

HOLDS, LEGISLATION, AND THE SENATE PARTIES

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The pervasive potential for obstructionism is perhaps the defining characteristic of the contemporary U.S. Senate. Although extended debate has been a viable strategy for Senators since the chamber abolished its motion on the previous question in 1806, the filibuster was used only sparingly until the 1970s, when the incidence of dilatory behavior increased markedly. One indicator of the change is the number of roll calls on motions for cloture, the formal mechanism Senators can use to end a talkathon. The number of cloture roll calls climbed from just six in 1969-70 to 20 in 1971-72 and 31 during 1973-74. Since then, dilatory tactics within the chamber have taken on an increasingly partisan cast. In 2003-04, there were 43 cloture roll calls, mostly on failed attempts by Republican leaders to secure floor votes for Bush administration judicial nominees.

If anything, the number of filibusters and cloture attempts underestimates the role of obstructionism in the modern Senate. Members and their aides routinely threaten to engage in dilatory behavior and filibuster threats probably shape the Senate legislative process more profoundly than do actual instances of extended debate. At least since the 1970s, Senators have employed a standardized process, called “the hold,” for signaling potential obstructionism to their leaders. Holds often are interpreted by the leadership as filibuster threats. And according to Senate lore, they often result in the quiet demise of the targeted bill or nomination.

Occasionally, national publicity has been necessary to counter the effects of holds placed on major legislation. In 1995-96, conservative Republicans used revolving holds to block Senate action on a highly visible health insurance measure for more than six months. The bill, sponsored by Nancy Landon Kassebaum, R-Kan., and Edward Kennedy, D-Mass., was intended to keep insurance providers from dumping customers when they change jobs, and it had the support of a large, bipartisan majority within the chamber. Still, the impasse only ended when the program *Nightline* televised an hour-long expose entitled, “Health Insurance on Hold: Fighting Phantoms in the Senate.” The program featured truly memorable footage in which an interviewer cornered a visibly irritated and not very communicative Robert Dole, R-Kan., then majority leader, in a corridor while he was campaigning for president in New Hampshire:¹

Interviewer: So, you have no idea? Supposedly, some senators have holds on.

¹ ABC Transcript #3833, *Nightline*, January 31, 1996.

Dole: Lots of holds on it.

Interviewer: Why is that?

Dole: They don't want it to pass.

Interviewer: Why?

Dole: Well, you have to ask them. I don't have a hold.

Interviewer: But you support it, don't you?

Dole: I don't have a hold on it.

Within a week of the telecast, Dole agreed to schedule the health insurance bill for floor action. The legislation passed the chamber and was enacted later in the year.

A proper understanding of the modern Senate, then, requires that we systematically analyze the role of the hold, especially its use as a tactic for bargaining. Unfortunately, there exists almost no scholarship about the practice, largely because it is cloaked in secrecy. Even the chief proponents of a measure may not know the identity of the legislators placing holds on their handiwork. In the current Congress, for instance, records of the holds placed by Republican members are kept in private binders stored in the office of the secretary to the majority. For the Democrats, hold requests are kept in a locked file cabinet located within the offices of the Democratic Policy Committee. These materials are not shared (even informally or verbally) with Senators outside of the leadership circle, much less with scholars, journalists, or the general public. Not surprisingly, popular accounts of the hold are rife with hyperbole about “silent filibusters,” Senatorial “choke holds,” and the like.

This study is the first systematic analysis of the Senate hold and its consequences for legislation. Our research is made feasible by a remarkable archival find. The personal papers of former Senate Republican Leader Howard Baker, Tenn., include information about almost 1,000 holds and related requests for hundreds of measures that were pending in the Senate at some point during the 95th (1977-78) and 97th Congresses (1981-82).² For the earlier period, we were able to find the “marked Senate calendars” upon which hold requests typically are initialized. For the latter period, Baker's papers include the letters written by GOP Senators to the leadership requesting holds.³

The Baker records provide us with an unprecedented glimpse at the inside politics of the Senate hold. The timing of these data is also fortuitous. For one, they enable us to draw tentative distinctions between the use of holds by majority and minority party members. During

² Former Senator Baker's personal papers are archived in the special collections section of the James D. Hoskins Library, University of Tennessee, Knoxville.

1977-78, Republicans were the Senate minority party and Baker served as minority leader. In 1981-82, the GOP had secured majority status within the chamber and Baker served as majority leader. These data also cover an important period of transition in floor scheduling and the Senate more generally. According to the best scholarship, the collective norms and bipartisan collegiality of the 1950s Senate had atrophied by the mid-1970s and chamber decision-making was becoming more individualistic and partisan (Sinclair, 1989; Rhode, Ornstein and Peabody, 1985). Over the decade, Senators grew increasingly willing to make use of their procedural prerogatives, even on minor or parochial matters. The Baker holds can help us understand this important period in the institutional development of the modern Senate.

We proceed as follows. In Section 1, we use the archival materials to build on existing descriptive accounts of the hold process. Holds, we find, encompass a variety of strategic signals, ranging from simply requests to be kept in the decision-making loop to explicit filibuster threats. In Section 2, we address why certain Senators make regular use of the hold, while others generally refrain from employing the tactic. Hold usage, it turns out, is closely associated with member ideology. Section 3 explores the linkages that exist between the rise of the hold and the internal dynamics of the Republican Conference, especially the burgeoning Reaganite wing of the party. Partisan imperatives strongly conditioned hold usage during the Senate of the 1970s. In Section 4, we conduct a multivariate analysis of the factors that shape whether or not holds result in the demise of the targeted legislation. Contrary to media accounts and the assertions of many Senators, the practice is not a de facto veto over legislation. We conclude in Section 5.

1. Emergence of the Hold

The Senate hold evolved from informal efforts by members to warn their leaders of likely objections to requests for unanimous consent, which since the late 1800s have been used to structure debate on most chamber business. A key innovator in the modern use of unanimous consent agreements (UCAs) was Robert C. Byrd, W.V., who served as Democratic whip from 1971-1976 and then as the Democratic floor leader from 1977-87. Byrd became a procedural innovator because of his remarkable parliamentary skills, but also out of necessity. Scholars have commented on the transformation of the political environment of Congress during the 1960s and 1970s, especially the enfranchisement of Southern blacks and the demise of the

³ Typically, these requests are then marked on the aforementioned calendars.

conservative coalition, the exponential growth in the number of organized interests lobbying Congress, and the reduced role played by party organizations in selecting and electing congressional candidates.⁴ Among the consequences of this transformation were a significant increase in the Senate's workload and heightened individualism and entrepreneurship among members. First as whip and then as majority leader, Byrd responded by crafting increasingly complex UCAs aimed at reducing uncertainty on the floor and providing the leadership with a semblance of control over chamber business.

The enhanced reliance on complex UCAs in the Senate created a need for an early warning system through which members could signal floor leaders about possible objections to requests for unanimous consent. The hold emerged to fulfill this purpose (Smith, 1989, 110-13). Communications between members and leaders about possible obstructionism certainly occurred prior to the 1970s and the term "hold" had been in use for some time. Robert Dove, a former parliamentarian, vividly recalls Majority Leader Mike Mansfield, Mont., and Minority Leader Everett Dirksen, R-Ill., each carrying marked-up copies of the Senate calendar, consulting with one other over holds on the floor during the 1960s. "It was all very hush-hush," Dove observed. "Members would be livid because they couldn't find out who was objecting to their bills. They wanted to see the letters.... They were referred to as holds."⁵ Still, the process became much more routinized and important during the late 1960s and early 1970s. By 1973, frustrations with the hold were the subject of open discussion on the Senate floor. In December of that year, Robert Byrd spoke of the practice in terms that resemble contemporary complaints.

On occasion I have gone to a Senator to ask about a "hold" on a bill only to find that the Senator knew nothing about it; that, indeed, it was a staff member who had placed a "hold" on the bill on behalf of the Senate, and the Senator was entirely unaware of it.... [T]here is no rule of the Senate on "holds," but there has been a practice of honoring them.... The leadership here is trying to get away from having to honor a "hold" on a bill, sometimes the "hold" being insisted upon for a week, 2 weeks, 3 weeks, a month, or 6 weeks....⁶

What precisely is the hold process? Typically, it begins with a member (either personally or through staff) contacting the floor assistant to the majority or minority leader (depending on the party of the prospective holder) and placing a request pertaining to the scheduling of some matter on the floor. The request may take the form of an unambiguous hold in which the Senator

⁴ Consult Sinclair (1989), Rohde (1991), and Polsby (2004).

