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The Development of Special Orders and Special Rules in the U.S. House, 1881–1937

The modern Committee on Rules plays a critical role in structuring the agenda of the U.S. House of Representatives. In fact, resolutions from the Committee on Rules are the primary means through which controversial legislation reaches the House floor. But the Committee on Rules did not play a role in shaping the floor agenda until the 1880s and, despite intense scrutiny of episodes such as the institution of the Reed rules and the revolt against Speaker Cannon, our understanding of the role of the Committee on Rules is limited and skewed heavily toward the post–World War II era. This limitation is unfortunate, because special rules play a starring role in major theories of legislative organization. In this article, I present analysis of the usage and historical development of special rules in the House, and I offer findings from my empirical analysis of the determinants of rule choice from 1881 to 1937. A nuanced interrogation of new data on special rules in this era reveals support for committee specialization and conditional party government as motives for rule choice in this era.

The Committee on Rules is a major locus of power in the contemporary U.S. House of Representatives. A seat on the committee is coveted by members, and the majority party currently grants itself a more than 2-to-1 membership advantage.¹ The House has granted the Rules Committee control of the legislative agenda and terms of debate for all important legislation. The use of special rules from the Committee on Rules to shape agendas and policy outcomes is one of the defining institutional characteristics of the modern-day U.S. House. These special rules serve a dual role, efficiently controlling the flow of legislation to the floor and revealing and enhancing the partisan divisions within the chamber. Marshall (2005) and Cox and McCubbins (2005) maintain that the ability of the majority party to seize the legislative agenda through the use of special rules is one of the key components of party government in the House.

The prevalence of special rules in modern House politics has sparked considerable scholarly debate about the motivations of members in turning to special rules in order to transact business (Bach and Smith 1988; Dion

and Huber 1996; Gilligan and Krehbiel 1990; Rohde 1994). Persuasive theoretical literature points to partisan, informational, efficiency, and distributive motivations for members' use of special rules. Unfortunately, all of these studies have relied on limited datasets focused on Congresses after 1974. Given the importance of special rules in the modern House, it is important that scholars gain an understanding of the development path that created the key features of the modern U.S. House. In this article, I take a step toward this understanding, tracing the development of these practices for the 47th–74th Congresses (1881–1937) and offering empirical analysis of rule choice in the U.S. House for this time period. The results reveal the House to be an institution that rapidly moved from a body that occasionally had difficulty transacting even routine business to one that can efficiently dispose of major legislation in less than a day and on a predictable schedule. Further, my empirical analysis of new data for this era reveals support for committee specialization and conditional party government as motives for these changes in House practice.

The Need for Order

Few political scientists would dispute the power and importance of the modern Committee on Rules, but the committee has not always enjoyed this status. Some form of a Rules Committee has existed since the 1st Congress, but the committee did not attain its status as a power center until the late nineteenth century. It did not gain the power to report to the House at all times until 1841 and did not attain permanent status as a standing committee until 1880.² More important, the Committee on Rules did not begin to play a major role in shaping the agenda and floor debate in the chamber through the use of (what we now refer to as) special rules until the last two decades of the nineteenth century.

Most scholars who study the late nineteenth century House of Representatives note the growing workload of the House and the corresponding need for a more efficient means of transacting business. The number of bills introduced in the House doubled from approximately 4,000 in the 42d Congress (1871–73) to more than 8,000 in the 48th Congress (1883–85), and then doubled again by the turn of the century (Hinds 1907). The growth in workload made it impossible for the House to reach all items on the legislative agenda. As such, the chamber struggled to find effective mechanisms to prioritize legislation.³ By the mid-nineteenth century, revenue and appropriations bills, as well as conference reports, received priority over other types of bills (Alexander 1916, 216). The House developed other tools to help manage the burgeoning workload in the second half of the nineteenth century.

In 1865, the House granted certain committees “privilege” to report bills—thus interrupting the regular order of business—at any time. Granting committees privilege was an effort to facilitate the flow of important legislation to the floor. As part of the larger 1880 rules changes, the House began placing bills on one of three calendars—one for bills that appropriated funds or raised revenue, one for public, non-revenue bills, and one for private bills (Hinds 1907). Once a bill was placed on a calendar, the “regular order” stipulated when bills from each calendar were in order and required that they be taken up in the order they were placed on the calendar.

Even with the system of privilege and calendars, the House often found it difficult to consider all important legislation. Obstruction was a frequent tactic used by legislative minorities in the House as members took full advantage of their parliamentary rights to prevent action in the House through the use of dilatory motions, extended debate, or the infamous “disappearing quorum.” Public bills from the Senate as well as revenue-neutral House public and private bills had the greatest difficulty reaching the floor due to their low place in the order of business, leading to instances of members fighting to seek recognition from the Speaker to request a special order or unanimous consent to consider bills outside of the regular order.

The mechanism with the most potential to regulate the flow of legislation was the special order.⁴ If a bill was made a special order, House rules allowed it to be taken off of the calendar out of order and immediately put before the House, after which it was considered under the chamber’s standing rules. These early special orders did not play a major role in House proceedings, partly because many members made frivolous requests for special orders that took time to be disposed of by the full House.⁵ In addition to the difficulties caused by frivolous requests, members often had trouble obtaining the required unanimous consent or a two-thirds majority, especially for controversial legislation. Hinds (1907, §3152) cited numerous instances of special orders failing because they lacked a two-thirds majority in favor. Minority party members could usually keep bills favored by the majority off the floor by objecting to or voting *en bloc* against special orders. These objections were often used by the minority party as leverage to demand changes in the bill or action on another measure.

The rules of the House thus made it difficult for members of all political stripes to get bills that were important to them considered on the House floor. The major problem plaguing the House was that there was far more legislation than time to consider it, and much of the available floor time was consumed by obstruction and infighting over which bills to consider. Conformity costs were low—a coherent minority

had any number of means to block legislation—while transaction costs were high—majorities often had to concede to the demands of minority factions to get legislation passed. The House had numerous means of negative agenda control, but aside from granting committees privilege, the House had developed few effective tools for positive agenda control. All in all, the chamber's inefficiency was crippling at times, but rules changes throughout the 1880s set the House on a path to greater legislative efficiency.

The Institutionalization of Special Rules

The House began to develop more flexible and effective agenda-setting tools early in 1883, when, for the first time, the Committee on Rules altered the standing rules of the House for consideration of a specific bill: the Tariff Act of 1883.⁶ This move by the committee is the first known instance of the adoption of a special rule to supplant or supplement the standing rules by a simple majority rather than a two-thirds majority (Hinds 1907, §1932).⁷ The rule dealt with House consideration of the Senate version of the bill. The House and Senate had passed a bill with the same title, but the House bill dealt only with internal taxes, whereas the Senate bill dealt entirely with tariffs. House Republican leaders wanted to pass a tariff bill, but one with significantly higher tariffs than the bill passed by the Senate. The House Republicans decided that the best approach was to get the bill to a conference committee where the provisions of the bill could be amended to provide for higher tariff rates.

