

Building a Record: Amending Activity, Position Taking, and the Seventeenth Amendment

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Abstract

Reelection is frequently viewed as the most important goal for members of Congress. In order to be reelected, members take positions on issues and policies that are in line with that of their electoral constituencies. We argue that position taking behavior of United States senators should have changed to accommodate a new electoral constituency after the adoption of the Seventeenth Amendment. Specifically, we look at amending activity by members of Congress before and after the adoption of the Seventeenth Amendment. By offering amendments on the floor, members can ensure certain issues get discussed and solidify their positions with their constituents. To examine our hypotheses more directly, we compiled two separate datasets. First, we examine a dataset of all amendments that received a recorded roll call vote in either chamber from the 59th (1905-1907) to the 68th Congress (1923-1925). We then examine a new dataset that includes all amendments to landmark enactments during this time period. Our results are preliminary, but provide support for our theoretical claims.

On January 26, 2012, Senator Joseph Lieberman (I-CT), introduced S 2038, the Stop Trading on Congressional Knowledge Act. The bill – commonly referred to as the STOCK Act – proposed new conflict-of-interest rules to prohibit members of Congress from equity insider trading. While Lieberman (I-CT) described the self-imposed restrictions as a “mass repentance for past sins,” the timing of the legislation suggests an alternative motivation (Kane 2012). Two months before the STOCK Act passed, *60 Minutes* aired a report alleging legislators could use information acquired through their service in Congress to profit in their personal investments (Strong and Sanchez 2012). Despite an aggressive response to the report from congressional leaders of both parties, the story made any action short of a reform electorally inexpedient.

What started out as a carefully crafted reform proposal, however, quickly devolved into “an ethical arms race of amendments” in the U.S. Senate. Senators from both parties proposed amendments that would have imposed restrictions far beyond what had been considered the last time Congress revised its ethics laws (Kane 2012). By the time the STOCK Act came up for a vote on final passage, the Senate had voted on 18 amendments to the bill – only 4 of which were successful.¹ The list of unsuccessful amendments included proposals prohibiting earmarks and financial conflicts of interest by senators and their staff, requiring all members of Congress to certify that they are not trading using non-public information, and a symbolic measure that would have urged Congress to pass a Constitutional Amendment instituting term limits for members of Congress.² In contrast, the bill was modified by House Republican leaders before being brought to the floor under a suspension of the rules (Wolfensberger 2012). No amendments were offered and the measure passed after 40 minutes of debate. On March 22, 2012, the Senate concurred in the House amendment, and

¹Ten of these amendments received a recorded vote. The chamber had considered “nearly two dozen amendments,” with several being withdrawn or dispensed with by other means (Wolfensberger 2012). As is customary in the chamber, a number of these amendments were non-germane.

²This amendment, offered by Senator Jim DeMint (R-SC) specified “the sense of the Senate that the Senate should pass a joint resolution proposing an amendment to the Constitution that limits the number of terms a member of Congress may serve.”

the bill was sent to the President.

The STOCK Act was not the first piece of reform legislation considered on the Senate floor. A little over a century earlier, the Senate sought to assuage concerns about the undue influence of money in elections when it passed HR 2958, the Electoral Reform Act of 1911. The Act started out as an amendment to the Publicity Act of 1910, the first federal law establishing reporting requirements for general election campaign expenditures. The Electoral Reform Act extended reporting requirements to primary elections, required pre-election disclosures, and placed campaign expenditure limits on House and Senate candidates. The first two provisions had been included in the House version of the Publicity Act, but were struck from the bill by the Senate (Hohenstein 2007). The expenditure limit resulted from an amendment offered by Senator James Reed (D-MO), which had been hastily written as consideration of the bill was drawing to a close.³

The proposal sparked considerable debate as members pressed Reed on whether or not he thought the proposal before the Senate offered “real reform.” Reed acknowledged that the bill brought “some measure of relief,” but stated that “if ahead of me is the proper goal that I know I am to arrive at some years hence, and if I know that public opinion and the lash of public condemnation is going to drive me there . . . I propose to go there today, because that is where I ought to go (*Congressional Record*, 62nd Congress, July 17, 1911, 3007).” Reed’s speech did not prove to be successful as his amendment was initially rejected. Moreover, he was unable to garner the requisite number of senators to second his request that the vote be recorded.⁴ Following the defeat of his amendment in the Committee of the Whole, Reed modified his initial proposal and reintroduced the amendment, which was agreed to via a voice vote.⁵

³See *Congressional Record*, 62nd Congress, July 17, 1911, 3005.

⁴Article 1, Section 7, Clause 3 of the U.S. Constitution specifies that “. . . the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.” Thus, in order to receive a recorded vote, one-fifth of a quorum is necessary.

⁵Despite its inauspicious beginnings, the amendment was retained in the conference committee report and was received favorably in the press (see *New York Times*, “A Surprising Reform,” August 21, 1911.)

The chamber dispensed with seven other amendments, all but two of which were adopted. The House considered the bill under an open rule, resulting in a similar amending pattern. The bill was eventually signed by President Taft on August 19, 1911. These two pieces of legislation provide an instructive contrast. In both cases, members were motivated by public perceptions of the institution and the appearance of political corruption. In each case, however, the senators engaged in markedly different behavior. Senators in the 62nd Congress (1911-1913) did not offer a large number of unsuccessful amendments, nor force roll call votes on measures that went above and beyond the scope of the current reform. Instead, they appear to have avoided putting proposals on the record, as Reed was unable to get the necessary number of senators to second his request for a roll call vote. In contrast, senators in the 112th Congress not only offered amendments pushing the scope and boundary of the reform proposal, but they were able to secure roll votes on these amendments, several of which received less than 30 votes in favor of adoption.

We argue that these distinct behaviors can be attributed, at least in part, to the electoral context in which the different sets of senators operated. Most senators in the 62nd Congress were still selected by state legislatures, as Congress had only passed the legislation that would become the Seventeenth Amendment the previous month. Senators in the 112th Congress, however, were elected directly by the voters in their respective states. While both sets of senators were accountable to an electoral constituency, a growing body of research has demonstrated that senators behaved differently depending upon which constituency they faced (Bernhard and Sala 2006; Meinke 2008; Gailmard and Jenkins 2009).

We build on these previous studies by examining how senators' position taking behavior changed after the adoption of direct election. Specifically, we look at amending activity by members of Congress before and after the adoption of the Seventeenth Amendment. By offering amendments on the floor, members can ensure certain issues get discussed. We argue this helps solidify their positions in the eyes of their constituents. To examine our hypotheses more directly, we compiled two separate datasets. First, we examine a dataset of

all amendments that received a recorded roll call vote in either chamber from the 59th (1905-1907) to the 68th Congress (1923-1925). We then examine a new dataset that includes all amendments to landmark enactments during this time period. Our results are preliminary, but provide support for our theoretical claims.

Forces Behind Direct Election

The adoption of the Seventeenth Amendment represented the culmination of several failed attempts to institute the direct election of senators. While a proposal was offered as early as 1826, it was not until the 1850s that resolutions changing the method of electing senators were offered in consecutive congresses (Perrin 1910). In the 31st Congress (1849-1851), Representative Andrew Johnson (D-TN) and Senator Jeremiah Clemens (D-AL) both introduced legislation proposing a Constitutional amendment for direct election. In the 32nd Congress, Representatives Daniel Mace (R-IN) and Johnson both offered proposals advocating for the direct election of senators. Johnson, by then a senator, introduced a similar proposal during the 36th Congress.

After these early failures, direct election did not receive consideration again until the postbellum period. The 52nd Congress (1891-1893) marked a turning point in the movement for the direct election of senators, as members of Congress introduced 25 resolutions related to direct election in the first session alone (Perrin 1910). Most notably, H.J.Res 91 became the first proposal to successfully pass the House, but received no action in the Senate.⁶ The House passed similar resolutions in four of the next five congresses, but these resolutions ultimately failed in the Senate.

