Key Legislative Leader's Perspectives on the Historic 50-50 Partisan Split During the 1989-1990 Indiana House of Representatives

An Honors Thesis (ID 499)

by

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For the first time in 172 years, no one had control. After the 1988 November general election, the Indiana House of Representatives found itself in quite a predicament; the citizens of Indiana had elected 50 Republicans and 50 Democrats to the Indiana House, giving neither party a majority, and thus, the power to organize and lead the House. Neither the Indiana Constitution, nor the House rules provided a mechanism for organizing the House when the membership was equally divided politically, so a whole new set of rules had to be developed. Faced with a unique, but troublesome situation, House party leaders began the usual festive and ceremonial "Organization Day" with bickering and stalemate.

From November 22-24, 1988 the war raged. Legislators spent nearly 24 hours a day in negotiations, caucuses, and floor debate. No one could seem to agree. Proposal after proposal was heard and rejected as the legislative days ticked away, and the Thanksgiving holiday drew near. The House members considered electing one speaker and dividing the committee chairmanships evenly between the two parties, but this idea failed for the lack of agreement on which party would hold the powerful speaker position. Another option the legislators contemplated would have given one party the speakership and the other party the important committee chairmanships like Ways & Means, Rules, and Commerce. Incidentally this proposal also failed. The Speaker of the House would still have been too powerful; by simply not assigning bills to
the committees chaired by the opposite party, the speaker would maintain ultimate authority. Realizing that the power of the speakership presented the biggest hurdle to organizing, Representative Mannweiler suggested that both he and Representative Phillips step out of the race for Speaker of the House and an outside party, not a member of the House, would be elected. Following the path of the other options, this idea was also rejected. Although House rules provide that the speaker does not have to be elected from the House membership, the legislators did not want an outside party to be their leader. It seemed as if a compromise would never be reached. However, after further looking at similar situations in other states and the compromises they reached to solve their problems, a workable agreement finally evolved.

The state of Washington, a decade earlier, solved their dilemma of a tied legislature with a "co-speaker, co-committee chairman, co-everything" system that gave each party the same amount of power and control (Comparative... 15).

"The co-speakers in Washington presided on alternate days and co-chaired the Rules committee through which every bill must go before being placed on the House calendar. Each committee had an equal number of party members, and the six major committees were co-chaired. The remaining fourteen committees were parcelled out with...seven to each party. A bill could only come out of a committee with a majority vote, so each side had to find a defector. (Comparative... 1979)

Although everyone seemed skeptical about the chances of the Washington plan succeeding, "the plan worked reasonably well and
objective observers seemed to feel the overall output more than satisfactory" (Comparative... 1979). Credit for the success of the Washington co-system was attributed to the "personal friendship and extensive negotiation between the co-speakers" (Comparative... 1979). Analysts of the Washington experiment say the co-system was held together by the cooperative personalities of the speakers and their caucuses (Comparative... 1979). Given Indiana's history strong partisan politics and that no other option seemed acceptable, a sharing of power seemed the only feasible option.

Modeling after Washington's precedent, the Indiana House developed an agreement both parties felt comfortable accepting. Under the dual-control agreement, Representatives Paul Mannweiler (R) and Michael Phillips (D) became co-speakers of the House of Representatives presiding on alternating days. Both speakers had to agree on the assignment of bills to the committee, or if no agreement could be reached, they would each assign bills authored by their own party members. Along with the co-speakers, the dual-control system brought with it two of every position. There were co-committee chairmen, co-clerks, co-readers, co-janitors, etc. From staff members and salaries to office space and desk size, each party had to share power as equally as possible. The state spent an additional $1.9 million more than originally budgeted for the operation of the House of Representatives ensuring that each party had equal office space, staffs, and salaries (Blum 6). Perhaps the

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1See Appendix I
biggest change, however, that came with the 50-50 split, was the stripping of the speaker's powers.

