

Broken Record: Causes and Consequences of the Changing Roll Call Voting Record in the U.S. Congress

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Introduction

On July 27, 2009 U.S. House members received a letter from Rules Committee Chair Louise Slaughter (D-NY). The Department of Defense Appropriations Act of 2010 (H.R. 3326) would be considered under a structured rule and any member wishing to offer an amendment to the act would need to pre-submit the amendment to the Rules Committee. The Rules Committee would consider all submitted amendments and issue a rule that would outline which of the amendments, if any, would be allowed consideration on the House floor.

Rep. Jeff Flake (R-AZ) submitted a staggering 596 potential amendments to the committee. Most of these amendments were sought by the fiscally-conservative Flake to remove no-bid contracting provisions from the over \$600 billion spending bill.² The Rules Committee reported a rule allowing consideration of ten Flake amendments, including an “en bloc” amendment that combined 553 of Flake’s amendments into a new single amendment. During consideration of the bill, each of Flake’s ten amendments was defeated on the floor. For nine of these failed amendments, Flake requested a recorded roll call vote after his amendment failed to pass by voice vote. The roll call record now contains vote totals for each of these amendments, providing a durable record of Flake’s defeats.³

In additional to Flake’s nine failing roll call votes, three other Republican-sponsored

² Despite recent attacks by President Trump and others on now-Sen. Flake for lacking conservative credentials, Flake’s NOMINATE scores consistently place him as one of the most conservative members of the Congress. In the 111th House, Flake was the third most conservative member of the House, with only Ron Paul (R-TX) and Paul Broun (R-GA) besting him.

³ None of Flake’s amendments came close to passing. The most popular of these amendments failed on a 118 to 342 vote. None of his other amendments garnered 100 votes. From 2005 to 2010, Flake submitted 737 amendments to the Rules Committee. Of these, only 21 were actually agreed to. Fellow members’ views of Flake’s amendments might best be described by Rep. Corrine Brown (D-FL), who reminded her colleagues during the consideration of the 2011 Transportation-HUD Act, “...and remember folks, if it’s a Flake, it’s no (*Congressional Record*, 111th Congress, July 29, 2010, H6376).”

amendments received failing roll call votes during the House's consideration of H.R. 3326. The only amendment to receive a passing roll call vote was a manager's amendment proposed by Defense Appropriations Subcommittee Chair John Murtha (D-PA).

This stands in stark contrast to House amending activity on the 1909 Naval Appropriations Act. The House considered twelve amendments to this bill, none of which received a roll call vote. The fact that these amendments did not receive a roll call vote, does not mean that they were unimportant – one amendment attempted to increase the number of “first-class battleships” funded by the bill from two to four. Nor does it mean that these amendments were unanimously supported. Six of the twelve amendments received division votes after an initial voice vote, and the battleship amendment received a voice vote, a division vote, and finally a teller vote where it failed by a 83 to 199 margin. While the Senate considered 108 amendments on the same bill, only four of these amendments received recorded votes.

As the above examples show, the manner in which Congress generates the roll call voting record, the central tool used to ensure congressional transparency and responsiveness, has drastically changed over the history of the House and Senate. We argue that because of the changes in what does and does not get a recorded vote, the modern record is “broken” such that it does not provide a transparent look at the legislative process in the same way that recorded votes of past eras once provided. This broken record has important implications for evaluating key features of Congress (polarization, the effectiveness of institutions and rules, and the chamber's ability to formulate policy). In this paper, we seek to establish how the roll call generating process has changed over time. Specifically, we argue that in recent eras of congressional politics, proposals sponsored by more ideologically extreme members are more

likely to receive recorded votes. We test this hypothesis with a new dataset of over 150,000 amendments to important legislation from 1877 to 2015.

Roll Call Voting in Political Science

The roll call voting record is an extremely important source of information for observers of American politics. Since the mid-20th century, interest groups like the Americans for Democratic Action (ADA) have used select recorded votes to estimate the position of members of Congress on a liberal-conservative scale. Seeking to reduce selection biases, political scientists have expanded this initial usage of the record to characterize members' voting behavior using the entire roll call record (Clausen 1973; Kingdon 1973; 1977). Perhaps the most widely used of these efforts, NOMINATE, employs a scaling technique to detail legislators' preferences onto an underlying policy space (Poole and Rosenthal 1997; 2007). Similar recent efforts have utilized Bayesian statistical methods to identify congressional member ideology using the complete roll call record (Clinton, Jackman, and Rivers 2004).

More recently, scholarship has sought to test non-voting theories of legislative institutions with roll call data. These institutions include legislative agendas (Campbell, Cox, and McCubbins 2002; Cox and McCubbins 2005; Gailmard and Jenkins 2007) intra-chamber rules (Krehbiel 1998; Wawro and Schickler 2004, 2006), and political parties (Snyder and Groseclose 2000; McCarty, Poole, and Rosenthal 2001; Cox and Poole 2002). This scholarship has led students of political science to draw important conclusions regarding the effects of these institutions on legislative policy output. Recent work, however, has started to question if the creation of the recorded voting record influences the conclusions drawn from the record.

In previous work, we have argued that the changing nature of the roll call generating process poses a problem for scholars examining policy-making in Congress (Carson, Lynch and Madonna 2011; Dougherty, Lynch and Madonna 2014; Lynch and Madonna 2013a; 2013b; Madonna 2011; Lynch, Madonna and Roberts 2016). Even when legislation is given a vote on the floor, it does not guarantee that the vote will be recorded. The default mechanism for voting in Congress is the unrecorded voice vote. Roll calls are only taken if a members requests a recorded vote be taken, and “one-fifth of those present” second the request.⁴

Making inferences from longitudinal data like the roll call record necessitates an understanding of the data-generating process by which the roll call record was created (Morton 1999). Failure to consider such inconsistencies within the data-generating process has two important implications. First, it can lead to empirical tests that bias in favor of a researcher’s hypothesis. For example, studies in comparative politics have shown that selection biases are introduced into roll call records when certain types of issues are more likely to receive a roll call vote than others (see e.g. Carubba et al. 2006; Hug 2010).

Scholars of the U.S. Congress have begun to document inconsistencies in the generating process that creates the congressional roll call record. Smith (2007) reports a great deal of temporal fluctuation in the ratio of public laws to final passage votes and warns that studies evaluating party success via roll call voting may be biased if majorities sought to avoid recorded roll calls on potentially divisive issues during some periods of history. The percentage of enacted laws that receive a roll call vote has been shown to vary substantially across time, issue areas, and levels of salience (Clinton and Lapinski 2008; Lynch and Madonna 2013a). Additionally, Lee (2009) convincingly shows that partisan conflict is higher on non-ideological votes (i.e.

⁴ The one-fifth requirement is dictated by Article 1, Section 5 of the U.S. Constitution – one of the rare elements of congressional rules and procedures specifically outlined by the Constitution.

votes on procedural matters). Harbridge (2015) argues that the majority's ability to structure the agenda is used in a way to highlight differences between the parties. And Egar (2016) reports that the minority party requests roll call votes in a way to make the House appear more polarized.⁵

These inconsistencies are important, as scholars have also documented the electoral consequences of legislators' voting behavior (see, e.g., Bovitz and Carson 2006; Canes-Wrone, Brady, and Cogan 2002; Carson and Engstrom 2005; Nyhan et al. 2012; Theriault 2003).⁶ While public opinion research shows that voters are poorly informed about their representative's votes on even the most highly visible legislation (Ansolabehere and Jones 2010; Jones 2011; Sulkin 2009), members can effectively inform voters of their positions on issues by emphasizing votes through advertising, campaigning, and constituent communications (Lipinski 2001). Voters' beliefs about their member's roll call votes, therefore, strongly influence both their opinion of their representative and of the two major political parties (Ansolabehere and Jones 2010).⁷

Procedures and Origins

Despite scholars' interest in roll call voting, recorded votes on final passage are not all that common in the U.S. Congress when contrasted with the total numbers of laws passed.

Clinton and Lapinski show that between 1891 and 1994, only 11.9% of bills signed into law

⁵ Crespin, Rohde and Vander Wielen (2013) demonstrate that fluctuations in party voting are largely due to shifts in the types of votes selected for roll calls. And because certain issues are more likely to receive recorded votes, Madonna (2011) demonstrates that studies that utilize longitudinal data to evaluate how the introduction of the Senate cloture rule influenced policymaking are systematically biased.

⁶ Previous research has found that as an incumbent's level of support for their party on roll call votes increases, their own vote share decreases. This is especially the case when multiple roll call votes in conflict with the positions of the district lead to a higher probability of defeat in the election (Ansolabehere, Snyder, and Stewart 2001; Canes-Wrone, Brady, and Cogan 2002; Carson, Koger, Lebo, and Young 2010).

⁷ Additionally, scholars have argued that member's positions on roll calls are more important to voters than their success at getting policies enacted. As David Mayhew argued in his seminal work on Congressional politics, while there are potential electoral costs associated with being on the wrong side of an issue, it is hard to imagine a situation where a legislator is punished for being on the losing side of an issue (1974, 118).

received a recorded vote in the House and only 7.9% of such bills received a recorded vote in the Senate (2008). Most voting in Congress is completed via voice votes.⁸ During a voice vote, the chair will put forward two questions: “all in favor say ‘Yea’,” and “all opposed say ‘Nay’.” The “counting” of voice votes is up to the chair and cannot be appealed. While members may make their opinions clearly known during floor debates, voice votes produce no record of individual positions on a given bill or amendment.

