

15 Things to Know about Taking It to the Floor

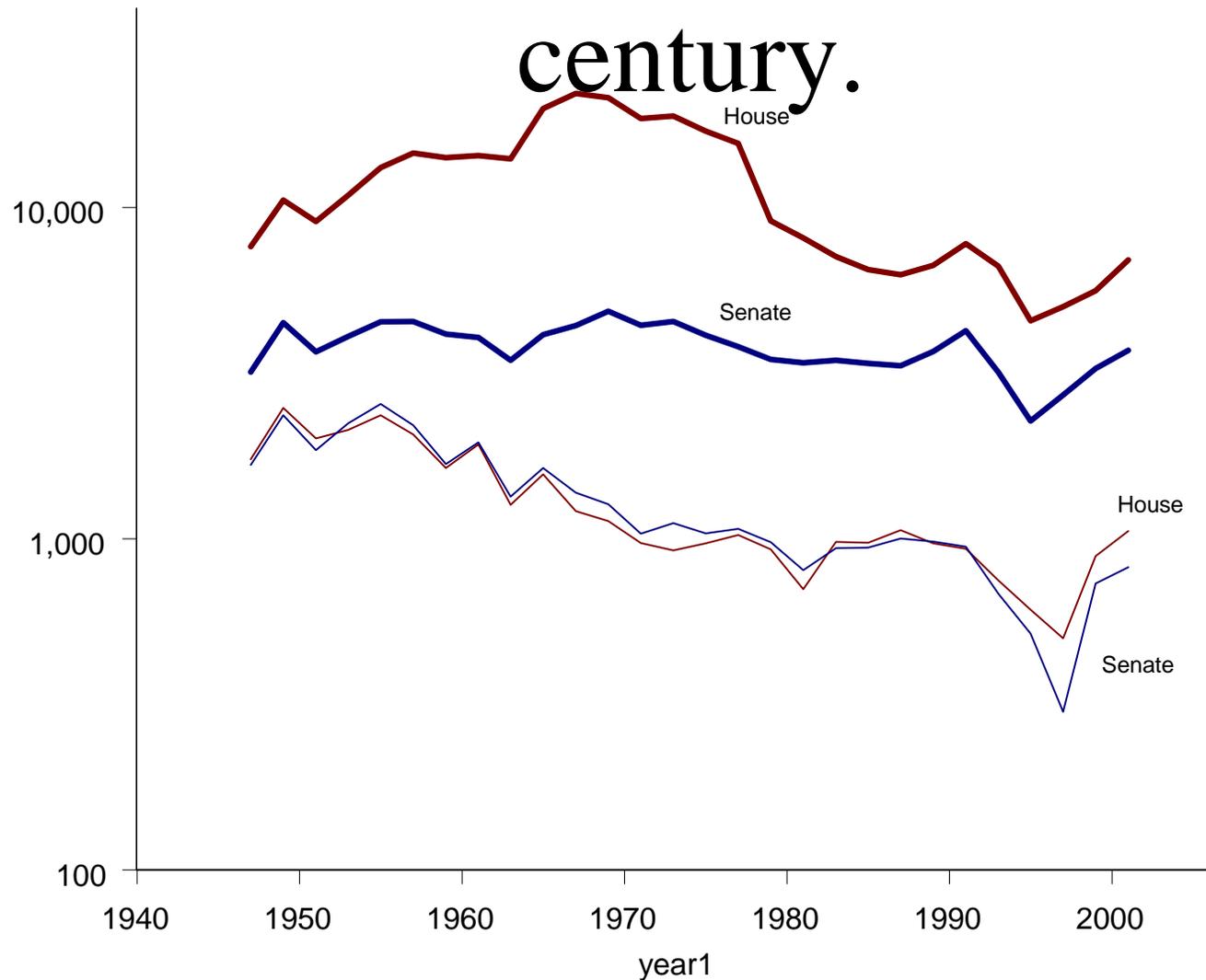
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Fall 2004

0. Thomas is a cool place to get legislative histories

- [Home page](#)
- [Intelligence reform legislative history](#)

1. The overall workload has generally declined this past half century.



2. Getting a bill passed is hard work

Major hurdle

Minor hurdle

House detail

Senate detail

Introduction

House originates tax bills

Senate exclusively considers executive matters

Reference to committee

Done by Speaker, no right of appeal

Done by presiding officer, w/right of appeal

Committee consideration (subcommittee nested)

