formal model of interchamber bargaining which follows.

**The Game**

The formal model is a simple bargaining game where the offering chamber has beliefs about the willingness of the other chamber to accept an offer or to choose one of the two reconciliation venues - a conference committee or amendment trading. If the offering chamber has sufficiently accurate beliefs about the costs the other chamber bears for using a bargaining venue and believes it can receive a larger share of the surplus by getting the other chamber to accept its offer, it will try to make an offer that will be accepted by the other chamber. In these cases, one should not observe bargaining in either of the reconciliation venues.

The game begins when chamber 1, acting first, proposes some division of the bargaining surplus to chamber 2. Chamber 2 may accept or reject the offer. If chamber 2 rejects the offer, chamber 2 then chooses one of two bargaining or reconciliation venues.
The payoff to each chamber in each of the bargaining venues is modeled as a costly lottery. Each chamber has a probability of “winning” within the bargaining venue. The probability of chamber 1 winning is $p$, where $p \in [0 : 1]$, and the probability of chamber 2 winning is $t$ where $t \in [0 : 1]$. Each chamber also suffers some costs from going to the lottery because, as stated previously, using a conference committee or the amendment trading process is costly for the party. These costs vary by chamber and by bill.

If chamber 2 rejects the offer made by chamber 1, the chambers must enter into the costly lottery. If the bargain was perfectly efficient, chamber 1 would make the exact offer chamber 2 would accept which maximizes the size of the surplus for chamber 1. Therefore, chamber 1 makes an offer based on its beliefs about the type of chamber 2 it is facing. Under certain conditions, chamber 1’s best response will be to make a less demanding offer in order to induce chamber 2 to accept the offer. If the chamber accepts an offer, no bargaining, either in a conference committee or amendment trading, will occur. In other situations, chamber 1 must make a more moderate offer because chamber 2 does not mind entering into the costly lottery, either because its costs are low or because it believes the probability it wins is high.

For simplicity, assume chamber 2 is one of two types, resolute and irresolute. If chamber 2 is of the resolute type, it has low bargaining costs. This means that all else constant, chamber 2 is more willing to take its chances in the lottery because it does not suffer high costs for going. If chamber 2 is of the irresolute type, all else constant, it will prefer to accept an offer rather than having to pay the costs of bargaining within one of the two reconciliation venues. It should also be noted that each chamber receives some utility from the status quo, equal to $s$ for chamber 1 and $1 - s$ for chamber 2 where $s \in [0 : 1]$. The probability of bargaining completely breaking down and the status quo prevailing is $1 - p - t$, where $1 - p - t \in [0 : 1]$ and where $p + t + s = 1$.

\(^3\text{Here, if one chamber wins it receives all of the surplus, and if it loses it receives none of the surplus. This simplifying assumption is standard in the bargaining literature on conflict within international relations. While one could specify some continuous range of the division of the surplus based on a lottery, it is usually inconsequential when deriving the key result.}\)

\(^4\text{Again, while it is possible to specify continuous types of chamber 2, it is irrelevant to the solution and only serves to complicate the model.}\)
The offers made by the first chamber represent some proposed division of the surplus, \( \pi_i \), where \( \pi_i \) is continuous, \( \pi \in [0 : 1] \), and \( i \) is one of two types of an offer, either bold or moderate. If chamber 2 accepts the offer, it receives \( 1 - \pi_i \) portion of the surplus, while chamber 1 receives \( \pi_i \). A complete description of the probabilities and payoffs in the game is listed below.

\( \pi_i \): the amount of the total surplus chamber \( i \) receives.

\( 1 - \pi_i \): the amount of the total surplus chamber \(-i\) receives.

\( s \): the utility chamber 1’s majority party receives from the status quo.

\( 1 - s \): the utility chamber 2’s majority party receives from the status quo.

\( f_p \): undefined costs to each chamber’s majority party for bargaining using conference committees.

\( a_p \): undefined costs to each chamber’s majority party for bargaining using amendment trading.

\( f_H \): the costs to each chamber’s majority party for bargaining using conference committees when the majority party is the irresolute type.

\( f_L \): the costs to each chamber’s majority party for bargaining using conference committees when the majority party is the resolute type.

\( a_H \): the costs to each chamber’s majority party for bargaining using amendment trading when the majority party is the irresolute type.

\( a_L \): the costs to each chamber’s majority party for bargaining using amendment trading when the majority party is the resolute type.

\( p \): the probability chamber 1 wins the bargaining lottery when a conference committee is used.

\( t \): the probability chamber 2 wins the bargaining lottery when a conference committee is used.

\( 1 - p - t \): the probability bargaining breaks down and the status quo prevails.

\( q \): the probability chamber 2 is of the resolute or low-cost type when bargaining.
$1 - q$: the probability chamber 2 is of the irresolute or high-cost type when bargaining.

