

Regulating the Floor: Tabling Motions in the U.S. Senate, 1865-1946

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Abstract

The motion to table plays a prominent role in many scholarly accounts of policymaking in the Senate. Scholars have argued that it is used with several other motions to allow majority party leaders to bias policy outcomes on the chamber floor. Others maintain it provides bill managers with a means of more efficiently managing the floor. We examine how the motion was utilized both prior to and during the development of Senate floor leadership. Our evidence suggests that in the absence of such leaders, majority party members used the motion to defend the floor from both opposing and fellow party members.

Keywords

congress, Senate floor, tabling motion

Although the U.S. House of Representatives and U.S. Senate differ in many important ways, arguably the most consequential is the differing mechanisms for managing the legislative agenda. Since the late 19th century, a simple majority of House members has been able to adopt special rules that dictate which bills are considered, the length of the debate, and the number and

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content of amendments that may be offered (Roberts, 2010). By controlling what comes to the floor, House leaders frequently block proposals that may be electorally embarrassing or result in policy loss (Aldrich & Rohde, 2000; Cox & McCubbins, 1993, 2002, 2005; Monroe & Robinson, 2008; Sinclair, 1983; Smith, 1989). Scholars have argued special rules allow the majority party to transform contentious substantive votes into procedural ones. These procedural votes may not be as “traceable for constituents (Arnold, 1990). Thus, the procedural vote can provide cross-pressured members with cover to support the party position.

By contrast, the Senate has had no equivalent partisan agenda control mechanism. Individual senators can obstruct motions to proceed to bills or nominations and unlike the House, the Senate lacks a strict rule limiting non-germane amendments.¹ This allows individual members wide latitude in proposing amendments to legislation. Although the Senate can bypass obstruction by invoking cloture, doing so necessitates the support of three fifths of the chamber and is time-consuming. Accordingly, Senate leaders frequently rely on unanimous consent agreements to manage the chamber (Ainsworth & Flathman, 1995; Smith & Flathman, 1989). This has led scholars to characterize the chamber as highly individualistic and the majority party as weak (Roberts & Smith, 2007; Sinclair, 1989; Smith & Flathman, 1989).

Despite this reputation, various measures of policy output on the chamber floor suggest a strong, increasing bias in favor of the majority party (Campbell, Cox, & McCubbins, 2002; Cox & McCubbins, 2001; Den Hartog & Monroe, 2011; Gailmard & Jenkins, 2007; Lee, 2009). Recent scholarship has argued these findings suggest the individualistic nature of the chamber is overstated and that the majority party “influences the agenda to an extent largely unappreciated by prior scholarship” (Den Hartog & Monroe, 2011, p. 39; see also Den Hartog & Monroe, 2008; King, Orlando, & Rohde, 2012; Lee, 2009). Den Hartog and Monroe (2011) base their argument on a number of procedural mechanisms available to the majority leader that grant him or her “first mover” advantage. When aided by an ideological cohesive majority, first mover advantage puts the majority party in a much better position to positively influence the chamber agenda. Although Den Hartog and Monroe (2011) detail a number of procedural mechanisms (e.g., cloture, committee control, points of order, and “filling the amendment tree”), the mechanism that has generated the most debate and attention is the motion to table (see Den Hartog & Monroe, 2011; Gailmard & Jenkins, 2008; Goodman, 2010; King et al., 2012; Lee, 2009; Marshall, Prins, & Rohde, 1999; Smith, Ostrander, & Pope, 2013; Tiefer, 1989).

Although the motion to table plays a prominent role in many scholarly accounts of Senate agenda setting, our understanding of the motion’s origins

and evolution is quite limited. For much of the Senate's history, the motion to table was the only non-debatable procedural tool senators could use to protect the floor from unwanted issues, motions, and amendments. In what follows, we apply existing theoretical accounts of Senate floor control to examine how senators used the motion before and during the development of party floor leadership. The evidence suggests that in the absence of such leaders, majority party members used the motion to defend the floor from both opposing and fellow party members. As partisan mechanisms for coordinating the floor developed, intra-party conflict over tabling motions appeared less frequent. In the following section, we briefly touch on prior research that has examined the use of procedural tools in the Senate. From there, we examine the use and sponsorship of tabling motions in the post-Civil War Senate.

Regulating the Senate Floor

The motion to table is one of the few motions in the Senate that is non-debatable and subject to a simple majority vote (Oleszek, 2014). The motion is privileged and a successful tabling motion generally signifies the defeat of the underlying proposal. Accordingly, scholars have argued the motion can mitigate the open amending process by transforming substantive votes into procedural ones. In doing so, the Senate majority leader can provide cover for cross-pressured members in a comparable, albeit weaker manner than his House counterparts (Den Hartog & Monroe, 2011; Goodman, 2010; King et al., 2012). Former Senate Majority Leader Robert Byrd (D-WV) put this point plainly: "[A motion to table] obfuscates the issue, and it makes possible an explanation by a senator to his constituents, if he wishes to do, that his vote was not on the merits of the issue" (Tiefer, 1989, p. 660).

The view that the motion to table serves as a tool of the majority party extends beyond the political cover argument. As Den Hartog and Monroe (2011) argue, "what matters is that the majority wins procedural votes, not that it wins by inducing cooperation" (p. 14). The implication is there may be alternative explanations for majority party success on procedural motions (i.e., policy agreement, chamber efficiency), but these alternative explanations do not preclude the majority party from benefiting from using the motion to table in the aggregate. Consistent with this claim, scholars find that minority party members are more likely to have their proposals tabled and majority party members are more likely to successfully offer tabling motions (Den Hartog & Monroe, 2011; Goodman, 2010; King et al., 2012).²

Despite the attractiveness of the motion to table for majorities, there are a number of reasons to be skeptical of its utility. First, avoiding losses on

the floor is not necessarily a strategy that will enhance a party's reputation (Smith, 2007). Thus, although the majority may successfully block minority party proposals with the motion to table, this should not dissuade the minority from offering future proposals. Second, procedural tools that strengthen the power of party leaders are only likely to be used when the leader is confident the motion will pass (Finocchiaro & Rohde, 2008; Lee, 2009). The implication is that the effectiveness of the motion to table should be conditional on the ideological homogeneity of the majority party (Rohde, 1991).

