3

Modeling Agenda Power

I believe it to be the duty of the Speaker . . . standing squarely on the platform of his party, to assist in so far as he properly can the enactment of legislation in accordance with the declared principles and policies of his party and by the same token to resist the enactment of legislation in violation thereof.[1]

    — Speaker Nicholas Longworth (R-OH), 1925

My fifth principle is to please the majority of the majority. On occasion, a particular issue might excite a majority made up mostly of the minority. . . . The job of Speaker is not to expedite legislation that runs counter to the wishes of the majority of his majority. . . . On each piece of legislation, I actively seek to bring our party together. I do not feel comfortable scheduling any controversial legislation unless I know we have the votes on our side first.[2]

    —Speaker Dennis Hastert (R-IL), 2003

3.1. INTRODUCTION

In this chapter, we begin modeling agenda power – the ability to influence what gets voted on, when, and how. We argue that the majority party routinely uses its near-monopoly of formal agenda power in order to keep bills off the floor agenda that would, if passed, displease majorities of its membership.[3] This negative agenda power is *unconditional*, in the sense that its exercise does

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[1] Excerpt from Galloway (1968: 144), citing Speaker Longworth in 1925.

[2] Excerpt from Speaker Dennis Hastert's (R-IL) November 12 address at the Library of Congress titled "Reflections on the Role of the Speaker in the Modern Day House of Representatives," reprinted in *Roll Call*, November 17, 2003, p. 4.

[3] Barney Frank, a longtime member of the House of Representatives, shares the same opinion, claiming that the job of the majority-party leadership is to protect its members from having to vote on issues on which they do not want to vote. He made this observation while speaking before a class at the University of California, San Diego (personal communication from Gary Jacobson).

not vary with the similarity of the party's members' (constituency-induced or personal) ideas of good public policy.

The formal basis for our conclusions is a standard spatial model of legislative procedure in which legislators and policy proposals are arrayed from left to right along a number of ideological or issue dimensions. Two variants of this model embody starkly different assumptions about who controls the floor agenda. In one model, the floor agenda is determined by a majority vote on the floor, hence implicitly by the median legislator in the House (on each dimension). We call this the *Floor Agenda Model*. In a second model, the floor agenda is determined by the senior partners of the majority party – such as the committee chairs and top floor leaders – whom we assume act with an eye to the interests of their party. More specifically, we assume that the senior partners will block bills opposed by a majority of the majority party from reaching the floor agenda. We call this the *Cartel Agenda Model* (Cox and McCubbins 1993, 1994, 2002).

We view the Cartel Agenda Model as a formal variant of the procedural cartel theory that structures this book. The Floor Agenda Model is a similarly simplified version of the nonpartisan theories of legislative organization that we surveyed in Chapter 1. In Chapter 5, we test hypotheses derived from these two formalized models. In later chapters, we bring in other formal variants to this idealized model, while preserving the central contrast in assumptions about who controls the agenda.

3.2. MODELING THE FLOOR AGENDA

3.2.1. Background Assumptions

In path-breaking research, Shepsle (1979) and Shepsle and Weingast (1981, 1987) modeled the House agenda process and examined the consequences of agenda power. They relied on a spatial analogy wherein policy choices correspond to points in a multidimensional Euclidean space (cf. Downs 1957; Black 1958; Kramer 1977). For simplicity and ease of exposition, we will adapt their well-known model to our purposes.[4]

In particular, we use the following six assumptions to model agenda setting in the House:

- **Dimensions of policy choice.** First, there are n policy instruments that can be adjusted by the legislature. For example, the minimum wage can be increased or decreased; the criteria to qualify for welfare payments can be loosened

[4] These models are idealized representations of legislative politics that focus on only a few aspects of behavior. Just as in a regression equation, these models necessarily omit some variables and considerations. If the models capture the more important elements, and ignore the less important, then they may provide useful predictions – but certainly one does not expect them to be errorless. To probe the robustness of our models, we relax some (but of course not all) of the auxiliary assumptions in future chapters, while preserving the core distinction between agendas set on the floor and agendas set in the councils of the majority party.

or tightened; and so forth. There is a commonly known status quo point for each instrument. For example, the status quo qualifying criteria might require an annual income less than $14,000; the status quo minimum wage might be $5.25; and so forth. Both status quo policies and policy proposals (bills) are represented as points in n-dimensional Euclidean space. We refer in what follows to policy instruments, dimensions, and issues synonymously.

- **Legislators.** Second, there are K members in the legislature, whose preferences over the policy dimensions are additively separable and who vote strategically. Specifically, on any given dimension j, legislator k has a unique ideal point on that dimension, x_j^k, which is common knowledge. The utility that legislator k derives from a given policy vector, $z = (z_1, \ldots, z_n)$, declines with the sum of the distances between x_j^k and z_j: $u_k(z) = -\sum_j |x_j^k - z_j|$. We assume that members seek to maximize the utility that they derive from the final policy choice of the House (i.e., to minimize the summed distances between their ideal points and the final choices on each dimension).[5] A consequence of this assumption is that the model of policy choice is, in essence, reduced to a series of independent unidimensional choices.

- **Bill introduction.** Third, any member of the House may introduce a bill dealing with any single-issue dimension. Such bills may or may not be allowed onto the floor, depending on the actions taken at the agenda-setting stage.

- **Agenda setters.** Fourth, there exist agenda-setting agents who have the right to block bills from reaching the floor within their (fixed) jurisdictions.

- **Legislative sequence.** Fifth, the legislative sequence consists of only four stages: (1) Members introduce bills; (2) some agent selects (or some agents select) the bills that the floor will consider (more specifically, the agents veto the bills they wish to veto and the remainder are thereby selected for floor consideration); (3) the floor then considers the bills presented to it, one by one, amending them as it sees fit; (4) the floor then votes on final passage of each bill (as amended if amended). In later chapters, we unpack the agenda-setting stage into substages corresponding to consideration in the relevant substantive committee and in the Rules Committee.

- **Open rules.** Sixth, we focus on the special case in which all bills are considered under open rules, subject only to a germaneness restriction, as this is the simplest case to exposit. We also briefly digress to consider the case of closed rules, showing that our main predictions remain unaltered.

Shepsle (1979: 350) suggests that there are three possible agenda-setting agents in the House: the Committee of the Whole, legislative parties, and

[5] With these assumptions about members' preferences, the model is slightly more general than the standard unidimensional spatial model – indeed, if $n = 1$, that model emerges as a special case. Although more general, the model is just about as easy to deal with analytically: one can consider each dimension in isolation and use ordinary unidimensional results, such as the median voter theorem (Black 1958). The "additively separable" utility assumption is not necessary for our results. Much the same results could be derived by assuming strictly quasi-concave utilities, although in this case germaneness restrictions would play a crucial role. See Cox (1999).

committees. The third possibility, wherein autonomous and independent committees set the floor agenda, is the topic of Shepsle and Weingast's (1981, 1987) classic analyses. Our focus is on the agenda-setting powers of the first two agents listed: the floor as a whole and the parties – in particular, the majority party.

In one of the models to follow, parties are not appropriate "analytic units" (cf. Mayhew 1974), and the floor agenda is determined as if by majority vote on the floor (in the spirit of Krehbiel 1998). Another way to put it is that the sole veto agent on any given dimension is the median legislator on that dimension. In our second model, one can think of the agenda setters as the majority party's senior partners, who have a fiduciary responsibility to block bills that would roll their party. Thus, it is as if bills are blocked whenever a majority in the majority party's caucus wishes.[6]

For ease of exposition, and without loss of generality, we also incorporate in these models an assumption that members of the majority party are generally to the left of members of the minority party (we are thinking of the long period of Democratic dominance from the early 1930s to the mid 1990s). More formally, let m_j denote the location of the median member of the minority party on dimension j. Let M_j denote the location of the median member of the majority party on dimension j. Finally, let F_j denote the location of the median member of the House on dimension j. We assume that $M_j < F_j < m_j$ for all j.[7] Note that the assumption allows some Democrats to be to the right of some Republicans, or even to the right of a majority of them, on some (even all) dimensions. Similarly, some Republicans may be to the left of some Democrats, or even a majority, on some (even all) dimensions. Note also that no assumption is made that the same member of Congress is the median on all dimensions, although this is possible within our model.

We assume that the location of the status quo on any given dimension, which we also assume is the reversion, may vary. The world deals out "shocks" that upset the best-laid plans of previous legislatures, so that the status quo outcome

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[6] Aldrich (1995) proposes a model very similar to ours. His is a variant, like ours, of Shepsle (1979). He assumes that agents of the majority party have the sole ability to put bills on or keep bills off the floor. He also assumes, as we do, that the agenda-setting agents only allow bills onto the floor if their passage "will make at least a majority of the majority party better off than the status quo" (p. 180).

Our models differ primarily in the uses to which they are put. Aldrich is primarily interested in (1) the conditions under which an equilibrium exists in the single-shot version of his model, and (2) the conditions under which an equilibrium exists in a repeat-play version of his model. In contrast, we are not much interested in existence issues; indeed, we deflect attention from such matters by assuming additively separable preferences, which makes existence easy to prove. The bulk of our effort is devoted to deriving conclusions from the model about (1) the majority-party roll rate, (2) the minority-party roll rate, and (3) the typical direction of proposed policy movement of bills reaching a final-passage vote.

[7] Formally, m_j is the median of the {x_k^j: k is a member of the minority party}, with similar definitions for M_j and F_j. For convenience, we shall assume that each median is always a unique point, rather than an interval.

on any given dimension may have drifted over a number of years (e.g., a once generous minimum wage erodes with inflation) or experienced a sudden shift (e.g., various foreign policy dimensions look quite different after the fall of the Berlin Wall). Formally, we assume that the status quo on dimension j at time t, denoted SQ_{jt}, is such that $SQ_{jt} = SQ_{j,t-1} + \varepsilon_{jt}$, where $SQ_{j,t-1}$ is the status quo as it was at the end of the previous legislature and ε_{jt} is the shock (thought of as arriving at the beginning of Congress t) dealt out by Nature.[8]

The model is simplest if one assumes that the policy shocks chosen by Nature become common knowledge at the beginning of the game. With this assumption, the location of the status quo on each dimension is also common knowledge.

All told, the sequence of moves in the model is as follows. First, Nature chooses the policy shock ε_{jt} for each dimension j, which then becomes common knowledge. Second, members introduce bills. Third, the agenda-setting agent(s) decide(s) to block some of the introduced bills from reaching the floor agenda. Fourth, the floor considers all bills reported, amending them as the members see fit. Fifth, the floor then either passes or rejects the amended bill by majority vote.

3.2.2. Voting on the Floor

Regardless of how the floor agenda is set, the following observations hold. At final passage, some bill b_j (possibly an amended version of the bill originally reported to the floor) will be pitted against the status quo SQ_j on dimension j. Because the vote at this stage is binary, a member with ideal point x will vote for the bill if and only if b_j is closer to x than is SQ_j.[9]

3.2.3. The Cartel Agenda Model

In the Cartel Agenda Model, we assume that the senior partners of the majority party (e.g., committee chairs) and groups of senior partners (e.g., the majority party contingent on the Rules Committee) can block bills dealing with issues in their respective jurisdictions from reaching the floor agenda. Each senior partner may exercise his veto to block bills that he personally opposes, even if a majority of his party would prefer to see the bills pass. For example, conservative committee chairs in a Democratic House may block bills that the progressive wing of their party embraces. The model can thus accommodate conventional accounts

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[8] The legislators' ideal points on each dimension might also be time-indexed (although we do not keep track of that notationally here): the legislator from a given district may be new, or may have undergone an ideological conversion. Thus, even if there is no shock to the status quo on a particular dimension, it may be nonmedian owing to changes in the location of the median legislator.

[9] Our model ignores the complexities that arise from bicameralism and presidential vetoes, though it could be adapted to include these. For example, in Chapter 9, we deal with a version of Krehbiel's model of pivotal politics (Krehbiel 1998).

of the Congress during the North–South split in the Democratic Party, which record considerable progressive frustration with the delaying tactics of Southern Democrats (cf. Rohde 1991).

Two real-world features of the way the majority party distributes vetoes make it very unlikely that bills that would roll the majority party can make it to the floor. The first feature is redundancy. Bills typically must pass a series of veto points. After they are introduced, the typical (important) bill must be considered and reported by a standing committee, considered and granted a special rule by the Rules Committee, and scheduled for floor consideration by the speaker. At each of these stages, senior partners in the majority party are well positioned to delay or kill them. As long as the senior partners controlling at least one of the veto gates through which the bill must pass are representative of the majority party as a whole, they will have personal incentives to veto the bill and thus protect the majority from a roll.

