

**The Centralization of Agenda-Setting in the  
U.S. House of Representatives, 1875-1895**

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In the modern House of Representatives, almost all the legislation that comes to the floor and passes the chamber does so by one of two paths. Either the House Rules Committee proposes a “special rule” which grants privileged floor access to a specific bill, or the Speaker calls on individual members who propose to suspend House rules and pass legislation by a two-thirds vote after a quick debate. This agenda-setting system is overlaid over a set of formal House rules for setting the chamber agenda by debating bills in the order in which they are reported from committee and added to a “calendar,” or a list of bills waiting floor consideration. This paper explains how and why the U.S. House converted from the impartial, committee-dominated calendar system to the current system that grants a great deal of discretion to party leaders.

The pivotal era for the transformation of House agenda-setting was from 1875 to 1895. This change, combined with the suppression of filibustering in the U.S. House, led to a dramatic increase in the majority party’s agenda-setting power (Cox and McCubbins 2005; Koger 2010).<sup>1</sup> I study this development as a case of delegation from legislators to leaders, which is a classic frame for understanding institutional development (Cox and McCubbins 2007; Rohde 1991; Sinclair 1995, 1999). My focus is not on the selection of leaders or how they use their power, but rather on the calculus of individual legislators as they decide how much power to delegate to committee and chamber leaders. This study adds two points to our understanding of delegation. First, it illustrates Sinclair’s (1995) claim that, *ceteris paribus* legislators prefer to delegate as little power as possible to their leaders. Second, this paper highlights the importance of institutional effectiveness in the decision to delegate. During this era, centralization of agenda-

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<sup>1</sup> In practice, filibustering and agenda-setting are highly related subjects. Agenda-setting may be influenced by the expectation of a filibuster, while legislators may obstruct one measure as a ploy to force another issue onto the chamber agenda (Koger 2010). However, this paper strives as much as possible to treat agenda-setting as a distinct topic. See Koger 2010 on filibustering in the U.S. House, and Binder 1997, Dion 1997, and Schickler 2001 on rules changes to limit obstruction in the U.S. House.

setting was primarily a response to the inability of Congress to address major policy problems in a timely fashion rather than shifts in the policy preferences of the House members.

The next section provides an overview of the principal-agent model used in this paper and explains its research design. I then proceed to explain the nature of House agenda-setting in the mid-1870s, and then trace the subsequent choices of House members as they gradually accepted the necessity of delegation.

### **Delegation and Agenda-Setting**

The basic ideas of delegation are well-known. A *principal* delegates power to an *agent* in exchange for some compensation. The principal then must decide how to monitor the agent, and how much to invest in *monitoring*, in order to minimize the agent's using power to advance his or her personal interests, or *agency loss*. The principal will only choose to delegate if doing so yields enough surplus gain to pay for the agent's compensation, additional monitoring costs, and the risk of agency loss.

In the legislative case, the principal can be understood as the collective membership of the legislature, or the party that nominates the winner of a chamber selection process. The agents are committee leaders, party leaders, and the Speaker of the House. There are three forms of "surplus" gains by delegating agenda-setting power:

Efficiency: delegation might help reduce transaction costs that result from attempting to set the agenda collectively. These include any time spent debating and voting on what the agenda ought to be, and especially includes the possibility that an open agenda-setting process may lead to majority-rule cycling in the very likely case that there is no Condorcet winning option on the agenda.

Selection: if the demand for chamber time exceeds supply, an agent can help ensure that chamber time is spent on the proposals that offer the greatest payoff. This is typically called positive agenda-setting (Cox and McCubbins 2005).

Suppression: Some proposals actually impose a cost if they come up for debate. These include issues that divide the majority party (Cox and McCubbins 2005) or otherwise force legislators to choose between two constituencies they want to please, or to choose between a politically popular position and good public policy. In these cases, an agenda-setter provides gains to most legislators by keeping these proposals off the floor.

On the other side of the delegation equation, members must provide compensation to their leaders. While modern Speakers do get some perks—more salary, more staff, and a prime office location—I assume that the power itself is a major compensation, since the leaders get the political credit for the legislative successes of the chamber. This is consistent with Sinclair (1995) that, *ceteris paribus*, legislators prefer to delegate as little as possible because they wanted the ability to achieve their own priorities and receive credit for them. As for monitoring and agency loss, there are two primary problems. One is that in the short term, leaders may make scheduling decisions that are not in the best interests of their principals: scheduling bills that fail, and thereby waste time; scheduling bills and then coercing members to vote for it; and suppressing bills that provide a net positive payoff to most of their principals. This behavior could lead to criticism by members of the leader's party and potential challenges in the current or next Congress. This leads us to the second danger: once in power, a leader is in a position to reward supporters, punish opponents, and potentially make it more difficult to challenge the

leader in the future.<sup>2</sup> For this reason, legislators are likely to think of leadership selection and delegation as self-reinforcing decisions: once made they may be difficult to overturn.

Summing these up, we have the calculus of delegation. Let us say that legislators are choosing an optimal level of delegated agenda-setting powers,  $\lambda^*$ , and let us assume that the marginal benefits of delegation decrease as  $\lambda$  increase and the costs of delegation increase (or at least remain constant) as  $\lambda$  increases, each legislator's optimal level of delegation of agenda setting powers  $\lambda_i$  is set at the point where the marginal benefits equal the costs. For legislative rules chosen by simple majority vote,  $\lambda^*$  is simply the ideal point of the median legislator in the chamber; for party rules,  $\lambda^*$  is the median voter in the party caucus.<sup>3</sup> As noted, though, leaders may influence legislators' preferences as well, leading to individual and collective shifts in legislators' preferences.

Previous work on principal-agent models of legislative leadership fit easily into this framework. Cox and McCubbins (2007) explain that legislators should prefer leaders with safe seats and districts that are typical of their party, since these leaders will probably minimize agency loss. Similarly, the logic of conditional party government (Aldrich and Rohde 2000, 2001; Rohde 1991) is based on the idea that the *benefits* of delegation will increase as the two parties prefer different policy agendas, since an empowered leader can do a better job of steering the legislature toward the majority party's agenda, while the *costs* of delegation decrease as the

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<sup>2</sup> One examples of making it more difficult to challenge an incumbent leader: the incumbent may choose to hold leadership elections for the next Congress very soon after elections are held. This can make it more difficult to organize a coalition to depose the incumbent.

