

The Gag Rule, Congressional Politics, and the Growth of Anti-Slavery Popular Politics

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Before strains over the Nation's regional differences became so severe as to cause a Civil War, the locus of regional conflict was the U.S. Congress. The tariff, the admission of new states, and the regulation of slavery were all issues that were centered on congressional action. The speeches and votes of members of Congress on these issues framed how most Americans viewed the tug of regional interests.

This paper is about one episode in the antebellum regional drama—the so-called “gag rule” that barred the House from receiving petitions concerning the abolition of slavery, from 1836 to 1844. This is an episode of which most students of Congress and of antebellum American history are at least dimly aware; yet, it has elicited surprisingly little interest from historians, and even less from political scientists.

Why study the gag rule? We propose two answers. First, scholarship on the gag rule has been almost exclusively the property of historians; the modern tools of political science can add to the historical account and occasionally clarify some issues that remain murky or unexplored. Second, dispute over the gag rule is part of a larger pattern that regularly emerges in American politics—the dialectic between highly visible trench warfare on Capitol Hill and public agitation around an issue. Most observers of contemporary politics will agree that at least sometimes words and deeds in Washington spur political activity back home. We believe the gag rule provides an interesting case study of the relationship between social movement development and congressional politics before the Civil War.

The remainder of this paper is organized as follows. Section I summarizes the events that transpired between the 24th (1835-37) and 28th (1843-45) Congresses surrounding the gag rule. Section II examines the shifting coalitions on both sides of the gag rule and attempts to explain why the gag rule was first enacted and later rescinded. Section III concludes with comments about future lines of research.

I. History of the Gag Rule

Agitation over what would eventually be known as the “gag rule” consumed nearly a decade, stretching from January 1836 (24th Congress) to December 1844 (28th Congress). We could personalize the issue, as many historians have, by focusing on the two major protagonists in the story: John Quincy Adams (Whig-Mass.), the former president now elected to the House of Representatives, *versus* John C. Calhoun (Null.-S.C.) who, while a member of the Senate, was the intellectual/political leader of the southern House members who sought to bar any discussion of slavery in Congress. Adams especially would prove to be the “lightning rod” in virtually all of the most dramatic episodes that unfolded during the decade of debate over the gag rule.

Yet, while it is impossible to ignore the entrepreneurial role that Adams played in the drama over the gag, our goal is not to personalize the issue, but to understand the larger forces that gave rise to the movement to keep slavery off the House floor and the politics that overturned that prohibition. It is to that account do we now turn.

Larger context

The congressional battle over slavery and Missouri statehood in 1819-1820 helped to polarize national politics along regional lines. In response, Democratic party leaders attempted to build a

national organization that softened regional divisions (i.e., suppressed the slavery issue), by creating a party around the ideal of a weak national government, states' rights, and incumbency protection (Aldrich 1995). An important piece of context to consider is that at the beginning of the events covered in this paper, Andrew Jackson was still president, but his vice president, Martin Van Buren, the mastermind of this Democratic party-building strategy, was soon to succeed him. The gag rule itself was a device that had Van Buren's explicit blessing as a party-building strategy.

The menace of anti-slavery petitions, which the gag rule was designed to address, was not a random affair, but an orchestrated campaign by anti-slavery organizations, most notably the American Anti-Slavery Society. The Society was a direct descendant of the religious revitalization in the United States that swept from the cities of the northeast through the farms and small towns of the Midwest in the early nineteenth century. Dubbed "The Second Great Awakening," the movement was far more active than the previous incarnation. Led by the spiritual leader Charles Grandison Finney, the movement would take on an evangelical tenor, encouraging proponents to work for social change rather than accept a position of disinterested benevolence. For Finney, revival was not a miracle of God, but rather a free choice by man.

Many of Finney's disciples would go on to start Sunday schools, establish temperance societies, and promote literacy for white laborers and free blacks. Many others would go on to work for the anti-slavery cause. This latter group would be led by Lewis and Arthur Tappan, commercial magnates from New York, and Theodore Dwight Weld, son of a New England preacher. Buoyed by the Tappan fortune, Weld traveled across the Midwest in the early 1830s, spreading the message of anti-slavery and building a network of converts.

In 1833, with the encouragement of Weld, the Tappan brothers helped establish and underwrite the American Anti-Slavery Society, an organization whose chief goal was the abolition of slavery in the United States. Among other things, the Society organized anti-slavery meetings, printed and distributed anti-slavery propaganda, and sponsored anti-slavery lecture tours of the United States. Thanks to the Tappans' financing and the leadership of Weld, William Lloyd Garrison, and James Birney, the Society grew quickly. By 1835, the Society possessed more than 400 chapters.¹ By 1838, the Society grew to 1,350 chapters.² By 1840, the Society swelled to over 2,000 chapters and 200,000 members.³ The 1838 breakdown by state appears in Table 1. The bulk of the Society's membership came from three states: New York, Massachusetts, and Ohio. Yet, sizeable followings were also building in Vermont, New Hampshire, and Pennsylvania.

In 1835, the leaders of the Anti-Slavery Society decided to take their message south, to the heart of slavery itself. Throughout the summer, anti-slavery mass mailings were sent to southern citizens, in an effort to appeal to their religious and moral convictions and persuade them of the righteousness of abolition. This strategy, for the most part, produced the *opposite* effect, as southern leaders saw these anti-slavery mailings as an open threat, in effect a call for a slave revolution. Very quickly, southern postmasters, under the guidance of Postmaster General Amos Kendall, began a program of censorship by confiscating and destroying anti-slavery mailings. Moreover, southern leaders began calling on their northern brethren to follow a similar

1. Second Annual Report of the American Anti-Slavery Society (1835).

2. Fifth Annual Report of the American Anti-Slavery Society (1838).

3. See Wesley (1944).

strategy, by censoring mail as well as outlawing anti-slavery meetings and organizations.⁴ While northern public opinion cared little about blacks' liberties and did not condone the tactics of the American Anti-Slavery Society, it did, however, strongly support whites' liberties and thus would protect the right of free speech and assembly (even in anti-slavery causes). In effect, the northern mainstream suggested that the south had to learn to live with the anti-slavery movement. Rebuffed, southern leaders fumed.

While northern and southern opinion leaders debated how to handle anti-slavery activities, the Society's leaders began rethinking their strategy. It had become clear that Christian appeals would not spur change in the South, so devising an alternate tactic was necessary. By late 1835, a decision was made to target Congress directly through the use of petitions. This petition-based scheme would focus on emancipation in the District of Columbia in an effort to achieve the maximum effect. That is, while opinions differed regarding the constitutionality of Federal government intervention on the issue of slavery in the states, the Constitution gave the Congress the explicit power to legislate on slavery in the nation's capital.⁵ If abolition could gain a foothold in the District of Columbia, the Society's leaders reasoned, then perhaps the anti-slavery movement might make inroads further south.

As a result, as Richards (2000, p. 129) states: "when Congress met in December 1835, the American Anti-Slavery Society was the hottest issue on the political agenda." Hundreds of petitions flowed in to Congress, with thousands of signatures, offering prayers in the name of

4. More extreme measures were also supported. In particular, several southern communities posted a \$50,000 reward for the delivery of Arthur Tappan, either dead or alive (see Richards 1970, pp. 50-52).

5. See Article I, Section 8, Clause 17.

slaves and requests for abolition in the District of Columbia.⁶ Over the next several years, these figures would grow to thousands of petitions with hundreds of thousands of signatures.⁷

Inside the House

The congressional history of the gag rule began at the opening of the 24th Congress, during the traditional call of the states to receive petitions from constituents.⁸ (To help guide the story of the gag rule's history, Figure 1 summarizes the time line.) For several weeks on petition days, House members from New England would rise to submit petitions from local citizens (in most cases) calling for the abolition of slavery—sometimes abolition generally, but mostly abolition in the District of Columbia specifically.

The traditional method for dealing with controversial petitions had been for the House to routinely refer them to committee, print them up, and then ignore them. The method used by the House for dealing with anti-slavery petitions would be even more stringent. When John Fairfield (Jack.-Me.) presented an anti-slavery petition from his constituents, involving slavery abolition

6. Exact figures are lacking. According to Miller (1996, p. 111), the select committee to which the petitions were eventually referred (the Pinckney committee)—one that “was not sympathetic to the petitioners”—claimed there were 176 petitions with around 34,000 signatures. The Massachusetts Anti-Slavery Society, on the other hand, reports larger figures: not less than 500 hundred petitions, with between 75,000 and 100,000 signatures (see Miller 1996, p. 112).

7. See Miller (1996, pp. 305-09) for a rundown of various attempts to identify precisely the number of petitions and signatories.

