Research Article

Obstruction and the Politics of Civilian Nominations

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Abstract

Conflict over presidential nominations has grown more acrimonious in recent decades. Senators have increasingly exploited their procedural prerogatives to block or delay nominations that they oppose. In this article, we utilize a newly collected dataset on holds placed by Republican senators to explore the usage and effect of obstructive tactics on nominations in the 100th to 104th Congresses (1987-1996). We find that nominees subject to a hold see a significant delay in disposition of their nomination, but we do not find evidence that holds regularly prevent nominees from being confirmed by the Senate.

Keywords

obstruction, nominations, senate, holds

Introduction

The confirmation process for presidential nominees has grown quite acrimonious in recent decades. The U.S. Senate has regularly been criticized by presidents, critics, and pundits alike for its plodding process that has resulted in long delays in considering nominations and scores of unfilled vacancies

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across numerous areas of the federal government. Although the process has been reformed on a number of occasions, few would describe it as efficient (Bond, Fleisher, & Krutz, 2009; Peters, 2013).

Merrick Garland's nomination to the D.C. Circuit Court of Appeals in 1995 illustrates many of the obstacles that presidential nominees face in the Senate. Garland's nomination was reported favorably by the Senate Judiciary Committee in late 1995, but was not brought to the floor during the 104th Congress. Garland's nomination was delayed in part because a "hold" had been placed on it by Senators Jesse Helms and Lauch Faircloth, both Republicans from North Carolina. Holds are not a formal Senate procedural tactic, but rather are a private threat issued by a senator to his or her party leader. In this case, Helms stated that he would "object to any time agreement or unanimous consent request with respect to consideration of the nomination of Merrick B. Garland to be United States Circuit Judge for the District of Columbia Circuit, calendar number 434."[1] These threatened objections are often considered filibuster threats by leaders, so nominees and measures that have a hold placed on them rarely move until the hold is lifted. As such, many observers have noted that holds can serve as a de facto veto over a nominee or measure (Sinclair, 1989).

Although many have noted the importance of holds in understanding how the Senate functions, our understanding of the effects of holds are limited by lack of data. They are typically not part of the public record and are typically retained in the leadership offices of the Senate. We were, however, able to create a unique dataset on holds based on records found in the personal papers of former Senator Robert J. Dole (R-KS). We use these data to analyze how holds affect the nomination and confirmation process. Specifically, we ask and answer two questions: First, what pattern exists for holds on nominees? Second, how do holds affect the disposition of nominees? Senators may use holds in an attempt to permanently forestall a nomination or to delay confirmation while they seek leverage on other matters before the Senate. Our data allow us to examine the types of nominees held, confirmation rates, duration, and disposition methods for nominees targeted by holds to address these questions. We find that nominees that are subject to holds face significant delays in the confirmation process and are more likely to be subject to a roll call vote in the Senate. However, we do not find evidence to suggest that nominees subject to a hold fail at a higher rate than those who are not subject to a hold.

Senate Procedure and the Confirmation Process

On paper the nomination and confirmation process has a set of clear steps. The president selects a nominee and the Senate convenes hearings, schedules floor

time, and votes on confirmation. Confirmation is technically a majority-rule process, but in practice the threat of obstruction hovers over most Senate proceedings, including—for most of Senate history—confirmations. The threat of obstruction shapes the consideration of most measures in the Senate. The absence of a motion on the previous question means that the Senate does not have an efficient, majority-rule, agenda setting mechanism akin to the special rule in the House. Instead, the Senate typically relies on Unanimous Consent Agreements (UCAs) negotiated by party leaders as a means to bringing order to Senate proceedings (Roberts & Smith, 2007; Smith & Flathman, 1989). For the time period we analyze in this article, the overwhelming majority of all confirmations were brought to the floor under the provisions of a UCA.[2] This dependence on UCAs to manage the Senate's business gives holds, and the individual senators who employ them, their power. By threatening to object to a UCA request via a hold letter, a senator signals his or her intent to obstruct the nominee through filibuster if necessary.[3]