<sup>3</sup> For brevity, this paragraph makes several unstated assumptions: that legislators have single-peaked and symmetric preferences over  $\lambda$ , and that we can treat  $\lambda$  as a single dimension rather than two distinct choices: delegation to committees and delegation to party leaders. The first two are common, and the "more or less" approach generally fits this case. In other eras, the committees versus leadership delegation may be better framed as two separate dimensions, but in this case delegation to committees seems to fit nicely in the middle of a continuum from "no delegation" to "high delegation to party leaders".

legislators in the majority party as their preferences over the chamber agenda become more homogenous.

This discussion highlights additional incentives to delegate, however. First, the benefits of delegation increase to the extent that centralized leadership increases the efficiency of the legislative process (Cooper 1970). Second, as the share of measures considered by the chamber decreases, the more legislators have an incentive to delegate agenda control to chamber and party leaders. In the case studied below, these incentives are critical to the decisions of legislators to streamline their floor procedures, then delegate agenda-setting power to committee leaders, and finally to empower party and chamber leaders.

### **Testing the Model**

This paper focuses on a critical period of Congressional development: the Gilded Age House. During this period, the U.S. House of Representatives suppressed filibustering and centralized its agenda-setting system, culminating in a strong party government. While the suppression of filibustering has been studied (Binder 1997; Dion 1997; Koger 2010; Schickler 2001), and scholars have written about events or portions of the agenda centralization process, there has been no comprehensive study of the process by which the members of the House delegated extraordinary power to its leaders.

This paper tests the model by focusing on the sequence of choices made by the members of the House. The critical expectation is that legislators will be reluctant to delegate power despite the institutional and political incentives to do so. Instead, the delegation of agenda power to party leaders is preceded by (1) efforts to salvage the pre-existing, low-delegation system and (2) attempts to delegate to committee chairs instead of party leaders. Finally, when powers are

granted to party leaders, the initial grants are limited and tentative at first, and then gradually codified and expanded. This reluctance to grant authority to party leaders is consistent with the idea that agenda-setting power is itself a form of “compensation,” and legislators sought to “pay” their leaders as little as possible.

### **III. The Deficiencies of the Calendar System**

Why did members of the House develop a new set of procedures to expedite legislation during the latter half of the 19<sup>th</sup> century? The “calendar” system developed during the first nine decades of House practice was no longer capable of considering a sufficient quantity of legislation, nor of considering important legislation (e.g. a party agenda) with sufficient dispatch.

The floor procedures embodied in the House rules (circa 1860) were intended to provide committees with automatic, fair access to the House floor. After committees considered legislation, they reported the legislation to the full House. If legislation did not pass immediately, the House assigned reported legislation to one of several legislative “calendars.” A calendar was a list of bills arranged by the date they were reported. In theory, the House evaluated legislation from its calendars in sequential order, so bills which hadwaited the longest would receive House chamber consideration. Rep. Thomas Reed (R-ME) summed up the philosophy of this system:

The principle of our present rules is that every question shall be taken up in the order in which it finds itself upon the calendars, and if the House were to transact all its business, and act upon every bill so reported, that system would be perfection itself, because it would only be a question of time as to when any measure would be acted upon.<sup>4</sup>

In theory, petitions from states and citizens brought issues to the attention of Congress; they were studied by committees, who reported to the House for eventual floor consideration (Cooper 1970).

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<sup>4</sup> Congressional Record, 48 Cong, Session 1, p. 869 (February 4, 1884); quoted in Robinson, p. 109.



Legislative parties were able to advance their legislative priorities through the Speaker's power to appoint committees. Under the rules as initiated in the first Congress,<sup>5</sup> a (usually partisan) majority elected a Speaker who was, in turn, empowered to appoint committees. Appointing committees was a complex enterprise, requiring regional balance, interparty and intraparty fairness, and due respect for talent and experience (Alexander 1915, 67-8; Follett [1896] 1974, 222-8). Within these constraints, a Speaker was able to stack committees with little regard for committee seniority to achieve policies favored by a sufficient proportion of his party. Contemporary observers note that "The Speaker is expected to constitute the Committees in accordance with his own political views, and this or that candidate is preferred by his party...because of his more popular opinions concerning the leading questions of the day.(Wilson 1885, 85)" This power was delegated to the Speaker by party members to promote a party agenda:

Each member asks himself in regard to the various candidates, "Will this man constitute the committees as I wish, and will he allow the bills which I favor to be brought in?" The political opinions, therefore, of the various candidates are discussed before the caucus in a careful exhaustive way which would be quite needless if the presiding officer of the House of Representatives were a mere chairman.(Follett[1896] 1974 , 39)

Legislative parties, therefore, sought their policy goals (if any) within a universalistic agenda-setting process, the calendar system, by relying on a two-tiered delegation scheme. Rank and file members delegated power to a speaker; the speaker delegated power to carefully crafted committees.

### ***Emerging Dilemmas of the Calendar System***

At the beginning of the 43<sup>rd</sup> Congress, James Garfield wrote, "the business of Congress must have more than quadrupled during the last twenty years. I cannot be away from home a

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<sup>5</sup> The House briefly experimented with selecting committees by ballot, but in January 1790 delegated this power to the Speaker.

week without finding a large mass of department business accumulated which needs immediate action”(Garfield 1981, 2:225; quoted in Binder 1997, 114). Traditional accounts of increasing House workload (e.g. Polsby 1968, 106) suggest that House change during this period was spurred by an increased set of responsibilities, increasing numbers of legislators, and a rapid expansion in the volume of legislation before Congress. Congress’ responsibilities increased as Civil War claims and pensions and the growth and complexity of interstate commerce required federal solutions.<sup>6</sup> Furthermore, the number of legislators did increase dramatically, from 178 in 1860 to 357 in 1900. As Figure One shows, the quantity of legislation (here just public bills) introduced also increased significantly:<sup>7</sup>

[Figure One about here]

Why, though, would the increasing size of the House and growing number of responsibilities pose a problem for members? First, it increased the effectiveness of dilatory tactics, since the pressure of pent-up legislation raised the opportunity cost of wasting time pushing through a controversial measure (Koger 2010). Obstructionism, in turn, exacerbated the backlog of legislation, since the rules granted every member the potential to act as a veto player.<sup>8</sup> Second, the system of House rules was incapable of processing legislation fast enough to keep up with introduced bills. Figures Two and Three capture two aspects of this relative failure. Figure Two measures the proportion of introduced legislation enacted into law:

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<sup>6</sup> Robinson (1930) explains the growing quantity of legislation: “For twenty years the burdens of the national legislature had been steadily growing. The Civil War produced an incredible number of claims and similar matters which could be handled only in the form of private bills...Changing economic and social conditions were reflected in the increasing activity of members and their bills threatened to choke the legislative hoppers. (p. 107)”

<sup>7</sup> Alexander (1916, 217) suggests the liberalized procedure for introducing bills adopted in 1860 also contributed to this increase, since members soon realized the credit-claiming potential of introducing bills. Data for Figures One, Two, and Three are from Historical Statistics of the U.S., Vol. 2, 1081-2, and refer to bills introduced in both the House and Senate.

