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…the Office of the President represents the people. He is elected by all the people. He is the only official except the Vice President who is elected by all the people. He is responsible to all the people when he is President, and the people have a right to know what he thinks and what he is trying to do.

- Harry S. Truman

ABSTRACT

The idea of presidential representation – that the president uniquely represents the people due to being elected by a national constituency – is a core assumption that influenced and legitimated the development of the institutional presidency. In this paper, I evaluate how the idea of presidential representation was institutionalized in two areas of economic policymaking – trade and employment. The Reciprocal Trade Agreements Act of 1934 authorized the president to negotiate bilateral trade agreements, and the Employment Act of 1946 required the president to submit an annual Economic Report to Congress and created the Council of Economic Advisers. To demonstrate the influence of the idea, I examine the political debates surrounding the passage of these laws and the particular designs chosen over other alternatives. Furthermore, I compare to what extent these respective laws departed from the envisioned workings of the constitutional system and the durability of each reform.

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INTRODUCTION

Presidents are expected to take a lead role in economic policymaking by citizens and Congress alike. Indeed, they are held accountable for the performance of the economy, regardless of how much influence they may hold. An underlying legitimating assumption for the president’s role as an economic steward is the idea of presidential representation: that the presidency is a unique representative institution due to the president’s election by a national constituency.

Congress created a substantial institutional setup for the president’s formal responsibilities in economic policymaking with its passage of the Reciprocal Trade Agreements Act [RTAA] of 1934 and the Employment Act of 1946. These laws granted the presidency power and responsibility in trade and employment, combining to institutionalize the presidency’s larger role in economic policymaking. While presidents themselves in the early twentieth century sought to take a more active role in the economy, the significance of these laws was that Congress chose to willingly institutionalize that responsibility. Indeed, as Sean Gailmard and John Patty point out, the institutionalization of the presidency featured a congressional “supply side,” not just a presidential “demand side.” The RTAA granted new power to the presidency by authorizing the president to negotiate bilateral trade agreements, while the Employment Act formalized the presidency’s economic role by requiring the president to submit an annual Economic Report and created the Council of Economic Advisers. I argue that Congress, in choosing to design laws that specifically required involvement from the president in policymaking, consciously recognized the idea of presidential representation in statute. In effect, the idea of presidential representation is the assumption that gave legitimacy to these institutional departures.


**Presidential Representation: Performance versus Development**

Studies of presidential representation typically conceptualize the idea in terms of either *performance* – judging how well the office actually represents the nation in relatively static constitutional terms – or *development* – examining changes in the expectations of the office and its institutional supports over time. First, most scholars analyze presidential representation in terms of performance. Emphasizing normative standards of either centristm or universalism, they seek to measure how well the president actually represents the nation, often finding shortfalls. One group of scholars has focused on a standard of centristm, positing that presidents should primarily respond to the national median voter as opposed to their party’s median voter. They tend to find that presidents have primarily been partisans, though this may have changed over time. A second group has emphasized a standard of universalism, asserting that presidents should represent the national interest as opposed to any particularistic interests, and finding that presidents have fallen short. These contributions have provided necessary insights. However, casting presidential representation only as a normative standard by which to judge presidential performance misses the idea’s most profound impact: its influence on political development. The idea has acted as a legitimating assumption behind institutional changes that have rearranged political authority, especially between Congress and the presidency.

A second line of scholarship has placed more emphasis on the importance of presidential representation to political development, particularly in the nineteenth century. The idea was implicated in both Thomas Jefferson’s creation of a national political party and Andrew Jackson’s claim of an electoral mandate to veto the reauthorization of the National Bank. The concept of the mandate for presidential action was contested between supportive Democrats and suspicious Whigs in Congress, becoming eventually legitimized once presidents of both political
parties had articulated mandate claims. However, the institutional purposes attached to the idea of presidential representation in the nineteenth century were different from those associated with the idea in the twentieth century.

More recently, a significant proposal for reform from two political scientists has illustrated the potentially transformative developmental impacts of institutional changes based on an assumption of presidential representation. Decrying the Constitution as a “relic,” William Howell and Terry Moe seek to institutionalize presidential representation in agenda setting through the adoption of a constitutional amendment based on the president’s fast-track authority in trade. Presidents would have vastly enhanced agenda setting power, being able to submit legislation in Congress that would not be amendable and would be subject to a straight up-or-down majority vote within a limited period of time. This envisioned change to the constitutional separation of powers explicitly assumes that the president will seek to represent the national interest relatively more than members of Congress, and therefore will submit cohesive, nationally-oriented legislation for Congress’s consideration. Their proposal illustrates two developmental implications. First, it presents an example of how the idea of presidential representation can influence proposed institutional reforms. Second, it shows that such institutional reforms, if enacted, can stretch from the envisioned operation of government in the Constitution. Regardless of whether one agrees or disagrees with the proposal, by giving more weight and priority to presidential proposals, it would alter the balance of power between the presidency and Congress.

When one considers the development of the institutional presidency, the role of the idea of presidential representation should not be overlooked; indeed, it is perhaps the fundamental legitimating assumption behind the modern presidency. I argue that the idea of presidential
representation has become associated with different institutional entailments and reforms over time. In the nineteenth century, these entailments began to include presidential vetoes on policy grounds, use of the removal power, and claims of election mandates. But in the twentieth century, presidency-oriented reformers increasingly associated the concept with two other entailments that combined to form the basis of the institutional presidency – a formal license for agenda setting and greater executive organizational capacity. These entailments found expression in several statutes covering a variety of policy areas, including budgeting, trade, executive reorganization, economic policymaking (trade and employment), and national security. While explanations of the rise of the institutional presidency have often focused on Congress’s collective action problems or congressional desires to equip the president with better information, I argue that, because institutional changes involving the president were chosen instead of other alternatives, the idea of presidential representation has to be a key part of the explanation.

Method and Evidence

My claim is not that the idea of presidential representation caused the passage of the RTAA of 1934 and Employment Act of 1946. Rather, I argue that the idea had become legitimized enough to influence the design of these statutes and the choice of solutions involving the president over other feasible non-presidential alternatives. Furthermore, I view these two laws as responding to particular stimuli. The RTAA was enacted in response to the Great Depression and the collapse of world trade; the Employment Act was passed as Congress faced the prospect of post-World War II reconversion and the influx of returning GIs. These laws responded to different impulses, but they shared a core assumption of presidential representation. In this, I concur with Judith
Goldstein, who argues that ideas – “shared beliefs” – themselves have an independent influence on outcomes and can become institutionalized.\(^\text{11}\)

Two types of statements can be counted as evidence for reference to the idea of presidential representation. First, statements that contain criticisms of members of Congress as parochial or beholden to special interests, while arguing that the president should have responsibility for a policy instead, are *implicit* arguments for presidential representation. By promoting a presidential solution to a problem of congressional representation, such a statement inherently assumes that the president will be more likely to represent the national interest. Second, statements can also *explicitly* spell out the claim of presidential representation, laying out the purported logic that the president is assumed to act only in the interest of the people as a whole because he represents a national constituency. Because presidents naturally claim to represent the nation as a whole, I look primarily to other actors for statements of the influence of the idea of presidential representation. In particular, I focus on participants in congressional hearings and floor debate on each law. I especially scrutinize the logic articulated by key members of Congress involved in drafting and passing each law for evidence that figures in a position to have definite influence on the law embraced the logic of presidential representation themselves. Any law is the result of a compromise, so I also consider each law’s innovations that embrace a presidential role and any limitations imposed upon presidential power. The innovations for the role of the presidency reveal the extent to which each law provided for an institutionalization of presidential representation; the limits imposed demarcate that change (see Appendix Tables 1 and 2).

These cases also raise a fundamental problem in the political development of the presidency – to what extent can presidential representation be institutionalized in the American
conventional system? The idea of presidents being superior national representatives did not fully emerge until long after ratification of the Constitution. Indeed, by providing that only the House of Representatives would be elected directly, the Constitution had prioritized that chamber as the branch closest to the people. The president, by contrast was to be an independent officer who would mainly execute the laws, while serving also as a check on potential legislative tyranny. Moreover, the reforms the idea of presidential representation inspired were often proposed to correct perceived defects in the constitutional system. To be clear, this does not mean that these reforms are necessarily unconstitutional; rather, to the extent they alter relations between the presidency and Congress, they stretch from the original constitutional structure and become more vulnerable to these charges. In concluding the paper, I consider the durability of each respective reform by examining later statutes addressing the same policy areas.

The paper proceeds as follows. First, I examine the institutional features of the RTAA of 1934, explaining the assumption of presidential representation, the innovation of bilateral agreements, the constitutional stretches involving treaty and taxing powers, and the limitations imposed on the final bill. Second, I examine the Employment Act of 1946, describing its assumption of presidential representation, its innovations of the Economic Report and Council of Economic Advisers, and its limitation of the Joint Committee on the Economic Report. Finally, I conclude by comparing the paths of development of the presidential reforms in each policy area in subsequent decades.

PRESIDENTIAL TARIFF MAKING: THE RTAA OF 1934

In reaction to the crisis of the Great Depression and the decline in world trade, Congress fundamentally changed the tariff making process with the passage of the RTAA of 1934,
transferring significant control over one of Congress’s fundamental powers to the presidency.\textsuperscript{13} In removing agenda setting control over tariff rates from Congress and giving both agenda setting and implementation powers to the president, Congress altered the institutional location of tariff making.\textsuperscript{14} Tariff making involved Congress’s Article I powers both in taxation and in the Senate consent of treaties. Therefore, the delegation of power to the president to determine tariff rates through bilateral executive agreements, challenging a century of congressional practice, unquestionably was a constitution stretch.\textsuperscript{15} In essence, the law converted tariffs to an issue of foreign affairs, making it fit more comfortably under the president’s Article II powers.

Debates about the RTAA’s passage are prominent in the International Relations literature in particular. Some scholars hold up the RTAA as an example of a law based upon this assumption. Congress had traditionally changed rates on imports unilaterally, and Democrats, who pushed for the RTAA, had in the past simply lowered tariff rates on imports without considering exports. Deciding to alter the tariff making process by involving the president and coupling consideration of both imports and exports was not simply a response to the world trade situation; it was also an attempt to institutionalize lower tariffs.\textsuperscript{16} Other scholars dispute that presidential representation was an assumption behind passage of the law.\textsuperscript{17} But, in my account, the influence of the idea is seen both in the explicit statements made in congressional debates and in the choice of a reform involving the president over other potential alternatives.\textsuperscript{18} Specifically, the solution of presidents negotiating bilateral agreements was chosen over other known alternatives, including (1) continuing Congress’s unilateral reduction of tariff rates, (2) relying more heavily on the Tariff Commission, or (3) having the president negotiate treaties subject to Senate consent. The point is not that presidential representation was the sole motivation behind the bill; it was not. Rather, the key to understanding the RTAA is that, by embracing an
institutional design with that assumption in mind, the act amounted to an attempt to institutionalize presidential representation in tariff making and alter the constitutional structure.

Though it was a significant departure, the RTAA was passed as an amendment to the Smoot-Hawley Tariff Act of 1930. As E. E. Schattschneider famously documented, the Smoot-Hawley Tariff, passed largely by Republicans, was a particularly infamous case of the influence of particularistic interests on tariff rates in the congressional process. But while raising tariffs to extraordinary heights, the act had one innovation of significance for the presidency. It allowed the president, under its flexibility provision, to raise tariff rates on goods if he received such a recommendation after an investigation by the Tariff Commission. In fact, President Herbert Hoover had criticized congressional log-rolling, and so he praised the bill for giving greater authority over recommendations to the Tariff Commission. Thus, turning authority over to a commission, rather than just the president, was a known alternative by 1934.