8. Under the House Rules operating at the time, each day for the first thirty days of the session were petition days. After that, petitions were received each Monday. An important procedural accident is worth noting: the order for the call of states to receive petitions was geographical, starting in the North and proceeding south. Thus, the most anti-slavery part of the country got to lead off on each petition day. Because of this, wrangling over anti-slavery petitions served to obstruct southern House members who themselves wanted to be seen as helpful to the folks back home, by presenting their own petitions.

in the District of Columbia, in the opening days of the 24th Congress, the House quickly moved to table it without a printing (*Register of Debates*, 24th Cong., 1st sess., pp. 1961-63). For some southern House members, however, this was insufficient. This became apparent two days later, on December 18, 1835, when William Jackson (Anti-Mason-Mass.) offered another anti-slavery petition, to which James Henry Hammond (Null.-S.C.), a protege of Calhoun's, moved that it not even be received. As justification for his motion for peremptory rejection, Hammond stated that "he could not sit there and see the rights of the southern people assaulted day after day, by the ignorant fanatics from whom these memorials proceed" (*Register of Debates*, 24th Cong., 1st sess., p. 1967). Hammond's motion set off a two-month-long battle, which John Quincy Adams and other Northern Whigs joined, over the question of House reception of anti-slavery petitions.⁹

At the behest of Martin Van Buren, an attempt at a compromise measure was eventually pushed. On February 4, 1836, Henry L. Pinckney (Null.-S.C.) introduced a series of resolutions concerning anti-slavery petitions. Pinckney's resolutions involved packaging all anti-slavery petitions together and referring them to a select committee, whose tasks would include determining the constitutionality of congressional action against slavery in the states and the propriety of congressional action against slavery in the District of Columbia. After some debate, which included Pinckney's fellow representatives from South Carolina calling him a "traitor" and an "apostate," Speaker James K. Polk (Jack.-Ky.) appointed a nine-man committee pursuant

9. Similar questions were also being debated throughout January and February 1836 in the Senate. Finally, on March 9, 1836, John Calhoun offered a motion very similar to Hammond's, which called for peremptory rejection of anti-slavery petitions. Calhoun's motion was defeated 36-10. Five days later, James Buchanan (Jack.-Penn.) proposed instead that anti-slavery petitions be received, but that the accompanying prayers for abolition be immediately rejected without consideration, which passed 34-6 (*Register of Debates*, 24th Cong., 1st sess., pp. 779, 810).

to the request, with Pinckney serving as the chair (*Register of Debates*, 24th Cong., 1st sess., pp. 2482-84, 2491-2502).

More than three months later, on March 18, 1836, the Pinckney Committee reported back to the chamber. Not surprisingly, it concluded that Congress had no constitutional power to interfere with slavery in the states and that it would be “impolitic” for Congress to interfere with slavery in the District of Columbia. However, the committee also reported a third resolution, which included the following provisions:

All petitions, memorials, resolutions, propositions, or papers, relating in any way, or to any extent whatsoever, to the subject of slavery or the abolition of slavery, shall, without being either printed or referred, be laid on the table and that no further action whatever shall be had thereon.

As justification for this “gag,” the committee argued that “it is extremely important and desirable that the agitation of this subject be finally arrested, for the purpose of restoring tranquility to the public mind” (*Register of Debates*, 24th Cong., 1st sess., pp. 3756-57).

The Pinckney Committee’s third resolution was controversial, to say the least. Northern Whigs, led by Adams, attempted to derail it, but to no avail. (Adams, himself, was “gagged” on March 25.) The “Pinckney gag” finally came to a vote in the House on March 26, 1836, and passed, 117–68 (*Register of Debates*, 24th Cong., 1st sess., pp. 4052-54).¹⁰ The pro-gag forces had won the first round.

Rather than settle the issue of House reception of anti-slavery petitions, this vote merely set the stage for further wrangling. In the very next session of the same Congress the issue came up again when on December 26, 1836, Speaker Polk ruled that all the special rules that had been

10. Henry Pinckney would subsequently lose his bid for reelection in October 1836.

adopted in the previous session had expired at the end of the session. Anti-slavery petitions could thus be presented in the second session. Skirmishing over the gag rule was begun anew and stretched into the middle of the next January. The issue was once again resolved on January 18, 1837, when Albert G. Hawes (Jack.-Ky.) introduced, and the House passed 129–69, the exact same gag that had been established in the previous session (*Register of Debates*, 24th Cong., 2nd sess., p. 1412).

Once again, the pro-gag forces had prevailed. Yet, John Quincy Adams was not easily deterred. Intent on keeping the issue alive, Adams took a different tack by asking the Speaker to rule on whether each individual petition he received fell under the jurisdiction of the Hawes gag. Using this tactic Adams continued to press matters by presenting a series of anti-slavery petitions, including petitions from slaves themselves. Adams's persistence on the anti-slavery petition issue angered Southern representatives, and eventually provoked Waddy Thompson (Anti-Jack.-S.C.) on February 6 to move the following:

Resolved, That the honorable John Quincy Adams, by the attempt just made by him to introduce a petition purporting on its face to be from slaves, has been guilty of a gross disrespect to this House, and that he be instantly brought to the bar to receive the severe censure of the Speaker (*Register of Debates*, 24th Cong., 2nd sess., p. 1590).

The Thompson motion was eventually defeated, but the House voted in quick order (1) not to receive the Adams petitions and then (2) to deny the right of slaves to petition the House (*Register of Debates*, 24th Cong., 2nd sess., pp. 1685, 1733-34). This would prove to be the last salvo in the “gag war” in the 24th Congress, as the last three weeks of the session passed uneventfully.

A general economic panic swept the nation in the spring/summer of 1837, causing President Van Buren to call a special session of Congress for exclusive consideration of economic matters. As a result, the House was spared overt agitation over anti-slavery petitions for the first few months of the 25th Congress. However, two weeks after the start of the next (“long”) session, on December 20, 1837, chaos ensued when William Slade (Whig-Vt.) moved to refer an anti-slavery petition to a select committee, with instructions to return a bill abolishing slavery and the slave trade in the District of Columbia (*Congressional Globe*, 25th Cong., 2nd sess., p. 41). After angry cries of protest, southern members walked out of the chamber over the Slade resolution to hold a war council. The next day, John Patton (Dem.-Va.) offered a resolution very similar to the Pinckney and Hawes gags, *except* that its coverage was extended to include not only the states and the District of Columbia but the *territories* as well. The Patton gag passed by a 122-74 vote (*Congressional Globe*, 25th Cong., 2nd sess., p. 41, 45). This settled the issue of anti-slavery petitions for the moment, as the remainder of the session largely involved debate over Texas annexation.

The start of the 3rd session of the 25th Congress brought a slightly different twist to the gag resolution story. Rather than wait for Adams and his colleagues to push the anti-slavery petitions issue anew, the Democratic leadership (led by Van Buren and Polk) launched a first strike (Miller 1986: 343). Now, instead of relying on a southern disciple of Calhoun to lead the charge, the Democratic leadership identified a New Englander to take center state in support of the gag rule. On December 11, 1838, Charles Atherton (Dem.-N.H.) presented a series of resolutions, the following directly applicable to the gag issue:

Resolved, That all attempts on the part of Congress to abolish slavery in the District of Columbia or the Territories, or to prohibit the removal of slaves from State to State, or to discriminate between the institutions of one portion of the Confederacy and another, with the views aforesaid, are in violation of the Constitution, destructive of the fundamental principle on which the Union these states rests, and beyond the jurisdiction of Congress; and that every petition, memorial, resolution, proposition, or paper, touching or relating in any way, or to any extent whatever, to slavery as aforesaid, or the abolition thereof, shall, on the prosecution thereof, without any further action, be laid on the table, without being debated, printed, or referred (*Congressional Globe*, 25th Cong., 3rd sess., p. 22).

Thus, Atherton's resolution prescribed the same method as Pinckney's, Hawes's, and Patton's for dealing with anti-slavery petitions, but the logic was different. The Atherton gag was based on states' rights principles, specifically that slavery was the domain of the states and, as a result, Congress had no constitutional power to legislate on issues relating to slavery.¹¹

More than anything else, this was Van Buren's attempt to maintain party discipline, by taking a "hot potato" issue out of the Congress's feasible set. The Atherton gag passed by 126–78 vote (*Congressional Globe*, 25th Cong., 3rd sess., p. 26). Additional attempts throughout the session were made to present anti-slavery petitions (in various forms), but all were summarily tabled.

The 26th Congress got off to a rocky start, as the House took two weeks to organize (Stewart 1999).¹² After the eventual election of Robert T.M. Hunter (Whig-Va.) as Speaker, the membership turned its collective attention to passing the House rules. It was here that the

11. This was also Calhoun's basic position regarding slavery, which he would maintain throughout the rest of his life. Nearly two decades later, this would form the basis of the Supreme Court's decision in the *Dred Scott Case* (1857).

12. This was due to two related factors: (1) the Whigs had closed the gap between themselves and the Democrats considerably in the prior midterm elections and (2) New Jersey's six House seats were being contested.

conflict over reception of anti-slavery petitions escalated significantly. Not surprisingly a new gag would be attempted, again in the spirit of the Pinckney gag. This time it was offered by Henry Wise (Whig-Va.). But rather than propose a simple gag resolution as had been customary in the previous two Congresses, Wise moved to change the House Rules in order to institute a *permanent* gag. Waddy Thompson (Whig-S.C.) argued that Wise did not go far enough and called for an even stricter gag. Finally, on January 28, 1840, after a full month's worth of speeches and counter-proposals, William Cost Johnson (Whig-MD) offered the following amendment to the rules:

Resolved, That no petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia, or any State or Territory, or the slave trade between the States or Territories of the United States in which it now exists, shall be received by this House, or entertained in any way whatever (*Congressional Globe*, 26th Congress, 1st sess., p. 150).

Johnson had thus brought the gag issue to full flower. Echoing James Henry Hammond's resolution from the 24th Congress, the Johnson amendment would have left anti-slavery petitions on the House doorstep, never to be acknowledged. Sensing the impending doom, Adams moved a postponement but was ruled out of order. The House then proceeded to vote on the Johnson amendment, which passed 114-108 (*Congressional Globe*, 26th Cong., 1st sess., p. 151). The Johnson amendment became Standing Rule 21 of the House—a simple, permanent gag.

