

The Legitimate Secret

The Institutionalization of Parliamentary Agenda Control in the United Kingdom and Germany

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Abstract

Control of the parliamentary agenda is a necessary condition for exercising political power. Explaining the evolution of agenda control hence allows for systematic comparisons of parliaments both over time and space. This paper challenges the assumption that party systems and electoral systems determine the degree to which the parliamentary agenda is centralized (i.e. controlled by the government). Rather, party systems, electoral systems, and parliaments co-evolve during democratization. To take this into consideration, the paper suggests to focus on the rationales actors follow in parliamentary reforms. Two such rationales lead to changes in the centralization of agenda control: First, the aim to increase parliamentary legitimacy which forbids attempts to privilege simple majorities with respect to setting the parliamentary agenda and hence informs reforms through which agenda control is decentralized. The opposite is true for, second, a stress on parliamentary effectiveness which in turn explains the centralization of agenda control. The major actors, strategic goals, and logics of action during each reform process serve as independent variables to operationalize the rationales. The heuristic power of this explanatory framework is preliminarily tested against the backdrop of two most different cases, the United Kingdom and Germany. The results imply that a 'legitimate secret' explains why the parliamentary agenda was centralized in the United Kingdom but not in Germany: parliamentary legitimacy needs to precede (and hence is a sufficient condition for) any centralization of the parliamentary agenda.

Keywords: agenda control, legitimacy, effectiveness, United Kingdom, Germany, closure, Council of Seniors

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Introduction

“Every constitution must first gain authority and then use authority.” (Bagehot 2001 [1864]: 7)

If “the ability to gain or prevent access to plenary time is the central source of power in democratic legislatures” (Cox & McCubbins 2011: 451), this gives rise to the question why majorities dominate parliamentary proceedings in some countries, while in others minorities are consulted prior to virtually all parliamentary activities. In his seminal study on the evolution of agenda control in the British House of Commons, Cox (1987) held that the centralization of the agenda here went back to the evolution of a electorate oriented towards two major parties, which in turn allowed for the “efficient secret” of majority rule in parliamentary agenda-setting. Recent analyses also suggest that party and electoral systems are the single most important variable explaining the centralization of agenda control (see Carroll, Cox, & Pachón 2006; Zubek 2011). This paper, however, argues that such explanations run the risk of “reading history backward” (Capoccia & Ziblatt 2010: 945). As party and electoral systems were in flux when political competition took off in the late 19th century, they essentially co-evolved with parliaments. This, in turn, renders it unlikely that voter preferences or party system properties unilaterally shape the institutionalization of parliamentary rules as Cox and others suggest.

Given that democratization is an asynchronic process, it is the temporal perspective of different paths towards (parliamentary) democracy which deserves more attention (see Ziblatt 2006; Grzymala-Busse 2011). As the quotation from Bagehot cited at the outset of this paper suggests, differentiating between gaining and using authority implies that the centralization of parliamentary competition in the United Kingdom was only possible because the legitimacy of the House of Commons was firmly established. Consequently, it was the ‘legitimate secret’ of the House of Commons which explains why its agenda could be centralized to such an exceptional degree. From this perspective, a more decentralized (i.e., proportional) parliamentary agenda is an indicator for disputes about the legitimacy of parliaments. With a grain of salt, this could be termed the ‘illegitimate secret’ behind parliamentary agenda control. The ‘efficient secret’, however, is at best an open secret in all parliamentary systems as executives and legislatures need to be closely coordinated independently of the distribution of agenda-setting rights. Put differently, parliamentary efficiency is a necessary condition the functioning of all political systems in which legislation is subject to parliamentary approval.

This paper argues that there are two sufficient conditions which explain the degree to which parliamentary agenda control is centralized: the aims to increase parliamentary legitimacy

and effectiveness. In brief, an emphasis on parliamentary legitimacy implies striving for recognition by the electorate through parliamentary impact on policies. In contrast, parliamentary effectiveness refers to attempts to render the executive accountable and to replace the government of the day. Rather than shaping the day-to-day legislative business, effective parliaments focus on the composition of the executive.

To corroborate this argument, this paper focuses on reforms of agenda control in two countries which can be regarded as most different cases where reforms taken in the late 19th century continue to shape the current system of parliamentary agenda control: First, the United Kingdom as an example for a regime of centralized agenda control. Here, effective alternation in government is expected to be the compensation for the loss of equal access to the parliamentary agenda. Second, Germany, which embodies the contrasting causal path. Here, the regime of agenda control is expected to remain decentralized due to the disputed parliamentary legitimacy. This 'illegitimate secret' accordingly rendered more effective control of governments impossible.

To examine the causal mechanisms underlying the evolution of agenda control in the United Kingdom and in Germany, the paper builds on a qualitative process-tracing which focuses on the institutionalization of the most important means of agenda control in both countries: In the United Kingdom, majority control of the parliamentary agenda was only ensured when the closure was introduced in 1882 and 1887. The closure enabled majorities to terminate debates and immediately take decisions. The German case study focuses on the establishment of the Council of Seniors (*Seniorenkonvent*), where all major parties since 1867 set the agenda in the federal parliament. The additional analysis of the failed attempt to introduce a closure procedure in Germany in 1906) serves to illustrate the overarching importance of ensuring legitimacy in the Reichstag against the backdrop of a negative case of failed reform.

The paper proceeds as follows: The first section gives an overview over the concept of parliamentary agenda control. Special emphasis will be paid to the discussion about the determinants of different agenda control regimes. The second section operationalizes the rationales to increase parliamentary legitimacy and effectiveness. The empirical analysis is presented in the following two sections. The fifth section concludes and identifies the specific sequences underlying the reforms of agenda control in both countries.