A counter argument to the political cover and aggregate partisanship theories is that tabling motions simply represent a valuable tool to help policy leader manage time constraints on the floor (Oppenheimer, 1985; Smith et al., 2013). Smith et al. (2013) articulate this view, arguing that "most of the day-to-day tactics of the majority party represent an adjustment to the weakness of the party to limit unfriendly amendments and gain final action on its own measures"³ (p. 211). They find that interest groups were as likely to use a vote on a motion to table as a vote on amendment when rating senators, suggesting that the procedural vote provided no additional extra cover for members. And contrary to the aggregate partisanship thesis, when considered in proportion to all amendments proposed (not just those subject to tabling motions), minority party amendments were not killed in greater proportion than majority party amendments. Smith et al. (2013) conclude that the use of the motion to table had little to do with party politics and was instead a tool that promoted chamber efficiency.

The preceding discussion is representative of the broader debate over policymaking in the U.S. Senate. On one side are scholars who believe procedural mechanisms such as the motion to table allow the majority party to be effective in implementing policy goals. On the other side are scholars who argue these procedures are largely inadequate and that normative reforms are necessary. Although the existing debate over the motion to table is certainly instructive, it is difficult to parse out the effects of the non-debatable motion from other procedural mechanisms such as filling the amendment tree, cloture, and unanimous consent agreements. The role of party leaders and cohesive political parties also muddles potential analyses. To gain leverage on how institutional rules can influence the legislative process, we take advantage of motion to table's longevity and evaluate existing theoretical accounts of its usage from the 1865 to 1946.⁴ We find that the motion to table was regularly utilized long before the leadership of Senate Majority Leader Robert Byrd (D-WV), prior to the establishment of formal leadership positions and during an era that lacked other mechanisms for ending debate.⁵

Tabling Motions in the Post-Bellum Senate

The motion to lay on the table was first added to the Senate's formal rules in 1820 (Binder, Madonna, & Smith, 2007; Tiefer, 1989). However, a resolution by Senator James Burrill (F-RI) making the motion non-debatable failed to carry. Without this component, the motion had very little utility for senators. Over the next few decades, several rulings by presiding officers eventually led to the motion being considered non-debatable and gave it increased precedence. This was formally codified in the 1868 Senate rules.⁶

The timing of this formal codification was important, as it coincided with an increase in chamber business in the wake of the Civil War.⁷ Senate majorities enjoyed some procedural advantages in advancing and defending their legislative proposals during this era. First, by virtue of having a majority, policy entrepreneurs could place bills on the schedule using the motion to proceed. Second, Republicans had established the position of conference chairman in 1862, and tasked the chairman with the job of setting the order of business.⁸ Despite this, the party leadership structures were comparably quite weak in the 19th century (Gamm & Smith, 2002a; Rothman, 1966). Conference chairmen found that senators were often unwilling to defer to them when it came to setting legislative priorities and problems inherent with 19th century travel likely made coordinating among senators on strategies even more challenging.

These weak leadership structures meant that the order of chamber business was often determined on the floor (Gamm & Smith, 2002b). Given the importance of private bills during this era, these factors led to a substantial amount of conflict in determining what order proposals should be considered.⁹ To advance and defend their proposals, policy entrepreneurs needed to secure support from colleagues while staving off other motions that might distract the chamber. This suggests that members would use tabling motions in a manner consistent with the chamber efficiency thesis.

Accordingly, conflict on the floor over the legislative agenda likely occurred among fellow partisans, as well as between them. Gamm and Smith (2002a) note, "Majority party senators regularly found themselves in open competition with each other to get their legislation considered by the Senate, and misunderstandings about the agreed-upon order of business were common" (440). In the 42nd Congress (1871-1873), for example, Senate Republicans sought to adopt a reduction of tariff duties. The tariff was the central partisan issue for much of the 19th and early 20th centuries (Epstein & O'Halloran, 1996; Hansen, 1990; Madonna, 2011) and members viewed its enactment as a key priority before the election of 1872. However, after it was brought to the floor in late May, Senator Timothy Otis Howe (R-WI) moved

to postpone its consideration. The de-facto bill manager, Senator John Sherman (R-OH) immediately moved to table Howe's amendment. Howe then took to the floor to urge his colleagues to defeat Sherman's tabling motion:

I just want to notify those senators who are interested in the private bills on the calendar that they have noticed now from those two senators that the moment the tariff bill is disposed of the miscellaneous appropriations bill will be moved, and every senator here knows that the moment those two bills are out of the way of the Senate, the Senate will be out of Washington. If they are going to have their claims considered, they must defeat this motion to lay on the table, and get an evening assigned now. (*The Congressional Globe*, 42nd Congress, May 27, 1872, 3895)¹⁰

Conflicts such as this occurred even after partisan reforms in the mid-1870s (Gamm & Smith, 2002b). In this era, new majority parties routinely replaced Senate officers. In addition, Democrats established their first ad hoc steering committee in 1872. However, Gamm and Smith (2002b) note these institutions were not utilized consistently, and offered "little leadership to the caucus or the chamber" (p. 226). The first formal floor leader was not established until 1911.