The second feature is that officeholders know they have a fiduciary responsibility to block bills that would result in policy changes that a majority of the majority party opposes, in accord with the quoted remarks of Speakers Longworth and Hastert at the beginning of the chapter. Ignoring this responsibility entails, among other things, a risk that they will not be renominated for their post(s).[10]

In our model, we idealize the considerations just noted – the creation of multiple vetoes and the imposition of a minimal normative restraint on senior officeholders' behavior – by assuming that they suffice to ensure that, whenever a majority of the majority party would like to see a bill blocked, some senior partners will in fact block it, either because they share the majority's views or because they feel a fiduciary obligation to do so. Two consequences of this assumption are:

Result C1: No dimension j on which the status quo (SQ_j) is preferred to the floor median (F_j) by a majority of the majority party is ever scheduled for floor consideration.

Proof: The senior partners of the majority party can anticipate that, if they put a bill dealing with dimension j on the floor agenda, this bill will be amended to the floor median (and then passed). The partners will therefore schedule for floor consideration only those dimensions on which the median majority party legislator prefers F_j to SQ_j. But this implies never scheduling a dimension on which SQ_j is preferred to F_j by a majority of the majority party.[11]

10 As an example, consider Jones' (1968) discussion of Speaker Joseph Cannon and Chairman of the Committee on Rules Howard Smith. Both of these leaders were exceptionally powerful but demonstrated only limited accountability to party membership. As a result of such limited accountability (or "excessive leadership" as Jones calls it), both leaders ultimately lost their majorities.

11 We should note that the formal model does not incorporate a Senate or president. Thus, the notion that the House majority might log-roll with the president – allowing itself to be rolled on
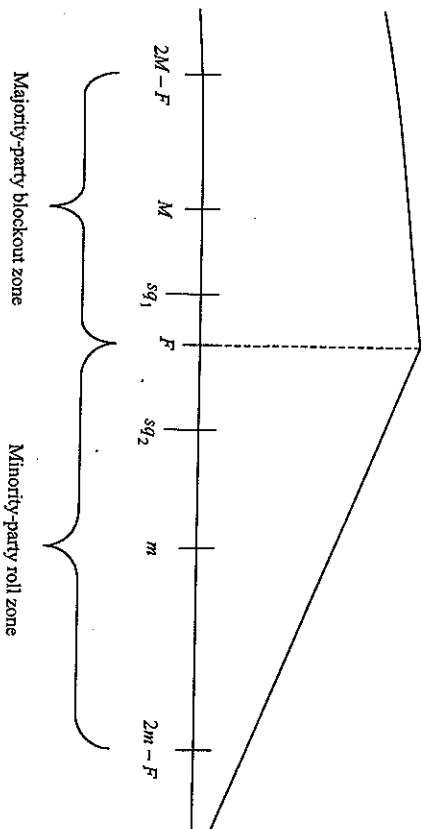
FIGURE 3.1. The idealized Cartel Agenda Model

Result C2: No bill opposed by a majority of the majority party's members ever passes.

Proof: From Result C1, the majority party's senior partners will report to the floor only bills concerning dimensions on which a majority of the majority party prefers F_j to SQ_j. Any bill reported to the floor will, if it does not already propose to move policy to F_j, be amended to do so (as we assume open rules). Thus, *all* bills reported to the floor will, on the final-passage vote, pass with a majority of the majority party voting in favor.

Figure 3.1 helps to illustrate these results. As noted previously, M, F, and m denote the location of the median legislator in the majority party, the whole House, and the minority party, respectively. If the status quo lies closer to M than does F (i.e., lies in the "majority party blockout zone" extending from $2M - F$ to F), then a majority of the majority party will oppose putting the issue on the floor agenda. Hence, per Result C1, dimensions with status quo points in the majority party blockout zone will never be scheduled for floor consideration. Thus, for example, a bill to change sq_1 will *not* be reported to the floor (as sq_1 is preferred by M to F), whereas a bill to change sq_2 *may* be reported to the floor (as F is preferred by M to sq_2).

one bill in return for the president's signature on another – does not yet arise. We do consider such possibilities in our case-by-case discussion of majority-party rolls (Chapter 6) and in our discussion of the validity of rolls as indicators of veto power (Appendix: Construct Validity and External Validity).

3.2.4. The Floor Agenda Model

In the Floor Agenda Model, we assume that the bills to be considered on the floor are determined by majority vote on the floor. It is simplest to imagine that the median legislative agent, for each dimension j, moves that a bill implementing F_j be put onto the floor agenda. (If some other bill is put on the agenda, it will be amended to F_j before passage.)

Under this agenda structure, *all* dimensions j with SQ_j not equal to F_j are considered on the floor. (Recall that there are no opportunity, proposal, or consideration costs in the standard unidimensional spatial model on which we are building.) If SQ_j is to the left of F_j, then the median and all to her right will vote to consider a bill and then to pass it (as amended if amended). If SQ_j is to the right of F_j, then the median and all to her left will vote to consider a bill and then to pass it (as amended if amended). Thus, contrary to the Cartel Agenda Model, both sq_1 and sq_2 in Figure 3.1 would be altered. Will a majority of majority party agents ever vote against the placement of a bill on the floor agenda in this model. Will they ever oppose a bill on final passage? The following results give the answers:

Result F1: A majority of the majority party will vote against putting a particular dimension j on the floor agenda (but will lose) if and only if the status quo (SQ_j) is closer to the majority party median (M_j) than is the floor median (F_j).

Corollary F1: The probability with which a majority of the majority party unsuccessfully opposes placing an issue j on the floor agenda is a function of (1) how large the interval between M_j and F_j is and (2) the distribution of SQ_j.

Result F2: A majority of the majority party will vote against a bill pertaining to dimension j on final passage (but will lose) if and only if the status quo (SQ_j) is closer to the majority party median (M_j) than is the floor median (F_j).

Corollary F2: The probability with which a majority of the majority party unsuccessfully opposes a bill on final passage is a function of (1) how large the interval between M_j and F_j is and (2) the distribution of SQ_j.

Note that similar results hold for the minority party. Just substitute "minority party" for "majority party" and "m_j" for "M_j" in the preceding claims.

3.3. PROPOSAL RIGHTS AND REGIMES OF EXCEPTION

In the Cartel Agenda Model, the senior partners of the majority party receive only veto rights. It is thus possible that "too many" status quo policies may be protected, from the majority party's perspective.

One way to combat the problem of gridlock engendered by distributing vetoes is to create *exceptions* to the veto regime. The House majority party has

adopted such a strategy repeatedly. For example, the Rules Committee has the right to "extract" bills from other committees in certain circumstances, while the speaker has the right to recognize members seeking to suspend the rules. Both extraction and suspension of the rules can override a committee's veto and bring a bill to the floor. Similarly, granting privilege to a particular committee (i.e., the right to report bills directly to the floor) is a way to avoid the Rules Committee's veto.

It is, of course, possible that the majority party might err in allocating exceptional proposal rights. For example, it might give privilege to a particular committee only to find that the committee then reports bills that will roll the majority. In order to avoid this outcome, the majority takes several precautions. As we have shown previously (Cox and McCubbins 1993), committees that have both privileged access to the floor and important jurisdictions also (1) have more majority party members than would be warranted by the party's share of seats in the House alone, (2) have contingents that are consistently representative of the majority party as a whole, and (3) are held to a higher fiduciary standard (e.g., members of Ways and Means were clearly expected to act with an eye to the party's broader interests).[12] We can also point out that "privilege" does not entail automatic waiver of points of order. Thus, the Appropriations Committee rarely uses its privilege, as its bills now all require points of order to be waived and thus all require special rules (Kiewiet and McCubbins 1991). In practice, then, the "veto overrides" that the House has instituted do not pose much threat to the prediction we articulated in Section 2.3.

Theoretically, of course, we again idealize matters by assuming that the majority party is careful enough in delegating special proposal powers, so that they cannot be used to advance bills that would roll the majority party. With this assumption, our previous theoretical results (C1 and C2) – predicting that the majority party will never be rolled – are preserved.

It is of course possible that our first-order approximation of the lay of the agenda-setting land is too crude, or even wildly off base (as it would be if the Floor Agenda Model holds). Fortunately, our rather stringent prediction is susceptible to empirical falsification. One can, and we will, examine the voting record of the House to see if the majority party has been rolled. As will be seen, the simple Cartel Agenda Model comes remarkably close to fitting the empirical record.

3.4. CHOOSING BETWEEN AGENDA STRUCTURES

The reader may also wonder why the structure of agenda power posited in the Cartel Agenda Model could arise, given that the House as a whole must approve its own rules. To explore this issue, imagine that there is an initial vote

12 We can also note that changes in membership never make the majority-party contingents on these committees less representative of the majority party as a whole (0 of 48 instances for Democrats) and usually make the contingents more representative (6 of 9 instances for Democrats) (Cox and McCubbins 1993: 224–8).

at which the House is faced with a binary choice between rules that cartelize the agenda and rules that let the floor decide the agenda. If the House chooses to cartelize the agenda, it then operates according to the Cartel Agenda Model outlined earlier. If, on the other hand, the House chooses not to cartelize the agenda, it then operates according to the Floor Agenda Model. The question is, under what conditions will the House choose to cartelize the agenda?

The quick answer is that all members of the majority party will favor cartelizing the agenda, to the extent that this conveys office and distributive benefits to them. By "office benefits," we mean that holding high office carries with it a flow of *nonpolicy benefits*, in addition to any influence over policy it may confer. Being chair, for example, brings in campaign contributions, confers prestige, affords the opportunity to hire and direct staff, and so on. By "distributive benefits," we mean a larger share of the pie in any distributive issues that the House decides.[13] The only downside to cartelizing is that consistently centrist House members may suffer a net policy loss from the majority's veto. This loss must be counterbalanced by office and distributive benefits in order to secure the centrists' support.

The payoff to a given majority party legislator from adopting rules that cartelize the agenda, rather than leaving the agenda to the floor, can be written:

Payoff to adopting cartel rather than floor agenda rules
= Policy gain – Policy loss + Office benefits + Distributive benefits

The legislator may enjoy policy gains from the majority party veto on some dimensions (Policy gain), may suffer losses due to the veto on other dimensions (Policy loss), and may – regardless of these policy gains and losses – accrue some nonpolicy office and distributive benefits.[14] The larger are the latter benefits,

[13] The real-world Congress faces a variety of issues. Some of these issues can be formally represented as spatial or left–right policy dimensions of the kind that our model envisions – and for which it is meaningful to talk of a median legislator. Others, however, are closer to the purely distributive issues envisioned, for example, in Baron and Ferejohn (1989) – in which Congress must decide how to divide the federal budget pie among members' districts, *and there simply is no median legislator.* We might have based our model on the Baron–Ferejohn framework, by adding an agenda-setting stage in which the majority party's senior partners could veto proposals. Had we done so, we would still have found that such agenda power conferred a clear advantage on the majority party's members. Indeed, if any proposal that did not command the support of a majority of the majority party would be vetoed, then the central prediction of our spatial model would transfer to the distributive setting: the majority party would never be rolled. Yet, in a distributive setting, there would be no puzzle as to why the majority party's members would vote for rules to sustain a cartel because all members would be strategically symmetric. There would be no median legislator who had to sacrifice his strategic advantages for the sake of the party. Thus, as the ratio of distributive to spatial issues increases, the median legislator's preferences pose an increasingly small constraint on policy outcomes (cf. Jackson and Moselle 2002).

[14] More formally, for legislator k, Policy gain$_k = \sum_{i \in G_k} |F_i - x_i^k| - |q_i - x_i^k|$, where $G_k = \{i : x_i^k$ is closer to q_i than to $F_i\}$. The cartel blocks consideration of bills dealing with the dimensions in G_k, and this benefits k as he prefers the status quo to the floor median on such dimensions. In contrast, Policy loss$_k = \sum_{i \in L_k} |q_i - x_i^k| - |F_i - x_i^k|$,

and the more widely distributed they are among the majority party's members, the more likely it is that every majority-party member will vote to cartelize the agenda (if the only other alternative is to leave the agenda up to the floor).

Would centrists – those at or near the floor median on most dimensions – really benefit from a cartel, by the preceding calculus? They suffer mostly policy losses, in the sense that particular bills that they would support are blocked from reaching the floor by the cartel, whereas such bills would not be blocked if the floor controlled the agenda. To see why this net policy loss will not typically carry the day, we note three points.