Parliamentary agenda control and its determinants

Surprisingly, there is hardly any comparative literature on legislatures in parliamentary systems (henceforth referred to as parliaments). Research rather focuses on legislatures in presidential

systems or differences between legislatures and parliaments (see Kreppel 2012). This paper argues that agenda control is a parsimonious device to analyze the viscosity (Blondel 1970) or transformability (Polsby 1975) of parliaments as time is a scarce resource in all legislatures (Döring 1995). This renders control of plenary time – i.e. the agenda – is an important object of study. The “plenary bottleneck” (Cox 2006: 143) renders comparisons of parliaments over time and space possible: no matter where or when, all bills must pass a plenary stage. For this reason, studying the institutionalization of parliamentary agenda control can serve as a proxy for the study of parliamentary development at large.

Agenda control is either positive (i.e. it ensures that specific issues reach the parliamentary agenda, e.g. through expansive rules) or negative (i.e. it prevents exactly this, e.g. through closed or restrictive rules). Agenda control regimes can be either centralized (i.e., dominated by the government) or decentralized (i.e., providing equal access of all parliamentary groups, most likely in proportion to their seat share). The more independent from governments and the more consensually decisions about parliamentary time are taken, the more decentralized agenda control can be expected to be. What renders agenda control attractive as a means to systematically compare parliaments is the fact that it has an effect on policies: governments which control the agenda are more likely to introduce (and pass) conflictive legislation, even though the general legislative output is lower under the condition of centralized agenda control (Döring 2004: 158-165).

Three explanations for the evolution of agenda-setting rules can broadly be distinguished in the literature: properties of party competition, slow-moving processes, and the effects of exogenous institutions (Zubek 2011: 175). The effective number of parties plays is the most important independent variable. The higher this number, the more decentralized agenda control is expected to be (Carroll, Cox & Pachón 2006; Carroll & Eichorst 2013). As for the impact of slow-moving processes, Cox (1987) asserts that the growing voter-orientation of British MPs (i.e. the democratization of the British polity) rendered MPs more active during plenary sessions, a development which led to the centralization of agenda control. Similarly, Hoffmann Slagter and Loewenberg (2009: 474) explain the decentralized control of the parliamentary agenda in Germany with the “norms of fairness” prevalent among the large number parliamentary parties. The most important alleged institutional factor influencing parliamentary agenda control is the electoral system. Cox and McCubbins (2001) and McCubbins (2005) argue that legislative procedures tend to ‘mirror’ the design of constitutional rules. Taylor (2006) shows that legislative minorities enjoy limited procedural privileges in large, unicameral or weakly bicameral assemblies. Taylor further finds that governmental dominance increases as the degree of personal vote decreases.

Powell (2000) also notes a correlation between the choice of the electoral system and the shape of legislative organization.

However, the problem with such explanations is that they are ahistorical as they suffer from a serious endogeneity problem. Parliamentary rules co-evolve with party and electoral systems. Consequently, agenda control rules can either follow or shape their external institutional environment. In particular, multi-party systems can evolve under majoritarian electoral rules (see Manow, Schröder & Nickel 2012). Accordingly, what is warranted is a framework which conceptualizes parties and institutions (electoral systems) more broadly to take into consideration co-evolution of party systems, electoral rules, and agenda control. To broaden the scope of the independent variables, this paper refers to specific rationales allowing for changes in the centralization of agenda control.

Rationales underlying reforms of parliamentary agenda control

From a rational institutionalist perspective, one can differentiate between efficient and distributional parliamentary reforms (Sieberer et al. 2011; Tsebelis 1990). All actors profit from efficient reforms, whereas distributional reforms privilege some actors over others. This paper is largely interested in distributional reforms. Changes in the degree of centralization of agenda control can reasonably be expected to alter the power relation between actors. Merely efficient reforms are of secondary interest here. All modern parliaments need to be able to efficiently pass legislation; however, “there is no reason legislatures have to process laws like sausages” (Dion 1997: 37). This implies that maintaining efficiency is a necessary condition for all parliamentary reforms. The focus on distributional reforms resonates with the key assumption of historical institutionalism, which regards institutions as “distributional instruments” rather than coordinative devices (see Mahoney 2010: 14-17). Consequently, power relations and not (allegedly) objective factors such as workload determine whether control of the parliamentary agenda is centralized or not. Accordingly, two sufficient conditions can be identified under which parliamentary actors have an incentive to change the degree to which agenda control is centralized: the rationales to increase parliamentary legitimacy and effectiveness.

The differentiation between legitimacy and effectiveness used here is derived from Lipset (1963: 64-72), who describes legitimacy and effectiveness as the two fundamental features of political orders. According to Lipset, legitimacy is evaluative and ensured when an institution is commonly recognized. In contrast, effectiveness is performative and ensured when an institution is able to act. This paper argues that any decentralization of agenda control corresponds with the aim to increase parliamentary legitimacy. A stress on political legitimacy stems from

“arguments that justify the exercise of government authority, that is, the authority to adopt collectively binding decisions and to implement these decisions with resources taken from the members of the collectivity and by resort to the state’s monopoly on legitimate coercion” (Scharpf 2000: 102). The emphasis on collectively binding decisions implies that parliamentary legitimacy is a common good which can (only) be ensured in a joint effort by all actors. With respect to parliamentary agenda-setting, this does not allow for a sharp distinction between government and opposition actors. Rather, from a legitimacy perspective, parliaments are forums of deliberation. Such deliberation depends upon proportional procedures and hence decentralized rules of agenda-setting. If “busy legislatures are inegalitarian” (Cox 2006: 144), legislatures striving for legitimacy are egalitarian.

Conversely, any centralization of the agenda corresponds with the aim to increase parliamentary effectiveness. The effectiveness of an institution is given when the expectations upon which legitimacy is built are met (Lipset 1963: 64). This implies that effective parliaments need to be able to take action, most notably with respect to the “making and breaking” (Laver & Shepsle 1996) of governments. In order to ‘deliver’ effectively, parliamentary actors might well delegate powers (read: privileged access to the agenda) to government actors. The focus is on decidability rather than on equal participation (see Bartolini 1999; 2000). From this follows that hierarchies between parliamentary actors are feasible. However, in return, minorities will most likely call for the right to check the government more effectively than actors driven by the rationale to increase parliamentary legitimacy.