⁵ Interview, March 10, 2005.

signifies opposition to any floor action on a matter. On January 25, 1982, for instance, Don Nickles, R-Okla., sent a brief letter to Baker following up on a prior conversation: “Dear Howard,” the letter began, “This is to confirm my hold on H.R. 5274 and any similar oil merger moratorium measures as they approach the Senate floor.” Other communications, however, may ask that floor action on a measure be postponed, perhaps to allow time for further negotiations. On January 25, 1982, Mark Hatfield, R-Ore., requested that a temporary hold be placed on S.1692, legislation pertaining to the operation and construction of deep-draft channels and harbors. In his letter, Hatfield referred to an earlier, indefinite hold that he had placed on the measure. Since then, Hatfield stated, he had “met with quite a number of parties from the Administration, the Congress, and the industry [and] several senators are in the process of drafting a compromise bill [to] meet most of the concerns of all sides.” He continued, “I would like to extend my hold for another month while we complete drafting this bill” Still other communications to the leadership primarily are requests for notification about floor developments on a matter.⁷ On January 26, 1982, for instance, Robert Stafford, R-Vt., informed Baker that he wished “to be notified before any floor consideration, or any time agreement [UCA] is extended into, regarding S.1402, the Uniform Motor Vehicles Standards Act of 1981.”

By tradition, hold requests from Republicans are transmitted to the office of the secretary to the party, and requests from Democrats are sent to the Democratic Policy Committee. Leadership staff respond in writing to the member requesting the hold. Typically, such responses state that the request has been duly noted by the relevant leader and initialed next to the targeted item on a master copy of the Senate Calendar maintained by the leadership staff. “This hold will be honored, to the extent possible, by the [Majority or Minority] Leader,” is the standard response. In some cases, though, the leadership may raise the prospect that a hold will not be honored. In a February 3, 1982 letter to Steve Symms, R-Idaho, for instance, Republican leadership staff asserted that a hold request from Symms would be noted on Baker’s marked calendar, but that “there is a concerted effort on the part of several Senators to bring this bill to the floor for debate.” In some instances, the leadership may simply respond that holds will not

⁶ *Congressional Record*, December 20, 1973, S 23611.

⁷ For 1981-82, the Baker staff kept two sets of file folders, one for holds and one for requests for notification. After reading the letters, however, it was apparent to us that many letters in the hold file were indistinguishable from requests for notification, and that a number of the so-called requests for notification were (in effect) holds. In our view, the different types of communication differ more in degree than in kind, and we follow in this paper the standard Senate practice of referring to both forms of communication by the general rubric of “hold.”

be honored on a particular bill. Interestingly, the practical logistics for keeping track of holds do not appear to have changed all that much since the 1970s. Senate Republicans, for instance, continue to record holds on marked copies of the Senate Calendar. Over the years, Senate leaders repeatedly have pledged to share the identity of holders with the key proponents of the targeted initiatives. Such promises only have been honored in the breach.

The nature of a hold request can vary substantially in wording and intent, and the response from the leadership is likewise conditioned by the broader legislative context. Among other requests, the hundreds of hold letters sent to Baker in 1981-82 included the following: explicit requests for a hold or statements that a Senator will object to any requests to consider a matter on the floor; requests that floor consideration of a bill or nomination be delayed or postponed until a specified date or until some action occurs; requests to be informed about and included in negotiations relating to the scheduling of a bill or nomination; and requests that holds placed earlier in the process be altered or removed. Although hold requests come in a variety of forms, they can be usefully collapsed into a three-fold categorization scheme: (1) requests for unrestricted holds; (2) requests for temporary holds of some form; and (3) requests for notification or consultation. On Capitol Hill, all three categories are commonly referred to as “holds,” but they clearly differ from one another, and the leadership tends to treat them very differently (Evans and Lipinski, 2005).

For the Baker correspondence from 1981-82 and the marked calendars from 1977-78, we have constructed an extensive data set of the holds, temporary holds, and requests for notification placed on legislation by Republican Senators. Some of the hold letters sent to Baker are signed by multiple individuals. We treat each individual as having placed a separate hold on the matter. Some hold letters are authored by individual Senators, but refer to multiple bills. In such cases, we coded a separate hold or request for notification for the Senator on each measure. Over the two Congresses, our data include over 1,000 holds, each one falling within one of the three hold categories.⁸

To begin, these data reveal some instructive differences across the two Congresses. In 1977-78, Republicans placed 536 separate holds on legislation pending on the calendar. Three

⁸ A small number of the requests were difficult to interpret and have been dropped from the analysis. In addition, for some holds on the marked calendars, it was not possible to discern the identity of the holder, and for some of the letters the specific matter targeted by a request was likewise unclear. As a result, the number of observations that we use in different parts of our analysis varies somewhat, depending on the question or topic that we are addressing.

hundred and sixty-seven of the requests (68.5%) were for unrestricted holds, 33 were for temporary holds (6.2%), and 136 were requests for notification (25.4%). In 1981-82, the total number of Republican holds dropped to 472, reflecting the 1981 shift to a Republican Senate majority, a Republican White House, and a floor agenda in line with the party program. There also are noteworthy differences in the kinds of holds placed by Republican members across the two periods. In 1981-82, only 216 of the 479 holds (about 45%) were unrestricted holds requesting that the Senate not take up a measure. The prevalence of temporary holds was similar across the two Congresses. But the incidence of requests for notification increased markedly in 1981-82 to 237, or 49.5% of the total. These differences almost certainly derive from the 1981 shift to majority status for the party. As the partisan majority, fewer measures on the floor agenda would have diverged from mainstream Republican preferences, reducing the need for unrestricted holds. In the latter period, GOP members also would have had an easier time convincing a majority leader of their own party to forgo scheduling items they opposed without having to resort to the hold.

2. Who Places Holds?

Not surprisingly, there is significant variation across members in how often they place holds on legislation. Consider the distribution of unrestricted hold requests, which are intended to communicate the highest level of dilatory intent. Figure 1 denotes the frequency of unrestricted holds (as opposed to temporary holds or notification requests) for 1977-78. Similar information for 1981-82 is provided in Figure 2. During the earlier period, the typical Senator placed 9.7 holds. Senator James McClure, Idaho, clearly was an extreme outlier, with 86 holds. That Congress, McClure served as chair of an informal caucus of conservative Republicans called the Senate Steering Committee. As we shall see, the Steering Committee functioned as a clearinghouse of sorts for GOP holds. If we exclude McClure from the analysis, the average number of holds per Republican Senator for 1977-78 drops to 7.5. In 1981-82, the average number of holds per GOP member was somewhat less – about four.

During the 95th Congress only three out of thirty-eight Republicans did not place any holds on legislation. As early as the mid to late 1970s, then, the tactic was widely employed in the chamber. If we consider the 1981-82 period, a few additional members refrained from

placing holds. But even here usage of the tactic was widespread. Clearly, the hold is much more than a minority party prerogative.

What factors account for the considerable variance that exists in hold usage across Senators? As with other forms of participation, Senators weigh the benefits and costs of placing holds as they make decisions about how to allocate their time and political capital. There are several potential benefits. Holds help rank-and-file members and Senate leaders avoid open confrontations on the floor by providing an early warning system for potential obstructionism. If viewed as credible, holds can help a Senator secure policy concessions that move the targeted measure closer to his or her policy preferences. Or, if a member views a bill as inferior to existing law, holds might have the effect of blocking it outright. Senators also use holds to secure policy concessions on matters unrelated to the targeted bill or nomination. In fall 2001, for example, several Republicans placed holds on a bill sponsored by Senator Paul Wellstone, D-Min., aimed at expanding programs for homeless veterans.⁹ Wellstone responded by pledging to hold up all non-emergency items backed by Senate Republicans, including an internet tax bill important to the party program. The impasse ended with an agreement in which Republicans lifted their hold on the veterans bill in exchange for the withdrawal of the Wellstone hold on the internet measure.

Although placing holds has become an established and accepted strategy within the chamber, the practice is not costless to the holder. For one, if the proponents of a measure learn the identity of the individuals holding up their handiwork, there is significant potential for retaliation down the line. The dispute over the Wellstone veterans bill is a case in point. Even though many holds are anonymous, it is generally known within the Senate which members routinely use the tactic. These legislators develop reputations as obstructionists, reducing somewhat their ability to secure assistance from their colleagues on their own priorities. Holds can also complicate efforts by party leaders to manage the flow of business within the chamber, which in turn may make the relevant leadership less likely to facilitate the adoption of the holder's legislative agenda. Senators weight these costs, as well as the aforementioned benefits, when deciding whether or not to place a hold on a pending matter and in calibrating the level of the hold (requests for notification, temporary holds, outright filibuster threats, and so on).