Hearing, Mark-up, Report

Scheduling

Combo of Rules & leadership

Leadership-centered negotiations

Getting on the calendar

Multitude of calendars (union, House, correction, private, DC, discharge)

Two calendars (general orders, executive)

Getting off the calendar

Simple: suspension;
Complex: rules

Simple: suspension;
Complex: unan. consent

Setting the parameters of consideration

Rules Committee

Unanimous consent under threat of filibuster

Floor consideration

Committee of the Whole

Debate

Constrained

Cloture

Amendment

Germaneness rules strong

Germaneness weak

Reconciling differences

3. The most important thing about bill referral is that it usually determines who the bill's murderer is.

As a rule, a bill committed is a bill doomed. When it goes from the Clerk's desk to a committee-room it crosses a parliamentary bridge of sighs to dim dungeons of silence when it will never return. The means and time of its death are unknown but its friends never see it again.

--Woodrow Wilson, *Congressional Government*

4. Committee reports are important--- and controversial

Committee reports, floor speeches, and even colloquies between Congressmen ... are frail substitutes for bicameral vote upon the text of a law and its presentment to the President. *Thompson v. Thompson*, 484 U.S. 174, 191-192 (1988)(Scalia, J., concurring).

“In my view a law means what its text most appropriately conveys, whatever the Congress that enacted it might have ‘intended.’ The law is what the law says, and we should content ourselves with reading it rather than psychoanalyzing those who enacted it.” *Bank One of Chicago v. Midwest Bank and Trust Co.*, 516 U.S.264,279 (1996).

5. Getting bills to the House floor is a two-track process

- Formally, bills move from the committees to calendars, from which they are called up in order
- Non-controversial bills are in practice considered under “suspension of the rules”
- Controversial bills are in practice considered under a “rule.”

6. There are four major types of rules, in theory and practice

- Open
- Closed
- Modified closed
- Waiver

A Rule: H.Res. 36

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 554) to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. Each section of the bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

A Closed Rule: H.Res.311

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3295) to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes. The bill shall be considered as read for amendment. The amendment recommended by the Committee on House Administration now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration; and (2) one motion to recommit with or without instructions.

A very complicated Rule: H.Res.

100

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the concurrent resolution (H. Con. Res. 83) establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011. The first reading of the concurrent resolution shall be dispensed with. All points of order against consideration of the concurrent resolution are waived. The period of debate on the subject of the concurrent resolution on the budget for fiscal year 2002 that occurred on March 27, 2001, pursuant to the order of the House of March 22, 2001, shall be considered to have been debate on House Concurrent Resolution 83, and the time for debate prescribed in section 305 of the Congressional Budget Act of 1974 shall be considered to have expired. A further period of general debate shall be confined to the concurrent resolution and shall not exceed 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. After such further general debate, the concurrent resolution shall be considered for amendment under the five-minute rule. The amendment specified in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The current resolution, as amended, shall be considered as read. No further amendment shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in part B of the report are waived except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment. After the conclusion of consideration of the concurrent resolution for amendment and a final period of general debate, which shall not exceed 10 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, the Committee shall rise and report the concurrent resolution, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion except amendments offered by the chairman of the Committee on the Budget pursuant to section 305(a)(5) of the Congressional Budget Act of 1974 to achieve mathematical consistency. The concurrent resolution shall not be subject to a demand for division of the question of its adoption.

7. Floor business in the House is scheduled for everyone's convenience

- A whip notice

8. The substantive consideration of bills in the House is in Committee of the Whole

- Advantages
 - Smaller quorum
 - Debate easier (under the 5-minute rule)
- Formally not the House
 - Presided over by a rank-and-file member
 - All amendments that pass must be approved again by the House

9. The Senate differs from the House in being looser

- Getting to the floor is easier and more varied
- Debate need not be germane
- Amendments need not be germane
- Filibuster the 800 pound gorilla

10. Scheduling in the Senate by Complex Unanimous Consent Agreements

(e.g., during consideration of the Better Education for Students and Teachers Act (6/6/01))

Mr. REID. Mr. President, I know there are a number of Senators we have danced round today trying to figure out a time to vote. Prior to this unanimous consent agreement, which will require beginning 5 minutes of discussion at 5:10, the Senator from Delaware, Mr. *Biden*, wishes to speak for about 15 minutes of the approximately 30 minutes that we have on this Dodd amendment.

With that in mind, I ask unanimous consent that at 5:10 p.m. the Senate resume consideration of Bingaman amendment No. 791, that the Bingaman amendment be modified to be a first-degree amendment, and that following 5 minutes of closing debate, equally divided in the usual form, the Senate vote in relation to the Bingaman amendment at 5:15.

