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Do parties matter? Congressional scholars have for decades assumed they do; they have written about Congress as if parties are important and have provided what they believed was ample evidence that parties affect how Congress operates and, to varying extents, influence the substance of the legislation produced. Yet a number of prominent political scientists, notably Keith Krehbiel, have contested what seemed obvious. Krehbiel argues that little to no evidence of significant party behavior, as he defines it, can be found and that theories of congressional institutional arrangements and of lawmaking in the U.S. gain nothing, theoretically or in predictive power, by positing parties (1991, 1993, 1997, 1998 forthcoming).

My purpose here is to critically assess Krehbiel's argument, suggest an alternative perspective and provide some supporting evidence. My tests focus primarily on special rules in the House, though I do present other bits of evidence that parties matter as well. I argue that indeed Congress can not be understood in the absence of parties and that parties do affect outcomes. I focus on Krehbiel's formulations because they are so much more precise than those of others in the parties-don't-matter school.

## The Controversy

Do parties in Congress matter? During the founding decades of modern political science, no scholar would have asked that question. Renowned political scientists like Schattschneider and James McGregor Burns might lament that parties did not matter more, but they never questioned that they affect how Congress legislates. Many of the important congressional scholars of the 1960s such as Fenno, Jones and Manley might focus on entities other than parties, especially committees, but they too saw parties as significant. Then, in 1974 in the enormously influential book *Congress: The Electoral Connection*, David Mayhew wrote that "no theoretical treatment of the United States Congress that posits parties as analytic units will go very far" (1974, 27). Rational choice theorists constructed models of congressional structure and decision making in which parties played no role. (See the review in Shepsle and Weingast, 1994) And, in 1991, Mayhew published another influential book claiming that divided partisan control of the presidency and the Congress was irrelevant for legislative productivity.

In contrast, another group of congressional scholars wrote extensively about what they reported as a resurgence of partisanship and of party leadership activism in Congress, especially in the House of Representatives, during the 1980s (See Sinclair 1983, 1989, 1992, 1995; Rohde 1991, Bach and Smith 1988; Smith 1998). Cox and McCubbins made parties the central feature of their formal model of Congress. They saw parties as solutions to collective dilemmas and leaders as agents chosen by their members to further the collective goals of the party membership (1992, 107-136). Other less formal theoretical formulations in which parties play a

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major role appeared (Rohde 1991; Sinclair 1995). Rohde proposes a theory of conditional party government; he argues that when legislative preferences within each party are homogeneous and differences between the parties substantial, political parties in the House exert predominant influence over policy making and the majority party deflects outcomes from the chamber median towards the majority party median (1991; Aldrich and Rhode 1997, 2-4).

Like Cox and McCubbins and Rohde, I conceptualize leadership in legislatures as having been instituted to ameliorate problems of collective action. Since, at least some of the time, the passage of legislation is necessary to advance their goals, members of Congress have an interest in developing and maintaining organizational forms that will allow them to overcome collective action problems and legislate. Structures and processes for agenda setting, for policy formulation and for the assembling of majorities are needed. Organizational forms that allow these functions to be carried out will necessarily involve the delegation of tasks and of powers and resources for carrying them out to subsets of the membership.

The House long ago decided to organize itself along both party and committee lines. The benefits of delegation to committees and party leaders can be great. Specifically, a party leadership well endowed with powers and resources can significantly facilitate the passage of legislation that furthers its membership's policy, reelection and power goals by providing basic coordination services, such as legislative scheduling; by facilitating (through side payments or the coordination of tacit or explicit logrolls, for example) the passage of legislation various subgroups of its membership want; and by policy leadership, that is, by using leadership powers and resources aggressively to influence the congressional agenda and the substance of legislative outputs so as to translate broadly shared legislative preferences into law. Yet delegation also carries risks; agents may use the powers granted them to pursue interests not those of their principal.

Beyond the very broad parameters set by the dual organizational bases of party and committee, the matter of which tasks, powers and resources are delegated to which subgroups and which are retained by the members as individuals has not been settled for all time. Members can change the rules which make these delegations and they have, from time to time, done so. They do so, I argue, when the costs and benefits of existing arrangements change and, as a result, those arrangements no longer serves to advance their goals.

A change in the homogeneity of party members' legislative preferences alters the costs and benefits to members of assertive versus restrained party leadership and consequently may lead members to increase or decrease the powers and resources delegated to the party leadership. Changes within the institution or in its political environment which alter the difficulty of enacting the legislation members need to advance their goals may thereby also alter the perceived costs and benefits to members of an assertive or restrained leadership and, thus, may lead members to expand or diminish the powers and resources they delegate to their party leadership.

Rohde and Sinclair differ from Cox and McCubbins-- and from the formal distributive and informational theorists (Shepsle and Weingast et al. and Krehbiel) as well-- by focusing on and attempting to explain change over time. Both contend that, in the 1980s and 1990s, parties have become increasingly consequential to how the House operates and to the legislative outcomes it produces.

## A Critique of Krehbiel and an Alternative Formulation

How can similarly trained scholars look at the same phenomenon and see it so differently? Almost certainly the basis of the scholarly disagreement must lie in definitions and assumptions. Of the formulations denying the significance of parties, Krehbiel's work is by far the most precise and fully developed and is becoming increasingly influential (see Aldrich and Rohde 1997; Evans and Oleszek 1997). Consequently this is the work on which I focus.

Krehbiel defines and operationalizes "*significant* party behavior ... as behavior that is independent of preferences" (1993, 235) and writes that a test of whether parties are important is if they "govern by passing laws that are different from those that would be passed in the absence of parties" (235). Critically, he asserts that the former is a necessary condition for the latter—only if the party induces members to behave independent of their preferences will the legislation that is passed be different from that which would be passed in the absence of parties. I argue that this follows only if one accepts Krehbiel's basic assumptions.

Krehbiel assumes that the policy space is unidimensional and that "each player has an *ideal point* on the policy space, that is, a policy that yields greater benefits to the player than all other policies" (1998, 2-2). This formulation, thus, takes members' preferences as given; the determination of preferences is not considered in the model. It also regards the policy space as exogenously determined and does not deal with how the alternatives from which members' choose are formulated and mapped into the policy space. All models must, of course, simplify; these simplifying assumptions are, however, problematic for the question at issue because they assume away much of the political process in Congress and in the broader national political arena that is important and in which parties may play a role.

Let me begin by considering the determinants of members' legislatively-relevant behavior. Most congressional scholars would agree that such behavior is some sort of weighted function of (1) the member's own views of what constitutes good public policy, (2) those factors the member believes will affect his reelection (the views and interests of various groups of constituents and, perhaps, of campaign contributors; possibly party image) and (3) factors she believes will affect her career and likelihood of attaining or retaining influence in the chamber (possibly, but not necessarily, pleasing leaders who control various sorts of resources). Some scholars would weight some of these broad factors zero; for example, a number believe that only reelection matters. Each would fill out the details somewhat differently; certainly many scholars question whether party image is important for reelection. And some would add other factors; one might, for example, add a factor related to promoting a run for higher office. For my purposes here, the formulation is already too complex; some simplifying assumptions have to be made.

Following Fenno, I assume that members of Congress are motivated by three goals—good public policy, reelection and influence; therefore, members' legislatively-relevant behavior is a weighted function of (1) the member's own views of what constitutes good public policy, (2) the preferences of her electorally-relevant constituents and (3) the preferences of other, career (or influence) relevant political actors. Within this formulation, how might the party influence its members' behavior?

Considering each of the determinants of member behavior in turn, can party matter? First, can party affect its members' views of what constitutes good public policy? As Krehbiel readily concedes, the members of the two parties differ in their legislative preferences. Whether the clear differences in voting behavior or in legislative preferences expressed in questionnaires, interviews and the like are a reflection, in part, of members' and candidates' own views of what

constitutes good public policy is, of course, open to question. However, given that the two parties differ in their ideological centers of gravity, one would expect prospective candidates, at least in competitive areas, to self select into the party "closest" to their own personal preferences.