Despite continued gridlock in Congress throughout the 1890s and early 1900s, several states began to adopt election laws that either approximated, or in some cases, instituted direct election. Most of these laws were based on the “Oregon Plan,” which was named after

⁶See *Congressional Record*, 52nd Congress, January 16, 1893 p. 617-618.

a 1901 Oregon law that “assimilated” election of senators into election of state officers.⁷ One important feature of the law was that the popular votes for Senate candidates were sent to the Oregon state legislature where they were counted and the candidate with the highest total was announced as the winner. It was assumed that this process would make it more costly for state legislators to go against the wishes of the voters (Haynes 1905). In 1904, Oregon became the first state to directly elect a United States Senator when Fred Mulkey was elected to fill the vacancy caused by the death of John H. Mitchell. By the start of the 62nd Congress (1911-1913), Arizona and Nevada had joined Oregon on the list of states with directly elected senators. In the elections of 1912, the last before direct election was instituted nationally, nine more states directly elected their senators.

While the states were actively instigating their own electoral reforms, the issue of a constitutional amendment was being considered with increasing intensity and regularity in Congress. On May 23, 1908, during the first session of the 60th Congress, Senator Robert Owen (D-OK) introduced S.J.Res 91, which proposed a constitutional amendment calling for the direct election of senators. Owen’s proposal and his subsequent floor speech were notable for two main reasons. First, Owen took great care to note all of the state legislatures that had passed resolutions advocating a constitutional amendment. By this time, twenty-seven states had passed resolutions voicing support for a constitutional amendment and Senator Owen had copies of each resolution distributed to the Senate.⁸

Second, Owen’s proposal was subject to two amendments before being referred to the Committee on Privileges and Elections.⁹ The more notable of the two was an amendment offered by Representative Chauncey Depew (R-NY), which required nationally uniform qual-

⁷In 1875, Nebraska became the first state to adopt a selection method approximating direct election. It was first used in 1886 and was not used again until 1904 (Aylsworth 1909, Haynes 1905).

⁸See *Congressional Record* 60th Congress Appendix p. 267 for a list of these states.

⁹The second amendment, offered by Boies Penrose (R-PA), would have given each state a minimum of two senators, but allocated additional senators proportionally based on population. While senators from the smaller states opposed the amendment, it was not included in the legislation that ultimately became the Seventeenth Amendment. As such, it was not as central in the eventual debate over the Seventeenth Amendment.

ifications for voters. More importantly, it gave Congress the authority to enforce these requirements and ensure that all qualified citizens were able to register to vote. The issues raised by the Depew amendment would prove to be particularly salient and drive opposition to the legislation that would ultimately become the Seventeenth Amendment.

During the first session of the 62nd Congress, William Rucker (D-MO) introduced H.J.Res 39. Like many previous direct election proposals, the resolution easily passed the House, with 296 members voting yea and only 16 opposing the bill. The important difference, however, was that this time the legislation was successful in the Senate, which passed the resolution with 64 yea votes and 24 nay votes. Despite passing the Senate with more than the requisite number of votes, the inclusion of Joseph Bristow's (R-KS) amendment, which had the same effect as the Depew amendment from the 60th Congress, sparked fierce opposition from some Southern senators. The opposition stemmed from concerns that the Bristow amendment would lead to the reinstatement of a reconstruction-like occupation by the federal government. An editorial from the *Montgomery Advertiser* is illustrative of these concerns:

Every man now living who passed through the trying and humiliating experience of reconstruction is one with Senator Johnston—he never wants to see those distressing conditions restored to Alabama. Under the Bristow amendment the Federal Government will have the power to reestablish reconstruction conditions in the Southern States (*Congressional Record* 60th Congress, June 16, 1912, 2122.)

In the minds of at least some Southern politicians and voters, it appears that direct election would come at the cost of a second reconstruction, a price these states were uneager to pay since many had effectively instituted direct elections after adopting a direct primary system (Haynes 1906, Ware 2002).

Given such opposition, it is not surprising that only six of the thirteen Southern state legislatures adopted the Seventeenth Amendment. Opposition from the Southern states was not enough, however, to prevent the adoption of the Seventeenth Amendment. The amendment was officially adopted on April 8, 1913, when the Connecticut state legislature

ratified it, providing the required three-fourths majority. Beginning in the fall of 1914, all senators up for reelection were directly elected by the people.

Member Behavior and the Electoral Connection

The observable connection between an incumbent's electoral goals and legislative activity has led to a number of important analyses concerning legislative behavior. Focusing on this connection allows us to examine how representative a legislator is to her constituencies' preferences, as well as how responsive a legislator is to the needs of the district. Mayhew (1974a) provided a classification of three activities incumbents use to enhance their electoral advantage: advertising, credit claiming, and position taking. Both advertising (see, e.g., Mayhew 1974b; Cooper and Young 1989; Cover and Brumberg 1982; Reynolds 2006) and credit claiming (see, e.g., Alvarez and Saving 1997; Jenkins and Stewart 2012; Sellers 1997) are direct appeals to voters and provide an expected positive relationship in the incumbent's vote share.

However, observations of position taking – such as bill sponsorship, cosponsorship, offering amendments, and casting votes – are inherently tied to the everyday activities within the chamber (Mayhew 1974a). Other studies have measured the electoral consequences of legislators given their position taking activities on the floor (see, e.g., Bovitz and Carson 2006; Canes-Wrone, Brady, and Cogan 2002; Carson and Engstrom 2005; Stokes and Miller 1962; Theriault 2003). While we may know more about the electoral benefits of successful position taking strategies and consequences of unsuccessful strategies, we still have a weak foundation to establish expectations of how legislators attempt to control how their positions are publicized.

In addition to theorizing how electoral accountability may influence legislative activity, it is important to consider how electoral reforms might alter the process by which a legislator is held accountable. The period of this study includes a number of institutional reforms that systematically changed the electoral process, such as the institution of the direct pri-

mary, implementation of the office bloc (Australian) ballot, and adoption of the Seventeenth Amendment to the U.S. Constitution, which established the popular election of senators. By changing the population of who directly elects a senator, the Seventeenth Amendment should have the greatest influence on the activities of advertising and position taking by incumbents. This is because we would expect senators to adapt their electoral behavior to reach the new broader and more heterogeneous population of voters, in a different way than an incumbent would have with respect to their state's legislature (e.g., Fenno 1978). However, there was turnover in the membership of the state legislature during the five years prior to a senator seeking reelection, making it all the more important for an incumbent to remain responsive to their state (Schiller 2007). Given that the adoption of the direct election of senators followed the widespread implementation of the office bloc ballot, these reforms together created an entirely new and unique electoral setting. The compounding influence of both reforms created the opportunity for senators to develop a personalized coalition of electoral support. Additionally, fellow party members and constituents now had the opportunity to hold their senator electorally accountable (Meinke 2008).

The previous research studying the effects of position taking activity on increasing an incumbent's potential vote share have taken different approaches throughout the literature. One approach is to consider when the public is aware of a legislator's activity (Arnold 1990; Downs 1957). Another focuses on how constituents respond to a legislator's responsiveness (Ansolabehere, Synder, and Stewart 2001; Bianco, Spence and Wilkerson 1996; Bovitz and Carson 2006; Canes-Wrone, Brady, and Cogan 2002; Carson and Engstrom 2005; Kingdon 1977; Mayhew 1974a). Finally, studies have also considered how contextual changes tied to the election of a legislator change their behavior within the legislature (Bernhard and Sala 2006; Gailmard and Jenkins 2009; Meinke 2008; Schiller 2002).

A key to the public's ability to judge a legislator based on their position taking lies in the ability for citizens to recognize and understand the legislator's activity as well as the policy impact. Arnold (1990) established a set of three conditions associated with this

phenomenon in his theory of traceability, including: a perceived effect of an action, an identifiable government action, and a visible contribution by a citizen's legislator. As the level of political knowledge an individual possesses and the involvement of the incumbent in the policymaking process increases, voters should be more likely to evaluate an incumbent based on their legislative performance. The electoral link between the perceptive citizen and a legislator's activity is that the government action sparks voters to take the initiative and acquire more information about the position. Thus, the level of interest and involvement of a constituent with regard to the issue at hand creates both attentive and inattentive groups of constituents (Arnold 1990). This serves as a different way to view how constituents judge the activity of legislators, which induces additional variation with respect to the level of political interest a citizen has in the policy decision. Despite the existence of newspapers and local party organizations, the expediency with which a legislator's vote could be widely known in the district during the late nineteenth and early twentieth century was not an instantaneous process. Furthermore, the level of education and political sophistication of many voters was also lower (see Bensen 2003), likely making attentive publics smaller and more directly tied to specific policy issues than they are today.

