Presidential Vetoes in the Early Republic: Changing Constitutional Norms or Electoral Reform?

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1. Introduction

Today it is generally recognized that the presidential veto plays an important role in the legislative process. The threat, either implicit or explicit, that a president will refuse to affix his signature to legislation is believed to influence policy outcomes (McCarty and Poole 1995, Krehbiel 1998, Cameron 2000). Beyond its direct effect on policy, veto politics is also believed to play an important role in defining partisan policy conflicts for the electorate (Gilmour 1995, 2001; Groseclose and McCarty, 2000). However, the work of many historians and political scientists suggests that the veto developed these modern functions relatively late. The author of a recent study of the veto makes the following characterization:

> As with virtually every other power enumerated in the constitution, the veto power evolved over time as experimentation, circumstance, and cumulative precedent combined to give the power its actual shape, especially as to its frequency, and other conditions of use (Spitzer, 1988).

The basis of such claims is that the veto was used sparingly, if at all, during much of the 19th century. Perhaps the most common explanation of the infrequency of vetoes focuses on norms surrounding the constitutionally legitimate exercise of executive power. Many scholars have argued that early presidents and legislators viewed the veto prerogative very narrowly (Binkley 1947, Black 1976, Remini 1967, Spitzer 1988, Skowronek 1993, Watson 1987, White 1956). Under the norms of the day, the veto was not considered a legislative power of the president. Rather, the doctrine of separation of powers held that the veto was primarily an executive or judicial function. Its executive role was two-fold. First, it protected the president from encroachments of the legislature. The second was to give the president the opportunity to reject bills so poorly or hastily

drafted that they could not be effectively executed. Alternatively, the veto's judicial dimensions were such that it was to provide an opportunity for the president to prevent the enactment of unconstitutional laws. Accordingly, the veto could only legitimately be applied to legislation that was clearly unconstitutional, encroached on executive power, or was badly drafted. The "modern" conception of the veto -- a tool to defeat or modify legislation that the president finds objectionable on policy grounds -- was considered to be antithetical to the separation of powers, republican government, and legislative supremacy. Thomas Jefferson's advice to President Washington over a bill chartering the Bank of the United States seems to suggest such a restricted view:

> unless the President's mind on a view of everything which is urged for and against this bill, is tolerably clear that it is unauthorized by the Constitution; if the pro and con hang so even as to balance judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. (Quoted in Bass 1972 and Watson 1987).

Adherents of this view suggest that these norms did not breakdown until the administration of Andrew Jackson. Two of his vetoes, the bill creating the Maysville Road and legislation to recharter of the Bank of the United States, are claimed to represent the first two serious violations of the constitutional proscriptions. In the words of Jackson's biographer Robert Remini:

> [Jackson] stretched the veto power and claimed the right to block legislation for reasons of policy or expediency rather than constitutionality. Thereafter, Congress carefully considered the presidential will in all legislation in order to avoid a possible veto. Next, he broadened the political power base of the presidency by taking the Bank issue to the people and winning an overwhelming victory in the presidential election of 1832. Thereafter, Jackson did not hesitate to claim an augmentation of executive authority by virtue of his victory at the polls...Jackson widened the president's responsibility to include all the people, a necessary acknowledgement if he was to draw political strength from their support when he tangled with Congress. Moreover, he advanced the concept that the President is

> the direct (and sole) representative of the people, a revolutionary concept for its time. (pp.177-178)

Thus, Jackson not only blocked legislation that he opposed as a matter of policy, but he also asserted an absolute right to do so on the basis of his representation of the "people." Recently, Stephen Skowronek has written that these actions made "a mockery of the premier operating principal of the Jeffersonian regime -- executive deference to the legislature" (1993 p. 172).

This constrained view of the executive veto has continued to play a role in modern jurisprudence of the separation of powers. In his partial dissent in Buckley v. Valeo, Justice White wrote that the veto's aim was not "another check against poor legislation" but to "shore up the Executive Branch against ... the overweening power of legislators."[1]

Nevertheless, other scholars have questioned the salience of these constitutional norms in proscribing the aggressive use of the veto (Bass 1972, Fisher 1985, Jackson 1967, and Moe 1987). They reject the notion that vetoes grounded in policy disputes were contrary to the intent of the framers nor inimical to the true views of 19th century presidents and legislators. Vetoes were rare due to a number of other factors such as politically-weak presidents, the availability of other methods of presidential influence, and a simple lack of legislative activity. Bass suggests

> ...if the veto was used sparingly, other factors than conceiving the veto as a limited power had their influence. With fewer demands for legislation, bills were drafted with greater care and consideration than prevailed in later years, giving early presidents less cause to use the negative. While the quality of bills was higher, quantity was lower, lessening the need to employ the veto. (p. 89)

[1] Buckley v. Valeo, 424 U.S. 1 285 (1976).

To make the case that constitutional norms played but a small role, these scholars point to early vetoes that were not justified on either grounds of constitutionality or of legislative encroachment. They point to Washington's rejection of a military reduction bill and Madison's rejection of the national bank charter as vetoes justified by few if any constitutional issues.[2] Furthermore, they argue that many of the constitutional objections accompanying other veto messages were little more than window dressing for underlying policy objections.

Despite substantial scholarly attention, this debate is far from resolved either in terms of why the veto was rarely used or what implications, if any, we might draw about executive-legislative relations in the early republic. Empirical work to date has focused exclusively on analysis of presidential veto messages and the statements, often self-serving, of presidents and legislators. Neither the norms hypothesis nor any of its alternatives has been subjected to rigorous tests. Rather than draw testable inferences from the underlying hypotheses, the debate has focused solely on the significance of perceived departures from the posited norms.

In this paper, I add to this debate by providing my own argument about why usage of the veto changed over time. This argument is loosely based on my previous work with Tim Groseclose on the role of an attentive electorate on political bargaining. In that paper, we argue that the primary cause of presidential vetoes (at least on important legislation) is the incentive of legislators and presidents to use veto bargaining to define issue positions before the electorate. I argue here that changes in the electoral environment of the presidency, in particular increasing popular participation and

[2] However, those who argue the centrality of constitutional norms have countered that these vetoes were justified by executive concerns over how the policies would be implemented, thus falling well within the

declining influence of political elites in presidential elections, enhanced the incentives to engage in "blame game" politics. As a result, the use of the veto increased, and it became increasingly tied to electoral politics and partisan policy conflicts. Thus, while agreeing that the nature of veto usage changes in the 1820's, I argue that these changes resulted from a democratization of the presidential office, not the breakdown of constitutional norms. However, I also argue that the changes that occurred were limited only to the frequency of veto usage, not to the role of the veto in shaping legislative outcomes. Below I provide both qualitative and quantitative evidence that pre-Jacksonian presidents had about as much impact on legislative outcomes as subsequent chief executives.

The paper proceeds as follows. In the next section, I provide a brief history of the veto from the colonial era to the ratification of the Constitution. This discussion is designed both to provide background and to assess claims that the Constitution proscribed vetoes based on policy disagreements. Section 3 reviews the evidence about the justifications provided in veto messages. As will become clear, this evidence is quite mixed, suggesting the need for more rigorous empirical tests. Sections 4 and 5 provide a framework for providing a counterfactual of pre-Jacksonian veto usage under more contemporary patterns of behavior. To this end, Section 4 reviews recent theoretical work on the veto, including Groseclose and McCarty's blame game model. In section 5, the predictions of these models are used to specify an empirical model of veto usage from 1829-1998. Three findings of this section provide key support of my arguments. First, veto usage is systematically lower before 1829 even when controlling for the factors that have previously been purported to explain the difference. Second, the patterns of veto usage are systemically different prior to 1829. It is not simply fewer vetoes, but those

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range of legitimate uses.

that occur are inconsistent with the predictions of the empirical model. Finally, and most importantly, the empirical model illustrates the importance of electoral politics in generating vetoes in the modern period.

After addressing the issues surrounding the usage of the veto, I turn to an analysis of the consequences for presidential influence on legislation. A reasonable interpretation of the constitutional norms hypothesis is that presidents had less impact on legislative outcomes prior to Jackson's vetoes than after. I test this hypothesis in two ways. First, I closely examine the passage of the Missouri Compromise over Monroe's presumed opposition, an example scholars have often used to demonstrate executive weakness perpetuated by the constraining norms. Second, I develop an empirical model of the probability that legislation opposed by the president passes the House of Representatives. If the norms hypothesis is correct, this probability should have been higher before 1829. It was not, suggesting that only the frequency of veto usage changed, not its effect on policy outcomes.

2. Executive Power and the Constitution

The executive veto was not a popular institution during the colonial era. As Gerhard Casper (1997) has written, the most notable feature of revolutionary state constitutions was the dependence of the executive on the legislature. In most states, the executive was chosen by the legislature for very short terms in office and given authority narrowly confined to administrative matters. A number of hypotheses have been put forward as to why these constitutions so severely constrained the executive. First, American colonists were long frustrated by the perceived abuses of royal governors in

using vetoes to extract concessions from colonial legislatures, including increases in their personal salaries (Moe 1987; Watson 1987). In addition to those vetoes, colonial legislation was also subject to a veto (actually repeal) by the Board of Trade and Plantations of the Privy Council in London (Moe, 1987). This negative was used on almost 500 colonial acts between 1696-1782 (Russell 1915). Given these frustrating experiences, the colonists proved extremely receptive to arguments in favor of legislative dominance. Thus, an anti-executive sentiment manifested itself both in provisions for weak or non-existent executives in the new state constitutions and in the lack of a national executive under the Articles of Confederation.

However, this era of legislative dominance did not last very long. In 1776, South Carolina gave its governor an absolute veto, but those provisions were repealed two years later (Thorpe 1909; Watson, 1987; McDonald 1994). In New York's 1777 constitution, a qualified veto was granted to a council of revision consisting of the governor and members of the state judiciary. In 1780, Massachusetts adopted the form that was later to prevail at the Federal Convention, a qualified veto subject to 2/3's override in both houses. While those provisions generated a large amount of controversy during the ratification of that charter (McDonald 1994), they become a blueprint for constitutional revisions in other states. According to historian Gordon Wood,

> The Massachusetts constitution of 1780 not only had a direct influence on the New Hampshire Constitution adopted in 1784 but it seemed to many in the 1780's to climax a second wave of state constitutional construction. In its structure at least, it came to represent much of what reformers in other states desired for their own constitutions -- a strengthening of the governor at the expense of the legislature, particularly the lower house. The executive power, as the New Hampshire constitution of 1781 declared in defense of its proposed constitution, had become the active principal of all governments: it is the soul, and without it the body politic is but a dead corpse. (p. 435)

Delegates to the constitutional convention were aware of the deficiencies caused by weak executives, and they generally agreed that steps should be taken to create a more powerful and independent national executive. Given this consensus, the key debates about the executive power were less about ends than about means. The key problem they faced was how to create an office that would be seen as legitimate by an electorate who viewed executive power with some suspicion, yet at the same time would be empowered to vigorously execute the law. The veto provisions were an important component of this balancing act. At one extreme, provisions could be made too strong and become a source of opposition at the ratifying conventions. Others also feared that prerogatives might be made so extensive that presidents would be unwilling to use them for fear of public censure. However, diluting the provisions would transform the presidency into little more than a legislative agency.

At the convention, debate on the veto focused primarily on two key issues. The first focused on the ease with which Congress could override the veto while the second concerned whether the president should be able to act unilaterally or whether the prerogative should be given to a council of revision of which the president was but one member. The issue of the supermajority for legislative override was relatively straightforward, pitting advocates of stronger executives against those more fearful of executive power. While Alexander Hamilton argued for an absolute veto, the majority sentiment ranged from a 2/3s to 3/4s override depending on the current status of other provisions for presidential powers and tenure in office. While the convention was working under the assumption of a shorter presidential tenure, electoral dependence on Congress, and an active role of the Senate in executive matters, the 3/4s override was

more popular. When these provisions were eventually abandoned in favor of longer terms, eligibility for reelection, electoral independence, and a smaller role for the Senate, a consensus for a 2/3s override was cemented. This reduction in the override supermajority was intended to offset the dramatic expansion of executive power over the last few weeks of the convention.

The debate over a proposal to adopt a New York-inspired council of revision provides some insight into the intentions of the founders. A proposal that the veto prerogative be shared with the Supreme Court was made at a time when the convention had tentatively agreed to a qualified veto which the president could invoke unilaterally. However, this was not an attempt to weaken the executive. This measure was supported by two advocates of a strong executive, James Madison and James Wilson. Their advocacy was based on the premise that veto was an important instrument of executive influence over legislation (Rakove 1997). Supporters of the proposal argued that the veto was not simply intended to resist legislative encroachments. Virginia's George Mason argued that it must be used to prevent "unjust and pernicious laws." Governuer Morris added that the veto was necessary to make the president "the guardian of the people, even of the lower classes, against legislative tyranny, against the Great & the wealthy who in the course of things will necessarily compose the legislative body" (both quoted in Rakove 1997). Their support for the council was due to their doubts that a single individual would have the political wherewithal to oppose legislative majorities. A council, on the other hand, would be better positioned to generate political support for its challenges to the legislature. This would make the veto more credible as a counterbalance to legislative dominance.

Nevertheless, the opponents of the council veto did not focus their criticism on the breadth of the veto power advocated by Madison, Wilson, and Morris, but they concentrated primarily on whether judicial participation was consistent with the separation of powers (Rakove 1997). They argued that participation in the drafting of laws compromised the judicial function of interpreting the laws. Eventually, Madison and Wilson's motion fell 4 states to 3 with 2 divided. Given the tenor of the debate, it is reasonable to conclude that the rejection was of the form of the veto rather than its scope.

Importantly, no effort was made at the convention to explicitly narrow the scope of the executive veto. Furthermore, the ratification debates also do not suggest a consensus for a limited scope. Contrary to the perception that executive power was soft-pedaled during ratification, Hamilton asserted boldly that the veto

> ...not only serves as a shield to the Executive, but it furnishes an additional security against the enaction of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body.