The drastic decline in trade by 1934 was the impulse for a reconsideration of the tariff process. The *New Republic* bemoaned the state of world trade and the economy: “The world is desperately sick, and the United States is sickest of all.” In the 1932 campaign, Franklin Delano Roosevelt had criticized congressional log-rolling in tariff making and pledged a reduction in rates. In early 1934, Secretary of State Cordell Hull, who in his congressional career had long sought freer trade and worked on tariff and tax legislation, drafted a bill that would change the tariff making process. President Roosevelt requested new authority from Congress in early March 1934. The new bill, unlike the 1930 law, would not require an investigation and recommendation by the Tariff Commission. It provided for reciprocal bilateral agreements in which the president could not reduce duties more than 50 percent and could not place dutiable
articles on the free list or remove articles from the free list. The administration had wanted even more power for the president, but sought to act strategically to ensure congressional passage.26

Fierce debates raged, though the bill accelerated through Congress quickly. Supporters of the bill assumed the president would by virtue of his national constituency seek to lower rates.27 Opponents feared tariff revisions would impact particular industries and, in some cases, wanted to adopt a policy of radical self-sufficiency and protectionism.28 The initial House version of the RTAA passed overwhelmingly in late March 1934.29 In June 1934, the Senate passed the bill 57 to 33, and the House accepted the Senate amendments 154 to 53, neglecting the need for the bill to go to conference.30

Assumption: Presidential Representation Yields Lower Tariffs and Freer Trade

The core assumption of the RTAA was that the president would be predisposed to reduce tariff rates and promote freer trade because of his national constituency.31 Several key players on the bill explicitly laid out this logic. In the House hearings, Robert Lincoln O’Brien, the Republican-appointed Chairman of the Tariff Commission, voiced support for the bill and spoke mainly of the potential for “lowering tariffs” because “there seems to be no worry about the President’s use of that power in raising tariffs.”32 In an exchange over how the president would use his negotiating power, a prominent supporter of the bill, Representative Jere Cooper (D-TN), asserted that the president “is the best representative of the American people, because he represents the whole people.” In response, O’Brien concurred:

It is true he is the only elective officer who represents the entire body politic. You gentlemen represent districts, and the Senators represent States, and the President is the one who represents all of the people of the country, and to that extent that gives him a judicial status to handle these questions.33
Another witness praised the bill for “creating a tariff umpire who would be able to render decisions in the light of national as well as sectional interest.” Furthermore, Representative Ralph F. Lozier (D-MO) told senators the bill would allow “the President, acting for the welfare of the whole country as distinguished from the selfish localism of any particular community,” to “act upon a broad scale unhampered by considerations which control a Member of Congress.”

In floor debate in the House, the author of the bill and Chairman of the Ways and Means Committee, Robert L. Doughton (D-NC), placed emphasis on the perceived difference between the president’s constituency and those of members of Congress in responding to criticisms of the bill:

The President of the United States is elected by all the people. We Representatives are elected by people of certain districts; the Senators represent States; but the President is elected by all of the people and has the welfare of all the people at heart.

Echoing Doughton, Representative Thomas H. Cullen (D-NY) stated that “the President represents the United States as a whole,” professing to have “no patience with that kind of criticism, whether it is too much power to grant the President.” Cullen further warned that failure to pass the bill would “appear to many as being only a selfish grouping of those sectional interests which through the means of logrolling and back-scratching have brought congressional tariff-making into disrepute.”

Like his House counterpart, Senator Pat Harrison (D-MS), managing the bill on the Senate floor, described how it was designed with the assumption of presidential representation in mind. Harrison did describe the bill’s grant of power more narrowly than Doughton had, saying the bill proposed Congress to “instruct” the president on its tariff policy. Nonetheless, he directly contrasted the perceived benefits of presidential representation with the perceived problems of congressional representation. In floor debate, Senator Charles L. McNary (R-OR) asked Harrison
whether the president would use the new power to favor one part of the country over another:

“Will it be used to the preference of the South and the detriment of the West? Will it be used to help the East, and will the Middle West be left untouched?” In response, Harrison asserted that the idea of presidential representation was common sense:

Of course, that requires no discussion on my part, because the Senator does not believe that the President of the United States… would permit, in negotiating any trade agreements, that they should be employed to the disadvantage of one section as against another, or of one class as against another. I am sure the Senator believes that the President would deal fairly with every section and with all interests of the country.”

And despite some skepticism, Senator Arthur Capper (R-KS) expressed support for the bill, admitting to essentially betting that presidential representation in tariff making would be superior to congressional representation:

Trading between groups and sections is inevitable. Logrolling is inevitable, and in its most pernicious form. We do not write a national tariff law. We jam together, through various unholy alliances and combinations, a potpourri or hodgepodge of section and local tariff rates, which often add to our troubles and increase world misery. For myself, I see no reason to believe that another attempt would result in a more happy ending…

I have no assurance, though I have some hopes, that a President responsible to the Nation as a whole can and will enter into trade agreements from the national viewpoint. But I do have grave doubts, judging from past experience, that the Congress can write a national tariff act.

Thus, it was clear to supporters and detractors alike that the logic of the president’s power to negotiate reciprocal trade agreements was based in faith in the idea of presidential representation.

**Innovation: Presidential Tariff Making Through Bilateral Reciprocal Agreements**

The bill’s key innovation was to allow the president to negotiate reciprocal bilateral trade agreements with the possibility of lowering tariff rates on particular goods up to 50 percent. Witnesses and members of Congress who supported the bill explained that they felt comfortable
granting this power to the president because of the assumption of presidential representation, while critics of the bill worried about the new power and defended the tradition of congressional representation of local interests in tariff making.

The intellectual force behind the bill, Secretary of State Cordell Hull, cited his extensive previous experience as a legislator working on tariff reform to explain that Congress was not equipped to handle tariff making in a time of economic emergency. When asked by Representative John W. McCormack (D-MA) if the bill vested power in “the only man whose constituency is the whole country,” Hull responded affirmatively. Secretary of Agriculture Henry A. Wallace testified that it was “totally impossible for Congress to handle this matter from the standpoint of the national welfare.” Arguing that the U.S. needed new tariff “machinery if it was going to compete,” Assistant Secretary of State Francis B. Sayre emphasized that “the President, if elected by all the people, is the man whom the public chooses to trust.” If a nationally-elected president could not be trusted, “then we might as well abdicate and close up shop.” Opening debate in the House, Representative Doughton likewise explained that “the President is asking that necessary power be placed in his hands so that he may extend his efforts toward bettering out trade with foreign countries, and thereby further promote the general welfare of all the people.” While other nations allowed their executives to negotiate such agreements, the U.S. was a laggard, depending “on slow, long-drawn-out congressional action”; thus, the U.S. should institutionalize the president’s ability to negotiate bilateral agreements and no longer “delay creating the necessary machinery.” In the Senate, Senator Harrison cited the “eloquent radio address” in support of the bill from the Republican former Secretary of War and Secretary of State Henry L. Stimson, who described congressional tariff making as “entirely ineffective” and was “not impressed with the objection that it would give undue or dictatorial
powers to our Executive.” Senator Marvel M. Logan (D-KY) similarly argued that, of all elected officials and citizens in the country, it was the president who would want to achieve the best trade outcomes because he had the most “at stake” and would “be judged in history by what he does toward restoring happiness to the people.”

Defenders of congressional tariff making essentially agreed with the assumption of presidential representation, as they feared that the president would, in using the new bilateral negotiating power, only take a national perspective at the expense of local interests. Therefore, they sought to justify preserving congressional representation and Congress’s primary in tariff making. Representative Daniel A. Reed (R-NY) explained that congressional tariff making allowed for concerned citizens and businesses to have the “full opportunity to be heard through their representatives” in Congress. Lecturing Secretary Wallace on not dismissing localistic representation, Representative Allen T. Treadway (R-MA) explained:

Well, I am here as the representative of a certain area and you, as the Secretary of Agriculture, of course, are the representative of the whole country; but you ought to look at the picture from the viewpoint of a congressional member a little bit.

Because members of Congress were “entrusted with the responsibility of representing our constituents’ interests here,” Treadway refused to “take it on faith” that the president best represented the people. When told by Assistant Secretary of Commerce John Dickinson that “a mass meeting cannot negotiate” foreign trade agreements, Treadway responded, “Congress is a mass meeting representing the American people.”

A number of witnesses in the hearings also explicitly defended congressional representation. Testifying for the U.S. Potters Association, John E. Dowsing admitted that he viewed the tariff “from an angle, representing my own industry.” Snapping back, Representative Doughton asked him, “Would you say the welfare of the entire country should be neglected in
the interest of your own industry?” Speaking for the National Upholstery and Drapery Trade Association, John W. Snowden asked “our elected representatives” to “hold fast to the theory that the legislative is a most important branch of our Government” and not delegate tariff authority to the president. Despite admitting that “logrolling may have its evils” and “tariff-making by Congress may not be entirely scientific, F. E. Mollin, the Secretary of the American National Live Stock Association, warned against “altering the well-known and 100-year maintained policy” of congressional tariff making for a new process relying on the president. Testifying on behalf of the American Mining Congress, A. W. Dickinson put the matter simply: “It is the feeling of the mining industries that they wish tariff matters to be handled as in the past, so that they may appeal to the Representatives in Congress.”

Opponents of the bill feared that the proposed role of the president in trade would become institutionalized, resulting in a permanent loss of power for Congress. Defending the merits of congressional representation, Senator Huey P. Long (D-LA) posited that logrolling was, in fact, the real form of reciprocity that benefited the nation: “I have stood for a tariff when it affected commodities produced in my own State and in which my State was interested, except that I have been a little bit broader, realizing that I had to be reciprocal and vote for a tariff on the other man’s products in order that we might have one on ours.” He warned that Congress was essentially abdicating its own vital role in tariff making: “We ought to have passed the resolution saying, ‘Be it resolved by Congress that we have passed a law letting the President do whatever he pleases. Now we are going to quit and go home.’” Representative Treadway likewise warned members of the House that they should be wary of the emphasis on the president’s national perspective on trade: “Members should bear in mind, if they vote advance approval of the trade agreements by this bill, that they may be voting the death of some industrial or
agricultural activity in their district; unimportant, perhaps, in the national picture, but in many cases the lifeblood of a local community.” He further complained that the bill’s proponents constantly asserted that “there were too many diverse interests represented in Congress for it to take a national view of the problems involved.” Chastising the bill’s proponents for seeking to change how tariffs were made, Treadway said, “If they do not like the tariff, let it be changed by the representatives of the American people.” When Doughton gave an example of needing to negotiate agreements on sugar because “everyone knows that the United States does not and cannot produce an adequate supply of sugar,” Treadway snapped back, “Why take away employment from Florida and Michigan and other sugar-producing states?” New Englanders also wrote to the Massachusetts representative asking him to derail the bill. One spokesman for manufacturers from Meriden, Connecticut advised Treadway “as a New Englander” to avoid passing a bill that “can only increase unemployment in New England.” A Democrat from Hartford likewise bemoaned the fact that “the Congress, which directly represents the people of the country, would be willing… to relieve itself of this sacred trust.” Treadway’s colleague, Representative Edith Nourse Rogers (R-MA), concurred, “With the tariff provisions in this bill you are striking at the very heart, the life of our industries.”

