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Legislative Procedures and the Legislative Agenda in the House of Representatives

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Summary

This report depicts a process of legislative agenda-setting in the House in which the standing committees first screen the possible agenda of all bills that are introduced, evaluating them and selecting from among them a potential agenda of bills that, in the judgment of the committees, deserve floor consideration. Priorities for considering these bills on the floor are controlled both by the operation of standing rules and by the adoption of special rules proposed by the Rules Committee. These priorities are transformed into short-term schedules and the daily order of business through the political influence of the majority party leaders and especially through the procedural discretion of the Speaker. The House's legislative agenda is embodied primarily in the bills it considers. Individual Representatives may propose floor amendments that present alternatives or additional options, but opportunities to offer amendments are constrained by the germaneness rule, among others, and can be limited by majority vote. Underlying these procedural arrangements is the axiom that the agenda of the House is generally for the House to decide, and the corollary that these decisions generally reflect whatever collective preferences can be assembled from the individual preferences of its Members.

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Introduction

Analyzing the legislative process in the House of Representatives, or any dimension of it such as the development of its agenda, involves abstracting one aspect of this process from its context.[1] This report focuses primarily on the internal arrangements of the House—the procedures and practices by which the House decides what issues it will consider, and how and when it will consider them. Before turning to these matters, several elements of the constitutional and political context within which the House conducts its business deserve brief consideration.

The Constitutional Context

The Constitution imposes some restrictions on the subjects of national legislation and, therefore, on Congress's legislative agenda. Article I enumerates certain powers of Congress, including the powers to raise revenue, to provide for an army and navy, and to regulate commerce among the states and with foreign nations. Congress also is empowered to make all laws which are "necessary and proper" for carrying out its enumerated powers and all other powers that the Constitution assigns to the federal government.[2] On the other hand, the Constitution distinguishes in general terms between the powers of Congress and the powers of the executive and judicial branches, and reserves remaining powers to the individual states and the people. Article I, including the "necessary and proper" clause, has been interpreted

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[1] This report considers the legislative agenda only from a procedural perspective. From a broader perspective, the process of agenda-setting can include the development, definition, and evolution of issues as they attract the attention of, and provoke action by, Congress and the federal government generally (or as they fail to do so). For different approaches to the analysis of agendas and agenda-setting, see, for example: John W. Kingdon, *Agendas, Alternatives, and Public Policies*. Boston, Little, Brown and Company, 1984; Paul Charles Light, *The President's Agenda*. Baltimore, The John Hopkins University Press, 1982; Nelson W. Polsby, *Political Innovation in America*. New Haven, Yale University Press, 1984; Barbara Sinclair, "Agenda, Policy, and Alignment Change from Coolidge to Reagan," in Lawrence C. Dodd and Bruce I. Oppenheimer (editors), *Congress Reconsidered* (3rd Edition). Washington, Congressional Quarterly, Inc., 1985; and Jack L. Walker, "Setting the Agenda in the U.S. Senate: A Theory of Problem Selection," *British Journal of Political Science*, v. 7, 1977, p. 423-445.

[2] The text of the Constitution, with useful commentary by the House parliamentarian, is included in the *House Rules and Manual*, written and compiled in the Office of the Parliamentarian during the first session of each Congress. The full title of the volume is *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States.* The 106th Congress edition is House Document No. 105-358.

by the Supreme Court to permit legislation on a wide range of subjects that are not specifically enumerated in the Constitution. But the "elastic" clause cannot be stretched in all directions and without limit. Moreover, there are subjects on which Congress is expressly forbidden to legislate; for example, the familiar constitutional protections in the Bill of Rights limit Congress's legislative discretion.

The Constitution also defines the formal relationship between Congress and the President. The President may not be a Member of Congress, nor does Congress have any part in electing the President, except under the most extraordinary circumstances.[3] The Vice President is also the president of the Senate but rarely presides and may vote only in the infrequent event of a tie. The President may nominate federal judges and senior officials of the executive branch, but all judicial and many executive branch nominees must be confirmed by majority vote of the Senate, just as treaties negotiated by the President require approval by a two-thirds vote of the Senate before they may be ratified. The President is directed to report to Congress from time to time (in practice, annually) on the "State of the Union" and to recommend such legislative action as he considers "necessary and expedient." He also shares in the legislative power more directly in that he may veto acts of Congress; but a presidential veto may be overridden by a two-thirds vote of both the House and the Senate.

Thus, the President may propose and may veto legislation, but neither of these powers is conclusive. Furthermore, neither the Constitution nor the rules of Congress make any other provision for the President or other executive branch officials to participate in the legislative process (except for the Vice President's position as president of the Senate). Presidential proposals for legislation have no special standing under the Constitution or congressional rules; they enjoy no procedural advantage or priority. Congress is under no constitutional obligation to consider, much less approve, presidential recommendations for legislation; and, if Congress fails to act, the President has no constitutional recourse other than to exercise whatever discretion he already has been granted by law.

Presidential proposals for legislation may take the form of general statements in speeches or written messages. During the 20th century, however, and especially during recent decades, Presidents and executive branch officials acting with the President's concurrence also have proposed specific drafts of legislation they wish to see enacted. Nonetheless, the limits on the President's formal legislative powers are epitomized by the fact that each of his legislative proposals must be introduced by a Representative or Senator if it is to receive formal congressional consideration. This obstacle is easily overcome; a presidential proposal is introduced by his supporters in Congress or, as a courtesy, by the chairmen of the House and Senate committees with jurisdiction over the subject of the proposal. But this obstacle is as important in principle as it is trivial in practice.

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[3] The Twelfth Amendment to the Constitution provides that, if no presidential candidate receives a majority of the electoral votes, the House of Representatives shall vote by state delegation to elect the President from among no more than three persons receiving the greatest number of electoral votes. Under the comparable provision of the Constitution as originally ratified, the House elected Thomas Jefferson as President in 1801, neither Jefferson nor any other candidate having received a majority of the electoral votes.

The President is an influential participant in the legislative process, of course; he can have as much or more influence on the legislative agenda as any Member or entity of Congress. Nonetheless, presidential influence over the congressional agenda, and over legislative decisions as well, is grounded more in his political strength than in his constitutional or other formal powers. A President bases his election campaign on a agenda for government action, however general it may be. Once elected, he can use the resources of his office and the public attention he commands with great effect in attempting to persuade Congress to act—directly by negotiating with Representatives and Senators, or indirectly by mobilizing public support for his program. Congress is likely to give serious consideration to the proposals on which the President lays greatest stress, but Congress responds to presidential initiatives by choice—or by political, not constitutional, necessity.

In a celebrated analysis of the presidency, Professor Richard Neustadt characterized presidential power as the power to persuade:[4]

> The separateness of institutions and the sharing of authority prescribe the terms on which a President persuades. When one man shares authority with another, but does not gain or lose his job upon the other's whim, his willingness to act upon the urging of the other turns on whether he conceives the action right for him. The essence of a President's persuasive task is to convince such men that what the White House wants of them is what they ought to do for their sake and on their authority.

Although Congress always has been concerned with preserving its constitutional powers and position, it has come to accept and even welcome presidential efforts to persuade. For reasons to be developed later in this report, Congress as an institution has difficulty in setting priorities among the many and often conflicting demands made upon it. Effective presidential persuasion, direct or indirect, helps to focus congressional attention in ways that presumably respond to public preferences. By the same token, however, the President also must be selective in his attempts to persuade Congress to act (or not to act). His resources for persuasion are limited, so his efforts must be targeted. A President who attempts to overload the congressional agenda may achieve little because he diffuses his persuasive efforts and fails to convey a clear and consistent sense of direction and priority.

Congressional agenda-setting, however much influenced by presidential persuasion, is complicated by its constitutional context in another important respect. By constitutional arrangement, the House and Senate differ in size, length of terms, and constituencies. These differences are accompanied by deeply entrenched differences in legislative procedures and occasional differences in partisan control. As a result, relations between the two halves of Congress involve competition and conflict as well as cooperation.

In constitutional powers, the two houses of Congress are roughly equal; each has unique prerogatives that it usually guards jealously. Both houses must agree

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[4] Richard E. Neustadt, *Presidential Power*. 1980 ed. New York: John Wiley & Sons, Inc., 1960. p. 27.

before a bill can become law, and neither house consistently dominates the other; nor is there any authority, other than an electorate fragmented by state and district boundaries, to which both are accountable. Each chamber has the constitutional power to select its own officers, devise its own rules, and, by implication, set its own agenda. There are no congressional leaders; there are only House leaders and Senate leaders, with no formal mechanisms for coordination between them. For many purposes, each house is autonomous. The House and Senate typically refer to each other as "the other body," reflecting a sense of separateness between the two houses that is far greater than the physical distance between the two wings of the Capitol building. When Representatives and Senators meet in a conference committee to resolve specific legislative differences between them, their discussions can take on the aura of bilateral treaty negotiations.

There is no congressional agenda as such. Each house generally is free to decide for itself what matters it will consider and when it will consider them. To be sure, there are constraints on this freedom of action. Certain laws must be enacted each year—the activities of the federal government must be funded before the new fiscal year begins—and presidential influence, popular sentiment, and national and international emergencies can provoke the House and Senate to give priority to the same matters. In such cases, however, the two houses are responding independently to the same requirements, pressures, or developments. Neither house has the constitutional power to compel the other to act. From time to time, the House or Senate will even act on a matter in the knowledge that the other house is unlikely to follow suit. The enactment of a law reflects independent decisions by majorities in the House and Senate that such action is necessary or desirable. It bears repeating that, in this most important sense, there is no congressional agenda; there is a House agenda and a Senate agenda, and they do not always coincide.

The Political Context

If constitutional arrangements militate against a process of legislative agenda-setting that draws both houses of Congress together with each other and with the President, elements of the political context complicate the process of agenda-setting within the House of Representatives itself, and even among the members of the majority party in the House.