Such a strategy appeared impossible under the standing rules of the House, because a motion to concur with Senate amendments would have taken precedence—and likely passed—over a motion to nonconcur, which was required for the bill to get to conference. The special rule solved the problem by only allowing action on the motion to nonconcur. The effect of this rule was summed up by the *New York Times*:

[A] rule which shuts and bars the door in one direction and opens it in another. It will allow the House to declare a disagreement, but not an agreement. It will allow a majority to nonconcur, but it will prevent a majority from concurring under the same conditions. It provides that to take up the tariff bill a majority may suspend the rules . . . but do nothing else. . . . They are limited to action in one direction alone.⁸

Special orders were not new to the repertoire of House procedures, but two features of the rule for the Tariff Act of 1883 require special attention: (1) the rule was adopted by a simple majority rather than the two-thirds majority required for earlier special orders, and (2) it changed the standing rules of the House for consideration of a single

measure. Previous and subsequent special orders provided no changes in standing rules (no debate limits, amendment restrictions, time for a vote, and so forth), but special rules continue to alter standing rules for the consideration of a bill. According to Hinds (1907, §1932), early suspensions by majority vote were “regarded as proceedings of doubtful validity.” Even Speaker Reed, who authored the special order for the 1883 tariff bill, had his reservations: “[U]nless there was a great emergency, I should not be in favor of its passage” (Alexander 1916, 216). As Table 1 indicates, the House was initially reluctant to repeat this use of the Committee on Rules. The resolution providing for consideration of the tariff bill was the only one reported by the committee during the 47th Congress, and not one was reported during the 48th Congress. When interruptions of the order of business by the Committee on Rules reappeared during the 49th Congress, they took the form of special orders, not special rules (see the Appendix for coding and descriptions). It is important to note, however, that after 1883, the supermajority requirement for special orders was not retained. From 1883 until the present, simple majorities have possessed the ability to set the House agenda. The tone of debate on these early orders suggests that special orders were not particularly partisan in effect. Minority members still held all parliamentary rights under the regular order, including the right to offer amendments and dilatory motions. With the burgeoning workload, the House simply needed, and seemingly had found, a more efficient way to reach bills that were unlikely to be considered if bills had to be taken off the calendar in order. Once the House began enacting special orders via a simple majority vote, the orders served this prioritizing role quite well, often designating days for multiple bills and committees, or both, in the same order.

The House further consolidated agenda power in the Committee on Rules in the 49th Congress (1885–87), granting the committee the power to report resolutions that specified the day and time for consideration of a bill and stipulating that all such resolutions be referred to and could only emerge from the Committee on Rules (Alexander 1916).⁹ Members soon recognized that special orders were a permanent feature of House floor politics and potentially a harbinger of things to come from the Committee on Rules. During debate on a special order in the 49th Congress (1885–87), Rep. Bayne (R-PA) made the following prescient observation:

[I]f the powers of the Committee on Rules, with its special prerogatives and special powers, are to be perverted to the mere object of fixing a night or day for the consideration of special bills to be reported from some particular committee, there soon will cease to be any respect for the rules of the House at all. (*Congressional Record* 1886, 7156–57)

TABLE 1
Provisions of Special Orders and Special Rules, 1883–1937

Congress	Years	Speaker	Special Orders	Open Rules	Restrictive Rules
47th	(1881–83)	Keifer (R-OH)	0	0	1
48th	(1883–85)	Carlisle (D-KY)	0	0	0
49th	(1885–87)	Carlisle (D-KY)	8	0	0
50th	(1887–89)	Carlisle (D-KY)	1	0	0
51st	(1889–91)	Reed (R-ME)	6	4	6
52d	(1891–93)	Crisp (D-GA)	18	0	0
53d	(1893–95)	Crisp (D-GA)	12	21	2
54th	(1895–97)	Reed (R-ME)	0	8	2
55th	(1897–99)	Reed (R-ME)	7	6	9
56th	(1899–1901)	Henderson (R-IA)	0	6	4
57th	(1901–03)	Henderson (R-IA)	2	11	5
58th	(1903–05)	Cannon (R-IL)	1	5	5
59th	(1905–07)	Cannon (R-IL)	0	8	13
60th	(1907–09)	Cannon (R-IL)	0	1	5
61st	(1909–11)	Cannon (R-IL)	2	7	4
62d	(1911–13)	Clark (D-MO)	9	5	10
63d	(1913–15)	Clark (D-MO)	2	22	8
64th	(1915–17)	Clark (D-MO)	1	13	3
65th	(1917–19)	Clark (D-MO)	6	20	3
66th	(1919–21)	Gillett (R-MA)	2	20	11
67th	(1921–23)	Gillett (R-MA)	13	24	6
68th	(1923–25)	Gillett (R-MA)	0	17	0
69th	(1925–27)	Longworth (R-OH)	0	12	2
70th	(1927–29)	Longworth (R-OH)	3	27	0
71st	(1929–31)	Longworth (R-OH)	16	24	5
72d	(1931–33)	Garner (D-TX)	1	23	5
73d	(1933–35)	Rainey (D-IL)	0	34	8
74th	(1935–37)	Bankhead (D-AL)	1	74	6

As the powers of the Committee on Rules increased, members voiced their complaints about the choice of bills that were taken from the calendars and made special orders. The consideration of a bill to tax oleomargarine in the 57th Congress (1901–03) was particularly controversial.¹⁰ Many members took to the floor to point out that more than 100 measures were in front of that bill on the calendar, yet by a majority vote the House had moved it to the floor via special order. Rep. Cowherd (D-MO) was perhaps the most eloquent objector, arguing that the House could better spend its time debating a bill for the civil government of the Philippine Islands:

Yet that great measure must sleep in what the gentleman from Washington has termed the cemetery of legislation while the Committee on Rules leads the brindle cow again to the bars and lets them down that she may enter into the richness of the Congressional pastures. (*Congressional Record* 1902, 4583)

The 51st Congress (1889–91), the first with Thomas Reed (R-ME) as Speaker, marks an important shift in the content of resolutions from the Committee on Rules. Traditional special orders setting the day and time for considering a bill were still employed, but as Table 1 demonstrates, 10 of the 16 interjections into the regular order by the Committee on Rules in the 51st Congress were what we would now refer to as special rules—resolutions that supplanted the standing rules in addition to making the bill in order. All 10 special rules limited the time for either general debate or amending under the five-minute rule, and two of the rules barred all amendments—the first “closed” rules.

Many elements of the “Reed Rules” were eliminated by the new Democratic majority in the 52d Congress (1891–93), but, if anything, the Committee on Rules was strengthened. Reed’s quorum-counting rule was not maintained, but the Committee on Rules was given the power to report at any time without notice and granted additional protections from dilatory motions (Schickler 2001). These new powers caused some members to worry that the committee was growing too powerful, but most were convinced that the new powers would be used infrequently. Sticking to his guns as a majoritarian, Reed, along with many of his Republican colleagues, applauded the new powers granted to the Committee on Rules (and later resisted efforts to repeal them), all the while encouraging his colleagues to further restrict the rights of legislative minorities. By the 54th Congress (1895–97), members had begun referring to reports from the Committee on Rules as “rules.” The use of special rules grew and the rules adopted became increasingly restrictive of amending activity. Further, the House closed or restricted amending opportunities in the House under the hour rule:

Resolved, That immediately after the adoption of this resolution it shall be in order in the House to call up for debate, the previous question being considered as ordered, a bill reported by the Ways and Means, entitled “A bill to temporarily increase revenue to meet the expenses of Government and provide against a deficiency;” that at 5 o’clock, without delay or other motion, the vote shall be taken. General leave to print is hereby granted for ten days. (*Congressional Record* 1895, 305)

This rule was adopted expressly for the purpose of eliminating amending opportunities; a bill raising revenue reported by the Ways and Means

Committee had privilege on the floor. Yet by embedding the previous-question motion in the rule, the Rules Committee could prevent all amendments, limit the time for general debate to less than one day, and preclude “other motions,” such as the motion to recommit.

