Bicameral Agenda Control: Examining the Effects of Procedural Tools on Congressional Policy Outcomes, 1883-1937

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August 26, 2011*

*Paper prepared for the 2011 Annual Meeting of the American Political Science Association. An earlier version was presented at the 2011 Congress and History Conference in Providence, RI. The authors would like to thank Chuck Finocchiaro for comments on an earlier draft and Michael S. Lynch and Keith T. Poole for making data available.
Abstract

One of the key differences between the U.S. House of Representatives and the U.S. Senate is their differing agenda control mechanisms. In the House, since the late nineteenth century, a simple majority of those present and voting has been able to adopt special rules that can dictate which bills are considered, when they are considered, how long the debate will carry on, and what, if any, amendments will be offered to the bill. By contrast, the Senate has no equivalent majority agenda control mechanism. In this paper, we begin to assess the effects of differing agenda setting institutions on coalition size and policy outcomes across the two chambers. Using a combination of case study and systematic evidence, we show that the development of special rules in the House served to reduce the size of legislative coalitions, increase chamber efficiency, and restrict overall amending activity relative to the Senate.
Introduction

In October of 1907, the Knickerbocker Trust Company—one of the largest banks in the United States—was forced to shut its doors. Within days, stock prices plummeted by nearly 50 percent leading to a financial panic that worsened during the winter of 1907. The Republican Party was under a great deal of pressure to combat the panic with the presidential election looming (Stephenson 1930; Josephson 1940). In response, Senator Nelson Aldrich (R-RI), Representative Edward Vreeland (R-NY) and the Republican majorities in both chambers fashioned an emergency currency bill. When Congress reconvened in January 1908, Senator Aldrich introduced his version of the bill to the Senate on January 7th (Stephenson 1930). In addition to the authorization of emergency currency, the original Aldrich bill contained a highly controversial proposition authorizing the purchase of railway bonds. The bill was immediately sent to the Committee on Finance and reported favorably on January 30, 1908. The Senate commenced debate on the emergency currency measure ten days later.

The bill was the only measure given substantial debate in the Senate for the next month and a half. During this period, Democrats and Progressive Republicans aggressively attacked the bill. Under the leadership of Senator Robert La Follette (R-WI), opponents accused Aldrich of including the railway bonds provision in an effort to pander to Eastern banking interests (La Follette 1911; La Follette and Follette 1953; Unger 2000).1 Over the course of the lengthy discussion it became clear to Aldrich that by including the provision in the bill, he risked alienating key Western senators whose support he needed to secure passage of the measure. Consequently, that portion of the bill was stripped and numerous additional amendments were approved, making the measure more palatable to the Western senators. It was adopted in the Senate on March 27th by a vote of 42 to 16.2

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1 Nicknamed “Fighting Bob,” La Follette was elected to the Senate in 1906, having served three terms as the governor of Wisconsin. He served as a de facto leader of the Progressive Republican faction. This group frequently found themselves in battles with the party leadership. It often included Senators Jonathan Dolliver (R-IA), Elmer Burkett (R-NE), William Borah (R-ID), Joseph Dixon (R-MT), Norris Brown (R-NE), Albert Beveridge (R-IN), Jonathan Bourne (R-OR) and Moses Clapp (R-MN).

2 The vote mostly split down party lines with 39 Republicans voting yea and five voting no. Of the five
The passage of Vreeland’s emergency currency bill went much more smoothly on the House side. On May 13, 1908, Vreeland’s currency bill was referred to the Committee on Banking and Currency. The next day, the bill was discharged from that committee and considered under a special order from the Rules Committee.\(^3\) The order specified that “debate thereon shall be concluded at not later than 5 o’clock p.m. today, the time to be equally divided between the friends and the opponents of the bill, to be controlled on one side by Mr. Vreeland and on the other by Mr. Williams (Congressional Record, 60th Congress, May 14, 1908, 6244-6245.)”\(^4\) Additionally, the rule specified that only one amendment would be in order – a currency bill drafted by Representative John Sharp Williams (D-MS) offered as a substitute.

Minority party Democrats were incensed by both the short notice and the majority party’s decision to block all amendments. The Williams bill that was allowed had been drafted much earlier in the session and Democrats had drifted away from many of its features.\(^5\) Representative Gilbert Hitchcock (D-ND) complained that the bill was “not accessible,” and Republican no votes, four of them were from the progressive group: La Follette, Bourne, Borah and Norris Brown. Three Democrats supported the measure.

\(^3\)Specifically, the order was considered under a motion to suspend the rules offered by Vreeland and the motion was adopted 176 to 146. While in the modern era, and for much of the House’s history, the motion to suspend the rules and pass required two-thirds support, this has not always been the case (Bach 1990; Sala 2002). Sala (2002, 258-259) explains that in response to Democratic obstructionism, Republican House leaders imposed a restrictive rule “which permitted majority-rule suspension of the rules to pass appropriations bills reported favorably from the Committee of the Whole (Congressional Record, 60th Congress April 8, 1908, 4514-4515).” The resolution also provided that the suspension procedure could be used on any day – as opposed to on just the first and third Mondays of each month (Osborn 1943).