For the first time in 172 years, the Speaker of the House did not have the power to control the flow of legislation. In years past, not only could the Speaker assign bills to a committee, but he could set the calendar, and he held the sole ability of calling bills to the floor. The speaker decided what bills would appear on the calendar, and when, if ever, they would be debated and voted upon on the floor. One person, the speaker, held an immense amount of power; he could dictate and control the entire House of Representatives. Under the co-system individual members of the House were given the power to call their own bills from the calendar to the floor, and the speaker no longer had the authority to set the calendar. So, any bill that passed out of a committee would appear on the calendar and could be called to the floor by its author. Unlike the Washington plan where a bill required a majority vote to move out of committee, Indiana adopted a rule that any bill receiving a tie vote in committee would pass to the floor for further consideration. For this reason much legislation reached the floor of the House. Another new rule the co-system instigated was the two-hour amendment rule. Members could no longer offer an amendment from the floor unless it had been filed with the clerks two hours before session began.

Every organization needs someone in control, someone to lead, someone to give direction, someone to negotiate, someone to mediate, and some one to represent the group as a whole. Because good leadership and knowing who is in control is vital to the operation and success of any organization, the co-system provided
an interesting challenge. With two leaders for every position, it was not always clear who was in control. The effectiveness in the operation of the 1989-1990 Indiana House of Representatives can thus be determined by looking at the co-system from the "hands-on" perspectives of the key legislative leaders: the co-speakers, the co-floor leaders, the co-chairmen of the Ways & Means committee (Probably the most important House committee), and the Senate party leaders.

By personally interviewing the eight following legislative leaders a better understanding of the co-system was developed.

Co-Speakers
Paul Mannweiler (R)
Michael Phillips (D)

Co-Ways & Means Chairmen
Patrick Kiely (R)
Patrick Bauer (D)

Co-Floor Leaders
Richard Dellinger (R)
Stan Jones (D)

Senate Party Leaders
Robert Garton (R)
Dennis Neary (D)

The following portion of this paper has been divided into sections, comparing partisan views of the system and then comparing how each co-counterpart viewed the effectiveness of the 1989-1990 sessions. Comparisons were made both on a partisanship basis and within each co-pair to see how viewpoints were similar and different. The first goal of each interview was establishing

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2See Appendix II for biographical details
that each legislator had enough of a legislative background to compare a quote "normal" session to the 50-50 split sessions (The legislators averaged 15 1/2 years experience each.). It was important that each leader could give a fair view of the co-system by comparing its changes to the system of past years.

**The Partisan Perspective:**

When asked why Indiana opted for the dual-control system, all eight legislators agreed that time constraints played a big role in the decision. Representative Dellinger suggested that, "It was the necessity of moment. We are the citizen legislature, and we didn't want to waste any more time". With precious legislative days ticking away, and prediems ending if the legislature did not organize quickly, compromise was a must. Indiana only has 61 legislative days in a long session to pass a budget, and each day wasted trying to organize was one less day to work on legislation. "We made up our mind what we wanted for the state, and the idea of sharing power was important," Representative Jones noted. Representative Mannweiler added that, "From past experiences we knew the strong partisanship we were dealing with, and we knew cooperation and having an equal say was a must." The overall consensus, thus, seemed to be that time pressures and cooperating in a compromise were the main reason Indiana decided to model its dually-controlled House after the Washington system.

3All quotations in this paper, unless otherwise noted, are from the personal interviews conducted with the eight legislative leaders as documented in the works cited page.
The question posed, "How effective do you think the dual-control system worked?", drew clear partisan lines. The Democrats interviewed thought the co-system worked quite well, while the Republicans overwhelmingly thought the system failed. Democratic views ranged from Representative Phillip's statement, "The system was very effective based on our accomplishments; we passed a budget and much good legislation", and Representative Bauer's feeling of "cooperation and working well together". To the Republican expression of sentiments like Senator Garton's, "The session was allowed to operate", and Representative Kiely's, "We survived; that's a positive". Although most of the legislators used the same criteria--what was accomplished, the budget and other necessary legislation--as the basis for determining effectiveness, they viewed it from opposite perspectives. Republicans acknowledged those accomplishments, but did not feel those were enough to deem the system effective; Democrats thought that was enough to call it effective. Representative Dellinger felt the system was also ineffective because "the committee process of weeding out bills did not happen, and that is what the process is about." He felt like someone had to be in control, and with the co-system, that was just not the case. From the opposite perspective, Representative Jones felt that "the committees were no longer acting as a bottleneck and more bills were passed." That fact was a good point from his point of view. Using the same criteria, one man views the function of the committees as a "weeding out" process, and the other as a "churning out" process. Two different views on the same thing, bring about two different views on effectiveness.
Did Indiana set a good precedent for itself should the legislature ever face the same situation? Again, Republicans had more negative feelings to express than the optimistic Democrats. Representative Mannweiler said, "It was a freak show, but what else could we do?", and Representative Dellinger remarked, "Well, we set one, but not a good one. We took the easy way out." Representatives Phillips, Bauer, and Jones insisted that Indiana had set a good precedent for itself, "The system was more bipartisan and fair...there is no other way to solve the problem effectively."