Over the course of only a few Congresses, the House moved from a body that sometimes had difficulty transacting routine business to a body with the means to dispose of major legislation, including revenue and spending bills, in less than a day. Commenting on this transformation, Rep. Bailey (D-TX) warned, “It was foolish, I grant you, to debate without deciding; but it is dangerous to decide without debating. This error, sir, is more mischievous than the one which we have abandoned” (*Congressional Record* 1895, 344).

Rules and the Revolt against Speaker Cannon

By the beginning of the 61st Congress (1909–11) many House members, including a group of Republicans known as the Insurgents, had concluded that the Speaker and the Committee on Rules had become too powerful. In earlier Congresses, members had tried to enlarge the committee from its membership of 5, but ultimately failed. According to Alexander (1916, 211), the Insurgents believed that because of the concentration of power in the Speaker and Committee on Rules, the House had “degenerated into an assembly serving no other purpose than to register the arbitrary edicts of an all-too-powerful Committee on Rules.” Efforts to enlarge the Committee on Rules and remove the Speaker from its ranks failed again at the opening of the 61st Congress; Cannon managed to appease some Insurgents with a package of reforms. This truce did not last, however. March 1910 saw a full-scale revolt against Cannonism and the Committee on Rules. The details of the revolt are compelling, but for present purposes, the significance of the revolt is that it enlarged the membership of the Committee on Rules to 10 members, banned the Speaker from serving on the committee, and dictated that membership would be decided by the chamber and not the Speaker (Atkinson 1911).

The change in the composition of the committee did not reduce the number of edicts issued by it. Under new Speaker Champ Clark (D-MO), the House adopted more special orders than it had under Cannon, and, as Table 1 reveals, the use of restrictive rules increased also. Chiu (1928) argued that the 1910 reforms established the Committee on Rules as an independent power base in the House. Cox and McCubbins (2005) have suggested that the revolt against Cannon simply redistributed power *within* the majority party, from the Speaker to the caucus.

Indeed, Table 1 shows that the House enacted 48 special rules in the four Congresses with Cannon as Speaker, 26 of them (54.1%) restrictive in nature. The next four Congresses, under Speaker Clark, saw the House adopt 84 special rules, with 38 (28.6%) restrictive in nature. The incidence of special rules remained steady under Republican Speakers Gillette (MA) and Longworth (OH), prior to considerable growth for New Deal legislation during President Franklin D. Roosevelt's first term (1933–37). These data suggest that the revolt against Cannon did not reduce the agenda-setting role of the Committee on Rules in the House; if anything, the committee was more powerful *after* the revolt.

The development of special rules as a means to control the House agenda efficiently, along with restrictions on dilatory motions, marked an important institutional change in the House. Never again would House business be paralyzed by obstruction. Since then, majorities have had a powerful tool for positive and negative agenda control at their disposal (Cox and McCubbins 2005). The House Committee on Rules's status as a powerful committee was cemented, and the stage was set for inter- and intraparty battles over the actions of the committee from the early twentieth century until the present day. The next two sections articulate some of the competing theoretical explanations for the development and use of special rules, and describe empirical tests of these theories.

Theories of Institutional Choice

As the literature on the U.S. Congress has shifted from a behavioral to a "new institutional" focus, political scientists have devoted a considerable amount of work to explaining the effect of institutional design on legislative outputs (Shepsle and Weingast 1994). Much of this work has concerned how the institutional structure of the U.S. House promotes stability in legislative outcomes in spite of the well-known inherent instability of majority rule (Shepsle 1979). Other work has sought to explain the organizational purpose of institutional features (such as the committee system) and agenda-setting mechanisms (such as special rules). Most elements of institutional design are endogenously determined by the chamber, so scholars have assumed that members' choices over institutional arrangements are purposive. For institutional features such as special rules to persist, they must provide net benefits to chamber majorities. The question is, which chamber majorities reap the benefits?

As I have already noted, one of the most popular explanations for the development of special rules in the House is the members' need

for legislative efficiency (Schickler 2001). With such a large number of bills on the calendars, House members in the late nineteenth century found it was no longer possible to reach all bills—or even all important ones—via the regular order. Galloway (1961) and Alexander (1916) noted that, although special rules helped promote party government in the House, the members’ primary goal in empowering the Committee on Rules was to have it serve as a traffic cop, allowing the House to get bills off the calendar out of order. Similarly, Hasbrouck (1927, 96) noted that the Committee on Rules performed a “sifting” role for the House, freeing the chamber from its own cumbersome parliamentary rules. Many political observers have interpreted the empowerment of the Committee on Rules as a bipartisan move to increase the legislative capacity of the House. In a similar vein but for a different era, Bach and Smith (1988) argued that the increasingly complex and restrictive rules of the late 1980s arose from the Democratic leadership’s need to gain more certainty about the timing of legislative action and to ease the flow of legislation through the chamber.

While most scholars have noted that the agenda-setting powers of the Committee on Rules were often used to achieve partisan goals (Binder 1997), the scholarly consensus appears to be that legislative efficiency was a major force behind the growth in the *use* of special rules in the House.¹¹ Yet previous research has revealed little about rule *choice* in the late nineteenth and early twentieth centuries. The emergence of restrictive rules is, as Gilligan and Krehbiel (1987) suggested, a “great puzzle” in need of explanation. If the House is a majority-rule chamber with endogenously determined rules, “Why, then, would the parent body [House of Representatives] agree to procedures that may ultimately restrict its ability to amend committee proposals? Why and under what conditions would a majority commit to a process that appears to limit its influence on legislative policy?” (Gilligan and Krehbiel 1987, 288). Below I consider two classes of theories—informational and partisan—that shed light on this puzzle, followed by an empirical analysis of these competing theories.

Informational Theory

The Informational theory of legislative organization posits that members seek to establish legislative institutions that will provide specialized information concerning the relationship between legislation and policy outcomes. According to this theory, members lack expertise about many issues coming before the chamber and seek to find institutional arrangements that will alleviate information asymmetries.

Adherents of this theory point to the committee system in the House as a prime example of an institutional structure that efficiently transmits information (Gilligan and Krehbiel 1987; Krehbiel 1991). The committee system divides the legislative workload among subsets of members working in committees with well-defined jurisdiction over particular policy areas. Committee members are thus able to gain expertise about policies falling within those committees' jurisdictions.

As Gilligan and Krehbiel (1987) have indicated, however, the committee system is a necessary but not sufficient condition for the efficient transmission of policy expertise within the chamber. Specialization is costly for committee members, so the chamber must provide incentives for members to specialize and to transmit accurate information to the parent body. Specialization without incentives for transmission is particularly problematic.

