

“Learning to Govern”: The Texas Experience

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The Republican Party took control of the Texas House of Representatives for the first time in 130 years on January 14, 2003. How did the Texas House change as the Republicans learned how to be the majority party and the Democrats struggled with being the minority? The Texas House’s painful shift from a partially bipartisan to a fully partisan chamber was not only the product of inexperienced leadership and harsh partisan bullying. The changes were largely the product of a broader process of electoral calculation and consequent deinstitutionalization affecting many other state legislatures that have not experienced recent shifts in party control.

On January 14, 2003, the first Republican majority in 130 years took control of the Texas House of Representatives. How did the Texas House change as the Republican Party assumed the role of the majority party and the Democrats the role of the minority party? For the previous twenty years the Texas House operated as a partially bipartisan rather than a partisan legislature, unlike the modern U.S. House of Representatives. Did the Texas House continue the tradition under new management, or did it become increasingly partisan? Why? In brief, what were the significant changes and continuities in the

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Texas House as the parties switched their roles?

Our thesis is that, while the Texas House did suffer from inexperienced leadership and harsh partisan bullying, the changes in the House were part of a broader pattern of electoral calculation and consequent deinstitutionalization affecting many other state legislatures that have not experienced recent shifts in party control. We studied the 2003 regular session (January through June) of the Texas House and explored the impact of electoral calculations and party agendas on how fundamental norms, procedures, and rules changed and how the two parties operated within these changes. In particular, we examine rule and norm changes dealing with seniority, motions to amend, the House Speaker's powers, points of order, calls for recorded floor votes, and the use of quorum calls. Our article tests three explanations for the increase in partisanship and incivility during this session: the "Fenno" explanation that stresses leadership inexperience, the "DeLay" explanation that blames U.S. House Majority Leader Tom DeLay's intrusions into the Texas House's deliberations, and the "deinstitutionalization" explanation that emphasizes the paramountcy of external over institutional goals and demands (Rosenthal, 1996a).

Approach

We employ qualitative measures of changes in key norms, rules and procedures using a combination of participant-observation and elite interviews. Telephone interviews conducted in 2004 supplement this data. We did not use conventional voting analyses because the Texas House does not record floor votes unless there is an appeal from the members. Since partisan or electoral motives prompt such appeals, they do not present a representative sample of voting on the House floor.

Interviews were conducted with thirty-one individuals during the 2003 regular session. Seventeen were members of the 2003

House of Representatives, 12 Republicans and 5 Democrats. Seven were staff members in House offices or the House itself. Seven were either directors of advocacy groups or journalists.

Additional interviews were conducted in 2004 with 19 members of the House (14 Democrats, 5 Republicans). Democrat and minority representatives were over-sampled to offset the potential bias of the original 2003 pool. Results from the 2004 interviews are used to test statements and assertions made by the original interviewees, especially those relating to the data collected in Tables 2-5. However, since respondents' views may have been tainted by the partisan battles over congressional re-districting that consumed much of the summer sessions, the 2004 responses are not merged with the responses gathered during the 2003 regular session. While the 2004 responses largely confirm views of the 2003 cohort, significant differences are analyzed below.

We used a semi-structured interviewing protocol. All respondents were asked questions and appropriate follow-up prompts from a standard list. They were encouraged to discuss topics and to make observations beyond those listed in our protocol. The protocol was pre-tested in a small number of initial interviews and then refined before being applied to the interviews discussed here.

Our analysis relies upon these interviews, supplemented by news accounts about, and our own observations of, the session. Opinions expressed that were not supported by news accounts or participant observations are not used as evidence. The elimination of such opinions, along with nonresponsive comments on some questions, explains the differing number of responses in our Tables.

Fenno Versus DeLay: The Conventional Explanations

The Texas House's problems during its regular session could be explained by two, not wholly contradictory, explanations. The "Fenno" explanation builds upon Richard Fenno's argument that four decades of being out of power left U.S. House Republicans without the experience they needed to properly interpret their electoral victory or govern the country once they became the majority in 1995. The "Tom DeLay Did It" explanation stressed the division caused by U.S. House Majority Leader Tom DeLay pressuring Texas House Speaker Tom Craddick to ram a congressional redistricting plan through the 2003 regular session. Both explanations purport to explain the rise in friction, decline in civility, and the breakdown of bipartisan norms in the Texas House.

The 1995 Republican majority in the U.S. House was able to pass some of its "Contract with America," the campaign promises that may have helped Republicans win an upset election in 1994, but the House leadership failed to exploit the natural advantages of being a new party in power. They could not avoid the 1995 government shutdown that weakened the new Republican majority while strengthening their Democratic opponent, President Bill Clinton. Fenno (1997, 2) explains the Republicans' failures in terms of the lack of institutional leadership skills. An extended duration of one-party control produces consequences once there is a change in party control: confrontational leadership behavior, deterioration in cross party civility, and decline in public confidence of legislatures as an institution.

Members of the minority party must decide how to adapt to their new place in the House. Fenno (1997, 13) recognizes two strategies for adapting to the role of the minority. He identifies the first as "institutional partisans" who try to accommodate the majority by working within the rules in an attempt to influence the agenda. The second are the "confrontational partisans" who

attempt to oppose any legislation proposed by the majority with the goal of driving the majority from power.

Fenno's solution to these problems is regular exchange of party control. There are two crucial features, claims Fenno (1997, 9), of a majority-minority relationship: the majority party organizes and runs the House and the minority party adapts to the governing majority. When both parties alternate being in the majority and having power, they are more likely to consult, cooperate and compromise with the other party. A sense of reciprocity develops. Moreover, the expertise the new majority needs to govern the House can only be gained through "trial and error of those who have held power" (Fenno, 1997, 16-18, 20). This relationship does not develop when one party is in the majority for an extended duration of time and does not foresee becoming the minority.

