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Property Rights and the Emergence of Standing Committee Dominance in the Nineteenth-Century House

Between 1810 and 1825, the bill-referral process in the House of Representatives changed dramatically, from a system that channeled a majority of legislation through select committees to a system that was dominated almost exclusively by standing committees. At the heart of this change, I contend, were grants of new rights to both standing committees and individual committee members. To explain this dispensation of new rights, I follow a new institutionalist approach and use a political theory of property-right origination, developed by Riker and Sened (1991), as a theoretical guide. I find that all necessary and sufficient conditions for right emergence, in the form of new bill-referral powers and seat-assignment privileges, are met by the actual macro-level and micro-level events of the early nineteenth century. Specifically, the greater heterogeneity of the Jeffersonian coalition and the self-interested machinations of the House Speaker, Henry Clay, combined to produce an institutional change that served the needs of all major parties in the House.

I. Introduction

Perhaps the greatest challenge to the study of congressional institutions is explaining their selection and establishment. Determining the effects and outcomes of institutional arrangements is easier and is thus the course of action most often employed by scholars. For simplicity's sake, rules are usually treated as exogenous to the story being modeled (Calvert 1995). Despite the gains achieved with this approach, a large part of the theoretical "puzzle" surrounding congressional institutions—that is, institutional emergence—has been neglected; thus, a theory of *equilibrium institutions* has been slow to develop (Shepsle 1986, 1989). Recently, however, a line of research focusing on the emergence of congressional institutions has appeared. Such studies have addressed the origins and development of bill introduction rules (Cooper and Young 1989), organizational leadership mechanisms (Stewart 1992), committee seniority norms (Katz and Sala

1996), and minority rights restrictions (Binder 1995). These studies treat institutions as being endogenously determined, and collectively, they have laid a foundation for a more formal construction of an equilibrium-institution framework.

In this paper, I contribute to the institutional-endogeneity movement by focusing on another example of congressional institutional development: the emergence of standing committee dominance in the organization of the nineteenth-century House of Representatives. Between 1810 and 1825, the bill-referral process in the House changed dramatically, shifting from a system in which a majority of business was conducted by select committees to a system that was dominated structurally and procedurally by standing committees (Cooper 1988; Skladony 1985). Several questions follow from this observation: why did such a dramatic change in institutional structure occur, and why did the change occur at this time, rather than in earlier or later years?

In addressing these questions, scholars have followed two main approaches. The first approach, detailed most explicitly by Cooper (1970), is macro-level in nature and emphasizes the role of contextual effects in determining institutional change. Working within an organization theory framework, Cooper argues that changes in national environmental conditions produced a greater workload within the House, which in turn led to the adoption of an organizational structure (based on procedures and a division of labor) that was more conducive to the new legislative demands. Cooper further asserts that the conscious actions of individual members of Congress (MCs) had little influence on such institutional development; rather, the construction of a new system of bill referral was determined fundamentally by external forces (see also Cooper and Young 1989; Polsby 1968; Sait 1938; Skladony 1985).

The second approach, exemplified by Gamm and Shepsle (1989), is micro-level in nature and emphasizes human action in fostering institutional change. Rational decision making by institutional actors is of paramount importance, as the structure of institutions and the types of institutional change undertaken are means by which actors achieve particular ends. Gamm and Shepsle argue that the shift to standing committees was a conscious decision made by the House Speaker, Henry Clay, as his needs, and the demands of party members, changed. Although other institutional designs were possible, Gamm and Shepsle argue that the expansion of the standing committee system was the "optimal" solution, given both MCs' preferences and leadership's information and desires (see also Shepsle and Humes 1984; Rohde and Shepsle 1987).

Rather than follow only one of these approaches, I incorporate both. Contextual effects clearly mattered: between 1810 and 1825, a war was waged with Britain and a dramatic change in the party system occurred. These environmental "shocks" altered the constraints MCs faced on various policy dimensions, and thereby rearranged the "choice set," or the feasible set of institutional outcomes that could be achieved. Individual self-interest also played a significant role in promoting institutional change. Particular decisions made within an environmentally derived choice set are left to the discretion of the actors, who will optimize. As changing environmental conditions alter the bounds of the set, congressional leaders may manipulate institutional arrangements to obtain more preferred collective outcomes (Aldrich 1995). I will argue that Speaker Henry Clay, in his pursuit of the presidency, did just this.

This integration of micro-level and macro-level forces is referred to as the "new institutionalism," which asserts that political outcomes are a function of goal-seeking actors choosing within a set of institutional arrangements and a particular historical context (Aldrich 1994).[1] The new institutionalism contends that incorporating both micro-level and macro-level forces is *crucial* to explicating a fuller understanding of political change (Humes 1989; Rohde and Shepsle 1978; Shepsle 1989). Strictly rational-choice or environmental approaches may result in biased historical accounts. Excluding macro-level forces may produce "context-free" decision-making environments, which may yield predictions of disequilibrium when preference-based equilibria are not present (McKelvey 1976; Plott 1967). Excluding micro-level forces may lead to an interpretation of events that discounts the effects of social choice and strategic interaction (Jillson and Wilson 1994; Riker 1980; Shepsle 1989).

The rest of the paper proceeds as follows. In section II, I describe my theoretical approach, a model of property right origination devised by Riker and Sened (1991), and detail how it relates to the new institutionalist philosophy. In section III, I explicitly detail the foundations of the Riker/Sened model. In section IV, I apply the Riker/Sened model to explain the emergence of standing committee dominance in the nineteenth-century House, incorporating both demand-side and supply-side effects, from which I derive testable hypotheses. In section V, I test these hypotheses and present results. In section VI, I conclude my analysis and discuss the implications of my results, both narrow and broad.

II. Theoretical Approach

While a new institutionalist philosophy might be taken to study institutional change, a theoretical approach is needed to conduct a rigorous analysis. It is one thing to assert that both micro-level and macro-level forces must be addressed to achieve a fuller understanding of change. It is another thing to demonstrate how micro-level and macro-level forces should be integrated to explain such change.

