

# Congressional Bargaining in Presidential Time: Give and Take, Anticipation, and the Constitutional Rationalization of Dead Ducks

**Terry Sullivan** University of North Carolina at Chapel Hill  
**Scott de Marchi** Duke University

*This article introduces a simple theory of bargaining between presidents and members of Congress. Although it employs the analytics common to the typical “sequenced” theories, its approach places more emphasis on give and take, on less reliable information about intentions, and on more complex strategic considerations. The formal results highlight a presidential tenure effect, which in turn suggests four empirical expectations. The article then uses a unique empirical opportunity and data to assess and eventually validate expectations suggesting, in turn, that declining presidential tenure has a substantial effect on confidential bargaining, making coalition formation more erratic and costly. The article concludes with a theoretically informed discussion of how growing congressional seniority led to imposing the 20th and 22nd constitutional amendments.*

During its first century, America's governing officials maintained similar careers.<sup>1</sup> With local politics predominating, the national government experienced a regular circulation of office holders, punctuated by heroic efforts at building a stronger national polity, revolving around the talents of particular leaders like John Q. Adams, Clay, Calhoun, Blaine, Randall, Reed, Carlisle, etc.<sup>2</sup> Built this way, coalitions had a temporary nature reflecting these singular personalities and the keenly divided governments they oversaw. Congressional memberships changed so frequently that leaders resorted to making committee assignments without regard to accumulated policy experience and often without regard to party (cf. relevant *Congressional* and *Boarding House Directories*). Similarly, presidents followed short careers. Outside of the Founders' generation and running through the Civil War, only Andrew Jackson completed a second term. Both Benjamin

Harrison and James Polk even promised to retire after one term without others considering such promises as sounding disingenuous, and most second generation presidents did not even control their parties long enough to get nominated a second time.<sup>3</sup>

Following the Civil War, with industrialization, trade, and other external relations, national careers began to thrive and congressional service began to approximate lifetimes. Tolerance waned for legislative routines designed to reinforce personal loyalties, and members regularized principles for distributing influence (Galloway 1976; Polsby 1968). Similarly, presidents followed longer careers. Each of the small number of second termers (Ulysses Grant, Grover Cleveland, Theodore Roosevelt, and, in the new century, Woodrow Wilson) pursued a third term (Peabody and Gant 1999; Stathis 1990).

Midway through its second century, both national governing institutions began to resemble a fixed polity

<sup>1</sup>Data originates from a larger research project found in Sullivan 2011 and will become available upon its publication at <http://ibiblio.org/sullivan/bios/MAD/AvailableData>.

<sup>2</sup>For example, after the 12<sup>th</sup> Amendment and until the Whig collapse, presidential ballots (e.g., 1824, 1832, 1836) would often carry several candidates running under the same party label.

<sup>3</sup>These include John Quincy Adams, Millard Fillmore, John Tyler, Franklin Pierce, James Buchanan, and Polk: all but one of the presidents preceding Lincoln.

of permanent congressional parties, with long-running incumbents at their helms, and ambitious presidents overseeing an expanding executive. Then, suddenly two things changed. First, congressional leaders imposed a constitutional amendment (the 20<sup>th</sup>) rationalizing the start of Congress and the presidential inauguration thereby eliminating a 150-year old pattern of “short” congressional sessions which had run from election day to the March inauguration. Previously, 10% of all legislative days had taken place in these sessions, and after Jackson’s presidency, almost all of them involved a lame duck majority dealing with a dead duck president (often in divided government) about to cede power to a majority president.<sup>4</sup> Then, after 15 years of this new schedule, and for the second time in history, the national executive’s constitutional qualifications shifted, with, *again*, a congressionally initiated amendment to limit the presidential term. After the 22<sup>nd</sup> Amendment, the term “lame duck” became almost exclusively an adjective for presidents.<sup>5</sup>

Despite its clear intent to affect the nation’s institutions, no research has ever addressed this divergence in tenure and institutional rationalization or placed it within the context of institutional balance. And no research has considered the ubiquitous phenomenon of lame duck presidents dealing with congressional majorities so common to most of our history. For example, though contemporaneous with these amendments, Wilfred Binkley’s (1949) oft-cited review of president-congressional relations makes no mention of either.<sup>6</sup>

What research does consider these amendments attributes them to the Great Depression, Washington’s two-term “norm,” or claims that the 22<sup>nd</sup> constituted posthumous “revenge” on FDR (Kallenbach 1952; Willis and Willis 1952). In fact, the 20<sup>th</sup> Amendment remedied a problem that had survived for more than one and a half centuries, troubling government long before the Great Depression, and saddling leaders with

several calamities.<sup>7</sup> Moreover, while few presidents had had any opportunity at reelection, those few who had any opportunity to choose (Grant, Cleveland, Roosevelt, and Wilson), unanimously ignored the “Washingtonian norm” (Stathis). As an act of revenge on FDR, of course, the 22<sup>nd</sup> had little impact on its intended victim, and when offered as an explanation, revenge could not account for Democratic leaders supporting the amendment.

Richard Neustadt’s (1960) seminal work, written within the decade of the 22<sup>nd</sup>, makes no mention of either amendment. Modern standards on the presidency, Skowronek (1993) or Burke (1992), contain no mention of them or the ubiquitous short sessions. Lewis and Strine’s (1996) assessment of “presidential time” notes that FDR represents an empirical “wildcard,” without considering if this anomaly results from standing at the divide between the institutional worlds these two amendments wrought.<sup>8</sup> Assessing the amendments and the processes they affect languishes because they invoke politicians’ expectations and the give and take between them that typically goes unobserved.<sup>9</sup> We know a lame president has troubles, but not what kind, so we confront a mystery wrapped in an enigma.

This article begins to unravel both. The next section presents a bargaining theory of the enigmatic congressional-presidential exchange. It differs from other approaches by highlighting give and take, presumed to lie at the center of leadership, by applying only the information bargainers would most likely possess, and by embedding their engagement in a complex that stretches into the future. The article then interprets its theoretical results to illuminate the mystery of the president’s lameness, demonstrating that the disciplining effect reputation has on members succumbs to the president’s declining tenure. Having

<sup>7</sup>Awaiting the long session after the 1930 election, which would begin a whole year later, the victorious Republican majority literally died off (including its Speaker, Nicholas Longworth) replaced, in special elections and gubernatorial appointments, by a Democratic majority. This calamity boosted the careers of John Nance Garner, Sam Rayburn, Lyndon Johnson, and Fiorello LaGuardia and created a new, distributive-based governing coalition organized by Garner.

Additionally, a short session-dead duck House majority could settle a presidential deadlock by naming their party’s nominee before the new majority could take office (cf. Nagel 1997).

<sup>8</sup>Or consider the research on gubernatorial term limits (Besley and Case 1995).

<sup>9</sup>Exchanges take place in confidence: administrations protect their records of them and members rarely discuss them even with their peers. Hence, and for good reasons, bargaining theories do not normally reference the more “blame game” posturing in which politicians engage publicly (cf. Gilmour 1995; Groseclose and McCarty 2001; Ingberman and Yao 1991).

<sup>4</sup>Twenty-two of 28 short sessions involved at least partly divided congressional control and a dead duck minority president. Only two (both Adamses) involved an actual dead duck, unified government remaining in power six months while a new, unified government of the other party waited in the wings. Only four (Washington, Jefferson, Madison, Jackson) involved majority party congresses working with a dead duck of their own party.

<sup>5</sup>This congressional career remains so robust as to have turned back every attempt to shackle it.

<sup>6</sup>The Dean of Notre Dame’s Law School called the 20<sup>th</sup> “particularly unspectacular” (Nagel 1997).

previously developed a strategic balance, primarily to preserve their reputations, members now worry less about the reputational impact of potentially erratic behavior and revert to a more policy-oriented response when the president challenges them. Since short sessions would have these dynamics as well as those presidencies suffering through the 22<sup>nd</sup>, this “horizon effect” bargaining would underlay a good deal of American policymaking.<sup>10</sup>

A second section submits this new bargaining approach to empirical assessment using headcount data to illuminate presidential-congressional bargaining and Lyndon Johnson’s unexpected 1968 withdrawal to observe a potential horizon shift. These data verify a horizon shift occurred, showing members bargaining with and then without regard for reputation. In turn, this horizon effect lays a foundation for not only explaining the 20<sup>th</sup> and 22<sup>nd</sup> amendments but also underscoring the unexpected role of congressional seniority.

