

**How Would the Founding Fathers View Our Hyperpartisan Congress?:
Linking Regressive and Progressive Hyperpartisanship to Bill Passage**

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INTRODUCTION

Fifty years ago the American Political Science Association (APSA) issued a report that asked Democrats and Republicans to emphasize the differences between the parties (Ilderton 2008). APSA believed that there were too many moderates in Congress which did not give the electorate enough of a choice in policy with their vote (Ilderton 2008). Ironically, the APSA did have a good point. Now politicians are so hyperpartisan that it appears that they are jeopardizing the mission of the U.S. Congress. Scholars, the public, and Congress members themselves have identified a lack of bipartisanship as one of the principal hurdles hindering legislation.

To determine if partisan polarization is negatively affecting the productivity of Congress, strict guidelines should establish the most conducive circumstances for success in Congress: polarized or centrist politicians. Many studies on this issue focus on landmark bill passage, overall statistics of bill passage, and failures in the Senate and the House of Representatives. Political scientists find it difficult to definitively prove whether a lack of bipartisanship negatively affects Congress. I have synthesized and labeled the most credible arguments into two schools of thought: *regressive hyperpartisanship* and *progressive hyperpartisanship*.

This paper examines if hyperpartisanship is truly regressive or progressive. While there are many studies that ask the same question, few have been able to produce a credible link between hyperpartisanship and a distinct effect on the productivity of Congress. This lack of consensus is due to no standard method to fairly assess the productivity of Congress, and personal opinions clouding the results. Recently polls have indicated that Americans are steadily growing impatient with the inability of Congressional members to put aside party politics and pass bipartisan legislature (Brownstein 2007; Brownstein 2011; Mann and Ornstein 2006). Therefore, Congress is often called “The Broken Branch” of American government (Carson, Finocchiaro, and Rohde 2010; Brownstein 2007; Mann and Ornstein 2006). This sentiment

leaves many people longing for the “good old days.” At the time that the APSA announced a need for partisanship, Sam Rayburn-D (Speaker of the House) was asked if he would campaign against Joseph Martin-R (incumbent Speaker of the House) in Martin’s home state, Massachusetts. He replied: “Hell, if I lived up there, I’d vote for him” (Brownstein 2007). Rayburn and Martin were friendly even though they were the only Speakers of the House from 1940-1961, regularly exchanging positions as Speaker or Minority Leader. This is important to address since popular sentiment purports that a less hyperpartisan Congress would be able to work together more effectively.

I hypothesize that hyperpartisanship is situational and therefore, both the regressive and progressive theories are correct. I will rely on observational and subjective scholarly works, as well as studies that use measures of bills passed crossed with increasing partisanship throughout the years to see if hyperpartisanship is regressive or progressive.

REGRESSIVE HYPERPARTISANSHIP: POLARIZATION LEADS TO GRIDLOCK?

Regressive hyperpartisanship theory posits that ideological polarization is positively linked to congressional gridlock and therefore an unproductive Congress, in terms of bills passed (Jones 2001; Rosenthal 2004; Ilderton 2008). This theory is more provoking than others since democracy would be in danger if it were proved true. Former Senate parliamentarian advisor Robert Dove contends “it is not a good thing, in our huge country, for 51 percent to be able to ignore 49 percent” (Cohen, Victor, and Baumann 2004). Divided government can be less responsive to public sentiments, which is further highlighted by polarization (Ilderton 2008).

Polarization began to rise sharply in the early 1970s (Ilderton 2008). Congress has moved from centrist in the 1970s to the sharp polarization of today. This is shown by measurements of ideology and roll call votes (Hanson 2008; McCarty et al. 2006; Ilderton 2008).

Congress on average passed about 70% of the agenda, but in the early 1970s it dropped to only 40% (Ilderton 2008; Hanson 2008).

The most credible argument for a positive relationship between hyperpartisanship and an unproductive Congress lies in the Senate (Ilderton 2008; Cohen, Victor, and Baumann 2004; Hanson 2008). Empirical studies have proven that there is a positive relationship between the number of bills passed through the Senate and the level of hyperpartisanship amongst Senate members (Ilderton 2008). While both branches have a strong sense of partisanship, Senate members are “intensely loyal to the Senate as an institution...[identifying] first as senators rather than as partisans...fiercely protective of their prerogatives” (Mann and Ornstein 2006). House members tend to identify more with their party than as part of their institution.