To this end, I employ an approach developed by Riker and Sened (1991), a political theory of property-right origination. Two distinct benefits follow from this approach, which is explicitly detailed in the next section. First, in a narrow sense, it provides an appropriate, complementary "lens" through which this particular case, the emergence of standing committee dominance, may be studied. Riker and Sened seek to explain the emergence of property rights in institutional settings, and positive theorists of congressional institutions assert that a property rights system exists over the committee assignment process.[2] My explanation for the emerging dominance of standing committees will, in large part, hinge upon new rights being granted to both standing committees and individual committee members during this period.

More broadly, Riker and Sened identify and categorize institutional actors and, by doing so, establish necessary and sufficient behavioral conditions for the emergence of a right. By sorting actors into various groups, Riker and Sened provide a way of viewing how each group regards (in terms of costs and benefits) a proposed institutional change, and what role each group plays in the change. This categorization produces a number of different behavioral combinations; however, only one mix of "necessary" behaviors is sufficient for right emergence.[3] Thus, I use the Riker/Sened approach to untangle the historical dynamics of the time. After categorizing all relevant actors and identifying their needs subject to what they could achieve (in essence, following the new institutionalist philosophy by creating an informal, constrained utility function for each actor), I identify that mix of behaviors that was required to produce the new committee property rights. I then examine the historical legitimacy of this equilibrium mix by empirically testing whether each of the actors exhibited the necessary behavior(s) for its existence.

III. A Political Theory of Property Right Origination

Riker and Sened (1991) accommodate both the demand side and the supply side of institutional change in their theoretical framework. The standard neoclassical approach, devised by Demsetz (1967),

focuses strictly on the demand-side (economic actors), while excluding the supply-side (political actors). Such an approach resembles macro-level studies of political change, as political actors merely (functionally) ratify the demands of economic actors (Alston 1996). In recent years, however, scholars have determined that incorporating both macro- and micro-sides is essential to explain the dynamics of institutional change (Riker 1988; Eggertsson 1990; Alston, Eggertsson, and North 1996b). I take the Riker/Sened theory a step further and apply it to a wholly political case, in which both the demanders and suppliers of rights are political actors.

A "property right" in the economics literature usually refers to an actor's ability to control scarce resources, which is recognized and enforced by other actors in society (Alston, Eggertsson, and North 1996a; Eggertsson 1990). Riker and Sened (1991, 953) extend this interpretation by distinguishing three different types of actors—power-holders, right-holders, and duty-bearers—and suggest that a property right be viewed as "a combination of duties and claims [granted by a power-holder], of which the content is what a right-holder can claim and what a duty-bearer should respect." Power-holders are assumed to have more resources than right-holders or duty-bearers, and thus, to be in a position to grant rights (to establish duties and claims). Right-holders are initially right-seekers, as they pursue rights that will allow them to maximize their utilities. Duty-bearers are affected indirectly by right provisions; they do not acquire any new claims or duties, but their payoffs can be affected by grants to others. Each type of actor is assumed to maximize utility according to standard rationality assumptions. When, then, can we expect a power-holder to grant a claim to a right-holder that duty-bearers agree to respect? That is, under what circumstances will a right emerge?

In answer, Riker and Sened posit that four conditions are both necessary and sufficient for right emergence:

(1) *Scarcity: A finite resource allocation:* The content of the right must be scarce, else it will have no value, right-seekers will not demand it, and power-holders will have no incentive to grant it. Because power-holders are more powerful than other actors, they are assumed to control all scarce goods within the system.

(2) *The Demand Side: Right-seekers endeavor to obtain the right:* Demand will not necessarily develop in the face of scarcity. If right-seekers do not demand a right, then they will not pursue it and, thus, a right will not emerge. In order for demand to occur, right-seekers must receive a positive expected return (after acquisition costs) from procuring the right.

(3) *The Supply Side: Power-holders desire to recognize the right:* Even if scarcity and right-seeker demand are present, a right will not emerge if power-holders do not have an incentive to recognize it. Power-holders must receive benefits above and beyond the costs of enforcement, which they will incur if they recognize the right.

(4) *Systemic Constraint: Duty-bearers respect the right:* Individuals excluded from the benefits of the established rights must accept the stipulations of such rights. This condition is often taken for granted, Riker and Sened suggest, but it is clearly necessary: without the concurrence of the larger population, rights become meaningless. To respect a right, duty-bearers must receive a net benefit from respecting that is greater than the net benefit from not respecting.

How do these concepts and the categorization of actors apply to the nineteenth-century House? Scarcity applies to parliamentary rights; the ability to refer bills to the floor for vote (and thereby meet the needs of constituents) was limited. The Speaker, Henry Clay, was the power-holder, committee members were the right-holders, and the House membership were the duty-bearers.

In the next section, I offer an explanation for the emergence of standing committee dominance in the organization of the nineteenth-century House. I assert that changing macro conditions, specifically the completion of the War of 1812 and the demise of the Federalist Party, created new incentives for MCs, who found it difficult to obtain preferred policy outcomes for their constituents under the House's traditional set of rules. MCs (right-seekers) therefore needed new ways to meet district-level needs. Henry Clay, the Speaker, recognized this demand by endowing standing committees with new bill-referral powers and individual MCs with new seat assignment privileges, in order to further his own goals (retaining the speakership as a means to obtain the presidency). MCs willingly agreed to this change by relinquishing rights over less salient policy areas in order to secure committee assignments whose policy jurisdictions were more relevant to their own needs.

IV. The Emergence of Standing Committee Dominance in the Nineteenth-Century House

Early House Procedures and Environment

Bill introduction is, perhaps, the most important procedural resource available to MCs. Cooper and Young (1989, 67) argue: "Because bills define the contours and content of law making, the

agents who can introduce them and the conditions under which they can be introduced are of substantial importance . . . the character of bill introduction inevitably affects the role and power of committees, the order of business, and the rules of debate."