Specialization . . . can trigger an unfortunate series of actions. If committee members' preferences for a particular policy outcome differ from those of the parent body, the parent body's recognition of the incentives for strategic use of expertise may cause it to reject or amend proposals of the committee. This behavior, however, undermines the incentive for the committee to specialize, because the committee realizes that its acquired expertise has little bearing on the adoption of legislative policy. Ultimately, both the committee and parent body may suffer. The committee is deprived of the opportunity to influence policy, and the parent body makes uninformed decisions. (Gilligan and Krehbiel 1987, 288–89)

Informational theory notes two solutions for this problem: (1) the chamber constructs heterogeneous committees that are broadly representative of the chamber's policy preferences, and (2) the chamber commits to restrictive legislative procedures (namely, closed rules) that ensure that committee proposals will not be amended by the chamber. Granting closed rules to committee bills may result in outcomes that do not exactly comport with the preferences of the median member of the chamber, but, according to information theory, under certain circumstances the chamber will be willing to give up the right to amend committee proposals in return for specialized policy information.

Gilligan and Krehbiel (1987) have argued that informational theory provides an adequate explanation for the development of special rules in the late nineteenth century. They point to historical accounts of the confluence of a series of events including the growth in the House workload, the development of national markets, urbanization of the country, and the increasing complexity of tariff and other legislation. These conditions created a situation in which members had a greater need for specialized information and less time to gather it themselves. Faced with increased workload and legislative complexity, members

agreed to relinquish certain legislative privileges (amending rights) in exchange for increased specialization and legislative efficiency. Gilligan and Krehbiel based this argument entirely on secondary historical accounts; thus their analysis does not provide systematic support for informational theory as the motivation for members to create restrictive rules.

In later work, Krehbiel (1991) presented an empirical test of informational theory. He reported data on rule choice for the 98th and 99th Congresses (1983–86) that suggested that informational theory accurately predicts whether a bill will receive a restrictive rule. More specifically, Krehbiel's results revealed that committees with preferences close to the majority party median are more likely to receive restrictive rules for their bills, as are committees that have heterogeneous, or more diverse, preferences. Committees that are ideologically distant from the chamber median are less likely to receive restrictive rules for the bills they report. Krehbiel concluded that the House uses restrictive procedures to encourage committee specialization and efficient transmission of information from committees to the chamber.

Party Theories

By far the most common explanation for the emergence and use of restrictive rules emphasizes the role of political parties. The use of restrictive rules in the House coincides with the “czar era,” which saw Speakers Reed and Joe Cannon (R-IL) consolidate power in the Speaker's chair. The “czars” appointed all standing committees and, most important, chaired the five-member Committee on Rules. The Speaker wielded almost complete control over the House agenda and ultimately was able to secure policy outcomes consistent with the majority party's goals.

The circumstances leading to the first special rule in 1883 are much more consistent with a party influence story than an informational account. The tariff was a highly salient issue in the late nineteenth century, with most members clearly understanding the effect of various tariff schedules on industries and consumers in their districts and states. The rule was written for the sole purpose of allowing the Republican leadership to secure a bill that raised tariffs to a level that could not be reached under the standing rules of the House. Further, the rule was adopted to alter the consideration of the Senate version of the bill *after* the bill had been considered by each chamber, so there was no apparent informational advantage that members could gain by adopting a restrictive rule for the legislative endgame. In addition, the bill and rule were both considered and voted on during a lame-duck session of Congress in which the Republicans had lost their majority status to the Democrats.

Cox and McCubbins (2005, 135) have posited that the gains in majority party agenda control under Speaker Reed were the “primary watershed in post-bellum House organizational history.” The data in Table 1 support Cox and McCubbins’s argument: the majority’s ability to control the legislative agenda through special rules has not diminished since the czar era. According to Cox and McCubbins, the agenda-control mechanisms of the Committee on Rules are the fundamental basis of party government in the House of Representatives. Majority parties have had varying degrees of success when using the committee to secure passage of policy biased toward their party via positive agenda control, but the majority’s negative agenda powers to prevent minority-favored legislation from passing have not waned.¹² Anecdotal evidence from members supports this claim. During debate on a closed rule for a bill regulating the implementation of a treaty with Cuba in 1903, Rep. Dalzell (R-PA) dismissed minority complaints:

It is customary when a rule is brought into this House regulating procedure for the minority, whether that minority be a Republican or Democratic minority, to complain against the drastic nature of the rule. Now, this is a Government by parties. The party in the majority is responsible for legislation. The party in the majority ought, therefore, then be allowed, without criticism or comment, to choose its methods of legislation, only so that in the end it obtains the will of the majority. (*Congressional Record* 1903, 256)

Cox and McCubbins have provided a coherent and persuasive theoretical account of the development and usage of special rules to control the legislative agenda, but unlike Gilligan and Krehbiel, they did not provide insights into the type of rules they chose.

The party theory that most explicitly addresses the choice of rule type comes from Dion and Huber (1996), who posited that the majority party is motivated by policy and seeks to secure policy outcomes that are biased away from the chamber median toward the majority party median. Dion and Huber’s theory allows one to make explicit predictions about the type of rule that the Committee on Rules will grant. When the substantive and Rules committee medians are located on the majority party side of the chamber median, the committee will grant a closed rule. If the substantive committee and Committee on Rules are on opposite sides of the chamber median, then the committee will either refuse to report a rule or report an open rule, depending on the location of the status quo. Dion and Huber provided empirical support for their theory using data for the 94th–98th Congresses (1975–84). Committees on the same side of the House median as the Committee on Rules received a higher proportion of restrictive rules than did committees on the opposite side of the chamber median. In fact, Dion

and Huber claimed that the data provided considerably more support for their party theory than for informational theory (but see Dion and Huber 1997 and Krehbiel 1997).

Dion and Huber also find variation in the proportion of restrictive rules according to the location of the Committee on Rules compared to the chamber and the majority party: a greater number of open rules were adopted when the Committee on Rules was closer to the preferences of the chamber median, and a larger number of restrictive rules were adopted when the Rules Committee median was closer to the majority party median. Dion and Huber's finding is consistent with Sinclair's (1994) argument that "centrality of party leadership" is an important determinant of rule choice. Strong party leaders appoint a Committee on Rules with preferences close to those of the majority party median, and the Committee on Rules then reports rules that help secure outcomes close to their and the party's position. Sinclair cited evidence that eras of strong party leadership see a higher proportion of restrictive rules than open rules, especially on important legislation.¹³

Sinclair's, as well as Dion and Huber's, findings regarding variation in the rate of restrictive rules comport with the conditional theory of party government advocated by Cooper and Brady (1981), Rohde (1991), and Aldrich and Rohde (2000). Conditional party government (CPG) theory predicts that the majority party will grant to its leaders the power to shape outcomes when two conditions prevail: (1) there is policy disagreement between the majority and minority parties (interparty heterogeneity), and (2) there are high levels of policy agreement within the majority party (intraparty policy homogeneity). Under these conditions, majority party members are much more likely to give up parliamentary rights in order to secure policy outcomes that are biased toward the majority party. According to Rohde (1991), the growth of restrictive rules in the 1980s corresponded with an increase in Democratic party homogeneity and increasing policy disagreements between Democrats and Republicans.