Political parties can unify what constitutions separate. However, the nature and condition of the national political parties in the United States, together with the single-member districts from which Representatives are elected, limit the impact of party priorities on arranging the agenda and policy choices of the House. The importance of party should not be underestimated. Representatives' party affiliations have been the best general predictor of how they will vote, and majority party leaders and their allies have a profound influence on the business the House conducts. But straight party-line votes are far more the exception than the rule—certainly in comparison with most European parliamentary regimes—and there are influences on the House's legislative agenda over which party leaders have no formal control and only limited influence.

While the form and condition of a party system cannot be attributed solely to any one set of factors, the structure of national elections and representation does not

promote strong party government in the United States. A powerful presidency elected by a majority of the Electoral College (that almost always reflects a national plurality) has encouraged a coalescence of factions into a two-party system. Historically, third parties have had great difficulty attracting, and especially maintaining, widespread support in federal elections because they have been unable to contest seriously for the single most visible and valuable prize, the presidency. The result has been two parties with different centers of gravity but overlapping national constituencies in Presidential elections.

At the congressional level, however, candidates of the two parties run for the House in 435 separate single-member districts that are geographically, economically, and socially diverse. An unequivocal party position that has strong appeal in some districts would be overwhelmingly rejected in many others. But party positions usually are not unequivocal, and they are not staked out by national party organizations, except for the platforms adopted at the quadrennial presidential nominating conventions. The national party organizations have tended to be skeletal, and their chairmen usually have been managers more than policy spokesmen or political leaders in their own right. The President is the acknowledged leader of his party, but there is no officially designated leader of the "opposition," nor are there any well-developed mechanisms for reaching and enunciating national party positions on issues as they arise. Between presidential elections, the contest between Democratic and Republican positions more often than not is really a contest between the position of the President and the predominant position of the opposing party's members in Congress, as articulated by the leaders they have elected.

In the absence of strong national party organizations and mechanisms for setting and promoting party positions, party discipline in Congress can be difficult to define and still more difficult to enforce. The majority party in the House enjoys organizational control and, if it is sufficiently unified, procedural control as well; and it is on organizational and procedural votes that Representatives are most expected and likely to support their House party leaders. Because there are no authoritative positions of the national parties *per se*, the same degree of party unity often is neither expected nor achieved on policy matters. Furthermore, national party organizations, Presidents, and party leaders in Congress have relatively little direct influence over Representatives' re-election prospects (and even less impact on Representatives' nominations), and House party leaders have only limited control over Representatives' prospects for achieving their personal and policy objectives in the House.

At the same time, Representatives have become less and less beholden to state and local party organizations. Like the national parties, state and local parties generally are organized to win elections more than to promote specific policies. Historically, they have been better organized than the national parties, but subnational party organizations are not as strong today as in decades past. They also tend to be more concerned with the election of state and local officials than with the election of Representatives, whose districts may not coincide with state or local political boundaries; so, many of these organizations can do, or choose to do,

relatively little to aid House candidates.[5] For example, they usually can provide only a small fraction of the increasing amounts of money needed to wage an effective campaign in a closely contested district. Party support can be valuable but rarely is it decisive.

Primary elections for the House also tend to weaken control of nominations by the party organizations. In most states, anyone who can meet low threshold requirements can compete for a party's nomination, and the winner of the primary becomes the party nominee, whether he or she has the support of the local party leaders. In most districts, the costs of campaigns and the impact of mass media have reduced the value of endorsements by party organizations, encouraging some local party leaders to remain neutral in congressional primary contests. In short, most Representatives and congressional candidates have become political entrepreneurs—deciding for themselves to run for office, developing their own positions and campaign organizations, devising their own campaign strategies, attracting their own supporters and contributors, and linking themselves to other party candidates only when it serves their own interests.

These political conditions have profound meaning for the incentives and calculations of Representatives, the position of their party leaders in Congress, and the influence of individual Representatives on the legislative agenda. Members of the House have the political freedom as well as the political reasons for advocating policies that their party colleagues and leaders may oppose. In deciding where they stand, Representatives tend to look to their constituents before their party leaders, especially national party leaders. District interests do not always prevail but they can never be ignored, and they are to be protected and promoted whenever possible. Representatives are bound to their fellow party members in Congress by shared loyalties and usually by shared convictions, as well as by a common desire to achieve or maintain majority control in Congress and win the presidency. They cooperate with each other and support their congressional leaders whenever, in their individual judgments, they can do so.

The task of leadership in Congress is much like that of presidential leadership—to lead by persuasion, not merely by exercise of formal powers. The powers of a cohesive majority and its leaders are formidable, but the procedures of the House recognize that the political system promotes congressional individualism. The agenda-setting procedures and practices that are discussed in the remainder of this report reflect the fact that, to a greater or lesser degree, every Representative has his or her own legislative agenda and considerable independence to promote it, though not necessarily to achieve its enactment.

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[5] "The task of the congressman's personal organization is to keep him in Congress. The task of the local party organizations is to keep the party in control of local offices." Richard F. Fenno, Jr. *Home Style: House Members in Their Districts*. Boston, Little, Brown and Company, 1978. p. 113.

The Committee System and Agenda Control

During the 106th Congress (1999-2000), 5,761 bills and joint resolutions were introduced in the House of Representatives; another 372 such measures were passed by the Senate and sent to the House for consideration. Of this total of 6,133 bills and joint resolutions—which represented the possible legislative agenda for that two-year Congress—only 524, or about 8.5%, became law.[6] Any Representative may introduce virtually any bill at any time during the two-year life of a Congress. The introduction of a bill is a matter of right; no special permission is required. It is also a routine act. The Representative sponsoring a bill need not make any statement about it; he or she has only to present it on the House floor when the House is in session. And at introduction, all bills enjoy the same standing regardless of the party or position of their sponsors.

Thus, the legislative process in the House of Representatives (and the Senate) is in part a process of agenda control—a process of selecting from among the thousands of measures introduced the relatively few that will reach enactment. The rules of the House assign primary responsibility for the initial screening and filtering to its system of standing legislative committees (and their subcommittees), each of which has jurisdiction, pursuant to House rules, over bills that address certain subjects. In most cases, a bill that is introduced (or received from the Senate) is immediately referred to the appropriate committee.[7] In some cases, a bill may be referred to two or more committees if each has jurisdiction over part or all of it.

The committees constitute a system of division of labor by which the House designates certain of its Members to become experts in certain arenas of policy and to make recommendations to the full membership. But the committees are equally important for what they do not do. During the 106th Congress, the standing committees of the House reported (or recommended for passage) a total of 651 bills and joint resolutions from among the total of 6,133 that Representatives introduced or the Senate passed. What makes this figure so significant is that a measure that is not reported stands little chance of becoming law. Committee approval is not necessarily conclusive; committee disapproval usually is.

Constraints on Committee Agenda Decisions

This first agenda decisions are made by each committee as it decides which of the many bills referred to it will be considered. The committees are creatures of the House and subject to its control, but it would be extraordinary for the House to

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[6] A law may originate as either a bill or a joint resolution; joint resolutions usually are used for more limited purposes than bills. For simplicity, references in this report to bills should be understood to refer to joint resolutions as well. These totals include some bills and joint resolutions that are identical to others, but do not include House resolutions and House and Senate concurrent resolutions on which the House may act but which are not submitted to the President and so cannot have the force of law.

[7] The exceptions include the relatively few bills which are so noncontroversial that they are considered briefly by the full House and passed at the time they are introduced or received from the Senate.

formally direct one of its committees to give priority to a particular bill or to bills on a particular subject.[8] However, agenda decisions within each committee are influenced by party leaders and the President; they also are constrained by emergency circumstances and recurring deadlines for legislative action.

The authority of the federal government to spend money to finance most programs and activities must be renewed at least once a year. For this purpose, appropriations bills usually are reported by the House Appropriations Committee during the spring of each year so that they can be enacted by October 1, the beginning of the new fiscal year. House and Senate rules also anticipate that Congress will complete action on a concurrent budget resolution each spring as a framework for subsequent consideration of spending and revenue bills. Thus, most actions of the Appropriations and Budget Committees, as well as the timing of their actions, are controlled by the fiscal calendar or the requirements of House rules.

With one significant exception, there are few such constraints on the agendas of the other legislative committees. That exception derives from the requirement of House rules—specifically, clause 2(a) of Rule XXI—that a law must first be enacted to authorize the appropriation of funds for a federal agency, program, or activity before the appropriation to carry out that purpose may be considered on the House floor. Because many of these authorizations are supposed to be renewed either annually or periodically, the sequence of authorizations before appropriations has a significant effect on the agendas of almost all the other legislative committees, which have jurisdiction over authorization bills, as well as on the floor agenda of the House itself. Ideally, committees should report their authorization bills during the first months of each year so they may be enacted in time to permit the orderly consideration of appropriations bills. However, the authorization requirement is not imposed by the Constitution; it is a requirement of House rules and can be waived or ignored if the House chooses to do so. And, because of the number and complexity of the authorization bills, and the controversy surrounding some of them, the House sometimes has found it necessary to act on appropriations for which the authorizations have not yet become law.

Thus, the authorization requirement need not constrain House committees if the House is prepared (as it often is) to waive that requirement in order to permit timely consideration of the related appropriations. Moreover, the time constraints on committees in reporting authorization bills do not affect the committees' latitude in deciding on the provisions of those bills. The committees may propose whatever authorization levels they consider necessary (which, if enacted, then become ceilings on the amounts that may be appropriated without violating House rules). Also, authorization bills almost always include changes in agency powers and responsibilities, program requirements and procedures, and similar matters. The committees are under few formal constraints in making these recommendations to the House.

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[8] Exceptions are "reconciliation" bills, which result from instructions given by Congress in a budget resolution, directing House (and Senate) committees to propose changes in laws within their jurisdictions that will result in specified changes in federal spending, revenues, or both.