\(^4\)The full order read as follows: “Resolved, That after the adoption hereof the Committee on Banking and Currency shall be discharged and the House shall proceed to the consideration of H. R. 21871 ‘A bill to amend the national banking laws;’ debate thereon shall be concluded at not later than 5 o’clock p.m. to-day, the time to be equally divided between the friends and the opponents of the bill, to be controlled on one side by Mr. Vreeland and on the other by Mr. Williams. It shall be in order to offer in lieu of the bill H. R. 21871 a substitute, namely, H. R. 16730, ‘bill to further protect depositors in banks, to secure a safe and elastic emergency currency, and to amend the national-bank act and previous amendments thereto.’ On the conclusion of the debate as herein provided, a vote shall be taken without delay or intervening motion, first on the question of substituting H. R. 16730, if said bill shall have been offered, and then upon the passage of the bill, or the substitute bill in lieu thereof, as the case may be. General leave to print remarks on the bill is hereby granted for five legislative days (Congressional Record, 60th Congress, May 14, 1908, 6244-6245.)”

that Democrats were unable to secure copies of it” (Congressional Record, 60th Congress, May 14, 1908, 6245.) Congressman John Joseph Fitzgerald (D-NY) opined that it would be “fairer to let this side of the House propose the measure it is willing to go before the country on...” (Congressional Record, 60th Congress, May 14, 1908, 6247.) Williams lamented that the majority will not even permit him to amend his bill as he “desire[d] to amend it, especially in one essential part of it, where a typewriter’s carelessness in section 7 exists in the bill that was introduced on the 7th of February, 1908” (Congressional Record, 60th Congress, May 14, 1908, 6246.) Even some Republicans complained about the heavy-handed way the party was limiting the debate. Representative George Washington Prince (R-IL)—a member of the Banking and Currency Committee—submitted that “the House is called upon to insult a committee of this House, without its having an opportunity to pass upon the bill, and say that it shall be discharged” (Congressional Record, 60th Congress, May 14, 1908, 6246). Despite the vocal opposition, the bill was adopted without any substantive changes, 185 to 145.6

The House bill contained many of the same provisions Aldrich was forced to strip from his Senate bill. The chamber was forced to insist on its amendments, leading to a conference and an eventual La Follette filibuster of the conference report.7 The emergency currency bill’s consideration in both the House and the Senate highlight how the procedural environment of both chambers can influence policy outputs. In particular, the usage of special rules in the House allowed Vreeland to keep many key, partisan provisions of his bill in the legislation. By contrast, the open amending environment in the U.S. Senate forced Senator Aldrich to allow several moderating amendments in order to expedite the measure’s passage.

In what follows, we examine how the development of special rules in the U.S. House

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6Fourteen Republicans joined all voting Democrats in opposing the measure. The Williams substitute was rejected with only six votes in favor.

7Aided by several Democrats, La Follette spoke unabated for nearly twelve hours. At one point during the debate, he accused the majority of attempting to poison him (Burdette 1940). Eventually, a precedent was established barring La Follette from making quorum calls, which he had been doing frequently in order to rest. The obstruction continued for another 15 hours before Aldrich took advantage of a mistake made by a blind filibustering senator and started a final passage roll call (Burdette 1940).
influenced policy output more systematically. Specifically, we argue that special rules not only increased the efficiency of the chamber, but allowed majority party leaders to affect the content of legislation by restricting amending activity. In the remainder of the paper, we examine House coalition sizes, coalition sizes on matched House and Senate bills, and employ a detailed case study of the McKinley Tarriff Act in an effort to assess the effect of procedural choice on policy outcomes in the 49th-75th Congresses.

House and Senate Procedural Differences

As Roberts and Smith (2007) note, the House and Senate took divergent paths in developing agenda-setting mechanisms in the late nineteenth century. Both chambers faced a growing legislative workload and with it an increase in demand for plenary floor time. Both also saw fierce partisan conflict that often led to obstruction in both chambers (Koger 2010a). The House developed and began to use special orders and special rules to help control the flow of legislation to the floor. Special rules proved to be flexible instruments that allowed House majorities to quickly and efficiently dispose of legislation by limiting debate time and amending possibilities. For its part, the Senate has never developed an agenda setting tool on par with House special rules. As Roberts and Smith (2007) note, the Senate began employing Unanimous Consent Agreements (UCAs) in the mid-nineteenth century, but they were initially crippled by their lack of enforceability—a problem that was overcome in 1914 when they were made standing orders of the Senate—and the need for unanimity.8

Roberts (2010) suggests that a few congresses after their creation, House special rules came to be used for partisan purposes. In 1890 during debate on a currency bill, a restrictive rule was adopted, by a partisan 120-117 margin, that severely restricted the number of amendments that could be offered. One of the banned amendments dealt with the coinage of silver, which prompted Rep. James Blount (D-GA) to point out both the partisan and

8House special rules “work” in part because they invoke the previous question on the bill, thus ending debate. The Senate has not had a previous question motion in its rules since 1806. It is this lack of a previous question motion that provides the procedural foundation for obstruction in the Senate (Binder 1997a).
policy implications of restrictive rules:

[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 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, 51st Congress, June 5, 1890, 5646).

Special rules are now employed for all major bills in the House and are widely considered to be a defining feature of House procedures. As such, they have generated widespread scholarly attention. One of the most frequently cited explanations for the use of special rules in the House is legislative efficiency (Schickler 2001). With a growing chamber and an increasing workload, House members in the late nineteenth century found that it was no longer possible to reach all bills, or even all important ones, via the regular order. Galloway (1961) and Alexander (1916) note that while special rules helped promote partisan goals and objectives in the House, the primary purpose of 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) notes that the Rules committee performed a “sifting” role for the House in order to free the chamber from its own cumbersome parliamentary rules. In a similar vein but for a different era, Bach and Smith (1988) argue that the increasingly complex and restrictive rules of the late 1980s were a product of a need for the House Democratic leadership to gain more certainty about the timing of legislative action and to ease the flow of legislation through the chamber.