## On Considering Bargaining

The approach taken here constitutes one of two. Both rely on repeated, noncooperative game theory and both model bargaining as a confidential process involving behind-the-scenes exchanges. One approach, established by Baron and Ferejohn (1989), has burgeoned in the last two decades (cf. Banks and Duggan 2000, 2006; Baron 1996; McCarty 1997, 2000a, 2000b; McKelvey and Riezman 1992; Snyder, Ting, and Ansolabehere 2005). Call it the “sequenced decision theory” (SDT) to underscore its focus on the orderly schedule afforded to institutional roles like *formateur* and *decisive coalition* (or proposer and disposer), a focus originating with the Romer-Rosenthal (1978) and then Rubinstein (1982) bargaining games. SDT concentrates on how this institutionally defined element affects the distribution of influence. It relies on presuming that all know each other’s preferences (“complete information”). And although originally developed only for distributional policies (e.g., ministerial portfolios), SDT accommodates, on the proposer side, subordinate units (committees), differential status, and, with some machinations, even presidents. On the disposer side, SDT accommodates superior units (houses), parties, differentially weighted coalition

partners, and, stretching credulity, public goods and more symbolic issues.<sup>11</sup>

In SDT, because those who dispose a proposal know exactly how much less they could get in the next round, *proposers rule*, whittling down anticipated support coalitions to a bare minimum (to maximize gains in winning) and minimizing the returns of winning to everyone but themselves. Razor close margins make no difference because these theories restrict the role of uncertainty to just calculating which actor gets the initiative. Once that role falls to someone, the resultant disposer adopts the proposal offered (with its minimum winning coalition and its unequal internal distribution) and the actors never use again the scheduled roles assumed to pass for bargaining. No SDT analysis addresses the impact of abruptly excluding a president as proposer (i.e., term limits of sorts), suggesting that, even when certain to occur, such an exclusion would only minimally affect a president’s influence. The logic of having the initiative still rules with the same force, and lameness would have no practical meaning or explanatory force.<sup>12</sup>

With deeper roots, a related approach invokes the “median voter” (Black 1954; Downs 1957) and utilizes the roles and schedule defined by the Constitution (Article I, §7): Congress proposes and the president vetoes (cf. Morris and Munger 1998). This approach also concentrates on relative influence (Calvert, McCubbins, and Weingast 1989; Cameron 1998, 2000; Ingberman and Yao 1991; Kiewiet and McCubbins 1988; McCarty 1997, 2000b; Volden 2002; Weingast and Moran 1983). Again, everyone’s capacity to anticipate perfectly determines outcomes and influence and, again, *proposers rule*. Knowing that a president must retire also would have no effect on their results because the constitutional rules never afford the president any initiative to begin with. So, again, the logic of defined roles rules with the same force as before, and lameness would have no practical

<sup>11</sup>Baron has argued (1996) that only distributive outputs matter to constituencies and hence only the distributive sides of position taking and public goods matter. While it makes theoretical sense, asserting this position makes no analytic sense. Distributive issues constitute the only policy type on which one could impute utility to nominal figures, or think that totals allocated to a district (e.g., \$10,000) might capture the same thing in everyone’s utility. Public goods and general position taking, however, present the very policy types where these two assumptions (values linear in utility and valid interpersonal comparisons) hold with the least likelihood.

<sup>12</sup>In SDT, finite bargaining produces no equilibrium (Baron and Ferejohn 1989) unless members adopt nonrational punishments or unless one excludes “historically” dependent strategies, like logrolling, considered (oddly enough) a mainstay of resolving distributive issues.

<sup>10</sup>Moving congressional recesses to before presidential conventions reduced the number of long sessions pitting a lamed president against the majority.

meaning or explanatory role. These two models sound alike because they have common roots. To unify the two, Cho and Duggan (2009) provide a sequenced decision version of the median voter effect.

This section presents an alternative to SDT, a “reciprocal bargaining theory” (RBT). While it utilizes many of the same analytic techniques, RBT concentrates on other questions and uses different assumptions. For example, instead of focusing on schedules to proposing and disposing, RBT highlights the character of bargaining, its give and take. Instead of resting on transparency of intentions, RBT’s version of bargaining specifically highlights the imperfection of judging intentions, thereby opening the door to political guile. Instead of perfect predictability making more than one round superfluous, RBT depends on recognizing the web of renewed interactions that any initial exchange will engender. The next section walks through these elements (exchange, intent, repetition) leaving a more formalized presentation to the appendix.

## The Basic Exchange

RBT begins with two basic elements: give and take through a dyadic exchange—a member of Congress and the President exchanging signals about intentions leading to an eventual policy resolution. Figure 1 illustrates these two elements on a proposal that the president supports.

**Back and Forth.** RBT proposes a schedule for bargaining that begins with the member signaling the president suggesting one of two possibilities: *committing* (to support or oppose) or *hesitating*. As demonstrated in Sullivan (1990), in both theory and practice, the member who initially signals either form of *commit*... rarely deviates, making that signal a real commitment.<sup>13</sup> Because such signals get carried through, the president possesses no rational response and the game concludes. Hence, the discussion ignores *commit*... branches, though, the formal analysis does not.

By contrast, the remaining signal, *hesitate*, begins just the back and forth that resembles politicians bargaining and so, for theoretical as well as practical reasons, hesitation becomes the starting point for discussion. While, in the real world, a member could respond with a range of positions, modulating from specific policy points to obvious bids for favor, the theory collapses these into one response—*hesitate*. After receiving this signal, the president has one of two responses: *conceding* a favor hoping to convert

the hesitant member or *persevering* with the current proposal. Again, a real president could respond with a plethora of nuanced responses, along with several ways to just say “no,” but the theory reduces these to just the two. Responding to the presidential signal, (and to shorten the theoretical analysis by simply capping give and take), the member votes either *for*, passing the proposal, or *against*, defeating it. Again, a real president and member could jockey further after the vote, renege on commitments and so forth, and invoking a variety of subtle penalties for misdirection (e.g., hesitate-concede-*against*) but for now, the theory assumes that voting disposes the proposal, back and forth ends, and the commitments and utility changes give and take augured result and nothing else. While admittedly simpler than real behind-the-scenes bargaining, RBT’s give and take comes considerably closer to how politicians engage their peers than SDT’s calculated proposal and disheartened assent.

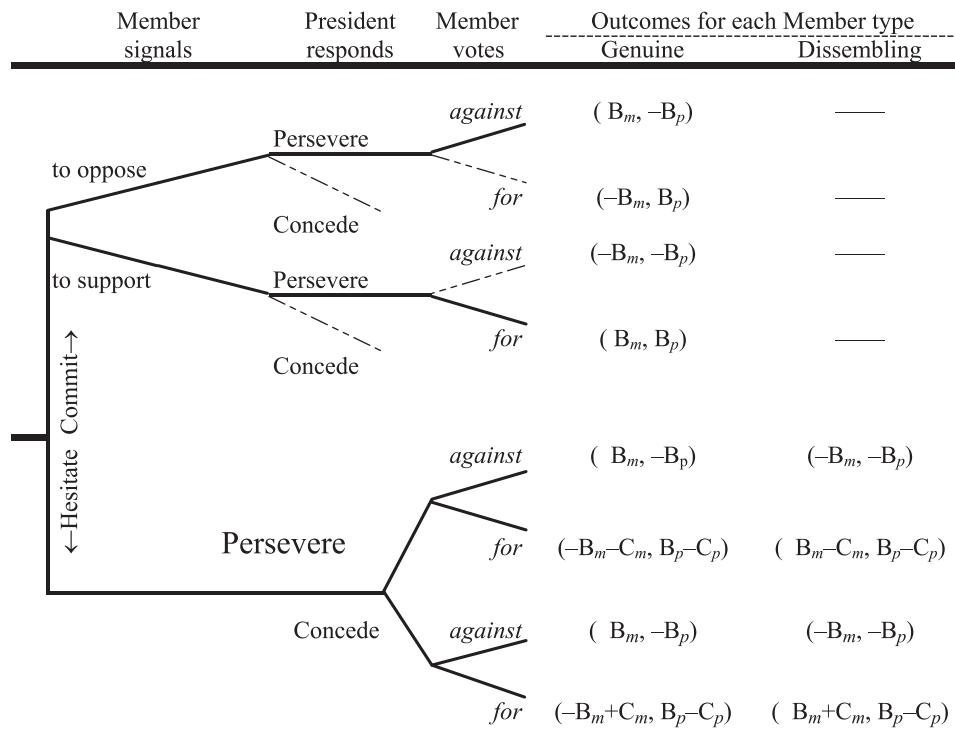
RBT’s simple give and take produces four important exchanges: hesitate-concede-*for*; hesitate-concede-*against*; hesitate-persevere-*for*; and hesitate-persevere-*against*. Each generates an outcome with benefits or loses ( $\pm B_i$ ) and concessions or sanctions ( $\pm C_i$ ), subscripted for the member or president (*m*, *p*).<sup>14</sup> Because any exchange •-*against* yields the bill’s failure, the President considers that outcome negative ( $-B_p$ ) while the *truly* hesitant member views it as beneficial (+ $B_m$ ). Figure 1 tracks out all exchanges and describes their resultant outcomes.