If a member wishes to have a roll call vote, the member must request a recorded vote and garner the support of “...one-fifth of those present,” as specified by Article 1, Section 5, Clause 3 of the United States Constitution.⁹ This constitutional provision represents one of the few references by the document towards internal congressional rules and procedures (Binder 1997).¹⁰ If one-fifth of members second the request, a roll call vote is taken.¹¹

The provision providing for the recorded voting was debated in the Constitutional Convention on August 10, 1781. Upon its introduction, Gouverneur Morris of Pennsylvania, proposed amending it to allow any one member to call for the yeas and nays. This was quickly

⁸ Two other methods of voting are used in Congress: division votes and teller votes (Tiefer 1989). A division vote can be requested by any member. Once requested, members rise if they take the affirmative on a question and they are then counted by the chair. This process is repeated for those in opposition. Individual members' positions are not recorded and the chair's count of the votes cannot be appealed. Teller voting, is restricted to the House of Representatives and is used infrequently. While it is likely to yield more accurate vote totals than either voice or division votes, it is similar to these in that it also does not produce a record of how members cast their votes (Tiefer 1989, 352).

⁹ It should be noted that the constitutional provision for recorded roll call voting does not apply to amendment voting within the Committee of the Whole in the House, which developed its own separate procedures.

¹⁰ Most questions of legislative procedure are answered in Article 1, Section 5, Clause 2. This states that “Each House may determine the rules of its proceedings.” The founders also saw it fit to mandate the yeas and nays be called on all votes to override presidential vetoes. See Article 1, Section 7, Clause 2 for that provision.

¹¹ Recorded voting in the House of Representatives has largely been done electronically since 1972. When the vote is called, members insert a personalized voting card into a station on the House floor and press either Present, Yea, or Nay. Members' votes are then displayed on panels throughout the chamber. While the speaker does have authority to extend votes, few last longer than the 15 minute requirement (Oleszek 2013). In the Senate, once the yeas and nays are ordered, the clerk begins to call the names of each senator alphabetically. The senator then has, generally, 15 minutes to respond to his or her name (Tiefer 1989).

countered by Roger Sherman of Rhode Island, who proposed eliminating the requirement altogether (Farrand 1966; Binder 1997). Morris professed concern about the ability of small states to reach the one-fifth threshold, while Nathaniel Gorham of Massachusetts worried about the practice of "...stuffing the Journals with [votes] on frivolous occasions," and "...misleading the people, who never know the reasons determining the votes (Farrand 1966, 255)." The apparent compromise was to keep the clause with the one-fifth threshold.

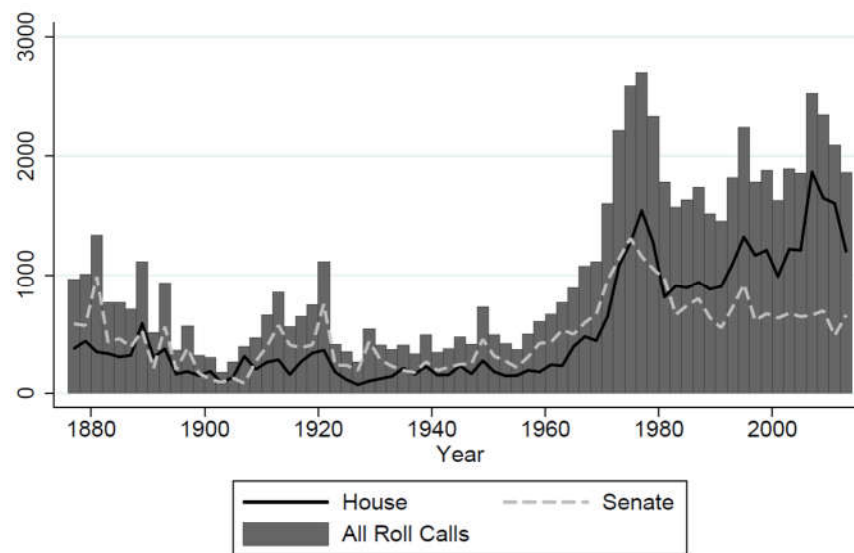
The debate over recorded voting in the Constitutional Convention underscores an important point about democratic representation. A republican form of government requires that representatives' actions are transparent to voters. Morris's position, in effect, argues that reducing the barriers to record individual members' positions on votes would increase this transparency. Moreover, if the quorum threshold was set prohibitively high, legislators would be able to cast votes at odds with their district's preferences without their constituents being any the wiser. Sherman's proposal to eliminate recorded votes appears rooted in the concern that it would be used to mislead voters. By forcing legislators to cast repeated difficult votes, opponents could use the record to portray incumbents as taking repeatedly unpopular positions. There is an inherent tension between the roll call record serving as a valuable source of transparency for voters and serving a way for parties to further obfuscate the positions of their opponents. Evidence of these dual purposes has been apparent throughout congressional history.

The Changing Roll Call Generating Process

While voice votes are the default voting mechanism in Congress, roll call voting increased sharply in Congress towards the end of the 20th Century. Figure 1 plots the raw number of roll call votes per Congress from 1877 to 2014, as well as lines differentiating the two

chambers. While this increase in roll calls may reflect an increase in legislative output, it also likely reflects a change in the roll call generating process. As we discuss below, such changes are unlikely to be linear and are unquestionably caused by a multitude of factors.

Figure 1: Roll Call Votes in Congress, 1877-2014



Diminishing Practical Barriers

Debate during the Constitutional Convention demonstrated that delegates worried about balancing the need for Congress to be transparent to constituents and Gorham's fear that recorded voting would be abused and the public misled. Despite their attempt to mitigate this problem by including the sufficient second clause in the Constitution, roll call votes are generally considered pro forma in the modern Congress. When members request roll calls, they nearly always get them. Members being denied sufficient seconds is so rare that when it does happen, it generates substantial media attention.

For instance, in 2015, Senator Ted Cruz (R-TX) was denied a sufficient second on a request to table an amendment so he could offer one himself that dealt with defunding Planned Parenthood (Everett 2015a). Outraged, he dubbed the denial “an unprecedented procedural trick”

and accused senators of seeking to “avoid accountability” (*Congressional Record*, 114th Congress, September 28, 2015 H6376).¹² Senator John McCain (R-AZ) noted that he had “never before seen a senator who couldn’t get even one other person in the Senate to raise his hand to help him get a [recorded] vote” (Hawkins 2015).¹³ A year earlier, Speaker of the House John Boehner (R-OH) angered many conservatives in his caucus when he worked with minority Democratic leadership to pass a short term ‘doc fix’ bill via a voice vote. The maneuver was done while most members were out of the chamber and thus, unable to request a roll call vote. Members were highly critical of the maneuver, dubbing it “anti-democracy” and expressed skepticism that the extension would have passed by a recorded vote (Newhauser 2014).

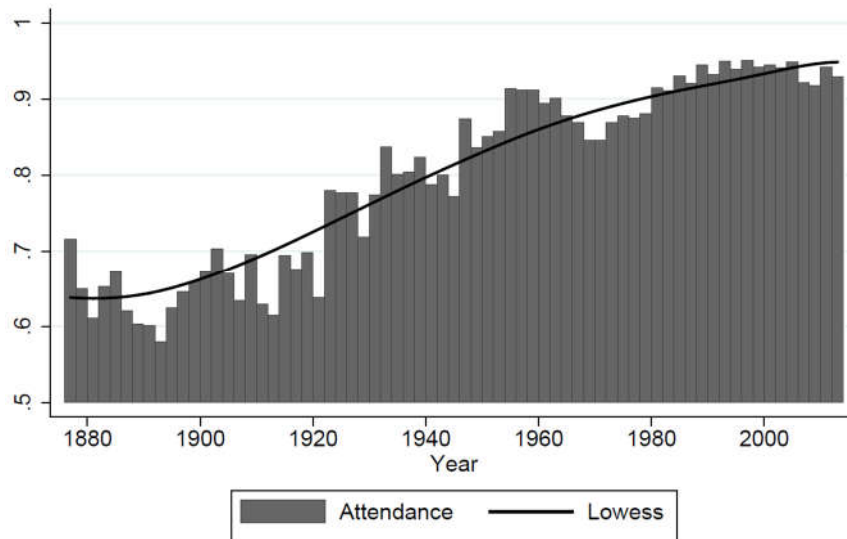
But these cases are highly irregular in the modern Congress. In recent years, leaders have found far more success avoiding uncomfortable roll call votes by blocking bills and amendments before they reached the floor stage. Generally, this is done through restrictive special rules in the House (Lynch, Madonna and Roberts 2016) or filling the amendment tree in the Senate (Madonna and Kosar 2015). But as we have discussed, such tactics have limitations and once a proposal reaches the floor, a roll call vote is almost a certainty if a member requests one. When roll call requests are denied, it is usually for deliberate, strategic reasons, as was the case with Cruz and the doc fix. Historically, sufficient seconds were denied far more frequently, and often for practical reasons.

¹² Cruz went on: “What does ‘denying a second’ mean? Denying a recorded vote. Why is that important? When you are breaking the commitments you have made to the men and women who have elected you, the most painful thing in the world is accountability. When you are misleading the men and women who showed up to vote for you, you don’t want sunshine making clear that you voted no. A recorded vote means each Senator’s name is on it” (*Congressional Record*, 114th Congress, September 28, 2015 H6376).

¹³ This was the second time in the 114th Congress Cruz had been denied a sufficient second. He and Senator Mike Lee (R-UT) had been blocked in July when they sought to offer amendments in the third-degree. Such amendments were long barred by Senate rules. Cruz and Lee unsuccessfully sought roll call votes on their appeals of the Chair’s rulings [that the amendments were out of order] (Lesniewski 2015). Cruz’s troubles likely stemmed from his well-established poor relationship with Republican Majority Leader Mitch McConnell (R-KY) and the bulk of the Republican caucus. He had famously called McConnell a “liar” on the floor and sarcastically complimented him for being a “very effective Democratic leader” (Everett 2015b).

The most common explanation for the denial of a sufficient was attendance. During periods of low attendance, it was difficult to generate the necessary one-fifth of a quorum needed for a sufficient second. And presiding officers almost always enforced said requirement. Figure 2 plots the average attendance in Congress on roll call votes from the 45th Congress (1877-1878) to the 113th Congress (2013-2014). The figure also includes a simple lowess smoothing line to indicate the general trend in the data. Figure 2 demonstrates that it was not until the second half of the 20th Century that average attendance surpassed 80%.