Understanding the differences in how a constituency views a policy position can help a legislator devise a successful position taking strategy. Legislators must make their calculations based on imperfect estimates about the size of the constituency interested in the policy and the intensity of the public's position. Incumbents must also determine the direction of the constituency's potential preference and likelihood that position will remain their true preference (Arnold 1990). Still, if a legislator takes a position that opposes the preference of the constituency, on occasion, the prospects for reelection should not be diminished. This is because inevitably conflicts between the positions of a legislator and their constituency will occur, but only become a problem after a string of incongruent votes (Bovitz and Carson 2006; Kingdon 1977). However, legislators do not have perfect information about the long term consequences of their decisions (Bianco, Spence and Wilkerson 1996) and the sense of a

legislator violating the trust of their constituents on a highly salient recorded vote can prove to have dire electoral consequences (Carson and Engstrom 2005). Previous research has also found that as an incumbent's level of support for their party on roll call votes increases, their own vote share decreases. This is especially the case when multiple roll call votes in conflict with the positions of the district lead to a higher probability of defeat in the election (Ansolabehere, Snyder, and Stewart 2001; Canes-Wrone, Brady, and Cogan 2002; Carson, Koger, Lebo, and Young 2010).

Given the strong link between legislative responsiveness and electoral accountability, along with the complexity and lack of information associated with constituent preferences, legislators often avoid taking positions on issues that impose direct costs on citizens. As a result, legislators prefer to engage in position taking activities that signal responsiveness to their constituency, which carry lower political costs than roll call votes (Arnold 1990). The most common low cost actions would be non-roll call based activities of position taking including bill sponsorship, cosponsorship, and offering amendments (see e.g., Box-Stefensmeier, Arnold, Zorn 1997; Cooper and Rybicki 2002; Koger 2003; Mayhew 1974a; Meinke 2008; Rocca and Gordon 2008; Schiller 2006), as well as avoiding taking positions on the floor (Jones 2003). In each instance, these non-roll call based forms of position taking provide the legislator with substantially more control over what position is advocated for, as well as the intensity of said position. By personally offering policy alternatives, the incumbent can portray an observable level of responsiveness to their constituency without the risk of taking an unpopular position. However, since each of these studies focuses on roll call votes or strictly sponsoring a proposal, each has overlooked the conditions under which a vote comes up for a roll call.

Research on position taking activities with respect to American political development have supported the existence of the electoral connection in the Senate prior to direct election, by showing consistent levels of constituent responsiveness from legislators on certain issues. The primary evidence for such activity is often described as legislative entrepreneurship, as

senators set out to establish their own expertise in the Senate in a coordinated strategy to achieve greater legislative success in a more narrow policy area (Cooper and Rybicki 2002, Schiller 2006; Stewart 1992). While the general public may not be the direct reelection constituency of a senator during this period, by enhancing her popularity within the state, she in-turn generates electoral security. The expansion of each senator’s reelection constituency, which came with direct election, elevated the importance of a senator being responsive and visible to their now larger and more heterogeneous constituency. Thus, the Seventeenth Amendment is a premier example of an institutional shock that illustrates how contextual changes tied to the election of a legislator can change their behavior within the legislature.

Position Taking and the Seventeenth Amendment

It is also instructive to note how questions about the electoral consequences of reform factored into the debate over direct election. In his seminal work on direct election, George Haynes (1906) questioned whether direct election would reduce the Senate’s efficiency and independence. He argued that, “knowing that he must face the judgment of the stump and of the press—the lynch law of politics—the senator, as a popular election approached, would be tempted to trim his sails to every party breeze...” (Haynes 1906, 225).¹⁰

Bernhard and Sala (2006) provide support for Haynes’ prediction, but attribute the increased responsiveness to changes in senators’ electoral principal rather than a decrease in their independence. They posit that the median state legislator was, on average, more ideologically extreme than the median vote in a state. In support of their expectation, Bernhard and Sala demonstrate that prior to direct election, senators who stood for reelection

¹⁰Haynes also voiced concerns that the new method of election would lead to increased turnover and fewer senators obtaining reelection. McClendon (1934) offers little support for this concern, noting that there was a general increase in the number of senators obtaining reelection. The trend was most pronounced in what McClendon termed the “sparsely populated states,” but was also appreciable in the more populated, industrial East (641). McLendon bases his definition on a state’s per square mile population in 1880. The states identified as “sparsely populated” include Nevada, Oregon, Colorado, Florida, Nebraska, California, Texas, Minnesota, Kansas, Arkansas, Louisiana, Maine, Wisconsin, Mississippi, and West Virginia. The overall effect of the Seventeenth Amendment with regards to electoral competition is therefore consistent with other direct election reforms (Ansolabehere, Hanson, Hirano and Snyder 2010).

polarized their ideological position taking in the year before an election, whereas after the adoption of direct elections, senators moderated their position in the year before an election. Gailmard and Jenkins (2009) also provide evidence to rebuff Haynes' concerns about a loss of independence. They find that the within delegation ideological difference increased after the adoption of the Seventeenth Amendment, which suggests that senators were afforded greater ideological independence after the reform to carve out their own electoral positions.

To date, most studies that examine member behavior before and after the adoption of the Seventeenth Amendment rely heavily on roll call voting. We argue that the direct election of senators should fundamentally change the political calculations of individual members. Specifically we should observe a change in position taking behavior. As Gailmard and Jenkins (2009, 324) note, the Seventeenth Amendment "...eliminated both the informed selection and monitoring of U.S. Senators by relative political experts, state legislators." After the Seventeenth Amendment, senators had an increased incentive to promote their own brand-name by taking positions in line with their less informed new constituency. Moreover, senators also have an increased incentive to "rebrand" partisan opponents into taking positions less popular with their constituents.

Indeed, during the Constitutional Convention, Representative Nathaniel Gorham expressed concern that the electoral connection would encourage members to heavily engage in symbolic position taking. Specifically, he worried about the practice of "...stuffing the Journals with [votes] on frivolous occasions," and "...misleading the people, who never know the reasons determining the votes (Farrand 1966, 255)." Arnold (1990) notes that altering the information available to potential challengers can have important consequences. He argues that "Challengers are perhaps the most diligent players in this game [traceability of positions]. Few challengers fail to sift through incumbents' records in search of the smoking gun. They then employ their newly discovered evidence to persuade citizens how poorly their current representatives have served their interests (Arnold 1990, 49)."

The amending process offers an ideal opportunity for senators to engage in position

taking. Unlike bill sponsorship, by offering an amendment on the chamber floor, the member can guarantee their position will get considered, discussed and voted upon.¹¹ Consistent with this, Roberts and Smith (2003) found that the increase in political polarization in the House during the late twentieth century was significantly influenced by the House's adoption of electronic voting in the Committee of the Whole. This, they demonstrate, led to a sharp increase in the number of amendments sponsored by minority party members, who were simply trying to force majority party legislators to cast embarrassing or unpopular votes.

While House leaders have historically restricted the amending process using special rules (Roberts 2010), the Senate lacks a comparable institutional mechanism. Given this, we expect the adoption of the direct election to serve as a quasi-experiment in a similar fashion to previous research on the Seventeenth Amendment (Bernhard and Sala 2006; Crook and Hibbing 1997; Gailmard and Jenkins 2009; Meinke 2008) and the adoption of the Australian Ballot (Katz and Sala 1996). Just as it has in other studies, the Seventeenth Amendment provides variance across the institution to generate inferences about the incentives to go on the record. We should be able to visualize the significance of the Seventeenth Amendment by observing an increase in the number of amendments offered on the Senate floor. We view this as an increase in position taking behavior, as the amendment itself serves as the position.