First, the "policy loss" that the consistently centrist members suffer is not overt. These members are asked to forego the opportunity to change policy on some dimensions. They are never asked to vote straightforwardly for the status quo against a bill moving policy to the legislative median. Rather, they are simply asked not to lift a finger in forcing one of the banned bills onto the floor. If their constituents come to complain, their only complaint can be about lack of effort (hard to prove), not about voting the wrong way. If things go well, the bill will never make it out of committee, and so most majority-party members will not be forced to vote even on a procedural motion involving the bill, much less on a final-passage motion. From this perspective, the electoral costs to centrist members of cartelizing the agenda are minimized.

Second, we believe that the office and distributive benefits noted previously are very substantial. We defend this notion at length in the second edition of *Legislative Leviathan* but can review the argument briefly here. First, the majority party's senior partners get all committee and subcommittee chairs, super-proportional shares of seats on the most important standing committees and on virtually all conference committees, and the speakership. Second, the majority party's leaders also take the lion's share of staff allocations in the House. Third, the majority party's members enjoy a significant fund-raising advantage, estimated at $36,000 per member per electoral cycle in the House (Cox and Magar 1999; Ansolabehere and Snyder 2000). Fourth, the majority party's members never receive a smaller share and sometimes receive a larger share of pork-barrel projects. Fifth, districts served by senior members of the majority party exhibit higher economic growth rates (Levitt and Poterba 1999). Thus, we believe that the payoff to cartelizing the agenda (as opposed to letting the floor decide its own agenda) is positive for all majority party members.

Third, consistently centrist members can in principle be given larger office and distributive benefits to counterbalance their policy losses. This line of argument suggests that consistently centrist members should receive more office and distributive benefits than other members of the party. We are not aware of any systematic evidence that centrists do receive greater office and distributive benefits, but we can point out that the conventional wisdom regarding Southern

where $L_k = \{i : x_i^k$ is closer to F_i than to q_i, and M_i is closer to q_i than to $F_i\}$. The cartel blocks consideration of bills dealing with the dimensions in L_k, and this harms k, who prefers the floor median to the status quo on such dimensions.

Democrats during the North–South split, especially after the election of 1948, is that (a) a disproportionate share of their members chaired committees and (b) a disproportionate share of pork-barrel benefits went to their districts.

The argument thus far focuses on a binary choice between a floor agenda structure and a majority party procedural cartel. One might ask what happens if the minority party can seek to lure centrist defectors from the current majority. This question brings us back to the issue of stability – why one particular cartel can stay in business – which we mentioned briefly in Chapter 1. As we noted in Chapter 1, any group of defectors would wish to coordinate their defection (lest they end up being nonpivotal) and to negotiate the division of spoils in advance – all of which is costly. Moreover, each incumbent member of the House got there by choosing, at some early point in her career, to affiliate with one of the major parties. That affiliation forms an important part of each legislator's political reputation. Defection opens the legislator to questions about judgment (why did you choose that party in the first place?) and credibility (if you will flip-flop on which party you affiliate with, why should anyone believe your specific policy commitments?). These questions can potentially be answered, but it is costly to do so, especially if one's next opponent is well funded. Thus, in essence, legislators in a given party have posted a bond, corresponding to the electoral value of their current partisan affiliation, which they necessarily forfeit if they defect (Cox and McCubbins 1994). These bonds, in turn, make coalitions stable by making changes costly, even in multidimensional settings (cf. Sloss 1973; Lupia and Strøm 1995).

We can close by reconsidering what is at stake in this digression. Our analytical strategy in this book is to posit a model and see if the world comports with its predictions. As the rest of the book will demonstrate, the model does well, empirically speaking. The potential criticism we have discussed in this section assumes an alternative model, one in which there is a single legislator – the median – who holds all the strategic cards, and which asks how such a person would ever consent to the creation of the rules we posit. Our response boils down to saying that the alternative model omits most of the reasons that make a procedural cartel attractive – the office benefits, the distributive benefits, the heterogeneity of strategic position across issues. After one brings these features into analytical view, it is not hard to see why a party would wish to cartelize the agenda (i.e., take the lion's share of the office and distributive benefits for its members and agree on a delegation of vetoes that ensures that majority party rolls are not feasible).

If we are wrong about why cartels form or about why they might be stable, that is certainly a defect in our overall thinking. It will not change the empirical findings we present, however. These findings are not at all what one would expect on the assumption that cartels are unattractive relative to floor agenda setting, or on the argument that no cartel could possibly be stable. Each of these alternatives leads one down a very different theoretical path. They are also inconsistent with the data we marshal.

3.5. CONCLUSION

We have presented two idealized models of agenda control and derived hypotheses from each about the behavior of actors in the legislative process. The models are idealized in the sense that we have abstracted away factors that would confound our results, trading off descriptive realism for theoretical clarity. In the next two chapters, we interpret and test the hypotheses derived here.

Our initial analytical goal is to convince the reader that there is a substantial empirical payoff to separating the agenda-setting and voting stages of the legislative process. In many models, these two stages operate by the same logic. In both stages, it is simply a matter of mustering voting strength in floor votes, and whoever can do this can first decide what proposals to allow onto the floor and then vote them up or down (perhaps after amendment). Such models lead to the dominance of the median legislator, sometimes modified by constitutional constraints (such as Senate filibusters and presidential vetoes). In our model, the agenda-setting stage is greatly influenced by special powers delegated disproportionately to senior members of the majority party, whose decisions are difficult to overturn by appeal to floor majorities. The floor stages of those bills that are considered at all, however, proceed as in the older models. In the next several chapters, we show that the Cartel Agenda Model performs well empirically – and outperforms the rival assumption that delegated agenda powers have negligible effect, so that any floor majority can get any bill it wishes to the floor.

APPENDIX 3.A

Let $R_j(x) = 2x - b_j$ denote the point that is equally far from x as is b_j but on the opposite side of x from b_j. If $x < b_j$, then $R_j(x)$ is just as far to the left of x as b_j is to the right of x. If $x > b_j$, then $R_j(x)$ is just as far to the right of x as b_j is to the left of x. In either case, $R_j(x)$ is utility-equivalent to b_j for the member with ideal point x.

Lemma 1: Consider a member with ideal point x on dimension j voting on final passage of bill b_j. Then:

(a) If $x < b_j$, the member votes in favor of b_j if and only if $SQ_j \notin [R_j(x), b_j]$;

(b) If $x > b_j$, the member votes in favor of b_j if and only if $SQ_j \notin [b_j, R_j(x)]$.

Proof: Omitted.

> Our government is founded on the doctrine that if 100 citizens think one way and 101 think the other, the 101 are right. It is the old doctrine that the majority must govern. Indeed, you have no choice. If the majority does not govern, the minority will; and if the tyranny of the majority is hard, the tyranny of the minority is simply unendurable. The rules, then, ought to be so arranged as to facilitate the action of the majority.
>
> – Thomas Brackett Reed 1887

> Besides giving the chair the power to count a quorum and to refuse to entertain motions it regarded as dilatory, the rules provided that the Rules Committee should write for each bill a special rule that would determine the conditions under which the bill would be considered. Since Reed was the dominant member of the Rules Committee, this last measure increased his power still further. The Democrats had warned darkly that "the Speaker, instead of being as for the past one hundred years the servant of the House, shall be its master."
>
> – Cheney and Cheney 1983

4.1. INTRODUCTION

In this chapter, we examine the rules and organization of the post-Reconstruction House of Representatives. We begin by systematically describing changes in House rules and organization in the period 1880–1988 (the 46th to 100th Congresses). We then make three main points: First, the modern structure of agenda power in the House – in which access to the floor is regulated by the Rules Committee and the delegation of privilege to selected committees – was erected primarily in the period 1880–94, especially with the implementation of "Reed's rules"; second, and more importantly, this structure of agenda power greatly advantages the majority party; and third, subsequent changes in House rules and organization have not greatly altered the structure erected in the 1880s.

In order to test our main points – that the Reed rules permanently and significantly changed voting behavior and policy outcomes in the House and

that subsequent rule changes have not undone these changes – we employ a dataset of House final-passage votes that we will use repeatedly throughout the book.[1] This set of bills, which we shall henceforth refer to as our *Post-Reconstruction data*, consists of observations on all House final-passage votes on bills in the H.R. series, for Congresses 45–105 (1877–1998).[2] For each final-passage vote, we ascertain whether the bill in question proposed to move policy left, right, or neither. (The basis for such assessments is simply whether one can predict support for the bill on each vote in terms of each member's left–right ideology, as measured by Poole–Rosenthal DW-NOMINATE scores.) We find that the proportion of proposed policy moves that favored the majority party (i.e., left for Democratic majorities, right for Republican majorities) increases abruptly, substantially, and permanently with the adoption and later readoption of Reed's rules. Indeed, as we will show, after Reed's rules became a permanent part of House organization, over 80 percent of the bills allowed to reach the final passage stage in the typical Congress proposed to move policy toward the median voter in the majority party.

4.2. HOUSE RULES

4.2.1. Defining the Universe of Rule and Organizational Changes

In this section, we discuss changes in House rules and organization. We begin by considering two databases of rule changes, constructed by Binder (1997) and Schickler (2000). Binder (1997) focuses on the creation and suppression of "minority rights," while Schickler (2000: 271) includes "any alterations in rules that were intended either to advance or to undermine the majority party and its leaders in their efforts to shape the House agenda." Both employ a similar methodology, which consists of carefully culling through the standard sources on House procedural history and recording the rule changes noted therein.[3]

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[1] In order to identify final passage votes – as opposed to votes on amendments and the like – we conducted a systematic search through the Inter-University Consortium for Political and Social Research (ICPSR) roll call codebooks. ICPSR has collected information on roll calls for every Congress from 1789 to the present. The codebooks contain a one-paragraph description of every motion that received a roll call vote in the House. The one-paragraph descriptions for most final-passage votes contain the words "to pass"; however, because not every final-passage vote was described with these words, we also selected votes described with the word "passage" for our analysis. Our dataset of final-passage votes that we used can be found at *www.settingtheagenda.com*.

[2] To be precise, our Post-Reconstruction data does not include absolutely *all* final-passage votes on H.R.'s; rather, it includes only votes that require a majority for passage. It therefore excludes votes to suspend the rules and pass a bill and votes to override a veto. It also does not include votes on conference reports.

[3] Schickler and Binder rely on widely used historical works such as McConachie (1974) [1898], Alexander (1970) [1916], Hasbrouck (1927), and Galloway and Wise (1976), as well as House Precedents compiled by Hinds (1907), Cannon (1936), and Deschler (1976). In addition, they

We employ an alternative method for finding rule and organizational changes: looking through standard online databases for all recorded votes pertinent to rule and organizational changes.[4] Our method yields a larger number of rule changes than is included in either previous study.

Before we can say *how many* more rule changes we have found, it will help to consider the unit of accounting. There are three ways that one might count rule changes. First, one might ask of each Congress whether any rule changes (satisfying stipulated criteria) occurred or not. This is the approach that both Binder and Schickler take. They accordingly code each *House* as having made changes relevant for their purposes or not. A second approach is to take as the unit of accounting, not an entire Congress, but instead each separate *final-passage vote* that effected one or more rule changes. The unit of observation here would be a vote to change the rules, and there might be several in a given Congress. As a third option, one might count each individually identifiable change in the rules, in which case the unit of observation would be each individual provision to change a rule, several of which might be included in a single rule-changing resolution.

Although it might seem that counting individual rule changes is the best approach, to do so comprehensively would be a gargantuan and intractable task.[5] Our approach accordingly is to count each resolution (or amendment to a resolution) that changed House rules or organization and got one or more roll call votes (we present a detailed list of our set of resolutions in Appendix 4.A). We exclude some resolutions because they were in effect for less than six months. We exclude others because they had no discernible partisan consequences (i.e., they did not affect the agenda control structure in the House). This leaves us with a total of 124 resolutions with rule or organizational changes in the period 1880–1988 that had nontrivial partisan effects.[6]

Binder and Schickler, who focus on rule changes only, mention 36 of our 124 resolutions. The 88 resolutions that neither Binder nor Schickler mentions fall into three categories: (1) 56 resolutions that affect House organization, by which we mean the funding and staffing of committees; (2) 25 resolutions that affect the establishment or jurisdiction of committees – an activity that we argue

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[3] use a variety of other sources. See Appendix 1 of Binder (1997) and Appendix A of Schickler (2000) for details.

[4] We use Voteview 2.9. The software is available at Keith Poole's web site, currently at: *voteview. ucsd.edu/default.htm*. See Poole and Rosenthal (1997) for further discussion.

[5] The problem can be illustrated by considering the great reform of the rules adopted in 1880. Alexander (1970 [1916]: 194) notes that what this reform "did was to retain twelve rules entirely, drop thirty-two because obsolete or unnecessary, and condense one hundred and twenty-five into thirty-two, making a total of forty-four, each subdivided into clauses." It would be very difficult to decide what a "rule" was (since each House rule is itself subdivided into clauses that are logically separable, and each clause often contains many potentially independent stipulations), hence to count all the rules abolished or adopted even in this single action by the House.