However, there are a multitude of reasons for why we might still anticipate senators would use tabling motions in a manner consistent with either political cover or aggregate partisanship. First, both Senate parties sought to centralize their agenda through the establishment of permanent steering committees in 1892 (Gamm & Smith, 2002b; Hurley & Wilson, 1989; Ripley, 1969; Rothman, 1966). The steering committee was generally tasked with establishing a formal order of business. Second, maintaining a positive record in government for their party is essential for politicians who seek reelection, advancement, and policy influence. When combined, we should expect that the parties used the steering committees to keep intra-party conflict off the floor. Additional anecdotal evidence suggests that this may contribute to an aggregate partisan advantage.

For example, on April 4, 1892, Senator John Sherman (R-OH) moved to table a minority-sponsored resolution by Senator John Morgan (D-AL) that sought to research the effectiveness of silver legislation. Sherman's request was described as limiting the ability of the minority to be heard and using a stronger procedure that was necessary in favor of considering the District and Indian appropriation bills during the final 2 days of the 52nd Congress (1891-1892).¹¹ Sherman argued,

If we are to have a general silver debate now to the displacement of other business I should like to have that point tested; and in order to settle it definitely, without engaging in the debate at all, I will move to lay the pending resolution on the table. (*The Congressional Record*, 52nd Congress, April 4, 1892, 2906)

Senator Henry Teller (R-CO) responded by asking Sherman to not stifle debate and added, “[Sherman] can hardly take advantage of us in that way, I think” (*The Congressional Record*, 52nd Congress, April 4, 1892, 2906). Sherman justified his request by saying,

The question is, we have something else to do besides this, having appropriation bills and various other objects, whether we should lay them aside now and take up this question. That is one thing. It is for the Senate to decide. (*The Congressional Record*, 52nd Congress, April 4, 1892, 2907)¹²

Sherman’s final point is descriptive of how the motion to table allows a majority of the chamber to determine what legislation is most important to consider at that time. Furthermore, the Sherman and Morgan case illustrates how a senator of the majority party will frame a tabling motion by emphasizing the importance of the legislation that is still on the calendar. This suggests there may be a partisan basis for the usage of the motion to table during this period.

Finally, during this early period, we might expect to see tabling motions offered for the purpose of providing the majority with political cover. Maintaining a positive record in government for their party is essential for politicians who possess both reelection and good public policy goals. Even in an era before direct election, it is reasonable to assume that senators cared about reelection despite the fact they were selected by state legislators, rather than by voters directly (Gamm & Smith, 2002a; Meinke, 2008). For example, during the legislative debate over what the national policy toward the Philippines should be as a new territory in 1899, the motion to table was successful in providing majority party Republicans with political cover on votes framed as a choice between self-government and imperialism.¹³ Early in the debate, Senator George Hoar (R-MA) offered two amendments to clarify that actions by the United States would be conditioned on the “consent of the inhabitants.”¹⁴ Both amendments were successfully tabled by the resolution manager, Senator Nelson Aldrich (R-RI). Senator Augustus Bacon (D-GA) asserted Aldrich was trying to duck a tough vote, noting that those in his position “desire to express themselves upon those resolutions, not by a vote to lay upon the table, but upon the merits directly, yes or no.”¹⁵

Tabling Motion Sponsorship

To examine how the Senate used the motion to table on the floor, we created a data set of all tabling motions that yielded roll call votes.¹⁶ We then located

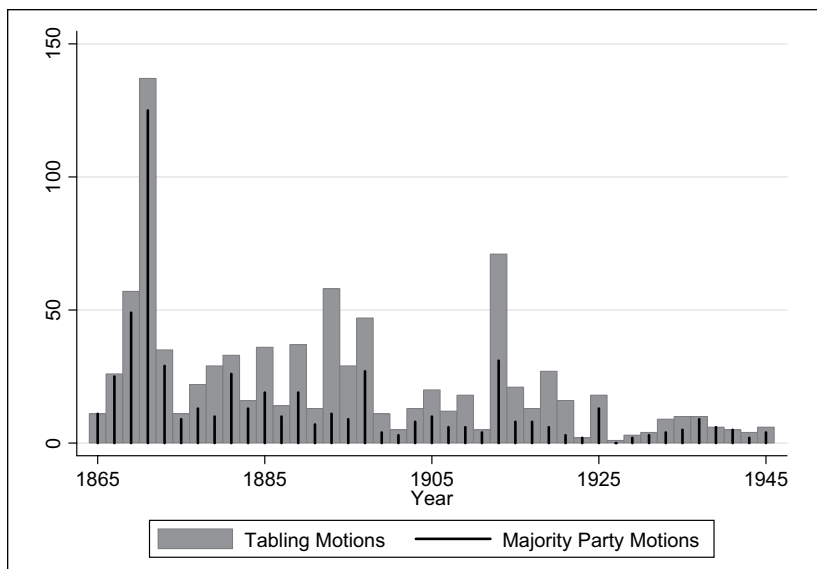


Figure 1. Tabling motions per Senate, 1865-1946.

the pages that tabling motion votes occurred on in the *Congressional Globe* and *Congressional Record*, from the 39th (1865-1866) to 79th (1945-1946) Senates. From there, we coded the measure being subjected to the tabling motion, the sponsor of that measure, as well as the name and party affiliation of the member offering the tabling motion.¹⁷ This resulted in a total of 967 tabling motions over the 80-year period. Of these 967 motions, 46 resulted in “no quorums.”¹⁸ These have been dropped from the analysis. Figure 1 plots the total number of tabling motions offered per Congress, as well as the number offered by members of the majority party.