UCAs are a double-edged sword for majority leaders in the Senate. If they are agreed to they allow the Senate to efficiently process nominations and other matters. However, the need for unanimity makes all senators potentially pivotal and any objection by any senator can push a nomination off the agenda (Oppenheimer, 1985; Ostrander, 2015). Indeed, the available evidence indicates that senators of all ideological stripes utilize obstructionist tools when it suits their needs (Bell, 2011; Howard & Roberts, 2015). At its core, a hold is a threat to deny consent. While each holding senator may have any of a variety of goals, all holds seek to slow or stop floor proceedings. Our goal in this article is to analyze how the chamber deals with holds and what effects they have on nomination outcomes in the Senate.

Senate Individualism and Confirmation Procedure

Our focus on obstruction's effects on nomination outcomes leads us to focus on how the chamber and its leaders deal with these threats. Once reported to the chamber, the bargaining between the objecting senator and the majority leader begins. Leaders have multiple options when faced with a hold on a nominee. First, leaders can ignore the hold and push a nomination through regular floor procedure. This strategy effectively undermines any efficiency gains achieved through UCA. If a nomination proceeds it this way, it will consume valuable floor time. Pushing nominations through potentially rough floor proceedings with no clear forecast of the endgame means that leaders can ill-afford to allow an individual senator to tie the chamber into procedural knots over a single nominee.

Most often, leaders will postpone consideration of a nominee in the face of the hold. In doing so, leaders can attempt to bargain with objecting senators seeking to take a nominee hostage through threatening delay and obstruction. These members may not be seeking to prevent nominee confirmation, but instead use their obstruction capacity to force leadership bargains (Oppenheimer, 1985; Steigerwalt, 2010).[4] Senators may simply desire more time for consideration or withdraw their objection if appeased on another measure.[5] Alternatively, leaders can permanently pull a nominee from consideration, thus preventing Senate confirmation. Pulling nominees targeted by holds from consideration allows leaders to preserve the most possible floor time and may allow the president to choose a more suitable nominee.

All of these responses to obstruction are time consuming. Thus, we expect holds to lengthen the time needed to dispose of a nominee regardless of the strategy employed by the leadership. Even if the senator placing the hold is perfectly accommodated, we expect this to take time. We expect that nominees that have drawn a hold are also more likely to be subject to a roll call confirmation vote. Roll call votes on nominees not only slow the process but they allow senators who have placed a hold an opportunity to publicly express opposition to the nominee in question. We also expect that a hold on a nomination should lower the probability of confirmation. In some cases, it may not be possible to accommodate obstructing senators and the nomination simply will not be acted on. This was Merrick Garland's fate. His nomination expired at the conclusion of the 104th Congress; however, he was renominated and confirmed during the 105th Congress by a vote of 76-23.

Data and Method

Our data for holds are based on correspondence between Republican senators and former Republican Leader Bob Dole (KS) for the 100th (1987-1988) through the 104th (1995-1996) Congresses. These data were drawn from the personal papers of Senator Dole housed at the Robert J. Dole Institute of Politics at the University of Kansas.[6] We found 1,597 unique hold letters containing 2,655 total holds. In all, 135 of these holds were related to nominations, with 50 nominees being subject to a hold.

These data provide a unique window into Senate confirmation dynamics. We are able to observe which nominees were obstructed and ask specific questions about confirmation dynamics that occur in the face of obstruction. Archival records of physical hold letters supply unique, verifiable records linking individual objection to specific nominees, including the objecting senator, the date the objection was registered, and the target of the hold. Gathering and verifying this type of private obstruction is difficult—if not

impossible—outside the data used here. Thus, these data provide the most recent directly observable perspective on Senate holds available at this time.

