15 Things to Know about Taking It to the Floor

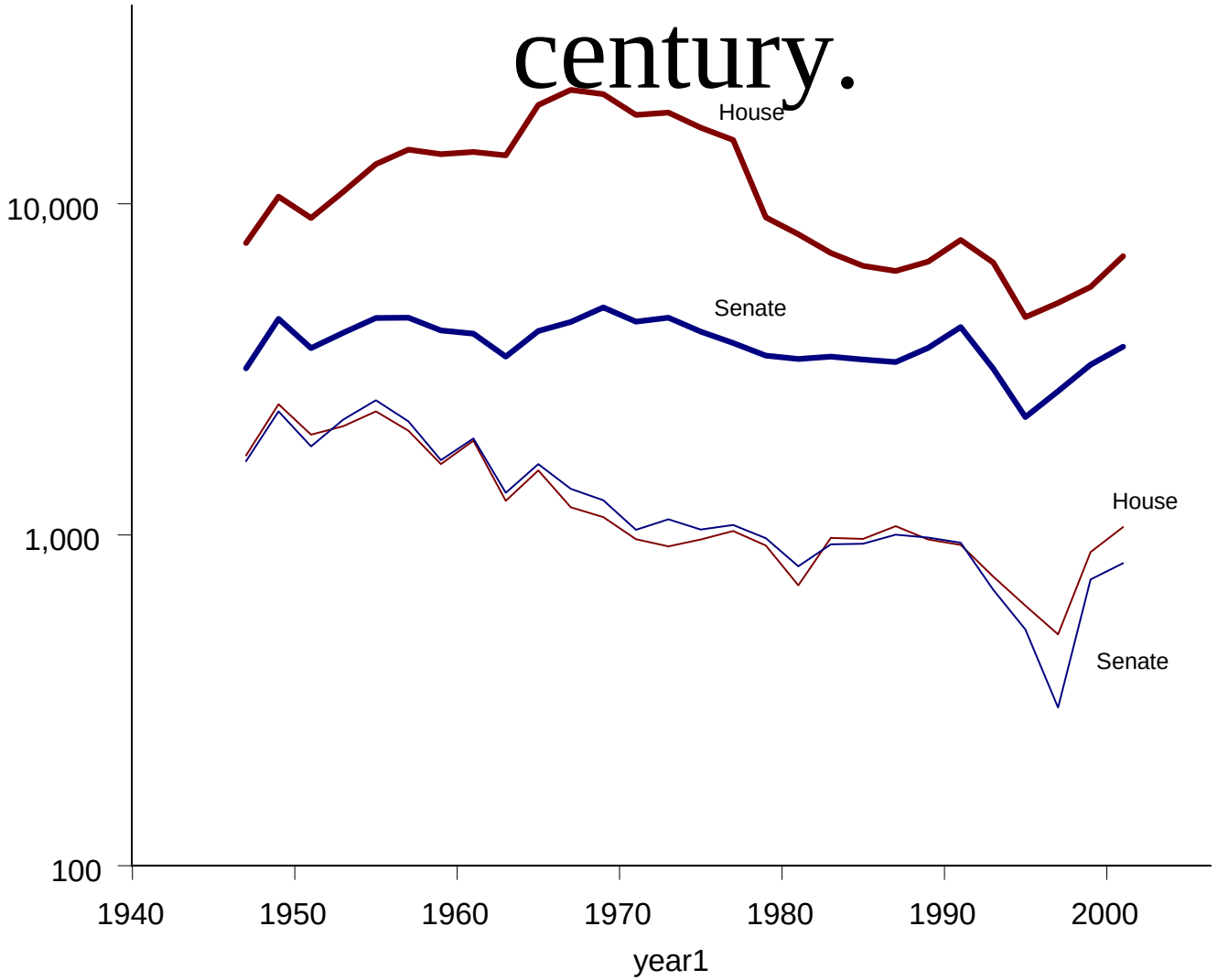
17.251/252

Fall 2008

0. Thomas is a cool place to get legislative histories

- Home page
- Bailout legislative history

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



2. Getting a bill passed is hard work

Major hurdle *Minor hurdle*	*House detail*	*Senate detail*
Introduction	House originates tax bills	Senate exclusively considers executive matters
Reference to committee	Done by Speaker, no right of appeal	Done by presiding officer, w/right of appeal
Committee consideration (subcommittee nested)		
Hearing, Mark-up, Report		
Scheduling	Combo of Rules & leadership	Leadership-centered negotiations
Getting on the calendar	Multitude of calendars (union, House, correction, private, DC, discharge)	Two calendars (general orders, executive)
Getting off the calendar	Simple: suspension; Complex: rules	Simple: suspension; Complex: unan. consent
Setting the parameters of consideration	Rules Committee	Unanimous consent under threat of filibuster
Floor consideration	Committee of the Whole	
Debate	Constrained	Cloture
Amendment	Germaneness rules strong	Germaneness weak
Reconciling differences		