<sup>8</sup> A well-known example is James Weaver’s (Granger-IA) filibuster during the 50<sup>th</sup> Congress to force consideration of a bill to organize the Oklahoma Territory. See Robinson 1930, 184-6.

[Figure Two about here]

Clearly, bills were not processed as fast as new legislation was created. Figure Three measures the per-legislator law output, i.e. the number of new laws per member:

[Figure Three about here]

The most important part of Figure Three is the pattern from 1870-1882, which shows a general decrease in laws per member and motivated the series of changes explored below.

The best measure of unmet expectations is the ratio of bills reported from committee to the number of committee reports considered by the House, which would provide a more direct measure of the failure of the calendar system. This seems to be the standard which members used when considering reforms in their floor procedures. Unfortunately, these data are not yet unavailable. Some rough numbers are, however, available from floor debates: during the 46<sup>th</sup> Congress, the House failed to consider 1200-1400 committee reports on the House calendars<sup>9</sup>; in the 47<sup>th</sup> Congress, this number was 950 bills.<sup>10</sup> Compare this to 1860, when the House revised its rules because “scarcely half” of the 500-600 bills on the various calendars received consideration.<sup>11</sup>

The increasing number of members and introduced bills created immense pressure on the calendar system. A system designed to both give every bill a fair, deliberate hearing and to dutifully consider each bill reported from a committee strained under the dual pressures of members and legislation. Of necessity, the number of bills committees vetoed through committee inaction increased, and the number of bills which died on the House calendars increased as well.

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<sup>9</sup> James Briggs (R-NH), 47-1, Jan. 19, 1882, pg 522; Charles Williams (R-WI), pg. 525.

<sup>10</sup> Rep. Roger Q. Mills, Congressional Record, 48<sup>th</sup> Congress, First session, p. 869. Quoted in Robinson 1930, 111.

<sup>11</sup> From Revision of the Rules, pg. 15.

A second emerging problem was the difficulty legislators faced when attempting to set priorities. Although legislators often needed to pass bills quickly or to give priority to important bills, the calendar system discouraged granting special status to particular bills. Congressmen developed strategies to circumvent the calendar system for important legislation, such as unanimous consent requests and motions to suspend the rules, but these strategies required supermajorities. These procedures were thus difficult to use for controversial or partisan bills.<sup>12</sup>

A third source of difficulty for the calendar system was the growing stability of committee assignments. As committee personnel became more stable, majority parties and their elected Speakers were less able to use the committee assignment process to set a policy agenda, reward party loyalists, or punish errant members. As Table One<sup>13</sup> demonstrates, committee reassignments<sup>14</sup> grew about 2.55% for each Congress from 1874-1894, with 15.8% downturns as new majorities rearranged committees to match party priorities. Just these two variables explain 88.5% of the variance (adjusted):

**TABLE 1: THE DEVELOPMENT OF COMMITTEE STABILITY**

<b>VARIABLE</b>	<b>Coefficient (t-ratio)</b>	<b>Probability that the true value is zero</b>
Congress (time trend)	.0255 (7.71)	≤.0001
Change in Majority Party	-.158 (-6.93)	≤.0001
Constant	.278 (12.6)	≤.0001

<sup>12</sup> For example, during the last month of the 43<sup>rd</sup> Congress, Henry Dawes (R-OH), Ways and Means chair, had to suspend the rules at least four times to obtain consideration of his tariff bill, which he accomplished by gaining recognition as early as possible and bargaining on the floor with minority party members.

<sup>13</sup> My thanks to David Canon, Garrison Nelson, and Charles Stewart for their dataset, Historical Congressional Standing Committees, 1st to 79th Congresses, 1789-1947: House/43-54, and to Scott James for his data on consecutive committee tenure.

<sup>14</sup> More specifically, the dependent variable is the percentage of committee assignments retained by members reelected to Congress. That is, what percentage of committee slots held by returning Congressmen went to the same person as the previous Congress?

This stability exacerbated a structural impediment to party management. Speakers already had difficulty controlling committee chairs who, once appointed, enjoyed significant autonomy. For example, Speaker John Carlisle faced challenges from his Appropriations chair, Samuel Randall, who thwarted Carlisle's primary goal: lowering tariff rates; and his Commerce Chair, John Reagan, rebelled against Carlisle's efforts to pass a compromise interstate commerce act.<sup>15</sup> Speaker Carlisle also attempted to extract promises from the chairmen of the Banking and Coinage committees to refrain from, respectively, attacking the national banking system or pushing for free coinage of silver (Alexander 1916, p. 69-70). As committee assignments became more stable, the ability of Speakers to stack committees decreased. This is suggested in Figure Four, which shows the partial regression plot (i.e. factoring out the time trend) for Congresses with new majority parties. Figure Four demonstrates that there was less instability associated with later Congresses (51, 52, 54) than with earlier Congresses (44, 47, 48), implying that Speakers were less able to shuffle senior members around to realize the party agenda which contributed to their electoral victories.

[Figure 4 about here]

Although legislators certainly disagreed over which policies should be adopted, the general backlog of legislation and the inability of majorities to pass salient legislation or set an agenda constituted a *shared* institutional problem. The actions of parties and individuals during suggest that, despite their strenuous and heartfelt opposition to several of the institutional changes during the late 19<sup>th</sup> century, they eventually accepted that House procedures had to adjust to the size of their workload and the principle of majority party agenda-setting.

#### **IV. The Emergence of Centralized Agenda-Setting**

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<sup>15</sup> See James, 1999, chapter two on Carlisle and Reagan's conflict over the Interstate Commerce Act.