The correct solution concept for the game is perfect Bayesian equilibrium. I find the conditions in two equilibria where conference committees will occur, and importantly, when they will not occur. The following is a perfect Bayesian equilibrium and its conditions:

Chamber 1 makes a bold offer if:

$$q \leq \frac{f_L - f_H}{-f_L - f_H}$$

Chamber 2 rejects the offer if:

$$\pi_b \geq p + s(1 - p - t) + f_H$$

Chamber 2 selects a conference committee if:

$$f_2 \leq a_2$$

The following is also a perfect Bayesian equilibrium:

Chamber 1 makes a bold offer if:

$$q \leq \frac{a_L - a_H}{a_L - a_H}$$

Chamber 2 rejects the offer if:

$$\pi_b \geq p + s(1 - p - t) + a_H$$

Chamber 2 selects amendment trading if:

$$f_2 \geq a_2$$

\footnote{All proofs are presented in the Appendix.}
Implications

While the model predicts the types of offers made, I focus here on when conference committees will occur. The two equilibria listed above are nearly identical except for the last condition in each, which taken together, simply state a chamber will select the bargaining venue which is less costly. It should also be noted that in practice, the chambers must agree on a bargaining venue - one chamber does not simply select it as modeled here - but because the offering chamber has full information about which venue will be selected by chamber 2, its agreement has already been given and therefore does not need to be modeled in the game.

The game offers a formal prediction about when chambers should bargain. Not shown are two equilibria when the offering chamber makes a moderate offer. Chamber 2 rejects an offer when a bold offer is made by chamber 1 and when the offering chamber makes an offer that gives too much of the surplus to itself. In this case, chamber 2 believes it could do better by entering the costly lottery. A rejection is more likely to be observed as \( p_b \) increases because chamber 2’s share of the surplus, \( 1 - p_b \), decreases. From chamber 1’s perspective, it can make a more demanding (bold) offer as the probability of it winning in the bargaining venue goes up, and as the costs of conferencing or amendment trading increase for chamber 2. This also means bargaining should be observed less frequently as the costs of using one of the two bargaining venues increase.

Proposition 1: As the costs to the majority party for using conference committees or amendment trading increase, the probability of observing one of these two venues decreases.

Proposition 2: Given a rejected offer, chambers use the bargaining venue which is less costly.

This model explains why conferences sometimes occur and why conference commit-
tees may not occur, even for major legislation. In these cases, the party will decide that although the other chamber has made an offer that may not perfectly match its own preferences, it is not worth bargaining for because the expected benefit of entering the costly bargaining lottery has a lower expected utility than simply accepting the offer. If this occurs, we should observe acceptance of an offer made by one chamber without any bargaining. In other cases, the party leadership may decide they want to bargain, but the costs of conferencing are very high. These are the cases in which we should observe amendment trading.

**Data and Methods**

This section develops empirical models designed to test hypotheses generated from the theory. I begin by discussing how my theory suggests some possible measures and how these suggestions were translated into valid empirical indicators of the conditions derived from the formal model. I then discuss the data used, specify different models as robustness checks, and discuss the results of the empirical tests. The theory that increasing costs decrease the probability of conferencing is supported by the results.

The formal model is based on the assumption that action in Congress is costly for the majority party and its leadership. To construct an empirical test, it is necessary to measure these costs. The section that follows explains how the costs of action per bill can be quantified, and why the measure used in this paper is a valid one.

The majority party must implement its legislative agenda through agenda manipulation (Cox & McCubbins 2005) and through inducements given to party members (Snyder & Groseclose 2000) to keep them in line. The leadership, in order to pursue its policy agenda, must hold together a majority of its party when attempting to pass a bill - a majority coalition often made up of disparate factions and members with disparate policy preferences. The greater the divergence in preferences, the more difficult it is for

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the leadership to hold together the necessary coalition needed to pass the bill. A valid 
measure of costs should capture the difficulty the majority party has in holding together 
a coalition of legislators. The party must expend more resources as these costs increase 
in order to ensure legislative items on their agenda are successful within their chamber.

The resources the party must spend may be tangible ones, like promises of additional 
particularized benefits to a member’s district, or they may intangible like the additional 
time and effort required of party leaders to convince recalcitrant members to support the 
legislation. In either case, as the diversity of preferences among members increases, so 
do the costs of passage.

Measuring this difficulty of holding a majority coalition together is difficult because it 
must be measured prior to any decision by the party leadership about which bargaining 
venue to use. The party, before making any decision about bargaining, needs to assess 
the possible costs of each venue or whether the chamber should bargain with the other 
chamber at all. Therefore, it is important to measure costs associated with conference 
committees and amendment trading before either is actually observed. The party lead-
ership, in effect, looks down the game tree and decides which actions to take before that 
action is actually observed by the analyst. Any measure of costs must take this into 
account.

The logic for the measure used in this paper is as follows. Conference committees 
are made up of members from the chambers’ standing committees. Coalition sizes in 
this context are not dependent on the number of members, but the distribution of pref-
ferences among members who are appointed to the conference committee. The number 
of standing committees a bill is referred to during the markup process measures the size 
of the preference disparity that will occur within the conference committee. The more 
committees with jurisdiction over the bill, the more costly conferencing will be. This is 
so because the party leadership must navigate competing claims by committee members 
with different preferences. Increasing numbers of standing committees from the same 
chamber increases the costs of going to conference because holding the necessary coali-
tion together during conference negotiations is more difficult than it would be if only one
standing committee had jurisdiction. Because of this, the number of standing committees
a bill is referred to for the hearing and markup process is a valid measure of the costs of
going to conference for the majority party.

