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VETO THREATS' QUESTIONABLE EFFECTIVENESS

In his 2015 State of the Union address, President Barack Obama set the tone for his relations with the newly elected Republican Congress by threatening to veto five different Republican initiatives. During the first ten weeks of their new session, he threatened to veto seventeen additional bills awaiting floor action. Although more prolific in his use of veto threats than his predecessors over a comparable time period, Obama's heavy use of veto threats raised few eyebrows in Washington.

In present-day Washington, veto rhetoric becomes a staple of presidential discourse whenever the opposition party takes over one or both chambers of Congress. Admittedly, nothing is new under the sun, and as far back as the nineteenth century, President Benjamin Harrison (1889–1893) discretely informed congressional leaders of changes required before he would agree to a bill (Socolofsky and Spetter 1987, 48). He would later write that the veto threat was his most valuable asset, perhaps evidenced in the paucity of bills he actually had to veto.

By the 1920s, political scientists were matter-of-factly describing veto threats as part of the president's arsenal. After acknowledging the executive's limited constitutional authority over legislation, Ogg and Ray (1922) wrote in their leading college-level American government textbook that "equally effective" are presidents' political sources of influence. Their description of veto threats bears repeating here because it closely resembles the argument I make in the following pages, a century later: "The first [among political assets] is the threat of the veto. By letting it be known that he will veto a given bill unless features are added to it or other changes are made in it, the president may be able practically to determine the form which the final measure will take." Citing President Theodore Roosevelt's active use of veto threats to illustrate their point, Ogg and Ray add that he "went so far as to warn Congress *publicly* that he would veto certain measures. . . . Protest was raised against such virtual use of the veto power in advance, but no one could find anything in the Constitution or laws to prevent the president from thus making his views and intentions known" (Ogg and Ray 1922, 281; emphasis added).¹

What we know about the frequency of veto threats during this era is fragmentary and largely anecdotal. It comes mostly from news reports, memoirs, and biography, and in more recent decades, from staff records archived at the presidential libraries (Deen and Arnold 2002). One pioneering study (Spitzer 1988, 1994) cataloged only fifty-six veto threats in *New York Times* citations from 1961 through 1986, an era when that newspaper's masthead could legitimately claim the moniker, "All the news that's

fit to print.” Cameron and his colleagues (Cameron 2000; Cameron, Lapinski, and Riemann 2000) approached their search differently. They drew a sample of nonminor bills that reached enrollment.² They then search for the presence of veto threats in presidents’ statements published in the *Public Papers of the Presidents* and news sources. This procedure netted them eighty veto threats from 1946 to 1984, approximately the same number as Spitzer.³ Aside from their infrequency, the dearth of observable veto threats prior to the 1980s suggests that they were mostly private. Writing in 1949, Burns (1949, 172) includes this “*subtle* use of veto threats” among a president’s “secret” powers (1949, 172; emphasis added). As a consequence, Spitzer, Cameron, and colleagues faced daunting data collections exercises, where “veto threats are neither tracked nor cataloged” (Cameron 2000, 185).

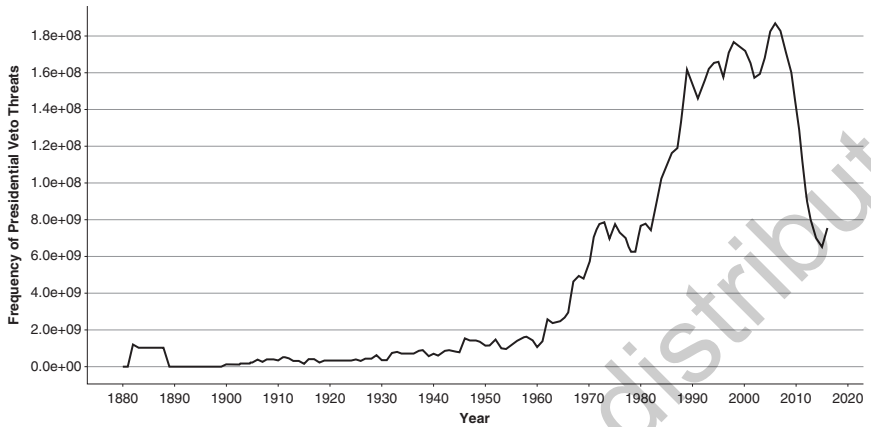
Against this backdrop of scant newspaper references during the first three-quarters of the twentieth century come data compiled by Google Books. To provide the corpora for its search engine, Google has undertaken a massive, near-universal scanning project of published materials. As of 2021, Google had scanned with character recognition technology over twenty-five million books in four hundred languages. Through its publicly accessible Ngram Viewer software, whose data we all use every day when we undertake an Internet search, one can generate frequencies with which requested words or phrases show up in books, journals, magazines, and newsletters.⁴

Figure 1.1 reports the weighted frequencies from searching for “veto threat,” “threaten to veto,” and their administration-specific variants. Beginning in the mid-1980s, the time series displays a fivefold increase in the appearance of references to presidential veto threats. Google’s sharp drop in entries beginning in 2010, however, is anomalous. There is reason to suspect that rather than a sharp drop-off in veto threats, it reflects a lag in scanning recent publications. When Google’s 2012 annual frequencies are compared with those for 2019, they display significantly lower counts for the early 2000s than the one released seven years later and reported in Figure 1.1.⁵

Along with the frequency counts, the Ngram package also displays snippets excerpted from sources containing the searched-for phrase. Among the various references to veto threats are those from union and trade association newsletters sent to their members across the country. Table 1.1 offers only a partial list of the groups that monitored and reported veto threats to their readers. This suggests that even as most veto threats during these early decades were communicated privately, out of the limelight of national news, they did not escape the notice of organized constituencies. Perhaps President Harrison’s reliance on veto threats was not so exceptional. Although historically distant veto threats lie beyond the scope of this book, the Google Books’ listings are tantalizingly suggestive. Clearly, references to veto threats were more commonplace among interested constituencies than the skimpy national news coverage turned up in past research.