A couple preliminary conclusions can be drawn from Figure 1. First, it seems clear that the motion to table is not purely a late 20th century phenomenon. Indeed, a substantial number of tabling motions were offered in earlier Senates. For example, senators cast 125 votes on tabling motions during the 42nd Congress (1871-1872). This represented more than 17% of all roll calls cast in that Congress. Second, consistent with theories of lawmaking in the contemporary Senate, the motion to table was primarily—but not exclusively—a tool utilized by majority party members. Of the 921 votes on tabling motions from 1865 to 1946, 719 were offered by members of majority party (78%). As we might expect in an era that featured weak to nonexistent floor leadership, it largely fell to committee chairman to argue on their issues

behalf on the floor. Of the majority party sponsored motions, roughly half were offered by members who served as committee chairs.

However, with weak centralized party leadership, there was no clear way to coordinate on the order of chamber business. Thus, there was no guarantee of success on the part of the member offering the tabling motion. Although Lee (2009) reports the motion is successful nearly 80% in the modern era, the percentage was 71.1 from 1865 to 1946. There was also a partisan advantage during this era. Seventy-four percent of all majority sponsored tabling motions were successful—as opposed to 60.1% of those offered by the minority. A *t* test reveals that this difference is statistically significant at $p < .05$.

The implications from the aggregate partisanship thesis suggest that tabling motions will not only be used by majority party members, but they should disproportionately target motions offered by members of the minority. However, this era was marked not only by weak central party leadership but also by heterogeneous parties. These two factors suggest the motion to table was used to target proposals from both parties. Examining this question necessitates getting a feel for the broader roll call record during this period. Accordingly, we merged our tabling motion data set with a new data set of all motions that received recorded roll call votes from 1865 to 1946. We recorded the sponsor information for all these motions. When a measure received a recorded vote on a tabling motion, it was coded “1,” otherwise “0.”¹⁹

The evidence suggests minority party proposals were no more likely to be subjected to tabling motions than members of the majority; however, motions made against minority party proposal sponsors were more likely to be successful. Of the 719 tabling motions proposed by majority party members, 410 (or 57.02%) targeted proposals sponsored by other majority party members. The remaining 309 targeted proposals were offered by members of the minority party.²⁰ Given the numerical advantage held by the majority party, it is not surprising that majority party motions to table minority-sponsored proposals were more successful (86.4%) than those that targeted fellow party members (64.6%). Of the 202 tabling motions sponsored by minority party members, 48 were made against fellow partisans, versus 154 made on majority party proposals. Again, as expected, intra-party minority proposals were more likely to be successful (68.7%) than inter-party motions (58.4%). These data are displayed in Figure 2, which plots the total number of tabling motions per category and the number that were successful.

If intra-party usage of tabling motions is a function of weak leadership structures, we should expect to see more of it prior to the establishment of party steering committees in the Senate. Senate parties used the steering committees more frequently than party caucuses as a way to coordinate on their agenda (Gamm & Smith, 2002a). The data are broadly supportive of the

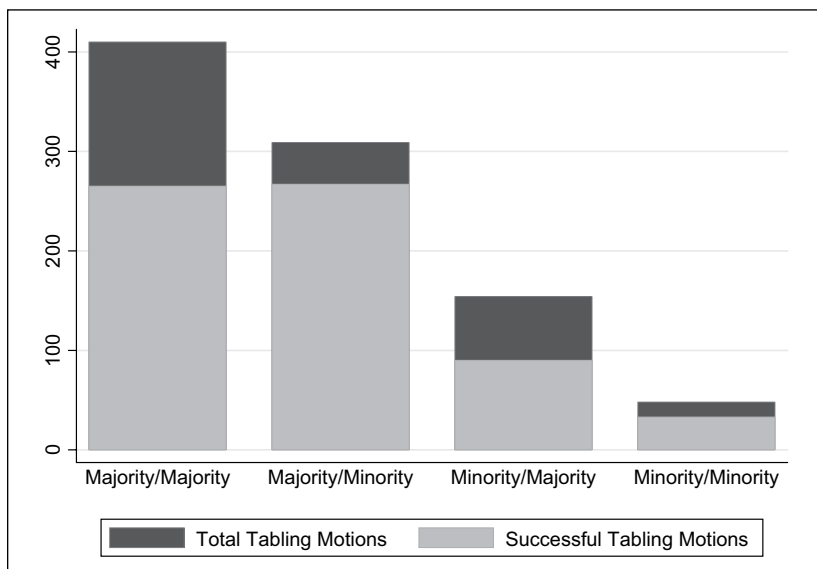


Figure 2. Tabling motions by motioner and underlying proposer party status, 1865-1946.

Note. Tabling motion sponsor party is listed first, followed by the party of the underlying motion sponsor.

notion that steering committees helped facilitate party coordination of the floor. Of the 410 intra-party tabling motions (including majority against majority party members and minority against minority party members), 284 (or 62.0%) occurred in the 14 congresses prior to the establishment of regular Senate steering committees in 1892. This amounted to 20.29 intra-party tabling motions per Senate. In the 27 congresses after the establishment of regular steering committees, this dropped to 6.44 intra-party tabling motions per Senate. There is a decrease in inter-party tabling motions as well, but it is significantly smaller. The Senate averaged 13.78 inter-party tabling motions per Congress prior to the steering committees and 10.00 inter-party tabling motions afterward.

