Leading the New Majorities

by
Barbara Sinclair,
University of California,
Los Angeles

When a political party wrests control of either house of Congress from the other, expectations for change are usually high and that was certainly the case in January 2007 when Democrats took majorities in both chambers for the first time in 12 years. What did the new majorities—and specifically their leaders—promise? To what extent have they delivered? And how do the experiences of the new majorities during their first nine months conform with or raise questions about our theories of Congress? This is perforce an interim report but, even so, it can perhaps shed some light on our theories as well as provide a first assessment of the new majorities and their leaders.

Promises and Expectations

Congressional Democrats, like most new majorities, had made big promises. During 2006, Democrats developed an agenda they laid out in "A New Direction for America" and dubbed "Six for '06" (housedemocrats.gov 2006). The agenda pledged that Democrats would promote such ambitious goals as college access for all, energy independence, affordable health care, and a "tough, smart plan to transform failed Bush administration policies in Iraq." Democrats also vowed to run the most ethical Congress in history and to operate the House in a more open, participatory, and bipartisan fashion than had their Republican predecessors. Democratic House Speaker Nancy Pelosi (CA) promised that, in their first "100 [legislative] Hours," House Democrats would pass six bills as down payments on the "Six for '06" plus major rules changes regulating lobbying and ethics and reinstating "PAYGO" (the requirement that any new spending be offset with cuts or revenue increases). The six bills were carefully chosen as ones that commanded unified Democratic support and would likely also pick up significant Republican votes. The strategic notion was to assure the new majority some quick victories and favorable media coverage. Yet these bills were unlikely to satisfy key actors' expectations for domestic much less foreign policy change.

Partisan theories of Congress posit that congressional party leaders are agents of their members; consequently it is the expectations of their members that these leaders first and foremost need to satisfy. What are the expectations of congressional Democrats in the 110th Congress? To what extent do member expectations vary with political circumstances? Our theories agree that reelection is a principal—if not the only—goal of members of Congress (MCs). For 110th Democratic MCs, this goal takes two forms; observation and interviews substantiate that MCs very much want to be reelected as individuals but also want to keep their majority. Cox and McCubbins (1993, 110–7) link MCs' reelection goal to their party's reputation: all MCs have a stake in their party's reputation, they argue, because a favorable reputation aids their reelection.

Keeping the majority has much greater saliency for House MCs now that it did prior to 1994. Democratic leaders and MCs perceive a favorable party reputation as crucial to their maintaining their majorities; furthermore, they believe that reputation depends on their satisfying voters on several somewhat distinct grounds. Congressional Democrats need to produce policy change, they believe; they also need to show governing competence and, as the New Direction agenda expressed it, "honest leadership and open government." The Democratic base has intense and well-formed policy preferences, and first among their policy goals is ending the war in Iraq. The less-partisan voters that gave Democrats their victories seem to want Democrats to show that they can govern—accomplish something, including on Iraq—but in a less partisan and conflictual manner and that they can clean up the "culture of corruption" in Washington. Democratic MCs, then, expect their party leaders to burnish the party's reputation by satisfying voters on all of these grounds. In addition, many of the MCs have deeply held policy preferences that they want leaders to help them attain. Yet they expect the leaders to do so while also helping and certainly not hindering members' individual reelection.

The new majority leaders were, thus, faced with a daunting set of tasks. The various aspects of promoting a favorable party image are potentially in conflict. In addition, a number of the freshmen members that had made the Democrats the majority had been elected from "red" states or districts, so not hindering their individual reelection pursuit potentially conflicted with activities otherwise promotive of the party reputation.