Although seven of the eight legislators interviewed expressed varying degrees of enthusiasm for the system, only Senator Neary felt "Indiana should try a different system if ever in the same situation."

The overall effectiveness rating on a scale from one to ten, with ten being highest, average a six. All of the legislator interviewed agreed that the system worked fairly well during the 1989 session, and failed during the 1990 short session. The pressures of a redistricting election and knowing that the mismatched marriage was about to end contributed to the legislators lack of cooperation. "Tensions were high, people quit trying to make the system work, and things just got UGLY!", Representative Bauer exclaimed. Each party was trying to make a good record for itself, and to make an example of the other party before the fall elections. Representative Kiely verbalized a common sentiment by saying, "We [Indiana] deserve a five on a scale from one to ten, based on the fact that the state survived those two years of dual-control." Representative Kiely rated the system a six because
of the short session disagreements. On the other hand, Representative Bauer gave the dual-control system "a nine on a scale from one to ten, because we got the job done under really difficult circumstances." Representative Bauer "would have said a ten if not for the ugliness of the short session." Senator Garton also failed the co-system during the short session, "We wanted it to work the first year, so I'd say an eight on a scale from one to ten, but only a three the second year." The short session, the second year, really challenged the system. The co-system can, and did, operate quite effectively, but the system so relied on the cooperation and compromise of the individual legislators, it also operated quite inefficiently at times. The legislature accomplished its minimum goal--passing a budget--enough, some say, to deem the whole system effective.

How did the co-system affect the number of bills heard and enacted into law? As expressed earlier, "Committees became fountains spewing to the floor 50 percent more legislation that normal (Traub, "Refinements..." F-4). Senator Garton commented, "Anything that came to the floor, which was a lot, passed; there were no checks and no balances." On the same note Representative Dellinger remarked, "The Senate was our check on our outpour of legislation." Representative Jones and Bauer felt, "More bills were heard, but so what? What is wrong with getting more ideas heard and voted on? They were better bills with more input, balance, and bipartisan support." How did the number actually pan out? In the 1989 long session, 354 bills became law, and in the short session, 185 new laws were enacted (The House and Senate Journals 1989-
The House approved approximately 125 more bills during 1989 than in either the 1985 or 1987 sessions (Newland, "Dual..." A-2). "In the past three short sessions, the legislature approved and the governor signed into law 210, 220, and 251 new laws (Traub F-4). The co-system, when both years are looked at as a whole, produced about the same number of bills as any other two year session.

Politically it seems that the Democrats are more affectionate toward the dual-control system that the Republicans. Both parties felt the state survived, passed a budget, and enacted other good legislation during the 1989-1990 sessions, and both parties used the above mentioned criteria for determining effectiveness. The difference came between the parties on philosophical points of view. The same criteria were seen as good by Democrats, and not enough to be called truly effective by the Republicans. We survived the difficult situation. As with the legislators, determination of effectiveness must be left up to the individual's point of view.

The Co-Speakers:

How were your respective jobs different under the co-system? "No one had control, so no one took responsibility," both Representatives Mannweiler and Phillips agreed. "We had to make joint decisions, and compromise was key," Representative Phillips noted. With the individual members holding the power to control the fate of their own bills, and the calendar being set automatically, the speaker's role became that of a mediator. Under the co-system, both speakers marked manageability and accountability as problems. The calendar was unpredictable, and both caucuses had to have all their
members present at all times. Representative Mannweiler felt, "The system was less effective than with a sole speaker, but it worked fairly well. The situation could not be changed, so we had to make it work." Representative Phillips mimicked Representative Mannweiler's perspective concerning handling the situation as best as possible.