If this is the case, we should also expect to see intra-party conflict over tabling motions wane as party leadership forms and strengthens over time. We observe a drop in total tabling motions over our time series in Figure 1. If indeed conflict is moving off the floor, we should also observe changes in the number of failed tabling motions. Specifically, we anticipate that with greater coordination, members would be less likely to offer a motion that may fail on

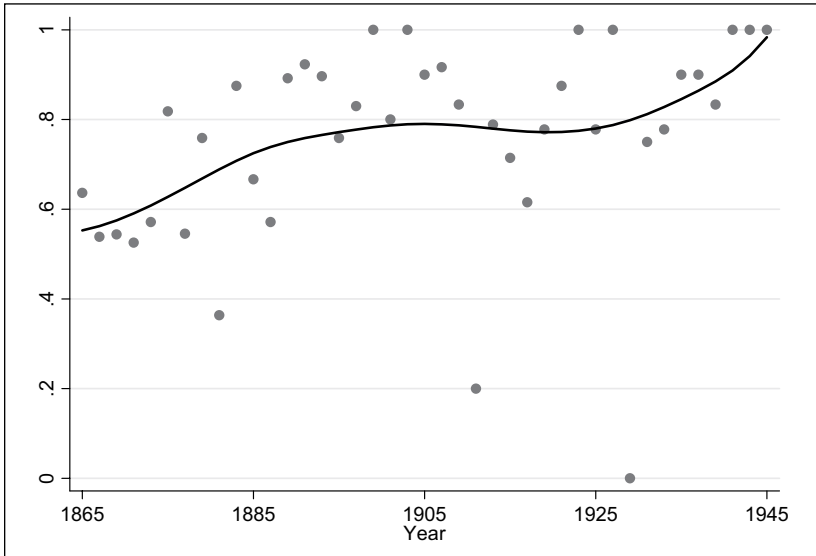


Figure 3. Percentage of successful tabling motions per Senate, 1865-1946.

the floor. Figure 3 confirms this by plotting the percentage of tabling motions that were successful per Congress with a lowess smoothing line. Although tabling motions were less likely to be offered over time, those motions were more likely to be successful.

The results from the data collected of all motions to table from 1865 to 1946 suggest that the motion was used to regulate intra-party conflict on the floor in the U.S. Senate prior to the 20th century. Up to this point, we believed the emergence of the tabling motion was a result of the institutional knowledge of Senator Robert Byrd (D-WV). The previously displayed figures show a large number of tabling motions after 1865 and throughout the Reconstruction period. Despite a drop in the number of measures that received roll call votes at the turn of the century, the use of tabling motions peaked again. The figures also show a decrease in the number of motions to table prior to World War II, which is where the literature written thus far begins to analyze procedural votes in the Senate.

Fitting a Model of Tabling Motions

The U.S. Senate from 1865 to 1946 had several unique procedural features. First, it lacked institutions that would facilitate either inter-party or

intra-party coordination. The ability to formulate a central majority party agenda was likely further hampered by sporadic turnout and the large number of private bills that members sought to provide. Second, it featured political parties marked by serious sectional divides. This led to a substantial amount of both inter- and intra-party conflict on the chamber floor (Gamm & Smith, 2002b). Preliminary evidence suggests that in the absence of strong partisan institutions, senators turned to tabling motions as a means of more efficiently influencing policy output. In what follows, we undertake a more systematic examination of factors that lead to tabling motions. Examining this necessitates merging our data set on tabling motions with a data set of all proposals that resulted in roll call votes from 1865 to 1946. The dependent variable is coded 1 if the proposal was subject to a tabling motion and 0 otherwise.

We tap a number of key independent variables to account for differing theories of tabling motion usage. First, we code the partisan affiliation of both the sponsor of the tabling motion and the sponsor of the underlying measure. Even in the absence of strong partisan institutions, we might anticipate proposals made by minority party members would be more likely to be subject to tabling motions once other factors are controlled for. This may not stem from political coverage, but rather from policy agreement, the desire to present a cohesive party brand on the floor, or a desire to consider future legislation favored by fellow partisans. Given the comparably heterogeneous parties that governed during this era, we also control for the ideology of the motion sponsor. Previous work has found that ideologically extreme members of both the majority and minority are more likely to have their proposals tabled (Goodman, 2010). Accordingly, we include a variable that measures the absolute distance between the motion sponsor and chamber median's DW-NOMINATE score.²¹

The desire to use the motion to table to more efficiently manage the Senate was likely to be strongest during consideration of salient issues. We include dummy variables to account for proposals related to civil rights, the tariff, and silver coinage. Tariffs represented the federal government's primary method for raising capital for much of its history. Tariff legislation was controversial and generated a large number of amendments that took a great deal of time. Civil rights or voting rights proposals were as controversial but less common. And silver coinage represented a largely sectional issue that frequently led to intra-party divisions. To account for this, we applied issue codes as coded by Poole and Rosenthal (1997).

We might also expect the efficiency goal to be more prevalent toward the end of the congressional session. The literature on Senate obstruction has convincingly argued that the threat of obstruction was more serious in the waning days of the congressional session (Binder & Smith, 1997; Wawro &

Schickler, 2006). Late in a session, the physical costs of holding the chamber floor were far lower. With the elections already decided, retribution from constituents was a less credible threat on member behavior. Thus, during these periods, time was a more valuable commodity, and we would anticipate tabling motions should be utilized more frequently. We control for this through a dummy variable denoting the presence of a lame-duck session.²²

Certain types of votes should also promote efficiency. As demonstrated with the recent controversy over the usage of the “Nuclear Option” in the Senate, appeals of chair rulings have an enormous impact on the chamber’s rules. They are also often associated with individual obstruction. In the event of an appeal of order, we anticipate a motion to table is more likely. Conversely, if tabling motions did provide cross-pressured members with political cover, we should expect to see them target substantive votes. By turning those votes into procedural ones, senators should be more likely to support their party’s position. Accordingly, we would anticipate amendments would be more likely to be subject to a motion to table.

Finally, in the absence of formal leadership, the efficiency thesis suggests the chamber would be dominated by more senior members. Due to their experience, these members are more likely to push measures more likely to succeed. Challenges to the control of the floor are more likely to come from junior members—who are less likely to be a part of the leadership structure. We control for seniority using the number of years a member served prior to that Congress.²³ As our dependent variable is dichotomous, we opt to use a logit model as our method of analysis. As a robustness check, we fit a second model that only examines successful tabling motions. The results from those models are reported in Table 1.