To operationalize the reform rationales, the paper relies on an actor-based institutionalist framework. This implies that actors, their strategic goals, and the (institutional) context they operate in are assumed to be the major independent variables (Scharpf 1997). As the last section argued, we need to broaden the scope of these independent variables in order to make them travel through time. In the following, each of these three independent variables will be operationalized with reference to a specific question and a causal mechanism.

Actors

It is not necessarily political parties which drive and profit from reforms of parliamentary agenda control. Rather, reforms can privilege individual MPs, party groups, or government majorities. The question asked here to identify the major actors in reforms of agenda control is ‘are thresholds for participation in decisions about agenda control envisaged?’. The causal mechanism behind this is the rational assumption that the larger the group of dominant actors, the more centralized we can expect the agenda to be. Individual MPs will hardly support a centralization of

the agenda; however, from a government perspective, it makes sense to do so. From a legitimacy perspective, thresholds for access to the agenda are unlikely (or can at least be expected to be low). The aim to increase legitimacy does not imply hierarchies between MPs, which are all equally legitimate as representatives of the electorate. In contrast, an efficiency perspective allows for creating hierarchies between parliamentary actors. Granting specific groups (most likely government actors, but also parliamentary elites in general) privileged access to the agenda is regarded as a means to render parliaments effective. To identify the major actors, we need to ascertain who talks on behalf of whom in the reform debates and who envisages which thresholds for access to the parliamentary agenda.

Strategic goals

The strategic goals parliamentary actors pursue resemble during reforms of agenda control are in line with standard assumptions about political parties' behavior. Basically, we can differentiate the aims of policy- and office-seeking (Strøm 1990; Harmel & Janda 1994).¹ The main question to operationalize actors' goals in reforms of parliamentary agenda control is 'are the dominant actors willing to subordinate their interests to any collective interest?'. The causal mechanism underlying this is that the more collective interests actors pursue, the less justification there is to introduce any hierarchies, i.e. to centralize the agenda. From a legitimacy perspective, actors have a common interest in recognition (by the electorate) which allows them to engage in cooperation (if they pursue similar goals) or negotiation (if they pursue different goals) (see Bartolini 1999; 2000). Legitimacy has to be enacted collectively to be sustained. From this follow solidaristic interaction orientations which are shaped by the degree of similarity in policy-preferences. As the focus from an effectiveness perspective is on the result rather than the process of decision-making, office becomes the dominant strategic preference. In contrast to policy, the goal to take office does not allow for positive-sum interactions as it cannot be maximized by all parliamentary actors. Accordingly, office-seeking does not allow for solidaristic action. This stress on competition gives rise to a preference to centralize agenda control: majorities will attempt to enhance their amount of plenary time beyond the share they would be entitled to under a proportional scheme. Minorities will accept this as they hope to take office themselves at a later point in time. To measure the strategic goals actors pursue, we have to ascertain the reasons they provide for the proposed reforms of agenda control. Do they refer to the ability to participate in decision-making (representation) or is their preference to ensure that governments are able to take decisions (office)?

¹ Vote-seeking (as a third strategic goal of political parties) can be neglected here as the focus of this paper is on the parliamentary arena.

Institutional context

To operationalize the institutional context of reforms of agenda control, we cannot rely on standard comparative politics devices such as veto points (Kaiser 1997) or veto players (Tsebelis 2002) if we want to acknowledge that parliamentary institutions and their context co-evolve. Rather, the question is whether parliamentary actors are willing to accept that the institutional context they operate in is static or whether they perceive it to be flexible and subject to reform. This resonates with the logic of action actors follow, two of which are of special importance here: the logic of appropriateness and the logic of consequentialism.² The causal mechanism underlying this question is that the more actors define their goals as being informed by the consequences of their actions, the more likely they are to adjust the institutional context they operate in to their goals; in this case, the institutional context is assumed to play a less decisive role for reforms of agenda control. This cannot be expected to be the case from a legitimacy perspective. Here, the normative motivation of action renders the institutional context static as this institutional context informs their actions. Actors can be expected to follow a logic of appropriateness reflecting the normative character of the rationale to improve parliamentary legitimacy. This normative character implies that control of the parliamentary agenda can hardly be centralized from a legitimacy perspective, because parliamentary actors as well as voters would perceive such procedures as unfair and hence illegitimate. In contrast, from an effectiveness perspective, the strategic motivation of actions renders the institutional context subject to change. To ascertain the dominant logic of action, the paper aims to assess whether actors refer to normative justifications for their positions during reforms of agenda control (logic of appropriateness) or whether they mostly point to the consequences of a (non-)reform of agenda control (consequentialism).

Figure 1 about here

This operationalization results in two ideal-typical constellations which are assumed to inform redistribute reforms, i.e. changes in the degree of centralization of agenda control. As

² March & Olsen 2006: 690-691. Actors following a logic of appropriateness are guided by central questions such as 'What kind of a situation is this?' and 'What does a person such as I do in a situation as this?'. Rather than aiming to maximize their utility, they strive to 'do the right thing'. Actors following a logic of consequentialism are guided by central questions such as 'What are my alternatives?', 'What are my values?', and 'What are the consequences of my alternatives for my values?'. Note that scholars also distinguish a logic of habit (Hopf 2010) and a logic of practicality (Pouliot 2008). Both are not considered here since they involve a lack of reflection which cannot be assumed in deliberate reforms of parliamentary agenda control. As deliberation in the narrow sense of the word can hardly be expected in elected assemblies, the logic of arguing proposed by Risse (2000) will be regarded as a subtype of the logic of appropriateness.

figure 1 suggests, these ideal-typical constellations of actors, strategic goals, and logics of action each correspond with an over-arching rationale. A stress on legitimacy leads to the decentralization of the parliamentary agenda. Correspondingly, a stress on effectiveness allows for the centralization of the agenda. Additionally, each rationale corresponds with a focus on one distinct (and often temporally separate) dimension of democratization: electoral and parliamentary democracy (Ziblatt 2006). If actors aim to increase parliamentary legitimacy, their focus is on electoral democracy and input into parliamentary proceedings (which in turn imply equal access to the plenary agenda). If, however, their focus is on increasing parliamentary effectiveness, they will focus on rendering governments responsible to parliament (which allows for the centralization of the plenary agenda).³ To preliminarily assess the heuristic value of these two reform rationales (and the ideal-typical constellation of independent variables underlying them), the remainder of this paper will analyze crucial reforms in two most different cases.