Despite such pleas, amendments meant to address a direct concern of the bill’s embrace of presidential representation – that it would result in the destruction of local industries in the name of the national good – were rejected in the House and Senate. Overall, both proponents and opponents of the bill recognized that granting the president the power to negotiate reciprocal bilateral trade agreements was a new innovation in tariff making. Supporters claimed that allowing a nationally-representative president to wield such power was necessary in a time of economic emergency, while detractors warned that, if passed, the bill would likely
institutionalize presidential representation in tariff making, as Congress would never again effectively reclaim its own core role.

**Constitutional Stretch: Executive Agreements versus Treaties**

Both congressional hearings and floor debate on the RTAA clarified that the process of institutionalizing presidential representation in tariff making arguably envisioned a departure from constitutional expectations. In particular, opponents pointed to how the use of executive agreements avoided the requirement of Senate consent for treaties, as well as the fact that tariffs had traditionally been used to raise revenue, thereby falling under Congress’s purview as a tax. But proponents of the bill justified their bypassing of Senate consent on treaties on the basis that assembling a two-thirds majority for passage was nearly impossible. They admitted that they were circumventing that route for congressional involvement in foreign trade, but pointed to the practice in other developed nations of allowing the executive to negotiate tariff agreements. Raising the particular constitutional issues in the American case, Representative William E. Evans (R-CA) chided representatives that “we have yet in this country a written Constitution and they have not.”

Defending the use of bilateral executive agreements as opposed to making treaties subject to ratification by two-thirds of the Senate, Senator Bennett Champ Clark (D-MO) put the matter bluntly: “Our treaty-making process is too cumbersome to permit of its use in trade negotiation.” Representative McCormack also pointed out that “treaties, subject to the approval of the Senate, have been rather unsuccessful.” In opposition, Representative Treadway complained that the bill meant that “Congress abdicates its right of control over international matters, trade agreements, if you want to call them that, but in reality treaties.” But
Representative Samuel B. Hill (D-WA) bemoaned the idea that “the only other power or authority that the President has to initiate reciprocal arrangements as to trade with other countries is under the general treaty-making power.” Noting that treaties had to be consented to by the Senate, he lamented that most reciprocal treaties had there found a dead end. Secretary Hull likewise noted that many tariff treaties had been “filibustered to death in another body, as we are accustomed here in the House to say.” When pressed by Treadway that the requirement of Senate consent for treaties was “another clause of the Constitution which seems to be going into the discard in anticipation of this legislation,” Hull showed little patience for constitutional arguments, instead focusing on the global context: “Very few democratic forms of government are left – mighty few.” In Hull’s view, increasing trade to then increase employment was more urgent because people “are mad at everybody and everything, including their own institutions of government.” Moreover, when Treadway asked directly whether the bill was constitutional, Hull did acknowledge the level of the departure he was seeking in saying that it was for Congress to decide whether the economic situation “would justify either branch of Congress or both in giving authority to the executive department in advance to perform certain functions which would ordinarily be reviewed by one branch of the legislative department.”

Advocates of using executive agreements in tariff making instead of treaties sometimes inadvertently slipped into referring to those agreements as treaties, again in effect revealing their deliberate efforts to circumvent the constitutional position of the Senate. In the House hearings, Assistant Secretary Sayre mistakenly used the word treaty to describe the process created by the proposed bill. When Representative Thomas C. Cochran (R-PA) pointed out that Sayre had used “the expression treaty agreement and trade agreement,” Sayre replied: “It is possible I have used the word ‘treaty’ when I meant ‘agreement.’ I may have been careless.” Representative
Treadway then emphasized that he was “quite certain” Sayre had “used the words ‘treaty agreement,’” to which Sayre replied, “I beg that it be allowed to be altered to ‘trade agreement.’” This prompted a dispute over whether the witness could revise his use of the term “treaties” in the documented record of the hearings. Similarly, Senator Harrison also mixed up the terms agreements and treaties in floor debate. Describing how the president could lower tariff rates, Harrison stated, “the President could then negotiate treaties, and so forth, that might reduce that rate further.” Pouncing, Senator William E. Borah (R-ID) asked, “did the Senator say ‘negotiate treaties’?” Senator Arthur H. Vandenberg (R-MI) quickly joined in: “Yes; that was his language.” Chastened, Harrison corrected himself: “I did not mean ‘negotiate treaties.’ I meant he could enter into these reciprocal trade agreements.” The mix-up of the terms “agreements” and “treaties” by proponents showed that the bill was arguably stretching from previous constitutional practice.

Overall then, the decision to bypass the Senate in making trade agreements revealed an extent to which the institutionalization of presidential representation in tariff making would stretch from constitutional foundations. Indeed, both the House and Senate rejected amendments to the bill that would have given Congress greater influence by requiring either positive congressional assent to trade agreements or the avoidance of a legislative veto. Congress was consciously ceding substantial power to the president and cutting itself out of the loop.

**Constitutional Stretch: The Power to Tax**

The extent to which the bill potentially stretched from previous constitutional arrangements was also questioned regarding taxation. Because tariffs had traditionally been used to raise revenue,
the bill was vulnerable to charges that it took away the House’s constitutional primacy to
initiative revenue-raising measures.

Opponents argued that the bill “delegates to the President discretionary legislative power
in tariff making,” resulting in “an unconstitutional delegation of the supreme taxing power of
Congress.” Senator Borah waxed poetic on the subject in floor debate, stressing that “where the
taxing power should rest” had been “a burning theme throughout the story of Anglo-Saxon
civilization.” He argued that even if the tariff procedure was truly “in the interest of the Nation as
a whole,” it was regardless “a tax.” Pointing to purported original intent, Borah asked, “Is not the
making of a tariff a legislative power? Has it not been so since the hour when the Constitution
was framed?” Representative Treadway similarly pointed out in the House hearings that,
“Under the Constitution, article 1, section 7, all bills for raising revenue shall originate in the
House of Representatives.” In response, Secretary Hull dismissively replied, “This bill is
originating in the House, is it not?”

Nor did just Republicans raise concerns about the taxing power. In floor debate,
Representative Finly H. Gray (D-IN), who was supportive of tariff reform and “in accord with
the object and purpose and the policy of this legislation,” nonetheless gave a long speech
dissecting the purported constitutionality of the bill. He blasted the bill for stretching from what
the Constitution envisioned for congressional tariff making and for Senate consent of treaties:

…the Constitution provides that all revenue measures shall originate in the House of
Representatives, for the separation and division of governmental powers, and further that
all treaties must be agreed to by the Senate by two-thirds vote… In the maneuvers here
today, to evade the express, explicit, and plain provisions of the Federal Constitution, we
are told that the agreements contemplated are not treaties to be confirmed and that
measures producing revenue are not revenue measures to be originated in the lower
House of Congress.
Finly underscored his point by pointing to the logic of congressional representation, arguing that tariff powers should only be wielded by members of Congress who “must assume and stand responsible to the people whom Members directly represent and to whom they must answer for what is done.” Moreover, regarding the tax concern specifically, Finly emphasized that members of the House “remain nearest to the people.”

A number of prominent supporters of the bill sought to minimize the extent to which it restricted Congress’s own taxing powers. Senator Alben W. Barkley (D-KY) countered that there was “a vast difference between delegating to the President… the power to levy taxes, and delegating to him the authority, as the agent of Congress, to enter into negotiations and agreements in regulating the commerce of the United States with foreign countries.” Placing emphasis on Congress’s ability to delegate authority how it chose, Barkley even noted that other institutional solutions not involving the president in tariff making, such as independent commissions, could have been possible: “Congress has the power and the right… to set up the machinery or the agency by which its mandate may be carried into effect. The agency which we set up here is the President of the United States.” And supporters of the bill also pointed to the flexibility provision of the 1930 Smoot-Hawley tariff, which allowed the president to raise rates up to 50 percent upon the recommendation of the Tariff Commission.

However, the RTAA’s opponents focused on explaining why the new proposal stretched beyond this. Representative Treadway argued that the 1930 law had been more precise about congressional rules for when the president could act, meaning the president “merely carries [Congress’s will] into execution.” He asserted that the new bill had “no particular guidance and rules” in allowing the president to make a determination of rates when negotiating with another country. Pointing back to previous tariff debates, Treadway cited the current RTAA champion
and then-Representative Cordell Hull (D-TN) as complaining that the flexibility provision gave “such additional authority to the President as would practically vest in him the supreme taxing power of the Nation.” Representative Clarence E. Hancock (R-NY) even acknowledged that the flexibility provision of the 1930 tariff had responded to criticism of “logrolling methods” and meant that “the President, who represents all our districts, may with the assistance of the nonpolitical Tariff Commission correct the inequalities of the law.” However, he criticized the new bill for asking “Congress to give [the president] absolute authority, beyond his constitutional functions.”

Other supporters of the bill chose to be more forthright in admitting that they were likely intruding on Congress’s powers of taxation, but nonetheless justified that move because of the economic emergency. Representative McCormack confessed that, in his view, “this legislation in an emergency would be constitutional, while in normal times I have my doubts.” Senator Clark acknowledged that tariffs were “as much a tax as any excise or income tax ever imposed,” but still asserted that the president should be given the power in the bill. Congress “by our own stupendous folly deliberately created the present deplorable situation,” meaning that “a mere reduction of our tariff taxes… will not reopen the markets of the world to our products” unless the president could negotiate bilateral agreements. Secretary Hull pointed to being more concerned about the world economic situation than constitutional issues: “I am literally moved, driven, and kicked into another line of thinking, which relates to 30 million unemployed people in the world who cannot furnish food or clothing to their people because international trade has been choked down.” When Representative Treadway asked whether the Constitution should be formally amended to address the issue rather than “violat[ing] the Constitution directly by legislative action,” Hull too emphasized the emergency and implicitly justified stretching from
the constitutional structure, replying, “That is what they said to Abraham Lincoln.” And Senator Capper, while noting that “the traditional way of changing our tariff schedules is through Congress rewriting the tariff act,” broke from his fellow Republicans and blasted opponents for relying upon constitutional objections in their attempt to derail the bill: “the Constitution is the last refuge of the obstructionist.”

Broader debates of the era about the role of the president and the constitutional structure were also brought into the discussion. On the House floor, Representative Lozier acknowledged the separation of powers that, “in theory,” was to be “watertight.” Nonetheless, he lectured, “some of our greatest thinkers… have pointed out that in practice such a divided authority is unworkable.” Speaking to the constitutional role of the president, Lozier pointed to the logic of presidential representation outweighing constitutional limitations: “Theoretically, under the Constitution, a President is expected to recommend the legislation to be considered by Congress and then keep his hands off. The people of America expect more of their President.”

Dismissively waving away the objections of other representatives, he chided, “Of course, it is easy on the floor of Congress… for some Members to be oracles on constitutional law.” Instead, he challenged those concerned about the bill’s constitutionality to pass it anyway: “A man who really believes a proposed law is unconstitutional, does not worry about its passage. He knows in course of time, its invalidity will be declared, and in the meantime, he lets things ride and allows the procession to go by.” The greater risk in the near future was if the bill failed: “we may be deprived of its benefits, and we may never know just how much we have lost.” Similarly, in an editorial, the Hartford Courant acknowledged choosing to have faith in a nationally-representative president to overcome constitutional qualms about the proposed legislation. While “such delegation of authority would seem contrary to the constitutional provision that Congress
alone shall have the power to levy duties,” previous tariffs had been so bad “that a growing number of people are prepared to welcome any move that will take authority over the tariff away from the greedy sectional forces that dominate Congress.”