[6] We include all the resolutions identified by either Binder or Schickler in our overall dataset, although a few would have been excluded by one of our two selection criteria (too short a lifespan or not partisan enough in effect).

should be considered rule-making; and (3) 7 changes to the standing rules (or precedents) of the House. Let's consider each of these categories in turn.

4.2.2. Organizational Changes

A class of decisions that are frequently pushed to a recorded vote in the House concern committee staffing and funding. We include all House decisions (pursuant to a recorded vote) to fund or staff one or more committees as *organizational* changes, rather than *rule* changes.[7] They are important because they materially affect what committees, their chairs, and their minority party members can do.

Binder includes, as affecting minority rights, guarantees of a minimum proportion of minority staff in 1970 and 1974 and the abolition of those guarantees in 1971 and 1975. Schickler also includes these cases (except the guarantee extended in 1974, on the grounds that it was never actually implemented). We include all four of these changes, too, classifying them as rule changes (thus they are not counted in the total of 56 resolutions changing House organization).

In addition to these *general* guarantees of staffing, which do rise to the status of rules in the colloquial sense, there are also a number of orders affecting the funding and staffing of *particular* committees, often with regard to particular investigations. We include these under the rubric of organizational changes. Thus, for example, we include no fewer than 38 decisions that were pushed to a roll call vote in the 96th Congress (part of a general Republican protest against the injustice of Democratic rule). Additionally, we include 18 other funding and staffing imbroglios scattered across the years, such as the battle over funds for the Judiciary Committee's conduct of the impeachment hearings against President Richard M. Nixon. All told, there are 56 *organizational* changes. None of these changes are included in either Binder or Schickler's datasets – not surprisingly, as these scholars explicitly focus on more traditionally defined *rule* changes.

4.2.3. The Establishment and Jurisdiction of Committees

Rule X of the House stipulates which committees are to exist and what their jurisdictions are to be. Thus, we include all creations or abolitions of committees, and all alterations in their jurisdictions, as "rule changes," as does the House itself, provided that we can find an explicit vote of the House that effects the change in question. Binder, given her focus on minority rights, includes no

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[7] One can even make a case for considering these funding and staffing actions as "rules." Orders directing committees of the House to undertake certain investigations have been in Rules' jurisdiction since the first decade of the twentieth century (See *Hinds' Precedents* 4: 4322; *Cannon's Precedents* 7: 2048). Thus, the House has, in essence, put such orders under the heading of "rules," as the committee's official jurisdiction remains "rules, joint rules and the order of business." However, ordering a particular investigation logically entails staffing and funding it – and thus these matters too have the character of "rules."

such actions in her dataset. Schickler includes only three in his dataset: the creation and abolition of the House Un-American Activities Committee and the abolition (but not the creation) of the Joint Committee on Atomic Energy. These actions were indeed famous and partisan. However, there were many other less famous cases of the creation or abolition of a committee in which the action was pushed to a roll call vote. Indeed, we find 23 such rule changes and an additional two changes that altered the jurisdictions of committees.

4.2.4. Other Rule Changes

Putting organizational changes aside, separate actions taken by the House to alter the House committee structure account for the bulk of the rule changes that we include, but that Binder and Schickler do not. The remainder of the difference is due to seven miscellaneous items that we have uncovered by systematically searching through House roll call votes. Some of these items are votes to sustain a speaker's decision, thereby establishing precedents. Others are votes to amend the standing orders. We list these items in Appendix 4.A.4 to show that they are sometimes important and partisan actions.[8]

4.2.5. The Partisan Nature of Rule Changes

In their studies of rule changes, Binder and Schickler were both primarily interested in how often rule changes advantaged either the majority or the minority party. We will explore this shortly. With our newly constructed dataset on House rule changes, we can first address another of Binder and Schickler's questions: How many of the rule changes were majority party victories, and how many were minority party victories? Deciding whether a given resolution benefits the majority or minority is not always straightforward, especially if there are multiple changes within one resolution. We have accepted the judgments of Binder and Schickler on the rule changes that they identify.[9] For other rule changes, we rely principally on the partisan divisions on the adoption vote and secondarily on supplemental information (when available).

Given our classifications of each rule change as favoring the majority or minority, we find that *most changes benefit the majority*. Of the 56 organizational changes in the dataset, 98 percent were majority party victories. Of the 27 committee adjustments in the dataset, 74 percent were majority party victories. Of the 41 other rule changes, 73 percent were majority party victories. Thus,

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8. In one case, Binder and Schickler do mention a rule-change resolution, but they do not seem to believe it to be relevant. A vote in the 93rd Congress increased the number of suspension days, as both Binder and Schickler note. The same vote also changed House rules to allow "the Speaker to adjust the meeting time of the House with the approval of a majority, eliminating the previous requirement that the obtain unanimous consent. Republicans claimed that this removed an important element of minority rights" (cf. *Congressional Quarterly Almanac* 1973: 30).

9. Binder and Schickler do not often disagree in their judgments about rule changes. Of course, identifying rule changes is subjective and there is room to debate whether particular events should or should not be included, but we do not debate these judgments here.

on a simple bean-counting basis, the majority party wins much more often than it loses on rule and organizational changes.

In fact, we think this bean counting vastly understates the advantage that the majority derives from rule changes in the House. If one considers the *importance* of different rule changes, the majority party's dominance appears even greater.

4.2.6. How Level Is the Playing Field?

Our view is that the rules of the legislative game have been heavily stacked in the majority party's favor since the readoption of Reed's rules in 1894. Reed set out at the beginning of the 1880s to change the House's rules, to enable the majority party to enact its agenda. He succeeded. Rule changes since then have not returned the House to anything like the playing field it had prior to Reed's reforms.

Having stated our thesis baldly, we now proceed to elaborate it (and even add some shading). Our first point of elaboration will be to describe the set of changes that Reed (and others) brought about and how these changes tilted the field to the majority party's advantage. In this task, we rely extensively on Den Hartog (2004). Our second point will be to show that rule changes subsequent to 1894 did not alter the fundamentals of the system that Reed established. Some changes had important political effects, but they did not restore to the minority any abilities that it had enjoyed prior to the Reed revolution.

4.2.6.1. Reed's Revolution: Moving from a Dual Veto System to a Procedural Cartel

The majority party was at a local nadir of relative agenda power after Reconstruction. The reason for this was twofold. First, the number of bills introduced in the House continued to increase – especially with the return to the House of the Southern members, the rapid growth of the nation, and the introduction of new states. Second, all these bills piled up on the calendars, from whence they were to be taken off in the order introduced. The only techniques the House had to alter this regular order were unanimous consent and suspension of the rules, the latter requiring a two-thirds vote. Third, the rule book was still rife with opportunities for dilatory tactics and motions, such as the infamous disappearing quorum,[10] and these procedures led to such obstruction and delay that the House became an object of public ridicule (Galloway 1968: 132).[11]

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10. The minority would demand a call of the House to verify the presence of a quorum when the majority did not have all its troops in the chamber. Minority members would then *not* answer when their names were called. Thus, because a quorum could not be attained with *only* majority members answering the call, the House could not conduct further business.

11. Indeed, a *Washington Post* editorial at the time emphasized that "The system of rules is the prime cause of the wonderful inertia of this unwieldy and self-shackled body....In stalling legislation and keeping everybody else from doing anything a few members are all powerful, but when it comes to passing laws little can be done except by what is practically unanimous

Putting all this together, the minority party had a natural and effective strategy. To prevent the majority party from passing its agenda in a timely fashion, it had merely to insist that bills be taken in the regular order, then delay each bill so taken as much as possible. In this way, it could extract concessions from the majority for agreeing to suspend the rules and proceed with the bills the majority preferred. In sum, the procedure of the 1870s allowed the minority to frustrate the majority, in essence granting the minority party an agenda veto.[12] This established a situation where both parties held agenda vetoes (the dual veto system we alluded to earlier), as the majority party may have held the same means as the minority party. Thus, although neither party may have held absolute, unchallengeable vetoes, they could muster the force necessary to delay or reject many policy changes under the House rules at the time.

Thomas Brackett Reed emerged, soon after his entry into the House, as a major player in remaking the old rules. He stated his views on party government succinctly in 1880: "The best system is to have one party govern and the other party watch; and on general principles I think it would be better for us to govern and for the Democrats to watch" (*Congressional Record*, April 22, 1880, p. 2661).[13] The end result of the two parties' maneuvers over the decade of the 1880s was to guarantee that the role of "watching" was the minority's only option. Through a series of moves, the House created the modern system of agenda control – under which virtually all important legislation gets to the floor via (1) privilege, (2) special rules granted by the Rules Committee, or (3) suspension of the rules.

In addressing the majority party's procedural problems, Reed (and other rule-makers) did not seek to meddle with the free introduction of bills by members and committees. Rather, he sought – most famously – to break the minority's power to delay and – less well known but no less important – to ensure the majority's ability to take bills flexibly from the calendars, in any order it chose.

4.2.6.1.1. CURBING DILATORY MOTIONS. The adoption of Reed's rules in 1890 is routinely noted as an epochal event in House procedural history. Most of Reed's innovations at this time were calculated to break the minority party's power to delay. In particular, he introduced: (1) a rule giving the speaker the

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consent" (*Washington Post* 1888, "Slowly Doing Nothing," quoted in Galloway 1968: 132). Later editorials also denounced the system of rules that was then in place, arguing that the "un-Democratic, un-Republican, and un-American rules of the House of Representatives ... have submitted that body to a petty committee of debaters" (Galloway 1968: 132).

12 Depending on how clogged the calendar was and the minority party's willingness to pay the costs of exercising these rights, this agenda veto held by the minority party and its members could be closer to a suspensory veto, meant to slow down (and thus make more expensive) the passage of the majority's program, or closer to an absolute veto, over which the majority could not appeal.

13 Even though his preferences on party government were clear, Reed was opportunistic when it came to House rules, decrying the use by Democrats of ploys, when they were in the minority, that he later used himself when the Republicans had a majority.

power to refuse to recognize members seeking to make dilatory motions, (2) a rule allowing the speaker to count all members physically present in the chamber during quorum calls, even if those members chose not to answer when their names were called, (3) a rule lowering the quorum in Committee of the Whole and permitting closure of debate by majority vote on any part of a bill being considered, and (4) a rule allowing the speaker to refer House bills, Senate bills, and messages from the president to appropriate committees (including conference committees) without debate. Of these changes, the most famous by far is the second, which disabled the "disappearing quorum" tactic that had so frustrated majority parties. It was this change above all that led to the minority party's members storming into the well of the House in outrage and that has assured Reed's rules a place in the history books.[14]

4.2.6.1.2. ENSURING THE MAJORITY'S ABILITY TO SELECT BILLS. Another, and no less important, pillar of Reed's reform was to ensure the majority party's ability to choose flexibly, from among all the bills on the calendars, those it would put on the floor next. To accomplish this goal, Reed's primary tactic was to bolster the powers of the Rules Committee.

Rules had already been made a standing committee by the general reforms of 1880; it was already chaired (since 1858) and appointed by the speaker; and it had already secured the right to report, at any time, privileged resolutions concerning the House's rules. In 1882, Reed exploited a contested election case to establish that Rules' reports had precedence over motions to recess in particular and over dilatory motions in general. In 1883, Reed crafted the first modern special rule – which allowed the House to suspend the rules by simple majority vote, rather than a two-thirds vote – in order to send a hotly partisan tariff bill to conference with the Senate in the waning weeks of a lame duck Congress (with a Democratic majority coming in).[15] The Democrats raised a point of order against the report, "on the ground that 'it does not constitute a separate, distinct, specific measure' and not the general system of House rules" (Oleszek 1998: 10). In other words, the Democrats were complaining that the Republicans were changing the rules just for this one bill and what was the point of having rules if they could be changed at any time to suit each bill? The Republican speaker, however, ruled against the point of order and was sustained on appeal. In 1887, it was the Democrats' turn to add to the powers of the Rules Committee, when Speaker Carlisle effectively expanded Rules' jurisdiction from "rules and joint rules" to "rules, joint rules and the order of business," thereby increasing the panel's ability to regulate traffic to the floor. This expansion in jurisdiction was

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14 For analyses of the adoption of Reed's rules, see Galloway and Wise (1976), Alexander (1970) [1916], and Binder (1997).

