

Congressional Representation by Petition: Assessing the Voices of the Voteless in a Comprehensive New Database, 1789-1949

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Abstract

For much of American political history, the electoral franchise was restricted to only a portion of the population. By contrast, the right to petition was considered universal and enshrined in the First Amendment, giving voice to the voteless. Petitioning thus served as a fundamental mechanism of representation. Still, fundamental questions remain: How was petitioning used, how did Congress respond to petitions, and did the petition allow for partial representation of the marginalized and unenfranchised? We address these questions by analyzing the Congressional Petitions Database (CPD), an original endeavor tracking virtually every petition introduced to Congress from 1789 to 1949. Our analyses document how (1) two important groups of unenfranchised constituents – Native Americans and women – petitioned regularly and (2) Congress's initial treatment of Natives' and women's petitions was similar to that of all others, thus offering systematic evidence highlighting the petition's role as a mechanism for representation among otherwise unenfranchised groups.

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As a self-proclaimed republic, the United States relies upon a representative model of government. Legislatures stand at the center of this republican model. They have functioned as the primary representative bodies of American government from colonial governments through the Revolution and beyond. While the U. S. Constitution recognizes at least two key mechanisms – elections and petitions – for connecting representatives in legislatures to their constituents,¹ only elections have been heavily studied in political science and legislative studies. Legislative petitions have received far less scholarly attention. This is problematic for at least two reasons.

First, petitioning played an indispensable role in the development of American legislatures. Pre-revolutionary legislatures seized power from crown-appointed colonial governors by taking jurisdiction over petitions for public claims (Desan 1998a, 1998b). By the time of the American Founding, petitions were considered firmly within the purview of the legislature and dominated the congressional docket (McKinley 2018). The right of petition was regarded as fundamental to a republican form of government, as an important mechanism of representation for individuals and minorities, and as a vital counterpoint to the majoritarian mechanism of the vote (McKinley 2016). In several key moments, the unenfranchised—women, African Americans, Native Americans, the foreign-born, and even children—leveraged the petition process, often with great success (Collins 2013; Carpenter and Moore 2014; Carpenter 2016b). Petitioning was also central to American lawmaking and legislative functioning. Early American legislatures passed a majority of their statutes from bills introduced as petitions, and by a substantial margin they processed more petitions than

¹ One could add instruction, but note that the Founders explicitly debated the possibility of an instruction right in the Constitution of 1787 and rejected it, resolving that a republican form of government required the right to petition only (McKinley (2016)).

they considered bills and held roll-call votes (Bailey 1979, Schnee et al 2020). Ireland (2004) reports that seventy to ninety percent of early congressional legislation originated from petitions.

Second, petitioning served as the “voice of the voteless” for those many formative decades of American government when the franchise was restricted to only a portion of the population. The right to vote was not protected explicitly in the Bill of Rights, being left to the states to regulate (Articles I and II). Not until the late nineteenth century, with the Reconstruction Amendments, did the franchise rise to a constitutional matter at the national level. However, most Americans—notably, women and Native Americans—had to wait until the twentieth century to exercise the franchise formally and many are still fighting against informal barriers to their right to vote today. By contrast, the right to petition was protected in the First Amendment to the Constitution and in most state constitutions.² Petitioning offered a more universal and more flexible form of representation than the vote. And, as the volume of petitions documented in this paper illustrates, subordinated groups faced few formal or informal barriers to petitioning, in contrast to voting.

Scholars still lack a thorough portrait of the incidence and influence of congressional petitioning over time. Building such a portrait depends upon the development of reasonably comprehensive data on petitioning in American political history. Without those data, some basic questions about congressional petitions cry out for descriptive answers:

² See Massachusetts Constitution of 1780, Part the First, Article 19; the Michigan Constitution of 1835 (“The people shall have the right freely to ... petition the legislature for redress of grievances.”); the Colorado constitution of 1876, Article 2, Section 24;
https://www.colorado.gov/pacific/sites/default/files/CO_Constitution_150dpi_Signed.pdf (accessed most recently June 2, 2018).

- How common was petitioning over the course of American national history?
Accounting for population, when was petitioning most common, and at what point did the most rapid quantitative transformations occur?
- Which themes and issues – slavery and civil rights, for instance, versus tariff concerns – were more common subjects of petitioning, and how did this topical frequency vary over time?
- How often did the unenfranchised petition? And did their petitions receive procedural treatment similar to those of other petitioners?

In this paper, we provide the first systematic overview of petitioning activity and initial chamber disposition (referral or tabling) in American congressional history. We focus particularly on the petitioning activity of the unenfranchised, highlighting two marginalized groups whose identities are easily ascertained in petition records: Native Americans and women. These are also two communities who were not extended the franchise formally well into the twentieth century and, with respect to Native Americans, still face informal barriers to full electoral representation today. Nonetheless, despite lacking the franchise, both of these subordinated groups wielded some influence over the lawmaking process and American state building during the long nineteenth century. Scholars know from particular cases – such as the tremendous women’s petitioning during the Indian Removal and antislavery debates (Zaeske 2003, Portnoy 2008, Carpenter and Moore 2014), the repeated petitioning of the Cherokee during Indian Removal (Perdue and Green 2005), the massive woman suffrage petition campaigns of the late nineteenth century (Flexner and Fitzpatrick 1996; McConaughy 2013; Carpenter et al 2018) and many others – that the unenfranchised petitioned with great intensity at certain moments in American political history. Yet comprehensive data beyond these isolated cases has remained elusive.

Capturing the full scope of petitioning requires data of considerable breadth and quantity. We document the creation and initial descriptive analysis of a large, interconnected digital catalog – the Congressional Petitions Database (CPD) – that aims to document the vast majority of congressional petitioning in American history before the late-twentieth century (1789-1949). Our analytic strategy exploits the parliamentary practice of reading a petition's prayer upon the floor of the relevant chamber to construct a comprehensive database of more than 500,000 petitions introduced before the United States Congress. Harnessing the formal, published records of the Congress, the *Congressional Record* and *Journals*, we develop methods for extracting petitions and techniques for coding them by topic.

The breadth and originality of this data permit us to make several distinctive contributions. makes several key contributions. First, we show how petitioning figured centrally in congressional functioning. We compile over 537,000 petitions introduced to Congress in the period we study, and we describe for the first times aggregate petitioning activity across time and by topic. Massive petitioning characterized American congressional development and did not meaningfully subside until after World War I. Second, we show the extent to which unenfranchised groups petitioned. We identify roughly 1,000 petitions submitted by Native Americans introduced to one or both chambers of the Congress. Women also petitioned Congress extensively throughout our time period, and we estimate overall contributed at least seven percent of total petitions. Crucially, these groups did not face meaningful discrimination in the initial treatment of their petitions. Native petitioners were in fact less likely than average to have their petitions tabled; women's petitions fared equally as well as men's, with the meaningful exception of increased tabling rates during the Pinckney Gag Rule (1836 – 1844). All told, through its prevalence and through the procedural equality granted to minority groups, petitioning represented a meaningful, alternative channel to the ballot box for groups seeking political representation in the legislature.

While our focus in this study is squarely upon the representative possibilities in petitioning, the accompanying data will have many uses, including the study of (1) legislative and policy agendas over time, (2) bills and other legislative and policy proposals, (3) political and social movements, (4) protest activity and citizen grievance, (5) formal political activity of the unenfranchised, (6) lobbying and the politics of organized interests, and (6) a raw record of petitions that might later be located in archives. Both the breadth and limits of our dataset speak in part to the particular publicity accorded to legislative proceedings during these periods of American political history.³ And, while some limitations to the data compiled do exist, the value to scholars seeking new data sources to study any of the topics mentioned above predominates. Roll call votes, which do not account for legislation that passes viva voce and capture just a small percentage of all votes in Congress (Clinton and Lapinski 2008, Lynch and Madonna 2013), still underpin the ideology scores used prominently in legislative studies. Similarly, petitioning measured through the *Congressional Record* and *Journals*, while not fully exhaustive, nonetheless allows scholars to characterize behaviors that would otherwise go unstudied.