Figure 2: Average Attendance on Roll Call Votes per Congress, 1877-2014

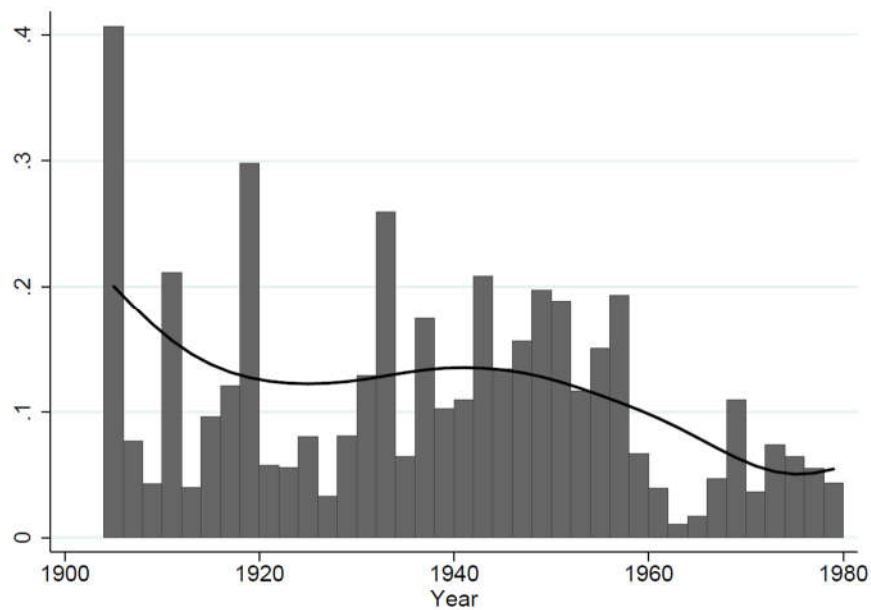


This low attendance was due to a variety of factors, with travel issues being the most notable of them. This exacerbated the need for high efficiency in both chambers. And because of the amount of time needed to record votes, especially before the introduction of electronic voting, recorded votes decrease overall legislative efficiency. Simply put, time spent voting is time not being spent on other duties—such as campaigning for reelection or passing additional legislation. There is no doubt that unrecorded voting allows Congress to more quickly consider

legislation. An extreme example of this occurred in 1952, when Senator John Sparkman (D-AL) was reported to be only one of two senators on the floor, and the only one voting.¹⁴ The chamber, relying solely on Sparkman's votes, ended up ratifying three treaties.¹⁵

In sum, in earlier eras, there were not only fewer members available to provide sufficient seconds, but many members were reticent to do so because of efficiency concerns.¹⁶ This should result in not only fewer roll calls overall, but more roll call requests that failed to generate sufficient seconds. To examine this, we tracked failed requests on amendments to important bills.

Figure 3: Failed Roll Call Requests over Successful Requests, 1905-1980



¹⁴ Casting an unrecorded vote in the Senate can be done without a quorum present. We have found multiple examples of a small handful of senators passing legislation, sometimes landmark legislation, through unrecorded voting.

¹⁵ See Marcy (1953) and the *Congressional Record*, 82nd Congress, June 13, 1952, 7228. Marcy (1953) lists the treaties as being the Consular Convention with Ireland, a Protocol Supplementary to the said Convention and the Consular Convention with the United Kingdom.

¹⁶ This is not to suggest there were no strategic, political reasons for opposing roll call vote requests. Member reticence to go “on the Record” on salary increases and funding for legislative staffing is well-established and occurred throughout the 19th and 20th centuries. See e.g. Madonna and Ostrander 2016; Alston, Jenkins, and Nonnenmacher 2006; Theriault 2004).

Figure 3 plots the number of failed requests divided by the number of successful requests for roll calls in both the House and the Senate from the 59th Congress (1905-1906) to the 96th Congress (1979-1980). The figure also includes a simple lowess smoothing line to indicate the general trend in the data. While Figure 3 demonstrates failed requests are decreasing sharply over the time series, it highlights that failures were common in the 19th century Congress.

In addition to attendance and travel issues, staffing changes likely represent an additional practical barrier to roll call requests. Staffing levels in Congress were low in the 19th and early 20th centuries. Personal staff, as well as staffers for Congressional Member Organizations, play an important role in drafting amendments and advocating for or against certain proposals (Malbin 1980). In the absence of competent and committed staff, members would be unlikely to propose and press as many proposals for electorally-driven roll calls. Staffing changes also led to increased party coordination, allows leaders and rank and file members of both the majority and minority to better coordinate their roll call generating behavior in Congress with electoral priorities (Crespin, Madonna, Sievert and Ament-Stone 2015).

Internal Changes to Legislative Procedures

In addition to some of the practical barriers mentioned, legislative procedures likely influence the roll call generating calculus for members. In the Senate, Carson, Madonna, Owens and Sievert (2012) found evidence that the adoption of the 17th Amendment led to an increase in amendments in that chamber. The amendment provided for the direct election of all senators and led to increased position-taking behavior in the chamber.

Perhaps most notably, Roberts and Smith (2003) found that the increase in political polarization in the House during the late twentieth century was significantly influenced by the House's adoption of electronic voting in the Committee of the Whole. That decision led to a

sharp increase in the number of amendments sponsored by minority party members, who were trying to force majority party legislators to cast embarrassing or unpopular votes. Prior to the rules change, members could request roll call votes on only successful amendments adopted in the Committee of the Whole and only after the Committee of the Whole had risen.

Increased Electoral Competitiveness

The diminishment of practical barriers and shifts in legislative rules are necessary but not necessarily sufficient conditions to prompt sharp changes in the roll call generating process. Much of voters' perceptions of members positions on roll calls are dictated by campaign advertising. And while voters are responsive to member positions reflected in roll call votes, they are often ignorant regarding the specific issue a vote is referencing, the context in which the vote was generated, and voting in Congress in the aggregate. To demonstrate the latter, using the Cooperative Congressional Election Study, we asked people "how many roll call votes' do members cast each Congress?" Of the 871 total respondents, 438 of whom (50.28%) picked "Don't Know" (and one skipped the question). 151 picked 100 (or 17.33% of all respondents and 34.95% of those who answered). And 150 picked 250 (or 17.22% of all respondents and 34.72% of those who answered). Just 62 opted for over 1,000 (or 7.11% of all respondents or 14.35% of those who answered). In the 114th Congress, the House members cast 1,314 roll call votes and senators cast 502 roll call votes.

Campaign ads exploit this lack of knowledge. They are generally negative and highlight specific votes cast by a member which they tie to specific issues. False or misleading campaign advertising is nearly impossible to regulate. The Courts will not enforce statutes barring false campaign advertising unless a plaintiff can demonstrate "actual malice" was done (Goldman 2008).

Accordingly, campaigns have a great deal of leeway when it comes to tying the substance of a vote to an issue.¹⁷ And not surprisingly, campaigns frequently take advantage of this. For example, in the 2014 Georgia Republican Senate primary race, businessman David Perdue's campaign ran advertisements that featured an attack on his opponent, 11-term congressman Rep. Jack Kingston (R-GA) that accused Kingston of voting to raise his own pay seven times. The seven votes were not direct votes on pay increases. Rather, the votes were votes to order the previous question on a special rule. Had the rule been voted down, a minority Democratic Party member announced his intention to offer an amendment to deny an annual pay raise. Majority party members rarely votes against special rules as doing so would significantly interrupt their agenda. The minority is aware of this and will make such declarations for electoral posturing (Badertscher 2014; Bluestein 2014).¹⁸ Indeed, the website PolitiFact checked the accuracy of the 238 statements and advertisements and reported that just over half of them could be classified as "mostly false," "false" or "pants on fire."

As previously noted, this use of roll call votes in elections has been well-established. Scholars have argued that members will request votes with elections in mind. For example, Mayhew (1974) argues that position-taking via roll call voting is an important activity for congressmen seeking reelection. And we find in previous work that members were much more

¹⁷ See *Brown v. Hartlage*, 456 U.S. 45 (1982). Most of the small number of attempts to regulate false campaign advertising through statute have been done at the state level. These attempts have either been ineffective or, in several instances, successfully challenged on first amendment grounds (Liefkring 2012). This has been reinforced at the federal level by a recent decision striking down the Stolen Valor Act of 2005. The Act made making a fraudulent claim about receiving decoration or medal awarded by the president or military a federal crime. Xavier Alvarez, a member of District Water Board in Claremont, California, violated the act and was indicted. Alvarez's indictment was originally upheld, but overturned by the Ninth Circuit Court of Appeals. The Supreme Court then upheld the Ninth Circuit decision and struck down the Stolen Valor Act on first amendment grounds (Liefkring 2012). These cases have led legal scholars to conclude "because of the *New York Times Co. v. Sullivan* [376 US 254 (1964)] line of cases, requiring proof of actual malice in the form of knowledge of falsity or reckless disregard for the truth," there is virtually no remedy for [false advertising] (Ashdown 2011, 1087)."

¹⁸ Such "pay raise" ads are common for members of both parties. See advertisements attacking former Rep. Charlie Bass (R-NH), Senator Sherrod Brown (D-OH) and Senator Roy Blunt (R-MO).

likely to request roll call votes on electorally salient issue area (Lynch and Madonna 2013). However, recent work has demonstrated that electorally-driven behavior in Congress has been on the rise in recent decades. Lee (2016) argues that key changes occurred in 1980, when Republicans ousted the long-serving Senate Democratic majority, and 1994, when the long-serving Democratic House majority was defeated. Accordingly, she suggests both parties view majority-status as viable, leading to an increase in things like “messaging” amendments and roll call votes.

Ideological Rank

Diminishing practical barriers, combined with internal changes to legislative rules and increased electoral competitiveness have served to both lower the costs and increase the value of roll call votes.¹⁹ We believe this has served to benefit more partisan and ideologically extreme members. Ideologically extreme members are less likely to be vulnerable to a competitive general election challenge than their more moderate counterparts. And they frequently work closed with ideological interest groups that represent their primary constituencies.