Bill introduction in the early House centered on the relationship between the Committee of the Whole and select committees. Once the membership determined that a resolution should be considered and debated, House rules were suspended and the Committee of the Whole was called to facilitate free discussion. If a majority determined that a bill should be created, a two-part division of labor followed: the Committee of the Whole determined the general principles, after which a select committee was appointed to fact-find, consider details, and produce a finished bill.[4] Once its tasks were completed, the select committee was required to report the finished bill back to the chamber, after which it was summarily dissolved (Cooper and Young 1989; Harlow 1917; Skladony 1985).[5]

The legislative environment in the early House was quite unstable. Little institutional structure combined with the multidimensional nature of policy proposals to cause majority voting to break down regularly (Aldrich 1995). Political entrepreneurs quickly acknowledged the chaotic nature of majority voting, however, and sought a means to establish stability.[6] Party emerged as the great organizing principle to structure legislative outcomes (Aldrich 1995). By the Second Congress, distinct party affiliations could be identified, and the congress as a whole became highly factionalized. By the Third Congress, this factional system gave way to an even greater polarization, as two tight, partisan voting clusters emerged (Hoadley 1986; Martis 1989).

Henry Clay and the War Hawks

The system of bill referral based on the interaction of the Committee of the Whole and select committees continued through the first decade of the nineteenth century. Party voting also remained relatively cohesive, despite the Federalists' dwindling fortunes (Binder 1995). By the Twelfth Congress, however, a new leader, Henry Clay, emerged to change the system. Clay was swept into office on a wave of nationalism, along with a large contingent of new MCs from the South and West. These junior MCs, dubbed "War Hawks," were eager to expand the nation and to wage war with Britain. President Madison vacillated on issues involving Britain and provided little leadership in Congress. This presented an opportunity for a strong congressional leader to emerge and to vie for control of the agenda. Clay seized the opportunity,

and with the support of his War Hawk allies, was nominated to the speakership on the first ballot. As Speaker, Clay would become the dominant force in House proceedings (Fritz 1977; Galloway 1961; Peters 1990).

In his first term as Speaker in the Twelfth Congress, Clay presided over a homogeneous voting coalition, as those Jeffersonians who were not War Hawks, but rather carry-overs from previous Congresses, acceded to his nationalistic agenda (Fritz 1977). Able to pass war legislation without difficulty, Clay had no need to alter institutional arrangements. No new powers were granted to standing committees, and most legislative matters continued to be shuttled through select committees (Gamm and Shepsle 1989; Shepsle and Humes 1984).

The Supply Side of Right Emergence: Presidential Machinations

Clay was reelected Speaker in the Thirteenth Congress, only to resign midstream to serve as a commissioner to the Ghent peace conference. In the Fourteenth Congress, he returned to the House and to the speakership in heroic fashion, sporting a successful peace treaty with the British after lengthy and contentious negotiations. As Clay's popularity soared, his presidential aspirations flourished, and he spent much of his homeward journey devising a strategy to reach the White House (Peters 1990; Remini 1991). Despite his growing prominence, Clay maintained discretion.[7] He realized that a "pecking order" was in place for presidential ascension, and that James Monroe's time was at hand. Thus, he supported Monroe's candidacy in the expectation of being appointed secretary of state. "State" was a position Clay desperately wanted, as it was considered to be the direct stepping-stone to the presidency. To his chagrin, Monroe instead appointed John Quincy Adams. With the principal avenue to the White House blocked, Clay needed to establish an alternate route.

Before devising a new strategy, Clay studied the political landscape of the time. In early 1817, a new political era was beginning in the United States: a period of single-party politics. With Monroe's overwhelming electoral success in 1816, the Federalist Party vanished as a viable, national entity. In turn, Jeffersonian party cohesion broke down and power struggles erupted. Three prominent party leaders, John Calhoun of South Carolina, William Crawford of Georgia, and John Quincy Adams of Massachusetts, emerged to vie with Clay for the role of successor to Monroe in 1824. Each held a position within Monroe's cabinet,[8] and as Remini (1991, 152–53) asserts, each had definite presidential ambitions: "Calhoun . . . proceeded to infuriate Crawford by

inaugurating his own presidential candidacy. And since the secretary of state was generally considered the next in line for the presidency, an advantage Adams fully intended to exploit, that produced at least four men involved in power plays to advance their particular ambitions."

It was in this context, in 1817, that Clay began constructing a strategy to win the presidency in 1824. Because he was not a member of the administration, like Calhoun, Crawford, and Adams, Clay was in a unique position. As Heale (1982, 45) suggests: "... his road towards [the presidency] was less clearly marked than those of his cabinet rivals. He had never held executive office, unlike most of those who had previously reached the presidency, and he lacked the option of displaying himself before the public in the sedulous performance of departmental duties. Also, he could not hope to be seen as the natural heir-apparent or as the regular party candidate. Clay more than anyone had to devise a new strategy to reach his goal."

I contend that Clay's strategy for presidential ascension revolved around retaining control of the speakership, for two complementary reasons. First, Clay would employ the power of his position as Speaker to remain a "player" on the national scene. He intended to use his influence and agenda-setting powers to battle the Monroe administration (and his presidential rivals in the cabinet) on policy-related issues. By opposing the administration, Clay hoped to differentiate himself from his rivals (Adams 1951; Heale 1982; McCormick 1982; Remini 1991). Second, as nationalism waned and sectionalism grew stronger (McCormick 1982; White 1951), Clay calculated that he, Calhoun, Crawford, and Adams would all receive substantial support from the electoral college, but none would receive a majority of votes. Thus, by the Twelfth Amendment to the Constitution, the members of the House of Representatives would choose the president from among the top three electoral finishers. Clay's plan, then, was simple. He determined that over the next seven years he would maintain control of the House, duel with the administration, and build a majority coalition.[9] If he could then simply finish third in the electoral balloting, he would become the next President of the United States, via House election.[10]

The Demand Side of Right Emergence: A Heterogeneous Coalition

As the Fifteenth Congress approached, Clay realized that maintaining the speakership would not be easy. He now faced a single-party coalition split ideologically on various dimensions. These partisan

rifts first came to his attention in the Fourteenth Congress. Bitter disputes on tariffs, internal improvements, and federal funding for the armed services suggested that a unique Jeffersonian position on economic issues no longer existed (Gamm and Shepsle 1989; Remini 1991). After the Federalist collapse and the completion of the war, local goals quickly replaced national goals, and MCs began altering their behavior accordingly.