¹¹In recent congresses, majority leaders have used their right of preferential recognition to block minority-sponsored amendments from being considered on the Senate floor by filling the amendment tree (Rybicki 2010; Smith 2010). This is an effective strategy as only a certain number of amendments can be pending simultaneously in the U.S. Senate. To block unfavorable amendments, the majority leader will offer a series of amendments until no other amendments are pending (Rybicki 2010; Smith 2010). The right of first recognition guarantees that the majority leader will be the first member allowed to propose a motion to proceed, to report a unanimous consent agreement, or offer an amendment (Gamm and Smith 2002; Lynch and Madonna 2009). Filling the amendment tree is a relatively recent strategy (Rybicki 2010) that postdates our study. Moreover, it was only made feasible after the majority leader was granted the right of first recognition after a ruling by Vice President John Nance Garner (D-TX) in the 75th Congress (1937-1939), a ruling that also follows the period covered in our analysis (Lynch and Madonna 2009).

Descriptive Statistics

If the Seventeenth Amendment did encourage senators to engage in more position taking, we should expect senators to offer more amendments after the adoption of the act. In contrast, we should see no change in the amending activity of House members. To examine our hypotheses more directly, we compiled a dataset of all amendments that received a recorded roll call vote in either chamber from the 59th (1905-1907) to the 68th Congress (1923-1925). To assemble these data, we first identified amendments that received roll votes using Poole and Rosenthal's (2007) Voteview software. We then read through the *Congressional Record* to determine the sponsor of the underlying amendment.¹²

Examining amendments that received a recorded roll call vote from the 59th (1905-1907) to the 68th Congress (1923-1925), we find preliminary support for our theory. In the ten years prior to the adoption of the act, senators offered 833 amendments. In the ten years after the adoption of the act, senators offered 1,377 amendments – an increase of 65.30%. We anticipate that the practice of unrecorded voting in the Committee of the Whole, in addition to the use of restrictive closed rules, should lead to fewer observations of recorded voting on amendments in the House.¹³ However, both of these factors were present in the House before and after the adoption of the Seventeenth Amendment. Thus, if changes in the legislative agenda – and not the adoption of the Seventeenth Amendment – were driving the increase in Senate amending activity, we should see comparable growth in the House. Consistent with our hypothesis, we find a far smaller change. In the ten years prior to the adoption of the act, House members offered 238 amendments. During the next ten years

¹²Determining the sponsor of the underlying amendment was occasionally complicated. This is discussed in greater detail in Appendix A. See Carson, Madonna and Owens (2010) for a detailed discussion of amendments that received recorded votes in the Senate. We also code amendments that were successfully tabled via a roll call vote. Coding the sponsor of these amendments necessitated reading through the *Congressional Record* and identifying when, and by whom, the amendment was introduced. In an effort to avoid counting the same amendments twice, amendments that were subjected to unsuccessful tabling motions were not included in these data.

¹³Notably though, the Senate also often utilized the Committee of the Whole for amending purposes during this period. Like the House, recorded voting was only in order when the Committee had risen. The Senate amended its rules to end the practice in 1930 (Riddick and Frumin 1992).

after the adoption of direct election, members offered 279 amendments – roughly one-fourth the growth observed in the Senate. Figure 1 plots the numbers of amendments that received recorded votes in the House and the Senate from the 59th (1905-1907) to the 68th Congress (1923-1925).

[Figure 1 About Here]

To check the robustness of our raw data on recorded amendments, we examine the number of amendments offered per bill, as well as an extended time series. First, our hypothesis appears to be robust to the extended time series. Extending the analysis to all amendments that received a recorded vote from the 54th (1895-1897) to the 73rd Congress (1933-1935) yields comparable results. In the 20 years after the adoption of the Seventeenth Amendment, senators offered 2,174 amendments as opposed to 1,315 in the 20 years before the amendment. This was an increase of 65.32%. In contrast, House members offered 363 amendments before the amendment and 386 in the 20 years afterwards – an increase of just 6.33%.

Second, we find some support for our hypotheses when we examine the number of amendments per bill in our dataset. From the 54th (1895-1897) to the 73rd congresses (1933-1955), 945 bills received at least one recorded amendment vote. In the 20 years before the Amendment, the Senate averaged 3.08 amendments per bill. In the 20 years afterwards, this number increases to 3.84 amendments per bill. The House averaged 0.80 amendments in the 20 years before the Act, and just 0.69 amendments per bill afterwards.

In sum, the descriptive evidence presented here suggests the adoption of the Seventeenth Amendment led senators to engage in more position taking behavior. By offering amendments on the floor, members can ensure that certain issues get discussed on the floor. This, we suggest, helps solidify their positions in the eyes of their constituents. A potential caveat to the descriptive data stems from restricting our analysis to amendments that received roll call votes. Members can offer amendments, force other legislators to discuss them, and have those amendments disposed of without successfully requesting a recorded vote.

Indeed, recent scholarship has argued that making inferences from longitudinal data like the roll call record necessitates an understanding of the data-generating process by which the roll call record was created (Morton 1999; Roberts 2007; Lynch and Madonna 2008). Scholars have demonstrated that unrecorded voting can be problematic for studies of the U.S. Congress (Crespin, Rohde and Vander Wielen 2002; Smith 2007; Clinton and Lapinski 2008). The default voting mechanism in Congress is the unrecorded voice vote. As specified by Article 1, Section 5, Clause 3 of the Constitution, a recorded roll call vote necessitates a request by a member – in addition to a sufficient second of one fifth of those present.¹⁴

In the late nineteenth and early twentieth century congresses, requests for recorded votes were less frequent and occasionally did not garner sufficient seconds (Lynch and Madonna 2008). Indeed, this occurred during consideration of the Electoral Reform Act of 1911 documented in our introduction. This is a potentially serious problem for our study. As we have previously noted, much of the House’s amending process was unrecorded due to being conducted in the Committee of the Whole. It is certainly possible that a substantial increase in House amending activity is masked by the chamber’s practice of recording votes. We seek to address this concern directly. To do so, we created a new dataset incorporating all amendments to landmark legislation that were disposed of from the 59th (1905-1907) to the 68th Congress (1923-1925).¹⁵

Our preliminary data consists of all amending activity that occurred during consideration of 78 landmark enactments from the 59th (1905-1907) to the 68th Congress (1923-1925).¹⁶

¹⁴During a voice vote, the chair will put forward two questions: “all in favor say ‘Yea’,” and “all opposed say ‘Nay’.” The job of tallying the votes in such a situation falls to the chair, and his or her count cannot be appealed. While members may make their opinions clearly known, voice votes produce no record of individual positions on a vote. Two additional methods of voting in Congress are division and teller votes (Tiefer 1989). A division vote can be requested by any member. Once requested, members rise if they take the affirmative on a question and are then counted by the chair. This process is repeated for those in opposition. Division votes are not recorded and, like with voice votes, the chair’s count of the votes cannot be appealed. Teller voting predominantly occurs in the House and is used less frequently. While it is likely to yield more accurate vote totals than either voice or division votes, it is similar to these in that it also does not produce a record of how members cast their votes (Tiefer 1989).

¹⁵For a detailed discussion of the coding process, see Appendix A.

¹⁶This is an ongoing data collection effort and these results are preliminary. Additionally, due to the large

These 78 landmark bills featured 5,173 amendments. Of these amendments, just 263 – or 5.08% – featured recorded roll call votes. Additionally, 526 (10.17%) featured division votes and 132 (2.55%) included a teller vote.

Senators offered 28.12 amendments per bill prior to the adoption of the Seventeenth Amendment. Consistent with our hypotheses, this number increased to 49.2 amendments per bill.¹⁷ We see an increase in House amending activity as well, though not to the same degree we observe in the Senate. Prior to the adoption of the Seventeenth Amendment, House members offered 21.67 amendments per landmark bill. After the adoption of direct election, this increased to 37.4 amendments per landmark bill. Figure 2 plots the average number of amendments per bill from the 59th (1905-1907) to the 68th Congress (1923-1925) for both the House and the Senate.

[Figure 2 About Here]

Empirical Analysis

To examine our hypotheses more systematically, we evaluate amending activity by individual members of both chambers. As detailed in Appendix A, our original dataset was constructed by coding each individual amendment that received a recorded vote. We then expanded it to include all amendments to landmark enactments. To examine individual amending patterns, we constructed two separate dependent variables. First, we created a raw count variable of all amendments that received roll call votes that were sponsored by each member in the House and Senate from the 59th (1905-1907) to the 68th Congress (1923-1925). Using our data on all amendments to landmark enactments, we created an average number of amendments per bills that were sponsored by each member in the House and

amount of amending activity that occurs on them, no tariff bills are included in the preliminary analysis.