Put simply, these arguments sought to justify allowing popular expectations of the president’s representative role to override, at least in the immediate future, any concerns about stretches from the expected workings of the Constitution. That the president was gaining greater authority over tariffs, which many in Congress had perceived to be strictly their power, was not in doubt.

**Limitation: Emergency Duration**

The emphasis placed by proponents of the bill on the emergency situation did come with a cost, yielding one of the limitations that would be imposed upon the bill’s institutionalization of presidential representation in tariff making. The bill would limit the president’s power to negotiate bilateral agreements to three years from the date of the enactment of the legislation, meaning Congress would have to pass the bill again to allow the president to keep the new power.

The amendment was adopted during floor debate in the House. Speaking for the majority of the Ways and Means Committee, Representative Doughton explained that the amendment, which the House accepted, was to limit the bill to a three-year duration in order “to show that the bill is only an emergency measure.” The bill, said Representative McCormack, was “emergency legislation.” Secretary Hull acknowledged the House’s preference that the president’s authority “would be terminable” after three years, subject to congressional renewal. And Assistant Secretary Sayre noted the Roosevelt administration’s strategic preferences in
agreeing to further limitations: “I think this bill goes as far as we can appropriately ask.” The Senate embraced the decision in the House to amend the bill to grant the president negotiating authority for three years. Senator Harrison said the bill was “written to meet an emergency,” and “therefore, provides that the authority of the President to enter into foreign-trade agreements under its provisions shall terminate at the expiration of 3 years from the date of its enactment.” However, the agreements themselves, “if they prove advantageous to the United States,” would “be continued in force until terminated in accordance with the terms of the agreements themselves,” but the terms did have to provide the opportunity for termination up no more than six months notice within three years of the agreements coming into force.

Despite the limitation, some bill opponents recognized that Congress might not reclaim its tariff prerogatives and that presidential tariff making might be institutionalized. Congress, after all, could choose to reauthorize the measure. In the House hearings, Representative Isaac Bacharach (R-NJ) warned, “It seems to me once [the president] got the power, it would be hard to take it away from him.” Speaking for the National Grange in the Senate hearings, Fred Brenckman echoed that sentiment: “While the bill is to be in force for only 3 years, the prospects are if it is passed, the people will never regain the power they now have to frame their own tariff laws.” Referring to the tariff in floor debate as “one of the greatest and most far-reaching of the legislative powers under the Constitution of the fathers,” Representative Roy O. Woodruff (R-MI) opined that the bill would end up being “permanent legislation” and that “any power turned over to the present occupant of the White House is also turned over to all those who shall come after him.”

The decision to limit the president’s negotiating authority to three years was a significant brake upon how far the bill would institutionalize presidential representation in tariff making.
But Congress was unwilling to place automatic time limits on potential trade agreements themselves, as the House and Senate so rejected amendments that attempted to do. 100 The president could potentially reshape U.S. trade significantly with any agreements, and moreover, Congress could (and would) choose to renew the power.

**Limitation: Public Notification and Consultation**

A second limitation imposed in the bill was a slight nod to opponents and cautious supporters concerned that localistic perspectives would be bypassed in presidential tariff making in favor of only a national perspective. The Senate adopted an amendment requiring the president to give a notice of intent to negotiate in order to allow time for public comment, as well as stipulating that the president would consult with the Tariff Commission, State Department, Agriculture Department, and Commerce Department before concluding a bilateral agreement.101 Thus, industries potentially affected would be ensured the opportunity to present their views to the executive branch before the conclusion of a trade agreement.

The possibility of a notification and consultation requirement had gained momentum in the hearings. Proponents of the bill felt that presidential representation should be taken on faith, but numerous witnesses wanted a forum in which to present their case to the executive branch. James E. Emery, testifying for the Tariff Committee of the National Association of Manufacturers, argued that affected industries should “have at some point a day in court.”102 Dubious of the need for a consulting period, Representative Doughton asked, “What reason do you have to apprehend the President of the United States, elected by all the people, a representative of all the people, would turn a cold shoulder and a deaf ear to an industry of any kind essential to American life and American business?”103 Though Secretary Hull described a
hearings requirement as “impracticable,” the Senate was more persuaded. Worrying that “New England is particular susceptible… to any lowering of the tariff,” Senator Frederic C. Walcott (R-CT) objected “that the people aggrieved have no way of presenting their side of the case.” Senator Harrison asked the Tariff Commission chairman whether it would be “practical” for Congress “to provide some form of hearing of those who might be interested, without unnecessarily delaying and unreasonably delaying the negotiations.” Though O’Brien thought “it would delay a little,” he surmised that it “would be all right.”

Some also sought to specify to a greater extent where the president should seek advice. Speaking for the U.S. Chamber of Commerce, James A. Farrell expressed favorability to the bill, but advocated for an “advisory board… who are intelligently informed concerning tariffs” to advise the president. Representative McCormack again questioned the need for a consulting period, asking, “…is it not natural to assume that the President will establish such agencies as may be necessary to enable him to carry out the provisions of this bill for the welfare of the country?” However, when asked whether the Tariff Commission should have greater authority over recommendations, Chairman O’Brien demurred: “…it is a question of such ramifications that it belongs very much higher up than with the Tariff Commission.” In the end, the bill would specify that the president should consult with the Tariff Commission and Departments of State, Commerce, and Agriculture, but it did not limit his action to following any recommendations received in the process.

As Senator Harrison explained on the Senate floor, “to allay the fear that the needs and desires of private business interests might be ignored or that ill-considered action might be taken,” the amendment would make it “compulsory on the Chief Executive to give public notice of intended negotiations so that interested persons may have an opportunity to present their
views.” Senator Borah asked whether “the President will not conclude the agreement and bind himself until he has heard from his constituents,” and Harrison responded affirmatively. Despite the change from the House bill, Representative Doughton accepted the additional “safeguard, so that any interested party could be heard, and the President may obtain advice from all proper sources.” And another primary proponent of the bill, Representative Cooper, minimized the changes to the bill: “It has come back to the House in substantially the same form as it originally passed this body.”

The public notification and consultation requirement was a compromise, but it detracted little from the overall power being granted to the president in the RTAA. As such, it was a minor limitation on the extent to which the bill institutionalized presidential representation in tariff making. The RTAA of 1934, and its renewals, gave the president substantial power in a key area of economic policymaking.

**PRESIDENTIAL ECONOMIC STEWARDSHIP: THE EMPLOYMENT ACT OF 1946**

Congress’s passage of the Employment Act of 1946 also marked a formal acceptance and institutionalization of the president’s economic responsibilities to the country. Like the RTAA of 1934, the specific institutional design chosen for the final law revealed Congress’s conscious decision to require presidential involvement in economic policymaking, relying again upon an assumption of presidential representation.

The legislative process that moved from the original Full Employment Bill of 1945 to the enacted Employment Act of 1946 involved much debate and controversy over the move from the proposed policy of “full employment” to the enacted policy of attaining “maximum employment, production, and purchasing power.” An intellectual move to push government to embrace full
employment had long been underway, but the prospect of returning American GIs at the end of World War II prompted Congress to begin considering how to formalize federal economic responsibility. Embracing Keynesian economics, lead influences on the debate included the Beveridge report in the U.K., FDR’s proposed economic Bill of Rights, and calls from FDR and Secretary of Commerce Henry A. Wallace for the U.S. to create sixty million jobs to handle the return of America’s World War II soldiers. Opponents warned against the purported dangers of government planning. Much of the dispute surrounding the legislation would be over the bill’s policy declaration. But the consideration of the full employment question also involved fundamental questions of institutional design and divisions of responsibilities.

The political context for the consideration of full employment legislation in the mid-1940s was not as inherently favorable to presidential power as it had been for the RTAA of 1934 in the midst of the Great Depression. As the literature on 1940s congressional reforms points out, Congress was inclined to seek to counter a perception of its decline vis-à-vis the executive branch during the Great Depression and World War II. In 1943, conservatives had shown hostility to the concept of executive planning by eliminating the National Resources Planning Board. The year 1946 saw Congress undertake a wholesale reconsideration of its internal organization and relationship to the executive branch with the passage of the Employment Act, the Administrative Procedure Act [APA], and the Legislative Reorganization Act [LRA]. The LRA signified Congress’s attempt to exert greater control over the executive branch, even raising the prospect of a legislative budget system. However, in reforming its committee system to match the executive branch structure it ended up focusing more on its supervisory and oversight role. The APA was meant to make the bureaucracy an extension of legislative will, and it extended due process protections to those affected by agency decisions. Together with the LRA
and APA in what Karren Orren and Stephen Skowronek have dubbed “the system of ’46,” the Employment Act marked Congress’s attempt to better plan for a national economic program.\textsuperscript{120}

The Employment Act may not have granted as substantial power to the presidency as the RTAA had, nor stretched from preexisting constitutional practice as significantly. But given the congressionally-oriented thrust of the day, I argue that it is revealing that the act still institutionalized presidential responsibility for national economic policymaking. Indeed, each iteration of the bill, passed by bipartisan margins, left no doubt that the president was to propose a program for the country.\textsuperscript{121} In this sense, the law’s main thrust was Congress specifying that the president’s Article II powers to recommend legislation should be routinized.

**Assumption: Presidential Representation Yields Nationally-Oriented Economic Proposals**

Though the Employment Act was legislated in a period in which Congress sought to bolster its own institutional role, the law nevertheless was based upon a core assumption that the president would propose nationally-oriented economic proposals to Congress. Therefore, the law sought to institutionalize this role for the president. In its assumptions and design, the Employment Act was similar to the earlier Budget and Accounting Act of 1921, which had assumed that the president would propose nationally-oriented, cohesive federal budgets to Congress.\textsuperscript{122}

In his speech to the Senate right before final passage of the bill, Senator James E. Murray (D-MT) laid out the logic of how the bill amounted to an institutionalization of presidential representation. He highlighted the significance of the fact that Congress chose to place responsibility on the president to make yearly economic recommendations, as opposed to embracing alternative solutions such as “placing the responsibility in the hands of planning boards” apart from the president. Instead, Murray emphasized, the act signified an embrace of
the idea of presidential representation: “The effect of this act, however, is to underscore the responsibility of the President as the elected representative of the entire country, and as head of the executive branch of the Government.” Moreover, Murray emphasized that the Council of Economic Advisers was “entirely subordinate to the President,” had “no independent nor autonomous authority,” and was subject to presidential removal power. Representative John J. Cochran (D-MO), expressing confidence that the law “will be of benefit to the country as a whole,” likewise explained Congress was choosing to privilege the president’s perspective: “Again, we are passing legislation that is placing a new responsibility upon the President.” And Representative Adolph J. Sabath (D-IL) criticized bill opponents who had not wanted “to strengthen the hands of the President.”

These explanations hit on the significance of the law for the presidency: Congress chose a presidential solution instead of a non-presidential solution, consciously recognized the president as the nation’s chief representative, and institutionalized corresponding economic responsibility.