Results

Results from our logit analyses are presented in Table 1.²⁴ The coefficient on the majority party dummy variable is not significant in the general model, which infers that tabling motions were not more likely to target minority party proposals more often. However, when we restrict the dependent variable to only successful tabling motions, we observe a negative and significant coefficient. This suggests that—consistent with Figure 3—coordination among majority party members was weak in this era. When majority party proposals were targeted by a motion to table, there was no guarantee that the motion would be successful.

The efficiency thesis speculated that in the absence of strong partisan institutions, seniority would be a strong determinant in the success of member proposals. The negative and significant coefficient on the Senate service

Table 1. Logit Models of Tabling Motions, 1865-1946.

| Covariate | Model 1 | Model 2 |
|-----------------------|--------------------|--------------------|
| Majority Party | -0.260 (0.213) | -0.486* (0.238) |
| Distance | -0.499 (0.483) | -0.272 (0.469) |
| Senate Service | -0.028* (0.009) | -0.018 (0.010) |
| Tariff | -0.330 (0.196) | -0.202 (0.217) |
| Silver Coinage | 1.022* (0.431) | 1.192* (0.461) |
| Civil Rights | -0.320 (0.259) | -0.456 (0.270) |
| Amendment | 0.023 (0.159) | 0.344* (0.172) |
| Point of Order | 2.170* (0.242) | 2.577* (0.224) |
| Lame Duck | 0.167 (0.191) | 0.044 (0.194) |
| Constant | -2.362* (0.280) | -2.930* (0.254) |
| Observations | 14,433 | 14,433 |
| Prob > χ^2 | 0.000 | 0.000 |
| Pseudo R ² | .035 | .047 |

Note. Coefficients with robust standard errors clustered on Congress listed in parentheses.

Model 1 examines proposals that were subject to any tabling motion; In Model 2, the dependent variable is restricted to only observations where the tabling motion was successful.

*Significance at the $p = .05$ level.

variable in Model 1 is supportive of this. Again, this suggests that senior senators were less likely to have their proposals subjected to tabling motions. We cannot conclude from Model 2 that senior senators were any more likely to avoid successful tabling motions, however.

Of our variables that account for the consideration of salient issues, only the coefficient for silver coinage is significant in both models. Although tariff and civil rights-related legislation largely separated the two parties, silver legislation often exposed intra-party divisions. As the Sherman case highlighted, Southerners and Westerners of both parties pushed for silver coinage. Often times, they would seek to leverage the two parties against each other to

gain floor consideration of the issue.²⁵ In sum, it was rarely subject to the kind of pre-floor coordination we might expect from other salient issues.

The coefficients for the type of legislation are also instructive to our understanding of how tabling motions were used in the historical era. In Model 1, we see that amendments were not significantly more likely to be subject to a motion to table than other proposals. However, amendments were more likely to be subject to successful tabling motions than other types of proposals. Furthermore, in Models 1 and 2, we see that when a point of order is under consideration, they are more likely to be subject to a tabling motion and tabled than other roll call votes. The positive and significant coefficient for a point of order that is subject to a tabling motion fits with our expectation that when a vote is on a procedural motion and not the substance of the legislation party members, the majority will receive additional loyalty from its members.

Neither of the two models found a significant relationship that tabling motions were more likely to be offered or more successful during the lame-duck sessions of Congress. We are careful not to infer that there was not an observable difference, because the percentage of proposals that were subject to a tabling motion increased from 5.6 during the regular session to 7 of the proposals considered during the lame duck. However, in the cases where a tabling motion was successful, 4.1% of motions were tabled during a regular session and 4.6% occurred during the lame-duck sessions.

In sum, the evidence suggests some evidence for both an efficiency argument and a partisan basis for tabling motions. This is especially the case if we examine only successful tabling motions. Whether these tabling motions actually provided members with political cover—as Senator Bacon suggested—or whether this was simply a case of aggregate partisanship remains unclear. To gain leverage on that question, we examine how members voted on the underlying motion after a motion to table failed.

Tabling Motions and Political Cover in the Post-Bellum Senate

To examine the possibility tabling motions were used to provide political cover, we collected member-level vote data on failed tabling motions and matched them with votes on the merits. Our expectation is that if the motion to table was providing members with political cover, we would anticipate moderates to exhibit inconsistent behavior on the motion to table than their more extreme counterparts. Specifically, we would expect that when a tabling motion fails, moderate senators should be more likely to “switch” their vote and support the underlying motion.

To match the failed tabling motion to the underlying motion, we examined all tabling motions from the 39th (1865-1867) to the 79th (1945-1946) congresses. We read through the *Congressional Record* to identify whether or not the underlying motion received a roll call vote. We dropped bills with intervening successful amendments, and amendments with intervening successful secondary amendments because of comparability. After identifying a failed tabling motion, we looked through the record to see whether we could identify a companion vote on the underlying measure. Of the 967 tabling motions in our data set, 266 failed. An additional 46 were decided without a quorum voting, and those were omitted. Of the 266 failed tabling motions, we identified a companion vote on an unaltered underlying measure in 79 of them. We then compared members' votes on the two measures in an effort to identify "switching."²⁶ In particular, we looked for members who voted for the motion to table and then also supported the underlying measure. As such, we omitted instances where the failed tabling motion was on an appeal of order. In these situations, members who support the tabling motion also support upholding the chair's ruling. In addition, we treated episodes where members were absent for either or both votes as missing data.