Similarly, aggressive partisans and party leaders are motivated to build and maintain the parties’ “brand name” in an effort to provide voters with a simplifying cue during elections (Cox and McCubbins 2005). This leads them to seek votes that both unify their membership while distinguishing it from the opposition. This was evident in the House of Representatives recently, when, by March of 2014, the Republican-led chamber had cast over 50 roll call votes on the floor to repeal President Obama’s signature healthcare act (O’Keefe 2014).

¹⁹ These problems are also likely exacerbated by increased legislative complexity. As Curry (2015, 116) notes: “The indicators for each Congress show that, all else equal, the typical bill is becoming more complex with each passing Congress.” This, he suggests, allows leadership to help “nudge” their rank and file members in a partisan direction on certain votes.

In contrast, more centrist (and electorally vulnerable) members would prefer not to have to cast difficult votes they need to explain during reelection. Often, these members would prefer to go back to their district and emphasize local legislative accomplishments even if a recorded vote is not taken.²⁰ A nice example of this behavior occurred during consideration of H.R. 3288, the Transportation-HUD Appropriations Act in the 111th Congress.

Considered under a structured rule, majority party Democrats allowed 22 amendments to be offered to HR 3288. Conservatives like Rep. Randy Neugebauer (R-TX) and Republican Study Conference Chairman Jim Jordan (R-OH) were allowed to offer amendments slashing the total amount of spending in the bill.²¹ Representatives Flake and Jeb Hensarling (R-TX) were allowed to select several amendments from a list of their proposed amendments (all of which cut specific earmarks from the bill). In contrast, more moderate Republicans, like Rep. Joseph Cao (R-LA) and Rep. Aaron Schock (R-IL), offered modest proposals geared to specific constituencies.²²

Of the 22 amendments offered, the House adopted six. Of those six, no roll call votes were requested. Four Republican amendments were approved, including the Cao and Schock

²⁰ In some cases, bill managers will negotiate their support for an amendment in exchange for the member not pressing for a recorded vote. For example, in 2010, Transportation and Infrastructure Chairman Rep. James Oberstar (D-MN) offered to work with Rep. Sam Graves (R-MO) on one his amendments. Specifically, Oberstar informed Graves he would “commit to the gentleman that we will work through to hopefully a legislative solution” provided Graves “would consider withdrawing his amendment or at least not pressing it to a recorded vote (*Congressional Record*, 111th Congress, July 29, 2010, H6372).” Graves responded by promising not to push the matter to a recorded vote: “Mr. Chairman, I tell you what, I would rather not withdraw the amendment, but I would take just a voice vote. I would like to say if I can, I just appreciate the chairman’s willingness to work with me on this, and I understand what he’s saying, too, and I respect it (*Congressional Record*, 111th Congress, July 29, 2010, H6372).”

²¹ Neugebauer’s amendment cut \$13.5 billion from the \$123.1 billion dollar bill and Jordan’s proposed to reduce it by over \$20 billion.

²² Cao’s amendment required the Neighborhood Reinvestment Corporation to offer more frequent reports to Congress regarding their efforts to curb mortgage defaults. Schock’s amendment proposed to make pre-home purchase counseling more available.

proposals. In contrast, all of the 16 rejected amendments were sponsored by conservative Republicans and they insisted on recorded votes for each of these failed amendments.

While the votes exposed splits within the Republican Party, they allowed some members, like Flake, to craft a fiscally conservative record that could be touted in upcoming political campaigns.²³ Flake featured his earmark amendments in a number of ads in his later election to the U.S. Senate. Amendment votes have also become fodder for conservative groups targeting moderate Republicans in primary elections. For example, Rep. Mike Simpson (R-ID) was criticized in primary challenger Bryan Smith’s television ads for not supporting several Flake amendments, including one to cut \$150,000 of funding for a South Carolina aquarium.²⁴

Data and Methods

To examine how the roll call generating process has changed over time, we needed a dataset that included measures that did and did not receive roll calls. Starting in 2010, we began construction on this dataset by establishing the [University of Georgia Congress Project](#). Our first step involved constructing a dataset of “important” legislation from 1877 to 2015.²⁵ The decision to focus on important enactments was motivated by several factors, which are discussed in

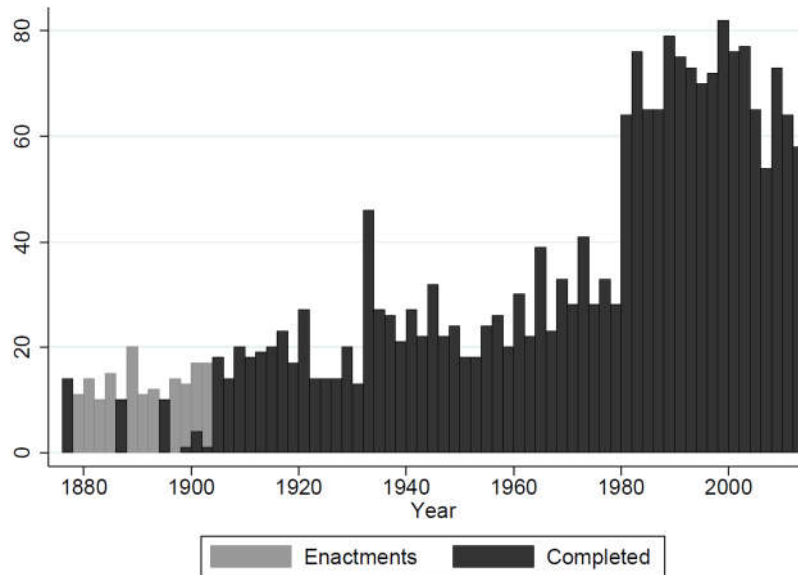
²³ Some Republicans took to the floor to oppose Flake’s earmark amendments. In opposition, Rep. Stephen LaTourette (R-OH) argued that “if this earmark thing was such a great idea and it really captured the hearts and minds of the American people and would do anything to reduce spending in a significant way, John McCain would be President of the United States today and we would have had a different budget resolution (*Congressional Record*, 111th Congress, July 22, 2009, H8658.)”

²⁴ Bryan Smith’s primary challenge of Simpson has received the support of several important conservative groups, including the Club for Growth. For a further discussion of Flake’s amendments and how they are being used in this primary contest see <http://www.conservativeintel.com/2014/03/24/id02-congressman-makes-the-case-for-bringing-back-earmarks/>

²⁵ For the purposes of this preliminary draft, the 97th Congress (1981-1982) to the 113th Congress (2013-2014) includes all bills and is not restricted to important legislation. Future work will narrow this down.

greater detail in Appendix A.²⁶ Altogether, this left us with a list of 2,322 enactments across 69 congresses.²⁷ Figure 4 plots the number of important enactments per Congress. As the Figure demonstrates, data collection is complete for the 59th Congress (1905-1906) to the 113th Congress (2013-2014).

Figure 4: Important Enactments per Congress



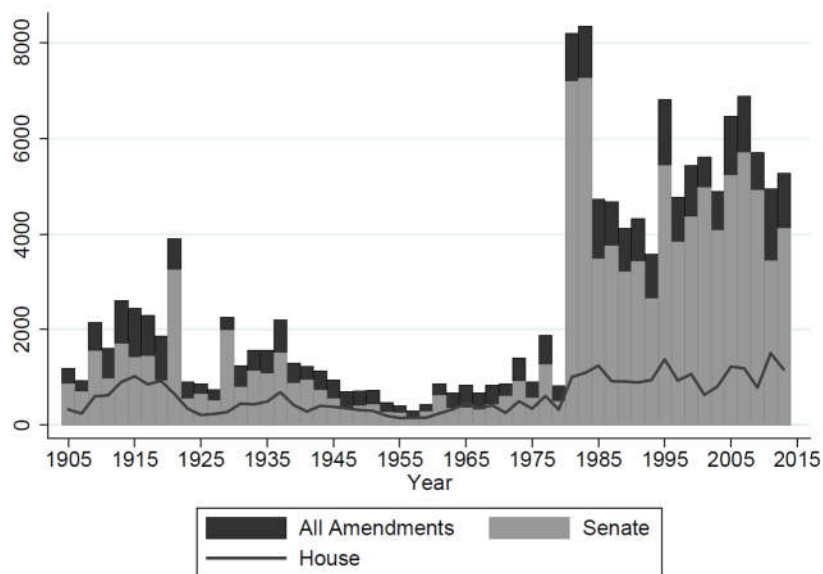
We then tasked teams of coders to read through the *Congressional Record* and collect data on all amendments to those bills. This left us with data on 150, 415 amendments. Discussed in Appendix B, our primary dependent variable is whether or not the amendment received a

²⁶ First, the data collection process is especially labor intensive. Coding all amendments in a specific Congress is a massive undertaking, and completing a dataset that spanned a large number of congresses would require resources we simply do not have at this point. Second, utilizing important enactments helps minimize biases stemming from the large amount of trivial legislation the United States Congress produces (Clinton and Lapinski 2006). This allows us to ensure a certain level of salience.

²⁷ We should also note, as discussed in the appendix, that each individual enactment may include multiple bills. For example, Mayhew’s (1991) list of “landmark bills” is included in our list. In it, he includes “Higher Education Act of 1972. \$25 billion package; new Pell grants as aid floor for lower-income students,” a measure considered and adopted in the 92nd Congress. That measure was not only covered by the enacted bill, S 659, but a House companion, HR 7248, and another Senate bill, S 1557, which passed the Senate separately but was folded into S 649 in the House.

recorded vote. Because data collection is complete from the 59th Congress (1905-1906) to the 113th Congress (2013-2014), we focused on the 143,255 amendments filed during this period. Of those amendments, 90,706 were offered on the floor of either the House or Senate. Figure 2 plots the amendments filed per Congress by chamber from the 59th Congress (1905-1906) to the 113th Congress (2013-2014).