Though there appears to be considerable scholarly consensus that legislative efficiency was a major force behind the growth in the use of special rules in the House, these works
tell us little about rule choice in the late nineteenth and early twentieth centuries. The emergence of restrictive rules is—as Gilligan and Krehbiel (1987) suggest—a “great puzzle” in need of explanation. Given that the House is a majority rule chamber with endogenously determined rules, Gilligan and Krehbiel question, “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?” (1987, 288).

Since the work of Gilligan and Krehbiel (1987), a number of scholars have sought to explain why the House adopts restrictive procedures. Gilligan and Krehbiel (1987) themselves suggest that informational theory provides an adequate explanation for the development of special rules in the late nineteenth century. They argue that faced with increased workload and legislative complexity, members agreed to give up certain legislative privileges (amending rights) in return for increased specialization and legislative efficiency. In later work, Krehbiel (1991) presents an empirical test of informational theory and presents results that suggest 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 out of committee. From these data, Krehbiel concludes that the House uses restrictive procedures to encourage committee specialization and the efficient transmission of information from committees to the chamber.

Others have concluded that partisan motivations drive rule choice. As Roberts (2010) notes, the rise of restrictive rules in the House coincides with the “czar era”—which saw Speakers Thomas Reed (R-ME) and Joe Cannon (R-IL) consolidate power in the Speaker’s chair. The “czars” appointed all standing committees and most importantly, chaired the five member Committee on Rules. This gave the Speaker almost complete control over the House agenda and ultimately allowed him to secure policy outcomes consistent with party goals. Cox and McCubbins (2005) posit that the gains in majority party agenda-control under
Speaker Reed were the, “primary watershed in postbellum House organizational history” (135). Similarly, Sinclair (1994) argues that “centrality of party leadership” is an important determinant of rule choice. Further, Dion and Huber (1996) develop an explicitly partisan theory of rule choice that predicts that 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 Rules committee will either refuse to report a rule, or report an open rule depending on the location of the status quo (but see Krehbiel (1997) and Dion and Huber (1997)).

As the previous paragraphs demonstrate, scholars have spent a great deal of time evaluating when the House is going to employ a certain type of rule, debating who the rule benefits (parties, committee, chamber median), but comparatively little time examining how or if the choice of a rule has a demonstrable affect on policy outcomes. In addition, there has been little systematic work examining how the House and Senate procedural environments interact to affect policy outcomes. In some ways this is understandable in the modern era, as almost all major legislation receives some form of a restrictive rule in the House and faces at least the threat of a filibuster in the Senate. However, looking back in time allows us to compare bills considered under restrictive rules to those without and allows us to exploit variation in the extent to which senators sought to obstruct legislation.

**Theory and Expectations**

At this point our theoretical expectations are preliminary, but our overarching goal is to understand how the differing procedural environments in the two chambers affect the content and divisiveness of policy outputs. As noted above, there is no doubt that the advent of special rules drastically increased the legislative capacity and efficiency of the House of Representatives. The development of special rules and the other majority control features

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9For a noteworthy exception, see Schickler and Pearson (2009).
of the House were watershed moments in the history of that chamber. The late nineteenth century House was plagued by a combination of problems that were largely solved by the development of majority rule institutions. The combination of a growing chamber, increasing partisan divisions, and lenient rules on obstruction and dilatory motions produced a chamber that was often procedurally paralyzed (Koger 2010a; Sala 2002). Obstruction in the House was particularly effective toward the end of sessions and during lame-duck sessions (Binder 1997a; Wawro and Schickler 2006; Koger 2010a).

Scholarly accounts of obstruction or filibustering in the late nineteenth century U.S. Senate conclude that the tactic was generally less effective at preventing final passage votes on legislation brought to the floor (Oppenheimer 1985; Binder and Smith 1997; Koger 2010a; Wawro and Schickler 2004, 2006). Senators of the era were frequently elderly and in poor health to begin with (Binder and Smith 1997). Health issues were exacerbated by a poorly ventilated building which made the air difficult to breath (Maltzman et al. 1996). Travel conditions were equally onerous and members were usually forced to abandon families for lengthy periods of time. This is reflected in the low turnout on roll call votes in the era (Poole and Rosenthal 1997).

The combination of a low workload, a small chamber population, and the aforementioned environmental factors raised the physical costs of sustaining lengthy obstruction to a level that was largely untenable for most senators. This is not to say obstruction in the nineteenth century Senate was never effective. Indeed, scholars have documented several occasions where filibusters preceded the defeat of several key pieces of legislation (Binder and Smith 1997). More common were instances in which obstruction led to compromise amendments being offered on unrelated measures. Consistent with this, Wawro and Schickler (2006) have convincingly demonstrated that filibusters were generally more successful when the adjournment date loomed. However, from a comparative perspective, obstruction in the House could be stretched out longer, in large part due to the fact that the physical costs of obstruction were dispersed among a larger number of members serving. This made
obstruction in the lower chamber more common (Koger 2010a).

In addition to facilitating legislative efficiency, restrictive special rules also allowed simple majorities to restrict both the number and content of amendments that could be considered to bills put forth in the House. As Roberts (2010) notes, most early special rules were not restrictive in nature, but their use increased substantially under Speakers Reed (R-ME), Henderson (R-IA), and Cannon (R-IL). Then as now, the degree of rule restrictiveness varied—some simply set a time limit on the consideration of amendments, which did not prevent any particularly amendment from being offered. Others, however, either sharply restricted the amendments that could be offered as in the case of the Vreeland currency bill discussed in the introduction, or were completely closed, thus allowing no amendments to be introduced. As noted above, there has been a fierce debate in the literature about the extent to which restrictive rules provide legislative benefits to the majority party or serve as payments for legislative expertise. While we have our own views on this debate, our central purpose here is to understand the effect of restrictive rules on policy outputs.