The informational and party theories make strong and competing predictions about the conditions under which the Committee on Rules will report, and the House will adopt, restrictive special rules. Unfortunately, these theories have been empirically tested with data from a very limited number of Congresses, all of them in the postreform era of the late 1970s and early 1980s, a time period that exhibited relatively weak levels of party voting and party influence (Roberts and Smith 2003; Rohde 1991). The results of these previous tests were mixed: Dion and Huber (1996, 1997) and Sinclair (1994) found strong support for partisan theories of rule choice, whereas Krehbiel (1991, 1997) reported strong support for the informational theory of rule choice. In the next section, I attempt to

shed light on this controversy with results from an empirical analysis of rule choice for the 47th–74th Congresses (1881–1937).

Modeling Rule Choice

Testing contemporary political science theories with historical data is challenging but can be immensely rewarding. Historical contexts and political institutions change, creating important variation that allows scholars to determine if theories are time bound or apply to a broader context. Yet analysts must be attuned to the fact that many contemporary theories and variables are not designed to be of equal import across eras. Historical investigation is ideal for evaluating theories of special-rule choice in the House of Representatives, for several reasons. First, contemporary data allow us to assess and analyze current uses of special rules but do not permit us to make inferences about the *origins* of special rules as an institutional feature of the U.S. House of Representatives. Second, this time period is particularly suited to this type of study because it covers the first appearance of special rules (1883), the strong Speaker era that was dominated by the “czars”—Speakers Thomas Reed and Joseph Cannon, and the two decades following the revolt against Cannon and the subsequent loss of control of Rules committee by the House Speaker.¹⁴

Empirically assessing early special rules is challenging, because no comprehensive list of special rules and their provisions exists in the literature. Hinds (1907) provided an incomplete list, Chiu (1928) provided only a count of special orders for selected Congresses, and Bach (1990) provided detailed data on selected Congresses only. To provide deeper understanding of special rules in this era, I identified and coded all resolutions reported by the Committee on Rules and adopted by the House for the 47th–74th Congresses (1881–1937).¹⁵ In keeping with contemporary practice, I coded resolutions as either special orders, open rules, modified open rules, modified closed rules, or closed rules.¹⁶ Also in keeping with contemporary practice, I considered modified closed and closed rules as restrictive and all others nonrestrictive.¹⁷

Both informational theory and Dion and Huber’s partisan theory make precise predictions about rule choice that depend on the ideological makeup of the parent committee. I coded the parent committee for each bill receiving a special rule by using referral information I found in the *Congressional Record*. Committee membership data came from Canon, Nelson, and Stewart’s website (2003). As Table 2 reveals, numerous committees received special rules during the time period, with many receiving restrictive rules. Robinson (1963) suggested that only the “control committees” (Ways and Means and Appropriations) received

restrictive rules in this era, and although these committees do command the lion's share, other, seemingly less prominent, committees were occasionally granted restrictive rules.¹⁸

Data on rule restrictiveness and committee membership, along with DW-NOMINATE coordinates for House members, allow limited empirical tests of the competing theories of rule choice.¹⁹ Informational theory suggests that closed rules will be granted to committees that are ideologically heterogeneous and representative of the chamber's preferences.²⁰ To measure *Committee Heterogeneity*, I employed the standard deviation of first-dimension DW-NOMINATE coordinates for committee members. To determine the extent to which a committee was representative of the chamber, I generated a variable representing the ideological distance between the chamber and parent committee medians, coded as the absolute value of the difference between the median first-dimension DW-NOMINATE coordinate for the substantive committee and the chamber median.²¹ The Information column of Table 3 presents the results of a logistic regression of rule restrictiveness, with *Committee Heterogeneity* and *Committee Distance* as independent variables. The results generally support information theory. Heterogeneous committees are much more likely to be granted restrictive rules than are homogeneous committees, with the difference being statistically significant. *Committee Distance* is signed properly—committee proximity to the chamber median is associated with receiving restrictive rules—but the parameter estimate fails to achieve conventional levels of statistical significance.²²

Dion and Huber's (1996) theory predicts that restrictive rules will be granted to committees if the committees are on the same side of the chamber median as is the Committee on Rules. I generated a measure of *Committee Agreement*, a dummy variable coded as 1 if the substantive committee's median and the Committee on Rules median are on the same side of the chamber median. The results in the Dion/Huber column of Table 3 do not support the "same side" predictions. Despite some collinearity between *Committee Agreement* and other variables in the model, the negative estimate on *Committee Agreement* suggests that this variable is not predictive in this particular era.

CPG theory does not make empirically testable claims about specific bill/rule pairings, but it suggests that the majority party will be more likely to accede to requests for closed rules when there is policy disagreement between the majority and minority parties (interparty distance) and when the majority party is internally homogeneous (majority party heterogeneity). I measured *Interparty Distance* as the absolute value of the difference between the median first-dimension DW-NOMINATE coordinates for each major party. *Majority Party*

TABLE 2
Special Rules by Committee, 1881–1937

Committee	Number of Rules	Percentage Restrictive
Agriculture	44	9.09
Appropriations	47	43.4
Banking & Currency	30	6.7
Census	5	20.0
Civil Service	2	0
Claims	3	0
Coinage, Weights, & Measures	3	33.3
Commerce	3	0
District of Columbia	7	14.3
Education	7	0
Election of President & Vice President	9	11.1
Expenditures in Executive Departments	6	16.7
Flood Control	5	0
Foreign Affairs	25	20.0
Immigration & Naturalization	31	12.9
Indian Affairs	7	14.3
Industrial Arts & Expositions	2	0
Insular Affairs	4	25.0
Interstate & Foreign Commerce	51	17.1
Invalid Pensions	15	20.0
Irrigation & Reclamation	1	0
Irrigation of Arid Lands	3	0
Judiciary	68	8.8
Labor	11	18.2
Library	4	0
Merchant Marine & Fisheries	24	7.7
Military Affairs	32	9.38
Militia	1	0
Mines & Mining	7	0
Naval Affairs	25	12.0
Pacific Railroads	1	0
Patents	4	25.0
Pensions	5	40.0
Post Office & Post Roads	17	23.5
Printing	1	0
Public Buildings & Grounds	16	12.5
Public Lands	14	21.4
Revisions of the Laws	2	0
Rivers & Harbors	3	66.7
Roads	5	20.0
Rules	2	50.0
Territories	11	18.2
War Claims	2	0
Ways & Means	53	45.3
None	24	20.8

TABLE 3
Models of Rule Choice

Variable	Information	Dion/Huber	CPG	Full Model
Committee Heterogeneity	9.63* (1.77)			1.95 (3.20)
Committee Distance	-4.30* (1.97)			-2.27 (3.57)
Committee Agreement		-0.57* (0.21)		-0.60 (0.25)
Interparty Distance			4.64* (0.96)	5.07* (2.25)
Majority Party Heterogeneity			-19.98* (5.19)	-24.00* (5.69)
Rules Committee Distance				-6.34* (1.40)
Major Committee				1.70* (0.19)
Constant	-5.51* (0.73)	-1.13* (0.16)	-2.53* (1.07)	-2.54* (1.33)
Number of Cases	614	614	614	614
Pseudo R ²	0.06	0.01	0.08	0.18
Log-Likelihood	-277.53	-291.06	-270.14	-241.48
Correctly Classified	81.43	81.62	81.62	83.55

Note: Cell entries are coefficient estimates from a logit model, with robust standard errors (clustered on committee) in parentheses. The dependent variable is coded 1 if a special rule is restrictive (closed, modified closed); 0 otherwise. Committee Heterogeneity is the standard deviation of first-dimension DW-NOMINATE coordinates for committee members. Committee Distance is the absolute value of the difference between the median first-dimension DW-NOMINATE coordinate for the substantive committee and the chamber median. Committee Agreement is a dummy variable coded 1 if the substantive committee and the Rules Committee medians are on the same side of the chamber median. Interparty Distance is the absolute value of the difference between the median first-dimension DW-NOMINATE coordinates for each major party. Majority Party Heterogeneity is the standard deviation of first-dimension DW-NOMINATE coordinates for majority party members. Rules Committee Distance is the absolute value of the difference between the median first-dimension DW-NOMINATE coordinate for the majority party and the median of the Rules Committee. Major Committee is a dummy variable coded 1 for rules that cover bills reported by Ways and Means or Appropriations.