15 As Roberts and Smith (2003) report, the Rules Committee's role in setting the agenda was still very limited for several Congresses after the first special rule was adopted. After the 47th Congress, there were no special rules adopted and only seven special orders adopted through the end of the 50th Congress.

formally recognized and established in Reed's rules, passed in 1890 (Oleszek 1998).[16]

Thus by 1890, Rules had been transformed from a committee entitled only to propose *general* rules to a committee entitled to propose *special* rules that would govern the order in which bills would be taken from the calendars (or sent to conference) and that could be adopted by simple majority vote.[17] Rules' resolutions, moreover, were privileged and could not be blocked by dilatory motions. Finally, because Rules was chaired and appointed by the speaker, the majority party's control of its actions was virtually assured,[18] and majority party members quickly found that support for those actions on the floor was created a litmus test of party loyalty.[19] In this way, Reed and other innovators had created a viable system by which the majority party could flexibly alter the regular order of bills on the calendars.

The usefulness of this system in protecting the majority from votes that it did not want to face was recognized immediately. As early as the 51st Congress, "the power of special rules to restrict policy alternatives and provide political cover for the majority party" (Roberts and Smith 2003: 6) was pointed out by a minority party member, Representative Blount (D-GA), in the following terms:

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

(*Congressional Record*, June 5, 1890, p. 5646)

16 Beginning in the 51st Congress, the Rules Committee's new role as the House agenda setter became evident as the number of special orders and special rules adopted on the floor increased dramatically. As Roberts and Smith (2003) report, the 51st Congress saw five special orders and seven special rules adopted, as compared to the seven special orders and no special rules that were adopted in the previous four Congresses. By the 53rd Congress, there were eight special orders and 24 special rules adopted.

17 We acknowledge that the full potential of special rules took slightly longer to be realized – per Bach (1990) and Roberts and Smith (2003).

18 As Oleszek (1998: 11) puts it, "Needless to say, Reed dominated the Rules Committee. According to one account, the Speaker would inform the two Democrats on the [five-person] panel that [we] 'have decided to perpetrate the following outrage.' Then he would read and give the two Democrats 'a copy of whatever special order had been adopted by the majority of the committee.'"

19 Alexander (1970 [1916]: 210) refers to members being disturbed by "the feeling, created by the tyranny of alleged party necessity, that one must support whatever the Rules Committee brought forward or become irregular. In fact, nothing better illustrates the extraordinary power that the desire to be regular wields in the House than the dumb fidelity with which the great majority of members yield to this shibboleth."

4.2.6.2. The Permanence of Reed's System of Agenda Control: Dilatory Motions

After Reed's system of agenda control had been constructed, with its decisive advantage for the majority party, subsequent rule changes never pushed the playing field in the House back to anything close to what it had been in the 1870s. To show this, we first review changes that affected the Rules Committee (in the next section), then changes that affected the minority's power to delay (in this section). Although there were political changes of great importance that affected how the system operated, the fundamentals of the system – structural majority party advantages in regulating the flow of bills from the calendars to the floor and weak minority party ability to delay – did not change.

The main threat to our claim that the majority party's procedural advantage continued largely undisturbed from 1894 (when Reed's rules were readopted) to the present is, of course, the famous revolt against Speaker Cannon in 1910. As is well known, a coalition of Progressive Republicans and Democrats combined at that time to force important changes in House procedure. As Forgette (1997: 391) has noted, however, the revolt against Cannon in 1910 "did not undo all of Reed's [r]ules." Forgette notes) in particular that the speaker retained the power to reject dilatory motions and to count a quorum, the two main antidelaying innovations that Reed had introduced. The House also retained the reduced quorum in Committee of the Whole and the automatic referral of bills and items "on the Speaker's table" – two additional blows against minority obstruction. Indeed, the revolt against Cannon hardly affected Reed's system as far as dilatory tactics were concerned.[20]

If dilatory motions and tactics were not restored (or created anew) in the revolt against Cannon, were they in subsequent years? In our dataset of rule changes, there are six that *further erode* the minority's ability to delay.[21] As against these six, there is one that (slightly) improves the minority's ability to delay: the Legislative Reorganization Act of 1970 guaranteed some minimal debate time for the opposition on amendments, on motions to recommit, and on conference reports. All told, then, the particular dilatory measures that the minority used prior to Reed's rules have not been restored, nor have functional equivalents been invented.

20 Of the rule changes effected in the revolt against Cannon, the only one that might be viewed as increasing the minority's power of delay was the guarantee that an opponent of each bill would be given the opportunity to offer a motion to recommit, if the previous question had been employed by the bill's proponents. In practice, however, the motion to recommit has not been effective as a dilatory tactic.

21 In 1965, the right to demand a vote on engrossing bills was abolished. In 1970, reading of the Journal was dispensed with. In 1973, restrictions on obstruction were introduced. In 1976, Rules was allowed to report resolutions waiving the requirement that conference reports be available two hours before their consideration. In 1977, quorum calls were prohibited during debate. In 1979, the threshold required for forcing a recorded vote was increased (and various procedures were streamlined).

4.2.6.3. The Permanence of Reed's System of Agenda Control: The Rules Committee

In this subsection, we consider three central powers that the Rules Committee had acquired by 1890: (1) the right to report to the floor at any time, (2) the right to have its reports immediately considered (protection against dilatory motions), and (3) the right to report "special rules" regulating the order of business. Our main point is simply that these powers of the Rules Committee have not changed significantly since their institutionalization in 1890–4. Indeed, subsequent actions have sometimes clarified or strengthened Rules' power. For example, in 1933 the House amended its rules to provide that special rules reported by the Rules Committee not be divisible.

If the core capacities of the Rules Committee have remained intact, have new rules undermined the practical consequences of these core capacities? The only real possibilities along these lines that the extant literature raises are two: a series of rule changes intended to make it easier for bills to bypass Rules and a series of rule changes that affected the membership of Rules.

4.2.6.3.1. BYPASSING RULES. The House and Union calendars continued to be crowded with bills after Reed's system of agenda control was put in place. Thus, the real logjam for unprivileged bills continued to be at the stage of getting from the calendars to the floor (at least for those unable to command the two-thirds majority needed for suspension of the rules). To navigate this logjam at the calendar-to-floor stage, members had two basic options. First, they could petition Rules for a special rule. However, Rules could delay action on or refuse requests for special rules. Thus, members sought methods to force Rules to take action on "their" special rules. Second, if Rules could not be made to budge, a member might seek some novel procedural route to the floor that bypassed Rules entirely.

Thus, procedural fights in the House that Reed built have tended to focus on Rules' ability to delay or block legislation – an ability inherent in, indeed inseparable from, the system of agenda power that he constructed. Three of the best-known procedural innovations of the first half of the twentieth century – Calendar Wednesday, the discharge procedure, and the 21-day rule – were all attempts by various elements of the House to bypass the tyranny of Rules. We shall consider each in turn, but it is best to state our conclusion at the outset: although each of these innovations lessened the power of Rules to delay or block legislation, none of them put the majority party anywhere near its pre-Reed predicament of having to process all the bills on the calendars in order and in the teeth of effective minority delay. After discussing these three failures to bypass Rules, we briefly consider the one permanent and effective means of bypassing Rules: the system of privilege.

4.2.6.3.2. CALENDAR WEDNESDAY. By the closing weeks of the 60th Congress, Speaker Joseph Cannon had so angered the moderate wing of his party that many Progressives sought, in combination with the Democrats, to

change the House's rules. In order to forestall an even worse outcome, the regular Republicans offered a resolution to institute a Calendar Wednesday. Under this procedure, each Wednesday would be reserved for a call of the committees and each committee, when called, would have the opportunity to bring up unprivileged bills that had not been granted special rules by the Rules Committee. As Binder (1997: 133) notes:

Although [Calendar Wednesday] did not exclusively empower a political or partisan *minority*, supporters of the new rule intended to weaken majority leaders' control of the agenda and to ensure action on bills preferred by Democratic minorities and/or Republican Progressives. With an agenda otherwise structured by a partisan rules committee, circumventing the regular and privileged order of business was deemed necessary to weakening majority leaders' control of the floor.[22]

Although Calendar Wednesday was viewed at the time of its creation as "perhaps the most vital of the reforms that the progressives won under Cannonism" (Galloway and Wise 1976: 140), in practice only two bills as of 1984 had ever successfully been pushed through the procedure (cf. Oleszek 1984: 120). Oleszek (1984: 120) explains its ineffectiveness as stemming from four considerations:

(1) Only two hours of debate are permitted, one for proponents and one for opponents. This may not be enough to debate complex bills. (2) A committee far down in the alphabet may have to wait weeks before its turn is reached. (3) A bill that is not completed on one Wednesday is not in order the following Wednesday, unless two-thirds of the members agree. (4) The procedure is subject to dilatory tactics precisely because the House must complete action on the same day.

Given the ease with which a determined minority of the House could block action on a bill brought up via Calendar Wednesday, it has been useless as a vehicle for truly circumventing Rules. It might be serviceable for *uncontroversial* measures, but such measures have better options via the Consent Calendar (now the Corrections Calendar) in any event. Thus, as Galloway and Wise (1976: 140–1) note, the procedure is almost always dispensed with.

4.2.6.3.3. DISCHARGE. Another of the major innovations introduced by the Progressive–Democratic alliance in 1910 was the discharge procedure. Although Krehbiel (1995) has suggested that this procedure provides the means to bypass majority party agenda control,[23] we emphasize that with the possible exceptions of the 68th and 72nd Congresses, the discharge procedure has

22 The actual vote on adoption of Calendar Wednesday saw 86 percent of the Republicans obeying their party leaders' instructions and voting in favor, with 99 percent of the Democrats voting against, presumably on the calculation – motivating the regular Republicans' action in the first place – that this would render more radical reform less likely.

23 Some scholars also suggest that the Democrats were able to make the discharge procedure more workable. In our view, the procedure has always been cumbersome and costly enough that it can be used to apply pressure effectively only on issues that are highly salient. See Appendix 4.B for further discussion.

never allowed the minority to push its bills effectively against majority party opposition. Indeed, in the early forms of the discharge rule, the most that dis-charge might have done was put a bill on a calendar, where it could die just as easily as in committee – especially if Rules was opposed to it. It was not until 1924 that the possibility of discharging the Rules Committee itself (of special rules) was introduced. Even after this possibility was reintroduced in the modern version of the discharge procedure, however, discharge remained an unwieldy and difficult procedure (cf. Beth 1998). As detailed defenses of these points will take some time, we present them in Appendix 4.B.

4.2.6.3.4. THE 21-DAY RULE. In 1949, in the 81st Congress, a special pro-cedure for discharging the Rules Committee, known as the 21-day rule, was instituted for the first time. The rule gave *committee chairs* the right (on spec-ified days) to bring certain special rules to the floor – namely, those that their committee had submitted to the Rules Committee and that Rules had not favor-ably reported to the floor within 21 days. This rule was repealed in the next Congress by a coalition of Southern Democrats and Republicans following Republican gains in the congressional elections of 1950 (Robinson 1959). A similar rule was adopted in 1965, in the 89th Congress, although in this version the speaker had complete discretion in recognizing members seeking to make motions under this rule, and any member of a committee, designated by that committee, might make the motion.[24]

Schickler (2000) views the 21-day rule as a majority party gain, presum-ably because liberal Democrats seeking to end-run the conservative blockade in the Rules Committee were the force behind its introduction. Galloway (1976, pp. 68–9), in contrast, asserts that "those who believed that the party in power should control legislative action" opposed the rule, while "those who believed in the principle of majority rule by the whole House" favored the rule. In other words, by Galloway's account, the 21-day rule was a majority party loss. Finally, Binder (1997) does not view the rule as enhancing minority rights, given that majority party members (chairs in the 1949 version, the speaker in the 1965 version) are explicitly empowered under it.

We would side with Binder on this matter. The 21-day rule was only adopted in two Congresses with large Democratic majorities. It did not transfer for-mal agenda power between the majority and the minority parties. Rather, it took power away from a body (the Rules Committee) on which the majority had a more-than-proportional share of seats and gave it to other members of the majority party: committee chairs in the 1949 version and the speaker in the 1965 version. In other words, *the 21-day rule simply redistributed formal agenda power within the majority party*. Had it been effective, it would have granted the power to bypass the Rules Committee to other agents of the majority party.

4.2.6.3.5. PRIVILEGE. There is one way to partly get around the blocking power of the Rules Committee: to grant privileged access to the floor to certain

[24] See *Deschler's Precedents*, Chapter 17, section 52, p. 3037.

committees for certain bills. The House has indeed made such grants since the nineteenth century. The main point we would stress is that the most important grants of privilege have always been made to committees on which the majority party has given itself super-proportional representation – in particular, Ways and Means, Appropriations, and Budget. Thus, grants of privilege have always been consistent with majority-party control of the agenda, in the sense that they merely transfer control over access to the floor from one "stacked" committee to another. Privilege, like the 21-day rule, has thus mostly affected the distribution of agenda power within the majority party, not the partisan balance of agenda power.