**A Dyadic Focus.** Even though it constitutes a standard practice, RBT begins with a dyadic exchange as a matter of specific focus and emphasis. While SDT concentrates on the influence of context, RBT stresses the inherently political and often perplexing character of presenting intentions, suspecting that such presentations constitute a critical part of how accomplished, national politicians engage each other.

Concentrating on the character of exchange, however, limits initial consideration of the role of others. In SDT, *everyone* inside any proposed coalition becomes interchangeable with someone from outside it, making both powerless and, for most things, irrelevant. RBT’s approach does not minimize the importance of considering these others. Rather, it simply suggests that because theorists do not know what actually happens when politicians bargain, do not know how confidential exchange differs from public posturing, but would suspect that intentions

<sup>13</sup>Thousands of such commitments resulted in fewer than 2% deviations, less than coder error.

<sup>14</sup>For simplicity, assume the capacity to generate favors also includes the capacity to sanction, i.e.,  $|C_i| \equiv | -C_i |$ .

**FIGURE 1** The Schedule of Reciprocal Bargaining

where:

Benefits obtaining from preferred outcome

 $\pm B_i$  where  $i \in \{ \text{President, Member} \}$ 

Benefits from obtaining a favor or a punishment.

 $\pm C_i$  where  $i \in \{ \text{President, Member} \}$ 

and signals ought to matter, then theory first needs to concentrate on the character of that basic exchange.

Some recent empirical research suggests actual practice mirrors this focus. Beckmann's study (2010) of how administrations pursue their agendas reports that efforts actually focus on individuals, ignoring place among factions or other groups, and even the structural prominence of pivots. The anecdotal literature (Birnbaum and Murray 1987; Light 1988) also suggests the importance of single exchanges. Practice aside, though, theory also suggests that even when members *could* present a unified front, they still might not maximize their individual influence, hence making collective considerations a phantom. In retelling the inside story of what eventually became the Budget and Impoundment Control Act, for example, Dodd and Sullivan (1982) detail a liberal effort to force their leaders to adopt a separate impoundment control bill in 1973. When their collective hesitation appeared, the leadership interpreted it not as a call to bargain a compromise, but instead as reducing *their*

flexibility in confronting President Nixon. The leaders simply retreated, leaving the liberals with both a demonstrated reluctance to support their own leaders *and* a scuttled policy each would have preferred over what they got. So, carrying through on collective strategies would not substitute for the more dyadic bargaining process. It merely complicates those basics highlighted in the dyadic exchange.

## Considering Intent

"Truly" hesitant appears earlier to underscore another difference between theories. SDT relies on complete information to generate "precise anticipation": a total transparency to everyone's intentions. With such knowledge, everyone can calculate exactly who among them will support which proposals, and every political act has only a surface meaning. Transparency of intentions represents a theorist's boon, of course, as it also would for real politicians, *if they had it*. Consider how precise anticipation would affect the

give and take in Figure 1. Knowing that the president understands the member's preferences, the member would never hesitate unless that hesitation signaled that the president *could* sway the final vote by granting a favor. And in turn, knowing that the member understands the president's preferences, the president would never grant a concession unless that favor would convert the hesitant member, knowing in turn the member's intentions. Equilibrium becomes obvious to all and utterly guileless—hence transparent.

Having only a face value to actions constitutes an added boon to theorists. In give and take (sending signals) and in registering positions (of proposing and disposing), having a transparent meaning simplifies analysis. Signals in SDT, of course, have no meaning since everyone knows everyone's intentions. Likewise, no vote has implications beyond its immediate result because, given transparency established by assumption, acts cannot conceal anything. In SDT, the member voting *for* means just the one thing—the proposal passes. It has no implications beyond that fact, implications that would alter the politics between actors as they proceed into the future.

These theoretical advantages come at a heavy price. In SDT, influence becomes just getting the exogenous nod to become proposer and then simply calibrating a proposal to exactly what secures the right number of votes, eventually cast entirely in an autonomic fashion. Political acumen trivializes to computational prowess. The member does not need and the president cannot possibly use the very persuasion presumed to lie at the core of political influence and leadership. Precise anticipation, the simplistic meaning found in transparent intentions, and its subsequent emphasis on getting only just enough votes echoes what one might call a “flat” image of politics—an image once presented to others by then Senate Majority Leader Lyndon Johnson when he described congressional policymaking as nothing more than the tautology “you can get anything you have the votes to get . . .” (Sullivan 2011).<sup>15</sup> Only, then, LBJ meant his characterization as ironic, closing out instead with what he considered the more salient part of political talent: “you can get anything you have the votes to get,” he said, “*How many votes have you got?*”

In contrast to precise anticipation, RBT begins by assuming just the problem implicit in that last state-

<sup>15</sup>This flatness echoes empirical studies equating influence to floor success, e.g., Bond and Fleisher (1990) or Edwards (1980, 1989), and, hence, to how many votes one has. Recently, more detailed analyses of outcomes have found strong presidential effects (Berry, Burden, and Howell 2010). The dispute over flatness also underlies scholarly exchanges over congressional leadership, e.g., Aldrich and Rohde (2000) versus Krehbiel (2000).

ment: that when each cannot fully anticipate the other's intentions, when they both possess *incomplete* information, potentially *faulty* anticipation poses the necessity of learning to discern intentions. For example, the member might feign dissatisfaction hoping to bluff into a concession, including but not limited to receiving a better policy. To the President, the signal from a genuinely hesitant member hoping to resolve a policy problem and the signal from a “dissembling” member hoping for a freebie look identical. After three years as president, John Kennedy confided to civil rights leaders that he had learned members had an exasperating capacity for camouflaging their intentions in their signals (Sullivan 2011).

The characterizations along the right of Figure 1 illustrate these possibilities, describing two member archetypes: one “genuine” and the other “dissembling.” The committed, genuine member naturally gets  $B_m$  when eventually carrying through on that commitment, whether to oppose or support. Interestingly, no rational dissembling member commits because it forecloses the opportunity to get a concession. So, once again, the discussion narrows because only the dissembling, hesitant member presents the perplexing in discerning intentions. By appearing genuine, that member might secure a concession *as well as* passing a secretly favored outcome (follow hesitate-concede-*for* to  $B_m + C_m$ ). Receiving the same presidential concession, the genuinely hesitant member must compare that against obtaining an otherwise unfavorable bill ( $-B_m + C_m$ ).

Of course, not knowing the president's competencies at identifying bluffs or at using give and take to learn about the member has a reciprocal effect on the member's strategy. Since having to offer a concession only when it would secure support minimizes leadership costs, a president would have an intense interest in punishing anyone who dissembles, encouraging instead a “good” reputation. As a result, the exchange hesitate-persevere-*for* yields  $B_m - C_m$  for both the dissembling and genuine member because the president punishes such “discovered” bluffs and may not discern the difference in basic intentions. It also appears in the president's outcome as a cost ( $B_p - C_p$ ).