The Fourteenth Congress would prove to be a harbinger. Two-thirds of House members either retired or were defeated for reelection to the Fifteenth Congress. This upheaval was directly related to the passage of a congressional pay raise in 1816, which was met with widespread public disapproval (Bianco, Spence, and Wilkerson 1996). A diverse group of challengers emerged to succeed these "salary-grabbers," and pledged to serve their constituents better by being more responsive to *local*, rather than *national*, concerns (Nielsen 1968; White 1951).

Clay believed that this new, heterogeneous coalition would be frustrated by the House's traditional system of bill referral (Gamm and Shepsle 1989). The absence of true bill-referral rights did not concern MCs prior to and during the war, because their preferences on most major issues were quite similar. Any particular MC was assured of receiving a policy output that was close to his ideal point, even if he did not serve on the committee responsible for crafting the legislation. Thus, a demand for more consistent rights of bill referral was not expressed. A more heterogeneous membership concerned primarily with local issues would be stymied by such a system, however. Individual members of the Fifteenth Congress would not be able to employ traditional House mechanisms to serve their constituents; instead, legislative gridlock would be the norm. Clay believed that such instability would have a profoundly negative effect on his ability to retain the speakership and, critically, to achieve the presidency.

The Emergence of a Right: Institutional Change

Clay's problem, then, was clear: he needed to serve multiple principals who could not agree on a set of issues that the coalition should pursue (Shepsle and Humes 1984). After unsuccessfully seeking a unifying issue to reconstruct the old coalition, he quickly realized that he could no longer lead effectively with policy initiatives (Young 1966).[11] Thus, at the outset of the Fifteenth Congress, Clay pursued other means to maintain his position (Rohde and Shepsle 1989).

His solution was to introduce structural and procedural innovations that would meet the individual needs of his partisans (Remini

1991). Because the Jeffersonian coalition was divided, Clay knew that few bills would reach the floor with a majority of support (Baxter 1995). In addition, given the costs of constructing vote-trading agreements, even fewer bills would achieve final passage. With this in mind, Clay devised a scheme by which "high-demanders" on various issues would control the bill-referral process on those dimensions, while trading influence across other policy dimensions. Clay began constructing his new congressional organization in the Fifteenth Congress around three main tenets:

(1) Members were allowed to select their own committee assignments, thus enabling them to represent the specific needs of their constituents.

(2) Contrary to earlier Congresses, standing committees would handle most of the chamber's business. In addition, a pseudo-"seniority" norm was adopted by which members would retain their seats across all sessions of a given Congress, as well as from Congress to Congress. This would provide some continuity to the organization and allow MCs to build a reputation with constituents.

(3) Most importantly, standing committees would hold an ex-ante veto on all proposals falling within their given policy jurisdictions, i.e., committees were no longer required to report bills to the House. Any resolution involving a particular policy area would be sent to the standing committee that controlled that jurisdiction. If the resolution did not coincide with the committee's preferences, it would be "tabled" and never sent to the floor for a vote.

Clay tailored this new system of standing committees and bill-referral rights *specifically* to the needs of the heterogeneous membership.[12] His intent was to create a system that would firmly establish the link between representatives and constituents. First, through members' selection of committee assignments and ex-ante "gatekeeping," MCs would obtain jurisdictional control of the bill-referral process in policy areas important to their individual interests. Committees would be given the power to screen policy outputs, as they would be able to eliminate bills that would make their constituents worse off (Cooper and Young 1989). Second, through the "continuous-tenure" norm, MCs would retain their monopoly powers indefinitely. This would allow them to forge a personal relationship with constituents on policy grounds; MCs could advertise their abilities and claim credit for their policy achievements (Swift 1987; White 1951).

V. Empirical Results

Do the observed data support the new institutionalist hypotheses regarding the emergence of standing committee dominance? Perhaps the most difficult empirical task involves the demand side of the argument, i.e., showing that the Jeffersonian coalition's demand for more formal bill-referral rights increased after the War of 1812. Anecdotal illustrations abound, as Young (1966) cites numerous comments made by MCs bemoaning the House's inefficiencies in passing legislation that was relevant to their respective needs. Such illustrations, however, are tenuous as evidence of increasing demand for new rights. A more compelling empirical argument requires a means by which MCs' preferences can be assessed and analyzed over time. To this end, I will incorporate a preference measure developed by Poole and Rosenthal (1985; 1997) that establishes an ideological position on particular issues dimensions for each MC.[13] By incorporating this measure, hereafter referred to as D-Nominate scores, I can determine how the distribution of preferences within the Jeffersonian coalition changed during the period in question.

I have hypothesized that an increased demand for bill-referral rights was connected to the level of preference heterogeneity within the Jeffersonian coalition. Once the war with Britain had ended and the Federalist Party crumbled, the Jeffersonians split on the issues of the day; no defining national issue remained, and no incentives to act as partisan group existed, due to the lack of an organized competition. D-Nominate scores should reveal this divergence of preferences, if it actually occurred. As the Jeffersonians became more heterogeneous, we would expect to uncover a greater "spread" within their ranks, as measured by the average standard deviation from the mean position.

Table 1 provides a breakdown of the Jeffersonians in the House between the Eleventh and Seventeenth Congresses on the primary issue dimension identified by Poole and Rosenthal for this era. The empirical results correspond to the hypothesized assertions. No significant change occurs within the coalition between the Eleventh and Twelfth Congresses, which supports the view that by organizing the War Hawk majority, Clay was able to maintain a high degree of party cohesion. Between the Twelfth and Thirteenth Congresses, the data suggest that a significant ($p < .01$) decrease from the mean coalition position occurred, supporting the contention that the coalition became even tighter as the war progressed. In the Fourteenth Congress, however, the data reveal a rift within the coalition, as the deviation from the mean position increased significantly ($p < .05$). These rifts were

TABLE 1
Preference Dispersion within the Jeffersonian Coalition, 11th to 17th Houses

House	Coalition Size	Mean	Standard Deviation	F-Statistic
11	100	–.159	.185	—
12	107	–.174	.186	1.30
13	123	–.200	.140	1.77**
14	124	–.160	.171	1.48*
15	147	–.113	.315	3.43***
16	168	–.025	.326	1.07
17	151	.012	.356	1.19