As noted above, a senator may place a hold for a variety of reasons. On occasion, senators explicitly state the reason for the objection. For example, Senator Charles Grassley (IA) sent a hold letter to Leader Dole on February 19, 1992, regarding the nomination of Andrew Card to be Secretary of Transportation. In this letter, Grassley explicitly stated that his hold was being placed because he wanted to have an individual meeting with Card before he was confirmed. Card was later confirmed by the Senate via unanimous consent. In a more extreme example, Senator Warren Rudham of New Hampshire sent Leader Dole a letter on October 10, 1990, placing a hold on John Datt's nomination to be a member of the Farm Credit Administration Board. The typed version of Rudman's letter is the standard boilerplate language used by many senators to place a hold, yet there is a handwritten portion at the bottom of the letter, presumable written by Senator Rudman, that reads, "P.S. I will do all that is needed to prevent this nominee from being considered! This hold is for real!"[7] Unsurprisingly, Datt's nomination was not acted on by the full Senate.

Table 1 summarizes Republican holds on all civilian nominees and reveals systematic variation in the usage of holds. Looking at the Total Holds row, we see the highest incidence of Republican holds (56) occurring during the 103rd Congress. This is not surprising as it is the only Congress in our data with a Democratic president and Democratically controlled Senate. Obstruction was the only tool that the Senate Republicans had at their disposal in this Congress. In contrast, the fewest number of Republican holds we observe (8) was in the 102nd Congress during the 2nd half of George H.W. Bush's presidency. This table also shows that nominee holds are not commonplace events, with no more than 56 total holds placed by Republicans on 12 or fewer nominees in any of the five Congresses. Traditional Senate descriptions have individual senators exercising their procedural prerogatives on almost every nominee, but Table 1 confirms that the vast majority of nominees were not subject to a hold.[8]

Table 1 also presents data on the targets of these holds. Our data reveal that no area of government has more than 4% of its nominees targeted by holds, and for some areas of government, the rate is below 1%. One interesting finding from Table 1 is that the court system has among the lowest hold target rates for any governmental area. While this does include many courts, including tax courts, the percentage does not appreciably increase for only district, circuit, and Supreme Court nominees. While elected officials, pundits, and scholars worry about holds on judicial nominees, Table 1 indicates that these

Table 1. Civilian Nominees and Republican Holds: 100th to 104th Congresses.

	Nominees Held in Congress					
Agency	100th	101st	102nd	103rd	104th	Total
Major board	1 (33)	0 (41)	1 (23)	1 (33)	1 (25)	4 (154)
Government corporation	1 (54)	0 (41)	0 (47)	1 (73)	0 (52)	2 (267)
Lower executive	2 (228)	4 (381)	6 (214)	8 (553)	4 (138)	24 (1,514)
Ambassador	6 (92)	1 (133)	0 (111)	0 (128)	0 (100)	7 (564)
Judiciary	2 (123)	0 (102)	0 (195)	0 (152)	3 (117)	5 (589)
Other	0 (325)	3 (312)	0 (286)	0 (342)	3 (252)	6 (1,517)
Total	12 (854)	9 (1,010)	8 (876)	10 (1,281)	11 (684)	50 (4,705)
Total holds	43	10	9	56	17	135

Note. Each cell represents the number of nominees within a governmental area subject to a hold within a given Congress. Numbers in parentheses represent total nominations within a governmental area within a given Congress. Row totals are the number of held nominees and nominations made within a governmental area. Column totals are the number of held nominees and total nominations made within a Congress. The final row represents the total number of holds made during a Congress.

holds are not as commonplace as widely thought. All areas do have nominees targeted by holds, and all Congresses observe multiple held nominees, but no area of government has a dramatically higher percentage of nominees targeted above any other. The only outlier on this count is that fully 50% of Republican holds in the 100th Congress (Reagan's last Congress as president) were on nominees to be ambassadors.

Table 2 presents nominee confirmation across the number of holds. The first two rows show nominees not held and all held nominees, while the remainder presents confirmation across the range of holds. Two conclusions are apparent in Table 2. First, there are no substantively meaningful differences in confirmation rates for nominees held versus those not subject to a hold. Second, no clear pattern exists across the range of the number of holds for confirmation.[9] Nominees with three and seven holds did not pass, but nominees targeted by more than seven holds all passed the Senate.