## Repetition and Strategic Complexity

In RBT, this opportunity for dissembling not only lies at the heart of give and take, but it also introduces something of the realistic challenges actual bargaining presents. In SDT, the proposer takes the possibility of repetition into account and calibrates proposals so precisely that no one wants to proceed further, transforming sequenced bargaining into “one and done”

instead because complete information makes possible such hairsplitting exactitude. In reciprocal theory, such repetition produces a different effect—an inherently political complexity because every falsely signaled intention can entangle the member in the prospect of complicated future back and forths on other issues, *if the president perseveres now*. Even if the acts to follow that signal can only hint about the member's intent, the member's calculus of the moment must concern itself with what the president's response and the member's subsequent reaction would imply for the long term. After observing the whole of their exchange, the president can update expectations about the member thereby creating an "informed" appreciation of intentions: a reputation. But because the presidential expectation of having discovered a dissembling member ( $q$ ) spikes (with standard Bayesian updating) after observing hesitate-persevere-*for*, then *if the president responds with perseverance*, bluffing invokes a choice for the member between voting *for* and getting  $+B_m$  in the short run (getting a favorable policy outcome) but having  $q \Rightarrow 1$  for the long run (getting a bad reputation) or voting *against* and maintaining a good reputation for the long run ( $q \Rightarrow q$ ) but a bad policy outcome now ( $-B_m$ ). Of course, none of these calculations matter in the least to the genuinely hesitant member, who seeks a policy resolution and reacts to the president consistent with preferences: the presidential perseverance that so consternates the dissembling member yields an immediate and guileless vote *against* from the genuine member.

For the dissembling member facing this complex possibility, define voting sincere preferences (i.e., voting *for*) as pursuing an "immediate policy response" to perseverance while the other (voting contrary to preferences to preserve  $q$ ) define as adhering to a "reputational discipline." The equilibrium result (found in Appendix §3) demonstrates that a dissembling member can find value in adhering to the reputational discipline with its short-term policy sacrifice. To affect choices in this way, though, the reputational discipline must "cast a shadow" backwards from those future rewards into the present give and take so the dissembling member finds it worthwhile to bear the current, negative policy results.<sup>16</sup> As an added implication, discipline's requirements and its potential strategic complications dampens

<sup>16</sup>The current version of RBT does not include a discount ( $\delta$ ). SDT demonstrates that whatever its effect, the president, as initiator, can counter by simply recalibrating the value of  $-C_m$  associated with any original balance between the policy response and the reputational discipline. A discount or a myopia might help clarify the problems with erratic congressional behavior in the horizon shift, though it currently occupies no part of the theory.

any member's urge to dissemble on a regular basis, thereby reducing for both president and member the potential burdens of cooperating. Call this future shadow the president's "horizon" and its impact on cooperation, via discipline, the president's "horizon effect."

RBT also produces some important comparative statics (Appendix §5) on sanctions ( $-C_p$ ) and priorities ( $B_p$ ) that illuminate some of the strategic complexity here. For the dissembling member and during the core of the president's tenure, relatively small sanctions or small concessions support adhering to the reputational discipline, making sense of avoiding getting caught in a bluff by voting *against* when the president perseveres. Once the president's "horizon" shifts, however, the necessary sanctions and concessions must grow dramatically or the dissembling member takes more risks, bluffs more often, and fears getting caught less. And while some dissembling member might end up voting *for*, the operational chaos this erratic behavior generates increases costs for the president, especially because the president has had to assay a reputation against signals and its effect on potential favors and policy concessions. Hence, RBT identifies how, with incomplete information and repeated give and take, a nearing horizon (like the one the 22<sup>nd</sup> made law or the one buried in those original short sessions) can aggravate presidential leadership.

## Observing Bargaining and a Dead Duck

Since it focuses on context and links acts only to current outcomes, SDT has a more delineated empirical footprint, though research has uncovered little evidence supporting its primary findings about narrow coalitions, distributions, etc. (cf. Berry, Burden, and Howell 2010; Laver, de Marchi, and Mutlu 2010). Opportunities to test RBT, by contrast, occur less often because it necessarily evokes the character of bargaining: perceptions, exchanges, reputations, and bluffs. Appropriately testing RBT, then, requires a clear event that could highlight the president's lameness against the potential confusion of other elements, data on give and take, and reasonable proxies for predispositions.

## Opportunities to Observe Give and Take

While several administrations before the 20<sup>th</sup> amendment afford dead ducks to study, none provide useful

data on give and take. For example, Sullivan's (1990) extensive collection of headcount data on give and take runs from President Eisenhower and through Ford: all after the 22<sup>nd</sup> took effect. Among the post-22<sup>nd</sup> presidencies, the lameness of several (Presidents Carter, Ford, and H. W. Bush) did not appear clearly until Election Day. Presidents Eisenhower, Reagan, Clinton, and W. Bush's horizons trickled away under the 22<sup>nd</sup> amendment in just the way that makes observing difficult. And, while producing clear-cut events, President Nixon and Kennedy's removal prevented them from leading further. That leaves only LBJ.

Fortunately, no tenure in post-22<sup>nd</sup> history presents a more clear-cut horizon shift than President Johnson's sudden announcement, on 31 March 1968, that he would not seek nor accept his party's renomination. No one anticipated such a turn. On the day before, even LBJ's most trusted aides met to develop their campaign plans. His announcement, therefore, transformed expectations about his tenure from five more years to a mere five more months.<sup>17</sup> It created a clear break in expectations while keeping LBJ engaged. To this day, the President's last chief of staff (Jones 2008) argues that LBJ thought changing his status would buy him an easier time leading. Hence, every indication suggests the President would continue to bargain as he had before the change, presenting a near perfect test bed.

Additionally, the Johnson presidency also provides data detailing give and take. Like others, the Johnson administration routinely recorded confidential member signals and subsequent votes. The data used here covers the 90th House (cf. Sullivan 1990 for a list). On these issues, the administration normally polled members several times during the period leading to a floor showdown, recording their responses first in a detailed prose account, then reducing them to a scale running from *Right* (committing to support) through hesitation to *Wrong* (committing to oppose), all closely matching the give and take described in Figure 1.

**Identifying Member Predispositions.** Like others (Bond and Fleisher 1990; Covington 1987a, 1987b, 1988), the empirical analysis will divide House members into three groups, using constituency characteristics to predict an initial predisposition ( $0 \leq p \leq 1$ ) for presidential support (Sullivan 1990).

<sup>17</sup>While early 1967 trial heats had suggested weakness, starting in November LBJ's fortunes climbed. Gallup trial heats regularly showed LBJ defeating all Republican challengers by considerable margins. Qualye polls also put the president well ahead of all contenders (Jones).

A "core supporter" has a constituency implying support at least 80% of the time and a "core opponent" would oppose the administration the same. Members in between become the "cross-pressed" ( $.2 < p < .8$ ). While RBT applies to all members, the empirical analysis concentrates on core supporters since only they occupy the strategic positions to have likely engaged in bluffing (Sullivan 1990). Analysis will also evaluate the cross-pressed as a baseline for what "genuine" bargaining looks like, but since even a strong supporter has a very small likelihood of genuine hesitation, the empirical analysis employs the predisposition score as a control.

**Extensions.** The empirical analysis also incorporates some variables as diagnostics to suggest extensions of the dyadic RBT: considerations about the potential anticipation of others' actions and the possibility of nuanced signals. While RBT requires strict adherence to the reputational discipline among core supporters, in the real world, critically close situations might magnify the immediate policy impulse otherwise postponed by using the reputational discipline. To assess this potentially corrupting closeness effect, one variable in the empirical model subtracts .5 from the percentage committed right on the initial headcount and a second variable takes the square of that closeness measure. By contrast, and again, cross-pressed members should respond only to whether the president's response alters their utilities, regardless of closeness. In addition, potential variability in member signals raises some interesting possibilities: for the cross-pressed, the opportunity to vary how they signal hesitancy probably affords them more of a tool than it does the dissembling hesitant because genuinely hesitant members have critical policy thresholds they need to communicate about before they can hope to follow the president.