Unless one asserts that Hamilton maintained a one-to-one correspondence between "improper" and "unconstitutional", this statement seems to open the scope entirely to the president's personal views of public policy. While much has been made of Hamilton's argument that the veto would be used as sparingly as had the royal prerogative of the British king, he also asserted that

> Instead of an absolute negative, it is proposed to give the Executive the qualified negative... This is a power which would be more readily exercised than the other. A man who might be afraid to defeat a law by a single VETO, might not scruple to return it for reconsideration; subject to being finally rejected only in the event of more than one-third of each house concurring in the sufficiency of his objections... In proportion as it is less likely to offend, it would be more apt to be exercised; and for this reason in may in practice be found more effectual.

In spite of the role of legislative dominance in the doctrine of the opponents of the constitution, there was little if any direct criticism of its veto provisions (Moe 1987). While the Anti-Federalists found many faults with the proposed constitution, the provision that allowed an executive to challenge the judgments of as many as 2/3 of the legislature was not one of them.

3. Vetoes in the Early Republic

Although constitutional proscriptions on veto usage did not arise from the framing and ratification of the Constitution, it is not yet possible to dismiss the norms hypothesis completely. An alternative explanation is that executive restraint developed as a constitutional principle as precedents were established during the first presidential administrations. It was well understood by President Washington and others that his behavior in office was likely to determine how future presidents used their prerogatives. Even such trivialities as the use of titles and the proper protocols for socializing were heavily scrutinized for the ways in which they would effect future presidents. The use of the veto was no different.

There were numerous debates within Washington's cabinet about the proper scope of the veto. Most members wanted him to use the veto aggressively to establish a precedent. Jefferson, perhaps the least sympathetic to a strong presidency, went so far as to suggest that he seek out bills to veto. In the end, Washington only used the veto twice and the first one coming three years into his term (see Table 1). The first bill concerned

apportionment of the House of Representatives. In Washington's view the plan was clearly unconstitutional as it was so heavily biased towards the northeast that it constituted a de facto repeal of the 3/5's Compromise. That the first veto came only after three years and was generally agreed to be a flagrant violation of the constitutional bargain may have helped to establish the principle of a veto power limited in scope. However, Washington's second veto message contained little constitutional analysis. When Congress voted to reduce the army by mustering out two companies of light dragoons, Washington objected on several grounds. Some of these may be safely categorized as relatively minor administrative details such as legality of paying the troops between their legal and actual discharge dates. However, Washington pointedly argues that these companies were needed to secure the frontier against Native Americans, a clear policy disagreement.

As Table 1 points out, the other vetoes of the era were also justified by a mix of objections. Some clearly dealt in constitutional issues such as the vetoes concerning church-state relations and the veto of a plan to allow Supreme Court justices to try cases in district court. Yet others were based primarily on policy objections. Madison vetoed the charter for the Second Bank of the United States because the mechanisms for political control were deemed insufficient and a naturalization law which provided too many incentives for fraud.

Categorizing other vetoes is even more difficult, because it is hard to discern whether the stated constitutional objections are sincere or whether they essentially repackaged policy differences. The two internal improvements vetoes raise constitutional objections that were inconsistent with settled doctrine. Madison vetoed an internal

improvements bill on his last day of office with the objection that Congress lacked the power to promote such projects. However, Jefferson, with Madison in the cabinet, had earlier signed the bill authorizing the building of the Cumberland Road and Madison as president signed appropriations for building extensions of the road (Bass 1972). When Monroe later vetoed legislation for federally collected tolls on the Cumberland Road, his veto message hinged on a tortured distinction between Congress's right to appropriate money for roads and its right to administer internal improvements. That Madison and Monroe felt compelled to use constitutional language might suggest to some the importance of the restrictive norms. On the other hand, it may simply show how easy it was to gussy up policy disagreements with the language of constitutionalism. With standards for constitutional analysis so low, the norms hardly seem constraining.

Insert Table 1 Here

More evidence bearing on the norms hypothesis can be obtained by looking at congressional responses to the vetoes. For much of the 19th century, Congress felt obliged to take recorded votes on motions to override on every regular veto. If legislators sought to maintain a norm of legislative supremacy, we ought to see this reflected in greater support for the motion to override the veto than for the original bill.[3] From the last column of Table 1, we find scant evidence that legislators may have sought to punish the president by overriding his veto. In fact, there is but one case in which the motion to override get even 50% support, suggesting that many members who supported legislation voted against the override motion. Only one override vote seems roughly consistent with

the norms hypothesis -- Washington's veto of the Army reduction bill. However, while there was no recorded final passage, an amendment to restore the dragoon companies failed 18-64. Thus, Washington's 40% support on the override was almost double the 21% support for restoring the dragoons prior to his veto. So it seems unlikely that Congress tried to use its override authority to enforce a norm against policy vetoes.[4]

A final piece of evidence also suggests the absence of the restrictive norms. If the ideological commitment to legislative supremacy that underlay the norms was strong, one would expect to see it reflected in the constitutions of new states and in the revisions to existing state charters. To the extent that citizens wanted to constrain the legislative influence of their governors, they should have withheld the veto or restricted its scope. The evidence from the constitutions adopted during the early 19th century completely undermine this view. Figure 1 provides the number of states in which the governor had some form of veto power and the number of states in which he did not.[5]

Insert Figure 1 about here

Note that the modal pattern shifted dramatically towards the veto over this period. In fact, no state dropped its veto provisions. From 1800 to 1850, 34 state constitutions were adopted, including those of new states and revisions of old charters. Only two states, Illinois and Ohio, entered the union with a constitution lacking an executive veto, while four states (Maryland, Delaware, Rhode Island, and Virginia) adopted new

[3] Krehbiel (1999) also uses comparisons of final passage and override votes to measure presidential influence in the post-WW II era.
[4] The published House debates on the motion to override focused solely on the merits of Washington's objections, not his right to veto legislation (Annals of Congress, 4th Congress, 2nd Sess. pp. 2331-2332.)
[5] This data is collected from Thorpe (1909).

constitutions before 1850 without adding a veto. Not a single state constitution restricts the scope of the veto to constitutional or administrative objections.

While the preceding evidence suggests that constitutional norms were probably not very important, it is also clear that early presidents did not use the veto very often. There were only ten vetoes prior to 1829, and half of these were by a single president. Nevertheless, it would be premature to conclude that presidential or congressional behavior differs substantially from current patterns. There could be many factors which account for the paucity of vetoes. First, legislative output of Congress was very low, providing few opportunities for the veto. Presidents typically had partisan majorities in Congress during this period implying that there would be few disagreements. Therefore, the only way to establish that patterns of veto politics changed is to construct a counterfactual of what veto usage would have been if presidents and legislators had played the "modern" veto game.

4. The Modern Veto

Before comparing pre-Jacksonian veto usage to that predicted by contemporary behavioral patterns, it is important to specify clearly what those patterns are. Unfortunately, there is little scholarly consensus on the causes of veto activity. However, the development of formal models of presidential-legislative bargaining has been a fertile area for research. Many of these models make quite explicit predictions about veto usage. In the analysis that follows, these theories will play dual roles. First, they provide guidance on how to specify a predictive model which can be used to test to see if pre-Jacksonian veto behavior is anomalous. More importantly, they also provide a set of

potential arguments as to why such changes may have taken place. Below I review a number of theoretical arguments about veto usage in order to create measures for the predictive model and to provide potential hypotheses for why usage patterns may have changed.

4.1 Models of the Executive Veto

In this section, I review a variety of models of the presidential veto in order to derive predictions about veto usage and presidential influence in the legislative process. These predictions will help us to sort out competing claims about the development of the executive veto. I have attempted to keep technical discussions to a minimum (and place them appropriately in the appendix).

4.1.1 Preliminaries

To keep the models relatively simple, I abstract from bicameralism and from other features of the internal legislative process to model the legislature as a unitary actor *C*.[6] These assumptions allow me to model the veto as bilateral bargaining between *C* and the president, *P*.

Also, all of the models presented in this chapter will focus on political bargaining over a one dimensional policy space.[7] For simplicity of exposition, I assume that *C* and *P* evaluate policy alternatives solely on their proximity to their most preferred policies

[6] I prefer to think of *C* as the median member of the chamber. Adherents of other theories of legislative decision making can interpret *C* according to their own conscience (party leader, majority party median, etc.) Such ecclesiastical disputes need not detain us here.

[7] For models relaxing the assumptions of unidimensionality, see McCarty, Miller and Hammond, Tsebelis. The assumption of unidimensionality is not all that consequential for my purposes. Most of the predictions derived would hold for a multidimensional model so long as the legislature is treated as a unitary actor.

which I denote c and p, respectively. Thus, the policy utility functions for C and P are $-|x-c|$ and $-|x-p|$ given any alternative x.

In some of the models discussed in this chapter, an additional player will be relevant for determining whether or not the president's veto will be overridden. Following Krehbiel (1999), O is the override pivot and has an ideal point o. This pivot is defined as the legislator closest to the president for whom exactly 1/3 of the legislature has ideal points either lower or higher than hers.[8] I assume that O's utility function has the same form as C and P.

Finally, all of the models in this chapter are single shot affairs in which the legislature makes a single proposal and the president makes an up or down decision about accepting it or vetoing it. Formally, C makes a proposal b to change some status quo or reversion policy q. If P accepts the offer, b is the final policy and the game ends. If b is vetoed, a vote on a motion to override occurs. If O supports the motion, the bill is successful and b is the new policy. If O does not support the motion, it fails and q remains the policy.

4.1.2 The Complete Information Model

A typical point of departure for analyzing the effects of executive veto power is the assumption that all actors are perfectly informed about the preferences and actions of all other players. Under these assumptions, there is no uncertainty about how the president or override pivots will respond to a legislative proposal. Therefore, C can choose b optimally given its correct expectations about the future.

Given that there is no uncertainty, the game can be solved backwards by considering the decisions of the override pivots on an override motion. Clearly, each pivot will vote to override if she prefers *b* to *q*. Thus, we can define a set of bills $B_O(q)$ that *O* prefers to *q* so that an override motion would always be successful. This set is given in figure 2. Given the assumptions about preference symmetry, this set is just $[q, 2o-q]$ or $[2o-q, q]$ depending on whether or not $o > q$. As long as *C* makes a proposal in $B_O(q)$, the veto will be overridden and the proposal becomes the new policy.

Insert Figure 2 about here

Having determined which bills can override a veto, I can now compute which bills will be accepted by the president. First of all, it is reasonable assume that the president will accept any bill which would have been overridden.[9] Thus, the bills in $B_O(q)$ will not be vetoed. Nor will he veto any bills that he prefers to the status quo. Formally, let $B_P(q)$ be the set of bills for which $-|b-p| \geq -|q-p|$. Under my assumptions, $B_P(q)$ is given by either $[q, 2p-q]$ or $[2p-q, q]$ depending on whether or not $p > q$ as in figure 3.

Insert Figure 3 about here

[8] If the president has a low ideal point, *O* is the 33rd percentile legislator. Alternatively, if the president has a relatively high ideal point, *O* is the 67th percentile legislator.

[9] There are a number of rationales for this assumption running from the practical to the very technical. The easiest is to note that with any infinitesimal cost of being overridden, the president would strictly prefer to sign any bill destined to pass over his veto. The technical reason is that any other assumption about the president's behavior on such a proposal is inconsistent with a subgame perfect Nash equilibrium.

Since *C* is perfectly informed about the other players preferences, she knows for certain that any bill in either $B_O(q)$ or $B_P(q)$ will be successful. She need only pass her favorite bill from these sets. If *q* is her favorite bill in these sets, she should not legislate at all.[10] Thus, it is straightforward to compute *C*'s optimal behavior.

In the appendix of this chapter, I formally present Proposition 1 which fully describes the proposal making and veto behavior in the subgame perfect Nash equilibrium to this veto game. This proposition generates a number of specific predictions that will be useful in understanding the development of the veto. The first result deals with the usage of the veto. Since the president never vetoes any bill that can be overridden and the legislature never makes any proposal that will be vetoed, all we should observe in equilibrium are passed bills or inactive legislatures.

Prediction 1: If all actors are perfectly informed about the preferences of all other actors, vetoes should not occur.

While seemingly simple, prediction 1 has some very powerful implications. Most importantly it demonstrates that it is impossible to infer anything about the scope of the veto power from the frequency of its use. In this very simply model, the veto moves policy away from that preferred by *C* yet we never see it used. Thus, one cannot draw the inference that if the veto is never used, it is impotent. It is particularly damning to any inference about norms in the early republic which is based solely on the infrequency of veto usage.

[10] Again small any small costs of legislating will lead her to strictly preference not a passing a bill destined

The second prediction, which I present graphically, is that the executive veto has policy consequences even if it not used. In Figures 4 and 5, I present the equilibrium policy outcomes for all status quo points and a couple of different preference configurations. These policy outcomes with the veto can be compared with the result that would occur without an executive veto, $b^* = c$. Note that for status quo points around *p* and *o*, the veto moves policy away from *c* towards the positions favored by the president and the override pivot.

Insert Figures 4 and 5

Prediction 2: Under the executive veto, policy may be responsive to the preferences of the president or the override pivot.

The proposition also leads to some important predictions about presidential support for legislation. Since in the absence of the veto policy will be determined solely by *C*'s preferences, often legislation will pass that is opposed by the president, i.e. legislation he would veto if he could. Of course, whether or not the president will get "rolled" in this way depends on the position of the status quo, so Figure 5 indicates the set of *q* for which policy will move contrary to the president's preferences. However, if the president can utilize the veto, the circumstances under which he gets rolled are reduced dramatically. In fact, if the president's ideal point lies between that of *C* and *O* (as in Figure 2), he never gets rolled. If the president's preferences are more extreme than the override pivot's (as in Figure 3), he may get rolled when veto-proof legislation is

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to be vetoed.

passed. However, this will occur far less often than when *P* lacks the right to veto legislation.[11]

Insert Figure 5 Here

Prediction 3: The probability that legislation opposed by the president passes is lower when he has a veto.[12]

While this too is a fairly obvious prediction, it also comes in handy in assesses competing explanations for the development of the presidential veto power. If as others have argued, the president was constrained from using the veto on policy grounds, we would expect to see much higher presidential roll rates prior to the breakdown of this norm than afterwards. We would also expect to see roll rates responding to variations in the override pivot only after the establishment of the policy veto. I test this implication of the norms hypothesis in section 5.2.