¹⁷As the data collection process is ongoing, we opt to analyze the number of amendments per landmark enactment.

Senate from the 59th (1905-1907) to the 68th Congress (1923-1925).¹⁸

Since the dependent variable for both models is a count measure, estimating this with OLS could lead to biased and inefficient results (Long 1997). In light of potential concerns about overdispersion in the number of amendments introduced, which would make poisson regression inappropriate, we relied on negative binomial regression to estimate both models. Consistent with our expectations, for both dependent variables, the modal number of amendments offered is zero. Approximately 17.47% of members sponsored at least one recorded amendment that yielded a roll call vote, with a maximum of 99 amendments. Furthermore, 19.73% of members offered at least one amendment per landmark bill.

Our primary hypothesis is that senators will engage in more public position taking after adoption of the Seventeenth Amendment. Because they can be offered during floor debate, amendments provide senators with a prime opportunity to publicize their positions. Given this, we expect senators who were directly elected to offer more amendments that yield a recorded roll call vote, as well as offer more amendments per landmark enactment. To evaluate this, we include several dummy variables. First, we employ a dummy variable coded 1 if a member is a senator, 0 if the member is from the House. We then interacted this Senate dummy with a variable coded 1 if the amendment was offered after the adoption of the Seventeenth Amendment.¹⁹ Again, we expect a positive and significant coefficient for senators serving after the adoption of the Seventeenth Amendment.

We also include several control variables that may influence the likelihood a member would offer an amendment. First, both Lee (2010) and Carson, Madonna, and Owens (2010) suggest that ideology should play an important role in the amending process. Theoretically, senators closest to the chamber median should be more successful on the chamber floor,

¹⁸Future iterations of this paper will look at the raw number of amendments offered, as opposed to amendments per landmark bill. The latter was done to account for imbalances in the early data.

¹⁹More specifically, the post-Seventeenth Amendment variable is coded 0 if it was the 59th, 60th, 61st, 62nd or 63rd Congresses. It was coded 1 for the 64th, 65th, 66th, 67th and 68th Congresses. Seventeen senators were subject to direct elections prior to the adoption of the Seventeenth Amendment. Controlling for those senators does not alter our results.

and thus, more likely to offer amendments. Accordingly, we control for the ideology of the member offering the amendment by taking the absolute distance between the members' first dimension DW-NOMINATE score and the chamber median. We anticipate that this distance variable will have a negative and significant coefficient. Similarly, members of the majority party may be more successful by virtue of the party affiliation. We include a dummy variable for majority party status, anticipating it will be positive and significant.

Given the influential role played by committee leaders in both chambers with respect to amending activity (Gamm and Smith 2002), we include controls for committee chairmen and ranking members. Indeed, the descriptive evidence suggests the bulk of amendments were offered on behalf of committees. Of the 5,170 amendments to landmark enactments, 2,214 of them (42.82%) were offered by the reporting committee.²⁰ Thus, we anticipate that influential committee leaders will be more likely to offer amendments than other members. To capture this, we coded a dummy variable for whether the member was the chair or ranking member of a standing committee in a given Congress. The list of committee chairmen and ranking members was taken from Canon, Nelson and Stewart (2010).

Finally, legislative scholars have argued that seniority played an important role in governing member behavior in the early chamber (Matthews 1960; Sinclair 1989). Accordingly, we anticipate that longer serving members should be more likely to offer amendments than their junior counterparts. To account for this, we include a variable that measures the number of years of service each member had at the beginning of each Congress. The variable ranges from 0 to 32 years.

Our results are presented in Table 1. Again, Model 1 is the raw number of amendments that yielded recorded votes from the 59th (1905-1907) to the 68th Congress (1923-1925) in both the House and the Senate. Model 2 is the average number of amendments per landmark enactment offered by each member from the 59th (1905-1907) to the 68th Congress (1923-1925) in both the House and the Senate.

²⁰Future research will seek to model committee amendments separately.

[Table 1 About Here]

Results

We have argued that the Seventeenth Amendment made senators more accountable to rank and file voters. This, we hypothesize, should lead them to engage in a more explicit position taking strategy. Our results are preliminary, but provide support for our theoretical claims. In particular, the dummy variable denoting a senator in the post-Seventeenth Amendment congresses is positive and significant in Model 1. This suggests that even after controlling for factors like ideology, committee leadership, seniority and party status, senators were more likely to offer amendments after the adoption of the Seventeenth Amendment than senators in the pre-Seventeenth Amendment congresses, and House members in either era.

The dummy variable denoting a senator in the post-Seventeenth Amendment congresses is positive and significant in Model 2 as well. This is potentially important, as we have demonstrated that unrecorded voting masks a substantial amount of the amending process in both the House and the Senate. The positive and significant variable for the Senate dummy variable in Model 2 further suggests that even when we take into account unrecorded voting in the House Committee of the Whole, senators still appeared to be significantly more likely to offer amendments. This is likely due to absence of special rules restricting amendments, and historical chamber rules allowing for the offering of non-germane amendments.

Our other control variables were roughly consistent with our expectations. The variable capturing ideological distance is negative and significant in the recorded amendment model (Model 1). Again, this suggests that extreme members were less likely to offer amendments than their more centrist counterparts. The variable fails to reach statistical significance in Model 2. This may be due to differences amongst party members, or to an influx of less salient amendments in the second model.

Both the committee chair and ranking member variables were positive and significant

in the recorded amendment model (Model 1), suggesting that committee leaders were more likely to offer amendments than their rank and file counterparts. The committee chair variable was positive and significant in Model 2 as well. Finally, the service variables were positive and significant in both models. Again, this is consistent with political science research that seniority played an important role in governing member behavior in the early chamber (Matthews 1960; Sinclair 1989).

Conclusion

In his seminal 1974 work, David Mayhew provided a classification of three activities incumbents use to enhance their electoral advantage: advertising, credit claiming, and position taking. In later work, Mayhew (2001) noted that while there has been a great deal of research on advertising and credit-claiming, more work on position taking is needed. Most of the existing research in this regard has tended to focus on roll call voting. This work treats legislative position-taking on the individual roll call vote as the political commodity. Unfortunately, as we have demonstrated, votes are not always recorded *and* there are many other positions besides just roll call votes.

In this paper, we have argued that electoral institutions significantly influence position taking behavior. Specifically, we have posited that senators should be much more likely to engage in position taking after the adoption of the Seventeenth Amendment. Thus, after the passage of direct election, senators had an increased incentive to improve their electoral standing by taking positions in line with a less-informed new constituency. We also suggest that senators had an increased incentive to “rebrand” partisan opponents into taking positions that were less popular with their constituents.

The evidence we have presented is preliminary, but consistent with our theoretical framework regarding position taking and direct election. Our results indicate that members of the post-Seventeenth Amendment Senate were significantly more likely to sponsor amendments that received recorded roll call votes than pre-Seventeenth Amendment senators or House

members in either era. Extending the dataset to amendments on landmark enactments that were dispensed with by recorded or unrecorded vote yields similar support.

In sum, while we found a change in Senate behavior after direct election went into effect, we do not observe a corresponding change in behavior in the House. This was consistent with our expectations. We believe this is an important addition to our understanding of legislative behavior as it demonstrates that increases in accountability often come with a trade-off. Members may be more responsive to constituents, but this increase in responsiveness may be due to symbolic position taking, as opposed to effective legislating. Moreover, our analysis further demonstrates that a substantial portion of the amending process occurs independently of the roll call voting record.²¹

As we move forward with our data collection efforts, we hope to speak to other important institutional changes. For example, it has been argued that the adoption of Reed's Rules in the House provided majority party leaders with crucial tools to restrict amendments and facilitate non-median policies. To date, data limitations have prevented political scientists from examining this directly. We believe a more comprehensive dataset of amending activity would allow us to effectively speak to the effects of institutional developments like Reed's Rules, the establishment of Senate party leaders, and the adoption of Senate Rule XXII.