**Standard Elements.** To reduce misleading results, the analysis also includes several standards: electoral vulnerability (% two-party vote), party, monthly job approval, and unemployment rates (Bond, Fleisher, and Wood 2003; Canes-Wrone and de Marchi 2002).<sup>18</sup>

## Expectations for the Horizon Shift

The empirical expectations for give and take employ comparisons across time (considering the horizon shift) and between members (considering the appeal

<sup>18</sup>Given theory, including unemployment and inflation over-specifies economic conditions, and research indicates democrats focus on unemployment (Hibbs 1987).

of the reputational discipline). Before the shift, hesitating core supporters should favor the reputational discipline—when the president perseveres, they should vote *against*. According to both Congressional Quarterly's analysis and internal administration documents, the Johnson administration chose perseverance on all the issues in this data, both before or after the president's announcement. With such a clear presidential response, hesitant supporters faced the exact trade-off described in theory. And as these same core supporters pass through the horizon shift, made obvious by LBJ's withdrawal, their bargaining should become less dedicated to discipline, shifting more to a policy response. Hence:

**Reputational Discipline and Horizon Shift.** In modeling core supporter conversion, the constant should have a significant and negative coefficient (E1), suggesting a baseline discipline. A dummy variable for "after" LBJ's announcement will have a significant and positive coefficient (E2) suggesting a horizon shift to "easier" conversions.

These expectations also presume, for good reason, that observed conversions do not result from personal favors. As noted, LBJ thought his announcement would put him above such strategies and that his administration meant to hold its supporters' feet to the fire. Thus, the conversion of core supporters on these issues before or after the horizon shift represents a strong test.<sup>19</sup>

**Comparisons with Cross-pressured Bargaining.** The data also provide useful comparisons with core supporters by recording the signals of the cross-pressed. Since these others' constituencies would regularly require opposing proposals supported by the president, most cross-pressed members should hold genuine hesitation, followed by genuine conversion:

**Policy Response and Little Horizon Shift.** In a model of cross-pressed conversion, the constant should have a positive and significant value suggesting a baseline policy response (E3). The dummy variable for "after" LBJ's announcement will appear small relative to the constant (E4) suggesting little horizon shift.

## Reciprocal Bargaining in Practice

Table 1 summarizes a logistic regression predicting member conversion having arrived at the exchange hesitate-persevere-•. The left column presents effects and robust standard errors for core supporters, while

the right column presents statistics for cross-pressed members.

**General Observations on Controls.** The controls perform consistently. Marginality, for example, a contextual control with a checkered history, failed significance in all its variants. Democrats among the cross-pressed responded to presidential concession a bit more readily than the Republicans. As the president's approval increased, core supporters rallied to their president and the cross-pressed (composed of disproportionately more opponents) drifted away. As unemployment increased, core supporters rallied while the cross-pressed retreated. Therefore, the controls seem to have effectively removed the variation commonly associated with these recognized processes.

**Observing Core Supporters in Presidential Time.** Table 1 then reports results associated with RBT, beginning with core-supporter conversion. The variables of interest performed as expected. The constant did not have a significant value, suggesting little or no baseline of conversion (E1), while the horizon shift had a significant and positive coefficient (E2). Generally, core supporters seemed to have pursued a reputational discipline, until after the administration's horizon collapsed, when they became significantly more likely to simply reverse their signaled intentions and vote *for* the president's position despite this behavior's adverse effect on their long-term reputations. These results suggest correspondence between the reciprocal theory and actual behavior.

**Comparing Behavior with Cross-Pressured Bargaining.** Table 1 also provides for assessing cross-pressed conversion. The constant there suggests that, prior to the horizon shift, cross-pressed members responded to the president's concessions as if genuinely hesitant (E3). The basic differences between parties had no effect, suggesting that the cross-pressed had more in common with each other than with those of their same party. Following the horizon shift and making the appropriate transformations to probabilistic values, cross-pressed members responded to the horizon shift with a 12-percentage-point drop in conversion. By contrast, core supporters more than quadrupled that rate, showing a 53-point increase. Given the precision of these two sets of observations, the two patterns of horizon response *between* member types represent statistically as well as realistically distinct responses. Thus, these data for core and cross-pressed members seem to suggest the bargaining dynamics highlighted by RBT.

<sup>19</sup>All sources (newspapers, magazines, memoirs, oral histories, etc.) report the administration continued its practices as regards granting favors before and after the horizon shift.

TABLE 1 LOGIT Model of Conversion among Initially Hesitant

Variables	Member Type			
	Core Supporters		Cross-Pressured	
	Effect	Robust Error	Effect	Robust Error
<i>Contextual Descriptors</i>				
Member Predisposition	.858*	.280	.618***	.102
Member Marginality	−.003	.004	.001	.002
Member Party (Democrat)	—	—	.148	.100
Public Approval	.079*	.032	−.070***	.018
Unemployment	2.764*	1.355	−5.982***	.672
<i>Exploration of Reputational Discipline</i>				
Closeness of Initial Headcount	−.164***	.051	.002	.017
(Closeness) <sup>2</sup>	.348***	.101	.117**	.002
Strength of Initial Signal	−.006	.033	.214***	.023
<i>Horizon Shift</i>	1.060**	.343	−1.778***	.214
Constant (reputation vs. policy)	−12.740	6.496	25.789***	3.155
<i>Summary Statistics</i>				
Observations:	775		2,975	
Log likelihood:	−465.426		−1750.878	
≈R <sup>2</sup> :	0.05		0.12	

Notes: Significance: \* >.05 \*\* > .01 \*\*\* > .001

## The Strategic Anchor of Reputational Discipline

While Table 1 presents data that comports with the general tenor of reciprocal theory (an horizon effect and bargaining with respect to varying intentions), the table also presents evidence on extensions to dyadic theory about the variation of signals and the actions of others.

**Signal Strength.** For example, these results demonstrate that genuine members used their initial signal to narrow the distance between the president's response and their final conversion. Not trying to nudge the president, however, hesitant core supporters made no attempt to match their initial signal to reactions either before or after the horizon shift. This pattern suggests, first, that the president's core who bargained acted in just the strategic way suggested by reciprocal theory and, second, that their signals would appear as noise, especially complicating the president's intelligence later on when the reputational discipline began to wane. So, nuance plays a somewhat limited strategic role, less complicating than one might imagine to the basic dyadic theory.

**Anticipated Closeness.** The results on expected closeness, by contrast, underscore just how strongly the reputational discipline governs core supporters. In the dyadic theory, their decision about reputation

becomes paramount while reputation for the genuinely hesitant matters not at all. On the other hand, others' commitments might complicate the real-world situation for the bluffing supporter because a single vote may or may not scuttle a favored bill, *depending on the closeness produced by those other commitments*. The empirical evidence demonstrates that for core supporters a close situation generated slightly stronger adherence to the reputational discipline (negative coefficient) quickly correcting the effect as the initial situation moved away from razor thin, towards a big defeat or win. By contrast, the cross-pressured had no response to close situations, though they also become more flexible as the situation becomes one way or the other. Overall, then, closeness magnified the reputational stakes inherent in trying to persuade the president, suggesting possibly that the president's judgments become more critical and observations of behavior more keen on high-priority bills that present razor thin circumstances.

## Reflecting on a Broader Reciprocal Theory

Additional work now looms ahead, connecting this dyadic exchange theory and its insights into political tradecraft with the actual context now illuminated by these broader empirical data.

**Others.** Since it seems that closeness accentuates the potentially adverse consequences always latent in reciprocal bargaining, an addition seems appropriate. Given theory, the data suggest that while holding the “last vote” might seem like an advantage, standing out against the secured commitments of all those other current and potentially future coalition partners who could set policy now except for that hold-out makes that strategy as much a liability as a seeming strength. Such prominence removes the advantages of faulty anticipation when the president’s highest priorities come into play. Thus, in n-person RBT, more complex interactions should magnify the impact of each dyadic partner’s behavior on the other’s calculations. This result suggests the inclusion of others requires adjustments to theory rather than a wholesale modification of it.