Figure 5: Amendments Filed per Congress by Chamber, 1905-2014



As Figure 5 demonstrates, the bulk of the amendments filed are done so in the Senate. This is not surprising. While House leaders and bill managers have historically restricted the amending process using special rules (Roberts 2010), the Senate lacks a comparable institutional mechanism.²⁸ Of the 143,255 amendments filed from the 59th to 113th Congresses, 109,387 (or

²⁸ The Senate Majority Leader has used his right of preferential recognition to regulate the amending process in recent congresses. This process—known as “filling the amendment tree”—is effective as only a certain number of amendments can be pending simultaneously in the U.S (Rybicki 2010). However, it is a comparatively recent technique, and we have found little evidence of it being used systematically on legislation prior to the early 1980s. Former Senate Majority Leader Robert Dole (R-KS) credited his predecessor, former Senate Majority Leader Robert Byrd (D-WV) for the tactics usage, noting though that “I never knew what ‘filling the tree’ was until I tried it, but it

76.36%) were done so in the Senate. However, this Senate-bias is mitigated substantially if we look at amendments that are considered/offered on the floor. An examination of those 90,706 amendments shows that 58,835 (or 64.86%) were Senate amendments.²⁹

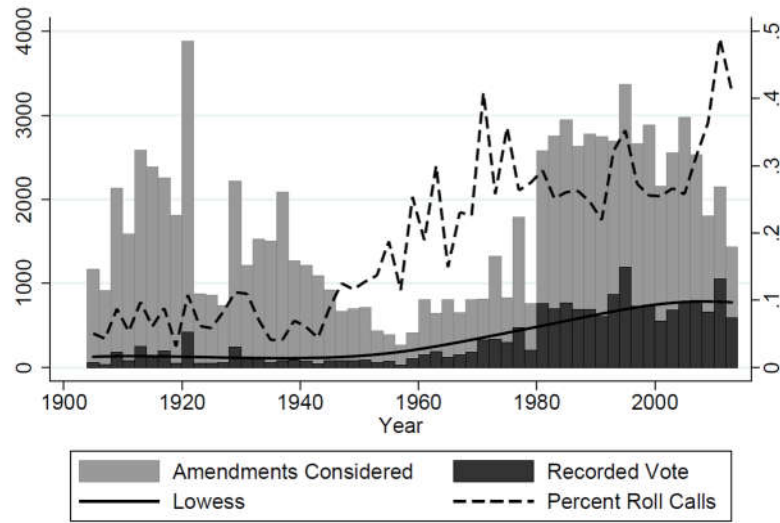
Consistent with our expectations, amendments that are offered on the floor appear to be substantially more likely to receive roll call votes in modern congresses. From the 59th Congress to the 79th Congress, 7.39% of the 31,707 amendments received roll call votes. From the 80th to 113th Congress, 27.76% of the 56,470 amendments received roll call votes.³⁰ Figure 6 plots the percentage of amendments considered on the floor with the percentage that received roll call votes. The figure also includes a simple lowess smoothing line of recorded votes per Congress to indicate the general trend in the data and plots the percentage of amendments considered on the floor that received roll calls on a second y axis.

Figure 6: Roll Call Votes per Amendments Considered by Congress

turned out to be pretty good” (Weisman 2012). Additionally, as amendments can still be filed on the Senate floor prior to the tree being filled, we should be able to adequately track the technique's usage.

²⁹ Further narrowing it to non-committee amendments results in 71,153 amendments, 42,548 of which (or 59.80%) were offered in the Senate.

³⁰ These percentages narrow if we exclude committee amendments. From the 59th Congress to the 79th Congress, 12.31% of the 17,181 non-committee amendments received roll call votes. From the 80th to 113th Congress, 28.80% of the 53,972 non-committee amendments received roll call votes.



Modelling the Likelihood of a Roll Call Vote

Our primary hypothesis is that the removal of practical barriers to roll calls (including improved travel, better staffing resources and improved partisan coordination), increased electoral competitiveness and internal changes to legislative procedures (recorded voting in the Committee of the Whole and the adoption of the Seventeenth Amendment in the Senate) have led to more roll call votes on proposals sponsored by more extreme members. This, we have argued, has led some political observers to attribute increased polarization on roll call votes purely to shifts in member ideology. Consistent with some recent scholarship, we believe a substantial increase in this observed polarization is due to changes in legislative procedures and electoral incentives (Egar 2016; Dougherty, Lynch and Madonna 2014; Lee 2009; Lynch and Madonna 2013).

Again, our view is not that roll call-based measures of ideology like DW-NOMINATE lead to errors in the ideological rank ordering of legislators. Instead, including an increased number of roll calls from more ideologically extreme members leads to more unidimensional cut lines. These unidimensional cut lines accentuate the observed ideological distance between

members. Accordingly, to examine the link between recorded voting and ideological rank, we created a measure accounting for each amendment sponsor's rank order distance from the chamber median in a given Congress/chamber.³¹ Figure 7 plots the average ideological extremity of all amendments sponsors per Congress versus those that received roll calls.³² Lowess smoothing lines are included to indicate the general trends in the data.

Figure 7: Average Ideological Extremity Rank by Amendment Sponsor per Congress, 1905-2014

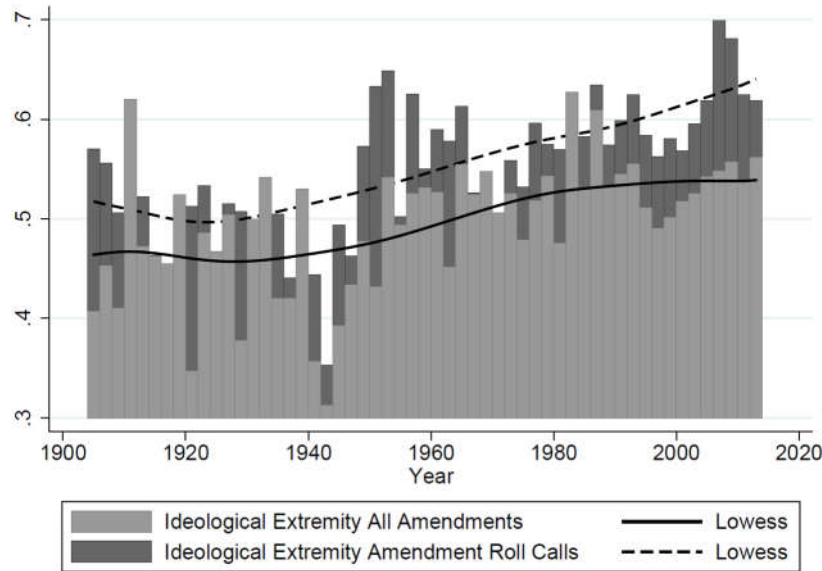


Figure 7 suggests, consistent with our argument, that there has been a general increase in the ideological extremity of all amendment sponsors. Further, this trend has been much sharper for amendments that received roll call votes in recent congresses. In an effort to examine this more systematically, we fit separate probit models of recorded voting for five separate eras in our

³¹ Specifically, we took the absolute distance between each sponsor and the House or Senate median and ranked them in each Congress (starting with the members closest to the median). Then, we divided that rank by the total number of members in each chamber in that Congress.

³² Amendments that were not offered/considered on the floor are excluded.

data.³³ Our data is broken up into the following eras based first on changes to practical barriers and institutions and then on electoral competitiveness:

- 59th (1905-1906) to 63rd Congresses (1913-1914): Attendance is low during this period, most senators are not directly elected, and roll call voting is not allowed in the House Committee of the Whole.
- 64th (1915-1916) to 79th Congresses (1945-1946): Attendance is low during this period, all senators are now directly elected, and roll call voting is not allowed in the House Committee of the Whole.
- 80th (1947-1948) to 90th Congresses (1969-1970): Average attendance increases ten percentage points from the 79th to 80th Congress and remains over 83% throughout the era, all senators are now directly elected, and roll call voting is not allowed in the House Committee of the Whole.
- 91st (1971-1972) to 103rd Congresses (1993-1994): Attendance is high, all senators are now directly elected, and roll call voting is now allowed in the House Committee of the Whole.
- 104th (1995-1996) to 113th Congress (2013-2014): Attendance is high, all senators are now directly elected, roll call voting is now allowed in the House Committee of the Whole and elections are competitive.

Our hypothesis suggests ideological rank should be positive and significantly related to recorded voting in recent eras. We also include a number of control variables. The majority party has a substantial advantage in drafting legislation – members of it should find changes less necessary on the House and Senate floor. Additionally, its members have the ability to run on their record of legislative achievement and as such, have less need for roll call votes for position-taking and electoral purposes. Hence, we include a dummy for majority party status.

Because roll call voting was not permitted on amendments offered in the House Committee of the Whole for three of our five eras, we include a dummy for chamber

³³ These models are sparse due to the lack of availability of some independent variables. Future iterations of this paper will include a number of controls not included here.

(amendments offered in the Senate are coded 1, 0 for House).³⁴ Scholars frequently argue that dilatory behavior was more often observed in lame duck periods of Congress. Thus, we might expect more roll calls on amendments offered during the expansive lame duck periods prior to the adoption of the 20th Amendment. The link between electoral competitiveness and roll calls suggests more recorded voting may occur during divided governments and when the majority party seat share in a given chamber is lower, so we include controls for both. We also include a control for the average attendance in a given Congress to account for the likelihood of an unsuccessful yeas and nays request.

Finally, we include controls for various amendment types. For much of congressional history, large numbers of committee amendments were adopted separately on the floor (as opposed to in committee or as a large committee substitute amendment on the floor). Committees were generally deferred to on these amendments, and as such, they generated higher success rates, less controversy and fewer roll calls. In contrast, substitute amendments seek to replace entire texts of the pending proposal. These tended to be more controversial and we anticipate more roll call votes. Finally, for enactments considered prior to the 97th Congress (1981-1982), we include motions to recommit. A motion to recommit with instructions in the House is often viewed as the final opportunity for the minority to amend the bill. These are generally controversial and we anticipate more roll call votes on them. Our results are presented in Table 1.

