Chapter 19

The Motion to Recommit in the U.S. House of Representatives

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Introduction

The motion to recommit (MTR), a procedure sometimes used in the House, is the subject of recent debate, regarding whether the motion undermines the majority party's ability to manipulate outcomes in the House (Krehbiel and Meirowitz 2002; Kiewiet and Roust chapter 20; Wolfensberger 2003; Roberts 2004). Most works in this debate suggest at least implicitly that the ability to use the motion confers some advantage on the minority party that it would not otherwise enjoy. Some of these works treat MTR's primarily as dependent variables whose use is to be explained (Wolfensberger 1991, 2003; Roberts 2004). Consequently, they are heavy on analysis of the minority's ability to offer (successful) recommital motions; for the most part, however, they imply that the ability to offer MTR's benefits the minority party, without spelling out the nature of the benefit. Krehbiel and Meirowitz (2003) are an exception, arguing explicitly that the benefit that the minority party gains via MTR's is the ability to exert significant influence upon the shape of legislative decisions.

To the extent that these studies of the motion's significance find that it weakens the majority party, they rely largely on theoretical arguments and anecdotal evidence to back up their claims. We examine various data in a more rigorous empirical evaluation than has heretofore been conducted of hypotheses following from the view that the MTR empowers the minority party to affect policy.[1] We show that these predictions are at

[1] Some of the hypotheses (*Hypotheses 1-3*) are implied by the Krehbiel-Meirowitz model; others are more general predictions about what we would expect to observe if the minority party uses recommitals to undermine majority party agenda control.

sharp odds with observed behavior, suggesting that the MTR does not undermine the majority party as has been argued.

The role of recommitals

If offered, a motion to recommit "with instructions" *and* with an order to "report forthwith" is essentially a proposal to substitute an alternative for a bill that is about to face a final passage vote. If it passes, the alternative bill proposed by the MTR is then pitted against the status quo in a final passage vote. If the MTR is rejected, then the final passage vote on the original bill occurs just as it would in the absence of a recommital motion. As discusses more below, a motion to recommit *must* have both instructions (which specify the alternative proposal) and a forthwith clause in order to work in the way described above.[2]

Proponents of the view that this motion undermines the majority party's control over the agenda argue that, regardless of whether the majority controls the agenda up to that point in the process, the MTR offers and opportunity for the minority to "sneak in" amendment proposals at the end of the process. This ability allows them to offer strategic proposals designed to split the majority party and produce outcomes that the minority party likes better than the majority party's proposed bill.

In contrast, we believe that this portrayal vastly overstates the importance of the motion. There are many means by which the majority party can (and often does) limit the minority party's ability to offer MTR's. In addition, even if offered, the motion would need to get a sincere vote from majority party members to have the effect described

[2] For a fuller discussion of how MTR's work, and the theory underlying this debate, see Cox, Den Hartog, and McCubbins (2004).

above. But we believe that MTR votes are akin to special rules votes in the sense that that majority party members are strongly predisposed to support their leaders on recommital votes.

Hypotheses and evidence

Frequency and success of recommitals

The first three hypotheses we test deal with the frequency with which MTR's are offered and with votes on MTR's. These hypotheses are:

> *H1: Every final passage vote is preceded not just by a motion to recommit, but by a motion to recommit with instructions to amend and report forthwith.*
>
> *H2: Every motion to recommit passes.*
>
> *H3: The minority party never votes against a recommital motion.*

The reasoning underlying the first hypothesis is straightforward. A recommital motion that does not include instructions is merely a motion to kill the bill under consideration, rather than to substitute an alternative. It therefore pits the bill against the status quo, which is exactly what would happen without the MTR. Similarly, if a recommital motion does not contain a "forthwith" provision, then the motion does not have the effect of substituting an alternative proposal in place of the bill under consideration.

We rely heavily on Rohde's extensive House roll call data (2003; see also Rohde 1991) to evaluate these hypotheses. We begin with *Hypothesis 1*. Using Rohde's data, which covers the period from the 83rd through 105th Congresses (1953-1998), we find that there were only 27 percent (848/3139) as many recommital motions as final passage

votes in Congresses 83-105. This gives us a rough estimate that only about one-eighth of all final passage votes in the House are actually preceded by the type of recommital motion predicted in *Hypothesis 1*, which does not support the hypothesis. Krehbiel and Meirowitz also present evidence that contradicts this hypothesis. They coded all recommital motions that got roll call votes in Congresses 80-104, and whether or not each included instructions or ordered that the bill be returned forthwith.[3] They report that there were 932 motions in this period, 695 of which included instructions. Of this 695, 503 included an order to report forthwith. Thus, only 54 percent of the recommital motions that KM report are the type of recommital motion on which their model relies. KM do not tell us how many bills got roll call final passage votes in this period, but we can estimate a ballpark figure.