In 1998 the Republican takeover of the Florida state legislature confronted a similar challenge. Tom Feeney, the speaker of Florida's House, sent a cautionary message in 2002 to the Republican majority in the Texas House. "I became convinced that voters really didn't want a conservative revolution. They wanted a conservative evolution." He concludes by warning, "You have got to be for change and that change has to be conservative change."¹

The Fenno explanation would argue that the Texas House Republicans' inexperience, their lack of training as legislative, committee, and institutional leaders, caused the breakdown of rules and norms in the Texas House. If only the Texas House Republicans had interpreted their victory differently and had more experience in governing, then they would have approached their agenda with more prudence and made fewer mistakes.

¹ Herman (2002, A1). See also Jewett (2002).

There are several problems with applying the Fenno explanation to the difficulties experienced in the 2003 Texas House. Unlike the increasingly partisan U.S. House in the 1980s and 1990s, the Texas House underwent a shift to a more bipartisan status during this period. Moreover, while the Republican majority did stumble in its efforts to manage the House, the Democrat minority's problems were at least as crucial to the breakdown of bipartisanship in the 2003 regular session.

The Texas House of Representatives has been a partially bipartisan legislature since the early 1980s.² A fully bipartisan legislature would create an agenda that entertains issues important to both parties, issues that generate support not specific to party ideologies only, and would share power among the parties proportional to the number of seats each party holds. A partisan legislature is one in which power and legislative success is sharply defined by partisan allegiances, with the majority party dominating both the structure and the agenda of the institution.

The former Democratic majority did share some power with the old Republican minority. Republicans served as chairs and vice-chairs on legislative committees and some were members of the highest leadership circles. A loose coalition of conservative and moderate Democrats worked with Republican members to advance legislative agendas common to all. However, this bipartisan relationship was not a complete one. Committee chairs were not distributed according to numeric proportions. Nonetheless, unlike the U.S. House Republican leadership, the senior Texas House Republicans were often experienced in chairing committees and in House rules, norms, and procedures. A few

² While this is a common perception shared by many legislators, observers, and scholars, not all agree. For example Representative Arlene Wohlgemuth (R-Burleson) characterized this era as "a disguised partisanship." Interview with Representative Arlene Wohlgemuth, July 10, 2003. For a brief history of the Texas House during the 1980s and early 1990s, see Hamm and Harmel (1993).

first term Republicans were appointed to committee chairs. They did not have such expertise.

Republican campaign promises were few, specific, and expressed fundamental principles of Texas populism—a distrust of government (“no new taxes”), a distrust of some corporations and lawyers (home insurance and medical tort reform), and less broadly affirmed, sensitivity to the concerns of the pro-life movement. There was no radical agenda to remake Texas government corresponding to the 1994 Republican “Contract with America.”

The Texas Republicans seem to have learned the lesson taught by Newt Gingrich’s problems, and reinforced by the experience of the Florida legislature: evolution, not revolution, was their goal. The senior Republican leaders were experienced, not novices, and the Republican freshmen generally followed the leadership. The Fenno explanation does not seem fully adequate to explain what happened in the Texas House.

The “Tom Delay Did It” explanation has less scholarly warrant but is founded in a widespread, elite media assertion that inside Washington, D.C., “Beltway politics” afflicted the Texas House. Media accounts and pundits’ columns saw the sinister hidden hand of Tom DeLay in the redistricting debacle that caused the House to grind to a halt on May 17 when 58 of the 62 House Democrats refused to appear on the floor for a quorum call (Dubose and Reid, 2004). Allegedly, DeLay’s bullying contributed to the breakdown of bipartisan norms in the Texas House, causing not only a decline in civility but eventually a collapse of the legislative process when most Democratic representatives refused to appear for the quorum call.

While neither Congressman DeLay nor the Texas House leadership ever admitted to the key role he played in pushing redistricting, memos released on the eve of the court challenge to the congressional redistricting plan show that DeLay was the

principal force behind redistricting (Pasztor and Herman, 2003; Copelin, 2004). No doubt strong-arming and partisan bullying occurred. But the decline in civility and consensus-producing norms in the House began well before the push for redistricting. Media fixation on Tom DeLay's role may be more simply explained by public and media cynicism about any kind of power play on topics such as redistricting. Ronald Weber (1999, 610) argues that because state legislators must make policy that directly affects their interests (redistricting, pay raises, rules governing lobbyists), "public confidence in the institution and individual members" is undermined and the media are encouraged to "highlight any alleged abuses of legislative life."

While DeLay's actions may have helped to push the House down the slippery slope of partisan conflict, it was neither the sole nor primary factor. The penetration of electoral politics and competition into the House process, the resulting deinstitutionalization of the Texas House, and the growing suspicion of each party by the other party can be explained by factors that seem to affect many contemporary state legislatures. The Texas House is not unique in suffering a breakdown in norms of civility and reciprocity. In brief, "Tom" did not do it. Contemporary state legislative politics did it.

Although there were specific aspects of the members' conduct that are explained by Fenno's concerns about inexperienced leadership and DeLay's use of hardball tactics, the Texas House shared in the process of deinstitutionalization, increasing partisanship, and the decline of civility common to many state legislatures over the past twenty years (Moncrief, Thompson, and Kurtz, 1996).

The Alternative Explanation: Texas as the Norm

The legislative process is based on antagonistic cooperation. Rules, norms, and procedures are pivotal factors in creating the

right kind of antagonistic cooperation. These factors create incentives and disincentives for the legislature's members, molding their behavior in predictable ways. Individual ambitions and goals, mediated by rules, procedures, norms, and committee and party organizations, impose some degree of stability on decision-making.

Rules are bargaining chips in the negotiations that get legislation through the legislature. They convey different sets of advantages and disadvantages to different participants in the policy process. Rules also express what behaviors are acceptable and what goals are permissible. Rules help to mold outcomes by determining what alternatives are allowed to be considered and voted on, thereby facilitating or impeding the success of the various players in the organization. Rules are explicit, but norms constitute the unwritten rules of the game, the shared understandings that determine what is and is not acceptable behavior.