**Innovation: From a National Production and Employment Budget to an Economic Report**

In its original form, the Full Employment Bill of 1945 provided for the president to submit a National Production and Employment Budget to Congress, which would forecast economic performance for the coming year, estimate labor force size, estimate aggregate investment and expenditure in the country, and make recommendations for legislation to meet the needs of the nation. The perception among some supporters was that the presidential economic budget was “the key to the bill” (see Appendix Figure 1). By the time the bill passed Congress as the Employment Act of 1946, the provision had been rechristened as the Economic Report of the President. Regardless of the change, the significance of the new mechanism was the same:
Congress was institutionalizing the president’s role in economic policymaking, and it assumed that presidential recommendations would be formulated with the nation as a whole in mind.

Though the innovation was consciously designed to correspond with the State of the Union message, the president’s economic budget nonetheless was a departure. Congress was stipulating that presidents could no longer avoid taking a lead role on economic issues.

Introducing the Full Employment Bill to the Senate in January 1945, Senator Murray emphasized that the envisioned National Production and Employment Budget meant that the president would have the “responsibility” to “report to Congress… on the extent to which the economy is providing jobs for all.” In the Senate hearings on the bill, Senator Robert F. Wagner (D-NY) placed the responsibility of setting economic goals for full employment on the president: “the bill directs the President each year” to consult widely and come up with the budget; “This sets the goal.” The author of the House version of the bill, Representative Wright Patman (D-TX), concurred; the president would propose “goals toward which he feels we should strive,” dealing “with the economy as a whole.” Senator Robert A. Taft (R-OH), though critical of the Senate bill, admitted that a presidential employment message, essentially “on the state of the Union,” could be beneficial because “I have noticed a noticeable lack of planning in congressional action.” Speaking on the Senate floor, Senator Wayne L. Morse (R-OR) chastised opponents for worrying about giving power to the president: “I am willing to let the President exercise the discretion which the terms of the bill provide in connection with economic planning for full employment… because I am satisfied that the alternatives offered by opponents of the bill will not be helpful in preventing depressions.” However, the strength of this presidential agenda setting power in economic policy was limited. Senator Joseph C. O’Mahoney (D-WY) minimized the importance of the president’s “job budget,” as it would “be for the Congress, the
representatives of the people chosen in the constitutional way, to determine what they shall do about it.” Though the president could submit a full proposal, Senator Murray noted Congress had the right to “substitute its own program for full employment,” just like in the regular federal budget process. The provision was nevertheless deemed significant because it provided “a framework” that would institutionalize yearly consideration of the employment issue.

A number of witnesses in the congressional hearings expressed their understanding of the importance of the proposed economic budget in terms of the president providing a unique national perspective. The President of the Congress of Industrial Organizations, Philip Murray, argued that “the President should regard the preparation of a national budget as an obligation to meet the needs of the American people.” Major General Philip B. Fleming, an administrator for the Federal Works Agency, said that the president’s proposal of an employment budget, when considered by the new Joint Committee on the National Budget, would spur appropriate national debate: “the country could not fail to gain in understanding from annual debates embracing the whole state of the economy rather than debates upon fragmentary sections of it.” Thomas K. Finletter emphasized that the procedure would “put Congress into the whole question vis-à-vis the Executive, at an early stage,” setting up “a most desirable congressional-Executive structure.”

When the House Committee on Expenditures began to consider the Senate bill, witnesses continued to emphasize the role of the president in focusing attention on the economic problems of the nation as a whole. The Director of the Bureau of the Budget [BOB], Harold D. Smith, explained that the president’s budget would “provide a mechanism through which and by which we can have public debate of all of the factors that are involved” with the national economy. Moreover, Smith explicitly likened the procedure to that of the Budget and Accounting Act of
1921; the new employment budget was “a logical further step.”\textsuperscript{140} Congress would consider the president’s “entire economic and fiscal program.” Equating the current way economic measures were considered with how the federal budget was legislated before passage of the 1921 law, Smith argued, “Pieces of legislation too often have to be considered without sufficient regard for the consistency of the Government program as a whole.”\textsuperscript{141}

Others also testified to support the provision for a presidential economic budget. Treasury Secretary Fred Vinson opined that “the responsibility should be placed on the President of the United States, and he should be given the tools” to make effective recommendations to Congress.\textsuperscript{142} Millard W. Rice, the National Service Director of Disabled American Veterans, stated that the bill “places the responsibility in one place and focuses attention on these problems.”\textsuperscript{143} The Master of the National Grange, A. S. Goss, expressed enthusiasm for the president’s budget – “the heart of the bill” – because it would be “through this legal means that we take steps to muster all our resources to meet the Nation’s needs.”\textsuperscript{144} Lewis G. Hines, testifying for the American Federation of Labor, argued that a presidential economic budget “would receive more consideration than an individual bill presented to Congress would.”\textsuperscript{145} And Secretary of Commerce Henry Wallace argued that there were “certain points where the Federal Government must operate… in a unified sense.”\textsuperscript{146}

However, not all who testified supported the presidential economic budget provision, viewing the placement of such responsibility on the president with suspicion. George Terborgh, the research director of the Machinery and Allied Products Institute, criticized the bill for its “easy assumption that all economic proposals having to do with full-employment policy are to originate in the executive department of the Government.” Because it was “clearly taken for granted that the real initiative… shall lie with the White House,” the bill was “a fresh example of
the abdication by Congress of its own proper function originating legislation and legislative policy, in deference to the ‘papa-knows-best’ tradition established during the last decade and a half.”

Dr. Arch D. Schultz, the director of research for the Ohio Chamber of Commerce, and Ira Mosher, the president of the National Association of Manufacturers, each warned that the public would side with the president and against legislators if Congress failed to pass the president’s proposed economic policies. Directly criticizing the idea of presidential representation, John W. Snyder, the Director of War Mobilization and Reconversion, argued, “Congress is much better informed, by its large membership… You wouldn’t at all want to have just one man telling this country what it should do or shouldn’t do. You want a broad representation.” And most exaggeratedly, Representative Frederick C. Smith (R-OH) complained that the bill would “centralize all planning in Washington in the hands of a single individual… just as all planning of the Soviet regime is presently centralized in Moscow in the hands of Stalin.”

More consequentially, the House hearings and debates featured clashes as to whether a provision for a presidential economic budget was even necessary or desirable since the president could recommend measures to Congress under Article II of the Constitution. The most notable critic along these lines was an influential one, Representative Carter Manasco (D-AL), the Chairman of the House Expenditures Committee. Asking BOB Director Smith whether “the President possesses at this time all the authority that is granted him in this bill,” Smith argued that while the president had discretion to submit economic requests to Congress, the function should be required: “He would be presenting such estimates without a definite procedure recognized and adopted by the Congress. I think that is a very important difference.” Moreover, the “appraisal and recommendations” of the budget were “of such importance” that
“they should be transmitted not merely at the discretion of the President, but should become part of his statutory responsibility.”152 Smith again likened the proposed procedure to “the Budget and Accounting Act – a very definite procedure.”153 In other words, Smith viewed the proposal as a way to formally institutionalize presidential responsibility for the economy. However, Manasco continued to minimize the procedure’s significance. In an exchange with Representative Cochran, he argued that the president already had constitutional authority to transmit recommendations and a budget, while Cochran argued “that is different.” When Cochran suggested that the bill gave the president “the power for planning – advance planning,” Manasco again argued that the president possessed this power, while Cochran emphasized that the president could not effectively create such an economic budget “unless you give him some legislation of this character.”154

Criticism also was flung at the economic budget for requiring the president to forecast the economic performance of the country. Representative Manasco worried that because a presidential statement “carries a lot of weight,” they could easily “affect the stock market immediately.” E. J. McHale, the executive secretary of the American Veterans’ Committee, concurred: “I think the President is in a position where his every utterance has a reflection in almost every stratum of our national economy.”155 Likewise, the president of the Federal Reserve Bank of Boston, Ralph E. Flanders, warned of the “tremendous psychological effect” of presidential pronouncements: “The President has to be careful when he speaks.”156 More pointedly, Herbert L. Carpenter, the vice president of the Commerce and Industry Association of New York, stated that asking the president “to prophesy” economic performance “just cannot be done.”157 Newspapers joined in the criticism. The Chicago Daily Tribune sneered, “The
President is no fortune teller,” while the *New York Times* said a presidential estimate “could be no better than a stab in the dark.”

By the time the House bill made it to the floor, the provision for a National Production and Employment Budget had been changed to an Economic Report. Despite the change, the bill still meant that Congress requiring the president to act in an agenda-setting role. Disagreement remained as to whether this amounted to a new power. Representative Manasco, even in leading support for the bill, continued to argue that the president “can submit a budget any day he wants to, he can transmit a message to the Congress any day he wants under our Constitution.” Pointing to Article II, Representative Robert F. Rich (R-PA) stated, “He is to keep the people of this country informed. He has that right. He has that power. He has everything to do with it if he so desires.” In response, Representative Walter H. Judd (R-MN) argued that the bill would newly institutionalize that responsibility: “…this bill makes it also a duty for him to do it.”

Similarly, noting that the president would be invited to “submit” a “sound fiscal program” to Congress, Representative William M. Whittington (D-MS) asked rhetorically, “Is that an empty word?”

Some critics viewed the economic report as a new presidential power. Representative Charles L. Gifford (R-MA) complained that the provision amounted to requiring the president to intrude upon legislative power: “You tell him to study all the conditions, then bring in a report as to what he thinks we ought to do. In my opinion, it is time that the Congress itself should say what we ought to do.” Reflecting on the previous decade, Gifford said, “I should hesitate to give more Presidents a chance to plan for me.” Conversely, Representative William R. Thom (D-OH) defended requiring the president to make recommendations by again laying out the case for presidential representation: “Why is there anything revolutionary in having the President…”
up a preview of what the future holds for the country, as a whole, in the way of production and consumption?”

The conference bill that was agreed to by the House and Senate confirmed the switch from a budget to an economic report. In floor debate, the significance of the change was mostly downplayed. As Representative Cochran explained to the House, the report would still “contain all of the basic elements which were called for in the original bill,” but would now not be “described by the misleading name of national Budget.” Senator Barkley, who had chaired the conference committee, also explained that using “the term ‘economic report’” would avoid confusion “with the President’s annual budget message.” The president would remain responsible for “reviewing the conditions which have existed in the previous year, the trends in employment, production, and purchasing power currently, together with any prospective viewpoint with respect to employment, production, and earning capacity or purchasing power,” and he would be responsible for making “any recommendations he may see fit to make to Congress to carry out” the act’s declared policy. Senator Murray concurred, emphasizing that “the content of the national production and employment budget has not been changed in any material fashion.”

Overall, despite the renaming and disputes over whether the power amounted to anything, the Employment Act contained a key element that institutionalized presidential representation in economic policymaking: a formal license from Congress for presidential agenda setting. As President Harry S. Truman stated upon signing the law, “Congress has placed on the President the duty of formulating programs designed to accomplish the purpose of the Act.”

Innovation: The Council of Economic Advisers – Presidential Agency?
The second innovation in the Employment Act that served to institutionalize presidential representation in economic policymaking by giving the president new executive organizational capacity was the creation of new agency in the Executive Office of the President: the Council of Economic Advisers. But this provision was not in the original bill, and it had not been certain that any new agency to study the economy would serve the president. Indeed, the explicit choice to make the agency subordinate to the president, over a range of alternatives that included an entirely politically-independent CEA, signified Congress’s intent to make the economic recommendations it received reflect the views of the president specifically. To be sure, the president was to be properly informed. But the agenda-setting power of the economic report would ultimately belong to him, not the CEA or any other independent political entity.