However, while these predictions will turn out to be quite useful, obviously, a model that predicts that vetoes will not occur will not take us very far. I now turn to some models in which vetoes do occur and examine their implications for possible clues about executive-legislative relations in the 19th century.

4.1.3 The Incomplete Information Veto Model

[11] The appendix contains exact conditions for presidential rolls for both models.
[12] By stating the prediction in terms of the probability that the president will be rolled rather than the set of status quos under which a roll occurs, I am implicitly assuming that the distribution of status quo points does not vary across the models. As Krehbiel points out, this assumption can be problematic since different models of collective choice predict different dynamic evolution of status quos.

If one wants to explain vetoes one must dispense with at least one of the assumptions underlying the legislative agenda control model. While the model presented in the last section has a number of outrageously restrictive assumptions, it turns out that very few of them are consequential in the prediction that vetoes should not occur. One exception is the assumption that *C* has complete information about the preferences of *P* and *O*. When there is such uncertainty, vetoes may occur because the legislature overestimates its ability to extract concessions from the president or the override pivot.

Relaxing the assumption of complete information has been the starting point for most of the recent work on veto bargaining (Matthews 1989, McCarty 1996, and Cameron 2000). To present the basic flavor of these models, I consider only a model without an override possibility so that *q* remains the policy in the event of a veto. To capture the uncertainty that *C* faces about the president's preferences, I assume that she believes that the president is one of two preference "types," a moderate with ideal point *m* or an extremists with ideal point *e*. I assume throughout that $e < m < c$. Following usual practice, I assume that *C* has beliefs about the president's type which are common knowledge.[13] Let π be the probability that *P* is the extreme type.

The main implication of the uncertainty about preferences is that *C* no longer knows which bills the president will accept and which he will veto. To see this, consider Figure 6 where I assume that $q < e$. Here the set of bills that e is willing to accept over the status quo is a subset of those m is willing to accept. Thus, *C* can extract a better bill from *m* than from *e*. *C*'s choice therefore is to decide whether to propose a bill that both types will accept like b_e, or be more aggressive and propose b_m which is much closer to

[13] *P* knows these beliefs, *C* knows that *P* knows, etc.

her ideal point but might be vetoed. Clearly, this choice depends on *C*'s beliefs about *P*. If π is high, *C* will likely be deterred from the aggressive proposal and will make the safer one. On the other had if π is low, b_m is a more attractive proposal, but on the off chance that the president is the extreme type it will be vetoed. In the appendix to this chapter, I calculate the necessary conditions for a veto. For the preference configuration in panel a, I show that *C* will make the risky proposal (possibly generating a veto) if and only if:

$$\pi < \frac{m-e}{m-q} \tag{1.1}$$

However, necessary conditions change as *c* moves closer to *m*, as in panel b. Here *C*'s best risky proposal is her ideal point *c*. This fact alters the necessary condition somewhat to:

$$\pi < \frac{c+q-2e}{c-q} \tag{1.2}$$

It can easily be shown that (1.2) is more strict than (1.1) implying that a veto is less likely to occur. This is primarily due to the fact that the policy consequences of the choice between proposals is much lower without reducing the risk of a veto. Finally, note that in the extreme case of panel c where *C*'s ideal point is acceptable to both types, no veto will occur. These results lead us to prediction number 4:

Prediction 4: Vetoes will be more likely when the expected difference between the ideal points of *P* and *C* is larger

While I will not undertake it, an extended model with a veto override produces a parallel result.

Prediction 5: Vetoes will be more likely when the expected difference between the ideal points of *O* and *C* is larger.

Insert Figure 6 about here

4.1.4 The Blame Game Veto Model

A more recent model argues that vetoes are less a product of legislative uncertainty than they are of "blame game" electoral politics. In my work with Tim Groseclose (2001), the legislator agenda setter can use its proposal power to signal that the president has policy views which are out of step with the voters. Vetoes are generated when the agenda setter gets a larger payoff from signaling that the president has extreme preferences than she receives from enacting a new policy. Thus, it is the electorate's uncertainty about the president that is crucial, not that of the legislators.

To illustrate a simple version of this model, consider a new actor *V*, the voter. I assume that *V* also has linear preferences and an ideal point *v*. Following the notation of the last section, *V* believes the president is type *e* with probability π and type *m* otherwise. I will focus on the case where $e < m < v$. I assume that the voter evaluates the president based on the expected distance of the president to her ideal point. Therefore, the voter's evaluation is just

$$-\left|v - \pi e - (1-\pi) m\right| \tag{1.3}$$

An important feature of this model is that *P* and *C* care how much expected utility *V* gets from the president's position. Clearly, the president stands to benefit from a higher voter evaluation and would therefore like to engage in strategies designed to minimize π. In particular, he may be willing to trade-off policy gains for political points. To capture these trade-offs, I assume that the president weights policy by λ_P and the voter evaluations by $1-\lambda_P$. Therefore, the president's payoffs may be written as

$$-\lambda_p |x-p| - (1-\lambda_P) |v - \pi e - (1-\pi) m| \tag{1.4}$$

The model can allow variation in terms of whether *C* benefits or loses from favorable evaluations of the president. Let $\delta \in \{-1,1\}$ be an indicator of how the voter's evaluation effects *C*. If $\delta = 1$, *C* benefits from a high evaluation. This might be the situation if *C* and *P* belong to the same political party. Alternatively, if $\delta = -1$, *C* prefers lower evaluations of the president and will take actions to attempt to raise π. Assuming that λ_C is Congress's policy weight, its utility function may be written as

$$-\lambda_c |x-c| - \delta (1-\lambda_c) |v - \pi e - (1-\pi) m| \tag{1.5}$$

An important assumption of this model is that while *V* is uninformed about *P*'s preferences, *C* is fully informed. Therefore, *C* may be able to credibly communicate its information through its choice of bill. Similarly, the president's decision of whether to veto or accept particular proposals may also provide information to voters about his preferences.

Rather than a full analysis of the model, my purposes here are satisfied simply by

specifying conditions under which vetoes occur in equilibrium. Therefore, I will concentrate on the necessary conditions for the existence of a pure strategy equilibrium where C induces a veto from type *e* but proposes acceptable legislation to type *m*. This is the only type of separating equilibrium that produces vetoes.[14] The first condition, which is stated and proven as Lemma 2 in the appendix, is that vetoes do not occur in equilibrium unless Congress prefers lower evaluations of the president, i.e. $\delta = -1$. Since this situation is most likely to be represented by divided control of the branches, this result leads to the following substantive prediction:

Prediction 6: Vetoes are more likely during divided control of the presidency and Congress.

In addition to $\delta = -1$, Proposition 3 in the appendix shows an equilibrium in which vetoes occur exists if and only if the following two conditions hold:

$$\left[\frac{\lambda_p - \lambda_c}{\lambda_p \lambda_c}\right](1-\pi)(m-e) > (2e-2q) \tag{1.6}$$

$$2 > \left[\frac{\lambda_p - \lambda_c}{\lambda_p \lambda_c}\right]\pi \tag{1.7}$$

These conditions produce a number of predictions about veto occurrence.[15] First, note

[14] There are some semi-pooling equilibria in which *C* induces a veto with some probability. These turn out to be very hard to characterize so I ignore them here. Thus, the interpretation of the conditions discussed below is that they are the ones for which a veto is most likely.

[15] These are conditions are necessary for the case of $c > 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e)$. Different positions of *c* result in slightly modified but qualitatively similar conditions. See the appendix for the other conditions.

that (1.6) cannot be satisfied if $m = e$ or $\pi = 1$. Thus, voter uncertainty about the president's preferences is crucial. Without this uncertainty, orchestrating a veto has no signaling value to *C* so she might as well make acceptable proposals to both types.

Prediction 7: Voter uncertainty about the president's preferences is necessary for equilibrium vetoes.

Next, note that both (1.6) and (1.7) are easier to satisfy when π is lower. Since the ex ante evaluation of the present is decreasing in π, the model suggests that vetoes will be likely when the president's public standing is high. Intuitively, Congress is going to find the blame game strategy most profitable when it has negative information about the president that is inconsistent with voter beliefs.

Prediction 8: Vetoes are more likely to occur when the president's standing is high.

The next three prediction are based on *C* and *P*'s willingness to trade off policy gains for political gains. Figure 7 illustrates how each of the conditions are effected by the policy weights λ_P and λ_C. The area under the higher solid line represent those combinations of λ_P and λ_C that satisfy (1.6). Alternatively, the area above the lower line are those satisfying (1.7). Blame Game equilibrium may exist in the intersection of these regions.

Insert Figure 7 about here

First, note that condition (1.6) can be met only when $\lambda_p > \lambda_c$ suggesting that the president must put relatively more weight on the policy outcome than does the congress. If this were not the case, *C* would rather exploit *P*'s willingness to make policy concessions to get more preferred policies rather than provoke vetoes. However, condition (1.7) puts an upper bound on the difference in policy weights. In this case, if λ_P is too much larger than λ_C, *C* loses the ability to credibly signal through its proposals.

Prediction 9: Vetoes will occur on issues that the president cares relatively more about than does congress.

The remaining predictions of the blame game model concern the implications of factors that change the policy preference weights of both Congress and the president. As is clear from Figure 7, the effect of a common shift of preference weights depends on the reference point. If the weights are located in the lowest region (i.e. below condition (1.7)), a common increase in the salience of policy will make vetoes more likely. However, if condition (1.7) is already satisfied, a common increase will reduce the likelihood of vetoes. Thus, any predictions will depend on assumptions about whether condition (1.7) holds generally. In what follows, I assume that it does.[16] If we accept this assumption, a key prediction about the electoral cycle emerges. Since it seems reasonable to assume that the policy weights are lower near elections, the model predicts that veto usage will be higher during election years.

Prediction 10: Vetoes will be more likely during election years.

This insight also has a direct bearing on hypotheses about the historical development of the veto. As I pointed out in chapter xx (electoral system), the electoral environment of the 19th century changed in ways that forced presidents and legislators to be more cognizant of mass support for the president. This also suggests a downward shift on the common part of the policy weight, and leads to a prediction about historical patterns.

Prediction 11: Vetoes should be more common after the emergence of the mass electorate in presidential elections.

One final prediction (which we will return to critically examine in a later chapter) emerges from the fact that only extreme types ever veto in the blame game model. Since only type *e* vetoes (Lemma 3), every veto is followed by a reduction on support from $-|v-\pi e-(1-\pi)m|$ to $-|v-e|$.

Prediction 12: Vetoes lead to lower public support for the president.

4.2 Empirical Specification

I now turn to specifying a predictive model of veto usage based on the predictions of the theoretical models. I also include a number of control variables suggested by existing empirical work. I estimate two models of veto usage using different dependent

[16] Since (1.7) does not only when *C* and *P* place very low weights on policy, I think that the region above

variables. The first model uses only the number of regular public vetoes per congressional term from 1829-1998, while the second includes all public vetoes including pocket vetoes. Both models generate substantively similar conclusions, but the model of all vetoes performs somewhat better statistically so I focus on those results. The independent variables are measured as follows:

- Legislative output

Any reasonable model would predict that veto activity is related to the overall amount of legislation presented to the president. To control for this effect, I use the natural logarithm of the number of public laws passed in a given session.[17] Of particular theoretical interest is the extent to which veto usage increases proportionately with the number of public laws. Bass (1972) argues that lower levels of legislative activity imply better legislation, thus proportionally fewer vetoes. Since this implies that the number of vetoes should grow at a higher rate than legislative output, the coefficient on the natural logarithm of public bills should be greater than one. However, both the incomplete information and blame game models can be reasonably interpreted to predict that the number of vetoes should grow at a rate lower than the number of public laws. In the incomplete information model, more interaction should increase the level of information about the president's preferences leading to a lower proportion of vetoes. Alternatively, in the blame game model, the political signaling value of vetoes may be subject to diminishing returns which would predict decreasing proportions of vetoes as legislative activity rises.

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it is more empirically relevant

[17] The rationale for using the natural logarithm will be made explicit shortly.

- Partisan Division and Preference Divergence

Both the incomplete information and blame game models predict that veto usage should be higher during periods of divided party control, although the mechanisms are quite different. I use two indicator variables for the number of chambers controlled by a party other than that of the president's. Since these measures capture both partisan as well as policy differences, the findings cannot adjudicate between the two models.[18]

To better capture the specific hypotheses of the incomplete information model, I include a more refined measure of preference divergence. Using predictions 4 and 5 from above, vetoes should be more likely when the pivotal legislator is further from the closer of the expected position of the president (p) or the expected veto override pivot (o). These pivots are estimated with McCarty, Poole, and Rosenthal's (1997) first dimension DW-NOMINATE coordinates. Presidential positions are also estimated using DW-NOMINATE on a combination of presidential positions collected by Congressional Quarterly and by Robert Brookshire and Michael Malbin. The details of the estimation procedure can be found in McCarty and Poole (1995). Using this data, I create the variable Pivot Polarization which is defined by $\min\{|c-p|,|c-o|\}$.

- Presidential Standing

The empirical literature on the presidential veto has long questioned how the president's standing or public approval effects his propensity to veto. The results have

[18] Definitions of divided government are somewhat tricky in the cases of John Tyler and Andrew Johnson who were former Democrats who were elected vice-president on Whig and Republican tickets,

been quite mixed ranging from a strong negative relationship (Rohde and Simon 1985 and Wooley 1991) to no effect (Shields and Huang 1997) to a strongly positive one (Lee 1975 and Copeland 1983).

The predictions of the theoretical models are quite varied as well. While the incomplete information model suggests that public approval of the president should not affect veto usage, prediction 7 of the blame game model suggests that vetoes will occur when the presidents public standing is relatively high. Unfortunately, without modern approval polls, any consistent measure of presidential public standing from 1829-1998 will be somewhat crude. Therefore, I follow Lee (1975) and use the percentage of the electoral vote the president received in the previous election. To account for those presidents who obtained office through vice-presidential promotion, I include the indicator *unelected*. The blame game model predicts that greater electoral vote percentages will lead to great veto usage and that unelected presidents will use the veto less often.