While written rules and unwritten norms are important, factors external to the legislature such as elections also have profound impact on the policy decisions made in a legislature. Indeed, it is the external factor of electoral pressure that is forcing major changes in the internal workings of state legislatures.

Alan Rosenthal (1996a, 190) observes that increasing party competition for state legislatures, accompanied by increasing partisan conflict within state legislatures, have shifted members' concerns away from the needs of the legislature as an institution to the specific electoral and policy objectives of their parties. This contributes, in Ronald Hedlund's (1984, 67) words, to the decline of legislative "norms regarding debate and member interaction," producing "exchanges that are blunt and often threatening." Joel Thompson and Gary Moncrief (1992, 196-7) also find that legislatures are exposed to increasing outside pressures to which they must adapt. Thus, legislatures' efforts to adapt create increasing pressures within the legislatures.

The literature on state legislatures now widely recognizes that there is diminished institutionalization within state legislatures. "In the past few years," Rosenthal (1998, 72) observes,

legislatures [are] becoming more permeable and more likely to have outside influences penetrate internal structures and processes. Indeed, the environment can no longer be kept outside of the legislature but has become, or is becoming, an integral part of life and business within the legislature.

Rosenthal (1998, 173) concludes that

Pressures from without [notably from the media and the public]...have succeeded in limiting terms and careers, in eroding whatever normative system might have existed earlier, and in wresting away legislative control from internal management. No longer can many state legislative bodies be characterized...as an organization that displaces goals and focuses on internal processes at the expense of external demands. No longer can it be said, if it ever could be said, that the state legislature is an end value itself rather than an instrument for pursuit of other values.

This pattern of deinstitutionalization is found among state legislatures that have experienced recent changes in party control such as Florida, Illinois, and Minnesota, and in state legislatures that have not, such as California, Massachusetts, Utah, and New Hampshire (Rosenthal, 1989; 1996b; 1998). In some cases, deinstitutionalization was abetted by causes in addition to electoral pressures and calculations. For example, Thompson, Kurtz, and Moncrief (1996) found that professionalization of legislators' staffs and longer career interests may contribute to deinstitutionalization. But they also conclude that "politicization," a concept similar to our emphasis on electoral calculations and pressures, had an independent and powerful effect (Moncrief, Thompson, and Kurtz, 1996). This last finding is especially pertinent to the

Texas House since it has undergone no appreciable professionalization over the last twenty years (Hamm and Harmel, 1993).

In brief, many state legislatures are experiencing the phenomenon of “deinstitutionalization,” where the notion of the institution as an end in itself is overshadowed by the demands of its environment and external demands replace internal goals (Ronsenthal, 1996a, 185, 194-5). This breakdown of the norms, values, and procedures that form the unseen walls separating an institution from its environment is near universal in state legislatures. The change in the dynamics and goals of electoral calculations is one of the major factors prompting deinstitutionalization.

The Impact of Electoral Calculations and Goals

The Texas House in the 1980s and 1990s may have been an anomaly. Unlike other state legislatures that became more election-oriented and experienced deinstitutionalization and growing partisanship, the Texas House became partially bipartisan during these two decades. Part of this had to do with the shifting balance within the House. As Republicans gained strength they formed a coalition with moderate and conservative Democrats on issues that appealed to the center-right. George W. Bush’s governorships were times of strong personal connections between the Republican executive and the Democrat House Speaker, Pete Laney. The 1990s was also a period of sustained economic growth and rising tax revenues, permitting expansions of state budgets without forcing confrontations over who wins and loses. But all these factors disappeared by January 2003.

Texas’ financial crisis in 2003 sharpened the ideological and partisan polarization in the House. The Texas House confronted a difficult session in 2003 even without the change in party control. The state budget was almost ten billion dollars in deficit. The sluggish economy and rising unemployment placed greater demands on social services while lowering revenues. The school

finance system needed reform, especially property tax relief. Newly elected House Speaker Tom Craddick, the first Republican speaker since 1873, characterized the hardships facing the House.

We are facing billions of dollars in shortfall, the retirement of 16 committee chairs after the last session of the Legislature, and 76 percent of our House members having never served with a deficit. There will be a learning curve.³

Finally, the defeat or retirement of moderate and conservative Democrats and their replacement by conservative Republicans in recent years emptied the ideological center in the Texas House. The old coalition of moderate Republicans and Democrats was gone, creating a more polarized House.

The 2003 Texas House manifested the behavior of other state legislatures that have become more election-oriented. Commenting on general trends in state legislatures, Alan Rosenthal (2002, 6, 8) found that

legislative campaign committees, under the direction of legislative party leaders, are now the principal source of party assistance to legislative candidates in tough races. ... Leaders are more preoccupied with campaigns and elections. With campaigning infusing the process, civility is on the decline. Because the environment has changed, socializing across party lines...is much diminished.

Leadership roles have correspondingly shifted from facilitating the passage of legislation to becoming campaign finance providers and facilitators (Squire, 1992).

The general literature stresses how electoral competition has reinforced policy and ideological differences, "crystallizing rather than resolving divergent partisan views. This trend may

³ Quoted in Herman (2003).

render deliberation and negotiation parts of the process less important, while the exploitation of issues for the purpose of partisan electoral gain becomes more important” (Squire, 1992, 192). The 2003 regular session reflected this trend.

Part of the tension in the Texas House sprang from this growing emphasis on electoral outcomes. There were different views of how these changes affected the Texas House in 2003. It is clear that Tom Craddick was seeking to build a Republican majority in the Texas House. As a rising leader Craddick adopted an aggressive recruitment strategy. He and his close advisors, in concert with sympathetic business and policy groups, were key actors in recruiting, funding, and advising Republican opponents challenging Democrat incumbents or competing for open seats.