Agenda-Setting in Committee

Within these constraints, each committee is free to determine its own agenda. Early each year, the committees prepare reports that discuss the spending and revenue implications of the legislation they anticipate recommending during the remainder of the year. These reports assist the Budget Committee in proposing the budget resolution that Congress is to adopt by April 15. However, these reports are not always specific and detailed, and the committees are not bound by them. More generally, House rules neither require not anticipate that committees will develop a formal legislative agenda for one or both sessions of a Congress. Although committee members may share an understanding of what their priorities will be, their understanding usually is not given formal expression, and their priorities may change to accommodate unexpected developments, presidential requests, scheduling difficulties, and political exigencies.

Agenda decisions in committee need not be collective decisions. Clause 2(c) of House Rule XI authorizes committee chairmen to schedule meetings "for the consideration of a bill or resolution pending before the committee or the transaction of other committee business, subject to such rules as the committee may adopt." The same rule also includes provisions by which a majority of a committee's members may require that a meeting be called for a specific purpose, even over the chairman's opposition, but there are several reasons why this procedure is very unlikely to be invoked. First, committee members prefer not to confront their chairman in such a direct and public way, knowing that his or her support can be crucial if they are to achieve their own legislative objectives. Second, the majority party members of a committee are inclined to support their chairmen on organizational and procedural questions. And third, chairmen are selected every two years by the members of the majority party in the House. Chairmen who seriously thwart the will of their committees, including members of their own party, risk provoking opposition to retaining their leadership positions at the beginning of the next Congress.

In general, then, committee chairmen exercise considerable agenda control. But in doing so, they must take account of their committee colleagues. The power of committee chairmen was limited in recent years by a series of developments that enhanced the role and autonomy of subcommittees. No longer did committee chairmen appoint subcommittee chairmen and majority party subcommittee members; beginning in the mid-1970s and continuing for the next two decades of Democratic majorities in the House, Democratic committee members elected subcommittee chairmen and chose their own subcommittee assignments. Subcommittees also gained increased control over their budgets and staff, thereby giving them greater control over their own agendas. Finally, most subcommittees came to have fixed jurisdictions and to receive measures within their jurisdictions when they were referred to the committee.

Collectively, these developments meant that subcommittee agenda decisions became more difficult for the full committee and its chairman to control. Within each subcommittee, the chairman generally came to enjoy as much or more agenda control as did the chairman of the committee in deciding its priorities and schedule. A subcommittee decision to act—to hold hearings and then to report its recommendations for legislation—usually was not directly and formally controlled

by the committee, although subcommittee agendas might be coordinated informally by subcommittee and full committee leaders. Committee rules might include a procedure by which the committee, by majority vote or decision of its chairman, could consider a bill on which the subcommittee to which it was referred failed to act. However, informal negotiations and accommodations always are considered preferable to any such formal action; committee members tended to protect subcommittee prerogatives because they held or could expect to hold positions of subcommittee leadership themselves.

The Republican majority that took control of the House in 1995 strengthened the influence of party leaders and the majority party conference over committees and their chairmen, and also returned to committee chairmen some of the authority over subcommittees that they had lost during the preceding two decades. Especially during the 104th Congress, committees and their chairmen often were guided by the majority party's legislative program, and subcommittees sometimes were bypassed in order to expedite the legislative process. To some extent, committees reasserted themselves during the 105th Congress as the House returned to a more typical legislative pace, but the imposition of term limits on committee chairmen may have an important long-term impact on the influence that chairmen are able to exercise *vis-à-vis* both their committees and the House as a whole.

Notwithstanding these recent developments, committee agendas still may reflect subcommittee agendas. When a subcommittee fails to act on a bill, its parent committee may not be inclined to take it up in the absence of compelling political necessity or an externally imposed deadline (such as the approaching end of the fiscal year). Indeed, subcommittee inaction may be welcomed as a way to protect the members of the full committee from issues they prefer not to confront. On the other hand, subcommittee action may create pressure for full committee action, and the timing of subcommittee action can limit committee control over its own schedule. The relationships between committees and their subcommittees continue to be characterized by cooperation more often than by conflict. Subcommittee chairmen who set agendas that fail to meet the needs and preferences of their party colleagues, on the committee and in the House, risk losing their chairmanships at the beginning of the next Congress.

The formal process of subcommittee or committee consideration normally begins with one or more public hearings at which other Representatives, executive branch officials, and leaders of private groups and organizations comment on the legislation and the issues it addresses. Even before these hearings, the subcommittee often requests a written statement of position from the executive branch department or agency that would be responsible for implementing the bill if it were to be enacted. Based on this record, the subcommittee may conclude that no legislative action is warranted, at least at that time, and the bill is removed from the active agenda. If the subcommittee decides to proceed, its chairman schedules a "markup" meeting at which the members vote on amendments to the bill they wish to propose to the House.

When the subcommittee reports its actions to the full committee, the same process may be repeated. Additional hearings at this stage are more the exception than the rule, but major bills are likely to be marked up again by the full committee,

at which time the subcommittee's proposed amendments may be approved or rejected. The committee then votes to report the bill back to the House with the recommendation that the House pass it after first adopting the amendments the committee proposes. Alternatively, the committee may report a "clean" bill that already incorporates these amendments. The reported bill is accompanied by a written report that explains the committee's actions and recommendations.

The vast majority of bills do not survive the process of selection and consideration in committee. In fact, the process of hearings and markup can be so time-consuming and the time pressures on Representatives so great that hearings usually are not even scheduled on a bill unless the subcommittee chairman and at least some of his colleagues already believe that some legislative action may be necessary.[9] Similarly, not all bills approved by subcommittees are considered by their full committees. The time available for committee meetings also is limited, and committees generally consider it wise to be selective in the number of bills they recommend to the House for passage. Furthermore, subcommittee and committee agenda decisions are influenced by what their members believe will be acceptable to their other House colleagues. The reputation and influence of a committee, and especially its leaders, within the House depend in part on the willingness of the House to accept its recommendations. With this in mind, a committee may decide not to report a bill even though a majority on the committee may favor it, or the committee may report the bill but then not press for it to be considered on the House floor.

If the committee does not report a bill, the Representatives who support it have little in the way of effective recourse. House Rule XV, clause 2, does provide a procedure by which a majority of all Representatives may sign a petition to discharge the committee from further consideration of the bill. If sufficient signatures are obtained, the House votes on whether to discharge the committee and then on whether it wishes to consider the bill. This procedure rarely has been invoked successfully, though the prospect of being discharged sometimes may have provoked committees to act when they might not otherwise have done so. Some Representatives have been reluctant to sign discharge petitions even though they supported the bill at issue, arguing that the discharge procedure undermines the established prerogatives of committees generally and, implicitly, that a pattern of successful discharge efforts could ultimately jeopardize the prerogatives of their own committees. The House amended its rules in 1993 to make public for the first time the names of Members who sign discharge petitions. This was done in the expectation that it would become somewhat easier to attract the 218 signatures that a successful discharge petition requires.[10]

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[9] On the other hand, a subcommittee or committee may hold hearings with no expectation of recommending legislation—for example, as a way of ventilating the issue, giving the bill's proponents an opportunity to be heard, or laying the groundwork for action at some later time.

[10] Another alternative that Representatives may pursue is to encourage the Senate to take the legislative initiative, in the hope of prompting House committee action or with the possibility of bypassing the recalcitrant House committee altogether. Also, the Rules Committee may report a resolution providing for floor consideration of a bill that has not yet been reported

(continued...)

In light of the powerful veto that committees can and do exercise, proponents of legislation attempt to influence committee and subcommittee agendas. The President as well as private individuals and groups may lobby for committee action, both by arguing the merits of their case and by demonstrating the breadth and intensity of support for the bill they endorse. The bill's supporters in Congress may attempt to persuade their colleagues on the committee and demonstrate support for the bill within the House by such methods as seeking co-sponsors for the bill from a broad cross-section of the House and especially from influential Representatives—including, if possible, members of the committee itself. In some cases, the goal of such efforts is not to transform opponents into proponents, but instead to increase the visibility of a bill that otherwise might simply be lost in the press of other business. On the other hand, opponents can be equally successful in stressing the political and policy disadvantages of the bill, and in encouraging their allies on the committee to prolong the process of committee consideration, in the hope that the bill will be removed eventually from the committee's agenda in favor of more pressing and less controversial matters. By and large, the advantage normally rests with the opponents of legislative action.

Rules, Special Rules, and the Floor Agenda

When a House committee reports a bill—*i.e.*, when it returns the bill to the control of the full House with a recommendation that the bill be passed, with or without amendments—the bill normally is referred to one of two calendars. According to clause 1 of Rule XIII, authorization, appropriations, and tax bills are placed on the Union Calendar; other public bills appear on the House Calendar. The two calendars taken together may be thought of as a catalogue of bills that have survived committee scrutiny and are now available for consideration on the floor by the full House. If the bills that are introduced can be said to constitute a *possible* agenda for the House, the bills on these two calendars constitute a *potential* floor agenda.[11] Each reported bill has been studied and found worthy by the House's designated committee experts. At this stage, the agenda problem for the House becomes one of transforming this potential agenda into a *prospective* agenda of bills on which floor action is expected in the near term, and finally, into the *actual* agenda or schedule for the daily conduct of business.

The various legislative committees of the House can consider bills simultaneously, but the bills they report must be taken up on the House floor one at a time. Some bills on the calendar die at the end of each Congress for lack of time for floor consideration, so a selection process is unavoidable. A mechanical answer would be to call bills to the floor in the order in which they appear on the calendars,

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[10](...continued)
by the committee with jurisdiction over it. However, the Rules Committee rarely invokes this power of "extraction" over the intense opposition of another committee.

[11] Minor and emergency bills are the only ones that often reach the House floor without prior committee action. If a bill has been referred to committee, the House may not consider it until the committee reports it or is discharged from further consideration of the bill. The committee may be discharged by unanimous consent when possible or through the more elaborate procedures of Rule XV when necessary.

which is the order in which they are reported from committee. However, this procedure would not permit necessary differentiations between the critical and the insignificant, nor would it ensure timely action on bills that confront deadlines such as the beginning of the new fiscal year for appropriations bills. Some more discriminating procedure is required.