The sample is drawn from House passage procedures and results in the 100th through
105th Congresses. Because the interest is only on possible bargaining situations, any bills
that did not become a public law are excluded. This excludes most legislation introduced
in Congress which did not pass both chambers, and a small number of bills vetoed by the
president and bills which did not survive the bargaining process. The two equilibria given
above do not offer specific predictions about vetoed bills or the complete breakdown of
bargaining, so for the purposes of this paper there should be no negative theoretical or
empirical implications from their exclusion.

Most of the independent variables were drawn from a number of other datasets. Vari-
ables measuring characteristics of public laws were gathered from the Policy Agendas
Project specifically, the Public Laws dataset, the Most Important Laws dataset, and
the Congressional Roll Call Votes dataset. Additional information about the passage of
each law was gathered from the Congressional bills dataset. The voting data taken from
the Policy Agendas Project’s Roll Call Votes was supplemented with Rohde’s Roll Call
Voting Data.

Any bill listed as commemorative by the Policy Agendas data or by the Congressional
Bills data was excluded. Also dropped from the dataset were any bills coded as private
by the Congressional Bills data. The final sample has 506 public laws passed from 1988-
1998. The dependent variables used in the models record whether a law was bargained

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7Policy Agendas Project Citation Note: “The data used here 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.”
8E. Scott Adler and John Wilkerson, Congressional Bills Project: 1987-2000, NSF 00880066 and
00880061. The views expressed are those of the author and not the National Science Foundation.
Compiled by the Political Institutions and Public Choice Program, Michigan State University, East
on by the chambers, and if so, which venue was used - either amendment trading or a conference committee. There are 219 cases of a conference committee, 154 cases of amendment trading, and 161 cases in which neither was used. A complete distribution of the venues by Congress is given in Table 1.

I develop four hypotheses based on the two propositions given above. The second

Table 1: Frequency of Bargaining Venues

<table>
<thead>
<tr>
<th>Congress</th>
<th>Freq. of Conference Committees</th>
<th>Freq. of Amendment Trading</th>
<th>No Bargaining</th>
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<td>100</td>
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<td>103</td>
<td>44</td>
<td>17</td>
<td>34</td>
</tr>
<tr>
<td>104</td>
<td>29</td>
<td>15</td>
<td>27</td>
</tr>
<tr>
<td>105</td>
<td>32</td>
<td>33</td>
<td>26</td>
</tr>
<tr>
<td>Total</td>
<td>219</td>
<td>154</td>
<td>161</td>
</tr>
</tbody>
</table>

condition in each of the equilibria suggests that as costs increase, the more likely a chamber is to accept the offer made by the other chamber. The expected benefit of bargaining with the other chamber is less likely to be higher than accepting an offer as the costs of bargaining increase. Alternatively, from the other chamber’s perspective, going to conference with a chamber where many standing committees have jurisdiction means the other chamber is likely a weaker bargainer. This means first, the chamber is more likely to just accept the other chamber’s offer and also makes it less likely a conference committee is used as the bargaining venue.

**Hypothesis 1:** The number of standing committees a bill is referred to will reduce the probability of bargaining on a particular bill and reduce the probability a conference committee is used, ceteris paribus.

The importance of legislation likely has an influence on whether or not bills will be bargained on according to most standard literature. However, the formal model has no special role for important legislation. If the model is correct, the above relationship
should hold even for important legislation.

**Hypothesis 2**: *The number of standing committees a bill is referred to will reduce the probability of bargaining on a particular bill and reduce the probability a conference committee is used for important legislation, ceteris paribus.*

I now turn to the third condition in each of the equilibria above. The condition states simply that if chambers do bargain, they will use the venue which is less costly. If chamber 1 holds sufficiently inaccurate beliefs about what chamber 2 will accept, it will make an offer chamber 2 rejects. Given rejection, or given that the chambers must bargain on legislation, the chambers will choose the venue which is least costly. If amendment trading is less costly than conferencing, the party leadership will prefer to use amendment trading rather than a conference committee. Said another way, as the costs of conferencing go up, if bargaining takes place, the probability of observing amendment trading increases as the number of committee referrals increase. Again, this hypothesis should also hold for important legislation as there is nothing in the model which suggests otherwise.

**Hypothesis 3**: *For those bills that are bargained on, the number of standing committees a bill is referred to will increase the probability amendment trading is used as the reconciliation venue, ceteris paribus.*

**Hypothesis 4**: *For those bills that are bargained on, the number of standing committees a bill is referred to will increase the probability amendment trading is used as the reconciliation venue for important legislation, ceteris paribus.*

A number of control variables are also used in the analysis. These include whether the bill was introduced by a member of the majority party, whether the president supported
the legislation, the session of Congress the law was passed, the number of majority party “yea” votes for the bill, which chamber the bill originated in, and the number of lines written about the law in Congressional Quarterly.