During the period 1873-1895, House members proposed and adopted institutional changes which eventually resolved much of the collective action dilemma House members faced. I have classified these reforms into *efficiency* improvements intended to streamline the calendar system, *priority* changes to favor particular committees or types of legislation, and *centralization* efforts which increase the agenda-setting power of elite House members. Although I discuss these three classes separately, it is important to note that all three types of reform occurred concurrently.

### ***Efficiency Reforms***

Members of the House adopted two types of efficiency reforms. First, there were reforms to wring wasted time out of the daily schedule, such as eliminating the requirement that members request permission to introduce bills (Cooper and Young 1989, 86-98). Second, there were rules changes which clamped down on dilatory tactics, enabling the House to reach a conclusion on controversial legislation.

A simple example of an efficiency reform is a Rules Committee proposal adopted May 1, 1879, which deleted first names and initials from members' names during roll call votes. According to floor discussion of this change (Congressional Record, 46-1, 1017), as the number of members increased the amount of time required for a single roll call vote had increased to about forty minutes. This change saved time without substantially diminishing the ability of members to filibuster, since members could simply make additional dilatory motions to eat up the extra time. This rule was reported by Garfield, a minority member of the committee, and adopted without a roll call vote.

Second, a key part of the 1880 reform package was the restructuring of the daily routine to ensure that reports could be filed without filibustering. By revising the daily schedule, more

committees could place their legislation on the House calendars and, members hoped, the House would be more likely to consider bills on the calendars. In 1885, the House made several more efficiency reforms. Debate was prohibited on motions to end debate in the Committee of the Whole; messages from the President and Senate were saved and read at the beginning of the following day, instead of disrupting floor proceedings throughout the day; and the House rescinded the requirement that Appropriations bills pass by a roll call vote.

Two of the 1890 reforms enacted by the Reed rules were simply efficient. As discussed by Cooper and Young (1989, 94-8), the Reed rules permitted members to introduce their public bills directly to the Clerk, instead of consuming hours each Monday publicly introducing bills on leave (this procedure was adopted for private bills in 1887). Furthermore, committees could file their reports directly to the Clerk, saving another hour each day and circumventing efforts to filibuster committee reports. The common element of all these efficiency reforms is that they were relatively uncontroversial; overall they benefited most members and harmed few.

In contrast, efficiency gains through suppressing obstruction were much more controversial. During the second session of the 43<sup>rd</sup> Congress, after losing the 1874 elections, House Republicans faced the impending demise of their sixteen-year control of the House and the possibility that their party could lose the Presidency as well (Bates 1936, 269). It was imperative to the Republicans to pass as much of their shared agenda as possible before losing power, but dilatory tactics (especially repeated motions to adjourn) prevented consideration of a key Republican bill: civil rights legislation. Benjamin Butler (R-MA), sought to suspend the rules and pass a resolution empowering the Rules Committee to propose a new rule which would not be subject to filibuster tactics.<sup>16</sup> Although the Republicans held a 203-88 majority, Butler

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<sup>16</sup> It is interesting that the Republican majority felt this step was necessary. When the Republican majority of the 47<sup>th</sup> Congress again brought forth proposed rules from the Rules Committee, they claimed that Rules reports were

could not obtain a 2/3 majority because a sufficient bloc of Republicans feared Butler's larger agenda: railroad subsidies, a Southern elections "force" bill with supplemental appropriations, and expanded federal court jurisdiction (Binder 1997, 116-7). Instead, the Republicans supported James Garfield's (R-OH) proposal, which indirectly limited the agenda to a goal shared by 2/3 of the party—the civil rights bill—by permitting filibustering on most of Butler's agenda. This reform did not last, since the Democrats repealed this limit on dilatory motions as soon as they assumed the majority in the 44<sup>th</sup> Congress.

A second major example of improving efficiency by suppressing dilatory tactics is Speaker Thomas Reed's (R-ME) counting of a quorum and ignoring dilatory motions at the beginning of the 51<sup>st</sup> Congress. The Republicans held a slim majority in the 51<sup>st</sup> Congress, yet had a significant policy agenda to advance: raising tariff rates, increasing pensions to veterans and widows, a federal election bill, admitting Oklahoma as a territory and Idaho and Wyoming as states, and a silver purchase bill.<sup>17</sup> The Republicans expected that obstruction in the form of disappearing quorums and dilatory motions would doom their agenda, and—led by Reed—they were determined to make the House an effective legislature once more. The events of this transformation are often recounted (e.g. Schickler 2001), but the critical point for this narrative is that they made the House a much more productive chamber: in all, the 51<sup>st</sup> Congress passed 611 public laws (Bates 1936, 300-5).<sup>18</sup>

When the Democrats regained control of the House in the 52<sup>nd</sup> Congress, they repealed the quorum-counting rule. Since this rule had been a major campaign issue for them, the Democrats would have suffered politically if they hadn't repealed this rule. However, during the

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automatically immune to dilatory motions, and claimed precedents from Speakers Blaine and Randall to support this claim.

<sup>17</sup> All these items were mentioned in the 1888 Republican party platform.

<sup>18</sup> Reed offered a more extensive list of legislative accomplishments during the subsequent Congress. (Congressional Record, 52-1, January 28, 1892, pp. 647-8.)



subsequent Congress, when the Democrats' 231-88 majority had shrunk to 220-126, Reed led a two-month effort to readopt the quorum-counting rules by obstructing floor activities (Koger 2010). The Democrats, eager to pass a new silver coinage bill and to repeal the McKinley tariff, finally relented. Reed and the Republicans won their procedural struggle, and the Democrats passed their tariff repeal.

### ***Setting Priorities***

A second response to the failure of the calendar system to process legislation was to give some committees (and their more important bills) priority access to the floor. While this strategy would not solve the overall backlog of bills on the House calendars, it would at least help high-priority bills obtain a hearing. The primary example of this strategy actually owes its privileged status to a rule adopted in 1837: appropriations bills were preferred to any other legislation, granting the Appropriations Committee (HAC) superior status after its creation in 1865. Subsequent rule changes increased the power of the HAC: in 1876, a Democratic Congress enacted the Holman rule (which permitted legislation on appropriations bills as long as the purpose was to decrease spending), both to generally reduce government expenditures and to use appropriations bills as vehicles for the Democrats' legislative agenda specifically riders to reduce federal interference during Southern elections (see Stewart 1989, 84-9). The HAC's strength was reinforced in 1880 by a rules reform package which prohibited offering the text *or substance* of a pending bill as an amendment. In combination with the HAC's ability to control floor time by strategically reporting funding bills to displace other measures, this 1880 change contributed to the HAC's agenda control. Any legislation the HAC opposed could be blocked; if an issue

was important enough to merit a bill, only the HAC could decide to incorporate that bill in an appropriations measure; otherwise, an amendment to attach that bill was out of order.<sup>19</sup>