Petitioning, Representation and the Need for More Systematic Data

Studies of historical political behavior in the context of American political development have surged in recent years (Lee 2002, Campbell 2003, Szymanski 2003, Skocpol 2004, Parker 2009, McConaughy 2013, Schickler 2016). In lieu of studying the traditional subjects and themes of American political development – the state (Skowronek 1982, Bense 1990, Orren and Skowronek

³ These data also have particular shortcomings, especially in their reliance upon the accuracy of legislative clerks and the lack of systematic data on signatories (their numbers, identity and sequence of signers).

2018), courts (Whittington 2005) and Congress (Stewart 1989, Schickler 2001, Jenkins and Stewart 2012, Schiller and Stewart 2014) – these studies instead examine citizen behavior and mediating institutions such as interest groups, organizations, and parties. Still, a mechanism of representation central to American government – petitioning – remains understudied within the literature.

Petitions have long been central to lawmaking and state-building worldwide and throughout history—well beyond that of the United States and its legislatures, of course. Indigenous North Americans incorporated petition procedures into their diplomatic and governance institutions (such as condolence rituals and confederacy meetings) centuries before contact with Europeans (Fenton 1985, p. 24). On a more global scale, petitions to emperors, monarchs and rulers are as old perhaps as human society itself. Petitions function in modern times as a central element in the development of a public sphere in the global East (Li, Liu and O'Brien 2012) as well as the West (Tilly 1993, Zaret 1993, 1996), while also playing a formative role in many transformative social movements (Zaeske 2003, Szymanski 2003, Portnoy 2005, Chase 2013, McConnaughy 2013, Carpenter and Moore 2014, Carpenter et al 2018).

In its procedure and its representational aspects, Congressional petitioning was heavily influenced by traditions, norms and rules of Anglo-American parliamentary reception (Maddicott 2010, Bailey 1979). In Parliament and American legislatures, each petition's prayer (or part of it) is customarily read aloud on the chamber floor and then disposed by tabling, by reference to a committee (select, standing or special), or by reference to another branch, commission, board, or agency for fact-finding and reporting. Relatedly, petitions also became the basis for bills that issued from monarchs and parliaments in the late medieval period (Petit-Renaud 2001; Maddicott 2010) through the early modern and colonial period to the early U.S. (Foster 1974; Bailey 1979; Desan 1998a, 1998b).

Colonists and early Americans understood petitioning as a form of representation. Thomas Jefferson recognized petitioning as a mode by which the “people out-of-doors” (or people “without doors,” that is, outside the halls of the legislature) made their appearance within the doors of government ([Jefferson 1801] Jefferson and Sullivan 2011, Chapter 19; Smith 2000: 11-12). The ideas and preferences of the people “out of doors” might differ from those of their elected delegates within, and petitioning was understood as a way of textually re-presenting the people within the doors of the legislature (Pitkin 1967) as well as a process of government (Urbinati 2006; McKinley 2016).

Students and scholars have, however, lacked an aggregate empirical index that would permit them to understand the extent and centrality of petitioning within the United States Congress. Several recent studies have begun to aggregate congressional petitions data to study antislavery petitioning (Carpenter and Moore 2014), the Bank War of the 1830s (Carpenter and Schneer 2015), the decline in petitioning to the Senate after the 17th Amendment (Schneer 2017), the woman suffrage movement (Carpenter et al 2018), and the relationship between the decline in the congressional petition process and the rise of the modern “administrative state” (McKinley 2018). In each case, a social movement or institutional change was associated with an increase or decrease of many thousands of petitions. Yet these studies have not offered a general understanding, spanning across time and geography, of petitioning in the Congress; nor have they taken up a systematic, quantitative approach to study petitioning by the unenfranchised. A fully institutional understanding of congressional petitioning requires comprehensive data.

Creating the Congressional Petitions Database

Here we outline the procedures we used to create the CPD, which draws on records from the *Journal of the House of Representatives*, the *Journal of the Senate*, and the *Congressional Record*. Given that

one of our primary contributions is the data itself, in the Supplementary Appendix we discuss in some depth the decisions made while gathering and processing this data.

The database assembled draws on two complementary data-gathering efforts. The first effort focused on Congress from 1789 to 1881; the second effort focused on 1882 to 1949. The first effort draws on the House and Senate *Journals*, whereas the second effort draws on a combination of the *Congressional Record* and *Journals*.⁴

Less than one week after the House first achieved a quorum, the House formalized its procedures for processing petitions (McKinley 2018). Although there exists some variation in the information included with each petition presentation, the *Journals* and *Record* usually identify the member of Congress introducing the petition, names and/or descriptions of the petitioners, where the petitioners were from, the prayer or request contained in the petition, whether the petition was initially tabled or referred, and – in case of a referral – the destination of said referral.⁵ Petitions were frequently referred to committees, but also to members of the executive branch such as the Secretary of State or the Postmaster General and to the federal courts.

The rules for how the House treats petitions have evolved minimally over time. Initially, the rules adopted in 1789 provided that:

Petitions, memorials, and other papers addressed to the House shall be presented through the Speaker, or by a member in his place, and shall not be debated or decided on the day of

⁴ Availability of data by source dictated some of these decisions; we did not have access to full digital records of the House and Senate Journals post 1882.

⁵ To “table” a petition meant that Congress would delay consideration of the petition for some period—at times indefinitely, while often for a much shorter interval.

their being first read, unless where the House shall direct otherwise, but shall lie on the table, to be taken up in the order they were read.⁶

From the Founding until the 80th Congress, the House received the lion's share of congressional petitions—averaging over 70% of all petition volume (McKinley 2018). In 1842 the House rules were changed so that petitions were filed with the clerk. For instance, Rule XII, clause 3 of the *Rules of the House of Representatives* for the 59th Congress (1905) states: “Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk, endorsing their names and the reference or disposition to be made thereof; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the *Journal* with the names of the members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record.”

In the Senate, the guidelines for dealing with petitions are outlined in the *Standing Rules of the Senate*. Similarly to the House, few if any substantive changes to the procedure for processing petitions have occurred over time. For instance, the *Rules of the Senate* in 1868 contain a section on “Morning Business, Petitions, Reports, etc.” that describes the procedure for handling petitions. The Presiding Officer calls for petitions and memorials; then,

[...] every petition or memorial, or other paper, shall be referred, of course, without putting a question for that purpose, unless the reference is objected to by a Senator at the time such petition, memorial, or other paper is presented. And before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the Presiding Officer, or a Senator, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.⁷

⁶ See McKinley 2018; see also Jefferson and Sullivan 2011.

⁷ See *Rules of the Senate of the United States, and Joint Rules of the Two Houses: Also Rules of Practice and Procedure in the Senate when Sitting for the Trial of Impeachments* (1868).

By 1913, the *Senate Manual* had not changed meaningfully with regard to petitions. The rules noted that “a brief statement of the contents of each petition, memorial, or paper presented to the Senate, shall be entered” into the *Record*. “Every petition or memorial shall be signed by the petitioner or memorialist and have endorsed thereon a brief statement of its contents, and shall be presented and referred without debate.”⁸ The same language persisted to the end of our sample period, with the 1947 *Senate Manual* including identical wording.

Given these relatively consistent practices, many petitions sent to Congress in this time period were indeed recorded. Of course some variation occurred in specific practices and rigor;⁹ however, from the Founding, members of Congress sought to fulfill their obligations to record congressional proceedings under the Journal Clause (Art. I, Sect. 5) (McKinley 2016) and therefore faithfully recorded the presentation, processing, and adjudication of petitions. Moreover, even under the infamous Pinckney Gag Rule, which required petitions on the subject of slavery to be tabled, the following onslaught of slavery-related petitions was dutifully itemized and recorded in the House Journal (see, e.g., Appendix Figure 1).