When the original Senate bill was introduced, the advisory setup the president would utilize in formulating an economic budget was left mostly unspecified. However, one stipulation made clear that the economic budget was to reflect national priorities and not be used as a vehicle to advance the interests of any particular government department. The budget would be prepared in the Executive Office of the President. As Senator Murray explained, “the National Budget transcends in scope the activities and responsibilities of any one department… its development properly belongs in the Executive Office of the President.”

Explaining why the original bill did not specify how the president was to receive advice, Representative Patman argued that “the President should have considerable leeway and flexibility,” as perhaps he might “want to have one advisory board representing business, labor, agriculture, and the general public.” The witness Philip Murray underscored that it would be the president’s responsibility specifically, arguing, “No more specific responsibility should be given by law to one Cabinet officer than to another” in order to ensure consideration of “all the objectives for all the
people.”\textsuperscript{172} However, some witnesses wanted to require particular consultations from the president. William Green, the president of the American Federation of Labor, wanted to change the provision that the president “may” consult with “representatives of industry, agriculture, labor, and State and local governments” to “shall” consult. When Senator Charles W. Tobey (R-NH) suggested that it would just be “elementary” that “the President would consult with these people,” Green emphasized that it should be “distinctly understood.”\textsuperscript{173} The president of the United Mine Workers of America, John L. Lewis, sought to mandate consultation with labor.\textsuperscript{174} Going further, Walter H. Wheeler, Jr., the president of Pitney-Bowes, called for a “National Council of Economic Stabilization,” composed of experts “free of politics and ordinary self-interest,” to make economic recommendations.\textsuperscript{175}

Once the bill made it to the House, pointed questions arose about the lack of specificity for how the president would obtain economic advice. Most expected the Bureau of the Budget to serve that function.\textsuperscript{176} Representative Clare E. Hoffman (R-MI) assumed the president “will probably turn it over” to the BOB Director, which Harold Smith admitted he thought was likely.\textsuperscript{177} Describing BOB as “an army of the President,” Representative Patman assumed the president would “use the Budget to the limit.”\textsuperscript{178} However, not all were satisfied with the lack of advising clarity or the assumption that BOB would adopt another major planning function. Though supportive of the bill, Ralph Flanders testified that a “Commission on Full Employment” should be created with members “chosen as representatives of the general public interest” and who were “the ablest men to be found.” It would be “headed by a representative of the President.”\textsuperscript{179} Representative Cochran was interested in the concept of an economic board, but he stipulated that it should be “answerable to the President and not an independent agency.”\textsuperscript{180}
The House bill made the advisory process more concrete, proposing a three-member Council of Economic Advisers. But the question of this agency’s relationship to the president attracted vigorous debate, as some members argued that the council would be under the president’s purview while others sought to grant it independence. Representative Manasco noted that a majority of the House Expenditures Committee felt the president “should have some machinery to make continuing studies of our economic problems,” but that rather than rely on the Bureau of the Budget, “a separate agency not connected with any of the old so-called bureaucratic agencies should make these studies.” Citing the experience of Presidents Hoover and Roosevelt during the Great Depression, Representative Cochran said that the new “machinery” would help the president “get the proper information.” Crucially, this would help the president in his role as national representative, as the president would “be enabled to keep the Congress advised and make such suggestions as he deems necessary not only for the benefit of private industry, but for the benefit of all the people of the country.”

Not all were convinced the CEA should be under presidential control. In a short-lived victory, Representative Judd successfully amended the bill to make the reports of the CEA available to Congress, rather than just the president. Auguring a potentially even more substantial change, Representative Everett M. Dirksen (R-IL) wanted to make the CEA completely independent of the president, rather than being located in the EOP: “…why should we not have an independent agency outside of the office of the President to make an inventory, to make a survey, to ascertain the conditions that have a bearing upon unemployment, and then to make a recommendation that shall involve every factor and every incentive?” Judd concurred, preferring the CEA “to be an independent agency, not in the Executive Office of the President.” But Representative Whittington emphasized that the House bill meant to put the
CEA under presidential control: “We put them at his command.” Failing to make the CEA completely independent, Judd then attempted to amend the bill to require Senate consent for the council’s positions. Whittington responded by comparing the bill to the existing Budget and Accounting Act, emphasizing that those “officers are to aid and assist the President in drafting his economic plans and presenting them to Congress, just as the Director of the Budget aids and assists the President in submitting his budget.” Summing up his view, Whittington stated, “unless we mean to hamper the President this amendment should be rejected.” Though the House proceeded to reject the amendment, the Senate would stipulate including a confirmation of CEA members in conference committee, but it would strip away the provision allowing for Congress to access the CEA reports separate from the president.

The conference bill, and the accompanying floor debate, made it clear that the president himself was to be given new executive organizational capacity in the form of the Council of Economic Advisers. Explaining that the conference bill “drops the provision that the reports, studies, and recommendations of the President’s economic advisers should be made available to the joint committee,” Representative Cochran argued it was “a distinct improvement because it emphasizes the fact that the council is not an autonomous agency, but that its sole purpose is to provide the President with essential assistance and information on economic matters.” Senator Murray likewise argued that if the House provision to make reports and recommendations of the CEA available to the joint committee “had been maintained,” it would have given the CEA “an independent status apart from the Presidency.” Instead, the conference bill emphasized “the fact that [CEA’s] function is to assist the President in discharging his responsibilities.” Senator Barkley explained that the CEA members, appointed by the president subject to Senate consent, would be specifically located in the Executive Office of the President to assist with “questions of
employment, production, and purchasing power.”

Cochran, however, did say that it was “to be regretted” that the bill required CEA members to be confirmed by the Senate. Nonetheless, the compromise was accepted. Even Representative Judd, who had wanted a completely independent CEA, expressed support for the conference bill.

Another perspective on the role of the president in representing the whole nation was revealed in the Senate discussion of the CEA. Senator Guy Cordon (R-OH) questioned why the bill had not stipulated that the council be composed of representatives of “the three great divisions of effort in this country, namely, agriculture, management or industry, and labor.” Responding, Senator Barkley said that proposal had been discussed in conference committee, but the conferees had “decided that if the law were to make it mandatory for the President to appoint a representative of each of the three groups, the appointees would automatically consider themselves as spokesmen and representatives of their respective groups.” Instead, Barkley asserted that “the President would choose men who would be able to speak in a broad way for all the people.” Echoing Barkley’s view, Senator Taft, who now supported the conference report after “struggling with the bill,” hoped that the CEA members “would not be merely representatives of any particular group.” Barkley again emphasized that the president’s appointees should “be men of such outstanding ability and experience that they would be representing the whole country.”

Put succinctly, members of Congress equipped the president, assumed to represent all the people, with a CEA that would likewise think mainly in terms of the country as a whole, resulting in a more nationally-oriented economic program. And crucially, Congress had consciously chosen to place the CEA under presidential control, specifying the location of a new agency to be in the Executive Office of the President for the first time.
Limitation: The Joint Committee

The other institutional creation of the Employment Act was the Joint Committee on the Economic Report, which was Congress’s attempt to claim its own role in better considering the needs of the country of the whole. As such, it was a product of the political context of the day: Congress sought to bolster its own capacities in policymaking in reaction to the perception of executive aggrandizement. Consisting of seven members each from the House and Senate, the Joint Committee would review the president’s recommendations and make its own recommendations to Congress as a whole. This underscored a limitation on presidential power in the Employment Act: presidential proposals could be completely altered by the Joint Committee if it desired. Still, by considering the president’s economic program, the committee also contributed to the institutionalization of presidential representation in economic policymaking.

Implicitly admitting that criticisms of congressional representation as localistic and particularistic had found their mark, supporters of the bill explained that the Joint Committee would give Congress itself the ability to take a nationally-oriented view of the economy. Senator Murray, when describing the Joint Committee on the National Budget provided for in the original Full Employment Bill, pointed to that necessity: “At present, there is no arm of the Congress that has the responsibility of considering all the elements in the Federal Budget, or the relationships between the Federal Budget and the national economy.” The Joint Committee “is created to study the National Budget in its entirety.” A year later, when advocating for final passage of the conference bill, Senator Murray argued, in essence, that the Joint Committee on the Economic Report would be Congress’s way of matching the new capacity of the president: “the provision for a joint congressional committee to analyze the President’s over-all program
has been hailed as a distinct contribution to the improvement of congressional operations.” For
emphasis, he added, “The Members of Congress are the representatives of the American people.”
However, the function of the Joint Committee still had a presidential tilt. As Murray put it, the
president’s proposal would set the terms of national debate: “Both the general public and
Members of the Congress themselves need regular information on the status of the various
measures that make up the President’s full employment program.” Representative Cochran
concurred, explaining that the committee would “analyze the President’s economic report and
attempt to coordinate the activities of the various committees of Congress affecting the full-
employment program.” The committee would, echoed Representative Whittington, “consider
and submit its recommendations to the Congress for legislation respecting the President’s
program.”

The new law, designed “to make our economic system work in the interests and welfare
of the whole people,” was passed in a more congressionally-oriented environment than some
other laws that contributed to the institutional presidency. Nonetheless, the president’s
primacy was clear.

CONCLUSION: COMPARING PATHS OF DEVELOPMENT

The RTAA of 1934 and Employment Act of 1946 both were created based upon a legitimating
assumption of presidential representation, though they institutionalized that idea in different
forms and to differing degrees. By allowing the president to negotiate bilateral agreements to
reduce tariff rates not subject to congressional approval, Congress gave the president substantial
power to match this representative role. The act clearly stretched from previous constitutional
practice, but because tariff making was essentially converted to a foreign affairs issue, the
president could claim substantial basis in Article II to bolster his assumption of delegated power.205 Conversely, in requiring the president to submit a yearly Economic Report and creating the Council of Economic Advisers, Congress granted the president a formal license for agenda setting and new executive organizational capacity, but left much greater congressional control intact. The act formalized the president’s Article II responsibilities to recommend measures to Congress, and to the extent Congress favored the president’s full plans, could begin to intrude on its own Article I legislative power in agenda setting. But the law did not go so far as to delegate powers the president could execute; rather it provided what one CEA chairman called a “constitution” for considering economic issues.206

Each law was a notable political development that altered the operations of American government.207 In trade policy, the RTAA and its successors arguably resulted in an institutionalization of lower tariffs.208 Though time limits imposed meant presidents had to request renewals of authority, Congress regularly renewed presidential trade authority from 1934 to 1974. The president began to enter multilateral agreements under the 1947 General Agreement on Tariffs and Trade [GATT]. In 1962, the president gained new executive organizational capacity in trade apart from the departmental structure, as Congress created the Office of the U.S. Trade Representative, which was soon made part of the Executive Office of the President.209 In employment and general domestic economic policy, the Employment Act and its subsequent operation demonstrated the federal government had accepted economic responsibility. Though the CEA’s influence waxed and waned over the decades, the institutions of the law continued to function.210

But institutional changes to presidency-Congress relations are, unless accomplished by constitutional amendment, inherently provisional and subject to shifting.211 This is especially
true of innovations based upon the assumption of presidential representation, as the legitimacy of
the concept itself came under significant strain in the 1970s and 80s.\textsuperscript{212} In this environment,
Congress reconsidered its previous institutional reforms in both trade and employment. Having
allowed the president to make trade policy through executive agreements without congressional
authorization since 1934, Congress reclaimed a greater role with the passage of the Trade Act of
1974.\textsuperscript{213} Negotiated agreements would now have to be approved by Congress, and the president
would continue to have to seek renewal of the authority. However, the assumption of presidential
representation was still provided for with the new fast track procedure to consider full proposals
on a strict majority vote, and presidents were also given authority to negotiate on nontariff
barriers.\textsuperscript{214} The conversion of tariff making to a foreign affairs issue had helped make
presidential power in trade policy fairly durable. The presumption that it was appropriate for
presidents to negotiate trade deals with foreign nations given his Article II powers was generally
accepted. The accompanying innovation continued to be that Congress saw fit to continue to
grant substantial agenda setting powers to the president.\textsuperscript{215}

In trade policy then, the assumption of presidential representation has mostly endured
with substantial power. Conversely, Congress’s attempt to again address full employment in the
1970s amounted to little. The Full Employment and Balanced Growth Act of 1978, known as
Humphrey-Hawkins, set goals of eliminating inflation and reducing unemployment consistently
to four percent. The president was made responsible for seeking to achieve these goals, but was
not delegated any greater power.\textsuperscript{216} Indeed, by the 1970s and subsequently, the Federal Reserve
came to be looked upon as “the primary mechanism” for economic stability with limited
presidential influence.\textsuperscript{217} The idea of presidential representation has continued to endure; indeed,
presidents are judged perhaps above all else on economic performance.\textsuperscript{218} But while presidents
have a defined responsibility in statute for economic stewardship and make economic proposals

to Congress, they are without the substantial powers possessed in the foreign affairs realm of trade.