The political context added to the complexity of the leaders' charge. Margins in both chambers were narrow and, of course, the president was of the other party and, although weakened, still wielded the veto pen. Even before the addition of the freshman class, the Democratic contingents were more ideologically heterogeneous than their Republican counterparts. The Democratic leadership teams in the two chambers had little experience as leaders of majorities. In the House, the "old bull" committee chairs were potential competitors for influence, and tensions within the leadership team, particularly between Pelosi and

 DOI: 10.1017/S104909650808013X

https://doi.org/10.1017/S104909650808013X Published online by Cambridge University Press

Majority Leader Steny Hoyer (MD), threatened the leadership's ability to act as a unit. In the Senate, the new majority leaders would have to contend with the chambers' permissive rules that exacerbated the difficulties presented by the 51-49 (50-49 with Tim Johnson's [SD] illness) party split. On the plus side, any party leadership that takes back a majority gains considerable prestige, and Democrats in 2007 were acutely aware that their majority was potentially fragile and were determined to do what was necessary to maintain it.

Agenda Control in the House

Both cartel theory and conditional party government (CPG, Aldrich and Rohde 2000) theory emphasize agenda control as a key majority party leadership tool. In both chambers, the majority party's control of committee chairmanships gives it control of hearing agendas. Democrats had promised real oversight of the George W. Bush administration and this was a pledge whose fulfillment was fully under their control. During 2007, congressional Democrats held hundreds of hearings—many focused on the war in Iraq, but others covered a huge variety of issues and programs.

Partisan theories focus on legislating and it is to that end that agenda control is conceived as critical. Passage of the "100 Hours" agenda illustrates well the House majority party's control of the floor agenda. The leadership engineered significant ethics and procedural rules changes and passage of the six bills containing the down payments on the "Six for '06"—all by January 18. Democrats voted unanimously in support of the rules changes and for four of the six bills; four Democrats defected on the energy policy bill and 16 defected on the stem cell research bill. Almost all Republicans voted for the new ethics rules and the six bills drew 62 Republican votes each on average.

Most of these bills would never have made it to the floor if the Republicans had maintained control; although a cross-party majority can force legislation to the floor over the majority leadership's opposition, that seldom happens. In the 109th Congress, the Republican leadership was essentially forced into allowing a vote on the stem cell research bill, but it never permitted a clean vote on a minimum wage increase despite considerable pressure from their members and a clear majority in the chamber in favor of passage. The votes on these measures show that the Democratic House leaders' choices of issues to include in the "100 Hours" agenda was strategically sound. House Democrats' perception that what they did would affect the party's reputation also contributed to their near unanimity.

The Democratic leadership's control extended beyond that of mere floor scheduling. To meet the "100 Hours" target, none of the bills went through committee. In addition, they were all brought up under closed rules allowing no amendments. House Democrats had promised a more open and bipartisan legislative process and Republicans complained bitterly about these departures from "regular order." Democrats argued that all of the measures had been frequently debated, but they clearly feared that, were amendments allowed, consideration might stretch on and on and that Republicans would likely propose amendments that confronted their vulnerable freshmen with difficult votes. They also figured that Republicans' complaints would get little sympathy from the media considering the heavy-handed way they had run the House (Sinclair 2006).

Thus, the new House majority was immediately confronted with a conflict among its own promises; the leaders had to choose which course would most likely promote the party's reputation and protect their members as individuals. This would be a recurring dilemma for the House Democratic leadership. Angry about the "do-nothing" label Democrats had successfully pinned on them, congressional Republicans soon settled on a strategy of blocking Democrats' legislative successes to the extent they could do so within chamber rules and without damaging themselves. And, intent on taking back their majorities, they endeavored to force Democrats, especially vulnerable freshmen, to cast votes that would hurt their reelection chances. House Republicans used amendments when they could and motions to recommit when blocked by restrictive rules. Democratic leaders attempted to find a balance between shutting down the amendment process and heavy-handed pressure on their own members, especially their freshmen, to take tough votes, on the one hand, and letting Republicans slow down the process and endanger Democratic bills on the other. Thus 39% of the bills considered under special rules from the beginning of the Congress through the August recess were considered under "structured" rules that specified and limited the amendments allowed, and 39% were considered under closed rules that barred amendments. In comparison to the comparable period of the previous Republican Congress when about 70% of bills were considered under structured or closed rules, the floor process under the new majority was a bit more restrictive. Democrats, however, did consider a great many more bills (75) under rules than the Republicans had (48); and Democrats' structured rules were relatively generous.