Shortly after the second session of the 26th Congress convened, on December 9, 1840, Adams attempted to rescind Rule 21, but his resolution was tabled by a vote of 82-58 (*Congressional Globe*, 26th Cong., 2nd sess., pp. 11-12).¹³

13. Adams spent the remainder of the lame-duck session arguing the *Amistad* case before the Supreme Court.

The 27th Congress was the first House ever with a Whig majority. Because Whigs had been less inclined to support the gag rule than Democrats, Adams and his followers anticipated greater success this Congress in overturning the gag rule.

At first this prediction was borne out. Shortly after the House was organized, on June 3, 1841, Adams once again attempted to rescind Rule 21. Four days later the House voted 121-95 to adopt the rules of the prior House *except* for Rule 21 (*Congressional Globe*, 27th Cong., 1st sess., p. 28). The anti-gag forces had their first victory. However, for the next week, the pro-gag forces moved to reconsider the vote, culminating on June 14 with Joseph Fornance's (Dem.-Penn.) narrowly successful motion (passing 104-102) to reconsider the vote by which the House Rules had been adopted. (*Congressional Globe*, 27th Cong., 1st sess., p. 51).

Two days later, Alexander Stuart (Whig-Va.) moved a resolution to postpone the consideration of all petitions (including anti-slavery petitions) for the remainder of session. Stuart's motion reflected the Whigs' desire to end the politicking on the gag so that they could get to work on their agenda, notably on the issue of bankruptcy law (see Miller 1996, pp. 393-94). Narrowly construed, Stuart's motion would continue the rules from the previous House, *including* Rule 21. It passed by a 119-103 vote (*Congressional Globe*, 27th Cong., 1st sess., p. 63).¹⁴ Rule 21 was back.

14. It has been claimed that the declining fortunes of the anti-gag rule forces in this series of votes was due to the slow arrival of House members at the start of the Congress—the arriving stragglers changed the mix of sentiments in the House, tipping the balance in the direction of support for the gag rule. While literally true on the reconsideration vote, this view ignores the larger pattern of votes—the significant shifting in sentiments between the Adams resolution and the Fornance reconsideration motion among House members who *had* arrived on time. Nearly one-quarter of the supporters of the Adams resolution later voted to reconsider their previous support. However, this change in sentiment was insufficient to force the reconsideration. Thus the ten members who voted on the Fornance reconsideration motion but had not voted on the

As in the previous Congress, Adams led efforts at the beginning of the next two sessions of the 27th Congress against the gag rule. On the second day of the second session, Adams once again moved to rescind Rule 21, but lost a close 84-87 vote (*Congressional Globe*, 27th Cong., 2nd sess., p. 3). The following day, the House voted 97-95 to adopt the rules from the previous session, pending the report of the special rules committee. When the rules committee was due to report back, the report was tabled by a 96-88 vote, effectively extending the gag rule (*Congressional Globe*, 27th Cong., 2nd sess., p. 11).¹⁵ In the third session, Adams once again attempted to rescind Rule 21. This particular effort was bedeviled by the oddest of parliamentary situations: on three successive days (Dec. 6–8, 1842), the House voted neither to table the Adams resolution nor to put the resolution to a vote (*Congressional Globe*, 27th Cong., 3rd sess., pp. 32, 37-40). Eventually, after organizing, the House voted 106-102 to table Adams's resolution (*Congressional Globe*, 27th Cong., 3rd sess., p. 42).

From a strictly partisan standpoint, the 28th Congress should have been more inclined to continue the gag rule than the 27th, since there was an approximately 50-seat shift in favor of the Democrats in the 1842–43 elections. This, however, was not to be the case.

Upon the organization of the 28th House, Adams moved to exempt Rule 21 from the blanket resolution calling for adoption of the rules of the previous Congress. The House rejected

Adams resolution were pivotal, supporting reconsideration 8–2 and providing the margin necessary to pass the resolution. However, it also turns out that the House members who were absent for the Adams resolution but who voted on the final Stuart resolution actually *opposed* the resolution 10–3. Of course, had the Fornance reconsideration motion not passed, the Stuart resolution wouldn't have even been possible. Still, the early absentees would not have been pivotal had a quarter of Adams's erstwhile support not abandoned him.

15. A 2/3 vote was required to take an issue off the table.

Adams' motion by a 95–91 vote (*Congressional Globe*, 28th Cong., 1st sess., p. 4). Two weeks later, on December 21, 1843, Adams moved that a special committee be appointed to revise the rules (*Congressional Globe*, 28th Cong., 1st sess., p. 62). It was here that a crack in the pro-gag forces became noticeable. Henry Wise (Dem.-Va.), a constant Adams opponent for the past several Congresses, announced that he would no longer fight over the gag rule, and would let Adams have his committee.

Adams chaired the special committee on the rules, which, in early January 1844, reported back a set of rules that omitted the gag (*Congressional Globe*, 28th Cong., 1st sess., p. 96). For the next two months, arguments and counter-arguments were made, with the pro-gag forces trying to postpone consideration of the special committee's report. Finally, votes on various amendments to the rules began. On February 27, 1844, the House considered a motion to add the gag back into the rules and rejected it by an 86-106 vote (*Congressional Globe*, 28th Cong., 1st sess., p. 333). While this seemed to portend good things for Adams and his supporters, they could not close the deal. The following day, a motion was made to adopt the new rules reported by the special committee. Reuben Chapman (Dem.-Ala.) immediately moved to table the new rules, and his motion passed by the slimmest of margins (88-87) (*Congressional Globe*, 28th Cong., 1st sess., p. 335). A subsequent motion to reconsider was also tabled. This left the old House rules—including the gag rule—in place.

While disappointed by this outcome, Adams mustered on. Two days into the second (lame duck) session, on December 3, 1844, Adams once again introduced a resolution rescinding the gag (now Rule 25). Jacob Thompson (Dem.-Miss.), following the procedural convention to that point, moved to lay Adams' resolution on the table. However, unlike previous attempts, this

tabling motion failed badly, on an 80-104 vote. The House then considered Adams' motion, which passed 108–80 (*Congressional Globe*, 28th Cong., 2nd sess., p. 7).¹⁶

The gag was dead. After years of struggle, Adams had won. He recorded his feelings in his diary that evening: “Blessed, forever Blessed, be the name of God!”

Discussion

We can step back from this rather cursory view of gag rule politics to note several related contemporary events. First, there was growing popular agitation on the anti-slavery front, best symbolized by the activity of the American Anti-Slavery Society that we outlined above. The ongoing controversy undoubtedly provided a compelling rallying cry for anti-slavery forces who were trying to expand support for their cause beyond the most dedicated of abolitionists.

Because most white northerners were unsympathetic to the plight of southern slaves, the gag rule controversy aided anti-slavery forces by illustrating how the continuation of the peculiar

16. To what extent was the repeal of the gag rule a function of regional divisions within the Democratic Party stemming from the Presidential Nominating Convention in May 1844? In the convention, Martin Van Buren garnered a majority of delegates, but was denied the nomination because of a 2/3 voting rule that had been instituted to placate southern delegates. In the end, southerners would not support Van Buren because of his lukewarm view of Texas annexation, leading eventually to the choice of James K. Polk of Tennessee as the nominee. This southern “veto” created resentment within the northern ranks over the asymmetric power of the southern “Slave Power.” But there is little evidence to suggest that this resentment was the critical factor in the gag rule’s repeal, as a result of northern Democrats “punishing” southern Democrats for opposing Van Buren. In fact, as Miller (1996: 481-84) notes, the vote breakdown on the roll call that repealed the gag closely mirrored the vote breakdown on the roll call to add the gag back into the House rules in the first session of the 28th Congress. In effect, Miller argues that the gag was all but finished in the first session of the 28th Congress, long before the convention, but survived (temporarily) on a extremely close vote (88-87) because of a combination of factors, such as deliberate absences, procedural fatigue, and complicated parliamentary maneuvering. The repeal in the second session of the 28th Congress was, therefore, *not* related to a post-convention backlash, but rather was inevitable from a purely preference-based perspective.

institution rested on limiting the rights of *white northerners*. This in turn led to the electoral manifestation of the Anti-Slavery Society, the Liberty Party, which began running candidates with the 1840–41 congressional elections.

Second, debate over the gag rule was interwoven with debate and voting on a series of issues that also had implications for the future of slavery and north-south relations. Among these were the joint admission of Arkansas and Michigan into the Union, the admission of Texas, and the diplomatic recognition of Haiti. Adams also made a name for himself as an opponent of slavery and advocate of the rights of slaves outside the Halls of Congress. For instance, it was during this period that he argued the *Amistad* case before the Supreme Court; between sessions Adams himself was frequently feted in his travels around the country, celebrating his newfound role.

Third, the gag rule was far from the only structural issue that the House found itself enmeshed in during this period. An important, related issue was the attempt (by both parties) to increase party discipline. In 1837, during the special session of the 25th Congress, the Democrats attempted two rules changes in an effort to limit the minority party's procedural rights (see Cooper and Young 1989; Binder 1997: 93-99; Dion 1997: 80-92).¹⁷ The first attempt, to prohibit debate on all points of order after the call of the previous question, succeeded. The second attempt, to reduce the vote total required for suspension of the rules from two-thirds to a simple majority, failed. In addition, in the third session of the 25th Congress, a motion to make voting in all elections for House officers public (i.e., *viva voce* voting) was passed (see Jenkins

17. John Quincy Adams also pushed for a rules change that would have *strengthened* minority rights, but his amendment failed.

and Stewart 2003). This occurred two days before the passage of the Atherton Gag (and its explicit “states’ rights” justification to push interregional harmony). Finally, in 1841, during the special session of the 27th Congress, the Whigs (finally the majority party) made two changes to the House rules to limit minority rights: (1) a new rule was created whereby a simple majority could discharge a bill from the Committee of the Whole before the completion of all debate on proposed amendments (2) a one-hour rule was imposed on members’ floor speeches (Binder 1997: 99-104; Dion 1997: 160-62).¹⁸

Finally, one additional piece of historical data deserves mention. In our examination of the congressional proceedings on the gag, we discovered that a significant alteration to the method of presenting petitions and memorials occurred during the second session of the 27th Congress.¹⁹ On March 29, 1842, John Quincy Adams made a motion that petitions and memorials be handed to the Clerk and entered into the *House Journal*, without the requirement that they be presented from the floor (*Congressional Globe*, 27th Cong., 2nd sess., p. 367).²⁰ Adams’s motion passed under suspension of the rules, and had a profound effect on the number of petitions and memorials subsequently submitted from the floor. As Table 2 reports, we

18. Interestingly, the passage of these rules changes and the subsequent organization of the House were held up by the Whigs’ efforts to repeal the gag rule. For two weeks, the Whigs and Democrats battled over the gag, but the Whigs could not muster enough support to overcome the Democrats’ opposition. Finally, Whig party leaders decided that the organization of the chamber and the pursuance of their legislative agenda could be put off no longer, and they agreed to postpone the fight to repeal the gag until the following session.