To more fully test our expectations, we estimate several multivariate regression models. One of our expectations is that holds increase the duration of nominations. We test this by estimating a Weibull parametric survival model.[10] We utilize logistic regression models to test whether the presence of a hold alters the probability of confirmation for nominees and the probability of a recorded roll call vote on a nominee.[11]

Table 2. Nominee Confirmation by Held Status and Number of Republican Holds.

Nominee holds	Confirmed	Not confirmed
Nominees not held	79.89% (3714)	20.11% (935)
All held nominees	80.0% (40)	20.0% (10)
One hold	85.19% (23)	14.81% (4)
Two holds	82.35% (14)	17.65% (3)
Three holds	0% (0)	100% (1)
Seven holds	0% (0)	100% (2)
>Seven holds	100% (3)	0% (0)
All nominees	79.89% (3,754)	20.11% (945)

Note. Nominees not held are all nominees not targeted by a hold, while held nominees are all nominees targeted by a hold in the 100th to 104th Congresses. The >seven holds category includes nominees with eight, nine, and 40 holds. Percentages are by row and number of nominees in cell in parenthesis.

Dependent Variables

We utilize a count of days each nomination was pending to establish the time a nomination was "at risk" for confirmation.[12] These data come from congress.gov, the Library of Congress' online database.[13] The dependent variable for the confirmation model is a dichotomous measure denoting if a nominee was confirmed by the Senate or not. The dependent variable for the roll call disposition model is a dichotomous measure indicating whether a nominee was disposed through a recorded roll call vote.[14]

Independent Variables

The primary independent variable of interest is whether or not a nominee was subject to a hold. We employ two measures for this: the first is simply an indicator variable for whether or not the nominee was held. We use this measure throughout the study to indicate the presence or absence of a hold on a nominee. Our second measure is the count of the number of senators placing a hold on a particular nominee.

We also employ a number of distance variables as controls to account for the spatial dynamics of confirmation. The president–filibuster distance measures the absolute ideological distance between the president and the Senate filibuster pivot in each Congress. The president–chair distance is the absolute ideological distance between the president and the relevant committee chair in each Congress. The opposing party–president distance is the absolute ideological

distance between the president and the opposition party median in each Congress. Each of these distances are measured with Common Space scores.[15]

We also include controls for the institutional and nominee-specific circumstances that each nominee faces. Unified government is a dichotomous indicator of same-party holds for the presidency and the Senate majority. Presidential approval is the Gallup approval rating of the president for the month in which a nomination was made. Presidential election year indicates if a presidential election occurred in the year a nomination was made. Previously appointed nominees are accounted for in a dichotomous fashion, as senators may perceive these nominees less favorably (Black, Lynch, Madonna & Owens, 2011). The amount of time available to consider a nominee may change confirmation and disposition and is accounted for through counting the months remaining upon nomination. Finally, we include a series of dummy variables for type of nomination (Asmussen, 2011; Holmes, 2007; Lewis, 2008; Slotnick & Goldman, 1998).

Results

The results of the Weibull survival models for nominee duration appear in Table 3. Column 1 presents the model for all nominees with holds as a dichotomous indicator, and Column 2 presents the model for only held nominees with the number of holds on a nominee as a variable. Even while controlling for a host of institutional and ideological effects, the usage of a hold still lengthens a nominee's "at risk" period in a statistically significant manner. That is, consistent with our first hypothesis, held nominees take longer to confirm than non-held nominees. The effect of changing from a non-held nominee to a held nominee on the duration of the nomination increases consideration duration by 32%—nearly one-third of non-held nominee duration.