The new Democrats and Republicans who arrive in Washington at the beginning of each Congress, thus, are likely to differ in their own views of what constitutes good public policy. Once there, is their party likely to affect their views of public policy? Everything we know about the short cuts busy people generally and member of Congress specifically use to make decisions suggests that the answer is a limited yes. To make the multitude of decisions on a vast array of complex public policy issues they must make each year, members turn for guidance to others who are similar to themselves in policy views and constituency type but expert in the issue area. Such cue taking almost always takes place within party and should tend over time increase homogeneity within each party.

Because the parties' reputations are integral to citizens' party identification and influence to some extent their voting behavior, the districts that elect Republicans and those that elect Democrats differ systematically and the electoral coalitions that elect them differ considerably more sharply. A Democrat and a Republican elected from demographically similar districts are likely to be dependent on different electoral coalitions; so being responsive to their electorally-relevant constituency is likely to entail quite different behavior for the two members. The activists critical to primary support are likely to be even more distinct in their policy preferences.

The influence of the preferences of electorally-relevant constituents on member behavior then is likely to produce partisan behavior to the extent that Democrats and Republicans do, in fact, represent constituencies that differ on the key issues of the day. When, as in the old South, one party is "artificially" suppressed (that is, is absent or extremely weak despite there being a basis in voter preferences for the missing party), the correlation between party on the one hand and groups and interests represented on the other breaks down as does partisan behavior. (In addition, in the old South all politically ambitious candidates had to run as Democrats so self selection did not function to separate the parties.) Of course, only if one assumes a very stable and unidimensional world, would one expect all issues neatly to separate Democratic constituencies from Republican constituencies.

If the preferences of career-relevant actors influence members' legislative behavior, their influence should generally push members towards partisan behavior. A president of the member's own party, the leaders of her party in the chamber, and her fellow party members are certainly among the most important actors who potential might affect a member's career.

Krehbiel certainly does not contest the influence of constituency on members' legislative preferences. He argues that constituency (and any other determinants) produce legislative preferences that are stable, at least over the course of a Congress, and that including party in one's model adds nothing theoretically or statistically. Even if preferences are as stable as Krehbiel asserts, leaving out party leads to skewed as well as incomplete understanding since it leaves out a key mechanism in the production of the distribution of preferences in Congress. If we do not know how legislative preferences are shaped, we can say little to nothing about the circumstances under which they-and therefore policy-are likely to change. However, if legislative preferences and the mapping of issues into the policy space are less stable and more manipulable than Krehbiel contends, and if those in the best position to manipulate them are party leaders in and out of Congress, then the problem is even more basic.

Krehbiel argues that significant party behavior is behavior independent of preferences; it is manifest when "individual legislators vote with fellow party members *in spite of their*

*disagreement* about the policy in question" (1993, 238). Krehbiel's version of party behavior thus can be conceptualized as behavior in which factor 3 (the preferences of other, career-relevant political actors) outweighs factors 1 (the member's own views of what constitutes good public policy) and 2 (the preferences of her electorally-relevant constituents). More specifically, Krehbiel sees significant party behavior only in those cases where the party, presumably working through its elected leaders, induces a member to vote differently than he would if he voted on the basis of personal policy views and constituency opinion. A party leader might, for example, promise a member a good committee assignment in return for a vote (or other desired behavior) or threaten to block a member from receiving such an assignment if he votes wrong. If being liked and trusted by fellow party members is necessary for influence, for attaining an elected party position, for example, peer pressure might also on occasion induce a member to vote contrary to the dictates of factors 1 and 2. A same-party president might employ other inducements to sway a member's vote. This formulation of significant party behavior is really quite close to that in much popular discourse in which partisanship and principle are opposed and members who act in a partisan fashion are portrayed as abandoning principle for some selfish reason.

Parties, through their leaders, might also influence member behavior independent of at least initial preferences through factor 2. If a party leader offers a member a district project or some other such reelection-related side payment for a vote,<sup>n1</sup> the member's preferences might change because he might calculate that his constituents will prefer the party position plus the project over the alternative position without the project. Because Krehbiel assumes fixed preferences, his model does not allow for such "manipulation" of preferences.

Aldrich and Rohde (1997) have formalized the impact of side payments on outcomes and many scholars have discussed them as a possible mode of party leadership influence. Although numerous examples can be found in the literature, no reliable means of identifying such instances and so no estimate of frequency exists.

Another possible way in which party might influence member behavior is through party reputation. If a member's future electoral prospects are, in part, dependent on the party's record, she has an interest in that record being one that helps rather than hurts her and so an interest in delegating to leaders sufficient resources to enable them to facilitate the production of a favorable record or, at least, avoid a bad one. (To be sure, since party reputation is a collective good (or bad), the member has incentives to free ride, which is why delegation of resources to leaders is necessary.) If the member prefers to be in the majority rather than in the minority, she has an interest in her fellow partisans winning as well and so an even greater interest in the production of a favorable party record. Cox and McCubbins and Aldrich and Rohde have formalized the impact of party reputation and the former also provide some substantiation.

Recent congresses have provided a great deal of evidence that members talk as if party record affects their future electoral success. Democrats in the 103rd and Republicans in the 104th spoke repeatedly about the need for their party to deliver policy change and to show the party could govern. In 1994, Republicans mounted a concerted and quite successful campaign to deprive Democrats of any legislative victories that would burnish their party's reputation in the months before the elections. Krehbiel criticizes the party reputation argument by pointing out that, in 1994 and 1996, their party's reputation hurt members of the majority party; in their campaigns, majority party members attempted to disassociate themselves from their party. To the contrary, these two instances show that party reputation can affect members electoral fates; in 1994, in particular, majority party members suffered because of their party's reputation. In 1996,

House Republicans changed their behavior in the months prior to the elections in the hopes of avoiding a similar fate (See Drew 1996 ; Sinclair 1997b).

Because side payments and party reputation are conceived as influencing members' legislative preferences in the short term (primarily through their effects on reelection), they are incongruent with Krehbiel's model in which preferences are fixed and prior to the play of the legislative game. Both are, however, routes of party influence on members' preferences and behavior for which sharp tests are relatively difficult to devise. Another mechanism is, I believe, more likely to yield convincing tests. The majority party, through its leaders, can sometimes influence the mapping of alternatives into the policy space and can sometimes structure the choices members' confront so that members in voting their preferences vote in a way that is consistent with the party position.

Krehbiel purports to show that members' preferences predict their behavior and that knowing their party adds no (or little) predictive power (1998 forthcoming). Of course, if one conceptualizes legislative preferences as the members' preferences on the matter at issue all things considered and immediately prior to the vote, the prediction is trivial. Krehbiel does not fall into that trap; he views legislative preferences as stable and as a function of constituency preferences and perhaps personal policy views, but not of party influence. Krehbiel uses Poole and Rosenthal's Nominat scores as his measure of preferences. Since no direct measure of member preferences is available, various roll call based measures are regularly used. However, in doing so one must remember that all these measures actually are measures of behavior; roll call voting is public behavior by members of Congress. If party does influence members' behavior, roll call-based measures incorporate party effects. Without a more explicit model of party influence that, to some extent deals with the formation of the legislative preferences immediately proximate to the vote, we can not disentangle and test for party effects.

### **A Model of Party Influence**

I have posited that members' legislatively relevant behavior is a weighted function of (1) the member's own views of what constitutes good public policy, (2) the preferences of her electorally-relevant constituents and (3) the preferences of other, career- or influence-relevant political actors. I assume that factors 1 and 2 are more important than factor 3 and, further, that the greater the likelihood that a given behavior will significantly affect a member's reelection chances, the more heavily factor 2 will be weighted vis-à-vis factor 1.