⁹ Helen Dewar, "Senator Seeks to Stamp out Secretive 'Holds,'" *Washington Post*, November 17, 2001, A4

Factors likely to shape these strategic calculations include ideology, seniority, scale effects and specialization, and the electoral connection.

Ideology. Senators should be most likely to use holds when (if adopted) the legislation would significantly move policy away from their preferences. We would not expect all legislators who oppose a bill to engage in dilatory tactics because obstructionism is not costless. But as the level of a member's disenchantment with a measure rises, the likelihood of a hold being placed by that lawmaker should increase. In the absence of threatened or actual obstructionism, the outcome of the Senate legislative process should approximate the median preference within the chamber as a whole (Black, 1958; Krehbiel, 1998). The center should rule. As a result, hold usage should increase the further a legislator's preferences are from the position of the floor median.

During 1977-78, the chamber included 61 Democrats, 38 Republicans, and one independent. Based on the Poole-Rosenthal DW-Nominate indicator of member ideology, every Republican Senator except Charles McC. Mathias, Md., had policy views more conservative than the chamber median.¹⁰ The preferences of the newly elected President, Jimmy Carter, were actually more liberal than the typical Senate Democrat, and Majority Leader Byrd sought to advance an ambitious agenda aimed at moving a wide array of policies to the left.¹¹ During this Congress, the level of hold usage by Republicans should increase with member conservatism. That is, ideological conservatives such as Jesse Helms, N.C., should have been more likely to place holds than were party liberals such as Mathias.

In 1981-82, the strategic context was fundamentally different. Republicans had assumed control of the Senate and the White House. The chamber now was comprised of 53 Republicans, 46 Democrats, and one independent. President Ronald Reagan had policy preferences that were to the right of the median within the Senate Republican Conference. Howard Baker, now the majority leader, worked closely with the White House to advance a strongly conservative policy agenda. Based on the spatial distribution of preferences alone, we would expect a significant decrease in Republican holds in 1981-82 relative to the earlier period. As mentioned, this was indeed the case (although GOP Senators still placed hundreds of holds in 1981-82).

¹⁰ These data are downloaded from <http://pooleandrosenthal.com>. We thank Keith Poole and Howard Rosenthal for making them available to the research community.

¹¹ To gauge presidential preferences, we rely on the scores that Poole and Rosenthal have calculated for them (first dimension) using roll calls on which the relevant president took a public position.

Compared to 1977-78, however, the expected relationship between ideology and holds is less clear-cut. One possibility is that moderate to liberal Republicans, especially the six GOP Senators in the 97th Congress with ideological preferences located to the left of the floor median, were regularly confronted with conservative proposals they opposed, resulting in a strong positive association between ideological liberalism and hold usage.¹² On the other hand, the floor median during 1981-82 had a DW-Nominate value that was much closer to the preferences of the six Republican liberals than to the values for party conservatives like Jesse Helms.¹³ If Baker attempted to legislate toward centrist opinion within the full chamber, we would expect to see extensive holds from the right wing of the Republican distribution. Party conservatives might use their procedural prerogatives to pull the Republican program back toward their preferences and the views of the White House. The relative strength of these possible effects is an empirical question that we address below. But one possibility is a U-shaped relationship in which hold usage is high for liberals and for conservatives and relatively low for Republicans near the median preference for their party.

Seniority. Although the old apprenticeship norm largely has atrophied, participation in legislative work still requires time, effort, and expertise, and there remains a legislative learning curve (Hall, 1996). More senior members are disproportionately likely to have the strategic knowledge necessary to effectively monitor the floor agenda and make effective use of the hold. Hold usage, as a result, may increase with member seniority. On the other hand, senior legislators are also more likely to hold positions of formal leadership within the chamber (e.g., committee leadership posts). Even in the contemporary Senate, there are incentives for reciprocity among committee chairs and other formal leaders (Deering and Smith, 1997). Moreover, the senior Republicans of the 1970s and 1980s entered the chamber during the 1950s and 1960s. Early in their careers, they were exposed to the collegial norms of the old Senate establishment, reducing the likelihood that they would engage in rampant obstructionism. A U-shaped relationship also is possible for seniority and hold usage.

Scale Effects and Specialization. Hold usage can lead to retaliation by other Senators on measures important to the holder. It may make sense for factions within the Senate to

¹² The six members were John Chafee, R.I., Mark Hatfield, Ore., Mathias, Arlen Specter, Pa., Robert Stafford, Vt., and Lowell Weicker, Conn.,

concentrate these costs on just a few individuals and for like-minded legislators to devise some means for compensating the lawmakers who take the lead in obstruction. There may be incentives for certain members to specialize in obstructionist tactics, that is, to develop an operating style that features the regular use of dilatory tactics. Placing a hold on one bill may increase the likelihood that a member will attempt to hold up a second measure, which will raise the probability that the member will target a third item, and so on. Hold usage, in other words, may exhibit scale effects with certain Senators essentially specializing in the tactic. These scale effects may also take on an organizational cast and become intertwined with factional politics within the parties. The Senate of the 1970s was rife with individualism, as the informal norms that structured the pre-1970s Senate broke down. However, the decade was also characterized by burgeoning partisan strife and party-related organizations may have played a leadership role in the new obstructionism. As mentioned, the Senate Steering Committee, an organization consisting mostly of conservative Republicans, used the hold during the 1970s to advance GOP initiatives and derail the Democratic agenda. We consider the role of the Steering Committee in our multivariate analysis of hold usage and explore its operations in more detail in the next section of this paper.

Electoral Connection. Electoral incentives may have an impact on hold usage by individual members. Since holds are not generally made public, the practice is not as useful as the filibuster for position taking before an audience. Still, Senators may believe that the hold can be employed as a bargaining chip to help pass items important to their constituents. As a result, we include in our empirical analysis two variables that capture the electoral incentive: (1) The number of years until a member's next election campaign (the variable takes on the values of zero, two, and four), and (2) a dichotomous measure capturing whether or not a Senator is electorally insecure (that is, the lawmaker received 55 percent of the vote or less in his or her last campaign). If the electoral incentive does have an independent impact on hold behavior, we would expect the effects for campaign proximity to be negative and the effects for electoral insecurity to be positive. Finally, we consider a variable tapping the population size of a member's state. Senators from high-population states may refrain from using holds because their

¹³ In 1981-82, the floor median position was shared by Republican John Heinz, Pa., and Democrat David Boren, Okla. The relevant DW-Nominate values were about -.03 for Heinz and Boren, from -.049 to -.21 for the six Republican liberals, and .714 for Helms.

broad policy interests create ample opportunities for retaliation by other members, raising the costs to them from obstructionism.

Data Analysis

To evaluate these hypotheses, we conduct a series of multivariate tests using the number of requests by an individual Senator as the dependent variable. We conducted the analysis separately for holds, holds and temporary holds combined, and requests for notification for each Congress in our data set. The unit of analysis is the Senator. To test whether ideology and seniority have U-shaped relationships with hold usage, we include in the model quadratic terms for both variables. We used DW-Nominate values (first dimension) to proxy for member ideology. Unfortunately, there is no official list of Steering Committee members from the era. But according to media accounts, 14 GOP lawmakers allocated a portion of their office accounts to the panel. We assume that they were members of the committee. The measurement of the remaining explanatory variable is straightforward.

Our dependent variables in this portion of the analysis are event-count measures. They capture the number of times that a particular action or outcome occurs, and the “event” is a request for certain procedural privileges or protections on pending legislation. For such a dependent variable, ordinary least squares may generate biased parameter estimates, substantially complicating efforts at statistical inference. The two standard estimators for analyzing event-count data are the Poisson and negative binomial regression models. The Poisson model is based on an assumption that the error term is characterized by an equal mean and variance, which is a fairly heroic premise given the nature of our data. The assumption generally will not hold if the dependent variable is characterized by “contagion,” that is, if the occurrence of the event under focus is associated in some way with further occurrences of the same event. Under such conditions, the variance of the error term will exceed the mean, creating problems of overdispersion (King, 1988, 1989).

What is the intuition behind the problem of overdispersion and how does it relate to our data? As we hypothesized, there may be scale effects to hold usage. Indeed, the uneven distribution of holds across members indicated in Figures 1 and 2 suggests that certain Senators did embrace the hold as an important weapon in their procedural arsenals. Recall that we also posited a “learning curve” for using the hold. As members repeatedly employ the tactic, the

average costs of additional usage may decline. If the placement of a hold by a Senator indeed increases the likelihood of additional holds from that member, this will produce precisely the contagion effects that undermine use of the Poisson technique.