How did the speakers feel about the reforms that stripped the speaker of his dictatorial control? Both men felt "the reforms were good and long overdue." "The power of the House has been restored to the membership itself," Representative Phillips declared. "The shared responsibility between leaders and members is a good change...legislators will be more accountable," Representative Mannweiler assured. No longer can a legislator blame the speaker for killing their bills; each member had to take responsibility for the fate of their own legislation. However, in 1991 with the House of Representatives in Democratic control, the speaker regained the power to set the calendar. Members can still call their own bills to the floor, but they have to be placed on the calendar first. Representative Kiely noted, "The Speaker has all of his power back that he lost during the co-system."

The Co-Floor Leaders:

Representative Jones and Representative Dellinger provided the most extreme differences of opinion on the effectiveness of the co-system. Representative Jones felt, "The system works better with both parties in control, it's not faster, but the public is better served." Representative Jones was the only legislator interviewed that had only positive comments about the co-system.
Representative Dellinger, on the other hand, was the system's biggest foe, "The system didn't work well at all. Bills were not weeded out, and no one was in control. I may sound a bit old-fashioned," Representative Dellinger continued, "But, I like the speaker holding ultimate control over the flow of legislation." Representative Dellinger liked few of the changes the 50-50 split brought, and Representative Jones thought almost all of the changes attributed to the system's effectiveness.

Each floor leader was responsible for leading their caucus and promoting their respective party positions, similar to their job during any other year. Representative Jones took his lead from the Governor's office and the House Democratic caucus. Representative Dellinger followed the lead of his caucus, and the Superintendent of Public Education, Dean Evans. In the aspect of promoting the party position, the floor leader's role change little under the 50-50 split.

Both Representatives Jones and Dellinger saw more of an emphasis being placed on the individual legislators. "Fifty votes were not enough to pass legislation, but they were enough to block the other party's bills," Representative Jones commented. Much more time was spent with individual members; if just one legislator refused to vote with the caucus, the other side could pass the bill.

"We called those lone members terrorist because they could destroy everything...we would spend hours in caucus talking to them and talking to them, drag them down to the Governor's office and talk some more, until finally the caucus was united," explained Representative Jones.
Legislative members were placed at the doors to-and-from the chamber to keep track of members leaving. It was essential everyone's whereabouts were known at all times, in case 50 members were needed on the floor. During the co-system, the impact one legislator could have on the system was felt drastically.

The Co-Ways & Means Chairmen:

Representatives Bauer and Kiely concurred that their jobs were easier in the "working together" relationship the co-system offered. Under the dual-control of the Ways & Means committee chairmanship, Representative Bauer was promoted half-a-step from ranking minority member, and Representative Kiely was demoted half-a-step from holding the sole chairmanship, Representative Bauer noted. "Sharing the power and responsibility, not only made the job easier, but better," added Bauer. Representative Kiely felt his job was easier as co-chairman because the traffic through this office was cut by approximately 70%. "Normally, between 300 and 400 bills are assigned to the Ways & Means committee in a session, and the chairman is lobbyed by everyone," Kiely explained. During the 50-50 split, Kiely handled the Republican bills and Bauer dealt with the Democratic legislation. Representative Kiely maintained that his job was also easier under the co-chairmanship because the Governor was a Democrat. "It is the responsibility of the Ways & Means chairman to protect the Governor, if you are of the same party, and that can be a big job depending on the Governor," Representative Kiely finished, "Representative Bauer felt that pressure."
During the 1989 session neither Representative Bauer nor Representative Kiely resorted to using their "wild cards" to hear bills the other chairman did not want to hear. The first session went smoothly, and the chairmen respected and cooperated with each other. The 1990 session went equally as well in the beginning. Representative Kiely scheduled a final committee meeting using his ten "wild cards" to hear Senate Republican bills. Representative Bauer had no more bills to hear, and as a result, he refused to honor Representative Kiely's "wild cards". Representative Kiely declared, "I scheduled the meeting like the rules allowed, but because the bills were controversial and Representative Bauer did not want to vote on them, the Democrats did not attend the meetings." Aside from the final battle, however, both co-chairmen felt the spirit of cooperation allowed the system to function effectively.