What determines the likelihood that some legislatively-relevant behavior will significantly affect a member's reelection? The exposition that follows applies to all forms of such behavior but for ease of exposition and concreteness, I will talk in terms of voting behavior. Arnold has provided a convincing and nuanced but still tractable answer. In simplified form, constituents' preferences or potential preferences on the alternatives at issue, the intensity of their preferences or potential preferences, and the likelihood that potential preferences will become actual preferences (1990, 84) must be considered.

Can majority party leaders affect any of these components of the member's decision? Leaders, including, of course, the president, certainly try, through their message strategies, to influence public preferences (see Sinclair 1998 forthcoming; Stid 1996; Peters 1996; Drew 1996). They do not so much attempt to persuade directly; rather great effort goes into attempts to define issues and frame the debate. The mapping of issues and alternatives into the policy space is an key part of the political process; treating it as exogenous severely limits the scope of any

model. Yet any sort of comprehensive examination of that process is a major undertaking and is beyond the scope of this paper.

Majority party leaders can be shown to influence the alternatives at issue and may be able to influence the effective preferences of their members' constituents by how alternatives are shaped. In particular, by bundling proposals together into non-divisible packages, leaders may be able to shape a package that the constituents of a majority of members (and usually much more than a majority of party members) prefer to the status quo, even if many of the components individually are not preferred to the status quo. Packaging assumes a multi-dimensional issue space; (though if packages are regularly party-sponsored, voting may still fall along a unidimensional continuum. See Poole and Rosenthal 1997, 35, 115-117). Even if one assumes a unidimensional issue space, leaders can influence the impact of constituents' preferences by the choice of the alternatives that come to a vote. If leaders' can exclude certain alternatives from coming to a vote-those the members' constituents prefer to the party position-then members can vote for the alternative most preferred by their constituents *of those available* and that will be the party position.

Can leaders influence the intensity of constituents' preferences, the second component of concern to their members? Packaging can potentially be used to reduce constituents' intensity; leaders may produce a package that, for the constituents of some of their members, is not preferable to the status quo but is close enough that it reduces their intensity-they do not like it, but they do not hate it either. By adding alternatives, the leadership may also be able to reduce constituents' intensity. Leaders may construct and offer an alternative that, while not the constituents' most preferred, is more acceptable than the status quo. Such an alternative provides "cover" for members.

Finally, can leaders affect the likelihood that potential preferences become actual preferences and intense ones? Some of the determinants of this likelihood are inherent to policy design which I do not consider here (but see Arnold 1990, especially chapters 2 and 5); others, such as the actions of their opponents, are clearly beyond the control of the party leaders. Yet, to the extent that procedure affects the likelihood, majority party leaders do have considerable control. Information is central for potential preferences to become actual preferences; constituents are more likely to receive sufficient information if the policy battle is clear cut and highly visible. Through procedure, leaders can affect clarity and visibility. When procedures are structured so that key decisions come on procedural rather than substantive votes, clarity and visibility are reduced; when the vote is on big packages rather than individual policy proposals clarity is less; "diversionary" alternatives can also reduce clarity.

Leaders may be able to affect the impact of constituents' preferences and the likelihood of potential preferences becoming actual preferences by keeping certain issues off the floor of the House. Even if one assumes a unidimensional issue space on which all possible policy proposals on all possible issues can be arrayed, no legislature will consider all possible issues; it simply lacks the time. Majority party leaders in the House schedule legislation for floor consideration and thus act as gate keepers at least in the literal sense. If leaders keep a policy proposal that their members' constituents prefer to the status quo off the floor, those constituent preferences have no effect on outcomes. What happens in the pre-floor legislative process is less well understood by most citizens and less public than floor action, so when proposals are blocked before they get to the floor, the reasons and the responsibility are often unclear. Furthermore, since floor consideration is likely to raise the visibility of a policy proposal, keeping it off the floor is likely to decrease the likelihood that potential preferences become actual.

Proponents of the majoritarian model will immediately object that any such attempts to "manipulate" members' behavior will be foiled by the House's majoritarian rules; if leaders attempt to induce members to act against their preferences, they can and will be voted down or circumvented (Krehbiel 1991). Thus, if leaders attempt to block majority-preferred proposals from getting to the floor by refusing to schedule them, the majority can force floor consideration through a discharge petition which simply requires the signatures of a majority of House members. If leaders attempt through special rules to manipulate members' choices on the floor so as to prevent them from voting on their most preferred alternative, a majority can defeat the rule or, by defeating the previous question, amend the rule to its liking. The infrequency of successful discharge petitions or of rules defeated on the floor, pure majoritarians would argue, indicates that leaders do not attempt to block majority-supported proposals or alternatives from floor consideration.

Why might members of the House majority party assent to having their choices constrained or otherwise manipulated? Why might members willingly allow their leaders to keep certain issues off the floor? Why might members agree to having their choices constrained by restrictive special rules? In a model in which preferences are exogenous and fixed, a majority should allow leaders to keep off the floor only those proposals that they prefer less than the status quo; even then, the majority should not prefer that the proposal be kept off the floor since, were it brought up, it would be defeated; only time considerations would favor keeping such proposals off the floor. In the fixed, exogenous preferences model, a majority should favor a closed rule only if the bill at issue is at the majority's ideal point; and, if that is the case, the closed rule should be unnecessary since that bill should be able to defeat all alternatives. Similarly majorities should oppose restrictive rules if, in fact, the rule makes a difference in outcome.

Krehbiel does offer a rationale for restrictive rules within the majoritarian model. He argues that they are inducements offered to committees to specialize and share their expertise. Within this formulation, rules are tools of the House majority not of the majority party. Members approve restrictive rules for expert, representative, heterogeneous committees, especially on legislation with minority party support; and restrictive rules do little to deflect the outcome from the chamber median (Krehbiel 1991, 151-192).

My formulation offers a different answer. Members might well vote for procedures that aid them in successfully balancing their sometimes competing goals; specifically, members may vote for procedures that allow them to weight their own policy preferences more heavily vis-à-vis their constituents' preferences. (For those scholars uncomfortable with positing that members have personal policy goals, one could substitute the policy goals of their activist supporters, which they are in fact likely to share, and the logic would be much the same.)

### **Rules and Parties**

To reiterate and state more concretely, I contend that the majority party in the House through its elected party leaders uses procedural strategies to affect legislative outcomes. The leaders do so through their scheduling powers by, for example, keeping certain proposals from reaching the floor. However, although instances of such strategic behavior can be cited, studying what did not happen presents enormous problems. Leaders also use packaging, the exclusion of alternatives (rather than entire proposals) and providing cover to affect legislative outcomes. Since most of these procedural strategies require special rules to implement, they can be more easily studied.



Most major legislation is brought to the floor under a special rule from the Rules Committee and requires majority assent from the House for approval. Thus, the number of cases is substantial and recorded votes provide some basis for inference about members' preferences on both the procedure and the substance of the proposals at issue.

To support my contention, three questions must be answered in the affirmative. Do special rules have the effect of implementing the procedural strategies of packaging, exclusion of alternatives, and providing cover? Are special rules tools of the majority party? Do special rules make a difference in legislative outcomes?

### **Do Special Rules Structure Choices?**

In the later part of the 19th century, special rules from the Rules Committee developed as a device for controlling and thus rationalizing the order in which legislation was considered on the House floor (Oppenheimer 1994). Rules could also regulate the amending process but, until the 1970s, most rules were simple open rules which allowed all germane amendments; a small proportion were closed rules barring all but committee-sponsored amendments. In the later 1970s, rules began to become more complex and, between then and the present, rules that restrict amending activity in some way have become the norm rather than the exception. (See Table 1) However, most restrictive rules are not closed rules, but so-called modified closed rules, which restrict amendments to a specified and limited list, or modified open rules which restrict amendments to a specified but long list, place a time limit on the amending process or place some requirement on amendments, such as submitting them to the Rules Committee by a certain time or preprinting them in the *Congressional Record*.