The substantive effects of a hold on nominee duration can be seen clearly in Figure 1. This figure presents the Kaplan–Meier estimates for nominees, split between those held and not held. This figure provides clear evidence for our first hypothesis. The Kaplan–Meier curve for held nominees is above that of non-held nominees for the entire figure. In addition, for much of the distribution, there is a great difference between the two curves—demonstrated as the vertical distance between the two estimates—showing the effect of holds on nominee duration.

We also see relationships between our spatial distance variables and nominee duration. Where there is more distance between the filibuster pivot and the president as well as between the opposing party median and the president, the duration of a nominee increases significantly. We find no relationship between committee chair/president distance nominee duration. Our findings indicate that the presence of unified government decreases the duration time of a nominee by 65%.

Table 3. Duration of Nominees.

Variable	All nominees	Held nominees
Held	−0.411* (0.160)	
Number of holds		−0.198* (0.044)
President–Filibuster distance	−1.900* (0.235)	−1.706 (2.516)
President–opposing party distance	−2.835* (0.907)	−31.824* (13.735)
President–comm. chair distance	−0.048 (0.133)	3.535* (2.868)
Previous recess appointment	−2.108* (0.165)	
Presidential approval	0.013* (0.002)	0.018 (0.035)
Months remaining	−0.006 (0.004)	0.062 (0.042)
Unified	0.504* (0.108)	2.470 (1.444)
Presidential election year	0.063 (0.064)	0.952 (0.700)
Major board	−0.044 (0.096)	
Corporation	−0.333* (0.077)	6.293* (1.433)
Lower executive	0.250* (0.041)	0.686 (0.528)
Ambassador	0.361* (0.054)	1.347 (0.924)
Judiciary	−0.277* (0.052)	1.749 (1.029)
Intercept	−3.228* (0.808)	9.962 (10.533)
N	4,619	50
Log-likelihood	−5,999.656	−46.600

Note. Estimates are from Weibull Parametric Survival Models. Dependent variable is the number of days a nominee is considered in the Senate with a censoring control. Standard errors in parentheses.
*$p \leq .05$.

This result comports with Binder and Maltzman (2002). Increasing presidential approval generates a statistically significantly reduced "at risk" duration, with a 1 *SD* increase lowering nominee duration by approximately 11%. Increasing time remaining upon nomination and a nomination occurring in a presidential election year do not have a statistically significant effects on nominee duration.

Previous recess appointees' consideration lasts significantly longer than other nominees, with these nominees' duration approximately 88% longer. This fits with previous conclusions about previous failed confirmation and possible Congressional backlash against the recess appointment process more generally. The controls for the area of government to which a nominee relates are statistically significant, with the exception of major boards, but the effect of each area is inconsistent for shortening or lengthening the expected duration of consideration.

Column 2 in Table 3 presents the model for civilian nominations targeted by holds.[16] We include an indicator for the number of holds on a nominee in this

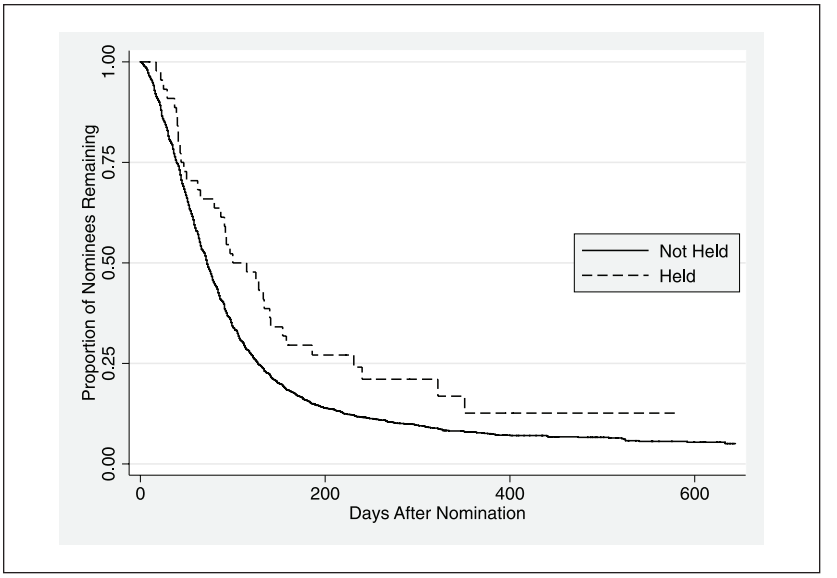

Figure 1. Effect of holds on nominee duration.