Given that we are identifying unsuccessful tabling motions, it follows that this is not a representative sample of all switching behavior on tabling motions. We would anticipate that the universe of successful tabling motions would feature a greater number of instances where a member supported the motion to table despite also supporting the underlying motion. Despite this, we found some evidence that members were utilizing tabling motions for political cover, even during this era.

Of the 4,652 identifiable vote pairs, we observed instances of switching in only 174 of them (or 3.74%). This is a small proportion of all votes during this era, suggesting that transforming substantive votes into procedural ones to provide members with political cover was not the predominant motivation behind tabling motions. However, in the few instances of switching, members behaved as we might have anticipated according to the political coverage thesis. Specifically, 135 of the 174 switches were done by majority party members. Second, moderate members were significantly more likely to switch than their more ideological counterparts. The average absolute DW-NOMINATE distance between senators who remained consistent on all vote pairs and the chamber mean is .321. For senators who switched on a vote pair, it is .241. This difference is statistically significant at the .05 level.

Discussion

Contrary to the conventional wisdom, we have argued that usage of the motion to table did not originate in the late 20th century with Senator Byrd.

It is likely that Senator Byrd's effective use of the tabling motion was a result of his recognition that this historically useful procedure could again be a useful tool for party leaders. Indeed, for much of the Senate's early history, the motion to table was the only procedural tool members could use to defend the floor from other would-be agenda setters. In the absence of formal leadership positions, the motion was the source of frequent conflict on the floor. However, after those leadership posts were established and developed, instances of failed tabling motions became less frequent.

Because of this, tabling motions should be utilized much more frequently in the early era than scholars have previously thought. Figure 1 provided evidence suggesting that this was the case. Tabling motions frequently made up more than 10% of the roll call record in these congresses. It was only after the establishment of formal leadership positions that coordination increased, leading to fewer tabling motions on the floor. Moreover, as Figure 3 demonstrates, after the establishment and development of party institutions, conflict through failed tabling motions was less likely.

Modern theories of scheduling on the Senate floor were instructive even in an era of weak party institutions. We do report some evidence of an aggregate partisan effect when we examine which proposals were more likely to be subjected to successful tabling motions. Our analysis of vote switching on failed tabling motions suggests that political cover was not the primary motivation behind the motion's usage. However, even in the early chamber, we do observe some behavior consistent with members viewing tabling motions as providing some form of coverage. There appears to be a substantial amount of evidence suggesting that members viewed the motion as a way to more efficiently deal with the floor. Appeals of order were substantially more likely to be subject to tabling motions than other motions. In addition, when examining all motions, tabling motions do not appear to target proposals sponsored by opposing partisans or more ideological members.

Future work should explore the connection between formal Senate leadership positions and floor procedures more directly. The evidence presented here suggests that as leaders in the Senate became more influential during the early part of the 20th century, tabling motions were used less frequently. However, further study of how weak party leadership structures were effectively coordinated to keep conflict off the floor is necessary—especially if the frequent condemnation of strong leaders and calls for a return to “regular order” from contemporary senators are to be taken seriously.²⁷

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Notes

1. Although any member can technically offer a motion to proceed, the motion is generally viewed to be the purview of the Senate Majority Leader (or his designee). Since the mid-1930s, the majority leader has formally enjoyed the right of first recognition. This essentially guarantees that he will be the first member allowed to propose a motion to proceed, to report a unanimous consent agreement, or offer an amendment (Gamm & Smith, 2002a). This has practically meant that only the majority leader (or his designee) will have the floor to offer this motion. Theoretically, this allows the majority party some degree of agenda-setting power (at least since the 1930s). However, this is substantially weaker than a special rule, because it necessitates majority or supermajority support if obstructed.
2. For example, Den Hartog and Monroe (2011) report that "the Senate tabled more than two and a half times as many minority amendments as majority amendments" (p. 139).
3. Consistent with this claim, Crespin, Madonna, Sievert, and Ament-Stone (2014) argue that a dramatic increase in Senate party unity votes during the middle of the 20th century was not due to increased party strength, but rather improved intra-party coordination on what to bring to the floor. Hanson (2014) reports that the Senate majority party is more likely to block amendments through omnibus bills when the party is weak.
4. This era largely predates most other tools for managing the chamber floor (Carson, Madonna, & Owens, 2013). Cloture was not established in the Senate until 1917 and was not regularly used to curb debate until the mid- to late 20th century (Binder & Smith, 1997; Koger, 2010; Wawro & Schickler, 2006). Filling the amendment tree was not regularly utilized until the 1980s (Smith, 2010).

and unanimous consent agreements were not commonplace until the 1950s (Ainsworth & Flathman, 1995; Smith & Flathman, 1989).

5. Byrd's tenure as a majority leader during the mid- to late 20th century coincided with a sharp increase in usage of tabling motions (Smith, 1989; Tiefer, 1989).
6. A reading of the formal chamber rules adopted in both 1820 and 1868 demonstrates that the motion was made non-debatable sometime between those two formal rules codifications. Senate Rule 11 in 1820 specified,

When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend; which several motions shall have precedence in the order they stand arranged, and the motion for adjournment shall always be in order, and be decided without debate. (*Journal of the Senate*, 40th Congress, February 14, 1828)

In contrast, Rule 11 in 1868 specified,

When a question is under debate no motion shall be received but to adjourn; to proceed to the consideration of executive business; to lay on the table; to postpone indefinitely; to postpone to a day certain; to commit; or to amend; which several motions shall have precedence in the order they stand arranged; and motions to adjourn, to proceed to the consideration of executive business, and to lie on the table, shall be decided without debate, and motions to take up or proceed to the consideration of any question shall be determined without debate upon the merits of the question proposed to be considered. (*Journal of the Senate*, 20th Congress, March 25, 1868)

See Binder, Madonna, and Smith (2007) for a discussion of the measure's procedural evolution.