- Electoral Cycle

Again the incomplete information model predicts that the electoral cycle should not influence veto usage, but the blame game model predicts more vetoes in election years when there is partisan inter-branch conflict. To capture these effects, I include a dummy variable for those Congresses preceding a presidential election. However, since the blame game model predicts that veto activity should be higher when an opposition president is running for reelection, I include an indicator for incumbents running for

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respectively. Upon ascending to the presidency, both were "written out" of the parties who elected them. How I classify their partisanship does not have a substantive effect on the results.

reelection which also I interact with divided government (two opposition chambers). Since the incumbent represents the electoral effect during unified government, the blame game model predicts that it will be negative, while the interaction effect should be positive.

- Military and Economic Conditions

Following the previous literature, I include variables to control for foreign and economic policy contexts. These variables have little direct relation to the theories described in the previous section except in so far as they may effect preference divergence (e.g. "Rally around the Flag") . To this end, I include a variable to indicate those Congresses where the U.S. is engaged in a major international conflict or civil war (*war*). To capture the effects of economic performance, I include a measure of economic shocks which is measured as the absolute change in the rate of growth in the consumer price index over successive congressional terms (*economic shock*). Thus, it captures both the effects of inflation as well as deflation.

- Temporal and Presidential and Party Specific Effects

To capture any secular increase in veto usage I include a linear time trend. To test arguments about partisan differences in the propensity to use the veto, I include an indicator for Democratic presidents. Finally, since the veto usage of two presidents, Cleveland and Franklin Roosevelt, are such statistical outliers, I also include indicators for their administrations.

4.3 Estimation

Since veto usage can be measured in terms of the number of such events over a fixed interval of time, a Poisson model is an appropriate starting point for building an empirical model (Shields and Huang, 1997). Under the assumption that vetoes are generated as Poisson random variables, I can model the natural logarithm of the expected number of vetoes as

$$\ln \lambda_t = \beta' \mathbf{x}_t$$

where λ_t is the expected number of vetoes at time *t*, $\mathbf{x}_t$ is a vector of independent variables, and β is a vector of coefficients.

Given this specification, each coefficient represents the percentage change in veto usage given a one unit change in an independent variable. However, if the independent variables are also in logarithmic form, each coefficient represents the percentage change in vetoes given a percentage change in *X*. Given this interpretation, the Poisson nests a model where a constant proportion of bills are vetoed in expectation. This model corresponds to one where the coefficient on the logarithm of bills equals one. However, unlike a log-odds or grouped-logit model, this property is not imposed.

A statistical difficulty in the application of these models is that Poisson random variables have the property that their means and variances are equal. However, this is typically not the case with veto usage as the variation in veto usage often exceeds its mean level. This problem is known as overdispersion. There a are number of reasons to suspect that veto counts of the sort I use would be prone to this problem. First, there may be idiosyncratic factors that lead to veto activity that is not explained by a parsimonious set of explanatory variables. Secondly, vetoes may differ in terms of their legislative

significance (Cameron, 2000). Vetoes of less significant legislation might represent "noise" that is difficult to capture in a simple model. Ideally, one would only use significant legislation, but making these judgments on different legislation across a span of 150 years can be quite arbitrary.

Fortunately, there are well developed statistical techniques for dealing with this problem, which untreated can lead to mistaken inferences. The most common is to assume that

$$\ln \mu_t = \ln \lambda_t + \ln \varepsilon_t$$

where μ_t is the observed count, λ_t is again the true expected count, and $\ln \varepsilon_t$ is a measure of unobserved heterogeneity. If we assume that $\ln \varepsilon_t$ is distributed according to the gamma distribution, then likelihood function corresponds to that of the negative binomial. As with the Poisson, λ_t is the expected number of vetoes conditional on $\mathbf{x}_t$, but now the conditional variance is given by $\lambda_t (1 + \theta \lambda_t)$ where θ is a measure of overdispersion. When θ = 0, the model reduces to the Poisson, but I consistently find that this null-hypothesis can be rejected. However, the substantive effects of overdispersion are quite small as the Poisson and negative binomial models tend to generate very similar results.

Table 2 restates the key predictions of the incomplete information and the blame game models while the estimates of both models can be found in Table 3. The model produces a number of substantively interesting findings. First, we find that the number of vetoes grows less than proportionally to the number of public laws, although we can reject the null hypothesis of proportionality only for the sample containing both regular

and pocket vetoes. The evidence thus contradicts Bass's conjecture that more legislation should make vetoes disproportionately more likely.

Insert Table 2 about here

The effects of partisan opposition are as expected. Opposition party control of the House and Senate lead to larger amounts of veto activity. Opposition party control of a single house raise veto activity approximately 35% for regular vetoes and 16% for all vetoes, although this effect is not quite statistically significant. However, opposition of two chambers increases both regular and total vetoes from 56-80%. However, contrary to the predictions of the incomplete information, I find that the polarization between the House median and the veto pivot is negatively related to the number of vetoes, although the effect is not statistically significant.[19]

Consistent with the blame game model, the effects of electoral politics are quite strong. Across specifications, a one percentage point difference in electoral college success translates into 2% percent more vetoes. Given that this variable ranges from .5 to .96 in the post-Jackson era, this effect accounts for a substantial proportion of the variance in veto usage. The politically weakest presidents, those who were succeeded to office by means other than election, vetoes 40% less often. The results also suggest that veto usage is generally higher in congressional terms preceding presidential elections only when the an incumbent is running for reelection against an opposition congress. The coefficient on election year is positive, though just short of statistical significance. However, I find that presidents running for election behave very differently depending on whether congress is in opposition. The results indicate that a president running for

[19] I also used polarization between the veto pivot and the median of the majority party. This produced nearly identical results.

reelection during a unified government vetoes about 65% fewer bills than a lame duck. However, during divided government, incumbents seeking election veto from 200-400% more bills than incumbenth running under unified, depending on veto type and specification.

Insert Table 3 about here

Also consistent with blame game politics, I find that presidents that were electorally more successful in the last election veto more. A 10 percentage point increase in the electoral college share generates about 20% more vetoes. Conversely, I find that unelected presidents veto about one-half as often. The results for economic and military conditions are mixed. An unexpected change in the price level of .01 leads to about a 2% increase in the number of vetoes. However, the standard error of this estimate is large enough for statistical significance to be borderline under conventional criteria. There is very little evidence that wars have an impact and there seems not to be partisan differences in usage, at least controlling for the two outliers who were both Democrats. Finally, there is little evidence for a secular increase in veto activity. The greater usage in the 20th century can be accounted for by increased levels of legislative activity and more divided government.

Given my model of "modern" veto usage, I turn to the question of the extent to which early presidential and legislative behavior differed. In figure 8, I plot the number of vetoes predicted by my model with actual veto usage. This figures reveals that every early president except Madison vetoed far fewer bills than the model would predict. The model predicts that 54 total vetoes and 33 regular vetoes should have occurred through

the end of the John Quincy Adams administration, yet only 10 and 8 were invoked, respectively. For no other period do the predictions differ from actual practice more in absolute or proportional terms. This is compelling evidence that patterns of veto usage did change dramatically during the mid-19th century.

Insert Figure 8 about here

It is not simply the case that there were uniformly fewer vetoes during the first 40 years. The vetoes that did occur are not correlated with the same factors as they would have been under modern usage. For example, neither Monroe's dominance of the electoral college nor the economic dislocations coming at the end of his administration made him more prone to use the "negative." Washington's only vetoes occurred when his Federalist backers controlled both houses. His veto pen was silent against the Republican controlled third House. There is approximately a zero correlation between predicted and actual veto usage over the first 40 years of the Republic.

These results provide reasonably compelling evidence that the "modern" veto had not fully developed until the 1830s. Not only was the use of the veto far less frequent, the tendency for policy and partisan conflicts did not generate veto activity the same way it does now.

5. Were pre-Jacksonian Presidents Weaker?

Perhaps the most important implication of the view that presidential veto usage was constrained is that presidents prior to 1830 should have had less influence on

legislation, ceterus paribus, than later presidents. In particular, the absence of a broad veto power would imply large amounts of legislation should have passed that was opposed by the president. However, once contemporary veto practices emerged all legislation should have been supported either by the president or a 2/3's supermajority. In the modern parlance of legislative studies, the president should have been "rolled" more often before 1830 than after. In this section, I assess this implication both qualitatively and quantitatively. The qualitative evidence comes in the form of a reexamination of a case that has often been proffered as evidence of a president being rolled by constitutional norms -- Monroe's decision to sign the Missouri Bill in 1820. I follow this analysis with a statistical model of presidential rolls on final passage votes from the House of Representatives.

5.1 The Missouri Compromise

If in fact early presidents were constrained in the use of the veto, one should be able to find particular pieces of legislation that the president opposed, passed by small enough majorities that a veto would have killed it, and yet the presidents signed it. Monroe's decision to sign the Missouri Compromise is often put forward as just such an example. The standard view is that he opposed restricting slavery in the territories, yet had limited options given the norms of proper presidential behavior. Binkley (1947) provides a clear statement of this view:

> The outstanding conflict during Monroe's eight years was the prolonged struggle over the admission of Missouri, which terminated in the famous compromise. There is no doubt of the President's deep concern over the nation-rocking controversy and the fierce sectional feeling it provoked. Unlike Jefferson, but like Madison in such circumstances, he kept aloof of congressmen, merely holding in

> reserve his veto power if the measure as finally enacted should appear to be unconstitutional (p. 60 see also White 1951 and Skowronek 1993).

Monroe's behavior on the compromise issue would seem to be strong evidence for the effectiveness of the constraining norms. The compromise was extremely unpopular with the people of Monroe's home state of Virginia. There is ample evidence that he opposed restricting slavery in the territories as well. He even drafted a veto message and polled his cabinet as to the constitutionality of the measure. When his entire cabinet (even slavery apologist John C. Calhoun) conceded that Congress could regulate slavery in the territories, he signed the measure. Presumably, had Monroe not been bound by the narrow conception of his veto rights, he would have vetoed the legislation and the history of the republic might have been quite different.

However, the basis of such arguments seem far less clear when the evidence is looked at more closely. Historians generally concede that Monroe's preferences on sectional issues were far more moderate than his fellow Virginians. Moore (1953) claimed

> Monroe who was more conciliatory than other Virginians, found himself on the horns of a dilemma. He realized that the compromise was as advantageous to the South as any settlement that could be obtained, and he was sympathetic with those Northern Democrats who were jeopardizing their careers to support it (p. 234).

His draft veto message focuses almost entirely on arguments against making restrictions on slavery conditions for Missouri's admission to the union. It did not address the constitutionality of the final compromise which only restricted slavery in the northern portions of the Louisiana territory. Monroe was also probably far more proactive in supporting the compromise than he is given credit for. He communicated his

preferences for a compromise to Virginia Senator James Barbour (the president pro tempore) and his son-in-law George Hay, who was also a prominent Virginia politician (Cunningham 1996, p. 97). His intention to veto restrictions on slavery in Missouri were also well known. That he supported a compromise was leaked to the Virginia Republican convention in Richmond which had met to nominate electors for the 1820 election.[20] When news reached the convention of Monroe's desire for a compromise, the meeting quickly adjourned with the delegates refusing to nominate Monroe supporters. The emerging influence of electoral politics on the veto is apparent in the following observation by Representative William Plumer Jr. to his father:

> This Missouri question has given rise to some movements in Virginia which show how little estimation the President is held in his native state. They are about to select candidates for electors; & it is there, & here, distinctly announced, that, if Mr. Monroe consents to the bill which it is thought to pass both Houses, restricting slavery in the territories, they will look out for a new president. Should the bill pass, it will place the president in a sad dilemma. If he rejects it, acting under his threat he loses all of the north, where his best friends -- if he approves it he is at open war with Virginia and the South. (reprinted in Brown 1926, p. 10).

Only after his son-in-law got his permission to promise that he would veto any restrictions on slavery in the territories did the Richmond convention reconvene to support Monroe (Moore pp. 236-237).

In sum, the experience of the Missouri Compromise looks a lot like modern veto politics. Not only did Monroe make his preferences against slavery restrictions in Missouri known to help force a compromise, but the link between the veto and presidential electoral politics began to emerge.

[20] The leaked evidence of his support of compromise was a letter from Barbour to Virginia Assembly member Charles Yancey (Cunningham 1996 p 98.)

5.2 Presidential Rolls

I now turn to a statistical test of the hypothesis that presidents were rolled more often before 1830. This test is based on all successful final passage votes on bills before the House of Representatives from 1789 to 1998.[21] Ideally, I would like to have data on whether or not the president supported each bill. All of the motions that pass which he opposed could then be classified as presidential rolls. However, it is impossible to have such data especially over long historical periods. Therefore, I have used two different indicators of likely presidential opposition. The simplest is to measure whether or not the president's party was rolled. In other words, did the bill pass even though a majority of the president's party opposed it? Then the obvious test of the norms hypothesis would be to discern whether after controlling for its size, the president's party was rolled less often after 1830.

There are some obvious problems with this test. First, it assumes that the president's preferences coincide with those of the median member of his party. This is a reasonable assumption for certain periods of American history, but quite inaccurate in others. To deal with these problems, I use the presidential NOMINATE scores described above to impute presidential preferences on specific House votes.[22] To do this, I combine these scores with the estimated yea and nay outcomes from DW-NOMINATE to compute the president's expected utility of each alternative, U_{yea} and U_{nay} (see McCarty, Poole, and Rosenthal 1997). Then a presidential roll is a successful passage vote where $U_{nay} > U_{yea}$. As a control variable, I include the president's utility of the ideal point of

[21] I thank Keith Krehbiel for help in compiling this data.
[22] Since I only have presidential NOMINATE scores comparable to House ideal points, this analysis could not be replicated for the Senate.

median House member. This is because he should be rolled less ceterus paribus when his preferences are close to the House median.