The legitimating assumption of the modern presidency, including its role in economic policymaking, was the idea of presidential representation. The president has been assumed, by virtue of possessing a national constituency, to seek freer trade and nationally-oriented economic proposals. But what happens if these assumptions do not hold? President Donald Trump’s protectionist impulses call into question the longstanding assumption that presidential representation would result in lower tariffs.\textsuperscript{219} And the CEA, with its influence already subject to variation, has found itself further sidelined in favor of a powerful economic adviser with the president’s ear, the Director of the National Economic Council Gary Cohn.\textsuperscript{220} The fundamental assumptions of how presidential representation translates to policy in the economic realm have come much further into question with uncertain policy and institutional consequences.
### APPENDIX

**Table 1. Summary of Trade Legislation**

<table>
<thead>
<tr>
<th><strong>Innovations Adopted</strong></th>
<th><strong>Limitations Imposed</strong></th>
</tr>
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<tbody>
<tr>
<td>President authorized to reduce tariffs up to 50% through bilateral agreements</td>
<td>3-year time limit on legislation before requiring renewal</td>
</tr>
<tr>
<td>Executive agreements instead of treaties</td>
<td>President must provide opportunity for public hearings with interested parties before finalizing agreements</td>
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<tr>
<td>No Senate treaty ratification</td>
<td>President cannot transfer items to the free list</td>
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<tr>
<td>No congressional approval or veto</td>
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**Table 2. Summary of Employment Legislation**

<table>
<thead>
<tr>
<th><strong>Innovations Adopted</strong></th>
<th><strong>Limitations Imposed</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>President submits a National Production and Employment Budget each year</td>
<td>Not “strong” agenda setting: Congress can amend economic budget proposals</td>
</tr>
<tr>
<td>President’s budget considered by a new Joint Committee</td>
<td>Joint Committee is viewed as a way to allow Congress to take a holistic view of national economy</td>
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<tr>
<td>Employment Act of 1946</td>
<td>Not “strong” agenda setting: Congress can amend budget</td>
</tr>
<tr>
<td>President submits an Economic Report each year</td>
<td>Joint Committee is viewed as a way to allow Congress to take a holistic view of national economy</td>
</tr>
<tr>
<td>President’s Economic Report is considered by a new Joint Committee on the Economic Report</td>
<td>CEA member appointment subject to Senate consent</td>
</tr>
<tr>
<td>Council of Economic Advisers placed in Executive Office of the President, instead of being made an independent agency</td>
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<tr>
<td>CEA members are considered advisers of the president</td>
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<tr>
<td>CEA reports and recommendations are available to the president, not to Congress</td>
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</tr>
</tbody>
</table>
Figure 1. Envisioned Operation of Full Employment Bill with Arguments For and Against.

NOTES

8 For an argument on making presidential representation central to presidency studies, see Gary L. Gregg II, “Toward a Representational Framework for Presidency Studies,” *Presidential Studies Quarterly* 29, no. 2 (June 1999): 297-305. In particular, focusing on how the idea of presidential representation was an assumption for institutional changes affecting presidency-Congress relations would fall under Gregg’s level of analysis on “the Presidency and the Regime.”
10 James L. Sundquist, *The Decline and Resurgence of Congress* (Washington D.C.: Brookings Institution Press, 1981); Gailmard and Patty, *Learning While Governing*, 223. Sean Gailmard and John Patty argue that if the president already has authority to act then Congress will seek to equip him greater informational capacities, but if the president does not have preexisting authority, then Congress will not give that capacity. Their account explains key aspects of the Employment Act, though it should be emphasized that the assumption behind the law was that the president would propose nationally-oriented plans. This informational account does not explain the RTAA, as Congress was unquestioningly delegating power to the president that the president did not already possess.
13 An Act to Amend the Tariff Act of 1930 (PL 73-316, 48 Stat. 943, June 12, 1934). For general accounts of the change, see John Day Larkin, *The President’s Control of the Tariff* (Cambridge, MA: Harvard University Press,
Institution noted that the bill would mean that trade policy would consider imports and exports, whereas for most of U.S. history Congress had focused on import tariffs alone. Leo Pasvolsky, “Roosevelt Begins to Shape a New Foreign Trade Policy,” *New York Times*, March 11, 1934, 3, 9.

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17 Michael J. Gilligan, *Empowering Exporters: Reciprocity, Delegation, and Collective Action in American Trade Policy* (Ann Arbor, MI: University of Michigan Press, 1997), 5, 54. “…the notion that any president, by dint of having a larger constituency, must be less protectionist than the median member of Congress, is hopelessly ahistorical…. Indeed, the fact that the presidency was not inherently less protectionist was foremost in the minds of Democrats at the time of the RTAA’s passage.” Michael J. Hiscox, “The Magic Bullet? The RTAA, Institutional Reform, and Trade Liberalization,” *International Organization* 53, no. 4 (Autumn 1999): 677.

18 On how the departure from previous tariff making practice was a notable choice by the Democrats and evidence of the influence of ideas, see Goldstein, *Ideas, Interests, and American Trade Policy*, 141-146.


22 “Mr. Roosevelt and World Trade,” *New Republic*, April 19, 1933, 268.


26 Some in Roosevelt’s “Brain Trust” had wanted “to give the President the power to fix tariff duties for all time, and thereby take the tariff out of politics.” “Roosevelt Decides to Ask for Tariff Powers Now; Plans Reciprocal Deals,” *New York Times*, March 1, 1934, 1, 4. Hull had wanted multilateral effort, but felt that bilateral agreements would be more politically realistic. Hull, *Memoirs*, Vol. 1, 356.

27 Henry A. Wallace, *America Must Choose: The Advantages and Disadvantages of Nationalism, of World Trade, and of a Planned Middle Course* (New York: Foreign Policy Association, 1934). Wallace’s book would be specifically cited by former Secretary of War and Secretary of State Henry Stimson in a radio address supporting the bill. Senator Harry Flood Byrd (D-VA) announced support of the bill based on the idea of presidential representation: “I am… convinced, after seeing juggling in Congress incident to the passage of the Grundy tariff bill, that for the present, at least, it is far preferable to have these trade agreements made by the President, who can take into consideration what may be the best for the interests of the Country as a whole.” “Senator Byrd Praises Roosevelt’s Proposal,” *Washington Post*, March 4, 1934, 5. A piece written under the auspices of the Brookings Institution noted that the bill would mean that trade policy would consider imports and exports, whereas for most of U.S. history Congress had focused on import tariffs alone. Leo Pasvolsky, “Roosevelt Begins to Shape a New Foreign Trade Policy,” *New York Times*, March 11, 1934, 3, 9.
One prominent writer argued that the U.S. should produce all goods it needed and only focus on its internal market. Samuel Crowther, *America Self-Contained* (Garden City, NY: Doubleday, Doran, 1933). A proponent of the RTAA, Representative Samuel Hill, noted that opponents of the measure had “taken their stand along with Mr. Samuel Crowther.” *Congressional Record*, 73rd Congress, 2nd Session (March 27, 1934), 5513. Representative Allen Treadway, opposing the RTAA, also cited Crowther as “a brilliant writer and economist” in floor debate. *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5265.

The margin was 274 yes, 111 no, and 47 not voting. *Congressional Record*, 73rd Congress, 2nd Session (March 29, 1934), 5808.

*Congressional Record*, 73rd Congress, 2nd Session (June 4, 1934), 10395; *Congressional Record*, 73rd Congress, 2nd Session (June 6, 1934), 10636; “Tariff Bill Voted by House, 154 to 53,” *New York Times*, June 7, 1934, 2; Robert C. Albright, “House Votes Tariff Power to President,” *Washington Post*, June 7, 1934, 1-2. There was party crossover in the Senate vote, as 5 Democrats voted against the measure, while 5 Republicans and 1 Farmer-Laborite voted for it. “Tariff Bill Voted by Senate, 57 to 33; Adjournment Dims,” *New York Times*, June 5, 1934, 1, 10.


*Reciprocal Trade Agreements*, Hearings before the Committee on Finance, United States Senate, 73rd Congress, 2nd Session (Washington, D.C.: Government Printing Office, 1934), 163. The statement came from Robert C. Graham, the Vice President of Graham-Paige Motor Corporation and the Chairman of the Export Committee of the National Automobile Chamber of Commerce.

*Reciprocal Trade Agreements*, Hearings before the Committee on Finance, 396. Later in floor debate, Lozier emphasized that his faith in presidential representation extended to presidents of either party, as he imagined the Republican Representative Allen Treadway making trade deals as president: “when he was clothed with Presidential responsibility... he, though a militant Republican, would carefully consider the arguments for and against the application of this formula to any particular industry.” *Congressional Record*, 73rd Congress, 2nd Session (June 6, 1934), 10630.

*Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5260.

*Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5275-5277.

*Congressional Record*, 73rd Congress, 2nd Session (May 17, 1934), 8997-8998.

*Congressional Record*, 73rd Congress, 2nd Session (June 4, 1934), 10379.


*Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 33.

*Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 47.


*Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5256.

*Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5258-5259.

*Congressional Record*, 73rd Congress, 2nd Session (May 17, 1934), 8992. Stimson also linked the design and debates over the RTAA to the previous Budget and Accounting Act of 1921, which he had likewise strongly advocated: “I remember that a similar objection that it would unduly increase the power of the Executive was made when we first proposed to adopt in the American governments, both State and national, the form of the executive budget, and to allow the President and the Governors of States to propose to Congress and the various Legislatures the annual programs of their future expenditures.” “Text of Stimson’s Radio Speech for Changes in the Tariff,” *New York Times*, April 30, 1934, 8; Arthur Krock, “In Washington: Stimson’s Speech on Tariff Upsets Republican Senators,” *New York Times*, May 1, 1934, 22. The speech on the bill was just one example of Stimson’s general philosophy of government, which favored bringing the executive and legislature closer together and granting the

49 *Congressional Record*, 73rd Congress, 2nd Session (June 4, 1934), 10375.