³⁴ The United States Senate used the Committee of the Whole until the 71st Congress (1929-1931), when the practice was abolished with respect to bills and joint resolutions. The Senate continued to utilize it with respect to treaties until the 99th Congress (1985-1987). However, recorded voting was allowed in the Senate Committee of the Whole.

Table 1: Probit Models of Recorded Voting on Amendments, 1905-2013

Variable	Model 1 1905-1914	Model 2 1915-1946	Model 3 1947-1970	Model 4 1971-1994	Model 5 1995-2013
Majority Party	-0.488* (0.086)	-0.348* (0.067)	-0.102 (0.094)	-0.297* (0.046)	-0.122 (0.096)
Ideological Rank	-0.206 (0.184)	0.009 (0.074)	0.278* (0.122)	0.395* (0.042)	0.725* (0.112)
Chamber	1.300* (0.098)	1.233* (0.063)	1.635* (0.132)	-0.128 (0.199)	-0.701* (0.059)
Lame Duck	-0.209 (0.148)	-0.262 (0.166)	- (-)	- (-)	- (-)
Divided	-0.192* (0.035)	-0.193 (0.284)	0.125* (0.139)	-0.127 (0.100)	0.127 (0.082)
Majority Seat Share	-4.355* (0.610)	-0.712 (0.370)	2.418* (1.055)	-0.915 (1.807)	1.799 (1.543)
Attendance	4.676* (0.887)	-2.443* (0.565)	-0.567 (2.817)	-2.644 (1.273)	-1.699 (3.267)
Substitute Amendment	0.650* (0.201)	0.640* (0.180)	0.513* (0.069)	0.387* (0.058)	0.131* (0.059)
Committee Amendment	-1.046* (0.082)	-0.970* (0.050)	-1.102* (0.122)	-0.475 (0.409)	- (-)
Recommittal Motion	2.146* (0.725)	2.112* (0.128)	2.350* (0.180)	0.766* (0.277)	- (-)
Constant	-2.102 (0.712)	0.409 (0.448)	-3.068 (2.416)	2.459 (1.902)	0.127 (3.745)
Observations	8316	21007	7066	23922	24245
Pseudo R ²	0.238	0.217	0.265	0.036	0.090

* $p < 0.05$

Results

The results show strong evidence of more roll call votes on proposals sponsored by more extreme members of Congress. In the earliest two time periods considered, ideological rank has a non-significant coefficient, indicating that the ideology of an amendment sponsor did not help explain recorded voting. In the final three time periods, the coefficient is significant and positive, with the coefficient increasing across the three time periods. This indicates that

ideological extremists' amendments are more likely to receive roll call votes and this likelihood is increasing across from 1947 to 2013.

The negative coefficient on the majority party variable indicates that minority party members are more likely to receive roll call votes on their amendments than are majority party members, although the effect is not significant across all time periods.

In the first three time periods Senate amendments are more likely to receive recorded votes than House amendments, although House amendments are more likely to receive roll call votes in the most recent time period.

Controls for different types of amendments perform as expected. Substitute amendments are more likely to receive roll call votes, while committee amendments are less likely to receive recorded votes. Motions to recommit are more likely to receive roll call votes across all time periods for which data is available.

Conclusion

The roll call voting record is an invaluable tool for students of American politics. Candidates use recorded votes to attack electoral opponents. Interest groups employ the record in an effort to drum up financial or electoral support for their preferred candidates and positions. And students of political science use the record as a way to test theories of legislative behavior. However, as we have argued throughout this book, we believe the literature has been hampered by undocumented changes in the roll call generating process.

In this chapter, we have argued that the removal of practical barriers to roll calls, internal changes to legislative procedures and increased electoral competitiveness have led to more roll call votes on proposals sponsored by more extreme members. This has led some to attribute increased polarization on roll call votes purely to shifts in member ideology. Using a new dataset

of over 150,000 amendments to important legislation from 1877 to 2015, we document how the construction of the roll call record has changed over time. Consistent with our hypotheses, we find that in recent eras, proposals sponsored by more ideologically extreme members are more likely to receive recorded votes than measures sponsored by members ranked closer to the chamber median.

While changes in the roll call generating process does not alter the primary products of polarization (namely crippling gridlock on salient issues and anemic legislative productivity) it does suggest alternative means of reform. Specifically, if polarization is partially driven by electoral and institutions factors, then solving the problem requires a more nuanced set of solutions than simply replacing legislators. In the absence of specific procedural reforms and increased public education about how Congress operates, “voting the bums out” will only led to the creation of new “bums.”

Changes in the roll call generating process pose problems not only for scholars of political polarization. For example, they also represent challenges for scholars seeking to examine the effects of institutional change across congresses (see e.g. Madonna 2001; Wawro and Schickler 2004; 2006) and those characterizing the dimensionality of voting in Congress (see e.g. Crespin and Rohde 2010; Dougherty, Lynch and Madonna 2014). Perhaps most importantly though, it weakens the ability for the public to monitor legislative behavior.

The rest of the book builds on these issues by examining the changing roll call voting record in other ways. Chapter three examined how the two parties manipulated the record in the House and the Senate by examining how the types of proposals that make up the Record have changed over time. To do this, we examined a new dataset that expanded the PIPC Roll Call data from the 83rd Congress (1953-1954) to include all roll call votes starting in the 56th (1899-1900)

Congress. Chapter five employs detailed case studies and broad, enactment-level data to trace the shift from regular to “irregular” order in Congress. And chapter six examines the effect of historical changes to the roll call generating process by simulating polarization in today’s Congress if the Record generating process was the consistent throughout time.

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Appendix A – Generating a List of “Important” Legislation

Coding on this project began in the spring of 2010. Our initial intention was to code all amendments to legislation considered on the floor of the House and Senate from the 45th Congress (1877-1878) to present. While we completed coding on all amendments offered during the 45th Congress, it was apparent that attempting to do so for every Congress would be far too labor intensive. Accordingly, we sought to narrow the data collection effort by compiling a list of “important” legislation. To do so, we combined several lists of landmark enactments with at least two routine appropriation bills per Congress. We describe those efforts below:

“Landmark” Legislation

Focusing on important or landmark legislation allows scholars to minimize biases stemming from the large amount of trivial legislation the United States Congress produces (Clinton and Lapinski 2006). Thus, it allowed us to ensure a certain level of salience. And by taking a broad view of landmark legislation (i.e. combining multiple “landmark” enactment lists as well as the ten most important bills per Congress as coded by Clinton and Lapinski 2006), we were able to study enough enactments per Congress to be able to compare across multiple congresses.

This is not to say that landmark enactments are a panacea. Determining what constitutes a landmark enactment introduces an arbitrary element, and scholars will often differ on certain measures (Clinton and Lapinski 2006). Additionally, as we noted, in order to examine how the adoption of an institution influences legislator behavior, we need to utilize a measure of landmark enactments that is not biased towards one or two congresses. Given the length of our study, we were also constrained at points by the time series. To mitigate these problems, we include several different sources of landmark enactments.

Specifically, the list breaks down accordingly:

1877-1880:

The 45th (1877-1878) and 46th (1879-1880) congresses use data from Stathis (2003); Clinton and Lapinski’s (2006) top 10 enactments per Congress and Clinton and Lapinski’s top 400 landmark enactments from 1877-1946.

1881-1944:

The 47th (1881-1882) to the 78th congresses (1943-1944) use data from Stathis (2003); Petersen (2001); Clinton and Lapinski’s (2006) top 10 enactments per Congress and Clinton and Lapinski’s top 400 landmark enactments from 1877-1946.

1944-1945:

The 79th Congress (1945-1946) uses data from Stathis (2003); Stathis (2014); Petersen (2001); and Clinton and Lapinski's (2006) top 10 enactments per Congress and Clinton and Lapinski's top 400 landmark enactments from 1877-1946.

1947-1978:

The 79th (1947-1948) to the 96th congresses (1977-1978) use data from Stathis (2003); Stathis (2014); Clinton and Lapinski's (2006) top 10 enactments per Congress and Mayhew's (1991) sweep one list of landmark enactments.

1979-1996:³⁵

The 97th (1979-1980) to 104th congresses (1995-1996) use data from Stathis (2003); Stathis (2014); Clinton and Lapinski's (2006) top 10 enactments per Congress, Mayhew's (1991) sweep one list of landmark enactments and bills subject to CQ Almanac's key votes.

1997-2000:

The 105th (1997-1998) and 106th congresses (1999-2000) use data from Stathis (2003); Stathis (2014); Mayhew's (1991) sweep one list of landmark enactments, and bills subject to CQ Almanac's key votes.

2001-2012:

The 107th (2001-2002) through 112th congresses (2011-2012) use data from Stathis (2014); Mayhew's (1991) sweep one list of landmark enactments, and bills subject to CQ Almanac's key votes.

2013-2014:

The 113th (2013-2014) Congress uses data Mayhew's (1991) sweep one list of landmark enactments, and bills subject to CQ Almanac's key votes.