**Wileness.** One subtlety embedded in the calculus and then highlighted by the data involves how allowing a range of signals could matter. Table 1 assays varying members’ signals, but presidents could vary their responses too, e.g., consider the current lack of nuance between hesitate-concede-*against* and hesitate-persevere-*for*. Now, assume limited presidential concessions so a president’s persuasion must rest partly on knowing just how much to offer. Also, assume that talented politicians guard well this reversion point information as they guard their intentions. RBT suggests one way to discover this valuable information. Consider the partial history hesitate-concede-\*. A genuinely hesitant member converts when the president’s concession satisfies  $C_m > 2B_m$  (Appendix §2), but a dissembling member requires only  $C_m > 0$ . Remember that the bluffing member runs significant policy risks (as well as reputational risks) by initial hesitancy. A wily president could take advantage of this asymmetry highlighted in theory to discover a bargainer’s identity, ratcheting concessions to convert the dissembling without moving the genuine. Demonstrating such professional competence by subtly manipulating concessions would have the additional advantage of likely dampening the appeal of strategic hesitation. In effect, then, RBT has identified an important and concrete behavioral component to the often vaguely described concept of presidential “skill.”

## A Reciprocal Explanation of Constitutional Amendments

Using a fortuitous event and detailed data, this article has demonstrated that a bargaining theory highlighting

give and take and anticipation can accurately suggest something of congressional bargaining with dead duck presidents. Taking this more realistic approach not only underscores the advantage political guile affords a member, but it also describes the conundrum that member faces when trying to manage that advantage and especially when facing an equally wily president. It identifies the dynamics of sacrificing a short-term policy goal for a longer-term reputational discipline, the attraction for the latter rising and falling with the president’s tenure. Besides *sounding* inherently more political, these analytic considerations highlight what actually appears in politicians’ behavior as they engage each other, as long as analysts have the chance to observe these enigmatic exchanges.

## Rationalizing the Constitutional Schedule

The character of dyadic bargaining for the president and member reflects more than their complex of intentions and strategic opportunities, however. It also renders an element best characterized as “institutional balance.” Reciprocal theory suggests how, if its influence rests upon effective persuasion, a constitutional change undermining tenure would weaken the presidency at its core. The 20<sup>th</sup> and 22<sup>nd</sup> amendments, then, no longer appear as quirky parts of American history and instead seem to occupy a place in the balance between the two competing constitutional giants. This section briefly addresses this argument, highlighting how seniority—the not-unexpected absence of congressionally induced *congressional* tenure limits—fits in.

The first comparative static in the appendix suggests that as the president’s capacity to produce future sanctions diminishes, the critical value on the president’s expectations ( $q$ ) necessary to underwrite the reputational discipline inevitably nears one, rendering such discipline improbable. In its first instance, this comparative static proposed a horizon effect making erratic behavior a growing cost of effecting presidential leadership. In its second instance, though, it would suggest presidential influence would wane whenever dead duck presidents faced those short session congressional majorities, had those early majorities had the capacity to overcome their own disarray, generated by chronic absenteeism and cliquish factionalism.

Between Reed’s Rules and Cannon’s defeat, longevity began to replace the traditional hold of personalities and offering the growing cadre of career representatives more discretion over policy. To this

growing cadre of senior members, their burgeoning congressional careers would affirm the need for accommodation as a central legislative dynamic, reinforce their own growing sense of being part of a *collective* leadership (even across parties through norms of mutual respect and restrained partisanship), and afford them a realistic sense of occupying independent platforms beyond the practical reach of others, including presidents, thereby lessening the attraction of the reputational discipline. A permanent career would also make the continued use of those short sessions ever-more costly by comparison, especially as short sessions most often afforded a minority president a chance to forestall the majority leadership's newest victories. Comfortable with their own brand of broad, internal accommodations and shared responsibilities, these now stronger congressional leaderships could (with a rationalized schedule) stand up faster and on a firmer foundation. Precisely because it put them in charge faster, these congressional majorities would willingly adopt such a rationalization as that which they set into their new "housekeeping" amendment—the 20<sup>th</sup> (cf. Price 1977).

### Seniority in Reciprocal Bargaining

The 20<sup>th</sup> makes sense, then, if seniority affects bargaining. Embedded in the bargaining results already evaluated, then, the data should also support a bargaining distinction based on congressional authority:

**Core Seniority Effect.** The more senior, core supporter's baseline conversion rate (the constant) should dramatically differ from their junior peers (E5) and their horizon shift, while in the same direction, should appear less dramatic than that of their juniors (E6).

Define two groups of core supporters: "particularly junior"—those core supporters who began their careers with or after the Kennedy election and who hold no institutional position—and "clearly senior"—those core supporters occupying leadership positions in either the partisan or the committee hierarchies. Translating the log odds into probability statements from logistic regressions similar to those reported in Table 1 suggests that, hidden in the original supporter conversion rate prior to the horizon shift, this distinct career component does operate. The conversion probability for senior core members facing perseverance before LBJ's horizon shift stood around 50/50 (even likelihood) while the rate for junior core supporters stood very near to 98/2 (very unlikely). These empirical findings suggest, then, that in the earlier period, when they had dealt with a vibrant administration, junior

members had adhered almost completely to the reputational discipline, while their senior peers had a more casual concern for their reputations. For juniors, the horizon shift meant a wholesale return to policy with conversion rates that jumped to a probability of 13/87 (exceedingly likely). The more senior core supporters also had a conversion uptick after the horizon shift, but nothing like this junior change and more reflective of the far less disciplined seniors' earlier behaviors. Thus, this hidden seniority pattern suggests that, once widely distributed, congressional careerism would affect coalition behavior and the institutional balance it evokes. These "Washington institutions" stand less enthralled even by their own president because, in many ways, every president would compete with them for leadership.

### The Follow-Up Institutionalization of Dead Ducks

Of course, while rationalizing constitutional schedules, congressional seniors could not have fully anticipated the simultaneous apocalypses of global depression, global aggression, and eventually all-consuming global war about to befall them, nor how those forces would amplify the presidency, even elevating the president to the role of preeminent *legislative* leader in their midst. They *could* anticipate, however, that newly elevated presidents would eagerly pursue permanent tenures, just as every other two-term president had tried before. FDR only made manifest their expectation that their collective place in the polity stood in jeopardy of presidential eclipse.

The role for the 22<sup>nd</sup> amendment, as a congressional corrective, then, makes sense once imbedded in this competitive institutional context. These erratic, late-term exchanges cost the president time trying to square appearances with past reputations, and/or, as in the empirical cases here, leading the president to move towards unnecessary compromises in building winning coalitions, and consequently sacrificing presidential (and these bluffers') preferred policies. It also makes sense that the 22<sup>nd</sup> appeared (*as it did*) as just one of a brace of steps designed to correct the bargaining imbalance with this new kind of presidency. That broader agenda included rationalizing committee jurisdictions to mount a better orchestrated, more competitive congressional agenda, a raft of foreign policy controls including, but not limited to, the "Bricker Amendment," growing use of statutory language strengthening agency heads against their presidential appointees like the movement for Executive-wide "administrative procedures" legislation,

and, oddly enough, the creation of the first Hoover Commission.<sup>20</sup>

In the end, these changes, only begun with the 20<sup>th</sup> amendment, initiated the congressionally induced presidential “clerkship” often noted as common in the modern presidency (Neustadt 1960). And, in turn, reacting to those congressional attempts sets the stage, and provides an explanation, for the rise of the “politicized” presidency (Moe 1985), its newly elevated chief executives drawing into their unified authority all the bargaining advantages they can muster from their Executive Branch.

## Appendix

### A Reciprocal Bargaining Theory

Assume a President ( $p$ ) and member ( $m$ ) with preferences,  $x_p$  and  $x_m$ , on a one-dimensional policy space  $X$ , an interval of the real line. They both possess von Neumann-Morgenstern utility functions  $d(\cdot)$  over  $X$ , demonstrating continuity and unimodality. SQ represents the *status quo*. Thus, a member prefers the President’s bill when  $d(|x_m - x_p|) - d(|x_m - SQ|) > 0$ .