⁸ See *Senate Manual Containing the Standing Rules and Orders of the United States Senate* (1913) and the *Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of The United States Senate* (1947).

⁹ Sources have documented in great detail the breakdown of the petition process with respect to the highest volume areas of petitioning—largely pensions and claims—in the mid- and late-nineteenth century. See, e.g., Skocpol (1993) and McKinley (2018).

The method we apply to gather the petitions data relies on the fact that in recent years digitized versions of the House and Senate *Journals* and *Congressional Record* have become available. The three figures in the Appendix (Figures A-1, A-2 and A-3) illustrate snippets of text from the *Journals* and *Record*, all in machine-readable/digitized form. The text includes who presented the petition, the date presented, the petition’s subject and purpose, sender, and the location of the petition’s origin. In rare cases, the full text of the petition is printed.

To produce the new database of over 500,000 petition introductions occurring over the history of the U.S. Congress from 1789 to 1949, we constructed several automated text extraction algorithms and also used human-supervised machine learning techniques. We offer detailed descriptions of the methods used to extract and classify petitions in the Appendix, as well as performance metrics evaluating the extraction and classification procedures.¹⁰

Overall, while the data compiled are not fully exhaustive – as mentioned before, any petition missed (or elided with others as “sundry”) by the chamber clerks poses a challenge – they do permit historical comparison on a more systematic scale than any previous efforts we are aware of. The potential uses of the data are vast, but most directly they allow for an accounting of the petitioning activity directed towards the U.S. Congress and initial legislative disposition (committee referral, tabling, etc.) of the petitions. Furthermore, because each record includes a description of the petition, the data allow analysis of the issues that were the subject of petitions (e.g., observing changes in the agendas expressed through petitions to Congress) as well as tracking geographic patterns in petitioning activity over time.

¹⁰ We relied on a text classification approach similar to those used in studies of more modern phenomena such as individuals expressing themselves online. See for example King, Pan, and Roberts (2013) or King, Schneer and White (2017); we provide details of these procedures in the Appendix.

Nineteenth-Century Surges with Twentieth Century Decline: Petitioning as Central to Congressional Functioning

The data on petitions sent to the U.S. Congress allows us to present, for the first time, the ubiquity and centrality of petitioning to congressional functioning for much of the nineteenth and twentieth centuries. Figure 1 demonstrates – for the U.S. Congress – some basic empirical patterns over the course of U.S. history. The first is that total petitioning peaked in the late nineteenth century and early twentieth century and declined precipitously thereafter. The left-hand time series does not control for population, and when total U.S. population is accounted for, the peak of per-capita recorded legislative petitions to Congress in American history occurs in the early-to-mid nineteenth century, roughly 1830 to 1850.¹¹ Still, congresses averaged one petition per 10,000 population until the First World War, with a number of late nineteenth century peaks. Following the First World War, the volume of petitions begins to decline, reaching per capita levels lower than the Founding in the late 1940s.

For several reasons, it is *not* yet possible to say that the early nineteenth century was the historical peak of petitioning in general. The first is that our data do not include signatory aggregates, and so the total number of individuals signing a petition to Congress may well have remained stable or possibly may have risen. A safer conclusion is that the number of different petition documents was likely higher in the early nineteenth century than in the early twentieth century. Second, a number of areas of policy in the later nineteenth century involved applications

¹¹ The dip that occurs in the 1850s is also notable. This dip does not appear to be an artifact of our data, as a similar decline is observed in the 1850s in legislative petitions sent to the Virginia State Legislature and compiled by the Library of Virginia. It appears petitions to the Virginia State Legislature dipped by about one-third during this time period..

and claims sent to administrative agencies – such as pension claims (Skocpol 1993). The volume and importance of these claims helps us to understand Congress’ turn to administrative delegation through the course of American history, as well as evolution of the American state (Dauber 2013, McKinley 2018). Third, these aggregate figures omit a range of petitions presented to Congress after 1863-1864, when the Court of Claims was established and rendered independent (McKinley 2018).

It seems safer to conclude that *the antebellum period saw a rise in petitioning from the period of the early Republic*. After 1830 signatory lists appear to grow longer (Carpenter and Moore 2014; Carpenter 2021), and so it is far less likely that a decline in signatory-weighted petitioning somehow compensated for the rise in petition documents themselves.

In addition to ubiquity, the panel data might prove of particular interest to scholars of social movements and political organization: the Congress often received petitions in “bursts,” suggesting campaigns by organized groups over social issues of shared interest. The top left panel of Figure 1 depicts the time series of petitions sent to the House and Senate from 1789 to 1949. Several things stand out. As noted above, petitioning to Congress can be characterized by waves or “bursts” of activity, with considerable variance in petitioning year to year. The highest single peak in terms of raw number of petitions that we observe occurred during the 52nd Congress (starting in 1891); in per capita terms, we observed more than 2.5 petitions per 10,000 citizens.¹² Textual analysis reveals that a large majority of these petitions concerned issues surrounding Sabbatarianism/anti-Sabbatarianism and the World’s Fair in Chicago (religious movements wanted the fair closed on Sundays). Other issues also attracted considerable petitioning activity at this time, including petitions regarding rural free delivery, immigration, taxes, tariffs, pure food, and a variety of economic issues.

¹² In absolute terms, this amounted to a total of 21,436 total petition introductions in Congress.

On a per-capita basis, the greatest explosion of recorded legislative petitioning occurred in the early 1830s, primarily surrounding the issue of slavery (Zaeske 2003). At its height, we have records of about 5 petitions per 10,000 citizens. Carpenter and Moore (2014) show that women canvassers accounted for a disproportionate share of signatures on these documents. *Hence the endeavor of unenfranchised women helps to account for the historical peak of population-adjusted petitioning in American history.*

Also relevant to representation is the fact that one congressional chamber served as the primary site of petitioning activity. In general, the House received considerably more petitions than the Senate, an issue discussed in some detail in Schneer (2017) and McKinley (2018). A long tradition of petitioning the lower house of a legislature (Spanbauer 1993) – as well as the fact that representatives were more physically accessible to non-elites and the broader population, and that revenue bills (a common concern of these communities) originated in the House – likely explains this stylized fact (McKinley 2018). Still, more research is needed here. Finally, we note that we examine regional variations in petitioning in another paper (Authors 2020), in particular the lower rate of petitioning observed in the U.S. South.