Former House Speaker Pete Laney (D-Hale Center) explained, “We have never had members in the legislature campaign against one another.” Tom Craddick had been removed from Laney’s leadership team not because he had campaigned against Laney. “He has always campaigned against me, and...I still gave him leadership positions. But when he started to defeat others is when I busted him.”⁴ The fact that Craddick and other Republican members publicly supported Laney’s opponent in the previous election no doubt also influenced Laney. Representative Mike Krusee (R-Round Rock) viewed things differently. According to him, Laney seemed to be saying, “Republicans are not allowed to seek a majority during the electoral session. They must be bipartisan during the session and the election.”⁵

An essential component of both the Fenno and DeLay explanations is the vulnerability of freshmen legislators to leadership pressures. Newt Gingrich had worked long and hard to recruit

⁴ Interview with Representative Pete Laney (D-Hale Center), former Speaker of the Texas House of Representatives, July 1, 2003.

⁵ Interview with Representative Mike Krusee (R-Round Rock), June 23, 2003.

and fund Republican opponents to sitting U.S. House Democrats in the years before the 1994 Republican congressional landslide. Both out of ideological commitment and personal loyalty, they backed Gingrich's first year as the confrontational speaker of the U.S. House. Fenno saw this as one of the costs of inexperienced leaders and followers. The DeLay explanation builds upon this same dynamic, arguing that the Majority Whip of the U.S. House sought to take advantage of the 26 new Republican members of the Texas House, pressuring them to take up the redistricting fight.

The relationship between Speaker Craddick's leadership team and the freshmen in the House was a symbiotic one. "The leadership took care of the freshmen."⁶ But few freshmen Republicans gave Craddick or lobbyists credit for their election. The freshmen insisted that they wanted to win and they got into the House themselves. One journalist and some veteran Democrats in the House saw the freshmen Republicans as anxious about their reelection prospects in future primaries. These respondents believed that there were unspoken threats that if freshmen did not toe the line and vote with the Speaker, they would face well-funded challengers in the next Republican primary.⁷ Because of gerrymandering, two-thirds of House incumbents routinely face little or no electoral competition after the primary.⁸

Freshmen Republicans, Speaker Craddick, and other observers disagreed. Freshmen respondents unanimously said that abiding by their campaign promises was a primary factor influencing their conduct as legislators and their votes. Representative Dan Branch, himself a freshman Republican, offered the clearest ex-

⁶ Interview with Representative Mike Hamilton (R-Mauriceville), July 3, 2003.

⁷ Interview with Harvey Kronberg, publisher and editor, *Quorum Report*, July 12, 2003.

⁸ Niemi and Winsky (1987); Carey, Niemi, and Powell (2003); Weber, Tucker, and Brace (1991); Rhodes (2000, 88); Hamm and Moncrief (2004, 165).

planation of the freshmen's relationship with the Speaker. Freshmen Republicans "had a close relationship with the Speaker; it was also his freshman year as Speaker." The freshmen's votes were responsible for putting the Speaker into office. "He owes this speakership to us." It was also true that many freshmen owed their campaigns to Craddick. He had helped them with their elections. Craddick identified candidates with the same political ideologies, they pledged to be on his team, and in return he helped them with their election. But they had repaid that debt by pledging to support his election. The strongest bond they shared was the same political base. This ideological and political bond tied the freshmen to the Speaker, even at times when more veteran Republican legislators were "skipping out" on tough votes.⁹

Other legislators and observers agreed. The freshmen Republicans were a "like-minded recalcitrant group of individuals" who were not "paying off loyalties."¹⁰ "We" shared values and core beliefs; a common "like-mindedness." The Speaker would explain why the freshmen should support a bill but cautioned them, "You should represent your people."¹¹ Representative Mike Hamilton (R-Mauriceville) explains Craddick's role as more of a mentor. He was there to answer questions and help candidates find contacts to raise money for their campaign.¹² Shared campaign promises and ideological beliefs forged the bonds between the Speaker and his freshmen Republican followers.

The same respondents also asserted that their ideological commitments were key. Reelection anxieties were less important

⁹ Interview with Representative Dan Branch (R-Dallas), July 8, 2003.

¹⁰ Interviews with Wayne Slater, Austin bureau chief, *Dallas Morning News*, July 12, 2003; John Pojman, Director, Texas Alliance for Life, June 19, 2003.

¹¹ Interview with Representative Larry Phillips (R-Sherman), July 2, 2003.

¹² Interview with Representative Mike Hamilton (R-Mauriceville), July 3, 2003.

than their perceived obligation to stand by the commitments they made in the last election. There was bloc voting, but the voting was a strategy expressive of common values and the desire to have impact as an “effective voting bloc.”¹³ Representative Branch explained that freshmen constituted one third of the House Republicans and had the ability to swing the vote any way they wanted. Representative Krusee observed that there was a conscious decision by the freshmen to act together to have leverage on policy. He also noted that freshmen may have been more attentive to campaign promises because they knew they had not cultivated incumbency advantage.¹⁴ Additionally, it is normal for freshmen legislators, regardless of party affiliation or governmental level, to be more ideological and more partisan in their voting behavior.¹⁵

The freshman Republicans came to the Texas House moved more by a common agenda than bonded by a common loyalty to the new Speaker. Their agenda captured the essence of the mainstream of the Texas Republican Party. It was not a Texan version of the “Contract with America” but a set of legislative initiatives that had won some partial victories in earlier sessions.

The Meaning of Changes in Rules, Norms, and Procedures

The 2003 regular session of the Texas House began with a number of significant rule and procedural changes. More important were changes in how rules were interpreted and applied. Representative Jerry Madden (R-Plano) stressed that while these changes in content and interpretation were important, the first year of Laney’s speakership in 1993 was when most of the significant rule changes took place.¹⁶ Representative Pete Laney

¹³ Interview with Branch.

¹⁴ Interview with Krusee.

¹⁵ Jenkins (2002); Snyder and Groseclose (2000); Kingdon (1989, 81, 114).

¹⁶ Interview with Representative Jerry Madden (R-Plano), July 1, 2003.

insisted, “I don’t think we saw many changes in the House rules. I think we saw many changes in the interpretation of the House rules.”¹⁷

An *ad hoc* committee of House members¹⁸ proposed abandoning “substantial compliance.” The substantial compliance rule gave the Speaker the power to override points of orders on technicalities, such as grammatical errors in a bill, that would delay the process of the bill by sending it back to committee for revision. The committee also recommended abandoning the seniority rule for appointments to the powerful Appropriations Committee. The House passed both rule changes.