* $p \leq .05$.

Heterogeneity is the standard deviation of first-dimension DW-NOMINATE coordinates for majority party members. The results in the CPG column of Table 3 generally support CPG theory. As the majority party becomes more ideologically diverse, restrictive rules are less likely, but the likelihood of restrictive rules increases as the ideological distance between the two parties grows. Both of these parameter

estimates are statistically different than 0, suggesting that CPG theory provides accurate predictions of rule choice in the U.S. House.

The last column in Table 3 presents the results from a full model of rule choice that combines elements of the first three models with a measure of the ideological distance between the Committee on Rules and the majority party (a modification suggested by Sinclair 1994 and Dion and Huber 1996), along with a variable indicating if the substantive committee was Ways and Means or Appropriations.²³ The results are quite informative. The two variables tapping information theory are signed properly, but neither achieves statistical significance. Once we omit the indicator variable for Ways and Means and Appropriations, however, these parameter estimates are statistically significant. Thus, these results should not be taken as a repudiation of Information theory, but the data do suggest that the informational perspective offers limited predictive ability for this time period.

Dion and Huber's theoretical predictions do not fare as well. There is still no statistical evidence to suggest that committees on the same side of the chamber median as the Rules Committee are more likely to receive restrictive rules. In contrast, other party theories successfully predict rule choice. As Figure 1 shows, homogeneous majority parties are more likely to adopt restrictive rules. The model predicts that, all else being equal, the probability of the most homogeneous party in the sample adopting a restrictive rule is 0.75. The probability of the most

FIGURE 1
Party Distance and Restrictive Rules

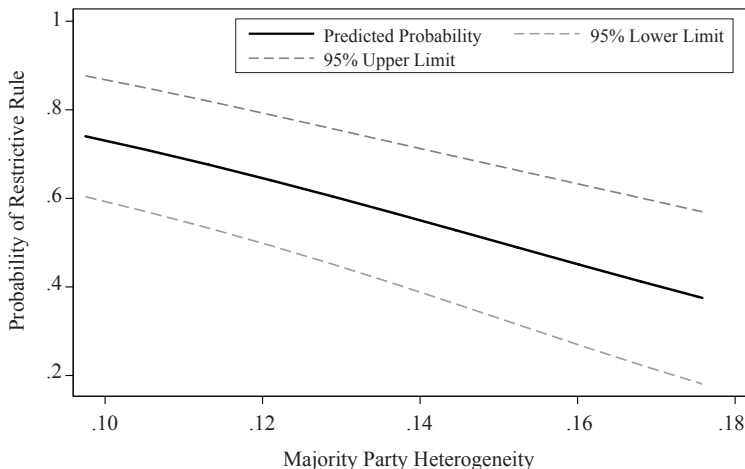
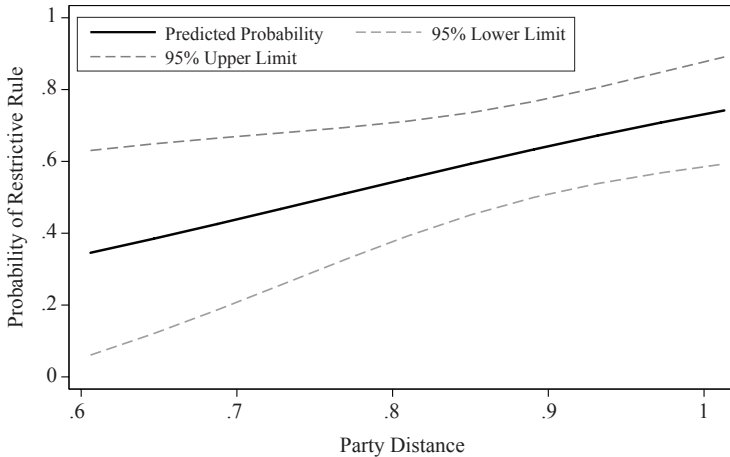


FIGURE 2
Majority Party Heterogeneity and Restrictive Rules

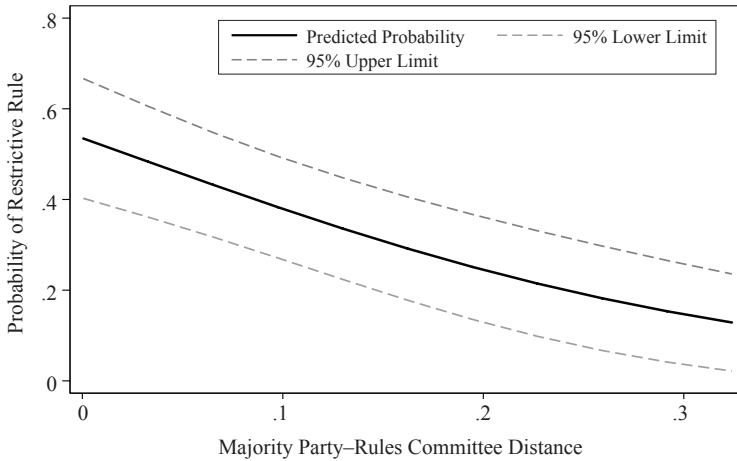


heterogeneous party in the sample adopting a restrictive rule is less than 0.30. Figure 2 reveals that ideological distance between the majority and minority party is also an important predictor of rule choice. When the competing parties are closest ideologically, the model predicts less than a 40% chance that a given rule will be restrictive. When the distance between the two parties is at its greatest, the model suggests an almost 70% chance that a given rule will be restrictive.

The negative parameter estimate for *Rules Committee Distance* provides strong evidence that Rules Committees from this era served as agents of the majority party. As Figure 3 illustrates, when the majority party median and Rules Committee are ideologically distant, the probability that a given rule will be restrictive is less than 0.2. More telling, when the Rules Committee is ideologically proximate to the majority party, the model predicts that a given rule has a chance greater than 50% of being restrictive, all else being equal. Thus, the majority party will only allow the Rules Committee to limit debate opportunities when the party and committee are ideologically compatible.

All in all, the results in Table 3 and Figures 1–3 suggest that, with the exception of Dion and Huber's (1996) hypothesis, contemporary theories of rule choice are not time bound. The results generally confirm the conventional wisdom that the Rules Committee acted as an agent of the majority party, while also providing limited support for the informational theory of rule choice—at least for certain committees in certain time periods.