In general, we see two possible outcomes of our exploration. First, it could be the case that restrictive rules make it possible for House majorities to pass bills that are spatially closer to either the majority party median or towards the median of the committee of origin. We demonstrate this with a stylized example in Figure 1. For a chamber considering changes to a status quo policy located at \( m \), an open rule would result in a proposal at the floor median, \( F \). When matched against the status quo at \( m \), \( F \) should gain the votes of all members to the left of \( OR \). In contrast, under a closed rule the majority party may choose

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**Figure 1: Restrictive Rules and Coalition Size**

![Diagram](image-url)
to make a proposal at $M$. This proposal would secure members at $F$, but would not secure $OR$. In this simplified example, a closed rule would produce a narrower enacting coalition than would an open amending environment.\(^{10}\) Based on this result we may see narrower coalitions form in the House on bills that receive a restrictive rule. If the House is then able to keep the resulting bill closer to $M$ than $F$ through the bicameral resolution process, then we could safely claim that restrictive legislative procedures can have a demonstrable effect on the content of enacted policies. On the other hand, it may be the case that bicameral negotiations with the Senate serve to moderate policies prior to enactment. If this is true, then it may be the case that restrictive legislative procedures have no real effect on policy enactments.\(^{11}\)

In what follows we take a three pronged approach to exploring the effects of procedures on policy outcomes. First, we examine the McKinley Tariff Bill of 1890 in detail. Second, we present a model of coalition size in the House using data on the nature of special rules employed to consider major enactments. Third, we present preliminary data on coalition sizes in the House and Senate on matched bills.

**Special Rules and the McKinley Tariff of 1890**

The presidential election of 1888 was a highly competitive affair that pitted former Indiana Senator Benjamin Harrison (R-IN) against incumbent President Grover Cleveland of New York. The campaign came on the heels of highly contentious, and unsuccessful, attempts to reform tariff rates during both the 49th (1885-1887) and 50th Congresses (1887-1889).\(^{12}\) This

\(^{10}\)As of this writing we have not fully explored how generalizable this result is. There may be status quo locations under which this result would not hold.

\(^{11}\)Given that the U.S. Constitution requires both chambers to pass legislation in identical form before it is sent to the president for his signature, there is a chance that the less restrictive procedural environment in the Senate could have a moderating impact on legislation. For evidence of an “ex post veto” at the conference stage of the legislative process, see Shepsle and Weingast (1987).

\(^{12}\)In the 49th Congress, a tariff bill authored by Ways and Means chairman William Morrison (D-IL) had little chance of success and was defeated on the floor by a coalition of Democrats and Republicans. The next congress witnessed a slightly more serious attempt at tariff reform. A House bill sponsored by Roger Mills
placed the issue of tariff reform at the center of the campaign (Forgette 1997). Harrison—a former Union general in the Civil War—ran a campaign that promoted the Republican Party’s support for protectionist tariffs (Sievers 1959; Calhoun 2005). Harrison and his supporters were dogged by allegations of vote-buying, while Cleveland’s partisans were accused of voter intimidation in the South. The end result saw Harrison winning the Electoral College 233 to 168 even though Cleveland won the popular vote by less than one percent.

The Republicans also were victorious in the congressional elections. During the 51st Congress (1889-1891) they held the House of Representatives by a margin of 179 seats to 152. In the Senate they controlled 51 out of 88 seats in the chamber. This would mark the first time since 1875 that the Republican Party controlled the presidency and both chambers of Congress. In his annual message to Congress, President Harrison outlined a list of recommendations for congressional legislation (Calhoun 2005). In addition to the tariff question, the list hit on two other major issues of that period: silver currency legislation and voting rights legislation for blacks (Schickler 2001).13

These three issues represented part of the Republicans’ sizable legislative agenda. The newly elected House Speaker—Thomas B. Reed (R-ME)—recognized the need to act quickly in enacting the party’s agenda.14 Reed had previous experience in using the Rules Committee to facilitate faster consideration of legislation (Roberts 2010). In addition to his usage of special rules and orders, Speaker Reed orchestrated significant changes to the standing rules of the House.15 The need for these changes appeared obvious to Reed, who had wit-

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13 Each issue had its own constituency within the Republican Party. Members representing northeastern banking and manufacturing interests wanted the tariff (Stephenson 1930; Sage 1956). Westerners greatly wanted to pass silver legislation (Ellis 1941; Elliott 1983). Finally, older members from the Reconstruction coalition wanted to see voting rights legislation (Hoar 1903).

14 Reed, who as we previously detail was a noted parliamentarian, was victorious over Congressmen Joseph Gurney Cannon (R-IL) and William McKinley (R-OH) in the Republican caucus (Morgan 1963).

15 Reed viewed the rules as a way to enact majority party-sponsored legislation. As Morgan (127) notes, “[Reed] would call in Benton McMillin, Democratic member of the [Rules] committee, hand him a slip of
nessed House minority filibusters derail key legislative priorities in previous congresses (Koger 2010a). In particular, Reed’s rules empowered the Speaker to count members present but not voting for the purpose of making a quorum, lowered the threshold of members necessary to form the Committee of the Whole, and prohibited the offering of certain dilatory motions (Binder 1997a; Forgette 1997; Roberts 2010; Schickler 2001).