For such data, the appropriate estimator is the negative binomial regression model, which corrects for the aforementioned problems of overdispersion. We conducted a series of negative binomial regressions on the holds data, and the results are summarized in Table 1. Observe at the bottom of the table that the test statistic (likelihood ratio test of $\alpha=0$) does indicate significant evidence of overdispersion, suggesting that we are using the appropriate estimation technique for our data. The presence of overdispersion also provides important confirmation of the hypothesis of scale effects for hold usage.

Three caveats should be emphasized when interpreting the results in Table 1. First, because the unit of analysis is the individual GOP Senator for a particular Congress, the number of observations is fairly low – less than 40 for the 95th Congress and just 53 for the 97th Congress. Our hypotheses at this point, however, relate to the behavior of Senators across measures and, as a result, it is most appropriate that we analyze the evidence in this form. Second, we dropped Senator McClure from our observations for the 95th Congress because he was such an extreme outlier.¹⁴ We will consider McClure’s role in the next section of this paper. Third, we have not included results in the table for notification requests in the 95th Congress because the likelihood ratio test did not provide evidence that all slopes are not simultaneously equal to zero. Our model simply was unable to produce significant explanations for this form of behavior during the 95th Congress.

Notice that a Senator’s ideology was a significant factor for both Congresses, and that the nature of the effect differed substantially across the two periods. As expected, in the 95th Congress the DW-Nominate scores (higher values indicate increased conservatism) have a positive linear relationship with the number of holds and temporary holds requested. The size of the effect is large. For 1977-78, the most conservative Republican is expected to request about 3.5 more holds than is the most liberal GOP member. We did not find a quadratic relationship

¹⁴ We also dropped Nicholas Brady, N.J., from the observations for the 97th Congress. He only served in the chamber for a few months.

between ideology and holds for the 95th Congress.¹⁵ For the 97th Congress, ideology still matters a great deal, but in a qualitatively different way. Here, our empirical results do indicate a “U” shaped relationship. Overall, the incidence of holds declines with increasing conservatism. But the positive parameter estimate on the quadratic term implies that the most ideological extreme senators on *both* ends of the spectrum were disproportionately more likely to request holds.

As mentioned, our interpretation is that the most conservative Senators were using the hold in response to GOP leadership efforts on some measures to legislate toward the ideological center of the chamber as a whole, while on other items liberal Republicans used the hold to counter leadership efforts to advance more conservative initiatives. Clearly, we also need to consider the impact of holds on the fate of legislation. Still, the results in Table 1 suggest a strong ideological current behind hold requests and the differences in the nature of the effect across the two Congresses are highly instructive and consistent with expectations. The increased obstructionism of the 1970s may reflect rising individualism on the part of Senators, but it also exhibited a significant ideological component.

The relationship between seniority and hold requests during the 95th Congress is negative, but the parameter estimates are not statistically significant. If we combine requests for holds and temporary holds for the 97th Congress, then seniority has a positive linear relationship with request behavior. More senior members are disproportionately likely to request holds, suggesting that the learning curve may countervail any negative effects from reciprocity or prior socialization. For notification requests during the 97th Congress, we also find evidence of seniority effects. There is a statistically significant, negative, effect (more senior members are less likely to request notification), with some accompanying evidence for an increase in requests by the most senior Republicans. Why these findings? In contrast to holds, requests for notification are largely informational. Here, a Senator is requesting that the leadership keep him or her informed about procedural developments on the floor about a pending matter. Junior members may need to use requests for notification to ensure that their interests are not overlooked in the negotiations that occur between chamber leaders. The increased incidence of notification requests for the most senior members, we believe, largely derives from committee chairs seeking to protect the prerogatives and jurisdictions of their panels.

¹⁵ For certain of the models, the quadratic terms for seniority and ideology were omitted from the final analysis because they did not turn out to be statistically significant and their inclusion resulted in insignificant parameter estimates for the relevant linear terms.

For the most part, the signs on the variable for Steering Committee membership are in the expected direction. Membership on the committee is generally associated with more requests. With the exception of requests for notification in the 97th Congress, however, the parameter estimates are not statistically significant. In large part, this results from our decision to drop McClure from the analysis for the 95th Congress. If we include his 86 holds among the observations, the coefficient on Steering Committee status becomes highly significant and dwarfs the effects of other variables.

Also notice that our results provide some tentative evidence that electoral incentives may influence hold usage. In both periods, the further away a Senator's next election campaign, the fewer the holds requested, although the coefficient only achieves statistical significance in the 95th Congress. In the 97th Congress (but not in 1977-78), Senators who were electorally insecure were more likely to place holds than were their more electorally secure colleagues. Although holds (by design) provide few opportunities for public position taking, the practice may be useful as a tool for leveraging substantive concessions on other matters important to the folks back home. The final independent variable – state population – was not a statistically significant predictor for either Congress.

Our analysis of the factors predicting hold usage is necessarily tentative, but the results are instructive. Particularly noteworthy are our findings about the linkage between ideology and obstructionism during this important period in the Senate's institutional development. In the next section, we explore in some depth the role played by conservative Republicans in the rise of the hold as an integral part of Senate practice.

3. The Senate Steering Committee

Although the hold initially was an informational device, during the 1970s it appears to have evolved into something more; perhaps not a de facto veto power as some observers claim, but at the very least a major bargaining chip in the legislative process. One explanation for the change is individualism. Sinclair (1989) maintains that the Senate became more individualistic during the 1970s because of an increased prevalence of highly contentious issues, a more diverse and active interest group community, a decline in the organizational power of political parties, and a more free-flowing media environment. A rise in filibusters and the transformation of the hold were important features of this burgeoning individualism. In their history of the filibuster,

however, Binder and Smith (1997) demonstrate that obstructionism within the chamber often has major ideological and partisan dimensions. Our analysis of the Baker holds provides ample evidence of policy individualism. The large quantity of holds, the wide variety of measures drawing such requests, and the widespread usage of the practice are all indicators of individualism. However, our empirical analysis indicates an ideological structure to hold usage, and it also suggests that an organized faction within the Republican Conference helped transform the hold into a routine form of obstructionism. Along with individualism, the emergence of the hold is rooted in ideological and partisan infighting.

In the Watergate year of 1974, Senator Carl Curtis, R-Neb., created an informal caucus of conservative members who were displeased with the increasingly liberal turn of the floor agenda. On April 3, 1974, he met with eight other Senators, and they together formed the Senate Steering Committee. Other founding members of the organization included Norris Cotton, N.H., Peter H. Dominick, Col., Paul Fannin, Ariz., Clifford Hansen, Wyo., Jessie Helms, N.C., Roman Hruska, Neb., James McClure, Idaho, and Strom Thurmond, S.C. The panel was (and remains) an informal caucus, and at the time was modeled on the House Republican Study Committee. (The GOP Study Committee originally was called the House Republican Steering Committee, but the name was changed to avoid implications that it was a formal party organ.) The Senate Steering Committee was intended to serve as a forum for coordinating the activities of conservative members. It has been in continuous existence since the 1970s, and in the 108th Congress was chaired by Jeff Sessions, R-Ala.

The group is an informal caucus and not a formal part of the Senate Republican Conference (Hammond, 1997). Over the years, Steering Committee members have employed diverse tactics to influence policymaking, including regular meeting with GOP administration officials during the Reagan and Bush administrations. It also has provided conservative lawmakers with additional staff and public relations expertise and panel members have generally worked closely with the Republican leadership. An October 1981 letter from Steering Committee Chair Jessie Helms to Senator McClure is instructive about the role that the caucus played during the 97th Congress:

Since January, the Senate Steering Committee meetings have concentrated on meeting with the Vice President, members of the Cabinet, and other top officials of the Reagan Administration. This, I think, has served a useful purpose during the organizational phase of the Administration. However, now that we are

entering a more intense legislative period, a number of the Steering Committee members have suggested that we focus more clearly on legislative strategy. I agree.¹⁶

Helms proceeded to chart out plans for the group that emphasized influencing the internal legislative deliberations of the chamber.

Interestingly, the chairmanship of the Senate Steering Committee has often served as a stepping-stone to significant positions within the Senate GOP hierarchy. For instance, Carl Curtis, the founder of the organization, became Republican Conference Chair in 1975. Curtis was replaced as Steering Committee chair by James McClure, who himself was elected Chair of the Republican Conference in 1981. John Kyl, the current Chair of the Senate Republican Policy Committee, is the immediate past chair of the Steering Committee. Although not formally a part of the Republican Conference, the group clearly is linked to the GOP political agenda.