H_o: sd (Congress$_t$) = sd (Congress$_{t-1}$).
Note: Means and standard deviations are measured in terms of D-NOMINATE scores, which are restricted to the [-1, 1] interval. In each House, a small number of coalition members did not possess an extensive enough voting record for scores to be calculated. These members were dropped from the analysis. The 18th House was not included because Martis (1989) asserts that the traditional Jeffersonian coalition no longer existed; instead, he categorizes six distinct factions within the House.
*$p < .05$.
**$p < .01$.
***$p < .001$.

followed by a significant ($p < .001$) deterioration in the Fifteenth Congress, as the deviation from the mean position nearly doubled, which continued through the Seventeenth Congress. Figure 1 illustrates the coalitional separation between the Thirteenth and Fifteenth Houses spatially.[14] These results support my dual conjectures regarding the post-war era: (a) individual MCs were concerned primarily with constituency service and, therefore, focused on local issues, and (b) party could no longer serve as a "bonding" mechanism due to the lack of a viable electoral alternative.[15]

The supply side of the argument is more straightforward, as the results of Clay's actions are observable. With regard to the procedural aspects of bill referral, I have asserted that, in his early years as Speaker, Clay followed the norm of referring a majority of bills to select committees. Clay began using standing committees only after the increased

FIGURE 1
Preference Distribution within the Jeffersonian Coalition,
13th to 15th Houses

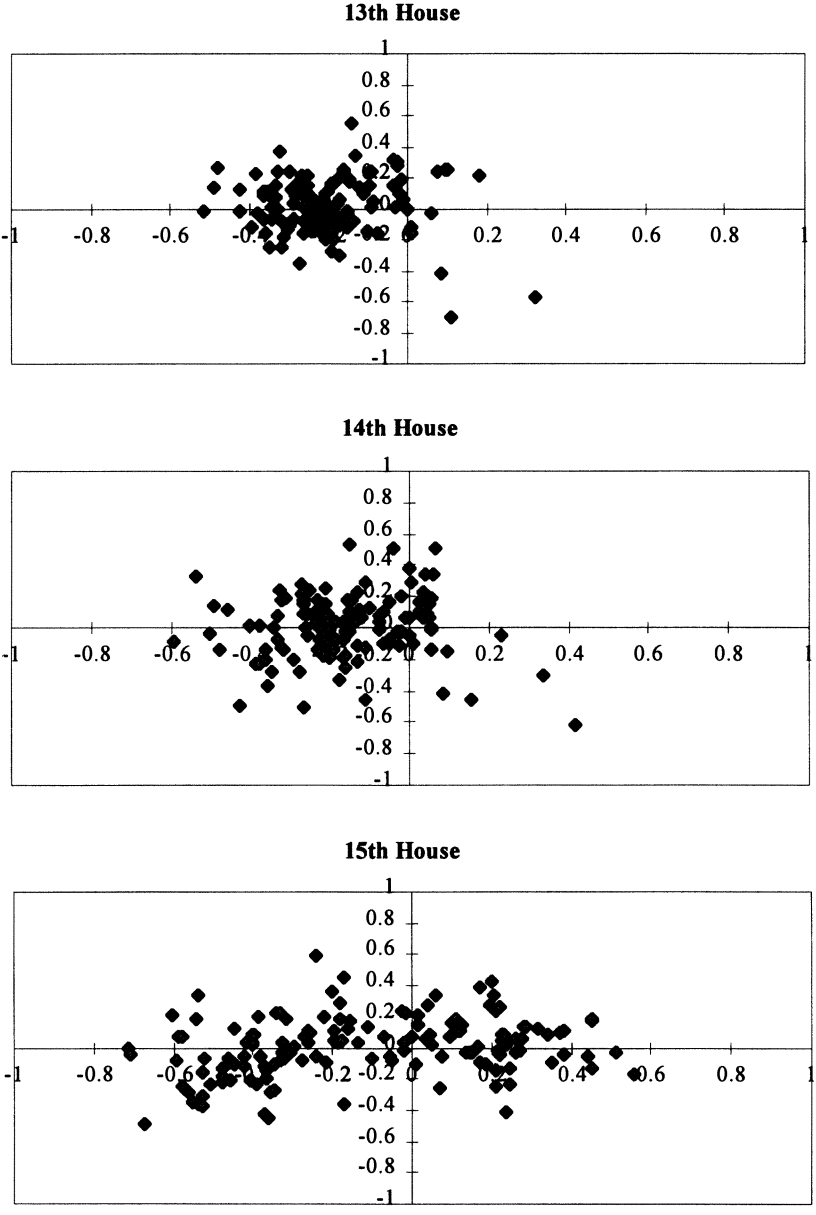


TABLE 2
Clay's Bill-Referral Distribution as Speaker

Congress	Bills Referred to Standing Committees	Bills Referred to Select Committees
12th, 13th, 14th Congresses	268	203
15th, 16th, 18th Congresses	840	223

H_0: proportion (standing committees$_{12,13,14}$) = proportion (standing committees$_{15,16,18}$)
$z = 8.92$, $p < .0001$ (one-tailed test).

Note: Bill-referral numbers correspond to the first session's totals for each Congress. Clay was not a member of the 17th Congress.

Source: Gamm and Shepsle 1989.

heterogeneity within the Jeffersonian coalition forced him to seek new institutional initiatives. Thus, as Clay bestowed new jurisdictional powers on standing committees, we should observe a significant increase in standing committee control over the House workload. Bill-referral data from this era substantiate these claims. Beginning with the Fifteenth Congress, as Table 2 illustrates, there was a significant distributional change ($p < .0001$) away from select committees and toward standing committees. In his first three terms as Speaker, Clay sent 57% of all bills to standing committees. In his last three terms, however, he funneled nearly 80% of all bills to standing committees.