For other control variables, I used essentially the same variables I used in the predictive veto model. I also use a negative binomial regression to predict the number of rolls. Table 4 presents the estimates of the model from 1829-1998.

Insert Table 4 about Here

As above, I use the estimates from Table 4 to compute predicted rolls from 1789-1829. The actual and predicted rolls are plotted in Figure 8. The results strongly refute the norms hypothesis. In fact, the actual number of rolls was generally less that predicted by the post-1829 model for both types of measures and for both chambers. If anything, early presidents were quite successful in avoiding legislation that they opposed.

Insert Figure 8 about here

6. Discussion

In this paper of I have provided a variety of evidence for four main claims. First, I find little evidence that constitutional norms substantially affected the use of the veto prior to 1829. Second, the quantitative evidence shows that ceterus paribus veto usage was lower and qualitatively different in the early republic. Third, the analysis of presidential rolls indicate that presidential influence on legislation was no lower as a consequence of less veto activity. Fourth, data on vetoes since 1829 indicate that electoral politics was an important in generating executive-legislative conflict.

The missing component of my story is to explain why electoral politics did not create more vetoes before the Jackson presidency. My answer is simple. In the elite

politics of presidential selection during the Federalist and Republican eras, the position-taking incentives that produce strategic disagreement were less salient. Consider the tightly contested presidential contest of 1800. In every state except Vermont, the franchise was restricted to either property owners or taxpayers (Keyssar 2000). Over 60% of the Electoral College was chosen by state legislators. Even in states where voters did participate in the selection, the choice of method (district or general ticket) was manipulated by state leaders to maximize the electoral support of their allies (McCormick 1982). Ultimately, the final decision in the election was made by the House of Representatives.

The scope of popular participation in presidential politics broadened little over the next two decades. Although the franchise broadened some, the collapse of the Federalists meant the absence of partisan competition. Since the Republican congressional caucus controlled the selection of the party's candidate, Congress had as great a role in choosing the executive as a modern parliament. Only after the debacle in 1824 when the caucus failed to select a candidate and the election was thrown back into the House did the system begin to crack. Over the next four years, the franchise expanded, legislative selection of electors all but disappeared (see Figure 9), and bipolar, if not quite partisan, competition for the presidential office emerged. Presidents and legislators had to adapt to a new style of politics. Staking out policy positions before the electorate became an important activity. I argue that it was these new incentives than transformed the veto.

Insert Figure 9 about here

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Appendix:

Proposition 1: The subgame perfect equilibrium to the complete information veto game is:

Case 1: $c > \max\{o, p\}$.

If $c > \max\{o, p\} > q$, $b^* = \min\{c, \max\{2o - q, 2p - q\}\}$

If $c > q > \max\{o, p\}$, make no proposal.

If $q > c$, $b^* = c$

Case 2: $c < \min\{o, p\}$

If $c < \min\{o, p\} < q$, $b^* = \max\{c, \min\{2o - q, 2p - q\}\}$

If $c < q < \min\{o, p\}$, make no proposal.

If $q < c$, $b^* = c$

Case 3: $p < c < o$, $b^* = c$

Case 4: $o < c < p$, $b^* = c$

Presidential Rolls

Assuming $p < c$ and the president does not have veto power, rolls occur when $2p - c < q < c$.[23] On the other hand when the executive has a veto, policies he opposes will pass less often. If $o < p < c$ or $c < p < o$, he is never rolled. If $p < o < c$, the

[23] If $p > c$, this occurs when $c < q < 2p - c$.

president is rolled only when $2o - c < q < o$.[24] Note that the set of status quos for which the president gets rolled is always smaller when he has a veto.

The Incomplete Information Model

Proposition 2: If $c > m > e$, the three sets necessary conditions for an equilibrium veto are:

1. $c > 2m - q$ and $\pi < \dfrac{m-e}{m-q}$

2. $2e - q < c < 2m - q$ and $\pi < \dfrac{c+q-2e}{c-q}$

3. $e < q < m$

Proof: Let $B_t(q)$ be the sets of bills that each type $t \in \{m, e\}$ is willing to accept over the status quo. Similar to above, these sets are $[q, 2t-q]$ if $t > q$ and $[2t-q, q]$ otherwise. Notice that for any *q*, president *m* is willing to accept a higher bill than is *e*. Just for simplicity, let $e > q$ so that $b_e(q) = [q, 2e-q] \subset b_m(q) = [q, 2m-q]$ -- any bill that *e* accepts *m* will accept, but the converse is not true. Therefore, *C* faces a tradeoff. It can propose $2e - q$ which both types accept, or can propose $2m - q$ which *e* will veto. Given *C*'s beliefs the latter strategy results in a veto with probability π.

[24] If $c < o < p$, a presidential roll occurs when $o < q < 2o - c$.

Case 1: $c > 2m - q$

Assuming that *C* has the linear utility function presented in the last section, her payoff from $b = 2e - q$ are $2e - q - c$ and her payoffs from $b = 2m - q$ are $\pi q + (1-\pi)(2m - q) - c$. If $\pi < \frac{m-e}{m-q}$, *C* will propose $b = 2m - q$ and a veto may occur.

Case 2: $2e - q < c < 2m - q$

Her payoff from $b = 2e - q$ are $2e - q - c$. Her payoffs from $b = c$ are $\pi(q - c)$. Therefore, *C* will take the risky strategy when $\pi < \frac{c + q - 2e}{c - q}$. Note that the critical value of π is lower than in case 1 making a veto less likely for any given set of beliefs.

Case 3: $c < 2e - q$

In this case, neither president will veto $b = c$. So *C* maximizes her utility by proposing her ideal point, and no vetoes will occur.

Case 4: $e < q < m$

C will always find it optimal to propose the minimum of *c* and $2m - q$. Thus, a veto is possible regardless of the level of π.

Case 5: $m < q < c$.

C will make no proposal.

Case 6: $c < q$.

C proposes $b = c$ which is accepted by both types. ♦

The Blame Game Model

In our original paper, Groseclose and I developed a refinement of Perfect Bayesian equilibrium to deal with a specific issue arising in the Blame Game model. The problem arises when specifying voter's beliefs following an out-of-equilibrium proposal by *C*. Since these beliefs determine voter evaluations as well as the president's veto decisions, an arbitrary specification of beliefs can generate very implausible behavior. Unfortunately, due to the sequential nature of the signals, this problem is not addressed in any other the previous developed refinements of PBE.

Our refinement is based on the assumption that voters treat out-of-equilibrium proposals as pure mistakes that convey no information about the president's type. Thus, following such a deviation, only the president's veto decision has any informative value for *V*. Formally, we assume that following a defection by *C*, *m* and *e* play a signaling game with *V* treating *b* as exogenous.[25] Given this refinement, the best responses of *P* and beliefs of *V* are those generated by equilibria to this signaling game. Lemma 1 characterizes equilibrium behavior and beliefs of the signaling game following an out of equilibrium proposal *b*.

Lemma 1: The following are equilibria of the signaling game between *P* and *V* for an exogenous *b*.

Case 1: $q < e < m$

If $b \in \left[q - \frac{1-\lambda_p}{\lambda_p}\pi(m-e), 2e - q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e) \right]$, a pooling equilibrium where both types accept and $\hat{\pi} = \pi$ exists.

If $b > 2m - q + \frac{1-\lambda_p}{\lambda_p}\pi(m-e)$ or $b < q - \frac{1-\lambda_p}{\lambda_p}\pi(m-e)$, a pooling equilibrium where both types veto and $\hat{\pi} = \pi$ exists.

If $b \in \left[2e - q + \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$, a separating equilibrium where *m* accepts, *e* vetoes, $\hat{\pi}(accept) = 0$, $\hat{\pi}(veto) = 1$ exists.

If $b \in \left[2e - q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e), 2e - q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$, a semi-pooling equilibrium exists where *b* accepts and *e* vetoes with probability $\mu = \frac{\pi - \hat{\pi}(accept)}{\pi(1 - \hat{\pi}(accept))}$.

Voter beliefs are $\hat{\pi}(accept) = 1 - \frac{\lambda_P}{1-\lambda_P}\left[\frac{b+q-2e}{m-e} \right]$ and $\hat{\pi}(veto) = 1$

There exist no separating equilibria where *m* vetoes and *e* accepts.

Case 2: $e < q < m$

If $b \in \left[q - \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e), q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e) \right]$, a pooling equilibria where both types accept and $\hat{\pi} = \pi$ exists.

If $b > 2m - q + \frac{1-\lambda_p}{\lambda_p}\pi(m-e)$ or $b < 2e - q - \frac{1-\lambda_p}{\lambda_p}\pi(m-e)$, a pooling equilibrium where both types veto and $\hat{\pi} = \pi$ exists.

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[25] The intuitive criterion (Cho and Kreps 198x) is also applied to out of equilibrium behavior by the president. Generally, this criterion places probability of 1 on *m* following an out of equilibrium acceptance and *e* following an out-of-equilibrium veto.

If $b \in \left[q + \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$, a separating equilibrium where *m* accepts, *e* vetoes, $\hat{\pi}(accept) = 0$, $\hat{\pi}(veto) = 1$ exists.

If $b \in \left[2e - q + \frac{1-\lambda_p}{\lambda_p}(m-e), q - \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$, a separating equilibrium where *e* accepts, *m* vetoes, $\hat{\pi}(accept) = 1$, $\hat{\pi}(veto) = 0$ exists.

If $b \in \left[q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e), q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$, a semi-pooling equilibrium exists where *m* accepts and *e* vetoes with probability $\mu = \frac{\pi - \hat{\pi}(accept)}{\pi(1-\hat{\pi}(accept))}$. Voter beliefs are $\hat{\pi}(accept) = 1 - \frac{\lambda_P}{1-\lambda_P}\left[\frac{b-q}{m-e}\right]$ and $\hat{\pi}(veto) = 1$.

Case 3: $e < m < q$

If $b \in \left[2m - q - \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e), q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e) \right]$, a pooling equilibria where both types accept and $\hat{\pi} = \pi$ exists.

If $b < 2e - q - \frac{1-\lambda_p}{\lambda_p}\pi(m-e)$ or $b > q + \frac{1-\lambda_p}{\lambda_p}\pi(m-e)$, a pooling equilibrium where both types veto and $\hat{\pi} = \pi$ exists.

If $b \in \left[2e - q - \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q - \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$, a separating equilibrium where *e* accepts, *m* vetoes, $\hat{\pi}(accept) = 1$, $\hat{\pi}(veto) = 0$ exists.

If $b \in \left[2m - q - \frac{1-\lambda_P}{\lambda_P}(m-e), 2m - q - \frac{1-\lambda_P}{\lambda_P}(1-\pi)(m-e) \right]$, a semi-pooling equilibrium exists where *e* accepts and *m* vetoes with probability $\mu = \frac{\pi(1-\hat{\pi}(accept))}{\hat{\pi}(accept)(1-\pi)}$.

Voter beliefs are $\hat{\pi}(accept) = \frac{\lambda_P}{1-\lambda_P}\left[\frac{b+q-2m}{m-e}\right]$ and $\hat{\pi}(veto) = 0$.

A separating equilibrium where *m* accepts and *e* vetoes cannot occur.

Proof: Omitted

The next lemma shows that political conflict is necessary for vetoes to occur.

Lemma 2: If $\delta = 1$, no vetoes occur in equilibrium.

Proof: First suppose that there is an equilibrium where $b(m)$ is accepted and $b(e)$ is vetoed. Since $\delta = 1$, the payoff of this strategy against *e* is $-\lambda_C|c-q| - (1-\lambda_C)|v-e|$. A defection to a bill that both types would veto generates the higher utility of $-\lambda_C|c-q| - (1-\lambda_C)|v-\pi e-(1-\pi)m|$. Therefore, such an equilibrium does not exist.

Now assume that $b(m)$ is vetoed. This can only be an equilibrium if there are no bills preferred by *C* to *q* that *m* accepts and *e* will veto. This can only occur only if $e < m < q$. Thus, the best $b(e) = 2m - q - \frac{1-\lambda_P}{\lambda_P}(m-e)$ which generates a utility of

$-\lambda_C \left| c - 2m - q - \frac{1-\lambda_P}{\lambda_P}(m-e) \right| - (1-\lambda_C)|v-e|$. This is clearly dominated by proposing q which will be vetoed by both types leading to $-\lambda_C |c-q| - (1-\lambda_C)|v-\pi e-(1-\pi)m|$. ♦

Lemma 3: There exists no separating equilibria in which *e* signs a bill and *m* vetoes.

proof: Under president *m* such an equilibrium produces a policy *q* and posterior beliefs $\hat{\pi} = 0$. If *C* defected to a proposal in which both *m* and *e* would veto (such always exists), the result would be a policy of *q* and posteriors $\hat{\pi} = \pi$. From Lemma 2, we know that if there is a veto in equilibrium it must be the case that $\delta = -1$. Therefore, *C* always prefers such a defection, no such equilibrium exists. ♦

Lemma: In any separating veto equilibrium, the signed bill must be a proposal that induces a separating equilibrium in the veto stage if it were an out of equilibrium proposal.

proof: Consider a equilibrium where $b(m)$ is signed and $b(e)$ is vetoed. Therefore, *C*'s utility under president *m* is $U(m) = -\lambda_c |b(m)-c| + (1-\lambda_c)(v-m)$. If $b(m)$ would induce pooling or semi-pooling out of equilibrium, then for any ε > 0, there must exist proposal $b \in [b(m)-\varepsilon, b(m)+\varepsilon]$ that also induces pooling or semi-pooling. The payoff of such a defections would be no less than $-\lambda_c |b(m)-c| - \lambda_c \varepsilon + (1-\lambda_c)(v-\hat{\pi}e-(1-\hat{\pi})m)$. The defection is profitable for any

$\varepsilon < \frac{1-\lambda_c}{\lambda_c}\hat{\pi}(m-e)$. Therefore, $b(m)$ must be a bill that would induce separation out of equilibrium. ♦

Proposition 3: A equilibrium where *C* invokes a veto from type *e* exists if the following conditions hold:

If $q < e < m$;

$\left[\frac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\right](1-\pi)(m-e) \geq 2(e-q)$

$2 > \left[\frac{\lambda_p-\lambda_c}{\lambda_p\lambda_c}\right]\pi$ if $c > 2m-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$,

$c-2e+q-\frac{1-\lambda_p}{\lambda_p}(m-e) \geq \frac{\lambda_p-\lambda_c}{\lambda_p\lambda_c}\pi(m-e)$ if $c \in \left[2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e), 2m-q+\frac{1-\lambda_p}{\lambda_p}(m-e)\right]$

If $e < q < m$,

$\frac{\lambda_p-\lambda_c}{\lambda_p\lambda_c}(1-\pi)(m-e) > 0$

$2 \geq \frac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\pi\frac{m-e}{m-q}$ if $c > 2m-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$

$c-q-\frac{1-\lambda_p}{\lambda_p}(m-e) \geq \frac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\pi(m-e)$ if $c \in \left[q+\frac{1-\lambda_p}{\lambda_p}(m-e), 2m-q+\frac{1-\lambda_p}{\lambda_p}(m-e)\right]$

Proof: I begin with the second stage. A veto requires an initial proposal that generates a separating equilibrium between *m* and *e*. The following sets of bills induce such separation:

1. If $q < e < m$, m will accept $b \in \left[2e - q + \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$ and e will veto. There exist no equilibria where e accepts and m vetoes.
2. If $e < q < m$, m will accept $b \in \left[q + \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$ and e will veto. Alternatively, e will accept $b \in \left[2e - q + \frac{1-\lambda_p}{\lambda_p}(m-e), q - \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$ while m vetoes.
3. If $e < m < q$, there exist no equilibria where m accepts and e vetoes. However, e will accept $b \in \left[2e - q - \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q - \frac{1-\lambda_p}{\lambda_p}(m-e) \right]$ while m vetoes.