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

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

4. Committee reports are important--- and controversial

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

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

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

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

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

- Open
- Closed
- Modified closed
- Waiver

A (Semi) Open Rule: H.Res. 802

Resolved, **That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3355) to ensure the availability and affordability of homeowners' insurance coverage for catastrophic events. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or a designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.**

Sec. 2. During consideration in the House of H.R. 3355 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

A Closed Rule: H.Res.1516

Resolved, **That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 7201) to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 10 of rule XXI. The bill shall be considered as read. All points of order against the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.**

Sec. 2. Upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 7202) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, to provide individual income tax relief, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 10 of rule XXI. The bill shall be considered as read. All points of order against the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.

Sec. 3. During consideration of H.R. 7201 or H.R. 7202 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of either bill to such time as may be designated by the Speaker.

A very complicated Rule: H.Res. 1344

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3999) to amend title 23, United States Code, to improve the safety of Federal-aid highway bridges, to strengthen bridge inspection standards and processes, to increase investment in the reconstruction of structurally deficient bridges on the National Highway System, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Sec. 2. During consideration in the House of H.R. 3999 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

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

- A whip notice

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

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

9. The Senate differs from the House in being looser

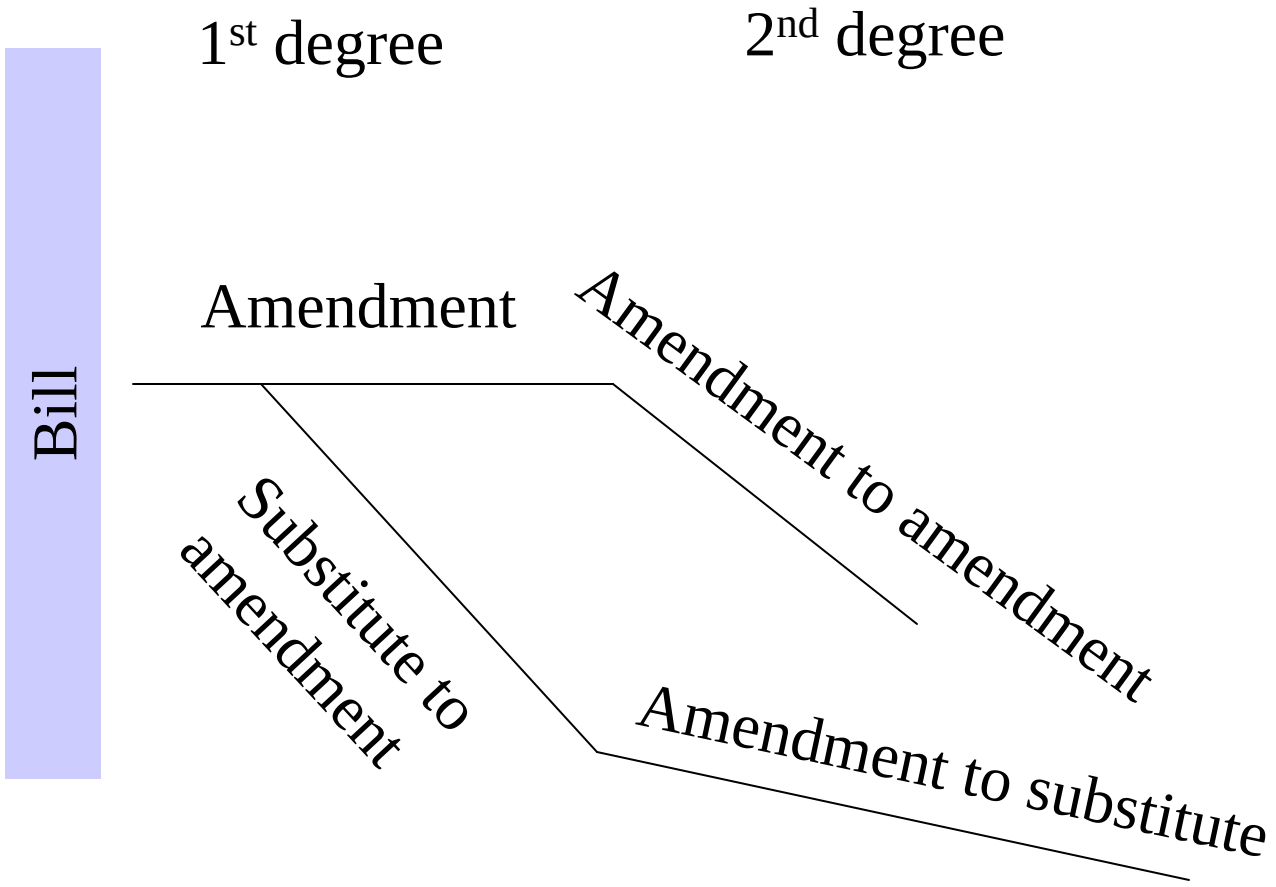
- Getting to the floor is easier and more varied
- Debate need not be germane
- Amendments need not be germane
- Filibuster the 800 pound gorilla