We turn now to *Hypothesis 2*, the hypothesis that all recommital motions pass. Turning again to Rohde's data, we find that, of the 848 recommital motions, only 13 percent (109) passed. As before, this is inconsistent with the hypothesis.

To evaluate *Hypothesis 3*, we use Rohde's data to calculate the rate at which the minority party opposes recommital motions. To do so, we simply tabulate the proportion of votes on recommital motions for which a majority of the minority party members who voted actually vote against the motion. Of the 848 motions, a majority of the minority

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[3] It is unclear whether KM include motions to recommit conference reports in their data, though it appears that they do. They count 932 recommital motions in Congresses 80-104, which is in line with the 848 found in Rohde's data for Congresses 83-105. As noted, the total of 848 recommital motions in Rohde's data does include motions to recommit conference reports.

party opposes the motion 160 times (19 percent). It is difficult for a model in which the MTR is a tool of minority party agenda control to explain why a majority of the minority party opposes nearly one out of five recommital motions.

The policy impact of recommitals

In addition to examining how often MTR's are offered and voting patterns when they are offered, we also address the policy implications of recommitals. We do so by examining whether recommitals produce outcomes that the majority party dislikes, which we should expect to see if the minority party uses MTR's to undermine the majority party's control over outcomes. If the recommital motion is really a significant weapon for the minority party, we might reasonably expect to see a number of instances in which a passing recommital motion leads to the majority party being "rolled" on final passage of a bill (that is, the bill passes despite being opposed by a majority of the majority party members).

To determine whether this is in fact the case, we gathered additional data about each of the 109 passing recommital motions in Rohde's data. For each, we used the ICPSR roll call vote manuals to identify the measure that was recommitted by each motion. Using the manuals and House Calendars, we then determined whether each measure received a final passage vote after the recommital motion. For those that received roll call votes on final passage, we coded whether a majority of majority party members opposed the bill on final passage.

We found that, of the 109 passed recommital motions, 60 were motions to recommit House bills, 29 were motions to recommit conference reports,[4] seven were motions to recommit House resolutions, 9 were motions to recommit House joint resolutions, two were motions to recommit House concurrent resolutions, and one was a motion to recommit a Senate joint resolution. Of the 70 recommital motions on House bills or joint resolutions, 18 did not include instructions, three included instructions but did not order the measure returned forthwith, and 49 included instructions and an order to report forthwith. Of these 49 passing recommital motions, *none* led to final passage roll call votes on which the majority party was rolled. Given this, we find it particularly hard to believe that the motion to recommit is a tool that the minority party uses to undermine the majority party.

Conclusion

It seems clear that the minority party *does* value the right to make recommital motions. This seemingly implies that they see recommitals as being valuable in some way. We have argued that, whatever the value is, it is *not* policy influence—but we have left open the question of why the motion is valuable to the minority party. We make no attempt here to provide a definitive answer to this question. However, we are inclined to believe the explanation suggested by Wolfensberger (1991) and Bach (1998), which is that the motion is valuable to the minority for position-taking reasons. That is, it allows

[4] Conference reports can be recommitted with instructions, but the instructions *are not binding upon conferees*; a conference committee, moreover, cannot be ordered to report forthwith. So recommital with instructions of a conference report essentially constitutes an advisory statement about what the House would like for conferees to do.

the minority party an opportunity to put forth its own alternative on the floor, and to force a recorded vote on the minority proposal.

We conclude by suggesting three directions for future research on the motion to recommit. The first is an analysis of the just-mentioned possibility that recommitals present the minority party with valuable opportunities for position-taking. The second direction is to study the relationship between the MTR and the Conditional Party Government model (Rohde 1991; Aldrich and Rohde 2000). Roberts (2004) shows that motions to recommit are more successful when the majority party is more heterogeneous, suggesting that, whatever the value of MTR's to the minority party, it provides them with greater benefits when the conditions for strong party government fall short of being met. The third direction is a comparative analysis of recommitals. In the Senate, for example, the motion to recommit is an important prerogative of the majority party (Tiefer 1989; Oleszek 2001), as it was in the House until early in the Twentieth century. This indicates that recommital motions can play different roles in different legislatures, and suggests the importance of studying these motions in their broader contexts.