model, as the test is for the effect of additional holds on a nominee's duration. This effect is negative and statistically significant. Consistent with our expectation each additional hold placed on a nominee increases the consideration duration by approximately 23% on average, all else equal. Both the occurrence of a hold on a nomination and the number of holds on a given nominee increase nominee duration in the Senate. This presents evidence in favor of our bargaining expectations. Nominees subject to holds take considerably longer to consider, and each additional nomination lengthens consideration above the first. Thus, it appears that senators use these holds to at the very least draw out the consideration process. Nearly all institutional variables remain in the same direction between the two models, with the lone exceptions of presidential approval and the distance between the president and the relevant committee chair.[17]

The results for nominee confirmation and disposition are presented in Table 4, with confirmation in Column 1 and disposition by roll call vote in Column 2.[18] Unlike their effect on duration, the presence of a hold does not lower the probability of passage. This is perhaps not surprising, as Table 2 indicates a generally high confirmation rate and Table 1 shows a relatively low hold rate of about 1%. This, along with the descriptive tables above, argues against leaders reacting to holds by killing nominations.[19]

Table 4. Confirmation and Disposition of Nominees.

Variable	Confirmation	Roll call disposition
Held	−0.342 (0.429)	2.222* (0.428)
President–filibuster distance	−3.085* (0.515)	−6.520* (2.390)
President–opposing party distance	−0.649 (2.108)	11.026 (6.405)
President–comm. chair distance	0.196 (0.366)	−2.802* (0.742)
Previous recess appointment	−7.096* (0.653)	
Presidential approval	0.049* (0.006)	−0.024 (0.017)
Months remaining	0.160* (0.012)	0.152* (0.029)
Unified	1.432* (0.303)	−1.270* (0.565)
Presidential election year	0.266 (0.152)	0.784 (0.580)
Major board	−0.013 (0.250)	0.940* (0.433)
Corporation	−0.034 (0.197)	−1.276 (0.685)
Lower executive	0.606* (0.117)	−1.532* (0.333)
Ambassador	1.069* (0.176)	−0.256 (0.337)
Judiciary	0.217 (0.127)	−0.470 (0.362)
Intercept	−1.712 (1.712)	−8.464 (5.802)
N	4,699	4,696
Log-likelihood	−1,769.604	−365.122

Note. Estimates in each column are from Logistic Regression Models. Dependent variable is the first column passage of a nominee, coded 1 for confirmed and 0 for not. Dependent variable in the second column is confirmation through a roll call vote, coded 1 for roll call and 0 for not. Standard errors clustered by nominee in parentheses.
*$p \leq .05$.

A 1 *SD* increase in the distance between the president and the filibuster pivot statistically significantly lowers the probability of confirmation by approximately 3%, all else equal. Neither greater distance between the president and the opposing party median or increasing distance between the president and the relevant committee chair affects the probability of passage on average, however. Nominations made earlier in a Congress, as well as under unified government, are more likely to be confirmed by the Senate. Nominees in presidential election years were no more likely to be confirmed than those nominated in other years. The controls for the area of government are inconsistent, but the statistically significant areas (lower executive and ambassadors) both increase the probability of a nominee's passage. In addition, previous recess appointments are 81% less likely to be confirmed by the Senate upon their renomination. These results suggest that while holds affect the process, their effect on confirmation is perhaps accounted for through the spatial variables for filibuster and opposing party pivots.