It has been noted that amendment trading tends to increase as the end of the session nears, probably because it is less time consuming than using a conference committee or because certain types of bills are passed near the end of the session which are more conducive to amendment trading. The total number of majority party “yeas” indicate whether the bill was contentious or supported by a majority of the majority party. This variable was constructed by subtracting the total number of majority party votes from 218, the total needed for passage in the House. This also serves as a measure of how much control the majority party exercised over the bill. As the number of majority party members voting for the bill increases, the easier it is to pass the bill and the fewer resources the party leadership uses to pass the bill. If the president supports the bill (no position=0, opposition=1, support=2), it may reduce the costs to the majority party of passing it which in turn increase the probability a bill goes to bargaining. It is unclear how this affects reconciliation venue. Introduction by a majority party member likely has a similar affect (majority party introduction=1). The originating chamber variable measures whether the bill is a Senate bill or a House bill, where the House=1. There is no theoretical expectation for this variable, although it is significant in a number of models.

The number of lines in Congressional Quarterly plays an important role in the empir-

<table>
<thead>
<tr>
<th>Variable</th>
<th>Anticipated Effect on Bargaining and Conferencing (Conference=1)</th>
<th>Anticipated Effect on Venue (Amendment Trading=1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Committee Referrals</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>CQ Lines</td>
<td>+</td>
<td>+</td>
</tr>
<tr>
<td>Presidential Support</td>
<td>+</td>
<td>0</td>
</tr>
<tr>
<td>Session</td>
<td>0</td>
<td>+</td>
</tr>
<tr>
<td>Majority Party Votes</td>
<td>+</td>
<td>0</td>
</tr>
<tr>
<td>Majority Proposed</td>
<td>+</td>
<td>0</td>
</tr>
<tr>
<td>Originating Chamber</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
ical models. Most legislation is not mentioned in CQ; only very noteworthy or important legislation will have a value greater than zero. This variable is a measure of the importance of the bill. As has been mentioned, the importance of a bill is an important predictor of whether or not a conference committee is used (Longley & Oleszek 1989). I have also claimed however, importance does not constitute a satisfactory theory about conferences or bargaining in general. As the models demonstrate, the importance of the bill as measured by CQ Lines is always a significant variable, but notably, it does not mediate the relationship between committee referrals and bargaining in any meaningful sense.

The key independent variable, the number of committees a bill was referred to, was taken from the Congressional Bills data. A complete distribution of multiple referrals is given in Table 3. Most legislation was referred to only 1 committee, but approximately 14% were referred to more than one committee. The rate of multiple referrals is consistent across Congresses.

The first model is a logit which tests Hypothesis 1. This hypothesis, which examines

<table>
<thead>
<tr>
<th>Number of Committees Public Law Referred to</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>35</td>
<td>5.44</td>
</tr>
<tr>
<td>1</td>
<td>393</td>
<td>80.87</td>
</tr>
<tr>
<td>2</td>
<td>45</td>
<td>8.4</td>
</tr>
<tr>
<td>3</td>
<td>14</td>
<td>2.33</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
<td>.78</td>
</tr>
<tr>
<td>5</td>
<td>4</td>
<td>.62</td>
</tr>
<tr>
<td>6</td>
<td>1</td>
<td>.16</td>
</tr>
<tr>
<td>7</td>
<td>3</td>
<td>.47</td>
</tr>
<tr>
<td>8</td>
<td>3</td>
<td>.47</td>
</tr>
<tr>
<td>10</td>
<td>2</td>
<td>.31</td>
</tr>
<tr>
<td>13</td>
<td>1</td>
<td>.16</td>
</tr>
</tbody>
</table>


the second and third condition in each of the equilibria, states the costs of conferencing will reduce the probability of bargaining and using a conference committee, all else equal. To test this, I construct a number of models where the dependent variable is equal to one
if a conference committee was observed and zero if amendment trading or no bargaining was used for the legislation. These models are meant to capture the choice faced by the party leadership prior to passage and prior to any decision about the bargaining venue. It is a test of whether the party leadership, when faced with a potentially costly bargaining situation, rules out conferencing and instead chooses to either accept the other chamber’s offer or to use amendment trading if the bill does have to go to a bargaining venue. Control variables included are whether or not the president expressed support for the bill, the session of Congress the bill was passed in, the size of the majority coalition on final passage, the number of lines written about the bill in CQ, whether the bill passed was proposed by a member of the majority party, and the chamber where the bill originated. The relationship is examined both with and without the CQ Lines variable.