The *ad hoc* committee’s motives for abandoning substantial compliance are clear. Speaker Craddick wanted it gone and so did the House Democrats. The effect of the removal is less clear. The rule change was intended to “empower the minority.”¹⁹ Moreover, the change returned the House to its traditional practice, a practice that had been abandoned when the rule was first implemented in 1999. Its practical effects are less clear. House Parliamentarian Steve Collins felt that the Speaker’s power to deny points of order over minor mistakes is “implied in the [existing House] rules.”²⁰ Others argued that the change narrowed the Speaker’s discretion and “empowered” the minority “to delay and disrupt” through frequent points of order, a tool that would be valuable for the minority but something the Republicans could not use effectively in previous sessions because of the substantial compliance rule.²¹ Table 1 demonstrates that the reverse actually happened. While the number of points of order

¹⁷ Interview with Laney.

¹⁸ Accounts conflict whether it was staffed with supporters of the Speaker or open to any member of the House.

¹⁹ Interview with Steven Rains, Office of the Governor, June 18, 2003.

²⁰ Interview with Steve Collins, House Parliamentarian, June 12, 2003.

²¹ Interview with Krusee.

increased over the past three regular sessions, the percentage sustained dropped. The rule change seemed to empower the Speaker, not the minority.

Regular Session	76th		77th		78th	
	January 12- May 31, 1999		January 9- May 28, 2001		January 14- June 2, 2003	
	n	%	n	%	n	%
Points of Order	31		71		85	
Sustained	13	42%	27	38%	28	33%
Withdrawn	10	32%	22	31%	21	25%
Over-Ruled	8	26%	22	31%	36	42%

*Table 1 is constructed on data from the 2003 House Journal available through the Texas Legislative Council, "Texas Legislature Online," <http://www.capitol.state.tx.us/>.

Republican and Democratic legislators agreed that there were a higher number of points of order; they differed over the motives for raising such points. The biggest increase in points of order occurred between the 76th and the 77th sessions, an indication of the increasingly partisan nature of House debates during the 77th session. The percentage over-ruled also increased substantially. Our 2003 interviews found that Republican legislators, staffers from both parties, and non-legislative observers saw the frequent points of order made during the regular session as a tactic to obstruct debate, not to develop good policy. Democratic legislators disagreed (Table 2). Our 2004 interviews reflected a similar breakdown, although either fading or more temperate memories prompted a milder partisan division among our respondents.

Table 2
Purposes of Points of Order, 2003 & 2004
(in percents)

	2003		2004*	
	Used to Obstruct	No Effort to Obstruct	Used to Obstruct	No Effort to Obstruct
Republican Legislators and Staffers	73 (n = 8)	27 (n = 3)	80 (n = 4)	20 (n = 1)
Democratic Legislators	33 (n = 1)	67 (n = 2)	50 (n = 4)	50 (n = 7)
Non-Legislative Observers	100 (n = 4)	0		

*Note: No staffers were interviewed for the 2004 sample.

Speaker Craddick increased the number of standing committees by four to a total of thirty-seven. Parliamentarian Steve Collins pointed out that it is rare for a Speaker to create new committees in his first term. Speakers usually cut back on committees in their first sessions and then expand in later sessions.²² The increase in committees caused problems for Republicans because the rule permitting members no more than two substantive committee assignments meant that each committee had a smaller membership. The change also meant that new and therefore less experienced Republican members chaired more committees, weakening the accumulated expertise that older, usually Democratic, chairs had possessed. It also both strengthens and weakens the Speaker's power. He has more plums such as chair positions to award supporters but also must coordinate a larger number of committees.²³

Speaker Craddick and the *ad hoc* rules committee centralized power in the House Appropriations Committee by changing the seniority rule established by Democratic House Speaker Pete

²² Interview with Collins.

²³ Interview with Steven Rains, Office of the Governor, June 18, 2003.

Laney in 1993.²⁴ The previous rule guaranteed senior members of the House half of the seats on the committee if they wanted them. The new rule eliminated seniority as a criterion. The Speaker now chooses all the members. Legislators of both parties and their staff characterized the change as one increasing the Speaker's power while undercutting Democratic influence.

Table 3
Effects of Eliminating Seniority Rule, 2003 & 2004
 (in percents)

	2003		2004*	
	Increased Speaker's Power	Did Not	Increased Speaker's Power	Did Not
Republican Legislators and Staffers	71 (n = 5)	29 (n = 2)	80 (n = 4)	20 (n = 1)
Democratic Legislators and Staffers	100 (n = 5)	0	100 (n = 14)	0

*Note: No staffers were interviewed for the 2004 sample.

The impact of this change was immediate. Several senior liberal Democrats no longer found seats on the committee. The indirect effects are more ambiguous. The rule change either took away institutional memory from the Democratic left and weakened advocacy for old policies,²⁵ or got rid of individuals who had "become experts at generating funds for their thing."²⁶ Most agreed that the change made the Appropriations Committee chair stronger since committee members knew less about procedures and budget processes. Others point out that the previous session's Appropriation Committee chair held a tighter rein on the committee than did Representative Talmadge Heflin, the chair

²⁴ Interview with Collins.

²⁵ Interview with Kronberg.

²⁶ Interview with Madden.

during the 78th session.²⁷ Journalist Harvey Kronberg (2002) saw the first real evidence of a decline in civility in the House when Republican legislators began to talk about revising the seniority rule for the Appropriations Committee. The demotion of so many senior Democrats from one of the most powerful House committee was seen, according to Kronberg, as one of the first significant breaks with bipartisan norms.