Senate members heavily rely on their individual power. One Senator has the ability to place an anonymous hold, fill up the amendment tree (making other amendments impossible until the others are all debated and voted—sometimes hundreds are proposed just to delay the vote), and filibuster a bill, even if there is strong bipartisan support for the bill (Cohen, Victor, Baumann 2004; Hanson 2008; Ilderton 2008). Increased party differences further break up the cohesion of the Senate so that neither the minority or majority power have as much say in the passage of bills as those in the House (Ilderton 2008; Hanson 2008; Cohen, Victor, Baumann 2004). The Senate Rules are primarily behind the phenomenon that the Senate decreases in productivity as party polarization increases (Ilderton 2008). The Senate Rules protect the rights of the minority much more than the House Rules. The Senate Rules have remained fairly constant, while the House Rules change yearly. The mid 1990s was the least productive period of the Senate in the last fifty years (Ilderton 2008). This is not necessarily a bad thing since this presumably means that the Senate will pass more bills with more bipartisan support than the House (Ilderton 2008). In the late 1770s it was fashionable to pour coffee or tea from the cup to

a saucer to cool it first before drinking. Thomas Jefferson asked George Washington why he agreed to a bicameral Congress and he replied, “we pour legislation into the senatorial saucer to cool it” (Mann and Ornstein 2006). George Washington knew that the Senate would be more of a deliberative body than the House of Representatives. Deliberation directly affects productivity in Congress, and is equally affected by hyperpartisanship.

The many models that determine congressional productivity point to polarization as an important variable (McCarty 2007; Ilderton 2008; Binder 2003; Rosenthal 2004). Unfortunately, the factors of polarization such as social class, race, immigration policies, and the economy create a cycle that stunts production in Congress (Coleman 1997; McCarty, Poole, and Rosenthal 2006; Ilderton 2008). Conditionally, regressive hyperpartisanship leads to increased gridlock in Congress.

PROGRESSIVE HYPERPARTISANSHIP: POLARIZATION NEGATES GRIDLOCK?

Progressive hyperpartisanship theory posits that the increasing ideological polarization is negatively linked to congressional gridlock, and that an unproductive Congress, in terms of bills passed, is acceptable if not ideal (Jones 2001; Rosenthal 2004; Ilderton 2008). Research has shown that polarization in Congress has helped to increase its productivity in the past fifty years (Ilderton 2008; Jones 2001). In fact, in the last ten years the passage rate has been around 80% in the House (Ilderton 2008). This can be confusing since the progressive and regressive hyperpartisanship theories claim that partisanship both increases and decreases productivity in Congress. This is simply because of the differences in arrangement and rules that govern both the House and the Senate (Ilderton 2008; Hanson 2008). Time series models, among other evidence conclude that hyperpartisanship slows down the Senate and speeds up the House of Representatives (Ansolabehere, Snyder, and Stewart 2001; Ilderton 2008; Brownstein 2007; Hanson 2008).

Party cohesion in the House is positively related to the number of bills passed (Hurley 1978; Hurley, Brady, and Cooper 1977). Obviously, individual preferences are important in roll call votes; however, voting is done on a highly partisan line in the House (Ansolabehere, Snyder, and Stewart 2001). Some models even show that polarization had little to no effect on House or Senate levels since the Executive Branch has the power to veto the bill anyways (Ilderton 2008).

For example, Republicans control the House, while Democrats control the Senate. In this case, models that look to bill passage as a measure of productivity are flawed, because the House may pass a bill, and even if the bill could pass through the Senate, which is controlled by the opposing party, the President could still veto it. Even if the bill required an overwhelming amount of nonpartisan support, should the bill be measured as part of the productivity of Congress? How about if the bill is vetoed and Congress cannot get enough votes to override the President? Every measure of congressional productivity has serious flaws.

Another issue with the progressive hyperpartisanship theory is that models do not take into consideration the influential role of House leaders who tightly control the agenda. Increased hyperpartisanship has caused the House to alter its rules so that the Speaker has more significant control, which encourages party loyalty (Brownstein 2007; Ilderton 2008; Hanson 2008; Mann and Ornstein 2006). House leaders control what agenda makes it to the House floor for debate. Therefore, any analysis of the House and Congress as a whole will be inherently flawed since House leaders can bring legislation to the floor for which they know they have support (Cox and McCubbins 2005; Hanson 2008; Ilderton 2008). This is true for the Senate as well, but especially for the House. Leaders in either chamber might even decide to bring legislation to the floor that they know will ultimately fail just to make a political statement. This further nullifies the strong evidence purported by scholars that measure polarization and productivity, since there is no way to objectively measure or assess these factors (Ilderton 2008). Another cycle erupts: as

the minority grows frustrated in the House it becomes more polarized and decreases concessions with the majority, and therefore increases the polarization within both parties, and the media attention paid to this issue only escalates the polarization (Ilderton 2008). One study tried to correct for this issue and they were not able to find causality between congressional productivity and hyperpartisanship (Edwards, Barrett, and Peake 1997).