Note first that bills originating in the House are more likely to go to conference. This

Table 4: The Effect of Multiple Referrals on Conferencing for all Public Laws

<table>
<thead>
<tr>
<th></th>
<th>Conference Committee Or Not</th>
<th>Conference Committee Or Not</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Committee Referrals</td>
<td>-.205 (<strong>.098)</strong></td>
<td>-.379 (<strong>.102)</strong></td>
</tr>
<tr>
<td>President Supported the Bill</td>
<td>.13 (<strong>.124)</strong></td>
<td>.086 (<strong>.138)</strong></td>
</tr>
<tr>
<td>Session of Congress (2nd Session=1)</td>
<td>.029 (<strong>.192)</strong></td>
<td>.156 (<strong>.211)</strong></td>
</tr>
<tr>
<td>Number of Majority Votes</td>
<td>-.009 (<strong>.004)</strong></td>
<td>-.006 (<strong>.004)</strong></td>
</tr>
<tr>
<td>Majority Proposed</td>
<td>.026 (<strong>.015)</strong></td>
<td>.017 (<strong>.016)</strong></td>
</tr>
<tr>
<td>Originating Chamber (House=1)</td>
<td>2.6 (<strong>.484)</strong></td>
<td>2.414 (<strong>.506)</strong></td>
</tr>
<tr>
<td>CQ Lines</td>
<td>–</td>
<td>.001 (<strong>.0002)</strong></td>
</tr>
<tr>
<td>Constant</td>
<td>-2.81 (<strong>.609)</strong></td>
<td>-2.916 (<strong>.638)</strong></td>
</tr>
<tr>
<td>(N)</td>
<td>506</td>
<td>506</td>
</tr>
<tr>
<td>(Pseudo $R^2$)</td>
<td>.086</td>
<td>.21</td>
</tr>
<tr>
<td>(Log Likelihood)</td>
<td>-316.316</td>
<td>-273.464</td>
</tr>
</tbody>
</table>

**p<.05,  *p<.1; Conference Committee = 1**

suggests the Senate consistently rejects bills from the House and asks for a conference. In
both models the number of committee referrals reduces the probability of using a conference, confirming Hypothesis 1. The number of lines written in Congressional Quarterly is a significant predictor of whether or not a bill goes to conference and it explains a large amount of variance as evidenced by the Pseudo $R^2$ and the reduction in the log likelihood. The substantive affect is relatively meaningful. For an increase of one line in CQ, the odds of going to conference increase only by a factor of .1%. Or, for a bill at the mean value of lines in CQ, 500, it is about 50% more likely it goes to conference. However, the multiple referrals variable also has a large substantive impact. The likelihood of going to conference decreases by 32% as the number of committees a bill is referred to increases by one.

This robustness of this result was checked using a number of different models. Also tested were models with dummy variables for the Congress, and the policy agenda area. Because of the distribution of committee referrals, I also recoded the variable such that there were four categories: zero, one, two, and more than two referrals (results not shown). Again, these changes in specification do not substantively change the results.

What about legislation that was bargained on in one of the two venues? Hypothesis 3 claims the number of multiple referrals should increase the probability amendment trading is used. In this case, one is assuming the second condition holds, and chamber 2 has rejected the offer made by chamber 1. If this is so, chamber 2 should select the less costly bargaining venue. The same models as above are specified, and CQ lines is again excluded from one of the models. The N is lower because these models only include bills which were bargained over in some manner; legislation accepted by the chamber and not bargained over is not included.

Not only do multiple referrals reduce the probability of conferencing given either no bargaining or amendment trading, Table 5 shows they increase the probability of using amendment trading when one of the two venues is used. The results suggest the party leadership believes amendment trading is a less costly bargaining venue when multiple committees - whose members will end up on the conference committee - have jurisdi-
Table 5: The Effect of Multiple Referrals on Conferencing for Laws That Went to Bargaining Venue

<table>
<thead>
<tr>
<th></th>
<th>Conference Committee Or Amendment Trading</th>
<th>Conference Committee Or Amendment Trading</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Committee Referrals</td>
<td>-.222</td>
<td>-.346</td>
</tr>
<tr>
<td></td>
<td>(.108)**</td>
<td>(.116)**</td>
</tr>
<tr>
<td>President Supported the Bill</td>
<td>.055</td>
<td>.079</td>
</tr>
<tr>
<td></td>
<td>(.139)</td>
<td>(.15)</td>
</tr>
<tr>
<td>Session of Congress (2nd Session=1)</td>
<td>-.307</td>
<td>-.388</td>
</tr>
<tr>
<td></td>
<td>(.231)</td>
<td>(.247)</td>
</tr>
<tr>
<td>Number of Majority Votes</td>
<td>.008</td>
<td>.005</td>
</tr>
<tr>
<td></td>
<td>(.005)</td>
<td>(.005)</td>
</tr>
<tr>
<td>Majority Proposed</td>
<td>-.033</td>
<td>-.027</td>
</tr>
<tr>
<td></td>
<td>(.018)*</td>
<td>(.019)</td>
</tr>
<tr>
<td>Originating Chamber</td>
<td>-2.2</td>
<td>-1.822</td>
</tr>
<tr>
<td></td>
<td>(.586)**</td>
<td>(.589)**</td>
</tr>
<tr>
<td>CQ Lines</td>
<td>-</td>
<td>-.001</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(.0002)**</td>
</tr>
<tr>
<td>Constant</td>
<td>2.4</td>
<td>2.351</td>
</tr>
<tr>
<td></td>
<td>(.748)**</td>
<td>(.769)**</td>
</tr>
<tr>
<td>(N)</td>
<td>345</td>
<td>345</td>
</tr>
<tr>
<td>(Pseudo $R^2$)</td>
<td>.057</td>
<td>.155</td>
</tr>
<tr>
<td>(Log Likelihood)</td>
<td>-223.526</td>
<td>-200.493</td>
</tr>
</tbody>
</table>