In addition to procedural changes, I have asserted that Clay made structural modifications to the House system by institutionalizing seat and chairmanship appointments.[16] Clay granted "monopoly" control to MCs over committee assignments by allowing them to retain their seats indefinitely; thus, MCs could control relevant policy areas, build policy expertise, and advertise their abilities to constituents as long as they were reelected. Beginning with the Fifteenth Congress, we should therefore expect a greater proportion of members and chairs to retain their given assignments, not only across all sessions of a given Congress (controlling for resignations, deaths, and transfers), but across succeeding Congresses (when reelected) as well. The results in Table 3 support these expectations. Clay returned both members and chairs at significantly higher rates ($p < .001$ and $p < .01$, respectively) across all sessions of a *given* Congress: roughly 90% of MCs and chairs maintained their assignments, relative to 48% of MCs and 71% of chairs in the pre-change era. Findings are similar in an across-Congress analysis.

TABLE 3
Committee Institutionalization Under Clay

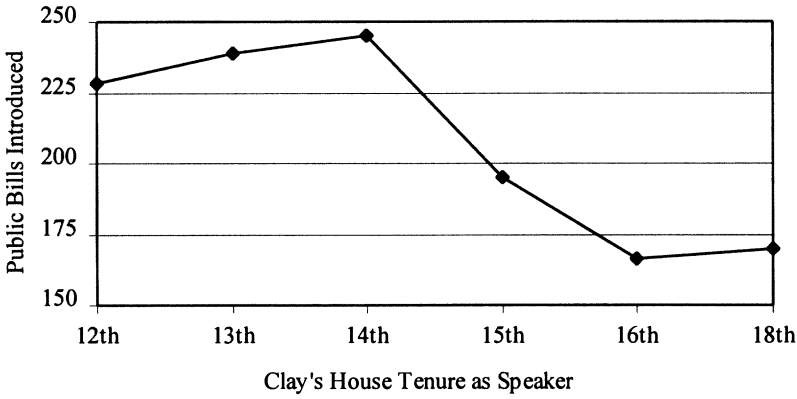
Consistency across Sessions	12th, 13th, 14th	15th, 16th, 18th	Z-score
Committee assignments	48.0 (173)	87.1 (280)	9.04***
Chairmanship assignments	71.0 (31)	90.7 (54)	2.37**
Consistency across Congresses	**12th, 13th, 14th**	**15th, 16th, 18th**	**Z-score**
Committee assignments	62.5 (104)	76.6 (124)	2.32*
Chairmanship assignments	50.0 (18)	74.2 (31)	1.72*

H_o: proportion ($Congress_{12,13,14}$) = proportion ($Congress_{15,16,18}$).
Note: Numbers *not* in parentheses are percentages. For example, 48% of members who received a standing committee assignment in the first session of the 12th, 13th, or 14th Congresses served on that committee throughout all sessions of that given Congress, and 62.5% of members who received a standing committee assignment in the last session of a given Congress were appointed to the same committee in the first session of the succeeding Congress. Numbers in parentheses represent the set of all members in the given period over which the percentages are tallied, controlling for reelection (with regard to consistency across Congresses), resignations, deaths, and transfers.
Source: Annals of Congress (various years).
*$p < .05$, one-tailed test.
**$p < .01$, one-tailed test.
***$p < .001$, one-tailed test.

Beginning with the Fifteenth Congress, Clay was significantly ($p < .05$) more willing to reappoint both members (a 14% increase) and committee chairs (a 24% increase), relative to the pre-change era.

I also have asserted that Clay made an additional structural innovation by providing standing committees with new gatekeeping powers. As Cooper and Young (1989, 71) state, "By the first session of the Fifteenth Congress (1817–18) the standing committees had been granted discretionary power to report by bill on all subjects referred to them."[17] These new gatekeeping powers provided committees with "negative" agenda-setting abilities: they were able to insure that bills whose effects were contrary to their constituents' interests would not

FIGURE 2
House Workload under Clay



H_o: mean ($bills_{12, 13, 14}$) = mean ($bills_{15, 16, 18}$).
12th, 13th, 14th mean: 237.3.
15th, 16th, 18th mean: 177.
$t = 4.41$; $p < .03$, one-tailed test.
Date source: Binder 1995.

be enacted. Beginning with the Fifteenth Congress, then, we should expect the number of bills introduced to decline substantially as committees began exercising their new discretionary powers. As Figure 2 illustrates, using the introduction of public bills as the dependent variable, a significant ($p < .03$) decline did occur. The mean number of bills introduced dropped by 25% (from 237.3 to 177), after Clay conferred gatekeeping authority to standing committees.

In addition to providing standing committees with more bill-referral powers, it would also seem reasonable that, all else equal, Clay would increase the number of standing committees in existence to augment his would-be presidential coalition. As Table 4 indicates, however, this was not the case. Clay created eleven new standing committees during his reign as Speaker, but only two came after the Fourteenth Congress. Eight of the nine standing committees that he created in the pre-change era were oversight committees, which were a direct response to MCs' demands for more opportunities to serve constituents (see White 1951, and note 11). After the Fourteenth Congress, however, Clay was intent on building a coalition based almost exclusively on

TABLE 4
Standing Committees Created by Speaker Clay

Standing Committee	Congress Created
Judiciary	13th Congress
Pensions and Revolutionary War Claims	13th Congress
Private Land Claims	14th Congress
Expenditures, War Department	14th Congress
Expenditures, Navy Department	14th Congress
Expenditures, Treasury Department	14th Congress
Expenditures, State Department	14th Congress
Expenditures, Public Buildings	14th Congress
Expenditures, Post Office	14th Congress
Manufactures	16th Congress
Agriculture	16th Congress

Note: Commerce and Manufactures was a single standing committee created in the 4th Congress. It was split into two separate committees in the 16th Congress. Several additional standing committees were created during the "Clay era" (between the 12th and 18th Congresses), when Clay did not serve as speaker. Public Expenditures was created in the 13th Congress by Speaker Cheves, and Foreign Affairs, Military Affairs, Indian Affairs, and Naval Affairs were made standing in the 17th Congress by Speaker Barbour.
Source: Annals of Congress (various years).

structural and procedural changes to the *existing* set of standing committees; he added only the standing committees on Agriculture and Manufacturing in the Fifteenth Congress. Why did he decide against carving out additional jurisdictions and parceling them out to MCs? I argue elsewhere (Jenkins and Stewart 1997) that Clay wanted to retain some policy discretion as Speaker. He wanted both to continue to affect the national policy agenda and to keep the administration on the defensive. Primarily, he maintained Foreign Affairs, Indian Affairs, Military Affairs, and Naval Affairs as select committees for this purpose; with this mini "state department" under his control, he could continue applying pressure to Calhoun, the Secretary of War, and Adams, the Secretary of State.