Further, following disposition of the Bingaman amendment, there be 4 minutes of debate divided in the usual form on the Voinovich amendment No. 389, as modified, followed by a vote in relation to the Voinovich amendment.

Further, that no second-degree amendments be in order to these amendments. I say to everybody within the sound of my voice that we will have two votes, first at 5:15, and the other following that.

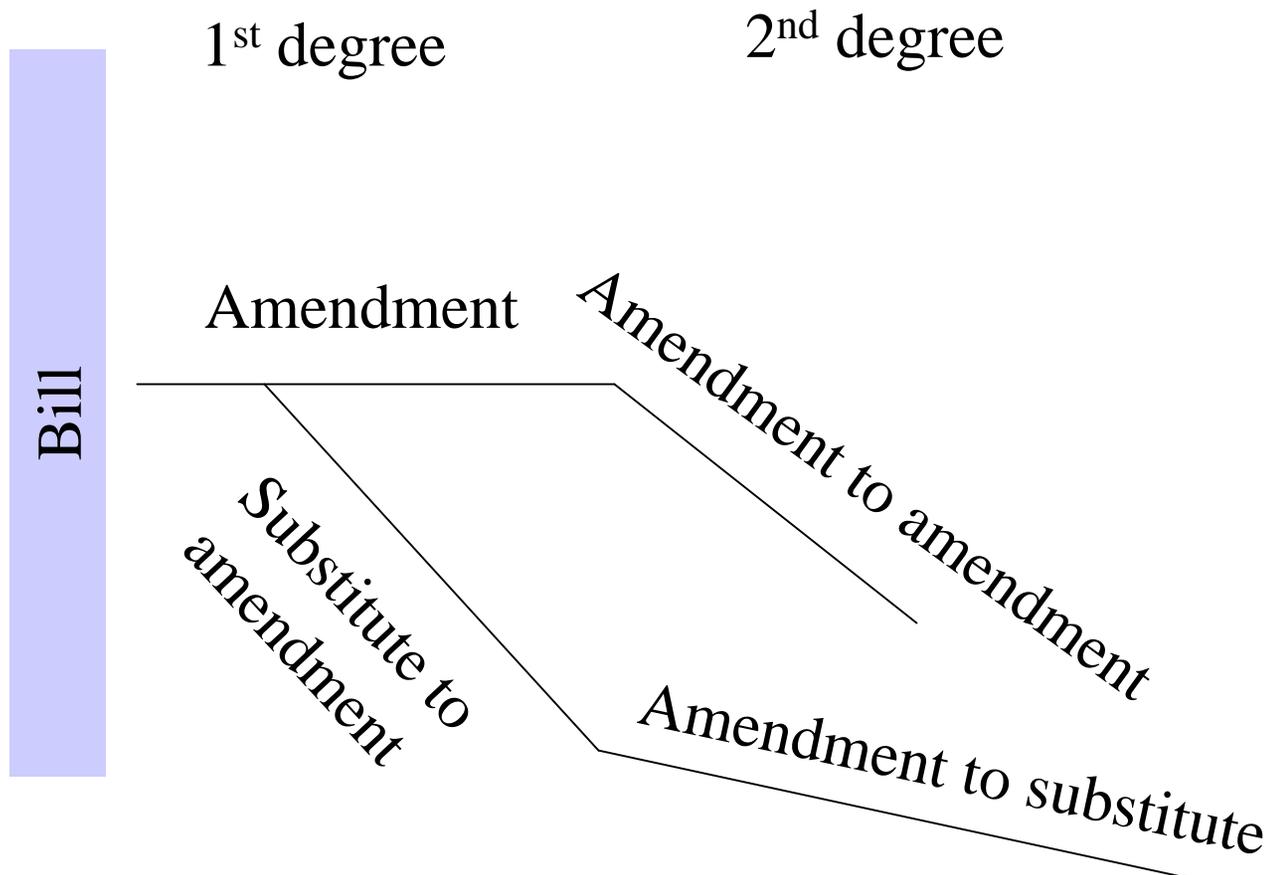
Mr. GREGG. Reserving the right to object, did the Democratic assistant leader decide he didn't want to do the Reed amendment?

Mr. REID. Yes. We are going to try in the morning to dispose of the Dodd and Reed amendments. We are unable to do that because of the lateness of the hour.