19. We thank Joe Cooper for pointing this out to us.

20. Floor presentation would be at the Speaker’s discretion.

observe an order-of-magnitude drop in the number of petitions and memorials presented on the floor as a consequence of the rule.²¹

Why the change? And why did Adams make the motion? Unfortunately, no hard evidence exists to answer either of these questions, so we are left to speculate. One possibility is that the increasing number of motions/petitions had been gumming up the congressional proceedings, leading eventually to the passage of a rule for efficiency's sake.²² The timing also had strategic overtones—the 27th Congress was the first (and only) Congress of unified Whig control. Thus, the Whigs had enjoyed the position-taking benefits of the flood of petitions/motions during their minority-party period. However, now in the majority, they needed to streamline the environment in order to move on their legislative agenda.²³ Potentially a quid

21. To be clear here, the number of petitions themselves did not drop, just the manner of submission to the House. We have not been able to engage in a thorough canvas of the House *Journal* for the number of petitions that were left at the House Clerk's desk after the 27th Congress, but the numbers appears to be similar to the number of petitions that were presented from the floor prior to the 27th Congress. We gained this impression by randomly sampling 10 instances in the 28th, 29th, and 30th Congresses when petitions were handed to the Clerk "under the 24th Rule of the House." There were 100 such instances in the 28th Congress, 197 in the 29th, and 229 in the 30th. The average number of petitions noted in these sampled *Journal* entries were 22, 25, and 19, respectively. These samples result in point estimates of 2,200 petitions left at the Clerk's desk in the 28th Congress, 5,003 in the 29th, and 4,358 in the 30th. With sample sizes of 10, these point estimates are not precise (the standard errors range from 681 in the 30th Congress to 1580 in the 29th), yet they suggest that the number of petitions sent to Congress did not diminish once the gag rule controversy abated and, in fact, may have grown somewhat.

22. The *Congressional Globe* reports that Adams proposed the motion "in order to save time." Adams notes the motion in his diary, but offers no commentary beyond the facts: "In the House there was adopted, at my motion, a resolution for the sending of all petitions to the Clerk's table to be disposed of by the Speaker, and all admissible under the rule to be referred to the appropriate committees."

23. This went hand-in-hand with the minority-right restrictions passed earlier in the Congress.

pro quo may have been arranged, whereby Adams made his motion in exchange for a promise by Whig leaders for due consideration of gag-repeal legislation later.

Patterns of Voting

To return to the gag rule itself, we can trace out support for the rule using the roll-call record in a very summary fashion. Table 3 reports the “key” roll-call votes on the various gag rule proposals, and proposals to overturn the gag rule, during this period. (The roll-call number identifier is taken from ICPSR Study Number 9822.) By “key,” we mean the roll-call vote that was the most closely responsible for the passage or defeat of the measure in each session (and which was clearly related to the gag rule itself). The easiest roll call to identify is the first in the table—a vote on passage of the Pickney gag resolution. There are several straightforward passage votes like this. Once, in the 27th Congress, 3rd session, the vote was on a motion to table.

These key roll calls were chosen from a larger set identified during this period that pertain to parliamentary wrangling on the gag, and to slavery more generally. On the parliamentary wrangling, usually whenever a “key” roll-call vote appears, there are numerous related votes to adjourn, amend, table, etc., whose contours generally follow the patterns that are associated with the key votes. For instance, in the adoption of the Pickney gag in the 24th Congress, 1st session, the House actually voted on a series of resolutions related to slavery and the union, and each of those resolutions had a roll-call record of its own.²⁴ And, of course, there were roll-call votes on

24. All told, there were eleven roll-call votes associated with the Pickney resolution.

matters related to the overall anti-slavery drama, such as those during the attempt to censure Adams in the 24th Congress.

The House voted on slavery-related matters over 250 times during the five Congresses analyzed in this paper. An examination of each of these votes would be interesting and informative for understanding the larger institutional ramifications of anti-slavery agitation during this period. But, for the moment, we confine ourselves to the narrower set of gag-rule votes themselves; among the gag-rule votes, we confine ourselves to a single critical vote each session.²⁵

The series of key votes reveals a number of important patterns. First, support for the initial “Pickney gag” and the later “Atherton gag” was greater than support for the later versions of the rule. Even had opinion about excluding anti-slavery petitions not shifted in the House over the decade, support for a gag rule would have declined over time because the later gags were more extreme. The Pickney and Atherton gags allowed the presentation of petitions on the floor, but then automatically tabled them, whereas Rule 21 denied the right of the petitions to be presented in the first place. This basic difference apparently accounted for a drop in support for a gag by about 20 House members. This is a critical strategic factor, because this shift in the severity of the gag moved it from being easily sustained by the House to being more readily attacked because of its extremity.²⁶

25. The exception is the first session of the 28th Congress, in which we examine two “key” votes.

26. Why had the various gag rules become more extreme over time? Freehling (1990) argues that the stringency of the gag had become a “litmus test” for southern House members. That is, southern Whigs painted the southern Democrats’ support for the initial less-stringent gags as evidence of their “softness” on the slavery issue, and made electoral hay on the claim in

Second, support for the more extreme Rule 21 itself gradually eroded. Indeed, soon after its passage, it was occasionally possible for Adams to muster a short-term parliamentary victory for anti-gag forces, such as the momentary exclusion of Rule 21 from the initial resolution adopting the House rules at the beginning of the 27th Congress. Continued support for the gag rule never amounted to much more than 50% of the chamber, which meant that even a small shift in sentiment against the gag would eventually kill it. (Conversely, a small shift *in favor* of the gag would have probably sealed its permanence.) Therefore, the final defeat of the gag rule can be viewed as a major change in the House rules brought on by a minuscule change in the preferences among House members for the Rule.

Finally, Democrats largely supported the rule, while Whigs largely opposed it. Yet, splits were apparent in each party. None of the “key-vote” roll calls, for example, fell strictly along party lines. Some ancillary votes were party-line, presumably because they were not strictly about the gag, but rather about the ability of the majority party to maintain its procedural control over the House.²⁷ But, up until the very end, between 1/4 and 1/3 of Democrats opposed the gag rule while between 1/3 and 2/5 of the Whigs supported it.

Not surprisingly, support and opposition to the gag rule was regionally patterned. (See Table 4.) However, each party’s regional pattern tells a separate, and interesting, story. Both northern and southern Democrats strongly supported the gag rule in the 24th and 25th

subsequent congressional elections. As a result, southern Whigs were forced to push for more stringent gags (like that which would become Rule 21) to prove their mettle.

27. One example of this was the vote in the 27th Congress, 1st session to reconsider the previous passage of the House rules. This is the vote that led, through a long string of parliamentary maneuvers, from the short-term repeal of the gag rule back to its reinstatement.

Congresses. Although southerners supported it more, the voting pattern is consistent with the view that Democrats valued the gag rule because it was seen as fostering party unity. By the 26th Congress, however, northern resolve began to dissipate. The greatest shift in sentiment in the 28th Congress, which led to the rule's demise, was due to the collapse in support for the gag rule among northern Democrats.

Whigs were much less supportive of the gag rule—even southern Whig *support* of the rule was never unanimous. Opposition to the rule was centered in the north, symbolized by John Quincy Adams's dogged determination on the issue.

The final summary of voting support for the gag rule is provided in Table 5, which reports a series of probit analyses of the key votes, in terms of NOMINATE scores. The first dimension represents the standard “partisan” dimension, which tapped support for an expansive role for the federal government. The second dimension was highly correlated with slavery votes during these five Congresses, and occasionally with votes on internal improvements and the election of House officers (Poole and Rosenthal 1997, p. 49).²⁸ The second dimension is also highly correlated with the number of Anti-Slavery Society chapters in each northern congressional district and the number of members in those chapters.²⁹ Therefore, for the

28. Keith Poole's NOMINATE data sets do not include “common space” scores for the period we examine here. Therefore, we used the D-NOMINATE scores for each member of the House during this period, averaged across all Congresses. Although this technique can be perilous over extended periods of time, especially for the second dimension, in this particular case the procedure seems to be justified. Among House members who served in both the 24th and 28th Congresses, the correlation between both sets of D-NOMINATE scores, on the first dimension is .94; on the second dimension it is .82 (n=18).

29. Among *all* House members, the correlation between the number of Society chapters in a district and the second dimension averaged D-NOMINATE score was -.37 (24th Cong.), -.45 (25th), -.47 (26th), -.49 (27th), and -.40 (28th). Not surprisingly, if we confine ourselves to

remainder of this paper, we are confident in using the second dimension as a proxy for anti-slavery sentiment among members' constituents.