49 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 31.

50 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 53.

51 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 205.

52 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 208.

53 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 257.

54 *Reciprocal Tariff Agreements*, Hearings before the Committee on Finance, 237.

55 *Reciprocal Trade Agreements*, Hearings before the Committee on Finance, 290, 288.

56 *Reciprocal Trade Agreements*, Hearings before the Committee on Finance, 315.


58 *Congressional Record*, 73rd Congress, 2nd Session (May 17, 1934), 9012, 9016.

59 *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5264.

60 *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5266.

61 *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5262.

62 The letters sent to Treadway and inserted into the Record were from W. J. Wilcox, Secretary, Manufacturers Association of Meriden, Meriden, CT and E. Kent Hubbard, Hartford, CT, respectively. *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5269. A delegation of 150 Connecticut manufacturers also went to Washington, D.C. to oppose the RTAA in early April. A. E. Magnell, “Industrial Delegation to Protest,” *Hartford Courant*, April 4, 1934, 1.

63 *Congressional Record*, 73rd Congress, 2nd Session (March 29, 1934), 5802.

64 For example, Representative Francis B. Condon (D-RI) had attempted to require the president to assure Congress no industries would be destroyed by negotiated agreements, but the bill’s proponents, led by Representative Doughton, argued that was “absolutely impractical.” *Congressional Record*, 73rd Congress, 2nd Session (March 29, 1934), 5798.

65 Representative Doughton responded irritably, “Does the gentleman think anybody is ignorant enough of that to be reminded of it?” *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5258. See also Schietz, “Institutional Foundations of U.S. Trade Policy,” 433-437.

66 *Congressional Record*, 73rd Congress, 2nd Session (June 4, 1934), 10360.

67 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 430.

68 *Congressional Record*, 73rd Congress, 2nd Session (March 23, 1934), 5262.

69 *Congressional Record*, 73rd Congress, 2nd Session (March 27, 1934), 5514.

70 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 5. Hull was even more direct in his memoirs: “It was generally agreed that only this type of executive agreement could succeed. Treaties, which had to be submitted for Senate approval, were hopeless if they contained substantial tariff reductions.” Cordell Hull, *Memoirs*, Vol. 1, 354.

71 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 16-18.

72 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 354-355.

73 *Congressional Record*, 73rd Congress, 2nd Session (May 17, 1934), 8995.

74 The House rejected an amendment from Representative Treadway to require Congress to positively assent to presidentially-negotiated agreements. It also failed to adopt a similar follow-up amendment from Representative Charles M. Bakewell (R-CT) to allow Congress to veto negotiated bilateral agreements within one year from the time they would come into force. *Congressional Record*, 73rd Congress, 2nd Session (March 29, 1934), 5802, 5807. Two Senate amendments regarding congressional approval or disapproval were not adopted. One would have given Congress, in essence, a legislative veto; presidential bilateral agreements would need to avoid the disapproval of Congress. Another would have required Congress to positively affirm the president’s agreements. *Congressional Record*, 73rd Congress, 2nd Session (June 4, 1934), 10372-10373, 10381-10382, 10386.

75 *Congressional Record*, 73rd Congress, 2nd Session (March 27, 1934), 5532.


77 *Reciprocal Trade Agreements*, Hearings before the Committee on Ways and Means, 15-16.

78 *Congressional Record*, 73rd Congress, 2nd Session (March 29, 1934), 5803.
In implementing the RTAA, FDR had considered having an independent Tariff Agency that would not be part of the regular departmental structure, but this did not happen, and the State Department had significant influence. “Ask Independence for Tariff Agency,” New York Times, June 27, 1934, 2; Haggard, “Institutional Foundations of Hegemony,” 113-114. In 1962, this would change with the creation of the Office of the U.S. Trade Representative in the Executive Office of the President.

focused on attaining maximum employment. It also replaced the National Production and Employment Budget with skeptical of the full employment policy and the role of the president in the bill. Its substitute bill, the Employment Congress.

submit a National Production and Employment Budget, and created a Joint Committee on the National Constitution's adaptability and a great leap forward in the development of the policy state."


The final bill chose to declare a policy of attaining “maximum employment.” But in Senator James Murray’s estimation, “the conference bill declares a full employment policy. The House conferees succeeded in eliminating from the bill the words ‘full employment’ and other forthright language. They did not succeed in eliminating the fundamental concept that the Federal Government has the ultimate responsibility for creating and maintaining conditions of full employment.” Moreover, Murray argued that the “declaration of policy is historic in its implications.” When the history of this period is written it will record that just as Federal responsibility for relief was accepted during the great depression, Federal responsibility for maintaining conditions of full employment was proclaimed by the Congress following the end of World War II.” Congressional Record, 79th Congress, 2nd Session (February 8, 1946), 1141-1142.


The original Full Employment Bill, debated in the Senate Finance Committee and passed by the Senate with a bipartisan margin of 70 to 10 in September 1945, declared a policy of full employment, required the president to submit a National Production and Employment Budget, and created a Joint Committee on the National Budget in Congress. Congressional Record, 79th Congress, 1st Session (September 28, 1945), 9153. The House was more skeptical of the full employment policy and the role of the president in the bill. Its substitute bill, the Employment-Production Act of 1945, passed 255 to 126 in December 1945, declining to endorse full employment and instead focused on attaining maximum employment. It also replaced the National Production and Employment Budget with

123 Dearborn, “‘Proper Organs’ for Presidential Representation.”
124 Congressional Record, 79th Congress, 2nd Session (February 8, 1946), 1142.
125 Congressional Record, 79th Congress, 2nd Session (February 6, 1946), 980.
126 Congressional Record, 79th Congress, 2nd Session (February 6, 1946), 982.
128 Congressional Record, 79th Congress, 1st Session (January 22, 1945), 382.
130 Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 62.
131 Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 797. When Senator Taft minimized the budget in Senate floor debate as “simply a program the President is supposed to submit,” Senator Barkley countered that the economic budget “is supposed to have some moral effect.” Congressional Record, 79th Congress, 1st Session (September 28, 1945), 9136. Indeed, a number of Senate opponents of the original bill felt the economic budget was a good idea. Bailey, Congress Makes a Law, 117.
132 Congressional Record, 79th Congress, 1st Session (September 28, 1945), 9121.
134 Congressional Record, 79th Congress, 1st Session (January 22, 1945), 379-380.
135 Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 83.
136 Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 238.
137 Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 863.
138 Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 797. For more on Finletter’s views about president-Congress relations, see Thomas K. Finletter, Can Representative Government Do the Job? (New York: Reynal and Hitchcock, 1945), esp. 135, 163.
140 “Explaining how the reforms of the BAA, Smith stated, “Prior to the Budget and Accounting Act appropriations for the various Government agencies were considered separately by several committees of Congress. There was no possibility of formulating and reviewing a consistent program for the Federal establishment as a whole. The Budget and Accounting Act gave us such a procedure.” Full Employment Act of 1945, Hearings before the Committee on Expenditures, 59.
141 Full Employment Act of 1945, Hearings before the Committee on Expenditures, 60.
142 Full Employment Act of 1945, Hearings before the Committee on Expenditures, 939.
143 Full Employment Act of 1945, Hearings before the Committee on Expenditures, 341.
144 Full Employment Act of 1945, Hearings before the Committee on Expenditures, 1000.
145 Full Employment Act of 1945, Hearings before the Committee on Expenditures, 403.
William Lemke, Street Journal, “There has been no such continuing [planning] agency.” Robert C. Albright, “Jobs before a Subcommittee of the Committee on Banking and Currency, 519.


The Senate preferred the president to have the ability to determine what advising arrangements he wanted. Bailey, Congress Makes a Law, 168.

Congressional Record, 79th Congress, 1st Session (December 13, 1945), 11973.

Congressional Record, 79th Congress, 1st Session (December 14, 1945), 12078.

Congressional Record, 79th Congress, 1st Session (December 13, 1945), 11982.

Congressional Record, 79th Congress, 1st Session (December 13, 1945), 12006-12007.

Congressional Record, 79th Congress, 1st Session (December 13, 1945), 12027.

Congressional Record, 79th Congress, 2nd Session (February 6, 1946), 980.

Congressional Record, 79th Congress, 2nd Session (February 8, 1946), 1136.


The Senate preferred the president to have the ability to determine what advising arrangements he wanted. Bailey, Congress Makes a Law, 168.

Congressional Record, 79th Congress, 1st Session (January 22, 1945), 379.

Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 71.

Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 238.

Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 508-509.

“We do like to be consulted, whether or not our views are accepted.” Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 519.

Full Employment Act of 1945, Hearings before a Subcommittee of the Committee on Banking and Currency, 606-607.


Full Employment Act of 1945, Hearings before the Committee on Expenditures, 76.

Full Employment Act of 1945, Hearings before the Committee on Expenditures, 123.

Full Employment Act of 1945, Hearings before the Committee on Expenditures, 594.

Full Employment Act of 1945, Hearings before the Committee on Expenditures, 1104.

As one report noted on the proposed CEA, “since Congress eliminated the National Resources Planning Board, there has been no such continuing [planning] agency.” Robert C. Albright, “Jobs-For-All Bill Rewritten by House Unit,” Washington Post, November 21, 1945, 3.

“House Group Votes New Jobs Bill But Few Seem to Like It; Sets Up Economic Board to Help President,” Wall Street Journal, December 5, 1945, 4. In one jibe at the bill’s original full employment policy, Representative William Lemke (R-ND) noted that the only jobs the bill guaranteed were those of the CEA: “…this bill is called the
full employment bill. To begin with, that is a sad misnomer. It should be called the employment bill of a council of three at $15,000 a year.” *Congressional Record*, 79th Congress, 1st Session (December 14, 1945), 12068.

Not all were happy with the idea of a new agency. Representative Estes Kefauver (D-TN) complained that “the economic report would be prepared in an ivory tower vacuum.” *Congressional Record*, 79th Congress, 1st Session (December 13, 1945), 12016.

Congressional Record, 79th Congress, 1st Session (December 14, 1945), 12011.

Congressional Record, 79th Congress, 1st Session (December 14, 1945), 12066.

Congressional Record, 79th Congress, 1st Session (December 14, 1945), 12074.

Congressional Record, 79th Congress, 1st Session (December 14, 1945), 12070.


The first chairman of the Council of Economic Advisers, Edwin G. Nourse, argued that the council’s function was to help the president take a view of the whole economy without regard to special interests: “the Council would furnish a means of comparative and integrating study of segmental policies with a view to assisting the President in charting a course which would promote the well-being of the whole economy.” Edwin G. Nourse, *Economics in the Public Service: Administrative Aspects of the Employment Act* (New York: Harcourt, Brace, 1953), 92, see also 107, 457. The three members initially chosen for the CEA by Truman in July 1946 were Chairman Edwin G. Nourse, Leon H. Keyserling, and John Davidson Clark. Harry S. Truman, *Memoirs: Year of Decisions* (Garden City, NY: Doubleday, 1955), 491-494.

Bailey, *Congress Makes a Law*, 52-53. The first CEA chairman, Edwin Nourse, concurred: the Joint Committee was meant “to study national policy as an integrated whole and to raise the level of its economic statesmanship above local and pressure-group politics.” Nourse, *Economics in the Public Service*, 458.

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