In the 1970s, the Steering Committee played an important role in the rise of obstructionism within the Senate. Indeed, the only Democrat to ever be a member was James Allen, Ala., pioneer of the post-cloture filibuster and the preeminent Senate obstructionist of the day. At the time, the members of the Steering Committee donated funds from their office accounts to cover the costs of a small staff for the group, and for a brief period during the 1980s the caucus had its own offices in a Senate annex building. Senate records of personal office expenditures provide the only systematic evidence about the members belonging to the Steering Committee. Members who transferred portions of their clerk-hire to the caucus in the late 1970s included: William Armstrong, Colo., Jake Garn, Utah, Barry Goldwater, Ariz., Orrin G. Hatch, Utah, S.I. Hayakawa, Calif., Jessie Helms, N.C., Gordon J. Humphrey, N.Y., Roger W. Jepson, Iowa, Paul Laxalt, Nev., James McClure, Idaho, Larry Pressler, S.D., Strom Thurmond, S.C., Malcolm Wallop, Wyo., and John Warner, Va.¹⁷ With the exception of Pressler and Warner, the membership list reads like a “who’s who” of the rising Reaganite wing of the Senate Republican party. The Steering Committee, however, largely operated behind the scenes within the chamber.

During the 95th Congress, the first period for which we have GOP hold data, the Steering Committee began to make regular use of holds to promote conservative initiatives and derail the

¹⁶ Letter from Senator Jessie Helms to the Honorable James A. McClure, October 2, 1981. Included in the personal papers of James A. McClure, University of Idaho, Moscow, Idaho.

Democratic agenda. Majority Leader Byrd remarked at the time that 1978 was a pivotal year of sorts in the use of the filibuster. “It used to be that [the filibuster] was resorted to infrequently and on the grave national issues, mostly on civil rights [but] now it’s just resorted to promiscuously, I think.”¹⁸ In 1977-78, the Democrats had the 60-vote supermajority necessary to invoke cloture without GOP support. But the presence within the Democratic Caucus of several conservative members, as well as the policy divisions that characterize most partisan majorities, often provided Steering Committee members and other Republicans with the leverage necessary to impede legislation.

Based on interviews with former Senate staff, media accounts, and various statements in the *Congressional Record*, it is apparent that McClure (as chair of the Steering Committee) served as a vehicle for much of this obstructionism. During the 95th Congress, our data indicate that he placed unrestricted holds on 86 different pieces of legislation – far more than any other Republican member. Sixty-eight of these holds were placed during May 1978, the point when GOP Members were most aggressively utilizing their procedural prerogatives to block Democratic bills. In part, the Republican reliance on obstructionist tactics reflected the small size and relative weakness of the Republican Conference following the 1976 elections. As McClure observed, “the more threatened we are, the more militant we must become to protect ourselves.”¹⁹

McClure’s tactics were in part a response to efforts by Majority Leader Byrd in summer 1978 to more aggressively bring Democratic measures to the floor. One prominent legislative lightning rod that summer was H.R. 8410, a Democratic proposal to reform the nation’s labor laws. McClure summed up the GOP strategy on obstructionism: “We can make life unpleasant enough for other people that they’ll wish they’d been more accommodating.”²⁰ In addition to the labor law measure, Steering Committee members were particularly active on legislation relating to the Panama Canal Treaty and arms limitation agreements, consumer and antitrust reform, cargo preference measures, and campaign finance reform.²¹ McClure claimed that the group’s

¹⁷ Irwin B. Arief. “Obscure Conservative Group Bolsters Senate GOP Power,” *Congressional Quarterly Weekly Report*, May 12, 1979, 903-904.

¹⁸ Ann Cooper. “The Senate and the Filibuster: War of Nerves – and Hardball,” *Congressional Quarterly Weekly Report*, September 2, 1978, 2307.

¹⁹ *Ibid.*

²⁰ Cooper, 2310.

²¹ *Ibid.*

use of holds enabled members to leverage significant concessions on a number of matters important to GOP conservatives.

Perhaps the best indicator of the Steering Committee's impact on the floor agenda was that it triggered one of Robert C. Byrd's legendary outbursts. Incensed that the Steering Committee staff had been informally polling Democratic offices on an upcoming floor matter, Byrd stood in the chamber and waived a copy of a card bearing the name of the Steering Committee staff director. "Who pays the cost of this beautiful calling card," Byrd asked his colleagues. "Is it paid for by the Senate? ... Who pays the cost of the so-called Senate Steering Committee? Where does it have its space? Where is its office?" McClure took the floor to respond to Byrd:

Mr. McClure. Mr. President, first of all, this matter comes as somewhat of a surprise to me because the Senate Steering Committee has been in operation for a number of years, as the Senator from West Virginia knows, and as the _____

Mr. Robert C. Byrd. Oh, no, no, no, no. Please do not drag the Senate majority leader's name into this.²²

Byrd's diatribe continued for several minutes, as Minority Leader Baker and McClure spoke on behalf of Steering Committee members.

To us, the important role that McClure and the Senate Steering Committee played as a clearinghouse for Republican holds during the mid-1970s is instructive about the forces that can shape Senate strategy and procedure. Clearly, decision-making within the chamber became more individualistic during the 1970s. But conservative factions within the Republican Conference also played a central role in the rise of obstructionism during the decade. Indeed, the importance of ideology and partisanship for understanding the emergence of the hold is a central finding of this paper.

4. Holds and the Fate of Legislation

As we have seen, the propensity to place holds is shaped by majority or minority status, member ideology, seniority, electoral incentives, and certain internal organizations dynamics within the congressional parties. In this section, we take the next step and explore which holds are especially likely to have a concrete impact on the legislative process. Holds can have several

²² *Congressional Record*, March 22, 1979, 5926.

consequences for legislation. They may delay or slow the pace of floor action but not block a measure or lead to significant changes in its content.²³ Holds also can induce the proponents of a measure to make substantive concessions to the obstructionists, perhaps altering significantly the content of legislation. Or the placement of holds on a bill or resolution may be enough to block Senate passage altogether. The real target of a hold also may not be the item upon which it was placed: Instead, the goal may be to extract concessions on some other bill or issue.

While recognizing the myriad of ways in which holds can influence the Senate legislative process, we focus here on a single indicator – whether or not a bill or resolution targeted by a hold eventually passes on the Senate floor. The indicator taps a key aspect of legislative fate. Senate leaders take holds seriously precisely because of the implicit threat of dilatory tactics that might block floor action. Moreover, critics of the hold often claim that it is routinely employed to kill bills and nominations that otherwise would pass. Tracing the legislative history of a measure is more difficult than many scholars realize, especially for items that are not widely publicized or prominent on the national agenda. Particularly in the Senate, measures often are passed as amendments to other bills, or are renumbered, subsumed, or replaced by alternative legislation. Still, the THOMAS database can provide us with some sense of what happened to the legislation with GOP holds in the 95th and 97th Congresses.²⁴

Does our evidence for the late 1970s and early 1980s suggest that the hold has emerged as the modern procedural equivalent of Woodrow Wilson’s “dim dungeons of silence?” Not really. Almost three quarters of the holds placed in 1977-78 targeted legislation that eventually passed the Senate in some form (and here we are referring to unrestricted holds, rather than temporary holds or requests for notification). That Congress, Republicans were in the minority, and the majority Democrats had 61 seats in the chamber; one more than the supermajority necessary to invoke cloture. Byrd could not always count on the support of his fellow partisans in cloture fights because of ideological divisions within the Democratic Caucus, but clearly he had significant leverage for countering obstructionism from Republicans. The hold, then, is not tantamount to a veto power over bills and nominations and the impact of the practice is conditioned by the strategic context.

²³ Of course, simply delaying Senate action for a few weeks or months may reduce the time available for forging agreements with the House and the executive branch and thus preclude enactment.

Although the number of holds from Republican Senators dropped significantly in 1981-82 (with the party's shift to majority status), compared to the earlier period the "kill rate" for holds was much higher. In 1981-82, only 27.7% of the targeted items passed the Senate. Majority Leader Baker had a majority of just 53 members; far less than the 60 votes necessary to invoke cloture. Potential obstructionism from GOP members constituted a significant threat to the party program. Baker was highly deferential to the holds placed by his Republican colleagues and most of the targeted items died. There also is evidence that Baker used holds during 1981-82 as an excuse for not bringing up secondary or parochial items that might have distracted the Senate from the core priorities of the Reagan administration (Smith, 1989, 111). Recall that the use of holds increased somewhat for the most conservative members of the Republican Conference, who would have been particularly concerned about such distractions. Along with the temporal trend, there also is considerable variance within each period in the impact of holds. We now consider the bill- and member-specific characteristics that may be associated with the fate of the targeted legislation.