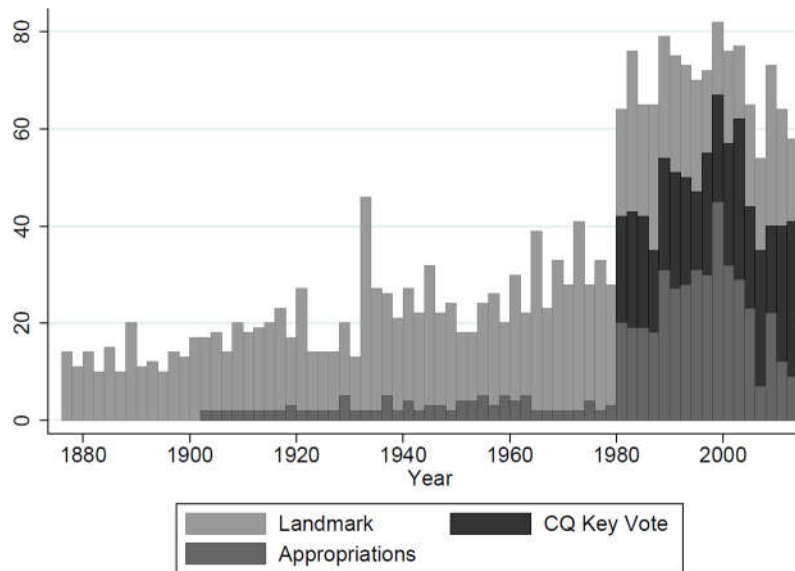
Appropriation Bills

As a robustness check, we later included a dataset of appropriation bills. Even when they do not constitute "landmark" measures, routine appropriation bills are exceptionally important measures for Congress and often highly controversial. Accordingly, our dataset includes at least two routine appropriation bills per Congress from the 59th Congress (1905-1906) to the 96th congresses (1977-1978). It also includes all appropriation bills from the 97th (1979-1980) Congress to the 113th Congress (2013-2014).

³⁵ As on 8/20/17, our dataset includes all amendments filed from the 97th (1979-1980) to 113th (2013-2014) congresses. Future iterations of this project will distinguish "important" bills during that period.

This left us with a list of 2,322 enactments across 69 congresses. This ranged from a high of 46 enactments in the 73rd Congress (1933-1934) to a low of 10 enactments in three congresses. The median and mean number per Congress was 33.65 and 25 enactments. Figure 1A below plots the number of enactments per Congress, broken up by either “Landmark,” “CQ Key Vote” and “Appropriations”.

Figure 1A: Important Enactments per Congress by Type



We then paired our list of enactments with a bill or set of bills. Identifying the bill numbers that correspond to enactments is often a difficult endeavor—especially after the routine utilization of omnibus lawmaking. There are occasionally several landmark enactments listed per bill and many bills included in a specific landmark enactment. Accordingly, we opt to code all companion and related bills that received floor consideration. This is done using a combination of the *Congressional Record* index, *CQ Almanac* and congress.gov when available.

[Congress.gov](https://www.congress.gov) defines a companion measure as an “Identical or substantially similar measures introduced in the other chamber.” We attempt to distinguish between companion and related bills by identifying companion bills as being those formally linked up to the enacted measure (i.e. The Senate struck all after the enacting clause on HR 1 and replaced it with S 2; or if the index specifically lists the Senate as passing HR 1 *in lieu* of S 2.

Companion and related bills should have already been added by the instructors prior to a student receiving the database. Companion bills were identified using the congress.gov website, the *Congressional Record* index, *CQ Almanac* and other relevant sources.

[Congress.gov](https://www.congress.gov) defines a related measure may be a “companion measure, an identical bill, a procedurally-related measure, or one with substantive similarities. Bill relationships are identified by the House, the Senate, or CRS, and refer only to same-Congress measures.” Related

bills represent a much broader category than companions. Congress.gov will list related bills if informed by staffers that a given measure is “related,” so the listings can be arbitrary.

For our purposes, related measures generally include three types of bills:

(1) Bills that dealt with the same content, albeit usually unsuccessfully (i.e. If a landmark act raising the minimum wage, HR 2452, passes later in a Congress after an earlier measure, HR 15, failed in that same Congress, HR 5 is considered related). This often happens with vetoed bills.

(2) Bills that were eventually packaged into the final enactment (i.e. HR 5214 is the final bill and it included S 12, which passed the Senate separately, the S 12 is a related bill). This often occurs with omnibus continuing appropriation bills.

(3) Measures where the substantive debate and amending activity related to the underlying substance, even if they were eventually enacted as something else. This are generally vehicles (i.e. If a landmark act on busing, HR 567, passes the House and the Senate opts to use a minor House passed bill, HR 67, as a vehicle for busing amendments, HR 67 will be considered related even if the amendments are stripped from it and it is enacted as a minor bill).

Bills that are not considered related:

(1) Bills that originally contained the final enactment (i.e. HR 638 is a bill that contained a provision cutting funds to the EPA, that provision was removed before final passage but included in the landmark bill, HR 2319. In this case HR 638 would not be a related bill.

A complete list of enactments is available online at <https://www.tonymadonna.com/uga-congress-project/>

Appendix B – Coding Record and Unrecorded Amendments

This appendix details the data collection process used to code amendments to landmark legislation. Since 2010, the project has been serviced by 89 separate undergraduates, two faculty members, 15 graduate students and three high school students. Undergraduate student coders participate in the project while taking an undergraduate research course. The students are trained in legislative politics while reading debates in the *Congressional Record* and coding data on amendments to landmark bills.

Why Amendments?

We choose to focus on the decision to record votes on amendments for several reasons. First, the amending process has historically provided members with greater opportunities to influence policy output than bill drafting. By offering an amendment on the chamber floor, the member can guarantee their position will get considered, discussed and voted upon. While institutions governing members' abilities to offer amendments on the floor have varied in their restrictiveness over time and by chamber they are far more permissive than those that alter members' abilities to introduce and pass specific bills (Carson, Madonna, Sievert and Owens 2012).

Second, amendment voting contains a level of depth and nuance that is simply missing from analyses of final passage votes. The decision to record roll call votes on final passage votes had been considered by several other papers (Clinton and Lapinski 2008; Lynch and Madonna 2013). While these works certainly represent substantial improvements in the effort to examine the roll call generating process, they are limited by the scope of bill content. A specific bill may contain a vast array of policy provisions reflecting the contributions of many specific members, staffers and committees. Amendments, by contrast, are generally narrower and reflect a specific policy position. This makes them an ideal vehicle for forcing opponents into taking uncomfortable votes than may be used in elections.

Third, amendments have been recognized by scholars as a tool for minority parties to put majority party members on the record by requesting difficult votes (Smith 1989; Roberts and Smith 2003). Roberts and Smith (2003) found that the increase in political polarization in the House during the late twentieth century was significantly influenced by the House's adoption of electronic voting in the Committee of the Whole. This led to a sharp increase in the number of amendments sponsored by minority party members, who were simply trying to force majority party legislators to cast embarrassing or unpopular votes.

Finally, amendments represent a substantive portion of the roll call record. From the 45th Congress (1877-1878) to the 104th Congress (1993-1994), amendment votes represented 50.59% of all votes cast in the U.S. Senate. In contrast, final passage votes on bills and resolutions represent a mere 12.22% of all roll calls in the Senate during the same time period. In the House, amendment votes represented 30.82% of all votes cast from the 83rd Congress (1953-1955) to the 110th Congress (2007-2009). In the House, the percentage of final passage votes on bills and

resolutions was 39.00% from the 83rd Congress (1953-1955) to the 110th Congress (2007-2009).³⁶

Coding Assignments

Research assistants operating in congresses prior to the 96rd Congress (1979-1980) were tasked with coding all amendments that were "disposed of" by some sort of vote, be it unrecorded voice vote, unrecorded teller votes, unrecorded division vote or recorded roll call vote. Thus, amendments offered on the floor but withdrawn or adopted by unanimous consent were often omitted from the data collection process. This was done primarily to make the coding process easier. Amendments dispensed through other procedural means, including points of order or motions to table are also included. As are amendments offered through motions to recommit.

After the 96th Congress, the congress.gov website makes tracking amendments far easier. Notably, very few amendments that were filed on the floor were not dispensed with by some form of vote until recent congresses. For example, in the 95th Congress only 22 or 952 amendments were dispensed with by another method (19 were withdrawn and three fell when the underlying measure was dispensed with). This occurs almost exclusively in the modern Senate--and due to the usage of filling the amendment tree. For example, in the 111th Congress, 3,900 amendments were not considered on the floor.

After the 96th Congress, all amendments were downloaded from congress.gov using govtrack and coded for vote type, including those never formally dispensed with. Research assistants then go through the downloaded datasets and add the information related to the sponsor, the manner in which the amendment was dispensed with and its final result.

Amendment Data

This left us with 150,415 filed amendments from the 59th Congress (1905-1906) to the 113th Congress (2013-2014). An amendment may be filed on the floor but not offered for a wide array of reasons. This includes the member deciding not to press the amendment, it being blocked by a later unanimous consent agreement or special rule, the measure the amendment sought to alter is dispensed with and in recent Senates, the majority leader may "fill the amendment tree" to block amending opportunities. Figure 1B plots amendments coded per Congress by offered or filed status.

³⁶ House roll call data was provided by Rohde (2004). Senate roll call data was coded by Andrea Campbell. Additional data was provided in Crespin, Madonna and Sievert (2015).