At one extreme, agenda decisions could be delegated to a single leader, and between roughly 1890 and 1910, it could be argued without much exaggeration that the Speaker enjoyed such power as the elected leader of the majority party. But this is no longer the case. At the other extreme, decisions affecting the floor agenda could require the unanimous concurrence of all Members; in daily practice, the Senate's rules encourage reliance on procedures that approach this limit. Generally speaking, the rules of the House seek the middle ground of majority control. Although the specific procedures to be discussed are varied and rather complicated, they are permeated by a single principle: when the votes of a simple numerical majority are sufficient to pass a bill, the decision to consider it also can be controlled by the same majority.

Privileged Business Under House Rules

The rules of the House provide for arranging the floor agenda by applying the concept of "privileged" business. In brief, a bill that is privileged may be called up for consideration on the floor out of its order on the House or Union Calendar. To put it somewhat differently, privileged business may interrupt the daily order of business that is listed in the House's rules. In fact, this order of business under clause 1 of Rule XIV is never followed, save for the routine proceedings at the beginning of each day's session. Virtually all legislative business that is transacted on the House floor is an interruption of the regular order of business and is privileged by virtue of House rules, by vote of the House, or by unanimous consent. In practice, a bill that does not gain privilege by one of these means cannot be considered on the floor; a motion to consider it may not interrupt the regular order of business and, therefore, is not in order. Thus, House rules affect the floor agenda by designating certain classes of bills as privileged and by establishing procedures by which other bills become privileged.

General Privilege. The rules grant privilege to bills and resolutions on certain subjects and for certain purposes, but only if those measures have been reported by the appropriate committees. Under clause 5(a) of Rule XIII, for example, privilege extends to general appropriations bills, to budget resolutions and budget reconciliation bills, and to House resolutions concerning changes in House rules, the conduct of Representatives and House employees, election challenges affecting Representatives, and certain expenditures for House operations. These matters generally concern either the integrity and proceedings of the House itself or the performance of what is usually considered to be the core constitutional power of Congress—the "power of the purse."

It is in order for the committee that has reported one of these privileged bills or resolutions to call it up for action on the floor at any time that another matter is not already under consideration. However, a variety of other matters also are privileged, including conference reports on legislative disagreements between the House and

Senate, certain Senate amendments to House bills, and bills that the President has vetoed. Furthermore, House rules do not establish a fixed and certain order of precedence among all privileged matters; if each of two Representatives wishes to call up a privileged bill or other matter, the rules do not always determine which of them is to be recognized first. The effect of this situation is to leave some important discretion to the Speaker in arranging a specific order of business from among the various matters that enjoy privileged access to the House floor.

Putting the exercise of this discretion aside for the moment, the grant of general privilege by House rules has the effect of moving privileged bills from the potential agenda of bills on the Union and House Calendars to the prospective agenda of bills that can be expected to come to the floor in the near future.[12] But the rules do not require that privileged bills be considered, though they usually are. By one means or another, a numerical majority on the floor usually has an opportunity to vote to block consideration of a bill, thereby avoiding the need to vote for or against it on its merits. Such a vote is rarely necessary, however, because even privileged bills are not called up for floor action unless there is good reason to expect that the House is prepared to pass them. For these bills, unlike bills that are not privileged, the question affecting their fate usually becomes when, not whether, they will be considered on the floor.

Among the legislative measures that can become law, general appropriations measures and budget reconciliation bills are the only ones that frequently reach the floor by virtue of their general privilege under House rules. The rules do not grant such favored status to most bills. Instead, the rules include a number of devices by which the vast majority of non-privileged bills that the House considers are made in order. In the case of general appropriations bills and the other matters that are generally privileged, the House has determined over the years that privilege should extend to them as a class—because of their subjects and without regard to their specific provisions. Two additional devices to be discussed also are designed to facilitate floor action on certain limited classes of legislation—private bills and bills affecting the District of Columbia. There are five other devices by which bills are moved from the potential to the prospective agenda on a case-by-case basis, because of their individual merits and circumstances, not because of the general nature of the subjects they address.

These seven devices may be summarized as follows:

1. motions to discharge House committees from further consideration of bills they have not reported, making discharged bills eligible for floor consideration;

2. procedures known as Calendar Wednesday, by which committees may call up nonprivileged bills they have reported but which have not reached the House floor by more conventional routes;

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[12] House rules generally require that the written committee report on a bill, even a privileged bill, be available for three days before the bill may be considered on the floor. This delay permits time for Representatives and their staffs to become familiar with the committee's recommendations before they are debated.

3. special procedures for considering bills concerning the District of Columbia;

4. procedures for the call of a special calendar of private bills affecting specific individuals or entities;

5. procedures for the call of the "Corrections Calendar" for bills that enjoy widespread support in the House;

6. procedures known as suspension of the rules for expeditious consideration of relatively noncontroversial bills; and

7. special rules adopted by the House, at the recommendation of its Rules Committee, that provide for consideration of individual, nonprivileged, bills.

These devices are not equally important, nor are they employed with equal frequency. Some are well-suited to relatively minor bills; others are used to consider more controversial bills. In a sense, the first six of these procedures are alternatives to the seventh, which usually is the most complicated and time-consuming, because it is through the Rules Committee that the most important nonprivileged bills usually reach the floor. The six alternative devices are generally used (if used at all) to deal with bills that are either routine or extraordinary, and they will be discussed first.

Special Days for Privileged Action. House rules designate specific days of each week and month for transacting certain kinds of legislative business. The effect of these rules is to make the appropriate kinds of bills privileged for consideration on the designated days. Of the six rules with this effect, two are designed to protect the House against its own committees.

First, the second and fourth Mondays of each month are set aside for voting on motions by which a majority of Representatives can discharge a committee from further consideration of a measure that it has not reported (clause 2 of Rule XV). If the House votes to discharge, a motion to consider the measure at issue then is privileged.

Second, each Wednesday is available to committees that want the House to consider bills they have reported that have not otherwise become privileged for floor consideration. This procedure, known as Calendar Wednesday, usually is dispensed with each week by unanimous consent; the House also may dispense with Calendar Wednesday by a two-thirds vote (clause 7 of Rule XV.)

These two devices are designed to respond to unusual circumstances, and they are rarely used; but they are preserved in the rules as means by which a voting majority on the floor can retain control of its own agenda. Through a discharge motion, that majority can overcome the powerful negative influence of the standing committees over the potential floor agenda. The majority can propose to bring a bill directly and immediately to the floor over the opposition or disinterest of the committee of jurisdiction. Through Calendar Wednesday, the committee that has

reported a bill can overcome the purported inaction or indifference of the Rules Committee or the majority party leadership (the implications of which are discussed below) if the full House is prepared to consider the bill. Any committee may use this procedure to propose one of its nonprivileged bills for floor consideration, but the House retains the authority to vote against considering it.

The other four devices are used to transact business that is far more routine; consequently, they are invoked more frequently. First, the first and third Tuesdays are set aside for the consideration of private bills—usually minor bills that affect only one individual or entity (clause 5 of Rule XV)—if any such bills have been reported and are awaiting floor action. On the designated days, each bill on the Private Calendar is called up and passed almost immediately—usually without any debate or amendments—but only if there is virtually no opposition to its passage. Second, the second and fourth Mondays are designated not only for considering discharge motions but also for considering bills concerning the District of Columbia—a subject of lower priority to most Representatives (clause 4 of Rule XV). Although only a majority vote is necessary to pass District bills, they usually require and consume less time on the floor than would be required in most cases if they were to be considered through more conventional procedures.

In short, by designating days for District of Columbia business and for the call of the Private Calendar, House rules set aside predictable and convenient opportunities for the House to act expeditiously on bills that are generally routine and non-controversial.

Third, on every Monday and every Tuesday, the Speaker may recognize Representatives to move to suspend the rules and pass a particular bill that usually is, but need not be, on the Union or House Calendar. When this motion is made, a special set of procedures is triggered by which the bill is debated for no more than 40 minutes, with no floor amendments to it in order, before a single vote occurs on suspending the rules and passing the bill. But to pass a bill under suspension of the rules requires a two-thirds vote (clause 1 of Rule XV).[13] Bills considered in this way are not expected to pass without opposition, but they are expected to enjoy such overwhelming support that there is no need to devote more than 40 minutes to each of them.

Finally, in 1995 the House created a new Corrections Calendar and fixed the procedure for considering bills placed on it (clause 6 of Rule XV). After a committee has reported a bill and it has been entered on the Union or House Calendar, the Speaker has the authority to have it placed also on the Corrections Calendar. On the second and fourth Tuesdays of each month, the Speaker may decide that the House will consider one or more bills on this special calendar. As each bill is called up, it is debatable for only one hour and it cannot be amended

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[13] A quorum (a simple majority of the Representatives actually serving) is supposed to participate in every vote. Thus, the minimal number of votes needed to pass a bill under suspension of the rules without violating this quorum requirement is 146 (two-thirds of a quorum of 218, assuming there are no vacancies in the House membership). However, a vote in which a quorum does not participate is considered conclusive unless a Representative makes a point of order that the quorum requirement was not met.

except for amendments proposed by the committee that reported it or by the committee's chairman (and one amendment included in a motion to recommit with instructions). Like suspension of the rules, the Corrections Calendar procedure limits Members' opportunities to debate and propose amendments. Also like the suspension procedure, therefore, the Corrections Calendar rules require more than a simple majority vote to pass a bill in this way. Instead of a two-thirds vote, however, a three-fifths vote is needed to pass a bill called up from the Corrections Calendar.

The six procedures just summarized merit several additional comments. First, three of these procedures—District of Columbia day, discharge motions, and Calendar Wednesday—each provide for a bill to be passed by simple majority vote, and in each case, the same majority can vote not to consider the bill. The House can defeat the discharge motion or it can vote against considering a bill called up on District day or on Calendar Wednesday. The question of consideration rarely is raised, but it remains available as a protection for the majority against being compelled to vote on a bill it does not wish to consider. The three procedures provide opportunities for committees or for a majority of Representatives (through a discharge petition) to propose bills for the House to consider, but it remains for the House to decide whether it will do so. These are majority vote procedures, and the majority retains ultimate control in deciding what bills to consider under them.