The strong coefficient on the first dimension quantifies the degree to which support for the gag rule was correlated with the same factors that divided the two parties in the first place. The second dimension quantifies the degree to which support for the gag rule was correlated with regional factors that split the parties. The second dimension coefficients are all statistically significant, though smaller in absolute value than the first dimension coefficient. Taken together, they indicate that support for the gag rule was strongest in the “northwest” of the ideal point space, occupied by southern Democrats, and weakest in the “southeast,” occupied by northern Whigs.

These coefficients can be used to calculate “cut lines” in the issue space, separating predicted supporters and opponents of the gag rule based on their NOMINATE scores. These cut lines are drawn on Figure 2, along with the ideal points of all House members who served between the 24th and 28th Congresses. Two lines are drawn darker than all the others. The first (identified with its ICPSR vote number, 24-207), was the very first vote on the Pinckney gag in the 24th Congress. The second (28-433) was the last of the key votes, which finally abolished the gag rule.

These cut lines are summarized a different way in Figure 3, which is a graph of the angle of each cut line.³⁰ We would consider a cut line at 90° to be a pure party vote, 0° to be a pure

northern districts, the correlations are lower, but still substantial: -.27 (24th), -.36 (25th), -.39 (26th), -.42 (27th), and -.29 (28th).

30. The cut line angles are calculated as follows. Define β_1 as the probit coefficient associated with the first dimension NOMINATE score, likewise for β_2 . The tangent of the cut line is

regional vote, and 45° to be a perfect balance between party and region. Therefore, in Figure 3 we classify cut lines between 90° and 67.5° (half-way between 45° and 90°) to be party votes and cut lines between 67.5° and 22.5° (half-way between 0° and 45°) to be party/regional hybrids. (No roll calls were classified as regional.)

The gag rule votes in the 24th Congress were party votes, which is entirely consistent with the view that the gag was initially considered a strategic party-building device. After that vote, the cut lines begin rotating clockwise, indicating the difficulty in keeping the gag as purely a partisan matter. The only vote after the 24th Congress that approached being a largely partisan vote was on the Atherton “rights of the south” resolution, which expressed a view of the federal government’s power that went beyond the issue of slavery and was embraced by the bulk of the Democratic party.

This rotation of cut lines over time is important in understanding how the gag rule was eventually overturned. Had the votes been largely along the first dimension, then the gag would have been at the mercy of shifting partisan tides. Instead, the demise of the rule rested on increasing the number of Democrats in the extreme “southwest” quadrant of the space. We return to this point below.

II. Shifting Support for the Gag Rule

Why did the House adopt the gag rule in 1836, only to repeal it in 1844? Usually, when we try to explain why Congress adopted a given policy after years of opposition to it, we look to

defined as $-\beta_1/\beta_2$. The angle is the arctangent of this ratio.

one of two mechanisms (or a combination of the two): *conversion* of previous opponents to supporters or the *replacement* of previous opponents with supporters.

In a trivial sense, the answer as to why the gag rule was eventually rescinded must rest with replacement, since electoral turnover was so high during the period covered in this paper. More than half the House was new each Congress studied here. Turnover in the 28th House was 75%, the highest in American history (Fiorina, Rohde, and Wissel 1975, p. 29). Of the 188 House members who participated in the final vote to rescind the gag rule in the 28th Congress, only 10 had previously voted in the 24th Congress on the Pinckney gag resolution. (Of these, 9 took a consistent position across the two roll call votes.)

Before turning to the dynamics of this macro shift in support for the gag rule, we examine the micro effects—to the degree they existed—of conversion and replacement on support for the gag rule. Specifically, we examine who stayed pat and who shifted on successive gag-rule votes. This analysis is possible because the gag rule was voted on continually during this period, due to the practice of voting to adopt the House rule each session. Virtually every session afforded supporters and opponents of the gag rule the opportunity to take a public position on the issue.

Table 6 reports how House members shifted in their support for the gag rule between consecutive votes on the matter. For instance, the first row compares voting on the Pinckney gag (vote 24-207) with voting on the Hawes gag (vote 24-365) in the 24th Congress. In this case, nine northern Democrats who voted on both measures changed their position on the gag rule between the two votes. (Sixty-eight others, not reflected in the table, took the same position on both gag rule votes.) Eight shifted in a pro-gag direction (i.e., opposing Pinckney but supporting Hawes) while one shifted in an anti-gag direction.

Table 6 is constructed to emphasize two types of paired roll calls. The shaded roll-call votes are paired across Congresses. The unshaded votes are intra-Congress votes.

From the 24th to 27th Congress, whenever northern Democrats shifted their position on the gag rule *within a Congress*, it was almost always in a direction favorable to retaining the rule. In other words, the northern Democrats who shifted their position on the gag rule during the course of a Congress tended to be those who had abandoned the party early in the Congress, only to return to it later. This had the effect of producing increased net support for the gag rule among all Democrats as each of these four Congresses progressed.

The story was different between Congresses. In each case, the net inter-Congress shift among northern Democrats was detrimental to the Democratic goal of party unity on slavery matters. This problem was most evident in the transition from the 25th to the 26th Congress, when 10 northern Democrats who had supported the Atherton “states’ rights gag” failed to support the adoption of Rule 21 which, in some ways, was an “easier” vote than the Atherton resolution.

Thus, the general pattern on the gag rule in the first four Congresses was a dynamic equilibrium among the northern Democrats. Delinquent members would gradually return to the gag-rule fold during the course of a Congress. The subsequent election would then pull some northern Democrats back toward their constituents’ views on the gag rule. This election-induced backsliding would then need to be addressed again by the party leadership once Congress reconvened.

It would be nice to identify the vote switchers in this sequence of votes more precisely; for instance, explaining vote switching in terms of local constituency pressure, NOMINATE

scores, party, or electoral insecurity. The number of vote switchers is so small, however, that all our efforts to throw the data at multivariate statistical techniques came to naught.

The pattern of vote switching between the 24th and 27th Congresses was broken up in the 28th. Consistent with the previous history, a couple of northern Democrats retreated from supporting the gag rule during the inter-Congress adjournment. (Ten other returning northern Democrats retained the position they had taken on the issue in the 27th Congress.) Unlike previous Congresses, however, support among northern Democrats continued to erode once proceedings got under way. For example, northern Democrats were split evenly (45–45) on the original Adams motion to except Rule 21 from the adoption of the rules in the first session. Nearly three months later, on the vote to add the gag back into the House rules, northern Democrats abandoned the gag rule by a 56–32 margin. On the vote in the following session that rescinded the gag rule for good, northern Democrats favored rescinding by a similar 55–29 margin.

This shift in northern Democratic support away from the gag rule in the 28th Congress appears superficially consistent with a policy conversion story—northern Democrats who had previously supported the gag rule started going over to the opposition. However, that would be vastly overselling the data pattern here. First, keep in mind that very few House members who served in the 27th Congress stayed into the 28th. Although returning northern Democrats were trending away from the gag rule, a majority continued to support the gag until the bitter end. Of the 90 northern Democrats who joined the vote to eventually rescind the gag rule for good, only 12 actually served in the previous Congress, and they voted 8–4 to *retain* the gag rule.

Thus, the transformation of northern Democrats from supporters to opponents of the gag between the two Congresses did not come principally from conversion.³¹ If the northern Democratic shift to gag-rule opposition is to be explained, it is in terms of the influx of rookies into the 28th Congress.

The effect of the influx of new members into the 28th Congress was first seen when the House voted to except Rule 21 from the adoption of the rules. The 77 rookie northern Democrats who took part in this roll call voted 40–37 in favor of rescinding the gag rule. This contrasts with the 13 returning northern Democrats, who voted 8–5 in favor of *retaining* the gag rule.

Three months later, the House voted to add the gag back into the House rules. In this vote nine rookie northern Democrats who had previously favored retaining the gag rule joined the gag-rule opposition, whereas only one of the veteran northern Democrats shifted. Overall, on this vote the rookie northern Democrats now favored repeal of the gag rule 50–25, whereas the veterans favored its retention 7–6.

This pattern continued into the second session, when the gag rule was killed once and for all. On the final vote, rookie northern Democrats favored repeal 51–21, whereas veteran northern Democrats favored its retention 8–4.

Thus, the gag rule fell because of the surge of new northern Democrats into the 28th Congress. These new members were not nearly as invested in the gag rule as a partisan strategy as their predecessors had been. They were also less inclined to take a pro-slavery stance. This is illustrated in Figure 4, which graphs the average value of the second D-NOMINATE dimension

31. Meinke (2002), for example, places more emphasis on conversion as a determinant of eventual gag rule repeal.

for each regional party faction during this period, further subdividing the factions by rookie and veterans members. (The token “NDR” means northern Democratic rookie, etc.) Note that northern Democratic veterans and rookies were virtually identical along the second dimension from the 24th to the 26th Congresses. Therefore, it is not surprising that both factions usually viewed the gag rule in similar terms (whatever those might be) in those Congresses.

In the 27th Congress the two cohorts diverged. The new class of northern Democrats was much more anti-slavery than the veteran class. More accurately stated, northern Democrats who were reelected to the 27th Congress were much more pro-slavery than the new generation of northern Democrats, resembling more the northern Whigs than their new northern compatriots.³² However, because the Democrats in North and South were routed in the elections of 1840 and 1841, this generational split was not so apparent in the chamber’s politics. When the Democrats reclaimed the House in the ensuing midterm elections, the much larger contingent of northern Democrats made the split even more apparent.