It was clear that the breakdown of civility and bipartisanship did begin early in the House session despite Speaker Craddick's apparent efforts to create a bipartisan process. There was evidence at the beginning of the 2003 regular session that the House would continue to be partially bipartisan. Speaker Craddick assured members that, "While partisan issues may arise from time to time, legislative actions, and certainly legislative leadership, must be truly bipartisan" (quoted in *Quorum Report*, 2003a). His declaration was followed by a series of conflicting actions testing the new Speaker's commitment to bipartisanship. Three days after his announcement, the House voted to strengthen the Speaker by allowing him to appoint all the members of the Appropriations Committee. Senior Democrats were denied seats on this key committee that would have been theirs under the old seniority rule. On the other hand, Speaker Craddick released the committee assignments for the new session on January 30, appointing sixteen Democrats to committee chairs. The percentage of Democratic chairs equaled the percentage of seats Democrats held in the new House. Under the previous speaker, Democrat Pete Laney, Republicans held only one-third of these leadership positions, significantly less than the forty-eight percent of the seats they held in the House. Nonetheless, few of these Democrat chairs held significant power. For example, Representative Ron Wilson, an African-American Democrat from Houston, was ap-

²⁷ Interview with Rains.

pointed chair of the Ways and Means Committee, normally one of the most influential committees in the House. However, the united Republican leadership's "no new taxes" pledge largely made Ways and Means irrelevant in the 2003 session.

The chairman of the House Democratic Caucus, Jim Dunnam, did not give Craddick much credit for his attempt. When commenting on Craddick's committee assignments Dunnam declared, "any semblance of fairness or bipartisanship is just a façade" (quoted in Slover, 2003). Despite the authenticity of Craddick's efforts or the credibility of Dunnam's allegations, it is evident that there was a strong tension between Republican and Democratic leadership from the beginning of the session.

There were also changes in how the rules were used by members, especially Democrats. Table 4 shows that there was a 48% increase in the number of motions to amend offered during the 78th regular session as compared with the 77th. There was an even more dramatic 68% increase in the ratio of amendments offered per bill. The appropriation bill, the reorganization of health and human services, and the tort reform bills were each subjected to more amendments than any bill during the two previous sessions. Overwhelmingly, and unlike the prior two sessions, motions to amend came from one party—the House Democrats.

A large majority of our respondents from both years said that motions to amend were not used to prevent bad policy, and all but Democratic legislators went on to state that the intent was to obstruct floor debate. Minority Leader Dunnam recounted that Democrats were forced to offer so many amendments because Republicans refused to compromise before the debate came to the floor. They were not open to the committee process.²⁸ Parliamen-

²⁸ Interview with Representative Jim Dunnam (D-Waco), Democratic Minority Leader, June 30, 2003.

tarian Collins reports that some amendments were “used for both purposes,” to advance policies and to delay Republican actions.²⁹

Table 4*
Motions to Amend

Regular Session	76th January 12- May 31, 1999	77th January 9- May 28, 2001	78th January 14- June 2, 2003
Amendments Offered	1,548	1,686	2,489
Bills Receiving Motions to Amend	536	597	525
Ratio of Amendments to Bills	2.89	2.82	4.74
Bills receiving highest number of motions to amend:			
SB 4 (School Finance)	98		
SB 7 (Electric Utility De-Regulation)	69		
HB 1 (Appropriations)	67		
SB 1 (Appropriations)		116	
HB 2912 (Natural Resources)		87	
SB 2 (Ground Water Conservation Districts)		55	
HB 1 (Appropriations)			352
HB 2292 (Health and Human Services Reorganization)			159
HB 4 (Tort Reform)			154

*Table 4 is constructed from data on House bills and amendments available through the Texas Legislative Council, “Texas Legislature Online,” <http://www.capitol.state.tx.us/>.

Representative Krusee believed that Democrats hung themselves with the large number of amendments, undermining their credibility so that no one was listening when they proposed a “‘good faith’ amendment that wasn’t for obstruction.” Krusee also argued that the 154 amendments proposed on HB4, the tort reform

²⁹ Email from Collins, dated August 19, 2004.

bill, were “designed not to win on policy...[but] on politics.”³⁰ Representative Branch agreed, believing that Democrats sought to propose amendments that would place Republicans in politically embarrassing positions at the next election.

Table 5
Purpose of Democrats' Motions to Amend, 2003 & 2004
 (in percents)

	2003		2004*	
	Used in Effort to Obstruct	Not in Effort To Obstruct	Used in Effort to Obstruct	Not in Effort to Obstruct
Republican Legislators and Staffers	91 (n = 10)	9 (n = 1)	100 (n = 5)	0
Democratic Legislators and Staffers	25 (n = 2)	75 (n = 6)	29 (n = 4)	71 (n = 10)

*Note: No staffers were interviewed for the 2004 sample.

Observers outside the legislature such as Lisa McGiffard of the liberal Texas Consumers Union agreed with Krusee.³¹ Long time House watcher and journalist Harvey Kronberg (2003) wrote that the Democrats' choice to submit hundreds of amendments in an effort to delay major bills proposed by Republicans was an unprecedented use of the House rules. In response many Republicans defied norms by bloc voting against all Democrat amendments.³² This included serious amendments proposed by Democrats. Republicans became frustrated with the Democrats' attempts to obstruct legislation, as opposed to working to build compromise and comity between the two parties. As a result they

³⁰ Interview with Krusee.

³¹ Interview with Lisa McGiffard, policy analyst, Texas Consumers Union, June 13, 2003.

³² Bloc voting did occur, but it was neither universal nor solely Republican. Democratic amendments to the tort reform bill lost by votes ranging from 82 to 102.

no longer recognized genuine attempts by Democrats to work within the process.

All parties seemed to lose credibility because of the onslaught of amendments. Speaker Craddick's inability to control the floor made him seem weak even to fellow Republicans. Democrats' tactics of delay through amendments hurt the chances of the good ones they did propose. Republicans' frustrated reaction to the sheer volume of amendments made them act intransigent when the Democrats offered good amendments. No one won.