In the case of the Private Calendar, objections by only a few Members are sufficient to prevent bills from being considered. Under these procedures, therefore, the question of majority control of the floor agenda does not arise because consensus is required before a bill on this special calendar can be debated, much less passed. On the other hand, when a Representative moves to suspend the rules and pass a bill, that bill is immediately before the House for debate and disposition. There usually is no way that a majority can vote not to consider the motion and the bill.[14] Similarly, the Speaker is empowered to present a committee-reported bill from the Corrections Calendar for the House to consider. For a bill to pass under either procedure, however, more than a bare majority of the Representatives voting must support it. The majority loses a certain degree of agenda control, but only under conditions that require an extraordinary majority for passage. And a bill that fails to pass under any one of these three procedures may be considered on the floor again—this time under more elaborate procedures, permitting amendments and lengthier debate in Committee of the Whole, that require only a simply majority vote for passage.

Second, only four of the six procedures are used with any frequency—the discharge and Calendar Wednesday procedures are rarely attempted and less often successful—and these four are expediting procedures. Through them, House rules reserve regular and predictable occasions for disposing of business that is not especially contentious. District and private bills usually are noncontroversial because of the subjects with which they deal. Bills considered under the suspension

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[14] When the House amended its rules during the 1970s to minimize time-consuming procedural votes, it virtually eliminated a device by which Representatives had been able to demand a vote that had the effect of determining whether the House would consider a motion to suspend the rules and pass a particular bill.

and Corrections Calendar procedures are not expected to be very divisive because their proponents know that unusually high levels of support are necessary to pass them by either means. And it is usually pointless, and even self-defeating, for proponents of a bill to force it to a vote without reasonable prospects for success. Because of the nature and use of these procedures, therefore, they are not likely to provoke serious and recurring concerns about agenda control.[15]

Third, the availability of these expediting procedures affects the House floor agenda in another important respect. They relieve some of the pressure on the agenda by making it possible for the House to act on more bills than would be possible if the same, more elaborate, and time-consuming procedures were followed in every instance. While the fate of a bill obviously depends on *whether* it reaches the floor, its prospects also can be affected by *when* it reaches the floor. For example, a bill that the House passes during the first session of a Congress may have better prospects for ultimate enactment than one passed shortly before final adjournment, because there is ample time remaining for the Senate to act as well and for the two chambers to reach agreement. Thus, decisions to give priority to considering certain bills can damage the prospects of others that are not so favored.

In this respect, the suspension of the rules procedure has become particularly and increasingly important. In fact, as many as half of all the bills the House passed during some recent Congresses were considered in this way. Amendments to the House rules in 1973 and 1977 resulted in a four-fold increase in opportunities to offer suspension motions. Whereas such motions had been in order on every other Monday, they now can be made on any Monday or Tuesday that the House is in session. These rules changes recognized the utility of the suspension procedure as a way for the House to act quickly on the large number of measures that most Representatives are prepared to pass in the form recommended by their committees. Consequently, more time is available for prompt consideration of more bills that require more extended consideration. So in a sense, the use of the suspension procedure requires the majority to sacrifice a certain degree of agenda control over bills that matter less in return for greater agenda control over bills that matter more.

In summary, House rules designate certain days for certain purposes—either to allow opportunities for the majority to protect itself against inaction by its committees or leaders (discharge motions and Calendar Wednesday), or to facilitate the conduct of relatively routine business in a convenient and expeditious manner (the Corrections and Private Calendars and the District and suspension procedures). The first two procedures permit affirmative agenda control by a determined majority which can use them to compel floor action, but these procedures cannot be used to compel such a majority to vote on a bill it does not wish to consider. Two of the other four procedures involve bills that usually evoke little if any controversy over their merits and, therefore, over the advisability of considering them (and in case of controversy over a District bill, the majority may vote not to consider it). The Corrections Calendar and suspension of the rules procedures, on the other hand, are used for bills that can evoke some opposition, and they are inconsistent with majority

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[15] From time to time, some Representatives have opposed passage of a bill under suspension of the rules on the grounds that the bill requires amendments and more extended debate, or that it combines elements that deserve separate consideration instead.

control of the agenda because a majority usually cannot prevent a bill from being considered in either way. However, both procedures are controlled by the majority party's leader and both require more than a simple majority vote for passage.

Special Rules Affecting the Order of Business

The procedures discussed to this point are not applicable to most of the major bills that House committees report each Congress. These bills are not generally privileged under House rules, nor are they supported by large enough majorities to be passed under an expediting procedure such as suspension of the rules. Thus, these procedures are not sufficient to fully resolve the problem of transforming the large potential agenda of reported bills into the smaller prospective agenda of bills that are likely to reach the floor.

For this purpose, the House also has looked for the past century to one of its committees, the Committee on Rules. Like the other standing committees, the Rules Committee has jurisdiction over a class of measures, primarily bills and resolutions affecting House rules. But this committee also is authorized by clause 1(m) of Rule XI to report House resolutions that, if adopted by the House, affect the order of business on the floor. These resolutions, which also are known as rules or special rules, are privileged and so may be considered by the House at any time that another matter is not already pending. Because of both their provisions and their privilege, special rules constitute the critical link between most major legislation on the House and Union Calendars and the House's actual floor agenda.

A special rule usually begins by providing that, upon adoption of the resolution, the Speaker may declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of a particular bill designated by the resolution. (The nature of the Committee of the Whole and some of the other provisions of special rules are discussed later in this report.) In the absence of this provision, the Speaker would have no such authority because the bill at issue presumably is not privileged and, therefore, the regular order of business could not be interrupted to consider it in Committee of the Whole (except by unanimous consent). Adoption of the special rule concerning a bill has the effect of making the bill itself in order for consideration.[16]

Once the Rules Committee reports a special rule, it remains for the House to decide by majority vote whether to accept it or reject it. The special rule itself is debated for as much as an hour and it may even be amended, although with difficulty. The Rules Committee proposes moving individual bills from the potential floor agenda to the prospective agenda, but the House is not bound to accept these recommendations. The voting majority on the floor retains negative agenda control. The House usually cannot avoid considering a Rules Committee proposal but the majority may reject it (although this does not happen very often for reasons that will be discussed).

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[16] Different forms of special rules are reported for other purposes, such as waiving points of order against conference reports.

The Rules Committee also can exercise a certain degree of negative agenda control. The authority of the committee is not restricted to recommending the order in which the House should consider the bills reported by the other House committees. The Rules Committee also has the option of not acting—of declining to report the special rule that a bill may require if it is to reach the floor. The committee has often been characterized as a "traffic cop," regulating and directing the flow of legislative traffic to the floor. This metaphor is apt in some respects, but it also has one serious deficiency. The traffic cop decides *when* a car may pass, but not *whether* it may pass if its driver is obeying the "rules of the road." By contrast, the Rules Committee is not obliged to allow all bills to come to the floor; it may decide instead that individual bills do not merit floor consideration at all. If the committee fails to report a special rule for a bill, or fails to act promptly, the prospects for that bill becoming law fall precipitously.

The committee that reported the bill may resort to the Calendar Wednesday procedure, but Calendar Wednesday rarely is invoked in part because it is not difficult to prevent passage of a bill that is brought to the floor in this way. Alternatively, the bill's proponents may attempt to discharge the committee from further consideration of a special rule that would make the bill in order, but discharge petitions rarely have been successful. Thus, since much of the legislative activity in the House focuses on bills that are not privileged and that are too controversial to pass under suspension of the rules (with limited debate, no floor amendments, and a two-thirds vote required for passage) or by call of the Corrections Calendar, the position of the Rules Committee in arranging the floor agenda is absolutely pivotal.

In view of the importance of its decisions, how the Rules Committee makes these decisions requires attention. When one of the other committees reports a bill that does not enjoy enough support to pass under suspension of the rules of by use of the Corrections Calendar, the committee's chairman requests a hearing before the Rules Committee. If the committee obliges (and it need not do so), Representatives appear before it to speak for or against the bill. During the hearing, Rules Committee members may inquire into the merits of the legislation as well as into when and how it should be considered on the floor. The committee then decides, by majority vote, whether to grant a rule and, if so, what its provisions should be. Like any other committee, the Rules Committee bases its decisions on the views of its own members and on their perceptions of what a majority of the House is prepared to support. But in the contemporary House, the actions of this committee also have been shaped by its unique relationship with the House's majority party leadership.

Today this relationship is cooperative, but it has not always been so. In fact, the changes in this relationship during the 20th century have been at the heart of some of the most important developments that have taken place within the House.[17] At the beginning of this century, the Speaker also served as chairman of the Rules Committee and appointed its other members (as well as the chairmen and members of all other committees). Consequently, he and his allies controlled the committee and its decisions, and the flow of legislation to the floor. If the Speaker did not look

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[17] On the history of the Rules Committee, see U.S. Congress. House of Representatives. Committee on Rules. *A History of the Committee on Rules*. Committee Print. 97th Congress, 2d Session (1983).

with favor on a bill, it was all but certain to perish from Rules Committee inaction. The Calendar Wednesday procedure was adopted in 1909 to assuage critics of the Speaker's power; nevertheless, he soon was stripped of his chairmanship and appointment powers. This was truly a historic moment for the House, because the result was a fundamental redistribution of power from the Speaker and the majority party leadership to the standing committees and their chairmen.

The seniority system became the basis for much of the power of House committees and especially their chairmen. In search of a stable alternative to appointments by the Speaker, the House came to rely more and more on the length of continuous committee service by majority party Representatives as the criterion for selecting chairmen. Once appointed to committees, Representatives usually could remain on them as long as they wished and as long as they were members of the House. If they were members of the majority party, they could eventually expect to become chairman if they remained on their committees longer than any of their party colleagues. As a result, the seniority system tended to insulate committees from the short-term influence of elections as well as from the efforts of party leaders to draw their members together in support of a party program for legislation. And nowhere were the consequences of seniority more pronounced than on the Rules Committee.