Case selection & method

To select most different cases, this paper differentiates between positive and negative agenda control. With respect to the question whether government actors are able to exert positive and/or negative agenda control, the regimes of agenda control institutionalized in the late 19th century in the United Kingdom and Germany can be regarded as ideal-typically distinct throughout today (table 1).⁴ In the United Kingdom, the executive sets the parliamentary agenda almost exclusively (i.e. exerts positive agenda control). With the exception of some 30 days for opposition and backbench business per year, British governments are virtually free to decide about the plenary agenda. Additionally, the government can also 'program' bills, i.e. determine in advance how long debates on specific legislation should last (and hence exert negative agenda control). Consequently, the plenary agenda in the United Kingdom is highly centralized (Qvortrup 2011).

Table 1 about here

³ Of course other constellations of independent variables are feasible. However, such constellations are not expected to allow for institutional change (which is an exception rather than the predominant result of institutional reform, see Mahoney & Thelen 2010).

⁴ The mixed cases usually started from one ideal-point and then gradually shifted away from it. In Sweden, the right of individual MPs to introduce motions is by now restricted to a two-week period after the introduction of the budget, but follow-up motions to government proposals are always possible. Swedish governments only enjoy negative agenda control over the budget since 1996. Accordingly, the agenda is formally decentralized. In France, the government lost positive control over half of the plenary time in 2009, but still has means of negative agenda control at its disposal. This renders the agenda informally centralized.

In Germany, a steering body, the Council of Elders (up to 1921 called the Council of Seniors) decides consensually about the allocation of plenary time. The government enjoys no formal privileges in Council negotiations, where all parliamentary groups are represented in proportion to their size. According to the Imperial constitution, the German government could up to 1918 always place its bills on the agenda through the Second Chamber, the Bundesrat. However, this privilege *de facto* was virtually useless as plenary time was distributed strictly proportionally: the time slots of the government could not be augmented at the expense of other actors. This in turn meant that the government had to enter negotiations with the other parties prior to the tabling of bills (Hatschek 1915: 188-190). Today, decisions of the Council can formally be overruled on the floor; however, the agenda remains informally decentralized. Even though reference to majority rule in the plenary may well have anticipatory effects on negotiations in the Council of Elders (see Hönnige & Sieberer 2011: 23), rulings from the Constitutional Court render decisions of the Council of Elders during the Federal Republic *de facto* binding. In conclusion, the United Kingdom and Germany can therefore be regarded as most different cases. If the idealtypical rationales outlined in the last section are empirically observable, then in these two cases. This could then be regarded as preliminary evidence of the heuristic value of the proposed rationales to explain the evolution of agenda control.

Methodologically, a qualitative process-tracing is the adequate means to provide causal process observations through a within- and cross-case analysis (see Brady, Collier & Seawright 2010). Only such observation can shed light on the causal mechanisms underlying the institutionalization of agenda control regimes. The process-tracing is based on plenary debates, parliamentary and newspaper reports which are triangulated with contemporary sources.⁵ To examine whether the reform rationales discussed in the last section informed the evolution of parliamentary agenda control in the United Kingdom and Germany, the focus will be on two crucial reforms in each country which institutionalized core elements of current systems of agenda control. These reforms cover all a variety of types such as formal, informal, and non-reform: in the United Kingdom, two formal reforms established negative agenda control of the government through the closure procedure (introduced in 1882 and re-introduced in 1887).⁶ The closure enabled majorities to terminate debates and immediately proceed to decisions on bills or clauses

⁵ Due to the lack of public debate (see below), no newspaper reports are not analyzed for Germany. For the United Kingdom, the analysis includes the conservative Times and the liberal-radical Daily News. All parliamentary debates and newspaper articles cited are available from the author upon request.

⁶ In the long run, the so-called time limit (which allowed to program bills) turned out to be more important than the closure. The analysis focuses nonetheless on the closure as the most contested of these reforms. After 1887, government control of the agenda became an established fact, which rendered later reforms much less contested (Redlich 1908: 181-206).

of bills. Positive agenda control of governments was already introduced in the 1850s (Cox 1987: 46-51). However, it was of secondary importance in the United Kingdom as it could not avoid parliamentary obstruction. The introduction of the closure was intensively debated; 30 parliamentary debates took place in 1882 and another 15 in 1887.

In Germany, the most crucial site of agenda control, the Council of Seniors, was never formally introduced. Rather, the Council, which was initially established in the Prussian Chamber of Delegates (*Abgeordnetenhaus*) in the 1860s (Franke 1987: 40-44) and the informally adopted in the Imperial Reichstag. For this reason, the process-tracing focuses on the rare occasions where Council of Senior proceedings were discussed on the floor of the Reichstag. The German case study contrasts this informal reform with the formal failure of an attempt to introduce negative agenda control in 1906 (when the government proposed to introduce MP salaries in return for a closure procedure). This reform was discussed in three debate which were informed by a parliamentary committee report.