²¹In future work, we also hope to address the issue of amendment salience. As we discuss, many amendments adopted without a roll call vote were offered on behalf of the committee. By restricting committee amendments, or by including only amendments that received either an unrecorded division or teller vote, in addition to those that received roll call votes, we can better address this.

Appendix A: Coding Recorded and Unrecorded Amendments

This appendix details the data collection process used to code all amendments to landmark legislation.²² The decision to focus on only amendments to landmark enactments was motivated by several factors. First, the data collection process is especially labor intensive. As we detail below, coding all amendments in a specific Congress is a massive undertaking, and completing a dataset that spanned a large number of congresses would require resources we simply do not have at this point.²³

Second, utilizing landmark enactments helps minimize biases stemming from the large amount of trivial legislation the United States Congress produces (Clinton and Lapinski 2006). This allows us to ensure a certain level of salience. Finally, restricting the study to landmark enactments allows us to study a comparable number of bills per Congress. This helps minimize problems stemming from fluctuations in chamber workload.

This is not to say that landmark enactments are a panacea. Determining what constitutes a landmark enactment introduces an arbitrary element, and scholars will often differ on certain measures (Clinton and Lapinski 2006). Additionally, in order to examine how the adoption of an institution influences legislator behavior, we need to utilize a measure of landmark enactments that is not biased towards one or two congresses. To mitigate these problems, we include four different lists of landmark enactments. These lists include all enactments coded as landmark by Stathis (2002), all enactments as coded by Peterson (2001), the top 400 significant enactments as coded by Clinton and Lapinski (2006), and the top 10 significant enactments per Congress as coded by Clinton and Lapinski (2006). A complete listing on enactments included is provided in Appendix B.

Research assistants were tasked with coding all amendments that were “disposed of” by some sort of vote, be it unrecorded voice vote, unrecorded teller votes, unrecorded division

²²The same coding rules were applied to the dataset that incorporates all amendments that received recorded votes. The recorded amendment dataset was not restricted to landmark enactments.

²³In a separate paper, we employ a dataset of all amendments to all bills disposed of during the 45th Congress (1877-1879). See Gelman, Lynch, Madonna and Owens (2012) for a discussion.

vote or recorded roll call vote. Thus, amendments offered on the floor but withdrawn or adopted by unanimous consent were omitted from the data collection process. This was done primarily to make the coding process easier. To accomplish this, research assistants scanned the online *Congressional Record*. Once an amendment was identified, a number of additional variables were coded. First, descriptive data regarding the timing of the vote (the Congress, month, date, year, and chamber) was entered. Second, all votes taken on the amendment were coded. This was accomplished by filling in a series of variables labeled vtype1, vtype2, vtype3, vtype4. For example, in the 43rd House (1873-1875), Representative Frank Morey (R-LA) moved to:

Offer the following as a substitute for the resolution submitted by the gentleman from New York, [Mr. COX]:

Resolved, That the name of George L. Smith be placed upon the roll, as the Representative from the fourth congressional district of Louisiana (*Congressional Record*, 43rd Congress, December 3, 1873, 49).

Debate ensued before the speaker put the question:

The first question was upon the amendment moved by Mr. MOREY, to substitute the name of George L. Smith for that of E. C. Davidson, as having the *prima-facie* right to a seat as the Representative from the fourth district of Louisiana.

The question was taken, and upon a division there were – ayes 81, noes 78.

Before the resolute of the vote was announced, Mr. SPEER called for the yeas and nays.

The yeas and nays were ordered.

The question was again taken, and there were – yeas 161, nays 94, not voting 261. . . (*Congressional Record*, 43rd Congress, December 3, 1873, 49).

In this example, vtype1 would be coded as a division vote and vtype2 would be listed as a recorded roll call vote. The remaining two categories – vtype3 and vtype4 – would be coded as “Not applicable. No additional vote taken.” In the event a recorded vote was taken, recorded vote data originally coded by Poole and Rosenthal (1997) was merged into the database (this includes the yeas, nays, missing votes, party and sectional splits).

Information regarding the amendment was coded next. This included the amendment sponsor, the underlying measure and additional information regarding the vote. Specifically, students would enter a description of the amendment. When feasible, this involved taking the description of the amendment directly from the record. For example, in the preceding example, the description would read “substitute the name of George L. Smith for that of E. C. Davidson, as having the *prima-facie* right to a seat as the Representative from the fourth district of Louisiana.” Other examples include “amendment to change expenses for Naval Department from 100k to 50k” or “Amendment to strike out clause instructing Secretary of Treasury to cover into the Treasury all undrawn monies from 1873 salary act.” Coding descriptions of the amendments allows us the flexibility of going back and conducting a measure that assesses the importance of the amendment.

Determining the sponsor of each amendment offered created some challenges. In the rare cases where a member introduced an amendment on behalf of himself and other senators, only the member introducing the measure on the floor was coded as the sponsor. However, the name of the additional sponsors was coded in the notes section. For example, in the 88th Congress (1963-1965), the *Congressional Record* noted that, “Mr. Williams of Delaware (for himself and Mr. Case) submitted a resolution (S.Res. 330) to inquire into the financial of business interests or activities including use of campaign funds, of any Member of former Members of the Senate, officer, employee, or former employee of the Senate, which was ordered to lie on the table and to be printed (*Congressional Record*, 88th Congress, May 13, 1964, 10757.)” In this instance, Senator John Williams (R-DE) was coded as the sponsor.

When an amendment was described as a “committee amendment,” a more detailed read-

ing of the record was undertaken to determine whether the member who sponsored the amendment in the committee was identified. This was frequently the case. In the 77th Congress (1941-1943), Senator Walter George (D-GA), stated that an “amendment was presented to the committee by the Senator from Michigan [Mr. Vandenberg], and the committee voted favorably on the amendment offered (*Congressional Record*, 77th Congress, October 9, 1942, 10757.)” In this instance, Senator Arthur Vandenberg (R-MI) was listed as the sponsor.

In other cases, the member indicated that the amendment he or she was presenting was a committee amendment. In the 60th (1907-1909) Congress, Representative Reuben Moon (R-PA) stated, “Mr. Chairman, I send up to the desk a committee amendment, which I ask to have read (*Congressional Record*, 60th Congress, February 18, 1909, 2649).” In this instance, Representative Moon would be coded as the amendment sponsor and the amendment would be coded as a committee amendment. If the committee sponsor was not explicitly listed, students listed the sponsor as the member who consumed the most floor time advocating for the adoption of the amendment. For example, in the 85th Congress (1957-1959), Senator Robert Kerr (D-OK) stated that, “Speaking for that committee and for what I believe to be the rights of the people of a great State and of a great metropolitan area, and in the conviction that it can do no harm to any area, I urge the passage of the proposed legislation by the Senate (*Congressional Record*, 85th Congress, August 22, 1958, 19125).” In this case, Kerr was listed as the sponsor.

In a few instances, an amendment was reported a committee amendment and there was no debate or advocacy for the bill on the floor. In the 64th Congress (1915-1917), the Senate began consideration of H.R. 15522, which established the National Park Service, with a committee amendment. Upon bringing the bill up for the consideration, the Secretary stated that, “The bill has been reported from the Committee on Public Lands with an amendment” and the amendment was agreed to after being read (*Congressional Record*, 64th Congress, August 5, 1916, 12150). In this case, the sponsor of the bill would be coded as the chairman of

the Committee on Public Lands since the amendment as no identifiable sponsor. A dummy variable (1, 0) for committee amendments was also coded, granting us some flexibility in how we deal these moving forward. In a limited number of cases, neither the identifying amendment sponsor nor committee could be accurately determined. When this occurred, the amendment sponsor information was coded as missing data. For the data presented, this occurred in just 1.45% of observations.

Data was also collected regarding the underlying measure. This allows us to better assess the characteristics of bills and motions that receive large numbers of amendments. As such, students were asked to list the underlying landmark enactment being amended (i.e., HR 478). Much like the amendment sponsor variable, research assistants would then code the primary sponsor of the root measure. Occasionally this information was not made clear in the *Congressional Record*. In these instances, students were encouraged to utilize the *Congressional Record's* index. The student looks up the name of the member who sponsored the amendment and the page number where the amendment was introduced. The index will then provide the underlying bill that was being amended and any companion bills that may be considered. In the rare event a companion bill was considered, amending activity on that bill was coded.