Whether or not a rule limits amendments, the motion to recommit with instructions, in order just before the passage vote, gives the House minority an opportunity to amend the bill. When Republicans were in the majority, their leaders defined that vote as a procedural vote which all party members were expected to oppose. When Republicans began to use the motion to recommit (MTR) as a weapon against the new majority, the Democratic leadership decided that asking all their members to vote against every MTR no matter its content would endanger some of the members they most needed to protect. Of the 61 MTRs that Republicans offered between January and the August recess, 16 won. (Democrats averaged less than two wins per year during the 12 years of Republican control.) Those Democrats who approve of their leaders' permissiveness argue that none of those were substantively significant. Others, however, worried that once a MC voted for an MTR, she lost the protection of being able to claim votes on MTRs as just procedural—not substantive—and that Republicans were setting up Democrats for more difficult and destructive MTRs in the future.

How House Democrats handled appropriations bills illustrates the complex balancing act they faced. Earmarks on appropriations bills had exploded during the period of Republican control and, Democrats claimed, the quality of the vetting of earmarks that Appropriations Committee staff had traditionally performed had deteriorated severely. In their changes to House rules, Democrats had included reforms to make earmarks more transparent. David Obey, chairman of the Appropriations Committee, was determined to reinstitute the thorough vetting, but time was short. Obey decided that for one year only earmarks would be kept off the initial appropriations bills so they could be thoroughly vetted and then those that were acceptable would be added in conference. As Obey himself and the party leaders who allowed him to proceed with his plan should have expected, the Republicans cried foul; they represented Obey's plan as a nefarious scheme by Democrats to add earmarks in the dead of night without any public scrutiny. When Democrats brought the first appropriations bill to the floor under the traditional open rule, Republicans filibustered by amendment. Their loud and vehement protest earned them some media attention in the Washington press and much more on radio talk shows, and it embarrassed the Democrats, who were determined to show they could govern by passing all the appropriations bills in a timely fashion. Some Democrats argued for using restrictive rules and jamming them through. Others believed that this was

https://doi.org/10.1017/S104909650808013X Published online by Cambridge University Press

exactly what the Republicans were attempting to goad the Democrats into doing. The leadership decided to negotiate with their Republican counterparts and eventually an agreement was reached; appropriations bills would continue to be brought up under open rules and earmarks would be included if Republicans would restrict themselves to substantive amendments and agree to eventually bring the process on each bill to a close via unanimous consent. The appropriations bills were on the House floor much longer in 2007 than in 2006, but Democrats passed them all before the August recess.

The Democrats' belief that they needed to establish a record of governing competence and achievement in order to hold their majority proved a powerful tool enabling the new majority to use its agenda control positively to pass politically difficult legislation, as the budget resolution, the Iraq War supplemental, and lobbying reform bills illustrate. The Democratic leadership and most experienced Democratic members considered the passing of a budget resolution, which Republicans had failed to do in three of the previous five years, as crucial to the party's reputation. To demonstrate the party's fiscal responsibility and provide some protection from the Republican attacks that were sure to come, the leadership determined that the resolution had to balance the budget in five years and conform to the PAYGO rules Democrats had instituted in January. It also had to increase spending for domestic party priorities as Democratic candidates had promised. Passing an Iraq War supplemental spending bill with a meaningful provision on withdrawal was even more critical—the base demanded and many of their less-partisan voters expected Democrats to do something about the war. Republican taunts that Democrats were splintered on Iraq and had no party position would ring true if Democrats were unable to come to an agreement on Iraq withdrawal language. The leadership's own reputation was at stake, yet they needed to pass a bill without making any of their members take fatal votes. A strong lobbying reform bill was another key to meeting voter expectations and thus enhancing the party image; the issue had played well for the Democrats in the elections and, individually and as a party, they had made promises about "cleaning up the swamp." The freshmen fervently believed that they had to have such a bill; yet many MCs disliked a number of the promised provisions, fearing they would hurt their ability to raise campaign funds.