The legitimate secret: The centralization of the parliamentary agenda in the United Kingdom

The major actors

According to the 1882 closure proposal, plenary debates could be terminated by simple majorities as long as the closure was supported by more than 200 MPs. If less than 40 MPs objected the closure, the support of even 100 MPs would be sufficient. The closure was debated throughout two parliamentary sessions before it was passed by the Liberal Gladstone government in 1882 despite fierce opposition of the Conservatives, the Irish Nationalists, and some Liberal Whigs. Notwithstanding its considerable anticipatory effects (Times, 3 Nov 1882: 7; Daily News, 29 Jan 1887), the closure was applied only twice after 1882 (Redlich 1908: 177). Consequently, it was re-introduced in 1887 by the Conservative government of Salisbury. The closure rule envisaged in 1887 resembled that of 1882 with the exception of one additional safeguard: The new proposal foresaw that the Speaker had to consent to any use of the closure, ensuring that the “evident sense of the House” was in favor of applying it (Daily News, 23 Feb 1887). This allowed for the virtually unanimous passage of the closure (Times, 19 Mar 1887: 11).

The reason why the closure was introduced can hardly be understood without reference to the Irish question. Growing dissent with English rule in Ireland caused electoral success of Irish Nationalist candidates at general elections which called for Home Rule, i.e. Irish self-government and a devolved legislature. About ten per cent of all MPs (and 60 per cent of all Irish MPs) belonged to the nationalist ‘third party’, i.e. the Home Rule Party (Redlich 1908: 151). When the

House of Lords vetoed a Land Bill for Ireland in 1880, Irish dissent turned into uproar, and Gladstone's Liberal government proposed a Coercion Bill for Ireland. The Irish Nationalists adopted systematic parliamentary obstruction against this bill, which could in turn only be passed with help of rules of urgency, a *de facto* state of emergency allowing to overcome Irish resistance by suspending parliamentary debate for three weeks in February 1881. Consequently, the ultimate aim of the closure proposal was to render any new state of urgency superfluous.

Given that the threshold for both reforms was a simple majority, the government (which relied on parliamentary majorities since 1832) clearly was the major actor to be privileged by the closure. However, one should not confuse 'government majority' with 'major party'. Between 1882 and 1887 the British party system became further fragmented. In 1886, the Liberal party suffered a split when 94 MPs opposing Irish Home Rule broke away and formed the Liberal Unionists. Somewhat surprisingly, however, the 1887 reform proposal also envisaged simple majorities for the application of the closure. Especially in 1882, this threshold was all but undisputed. However, the importance of linking the closure to simple majorities was underlined when, in November 1882, the Liberal government explicitly linked the decision on an amendment linking the application of the closure to a two thirds majority to a vote of confidence. This illustrates that the closure served as a means to overcome the "'unstable equilibrium' of parties" (Wilson 1880: 567) and their high degree of factionalization. The two major Parties only became congruent with the major actors in exerting agenda control when the Liberal Unionists merged with the Conservatives in 1912. In this perspective, the closure could be regarded as a means to increase homogeneity of the major parties.

The dominant strategic goal

The fact that the initial introduction of the closure was linked to a vote of confidence already points to the overarching importance of office-seeking goals. According to the Liberal (and later Liberal Unionist) John Lubbock, who had introduced the amendment which proposed to link the closure to a two thirds majority, the closure envisaged by the government was "a Vote of Confidence, not only for his [Gladstone's, MK] own, but for all future Governments" (HC Deb, 20 March 1882, 1398). According to the Times (27 Oct 1882: 7), the closure was even devised to discipline majorities: a so-called "silence in the ranks" signal among the ranks of the majority could give the impression to the House "that the subject has been adequately discussed". It was envisaged that the ensuing "conspiracy of silence" would eventually turn the closure into a weapon for party leaders to exert pressure upon their followers (HC Deb, 2 Mar 1887: 1001,

1005). As early as during the 1887 debate, it dawned on spectators that the 'evident sense of the House' would be ascertained on the government frontbenches (Daily News, 23 Feb 1887).

However, what rendered the closure acceptable for the opposition by 1887 was its increased ability to effectively control the government. In 1882, the opponents of the reform pointed out that it was the right to criticize ("censure") the government which was endangered (HC Deb, 20 Feb 1882: 1157, 1165-1166; 20 Mar 1882: 1349; 23 Mar 1882: 1746). It was exactly this ability to which a Conservative MP pointed when he expressed his unease with the fact that "in the countries where the *clôture* exists, Ministerial responsibility does not exist" (HC Deb, 20 Mar 1882: 1340). Therefore, questioning rights were explicitly envisaged as a compensation for the loss of MPs' ability to talk when the closure was finally introduced in 1887. As the Daily News (25 Feb 1887) put it, "a question is very often a summary of a motion and the argument upon it". Consequently, half the amount of time saved through the closure now was to be used for parliamentary questions. This illustrates that government decision-making (and hence office-seeking) rather than impact upon policies was the dominant strategic goal in the debates about the closure.

The preference for office served as the major argument for linking the closure to simple majorities: According to the later leader of the Liberal Unionists, the Marquis of Hartington, surplus majorities resembled an "arbitrary power, because it is a power which must be exercised without the controlling sense of responsibility for its exercise" (HC Deb, 20 Mar 1882, 1334). Similarly, Gladstone referred to an "artificial majority" (HC Deb, 31 Oct 1882: 502; cf. also 1 Nov 1882: 615; 6 Nov 1882; 929). This was a justification *avant la lettre* for what was to become the conflictive Westminster model of government: Majority rule was acceptable as long as alternation in government was possible. In this respect, the closure served as the crucial element establishing a link between majority rule and governmental responsibility vis-à-vis parliament in the United Kingdom.

The preference for office-seeking also explains why the most important alternative to re-introducing the closure, a devolution of the House through the introduction of topical standing committees, was only realized once the closure had been in place. Rather than allowing for more debate about legislative proposals (and especially for debate of expert MPs striving to improve the output of the House), the leaders of the major parties opted for the opportunity to terminate plenary debates in the first place and then relegate readings of bills to non-expert committees whose members could easily be controlled by the Whips. Consequently, standing committees developed into means of legislative scrutiny rather than expertise (see Kelso 2009: 31-33).

