The U.S. Senate

House-Senate Differences

- **House**
  - Formal
  - Hierarchical
  - Acts quickly
  - Floor debate restricted
  - Less media attention

- **Senate**
  - Informal
  - Collegial
  - Acts slowly
  - Floor debate wide open
  - More media attention

The Senate Filibuster

- Senate rules allow every member to be recognized to speak on every debatable point
- Senators may speak as long as they wish
  - No germaneness rule—e.g., Cruz
  - Tag-team strategy of yielding to “questions”
- The strategy of talking to stall action is a filibuster (a type of pirate in the 1830s)

The Filibuster Pivot (GOP majority)

- With filibusters, the 40th senator (on the minority side) is pivotal
  - If she is closer to the status quo than to the proposed new policy, she filibusters
  - If she is closer to the proposed policy, she supports it

- Source: Keith Krehbiel, *Pivotal Politics*

The Filibuster Pivot (GOP majority)

- Conservatives cannot accept left-of-center compromise
  - Hard to explain to constituents
- Result: Tea Party says, “No” → Gridlock

- Source: Keith Krehbiel, *Pivotal Politics*
Senators filibuster to (a) kill bills or (b) win concessions

- No point in filibustering just to waste time
- In SimCong, if you are stalling you should be able to state a specific goal

Cloture motion stops debates
- Requires 60 votes, a super-majority
- May interrupt speaker at any time
- If successful, each senator may speak for only 1 more hour

Unanimous Consent Agreements are used to bring bills to the floor

Senate leaders negotiate these agreements

“Holds” prevent the need to waste time actually filibustering bills
- But some argue that holds make filibusters more frequent

Filibuster by Senate Majority

Ending Obstructionism: Number of Times Cloture Needed to be Invoked

Source: TheHill.com
29 January 2013
Apathetic Majority vs. Intense Minority

- The filibuster embodies a question of democratic theorists:
- Who should win: an apathetic majority or an intense minority?
- The super-majority filibuster addresses that concern

Madison’s design to prevent tyranny

- The system of representation leads to dispersed power
  - Competing groups control different power points
- This leads to gridlock (which defeats tyranny)
  - Control of any step in the process allows a group to block legislation
- Filibusters allow minorities to block action

Super-majoritarian Rules

- Super-majoritarian rules yield centrist policies and slow change
  - Majorities always complain about supermajoritarian rules; minorities support them
- Sooner or later, everyone ends up losing
  - Bush’s judicial appointees; civil rights legislation
  - Bush on ANWR oil drilling
  - Obama on climate change

Recent Filibuster Reform Efforts

- Proposed strategy: End holds & require senators to filibuster on the floor
  - Goal: Embarrass those who filibuster
  - Might work with judicial appointments
  - Would probably fail with major bills (healthcare reform, climate change, etc.)

Recent Filibuster Reform Effort: End strategy of tabling amendments

- Motion to table: no debate
  - Used to table amendments or all amendments
- Result: Avoids potential filibusters
  - But infuriates opponents
- Democratic leaders allowed debate on GOP amendments
  - e.g., Kill Obamacare was amendment to aviation bill
  - Hope: allowing GOP freedom will ease conflict

Filibuster Reform: the 2013 Deal

- Motion to proceed:
  - Old rule: a single objection postpones action 3 days
  - New rule: If majority gives minority 2 amendments, then bill can be called up in 4 hours with a simple majority vote
- Appointments:
  - Maximum delay 8 hours for low-level presidential appointees & 2 hrs for district court judges
- Little change

Filibuster Reform: the Deal Collapses?

- Nuclear option (or Constitutional option):
  - The Presiding Officer overrules the filibuster rule and allows a simple majority to prevail on a vote
  - The minority challenges the ruling, which can be upheld by a simple majority
  - This would set a precedent
  - Proposed by Richard Nixon in 1957

The Committee System

- 100 senators must cover the same policy areas as 435 representatives
  - Only 16 standing committees (+ selects)
  - Senators typically serve on 3 committees, 10 subcoms

- Senators are usually less expert than House members because more policy jurisdiction

Equality in the Senate

- Power is distributed more equally than in the House
  - Every Republican chairs at least a subcommittee
  - Every Democrat is a ranking minority member

- Filibuster rules give even freshmen a powerful weapon

Broader Power in the Senate

- More opportunities to become involved in different policy areas
  - More committees yields more opportunities
  - Right of recognition on floor yields opportunities

- In the House, committee jurisdiction limits

Foreign Policy and the Senate

- Senate votes on ambassadors, military officers, treaties
- Treaties get attention, but …
  - President negotiates language, Senate says yes/no
  - Presidents can make “executive agreements” to bypass getting a 2/3 Senate vote (e.g., SALT II)
- The Senate can rarely force an action the president opposes, but it can block presidential action
• “During the 1960s and 1970s, the Senate disposed by treaty of such crucial issues as the preservation of archaeological artifacts in Mexico, a protocol relating to an amendment to the International Civil Aviation Agreement, the Locarno Agreement establishing an international classification of goods and services to which trademarks are applied, and an international agreement regarding maintenance of certain lights in the Red Sea.”
  – Sen. Walter Mondale in debate on Case Act (1972)

• But the Senate did not know about or consent to secret military agreements with South Vietnam, Ethiopia, Laos, Thailand, and South Korea

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**Foreign Policy and the Senate**

• International commerce is important
  – Many decisions must go through the Senate
    • Most-favored-nation status
    • Trade agreements (NAFTA, GATT)
      – CAFTA (Central American Free Trade Agreement)
    • Specific trade acts (e.g., regulating oil commerce)
    • International aid

• The Senate plays a significant role here
  – Often just as influential as the president