Although space precludes a detailed analysis, several features warrant highlighting. In all these cases, the majority-building process and leadership involvement started early, well before committee consideration began. The process involved "listening sessions" with groups of members; for example, before he drafted the chairman's mark of the budget resolution, Budget Chairman John Spratt, joined by Majority Leader Steny Hoyer, met with the committee chairmen and with the various caucuses—Blue Dogs, Progressive Caucus, Black Caucus, etc. Pelosi's weekly meetings with the freshmen and the weekly whip and Caucus meetings, which the entire leadership attends, were used to learn MCs' concerns and to persuade. The committee chairs and the leadership worked closely together. The leadership used its control over the floor agenda and the character of special rules to enhance bills' chances. The rule for the supplemental spending bill also made in order a bill requiring the withdrawal of U.S. troops from Iraq within 180 day. Fervently anti-war Democrats, particularly the 75 or so members of the Out of Iraq Coalition, were thus given a vote and were, in fact, delighted when their measure garner 171 votes altogether. On lobbying reform, the leadership essentially forced the many Democrats who disliked the bill to bite the bullet; the rule for the bill was brought to the floor and MCs had to decide if they were willing to vote against their party on a key procedural vote and cast a vote that could be called anti-reform; only one did so. On final passage most Republicans also voted in favor.

Building these majorities most critically depended on an intensive round of meetings with groups of members and on one-on-one sessions with individuals; initially leaders gleamed information about MCs preferences and bottom lines that shaped the packages they put together. Toward the end, MCs were sometimes gotten on board by tweaking a bill's language, but persuasion was key. The diversity of the leadership was an asset; Hoyer, a moderate, has as many ties to and as much creditability with more moderate and conservative Democrats as James Clyburn, the whip, does with the Black Caucus. Pelosi's close relationships with liberals were frequently mentioned as essential to getting enough of their votes to pass the Iraq War supplemental. Indispensable to these victories was the widespread conviction that a defeat on these measures would severely damage the party's reputation and thus its chances of holding its majority.

By the August recess, the House had passed a major expansion of the State Children's Health Insurance Plan (SCHIP), lobbying reform, energy legislation, a five-year farm bill, significant labor and education legislation, a big water projects bill, and a rewrite of the Foreign Intelligence Surveillance Act (FISA).

The FISA fix that passed the House with a large majority of Democrats in opposition—181 of the 222 voting—provides a dramatic example of the limits of majority-party agenda control even in the House. The political pressure that the Bush administration exerted skewed the Democratic leadership's calculus of the cost and benefits toward scheduling the legislation. If Congress left for its recess without passing a FISA fix the administration would have spent August berating Democrats for endangering the country and, were a terrorist attack to occur, the Democrats would have been blamed. Once the Senate passed the bill Bush wanted and recessed, protecting the party's reputation dictated allowing the bill to pass the House. Doing so angered the Democratic base—and many editorial boards—but, on balance, the alternative was perceived to be more costly.

The leaders' calculus was much the same on the Iraq supplemental appropriations bill. After Bush vetoed the bill that included language to begin troop withdrawals from Iraq, Democrats did not have the votes to override; drawing out the process that would end with passage of a bill that funded the troops without withdrawal language carried costs not deemed worth bearing. A prolonged fight would have pleased the base but, in the end, the base would still have been disappointed; the time and energy expended would have come at the expense of other legislative priorities and some vulnerable MCs would have been unnecessarily confronted with tough votes. The House leadership did use its control over special rules to structure approval in a way that provided policy and reelection-related benefits to its members. The rule specified separate votes on the two parts of the bill—the domestic and security-related spending that Democratic negotiators had induced Bush to accept and the Iraq War appropriations. The former included a number of widely popular provisions such as money for veterans health care and farm disaster relief and also the minimum wage increase; it was approved on a 348 to 73 vote with only one Democrat opposed. A separate vote was held on the war funding bill without the withdrawal language; that was approved 280-142 with Democrats splitting 86-140. This procedure made it possible for Democrats bitterly opposed to the war to vote for the popular domestic spending without having to vote for war funding.