The dominant logic of action

In the United Kingdom, the preference for facilitating government decision-making was linked to a predominantly consequentialist logic of action. Of course, actors opposed to the introduction of the closure referred to the lacking appropriateness of the proposed measure within the British constitutional context. Especially Conservative speakers initially termed the closure “a principle absolutely unconstitutional” (HC Deb, 27 Mar 1882: 38-39; see also 20 Mar 1882: 1318; 23 Mar 1882: 1745). These MPs referred to the ancient parliamentary privilege of ‘freedom of speech’, which was regarded as an embodying the legitimacy of the legislature. It was this freedom of speech which had enabled the Irish Nationalists to obstruct parliamentary business.

However, claims that the closure would undermine freedom of speech in parliament or hamper the bond between voters and MPs remained exceptions. Rather, the willingness to shape the constitution was openly admitted by the government already in 1882, when Gladstone pointed out that “the House of Commons thus stands face to face, for the first time since the Reform Act of 1832 remodeled its constitution, with a genuine plan to removing the obstacles to public business.” (Daily News, 20 Feb 1882). This also implied a preference for parliamentary democracy. In contrast, electoral democracy was rather perceived as a threat (see Roberts 2011). This was illustrated by pejorative references to the enlargement of the electorate in the 1868 Second Reform Act. Even William Marriot (who had introduced an amendment calling for a surplus majority) referred to the widespread assumption that “the legislation of 1868 has introduced a lower class of Members [...] if you get the County Franchise you will get a still lower class of Members of this House” (HC Deb, 20 Feb 1882: 1179).

In Britain, the agenda could be centralized because the legitimacy of the House of Commons was firmly established. This rendered references to normative constraints to reform unnecessary. The House of Commons’ undisputed legitimacy explains why MPs could argue that the ancient right of ‘freedom of speech’ had lost the importance it used to play during “the battle of immunity from external interference” in previous centuries (HC Deb, 20 Mar 1882: 1346). In the United Kingdom, this battle had already been won. This in turn allowed for constitutional reform. The institutional context was indeed changed between the initial introduction of the closure and its final passage when, in 1885, single-member proportionality was introduced in the Third Reform Act. By 1887, the consequentialist logic of action was even more clearly visible, when the Daily News (22 Feb 1887) pointed out that with “Liberals being rational people, and Conservatives knowing their immediate selfish interests, all this nonsense [Conservative references to ‘freedom of debate’, MK] is out of date, and procedure is no longer a party question.” As a consequence, the closure was passed virtually unanimously (Times, 19 Mar 1887: 11) and

immediately became an essential – and since then widely employed (May 2011: 465) – part of the regime of agenda control.

The ‘illegitimate’ secret: The dominance of informal coordination in Imperial Germany

The major actors

After the creation of the North German Confederation in 1867, the Reichstag was not granted the power to elect or dismiss the non-parliamentary executive. However, it enjoyed full legislative responsibility and could also propose bills. To coordinate legislative proposals from the executive and MPs, a steering body was institutionalized, the Council of Seniors. The major task of the Council was to resolve the tensions stemming from the uneasy co-existence of formal majority rule in combination with the minority rights newly introduced in the German Reichstag. While agenda control in the Prussian Chamber of Delegates was highly centralized, several minority rights were introduced in the wake of the creation of the North German Confederation in 1868. The most important of those minority rights were the initiative proposals (*Initiativanträge*, resembling English Private Members’ bills) and, after 1880, budget motions (*Etatresolutionen*) (Hatschek 1915: 73-77).

The major task of the Council was to ensure that minorities made no use of their rights. As the Left-Liberal Eugen Richter put it, the Council of Seniors served to allow for “free agreements between parties. If these free agreements could not be guaranteed anymore, all parties would immediately begin to refer to the means the standing order provided minorities with”. Accordingly, the Council prepared the plenary sessions and ensured the informed discussion of bills. Government proposals were privileged most of the time (RT, 17 Jun 1873: 1198). Usually, the Council of Seniors struck package-deals with the government when the plenary agenda was set. This usually took place behind closed doors; however, in June 1873, it was openly admitted that a group of Center MPs and the government each abstained from controversial proposals to avoid legislative deadlock (RT, 17 Jun 1873: 1200, 1202; see also 7 May 1880: 1238-40; 13 May 1901: 2714). In order to further pre-structure the discussion of bills, the Council of Seniors even prepared the list of speakers for each item on the agenda (RT, 6 Jun 1868: 298; 20 Feb 1896: 1114; Hatschek 1915: 66).

The threshold introduced for exerting positive and negative agenda control through self-coordination of parliamentary groups in the Council of Seniors chosen was the same as the threshold for exerting minority rights: 15 MPs. Given that there were 398 seats in the Reichstag, this was a fairly decentralized system of agenda control in which groups of less than four per

cent of all MPs could participate. Membership in the Council was linked to the status of a parliamentary group, which required 15 MPs. However, this threshold should not be confused with party group status, as parties represented in the legislature were able to create joint parliamentary groups; additionally, it was possible to co-opt independent MPs in parliamentary groups. This changed in 1912, when party parliamentary groups became exclusively eligible for representation in the Council and the approximately 70 independent MPs lost their access to agenda-setting process (RT, 7 May 1912: 1717).⁷ As the rapporteur of the standing orders committee pointed out, membership in the Council needed to be linked to the status of a parliamentary party because it was political parties which were the major actors in parliamentary proceedings (RT, 8 May 1912: 1705-06). The threshold initially chosen according to the level for exerting minority rights over time became congruent with the one for parliamentary parties, which turned out to be the major actors in the agenda-setting process.