**TABLE 1. Change in the Character of House Special Rules**

CONGRESS	YEARS	% RESTRICTIVE	% CLOSED
95th	1977-78	15	3
96th	1979-80	25	5
97th	1981-82	25	5
98th	1983-84	32	0
99th	1985-86	43	4
100th	1987-88	46	12
101st	1989-90	55	14
102nd	1991-92	66	16
103rd	1993-94	70	9
104th	1995-96	54	15

SOURCES: Compiled by Donald Wolfensberger, Minority Counsel, Committee on Rules from *Rules Committee Calendars and Surveys of Activities*. 104th Congress data from Rules Committee, "Survey of Activities of the House Committee on Rules 104th Congress," Report 104-868, 1996. \*Rules for initial consideration of legislation, except rules on appropriations bills which only waive points of order.

Do these special rules, in fact, have the effect of implementing the procedural strategies of packaging, exclusion of alternatives, and providing cover? My examination of special rules focuses on special rules for major measures, defined as legislation *Congressional Quarterly* identified as such in its contemporaneous lists plus those measures on which key votes occurred, again according to *Congressional Quarterly*. If rules are strategic tools of the majority party leadership, as I am arguing, one would expect them to be employed as such on major legislation more frequently than on less important and presumably less contentious legislation. My data consist of all major measures considered on the House floor under special rules in the 100th (1987-88), 101st (1989-90), 103rd (1993-94) and 104th (1995-96) congresses.<sup>n2</sup>

Restrictive rules, by definition, exclude alternatives that would otherwise be in order. As Table 2 shows, in each of these congresses, more than 70 percent of the rules for major measures did restrict alternatives to some extent. In the 100th and 101st, about 43 percent of rules were either closed or modified closed and thus restricted alternatives substantially; in the 103rd and 104th over 55 percent of rules did so. Closed rules were no more frequent in the latter pair of congresses than in the former, the increase in the restrictiveness of rules occurred in the modified closed category. If regular appropriations bills, which have traditionally been considered under open rules, are excluded, the proportion of modified closed rules and the increase in such rules is even greater.

**TABLE 2. EXCLUDING ALTERNATIVES: Rule Type on Major Legislation**

RULE TYPE (%)	CONGRESS			
	100th	101st	103rd	104th
open	28.6	27.9	18.6	27.8
modified open	28.6	27.9	20.9	16.7
modified closed	31.4	32.6	48.8	44.4
closed	11.4	11.6	11.6	11.1
<b>N</b>	35	43	43	54
MC , non-appropriations bills	33.3	36.8	51.4	47.1

What sort of alternatives are excluded by restrictive rules? Were alternatives excluded that an appreciable number of members favored or wanted a vote on or just time-wasting amendments supported by a tiny fringe? Were there amendments that might well have passed? No systematic analysis of all 175 cases is possible; for most of the examples I provide, these questions cannot be answered definitively. Yet they are suggestive.

In the 100th Congress the modified closed rule for the omnibus trade bill excluded all product-specific amendments. The closed rule for the highway bill barred all amendments, including one to raise the speed limit that a number of members wanted to offer and that a vote soon thereafter showed to have majority support (CQWR 1/24/87, 169-70). The modified closed rule for the welfare reform bill did not allow a vote on the Carper amendment to severely cut spending, even though most Republicans and an appreciable number of Democrats, probably

enough to make a majority, seemed to support it (CQWR 12/19/87, 3157). The modified **open** rule for the AIDS policy bill nevertheless excluded amendments requiring physicians to notify the spouse of anyone diagnosed as having AIDS and one requiring mandatory testing of all Americans (CQWR 9/17/1988, 2585). In the 101st Congress, the modified closed rule for the minimum wage bill barred the Petri amendment to substitute an increase in the earned income tax credit for the increase in the minimum wage. In the 103rd Congress, the closed rule for Clinton's stimulus program barred the Stenholm amendment which would have required off-setting spending increases, an amendment probably supported by a majority. In the 104th, the modified closed rule for the welfare reform bill barred several amendments supported by anti-abortion Republicans that softened the bill and thus would probably have garnered Democratic support (CQWR 3/18/95 814; 3/25/95 872-875). The modified close rule for the tax bill disallowed a vote on an amendment to reduce the income ceiling on families eligible for the \$500 per child tax credit to \$95,000, even though 102 Republicans had signed a letter asking for such a vote and most Democrats favored it. The modified closed rule for the defense authorization bill allowed no amendments that would trim any of the National Security Committee's add-ons to President Clinton's budget request, not even those proposed by Republicans (CQWR 5/11/96, 1310).

Are restrictive rules used to hold together complex legislative packages? Or, to be more cautious in phrasing, are such packages more likely to be considered under restrictive rules than is other legislation? Table 3 shows that omnibus legislation is much more likely to be considered under restrictive rules; during these four congresses not a single omnibus measure was considered under an open rule and 88 percent were considered under either modified closed or closed rules. Omnibus measures include budget resolutions, reconciliation bills, continuing resolutions and some other big bills, such as the omnibus trade and drug bills in the 100th Congress. Thus most of the measures that derived from presidential-congressional summits are included (Sinclair 1997a). One such bill-the compromise contra aid package worked out by Congress and President Bush in 1989-is not, however, included as an omnibus measure. Nor are two other packages worked out in high level bargaining between the bipartisan congressional leadership-a compromise contra aid package in 1988 and an ethics-pay raise package in 1989. All three of these deals were considered on the House floor under closed rules.

**TABLE 3 HOLDING PACKAGES TOGETHER: Rule Type on Major Omnibus Legislation**

OMNIBUS	RULE TYPE			
	open	modified open	modified closed	closed
yes	0	12.5	70.8	16.7 24
no	29.1	24.5	35.8	10.6 151
all bills	25.1	22.9	40.6	11.4 175

A rule or other procedure provides "cover" to members when it makes it easier or less likely to be necessary for them to explain their legislative behavior to their constituents. For example, if a procedure makes a decision less visible to constituents, it might provide "cover" for those members who want, for whatever reason, to support the decision but fear it will be unpopular with their constituents. Self-executing rules, which are rules that provide for the automatic adoption of an amendment or other matter upon the adoption of the rule, are possible tools for providing cover since they eliminate the need for a separate vote on the substance of the

matter. The open rule for Department of Transportation appropriations bill in 1989 contained a self-executing provision providing for the adoption of the Durbin amendment making the two-hour flight smoking ban permanent. According to *Congressional Quarterly*, tobacco-state members, convinced that the Durbin amendment would pass on the floor, asked for the self-executing procedure to be used to avoid a vote (CQ Almanac 1989, 754). Self-executing rules were rarely used until recently; they averaged two per congress from the 95th through the 98th (1977-84); the congresses since the mid-1980s, in contrast, have averaged about 20 self-executing rules each (Wolfensberger; Rules Survey of Activities, 104th Congress; data are for the 99th through the 104th but excluding the 103rd).

Packaging can also provide cover for members. The big reconciliation bills of the 1990s and before have included less-than-popular provisions-tax increases in 1993, entitlement cuts in 1995, for example. Restrictive rules protected supporters from having to vote on such provisions individually.

Cover can also take the form of giving members something to vote for that will make explaining their behavior easier. When something very popular is packaged with something less palatable, members can explain the vote for the package containing the latter in terms of their desire for the former. For example, in 1996, the line-item veto was added as a sweetener to the debt limit increase, which Republicans had to pass but hated voting for. One of the three amendments made in order by the modified closed rule for the 1990 civil rights bill stated that "nothing in the act shall be construed to require an employer to adopt hiring or promotion quotas" (CQWR 8/2/1990, 2517). When a furor over two arts grants for supposedly obscene art gave opponents of the National Endowment for the Arts ammunition for seeking to cut funding drastically, supporters offered an amendment cutting the exact amount of the controversial grants-less than \$200, 000. In 1994, a period of intense concern about the deficit, the supplemental appropriations bill for disaster aid was a target of budget hawks, who intended to offer amendments for large off-setting cuts. In response, supporters offered their own amendment for a much more modest off set, thus providing members who wanted to show fiscal discipline a less draconian way of doing so (CQWR 2/5/94, 272).