FIGURE 3
Rules Distance and Restrictive Rules



Discussion

The development of special rules in the U.S. House of Representatives is a defining feature of the American Congress. Granting agenda power to the Committee on Rules greatly increased legislative efficiency in the House and allowed it, unlike the Senate, to maintain majority control over its agenda and legislative proceedings via special rules. Indeed, majority control over the allotted debate time and the legislative agenda is the primary difference in House and Senate floor procedure today. In less than two decades, the House developed many of the features of modern-day special rules, including debate and amendment restrictions, waivers, and self-executing provisions, and the chamber often—although not always—employed them for partisan purposes.

The use of special rules has spawned considerable theoretical work regarding the chamber's motivation for adopting restrictive procedures. As Schickler (2001) has noted, rarely is there a single explanation for major institutional change. The development of restrictive rules is no exception. My analysis indicates that early special rules promoted legislative efficiency, committee specialization, and party government. House majorities adopted resolutions that tied their hands procedurally in order to obtain collective legislative goods. While both the informational and partisan theories of rule choice find some support from the data presented here, the bulk of the empirical evidence points to the

majority party as the driving force behind the adoption of restrictive legislative procedures. The results allow me to suggest answers to the question posed by Gilligan and Krehbiel (1987, 288): “Why and under what conditions would a majority commit to a process that appears to limit its influence on legislative policy?” The “why” is to increase legislative efficiency, and the conditions appear to be majority party agreement on policy, policy disagreement between the majority and minority parties, and a Committee on Rules that is representative of the majority party. These results are somewhat intuitive, as there would appear to be little need for a majority party that could not even agree on policy goals to enact measures increasing legislative efficiency. As former House Speaker Dennis Hastert (R-IL) famously remarked, “The job of Speaker is not to expedite legislation that runs counter to the wishes of the majority of his majority.”²⁴

My analysis contributes new insights into the development of special rules and rule choice in the late nineteenth and early twentieth centuries. Yet much work remains to be done, such as assembling a more detailed historical account of special-rule usage, analyzing voting on the adoption of restrictive rules, and investigating the interaction between party leaders, Rules Committee members, and substantive committees.

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APPENDIX

Coding of Special Rules

The data analysis presented in this article draws on a unique dataset of 652 special rules that I collected and coded myself.²⁵ When coding these rules, I tried to hew as closely as possible to modern standards for coding the restrictiveness of special rules. Table A-1 provides the results of applying this coding scheme to the 652 rules considered. In this Appendix, I list, describe, and give detailed examples of each the six general categories I used to classify rules.

TABLE A-1
Special Rule Coding

Rule Type	Number of Rules
Special Order	111
Open Rule	379
Modified Open Rule	17
Modified Closed Rule	42
Closed Rule	76
Waiver Only	27

Special Order

Special orders were some of the earliest orders from the House Committee on Rules. In contrast to open rules, special orders provide for the consideration of a set of bills from a committee but do not alter the procedures by which the bill(s) are considered. Although the wording of special orders varies, the following order from the 49th Congress (1885–87) is typical.

Resolved, That on Tuesday, February 1, 1887, the House will take a recess at 5 o'clock p.m. until half past 7 p.m., and that the evening session shall be devoted exclusively to the consideration of such measures as may be presented by the Committee on Military Affairs. (*Congressional Record* 1887, 1156)

These orders were typically not controversial, although some members did occasionally complain that special orders limited the time available for consideration of other measures on the House calendars.

Open Rule

Open rules provide for consideration of a particular bill at a particular time but do not restrict the ability of House members to offer germane amendments. The only restriction that a rule could contain and still be considered open is a restriction on general debate time (but not amending time). The following is an example of an open rule:

Resolved, That upon adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 11526, to authorize construction of certain naval vessels, and for other purposes. That after general debate, which shall be confined to the bill and shall continue not to exceed six hours, to be equally divided and controlled by those favoring and opposing the bill, the bill shall be read for amendment under the five-minute rule. At the conclusion of the reading of the bill for amendment the committee shall arise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit. (*Congressional Record* 1928, 4647)

Modified Open Rule

Modified open rules limit the time available for amendments but do not restrict the content of amendments beyond the standing rules of the House. An example of a modified open rule follows:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 16763; that the first reading of the bill shall be dispensed with; that general debate shall continue on the bill until not later than Friday next at 6 o'clock p.m., the time to be controlled one-half by the gentleman from North Carolina [Mr. Kitchin] and one-half by the gentleman from Michigan [Mr. Fordney]; that while the bill is under consideration the House shall meet at 11 o'clock a.m.; that the bill shall be the order for all legislative days except Calendar Wednesday; that at the expiration of general debate the bill shall be read in full by the Clerk without interruption; that upon conclusion of the reading of the bill, amendments may be offered to any paragraph of the bill and considered and disposed of under the five-minute rule until Monday next at 5 o'clock p.m., when all pending amendments shall without further debate be voted on. After all pending amendments shall be disposed of the committee shall rise and report to the House the bill and all amendments that shall have been recommended by the Committee of the Whole on the state of the Union, whereupon the previous question shall be considered as ordered upon the bill and amendments to its final passage and the House shall immediately proceed to vote on amendments, engrossment, third reading, and final passage of the bill without intervening motions, except one motion to recommit. (*Congressional Record* 1916, 10508)

This rule proved to be somewhat controversial. Being a bill to raise revenue reported by the Ways and Means Committee, the bill in question was privileged and therefore did not need a special rule to reach the floor. Rep. Finis Garrett (D-TN) in supporting the rule suggested that its purpose was "to expedite the consideration and passage of this revenue measure. It is plain, simple, and liberal in its terms" (*Congressional Record* 1916, 10510).

This characterization was not shared by Rep. William Bennet (R-NY), who argued, “the presentation of this rule shows the evil effect of persistence in bad habits. There is absolutely no necessity for this rule . . . the only purpose and effect of this rule—we might as well be frank about it—is to prevent the minority from offering amendments effectively.” Bennet went on to argue that reading the bill at once made it difficult to amend the bill and that the regular use of special rules “demonstrate[s] the absolute incapacity of the party in power in this House to do business under the ordinary rules of the House which they themselves adopted” (*Congressional Record* 1916, 10511).

Modified Closed Rule

Modified closed rules are rules to severely limit the ability of members to offer germane amendments to bills. Typically these rules are written to allow only certain sections of a bill to be amended or to restrict amendments to either the chair or the members of the committee of origin for the bill. Consider the following example:

Resolved, That immediately upon the adoption of this order the House shall resolve itself into [sic] Committee of the Whole House on the state of the Union for consideration of the bill (S. 4403) “To amend an act entitled ‘An act to regulate the immigration of aliens into the United States,’ approved March 3, 1902,” and in the Committee of the Whole the amendment in the nature of a substitute reported by the Committee on Immigration and Naturalization shall be read through, after which section 1 of the said amendment shall be considered not longer than one hour under the five-minute rule for amendments; and at the end of the consideration of section 1 section 29 shall in the same way be considered for not longer than two hours, with the provision that amendments pending at the end of the two shall be voted on by the committee; and immediately upon the vote on the said specified amendment to section 29 the Committee of the Whole shall rise and the Chairman shall report the bill and substitute amendment, whereupon a vote shall be taken on the substitute and bill to the final passage, without intervening motion or repeal. General leave is given to print, to be confined to a discussion of the bill, within five legislative days from today. (*Congressional Record* 1906, 9152)

This rule was also controversial. Numerous members complained that the rule unnecessarily denied them the right to offer amendments to other parts of the bill.