The Senate Party Leaders:

Senators Garton and Neary pinpointed the same problem with the House co-system structure. "We could never deal with anyone in charge because it changed everyday," Garton commented. Senator Neary echoed Senator Garton's impression by saying, "There was no cooperation, it was out of the Senate's hands. When discussing which days to be in session, we were at their mercy. The speakers make the decisions, and we had to go along or waste session days." Neither Senator Garton nor Senator Neary thought the co-system operated very effectively, especially in 1990. The dual-control system required constant compromise and cooperation, something that just did not occur as much as necessary, both men asserted.
Good points that the Senate party leaders saw with the co-system were the reforms in the speaker's powers. "The Senate members enjoy controlling the fate of their own bills, and it was probably a good step for the House to make those changes," Senator Neary affirmed. "It's not good for the process for one man to wield so much power," Senator Garton concluded. The individual members assume more responsibility and are more accountable when they have control of their own bills," Senator Garton continued. Overall, Senator Garton and Senator Neary felt the co-system was ineffective, but not all bad, there were some good results."

**Conclusion:**

Did Indiana set a new landmark in governmental history? Representative Mannweiler would not go that far, but he did feel that we survived and were "effective in doing the job required under very difficult circumstances." Good, bad, or indifferent, the legislature leaders agreed Indiana definitely set a precedent for itself. Most of the legislators interviewed, though not completely thrilled with the dual-control form of government, felt it was a workable system. The eight legislators agreed the system was effective based on what was accomplished—the budget, important legislation, and the mere fact that the state survived. **How** effective the system was depended largely on which legislator you asked. With the exception of Representative Jones, the legislators formed a consensus that the state operates better when someone, whatever the party, is in control. Valuable lessons of cooperation and compromise between the two political parties were learned during the co-power system. Whether the system is deemed
effective or ineffective, those important lessons should not be quickly forgotten.
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The following agreements and covenants are hereby entered by and between the Democratic caucus and the Republican caucus of the Indiana House of Representatives:

**SPEAKER**

1. There shall be a Democratic Speaker of the House of Representatives and a Republican Speaker of the House of Representatives who shall hold equal rank and authority.

2. Each Speaker shall share equally the traditional powers of the Speaker except to the extent modified herein.

3. The powers of each Speaker shall be controlled by the Standing Rules and Orders as adopted by a constitutional majority of the membership.

4. The Democratic Speaker shall preside on one session day and the Republican Speaker on the next session day.

5. Each Speaker shall appoint the co-chairmen of statutory, standing and select committees, committee members, and conference committee members of his respective party.

6. Assignment of bills to committee shall be by agreement of the Democratic Speaker and the Republican Speaker. In the event that there is no agreement, then the Democratic Speaker shall assign bills authored by members of the Democratic caucus and the Republican Speaker shall assign bills authored by members of the Republican caucus.

**CLERK**

There shall be a Democratic Principal Clerk and a Republican Principal Clerk. Each Clerk shall have equal rank and authority.

**COMMITTEES**

1. Each standing, statutory, or select committee shall have co-chairmen who shall be equal in rank and authority.

2. Each co-chairman shall share equally the traditional powers of a committee chairman.

3. The standing committees shall be constituted with six (6) Democratic members and six (6) Republican members, except that Ways and Means shall have thirteen (13) Democratic members and thirteen (13) Republican members and Rules and Legislative Procedures shall have four (4) Democratic members and four (4) Republican members.
4. The co-chairmen shall agree on the bills to be heard in the committee proceedings. If there is a dispute as to whether or not certain bills should be heard each co-chairman has the right to select a number of bill which represents five percent (5%) of all bills assigned to the committee or five (5) bills, whichever is greater, to be heard by the committee.

5. The co-chairmen shall agree on the number of bills to be heard at any committee meeting. Each co-chairman shall then select one-half of the specific bills to be heard.

6. A tie in the vote of a committee on a bill shall result in the bill being reported to the membership without recommendation.

READING OF BILLS

Each member shall have the right to call any bill on which that member is an author or sponsor to the floor for action on second or third reading.

Dennis Heeke

Dan Stephan
1989-1990 Key Legislative Leaders--Interviewed

Co-Speakers of the House

SEAT NO. 2. Committees: Ethics.


Co-Floor Leaders

SEAT NO. 1. Committees: Commerce; Govt Affairs; R.R.M., House Admins; Rules & Legislative Procedure.


Co-Ways & Means Chairmen

SEAT NO. 20. Committees: Ethics; Co-Ch., Ways & Means.

SEAT NO. 54. Committees: Public Health; Co-Ch., Ways & Means.

President Pro Tempore and Minority Floor Leader--Senate

SEAT NO. 1. Committee: Ch., Rules and Legislative Procedure.