**1. Single Play Equilibrium, Precise Anticipation.** Refer to Figure 1. If the administration knows that it bargains with a genuine member, then it can obtain one of two outcomes. The president can concede a favor and the genuinely hesitant will then vote *for*, yielding the exchange hesitate-concede-*for* and the administration outcome  $(B_p - C_p)$ . Or the administration can *persevere*, the hesitant member votes *against*, yielding Hesitate-Persevere-*against* and the administration outcome  $-B_p$ . As long as the President’s cost of conceding satisfies  $C_p < 2B_p$  and the value of the concession to the member satisfies  $C_m > 2B_m$ , then a unique equilibrium exists at hesitate-concede-*for*. Similarly, if the administration knows that it bargains with a disingenuous member, then another unique equilibrium exists at hesitate-persevere-*for*, as long as the member values the punishment less than  $2B_m$  and  $-C_p < 0$ . Note that although conceivable, a

President would not implement large punishments (i.e.,  $| -C_m | \geq |2B_m|$ ) with complete information making hesitation rational only when a concession alters the outcome.

#### 2. Single Play Equilibrium, Faulty Anticipation

Assume incomplete information. Assume a short tenure horizon to find the bargaining equilibrium. The President must decide whether to concede or persevere when facing a hesitant member. Define  $q$  as the president’s expectation that the member has bluffed. Presidential indifference occurs whenever

$$\text{Utility}_p(\text{concede}) = \text{Utility}_p(\text{persevere}),$$

or from Figure 1

$$B_p - C_p = q(B_p) + (1-q)(-B_p),$$

where  $0 \leq q \leq 1$  (2.1)

In the short horizon version of presidential persuasion, the President perseveres whenever  $q \geq \frac{2B_p - C_p}{2B_p}$ , and otherwise the President concedes. Note from the foregoing inequality for  $q$  that as the cost of concessions approaches zero, the President will always concede since  $q$  would have to exceed 1. In equilibrium, the member accepts any concession and votes *for*, but votes *against* whenever the President perseveres. Hence, the member would never hesitate unless meaning it and would not convert unless getting a concession. Similarly, the president would never concede unless that concession would generate a conversion (for comparison, see Groseclose and Snyder 2001).

#### 3. Sequential Equilibrium, Faulty Anticipation.

The situation changes, however, when considering longer horizons. Do values exist to make a rational member violate preferences early, thereby establishing a reputation for sincerity (a reputational discipline) so to extract concessions in subsequent rounds? Start with two repetitions. From Figure 1, the maximum utility the member can expect from pursuing this “reputational discipline” (preserve reputation, then take advantage of it) equals  $C_m$ . To make this strategy worthwhile, its value must equal at least the payoff insured by always signaling a commitment:  $2B_m$ . If potential presidential concessions would range around twice the direct benefits ( $C_m \geq 2B_m$ ), the member would find bluffing rational.

Now consider the President’s best response. In the first round, and in equilibrium if  $q < \frac{2B_p - C_p}{2B_p}$ , then the President will concede in the second round of the game. Hence, the member’s and President’s equilibrium behaviors produce “effective” bluffing. If, however,  $q \geq \frac{2B_p - C_p}{2B_p}$ , then calculations become more

<sup>20</sup>Arnold (1976) makes clear the congressional impetus for the Hoover Commission and even Herbert Hoover’s own ambitions emphasized weakening the presidency. Those ambitions evaporated with Truman’s electoral victory and, in that new atmosphere, Hoover focused instead on rationalizing the presidency, what became the Commission’s key success.

complex because the member must randomize. If the President updates “prior” estimates of a member according to Bayes’ Rule, then, the member can improve expected payoff in segment two by adopting the following mixed strategy in segment one:

$$P(\text{bluffer}|\text{against}) = \frac{P(\text{bluffer})P(\text{against}|\text{bluffer})}{P(\text{bluffer})P(\text{against}|\text{bluffer}) + P(\text{genuine})P(\text{against}|\text{genuine})} \quad (3.1)$$

Define  $r \equiv P(\text{against}|\text{bluffer})$ . Substituting  $r$  into the mixed strategy yields the President’s indifference ( $P(\text{against}|\text{genuine})=1$ ):

$$\begin{aligned} \frac{2B_p - C_p}{2B_p} &= \frac{qr}{qr + 1 - q}, \text{ which then reduces} \\ r &= \frac{(1 - q)(2B_p - C_p)}{qC_p} \end{aligned} \quad (3.2)$$

Identify the President’s optimal play in the second segment by setting the value of conceding equal to the value of persevering and calculating the possibilities:

$$\begin{aligned} \text{Utility}_p(\text{concede}) &= \text{Utility}_p(\text{persevere}) \\ B_p - C_p &= B_p[P(\text{bluffer})P(\text{for}|\text{bluffer}) \\ &\quad + P(\text{genuine})P(\text{for}|\text{genuine})] \\ &\quad - B_p[P(\text{bluffer})P(\text{against}|\text{bluffer}) \\ &\quad + P(\text{genuine})P(\text{against}|\text{genuine})] \end{aligned}$$

which translates to

$$\begin{aligned} B_p - C_p &= B_p[q(1 - r)] - B_p[qr + (1 - q)] \text{ or} \\ q &= \frac{2B_p^2 - C_p^2}{2B_p^2} \end{aligned} \quad (3.3)$$

**4. N-stage Horizon, Faulty Anticipation**  
Take these results from the two-stage horizon to generalize for any n-stage horizon:

$$\begin{aligned} q_k &= \frac{2^{k-1}B_p^k - C_p^k}{2^{k-1}B_p^k}, \text{ where } k = \{1..n\} \text{ and} \\ r &= \frac{(1 - q)(2^{k-1}B_p^k - C_p^k)}{qC_p^k}. \end{aligned} \quad (4.1)$$

**Proof:** The result follows from induction. Assume  $q_n$ , by following the process outlined above until arriving at  $q_{n+1}$  with algebraic manipulations. QED.

**5. Learning from Give and Take** Examining dynamics yields the following two conclusions:

- As  $-C_p$  increases,  $r \Rightarrow 0$ ; as the President’s costs for granting a concession rise, and thus potential punishments recede in likelihood, bluffers play

according to their true preferences (resulting in Hesitate-Persevere  $\Rightarrow$  for).

- As  $B_p$  increases,  $r \Rightarrow 1$ ; i.e., as the President’s utility for the bill rises, bluffers protect their reputation by voting against.

## Acknowledgments

The authors acknowledge the sagely advice of John Aldrich, Gary Miller, two anonymous and long-suffering reviewers, and the *Journal’s* equally patient editors. This article benefited from a W. Glenn Campbell Fellowship in National Affairs at the Hoover Institution, Stanford University and a research assignment from the University of North Carolina at Chapel Hill.

## References

- Aldrich, John H., and David W. Rohde. 2000. “The Republican Revolution and the House Appropriations Committee,” *The Journal of Politics* 62 (February): 1–33.
- Arnold, Peri. 1976. “The First Hoover Commission and the Managerial Presidency.” *The Journal of Politics* 38 (February): 46–70.
- Banks, Jeffrey, and John Duggan. 2000. “A Bargaining Model of Collective Choice.” *American Political Science Review* 94 (March): 73–88.
- Banks, Jeffrey, and John Duggan. 2006. “A General Bargaining Model of Legislative Policy-Making.” *Quarterly Journal of Political Science* 1 (January): 49–95.
- Baron, David. 1996. “A Dynamic Theory of Collective Goods Programs.” *American Political Science Review* 90 (June): 316–60.
- Baron, David, and John Ferejohn. 1989. “Bargaining in Legislatures.” *American Political Science Review* 83 (December): 1181–206.
- Beckmann, Mathew. 2010. *Pushing the President’s Agenda: Presidential Leadership in U. S. Lawmaking, 1953–2004*. Cambridge: Cambridge University Press.
- Berry, Christopher, Barry Burden, and William Howell. 2010. “The President and the Distribution of Federal Spending.” *American Political Science Review* 104 (December): 783–99.
- Besley, Timothy, and Anne Case. 1995. “Does Electoral Accountability Affect Economic Policy Choices? Evidence from Gubernatorial Term Limits.” *The Quarterly Journal of Economics* 110 (August): 769–98.
- Binkley, Wilfred E. 1949. “The President and Congress.” *The Journal of Politics* 11 (February): 65–79.
- Birnbaum, Jeffrey H., and Alan S. Murray. 1987. *Showdown at Gucci Gulch: Lawmakers, Lobbyists, and the Unlikely Triumph of Tax Reform*. New York: Vintage Books.
- Black, Duncan. 1958. *The Theory of Committees and Elections*. Cambridge: Cambridge University Press.
- Bond, Jon R., and Richard Fleisher. 1990. *The President in the Legislative Arena*. Chicago: University of Chicago Press.

