

1.12 – Senate v. House

- How Senate & House differ from one another
- How these differences affect organization & procedure
- Which set of arrangements is better...
 - For policy?
 - For its members?

Four objective differences

- Constitutional authority
- Different constituencies
- Longer terms
- Smaller membership

Constitutional authority

- House
 - Originates spending bills
- Senate
 - Confirms treaties
 - Confirms appointments
 - Removes president through impeachment
 - Also other officials
 - Advice and consent on judicial nominees
- Question: which is the more expansive set of powers?

Constituencies

- States v districts (with a handful of exceptions)
 - Larger / more populous
 - More diverse (probably)
 - è political problems?
- Stepping stone to other statewide offices
- Question: which is the more desirable constituency?

Longer terms (6 years v 2 years)

- Meant to insulate from politics
 - Hubert Humphrey: The first four years are for god and country, the last two are for the folks back home.
 - Does it?
 - How do we know?
 - Lower reelection rates
 - Fundraising
- Question: which office is more desirable?
 - One implication: lower reelection rates

Finally, smaller membership

- Meant to insure more collegial, deliberative body
 - Although final sizes not known until much later...
- è Vast organizational & procedural consequences
 - Committees
 - Floor debate

Committee assignments

- Sen. Chuck Shumer
(elected 1998)
- Rules – Chairman
- Judiciary
 - 5 subcommittees
 - Chairman (Immigration)
- Finance
 - 3 subcommittees
- Banking
 - 3 subcommittees
- Joint Economic Committee – Vice chair
- Rep. Maurice Hinchey
(elected 1992)
- Appropriations
 - 3 subcommittees
- Natural Resources
 - 2 subcommittees
- Joint Economic Committee

Committees

- @same number as in House
 - è Senators have more assignments
 - è virtually every member of majority is chairman of something
- Question: what does that imply about the importance of committees in the Senate?
 - How about Magnuson or Kennedy?

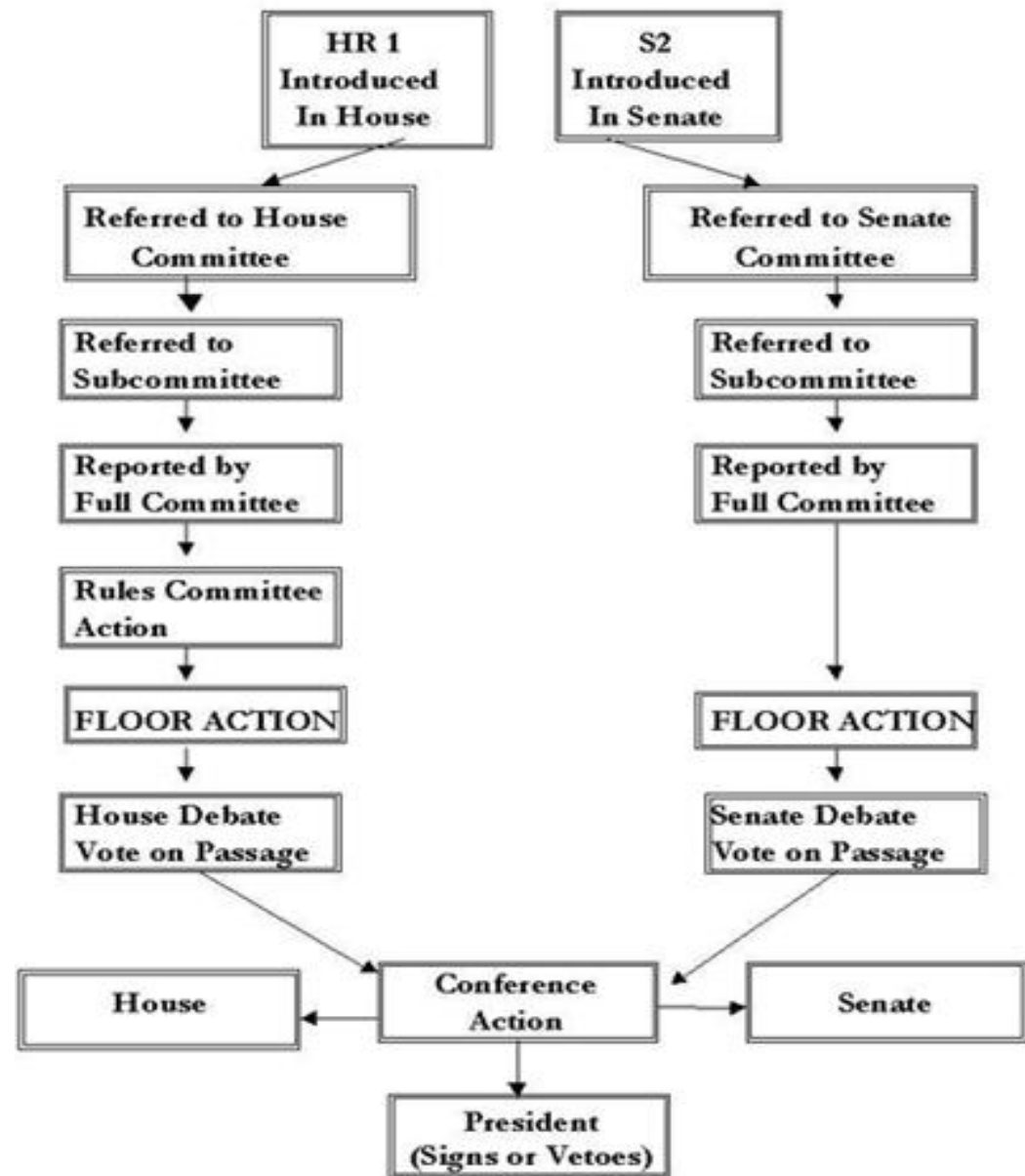
Procedure in “the world’s greatest deliberative body”