Bill Characteristics. One hypothesis is that holds are especially likely to kill minor measures. The hold is an informal practice, not a parliamentary privilege. Senate leaders can always call a holder's "bluff" and schedule the targeted item for floor action. Even if the leadership has the sixty votes necessary to invoke cloture, however, there are costs to scheduling legislation in the presence of holds. Once a petition for cloture is presented to the Senate, two days must pass before a roll call on the motion can occur. After cloture is invoked, debate on the underling question can continue for as long as thirty hours, consuming still more floor time. Moreover, there are incentives for Senate leaders to accommodate their fellow partisans if at all possible. Repeatedly ignoring the holds placed by a lawmaker may lead the holder to extract "payback" from the leadership on other matters. It is on major bills where the potential benefits from floor passage are particularly high that the leadership will be most willing to incur these costs and ignore holds. On minor matters, Senate leaders should be less inclined to proceed in the presence of threatened obstructionism.

The timing of the hold also should matter. The opportunity costs to the leadership from scheduling a targeted item will increase as the end of a Congress nears. As the Senate progresses

²⁴ In researching legislative outcomes, we looked for evidence that closely related measures passed the chamber; that a bill passed as an amendment to another measure; that a related bill was passed "in lieu of" the targeted item; and other concrete indicators of success.

through the first session of a Congress into the second session and the date of likely adjournment approaches, the quantity of available floor time declines. Late in a Congress, there will be less time to counter dilatory tactics. Scheduling items with holds toward the end of a Congress may also preclude floor action on other, more pressing, matters. For these reasons, the kill rate for holds should be particularly high when the tactic is employed late in a Congress, that is, for legislation placed on the calendar relatively close to the adjournment date.

The total number of holds placed on a measure should also influence whether or not the item passes on the floor. Dilatory threats will be more credible to the leadership if they come from a coalition of members, rather than an individual lawmaker working alone. For one, the presence of a large number of holds is an indicator that securing 60 votes for cloture will be difficult. In addition, the ill-will created by scheduling legislation in the presence of holds should increase with the number of holders. Other factors held constant, then, the probability that an individual hold will be associated with the demise of a measure should be higher when other Senators also have signaled their objections to the legislation.

Member Characteristics. Several member-specific characteristics may help determine the outcome of a hold. First, ideology has a strong relationship with hold usage and may also influence which holds result in the defeat of legislation. The majority leadership should be particularly deferential to holds placed by Senators whose support will be necessary in a cloture fight. In 1977-78, the Democratic majority generally sought to move policy to the left. Obviously, the potential coalition for cloture will vary from bill to bill depending on the underlying issue. But if the policy preferences of Senators are arrayed along a single ideological continuum, the likely coalition behind cloture motions for 1977-78 should have centered on the 60 most liberal members of the chamber. Recall that there were only 38 Republicans in the Senate that Congress. Clearly, only the most liberal elements of the Republican Conference would have had any chance of being part of the cloture coalition. Under the right conditions, holds from these members may have been sufficiently credible to derail legislation.²⁵ Holds from more conservative Republicans, however, would have been ignored by the Democratic leadership because their support was not needed to end debate and bring matters to a vote. In the 95th Congress, the kill rate for GOP holds should be positively associated with ideological

²⁵ Although the identities of the Republicans placing holds would not have been routinely communicated to the Democratic leadership, there would have been incentives for Baker or the holders themselves to signal to Byrd that party liberals and not conservatives were behind the threats.

liberalism and negatively associated with conservatism. During the 97th Congress, in contrast, the Republican majority generally sought to move existing law to the right, and here, the cloture coalition would have centered on the sixty most conservative members of the chamber. Included would have been every Republican Senator except Charles McC. Mathias. As a result, holds from just about any GOP member would have constituted a serious threat to Majority Leader Baker's control over the floor agenda and would have been taken seriously by the leadership. For 1981-82, we do not expect a strong or consistent relationship between member ideology and the impact of Republican holds.

Whether or not a holder is on the committee of jurisdiction may also affect how seriously the obstructionist threat is taken by the leadership. The Senate is less "committee-centered" than is the House, but committees are still important arenas for legislative work in the chamber and committee members tend to have disproportionate interest in and expertise about the items falling within their jurisdictions. The intensity of their preferences and their informational advantages should make them particularly effective players in the obstructionist game. Holds placed by members of the committee with jurisdiction over the relevant item should be especially likely to result in the demise of the targeted legislation. For similar reasons, holds from more senior Senators also may be especially consequential. Other factors held constant, veteran legislators should have greater expertise in the relevant issue area, be more familiar with the internal procedures of the Senate, and more fully understand the practical exigencies of coalition building and delay, making them more effective at obstructionism. Senior legislators also are more likely to have positions of power within the chamber, enhancing their ability to inflict payback on party leaders who regularly ignore their holds. Our expectation, then, is that member seniority will be positively associated with holds that are efficacious.

Table 2 presents the results from multivariate tests of these hypotheses. We use probit regression because the dependent variable is dichotomous (one if the targeted measure passes the Senate and zero otherwise). Since the hypotheses relate to bill- and member-specific characteristics, we disaggregate the data to the level of the hold. The unit of analysis is a hold placed by a member on a particular bill or resolution. Only unrestricted holds are included. To identify major bills, we use the lists compiled each Congress by *CQ Weekly Report*, supplemented by measures that produced at least one key roll call (also as determined by *CQ*

Weekly Report).²⁶ We capture the timing of a hold with an integer, “Point in Congress,” that ranges (month to month) from one (January of session 1) to 24 (December of session 2). The variable, “Total Holds,” is the number of unrestricted holds placed on the targeted item. Measurement of the remaining independent variables is straightforward. We estimate robust standard errors to correct for likely correlations between the error terms associated with multiple observations from the same bill or resolution.

The results of the probit regressions are mixed, but still instructive. Notice that the parameter estimates for the bill-specific factors mostly have the expected sign. (The negative coefficient for major bills during 1977-78 is the one exception.) For the earlier period, only the coefficient for “Point in Congress” is statistically significant. Apparently, the large size of the Democratic majority provided Robert Byrd with the leverage necessary to schedule items in the presence of GOP holds, generally washing out the effects of the other independent variables. As adjournment neared and floor time grew scarce, however, threats of obstructionism from even a small number of minority party members were often sufficient to block legislation. The relationship between when a hold is placed and the probability of passage (for 1977-78) is portrayed in Figure 3. During the opening months of the Congress, the predicted passage rate for targeted legislation was high (between 80% and 90%). For holds placed in the fall of the second session, though, the probability of passage fell to 60%-70%.

For 1981-82, all of the coefficients on the bill-specific variables have the expected sign, and major bill status and total holds are statistically significant (but not “Point in Congress”). Majority leader Baker was far more deferential to GOP holds than Robert Byrd had been (the constant term for 1977-78 is positive and significant while the constant for 1981-82 is small and statistically insignificant). Still, Baker was much more likely to proceed in the presence of holds when the targeted item was a major bill. He also was influenced by the total number of GOP holds targeting a measure. The marginal effects of the two statistically significant variables for 1981-82 are presented in Table 3. The table denotes the probability of passage for the possible combinations of major/minor bill status and the total number of holds (remaining independent variables are set to their means). If the hold placed on a measure was the only dilatory threat for that bill and the legislation was minor, then the probability of passage was .413. For major bills with a single hold, the probability of passage was .883. For both major and minor bills, the

²⁶ This measurement strategy is adapted from Sinclair (1995).

likelihood of passage fell steadily with the total number of holds, with the differences across bill types narrowing as the quantity of holds grew. When the number of unrestricted holds reached nine (the upper limit of the range for this variable), the predicted passage rate for major bills was less than 10% and for minor measures it approached zero.

Interestingly, none of the parameter estimates for the member-specific factors achieves statistical significance in either Congress, and at least two of them (member ideology for 1977-78 and seniority for 1981-82) have the wrong sign. We did not expect to uncover a strong relationship between ideology and passage rates in 1981-82, but not much can be inferred from what essentially is one null finding among many. What are the implications for our understanding of Senate procedure? The inclination of members to place holds is shaped by member characteristics such as ideology and seniority, and through this selection effect these factors influence the legislative consequences of the practice. The individual characteristics, however, do not help us determine which holds are associated with the passage or defeat of legislation. At least for GOP holds during the two Congresses under examination, the nature and timing of the targeted legislation and the strategic context within the chamber appear to be the primary predictors of which holds are associated with measure that fail.