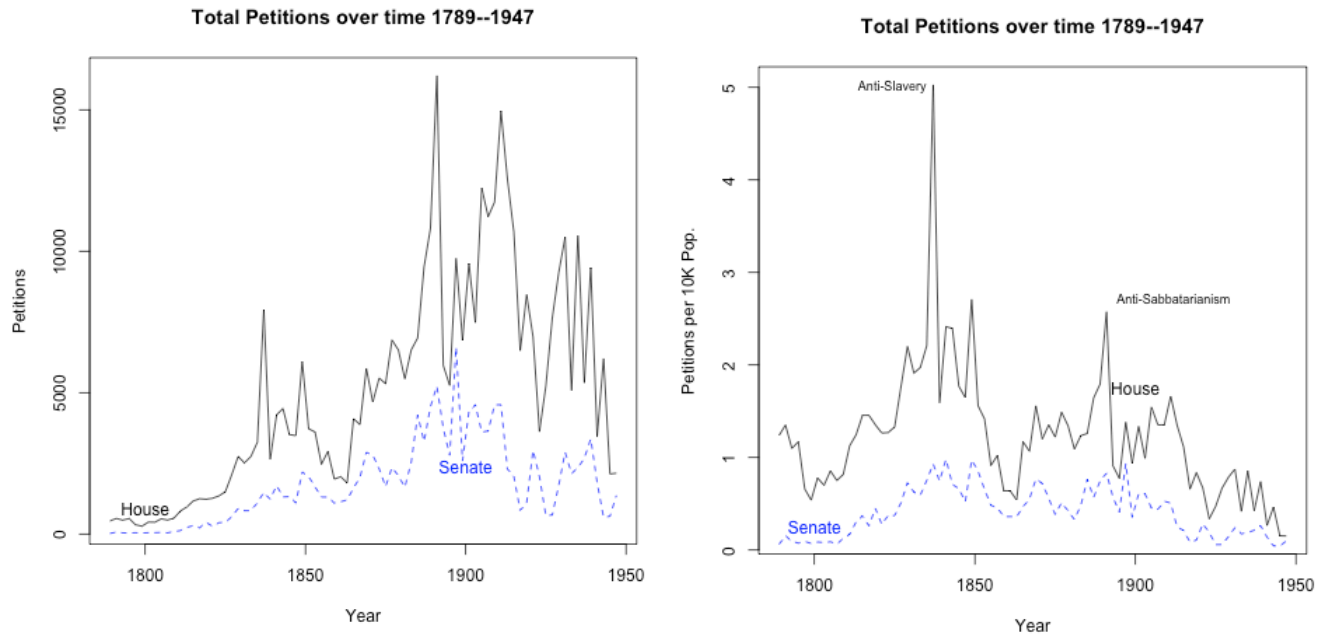


Figure 1: Petition Time Series

Analysis of Petition Topics

In order to better understand the public concerns raised in petitions, the CPD also categorizes each petition by the “topic” on which they are submitted. This is admittedly a difficult question, insofar as categories are human constructs and change over time and space. Our categorization scheme relies upon those used for cross-time, long-term studies of roll-call voting in Congress (Poole and Rosenthal 2000) and in other petition classifications (the Library of Virginia).¹³ For the purposes of graphical presentation, we then condensed the over 100 individual petition

¹³ We use the Poole-Rosenthal codes because they are designed for topics spanning the history of Congress. Alternative coding schemes, such as those used in the Policy Agendas project, are generally designed for issues that arise post-WWII.

categories into a set of 19 broad topic categories. The Appendix describes the individual categories along with the broad topic categories.

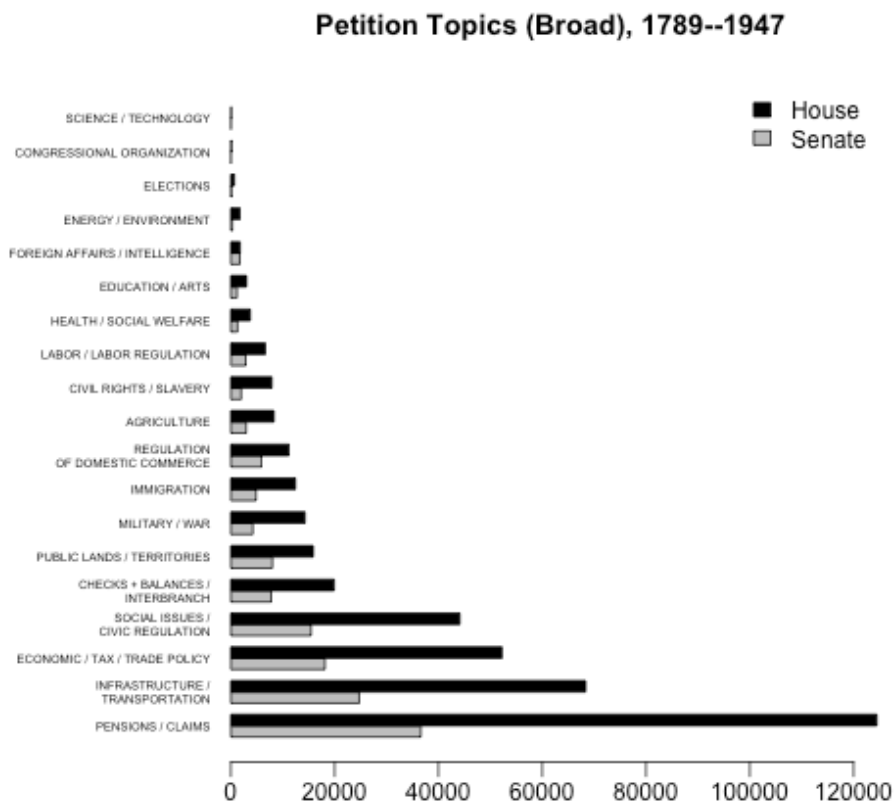


Figure 2: Petition Topics by Chamber

Figure 2 shows the relative frequency of topics for the House and Senate. For both the House and the Senate, the “Pensions/Claims” category captures the greatest share of petitions. The most frequent word stems in this category, displayed in Appendix Table A-1, confirm that the bulk of petitions here regarded pensions, relief and other forms of compensation from the federal government (see, relatedly, Moskowitz and Rogowski 2020). The keyword stems are consistent with the fact that there was considerable petitioning activity from former soldiers and widows seeking their (or their husbands’) pensions or some other claim for relief, often for natural disasters or wars

(Skocpol 1995, Dauber 2012, McKinley 2018). Other common topics include “Infrastructure / Transportation” (which includes postal petitioning (see John 1995)), “Economy/Tax/Trade Policy”, and “Social Issues”.

We also trace variation in the topics of petitions over time, presented in Figure A-4 in the Appendix. These allow for several instructive stylized facts to emerge. Some petition categories appear considerably more (or less) volatile than others. “Civil Rights/Slavery” stays constant at relatively low levels for most of the period, but is punctuated by a few extraordinarily large spikes, due in part to the 25th Congress and the massive amount of antislavery petitioning that accompanied both the gag rule as well as Angelina Grimke’s call to northern women (Zaeske 2003, Portnoy 2005, Carpenter and Moore 2014). Agriculture petitioning, by contrast, peaks much later, precisely when we might expect it to, given the populist movements of the late 1800s and early 1900s (Sanders 2000). Education/Arts and Military/War are also subjects with relatively higher levels of post-Civil-War petitioning, while Pensions/Claims, Infrastructure/Transportation, and Public Lands/Territories all decline markedly after the Civil War and are primarily antebellum petitioning phenomena, at least quantitatively.

Voices of the Voteless: Petitioning by Native Americans and Women

It is likely that the centrality and ubiquity of petitioning within the U.S. Congress was driven, at least in part, by petitioning from unenfranchised persons. From the Founding until the end of the Civil War, Congress recorded at least 10,000 petitions with primary signatories who were

unenfranchised (McKinley 2018).¹⁴ Petitions by unenfranchised primary signatories were largely submitted by women, but also by Native Americans, foreign nationals, and African Americans. Voting rights have been restricted to portions of the population across American history (Keyssar 2000), and many communities had to wait until the early twentieth century for formal extension of the franchise—until the ratification of the Nineteenth Amendment in 1920 for women and for the Indian Citizenship Act of 1926 for Native Americans. We focus upon two communities of historically marginalized and dispossessed peoples – Native Americans and women – who generally lacked voting rights, and we examine their patterns of petitioning as well as initial legislative responses to these petitions.

With respect to the congressional response to these petitions, we offer a preliminary answer assessing whether petitions by unenfranchised, politically powerless populations met with discrimination during the petition process. We examine the initial disposition of these petitions by using a simple indicator for whether Congress initially tabled a given petition.¹⁵ Other measures – such as whether the petition generated debate or became a bill – are also possible but are much more complicated to trace systematically in the records.

Last of all, we note that other disenfranchised groups, especially African-Americans, also petitioned over the course of American history. We omit study of this group because it is more difficult to trace African-American identity in legislative records of petition introductions; however,

¹⁴ This figure excludes government entities and associations, that would similarly lack the formal vote, as well as pre-Jacksonian Era white male non-landholders—who were similarly unenfranchised, but are not identified as such and are, thus, difficult to track within the historical record.