First Stage

I begin by showing that separating veto equilibria do not exist in case 3. Consider the case when the president is moderate, C could propose $b > q$ which both types would veto given my refinement. This would result in a policy q and beliefs $\hat{\pi} = \pi$. Since $q < c$, C strictly prefers that outcome to the equilibrium policy q and beliefs $\hat{\pi} = 0$.

Now I turn to the two cases in which a separating veto equilibrium might exist. First consider case 1. There are three subcases:

Case 1a: $c > 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e)$. It is straightforward to show C would defect from any proposal $b(m) \in \left[2e - q + \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e) \right)$ to $2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e)$. So consider the possibility of a separating equilibrium where $b(m) = 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e)$. When $P=m$, the only defection might be profitable is a proposal that does not allow m to

separate from *e*. The best such bill is $2e-q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$. So *C* will not defect so long as

$$\lambda_c\left[2m-q+\tfrac{1-\lambda_p}{\lambda_p}(m-e)-c\right]+(1-\lambda_c)[v-m]\geq$$
$$\lambda_c\left[2e-q+\tfrac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)-c\right]+(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

or $2>\left[\frac{\lambda_p-\lambda_c}{\lambda_p\lambda_c}\right]\pi$.

Now I claim that *C* will not defect from the separating veto equilibrium under president *e*. Thus, it must be verify that *C* will not defect to a bill that *e* would sign.[26] Since any such bill *m* would also sign, this defection must generate posteriors of $\hat{\pi}=\pi$. Therefore, the best defection is $b=2e-q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$ and *C* will not defect if

$$\lambda_c[q-c]+(1-\lambda_c)[v-e]\geq$$
$$\lambda_c\left[2e-q+\tfrac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)-c\right]+(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

or

$$\left[\tfrac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\right](1-\pi)(m-e)\geq 2(e-q).$$

Case 1b: $c\in\left[2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e),2m-q+\frac{1-\lambda_p}{\lambda_p}(m-e)\right]$. The analysis is identical to above except that $b(m)=c$. Thus, I need only verify that *C* will not defect from $b(m)=c$ which requires

$$(1-\lambda_c)[v-m]\geq\lambda_c\left[2e-q+\tfrac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)-c\right]+(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

[26] It can be shown, however tediously, that *C* will not defect to a bill producing a semi-pooling equilibrium.

or $c-2e+q-\frac{1-\lambda_p}{\lambda_p}(m-e)\geq\frac{\lambda_p-\lambda_c}{\lambda_p\lambda_c}\pi(m-e)$.

Case 1c: $2e-q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)<c<2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$. Now

$b(m)=2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$ and the best defection is still $b=2e-q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$.

So a defection does not pay if

$$\lambda_c\left[c-2e+q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]+(1-\lambda_c)[v-m]\geq$$
$$\lambda_c\left[2e-q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)-c\right]+(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

or $2\left[c-2e+q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]\geq\frac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\pi(m-e)$. As in cases a and b, not defecting against *e* requires $\left[\frac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\right](1-\pi)(m-e)\geq 2(e-q)$. Since $c<2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$, these conditions are incompatible and no separating veto equilibrium can exist.

Case 1d: $c<2e-q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$. Now $b(m)=2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$ and the best defection is $b=c$. So a defection does not pay if

$$\lambda_c\left[c-2e+q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]+(1-\lambda_c)[v-m]\geq(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

or $\left[c-2e+q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]\geq\frac{1-\lambda_c}{\lambda_c}\pi(m-e)$ which contradicts $c<2e-q+\frac{1-\lambda_p}{\lambda_p}(m-e)$.

Case 2: I first rule out the separating equilibrium where *m* vetoes and *e* accepts. For such an equilibrium, *C*'s payoff against president *m* would be a policy of *q* and posterior beliefs $\hat{\pi}=0$. A defection to a bill that would be vetoed by both types would generate the same policy but the better beliefs $\hat{\pi}=\pi$.

Now consider the situations where a veto by *e* might occur in equilibrium. The primary difference is that the best defection that leads to pooling acceptance is now $b = q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$.

Case 2a: $c > 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e)$. *C* will not defect to $b = q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$ against *m* so long as

$$\lambda_c\left[2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e) - c\right] + (1-\lambda_c)[v-m] \geq$$
$$\lambda_c\left[q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e) - c\right] + (1-\lambda_c)\left[v - \pi e - (1-\pi)m\right]$$

or $2 \geq \frac{\lambda_p - \lambda_c}{\lambda_c \lambda_p}\pi\frac{m-e}{m-q}$.

Alternatively, *C* will not defect to $b = q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$ against *e* if

$$\lambda_c[q-c] + (1-\lambda_c)[v-e] \geq$$
$$\lambda_c\left[q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e) - c\right] + (1-\lambda_c)\left[v - \pi e - (1-\pi)m\right]$$

or $\frac{\lambda_p - \lambda_c}{\lambda_p \lambda_c}(1-\pi)(m-e) > 0$.

Case 2b: $c \in \left[q + \frac{1-\lambda_p}{\lambda_p}(m-e), 2m - q + \frac{1-\lambda_p}{\lambda_p}(m-e)\right]$. Now the optimal proposal to *m* is $b(m) = c$. So *C* will not defect so long as

$$(1-\lambda_c)[v-m] \geq \lambda_c\left[q + \frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e) - c\right] + (1-\lambda_c)\left[v - \pi e - (1-\pi)m\right]$$

or $c - q - \frac{1-\lambda_p}{\lambda_p}(m-e) \geq \frac{\lambda_p - \lambda_c}{\lambda_c \lambda_p}\pi(m-e)$. The condition for a defection against *e* is the same as case a.

Case 2c: $q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)<c<q+\frac{1-\lambda_p}{\lambda_p}(m-e)$. Now the optimal separating proposal is $b(m)=q+\frac{1-\lambda_p}{\lambda_p}(m-e)$. So *C* will not defect so long as

$$\lambda_c\left[c-q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]+(1-\lambda_c)[v-m]\geq$$
$$\lambda_c\left[q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)-c\right]+(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

or $2\left[c-q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]\geq\frac{\lambda_p-\lambda_c}{\lambda_c\lambda_p}\pi(m-e)$. Since $c<q+\frac{1-\lambda_p}{\lambda_p}(m-e)$, this condition is incompatible with $\frac{\lambda_p-\lambda_c}{\lambda_p\lambda_c}(1-\pi)(m-e)>0$ so that no separating equilibria exist.

Case 2d: $c<q+\frac{1-\lambda_p}{\lambda_p}(1-\pi)(m-e)$. Now the optimal proposal is $b(m)=q+\frac{1-\lambda_p}{\lambda_p}(m-e)$ and the optimal defection is $b=c$. So *C* will not defect against *m* if and only if

$$\lambda_c\left[c-q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]+(1-\lambda_c)[v-m]\geq(1-\lambda_c)\left[v-\pi e-(1-\pi)m\right]$$

or $\left[c-q-\frac{1-\lambda_p}{\lambda_p}(m-e)\right]\geq\frac{1-\lambda_c}{\lambda_c}\pi(m-e)$ which contradicts $c<q+\frac{1-\lambda_p}{\lambda_p}(m-e)$ so that no separating veto equilibrium can exist.

Table 1: Early Exercises of the Veto				
Bill	Subject	Date	Rationale	Override
HR 163	Apportionment of Representatives	Apr 5 1792	constitution	46%
HR 219	Reduction of Army	Feb 28 1797	policy	60%
HR 155	Incorporating Church in Alexandria	Feb 21 1811	constitution	28%
HR 170	Land-grant for Church in Mississippi	Feb 28 1811	constitution	38%
HR 81	Trials in district courts	Apr 3 1812	constitution	27%
HR 170	Naturalization	Nov 6 1812	policy	pocket
S 67	Incorporating National Bank	Jan 30 1812	policy	44%
HR 106	Importation of Stereotype Plates	Apr 30 1816	unknown	pocket
HR 29	Internal Improvements	Mar 3 1817	constitution?	49%
HR 50	Cumberland Road	May 4 1822	constitution?	49%

Table 2: Key Predictions		
	Incomplete Information	Blame Game
Log of Public Laws	$\beta<1$	$\beta<1$
Divided Government	$\beta>0$	$\beta>0$
Pivot Polarization	$\beta>0$	$\beta\approx0$
% Electoral College	$\beta=0$	$\beta>0$
Un-elected President	$\beta=0$	$\beta<0$
Incumbent for Reelection	$\beta=0$	$\beta<0$
Incumbent for Reelection *Divided	$\beta=0$	$\beta>0$

Table 3: Public Vetoes from 1829-1996				
	Regular		All Vetoes	
	(1)	(2)	(3)	(4)
Constant	-11.216	-9.260	-10.782	-8.228
	(5.260)	(5.036)	(3.683)	(3.694)
Public Bills (log)	0.625	0.733	0.648	0.798
	(0.256)	(0.243)	(0.179)	(0.177)
One Opposition Chamber	0.324	0.313	0.160	0.153
	(0.256)	(0.258)	(0.185)	(0.192)
Two Opposition Chambers	0.576	0.602	0.461	0.483
	(0.316)	(0.318)	(0.221)	(0.233)
Pivot Polarization	-0.870		-1.211	
	(0.734)		(0.504)	
% Electoral College	2.094	2.119	2.048	2.056
	(0.672)	(0.678)	(0.488)	(0.511)
Un-Elected President	-0.503	-0.462	-0.523	-0.482
	(0.285)	(0.285)	(0.202)	(0.210)
Presidential Election Year	0.427	0.406	0.373	0.330
	(0.226)	(0.268)	(0.193)	(0.201)
Incumbent for Reelection	-1.104	-1.019	-0.819	-0.708
	(0.379)	(0.373)	(0.259)	(0.265)
Re-election*Divided	1.089	0.970	0.884	0.745
	(0.392)	(0.380)	(0.269)	(0.274)
Economic Shock	1.808	1.678	1.917	1.742
	(1.378)	(1.386)	(0.972)	(1.016)
War	-0.018	0.003	-0.018	0.009
	(0.207)	(0.208)	(0.146)	(0.154)
Democrat	0.100	0.093	0.072	0.064
	(0.224)	(0.226)	(0.158)	(0.166)
FDR	0.824	0.816	0.746	0.764
	(0.370)	(0.374)	(0.250)	(0.264)
Cleveland	1.114	1.021	1.674	1.506
	(0.421)	(0.419)	(0.290)	(0.297)
Year	0.004	0.002	0.004	0.002
	(0.003)	(0.003)	(0.002)	(0.002)
Overdispersion	0.317	0.325	0.145	0.171
	(0.079)	(0.081)	(0.042)	(0.046)
Pseudo-R^2	0.142	0.139	0.183	0.174
χ^2	73.17	71.78	110.73	105.29
N	85	85	85	85

Table 4: Presidential Rolls			
	Senate Party Rolls	House Party Rolls	House NOMINATE Rolls
Intercept	1.114	-.0228	1.187
	(0.705)	(0.836)	(1.312)
Natural Log of Passage Votes	0.293	0.856	0.770
	(0.147)	(0.190)	(0.234)
Median Utility	---	---	-0.563
	---	---	(0.178)
House Control	-0.342	-1.302	---
	(0.292)	(0.282)	---
Senate Control	-0.888	-0.304	-0.136
	(0.232)	(0.233)	(0.251)
Election Year	-0.260	0.336	0.841
	(0.357)	(0.350)	(0.342)
Incumbent for Reelection	.0546	.0354	-0.559
	(0.457)	(0.428)	(0.428)
Incumbent*Divided Gvmt.	0.490	0.118	0.706
	(0.438)	(0.421)	(0.423)
% Electoral College	-0.267	-0.450	-0.276
	(0.763)	(0.807)	(0.875)
Unelected President	-0.321	-0.758	-0.639
	(0.331)	(0.333)	(0.359)
War	-0.256	-0.698	-0.494
	(0.331)	(0.269)	(0.290)
Economic Shock	3.328	1.011	-0.483
	(1.617)	(1.668)	(1.840)
Overdispersion	0.473	0.619	0.720
	(0.135)	(0.132)	(0.148)
N	84	84	83
Pseudo-R^2	0.0984	0.138	0.1203
χ^2	42.36	79.08	69.14