This dominance of parliamentary parties also became visible when the government proposed to centralize agenda control in 1906. The government offered to enable simple majorities to cut debates in return for a reimbursement of the expenses of Members of the Reichstag (RT, Annex 353/1906: 3846). Formally, a closure procedure existed from the outset of Imperial Germany. However, the effective use of this procedure was prevented by Article 28 of the Imperial constitution which stated that the Reichstag could only take decisions by a majority of its members (199 of 397). This rule developed into a powerful tool for groups of more than 50 MPs who could call for roll call votes revealing that the Reichstag was without a quorum, which rendered all further proceedings impossible (Perels 1903: 79). The reason for this was the growing 'absenteeism' (as it was called by contemporaries) in the German legislature which rendered applications of the closure virtually impossible. It was estimated that on average, only one third of all MPs actively participated in parliamentary business, with attendance rates being only slightly higher (Molt 1963: 311). One alleged reason for this 'absenteeism' was the lack of financial means of many MPs. This explains why the federal government proposed to introduce such reimbursement in exchange for abolishing the quorum for all decisions on parliamentary procedures and "especially closing the debate" (RT Annex 353/1906: 3846).

However, the proposed reform, which would have set the threshold for closure procedures effectively at 50 per cent of all MPs (the same as in the UK after 1882), was rejected by all parties with the exception of the Conservatives (who virtually always voted in favor of govern-

⁷ There was a significant number of independent MPs in Germany due to the two-tier majority rule electoral system: candidates which won the second round as a consequence of a compromise between non-socialist parties against SPD candidates after the first round had to remain outside parliamentary party groups.

ment proposals). All non-conservative party groups preferred informal self-coordination⁸ over establishing closer links between the legislature and the government. The reason for this becomes clear if we take a closer look at the strategic preferences within the Reichstag.

The dominant strategic goal

Agenda control in Imperial Germany reflected the fact that virtually all parliamentary actors preferred policy- over office-seeking. The aim of parliamentary proceedings was primarily seen as facilitating representation through highlighting policies towards the electorate rather than governmental decision-making. The Council of Seniors hence attempted to allow as many actors as possible to introduce their bills and, more importantly, amend government bills and the budget. This was also reflected by the fact that the Council decided about membership in the committees dealing with bills, which played a much more important role in Germany than in the United Kingdom (Neumann-Hofer 1911).

The preference for policy-seeking also explains the failure of the 1906 proposal to facilitate the application of the closure. During the plenary debate, no MP even suggested to trade more majoritarian agenda-setting for more effective parliamentary control over the government. Rather, MPs referred to the negative impact of the proposed reform upon the Reichstag's recognition: As the Left Liberal Karl Schrader pointed out, "the Reichstag's weakness [...] mainly goes back to the fact that [...] our position vis-à-vis the government and the country is not the one a large parliament deserves" (RT, 26 Apr 1906: 2726). Only refusing the proposed reform could ensure "that we principally receive the necessary respect from the government, and for this reason we cannot accept a proposal which is not entirely based on the Reichstag's confidence" (ibid.; see also RT, 12 May 1906: 3132, 3134). It was precisely the aim to improve the Reichstag's 'position' and 'respect' (i.e., its legitimacy) which prevented the majority of MPs to accept the proposed reform. In the terminology of this paper, the majority obviously refused to enhance parliamentary effectiveness because they felt that the legitimacy of the Reichstag was not enough developed to do so.

⁸ Usually, roll call votes (which could render the Reichstag without a quorum) were avoided through advance agreements in the Council of Seniors (see RT 13 May 1901: 2714; Molt 1963: 312). Advance agreements became particularly important once the SPD crossed the threshold of 50 MPs necessary for calls for roll call votes in 1898. This was the background of the government's reform proposal. The protocols of the SPD's parliamentary group meetings reveal that the President of the Reichstag regularly asked parliamentary groups to tacitly tolerate low attendance in the plenary and bypasses of the formal requirements for the reading of bills in urgent cases. The SPD's parliamentary group then often agreed to not jeopardize the quorum and call for roll call votes (Matthias & Pikart 1966: 16, 83, 209). This does not only illustrate the key role of the parliamentary groups for managing the Reichstag, but also the degree to which the SPD was integrated into this consensual management by the end of the 19th century.

The dominant logic of action

In Germany, all parliamentary actors remained within the normative framework of constitutional monarchy during the reforms of agenda control. Following a logic of appropriateness ensured that the Council of Seniors could reconcile the often contradicting norms of the Reichstag's standing orders and the constitution were reconciled through consensual decisions. This was at the origin of the "norms of fairness" (Hofmann Slagter & Loewenberg 2009: 474) still predominant in the agenda-setting process in today's Bundestag. Accordingly, the institutional context was regarded as not subject to change on behalf of parliamentary actors (and was indeed not changed throughout Imperial Germany). The almost universal suffrage introduced in 1867 played an important role in this ensuing inflexibility as it turned actors' attention towards the electorate (and hence towards ensuring parliamentary legitimacy through policy-seeking). During one of the rare events when the Council was not able to prevent SPD reference towards obstructionist tactics in parliament, a Conservative MP openly referred to the relation between the focus on electoral democracy and the unwillingness to compromise on constitutional reform: "England does not have such a free electoral law as we have. In England, the public is indeed patriotic. To come up with the ideas raised by you [radical demands for constitutional reform, MK], in the press and elsewhere, would be completely impossible in England" (RT, 3 May 1912: 1660).

The failed 1906 reform also illustrated the degree to which the constitutional framework was perceived as constraining changes to the status quo. Here, consequentialist arguments were only brought forward by the government, whose representative argued that only a constitutional reform of Article 28 could "substantially support [parliamentary, MK] proceedings" (RT 12 May 1906: 3131, see also RT, 26 Apr 1906: 2707). However, all parties but the Conservatives argued that Article 27 of the constitution, which stipulated that the Reichstag could autonomously decide on its own procedures, prevented any reform (RT 26 Apr 1906: 2702, 2721; 12 May 1906: 3130). The debate sounded more like a law seminar than a political discussion. Even SPD MPs (whose policy platform still called for revolution, one of the most consequentialist actions) argued that the proposed reform was inappropriate. According to one Social Democrat it was hardly conceivable "that anyone would try to bring forward evidence that the government, despite the existence of Article 27 of the constitution, would be entitled to propose a modification of the Reichstag's business procedure through amending Article 28" (RT, 26 Apr 1906: 2703).