The new generation of northern Democrats was quite different from the older generation that had helped to knit the party together through mechanisms such as the gag rule. Although precisely why *southern* Democrats abandoned the insistence that northern Democrats support the gag rule in the 28th Congress remains a mystery to historians, one clear possibility, given this analysis, is that the southern leadership recognized that the electoral circumstances of their

32. It is important to note that although the most prominent anti-slavery activists in these Congresses were northern Whigs, representatives such as John Quincy Adams and Joshua Giddings were clearly out of the mainstream of regional co-partisans.

northern brethren were changing. Northern Democrats were finding that it was unsustainable for them to join together with southern Democrats to support mechanisms like the gag rule.³³

Part of the pressure on northern Democrats was constituency- and electorally-based. On the Anti-Slavery Society front, rookie northern Democrats had more chapters back home than the veterans did—an average of 3.1 chapters in their districts compared to 2.4 for veteran northern Democrats. In addition, northern Democrats also were beginning to face the voice of the Liberty Party, which was founded in 1840 to be the political wing of the abolition movement (Wesley 1944). Liberty Party candidates appeared in 37 congressional races for the 27th Congress, peaking at 120 races in the elections of 1842–43 for the 28th Congress.

Just over half the northern members of the 28th Congress faced a Liberty Party opponent (Dubin 1998). Among the Democrats, 56% of the rookies, but only 43% of the veterans, had Liberty Party opposition. Liberty Party strength was greater in the rookies' districts than in the veterans'—3.6% average vote share in rookie districts compared to 2% in veteran districts.

The Liberty Party vote was small, but in the early 1840s no one knew how far the party's fortunes would extend, and at whose expense. Although Liberty Party candidates rarely received more than 5% of the vote, in a few cases their candidacies were decisive to the outcome of races. In 15 northern races to the 28th Congress, for instance, the number of votes received by the Liberty Party candidate was greater than the vote margin separating the Whig and Democratic

33. Historians have speculated about why southern Democrats abandoned support for the gag rule as a litmus test for party loyalty in the 28th Congress. For example, Miller (1996, p. 473) offers various reasons why Wise dropped his support for the gag. One fairly plausible explanation is that he was up for a ministerial post to Brazil and was trying to curry favor with northern senators. While intriguing, speculations like this seem a bit too idiosyncratic to rest the demise of the gag rule upon.

candidates. Thus, electoral pressures were not only pulling northern Democrats away from southern Democrats, but also the new generation of Democrats from the old guard.

III. Discussion

An important theme in the new political science literature addressing antebellum party building is the desire by party leaders, especially Martin Van Buren and his followers, to craft institutional mechanisms that would knit together a national party. The primary obstacle facing them was the looming issue of slavery. If they could solve the slavery problem as a political issue, then their political success could be assured.

Of course, we know from history that these institutional plans eventually came to naught. Cartels tend to disintegrate over time, and the antebellum Democratic party was not an exception to this generality. Democratic party leaders could never overcome the fact that they led a mass *electoral* party, which would make attempts to build intra-party mechanisms that suppressed the issue of slavery always vulnerable to electoral pressures.

The gag rule was one such mechanism that was subject to electoral pressure. We have made a first stab in this paper at laying out the problem that party leaders faced and the path the gag rule trod, from promising party-building mechanism to rallying point for the opposition.

Because this is a first attempt by us to address this episode, we conclude this paper by summing up what we have found here and what we intend to do in the future.

The path of the gag rule within the House is fairly simple. When it originally appeared in the 24th Congress, it was a party mechanism and received as such. Two events in the 26th Congress changed all that. First, the wording of the gag became more extreme, so that the

political rights of white northern voters were clearly threatened. This made support for the gag rule untenable for a small, but marginally important, contingent of northern Democrats. Second, it is likely that popular agitation, centered on the activities of the American Anti-Slavery Society, caused further political pressure to be exerted on northerners, most importantly northern Democrats.

It is this latter point that is the most interesting to us, and the one we have the most work to do to develop in future drafts of this paper. We have begun to collect information about the location of Anti-Slavery Society chapters, which will become essential in our plans to build a solid measure of constituency pressure. In addition, the records of the National Archives contain the contested anti-slavery petitions themselves. Examining these petitions and coding them according to source and content is a task we have just begun.

It is the constituency link that makes this episode in the House's history of more general interest to political science. Observers of social issues such as abortion rights and women's rights—not to mention recipients of direct mail solicitations for political contributions—are aware that the “outrageous” behavior of Congress is oftentimes a perfect foil for rallying the troops. Because of this, we are convinced that critical moments in antebellum politics are not part of a unique and tragic story of regime disintegration and civil war, but rather fit cleanly into a series of sturdy regularities about American politics.³⁴

34. Professor Daniel Carpenter at Harvard University has begun a project focused on anti-slavery petitions during this era and has drawn our attention to a similar argument that makes this episode of interests to students of American politics and history more generally. One interpretation of the anti-slavery movement's strategy is that they attempted to use petitions to create and mobilize mass public opinion—arguably a first in American politics. Heretofore, petitions to Congress, as was generally true of petitions to legislators in Anglo-American politics, were almost entirely confined to the redress of particular grievances—pressing foreign spoilation

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claims, requesting pensions, claiming a patent for an invention, requesting relief from a tariff, etc. Rarely did constituents mention general issues, such as the state of the economy, the continuation of the Bank, etc., unless those issues materially impinged upon an individual's well-being. On the role of petitions in the creation of the "public sphere" see Zaret (1996).

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Figure 1. Gag rule timeline.

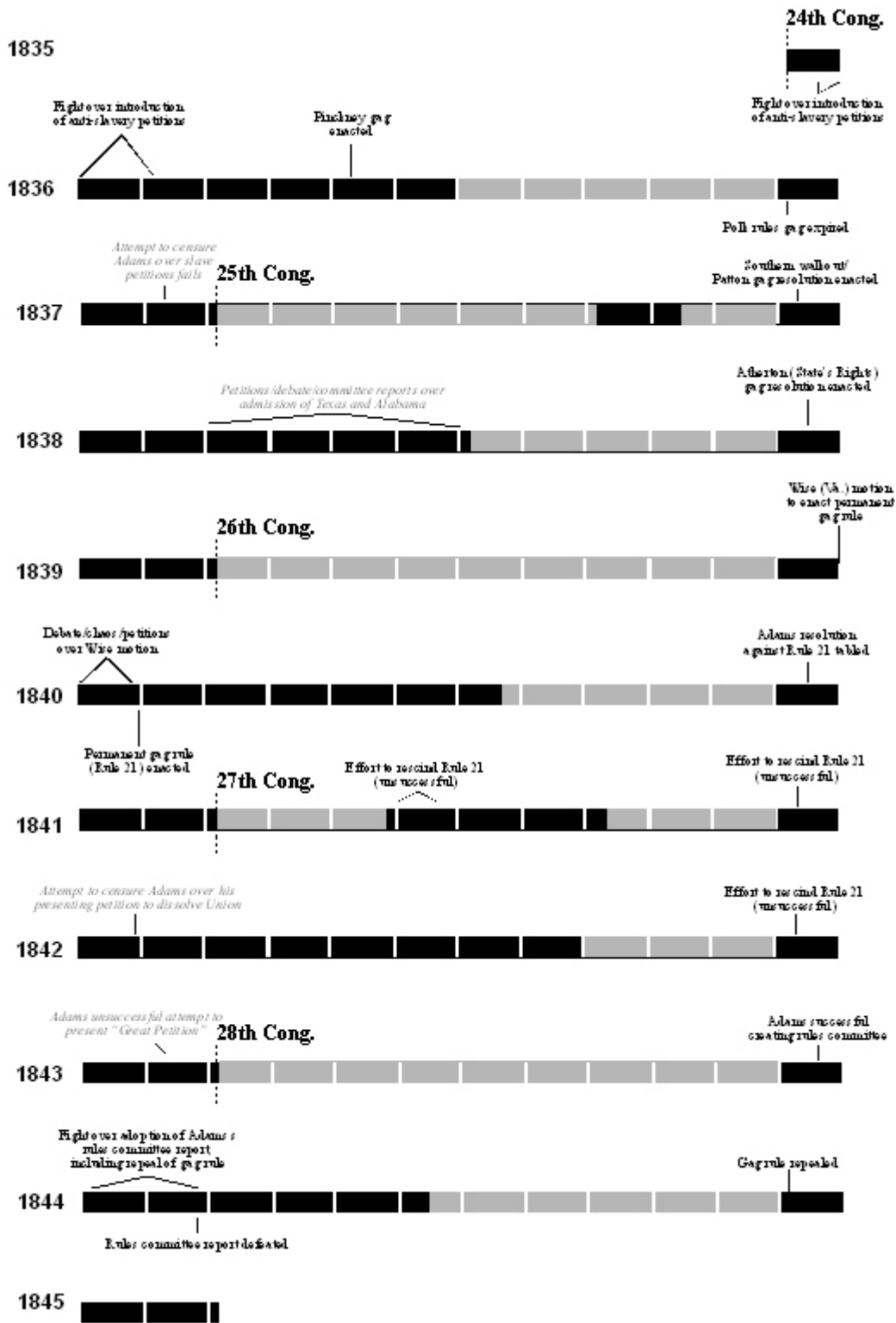


Figure 2. Summary of NOMINATE cut points for key gag rule roll call votes.