The results for roll call disposition are presented in Table 4, Column 2.[20] Some effects in this model are intuitive, especially in light of our previous results. This model clearly demonstrates that holds make nominees more likely to be disposed through roll call votes. Held nominations disposed of through roll calls are perhaps still likely to pass—as seen in Table 4, Column 1—but the presence of holds makes this most time-consuming disposition strategy much more likely. The presence of this objection on a nominee statistically significantly increases the probability of roll call disposition by more than 10%.[21] While roll call votes are still unlikely even for held nominees, this dramatic increase speaks to the power of objection to delay eventual confirmation.

Greater distance between the president and the filibuster pivot—as well as greater distance between the president and relevant committee chair—make roll calls less likely, all else equal. Increasing time remaining upon nomination unsurprisingly makes roll calls more likely. With fewer time constraints, nominations in the second month of a Congress more than 8 times more likely to receive a roll call vote. Unified government makes disposition through roll call vote 3 times less likely, and nominations made in presidential election years are no more likely to be disposed through roll call votes. Nominations made by popular presidents are no more likely to be disposed through a roll call vote, and individual areas of government are inconsistent—with only major boards and lower executives statistically significant.[22] These results demonstrate that institutional and political factors influence nominee disposition, but the presence of objection dramatically raises the probability of a roll call vote.

Discussion and Conclusion

The unique procedural rules that govern the U.S. Senate affect the dynamics of presidential nominations in multiple ways. Presidents seeking to secure swift confirmation for their nominees have access to a wealth of information before sending a nominee to the Senate, such as the partisan control of the Senate, the positions of some relevant pivots, and the timing of the nomination. Even with all of this *ex ante* information available to the president, the individualistic nature of Senate rules still shape confirmation dynamics.

Individual members can, and do, exploit their procedural prerogatives on nominees. Senators undoubtedly have myriad goals when placing holds, some do clearly object to the nominees, while others use them as bargaining tactics, or simply need more information. Regardless of the motive, the effects are consistent. We see this most clearly through delayed disposition, as held nominees take significantly longer to be considered by the chamber than non-held nominees. These results clearly demonstrate that the individualistic nature of the Senate has real consequences for presidential nominees. Our data suggest that leaders pay

attention to holds and react to the threat of objection as a regular practice. Not only are held nominees delayed, they are often subject a roll call vote, which is the most time-consuming disposition method available to the Senate.

While our data suggest that held nominees are delayed, we find little evidence that nominees subject to holds are less likely to be confirmed. In fact, nominees subject to holds are confirmed at the same rate as nominees not held. This suggests that most holds are used as bargaining chips or that leaders successfully call the bluff on holding senators. We cannot, with our data, sort out which is the case. The results do suggest that Senate individualism does not regularly prevent the president and a majority of the Senate from getting their desired outcomes on nominees. This suggests that, at least for the time period we analyze, holds and filibuster threats may be less lethal that they are portrayed by some pundits and reformers. Holds and the threat of obstruction clearly have demonstrable effects on confirmation dynamics, but our results suggest that leaders are typically able to successfully navigate around obstructing senators.

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Supplemental Material

Supplemental material for this article is available online.