Conclusion

This paper argued that the institutionalization of parliamentary agenda control can be led back to two different rationales. First, a stress on increasing parliamentary legitimacy through fostering parliamentary discussion of legislation. Second, a focus on parliamentary effectiveness, i.e. the attempt to take (rather than discuss) decisions and hold governments accountable. The empirical evidence presented here suggests that the interplay of actors, their goals, and logics of action is able to explain degree of centralization of agenda control.

In the United Kingdom, the centralization of agenda control in the 1880s was linked to the rationale to increase parliamentary effectiveness (figure 2). The British case illustrates that the more actors are willing to merge in larger groups in order to effectively affect governmental decision-making and acting according to a logic of consequentialism, the more they are able to centralize agenda control. The German case illustrates that centralization of the agenda only becomes possible when parliament is recognised as an legitimate actor. Here, no 'ancient right' of parliament (such as freedom of speech in the UK) was so firmly established that it could be traded in return for more effective control over government action.

Figure 2 about here

This led to two distinct causal sequences underlying the institutionalization of parliamentary agenda control in these two most different cases (figure 3). In the United Kingdom, parliamentary legitimacy evolved over a long time period going back to the 1669 Bill of Rights which already established parliamentary responsibility for (financial) legislation. Parliamentary democracy was then established by 1832, when the House of Commons managed to substitute the executive as the "most important element of the constitution" (Ertman 2010: 1010). As a consequence, office-seeking became an option for parliamentary elites, who could convince backbenchers to give up 'ancient rights' of parliament in return for the opportunity to effectively check the government through parliamentary questions. Opportunities for office-seeking hence existed prior to the increase in opportunities for policy-seeking in the wake of the growing state activity (which only after 1832 led to a sharp rise in legislative activity, see Cox 1987: 17). Additionally, the key role of the House of Commons allowed for consequentialist actions as parliamentary actors were the major players in constitutional reform. This facilitated the centralization of parliamentary agenda control, which then gave rise to a process of concentration in the party system and institutional reform towards majoritarian politics in line with the newly central-

ized parliamentary agenda. Both the party system and the electoral system were largely shaped within the parliamentary arena as a consequence of the dominance of parliamentary democracy.

Figure 3 about here

In Germany, parliamentary legitimacy could hardly be regarded as established since the nation state was created by extra-parliamentary political elites. However, electoral democracy was introduced from the outset, which (in conjunction with a significant legislative workload in the newly established nation-state) served as an incentive for policy-seeking. Participation in legislative activity (rather than questions to the government as in the United Kingdom) served as a signal to voters in Germany; however, constitutional reform was not regarded as achievable. The dominance of electoral democracy and policy-seeking in parliament served as incentives for a maintenance of decentralized agenda control. Parliamentary actors followed a logic of appropriateness and aimed to informally reconcile the often contradicting formal norms. In this respect, the German case illustrates that parliamentary efficiency can also be ensured without centralizing the agenda. In both countries, political parties adapted to the threshold for agenda control rather than vice versa: in the United Kingdom, single party governments gradually became the rule; in Germany, only single parties became entitled to create parliamentary groups.

In conclusion, the findings from the two case studies suggest that a legitimate secret rather than an efficient secret explains reforms of parliamentary agenda control: the more legitimate actors perceive their parliament to be, the more incentives they have for centralizing the agenda. This is particularly true when parliamentary democracy temporally precedes electoral democracy. This finding could explain why parliamentary agenda control in older democracies is more majoritarian than in newer ones (see Carroll, Cox & Pachón 2006: 166): In older democracies, it is more likely that the early parliamentarization rendered legitimacy conflicts less likely to occur during the phase of democratization, which in turn allowed for a centralization of the parliamentary agenda. In newer democracies, electoral and parliamentary democracy often paralleled each other. Here, parliamentary legitimacy is more likely to be disputed, which renders a centralization of parliamentary agenda control more difficult.

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Figure 1: Rationales underlying changes in parliamentary agenda control

	Legitimacy	Effectiveness
Expected change of agenda control if rationale dominates	Decentralization	Centralization
Major (collective) actors	Individual MPs	Government majority
<i>are thresholds for participation in decisions about agenda control envisaged?</i>	<i>no: aim to ensure recognition does not imply hierarchies between MPs</i>	<i>yes: aim to take effective decisions implies hierarchies between MPs</i>
Dominant goal	Representation through policy-seeking	Decision-making in office
<i>are the dominant actors willing to subordinate their interests to any collective interest?</i>	<i>yes: representation as a common good</i>	<i>no: strive for government status as zero-sum interaction</i>
Dominant Logic of Action	Appropriateness	Consequentialism
<i>do actors perceive the institutional context they operate in to be flexible?</i>	<i>no: normative motivation of action renders institutional context static as it informs their actions</i>	<i>yes: strategic motivation of actions renders institutional context subject to change</i>
Dominant perspective on democracy and democratization	Electoral democracy	Parliamentary democracy

Figure 2: Configurations of Indicators and their Results in the United Kingdom and Germany

Reforms	Actors	Goal	Interaction Orientation	Reform Type & Effect on Agenda Control
UK 1882 & 1887	Majority	Decision	Consequentialism	Effectiveness: Centralization
Germany 1867– & 1906	Groups > 15 seats	Representation	Appropriateness	Legitimacy: Decentralization

Figure 3: The causal sequences underlying the evolution of agenda control

a: United Kingdom

established legitimacy of parliament → parliamentary democracy → preference for office-seeking & constitutional reform → centralization of the parliamentary agenda → concentration of the party system

b: Germany

lack of parliamentary legitimacy → electoral democracy → preference for policy-seeking & constitutional inertia → maintenance of decentralized agenda control → continued fragmentation of the party system

Table 1: Centralization of agenda control regimes

		<i>Positive agenda control</i>	
		yes	no
<i>Negative agenda control</i>	yes	<u>formally centralized: UK</u>	informally centralized: FRA after 2009
	no	formally decentralized: SWE	<u>informally decentralized:</u> <u>GER</u>