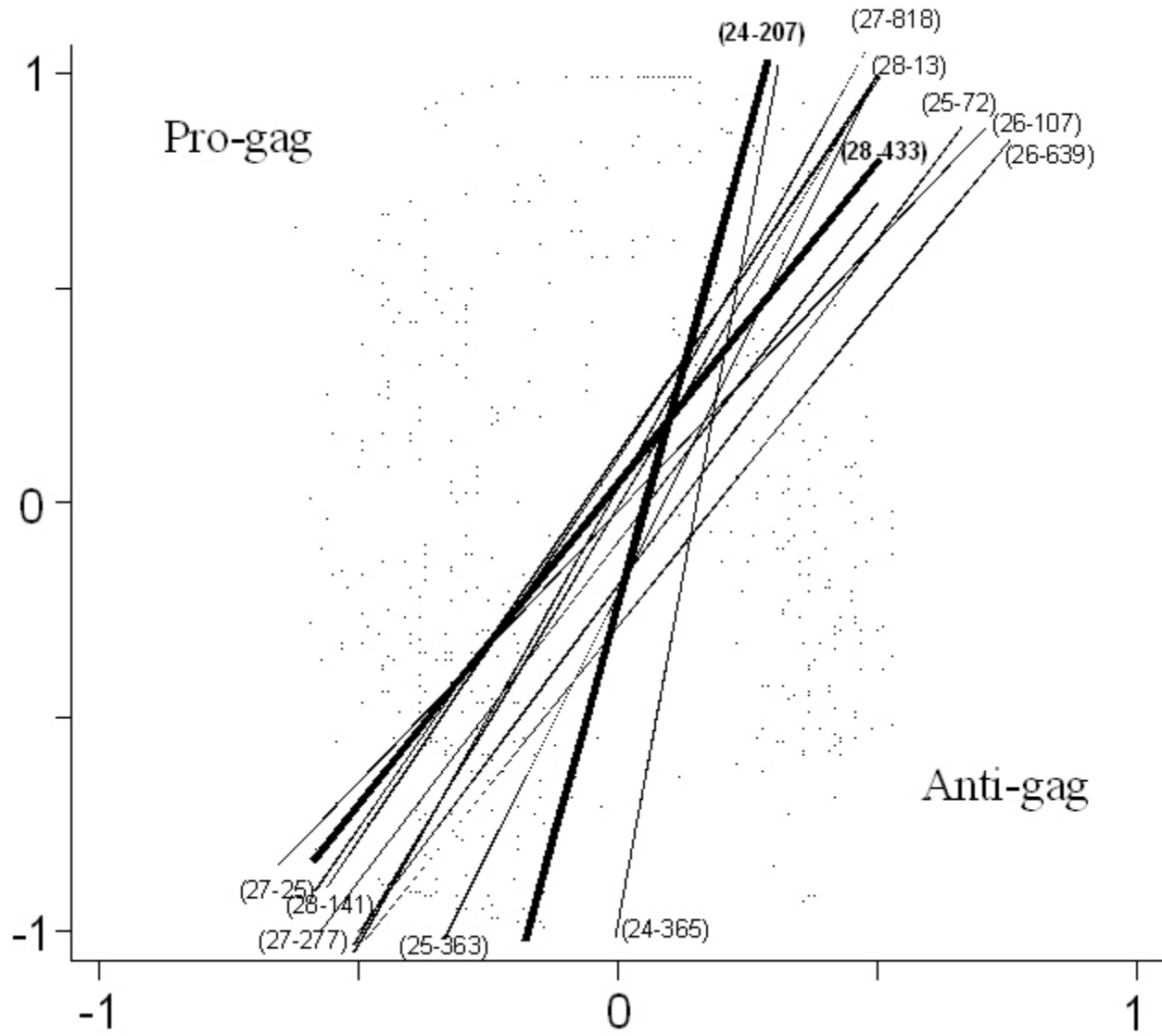


Figure 3. Summary of cut line angles from Figure 2.

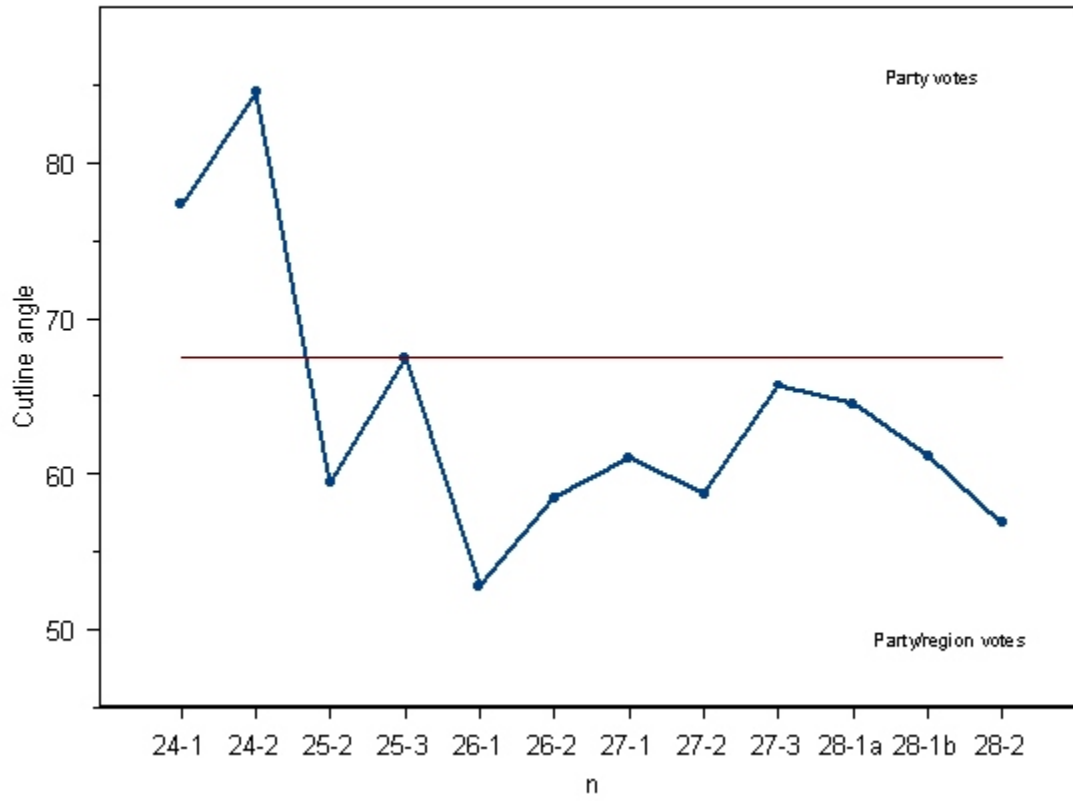
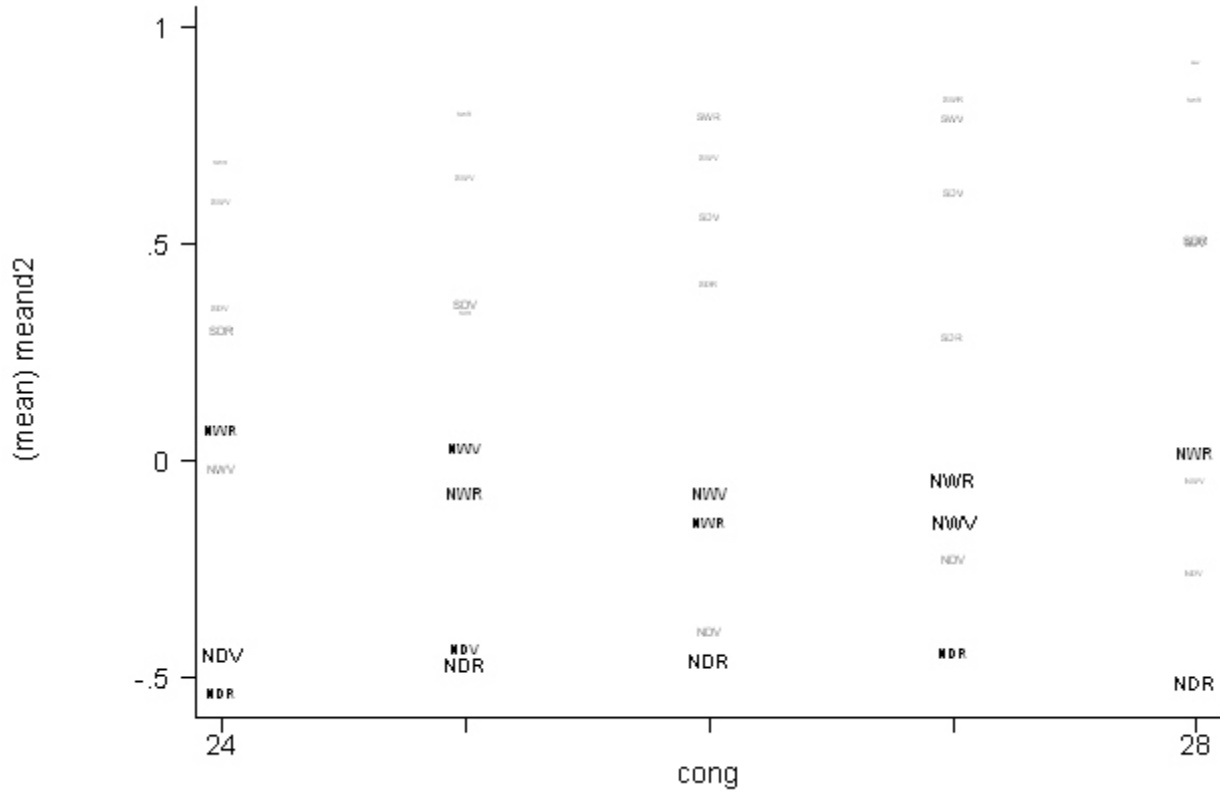


Figure 4. Average second dimension D-NOMINATE score for party and regional factions, 24th–28th Congress. (Graph tokens are proportional to the size of the party-region-longevity contingent in the House.)