10. Scheduling in the Senate by Complex Unanimous Consent Agreements

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, October 1, following the debate with respect to H.R. 7081, the Senate proceed to the consideration of Calendar No. 610, H.R. 1424; that once the bill is reported, the Dodd, et al., amendment, which is at the desk, be considered; except that this agreement is only valid if both leaders are in concurrence with the provisions of the Dodd, et al., amendment and have so notified the Chair, and that there be general debate on the amendment for 90 minutes, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of this time, the amendment be set aside, and the Senate then consider the only other amendment in order to the bill, a Sanders amendment re: tax on high-income individuals; that there be 60 minutes of debate with respect to that amendment, with the time equally divided and controlled in the usual form; that upon the use or yielding back of all time with respect to the bill and amendments, the measure be set aside to recur upon disposition of H.R. 7081; that with respect to the disposition of the amendments to H.R. 1424, the first vote occur with respect to the Sanders amendment; that upon disposition of that amendment, the Senate would then consider the Dodd, et al., amendment, that upon disposition of that amendment, the bill, as amended, if amended, be read a third time and the Senate proceed to vote on passage of the bill; that upon passage, with the above occurring without further intervening action or debate, the Dodd, et al., amendment and the bill be subject to a 60-vote threshold.

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

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

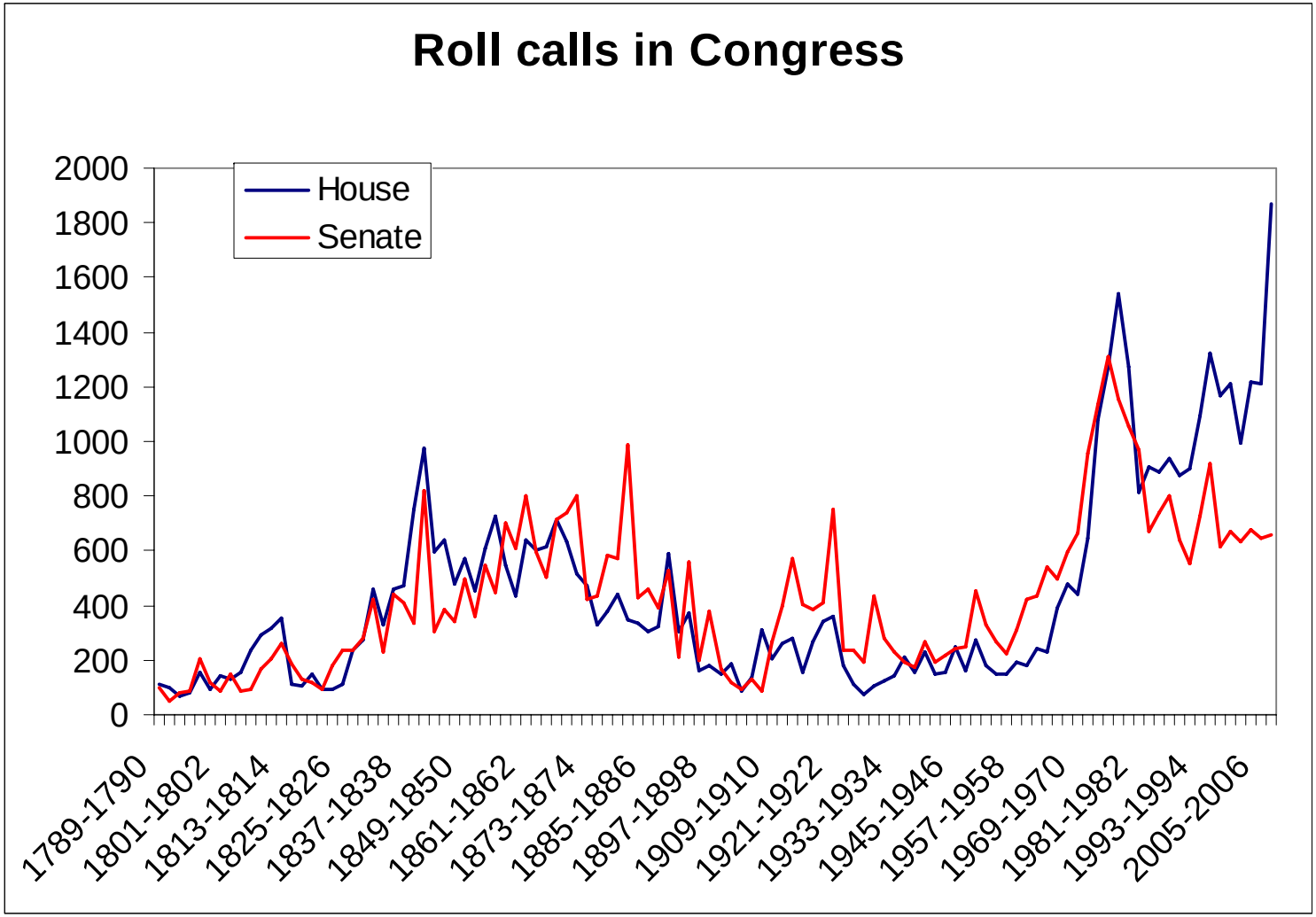


12. Filibusters probably most powerful as the dog that didn’t bark

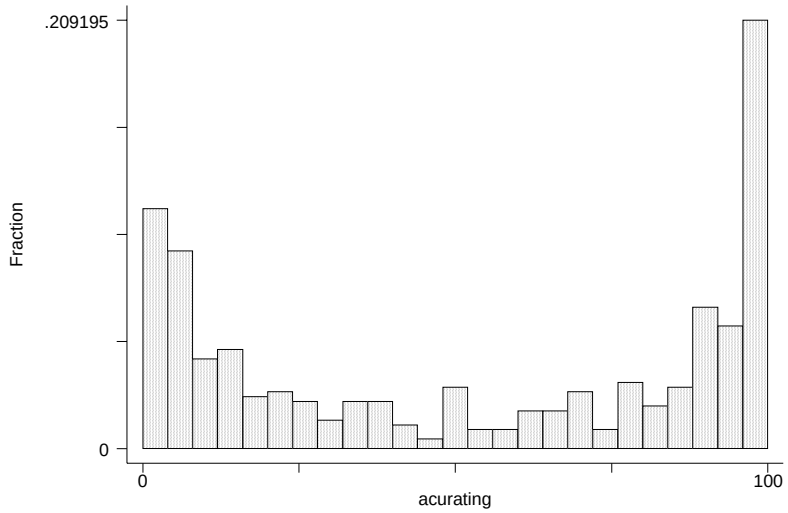
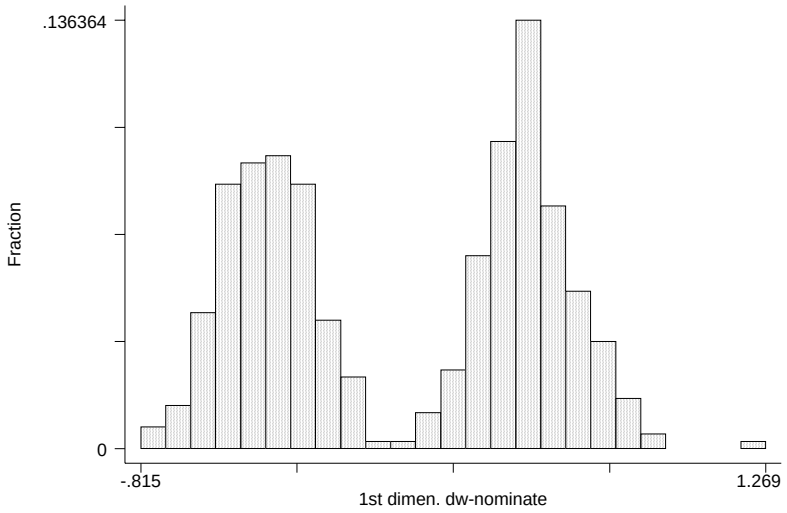
Filibusters in the 110th Congress

- 138 cloture motions filed
- 145 votes [sic]
  - 50 failed
  - 61 invoked
  - 5 no action
  - 2 vitiated
  - 26 withdrawn
- 9 votes on HR1585 (National Defense Authorization Act) amendments

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



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

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

ACU vs. P-R Ratings