The adoption of these reforms—in conjunction with the usage of special rules—ensured that a tariff bill could be reported out of the House quickly, and in a manner that minimized the need to sacrifice key Republican priorities with minority party Democrats and some dissident Western Republicans. This was noteworthy given the importance and partisan nature of the issue. For much of American history, the tariff was the federal government’s primary method for raising revenue. Hansen (1990, 529) notes that “…[prior to the Civil War] the U.S. treasury derived about 90 percent of its revenues from customs duties.” Moreover, tariff legislation was overwhelmingly partisan in nature (Hansen 1990; Epstein et al. 1996). Tariff bills featured political costs that were born by specific groups that worked in export-dependent industries, like farmers or urban laborers. As much of the existing empirical literature has demonstrated this generally led to exclusive and narrow policy coalitions (Wawro and Schickler 2004, 2006; Hansen 1990; Madonna 2011).

The legislative vehicle for revising tariff rates in the 51st Congress was authored by Representative William McKinley (R-OH). Not surprisingly, McKinley’s tariff bill was paper containing a new decision, and drawl laconically: ‘Mack, here is an outrage McKinley, [Representative Joseph] Cannon (R-IL) and myself are about to perpetrate. You will have time to prepare your screams and usual denunciations.’

As expected, Democrats were outraged by the adoption of Reed’s Rules. William Breckinridge (D-KY) declared, “I deny the power of the Speaker and denounce it as revolutionary” (Congressional Record, 51 Cong. 1, January 29, 1890, 949). James Bright Morgan (D-MS) declared it unconstitutional. James Outhwaite (D-OH) argued that it was not for the chair to decide whether or not he should vote. Their complaints continued for nearly three days (Binder 1997a).

Only after the collapse of the economy in the wake of the Smoot-Hawley Tariff Act did the tariff move off the legislative agenda.

The chairman of the Committee on Ways and Means, McKinley was defeated for reelection in 1890. He would go on to serve as governor of Ohio from 1891-1896, and eventually be elected President of the United States in 1896. He successfully won a second term in 1900, and served until his assassination on September
highly protectionist in nature. The proposal raised duties by an average of 49 percent (Stathis 2003; Remini 2006; Taussig 1931). It was aggressively opposed by Democrats and criticized in certain Republican circles as well (Schickler 2001).

General debate on the measure commenced on May 6th, 1890 and lasted until May 10th. From the 12th until the 19th, the Committee of the Whole considered amendments proposed by the Ways and Means Committee (Stanwood 1903). During consideration of the Committee of the Whole amendments, the Committee on Rules reported a special rule that fixed the end of consideration of the bill in the Committee of the Whole as May 19, at 4 pm. The rule further specified that all amendments would be in order until “Wednesday, May 21, at 12 o’clock, [when] said bill with all amendments recommended by the Committee of the Whole House on the State of the Union shall be reported to the House Congressional Record, 51st Congress, May 15, 1890, 4710.”

The purpose of the rule was evident to all—Republicans sought to cut off minority party

6, 1901 (Morgan 1963). The remaining members of McKinley’s Ways and Means Committee were no less distinguished. In addition to McKinley, it consisted of Representative Julius C. Burrows (R-MI), Thomas M. Bayne of Pennsylvania, Nelson Dingley, Jr. (R-ME), Joseph E. McKenna (R-CA), Sereno E. Payne (R-NY), Robert La Follette (R-WI), John H. Gear (R-IA), John G. Carlisle (D-KY), Roger Q. Mills (D-TX), Benton McMillin (D-TN), Clifton Breckinridge (D-AR), Roswell P. Flower (D-NY). Burrows, La Follette and Gear would go on to serve in the U.S. Senate, McKenna would be placed on the Supreme Court, Mills, Payne and Dingley all chaired the Ways and Means Committee eventually. Carlisle, a former and future House Speaker, would serve in the Senate as well. Both McMillin and Flower would go on to serve as state governors (La Follette 1911; Stanwood 1903).

19See also “The Debate Opens”, May 6, 1908, New York Times.

20The full resolution read as followed: “Resolved, That on Saturday, May 10, at the close of the legislative day, the general debate on the bill (H. R.9415) to reduce the revenue and equalize duties on imports, and for other purposes, shall terminate; that on Monday, May 12, at 11 o’clock a. m., the House will proceed, in Committee of the Whole, to consider said bill by paragraphs, under the five-minute rule, and that the consideration of said bill shall be continued daily until Monday, May 19, at 4 o’clock p.m., at which time the bill and pending amendments shall be reported to the House. The Committee on Rules, to whom was referred the accompanying resolution introduced in the House on May 8 1890, have had the same under consideration, and ask leave to report the following substitute therefore: Resolved, That after the passage of this resolution the House shall assemble at 11 o’clock a. m. on each legislative day. That immediately after the reading of the Journal and the consideration of conference reports and House bills with Senate amendments the House shall resolve itself into Committee of the Whole House on the State of the Union to consider House bill 9416, to reduce the revenue and equalize duties on imports, and for other purposes. That said bill shall be read through, commencing with paragraph 111, and shall then from day to day be open to amendment upon any part thereof following paragraph 110. That on Wednesday, May 21, at 12 o’clock, said bill with all amendments recommended by the Committee of the Whole House on the state of the Union shall be reported to the house Congressional Record, 51st Congress, May 15, 1890, 4710.”
amendments. As McKinley was forced to admit during the debate, all pending amendments that were not considered by the May 21st deadline would fail.\footnote{The New York Times noted that “The men who made motions to amend probably knew what the fate of their amendments would be before they were offered . . . ” See “No Opposition Allowed”, The New York Times, May 13, 1890.} Once the rule was adopted, the McKinley Bill sailed through the House, passing on May 21st, with 164 yea votes and 142 nay votes (Remini 2006). The narrow coalition was also overly partisan, with 139 of the 140 voting Democrats voting no, and 163 of the 165 voting Republicans voting yes.\footnote{One independent member also voted no.}