Although the Democrats were the majority party in the House for all but four years between the mid-1930s and 1960, the Rules Committee could be dominated during most of that period by a coalition of Republicans and conservative Democrats. Although the Democrats enjoyed a nominal majority on the committee, their control over committee decisions was far from certain. The chairman of the Rules Committee during much of the 1950s has been credited with being one of the driving forces behind a bipartisan "conservative coalition" that could stymie the Democratic majority by refusing to report special rules. If this report had been written 40 years ago, it could very well have concluded that effective agenda control rested in the hands of this coalition, when it chose to exercise it, over which the leaders of the majority party had no real control and only uncertain influence.

This situation began to change in 1961 when the House voted narrowly to increase the size of the Rules Committee, giving the Democrats a tenuous one-vote majority on which it could rely more often than not. In 1975, the Democratic majority in the House changed its party rules to tie the Rules Committee more firmly to the party majority acting through its leader, the Speaker. Whereas a party committee nominated new members to other committees, subject to approval by all the Democrats meeting in a caucus, it was the Speaker who nominated the Democratic members of the Rules Committee. Because there now were more than twice as many Democrats as Republicans on the committee, the effect of these changes was to transform the relationship between the committee and the majority party. With rare exceptions, the Rules Committee became allied with the Speaker and the other majority party leaders. Although the Speaker could not dictate committee decisions, he and the committee's Democratic members tended to share the same policy goals and a common desire to use the committee's powers to promote them.

Now that the utility of these arrangements has become well-established, they are likely to be preserved, no matter which party holds a majority of seats in the House. Rule 12B of the House Republican Conference for the 105th Congress authorizes the Speaker to nominate the chairman and other Republican members of the Rules Committee, subject to approval by the Republican Conference. Should the conference reject one of these nominations, the Speaker is to make another one. In other words, the Republican Speaker, like his Democratic predecessors, can ensure that a working majority of the committee will be responsive to the party leadership's priorities and to its short-term agenda preferences and strategic interests.

From the perspective of this report, these developments were critical because of their implications for majority control of the floor agenda. The majority party leadership selects more than a majority of the members of the Rules Committee, who in turn make decisions that meet the needs and interests of their party colleagues who can constitute a working majority on the floor.

The Rules Committee provides an excellent vantage point from which to look again at the implications for agenda-setting in the House of the organization of national parties generally and in Congress specifically. The House has relied heavily on the seniority system for allocating committee chairmanships in part because doing so has avoided the possibility of factional conflicts within the majority party. The Speaker lost his authority to appoint and reappoint majority party members to committees when a significant faction within his own party rebelled and joined forces with the minority party. The presumption that a Representative who serves on a committee may remain on that committee protects the interests of Members individually against the preferences of their party collectively.

This arrangement would not be as acceptable if there were consistently a coherent party position that Representatives were expected to support. But it has been acceptable in the House where party positions often have tended to emerge, if at all, from a weighing of what most party members in the House are willing to support, as they calculate their own electoral interests and as they evaluate national interests and balance them against constituency interests. When majority party unity is particularly strong, Members may delegate to its leaders more *de facto* authority over the selection of committee chairmen, even in violation of the seniority norm, and over appointments to fill committee vacancies. When unity is weaker, majority party leaders are likely to exercise less unilateral control over these decisions.

Changing the relationship between the Rules Committee and the majority party's leaders in the House narrowed the gap between agenda control by majority vote and agenda control by the majority party. Because members of the committee now are effectively chosen by the party leadership, their interests and decisions are likely to coincide, more often than not, with the preferences of most of their party colleagues. When there is significant opposition on the floor to a special rule, the House tends to divide along party lines, and the outcome usually turns on the number of Members from each party who vote with most of the Members from the other.

In sum, the Rules Committee is the key instrument through which the House makes its agenda decisions affecting most major bills. Without a special rule from the committee, a bill that is not privileged cannot reach the floor for passage by

majority vote (except through the rarely successful discharge and Calendar Wednesday procedures). The House accepts or rejects the committee's recommendations by majority vote, and thereby retains the power to refuse a bill a place on the floor agenda. Changes in the committee's membership and the procedures for selecting its members have made the committee more regularly and predictably responsive to the agenda preferences of the majority party, whether Republican or Democrat. The committee always has been reluctant to propose a bill for the floor agenda that a majority might oppose. In the House today, the committee also is reluctant to refuse a special rule for a bill when support for it centers in the majority party. Such a bill still may not reach the floor until the committee and party leaders can assemble the majority vote needed to pass it. But, the Rules Committee has become an ally of, not a potential obstacle to, control of the floor agenda by the majority party.

The Floor Agenda and the Daily Order of Business

The floor agenda of the House is governed by the application of standing rules and the adoption of special rules. Through these two types of rules, a prospective agenda of bills that probably will reach the floor is created from the potential floor agenda of bills that have been reported from committee and placed on one of the two primary calendars. Important as these rules are, however, they are not sufficient to define and control the daily order of business.[18]

House rules provide that a motion to suspend the rules and pass a bill is usually in order only on a Monday or Tuesday; but the rules do not control whether or when a particular bill is to be considered under this procedure. A privileged bill may be called up on the floor at the direction of the committee that reported it whenever there is no other matter pending. But various types of bills are privileged, as are a number of other matters, and House rules do not establish a firm order of priority among all of them. Other bills may not be debated and passed by majority vote until after the House adopts special rules for their consideration. But a special rule usually does not require that the bill it makes in order must be considered immediately after the House adopts the rule. So standing and special rules may create an agenda of bills with special claims on the attention of the House, but these rules generally do not determine the order in which the bills are considered. Additional procedures and authorities are required to transform the prospective agenda into the daily order of business—in other words, to develop an actual schedule for considering legislation on the floor.

During a 1983 debate, Speaker Thomas P. O'Neill Jr. declared that "[t]he power of the Speaker of the House is the power of scheduling."[19] In political terms, he exercises this power as the elected leader of the majority party; his scheduling decisions take account of the strategic interests and prevailing sentiments of his majority party colleagues. In procedural terms, his control over scheduling flows

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[18] As noted earlier, House rules do designate certain days for considering bills on the Corrections and Private Calendars and bills concerning the District of Columbia.

[19] *Congressional Record* (daily edition), v. 129, no. 158, November 15, 1983. p. H9856.

from certain provisions of House rules and generally from his responsibilities as the presiding officer of the House. In this capacity, he enjoys considerable discretion, but a discretion that is far from being unlimited, in recognizing Representatives to speak or to bring legislative business before the House for consideration.

The suspension of the rules procedure restricts the rights and powers of most Representatives by limiting debate and precluding amendments to bills that are considered in this way. On the other hand, it enhances the power of the Speaker. Suspension motions are in order on Mondays and Tuesdays, but Representatives do not have a right under House rules to make such motions. The Speaker has the discretion to decide whether to permit a bill to be considered in this way. If a committee or subcommittee chairman wants to bring a bill to the floor "under suspension," he or she must seek the consent of the Speaker; if a chairman sought to use the procedure without the Speaker's prior approval, the Speaker simply would refuse to recognize him or her for that purpose.

The Speaker's control over the suspension procedure usually does not provoke controversy. The procedure is attractive to committee chairmen because it protects their bills from amendments. It is equally attractive to the Speaker because it conserves time and, therefore, creates greater flexibility for scheduling more controversial bills. Also, bills considered in this way usually enjoy substantial bipartisan support because a two-thirds vote is required for passage. When controversy does arise, however, there usually is no way for a majority of the House to avoid debating and voting on a suspension motion (and, therefore, a bill) that it would prefer not to consider, at least under such procedural restraints. Both the Speaker and the committee chairmen are constrained in using the suspension procedure by a shared desire to avoid floor defeats, but the opportunity to limit debate on a bill, and especially to protect it against damaging amendments, can sometimes make the risk worthwhile.

The procedures governing bills on the Corrections Calendar also limit Members' opportunities to debate and offer amendments while requiring a three-fifths vote for final passage, and the Speaker exercises comparable control over the use of this calendar. Only the Speaker may place a bill on the Corrections Calendar after a committee has reported it favorably. And the Speaker has the discretion to decide whether bills that he has had placed on this special calendar actually should be called up for the House's consideration on the days the rules set aside for that purpose.

With respect to bills considered under special rules (or as generally privileged matters), the Speaker's powers are less direct and conclusive, but he and his party leadership colleagues still are primarily responsible for scheduling floor action on special rules and the bills they make in order. On matters of significant party interest, the majority party members of the Rules Committee normally act in concert with their party leaders in deciding whether to hold hearings and grant rules and when to do so. On the infrequent occasions when another committee reports a bill that is unacceptable to the majority party leadership, the Rules Committee may decline to consider it, at least until some accommodation can be reached. Similarly, when two or more committees make conflicting proposals on the same subject, the committee can withhold action and urge the committee and subcommittee chairmen to seek common ground. In short, the Rules Committee as "traffic cop" can be

expected to direct legislative traffic in the direction of, and at a speed consistent with, goals sought by the majority party leaders on behalf of their party colleagues.

Once the Rules Committee reports a special rule, it is privileged for floor consideration, as is any bill made in order by the standing rules or by a special rule the House already has adopted. However, the Speaker retains an important degree of discretion in arranging these matters into a daily and weekly schedule that meets the responsibilities of the House and the interests of his party. As noted earlier, a variety of bills and other matters are privileged for floor consideration. In some cases, they are of equal privilege. Thus, the Speaker may exercise discretion in deciding the order in which they are to be considered. If one Representative seeks to call up a privileged matter, the Speaker may decline to recognize him or her if there is another Representative on the floor who can be recognized instead to bring up some other matter that is at least equally privileged (and who, therefore, has an equal right to be recognized).