**p<.05, *p<.1; Conference Committee = 1

These models support Hypothesis 3. When a bargaining venue is necessary, the probability of using amendment trading increases as the costs of conferencing increase. These results were checked against models which included dummies for Congress, policy area, and with the recoded multiple referral variable where referrals was collapsed to four categories. The results hold in each of these different specifications (results not shown). In the model with the CQ Lines variable, a one committee increase in referral results in a 41% higher chance of using amendment trading.

The previous models examined the effect multiple referrals have on the probability
of using a conference committee as compared to no bargaining and amendment trading and the effect of increasing costs on conference committee frequency when the costs of conferencing increase. The results demonstrate the probability of using a conference committee is reduced as the diversity of preferences within the coalition decreases, confirming Hypotheses 1 and 3.

This relationship should also hold for important legislation only. The importance of legislation is the major predictor of conferences in current theories of legislative bargaining. Hypothesis 2 and 4 allow for a specific comparison between the bargaining theory developed here and the null hypothesis that legislative importance is the most critical variable in explaining conference committee frequency. To test this, I examine each of the above relationships using only important laws - those with at least one line in Congressional Quarterly.

The two models in Table 6 retest each of the dependent variables for important laws only. The first model in the table uses conferencing or not (using amendment trading or no bargaining venue) and the second model uses the dependent variable where amendment trading is equal to one, and conferencing is equal to zero. The variable CQ Lines is dropped from both models because it has no substantive affect. In essence, because the models are limited to a subset of observations where CQ Lines are greater than zero, the variable cannot explain any variation. If it is included, the results do not substantively change, but CQ Lines is not statistically significant.

Even for important legislation only, the multiple referrals variable has large substantive affect and is statistically significant. Both models support Hypotheses 2 and 4 and suggest the costs of bargaining matter, even for important legislation. This demonstrates with some confidence that the previous results were not artifacts of the data nor were the results driven by unimportant or trivial legislation. In the second model predicting venues, a one committee change in the multiple referrals variable increases the probability the bill goes to amendment trading by approximately 63%. This is a very large substantive affect.
Table 6: The Effect of Multiple Referrals on Conferencing for Important Laws Only

<table>
<thead>
<tr>
<th></th>
<th>Conference Committee Or Not</th>
<th>Conference Committee Or Amendment Trading</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Committee Referrals</td>
<td>-.441 (.132)**</td>
<td>-.488 (.160)**</td>
</tr>
<tr>
<td>President Supported the Bill</td>
<td>-.372 (.397)</td>
<td>.639 (.373)</td>
</tr>
<tr>
<td>Session of Congress (2nd Session=1)</td>
<td>.92 (.78)</td>
<td>.109 (.701)</td>
</tr>
<tr>
<td>Number of Majority Votes</td>
<td>.021 (.012)*</td>
<td>-.026 (.016)</td>
</tr>
<tr>
<td>Majority Proposed</td>
<td>-.081 (.078)</td>
<td>.035 (.067)</td>
</tr>
<tr>
<td>Originating Chamber</td>
<td>4.59 (1.65)**</td>
<td>-</td>
</tr>
<tr>
<td>Constant</td>
<td>1.176 (1.834)</td>
<td>-4.153 (1.637)**</td>
</tr>
<tr>
<td>(N)</td>
<td>107</td>
<td>95</td>
</tr>
<tr>
<td>(Pseudo $R^2$)</td>
<td>.3</td>
<td>.212</td>
</tr>
<tr>
<td>(Log Likelihood)</td>
<td>-30.571</td>
<td>-28.369</td>
</tr>
</tbody>
</table>

**p<.05, *p<.1; Conference Committee = 1; Originating chamber dropped due to multicollinearity in second model

Case Study

I close with a case study of a recent bill as a good example of how increasing costs make a chamber less likely to bargain. The case provides insight into the formal theory and how acceptance of another chamber’s offer may occur as a result of high costs. The CARS program (Cash-for-Clunkers) was passed by Congress and signed by the president on June 24th, 2009 as part of a supplemental appropriations bill (P.L. 111-32). It is not directly applicable to the empirical portion of the paper because the offering chamber was the House and the accepting chamber was the Senate, but it does help illuminate how the theory manifests itself in practice.

The CARS program appropriated $1 billion to provide government funded reimbursements for individuals who traded in older cars and purchased new ones that met certain environmental standards. The program was generally considered a success and funding ran out faster than anticipated. In late July, Congress began working on a renewal. In
the House, the bill passed under suspension of the rules by a 316-109 vote. The House then went on recess.