As was the case with the Aldrich-Vreeland Currency Bill, consideration in the Senate was much more protracted. While the bill was reported out of the Finance Committee on June 18th, debate over the Sherman Silver Purchase and Antitrust Acts consumed much of the chamber’s time. It was not until July 21st that the tariff was brought up for consideration. Democratic opposition was intense on nearly all Republican proposals, but it was unquestionably strongest against the proposal providing for black voting rights.\footnote{The bill, introduced in the Senate by George Frisbee Hoar (R-MA), sought to move the power to establish election procedures from state governors to federal circuit courts (Welch 1965). Southern state governors had long used their power to establish election procedures in a manner that disenfranchised African Americans. Democrats viewed the bill as an attempt to ‘federalize’ elections, taking power from the states by giving it to a Republican-dominated judiciary.} In an effort to postpone consideration of this bill, they delayed and obstructed nearly all legislative proposals.\footnote{There is some discussion that a deal was struck between the Senate minority leader, Arthur Pue Gorman (D-MD) and Senator Matthew Quay (R-PA). Quay—a strong supporter of the tariff—reportedly agreed to postpone consideration of the Federal Elections Bill in exchange for Gorman’s guarantee that Democrats would not object to a vote being taken on the tariff (Lambert 1953; Kehl 1981).}

Debate and consideration of amendments to the McKinley Tariff Bill continued for over a month and a half. Eventually, the measure passed the Senate on September 10th, with 45 yeas and 33 nays. The bill was a straight party-line vote, with Western Republicans supporting the party position.\footnote{This support was not assured. In addition to allowing several Western-sponsored amendments, Remini (2006) argues that the passage of the tariff killed the Federal Elections Bill and forced the party to pass a compromise silver bill in exchange. Ellis (1941, 197) supports this point, quoting Senator Henry Moore}
496 amendments were adopted.

Conferees were appointed by both chambers to deal with the Senate’s amendments. After two weeks of discussion, a conference report was agreed upon. The conference report passed the House 153 to 81 on September 27th, with 151 Republicans voting yea and 78 Democrats opposing it. It passed the Senate on the September 30th, by a vote of 42-37. Of the 496 amendments, the House accepted 272 of them without any changes, the Senate receded from 51 of them, and the remaining 173 featured compromises of some sort (Stanwood 1903).

Commentary on the conference report suggests that the final law was more of a reflection of the Senate’s bill than the House bill. Stanwood (1903) suggests the act was more Aldrich’s bill than McKinley’s, arguing that the Senate’s amendments profoundly altered it. Moreover, it is clear that the Senate amendments served to moderate the McKinley Act in several important ways. Of the thirty-three amendments that passed with recorded votes, thirteen were supported by a majority of voting Democrats, and an additional six featured at least some minority party support.

These points notwithstanding, one cannot conclude that the House rule had no effect on the final policy outcome. It seems clear that the rule not only increased the chamber’s efficiency, but forced the Senate to start with a more Republican bill than Democrats and Westerners would have liked. Indeed, the conference report coalition in the Senate was narrower than the final passage coalition. This seems to have been the result of the conference committee accepting several of the House’s tariff rates on issues that affected the constituencies of Midwestern senators.26 Thus, it appears that the special rule in the House not only ensured the passage of the McKinley Tariff, but also led to a more partisan and protectionist bill being agreed upon.

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26Senators Preston Plump (R-KS), Algernon Sidney Paddock (R-NE) and Richard Franklin Pettigrew (R-SD) all supported the measure on final passage and voted against the conference report. The debate over the conference report suggests this was largely due to an increase in the tariff rate on woolen goods.


Coalition Size and Formation

Our discussion of the McKinley Tariff and the Aldrich-Vreeland currency bills underscore two important observations about how policy is made in the U.S. Congress. First, it shows how different legislative institutions can produce compromises that ultimately affect policy outcomes. The lack of restrictive rules and the greater opportunities for amendments and obstruction in the Senate forced Aldrich and his supporters to present a more moderate currency bill in the Senate than they had in the House or risk having no bill pass. On the tariff legislation, the special rule that Reed adopted drastically limited the number of amendments considered in comparison to the Senate, leading the House to pass a more ideological bill and resulting in a number of legislative compromises when later reconciling differences across the two chambers.

Second, both of these anecdotes illustrate why a growing amount of research has examined the size of legislative coalitions in both chambers. Prior research has made use of coalition size to explore the important role that a variety of institutions have on policy outcomes e.g., the presidential veto and the Senate filibuster (Krehbiel 1998; Wawro and Schickler 2006). These studies suggest that changes in House and Senate voting rules can lead to clear changes in the size of enacting coalitions. By examining how coalition size has responded to rules changes throughout congressional history, scholars have argued for a parsimonious model of U.S. policymaking—relying on member ideology and formal rules. However, recent work has highlighted potential problems in using coalition size to test for the policy implications of institutional change (see, e.g., Madonna (2011); Roberts (2007); Smith (2007)). In particular, these scholars point out that congressional rules changes do not occur in a vacuum. Throughout American history, the issues and agendas considered by Congress are constantly changing. At the same time, changing legislative practices mean that issues and bills that did not receive a recorded vote in the past may be more likely to receive a recorded vote today.