To assuage the dissatisfaction of the Democratic base as well as that of many of their own members, the Democratic House leadership used their control over the House schedule to provide multiple opportunities for votes on Iraq. On July 12, the House

https://doi.org/10.1017/S104909650808013X Published online by Cambridge University Press

considered a bill that would require the beginning of the redeployment of U.S. troops in 120 days. Just before the recess, it considered a bill mandating minimum periods of rest and recuperation for troops serving in Iraq. Both had been carefully drafted to satisfy most House Democrats and only a handful voted against either. Votes on the unpopular war were also designed to put pressure on Republicans, but most stuck with their party.

The Iraq supplemental without withdrawal language and the administration version of the FISA fix were brought to the floor by the Democratic leadership despite their violating the "majority of the majority" rule—the precept that only measures supported by a substantial majority of the majority party will be granted floor consideration. The rule is most often associated with Republican Speaker Dennis Hastert who publicly enunciated it, but it has been practiced by modern party leaders of both parties; Cox and McCubbins (2005, 24) call it the "first commandment of party leadership." As Hastert's experience shows as well (e.g., stem cell research, campaign finance reform), even the leader of a quite cohesive party cannot always follow the rule; in the two cases the Democratic leaders confronted in 2007, the alternatives were deemed to be more costly to the party. Of course, the external context as well as internal procedures shape and constrain leaders' agenda decisions in much less dramatic ways. Must-pass legislation, appropriations bills and debt ceiling increases specifically, cannot be avoided. Like appropriations bills, reauthorizations offer opportunities but also potential problems. In 2007, the agriculture bill required reauthorization and farm state members were eager to take on the task. Pelosi knew her members were split on farm policy, but she could hardly refuse to schedule a bill; it was too important to some of her members.

Does Senate Control Mean Agenda Control?

What is majority control of the Senate worth? Neither cartel nor CPG theory shed much light on that key question. Cox and McCubbins (2005) imply that the majority's control of the agenda is worth not much less in the Senate than in the House, and certainly their "roll" data suggest that majority control provides benefits beyond those of simply having more members. We know that the majority leader's prerogative of first recognition and the set of expectations concerning floor scheduling that accompany it give the majority leadership the initiative in floor scheduling. Yet, any examination of recent Congresses quickly reveals just how incomplete majority-party agenda control is in the Senate.

Voters do not make fine distinctions about legislative rules; when they vote for change, they expect majorities to act—or so MCs believe. Consequently, the obvious strategy for a new minority is to attempt to block action by the new majority and so make it look unresponsive and incompetent. Although Republicans have pursued that strategy in both chambers, House rules have limited its effectiveness. The Senate's permissive rules on extended debate and non-germane amendments give the minority much greater leverage. As long as the minority can command 41 votes, it can prevent the majority from getting a clean vote on its priorities; only damage to the minority party's reputation or to the reelection chances of its members as individuals act as constraints.

Between January and the August recess, the Senate voted on cloture motions 43 times, far more than in any comparable period; (11 were Iraq related.) This is the result, Democrats argue, of Republican unwillingness to come to unanimous consent agreements under which the Senate usually functions. Republicans contend that Democrats are unwilling to take the time for full debate and amending activity. In fact, 15 of the cloture votes were on motions to proceed, which if they fail block any action on the measure. Republicans often demand that, as a price of their acquiescence in moving forward, Democratic amendments get 60 votes to prevail; although not unheard of, a 60-vote requirement for amendments was previously fairly unusual.