The HAC's dominant role provoked dissent. The first rebellion occurred in 1877, when John Reagan, the chair of the Commerce Committee, moved to suspend the rules and pass the rivers and harbors improvement legislation prepared by his committee, thereby avoiding the HAC's parsimony.<sup>20</sup> In 1879, the Rules Committee (dominated by HAC supporters (Stewart 1989, 98-106)) attempted to squelch Reagan's rebellions-by-suspension by requiring a three-fourths majority for appropriations bills passed under suspension; instead, Reagan successfully substituted language granting Commerce full control over rivers and harbors improvements with the privileges granted to appropriations bills (CR, 46-1, April 9, 1879, 326-39). During the 1880 debate over rules reform, the Agricultural Committee, led by D. Wyatt Aiken (D-SC), the second-ranking member on the committee, also gained the right to report its own appropriations bill. In both these cases, the effort to change the rules was led by senior committee members who challenged their party leaders and were supported by rank and file members who chafed under the HAC's frugality.<sup>21</sup>

A more dramatic revolt against the HAC occurred in 1885, when the Rules Committee recommended dispersing five appropriations bills to their respective standing committees<sup>22</sup> and rescinding the Holman rule. This action was strenuously opposed by Randall, then chair of the Appropriations Committee, but supported by a curious coalition of Rules Committee members: Speaker John Carlisle (D-KY), Ways and Means chair William Morrison (D-IL), Thomas Reed,

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<sup>19</sup> Reed gives these examples of appropriations rider issues: reorganization of the army, election regulations, transferring the Indian Bureau, and federal poll officers (CR, 46-1, April 9, 1879, 336).

<sup>20</sup> Prior to this action the Appropriations Committee had reviewed (and reduced) rivers and harbors legislation from the Commerce Committee. (Stewart 1989, 90; Alexander 1916, 236-7)

<sup>21</sup> When the Democrats next held majority in 1883, the rivers and harbors appropriations bill was passed to a new Rivers and Harbors committee (Stewart 1989, 116).

<sup>22</sup> Foreign Affairs, Military Affairs, Naval Affairs, Post Office, and Indian Affairs.

and Frank Hiscock (R-NY). Explanations abound for this move: Stewart (1989, 119-28) claims that party leaders were succumbing to the inevitable, given the rank and file support for change. Alexander (1916, 241-50) attributes the change to Morrison; since Randall had used his power as HAC chair to rally support against Morrison's tariff cuts during the 48<sup>th</sup> Congress and he used the HAC's prerogatives to preempt Morrison's tariff legislation, Morrison sought to reduce Randall's ability to block his (and Carlisle's, and the Democrat party's) primary agenda item. Robinson (1930, 118-23) explained Reed's support for the change as a reaction to the HAC's frugality and agenda monopoly; dispersal would permit other committees to advance their legislation in the form of riders.

In addition to strengthening the HAC, then dispersing its agenda power, members of the House also raised the status of particular committees to increase their influence on the House agenda. In 1879, the committees on Ways and Means, Banking and Currency, and Coinage, Weights, and Measures were temporarily granted the right to report at any time and adopt a special order for their business by majority vote (CR, 46-1, April 9, 1879, 339-40). The rules reform package granted the right to report at any time to four housekeeping committees: Elections, Enrolled Bills, Printing, and Accounts (Hinds 1907 4:4621). In 1884, the second and fourth Mondays of each month were set aside for business from the District of Columbia (CR, 48-1, March 1, 1884, 1526). Public Lands was granted the right to report at any time in 1885, and the Rules Committee formally received this right in 1890. Some grants of this prerogative were temporary and overturned by the opposing party after a switch in party control: Banking & Currency and Coinage, Weights and Measures were empowered by the Democrats for the 46<sup>th</sup> (1879-1881) and 53<sup>rd</sup> (1893-5) Congresses, while Republicans empowered the Territories and

Invalid Pensions Committees during the 51<sup>st</sup> (1889-1891) Congresses. These changes are summaries in Figure 5.

A final, clear-cut example of priority-setting occurred during consideration of the 1882 contested election case of *Mackey v. Dibble*. After seven days of minority obstructionism, the Rules Committee issued a new rule declaring that when an election case is before the House, the chair should not recognize dilatory motions. Reed was this driving force behind this rule and, with Speaker Keifer, created a new precedent that reports from the Rules Committee could not be filibustered.<sup>23</sup>

By themselves, these changes failed to resolve the efficiency and agenda-setting problems the House experienced. Committee reports were still subject to displacement and filibusters. Not until the 1890 reforms were committees able to introduce their reports easily (mentioned above) and call up reported bills at the discretion of committee chairs. Furthermore, designating some committees as “more equal than others” was a blunt answer to the members’ need to set priorities. Over time, many committees considered legislative issues important to members and the country, and granting new committees special status as issues arose was both slow and progressively less effective. Thus the House pursued a third track of institutional reform which increased the role of leadership discretion in agenda-setting.

### ***The Centralization of Agenda-Setting***

Thus far we have discussed *efficiency* reforms which tried to make the existing calendar system work and *priority* reforms which gave particular committees special privileges. The third reform track, *centralization*, was most important to the development of the current system of floor procedures. In lieu of a system designed to discuss and decide on every piece of

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<sup>23</sup> After a series of Democrats’ disappearing quorums, the election rule passed by a nearly “unanimous” vote of 150-2, 139 not voting. (CR, May 29, 1882, pg. 4328-9).

legislation, centralization reform delegated members' nominal authority to some agent or set of agents.<sup>24</sup>

The earliest centralization reform was the gradual increase in the Speaker's discretion in recognition. In order to make a speech, move a motion, or assert a privilege the Speaker must agree to call on a member. Although officially recognition is automatic, Gilded Age Speakers gradually asserted a right to decide who merited recognition. It is not exactly clear when Speakers began exercising discretion,<sup>25</sup> but Follett (1974, 104) mentions that James Blaine would bargain with members prior to agreeing to recognize them. "This was," she writes, "assuming unaccustomed power: the Speaker who can frame resolutions and alter bills has the House under strict discipline." In 1879, after a protest on the floor, the House Rules Committee reviewed the Speaker's discretion in recognition and reported, "As to the order of recognition, [the Speaker] should not be bound to follow the list [of persons requesting to speak], but should be free to exercise a wise and just discretion in the interest of full and fair debate(CR, 46-1, April 9, 1879, 340)." Under John Carlisle, this discretion became the right to query members about their intentions after they rose for recognition and, if he disapproved of a member's request, to deny recognition; in some cases, Carlisle used this power to veto legislation (Follett 1974, 262-6).