4.2.6.3.6. BYPASSING RULES BY AMENDING SPECIAL RULES. If a complete end-run of the Rules Committee has never been engineered (with the partial exception of the system of privilege), what about amending Rules' recommen-dations? If the committee simply reports resolutions to the House, why not amend those resolutions on the floor to secure whatever the majority du jour wishes?

The key to avoiding agenda control by shifting floor majorities is the routine practice of moving the previous question on special rules (cf. Finocchiaro and Rohde 2002). If the previous question is carried, then the House proceeds immediately to an up-or-down vote on the special rule. Accepting the rule typically gives the majority what it wants. Defeating the rule puts the ball back into Rules' court: they can try again. Only if the previous question is defeated does control of the agenda pass to the floor (as, after defeat, the special rule itself can be amended and then adopted).

The practice of moving the previous question before voting on special rules allows majority party members whose constituents disapprove of the underlying bill the maximum amount of "cover" in supporting their party. They are not asked to vote directly for the objectionable bill, nor even for the special rule that will regulate debate and amendment on that bill. They (seemingly) are only asked to vote for a motion to bring the special rule to a quick vote. The majority party has made clear that support for the previous question is a key test of party regularity, even more important than supporting the Rules Committee's proposed rules (see Burger 1995). As a consequence, one finds a certain number of cases (56 in the postwar House) in which the House defeats a proposed rule and yet does not defeat the previous question (Finocchiaro and Rohde 2002: 13). Dissidents in the majority party can thus express serious disgruntlement without ceding agenda control to the floor.

4.2.6.3.7. THE MEMBERSHIP OF RULES. Reed's system of agenda control required *both* that the Rules Committee have ample powers *and* that the major-ity party be able to control its members. When Reed first constructed his system, he himself as speaker chaired the Committee on Rules and appointed all the other members. Thus, he had created not only a powerful and flexible tool, the special rule, but he had also ensured that the majority party leadership would control its usage. In the 1910 revolt against Cannon, however, the speaker was removed from the Committee on Rules, and the committee itself was to

be elected by the House rather than appointed by the speaker. Did this new system of appointing Rules mean that the majority no longer had a structural advantage in controlling it?

We say no, for two main reasons. First, and most important, the majority party gave itself a more-than-proportional share of the seats on the Rules Committee, starting in 1910. Moreover, the majority's bonus in seats has been larger when its share of House seats is smaller (Aldrich and Rohde 2000: 43–5). Second, starting in the first decade of the twentieth century, each party has proposed a slate of committee appointments for its own members, and starting in 1917, the House resolution proposing committee appointments has been unamendable. Thus, each party has had substantial control over which of its members will get onto which committees.

These structural advantages of the majority party have remained constant from the 1910s to the present. What has changed is the majority's practical ability to control its members on Rules. Pursuant to a series of unlucky or imprudent appointments in the 1930s (cf. Schickler 2001: 163–8), when the party had very large majorities and perhaps thought it could afford a more diverse membership on Rules, the Democrats lost effective control of the committee. The damage, moreover, could not easily be undone because the North-South split within the party made seniority violations almost prohibitively costly to the party. Thus, the party had to endure a period from 1937 to 1960, during which the conservative coalition could effectively block many liberal policy initiatives.

We wish to stress two points, however. First, although the Democrats could no longer rely on Rules as an effective means of pushing through liberal legislation, they could, for the most part, continue to rely on Rules not to push through conservative legislation. This much is clear from the pattern of voting on rule adoption (Chapter 7) and final-passage votes (Chapter 5). Second, the loss of Rules as an instrument of partisan achievement was a Democratic malady, not a general feature of congressional governance.[25] Respect for seniority did not prevent the Republicans from purging several members of their contingent on Rules in the 1920s. Nor did it prevent them from using Rules for partisan purposes in the 80th and 83rd Congresses (Bolling 1965). This reflects our main point: the rules governing appointment to the Rules Committee had not changed. A sufficiently united majority party could still use the appointment procedure effectively to ensure adequate control of the committee, and hence use special rules for partisan purposes. A divided party, however, might well find that, lacking consensus on policies within its caucus as a whole, it would also lack firm control of its contingent on Rules when it came to prosecuting a partisan legislative agenda. To put the point another way, what did not change

[25] Indeed, "between the two World Wars the party caucus disintegrated, party discipline declined, and party government was replaced by loose coalitions of voting blocs with shifting leadership. Attempts to bind the party membership to vote for measures designed to carry out platform pledges were rarely made by House Democrats and never by the Republicans" (Galloway 1968: 141–2).

was the rules governing Rules; what did change was the political composition of the majority party and hence of its contingent on the Rules Committee.

4.3. TESTING THE PRIMACY OF REED'S RULES

Thus far in this chapter, we have argued that the adoption of Reed's rules is the primary watershed in postbellum House organizational history. Before Reed's rules were adopted, postbellum majority parties had little better agenda-setting powers than their oppositions did. Afterwards, majority parties had significant advantages that fluctuated relatively little. In particular, the majority gained a flexible method of getting bills from the calendars to the floor (via the Rules Committee), while the minority continued to labor under the old and increasingly unworkable default procedures (i.e., via "regular order"). The minority's ability to delay was also curbed, while the majority's ability to delay was relatively unimpaired.[26]

We think the simplest way to conceptualize the effect of these changes is to say that, prior to Reed's rules, both the majority and minority party wielded effective powers of delay, tantamount to vetoes. After Reed's rules, in contrast, only the majority party could block bills effectively; the minority could still voice its dissent, but it could no longer so delay legislation that its views had to be accommodated in the final bills passed.[27]

In this section, we test the proposition that Reed's rules abruptly diminished the minority party's ability to delay legislation, by looking at the proportion of bills reaching a final-passage vote that proposed to move policy toward the majority party (left if the Democrats were in the majority, right if the Republicans were in the majority). We need first show that an abrupt diminishment of the minority's powers of delay should theoretically affect the proportion of bills proposing to move policy toward the majority.
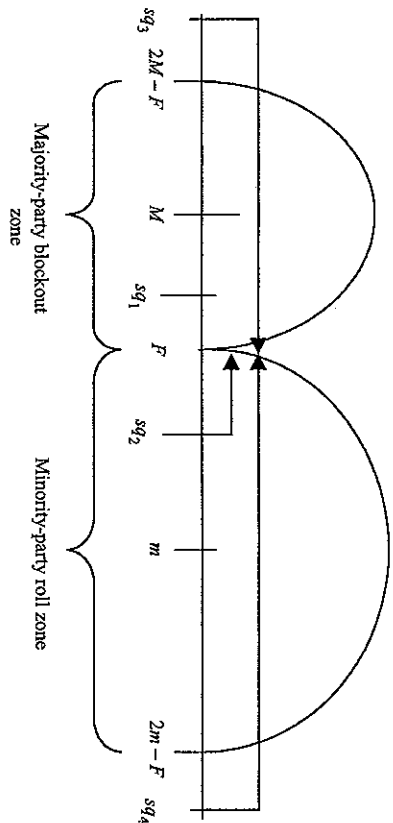
To see why this is so, recall the model presented in the previous chapter. The House faces a number of separate issues. On each issue j, there is a status quo policy, q_j, and the median Democrat, M_j, is to the left of the median legislator, F_j, who in turn is to the left of the median Republican, m_j. Figure 4.1 shows an example issue dimension (dropping the subscript j's).

Suppose first that both parties effectively have a veto over the consideration of issues on the floor. In this case, the majority party will veto any issue for which

[26] The majority could delay bills either by bottling them up in committee (with the help of the relevant chair), leaving them to languish on the calendars (with the help of the Rules Committee), or delaying their appearance on the floor (with the help of the majority leader and speaker). Neither the ranking minority members, the minority contingent on Rules, nor the minority leader wielded comparable powers, which is why the minority had had recourse to the "disappearing quorum" and dilatory motions, both curbed by Reed's rules.

[27] To put the point more precisely, we view Reed's rules as moving the House significantly along a continuum, ranging from "both parties have a veto" to "only the majority has a veto." How close to the former pole the pre-Reed House came is not in our scope of investigation; see Den Hartog (2004).

FIGURE 4.1. Status quos that will and will not be put on the agenda and amended to F

the status quo policy lies in the "majority party blockout zone" designated in the figure. To see why, consider the status quo labeled sq_1. Were the majority to allow the floor to reconsider policy on this issue, the floor would change the policy from sq_1 to F, thereby moving policy rightward, away from the majority's median, M. Anticipating this, the majority will block consideration of the issue. Similarly, the minority party will veto any issue for which the status quo policy lies in the "minority-party roll zone" designated in the figure. To see why, consider the status quo labeled sq_2. Were the minority to allow the floor to reconsider policy on this issue, the floor would change the policy from sq_2 to F, thereby moving policy leftward, away from the minority's median, m. Anticipating this, the minority will block consideration of the issue.

Thus, when both parties effectively wield vetoes, the only status quo policies that will be reconsidered on the floor are those in the far left, such as sq_3, and those in the far right, such as sq_4. The proportion of bills that propose to move policy toward the majority party – left, in this example, as we assume the Democrats are in the majority – is thus equal to $R/(R+L)$, where R is the number of status quo points lying in the far right and L is the number of status quo points lying in the far left.

Now suppose that the minority's ability to block issues is removed. All the issues with status quo points lying in the minority-party roll zone can now be considered on the floor. Denoting the number of such issues by r, the proportion of bills that propose to move policy toward the majority party (left, in this case) is $(r+R)/(r+R+L)$. Note that this proportion exceeds the proportion calculated in the case of dual vetoes, $R/(R+L)$. Thus, holding constant legislators' preferences (their left–right scale positions) and the distribution of status quo policies, diminishing the minority's power to delay legislation should lead to an increase in the proportion of final-passage bills that propose to move policy toward the majority party.
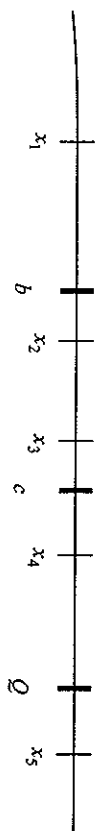
FIGURE 4.2. Identifying the direction of policy change

Hence, we test the following two hypotheses:

H_1: Adoption of Reed's rules significantly increased the proportion of final passage bills proposing to move policy toward the majority party.

H_2: Changes in House rules subsequent to adoption of Reed's rules have not restored the minority's power to delay and hence have not significantly reduced the proportion of final-passage bills proposing to move policy toward the majority party.

To test these hypotheses, we use our Post-Reconstruction roll call data.

An initial issue is operational: how does one determine whether a particular bill proposes to move policy leftward or rightward? Figure 4.2 illustrates the intuition of our answer. For any bill b that proposes to change policy from Q to b, there will be a cutpoint $c = (Q + b)/2$ that divides legislators into those voting yes and those voting no. Those on the same side of the cutpoint as b will vote for the bill, while those on the same side as Q will vote against the bill. So, if we find that legislators with ideal points x_1, x_2, and x_3 all vote yes and that legislators with ideal points at x_4 and x_5 all vote no, then we can infer that the cutpoint is between x_3 and x_4, and that the bill moves policy to the left.

More generally, we can determine whether a bill is significantly to the left of the status quo, significantly to the right of the status quo, or neither, by examining each final-passage vote statistically, to see if further-left members were more likely to support the bill (indicating a bill left of the status quo), further-right members were more likely to support the bill (indicating a bill right of the status quo), or neither. Technically, we ran a probit regression for each final-passage vote in which the dependent variable is coded 1 if the member voted for the bill and the independent variables are a constant term and each member's ideological location (first dimension DW-NOMINATE score):

$$Y_{ik} = \alpha_k + \beta_k DW_i + \varepsilon_{ik} \qquad (4.1)$$

where, for a given Congress, Y_{ik} is member i's vote on issue k, α_k and β_k are probit coefficients, DW_i is member i's DW-NOMINATE score, and ε_{ik} is a stochastic error term. Leftward policy moves are indicated by $\beta_k > 0$, whereas rightward moves are indicated by $\beta_k < 0$.