Occasionally, the underlying measure was another amendment. As successful secondary amendments can significantly alter the content of the underlying amendment, we coded a dummy variable denoting that the amendment was a secondary amendment that sought to amend another amendment. In these instances, the underlying bill, resolution and motion, as well as information on the amendment being amended were coded. Once sponsors were identified, the member's ICPSR numbers were entered.

Additionally, research assistants were asked to code an assortment of other institutional factors related to the amendment. For example, scholars of the U.S. Senate have argued that the motion to table plays an important role in restricting measures on the chamber floor. Students coded whether or not a tabling motion was offered and information regarding who

offered it.²⁴ Students also coded whether or not the amendment was considered in the Committee of the Whole, whether or not it was considered under the suspension of the rules procedure, and whether a motion to reconsider was offered.

Finally, information pertaining to the specific votes was coded. This can provide scholars with some leverage in analyzing how different vote types can alter policy outcomes. For measures that passed without a recorded vote, students coded the announced result. For example, on September 15, 1944, the *Congressional Record* noted the following announcement by the presiding officer:

The PRESIDING OFFICER (Mr. THOMAS of Oklahoma in the chair). The next amendment was, on page 13, line 14, after the word “Roads” to strike out “Administration; and the Commissioner of Public Roads is hereby directed to concur only in such installations as will promote the sage and efficient utilization of the highways.”

The amendment was agreed to.

Mr. BRIDGES. Mr. President, I was absent in the cloakroom a moment ago when action was taken on the so-called McClellan amendment. I am told that it was agreed to before my return to the floor, and that there was no opportunity to request a yea-and-nay vote on the amendment, that action on it was taken very quickly. Therefore, I ask unanimous consent that the Senate reconsider the by which the amendment was agreed to (*Congressional Record*, 78th Congress, September 15, 1944, 7802).

Later in the debate, the chair announced that no objection to Bridges request was heard, and a recorded vote was taken. In this case, the announced result was that the amendment passed. For division and teller votes, students coded the results of those votes as well as the yeas and nays. For amendments that received more than one type of vote, scholars can compare the size of coalitions on each vote, as well as the final result.

²⁴For example, in the 84th Congress (1955-1957), Senator Prescott Bush (R-CT) moved “to lay on the table the amendment on page 3, line 10 (*Congressional Record*, 84th Congress, July 22, 1956, 10831.)” In this case, Bush would be listed as the tabling motion sponsor.

In an effort to assess how members use the record to publicize their positions on issues, we also had research assistants code who requested the yeas and nays when a recorded vote was taken. For example, during consideration of H.R. 15455, the Merchant Marine bill, in the 64th Congress, Senator Albert Cummins (R-IA) stated that “I am not for any part of the bill – I want no misunderstanding about that. I think it is fundamentally wrong; but as to this section, there is nothing but mischief in it. It can accomplish no good, and there is in it the opportunity for a great deal of wrong and evil. Upon the motion I have made, Mr. President, I ask for the yeas and nays (*Congressional Record*, 64th Congress, August 18, 1916, 12814). The Record went on to note that the yeas and nays were ordered, indicating that a sufficient second was present. In this episode, Cummins would be listed as the member ordering the yeas and nays.²⁵

²⁵As was the case with the amendment sponsor variable, in the rare instance multiple members requested the yeas and nays, only the first member is coded as the member requesting the yeas and nays. Additional members are listed in the notes section.

Appendix B: Landmark Enactments

Table 2 provides a full listing on the landmark enactments for which all amendments were recorded. As discussed in Appendix A, this list includes all enactments coded as landmark by Stathis (2002), all enactments as coded by Peterson (2001), the top 400 significant enactments as coded by Clinton and Lapinski (2006), and the top 10 significant enactments per Congress as coded by Clinton and Lapinski (2006).

Table 2: Landmark Enactments from the 59th Congress (1905-1907)

Congress	Act	Public Law
59	Employers' Liability Act	59 PL 219
59	Pure Food Act	59 PL 384
59	Meat Inspection Act	59 PL 382
59	Interstate Commerce Rate bill	59 PL 337
59	Tillman Act	59 PL 36
59	Antiquities Act of 1906	59 PL 209
59	Statehood for OK, NM, AZ	59 PL 234
59	Consular Reorganization Act	59 PL 83
59	Immunity of witnesses (antitrust)	59 PL 389
59	Immigration Act of 1907	59 PL 96
59	Naturalization Act	59 PL 338
59	Pay Increase	59 PL 129
59	Citizen and Expatriation Act	59 PL 193
59	Agriculture Appropriations	59 PL 242
59	Amend the National Banking Act	59 PL 248

Table 3: Landmark Enactments from the 60th Congress (1907-1909)

Congress	Act	Public Law
60	Employer's Liability Act of 1908	60 PL 100
60	Enlarged Homestead Act	60 PL 245
60	Criminal Code Revision of 1909	60 PL 350
60	DC Child Labor Law	60 PL 149
60	Copyright Act	60 PL 349
60	Opium Exclusion Act of 1909	60 PL 221
60	Currency Bill (Aldrich-Vreeland)	60 PL 169
60	Workman's Comp Act of 1908	60 PL 176
60	Indian Department Appropriations	60 PL 104
60	Agriculture Act of 1908	60 PL 136
60	Correcting Records of NCO's	60 PL 318
60	Navy Appropriations Bill	60 PL 115

Table 4: Landmark Enactments from the 61st Congress (1909-1911)

Congress	Act	Public Law
61	Publicity Act	61 PL 274
61	Rivers and Harbors	61 PL 264
61	Mann Act	61 PL 277
61	Mann-Elkins Act	61 PL 277
61	AZ, NM Enabling	61 PL 219
61	16th amendment to Const	
61	Postal Savings Act	61 PL 268
61	Weeks Forest Purchase Act	61 PL 435
61	Expedition Act	61 PL 310
61	Food and Drug Act strengthened	61 PL 478
61	Immigration Act	61 PL 107
61	Currency Act of 1911	61 PL 439
61	Payne-Aldrich Tariff of 1909	61 PL 5
61	Judiciary Code	61 PL 475
61	Civil Expense Act	61 PL 266
61	Reimbursement Act	61 PL 289
61	Public Land Withdrawal Act	61 PL 303
61	Bureau of Mines Act	61 PL 179

Table 5: Landmark Enactments from the 62nd Congress (1911-1913)

Congress	Act	Public Law
62	Canada Reciprocity Act	62 PL 3
62	Rename Public Health Service	62 PL 265
62	Seventeenth amendment to Const	
62	Webb-Kenyon Act	62 PL 398
62	Children's Bureau Established	62 PL 116
62	Lloyd La Follette Act	62 PL 336
62	Panama-Canal Act	62 PL 337
62	AZ, NM admitted	
62	Alaska Organic Act	62 PL 334
62	Dept of Labor Established	62 PL 426
62	Eight-Hour Workday for Federal Contractors	62 PL 199
62	Physical Valuation Act	62 PL 400
62	Pension Act of 1912	62 PL 155
62	Electoral Reform Act of 1911	62 PL 32
62	Matchstick Act	62 PL 118
62	Sundry Appropriations Act of 1912	62 PL 302

Table 6: Landmark Enactments from the 63rd Congress (1913-1915)

Congress	Act	Public Law
63	Seamen's Act of 1915	63 PL 302
63	Cotton Futures Act	63 PL 174
63	U.S. Coast Guard Created	63 PL 239
63	Underwood Tariff Act	63 PL 16
63	Railroad Worker Mediation	63 PL 6
63	FTC established	63 PL 212
63	War Revenue Act of 1914	63 PL 16
63	Clayton antitrust act	63 PL 212
63	Agricultural Extension (Smith-Lever Act)	63 PL 95
63	Ship Registry Act	63 PL 254
63	Federal Reserve Act	63 PL 43
63	Alaska Coal Fields	63 PL 216
63	Alaska State road / railroad	63 PL 69
63	Foreign Built Ship Act	63 PL 175
63	Panama Canal Act	63 PL 113
63	Agriculture Appropriations Act of 1914	63 PL 122
63	Rivers and Harbours Act of 1914	63 PL 205