Mr. GREGG. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

11. Offering Complex Amendments More a Strategy in the Senate than the House

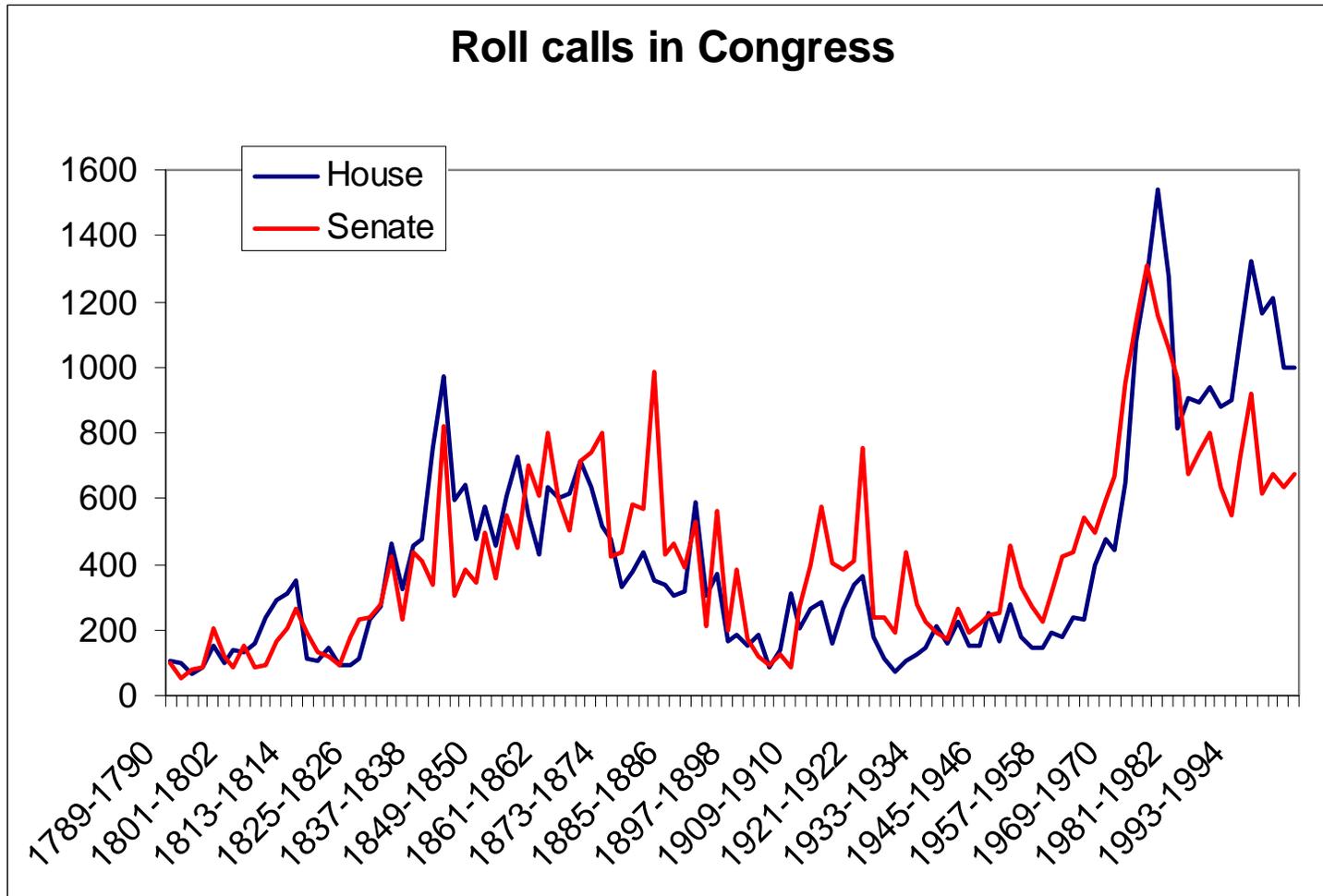


12. Filibusters probably most powerful as the dog that didn't bark

Filibusters in the 108th Congress

- 67 cloture votes in the 108th Congress (61 cloture votes in the 107th Congress)
- 7 votes on nomination of Miguel A. Estrada

13. Roll call votes, in the aggregate, reveal behavior



14. Interest group ratings the most visible practical application of the unidimensional spatial model

- Because groups pick divisive roll call votes, the interest group ratings tend to be more bimodal than reality.
- Ratings like Poole-Rosenthal and Heckman-Snyder are better, because they are based on (almost) all roll calls

ACU vs. P-R Ratings