TABLE 5
Votes for Clay as Speaker

Congress	Votes for Clay	Votes against Clay
12th, 13th, 14th Congresses	251	170
15th, 16th, 18th Congresses	429	56

H_0: proportion (votes for $Clay_{12,13,14}$) = proportion (votes for $Clay_{15,16,18}$)
$z = 8.46$; $p < .0001$, one-tailed test.

Note: Clay stepped down twice from the speakership (the 13th and 16th Congresses); the House then proceeded to choose another speaker. Clay was not a member during the 17th Congress.

Source: Annals of Congress (12th through 18th).

Despite these negative findings regarding the creation of new standing committees, I believe the gatekeeping evidence, along with the committee institutionalization results, effectively substantiate the supply side of the institutional-change argument.

Finally, in order for the new standing committee system to have been enacted, duty-bearers, a majority of House members, needed to ratify the changes. While MCs may have desired new parliamentary rights, they may not have viewed Clay's procedural and structural innovations as the solution. We can assess the membership's view of the institutional changes by analyzing Clay's support for reelection to House Speaker; this serves as an implicit ratification of his organizational scheme. We, thus, should expect Clay to receive at least a majority of first-ballot support in the speakership votes during the Fifteenth, Sixteenth, and Eighteenth Congresses, just as he had in the Twelfth, Thirteenth, and Fourteenth Congresses. As Table 5 indicates, Clay not only received a majority of support, but also a near-unanimous contingent ratified his structural and procedural innovations. Beginning with the Fifteenth Congress, Clay received an average of 88.5% of the speakership votes that were cast. This avalanche of support was a significant ($p < .0001$) increase over his 64.5% vote-total during his first three terms as Speaker and can perhaps be attributed to the scope of his innovations. In addition to distributing committee assignments to his Jeffersonian colleagues, Clay also saw to the needs of the dwindling Federalist membership. During his years as speaker, he appointed a majority of Federalist MCs to committee (*Annals*, Twelfth to Eighteenth Congresses). Thus, it appears that in expectation of the

presidential election of 1824 being decided in the House, Clay's bipartisan appointment efforts were an attempt to maximize his support not only within the Jeffersonian coalition, but also across the entire chamber.

VI. Discussion

This paper applies the new institutionalist philosophy to the emergence of standing committee dominance in the organization of the nineteenth-century House. I assert that it provides a fuller understanding of the historical dynamics of the time than do micro-level and macro-level approaches, which, by themselves, cannot account for all factors necessary for an institutional change to occur. Substantively, I contend that a new, macro environment at the outset of the Fifteenth Congress split the homogeneous Jeffersonian coalition, upset the legislative arena, and spurred a demand for a new method to meet constituents' interests. This unstable legislative environment coincided with the machinations of the House Speaker, Henry Clay, who needed an avenue to reach his next political goal, the presidency, and who willingly recognized MCs' demands (in response for their support) by ceding property rights to them in the form of standing committee assignments with monopoly authority over policy jurisdictions. Empirical tests support these assertions. Greater heterogeneity within the Jeffersonian coalition, which is necessary for an increased demand for rights, was uncovered. A significant increase in Clay's use of standing committees in House business occurred, both procedurally and institutionally. Evidence also suggests that Clay created pseudo-"seniority" norms over standing committee assignments, in order to sell the system to members and insure their support come election time. Finally, the data suggest that the chamber as a whole ratified Clay's institutional changes, as he was returned to the speakership by significantly greater margins.

This paper also makes several additional contributions by incorporating property rights into the study of Congressional change. Economic theories of property rights revolve around the division, transfer, and control of resources between and among actors within an economic system (Coase 1960; Barzel 1989; Eggertsson 1990; Williamson 1985). The theory can also be applied fruitfully to the study of congressional politics. When an institutional change occurs within the congressional system, a new resource allocation is produced. Congressional actors are made more or less powerful relative to the pre-change arrangements because of new "rights" over resource usage. I have asserted that Clay granted new *jurisdictional* rights (control of

bill referral on a given issue dimension) to standing committees and provided members of said committees with pseudo-*ownership* rights (the ability to retain their seats indefinitely). These changes had a profound impact on the centers of power within the House, as well as the distribution of policy outputs that were produced. While some positive political scholars have implicitly used the language of property rights to describe House organization (Fiorina 1987; Shepsle 1978; Shepsle and Weingast 1987, 1994; Weingast and Marshall 1988), the critical role that right allocations play in fostering institutional change and producing particular distributions of policy outputs has not been detailed explicitly. I hope this paper will foster more discussion in that regard.

Finally, I believe the property rights literature, specifically the Riker/Sened approach, provides a useful framework for applying the new institutionalism to historical questions. While the new institutionalism offers a distinct philosophical approach to the study of institutional change, a standard means by which to operationalize it does not exist. I believe the Riker/Sened approach provides such a means. By establishing both demand-side and supply-side requirements, Riker and Sened establish necessary conditions for all actors involved in the production of an institutional change. In addition, constraints on what demand-side and supply-side actors may achieve are established, by requiring a majority of all actors within the system to ratify the change. As such, an implicit, constrained utility function is specified for both demand-side and supply-side actors: in determining whether to pursue a particular institutional change, they maximize over their individual utilities (micro-level forces) subject to systemic constraints (macro-level forces). As a result, the new institutionalism becomes a more robust theory, as generalizable hypotheses can be derived systematically and tested empirically.

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NOTES

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1. Humes (1989) suggests that the micro versus macro discussion can be modeled as a constrained maximization problem: MCs' utility functions represent the micro effects, while the environmental constraints on utility represent the macro effects. The makeup of both the utility function and the constraints are important in determining the particular outcome that is achieved.