Speakers' discretion evolved as a response to a political problem. Members often offered frivolous motions to suspend the rules to score political points or to waste time (Hinds and Cannon, V, 6797; Bach 1998, 25-30).<sup>26</sup> By acting as a filter for abusive motions, a Speaker

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<sup>24</sup> These centralization reforms are an interesting application of Barbara Sinclair's principal-agent model of legislative and party leadership: members delegate power to their leaders to carry out collective goals. (See Sinclair 1995, chapter two).

<sup>25</sup> Alexander (1916, 58) cites some examples from the antebellum House.

<sup>26</sup> The abuse of suspension motions also motivated the adoption of a rule requiring an immediate, unrecorded majority vote on whether to consider a motion (adopted 1874, repealed 1875, readopted 1880) and reducing the number of days each month for members to make suspension motions (1880).

could protect members from awkward votes and save time for substantive legislation. At the same time, by asserting the power to choose, Speakers acquired a powerful tool for rewarding friends and punishing the disloyal. Since an individual member's best chance to pass legislation often required making a suspension motion and those motions were in order only on alternate Mondays *and the last ten days* of a session, he had to remain in the Speaker's graces to obtain recognition. Follett writes: "During the last ten days of Congress, when the rules may be suspended at any time, the power of the Speaker is at its height...the able Speaker guides this tumultuous body to the accomplishment of his own ends (1974, 253-4; see also Alexander 1916, 61)."

A second procedural tactic to focus the House on worthy subjects was the Pound Rule adopted during the 47<sup>th</sup> and 48<sup>th</sup> Congresses. The Pound rule was a temporary procedure enacted at the end of each session to allow committees (47<sup>th</sup>) or individuals (48<sup>th</sup>) to call bills off the calendars provided 5 (47<sup>th</sup> Congress, 1<sup>st</sup> Session), 4 (47<sup>th</sup> – 2<sup>nd</sup>) or 10 (48<sup>th</sup>) members do not object, debate them for ten minutes, then pass those bills by majority vote. It was intended to expedite non-controversial legislation, but rarely worked; given the large quantity of bills on the calendar, Reed compared it to "running Niagara through a quill (CR, 48-2, February 5, 1885, 1288)." As with efficiency reforms, the Pound rule was relatively non-controversial and sought to increase the quantity of legislation passed.

What is particularly interesting about the Pound rule was the debate it sparked on delegation and agency. During the 47<sup>th</sup> Congress, only authorized committee representatives could call up bills reported by their respective committees. Committees were called "in order," ensuring rotation of privilege. During the 48<sup>th</sup> Congress, Samuel Cox(D-NY) objected to the proposed rule, fearing "favoritism" if no objective procedure was used to select the members

who made motions. Cox proposed that members draw lots to determine the order in which members would propose bills, to which HAC chair Randall replied, “The Committee on Rules recognized that these recognitions are always within the absolute and exclusive control of the Speaker of the House (CR, February 2, 1885, 1171).” After a series of votes, Randall’s view won out.

A third agenda-setting mechanism was the use of special orders from the Rules Committee. Using the Rules Committee’s newly declared power to issue special orders by majority vote without filibustering, Reed and the Rules Committee issued its first special order to assist the passage of the 1883 tariff bill.<sup>27</sup> After losing the 1882 elections, the Republicans were desperate to respond to anti-tariff sentiment before relinquishing control of the House to the Democrats. They sought to improve their party’s image on this salient issue as well as to preempt Democrats’ efforts in the 48<sup>th</sup> Congress to pass more drastic tariff reductions. Due to Democrats’ filibustering, the House Republicans’ tariff reform bill was stalled in the Committee of the Whole House on the State of the Union; the Republicans could neither expedite debate nor move the bill to the more constricted House floor (which required a 2/3 vote). The Senate Republicans had passed their own tariff reform bill which lowered rates significantly. Since the Senate could not initiate a revenue measure, the Senate Republicans substituted their tariff bill for a minor tax bill that had already passed the House, thereby fulfilling the letter if not the spirit of the Constitution. However, the House Republican leadership feared an open debate or vote on the Senate bill; their best strategy was to get the bill to a conference committee where the net reduction in tariff rates could be minimized. Under the standard House rules, a vote to accept the Senate bill had priority over a motion to disagree and request a conference. The solution was the

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<sup>27</sup> This account is drawn primarily from McCown (1927), chapter VI. McCown’s account also describes the partisan nature of the tariff conference committee.

first “special order” from the House Rules Committee: a resolution to proceed directly to the Senate bill and request a conference committee. After some filibustering, the Republicans succeeded with their maneuver and, shortly, enacted a tariff bill that make minimal net change in tariff rates.<sup>28</sup>

After this partisan origin, the use of special orders increased during the next three Democratic-controlled Congresses, then increased dramatically as the Reed Rules codified the Rules Committee’s right to report a special order at any time without obstruction (See also Roberts 2010).

Congress-Session	47-2	48-1	48-2	49-1	49-2	50-1	50-2	51-1
Number of Spec. Orders	1	1	0	6	5	3	4	17

This change was one of the few Reed Rules to carry over into the 52<sup>nd</sup> Congress, in part because the Democrats had previously used special orders from the Rules Committee. During the 48<sup>th</sup>-50<sup>th</sup> Congress, most special orders were adopted without a recorded vote, and the legislation it ordered was usually non-controversial. In these cases, the power of the Rules Committee was used to bring up bills out of order, usually during the crush of business at the end of a session.<sup>29</sup> Despite its partisan origins, the agenda-setting power of the Rules Committee soon became institutionalized and, despite occasional protests from rank and file members, was accepted by both parties as a necessary mechanism for advancing important legislation.