Figure 1B: Coded Amendments per Congress Offered and Considered, 1905-2014

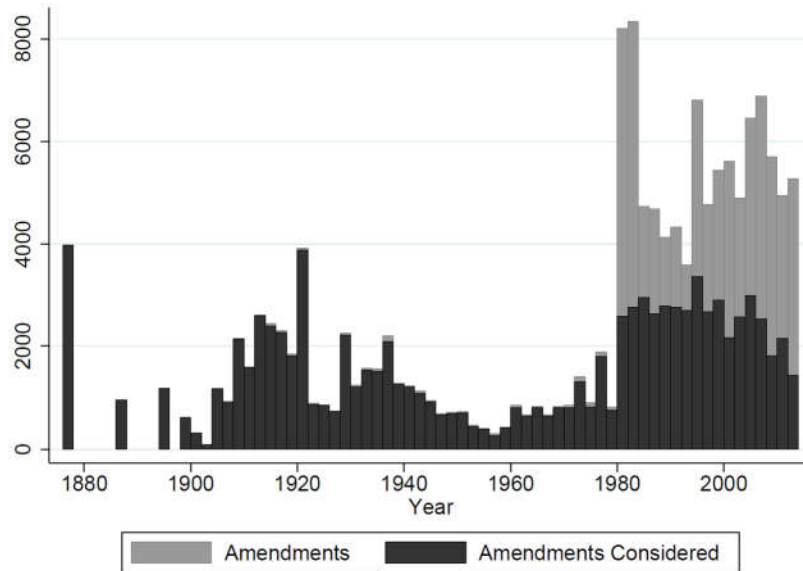
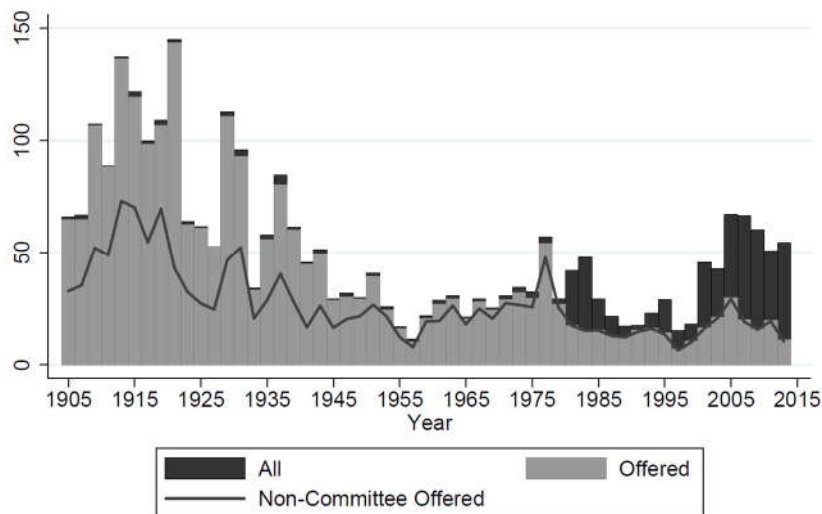


Figure 1B includes all 94,838 amendments to bills from the 97th (1979-1980) to the 113th Congress (2013-2014). Restricting that to amendments considered to our important bill list, results in 44,109 amendments. Figure 2B plots the amendments per important enactment, amendments per important enactment that were considered/offered on the floor and non-committee amendments per important enactment. Committee amendments were considered on the floor in the early 20th century and generally non-controversial.

Figure 2B: Amendments per Enactment, Offered and by Committee Sponsor Status



An examination of the data also suggests that the early roll call record missed a great deal of controversial votes. In addition to a large number of unsuccessful requests for the yeas and nays (see Figure 2), the size of winning coalitions on amendments that received division or teller votes

but not recorded votes was nearly as narrow as the size of winning coalitions on amendments that received division or teller votes and recorded votes. Table 1B presents those numbers.

Table 1B: Winning Coalition Sizes on Division and Teller Votes over Recorded Vote Status, 1905-1980

	Division	Teller
No Recorded Vote	67.40	57.91
	(3633)	(880)
Recorded Vote	62.54	55.66
	(263)	(88)
Difference	4.86	2.25

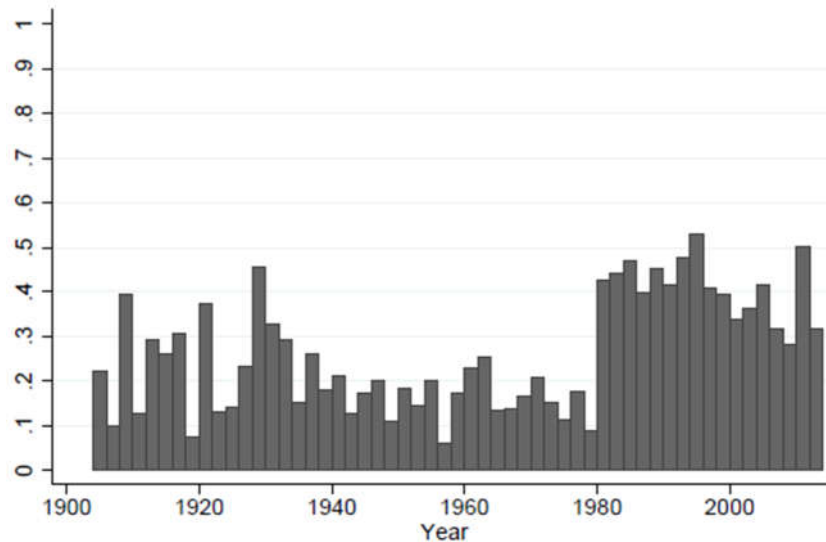
The number in Table 1B indicate, as we would expect, that measures that receive division or teller votes and also roll call votes are generally more controversial (as evident by the more narrow average coalitions). But the differences are under five percent. Further, as only 263 amendments that received division votes (and 88 amendments that received teller votes) also received recorded votes (versus 3633 that received division but not recorded votes and 880 that received teller but not division votes), it is reasonable to conclude that a large number of controversial amendments did not receive recorded votes.³⁷

As previously noted, amendments make up a substantial portion of the Roll Call Record. Figure 3B highlights the representativeness of these data. It plots the percentage of all roll calls taken in a given Congress that our amendment data make-up. Our data ranges from a low of 6.2 percent of the record in the 85th Congress (1957-1958) to a high of 53 percent in the 104th Congress (1995-1996). In only four of the 55 congresses does the percentage drop below ten.³⁸

³⁷ Division and teller vote totals are not always printed in the Record. Those cases are excluded.

³⁸ Two of which are still incomplete as of 8/25/17.

Figure 3B: Percentage of Roll Call Votes Covered by Coded Amendment Data by Congress, 1905-2014



Coding Selected Variables

To accomplish their coding, research assistants scanned the online *Congressional Record*. Once an amendment was identified, a number of additional variables were coded. First, descriptive data regarding the timing of the vote (the Congress, month, date, year, and chamber) was entered. Second, all votes taken on the amendment were coded. This was accomplished by filling in a series of variables labeled vtype1, vtype2, vtype3, vtype4. For example, in the 43rd House (1873-1875), Representative Frank Morey (R-LA) moved to:

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

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

Debate ensued before the speaker put the question:

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

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

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

The yeas and nays were ordered.

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

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

Information regarding the amendment was coded next. This included the amendment sponsor, the underlying measure and additional information regarding the vote. Specifically, students would enter a description of the amendment. When feasible, this involved taking the description of the amendment directly from the record. For example, in the preceding example, the description would read "substitute the name of George L. Smith for that of E. C. Davidson, as having the prima-facie right to a seat as the Representative from the fourth district of Louisiana."

Other examples include "amendment to change expenses for Naval Department from 100k to 50k" or "Amendment to strike out clause instructing Secretary of Treasury to cover into the Treasury all undrawn monies from 1873 salary act." Coding descriptions of the amendments allows us the flexibility of going back and conducting a measure that assesses the importance of the amendment.

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

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

In other cases, the member indicated that the amendment he or she was presenting was a committee amendment. In the 60th (1907-1909) Congress, Representative Reuben Moon (R-PA) stated, "Mr. Chairman, I send up to the desk a committee amendment, which I ask to have read (*Congressional Record*, 60th Congress, February 18, 1909, 2649)." In this instance,

Representative Moon would be coded as the amendment sponsor and the amendment would be coded as a committee amendment.

If the committee sponsor was not explicitly listed, students listed the sponsor as the member who consumed the most floor time advocating for the adoption of the amendment. For example, in the 85th Congress (1957-1959), Senator Robert Kerr (D-OK) stated that, “Speaking for that committee and for what I believe to be the rights of the people of a great State and of a great metropolitan area, and in the conviction that it can do no harm to any area, I urge the passage of the proposed legislation by the Senate (*Congressional Record*, 85th Congress, August 22, 1958, 19125).” In this case, Kerr was listed as the sponsor.

In a few instances, an amendment was reported a committee amendment and there was no debate or advocacy for the bill on the floor. In the 64th Congress (1915-1917), the Senate began consideration of H.R. 15522, which established the National Park Service, with a committee amendment. Upon bringing the bill up for the consideration, the Secretary stated that, “The bill has been reported from the Committee on Public Lands with an amendment” and the amendment was agreed to after being read (*Congressional Record*, 64th Congress, August 5, 1916, 12150). In this case, the sponsor of the bill would be coded as the chairman of the Committee on Public Lands since the amendment as no identifiable sponsor. A dummy variable (1, 0) for committee amendments was also coded, granting us some flexibility in how we deal these moving forward.

In a limited number of cases, neither the identifying amendment sponsor nor committee could be accurately determined. When this occurred, the amendment sponsor information was coded as missing data.

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

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

Additionally, research assistants were asked to code an assortment of other institutional factors related to the amendment. For example, scholars of the U.S. Senate have argued that the motion to table plays an important role in restricting measures on the chamber floor. Students coded

whether or not a tabling motion was offered and information regarding who offered it.³⁹ Students also coded whether or not the amendment was considered in the Committee of the Whole, whether or not it was considered under the suspension of the rules procedure, and whether a motion to reconsider was offered.

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

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

The amendment was agreed to.

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

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

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

³⁹ For example, in the 84th Congress (1955-1957), Senator Prescott Bush (R-CT) moved "to lay on the table the amendment on page 3, line 10 (*Congressional Record*, 84th Congress, July 22, 1956, 10831.)" In this case, Bush would be listed as the tabling motion sponsor.

that the yeas and nays were ordered, indicating that a sufficient second was present. In this episode, Cummins would be listed as the member ordering the yeas and nays.⁴⁰

Finally, information was coded pertaining to whether the amendment was a substitute, second-degree or motion to strike, whether cloture was filed on the amendment, whether voting took place only in the Committee of the Whole, if a yeas and nays request was made but not supported by a sufficient second, if a motion to reconsider was offered, information regarding who—if anyone—moved to table the amendment or raised a point of order against it and if the amendment was dispensed with *en bloc*.

A full copy of our codebook is available online at <https://www.tonymadonna.com/uga-congress-project/>

⁴⁰ As was the case with the amendment sponsor variable, in the rare instance multiple members requested the yeas and nays, only the first member is coded as the member requesting the yeas and nays. Additional members are listed in the notes section.