- Constitutional design + self-styled upper house...
 - è demand for less restrictive procedure than in the House
 - Recall many members come from the House
 - Freewheeling debates
 - Agenda control
 - Filibusters & other dilatory tactics
 - Germaneness requirements

What's agenda control?

- Ability of leaders of the majority committee to control the nature and timing of proposals considered on the floor
- House Rules Committee
 - Determines the conditions under which a bill might be considered
 - Amendments
 - Amendment order
 - Debate limits
 - House passes rule before considering bill
 - Majority party determines if and when bill comes up for consideration
- Rules Committee as central tool in parties' rise and fall

The “Textbook” Legislative Process:



Agenda control in the Senate

- Majority leader can bring bills to the floor or not
- Then what?
 - No corresponding ability to set parameters of debate (Senate Rules doesn't do what House Rules does)
 - è no limits on amendments or debate time
- Unanimous consent agreements (UCAs)
- How does Majority Leader negotiate UCAs?

Filibusters & other dilatory tactics

- Dilatory = “intended to cause delay, gain time, or defer decision” (Dictionary.com)
- Filibusters
 - Classically = talking a bill to death
- Holds
 - Senatorial courtesy (run amok)
 - Why?
- Amendments (& germaneness)
- Other

History of the filibuster

- 1806: Aaron Burr's housecleaning
 - Removal of "previous question" motion from rules book
- 1820s/1830s – first filibuster occurs
- 1917 – cloture introduced
- 1957 – Thurmond's filibuster record (24 hours, 14 minutes)
 - 1957 Civil Rights Bill
 - Failed
- Question: when are filibusters likely to succeed?
 - Why did Thurmond's fail?