¹⁵ Congress would delay a petitions’ consideration for a period of time, possibly short or possibly indefinite, by “laying them on the table” as opposed to referring the petition to a committee, referral to Committee of the Whole or other means.

we await the development of strategies and methods for doing so. In addition, free blacks in the era before the abolition of slavery were especially likely to target state legislatures in lieu of the U.S. Congress (Gronningsater 2017; Carpenter, Griffin and Topich 2018; Jones 2020).

Native American Petitioning

The recorded petition prayers of the House and Senate generally document when the petition or memorial in question is sent from a tribe, a chief or chiefs, or some other collection of warriors, sachems, or other members of indigenous nations. Our hand coding of these petition prayers yields a *minimum* of 983 petitions sent to Congress from 1789 to 1949 by Native Nations (tribes), by a chief or chiefs, warriors, delegates, and from Native Americans who identified as Native in their petition. Table 1 lists those tribal identities corresponding to ten or more petitions in our data. An alternative coding that includes societies and missionaries plausibly acting on their behalf – as Native leaders often worked in collaboration with such groups – produces a count of 1,139.¹⁶ This count excludes many petitions that were signed by Native Americans who may have identified as Native in their petitions but where their identity was not published in the petition’s recorded prayer. Beyond this, it is well known that Native Americans petitioned administrative agencies with great frequency from the colonial period well into the American nineteenth century (Carpenter 2016b).

¹⁶ We arrived at this estimate by coding for keywords such as “*tribe*” or “*chief*” or “Indian*” in the prayer, then checking whether the prayer reliably indicates a petition sent by an indigenous nation, person or representative. We then systematically checked the list of returned items and eliminated false positives (such as petitions from the “chief engineer,” or from a place name such as “Indian Key” or “Indianapolis”), leaving only petitions from self-identified Native Americans or from intermediaries on their behalf.

Table 1: Collective-Identity Native Petitions by Native Nation (for those with Ten or More)		
Tribe	Number	Median Year of Tribe's Petitions
Cherokee (incl Eastern Cherokee)	198	1851
Choctaw	86	1850
Ojibwe/Chippewa (incl various Great Lakes bands)	78	1924
Creek (and/or Muscogee)	71	1856
Seneca (not Six Nations)	49	1850
Stockbridge-Munsee	41	1854
Chickasaw	30	1876
Wyandot	26	1862
Sioux	25	1878.5
Oneida	24	1852.5
Pottawatomie	23	1854.5
Seminole	23	1897
Miami	22	1878
Delaware	22	1874
Fox (often with Sac)	16	1849
Osage	12	1869
Sac (often with Sac)	14	1839
Winnebago	12	1890
Menominee	10	1851
Onondaga	10	1851
Odawa/Ottawa	10	1866
Notes: (1) These identities correspond only loosely to actual Indigenous groups, and are identified as recorded in the legislative journals; (2) Tribal identities often agglomerate smaller band units; (3) these aggregates represent congressional petitioning as recorded in the House and Senate Journals only; many tribes petitioned the Secretary of War and the Bureau/Office of Indian Affairs; (4) tribes and villages often petitioned together, and each appearance of a tribe upon a petition is counted separately.		

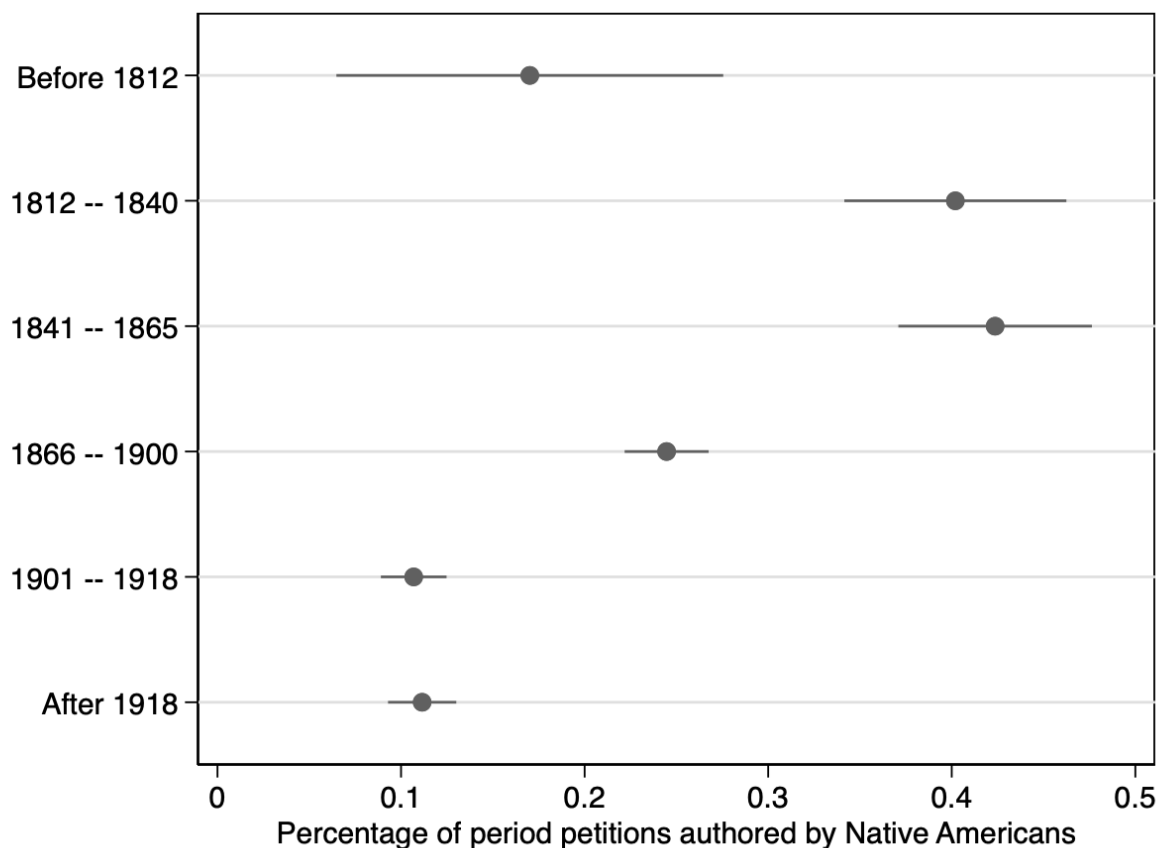


Figure 3: Relative Incidence of Native American Petitioning by Historical Period, 1789-1945

The incidence of Native American petitioning varies historically and geographically. During the peak of Native petitioning from the War of 1812 to the end of the Civil War in 1865, roughly one of every two hundred and fifty petitions (just above 0.4 percent of all petitions) coming to Congress was from a Native American individual or community. This is over double the rate of Native petitioning during the pre-War of 1812 period (Wald $F = 13.98$, $p < 0.001$), during which Native American populations were at least as large as they were during the rest of the nineteenth century. This period presents a peak in Native Nations petitioning the Congress, because it was a period of great unrest and deliberation over Indian affairs that culminated in the militarized and violent removal of many Native Nations from the South and East by the federal government.