Common sense makes the research that states there was not a positive link between hyperpartisanship and congressional productivity questionable. However, no studies adequately prove that there was a negative link between them. The only exception are the studies that separated the House from the Senate, in which case only the House did have a positive link between hyperpartisanship and bill passage (Ilderton 2008; Hanson 2008).

DISCUSSION

While some methods were more stringent than others, I argue that all of these studies are more flawed than is scholarly acceptable. Therefore, I maintain that these ideas will remain theories for a long time. The major issues with the research are the natural inability of research scientists to accurately define and measure polarity and congressional productivity (Carson, Finocchiaro, Rohde 2010; Ilderton 2008). Polarization has been inaccurately measured by: a lack of moderates in Congress, medians in DW-NOMINATE scaling scores, a Legislative Productivity Index (LPI), gaps in ideologies, etc. (Fleisher and Bond 2004; Binder 2003; Ilderton 2008; Stonecash, Brewer, and Mariani 2003; Grant 2007; Poole and Rosenthal 1997).

About two-thirds of the bills that make it to the House floor for debate pass (Carson, Finocchiaro, Rohde 2010). This is surprising given all that we know about the supposed gridlock in Congress. The truth is that most bills passed are not controversial and pass without many Congress members even caring enough to be present for the vote (Ilderton 2008). Most of

the voting has to do with the continuation of items such as the departments in the federal government, charters, ceremonial motions, etc.

Another issue is that researchers determine what is classified as important legislation. There is also no precedent set for the years that productivity or polarization are based on (Grant 2007). According to one of these scales the current Congress is at the same productivity level we were at in the 1920s (Grant 2007). Every decade brings new challenges to this research. There has been a steady increase in overall productivity that cannot be controlled for since they are due to the natural increase in government control (Grant 2007). This increase in government is due to the exploding complexities of the economy, new technology, international affairs, environmental issues, social issues, etc. (Grant 2007). So if either polarity or congressional productivity cannot be determined, it is impossible to posit that they are negatively or positively linked.

CONCLUSION

Defining congressional productivity requires the use of overwhelming data sets. The subject matter of these data sets makes it difficult to make non-value based judgments on their coding. Assigning levels of importance to legislation is inherently subjective. Future researchers should look into this piece of the issue and design a multi-variable method that codes congressional productivity. Similarly, polarization is difficult to measure. Scales based on the percentage that each member votes with their party are very useful, but they should be improved to include other relevant factors.

Both the regressive and progressive hyperpartisanship theories have critical flaws. Both theories are situational. Increased polarization has recently made the House more effective and the Senate less effective if the measure of effectiveness is the number of bills passed. Individual members have more power in the Senate, and House leaders have more power in their chamber.

This enables the House to pressure individuals into a cohesive unit. A Senate leader has described leading the Senate “as difficult as herding cats” (Brownstein 2007; Mann and Ornstein 2006).

Maybe Congress was meant to languish in debate and react slowly to change (Binder 2003; Ilderton 2008). The founding fathers could not have possibly imagined the change that our country faces today, but there is some merit to letting the senatorial saucer cool the coffee. This country’s explosion of technological and organizational advancements are difficult to keep up with, and this naturally increases the number of bills passed. Media machines help to perpetuate polarization along with demanding leaders such as Nancy Pelosi-D (Minority Leader of the House, former Speaker of the House) and Newt Gingrich-R (former Speaker of the House) who emphasize the differences between each other harshly just like the APSA requested fifty years ago. It is important to remember that as early as 1856 a Senator was almost caned to death on the Senate floor by a House member who disagreed with him (Mann and Ornstein 2006).

Hyperpolarization is not a new concept, it has just been expanded. In conclusion, the effects of polarization on congressional productivity are overall just a question of civility, as they have not quite eroded the mission of Congress yet. The quality of bills and the manner in which a consensus is reached (if ever) has suffered just as much as the public opinion of Congress.

However, hyperpartisanship does not directly lead to gridlock in Congress.

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