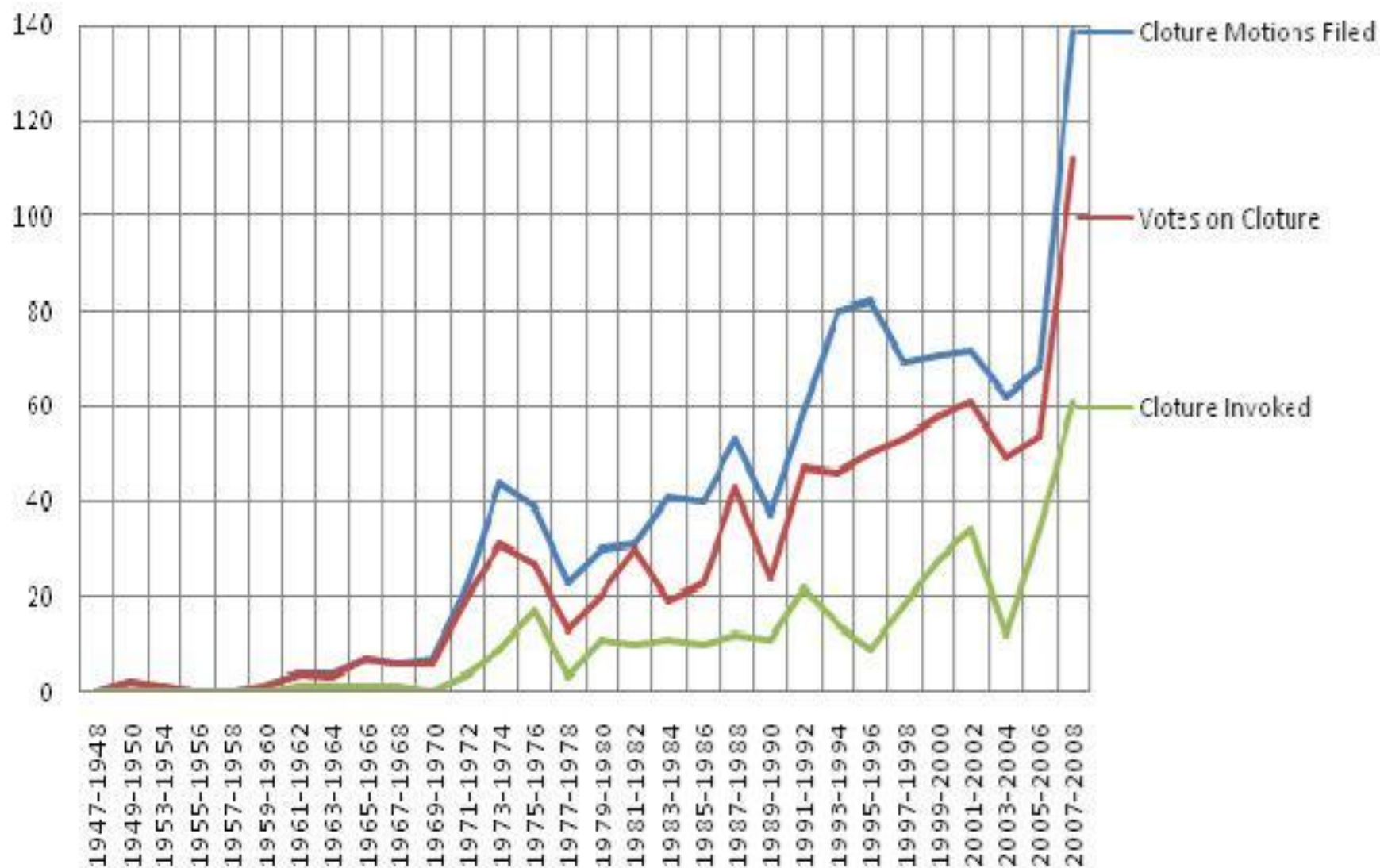
Filibusters since 1975

- Lowered cloture requirements
- Two-track system
 - Intended consequences
- Unintended consequences
 - Lowered costs
 - Filibustering senators neither make speeches nor parliamentary motions nor even vote
 - Parties enter
 - Ambiguity
 - Question: was Economic Stimulus Bill filibustered?

è Huge increase in # of filibusters

- Barbara Sinclair:
 - 1950s: average 1 per Congress (2-year period)
 - 2007-2008: 52 filibusters
 - 1960s: 8% of “major” bills filibustered
 - Today: 70% of “major” bills filibustered
- Ambiguous measures
 - Sinclair’s term for tactics associated with major legislation: “extended-debate-related problems”
 - Cloture as measure of filibusters?

Cloture Voting, U.S. Senate, 1947 to 2008



Germaneness

- Germane = closely or significantly related; relevant; pertinent (Dictionary.com)
- House outlaws non-germane amendments
- Senate doesn't
 - (Some exceptions, like reconciliation)
 - Implication 1: any senator can bring any matter he or she wants to the attention of the floor at almost any point
 - Implication 2: absent a UCA, the majority party has little to no control over the agenda of the Senate

Legislative output in 2009

(some highlights)

- Senate
 - Economic stimulus bill (after House, smaller)
 - Ledbetter Act
 - Confirmed Sotomayor & cabinet officials
 - Far behind on other confirmations
 - *Working on Health Care Reform*
 - 353 roll call votes
- House
 - Economic Stimulus Bill
 - Ledbetter Act
 - Health Care Reform
 - Cap and Trade (Global Warming)
 - *Working on jobs bill (before Christmas?)*
 - *Working on Don't Ask, Don't Tell (shortly after New Year's)*
 - 910 roll call votes

Closing questions

1. Given the choice, would you rather be a senator or representative? Why?
2. Using your knowledge of the structure and procedure of both bodies, which is more likely to pass “good” legislation? Make sure you (briefly) explain what you mean by “good” legislation in your answer.