The bill extending the program passed by the House, what is called in the formal model the initial offer from chamber 1, was essentially the same as the original bill. However, some Senators, including Senators Feinstein and Collins, preferred a bill that imposed tighter environmental restrictions on cars eligible for the government reimbursement that could be purchased to replace the clunkers. These Senators gained support from some others and began to indicate they wanted to modify the bill from the House version. Of course, any change would have required post-passage bargaining with the House, either through a conference committee or through amendment trading, which would have delayed final passage until after the House returned from recess and after the original funding ran out completely.

The leadership in the Senate also realized passage was tenuous and attempts to form a conference committee would have been met with opposition. Harry Reid and the Democratic party leadership began pushing for acceptance of the version passed by the House. An attempt by the Senate to enact changes during the conference would have been met with opposition in the House and may have resulted in the breakdown of the coalition in the Senate. The costs, from the leadership’s perspective, were simply too high to risk bargaining in one of the venues.

On final passage, there were 60 yeas, the minimum needed to overcome a filibuster. Only three Republicans voted in favor, and four Democrats were opposed, along with three other Democrats who did not vote. Despite unhappiness about the implementation of the program by a few key Senators, the Senate ultimately passed the renewal at the urging of the Democratic leadership. The leadership realized delay would have been extremely costly, and any increase in environmental standards may have resulted in fewer votes, something the winning coalition could not afford. The difficulty the lead-

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ership would have had holding together the coalition had it allowed changes to the bill prohibited bargaining.

**Conclusion**

The paper leverages the theory that Congressional action is costly to construct a simple bargaining model of post-passage negotiations. A perfectly efficient bargain would be one in which the chambers had full information about the preferences of the other chamber and simply offered the exact division of the surplus the other chamber would accept. This offer is perfectly efficient because the extra costs incurred to each party within one of the two bargaining venues would be avoided. However, chambers do not have perfect information and therefore often do make the proper proposal. Instead, offers are rejected and bargaining commences in one of the two venues.

In the formal model, chambers are divided into two types of bargainers: resolute and irresolute. If a chamber is resolute, its costs of bargaining in each of the chambers is low. Therefore, the offering chamber must moderate its demand if it wants to avoid one of the bargaining venues. If a chamber is irresolute, it has high costs of bargaining in each of the two venues. The offering chamber can make a bolder demand which the other chamber is more likely to accept. Two perfect Bayesian equilibria were discussed in the paper which characterize the conditions under which a bold demand will be made and the offer will be accepted and rejected.

If the majority party within the chamber rejects the offer, it must choose, from among its menu of procedural options, the one which maximizes their expected benefits while minimizing the costs. The chamber may choose to use amendment trading if the costs of conferencing are sufficiently high, or if the probability of winning in conference is sufficiently low. The process of interchamber bargaining can therefore be characterized as a tradeoff between the expected returns to the party and the costs the party suffers from engaging in the bargaining process.

The formal model was examined through a number of empirical tests. The number of
standing committees was used as a measure of how costly going to a conference would be for the chamber. Committee referrals is a valid measure of conferencing costs because they are measurable prior to bargaining actually occurring, and they capture a key component of costs: the diversity of preferences that must be satisfied by the party leadership in order to ensure the party has legislative success.

The results show that conferencing costs reduce the probability of bargaining and if bargaining does occur, they reduce the probability of conference committees. This result also holds for important legislation, defined as legislation about which CQ wrote at least one line discussing the bill during the passage process. Conference committees are not just a way to solve differences in complicated legislation. Instead, they are a low-cost way for chambers to resolve their differences. Consider that a multiple referral of a bill is also likely an indicator of its complexity or importance but it reduces the probability of a conference committee.

Interchamber bargaining can be characterized by a general theory. I have claimed the process is a bargaining game with limited information. This characterization allows for the construction of a formal model and empirical tests which support the idea that using conference committees or amendment trading is a costly activity the majority parties would like to avoid if at all possible. If a chamber can properly gauge the resolve of the other chamber, bargaining, either in a conference or through an amendment trading process, will be avoided. If not, bargaining occurs in the lowest-cost venue.

Appendix

Solution Proofs

First, solve for chamber 2’s utility of selecting each venue:

\[ U_2(Conference) > U_2(Amendments) \]

\[ t(1) + (1 - p)(0) + (1 - p - t)(s - 1) - f_2 \geq t(1) + (1 - p)(0) + (1 - p - t)(s - 1) - a_2 \]

\[ t + s - sp - st - 1 + p + t - f_2 \geq t + s - sp - st - 1 + p + t - a_2 \]
Solve for the costs of conferencing, $f_2$:

$$f_2 \leq a_2$$

In the stage of the game prior to the selection of the bargaining venue, chamber 1 makes an offer to an unknown type of chamber 2. I assume chamber 2 is of two types: resolute or irresolute. If chamber 2 is resolute, it has low bargaining costs. Chamber 1 may make two types of offers: bold or moderate. By definition, the bold offer divides the surplus more favorably for chamber 1 than the moderate offer does, or $\pi_b \geq \pi_m$. For chamber 2, it receives less if it accepts the bold offer, such that $1 - \pi_b \leq 1 - \pi_m$.