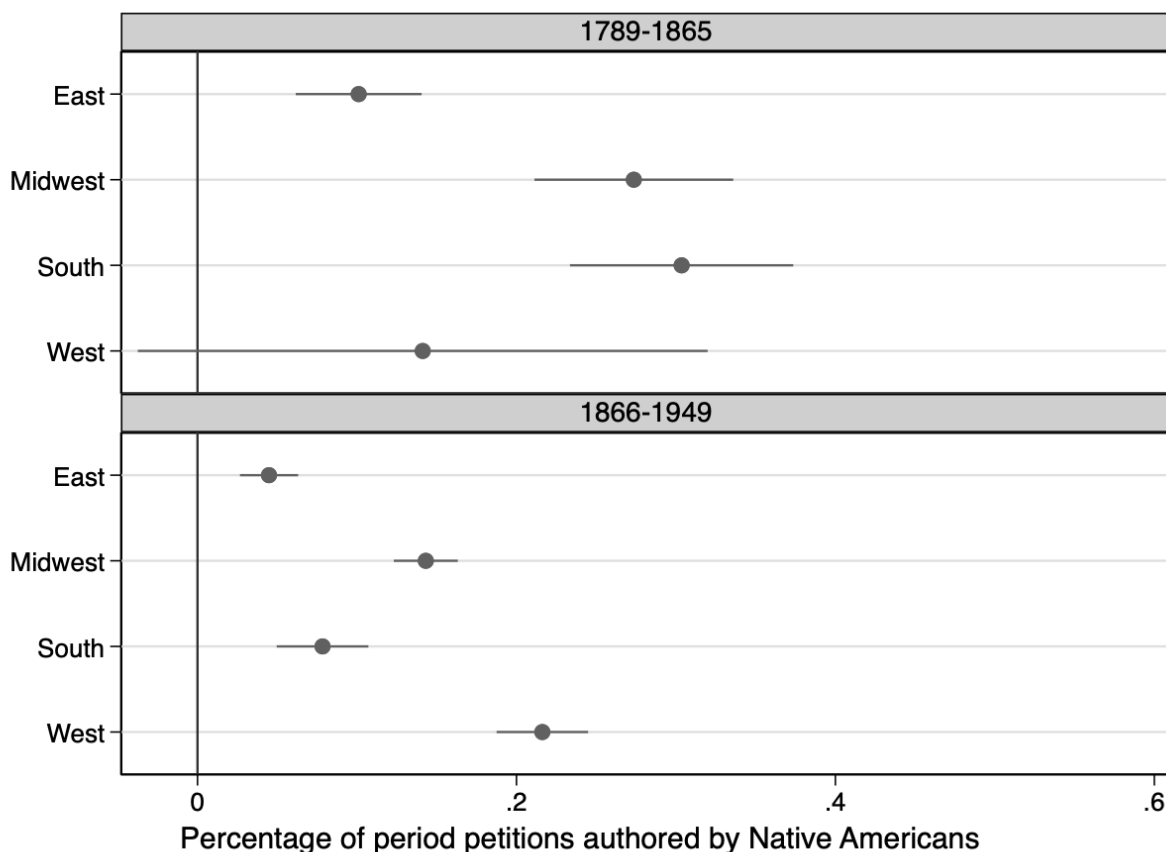


Figure 4: Relative Incidence of Native American petitioning by region, before and after 1865

The regional distribution of these petitioning patterns is characterized in Figure 4 (see also Appendix Table A-3) and supports the hypothesis that deliberation and controversy over Removal-Era policy motivated these peaks in Native petitioning.¹⁷ In general, Native American petitioning

¹⁷ The South is defined as the former Confederate States – Virginia through Florida to Texas, and including Arkansas, Kentucky, Tennessee and Missouri. West includes any state touched by the continental divide – New Mexico, Colorado, Wyoming, Montana and all states west of these, including Alaska and Hawaii. East includes all non-Southern states touching the Atlantic Ocean as well as Vermont, and this category also includes the District of Columbia and Puerto Rico. Midwest is Ohio to the Dakotas, including Nebraska, Kansas and Missouri.

was least likely to come from the northeastern states (where many Indigenous people had been dispossessed, and from which many tribes had been removed by 1800). In the pre-1865 period, Native petitions were much more likely to come from the South and Midwest. This is precisely because of the pressure for removal legally formalized in the Indian Removal Act of 1830 but which was the focus. Native Nations ranging from the Cherokee to the Ojibwe and Odawa in the Great Lakes region repeatedly approached the U.S. government during this period, asking Congress to initiate the treaty making process and honor existing treaty law provisions, and asking Congress to ensure that Presidents and federal agencies would also honor those agreements. As is well known, Congress very rarely did so. There are, however, illustrative cases in which Native American petitions to Congress coincided with new treaties and the alteration or amendment of treaties in which Natives were able to gain back some of their lands (such as the Seneca Nation) or acquire new reservations (Ojibwe and Odawa in Michigan or Gros Ventre in Montana) (Hauptman 1999; Morgan 2009; Carpenter 2021).

Although the substantive outcomes to petitions by Native peoples were a mix of success and failure, like all other petitions, the question remains whether petitions by Native people were treated differently from non-Native petitioners? For example, did legislative clerks accurately and faithfully record Native petitions? We have conducted a thorough review of Native American petitions in the House of Representatives Records in the National Archives from the Ninth Congress (1807-1809) to the Twenty-third Congress (1833-1835). There are nineteen petitions that we can identify as coming from individual Native Americans that are in the Archives but not in the legislative journals and hence not in the CPD. The prayer may not have recorded their names, and their identity as Native Americans may have eluded legislative clerks. However, whenever a group of Native Americans represents themselves as from a Native Nation, as the chief or chiefs or “head men” of a tribe, or as subscribers from a named tribe, we can code whether the petition came from a collective

that named their tribal identity. There are 42 such cases in the House Archives from the Ninth to the Twenty-Third Congress, and *every such case – forty-two of forty-two petitions – is reported in the Congressional Petitions Database* (see Appendix Table A-4). Every such case also arises as a petition submitted by a Native petitioner under our coding rules. In this sense, our data matches well with known Archival counts.

Petitioning by Women

Women also petitioned the Congress regularly from the Founding onward, often driving massive petitioning campaigns and shaping political discourse writ large well before the Nineteenth Amendment universally extended them the franchise. (Despite the persistence of a “Petticoat Electorate” in New Jersey until 1808, this means roughly from the Founding to the early twentieth century and, on a universal basis, the ratification of the Nineteenth Amendment in 1920.) To construct measures of women’s petitioning to Congress, we examined the text string produced by our algorithm for “petitioner” and located three sets of strings. The first, which measures women’s identities not expressed in any familial capacity, includes “ladies*,” “woman*,” “women*” and “female*.” The second adds to this count familial identities such as “widow*,” “wife*,” “wives*,” “mother*,” and “daughter*.” The third codes the presence of female names for the petition’s primary signatory as identified in the U.S. Census (IPUMS). The results of this exercise show that roughly one of every two hundred recorded petitioners (0.5%) was described by legislative clerks as women using generic terms, about 1.5 percent using familial terms, and fully seven percent using names. Women petitioned using general and familial terms to identify themselves more commonly before the 19th Amendment than afterwards, whereas non-generic references using proper names

were more common after the 19th Amendment than before. Clearly these patterns merit further analysis.

This exercise necessarily excludes women who petitioned as “citizens” or “inhabitants” but who were not described as women in any way by legislative clerks recording the petition. Since clerks tended to follow petitioners’ self-description, however, whatever changes occur over time likely have more to do with the identity of the petitioner (or the self-expression of that identity) than they do with any changes in recording practices. Thus, the numbers we report entail minimum estimates and can be productively enhanced and refined by other measurement strategies. Yet the estimates show that petitioners’ self-presentation as women occurred commonly throughout American history and remained roughly as common after universal woman suffrage as before (Table 2).

Table 2: Women’s Identities Explicitly Expressed in Petition Prayer Introductions, U.S. Congress, 1789-1949			
	Generic Identities (Woman/Women, Ladies, Female(s))	Include Familial Identities (Mother(s), Widow(s), etc.)	Include Census- Identified Female Names (incl. “Mrs.,” “Ms.,” “Miss,” etc.)
Overall (N = 537,148 petitions)	0.51%	1.56%	7.07%
Before 19 th Amendment (N = 389,880 petitions)	0.53%	1.87%	6.10%
After 19 th Amendment (N = 147,268 petitions)	0.49%	0.74%	9.64%
Note: Measures are inclusive, such that each columns represents a measure that includes the measures to its left.			