The Texas House does not record floor votes unless there is an appeal from the members. The call for recorded floor votes rose during the 2003 session. Strong majorities of Republican respondent groups and a bare majority of 2003 Democratic legislators and staffers emphasized that the call for recorded votes was a device to politically embarrass their opponents or to demonstrate their efforts on their constituents' behalf. Few saw it as a straightforward device to document important votes. The use of recorded votes had not changed significantly from previous sessions. It has always been of "tactical use...for campaigns."³³ It is the frequency of its use that changed.

Quorum calls were generally not used to obstruct. However, the "quorum bust" conducted by 58 of the 62 Democrats in order to prevent debate and vote on a pending redistricting bill tainted responses to this issue. The quorum bust of Monday, May 17, 2003, was the first time that a group of House members had ever shut down debate by preventing a quorum. By this time both sides noted that there was little respect for each other, and that civility had markedly declined on the floor and in the committee hearing rooms. Political antagonism was morphing into personal assaults. Antagonistic cooperation had disappeared.

³³ Interview with Madden.

There is some evidence to support the “DeLay” explanation in the quorum bust. The so-called “Killer Ds,” the quorum busting Democrats, asserted in their official statement for their absence that, “We did not choose our path. Tom Delay [sic] did it.” They charged that the redistricting proposal was “a power grab by Tom DeLay, pure and simple.” This “outrageous partisan action” forced them to flee to Oklahoma (*Quorum Report*, 2003b). Minority Leader Jim Dunnam insisted that Speaker Craddick’s refusal to take redistricting off the table “tells us that Tom DeLay is in charge” (quoted in *Quorum Report*, 2003d).

Table 6
Call for Recorded Floor Votes, 2003 & 2004
(in percents)

	2003		2004*	
	Used for Future Electoral Advantage	Not Used for Future Electoral Advantage	Used for Future Electoral Advantage	Not Used for Future Electoral Advantage
Republican Legislators and Staffers	88 (n = 7)	12 (n = 1)	80 (n = 4)	20 (n = 1)
Democratic Legislators and Staffers	50 (n = 2)	50 (n = 2)	79 (n = 11)	21 (n = 3)

*Note: No staffers were interviewed for the 2004 sample.

The unique character of this issue may be more important than the presence or absence of Congressman Tom DeLay. Democrats felt compelled to make this drastic choice because of the special salience of redistricting. Normally, one member’s victory in a legislature is not another member’s defeat when appraised in terms of electoral advantage. Indeed, a legislative defeat can be used by a member running for re-election to mobilize support for the member. However, redistricting can be a zero-sum game, even when the fates at stake are members of your party’s congressional rather than state House delegation. The Democrats

recognized this. The Democrats in Oklahoma wrote a letter appealing to Speaker Craddick to take redistricting off the table. They reassured the Speaker that “we are willing to give you our word...that we will not break quorum on other issues—even when we disagree.”³⁴ Congressional redistricting posed a unique threat to Democratic interests and evoked a unique Democratic response.

The tone of the House changed for the better after the quorum bust.³⁵ Representative Pete Gallego (D-Alpine) said that there was “no effort to be bipartisan until we returned...[Speaker Craddick] thought we were irrelevant until this point.”³⁶ Redistricting did not come up again until the special sessions during the summer.

Speaker Craddick sought to maintain earlier norms of bipartisanship by refusing to recognize Republican motions to suspend the rules in order to consider bills that died due to deadlines expiring during the quorum bust. Such a suspension would have been unprecedented. Republican legislators had pressed Speaker Craddick to retaliate by jamming redistricting down the throats of Democrats. Speaker Craddick told a closed meeting of the Republican Caucus that there would be no retribution. Representative Krusee recounted, “The caucus supported him without reservation, if not without heartache” (quoted in Copelin, 2003). No doubt the Speaker also recognized that few Democrats would vote for suspending the rules, a motion requiring a two-thirds vote.

³⁴ *Quorum Report* (2003c). The lone House member of either party to vote against Craddick’s election as Speaker saw it differently. “The idea of walking out on Craddick and Texas Republicans had been brewing for two months. ‘It was only a question of when, and over what issue,’” Representative Lon Burnam (D-Ft Worth) said. Quoted in Kennedy (2003).

³⁵ Interview with Kronberg.

³⁶ Interview with Representative Pete Gallego (D-Alpine), July 9, 2003.

Representative Laney pointed out one significant change in norms:

I never voted on a bill, maybe two or so times, in my whole career as Speaker and other than that it was always to break a tie. But Craddick voted many times. And he would do this before members would vote, 'signaling' to them how they should vote.³⁷

This was a significant change, although there is anecdotal evidence to suggest that prior speakers were more involved than Laney had been in the voting process. Nonetheless, Speaker Craddick was not afraid to vote and to vote early. The change may be reflective of personal style or institutional commitment. As likely, and more generously, the change may be reflective of the two different roles each speaker played. Laney was a speaker presiding over a political and ideological status quo that he supported. Craddick was a speaker trying to challenge the status quo. Laney presumed a consensus that had evaporated as Texas and the House membership changed.

Conclusion

The consequences of changes in rules, norms, and procedures were evident. Most respondents agreed that there was less compromise and more confrontation.³⁸ Speaker Craddick remarked, "rules usually only take one hour to pass and this year they took a whole day."³⁹ "The process of negotiation and compromise...were missing this session on the floor," Representative Gallego observed.⁴⁰ While there are conflicting accounts identifying the precise culprits, there is no doubt some truth to indi-

³⁷ Interview with Laney.

³⁸ Interview with Speaker Pro Tem Sylvester Turner (D-Houston), July 25, 2003.

³⁹ Interview with House Speaker Tom Craddick, June 26, 2003.

⁴⁰ Interview with Gallego.

vidual explanations for increased partisanship. But broader explanations are more helpful.

The “Tom DeLay Did It” explanation is plainly applicable to the legislative struggle over redistricting. However, while most respondents agree that strong-arm partisan politics was the order of the day on redistricting, we found little evidence to suggest that this explanation explains the 2003 regular House session. Partisanship developed early in the session before redistricting became a contentious issue. DeLay may have simply tapped into a tension already well developed in the House. The redistricting explosion came from the developing tension. It did not alone cause the tension.