Coalition sizes have consistently increased throughout the history of the U.S. Congress.
Do differences in rules alone account for this increase? Or do changing issues and legislative practices help to explain larger enacting coalitions over time? If instabilities in the legislative agenda and in the roll call generating process have served to inflate the size of coalitions in both the House and the Senate, existing research may have falsely concluded that changes in institutional rules alone have led to a more consensual lawmaking process.

While prior work has taken important steps in advancing our theoretical understanding of how institutions affect policy outcomes, this research has largely studied institutions in isolation from one another. At the same time, much of this research has assumed that the historical roll call record has remained consistent across congressional history. To clearly understand the role of congressional rules and procedures, changes in agendas and legislative practices across institutions must be accounted for. In the next two sections, we present a preliminary effort to assess the effect of special rules on legislation outcomes. We take advantage of data on special rules and House coalition size as well as pairs of matched votes that occur in both the House and Senate. By comparing the coalition sizes of these vote pairs, we are able to draw preliminary conclusions about the effect of parliamentary procedures on policy outputs in this era.

**OLS Models of Coalition Size**

We begin our analysis of the effect of the procedural environment on coalition size by looking at the effect of special rules on House coalition sizes using data on landmark enactments. This list of landmark enactments is provided by Stathis (2003). We employ the Stathis list because the extended time series allows for more data points in the early Senate than other existing lists.27 Because the Constitution specifies supermajority thresholds for the enactment of constitutional amendments, we omit those from these data. As noted by Madonna (2011), restricting the analysis to landmark enactments has several advantages. First, it ensures that our findings are not biased by variation in the large amount of trivial legislation the

27Future iterations of this paper will also run this analysis using the list generated by Peterson (2001).
United States Congress produces (Cameron 2000; Clinton and Lapinski 2006). The presence of trivial legislation could lead to endogeneity in our model as we might anticipate that trivial legislation may generate larger coalitions and hence, be less likely to receive a special rule. Second, as these lists were created independently of the roll-call voting record, it allows us to account for measures that passed without recorded votes. These data range from the 49th (1885-1887) to 75th Congresses (1937-1939).

Our dependent variable is the percentage of the chamber voting in favor of passage of a given piece of legislation. Our independent variables include a dummy variable for whether the bill was considered under a special rule, the size of the House majority party, majority party heterogeneity, and the distance between the party medians.\textsuperscript{28} We fit two separate OLS models, one including only bills that received a recorded final passage vote, and one including all enactments, with voice votes coded as a coalition size of 90 percent.

Table 1: Special Rules and House Coalition Sizes on Major Enactments

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>(Std. Err.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Rule Used</td>
<td>-0.06</td>
<td>-0.04</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Majority Party Size</td>
<td>0.02</td>
<td>-0.18</td>
</tr>
<tr>
<td></td>
<td>(0.10)</td>
<td>(0.14)</td>
</tr>
<tr>
<td>Majority Party Heterogeneity</td>
<td>0.66</td>
<td>1.03</td>
</tr>
<tr>
<td></td>
<td>(0.32)</td>
<td>(0.48)</td>
</tr>
<tr>
<td>Party Distance</td>
<td>0.05</td>
<td>0.05</td>
</tr>
<tr>
<td></td>
<td>(0.06)</td>
<td>(0.09)</td>
</tr>
<tr>
<td>Intercept</td>
<td>0.71</td>
<td>0.74</td>
</tr>
<tr>
<td></td>
<td>(0.11)</td>
<td>(0.15)</td>
</tr>
<tr>
<td>Number of Cases</td>
<td>333</td>
<td>193</td>
</tr>
<tr>
<td>Adjusted R-Square</td>
<td>0.07</td>
<td>0.05</td>
</tr>
</tbody>
</table>

The results are presented in Table 1, and in general confirm our expectations. Across both

\textsuperscript{28}Majority party heterogeneity is measured as the standard deviation of the first dimension DW-NOMINATE scores for majority party members. Party distance is the absolute value of the difference between the party medians using first dimension DW-NOMINATE scores.
model specifications, a bill considered under a special rule is associated with a 4-6% decrease in the size of the enacting coalition. We also see that more heterogenous majority parties are associated with substantially larger enacting coalitions. This suggests that internally divided majority parties are more likely to produce legislation that has broad appeal in the chamber, which is most likely a function of the degree of legislative compromise necessary to pass the underlying bill. For the remaining variables, our estimates of majority party size and the distance between the two parties are not statistically discernible from zero.

The results in Table 1 do suggest that special rules are associated with smaller enacting House coalitions. There are a number of possible explanations for this finding. First, by restricting amending opportunities, special rules may prevent amendments that would move a bill closer to the chamber median from passing. This would indicate that special rules (especially those that are restrictive) have the potential to affect the nature of policy enactments. Indeed, this is consistent with the Aldrich-Vreeland currency bill discussed in the introduction. It could also be the case that special rules were employed in this era only on bills that were sure to be controversial and likely to result in a narrow coalition regardless of the number and content of amendments allowed. If this were true, special rules would promote a more efficient use of plenary time in the House, but likely have a limited effect on policy outcomes. One could argue that the McKinley tariff bill fits this interpretation quite well. The House was able to dispose of the bill quickly relative to the Senate, but it is not at all clear that limiting the time for considering amendments allowed the House to get its desired policy outcome.

**Raw Matched Data**

Another way to study the effects special rules have on policy output is to examine coalition formation in a bicameral context. Given that both chambers have to pass identical versions of legislation before it is sent to the president, we examine the difference between the two chambers’ enacting coalitions on the same bill at the initial passage stage. Doing so allows us
to improve upon approaches that pool coalition data together in that it controls for problems stemming from the evolving roll call record. Specifically, Madonna (2011) has demonstrated that changes in the types of issues considered can lead to drastic fluctuations in the size of enacting coalitions.