The combination of the Speaker’s discretion in recognition, the Rules Committee’s agenda-setting, and the suppression of obstruction inaugurated a new era in Congressional

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<sup>28</sup> Reed claimed (without refutation) during debate that the public clamored for the House to pass the tariff reform bill because “[B]usiness men of this country dread to fall in the hands of the Democratic party which in a moment of mistake they have elected.” (CR, 47-2, February 26, 1883, 3317)

<sup>29</sup> Frank Hiscock (R-NY) expressed this view as the Rules Committee authorized two night sessions. (CR, 49-1, July 19, 1886, pg. 7157.)



history. Congressmen and their parties were better able to focus their attention on the most important or advantageous issues before the House.

## **V. Discussion**

This paper has traced the evolution of agenda-setting procedures in the U.S. House during a critical period of institutional development. This project applies a general principal-agent framework to the delegation of procedural power to chamber leaders, and makes a contribution by specifying the costs and benefits of this calculation. In particular, as Sinclair 1995 argues, delegation of power itself is costly, since the members of the chamber must give up credit for the actions of the chamber. And, while legislators may consider their ideological proximity to chamber leaders when deciding whether to delegate, they also consider the positive gains achieved by making the chamber more effective.

During the Gilded Age, the U.S. House of Representatives shifted from a universalistic and automated system to particularistic and discretionary decision making. That is, the House increasingly ignored a system of rules which accorded each legislative proposal fair consideration and relied upon an elite Rules committee—or its partisan majority—to set its priorities. This process was slow and incremental, as House members first attempted to salvage the existing system, then grant agenda power to specific committees, and finally to accept a direct role for party leaders.

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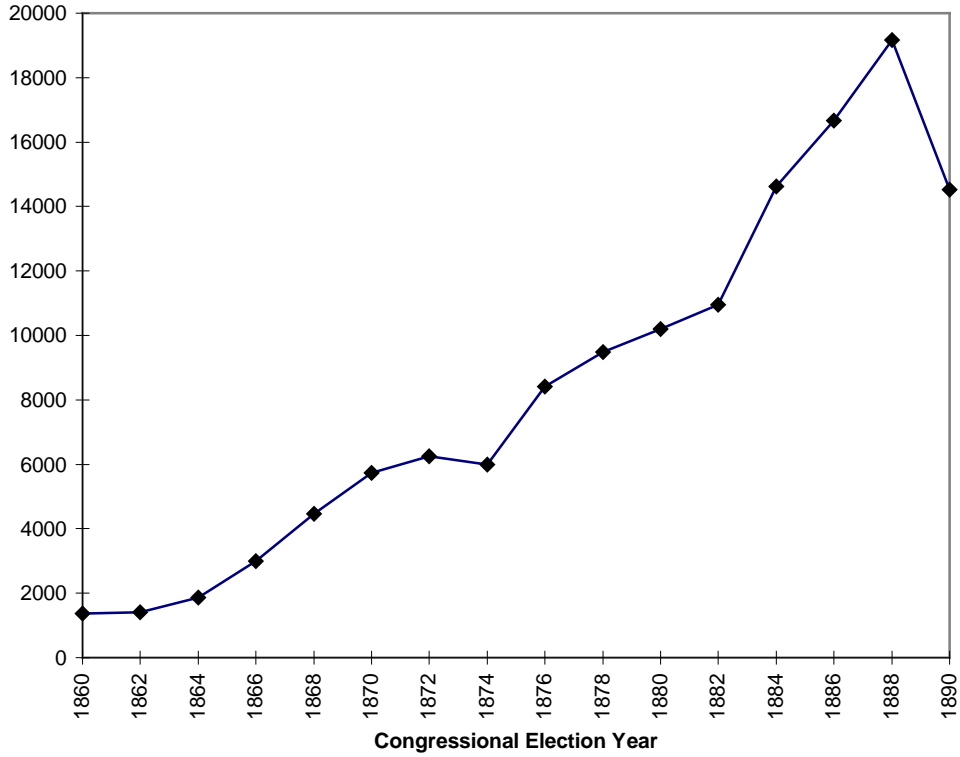
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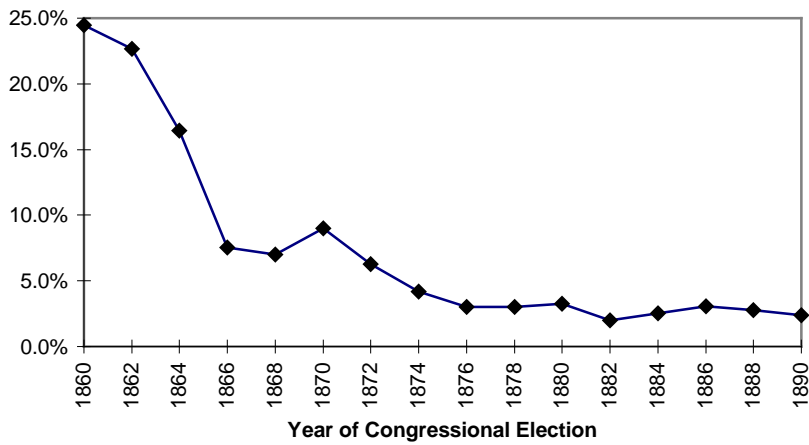
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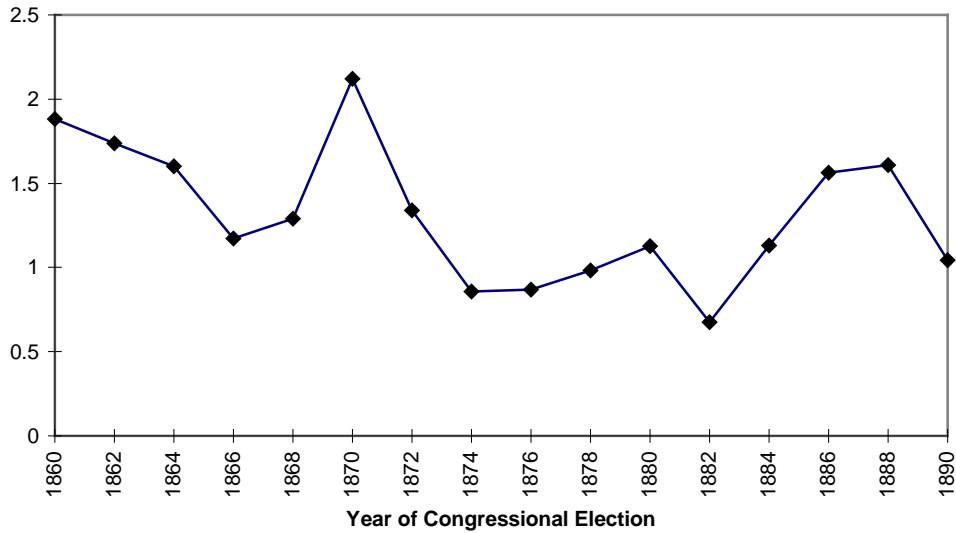
**Figure One: Bills Introduced, 1861-1895**