Table 7: Landmark Enactments from the 64th Congress (1915-1917)

Congress	Act	Public Law
64	Revenue Act 1916	64 PL 271
64	Puerto Rico Organic Act	64 PL 368
64	Smith-Hughes Act	64 PL 347
64	Immigration Act of 1917	64 PL 301
64	ICC Bill of Lading Act	64 PL 239
64	Railroad 8 hour day	64 PL 252
64	Shipping Act	64 PL 260
64	Federal Farm Loan Act	64 PL 158
64	Establishment of National Park Service	64 PL 235
64	Good Roads Act	64 PL 156
64	Navy Enlargement	64 PL 241
64	Federal Employee's Compensation Act	64 PL 267
64	Child Labor Law	64 PL 249
64	Phillipines Autonomy	64 PL 240
64	Army Reorganization	64 PL 85
64	Agriculture Appropriation Act of 1916	64 PL 190
64	Rivers and Harbors Act of 1916	64 PL 168
64	Post Office Appropriations Act of 1917	64 PL 380

Table 8: Landmark Enactments from the 65th Congress (1917-1919)

Congress	Act	Public Law
65	Sedition Act	65 PL 150
65	Selective Service Act	65 PL 12
65	War with Austria-Hungary	
65	Migratory Bird Treaty Act of 1918	65 PL 186
65	Lever Food and Fuel Control Act	65 PL 41
65	Revenue Act 1917	65 PL 50
65	War Finance Corporation Act	65 PL 121
65	Export Trade Act	65 PL 126
65	Trading With the Enemy Act	65 PL 91
65	Overman Act	65 PL 152
65	Liberty Loan Act	65 PL 3
65	18th amendment to const	
65	War with Germany	
65	Railroad Control Act	65 PL 107
65	Vocational Rehabilitation	65 PL 178
65	Sabotage Act	65 PL 135
65	Daylight Standard Time Act	65 PL 106
65	Espionage Act	65 PL 24
65	Revenue Act of 1919	65 PL 254
65	Agricultural Distribution Act	65 PL 40
65	Agricultural Distribution Enactment Act	65 PL 243

Table 9: Landmark Enactments from the 66th Congress (1919-1921)

Congress	Act	Public Law
66	National Prohibition Act	66 PL 66
66	Federal Reserve Act amends	66 PL 106
66	Army Act 1920	66 PL 242
66	Food Control Act amends	66 PL 63
66	19th amendment to Const	
66	Jones Merchant Marine Act	66 PL 261
66	Hospitals for Former Soldiers	66 PL 384
66	Civil Service Retirement Act	66 PL 215
66	Mineral Leasing Act	66 PL 146
66	Transportation Act 1920	66 PL 152
66	Federal Water Power Act	66 PL 280
66	Sugar Control Bill	66 PL 109
66	War Finance Corporation Resolution	
66	War Risk Insurance Act Amendment	66 PL 104

Table 10: Landmark Enactments from the 67th Congress (1921-1923)

Congress	Act	Public Law
67	National Prohibition Supplement	67 PL 96
67	Cooperative Marketing Act	67 PL 146
67	Revenue Act of 1921	67 PL 98
67	Rivers and Harbors 1922	67 PL 362
67	Colorado River Apportionment	67 PL 56
67	Warehouse Act Amends	67 PL 436
67	Packers and Stockyards Act	67 PL 51
67	Immigration Restrictions	67 PL 5
67	Tariff of 1922 (Fordney-McCumber)	67 PL 318
67	Oklahoma Oil and Coal	67 PL 500
67	Maternity and Infancy Act	67 PL 97
67	World War Foreign Debt Commission	67 PL 139
67	Alaska Coal and Oil Land Lease	67 PL 165
67	Budget and Accounting Act 1921	67 PL 139
67	Cable Act	67 PL 346
67	Agric Futures Trading Grain	67 PL 331
67	Agricultural Credits Act	67 PL 503
67	National Drug Law	67 PL 227
67	Emergency Tariff 1921	67 PL 10
67	Establishment of Veterans' Bureau	67 PL 47
67	Naval Appropriations Act of 1921	67 PL 35
67	Futures Tax Act of 1921	67 PL 66
67	United States Coal Commission Act	67 PL 347
67	Field Services Classification Act	67 PL 516
67	Naval Disarmament	67 PL 268

Table 11: Landmark Enactments from the 68th Congress (1923-1925)

Congress	Act	Public Law
68	Indian Citizenship Act	68 PL 175
68	Federal Corrupt Practices, 1925	68 PL 506
68	Judges' Bill	68 PL 415
68	Proposed Child Labor Amendment	
68	Bonus Act	68 PL 120
68	Airmail Act of 1925	68 PL 359
68	Immigration Act 1924	68 PL 139
68	Rogers Foreign Service Act	68 PL 135
68	Hoch-Smith Resolution	
68	Clarke-McNary Reforestation Act	68 PL 270
68	World War Veterans Act of 1924	68 PL 242
68	Revenue Act of 1924	68 PL 176

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Table 1: Negative Binomial Regression of Amendments Introduced

Covariate	Model 1	Model 2
Senate	2.306* (0.12)	0.364* (0.17)
Post-Seventeenth Amendment	0.036 (0.10)	0.166 (0.12)
Senate * Post-Seventeenth	0.313* (0.15)	0.495* (0.20)
Ideological Distance	-0.541* (0.21)	0.227 (0.27)
Majority Party	-0.144 (0.14)	-0.198 (0.18)
Committee Chair	0.305* (0.11)	0.508* (0.15)
Ranking Member	0.357* (0.12)	-0.186 (0.16)
Service Time	0.104* (0.01)	0.129* (0.01)
Constant	-2.312* (0.16)	-2.983* (0.22)
Observations	5203	5203
Pseudo R ²	17.80	13.94
Prob > χ^2	0.00	0.00

Note: * indicates significance at the $p = .05$ level. Coefficients with robust standard errors listed in parentheses. Model 1 is the raw number of amendments that yielded recorded votes from the 59th (1905-1907) to the 68th Congress (1923-1925) in both the House and the Senate. Model 2 is the average number of amendments per landmark enactment offered by each member from the 59th (1905-1907) to the 68th Congress (1923-1925) in both the House and the Senate.

Figure 1: Amendments Disposed of via Recorded Vote, 1905-1923

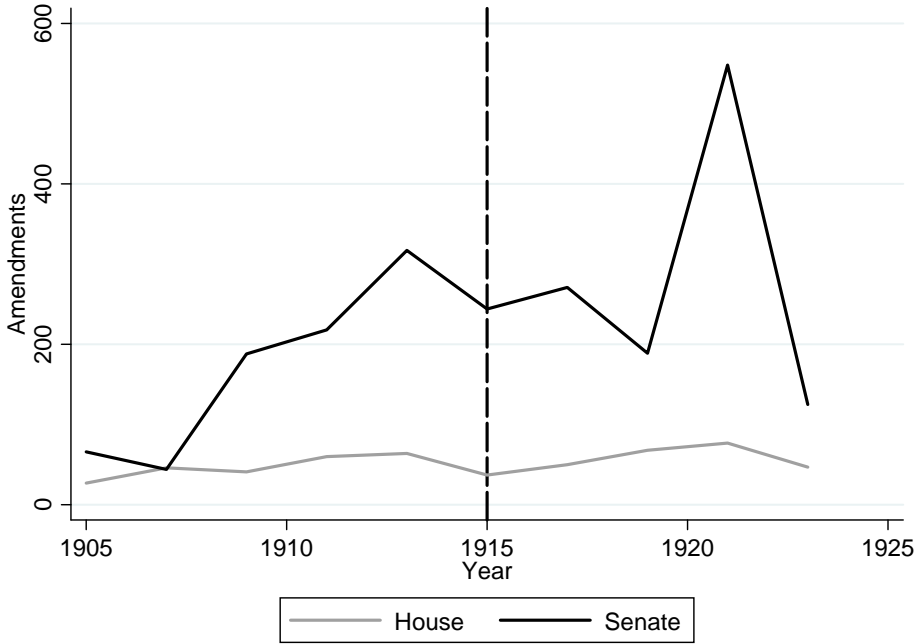


Figure 2: Amendments per Landmark Bill, 1905-1923