Undoubtedly, Speaker Craddick and the House Republican majority had much to learn. Speaker Craddick displayed a notable lack of finesse. Previous speakers would permit amendments they did not like and just drop them in conference committee.⁴¹ The “growing pains” that all new leaders experience explained some of the Speaker’s problems. A more seasoned speaker would have done more work on forging agreements before an issue went to the floor. Not doing so made the Speaker and the Republicans appear inflexible and ideologically intolerant.⁴² One respondent noted the chaotic referral of bills to committee with no apparent reason as a prime example of inexperience.⁴³ The fact that bills can be assigned to a variety of different committees because of the overlapping jurisdiction of these committees grants great power to the Speaker. The Speaker’s over-ruling of points of order was labeled “haphazard. He should have been [*sic*] done more carefully.”⁴⁴ Speaker Craddick was also criti-

⁴¹ Interview with Kronberg.

⁴² Interview with Slater.

⁴³ Interview with McGiffard.

⁴⁴ Interview with Madden.

cized because he let Democrats propose and debate too many frivolous amendments, making him appear not to be in control.

Every new Speaker has to learn how to run the House. Sympathizers invoked phrases such as “learning curve,”⁴⁵ a “learning process”⁴⁶ and the expectation that the Speaker’s style would change as he learned how to get things done. One legislator demurred. The legislative chaos was “not due to lack of experience.” Representative Laney opined, it was “just the way he ran the House, his style.”⁴⁷

There is a curious twist in applying Fenno to the 2003 regular Texas House session. While Fenno recognized the impact of an inexperienced minority, his greatest emphasis was on the significance of an inexperienced majority. We find that the inexperience of the new minority in the Texas House was as important as the majority’s. The new Speaker did have to learn how to meld his personal style, his party’s agenda, and institutional demands, but Speaker Craddick’s learning curve was no steeper than new speakers before him.

Fenno’s explanation offers more insight into the problems experienced by the Democratic minority than the difficulties confronted by the Republican majority in the 2003 Texas House. He properly points out that assuming the role of a majority after being out of power for a long time can be crippling. But learning to be the majority may be easier than learning to be the minority after being in power for 130 years. The majority can learn practical skills, such as how to run a floor debate. Some individual legislators, Democrats and Republicans, sought to be “institutional partisans,” especially the handful of Democrats, informally called “Craddick D’s,” whom the Speaker had appointed

⁴⁵ Interview with Rains.

⁴⁶ Interview with Madden.

⁴⁷ Interview with Laney.

to key leadership positions. But losing power is more difficult. “When you lose power you lose influence,”⁴⁸ and that is a blow difficult to accept. Clearly, both the majority and the minority party leaders adopted the “confrontational partisanship” Fenno identified in the U.S. House in 1995.

The role reversal imposed on Republicans and Democrats had a demonstrable effect on the 2003 regular session. Representative Arlene Wohlgemuth (R-Burleson) expressed the Republicans’ conviction that it is the minority’s job to compromise with the majority.⁴⁹ Republicans had to bend left to accommodate the Democratic majority in earlier sessions. Now the Democrats, Republicans said, must bend right to accommodate the new majority. The Democrats had to “learn to lose”⁵⁰ but “they lacked the skills to be in the minority.”⁵¹ Not surprisingly, the Democrats did not see it that way. Representative Scott Hochberg (D-Houston) asserted that the Democrats sought to find ways to win within the system “but the only way to be effective was to work against it.”⁵²

The group struggling most with its new role was the House Democrats. The Democrats were divided. They could not decide on one issue to push until congressional redistricting came on the table. They also struggled to grasp that, when you are in the minority, learning to compromise is essential to governing. When compromises must come from the weakened status of being a new minority, it is hard to accept. The Republicans found it difficult to learn to govern as a responsible majority. The Democrats

⁴⁸ Interview with John Colyandro, Director, Texas Conservative Coalition, June 30, 2003.

⁴⁹ Interview with Wohlgemuth.

⁵⁰ Interview with Phillips.

⁵¹ Interview with Madden.

⁵² Telephone interview with Representative Scott Hochberg (D-Houston), August 4, 2003.

had the challenging task of learning to constructively oppose the majority in their role as the responsible minority.

The national trend toward increasing party competition for state legislatures, accompanied by increasing partisan conflict within state legislatures, has shifted members' concerns away from the needs of the legislature as an institution to the specific electoral and policy objectives of the party. In recent years the Texas House has experienced this shift to a more election-oriented institution. Legislative party leaders in many states are becoming preoccupied with campaigns and elections. This had not been true for former Democratic speakers such as Pete Laney. When you are the majority party for over 100 years there is no apparent need to focus on electoral outcomes. But for a long-suffering minority it is important that its leaders help facilitate campaign finances and focus on building the legislative party. For years Craddick sought to build a Republican majority in the Texas House. His success in 2003 strained civility in the House. Electoral competition forced the handover of control from Democrats to Republicans. Electoral stakes undermined institutional loyalty and cross-party comity.

The Texas House experienced a tumultuous session for a variety of reasons: the budget crunch, the redistricting debacle, an inexperienced majority and minority, the leadership style of the new Speaker, and the inevitable tensions of a legislative session. But the Texas House was also subject to forces far more typical of contemporary state legislatures: increasing partisanship, declining civility, the impact of electoral calculations, and deinstitutionalization. State legislators now value the incentives to ensure a stable institution less than they value the incentives posed by partisan electoral and policy considerations. The legislature's environment penetrates its walls in ways that we have not witnessed recently. This may lessen the legislature's capacity to make bipartisan policy, but it also demonstrates the legisla-

ture's openness to the society it helps to govern. The tradeoffs between open and effective government are not new. It is, after all, the dilemma of a legislature in a liberal democracy: how to be representative of a society's diversity and concerns while remaining sufficiently organized to legislate effectively for that society. The 2003 Texas House was no more able than any legislature to fully resolve this dilemma.

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