Figure 1

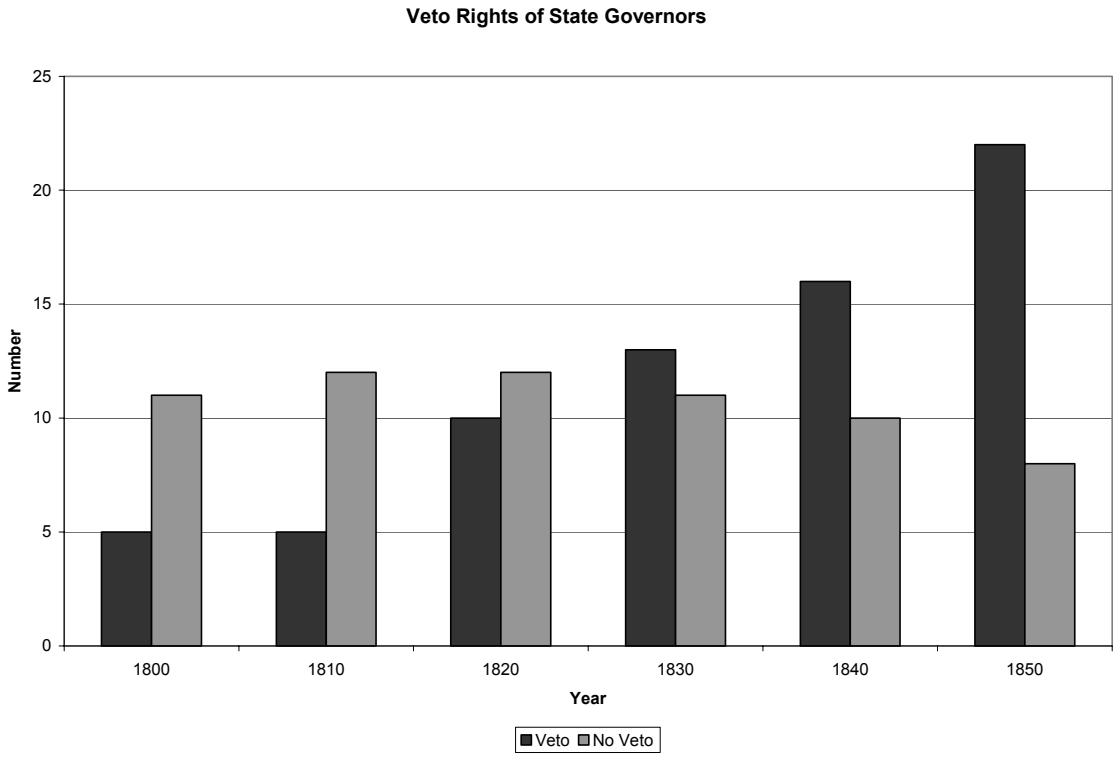
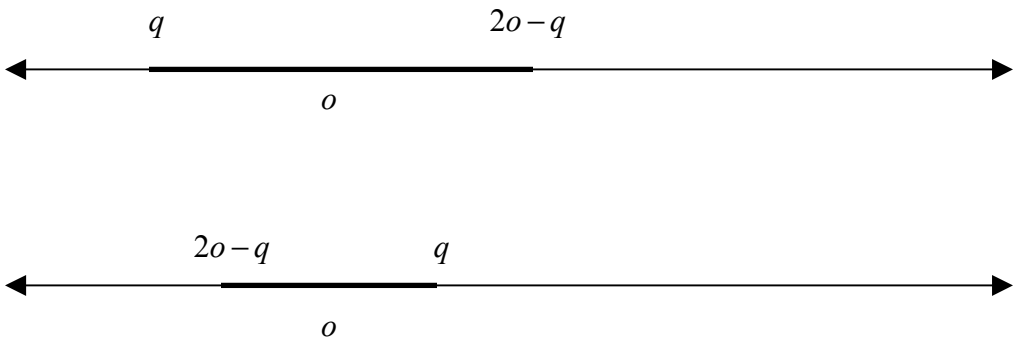
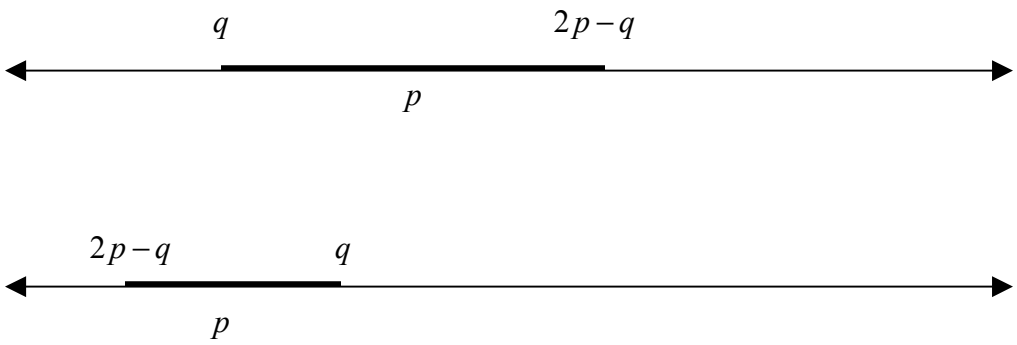


Figure 2



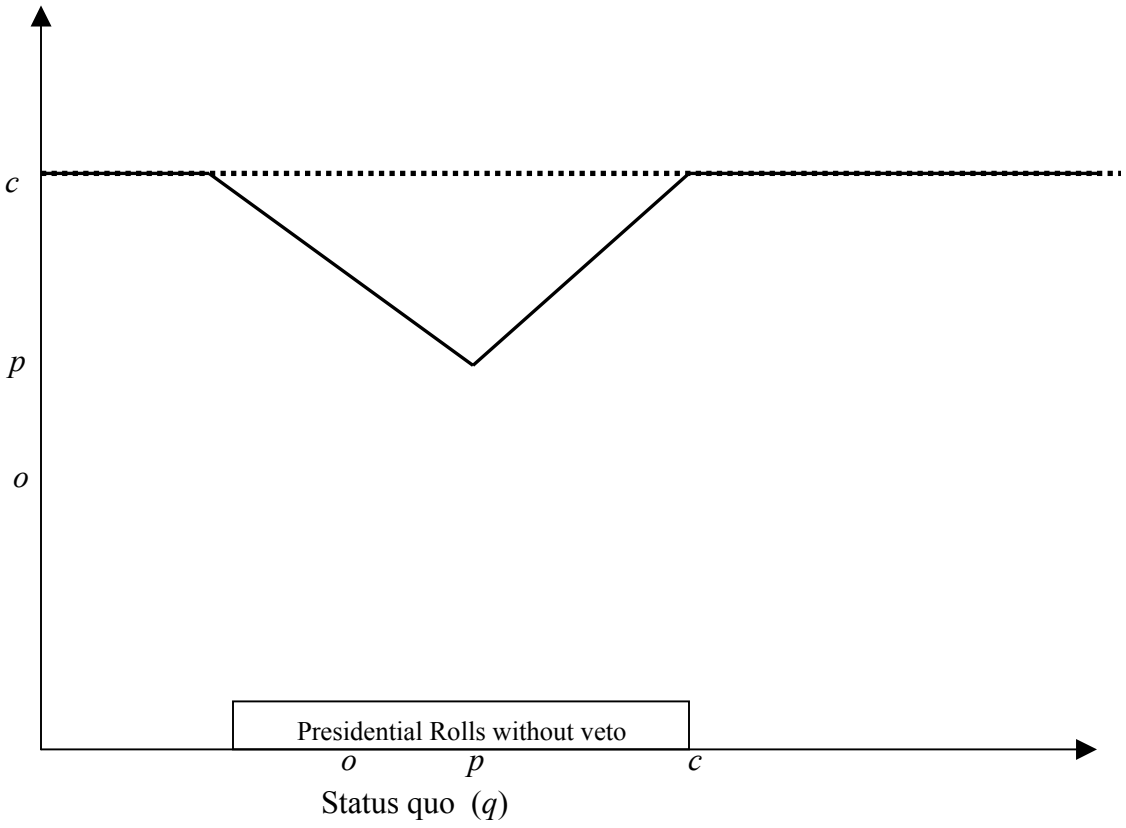
Note: $B_O(q)$ is illustrated by the darkened segment.