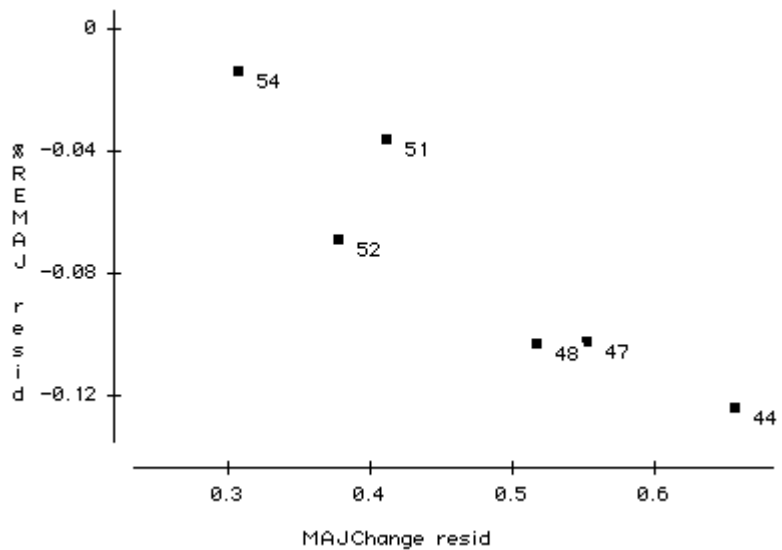
**Figure Two: Ratio of Laws Enacted to Bills Introduced**



**Figure Three: Public Laws Enacted Per Member**

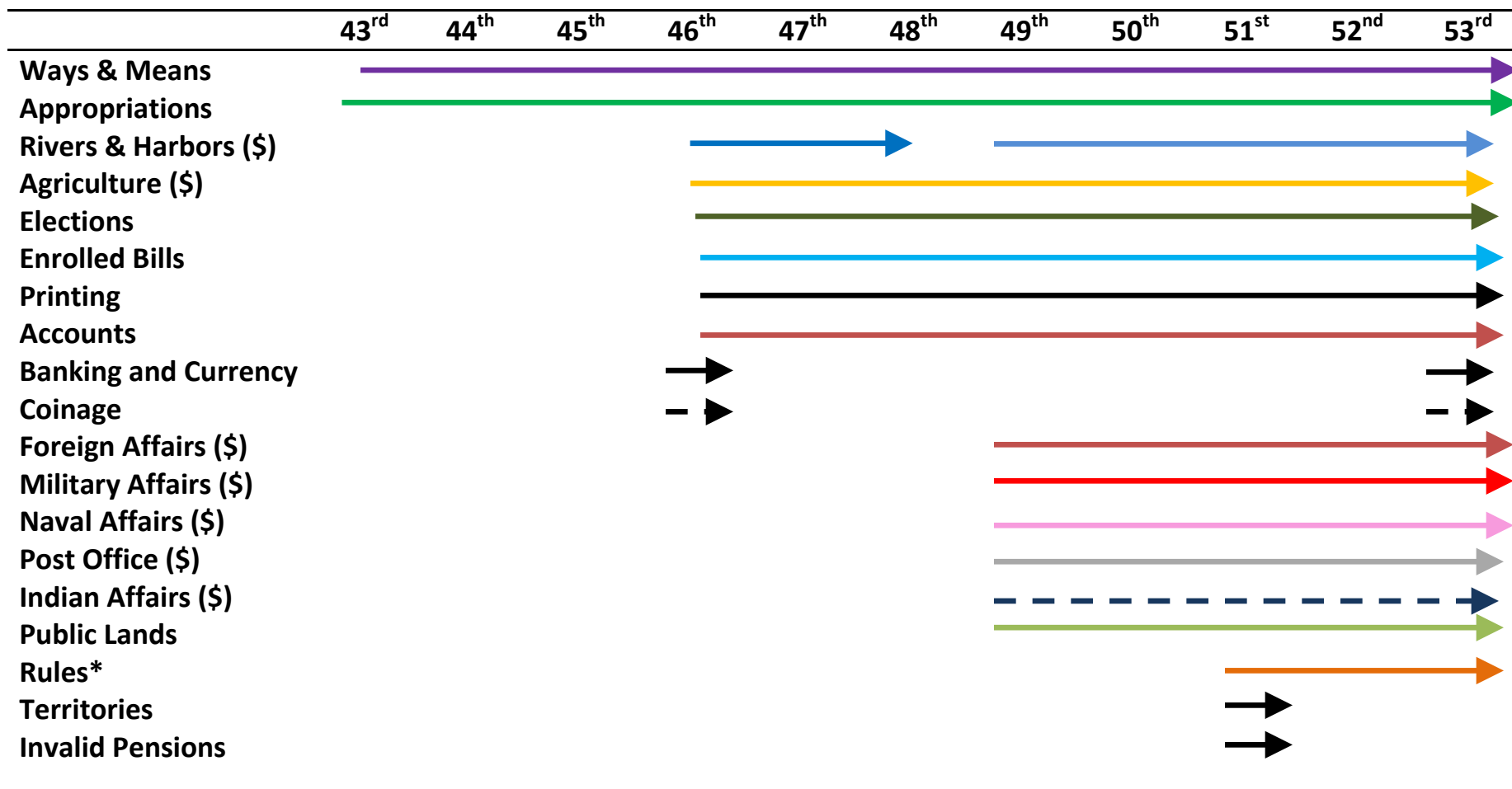


**Figure Four: Partial Regression Plot of Committee Reassignment Instability Associated With New Majorities**



Note: The X-axis merely shows variation in time. Each Congress is labeled. The Y-axis shows the relative decreases associated with new majorities. For this graph, I have excluded cases in which a majority party won reelection; all those cases had positive residuals.

**Figure 5: Committees Granted the Right to Report At Any Time.**



Ways and Means and Appropriations's reporting prerogative dates back to 1865. A \$ indicates that only an appropriations bill reported from the committee was privileged. \*As discussed below, the Rules Committee had been granted the right to report at any time by precedent by the 47<sup>th</sup> Congress.