The "king-of-the-hill" procedure offers another means of providing cover. A "king-of-the-hill" provision in a rule specifies that a series of amendments or substitutes are to be voted on ad seriatim and the last one which receives a majority prevails. This device makes possible a direct vote on each of several alternatives; in ordinary parliamentary procedure, if an amendment or substitute receives a majority, no vote on the original (unamended) version of the legislation ever occurs. Clearly when this procedure is employed, the amendment or substitute voted on last is advantaged. The procedure also makes it possible for members to vote for more than one version, which is sometimes politically advantageous.

The first such rule was crafted for consideration of the budget resolution in 1982. Thereafter, during the period of Democratic control of the House, budget resolutions were often considered under a "king-of-the-hill" rule. Members were, thus, guaranteed a vote on each of the substitute versions of the resolution made in order by the rule-usually a Black Caucus version which provided liberals with an opportunity to go on the record for a version they and many of their constituents preferred to the less generous committee majority version, and two Republican substitutes. The House Budget Committee version was always placed in the advantageous last position.

The rule for the 1991 civil rights bill also contained a the king-of-the-hill procedure. The rule gave liberals a vote on their much stronger version but put that substitute first in line.

Having cast a vote in favor of the tough bill civil rights activists favored, these members then could support the leadership compromise. The rule next gave House Republicans and the Bush administration a vote on their preferred version. It put the Democratic compromise last in the advantaged position.

In 1993, Republican Benjamin Gilman invoked the War Powers Act to force House consideration of his resolution calling on President Clinton to withdraw U.S. troops from Somalia by January 31, 1994 rather than March 31 as Clinton had promised. The resolution was considered under a king-of-the-hill procedure, with Gilman's provision to change the date to January 31 voted on first and the substitute amendment of Lee Hamilton, chairman of the House Foreign Affairs Committee, to change the deadline back to March 31 voted on second. The Gilman amendment passed, with the support of 55 Democrats. It was then, however, superseded by the Hamilton amendment, which also passed; 24 Democrats voted for both amendments (CQWR 10/30/93 2987-88; 11/13/93 3139).

To this point, I have attempted to discuss the impact of special rules without prejudging who is responsible or even if the impact was intended. This section was intended and, I believe, has shown that special rules can have the effect of excluding alternatives, holding packages together and providing cover. It is usually but not always restrictive rules that do so.

### **Are Special Rules Party Leadership Tools?**

To show that special rules are indeed party leadership tools, I need to answer three questions in the affirmative. Can majority party leaders control the form that rules take? Does the pattern of restrictive rule use conform with what we would expect if majority party leaders used rules to advance majority party interests (and conflict with what we would expect under Krehbiel's information theory)? Does the pattern of member behavior on rule and passage votes conform to what we would expect if rules are used to advance majority party interests?

Changes in party rules have given majority party leaders the power to influence the crafting of special rules. In 1974 new Democratic Caucus rules granted the Democratic Speaker the right, at the beginning of each congress, to nominate the Democratic members and the chairman of the Rules Committee, subject only to Caucus ratification. The Republicans followed suit in the 1980s, giving their party leader power to choose Republican Rules Committee members. Party leaders choose and can remove their party's members of Rules, which remains a coveted assignment; thus majority party leaders can influence the crafting of special rules (Sinclair 1995, 137-139). Those rules must, of course, be able to command a majority on the floor of the House.

The majority party leadership may be able to influence the form of the special rules the Rules Committee reports, but does it use that influence to further the interests of the majority party? Or as Krehbiel posits, are restrictive rules used to induce committee members to specialize and to share their special knowledge with other members?

If majority party leaders attempt to use restrictive rules to further the interests of their party, they will employ them on measures that are both especially important to the party and face a potential problem on the floor. One would thus expect restrictive rules to be used on omnibus legislation, much of which is centrally important to the majority party's governing reputation, and which, as a big package, is vulnerable to being picked apart on the floor. The same considerations would dictate the use of restrictive rules on other package deals between the majority party leadership and either the president or their minority party counterparts. If the

reporting committee or committees split along partisan lines, the measure is likely to face more problems on the floor than if committee action was consensual, and those issues that split committee members along party lines are likely to be of importance to party members. So one would expect restrictive rules to be more frequently employed when committee action was partisan. Majority party leadership involvement on a measure signals that the measure is important to party members and, usually that there is some expectation of problems (Sinclair 1995). (The leadership has far too much to do to involve itself, especially in a major way, on legislation expected to have completely smooth sailing.)

One would thus expect the frequency in the use of restrictive rules to vary with the extent of majority party leadership involvement. Legislation on the majority party leadership's agenda and, to a lesser extent, that on the president's agenda also meet the criterion of being important to the majority party. However, such legislation can vary considerably in its vulnerability, so predictions are less certain.

The committee partisanship hypothesis provides a direct test of the partisan theory versus Krehbiel's informational theory. A key hypothesis Krehbiel derives from his theory states "The greater the minority party's support for a committee's bill, the greater will be the probability that the bill receives a restrictive rule" (1991, 166). As Krehbiel points out,

The clearest example of competing empirical and theoretical claims in the context of restrictive rules is provided by the (empirical) partisanship claim and the (theoretical) confirmatory signaling hypothesis. The partisanship claim holds that restrictive rules are often, if not always, tools of the majority party.... [w]e would expect, a positive relationship between majority support for bills and the propensity of majority leaders to [use restrictive rules]. The confirmatory signaling hypothesis, in contrast, holds that rules are tools of chamber majorities that are deliberately deployed to elicit committees' private information. We would expect then to see a positive relationship between minority support for bills and the use of restrictive rules. Why? Because minority support is a credible confirmatory signal...( 1991, 167)

Clearly, Krehbiel's theory predicts that legislation reported by the committee(s) by bipartisan or consensual action should be more likely to receive a restrictive rule than legislation reported by partisan action.

Because committee partisanship provides a crucial test between the theories, a look at the bivariate relationship between that variable and rule type is warranted before proceeding to the multivariate analysis. Committee action on a measure was coded as having been partisan if the committee's approval vote on the measure was a party vote or, when the bill was reported by a voice vote, minority party committee leaders spoke against and opposed the bill during general debate and all minority party committee members who spoke during general debate opposed the legislation.[n3](#)

Committee action was partisan on 46 percent of the measures, with the frequency increasing over the course of these four congresses. In the 100th and 101st Congresses, committees were partisan in only a third of the cases; by the 104th, committee action was partisan almost two-thirds of the time. Committee action was more likely to be partisan on omnibus than on other measures; 62.5 percent of all omnibus measures were partisan at the committee stage.

As Table 4 shows, measures on which the committee was partisan were much more likely to be considered under restrictive rules than were those on which the committee was not partisan. Note especially that a quarter of nonpartisan measures but almost 60 percent of partisan measures were considered under modified closed rules. The same pattern holds for omnibus

measures; although all omnibus measures were likely to be considered under restrictive rules, those that emerged from partisan committee processes received more restrictive rules than those which did not.