5. Conclusion

This paper provides the first systematic account of the politics of the Senate hold. The hold began as an informal signal to party leaders about potential objections to unanimous consent requests. Beginning in the 1970s – a key period of transformation for the chamber – use of the hold became more extensive and more consequential to the legislative process. More than ten times as many measures were targeted by holds than were the subject of actual filibusters and cloture votes, indicating that instances of extended debate are just the tip of the obstructionist iceberg in the Senate. The Baker records show that hold usage varies significantly across members and has predictable and instructive relationships with member ideology, seniority, and the electoral connection.

The emergence of the hold derived from and reinforced the heightened individualism that characterized the 1970s Senate. But ideology and party factional politics also played a role. An organized coalition of conservative Republicans was partially behind the rise of the hold as an important bargaining tactic during the decade. Moreover, the incidence and impact of holds

clearly depends on whether the tactic is being employed by a member of the majority or the minority party. At least during Baker's time in the leadership, GOP holds were less prevalent but more consequential when the party was in the majority. Other factors – timing, the importance of the targeted item, and the overall level of dilatory activity – also shaped which holds were associated with legislation that failed to pass on the floor. But the most striking result was the dramatically higher kill rate for GOP holds during the period when the party was in the majority. Partisan imperatives, in other words, as well as member individualism and the informational needs of the chamber, condition the role played by this important aspect of the Senate legislative process.

Although the Baker data are from the late 1970s and early 1980s, they also help illuminate current controversies on Capitol Hill about the hold and Senate obstructionism. Over the past decade, Charles Grassley, R-Iowa, and Ron Wyden, D-Ore., have repeatedly introduced resolutions aimed at ending the use of anonymous holds. One version of their initiative was the subject of a hearing conducted by the Senate Committee on Rules and Administration in June 2003. In his opening statement, Trent Lott, R-Miss., a former majority leader and now chair of the Rules panel, asserted that, "I believe that holds, whether anonymous, or publicly announced, are an affront to the Senate, the leadership, the Committees and to the individual members of the Senate.... Holds belong in the wrestling ring, not in this hallowed chamber."²⁷

Our analysis of the practice tells a very different story. Holds (or something like holds) are an inevitable byproduct of the modern process of unanimous consent, which in turn is rooted in the filibuster and the absence of a motion on the previous question in chamber rules. The hold is at once an informational signal and a bargaining tactic and its use and impact will vary, depending on the strategic context within the Senate. We highly doubt that efforts to alter this form of communication, including the various versions of the Grassley-Wyden resolution, will substantially affect bargaining tactics or scheduling practices in the Senate. Members will only find other ways to signal their likely objections to pending unanimous consent requests and leaders will continue to value the information. Absent fundamental changes to the filibuster,

²⁷ Statement of the Chairman, "Hearing on Rule XXII of the Senate Rules," U.S. Senate Committee on Rules and Administration, June 17, 2003.

which is the procedural foundation of the modern Senate, efforts to reform the hold are mostly a waste of time.