For example, it would be difficult to draw conclusions about special rules by comparing the size of the enacting coalitions on a late nineteenth century tariff bill that did not receive a rule and a 1930’s appropriations bill that did. The largely zero-sum tariff bills will invite narrower coalitions regardless of the rule (Riker 1962). However, the direct effect of changes in institutional settings can be compared using the difference between the House and Senate coalitions on the same bills. The difficulties that historically changing status quo points present to such analysis are also alleviated. Since the status quo is identical for matched House/Senate votes, differences in coalition sizes will reflect differences in rules and preference alignment and not differences in the historical content of the agenda. Finally, because these matched votes are on final passage, and not conference reports, the early cross-chamber compromising should be minimal.\(^29\)

Previous research has argued that threats of obstruction were most effective in both chambers of Congress during lame-duck sessions (Oppenheimer 1985; Binder and Smith 1997; Koger 2010a; Wawro and Schickler 2006).\(^30\) This implies that coalitions should be larger during these sessions because the need to compromise on legislative substance should be greater. Thus, one might expect that House coalitions on bills that feature restrictive special rules should be smaller than House enacting coalitions on bills that do not feature restrictive

\(^{29}\)This is not to suggest that there will be no cross-chamber anticipatory compromises. However, we believe the bulk of these compromises will be done at the conference report stage, and as such, the pre-conference report passage of the bill will closely reflect the chambers’ true preferences. Indeed, the previously presented case studies suggest that is the case.

\(^{30}\)Until the Twentieth Amendment took effect in 1933, the terms of Congress and the president began and ended on March 4th. This meant that lame-duck Congresses could continue legislating for months, during which a large amount of legislation was passed. Minorities could delay until the mandatory adjournment on March 4th, when all pending legislation died. The amendment moved the start of the term up to January 3rd, effectively killing lame-duck sessions. Minorities were more successful killing bills via filibuster as the adjournment date loomed because the costs of obstruction dropped (Binder 1997b; Koger 2010b).
special rules. Additionally, House enacting coalitions on bills that feature restrictive special rules should be substantially smaller than Senate enacting coalitions on those same bills.

Our preliminary data consist of House and Senate coalitions on bills receiving final passage votes in both chambers from the 49th (1865-67) to the 73rd Congress (1933-1935). A raw examination of coalitions during this era is preliminary, but supportive of our expectations. Of the twenty-seven bills that received recorded final passage votes in both chambers during a lame-duck congress, twelve of them contained a House special rule and fifteen did not.

The average House coalition size on bills passed during the lame duck session that did not contain a House special rule was 74.3. This was fairly comparable to the average Senate coalition size on those same bills: 71.9. By contrast, the difference between the size of enacting coalitions on bills passed during the lame duck session that contained a House special rule was much starker. In the House, the average size of enacting coalitions on those twelve bills was 66.9. In the Senate, where obstruction was still a threat, it was a more robust 75.7.

Discussion

In comparing legislative outputs across the two chambers of Congress, much of the existing literature on agenda control has focused on how differences in legislative procedure affect outcomes in one chamber or the other at the aggregate level. Much less attention has been spent examining how the legislative procedure or rule that is employed influences bill-level policy output. This should come as no surprise in the modern era for the House of Representatives, for instance, when all that really varies is the type of rule issued by the Rules

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31 Final passage votes were coded by the authors. The process for collecting enacting coalition data on matched bills was fairly tedious. Doing so required comparing not just the bill numbers on measures receiving final passage votes in both chambers, but also the subject matter of those measures. This allowed us to identify any relevant companion bills that were introduced and voted on. These companion bills were matched using vote descriptions in the roll call database provided by the ICPSR and checked using the Congressional Record and Congressional Globe.
Committee since the majority party is almost always concerned with chamber efficiency. Given the lack of restrictive procedural tools in the Senate, in contrast, the majority party often needs a supermajority of legislators to pass legislation given the greater opportunities for legislative obstruction in the form of a hold or threatened filibuster.

Although we have learned a great deal about agenda control by focusing on the modern congressional era, we believe that there is still much to learn about and from the past as well. By examining legislative behavior in the late nineteenth and early twentieth centuries, for instance, we can compare major bills that receive special rules to those that do not in order to evaluate how the procedural environment significantly altered individual-level policies. In the case of both the emergency currency bill and the McKinley tariff, we see that the special rules that were utilized dramatically limited the number of amendments introduced when compared to the Senate. This, in turn, allowed the key players in the House to pass a more ideological bill than had been possible in the past. As such, the use of historical evidence from these two case studies offers us considerable leverage on the important question of what specific factors influence policy outcomes on the currency and tariff bills.

Drawing on the more systematic evidence presented above, we find that the size of enacting coalitions in the House is significantly smaller than the Senate after the passage of Reed’s Rules in the early 1890s. This supports our broader theoretical expectation that the adoption and use of special rules restricted the number of amendments that could be introduced in the House, resulting in more ideological bills than could be passed in the Senate. Although the Senate version would often be quite different, the use of more restrictive rules most likely gave the majority party in the House greater room for compromise than might have been the case prior to the development of special orders and rules in the chamber.

In terms of future research examining bicameral agenda control, we believe that additional case study evidence could be used to understand important procedural differences across the two chambers. We also think that more systematic analysis using our matched bills framework would be valuable to compare coalition formation across the two legislative
chambers. Although we believe the development and study of congressional institutions across time is intrinsically interesting, we hope we have demonstrated that important institutional changes can also help us better understand policy outcomes at the bill-level on major pieces of legislation.
References