Insignificant coefficients, β_k, can theoretically arise when the status quo is extreme enough to produce a nearly or actually unanimous vote. They also arise on votes that simply do not "scale" in one dimension. In our analysis, we use only those votes on which the coefficient for ideology, β_k, was significant. Thus,

both votes that do not scale and votes that are nearly or actually unanimous are dropped.[28]

Aggregating across the significant roll calls within each Congress, we can then compute the proportion of bills reaching final passage that seek to move policy "toward the majority party" (leftward in the case of the Democrats, rightward for the Republicans). We call this proportion P_{Maj}.[29]

4.3.1. Reed's Rules and Policy Moves "Toward the Majority"

To test whether Reed's rules were indeed the watershed we claim them to have been, we measure P_{Maj} before and after their adoption. We employ a control series regression discontinuity research design, in which the introduction of Reed's rules is the treatment. We have pretest (i.e., pre-Reed's rules) and post-test (i.e., post-Reed's rules) measures on our dependent variable, P_{Maj}, for both our treatment group, the House, and a control group where Reed's rules were not applied, the Senate. Inferences drawn from a perfect control series regression discontinuity research design can be comparable in internal validity to conclusions drawn from a randomized experiment (Trochim 2001: 222).

We cannot claim that our particular research design is a perfect specimen of its type, primarily because senators may have adjusted their behavior in some way, in reaction to the procedural changes within the House. To the extent that the Senate did so, its usefulness as a control group is lessened (in the same way that a medical control group's usefulness is lessened if they know that the treatment group has been treated and adopt healthier habits as a consequence). Even if the Senate did react to the House's change, however, it remains true that (1) its procedure was not *directly* affected by the adoption of Reed's rules and (2) it faced the identical distribution of status quo policies as the House. The Senate is thus particularly useful in ruling out alternative explanations of any changes in P_{Maj} that we find that are of the form "Well, a variable X changed, coincidentally at the same time as the adoption of Reed's rules, and altered the distribution of status quo policies in a way that produced more policy moves toward the majority party."[30]

28 For the Post-Reconstruction period, there were 3,668 total votes in our dataset. We excluded 713, making the percentage of votes that we excluded 19 percent.

29 More precisely, when the Democrats (Republicans) hold the majority, P_{Maj} is the number of bills in the H.R. series for which the final-passage vote is scalable (β_4 is significant) and shows a significant leftward (rightward) policy movement, divided by the total number of bills in the H.R. series for which the final-passage vote is scalable and shows a significant leftward or rightward policy movement.

30 In other words, by comparing the House to the Senate, we can alleviate one of the major threats to the validity of any regression discontinuity test: the possibility of a spurious discontinuity in the pre–post relationship on P_{Maj} that happens to coincide exactly with the introduction of Reed's rules. The most obvious possibility under the heading of a spurious discontinuity would arise if, exactly coinciding with the introduction of Reed's rules (but not caused by it), the distribution of status quo points shifted dramatically toward the minority party. Comparison

We further address the possibility of a spurious discontinuity by including a trend variable in our estimation of P_{Maj} ($Trend_t$, which takes the value zero in the 45th Congress and increases by one for each subsequent Congress). This helps us counter criticisms of the form: "Yes, there were more policy moves toward the majority party after Reed's rules, but the proportion of such moves had been trending upward steadily for reasons unrelated to the adoption of Reed's rules."

The validity of our test (indeed, any regression discontinuity test) is also dependent on the degree to which we can control for the other factors that influence P_{Maj}, other than the postulated change in the balance of blocking power between the two parties. To address this potential threat to validity, we include a variable measuring the size of the majority party (*Majority margin*, which is the difference between the percentage of seats held by the majority party and 50 percent, in each Congress) and a variable indicating Congresses between the revolt against "czar rule" in 1910 and the packing of the Rules Committee in 1960 (*Revolt*, which takes the value one for the 62nd through 86th Congresses and zero otherwise). These two variables help model variations in P_{Maj} within each of the pre- and post-Reed eras.

Our main independent variable is *Reed*, which takes the value one for Congresses operating under Reed's rules, and zero otherwise.[31] We expect the co-efficient on *Reed* to be positive and significant.

We estimated the following regression using the extended beta binomial method[32] recommended by King (1989) and Palmquist (1999) for cases such as ours, in which the dependent variable is an aggregation of individual binary choices that are likely not independent of one another:

$$P_{Maj,t} = \alpha + \beta_1 Reed_t + \beta_2 Trend_t + \beta_3 Revolt_t$$
$$+ \beta_4 Majority\ margin_t + \varepsilon_t$$

where α, β_1, β_2, β_3, and β_4 are estimated coefficients, ε_t is an error term, and t denotes Congresses from the 45th through the 105th.[33] We estimate a similar regression for the Senate for the same time period.

Our results, displayed in Table 4.1, can be summarized as follows: first, there is no significant trend in P_{Maj}, but it does tend to be larger when the majority party holds a larger share of seats. Our analysis suggests that P_{Maj}

with the Senate largely removes this as a plausible objection, even if the Senate is reacting in some fashion to the House's change.

31 We code *Reed* as zero in Congresses 45–50 and 52; we code it as one in all other Congresses, 51 and 53–105.

32 Extended beta binomial (EBB) is an estimation technique used originally in toxicology studies in which there are both individual and litter effects of a treatment. In studies of Congress we believe EBB is an appropriate technique because there are both individual and Congress-level factors that influence the probability of being rolled (for more on EBB see Haseman and Kupper 1979; Kupper and Haseman 1978; Williams 1975).

33 We have no reason to expect, nor did we find (when including lags of the dependent variable), any evidence of autoregressive structure in the data.

TABLE 4.1. *The Effects of Rule Changes on the Proportion of Final-Passage Bills That Move Policy Toward the Majority; Congresses 45–105*

Independent Variables	Model 1	Model 2	Model 3	Model 4	Model 5
Reed	1.210**	1.345***	1.229**	1.212***	1.239***
	(0.405)	(0.263)	(0.405)	(0.250)	(0.248)
Majority Margin	0.027	0.027	0.028	0.017	0.017
	(0.015)	(0.015)	(0.015)	(0.016)	(0.016)
Revolt	−0.314	−0.363	−0.310		
	(0.215)	(0.186)	(0.197)		
Trend	0.003				
	(0.007)				
SchickRC				0.251	
				(0.145)	
Schickplus					0.273**
					(0.132)
CalWed			0.081		
			(0.203)		
Discharge			−0.208		
			(0.226)		
TwentyOne			0.162		
			(0.454)		
Holman			0.167		
			(0.191)		
Constant	0.063	0.073	−0.064	0.085	0.032
	(0.247)	(0.247)	(0.285)	(0.250)	(0.247)
γ	0.039***	0.040***	0.034**	0.042***	0.040***
	(0.014)	(0.015)	(0.014)	(0.015)	(0.014)
Log likelihood	−1336.385	−1336.477	−1335.5	−1336.808	−1336.244
Pseudo R²	0.040	0.040	0.040	0.040	0.040
N =	61	61	61	61	61

Standard errors in parentheses; ** indicates $p < .05$; *** indicates $p < .01$. Our estimation technique is extended beta binomial regression. The dependent variable is the proportion of bills that move policy toward the majority party.

would increase by about half a percentage point for every percentage point increase in the majority party's margin of control in the House. Increasing from the smallest observed majority margin (0.1) to the average margin (9.2) would increase the proportion of final-passage bills moving policy toward the majority by about 4.2 percentage points. This effect is statistically significant in a one-tailed test ($p = .03$).

Second, and more important for our purposes, P_{Maj} is substantially larger in Houses operating under Reed's rules than in those operating without them. The estimated proportion of bills moving policy toward the majority party

was about 57 percent, in non-Reed Congresses but about 81 percent in Reed Congresses.[34] The difference of 24 percentage points is statistically significant at conventional levels ($p = .003$).

Third, P_{Maj} declines by about 5 percentage points after the revolt against Cannon. However, this decline is statistically insignificant and substantively small relative to the estimated increase due to Reed's rules (24 percentage points). When we drop the insignificant *Trend* variable (see Model 2), we find a slightly larger and statistically significant decline in the postrevolt period of about 5.5 percentage points.[35]

All told, the results in Table 4.1 suggest that the adoption of Reed's rules abruptly increased the majority party's ability to control the agenda, with only marginal or second-order change thereafter.[36]

When we estimate a similar regression for the Senate (our control group), we find that Reed's rules had no discernable effect.[37] Specifically, the treatment variable for Reed's rules was *not* significant in the Senate regression on P_{Maj}, although P_{Maj} does increase in the Senate both as majority margin increases (*Majority Margin*) and over time (*Trend*). There was also a significant decline in P_{Maj} in the Senate following the Progressive revolt.[38] Taken together, the results in Table 4.1 and the results of our Senate regression complete our control series regression discontinuity test.

Figure 4.3 reinforces our results by displaying the proportion of final-passage bills that seek to move policy toward the majority party in both the House and Senate for the 45th to 105th Congresses. As can be seen, Reed's rules, which were permanently adopted in the House during the 53rd Congress, had a significant effect on P_{Maj} in the House, but they had no real effect in the

34. In the Senate, the proportion of Senate-originated bills moving policy toward the majority party averages 75 percent in the post-Reconstruction period (weighted average is approximately 80 percent).

35. Our results remain much the same if one controls for the heterogeneity of preferences within the majority party (via the standard deviation of first dimension DW-NOMINATE scores within the majority party).

36. Note also that each of the gamma coefficients in Table 4.1 is significant. Because we estimated these regressions using the extended beta binomial distribution, gamma tests for "overdispersion." The positive and significant coefficients that we obtain suggest that the probability of a majority-party vote is not constant across observations (King 1989; Palmquist 1999).

37. Specifically, we estimated an extended beta binomial regression and obtained the following results for the Senate:

$$P_{Maj,t} = \alpha(0.860; se = 0.319) + \beta_1(-0.128; se = 0.584)Reed_t$$
$$+ \beta_2(0.034; se = 0.012)Trend_t + \beta_3(-1.617; se = 0.643)Revolt_t$$
$$+ \beta_4(0.047; se = 0.013)Majority\ margin_t + \varepsilon_t$$

38. The Progressive revolt in the Senate occurred one Congress later than in the House (62nd Congress in the Senate, as opposed to the 61st Congress in the House). Accordingly, for the Senate regression, we code the Revolt variable equal to 1 from the 62nd Congress onward, and for the House regression, we code the Revolt variable equal to 1 from the 61st Congress onward.
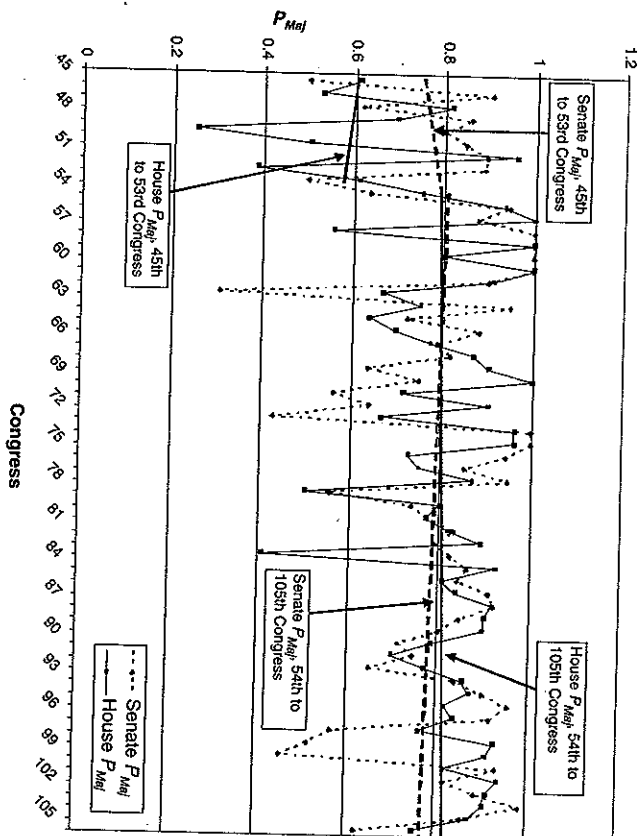
P_{Maj}

1.2

1

0.8

0.6

0.4

0.2

0

Senate P_{Maj} 45th to 53rd Congress

House P_{Maj} 45th to 53rd Congress

House P_{Maj} 54th to 105th Congress

Senate P_{Maj} 105th Congress

- - - - Senate P_{Maj}
——— House P_{Maj}

Congress

45 48 51 54 57 60 63 66 69 72 75 78 81 84 87 90 93 96 99 102 105

FIGURE 4-3. Effect of Reed's rules on the proportion of bills moving policy toward the majority party

Senate. Furthermore, the House regression lines vary without trend before the adoption of Reed's rules, increase abruptly when those rules were adopted, and then again vary without trend (albeit at a much higher level).