We conducted descriptive regression analyses of the relative incidence of women’s petitioning across period and across region. The dependent variable in a given regression is the binary event that a given petition comes from women, as identified through generic identities (woman/women, ladies, Figure 6 and Appendix Table A-8), generic and familial identities

(wife/wives, mother, etc., Appendix Table A-9) or all women's identities (including census-based name identification, Figure 6 and Appendix Table A-10). The measure sacrifices the possibilities of a per-capita measurement (state fixed effects are used to control for static differentials, though of course state populations are growing at different rates) but has the virtue of controlling for regional and historical variations in overall petitioning. Put differently, men's petitioning serves as a kind of control for a set of conditions (economic, cultural, religious) that may be shaping women's petitioning at a given time or place. If the male-female ratio does not differ heavily across states (it did so primarily in the Western states before 1900—but note that our pre-1865 and post-1865 regressions below have state fixed effects), then this measurement strategy also amounts to a rough control for population.

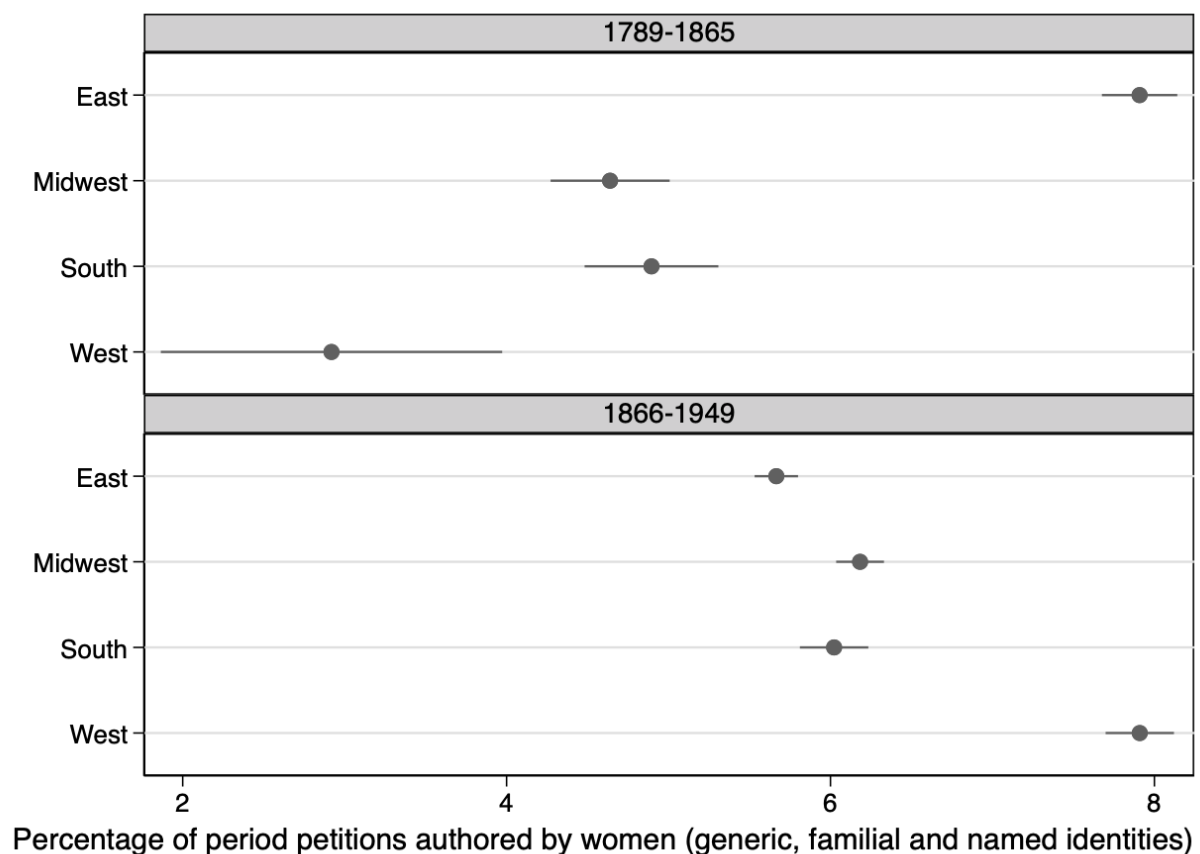


Figure 5: Women's all-identity petitioning by region, before and after 1865

We begin with our most general measure of all women's petitions. The incidence of women's petitioning is regressed on region for two different time periods, with results in Figure 6 (corresponding fixed-effects regions and logistic regressions appear in Appendix Table A-10). Here we observe the striking geographic shifts over time. Before 1865, the West is less likely to see women's petitioning (odds ratio = 0.3503). From 1865 to 1949, however, it is the highest petitioning region for women (odds ratio = 1.4206). These measures correspond to a surge in women's political activity in the Western states, an empirical generality noted by scholars in history and political science (Flexner and Fitzpatrick 1996, Teele 2018, Carpenter et al 2018). Overall, the western states account for a disproportionate share of women's petitioning in American history.

This all-inclusive measure of women's petitioning, however, elides some other fascinating patterns. During the antislavery, anti-Indian-Removal and suffrage campaigns, American women petitioners often referred to themselves using generic and non-familial identities ("the women of Ohio," for instance). This "generic-identity" women's petitioning peaks in the "antebellum" period (after 1812 but before 1865). The rate is 2.8 percentage points above that of the early Republic (1789-1811), and roughly two percentage points above the rest of American history to 1949. From these estimates we can offer two conclusions. First, women petitioning collectively in their identities as women appear to have done so more after the Early Republic, with a peak during the antebellum period (which corresponds to the antislavery mobilization). Second, women petitioned using their individual names most commonly during the antebellum period and the post-1918 period. The latter may have something to do with the 19th Amendment and woman suffrage, but further explorations are necessary.

Table A-8 presents results for models regressing an indicator for those petitions labelled only with collective/generic women's identities (e.g., the women of Ohio). We limit the sample to those

407,702 petitions with a reliable state or sub-state geographical identifier. Here the results present one steady pattern. Women's petitioning using generic identities is consistently and strikingly lower for the American South (controlling for the border South states of Kentucky, Missouri and Tennessee).¹⁸ In the antebellum period, *a petition from the South is, ceteris paribus, thirty-six times less likely to be a petition from a woman or women than is a similar petition from the East* (odds ratio = 0.0275). This pattern shows the striking demobilization of a minority group (in this case, women) in Southern petitioning before the Civil War (Carpenter 2021). Meanwhile, generic women's petitioning in the West and Midwestern states is lower than in the East before 1865 but about even with the East after 1865 (odds ratios not strikingly different from one).

¹⁸ These findings change little when we include the border South states in the South, or exclude Missouri from the border South states.