Closed Rule

Rules were coded as closed if they prevented rank-and-file members from offering *any* germane amendments to bills being considered by the House. I provide an example from the 51st Congress:

Resolved, that upon the passage of the resolution the House proceed to consider House bill 5381, and said consideration shall continue until Saturday, June 7, when the previous question shall be considered as

ordered at 5 o'clock p.m. on the bill and pending amendments and the House meet at 11 o'clock on Friday and Saturday next. (*Congressional Record* 1890, 5645)

This rule for considering the “currency bill” allowed amendments added by the Committee on Coinage, Weights, and Measures to be voted upon, but no other amendments were permitted, because the bill was not considered in the Committee of the Whole. Referring to this situation, Rep. Blount (D-GA) complained, “when these [amendments] are made there will be left no opportunity on the part of the minority to offer any amendment on any propositions” and Blount continued,

[I]f it was permissible for me to state what occurred in the Republican caucus last night, I could show an infinite amount of division; I could show just such a division on the other side of the House as makes it necessary to put the whip of this order upon them to save them from such a record as would be terrible to them. Your Republican platform declared for silver coinage. In your secret councils many of you have recognized the importance of some sort of coinage of silver, yet here is an order changing the rules of this House to escape that issue in the Congress of the United States. (*Congressional Record* 1890, 5646)

Blount’s complaint has been echoed numerous times by frustrated minorities. The use of special rules to prevent cross-party coalitions from amending or even overturning the legislation of a majority of the majority party has come to be recognized as a vital source of influence for majority party leaders.

Waivers

Rules that waive standing rules of the House are the most difficult to code in terms of restrictiveness. In an absolute sense, waivers can be thought of as extensions of parliamentary rights rather than restrictions, since waivers typically allow something to occur that could not otherwise occur under the standing rules of the House. On the other hand, waivers often restrict the ability of a legislator or group of legislators to object to or have votes on certain elements of a bill. In most instances in my dataset, waivers were embedded within special rules that governed other aspects of bill consideration. For these bills, I simply coded the rule as if the waiver did not exist. In a number of instances, however, rules consisted solely of waivers. For a previous version of this manuscript, I relied on a careful reading of each waiver and the ensuing debate on each to determine if a legislative minority indicated that they were being disadvantaged by adoption of the waiver. If this complaint appeared, then I coded the waiver as restrictive. Following comments from an anonymous referee and wishing to be more consistent with the definitions I have already given, I elected to change these waivers’ categorization to nonrestrictive. Waivers may prevent a member from striking out a provision of a bill on a point of order, but in most of the cases under consideration, the waiver did not prevent a member from offering a simple amendment to strike the offensive provision. The results of my analysis are not dependent on how these 27 cases are coded. One of the first examples of a waiver-only rule appearing in the U.S. House follows:

Resolved, that hereafter, in considering of the bill (H.R. 16472) making appropriations for the legislative, executive, and judicial expenses of the Government, and for other purposes in the Committee of the Whole House on the state of the Union, it shall be in order to consider, without intervention of a point of order, any section of the bill as reported, except section 8; and upon motion authorized by the Committee on Appropriations it shall be in order to insert in 39 any part of the bill any provision reported as part of the bill and heretofore ruled out on a point of order. (*Congressional Record* 1906, 4398)

Unsurprisingly, this rule was quite controversial. Dalzell argued that the rule was a necessity: authorizing committees had not provided for new positions needed to operate a growing government. Opponents argued that this rule set a dangerous precedent and gave the Appropriations Committee too much power. No one disagreed that this rule made it more difficult for members opposed to the legislative riders in the bill to get the riders removed.

NOTES

1. For much of the postreform era, the majority party has granted itself a 9-4 majority.

2. In fact, a Committee on Rules was not formed in the 15th, 16th, 18th, 19th, and 21st Congresses (Alexander 1916).

3. The House had transformed its “previous question” rule into a tool to end debate on legislation, but this rule did not help members to sort legislation (Binder 1995).

4. Nineteenth-century special orders simply made a bill in order and bore no resemblance to special-order speeches that we see in the modern House.

5. Bach (1990) provides a more detailed treatment of special orders in the nineteenth century.

6. For more details on this rule, see Roberts and Smith’s summary (2007).

7. An 1882 rules change preventing dilatory motions on reports from the Committee on Rules made this special rule possible. The rule did have to survive an attempted disappearing quorum prior to passage. A quorum was not present on the first vote, as numerous Democrats abstained, but the next day more Democrats voted and the rule passed by a vote of 125 to 15, with 132 Democrats still abstaining.

8. “Tariff bill Prospects,” *New York Times*, 25 February 1883, p. 1.

9. Allowing these resolutions apparently was not a formal rules change, according to the official history of the Committee on Rules.

10. Lawrence (2001) offers a fascinating account of the congressional response to the invention of oleomargarine.

11. Dion (1997) presents a dissenting view.

12. Schickler and Pearson (2009) offer an alternate view of the 1937–52 era.

13. Sinclair used *Congressional Quarterly*’s “key votes” to determine what constituted important legislation.

14. I intentionally stopped the analysis at the end of the first two New Deal Congresses because the conservative coalition emerged in this time period. Schickler and Pearson (2009) picked up where I left off, analyzing special rules in the conservative-coalition era.

15. The *Congressional Record* index was extraordinarily helpful to me as I identified and coded these resolutions.

16. See the Appendix for details on how I coded special rules.

17. Employing alternative codings of “restrictive,” such as counting only closed rules or considering modified open rules as restrictive, did not alter the substantive results of my analysis.

18. This variation could support the distributional theory of legislative organization (Weingast and Marshall 1988). Unfortunately, the data necessary to test this theory are not available for the era I considered.

19. The DW-NOMINATE coordinates were graciously provided by Keith Poole and Howard Rosenthal. Although these measures are not perfect expressions of legislator ideal points on all issues, they are the industry standard, and other alternatives simply do not exist for this era.

20. A difference-of-medians test between all committees receiving special rules and the chamber median revealed no committee outliers in this era, so interaction terms with an outlier dummy variable are unnecessary.

21. Using the committee chair’s ideal point rather than the committee median does not affect the substantive results of the analysis.

22. Informational theory also posits that committees with higher levels of expertise are more likely to receive restrictive rules. Unfortunately, expertise is a concept that is quite difficult to measure across all eras, but especially with historical data. As such, this element of the theory remained untested in my analysis.

23. The models presented in Table 3 were also fit as multilevel models, with no substantive change in results. Note also that all models reported in Table 3 were fit with dummy variables for the speakerships of Reed and Cannon, but this modification did not affect the substantive interpretations of the models.

24. Charles Babington, “Hastert Launches Partisan Policy,” *Washington Post*, 27 November 2004, p. A-01.

25. I excluded rules that dealt with multiple bills from different committees and rules that provided for consideration of measures that lacked a committee of origin. Eliminating these rules reduced the number of rules analyzed to 614.

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