**TABLE 4. THE RELATIONSHIP BETWEEN COMMITTEE PARTISANSHIP AND RULE TYPE**

RULE TYPE	ALL MAJOR BILLS		OMNIBUS MEASURES	
	COMMITTEE PARTISAN		COMMITTEE PARTISAN	
	NO	YES	NO	YES
OPEN	36.2	13.8	0	0
MO	27.7	17.5	33.3	0
MC	24.5	58.8	55.6	80.0
CLOSED	11.7	10.0	11.1	20.0
N	94	80	9	15

For the multivariate analysis, I dichotomize rule type as Krehbiel does by combining open and modified open into an unrestrictive category (49 percent of the cases) and combining modified closed and closed into a restrictive category (51 percent of the cases). Table 5 shows the results of the first tentative model proposed above. Committee partisanship, leadership involvement<sup>n4</sup> and the omnibus variable (which includes the top-level deals as mentioned above)<sup>n5</sup> are correctly signed and robustly significant and the overall fit is quite good. The agenda variables, however, are not significant. Multicollinearity is something of a problem but the conceptualization may also be. One should not expect the leadership to use restrictive rules on a party or presidential agenda item, no matter its importance to the party, unless there was a need to do so. To capture both importance and need, a variable that is the interaction between major leadership involvement and the president's agenda was constructed. As I argued above, majority party leadership involvement on a measure signals that the measure is important to party members and, usually, that there is some expectation of problems. When in addition, the measure is an item on the president's agenda, the stakes are heightened. The variable is also coded one for measures on the leadership's agenda that the leaders declare as urgent at the beginning of a congress.<sup>n6</sup>

Equation 2 in Table 5 shows the results. All the explanatory variables are correctly signed and significant. The fit is quite good, with the model decreasing errors of prediction by about 45 percent over the null model (1- 47/85). Given the imprecision of my measures of legislative vulnerability and the fact that modified open and even sometimes open rules can be strategically used, the 73 percent correct prediction seems quite respectable

**TABLE 5. MODELS OF RULE CHOICE**

INDEPENDENT VARIABLES	MODEL 1	MODEL 2
Leadership Involvement	<b>.92*</b> (.25)	<b>.55*</b> (.25)
Committee partisanship	<b>1.26*</b> (.38)	<b>1.29*</b> (.38)
Omnibus/Summit	<b>1.85*</b> (.67)	<b>1.96*</b> (.68)
Leaders' Agenda	-.56 (.44)	---
President's Agenda	.47 (.45)	---
Special	---	<b>1.55*</b> (.40)
Constant	-1.96* (.42)	-1.80* (.40)
% correctly predicted	72	73
Cox&Snell R2	.27	.29
Nagelkerke R2	.36	.38

Numbers in parentheses are standard errors; \* significant at the .05 level or better.

Because, underlying the dichotomous dependent variable is an ordered four-category variable, some further tests of the adequacy of the model are possible. An examination of the relationship between the four types of rules and mean probability of the rule being restrictive predicted by equation 2 shows that the model does distinguish among all four types of rules; the mean probability of restrictiveness is considerably less for open rules than for modified open rules; it is higher for closed than for modified closed rules (Table 6). The equation predicts open and closed rules very well and modified closed rules quite well; it is least successful in its prediction of modified open rules, which are a borderline category.

A look at mistakes in prediction can be quite illuminating. Of the 19 cases more than marginally wrongly predicted to be restrictive (modified closed or closed), 17 fall into two categories. Eight are modified open rules during the period of the Democratic majority that, despite allowing votes on a number of amendments, were highly structured rules. For example, a number of them included king-of-the-hill provisions as well as other special provisions. Three were DOD authorization bills during the period when the Democratic Caucus, the Democratic leadership and the Democratic chair of the Armed Services Committee disagreed with the more hawkish committee majority and the rules made in order (and some claimed advantaged) amendments supported by the Democratic membership. CQ's Pat Towell wrote, "As they had



done last year, the House Democratic leadership hammered out a rule governing the order and timing of debate on the defense bill that gave Reagan's critics a raft of tactical advantages" (1987, 901). Several others were crime or drug bills.

**TABLE 6. EVALUATING THE MODEL'S ACCURACY OF PREDICTION**

RULE TYPE	MEAN PREDICTED PROBABILITY RESTRICTIVE	PERCENT ACCURATELY PREDICTED
OPEN	.298	82.2
MODIFIED OPEN	.424	52.5
MODIFIED CLOSED	.640	74.3
CLOSED	.729	89.5

Nine of the rules wrongly predicted to be restrictive were open or modified open rules in the 104th Congress. One can, perhaps, interpret these results as showing that the new Republican leadership did attempt to fulfill its promise for more open floor procedure.

Of the 18 modified closed rules wrongly predicted to be unrestrictive, 15 are 103rd or 104th Congress rules. Of the 8 in the 103rd, 5 are rules for hot button issues that divide the Democrats as well as the parties—three abortion-related, the Brady Bill, and Hatch Act revision. Five of the seven 104th Congress cases are rules for foreign or defense policy issues that were at least somewhat divisive within the new Republican majority and that also pitted the Republicans against Democrats, notably including the president. Two were on Bosnia policy; two on defense authorization bills on which deficit hawk Republicans opposed the add-ons of defense hawk Republicans; the last was the Helms-Burton bill. My claim that the pattern of restrictive rule use is consistent with what we would expect if majority party leaders use rules to advance majority party interests is, to this point, based on the multivariate analysis presented above. However these wrongly predicted rules do not seem inconsistent with a party-based theory of rule use.

Can we also show that the pattern of member behavior conforms to what we would expect if rules are used to advance majority party interests? What are our expectations about how members vote on rule and passage votes if, on the one hand, Krehbiel is correct or if, conversely, rules are tools used to advance majority party interests?

Within Krehbiel's informational theory, members do cast procedural votes, on rules for example, that may be independent of or at least not totally dictated by their preferences on the underlying bill. According to Krehbiel, since rules are not and cannot be used to deflect outcomes (much) from the chamber median, members do not base their rule vote on their preferences about whether the procedure does so (or only to vote down rules that attempt to deflect outcomes from the chamber median). Members may cast procedural votes to encourage specialization and information sharing. However, since party membership does not affect members' behavior independent of their fixed preferences, party membership should certainly not affect members' rule votes independent of their preferences on the underlying bill. Within Krehbiel's theory, partisan voting patterns on rules must simply reflect member preferences on the underlying bill.

An analysis of the range of possible interpretations of members' rule votes within the context of the partisan and informational theories yields some testable propositions. If a member

votes for a rule, she may do so because (1) she supports the bill (prefers it over the status quo) in its present form or (2) she does not prefer the bill in its present form over the status quo but believes there is some chance it will be changed on the floor in such a way that she will support it or (3) she supports the procedure even though she does not support the bill, perhaps for party-related reasons (see below). If a member votes against a rule, he may do so because (1) he opposes the bill (prefers the status quo to the bill) and does not believe there is a real chance it will be changed on the floor in such a way that he will support it or (2) he opposes the procedure, perhaps for party-related reasons (see below), even though he supports the bill. To make inferences possible, I assume that members vote sincerely on passage: they vote for the bill if they prefer it over the status quo and against it if they prefer the status quo to the bill. (See Summary Table A.)

The voting patterns of members who vote for the rule and for the bill or against the rule and against the bill are consistent with the simple bill preference scenario. If all members simply voted their bill preferences, the rule vote and the passage vote should be identical, at least for those measures not changed on the floor, and that should be true for the partisan majority and the partisan minority. Regressing the rule vote (percent yes) on the passage vote (percent yes) provides a test. For the majority party, the relationship for all measures is significant but weak ( $R^2=.03$ ); the relationship is somewhat stronger for the minority party, but still not impressive ( $R^2=.16$ ). Of course legislation may be changed, even drastically, on the floor. Are the relationships as expected if only those measure not significantly altered on the floor are examined? The relationships are stronger ( $R^2=.07$  for the majority party and  $R^2=.28$  for the minority party), but, clearly, rule votes and passage votes are not simply duplicates.

