



“Resolving Differences”

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POLS 4620E
Lecture #23
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Resolving Differences

Article I, Section 7 specifies that in order for a bill to become a law it must pass the House and the Senate in identical form.

This means that any differences between bills passed by the two chambers need to be ironed out somehow in order for the bill to advance to the president’s desk. Sometimes the two chambers pass legislation in drastically different forms!

For example, in the Crime Control Act of 1990, the Senate passed a bill that banned nine different semi-automatic weapons. The House passed a bill that only banned foreign-made semi-automatic weapons. How does Congress reconcile these kinds of differences?

Two primary ways: (1) The Conference Committee and (2) Amendment-Trading.



Above: Former Rep. Henry Hyde (R-IL). In 1976, a dispute over a Hyde amendment barring federal funding for abortion sank the conference report on the Labor, Health, Education and Welfare Appropriation bill.

The Conference Committee



"I say to my colleague from Wyoming, I used to teach political science classes. I have to tell you. You know, I feel guilty. I need to refund tuition to students for those 2 weeks I taught classes on the Congress. I was so off in terms of a lot of the decision-making. I should have focused on the conference committees as the third House of the Congress, because these folks can do any number of different things. And the thing that drives me crazy is you can have a situation where the Senate did not have a provision in the bill, the House did not have a provision in the bill, and the conference committee just puts it in the bill. Then it comes back for an up-or-down vote. No opportunity to amend." – Sen. Paul Wellstone (D-MN)

Passes both Houses in different forms...

Going to Conference needs be agreed to by both chambers. Can result in more votes.

Waning in usage. Amendment trading is more popular in unified congresses.

Who serves on a conference committee? Conferees have a great deal of freedom.

Up or down vote on the conference report.

In the Senate, debate is usually structured by u.c. The House usually adopts a special rule before considering the conference report.

Points of order can be made against conference reports, but are often waived in the House under the rule and can be waved in the Senate by a 3-5ths vote.

- Motions to instruct conferees....

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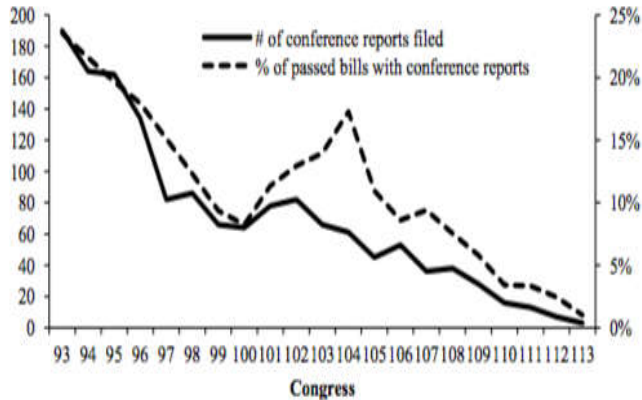
Conference Report Waiver Rule



H. Res. 230. Resolved, upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1722) to provide emergency unemployment compensation, and for other purposes. **All points of order against the conference report and against its consideration are hereby waived.** The conference report shall be considered as having been read when called up for consideration.

Death of Conference Committees

Panel C: The Frequency of Use of Conference Committees, 93rd-113th Congresses



Note: Values are – Panel A: the percent of all bills passing each chamber that were first reported by at least one committee; Panel B: the percent of all bills introduced to each chamber that were referred to more than one committee; Panel C: the number of conference reports files during each Congress, and the percent of bills passing both chambers that had conference reports. Private bills are excluded from each analysis. Panel A and B were constructed from E. Scott Adler and John Wilkerson, Congressional Bills Project: (93rd through 113th), NSF 00880066 and 00880061. Panel C constructed using data on Congress.gov.

Amendment-Trading

Amendment-trading is preferable for both majority parties during unified government

Allows both chambers to avoid casting uncomfortable votes on motions to instruct conferees

Senate can avoid a potential filibuster on a motion to appoint conferees

Less formal rules than a conference committee

Typically done through motions to concur or motions to recede

If the two parties aren't on the same page, this can result in a number of exchanges. For example, a dispute over the death penalty during passage of the Anti-Drug Abuse Act of 1986 led to a motion the "Senate concur in the House amendment to the Senate amendment to the House amendment to the Senate amendment."



Above: Senator Charles Mathias (R-MD), who informed Majority Leader Bob Dole (R-KS) he would filibuster the Anti-Drug Abuse Act of 1986 with a death penalty provision in it and he was "prepared to spend Christmas [in the Senate]" to do so. He blocked the amendment multiple times this way until it was dropped from the final bill.

Questions, Concerns, Angry Rants?



Don't hesitate to e-mail me.