7. Even after the 1868 codification, additional rulings on questions of order throughout the late 19th century increased the strength of the motion. For example, in 1875, the Senate ruled 29-25 that motions to table were in order regardless of whether or not the underlying motion was debatable (*Congressional Record*, 43rd Congress, February 15, 1875).
8. Democrats followed suit in 1877, naming Senator John W. Stevenson (D-KY) conference chair in the 1870s (Gamm & Smith, 2002b). This was prior to their retaking the Senate majority for the first time since the Civil War in the 46th Congress (1879-1881).
9. See Finocchiaro (2008, 2010) for a discussion of the increasing number of private bills considered in the post-Civil War Congress.
10. Sherman's tabling motion passed 31 to 22.
11. See *The Indianapolis Journal*. "Sherman Wakes the Senate." April 5, 1892, p. 4.
12. Morgan's resolution was laid aside for the Senate to begin debating the District appropriation bill the next day.
13. The ratification of the Treaty of Paris on February 6, 1899, gave the United States control of territories that had been colonies of Spain. The joint resolution

- S.R. 240, introduced by Senator Samuel McEnery (D-LA) sought to declare what the United State's purpose was toward the Philippine Islands as one that would prepare the Philippines for self-governance (*The Congressional Record*, 55th Congress, February 6, 1899, 1487).
14. *The Congressional Record*, 55th Congress, February 6, 1899, 1489.
 15. *The Congressional Record*, 55th Congress, February 6, 1899, 1488.
 16. Although recorded voting occurred less frequently in the early U.S. Senate (Lynch & Madonna, 2013; Madonna, 2011), we remain confident that the universe of all tabling motions is not much greater than the number that appeared with a recorded vote. This is due to a combination of factors. First, the U.S. Constitution specifies a small, one fifth of a quorum threshold for recorded votes, setting a sufficient second at just 11 members in the modern Senate. Second, members can threaten obstruction if roll call vote requests are not honored. For example, after his request for a recorded roll call failed to muster a sufficient second, Senator Arthur Vandenberg (R-MI) stated, "I shall have to suggest the absence of a quorum. I shall be very frank about the matter. We shall simply save time if we may have a roll call. I ask for the yeas and nays" (*Congressional Record*, 75th Congress, December 15, 1937, 1528-1529). A roll call was eventually granted. Thus, sufficiently motivated senators can generally receive a recorded vote on controversial or salient measures. Tiefer (1989) reports that in 1984, 98% of all tabling motions occurred with recorded votes.
 17. Consult the online appendix for a more detailed discussion of how these data were collected.
 18. When a point of order that a roll call vote revealed no quorum was upheld, the chamber generally had to revote. These were often the result of the disappearing quorum tactic that was frequently used in the 19th century House and Senate. During a disappearing quorum, members—even those in the chamber—would refuse to vote on a roll call. By not providing votes, minority members could prevent the chamber from having a quorum present to do business. For more details on disappearing quorums, see Koger (2010).
 19. As we discuss in the online appendix, this process was quite tedious at times. Nominations are excluded from this analysis because sponsor affiliation could not be determined.
 20. When viewed as a proportion of total proposals made, the raw data further suggest that minority party members were no more likely to have their proposals subject to a tabling motion in this era than their majority party counterparts. Of the 15,533 proposals made from 1865 to 1946, 9,207 were sponsored by members of the majority and 6,326 by members of the minority. Majority party proposals were subject to tabling motions in 6.13% of the cases. This contrasts to 5.64% of minority party proposals. Again, this is consistent with the view that senior majority party members were using the motion to table as a way of more efficiently getting their committee and individual priorities on the floor.

21. Both the roll call vote data and the member DW-NOMINATE scores were taken from Keith Poole's voteview website. See Poole and Rosenthal (1997) for a discussion of NOMINATE scores.
22. Until the Twentieth Amendment took effect in 1933, the terms of Congress and the president began and ended on March 4. This meant that lame-duck congresses could continue legislating for 4 months, during which a significant amount of legislation was often passed. The amendment moved the start of the term back to January 3, effectively killing lame-duck sessions (Binder & Smith, 1997; Wawro & Schickler, 2006).
23. These data are from the Inter-University Consortium for Political and Social Research (ICPSR; 1997).
24. Aggregating data over a wide time interval increases the potential for correlated errors. This suggests the usage of robust standard errors may be appropriate here. Although there is no noticeable effect on the significance of the parameters, robust standard errors clustered on each congress are slightly larger and presented in Table 1.
25. For example, majority party Republicans in the 51st Congress (1889-1891) were split into three different factions. The first of these, representing Northeastern banking and manufacturing interests, wanted to revise the tariff (Sage, 1956; Stephenson, 1930). Western Republicans—by contrast—greatly wanted to pass silver legislation (Elliott, 1983; Ellis, 1956). Finally, older members from the Reconstruction coalition wanted to see voting rights legislation enacted (Hoar, 1903). Despite its fairly quick passage in the House, legislation protecting black voting rights was displaced 3 times on the Senate floor. In the final instance, a coalition of Western Republicans (frustrated by the lengthy debate over the measure) joined with minority party Democrats on a motion to consider silver legislation. The failure of this voting rights legislation represented the last seriously considered voting rights bill for nearly 75 years (Binder & Smith, 1997).
26. For each vote, we treated paired *yes* votes and announced *yes* votes as “yes votes,” paired *no* votes as “no votes,” and coded *present* and *not voting* categories as “absent.”
27. For example, see Senator Orrin Hatch (R-UT), “Restore the Senate,” *Roll Call*, July 31, 2014.

Supplementary Material

Online appendix is available on the American Politics Research website at <http://apr.sagepub.com/supplemental>.

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