Notes

1. Letter from Jesse Helms to Bob Dole, March 20, 1996.
2. In terms of disposition, our data show that 43.9% of nominees were confirmed via unanimous consent, 34.3% were confirmed via voice vote, 1.8% via a roll call vote, 2.1% were withdrawn, and 17.8% were not acted on by the Senate.
3. The Senate recently implemented two reforms aimed at overcoming obstruction and holds. First, the Senate changed the rules for indefinite single-member holds in 2007 by mandating these holds be made public after 6 days (Oleszek, 2013). The sunshine provisions for holds eliminated indefinite single-senator private holds, but made no changes to multiple-member rolling holds. Second, the reform by ruling episodes in the 113th, 115th, and 116th Congresses enable a Senate majority to invoke cloture on presidential nominations. While lowering the margin to overcome obstruction and shortening the post-cloture debate period on some nominees, the rule change does not eliminate delay stemming from individual obstruction.
4. Senator goals when placing holds likely vary considerably. Some wish to simply learn more about a nominee, some would like some sort of accommodation before agreeing to support a nominee, while some intend to prevent confirmation. Howard and Roberts (2015) provide a six-part coding system for holds on legislation. We are generally unable to distinguish hold types for nominees. Unlike as is often the case with legislation, senators rarely explain *what* they want in exchange for lifting the hold that they are placing.
5. Nominations cannot be amended, making the process of dispute resolution unlike that of legislation. The inability to change a nominee prior to disposition creates a higher probability that consent will either be given at the start of consideration or not at all.
6. We thank Morgan Davis for assisting us in locating these materials and assisting us in reproducing them.
7. Both of these letters are included in the supplemental appendix.
8. Of course we do not have Democratic holds for this era, so it undoubtedly the case that we are undercounting the total number of holds. However, we observe Republican behavior as a majority and a minority party and with and without a same-party president. In none of these configurations do Republicans place holds on more than a small fraction of nominees and we have no reason to expect the behavior of Senate Democrats to be materially different.
9. A χ^2 test for confirmation between nominees targeted by holds and those not targeted is nonsignificant.
10. We utilize this model for two reasons. First, some nominations are never considered during the period and fail at *sine die* adjournment, thus making them right censored. The duration of these nominations may be the same as confirmed nominees, but the underlying process between the two nominations is very different. Removing these nominations from the data creates potential selection bias in the observations and bias in the parameter estimates (Box-Steffensmeier & Jones, 2004). Second, that we do not expect a proportional hazard rate causes

us to use a parametric model. Estimating a Cox proportional hazard model does produce a model with the same inferences reached, but the proportional hazards assumption is violated. A positive coefficient in this model indicates an increase in the hazard rate, which means that a unit increase in the variable has the effect of decreasing the duration of the nomination. Thus, negative coefficients cause an increase in the duration with the same unit increase.

11. Confirmed and unconfirmed nominees are unequal in our data. While the assignment into categories need not be equal in a logit, it is possible that the data generating process is inconsistent with logistic regression. Thus, a rare events logistic regression with robust standard errors may better account for this data-generating process (King & Zeng, 2001). Estimating this model does not supply different results, thus we utilize the more common model. Positive coefficients in these models indicate that a unit increase in that variable increases the probability that the dependent variable will be observed.
12. A nominee's duration under consideration is a count of the number of days from receipt of the nomination to the date of final action in the Senate in the 100th (1987-1988) to 104th (1995-1996) Congresses. Right-censoring is a dichotomous technique, with a value of 1 indicating that the nominee was either disposed by the Senate or withdrawn from consideration by the president before adjournment.
13. We thank Black, Madonna, Owens, and Lynch (2007) for sharing their initial coding of these data.
14. Inferences similar to those reached with this model can be reached through a multinomial logistic regression model.
15. There is a correlation of 0.57 between the opposing party–president distance and the president–chair distance. While these measures do vary together, the theoretical expectations for each is unique and therefore included in the model.
16. Two covariates, previous recess appointments and major board appointments, are removed from this model due to perfect prediction.
17. Presidential approval also becomes not statistically significant in this model, while the distance between the president and the relevant committee chair remains nonstatistically significant.
18. As there are repeated nominations in our sample, the estimates in Table 4 are clustered by nominee. These multiple occurrences stem primarily from renomination of previously failed or withdrawn nominations. Estimating the model without clustering produces different parameter estimates, but does not change the substantive results.
19. Estimating a model accounting for the number of holds on a nominee produces similar inferences, thus we do not include it here for space considerations.
20. *Previous recess appointment* is dropped from the model due to near-perfect prediction. Including this variable in the model does not change the result of interest, but does make the model unstable.
21. This may also be senators desiring to put their opponents on the record about the confirmation of a possibly contentious nominee. Either way, this remains evidence of leaders bargaining with members about payoffs.

22. These inconsistent results, along with varying statistically significant effects for these covariates in Table 4, means that reaching inference from these effects should be done carefully.

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