Substantial numbers of members vote for a rule and against the bill or against the rule and for the bill. What can we infer from these patterns? If a member votes for the rule and against the bill *and the bill was not substantially changed on the floor*, then the member cannot have preferred the bill to the status quo. So either the changes the member hoped for did not occur on the floor or the member cast a procedural vote. If the rule was closed, then the member knew no changes could be made on the floor and she cast a procedural vote. If members believe restrictive rules are majority party leadership tools, majority party members should be more likely to vote for the rule and against the bill than minority party members and, the more restrictive the rule is, the more likely they should be to do so. If members believe restrictive rules do make a difference to outcomes on the floor and that they are employed as majority party tools, then minority party members who oppose the bill as it came to the floor should be more likely to vote for a rule the more nearly open it is because either they are more likely to believe they can make desired changes or because they are casting a vote based on preferences about procedure.

If a member votes against the rule and for the bill *and the bill was not substantially changed on the floor*, then the member cannot have preferred the status quo to the bill. Therefore the member cast a procedural vote. If members believe restrictive rules are employed as majority party tools, minority party members should more often evince this pattern than majority party members; and minority party members who favor the bill as it came to the floor over the status quo should be less likely to vote for a rule the more restrictive it is. (See Summary Table B)

To summarize, I expect majority party members to be more likely to vote for the rule and against the bill than minority party members, and minority party members to be more likely to vote against the rule and for the bill than majority party members. In both cases the differences should increase as the restrictiveness of the rules increases.

In contrast, Krehbiel informational theory predicts that the frequency of neither pattern should be causally related to members' party identification. However, since party is related to members' policy preferences, one might reasonably infer from Krehbiel's theory that the "yes on rule, no on passage" pattern should be more frequent among minority than majority party members. Assuming that the passage vote reflects a member's policy preferences and that the rule vote reflects his information-based procedural preferences, minority party members, who will often be members of a policy minority as well, should more often be faced with rules that they favor for informational reasons for the consideration of bills they oppose on policy preference grounds.

Table 7 shows that the data largely bear out expectations of the party theory and not those of the informational theory. Using the difference in percentage "yes" on the rule vote and percentage "yes" on the passage vote for bills not changed on the floor as the indicator, one finds that majority party members are likely to vote at a higher rate for the rule than for passage and that the difference does tend to increase with the restrictiveness of the rule.<sup>n7</sup> When the proportion of bills on which the majority voted at a higher rate on the rule than on passage is examined, the pattern is similar; on only 11 percent of the cases did the reverse pattern appear. These patterns hold whether the majority is Democratic or Republican. Note especially that the difference is much greater for closed than for other rules (17.6 percentage points and 85 percent of the bills). These are procedural votes; knowing the bill could not be changed on the floor and preferring the status quo to the bill, majority party members nevertheless voted for the rule. Within Krehbiel's framework, this would seem to fit his definition of party behavior.

In contrast and as predicted by party theory, minority party members tended to vote for passage at a higher rate than they voted for the rule so long as the rule was at all restrictive. Again, these patterns hold whether the minority is Democratic or Republican. The difference between rule and passage vote was greatest on closed rules, which as I have argued can be interpreted as procedural votes. However, minority party members were a great deal more likely to vote for the rule than for final passage when the rule was a completely open one. Either they believed they has a reasonable chance of altering these bills which they did not believe about bills brought up under modified open or modified closed rules, thus strongly suggesting they believed procedure affects outcomes, or they cast a vote indicating approval of the procedure.

**TABLE 7. MAJORITY AND MINORITY PARTY PATTERNS ON RULE AND PASSAGE VOTES**  
(on measures not significantly changed on House floor\*)

RULETYPE	% YES/RULE-% YES/PASSAGE		% CONFORMING CASES**	
	MAJORITY	MINORITY	MAJORITY	MINORITY
open	4.5	25.1	64.5	71.0
modified open	3.5	-8.4	71.4	71.4
modified closed	5.4	-5.4	81.3	60.4
closed	17.6	-11.9	85.0	55.0

\* N=120

\*\* conforming cases are: for Majority, cases on which % yes on the rule > % yes passage; for Minority, if rule is open, cases on which % yes on the rule > % yes passage if rule is MO, MC or C, cases on which % yes on the rule < % yes passage; Nonconforming cases include those on which % yes on the rule = % yes on passage

## Do Rules and Parties Affect Outcomes?

I contend that the majority party in the House through its elected party leaders uses procedural strategies to affect legislative outcomes. To support my contention, I have shown that special rules do have the effect of implementing the procedural strategies of packaging, exclusion of alternatives, and providing cover and that the data are consistent with special rules being tools of the majority party. Finally, is it possible to show that special rules make a difference in legislative outcomes? And, more broadly, what can one conclude about the influence of parties on outcomes?

In Krehbiel's conceptualization, the expected outcome is that preferred by the median voter and thus, to show that a special rule had an impact on outcomes, one would need to show that the rule resulted in an outcome different from that most preferred by the median voter. To do so requires reliable information about the preferences of most members on a specific issue that is independent of their vote on that issue (and, in fact, in conflict with that vote) and this is seldom available. In my discussion of the strategic effects of rules, I described a number of instances in which it seems reasonable to infer that a non-median outcome did occur. The Republican tax bill in the 104th Congress provides a rare example where the evidence is conclusive. Almost half of the Republican membership-102-had signed a letter to Speaker Gingrich supporting a reduction to \$95,000 in the income limit of families eligible for the \$500 per child tax credit. Most Democrats were on the record as supporting the reduction. If an amendment reducing the cap in the bill had been offered on the floor, it would have passed; clearly reducing the cap was the median position. Yet, because the rule did not allow that amendment, the bill passed with its \$200,000 cap (Rubin 1995, 1010-1014).

Although 102 Republicans publicly declared their support for reducing the cap, only one voted against the previous question on the rule, a motion that, if successful, would have allowed the rule to be altered so as to make that amendment in order, and only 11 voted against the rule. Krehbiel argues that significant party behavior is manifest when "individual legislators vote with fellow party members *in spite of their disagreement* about the policy in question" (1993, 238). The rule votes on the tax bill certainly seems to fit that definition. More generally, the strong tendency of members of the majority party to vote for rules even on legislation they then vote against is best explained as party behavior.

Poole and Rosenthal (1997) provide another bit of strong evidence for party behavior in their examination of party switchers during the 104th Congress. Because the five House party switchers changed party during the course of the 104th, Poole and Rosenthal could compute Nominate scores for each for both the period before and the period after the member switched. The five's mean Nominate score as Democrats in the 104th was .22; their mean Nominate score as Republicans in the 104th was .71. Thus the switchers on averaged moved .49 units, about a quarter of the issues space, to the right after they switched, with the minimum move being .36 and the maximum being .73. Parker (MS), who was furthest right as a Democrat, moved least; the two leftmost members, Deal (GA) and Laughlin (TX), moved most.

Although examples of non-median outcomes and of party behavior as Krehbiel defines it can be documented despite the difficulties of obtaining the necessary data, concentrating one's energies on doing so seems misplaced effort. The Krehbiel formulation of the problem leads us to ask the wrong questions, I believe. Members' legislative preferences, those directly proximate to their vote choice, are a good deal more contingent on context than Krehbiel's formulation allows. Two propositions, both in my view theoretically and empirically compelling and

centrally important to the understanding of the legislative process and American politics more generally, account for the contingency. First, members have multiple goals and the factors, such as issue saliency, that determine the relative weight members give the different goals can and often do vary over periods of time shorter than the two-year electoral cycle. Second, where new proposals fall on the issue space is not an exogenous given; the process by which proposals get mapped into the issue space is a complex political process the results of which affect members' legislative preferences. Both processes are susceptible to manipulation by political actors, including prominently party leaders.