NDR = Northern Democrat Rookie
 NDV = Northern Democrat Veteran
 SDR = Southern Democrat Rookie
 SDV = Southern Democrat Veteran
 NWR = Northern Whig Rookie
 NWV = Northern Whig Veteran
 SWR = Southern Whig Rookie
 SWV = Southern Whig Veteran

Table 1. American Anti-Slavery Society chapters and members, 1838.

State	Chapters		Members	
	Number	Per 10,000	Number	Per 10,000
Connecticut	46	1.48	1,597	51.5
Illinois	13	0.27	272	5.7
Indiana	7	0.10	84	1.2
Massachusetts	246	0.96	15,677	29.8
Maine	48	3.33	1,493	212.5
Michigan	19	0.90	638	30.1
New Hampshire	79	2.78	4,308	151.4
New Jersey	14	0.38	382	10.2
New York	369	1.52	22,566	92.9
Ohio	251	1.65	12,420	81.7
Pennsylvania	126	0.73	5,215	30.2
Rhode Island	26	2.39	2,075	190.7
Vermont	104	3.56	6,629	227.1

Source: American Anti-Slavery Society, *Fifth Annual Report of the Executive Committee of the American Anti-Slavery Society* (May 8, 1838), pp. 129–52. The membership numbers are very likely understated, given the difficulty in assembling reliable accounting during this time.

Note: The following states had no chapters: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.

Table 2. Petitions and memorials presented on the floor of the House, 19th–30th Congresses.

Congress	Years	Petitions	Memorials	Total
19	1825–1827	1,296	176	1,472
20	1827–1829	1,239	559	1,798
21	1829–1831	1,802	319	2,121
22	1831–1833	1,946	550	2,496
23	1833–1835	2,121	554	2,675
24	1835–1837	2,461	677	3,138
25	1837–1839	2,782	849	3,631
26	1839–1841	1,952	453	2,405
27	1841–1843	1,017	239	1,256
28	1843–1845	418	103	511
29	1845–1847	167	168	335
30	1847–1849	25	28	53

Source: *House Journal*, various years, accessed at the Library of Congress Web site, “A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates”, URL <http://lcweb2.loc.gov/ammem/amlaw/lawhome.html>.

Note: The table was constructed as follows. The various *House Journals* were downloaded using Adobe Acrobat and then converted into ASCII text. This text file was then used as input into a program that extracted all sentences that included the phases “presented [wildcard] petition” or “presented [wildcard] memorial.” (The “[wildcard]” allowed the extraction of sentences that included phrases like “presented a memorial” or “presented two memorials”.)

Table 3. Gag rule key roll call votes.

Cong.	Sess.	Date	ICPSR Study 9822 Vote #	Subject	Pct. supporting gag			
					Dem.	Whig	Other	Total
24	1	5/26/36	207	Pass Pinckney (SC) gag resolution that "all petitions, memorials, resolutions, propositions, or papers relating to slavery shall without being either printed or referred be laid upon the table, and that no further action whatever shall be had thereon." (117-68)	82% (114)	40% (57)	7% (14)	63% (185)
24	2	1/18/37	365	Passage of Hawes (KY) gag resolution; language identical to the Pinckney gag. (129-69)	90% (116)	38% (63)	5% (19)	65% (198)
25	2	12/21/37	72	Passage of Patton (VA) gag resolution "to table without any further action all petitions, memorials, and papers concerning the abolition of slavery." (122-74)	82% (105)	41% (81)	30% (10)	62% (196)
25	3	12/12/38	363	Passage of Atherton (NH) "rights of the south resolution" that would have tabled, without debate or consideration, any petitions relating to slavery or its abolition. (128-78)	85% (105)	37% (91)	50% (10)	62% (206)
26	1	1/28/40	107	Adoption of Johnson (MD) amendment to the rules excluding any matter requesting the abolition of slavery or slave trade in any state. Becomes House Rule 21. (114-108)	65% (112)	38% (102)	25% (8)	51% (222)
26	2	12/9/40	639	Table Adams (MA) motion to rescind Rule 21. (82-58)	80% (65)	42% (72)	0% (3)	59% (140)
27	1	6/7/41	25*	Adopt rules from previous Congress, excluding Rule 21. (121-95)	65% (81)	31% (134)	100% (1)	44% (216)
27	2	12/6/41	277*	Adopt Adams (MA) motion to except Rule 21 from adoption of rules. (84-87)	80% (61)	35% (109)	0% (1)	51% (171)
27	3	12/12/42	818	Table Adams (MA) resolution to rescind Rule 21. (106-102)	80% (86)	30% (121)	100% (1)	55% (208)
28	1	12/4/43	13*	Adopt Adams (MA) motion to except Rule 21 from adoption of rules. (91-95)	64% (126)	25% (57)	0% (3)	51% (186)
		2/27/44	141	Add gag back into the House rules. (85-107)	54% (123)	28% (65)	0% (4)	44% (192)
28	2	12/3/44	433*	Pass Adams motion rescinding the gag rule. (108-80)	54% (119)	25% (65)	0% (4)	43% (188)

*"Nay" vote is pro-gag.

Table 4. Gag rule key roll call votes, by party and region.

Cong.	Sess.	Date	ICPSR Vote #	Pct. supporting gag rule					
				Dem.		Whig		Other	
				North	South	North	South	North	South
24	1	5/26/36	207	82% (87)	81% (27)	28% (46)	91% (11)	0% (12)	50% (2)
24	2	1/18/37	365	90% (91)	88% (25)	39% (49)	36% (14)	0% (14)	20% (5)
25	2	12/21/37	72	76% (78)	100% (27)	28% (67)	100% (14)	13% (8)	100% (2)
25	3	12/12/38	363	81% (77)	96% (28)	26% (74)	88% (17)	0% (5)	100% (5)
26	1	1/28/40	107	51% (79)	100% (33)	20% (79)	100% (23)	0% (6)	100% (2)
26	2	12/9/40	639	72% (47)	100% (18)	11% (45)	96% (26)	0% (2)	0% (1)
27	1	6/7/41	25*	53% (58)	96% (23)	14% (104)	87% (30)	— (0)	100% (1)
27	2	12/6/41	277*	74% (47)	100% (14)	23% (90)	89% (19)	0% (1)	— (0)
27	3	12/12/42	818	72% (60)	100% (26)	17% (99)	86% (22)	100% (1)	— (0)
28	1	12/4/43	13*	50% (90)	100% (36)	14% (49)	87% (8)	0% (3)	— (0)
	1	2/27/44	141	27% (77)	100% (46)	2% (46)	89% (19)	0% (4)	— (0)
28	2	12/3/44	433*	35% (84)	100% (35)	16% (57)	87% (8)	0% (4)	— (0)

**"Nay" vote is pro-gag

Table 5. Support of key gag rule votes as a function of NOMINATE scores (probit).

Cong.	Sess.	ICPSR vote #	NOMINATE dimension 1	NOMINATE dimension 2	Int.	N	Pseudo-R ²	lln
24	1	207	-3.47 (0.44)	0.78 (0.22)	0.20 (0.13)	185	.39	-74.0
24	2	365	-3.76 (0.44)	0.36 (0.20)	0.24 (0.12)	198	.42	-74.35
25	2	72	-4.98 (0.72)	2.94 (0.47)	0.68 (0.20)	196	.68	-41.9
25	3	363	-5.30 (0.70)	2.20 (0.34)	0.53 (0.15)	206	.68	-43.7
26	1	107	-3.78 (0.67)	2.87 (0.36)	-0.02 (0.17)	222	.66	-51.9
26	2	639	-4.07 (0.65)	2.50 (0.40)	0.59 (0.20)	140	.65	-32.78
27	1	25*	-3.61 (0.52)	2.00 (0.26)	-0.26 (0.13)	216	.55	-67.0
27	2	277*	-4.05 (0.60)	2.46 (0.36)	0.20 (0.15)	171	.65	-41.5
27	3	818	-9.57 (1.97)	4.32 (0.85)	-0.17 (0.21)	208	.80	-28.8
28	1	13*	-4.99 (0.80)	2.38 (0.34)	-0.01 (0.18)	186	.64	-46.5
		141	-5.37 (0.93)	2.96 (0.40)	-0.37 (0.20)	192	.75	-33.76
28	2	433*	-5.31 (0.88)	3.47 (0.52)	-0.24 (0.20)	188	.78	-28.8

*"Nay" vote is pro-gag.

Table 6. Changing positions on gag rule key votes.

Vote 1*	Vote 2*	Shift in gag rule support, among vote changers**				
		N. Dem.	S. Dem.	N. Whig	S. Whig	Total
24-207	24-365	8-1	1-0	2-0	0-4	11-5
24-365	25-72	0-6	3-0	0-1	7-0	10-7
25-72	25-363	1-1	—	0-1	—	1-2
25-363	26-107	0-10	—	1-0	1-0	2-10
26-107	26-639	6-1	—	2-0	—	8-1
26-639	27-25	0-2	1-0	0-4	—	1-6
27-25	27-277	5-3	1-0	3-0	2-0	11-3
27-277	27-818	3-0	—	0-3	—	3-3
27-818	28-13	0-2	—	1-0	—	1-2
28-13	28-141	1-7	—	—	—	—
28-141	28-433	0-5	—	—	—	—

*Votes are designated by [Congress]-[ICPSR roll call vote number]. The ICPSR roll call study used here is study 9822.

**The first number is the number of House members who shifted in a pro-gag rule direction between the two roll call votes. The second number is the number of House members who shifted in an anti-gag rule.