It is rarely necessary, however, for the Speaker to actually use his control over recognition on the floor to control the flow of legislative business. Scheduling decisions generally are made within the majority party through consultations by the Speaker and other party leaders with the appropriate committee and subcommittee leaders. A probable schedule for the week then is announced on the floor by a majority party spokesman. Representatives of the minority party also may be consulted. They may inquire about the status of certain bills, and they may complain that some bills are being held back while others are being propelled to the floor prematurely. But the minority has little effective recourse, other than to attempt to defeat the special rules providing for consideration of the bills they oppose.

By the time the House convenes each day, Representatives have been advised of the expected order of business, although it is always subject to change. When the House completes action on one bill, the Speaker knows which Representative should be the next to seek recognition. If another Member seeks recognition instead and the Speaker is unsure of his purpose, the Speaker may ask: "For what purpose does the gentleman rise?" If the response is not satisfactory, he may decline to recognize that Representative if there is an equally privileged matter available for consideration. Of course, the Speaker does not exercise this authority arbitrarily and for his own purposes; instead, he uses his powers as the presiding officer of the House to advance whatever legislative program he and his fellow party leaders construct from among the measures reported by the House's committees and the sometimes disparate interests and preferences of his party colleagues.

Thus, the arrangement of an agenda of privileged bills and other matters into a daily and weekly schedule for the order of business is a responsibility (and opportunity) for the majority party leadership—one that is usually exercised formally by the Speaker, but only after consultation with other party leaders, the party's members of the Rules Committee, and appropriate committee and subcommittee chairmen. The leverage over legislative decisions that flows from this influence over scheduling derives, to a considerable extent, from the tactical importance of timing for legislative success.

When party unity is strong and predictable, and defections are few, timing may be less significant unless the majority party's margin of votes is very narrow. In the House of Representatives, on the other hand, where majority coalitions are not always equivalent to party majorities and where substantial components of majority coalitions may have to be assembled vote by vote, timing can become critical. Sometimes, for example, floor action must be expedited before a bill's opponents and their allies outside of Congress can organize and bring the full weight of their influence to bear. At other times, critical floor votes must be delayed—sometimes for only a day, but sometimes for weeks or longer—while a few more Representatives are being convinced or cajoled. When a vote is expected to be particularly close, the decision to hold back or push ahead may even turn on the number of Representatives absent that day and how their absence will affect the outcome. Their control over the daily schedule allows majority party leaders to reap the marginal but sometimes decisive advantage that comes with determining not only what issues will be considered, but when critical votes will take place.

There are limits, to be sure, on the discretion that the Speaker, other majority party leaders, and the Rules Committee can exercise in constructing the House's legislative schedule and its daily order of business. The President, the media, and interest groups can press for prompt action, which the party in control of the House ignores at its political peril. Events over which the House has no direct control can force a re-shuffling of priorities and provoke legislative responses that the majority party might otherwise approach more slowly and cautiously. In addition, requirements for annual legislative action and deadlines such as the end of the fiscal year combine to load the floor agenda with bills (such as appropriations bills) that should or must be considered, and to dictate when at least some of those bills (such as continuing resolutions) must occupy the attention of the House.

Equally important, the Speaker and his colleagues in the majority party leadership must be ever alert to what can pass and what cannot. Like House committees, the reputations of House leaders rest in large part on their records of past successes and failures. On occasion, the Speaker and the Rules Committee have allowed controversial bills to reach the floor even while doubting that the votes could be found to pass them. But there usually is little to be gained from failure.

Amendments and the Floor Agenda

To this point, the discussion has focused on the agenda of measures that reach the House floor. However, the agenda problem may be posed not only in terms of bills and resolutions but also in terms of policy issues or choices. Looking at the problem from this perspective, the important question becomes whether a policy option can reach the floor for debate and decision. That option may be embodied in a bill, but it also may be presented as an amendment to a bill. Thus, the rules and practices of the House governing the amendments that Representatives may offer on the floor also affect the floor agenda by creating opportunities for, and imposing limitations on, expanding the agenda of policy decisions that the House may make.

As a general rule, any Representative may offer amendments to a bill while it is being considered on the House floor. However, there is a critically important limitation on the contents and subjects of these amendments. In addition, House rules prohibit amendments under some circumstances and make them difficult to propose under others. Finally, Representatives can and sometimes do vote to impose restrictions on their rights to offer amendments during consideration of specific bills.

The most important limitation that House rules impose on amendments is the germaneness requirement; clause 7 of Rule XVI requires that any amendment to a bill must be germane to that bill. The concept of germaneness is related to the concepts of relevance and pertinence, but it is generally narrower in application. For example, an amendment to change individual income tax rates would not be germane to every bill affecting federal tax laws, and it may not even be germane to a bill dealing with other aspects of the income tax. When an amendment is challenged on the grounds that it is not germane, the Representative presiding over the House often bases his ruling on rather fine distinctions that derive from a large and complex body of earlier rulings.[20] It is neither possible nor necessary to summarize these precedents here, but the principle underlying the germaneness requirement is simple. While the House is considering a bill on one subject, it should not be distracted by amendments on other subjects. Although the application of this principle to specific amendments is far more complicated, what is most important for present purposes is that the requirement exists and usually is enforced. Consequently, it can severely restrict (if not foreclose altogether) Representatives' opportunities to present policy questions and options on the floor that are not reflected in the bills the House considers.

Another general restriction on amendments is related to the special nature and standing of most appropriations bills. The basic theory underlying House rules governing these bills is that they are intended to fund departments and agencies that already have been established, as well as programs and activities that already have been approved, in authorizing legislation. Therefore, clause 2 of House Rule XXI prohibits amendments to (and provisions in) general appropriations bills that would appropriate funds for purposes that have not been authorized by law or that would change the existing laws governing how the appropriated funds may be used. Under some circumstances, a general appropriations bill can be amended to prevent funds from being used for a specific purpose or in a specific way that otherwise would be permitted under existing law. In general, though, amendments to appropriations bills are supposed to address the question of how much money Congress should provide for various purposes, and not to other issues even though they may be related to those purposes.

In addition to these restrictions on amendments, certain House procedures prohibit amendments altogether. As noted earlier, when a motion is made to suspend the rules and pass a bill, no amendments to the bill may be offered from the House floor. Similarly, when the House considers a bill that the Speaker has placed on the

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[20] In the most recent published compilations of House precedents, two full volumes comprising a total of 1,850 pages are devoted to the issue of germaneness. U.S. Congress. House of Representatives. *Deschler-Brown Precedents of the United States House of Representatives*. Volumes 10 and 11. House Document 94-661. 94th Congress, 2d Session.

Corrections Calendar, no amendments to the bill are in order unless offered by the committee or its chairman. Under certain other circumstances, the House may have to decide by majority vote that it wishes to consider a specific amendment before that amendment can be formally proposed. During consideration of a bill or resolution, for example, the House may have to vote against a motion to order the previous question before a Member can be recognized to offer an amendment to the measure.

The House's rules are designed to permit major bills to be considered under floor procedures that do allow for orderly consideration of whatever germane amendments individual Representatives choose to offer. These bills and amendments to them, are debated in the Committee of the Whole House on the State of the Union—a committee on which all Representatives serve and which meets on the House floor. The Committee of the Whole is really a parliamentary device to facilitate full and orderly deliberation by allowing Representatives to offer amendments to each part of a bill in sequence and by permitting each Member to speak for five minutes on each amendment. Under Rule clause 6 of Rule XVI, each amendment to a bill also may be amended, so Members can alter a proposal before deciding whether to include it in the bill. Within the constraints imposed by the germaneness requirement, the amending process in Committee of the Whole permits Representatives to propose alternatives to or improvements in the legislation recommended by their standing committees.

The House itself usually decides by majority vote whether to permit such an open amending process, and it does so by approving, amending, or disapproving the special rules recommended by the Rules Committee. The importance of these special rules for making bills in order for floor consideration already has been discussed. But special rules also contain other provisions that can be just as important, especially provisions governing the amending process in Committee of the Whole. The Rules Committee may propose, for example, that no amendments to a bill be permitted at all, except perhaps for amendments proposed by the committee that had studied and reported the bill. Alternatively, a special rule may restrict the amendments that Representatives can offer without foreclosing them completely.

In recent years, the Rules Committee often has recommended that the House restrict the amendments that Members may offer to a certain bill to only the series of specific amendments that are printed in a written report from the Rules Committee that accompanies its resolution. In other cases, the committee has proposed to restrict amendments only by prohibiting amendments on certain subjects or to certain provisions of a bill. At the other extreme, the committee may even propose that Members be allowed to offer certain amendments on the floor even though those amendments would violate the standing rules of the House. For example, a special rule may make an amendment in order, notwithstanding the fact that the amendment is not germane to the bill to which it will be proposed.

In short, the Rules Committee can propose to narrow or expand the range of amendments that Representatives may offer to individual bills. This enables the committee to define a special set of procedures and ground rules that it considers best suited to the parliamentary and political circumstances surrounding each bill. In the contemporary House, these decisions by the committee can be more important and

controversial than its decisions to grant or not grant rules at all. While most Representatives may agree that a bill needs to be considered, there may be far more disagreement over the procedures that should govern its consideration, and especially over the amendments that should be considered on the House floor. The importance of special rules as they affect the amending process is difficult to overestimate. By permitting some amendments and prohibiting others, a special rule limits the range of alternatives and defines the choices that Representatives can make on the floor. Although the Rules Committee's proposals are cast in procedural terms, their substantive consequences can be profound. If an amendment cannot be proposed, it cannot be adopted.

It bears emphasizing that the committee proposes special rules to the House but it cannot impose its recommendations on the membership. It is for the House to decide, again by majority vote, whether it is prepared to accept the ground rules, including any restrictions on amendments, that the committee proposes. Historically, most special rules have been essentially "open rules"—rules that do not prohibit any amendments that would be in order under the normal operation of House rules and precedents. But more and more often during the 1980s and 1990s, the committee recommended more complex rules proposing to proscribe some amendments, or permit others to be offered, or both.