Senate rules do exert pressure toward bipartisan agreements; both the Senate energy bill and the SCHIP bill were the products of bipartisan committee processes. At the committee and floor stages, the majority usually has to negotiate with the minority. Cloture was invoked on 22 of the 43 votes, but usually this was after an inter-party accommodation had been reached. When the vote split along party lines, Democrats prevailed on only six of 23 votes. If the minority party maintains its cohesion and does not choose to deal, the majority will lose, though the majority leadership can try to make the minority pay a political price.

Two legislative battles early in the 110th illustrate the effect of Senate rules and of political considerations that can affect their use. Democrats were never able to bring to the floor even a nonbinding resolution expressing disapproval of President Bush's Iraq troop surge; although commanding majorities, they twice lost votes on motions to proceed to consider such resolutions. On the continuing resolution (CR) necessary because Republicans had not passed most of the appropriations bill for FY07, Reid used his prerogative of first recognition to "fill the amendment tree" (offer amendments in all parliamentarily permissible slots) and so prevent Republicans from offering amendments and then filed for cloture, a vote Democrats won. The result was that the CR passed the Senate quickly and in a form identical to the House bill. Reid's aggressive tactics worked because the CR was must-pass legislation, the deadline was imminent, and Republicans were leery about calling attention to their own dereliction.

Through a combination of bipartisan negotiations often including concessions and occasional hardball, Reid and the Senate Democrats managed to pass a number of the party's priorities—a minimum wage increase, SCHIP, an energy bill, and lobbying reform. But the process was agonizingly slow and a number of cherished measures were blocked.

By the August recess, the public's approval of the Democratic Congress's job performance had slid precipitously. If MCs expect their leaders to enhance the party's reputation and facilitate their own reelection as well as promote their policy goals, why do most Democratic MCs seem basically happy with their leaderships. Many Democratic MCs in both chambers attribute the poll numbers to their problems getting legislation through the Senate as well as to their inability to stop the war. Yet, despite their frustration, neither House nor Senate Democrats blame Reid and his leadership team. And the House leadership is solidly ensconced and well regarded by its members. The leaderships in both chambers are aggressively promoting the individual reelection chances of the "majority makers," as they call the freshmen. They have been given good committee assignments, opportunities to offer amendments, to sponsor and speak on bills important to their constituencies, and aided in raising money. MCs believe they have made some significant policy advances and that their vigorous oversight of the executive is both good public policy and will pay off eventually. Most important is MCs' belief that they will hold their majority; polling overall and in the districts of the most vulnerable MCs supports that conviction as does the Democrats' enormous success in fundraising. There are major challenges ahead for congressional Democrats and their leaders, but as long as MCs continue to believe they are on track to reelection individually and to holding their majority, they will consider their leaders a success for this Congress.

https://doi.org/10.1017/S104909650808013X Published online by Cambridge University Press

Notes

*In addition to the references cited here, this paper is based on interviews, observation and news accounts.

References

Aldrich, John, and David Rohde. 2000. "The Consequences of Party Organization in the House: Theory and Evidence on Conditional Party Government." In *Polarized Politics: Congress and the President in a Partisan Era*, eds. Jon Bond and Richard Fleisher. Washington, D.C.: CQ Press.

Cox, Gary, and Mathew McCubbins. 1993. *Legislative Leviathan: Party Government in the House*. Berkeley: University of California Press.

———. 2005. *Setting the Agenda*. New York: Cambridge University Press.

housedemocrats.gov. 2006. "A New Direction for America" and "Six in '06." Now available at: speaker.gov/pdf/thebook.pdf. Accessed fall 2006.

Sinclair, Barbara. 2006. *Party Wars: Polarization and the Politics of the Policy Process*. Norman: University of Oklahoma Press.

https://doi.org/10.1017/S104909650808013X Published online by Cambridge University Press