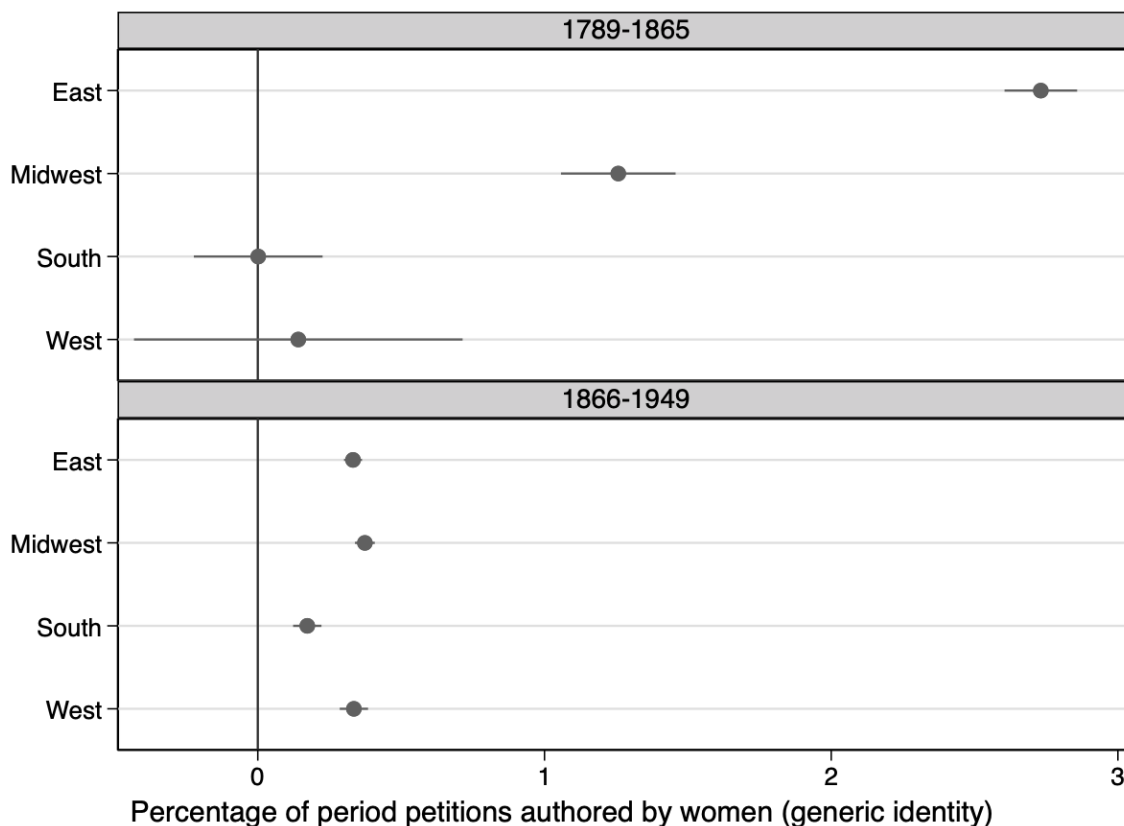


Figure 6: Women's collective identity petitioning by region, before and after 1865

Did Petitions of the Unenfranchised Receive Equal Process? Initial Evidence from Tabling

Finally, to assess whether petitions from unenfranchised groups were tabled more or less than others, we regress an indicator variable for a petition being tabled on variables indicating whether the petition was authored by Native Americans or women, along with fixed effects for topic and Congress (97 topics and 80 congresses) (see Table 3). While 3.2 percent of the entire sample was initially tabled, only 1.6 percent of the Native American petitions were tabled, a reduction in tabling rate by half that is statistically significant ($p = 0.02$). The same regression shows that women's petitions were slightly less likely to be tabled than average (with a difference of 0.27 percentage points), but this difference is not statistically distinguishable from zero. Overall, these results suggest with considerable confidence that, in terms of initial tabling, neither Native American

nor women's petitions were more likely to be dismissed by Congress than petitions sent by all others (e.g., white native-born males).

Table 3: Differential Initial Tabling Probabilities of Native American and Female Petitioners	
Variable	
Native American petitioner	-1.63% (0.69)
Female petitioner	-0.27% (0.55)
Note: $N = 537,022$ petitions. Estimates retrieved from linear probability model with 97 topic-based fixed effects and 80 congress-based (temporal) fixed effects. Robust standard errors in parentheses, clustered by petition topic. Native American petitioner and female petitioner estimated jointly. R-squared = 0.12.	

Two other patterns may complicate this picture, however. The first is the gag rule of 1836 to 1844 (Meinke 2007, Jenkins and Stewart 2020). If we focus only on the gag rule period (roughly 1836 to 1844 in the House) and restrict the sample to observations in that time period, then generic-identity women's petitions were *more* likely to be tabled, though still not at statistically significant levels ($p = 0.11$). This shift suggests that the gag rule did amount to a squelching of women's voices, but it is worth noting that women redoubled their efforts in response to this gag and transformed petitioning as a result (Zaeske 2003; Carpenter and Moore 2014; Carpenter 2016a). More broadly, the procedural deference afforded women's petitions likely reflects the fact that thousands of widows were petitioning for pensions and benefits and that Congress accorded high significance to these requests (Collins 2013). Second, we cannot currently remark with confidence on whether petitions submitted by women or Native Americans led to different outcomes in terms of bill introduction or, conditioned on bill introduction, conversion of bills into statutes. The initial tabling measure is meaningful (it picks up the mass tabling decisions of the gag rule) but does not capture other inequalities embedded in the legislature process, which are an appropriate subject for further research.

Conclusion

For much of this Nation's history, the franchise was wielded by only a privileged few within our democracy. Belying their seeming politically powerless status, recent historical work has shown that the unenfranchised played a greater role in the development of American government than previously recognized (Jones 2018). Petitioning comprised the primary formal means by which these communities expressed their political voice, engaged in the lawmaking process, and shaped American political institutions. Despite this centrality, petitioning remains understudied, particularly at the national level and particularly in the aggregate.

This study provides support for the ubiquity and centrality of petitioning to congressional functioning and begins to articulate the contribution and experience of unenfranchised petitioners. Our analyses are based upon the largest effort to catalog petitions introduced to Congress to date, drawing upon legislative petition introductions and a supervised algorithm to extract petition counts for the history of Congress from 1789 to 1949. Our estimates point to over 537,000 petitions introduced to Congress during this period. While legislative clerks may have missed many petitions introduced, our algorithms capture many thousands of petitions introduced by minority communities and succeed in documenting all petitions sent to the House by Native Nations from the 9th through 22nd Congresses.

Drawing from these data, we are able to see the full landscape of congressional petitioning, including its ubiquity and centrality along with the voice of the voteless. First, on a document-by-document basis, American petitioning peaked in the nineteenth-century on a per-capita basis, especially during the turbulent 1830s and 1840s with multiple political movements, the emergence of slavery as a divisive issue within and across states and the leadership of unenfranchised women in mass petitioning. Second, petitioning remained central to the congressional lawmaking process well

into the twentieth century. Petitioning did not experience a uniform decline in the nineteenth century. Instead, it had several peaks, and at the national level did not drop off appreciably until after the First World War, reaching per capita levels lower than the Founding period in the late 1940s.

Third and most important for our purposes, the unenfranchised leveraged the ubiquitous and central process of petitioning on equal footing as other petitioners, and without the notable formal discrimination they experienced at the ballot box. By contrast, they were afforded process similar to franchised petitioners. Using a measure of petitions to the U.S. Congress from Native Nations, roughly 1,000 such petitions were introduced on the floor of one or both chambers of the Congress. (As studied elsewhere, Native Americans also petitioned the U.S. President and, much more commonly, administrative agencies and officials, so this represents but a smaller portion of their petitioning activity.) And women petitioned Congress regularly from the Founding period onward, as their collective and individual identities as women (not counting women's names) appeared on roughly two percent of all petitions sent to Congress before the ratification of the Nineteenth Amendment. Petitions by both women and Native Americans were not tabled at a statistically significant rate higher than petitions submitted by enfranchised petitioners—providing support that the procedure afforded petitioners was on equal footing.

Despite the contributions that these observations contribute to our understanding of the Congress, the lawmaking process, and the political power leveraged by the unenfranchised, much more remains to be done with the data. First, these data could be linked to historical patterns of bill consideration (including voting), hearings and reports, and other measures of constituent activity (at the state, territory, district, county and township levels). One interesting question might well be how often particular state legislatures petitioned Congress, which would permit a comparison across North American sovereignties and their petitioning to Congress. Another important question would

be whether petitioners were more likely to take their case to Congress or to the state legislature for similar requests, or whether Congress and state legislatures served as supplements as much as substitutes in terms of venue.

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