The battle over Clinton's health care plan and that over the Republicans' overhaul of Medicare in the 104th Congress provide examples of struggles to determine where into the issue space a proposal is mapped. Opponents' success in defining each as "far out" largely determined the policy outcome. The public relations wars so prevalent in policy contests in the 1980s and 1990s revolve around the definition and framing of the policy proposal at issue, which in effect is about where the proposal is perceived on the issue space (Sinclair, 1998 forthcoming). If the location of proposals is assumed to be a given that cannot be affected by political actors, much of recent American politics becomes inexplicable.

Unless one assumes that members have multiple goals and that the factors, such as issue saliency, which determine the relative weight members give the different goals can vary, much congressional behavior is inexplicable. Why were 177 members, 160 of them Democrats, willing to vote against a constitutional amendment banning flag burning in 1990 (Sinclair 1995, 284-285)? Why did Marjorie Margolies-Mezvinsky, a Democrat from a Republican district who had promised her constituents she would oppose all tax increases and who had voted against the budget resolution because it contained tax increases, then vote for the reconciliation bill actually enacting Clinton's economic program with its tax increases? Why did many Democrats vote for a welfare reform bill in 1996 that they would never have voted for in 1994? Why did the first Republican House in 40 years approve an increase in the minimum wage?

The key question is not 'do parties and party leaders somehow induce their members to vote against their preferences and do non-median policy outcomes results?' Rather 'can and do party leaders affect the mapping of proposals into the issue space and influence the factors that determined the weights their members place on their different goals and under what circumstances?'

A final problem with the parties-don't-matter theories is the lack of a clearly defined and convincing baseline model of a legislature/Congress without parties. Scholars in that camp are obviously not positing a legislature without organization and institutional arrangements. Yet in the real world much of the organization is provided by the political parties: central leaders are chosen through the parties; committee assignments are made by the parties and committees organized along party lines. Rohde, Sinclair, Smith and others have argued that the relative importance of parties and committees has varied over time. Yet even in the period when such scholars see parties as least important-the committee government era- and, in fact, in any period for which we have much information, parties still performed certain central organizational tasks. With party so embedded in Congress's functioning, it is incumbent on those who argue that parties don't matter to specify a model of a party-less legislature. Certainly Congress could not function or would function very differently without central leaders or committees; very likely it would be incapable of exerting influence on policy outputs independent of the Executive. But if the organizational and coalition building tasks that now get performed through party were performed in other ways, what would be the effects on policy outcomes? If, instead of party

groups of more or less like-minded members, the group consisting of all members or randomly constituted groups or groups defined by geography or some other factor performed the organizational tasks, would outcomes be different?

Legislating is a complex and difficult enterprise (see also the argument by Evans and Oleszek 1998). Those who would persuade us that parties which have constituted one of the two principal organizational bases of Congress are irrelevant to outcomes need to explicitly answer the question: if not parties, what are the possible alternatives and what are their likely legislative consequences?

**SUMMARY TABLE A. POSSIBLE INTERPRETATIONS OF RULE VOTES**

MOTION	VOTE	POSSIBLE INTERPRETATIONS
rule	yes	(1) she supports the bill (prefers it over the status quo) in its present form or  (2) she does not prefer the bill in its present form over the status quo but believes there is some chance it will be changed on the floor in such a way that she will support it or  (3) she supports the procedure even though she does not support the bill, perhaps for party-related reasons
rule	no	(1) he opposes the bill (prefers the status quo to the bill) and does not believe there is a real chance it will be changed on the floor in such a way that he will support it or  <b>he opposes the procedure, perhaps for party-related reasons, even though he supports the bill.</b>
passage	yes	prefers bill to the status quo (by assumption)
passage	no	prefers status quo to the bill (by assumption)

**SUMMARY TABLE B. INFERENCES FROM RULE AND PASSAGE VOTE PATTERNS WHEN THE BILL WAS NOT SUBSTANTIALLY CHANGED ON THE FLOOR**

RULE	PASS	DEDUCTIONS ABOUT RULE VOTE	RELATIONSHIP TO/ PREDICTIONS FROM THEORIES
Y	Y	simple bill preference vote (pro)	consistent with KK; not inconsistent with party
N	N	simple bill preference vote (anti)	same
Y	N	<p>MC did not preferred bill to the status quo. So either</p> <p>(1) the changes the MC hoped for did not occur on the floor or</p> <p>(2) the MC cast a procedural vote (pro-procedure).</p> <p>If the rule was closed, MC knew no changes could be make on the floor, so MC cast a procedural vote.</p>	<p>KK&gt;pattern not related to MCs' party</p> <p>Party theory&gt;Majority party pattern</p> <p>If MCs believe restrictive rules are majority party leadership tools, majority party MCs should be more likely to vote for the rule and against the bill than minority party MCs and, the more restrictive the rule is, the more likely they should be to do so.</p> <p>Minority party MCs (who oppose the bill as it came to the floor) should be more likely to vote for a rule the more nearly open it is because either they are more likely to believe they can make desired changes (1) or because they are casting a vote based on preferences about procedure(2).</p>
N	Y	<p>MC did not prefer the status quo to the bill.</p> <p>So MC cast a procedural vote (anti-procedure).</p>	<p>KK&gt; pattern not related to MCs' party</p> <p>Party theory&gt;Minority party pattern</p> <p>If MCs believe restrictive rules are majority party tools, minority party MCs more often than majority party MCs should vote against the rule even though they favor the bill and the more restrictive the rule, the more likely minority party MCs (who favor the bill as it came to the floor over the status quo) should be to vote against the rule.</p>

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### Endnotes

A previous version of this paper was presented at the 56th Annual meeting of the Midwest Political Science Association, April 23-25, 1998, Chicago, IL.

1. This argument applies to other forms of legislatively-relevant behavior as well, but for ease of exposition I refer to members' votes.
2. The categorization of rules for the 100th and 101st Congresses was done by the author by examining the text of the rule and, where necessary, the debate in the Congressional Record. In close calls, I relied upon Wolfensberger's judgment and my categorization is very close to his. For the 103rd and 104th, I use Wolfensberger's categorization. (See source note to Table 2.)
3. For legislation reported from several committees, the action of the lead committee, if such existed, was coded; if there were several committees with more or less equal responsibility, those committees all had to have met the criteria for committee partisanship. In a few cases where the committee was bypassed, the variable was coded for the drafting entity rather than the committee; for example a Democratic leadership task force drafted the Democrats' contra aid measure in the 100th, which was coded partisan; the pay raise/ethics package drafted by bipartisan joint leadership task force in the 101st was coded not partisan.
4. The measure was constructed as follows: first I distinguished some involvement from none is based upon answers to the following questions: (1) Was the bill a part of the leadership's agenda? (2) Did the Speaker or the Majority Leader advocate passage during floor debate? (3) Did Congressional Quarterly's account report the leadership as being involved? If any one of the answers is "yes", the leadership is considered as having been involved. Second I distinguishes major from minor involvement on the basis of the mode or modes of involvement reported by Congressional Quarterly. Four modes are distinguished: (a) the leadership uses its control over scheduling, the Rules Committee, or other procedure to advantage the legislation; (b) the leadership is involved in a floor vote mobilization effort; (c) the leadership is centrally involved in some other aspect of legislative strategy or (d) the leadership participates in shaping the content of the legislation by talking or negotiating with or among the committee(s) or with the Senate or with the President. Major leadership involvement is defined as engaging in (d), shaping legislation, or in any two of the other activities (e.g., 1, 2, a, b, c). The variable is coded 0 for no involvement, 1 for minor involvement, 2 for major involvement. For more detail, see Sinclair (1995, Chapter 3).
5. The results are much the same if the omnibus variable without these cases is used; there are simply a few more errors of classification.
6. These are measures that leaders' vowed to pass immediately the clean water and highway bill at the beginning of the 100th and the congressional compliance measure at the beginning of the 104th. The results are much the same if the variable excludes these cases; there are simply a few more errors of classification.
7. Voice votes on the rule and on passage were coded as 100% yes votes.