2. The committee system is viewed as an "institutionalized" logroll. MCs, who possess heterogeneous interests, select committee assignments whose jurisdictions match their needs and control policy on those dimensions, while trading jurisdictional influence with MCs on other committees (Fiorina 1987; Shepsle 1978; Shepsle and Weingast 1987, 1994; Weingast and Marshall 1988). This gains-from-trade system allows MCs to wield disproportionate influence in policy areas important to their particular constituencies, which is crucial to their continued electoral success.

3. Stated another way, Riker and Sened provide equilibrium conditions for the creation and sustenance of an institution.

4. This is not to say that standing committees were nonexistent in the early republic. Several standing committees, such as Elections (First Congress), Claims (Third Congress), Commerce and Manufactures (Fourth Congress), Revisal and Unfinished Business (Fourth Congress), and Ways and Means (Fourth Congress), were created to deal with recurring governmental matters. In addition, standing committees were used to some degree in the Confederation Congress and the early state legislatures (see Cooper 1988, and Jillson and Wilson 1994, for more details).

5. The average length of time between the establishment and termination of select committees during the first eleven congresses was 35.6 days (Stewart et al. 1995).

6. Hamilton was influential in organizing Federalist voting blocs in Congress by persuading party members that they could extract benefits by acting collectively. By the Second Congress, Madison and Jefferson had organized a partisan opposition (Harlow 1917; Aldrich 1995).

7. Despite his perceived ideological persona, Clay had always shown a great deal of ambition for higher office (serving in the Kentucky legislature and the U.S. Senate before his move to the House), and took calculated, opportunistic steps to maintain his rise (Baxter 1995; Remini 1991).

8. Calhoun was Secretary of War, Crawford was Secretary of the Treasury, and Adams was Secretary of State.

9. Clay's scheming did not go unnoticed by his rivals. John Quincy Adams was aware of Clay's plan as early as 1817 (Heale 1982). Adams wrote at length in his diary about Clay's presidential ambitions: "Clay appears to have made up his account to succeed Monroe in the Presidency. . ." (March 28, 1818), and ". . . it is well understood that his object is to organize and embody a systematic opposition of the whole Western country against the present Administration, the operation of which is to take effect at the end of Mr. Monroe's eight years" (January 25, 1819).

10. It could be argued that Clay's absence from the House for the entire Seventeenth Congress would question the legitimacy of my theory. In 1817, however, when Clay was planning his ascension to the presidency, he could not have foreseen the difficulties that he would face several years later. The Panic of 1819 wiped out his savings and forced him to return to Kentucky to manage his estate. This did not alter his plan in the least. Clay "retired" with the intention of returning to the House and the

speakership in the Eighteenth Congress. Letters written to and from Clay in April 1822, well prior to the congressional elections of 1822–23, substantiate this, as he continued to believe that the presidential election would be thrown into the House (Clay, *Papers*, III: 193, 292, 313).

11. By the Fourteenth Congress, Clay had become familiar with the increasing district-level demands that MCs were facing. With the passing of war, local concerns predominated and greater specialization by MCs was required. As White (1951, 100) notes: "Congressmen were already being driven to the departments by their constituents." Thus, Clay created six expenditure committees, so that MCs could have additional opportunities to impress their constituents.

12. Clay's decision to change the bill-referral process in the House is consistent with the theory of conditional party government: party leaders are responsible to MCs' policy demands only when there is widespread agreement within the party coalition (Cooper and Brady 1981; Rohde 1991; Rohde and Shepsle 1987). When a sufficient level of homogeneity is present, MCs provide party leaders with institutional powers to be used in pursuit of their common objectives. This was the case during the Twelfth and Thirteenth Congresses when a majority of the Jeffersonian coalition supported Clay's nationalistic policies. Alternatively, when a heterogeneous coalition is in power, MCs do not often reach agreement in support of policy positions and do not provide leadership with many opportunities for independent, forceful action. Clay faced such a heterogeneous coalition in the Fifteenth Congress.

13. D-Nominate scores are measures of "revealed" preference for MCs, based on their entire voting record in a particular Congress. See Poole and Rosenthal (1997) for a more detailed explanation of the D-Nominate estimations.

14. I have inserted the Poole and Rosenthal second dimension in the spatial mappings solely for ease of presentation. There are no significant differences in spread on this dimension between the Twelfth and Seventeenth Congresses.

15. Potentially, one might argue that Clay's new standing committee system actually *caused* the large spreads in Jeffersonian preferences uncovered in the Fifteenth, Sixteenth, and Seventeenth Congresses. This hypothesis is testable. By the Nineteenth Congress, two distinct "parties" once again existed—an Adams party and a Jackson party—and the same institutional structure that Clay constructed was still in place (see Martis 1989). If party was the credible commitment mechanism to produce cohesion, as I assert, then we should expect the spread in the dominant party (the Adams party) in the Nineteenth Congress to be significantly smaller than the spread in the very heterogeneous Jeffersonian party of the Seventeenth Congress (no distinct partisan affiliations existed in the Eighteenth Congress). If large spreads are uncovered in the Nineteenth Congress, however, the standing committee hypothesis may possess some validity. Results from an analysis of D-Nominate scores substantiate party's role as a commitment mechanism. The spread within the Adams party in the Nineteenth Congress, as measured by the average standard deviation from the mean position, was .233, which is significantly less than the .356 of the Jeffersonian coalition in the Seventeenth Congress. Moreover, the spread within the Adams party continued to decline in the Twentieth Congress (.206).

16. I interpret "institutionalization" a bit more loosely than Polsby (1968). Reappointment to committee was becoming much more predictable, but it was not automatic. Property rights are rarely complete in the economic sense, however, as

one's rights are nearly always subject to constraint (Barzel 1989). It is sufficient to conclude that Clay's innovations made committee property rights *more* complete.

17. Clay also made the policy jurisdictions controlled by standing committees more secure. Beginning in the Fifteenth Congress, fewer select committees were created than in the pre-change era, which, in effect, limited the number of possible jurisdictional incursions. An average of 119.7 select committees were created during Clay's first three terms as Speaker, compared to an average of 71.7 in his last three terms (Stewart et al. 1995). This was a significant ($t = 3.98$, $p < .03$) decline.

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