Restrictive special rules have been more controversial than simple open rules; nonetheless, the House has approved most of those the Rules Committee has proposed. In some cases, there has been bipartisan agreement that the bill to be considered is very complex and technical, and that it is in everyone's interests to take up only a limited number of amendments that focus attention and debate on the major policy choices at issue. In other cases, however, minority party Representatives have argued that the Rules Committee's proposed special rule would permit consideration of key amendments supported by the majority but not equally important amendments that minority party Members wished to offer. Thus, the most important vote on a particularly controversial bill may not be the vote by which the House finally passes the bill. Instead, that vote may come on ordering the previous question on the special rule—which determines whether the House wishes to consider an amendment to the rule, and thereby permit Representatives to offer amendments to the bill in addition to, or instead of, those contemplated in the special rule as reported by the committee.

Such are the powers of the Rules Committee, both procedural and political. Procedurally, the committee's special rules shape the House floor agenda in two respects. Not only does the committee recommend which bills should reach the floor, it also proposes which amendments to those bills should be considered. The first decisions affect the general issues on which the House acts; the second decisions affect the choices available for addressing those issues. Politically, the powers of the committee and the majority party leadership have been enhanced by their close and mutually supportive relationship. The committee's recommendations usually are approved with the support of most Representatives of the majority party, both because their interests tend to be well served and because majority party support for special rules can be portrayed as being part and parcel of the party's continuing control over the essential operations of the House. Nonetheless, party voting is far from being automatic, and the Rules Committee must be ever conscious of the need

to fashion special rules that accommodate the political interests and policy preferences of a diverse House membership that normally does not vote strictly along party lines.

Senate Influence on the House Agenda

The constitutional and political context in which the House reaches its agenda decisions makes the House agenda highly permeable in political terms but highly autonomous in procedural terms. In the latter respect, presidential proposals enjoy no formal status or advantage under House rules, and both the standing rules and the special rules that have been discussed in previous sections do not take cognizance of institutions, persons, or events outside the precincts of the House. However, this picture of a House that is procedurally autonomous is not complete, in the same way that the legislative process is not yet complete when the House passes a bill. There remains the "other body" and the impact of the Senate on the agenda of the House.

The passage of a bill by the Senate creates no procedural imperatives for House action (and conversely), although action by one house may stimulate public attention and create political momentum that makes action by the other chamber more likely than it otherwise would be. But there are two respects in which Senate actions impinge in a more direct procedural way on the House agenda, and both derive from differences between House and Senate rules.

The first of these differences concerns appropriations. Senate rules and precedents are not as restrictive as those of the House in prohibiting unauthorized appropriations and keeping general appropriations bills free from changes in the laws that govern the ways in which, and the purposes for which, appropriations may be used. Unlike the House, for example, the Senate's Rule XVI permits it to consider an appropriation that is not yet authorized by law if that appropriation is recommended either by its Appropriations Committee or by the Senate committee with jurisdiction over the authorization bill. Thus, when the Senate considers a general appropriations bill that the House already has passed, the Senate may attach to it Senate amendments that were not and could not have been considered by the House because they would have violated basic House rules.

The second difference, which is probably even more important for bicameral relations, concerns the floor amendments that Senators can offer. Whereas House procedures require that all amendments must be germane (unless Members vote to approve a special rule that permits a specific non-germane amendment to be offered), there is no such general requirement in the Senate. Senate rules require that amendments be germane under certain limited circumstances, and the Senate sometimes imposes such a germaneness requirement on itself by unanimous consent during consideration of individual bills. As a general rule, however, Senators are free to offer whatever amendments they like, on whatever subjects, to most bills that reach the Senate floor.

This situation has obvious and profound implications for attempts to define and control the legislative agenda in the Senate. Although Representatives usually are free to offer amendments, the subjects of their amendments are limited by the germaneness requirement. It is fair to say that, in the House, the basic agenda

decisions are those that determine which bills will be considered. Amendments to a bill may present alternatives and raise closely related issues, but only on subjects already raised by the bill itself. This is not the case in the Senate. If the Senate does not consider a bill on a subject that is of special interest to even one Senator, that Senator may bring the subject to the floor in the form of a nongermane amendment to a bill on a wholly unrelated subject. Consequently, the bills that the Senate passes can address a wider and more diverse range of subjects than the bills approved by the House. Furthermore, amendments play a far more significant and independent part for the Senate than the House—and Senate committees play a far less conclusive part than House committees—in defining the issues that reach the floor agenda.

The requirements of the legislative process compel the House to respond to the consequences of these two differences between House and Senate rules, especially when the Senate attaches amendments to a bill that the House already has passed. Before a bill can become a law, the House and Senate must reach complete agreement on its text, including any and all Senate proposals that could not have been considered on the House floor because they would have violated House rules. Thus, the Senate can push matters toward the House floor agenda that did not, and sometimes would not, reach the floor through the operation of the House's own rules.

When neither house's position on a major bill is acceptable to the other, the House and Senate usually create a conference committee to resolve the differences between them. This committee is composed of Representatives and Senators who are charged with representing the position of their chamber in negotiations to reach a compromise that majorities in both houses will accept. In these negotiations, the House conferees can protect the House floor agenda from direct Senate influence if they can convince their Senate counterparts to give way on Senate proposals that are inconsistent with House rules. But if these Senate proposals are truly important to their proponents, the House conferees are more likely to accept at least some of them, although perhaps with modifications. A rigid House stance against accepting any Senate proposals that are inconsistent with House rules would doom many bills for lack of bicameral agreement and would be viewed by Senators as an attempt by one house to impose its rules on the other. Bicameralism in Congress requires compromise instead.

Thus, conference agreements can include issues and proposals that had not reached the House floor agenda and that may not even have been considered by the appropriate House committees. The usual result of a successful conference is a conference report—a proposed package settlement of all the differences between the House and Senate versions of a bill—and the House and Senate normally each vote to accept or reject the package as a whole, but not to amend it. This procedure would require the House to vote on the report without an opportunity to debate and vote separately on matters in the report that had not yet been considered on the House floor. To protect against this possibility, the House has developed rather elaborate and complicated rules by which it can deal individually, and by majority vote, with recommendations of a conference committee that bring before the House certain kinds of issues that had not been included in the House version of the bill.[21] Notwithstanding these special procedures, however, the fact remains that the Senate,

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[21] See clauses 5 and 10 of Rule XXII.

through its amendments to general appropriations bills and its nongermane amendments to other bills, can force issues onto the House floor agenda, unless the House is willing to jeopardize enactment of the bills to which the Senate attaches these amendments and to strain bicameral relations generally. Thus, bicameralism limits the autonomy of the agenda-setting process in the House.

Conclusion

This report began with a summary of the constitutional context that gives the House considerable independence in setting its legislative agenda, and it ended with a brief exploration of how the constitutional position and rules of the Senate limit this independence. House procedures for setting its agenda are conditioned also by their political context—by the nature and organization of the national political parties and by the political autonomy that most Representatives enjoy. The result is a process that is far more complicated than would be necessary if a united majority party could expect its members to give consistent support to the same priorities and positions.

The conventional process of agenda-setting in the House has been portrayed as one in which the standing committees first screen the possible agenda of bills introduced, evaluating them and selecting from among them a potential agenda of bills that, in the judgment of the committees, deserve floor consideration. Priorities for considering these bills on the floor are controlled both by the operation of standing rules and by the adoption of special rules proposed by the Rules Committee. And these priorities are transformed into short-term schedules and the daily order of business through the political influence of the majority party leaders and especially through the procedural discretion of the Speaker. The House's legislative agenda is embodied primarily in the bills it considers. Individual Representatives may propose floor amendments that present alternatives or additional options, but opportunities to offer amendments are constrained by the germaneness rule, among others, and can be limited by majority vote.

Underlying these procedural arrangements is the axiom that the agenda of the House is generally for the House to decide, and the corollary that these decisions generally reflect whatever collective preferences can be assembled from the individual preferences of its Members. The House delegates great powers to its committees, powers that are exercised as much through inaction as through action. However, the House retains the power to overrule the judgments of its committees. If this power is rarely used, it is both because Representatives tend to respect the judgments of their committees and because the committees tend to respond to the will of the House.

The standing rules designate certain kinds of bills for priority consideration on the House floor, and set aside certain times for the House to consider other bills under special expediting procedures. But the most important decisions affecting the floor agenda are made one at a time, by majority vote, as the House votes on the special rules recommended by its Rules Committee. The responsibility for arranging the floor agenda into an orderly schedule is delegated primarily to the majority party leadership, and these arrangements are implemented and enforced through the formal

powers of the pre-eminent majority party leader, the Speaker. In turn, these leaders are expected to act in ways that respond to the interests of their party colleagues and the responsibilities of the House as a whole. House leaders may lead only where and when their colleagues are prepared to follow.

The procedures of the House of Representatives, including the procedures for setting its agenda, have developed over two centuries, as have the institutional dynamics surrounding them (such as the relationship between the Rules Committee and the Speaker). The result is neither simple nor tidy, but the result also is a body of rules and practices that is generally consistent with the principle of majority control. In most respects, the House agenda is subject to control by a voting majority. But this majority sometimes can be transitory and unstable. More often than not, the House is characterized by shifting majorities—majorities that usually have their base in the majority party, but that still must be constructed and reconstructed as one issue gives way to the next. Ultimately then, the problem of agenda management in the House is the problem of developing majorities that do not necessarily emerge naturally from the imperatives of constitutional arrangements or the dynamics of electoral competition.

Related CRS Reports

The Amending Process in the House of Representatives. Library of Congress, CRS Report 98-995.

Committee of the Whole: An Introduction. Library of Congress, CRS Report RS20147.

Conference Committee and Related Procedures: An Introduction. Library of Congress, CRS Report 96-708.

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Floor Procedure in the House of Representatives: A Brief Overview. Library of Congress, CRS Report 97-236.

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