Figure 1: Unrestricted Holds by GOP Senators, 1977-78

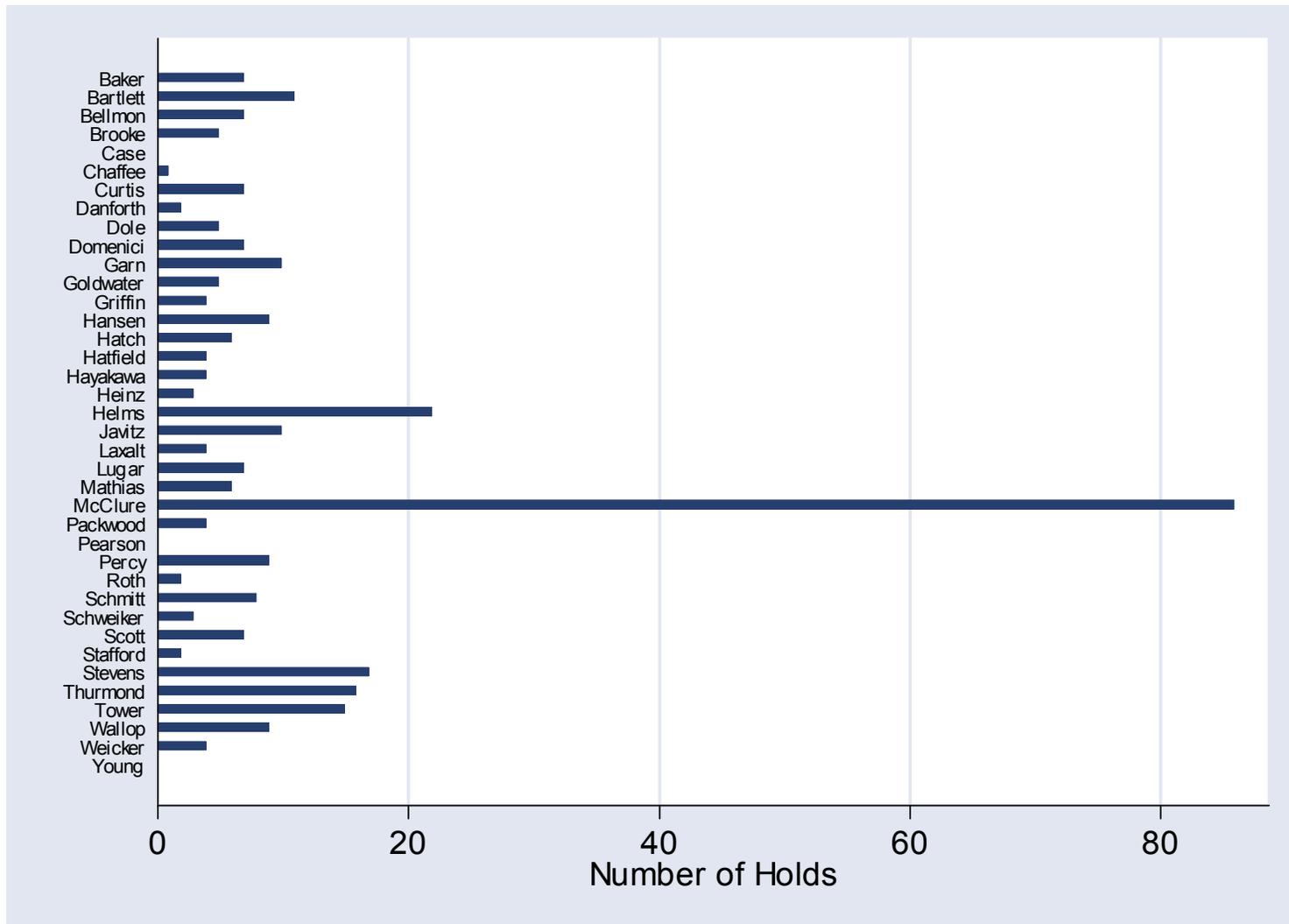


Figure 2: Unrestricted Holds by GOP Senators, 1981-82

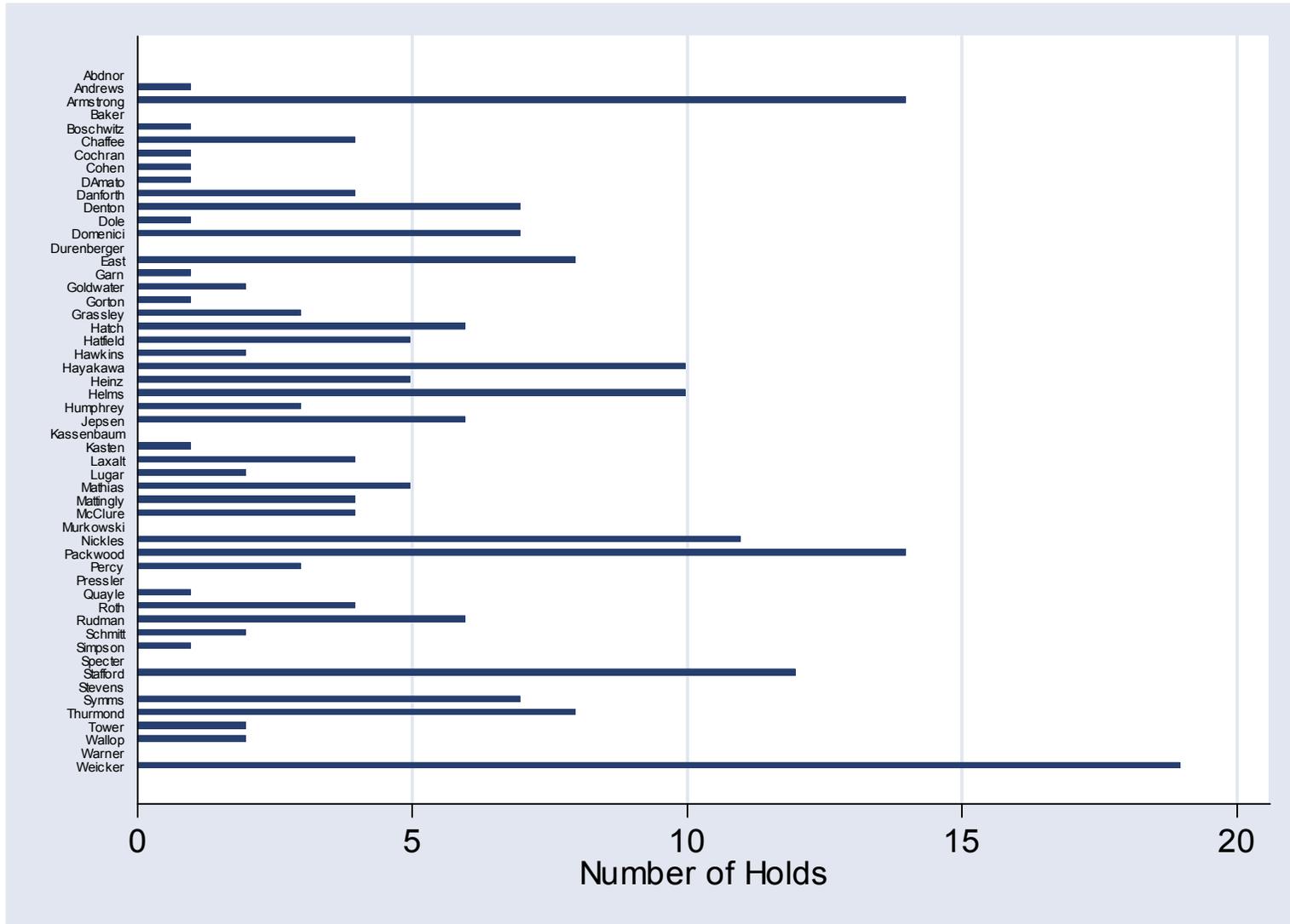


Figure 3. Relationship between Timing of Hold and Probability of Passage, 1977-78

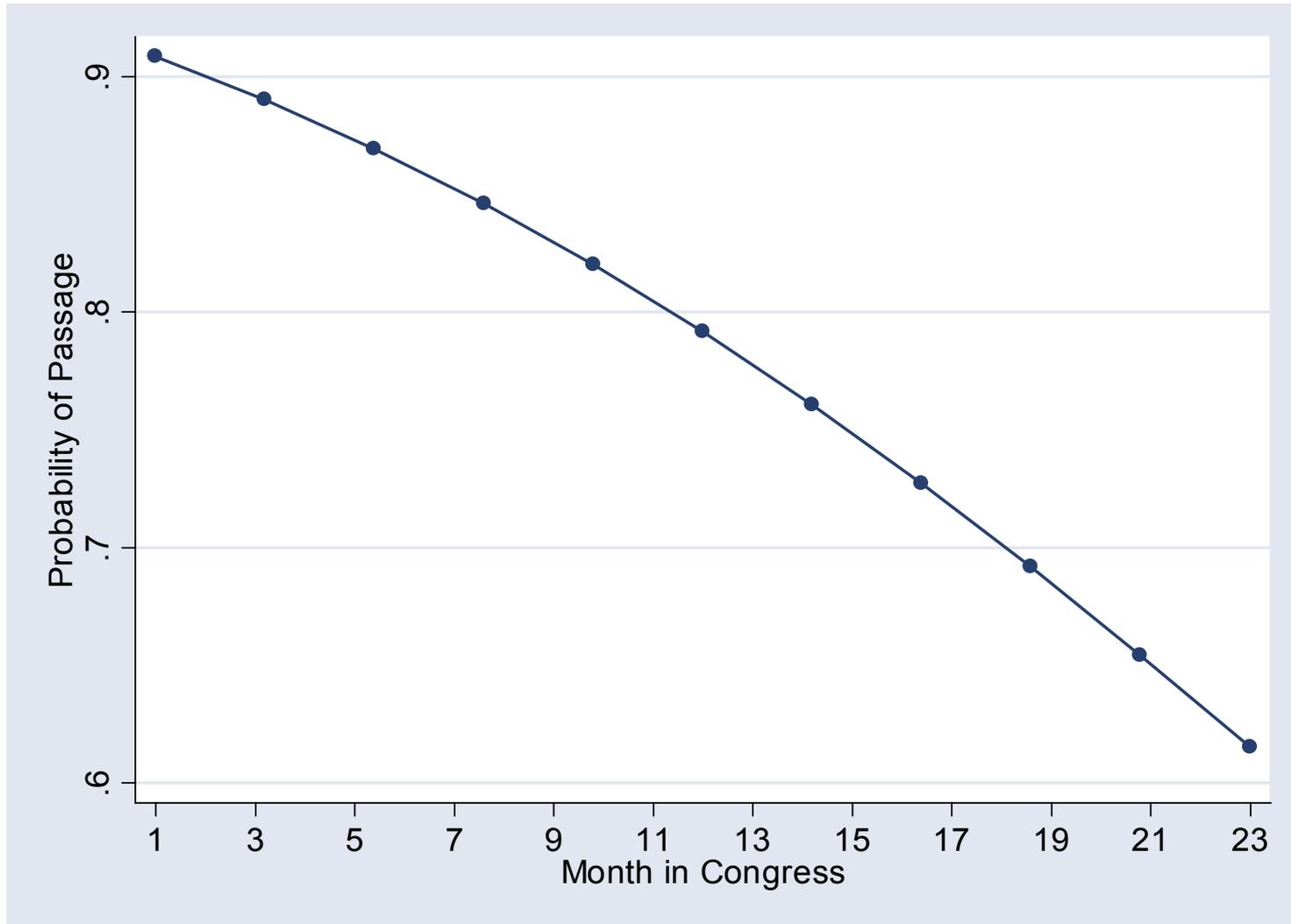


Table 1. Factors Predicting the Number of Holds by Senators

Negative Binomial	95 th Congress (N=37)		97 th Congress (N=53)		
	Holds	Holds and Temp Holds	Holds	Holds and Temp Holds	Notification Requests
<i>DW-Nominate</i>	.82*	0.83*	-2.91**	-2.58**	-4.27***
<i>DWNominate</i> ²	-	-	6.74***	5.97***	7.06***
<i>Seniority</i>	-.024	-0.024	0.04	0.05**	-0.20**
<i>Seniority</i> ²	-	-	-	-	0.008*
<i>Steering Comm</i>	0.286	0.275	-0.006	-0.014	1.02***
<i>Time Until Election</i>	-0.219***	-0.222***	-0.147	-0.106	-0.037
<i>Insecure</i>	-0.157	-0.136	0.619*	0.555*	0.131
<i>Size of State</i>	0.028	0.027	-0.007	0.00	0.026
<i>Constant</i>	2.10***	2.13***	0.922***	0.898***	1.96***
<i>LR Chi-sq'd</i>	18.98***	19.618**	16.96**	16.66**	19.64**
<i>R-squared</i>	0.0898	0.0919	0.0635	0.0601	0.0712
<i>LR test alpha=0</i>	9.60***	9.26***	49.95***	57.37***	78.11***

***p<0.01, **p<0.05, *p<0.1 (two-tailed test)

Table 2. Factors Influencing the Fate of Legislation Targeted by Holds

Probit	1977-78 (N=327)	1981-82 (N=206)
<i>Constant</i>	2.042***	.034
Bill Characteristics		
<i>Major</i>	-.288	1.412***
<i>Point in Congress</i>	-.047**	-.012
<i>Total Holds</i>	-.116	-.313***
Member Characteristics		
<i>DW-Nominate</i>	-.347	.133
<i>Committee Status</i>	-.317	-.015
<i>Seniority</i>	-.015	.022
<i>Log likelihood</i>	-179.669	-94.392
<i>Pseudo R – Squared</i>	.0614	.223

*** $p < .01$, ** $p < .05$ (two-tailed test)

Statistical significance based on robust standard errors clustering on bill or resolution.

Dependent variable takes that value of one if the targeted measure passed the full Senate and is zero otherwise. Unit of analysis is an unrestricted hold placed by an individual member on an individual bill or resolution.

Table 3. Number of Holds, Bill Importance, and the Probability of Passage, 1981-82

Number of Holds	Minor Bill	Major Bill
1	.413	.883
2	.297	.810
3	.198	.714
4	.123	.600
5	.070	.476
6	.037	.354
7	.018	.246
8	.008	.159
9	.003	.095

Probabilities are calculated using the parameter estimates from Table 2 and setting the values of remaining explanatory variables at their means.

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