Figure 3



Note: $B_P(q)$ is illustrated by the darkened segment

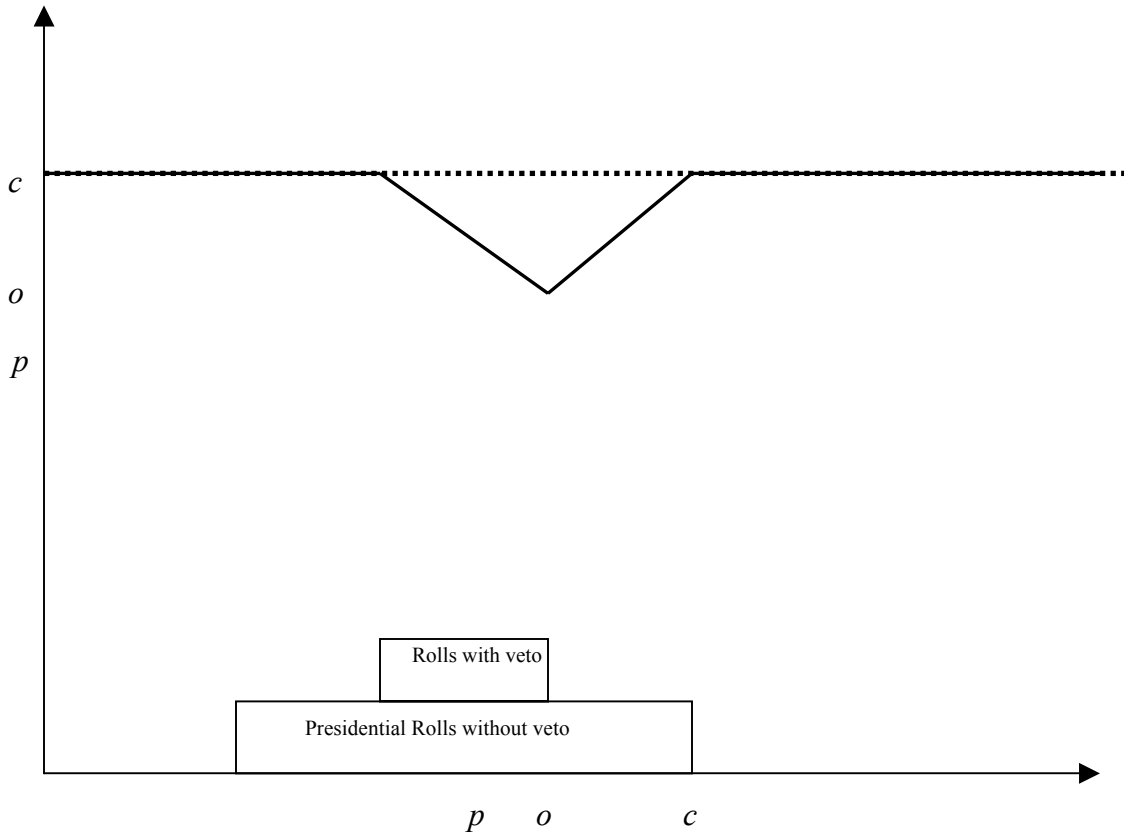
Figure 4



Equilibrium bill under executive veto

Equilibrium bill without veto

Figure 5

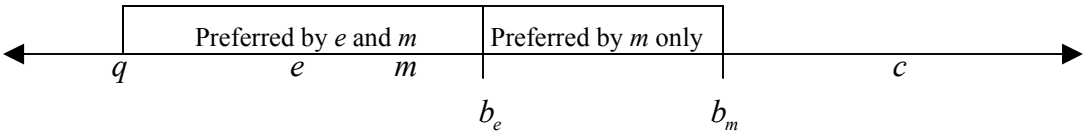


Equilibrium bill under executive veto

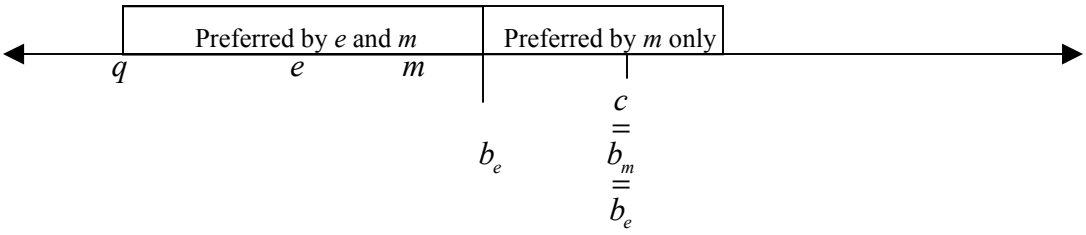
Equilibrium bill without veto

Figure 6

Panel a



Panel b



Panel c

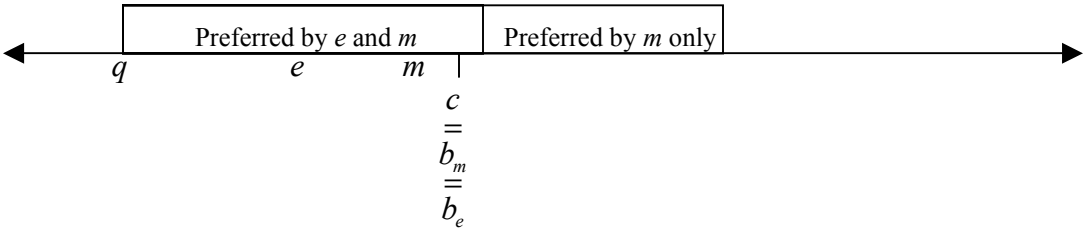


Figure 7

Existence of Blame Game Equilibria

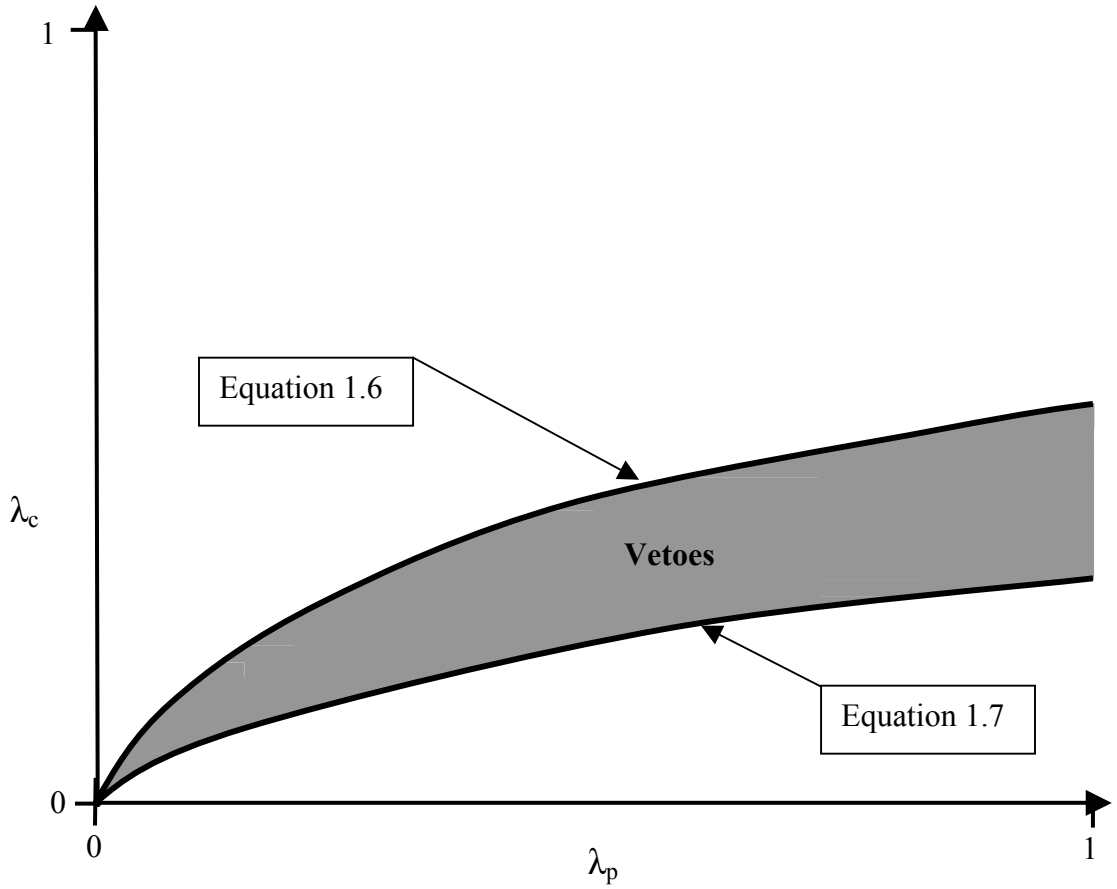
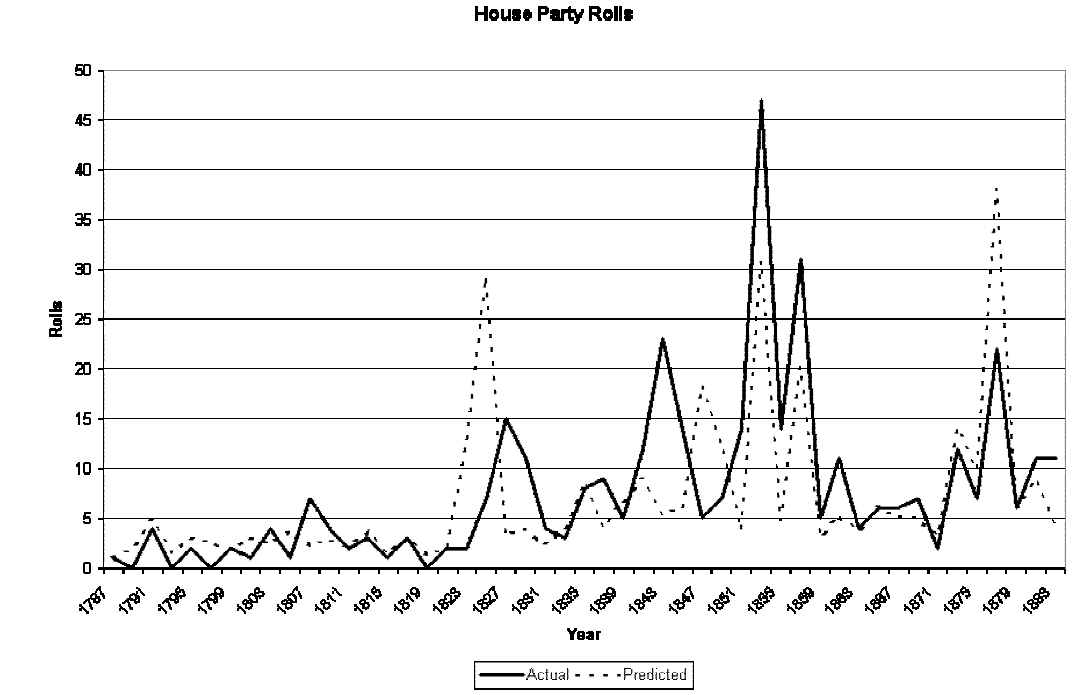
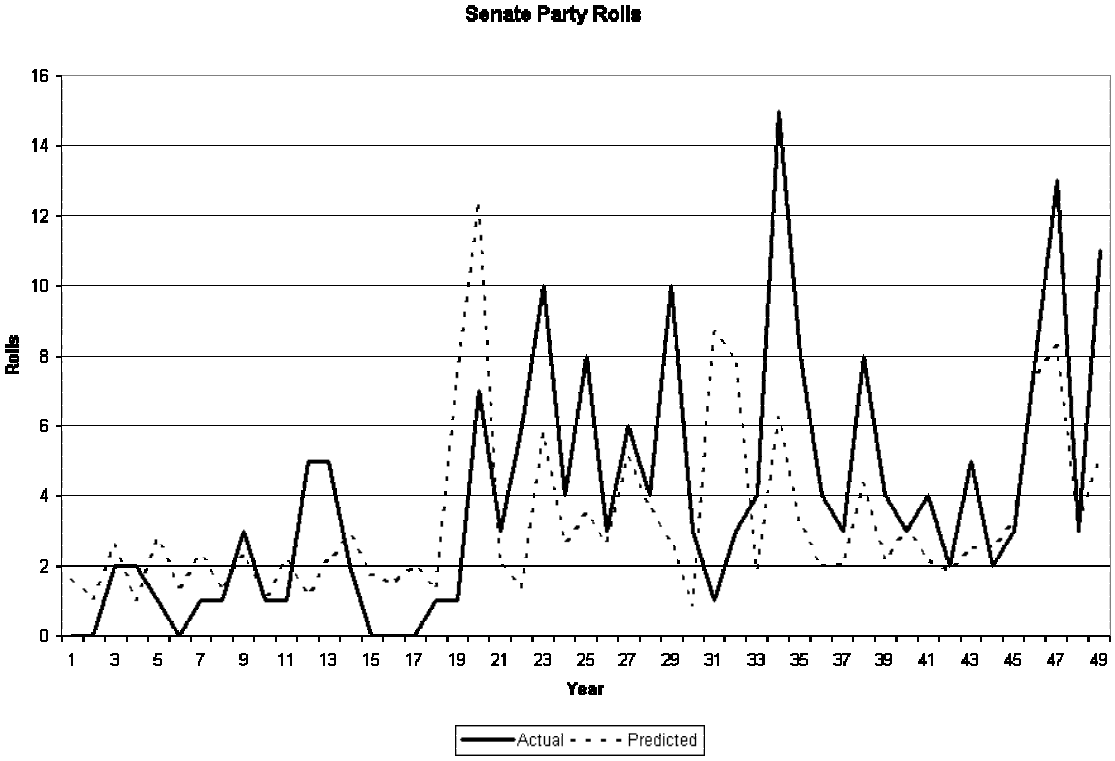


Figure 8


House Party Rolls
Rolls
Year
Actual
Predicted


Senate Party Rolls
Rolls
Year
Actual
Predicted

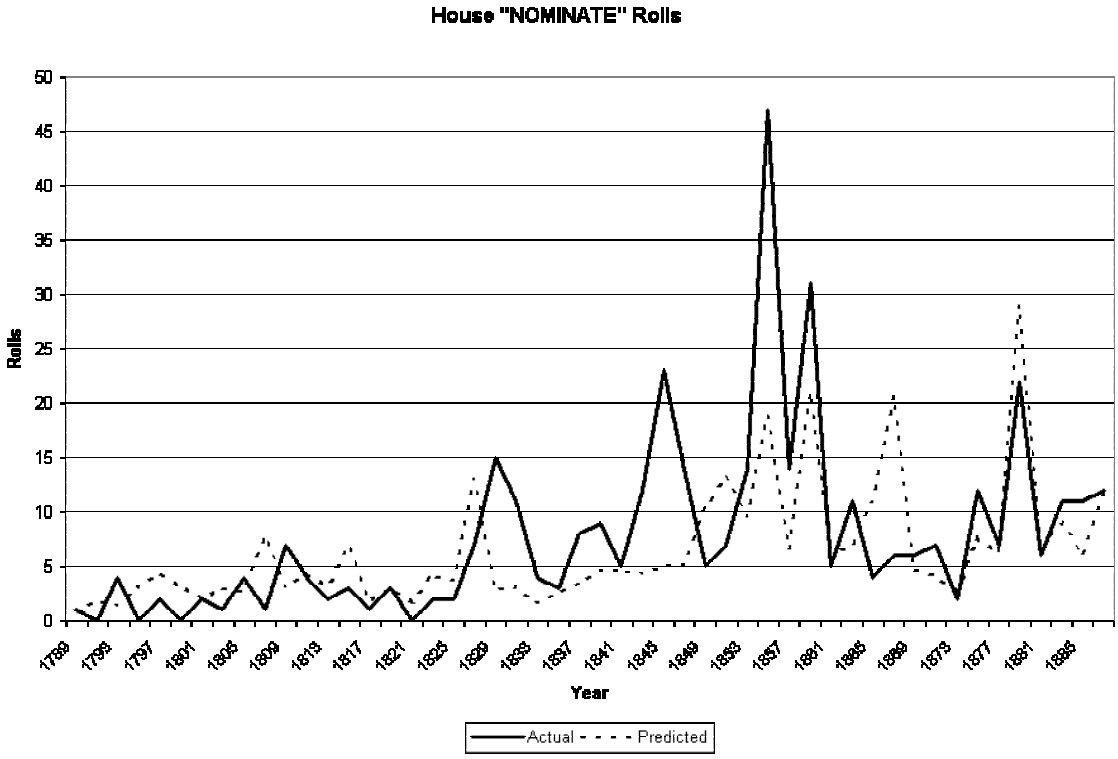
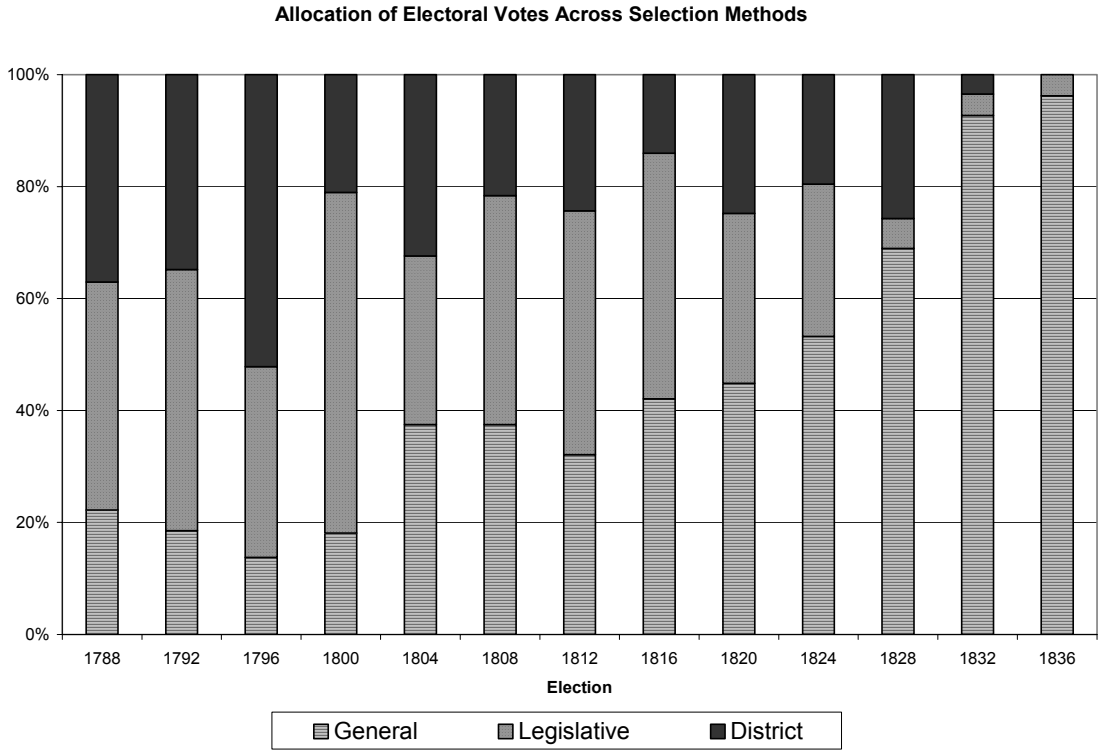

House "NOMINATE" Rolls
Rolls
50
45
40
35
30
25
20
15
10
5
0
1789
1793
1797
1801
1805
1809
1813
1817
1821
1825
1829
1833
1837
1841
1845
1849
1853
1857
1861
1865
1869
1873
1877
1881
1885
Year
Actual
Predicted

Figure 9


Allocation of Electoral Votes Across Selection Methods
100%
80%
60%
40%
20%
0%
1788
1792
1796
1800
1804
1808
1812
1816
1820
1824
1828
1832
1836
Election
General
Legislative
District