To solve the offering stage of the game, I first define the bold and moderate offers. This implies finding a separating equilibrium where the resolute type of chamber 2 rejects the offer and the irresolute type accepts. For this to happen, the resolute type of chamber 2 must believe going to either a conference committee or amendment trading (the payoffs are the same with the exception of the cost term associated with each chamber) will result in a higher expected utility than $1 - \pi_b$ while the irresolute type of chamber 2 believes its expected utility is higher for accepting the bold offer than it would be going to the bargaining stage. I begin by focusing on the condition when chambers use conference committees, or $f_2 \leq a_2$.

For player 2:

$$U_{-r}(\text{accept|bold}) \geq U_{-r}(\text{reject|bold})$$

$$1 - \pi_b \geq t(1) + (p)(0) + (1 - p - t)(1 - s) - f_H$$

$$1 - \pi_b \geq t + 1 - p - t - s + sp + st - f_H$$

$$-\pi_b \geq t + 1 - p - t - s + sp + st - f_H - 1$$

multiply by $-1$ and cancel:

$$\pi_b \leq p + s(1 - p - t) + f_H$$
Because chamber 1 will always offer the maximum $\pi$ it can, this is the greatest offer it can make without the irresolute type rejecting. If $\pi_b > p + s(1 - p - t) + f_H$, the irresolute type of chamber 2 will reject. What about the resolute type of chamber 2? It must reject the bold offer but accept the moderate offer because by definition, all types accept the moderate offer.

\[ U_r(\text{accept}|\text{moderate}) \geq U_r(\text{reject}|\text{moderate}) \]
\[ 1 - \pi_m \geq t(1) + (p)(0) + (1 - p - t)(1 - s) - f_L \]
\[ 1 - \pi_m \geq t + 1 - p - t - s + sp + st - f_L \]

multiply by $-1$ and cancel:
\[ \pi_m \leq p + s(1 - p - t) + f_L \]

Again, because chamber 1 will always offer the maximum $\pi$ it can, for any any type of chamber 2, a moderate offer equal to $p + s(1 - p - t) + f_H$ will be accepted by any type of chamber 2. Of course, any offer of a $\pi$ less than this will be accepted by any type of chamber 2, while any offer greater than this will be rejected by a resolute type of chamber 2 but may be accepted by an irresolute type of chamber 2 depending on its bargaining costs. $\pi_m$ is a non-separating offer because either type of 2 will accept.

I have defined the offers to be the following:

\[ \pi_b = p + s(1 - p - t) + f_H \]
\[ \pi_m = p + s(1 - p - t) + f_L \]

When is each of these offers a best response for chamber 1? I define the probability chamber 1 faces a resolute type as $q$. If chamber 2 rejects the offer, chamber 1 receives its payoff from the bargaining stage (the costly lottery).

Bold offer:
\[ EU_1(\text{bold}) \geq EU_1(\text{moderate}) \quad q(p(1)+t(0)+(1-p-t)(s)-f_1)+(1-q)(p+s(1-p-t)+f_H) \geq p+s(1-p-t)+f_L \]

What must chamber 1 believe about the type of chamber 2 it faces? Solve for \( q \) to determine chamber 1’s beliefs about the likelihood it faces a resolute type of chamber 2.

distribute
\[
q(p+s-sp-st-f_1)+(1-q)(p+s-sp-st+f_H) \geq p+s-sp-st+f_L \\
q(p+s-sp-st-f_1)+p+s-sp-st+f_H-pq-sq+spq+stq-f_Hq \geq p+s-sp-st+f_L \\
pq+sq-spq-stq-f_1q+p+s-sp-st+f_H-pq-sq+spq+stq-f_Hq \geq p+s-sp-st+f_L
\]

canceling common terms leaves:
\[ -f_1q + f_H - f_Hq \geq f_L \]

move terms:
\[ -f_1q - f_Hq \geq f_L - f_H \]
\[ q(-f_1 - f_H) \geq f_L - f_H \]

divide:
\[ q \leq \frac{f_L-f_H}{f_1-f_H} \]

Because \( f_L < f_H \) the numerator is negative. The denominator is also negative because \( -f_1 - f_H < 0 \). Therefore, the fraction is positive.

This is the condition which must hold for chamber 1 to make the bold offer. Conversely, if its beliefs that chamber 2 is resolute are greater than \( \frac{f_L-f_H}{f_1-f_H} \), it will make the moderate offer.
A similar condition holds if chamber 2 chooses amendment trading. For chamber 1 to make a bold offer in this case,

\[ q \leq \frac{a_L - a_H}{a_1 - a_H} \]

The following is a perfect Bayesian equilibrium:

Bold; Accept, Conference if:

\[ q \leq \frac{f_L - f_H}{f_1 - f_H} \]

\[ \pi_b \leq p + s(1 - p - t) + f_H \]

\[ f_2 \leq a_2 \]

References


Madison, James. 1788. “Federalist Number 51.”


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