- Bond, Jon, Richard Fleisher, and B. Dan Wood. 2003. "The Marginal and Time-Varying Effect of Public Approval on Presidential Success in Congress." *The Journal of Politics* 65(1) (February): 92–110.
- Burke, John P. 1992. *The Institutional Presidency*. Baltimore: The Johns Hopkins University Press.
- Calvert, Randall, Mathew D. McCubbins, and Barry Weingast. 1989. "A Theory of Political Control and Agency Discretion." *American Journal of Political Science* 33 (July): 588–611.
- Cameron, Charles. 1998. "Sequential Vetoes, Bargaining, and Presidential Power." In *Presidential Power: Forging the Presidency for the Twenty-first Century*, eds. Robert Shapiro, Lawrence Jacobs, and Martha Kumar. New York: Columbia University Press.
- Cameron, Charles. 2000. *Veto Bargaining: Presidents and the Politics of Negative Power*. New York: Cambridge University Press.
- Canes-Wrone, Brandice, and Scott De Marchi. 2002. "Presidential Approval and Legislative Success." *The Journal of Politics* 64 (May): 491–509.
- Cho, Seok-ju, and John Duggan. 2009. "Bargaining Foundations of the Median Voter Theorem." *Journal of Economic Theory* 144 (March): 851–68.
- Covington, Cary. 1987a. "Mobilizing Congressional Support for the President: Insights from the 1960s." *Legislative Studies Quarterly* 22 (February): 77–95.
- Covington, Cary. 1987b. "'Staying Private': Gaining Congressional Support for Unpublicized Presidential Preferences, Roll Call Votes." *The Journal of Politics* 49 (August): 737–55.
- Covington, Cary. 1988. "Building Presidential Coalitions among Cross-Pressured Members of Congress." *Western Political Quarterly* 41 (March): 47–62.
- Cox, Gary, and Mathew McCubbins. 1993. *Legislative Leviathan: Party Government in the House*. Berkeley: University of California Press.
- Cox, Gary, and Mathew McCubbins. 2004. *Majority Party Agenda in the House*. Berkeley: University of California Press.
- Dodd, Lawrence C., and Terry Sullivan. 1982. "Majority Party Leadership and Partisan Vote-Gathering." In *Understanding Congressional Leadership: the State of the Art*, ed. Frank MacKaman. Washington, DC: Congressional Quarterly Press.
- Downs, Anthony. 1957. *An Economic Theory of Democracy*. New York: Harper.
- Edwards, George C., III. 1980. *Presidential Influence in Congress*. San Francisco: Freeman.
- Edwards, George C., III. 1989. *At the Margins: Presidential Leadership of Congress*. New Haven, CT: Yale University Press.
- Galloway, George. 1976. *History of the House of Representatives*. 2nd ed. New York: Crowell.
- Gilmour, John. 1995. *Strategic Disagreement*. Pittsburgh, PA: University of Pittsburgh Press.
- Groseclose, Tim, and James Snyder. 2000. "Vote Buying, Super-majorities, and Flooded Coalitions." *American Political Science Review* 94 (September): 683–84.
- Groseclose, Tim, and Nolan McCarty. 2001. "The Politics of Blame: Bargaining Before an Audience." *American Journal of Political Science* 45 (January): 100–19.
- Hibbs, Douglas. 1987. *The American Political Economy: Macroeconomics and Electoral Politics*. Cambridge, MA: Harvard University Press.
- Ingberman, Daniel E., and Dennis A. Yao. 1991. "Presidential Commitments and the Veto." *American Journal of Political Science* 35 (May): 357–89.
- Jones, James R. 2008. "Why LBJ Bowd Out." *Los Angeles Times*, Opinion Section, March 30.
- Kallenbach, Joseph. 1952. "Constitutional Limitations on Reeligibility of National and State Chief Executives." *American Political Science Review* 46 (June): 438–54.
- Kiewiet, D. Roderick, and Mathew McCubbins. 1988. "Presidential Influence on Congressional Appropriations Decisions." *American Journal of Political Science* 32 (August): 713–36.
- Krehbiel, Keith. 2000. "Party Discipline and Measures of Partisanship." *American Journal of Political Science* 44 (April): 212–27.
- Laver, Michael, Scott de Marchi, and Hande Mutlu. 2010. "Negotiations in Legislatures over Government Formation." *Public Choice*. Forthcoming.
- Lewis, David E., and James Michael Strine. 1996. "What Time Is It? The Use of Power in Four Different Types of Presidential Time." *Journal of Politics* 58 (August): 682–706.
- Light, Paul C. 1988. *Artful Work: The Politics of Social Security Reform*. Baltimore: Johns Hopkins University Press.
- McCarty, Nolan. 1997. "Presidential Reputation and the Veto." *Economics and Politics* 9 (March): 1–16.
- McCarty, Nolan. 2000a. "Presidential Pork: Executive Veto Power and Distributive Politics." *American Political Science Review* 94 (March): 94–129.
- McCarty, Nolan. 2000b. "Proposal Rights, Veto Rights, and Political Bargaining." *American Journal of Political Science* 44 (July): 506–22.
- McKelvey, Richard, and Raymond Riezman. 1992. "Seniority in Legislatures." *American Political Science Review* 86 (December): 951–65.
- Morris, Irwin, and Michael Munger. 1998. "First Branch, or Root? The Congress, the President, and the Federal Reserve." *Public Choice* 96 (May): 363–80.
- Nagel, John Copeland. 1997. "A Twentieth Amendment Parable." *NYU Law Review* 72 (May): 470–94.
- Neustadt, Richard. 1960. *Presidential Power*. New York: John Wiley and Sons.
- Peabody, Bruce, and Scott Gant. 1999. "The Twice and Future President: Constitutional Interstices and the Twenty-Second Amendment." *Minnesota Law Review* 83 (1): 565–635.
- Polsby, Nelson W. 1968. "The Institutionalization of the U.S. House of Representatives." *The American Political Science Review* 62 (March): 144–68.
- Price, James. 1977. *The Study of Turnover*. Ames: Iowa State University Press.
- Romer, Thomas, and Howard Rosenthal. 1978. "Political Resource Allocation, Controlled Agendas, and the Status Quo." *Public Choice* 33 (Winter): 27–44.
- Rubinstein, Ariel. 1982. "Perfect Equilibrium in a Bargaining Model." *Econometrica* 50 (January): 97–109.
- Skowronek, Stephen. 1993. *The Politics Presidents Make: Leadership from John Adams to George Bush*. Cambridge, MA: Belknap Press.
- Snyder, James, Michael Ting, and Stephen Ansolabehere. 2005. "Legislative Bargaining Under Weighted Voting." *American Economic Review* 95 (August): 981–1004.
- Stathis, Stephen. 1990. "The Twenty-Second Amendment: A Practical Remedy or Partisan Maneuver?" *Constitutional Commentary* 7: 61–88.

- Sullivan, Terry. 1990. "Bargaining with the President: A Simple Game and New Evidence." *American Political Science Review* 84 (December): 1167–96.
- Sullivan, Terry. 2011. "Making a Difference: LBJ, Political Trade-craft, and Discretion in Presidential Leadership." Hoover Institution. Unpublished manuscript.
- Volden, Craig. 2002. "A Formal Model of the Politics of Delegation in a Separation of Powers System." *American Journal of Political Science* 46 (January): 111–33.
- Weingast, Barry and Mark Moran. 1983. "Bureaucratic Discretion or Congressional Oversight? Regulatory Policymaking by the Federal Trade Commission." *Journal of Political Economy* 91 (October): 765–800.
- Willis, Paul and George Willis. 1952. "The Politics of the Twenty-Second Amendment." *The Western Political Quarterly* 5 (September): 469–82.

Terry Sullivan is Associate Professor at the University of North Carolina at Chapel Hill, NC 27599-3265.

Scott de Marchi is Associate Professor at Duke University in Durham, NC 27708.