Moreover, one can see some of the finer details of the data in this figure. Look in particular at the House figures in the 50th to 53rd Congresses. The 50th was the last pre-Reed Congress, and only 50 percent of the bills reaching final passage proposed to move policy toward the majority. The 51st was the Congress in which Reed adopted his famous rules, and P_{Maj} shoots up to 96 percent. In the 52nd Congress, the Democrats took over the House and repealed Reed's rules: P_{Maj} declines to 38 percent. In the 53rd Congress, the Democrats restored part, but not all, of Reed's rules, and P_{Maj} increased to 61 percent. Finally, in the 54th and succeeding Congresses, Reed's rules have remained fully in force, and, as one can see, the data fluctuate without trend around the post-Reed mean of about 81 percent.

The abrupt and permanent change in P_{Maj} in the House is difficult to understand within any of the prominent "partyless" views of congressional organization. Scholars such as Mayhew (1974) and Krehbiel (1997) doubt that the majority party has had any significant procedural advantage over the minority in the postwar era. Presumably, these scholars would expect Reed's rules to have had either little effect to begin with or an effect that was reversed by

later rule changes. Yet the data are inconsistent with both expectations. We investigate in Chapter 9 whether one can explain variations in the proportion of final-passage bills proposing leftward or rightward moves in terms of the preference distribution of the House (and the location of the pivots), finding that one cannot.

4.3.2. Other Rule Changes and Policy Moves "Toward the Majority"

Our results also address a small debate between us (Cox and McCubbins 1997) and Schickler and Rich (1997). Schickler and Rich argue that rule changes in the House can best be predicted by what House centrists want, rather than by what the majority party wants – casting doubt on our (1993) claim that the majority party derives substantial benefits from the rules. We respond by arguing that most of the rule changes examined by Schickler and Rich are "marginal" and leave the "base" of the rules (which we view as heavily biased in favor of the majority party) intact. Thus, it does not matter much what predicts rule changes of the sort examined by Schickler and Rich, at least when it comes to assessing the size of the majority party's procedural advantage.

We can now directly test Schickler and Rich's hypotheses, by adapting the design just used to assess the effects of Reed's rules. If Schickler and Rich are correct, then we should find that these other rule changes had systematic effects comparable in size to the adoption of Reed's rules. If we are correct, then we should find that these other rule changes had substantially smaller effects than that of Reed's rules.

One way to approach the issue is to examine the introduction of individual rules over time. We focus on five major rule changes in particular: the Holman rule, the 21-day rule, and stipulations regarding the size of the Rules Committee, Calendar Wednesday, and the discharge petition. Each of these rules was revisited several times by the House. Each is associated with sometimes-famous organizational battles (see the discussions above and in Schickler 2000), among others, where relevant) so that we can keep track of when each rule was introduced, repealed, strengthened, or weakened. The Holman rule and the 21-day rule are particularly straightforward: each is either "on" or "off" for each Congress, so simple dummy variables suffice to keep track of them:

Holman is a dummy variable coded one for Congresses in which the Holman rule was in effect.

TwentyOne$_t$ is a dummy variable coded one for Congresses in which the 21-day rule was in effect.

To keep track of majority-hostile changes in the size of the Rules Committee, we use the *Revolt$_t$* variable already introduced (the Committee was expanded in the 61st Congress, to the majority party's apparent detriment, and then again in the 87th, to its benefit). Both Calendar Wednesday and the discharge procedure were changed several times. In these cases, we simply follow Schickler's (2000)

method and code each change as making it easier or harder to use the given procedure.[39] From this, we create two variables that capture changes in these procedures, each of which ranges in value between −3 and 0 in our dataset:

CalWed, a running sum that codes the cumulative number of rule changes, as of Congress *t* (inclusive), that make it easier or harder for members to use the Calendar Wednesday procedure (for Congresses prior to the procedure's creation, the variable is coded zero; for Congresses in which there was a rule change that made it easier to use the Calendar Wednesday procedure, we subtract 1 from the running tally; and, for Congresses in which there was a rule change that made it harder to use the Calendar Wednesday procedure, we add 1 to the running tally).

Discharge, a running sum that codes the cumulative number of rule changes, as of Congress *t* (inclusive), that make it easier or harder for members to use the discharge procedure (for Congresses prior to the procedure's creation, the variable is coded zero; for Congresses in which there was a rule change that made it easier to use the discharge procedure, we subtract 1 from the running tally; and, for Congresses in which there was a rule change that made it harder to use the discharge procedure, we add 1 to the running tally).

All the variables are coded so that a positive coefficient is expected by Schickler, except for *Revolt*, (where a negative is expected).

Model 3 in Table 4.1 displays the results of our extended beta binomial analysis when we add to Model 2 four additional variables – *Holman, TwentyOne, CalWed*, and *Discharge*. As can be seen, none of the newly included variables exert a significant effect on the proportion of bills that propose to move policy toward the majority, while estimates of the impact of the previously included variables are only slightly affected.[40] Thus, Reed's rules and the majority party's margin of control remain significant factors; the revolt against Cannon has about the same estimated impact but is no longer statistically significant.

Another approach to studying the impact of rules would be to cumulate the various rule changes into some sort of summary measure. We have tried two – a variable coded by Schickler (2000) that tracks pro- and antimajority changes in each Congress (*SchickRC*) and a slightly modified version of that variable, where we add in the seven "other" rule changes identified in our sweep but missed by Schickler (*Schickplus*). In both cases, a Congress is scored +1 if there was at least one promajority change and no antimajority change, and 0 if there

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[39] Where our coding is cumulative, however, Schickler's is not. Schickler's coding is directed at constructing a Congress-by-Congress measure of all partisan rule changes; thus, it takes on the value, 1, −1, or 0 for each Congress, depending only on the instance of changes within that Congress. In constructing *CalWed* and *Discharge*, our aim was to track the relative majority-minority party advantage in a single type of rule over a number of Congresses. Thus, we borrow the −1/+1 coding scheme from Schickler but construct it as a cumulative variable, where the value of a change in a given Congress is added to or subtracted from the value in the previous Congress.

[40] The newly included variables are jointly insignificant, as well.

was at least one antimajority change and no promajority changes, and 0 if there were either no changes or both pro- and antimajority changes. In both models, we also include *Reed* and *Majority Margin*. The dependent variable is *PMaj*.

Models 4 and 5 of Table 4.1 display the results of these other extended beta binomial analyses. Schickler's rule change variable (Model 4) is significant at only the .08 level, with a coefficient about one fifth the size of the *Reed* coefficient. This relative magnitude remains essentially unchanged when we add in our seven other changes (Model 5), but the level of significance increases.[41] Even though the rule changes identified by Schickler (and the additional changes identified by us) do seem to have some systematic effect on the ability of the two parties to pursue their agendas, their magnitude is small compared to the advantage bestowed upon the majority party by Reed's rules.

All told, we believe the evidence we have presented strongly supports the main thesis of this chapter: that when it comes to rule changes affecting the majority party's control of the agenda, the adoption of Reed's rules stands out from all others in importance – so much so that congressional history can be simply divided into pre-Reed (small advantage) and post-Reed (large advantage) (Hinds 1907; McConachie 1974 [1898]; Alexander 1970 [1916]; Galloway and Wise 1976). The main caveat we would register to this conclusion is that the time period we examine here begins with the Civil War Congresses and their prebellum predecessors. On these earlier Congresses and the majority's varying ability to control the agenda, see Den Hartog (2004).

4.4. CONCLUSION

In this chapter, we have argued three main points: that the modern structure of agenda power in the House was erected in the period 1880–94, that this structure of agenda power greatly advantages the majority party, and that subsequent changes in House rules have not moved it significantly away from the structure erected in 1880–94. Of these three points, the first two have ample precedents in the previous literature, even if we present the case somewhat differently. It is really the last that constitutes a controversial position, and so we review it more extensively here.

What we call the modern structure of agenda power differed from its predecessor in two main ways. First, the minority party (and other minorities) had substantially reduced powers to delay legislation. Second, the majority party (through its floor and committee leaders) had substantially enhanced powers to set the House agenda.

The first point to make is that the minority's powers of delay were neither restored to their pre-Reed levels, nor pushed back significantly in that direction,

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[41] We also tried a cumulative version of Schickler's variable and a version where we added in organizational changes and committee adjustments (from Appendix 4.A). Neither variable is quite significant, and their coefficients remain at about one fifth of the coefficient of *Reed*.

by any subsequent rule changes. The first pillar of the House that Reed built has remained fully intact.

The second point is more complex but of a similar flavor. The majority party's ability to set the House agenda depends on two devices: special rules emitted from the Rules Committee and privileged bills reported from a few "privileged" committees. In order for this system of agenda control to work in the majority party's favor, it is necessary that privilege and special rules be the *only* viable pathways to the floor for controversial bills, and it is also necessary that the majority party has rule-based advantages in controlling the relevant committees. Both conditions were fully met in the system as originally constructed. Moreover, we believe that both have continued to be met ever since.

The Rules Committee's power to determine which bills from the calendars are considered, and in what order, has been seriously challenged on only a few brief occasions in House history. The only real and permanent loophole in its ability to block bills is the system of allocating privilege to selected committees. Thus, since 1890–4, it has almost always been true that controversial bills had a chance of experiencing life on the floor only if they were either reported from a privileged committee or given a special rule by the Rules Committee.

It has also been true, since 1890–4, that the majority party has an advantage in controlling the "control" committees – Rules, plus the major committees with privileged access to the floor. Prior to the early twentieth century, the speaker appointed all the committees. After the revolt against Cannon, the majority party has consistently given itself more than a proportional share of seats on the key committees. We will expand upon this topic in Chapter 7, by examining in detail the extent to which the Rules Committee acts as a faithful agent of the majority party.

Here, we have provided evidence of the importance of Reed's rules in bolstering the majority party's agenda power by analyzing the proportion of bills reaching the final-passage stage that propose to move policy toward the majority party. Looking at Post-Reconstruction Congresses operating without Reed's rules (45th–50th and 52nd Congresses), one finds that this proportion is about 57 percent on average. In contrast, the analogous figure is 81 percent in Post-Reconstruction Congresses operating with Reed's rules (51st and 53rd–105th Congresses).[42] Evidently, when the majority party broke the minority's ability to delay and established a method by which it could flexibly select which bills the floor would consider next, it was able to increase greatly the proportion of final-passage bills that proposed to move policy toward its median. No other rule changes in the Post-Reconstruction House come close to matching the impact of Reed's rules.

[42] The contrast between 82 percent and 52 percent is one simple indication of the impact of Reed's rules. Earlier in the chapter, in Table 4.1, we examined the difference controlling for various other considerations, finding a still-large contrast (81 percent versus 57 percent).

APPENDIX 4.A.1. PROCEDURES USED IN COMPILING THE DATASET

Our dataset of rule changes was compiled by systematically searching a database of roll call votes in the House. We used special roll call software – Voteview 2.9 for Windows – to narrow our search to votes dealing with "internal organization" (by the Peltzman coding). We then looked at the summary provided for each such roll call, to determine whether or not it pertained to a change in House organization or rules.

We first identified all roll call votes that pertained to organizational or rule changes. We then grouped together any set of organizational/rule changes that was adopted via one or more related roll call votes and treated this as a single resolution. So, for example, if three distinct rule changes were adopted on a single resolution. Similarly, if several rule changes were adopted on an amendment vote, these changes would be lumped together as a single resolution. In an instance like the last example, where the final-passage vote was not a roll call vote, we verified that the rule resolution passed by going to the *Congressional Record*.

Of course, there are likely to be some rule changes that we have missed using this method. For example, we miss any instances where the speaker makes a ruling that changes the rules of the House but that is never challenged in a roll call vote. Similarly, we miss instances where rules change as a result of a proposal that is adopted without a roll call vote at *any* stage of its consideration. Despite these potential omissions, we are satisfied that our method captured all the major rule changes in the House over the time period that we investigate; neither Schickler nor Binder, nor any of the other standard secondary sources, report any rule changes that we miss.

In compiling our final dataset, we excluded any rule changes that (1) were in effect less than six months or (2) did not have significant partisan consequences. We considered rule change resolutions as having partisan consequences if at least one of the roll call votes on the resolution was a party vote (pitting over 50 percent of Democrats against over 50 percent of Republicans). In a few cases, however, we included rule-change resolutions that did not have a partisan roll call but that were coded by either Schickler (2000) or Binder (1997) as having had partisan consequences. In all, we excluded 41 rule-change resolutions because they were positively known to have been in effect less than six months, 59 resolutions because they did not have partisan consequences, and 19 resolutions that failed on both counts.

On the following pages is a list of all the resolutions included in our dataset, separated into four categories: organizational changes, creation or abolition of committees or changes in their jurisdictions, miscellaneous changes, and resolutions that include rule changes identified by Schickler and/or Binder. We highlight in bold font those changes regarding the Reed rules, the Holman rule, Calendar Wednesday, the discharge procedure, the 21-day rule, or the Rules Committee's powers.