In 1985, early into President Ronald Reagan’s second term, the administration’s conveyance of veto threats underwent a drastic change. Until then, he and his predecessors

FIGURE 1.1 ■ Frequency of References to *Veto Threats* in Google Books: 1880–2016



Source: Google Book Ngram. Case-insensitive search of “veto threat,” “threaten to veto,” and their inflections in Google’s 2019 American English data set. Y-axis scaled weighted frequencies; time-series smoothed across two years.

signaled their objections privately in letters to floor leaders. With Republicans Richard Nixon and Gerald Ford (Deen and Arnold 2002) trying to fend off big Democratic majorities, White House letters to floor leaders appear to have increased substantially. On entering office in 1969, Nixon faced a hostile Democratic Congress. In response, he authorized a series of reforms designed to strengthen his capacity to manage the executive departments and monitor legislation (Moe 1985). Nixon reorganized the Bureau of the Budget, changing its name to the Office of Management and Budget (OMB) to reflect its expanded mandate, and adding a layer of politically appointed executives charged with keeping the departments and agencies in line with the president’s policy preferences. The director would produce for the president a weekly list of administration positions on bills pending for floor action (Collier 1997). Nixon’s reform also expanded the agency’s resources to ensure close monitoring of Congress. According to a contemporary OMB official, the agency assumed a *new* role under Nixon in “abetting the defeat of legislation contrary to administration policy” (Martin 2008).

Ford’s record of veto rhetoric appears to have eclipsed that of his predecessors. This would make sense, given his dire political predicament. Nixon’s resignation during the summer of 1974 set the stage for Republicans’ worst midterm debacles since the Depression. Democrats held a veto-proof majority in the House and the sixty votes in the Senate required to end filibusters. Compounding Ford’s problem was his decision to pardon President Nixon for any crimes he may have committed in the Watergate scandal. With the legislative path cleared of Republican hurdles, Democrats salivated to legislate their long-standing policy goals. Scouring national news providers as well

TABLE 1.1 ■ Unions and Trade Associations Reporting Veto Threats: 1889–1986**1889–1920**

The American Photo Engraver (union)
 American Asphalt Journal
 The Protectionist

1921–1930

Railway Review
 Seamen's Journal
 Washington State Pharmaceutical Association
 Retail Clerks International Protective Association
 Locomotives engineers
 Washington State Grange

1931–1940

National Grocers Bulletin
 Water Works Engineering

1941–1950

The Railway Clerk—Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, 1946—Clerks
 American Lumberman
 Public Utilities Fortnightly
 Telephone Engineer and Management

1951–1960

Brotherhood of Locomotive Firemen and Enginemen's Magazine
 Order of Railway Conductors and Brakemen
 Alameda Contra Costa Medical Association
 American Lumberman
 Broadcasting Corporations Incorporated
 Sheet Metal Workers' International Association
 International Association of Machinists & Aerospace Workers, AFL-CIO
 International Union, United Automobile, Aircraft, and Agricultural Implement Workers of America
 Brotherhood of Railroad Signalmen of America
 Boilermakers and Blacksmiths Journal
 AFL-CIO
 The Southern Lumbermen
 Railroad Yardmasters of America
 Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America
 National Farmers Union
 American Bar Association

1961–1970

American Chamber of Commerce of the Philippines
 United Transportation Union
 National Coal Policy Conference
 NAACP
 Hospitals: The Journal of the American Hospital Association
 Pennsylvania School Boards Association
 Georgia Veterinary Medical Association
 United Glass and Ceramics Workers of North America
 Cigar Maker's International Union of America
 Rhode Island Bar Association
 International Brotherhood, Teamsters, Chauffeurs, Warehousemen and Helpers of America
 American Machinist
 Brotherhood Railway Carmen of the United States and Canada
 International Molders and Allied Workers Union
 Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America

1971–1980

Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers, Express, and Station Employees
 Professional Builder & Apartment Business
 Electrical World
 The Waterways Journal
 Public Utilities Fortnightly
 The Southern Lumberman
 AFL CIO–Committee on political education
 National Underwriter Program
 Dental Survey
 Arms Control Association

1981–1986

American Public Transit Association
 United States Savings and Loans League
 California Farmer Publishing Company
 Associated General Contractors of America
 United Automobile, Aerospace and Agricultural Implement Workers of America
 Disabled American Veterans
 American Flint Glass Workers' Union
 United Brotherhood of Carpenters and Joiners in America
 Society of American Military Engineers
 Television Digest
 United Garment Workers of America
 Tax Analysts and Advocates
 International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers
 The Painters and Allied Trades Journal

Note: This partial list of unions' and trade groups' reports was culled from Google Books Ngram search for "veto threat" and "threaten to veto" (and its extensions) in the 2019 American English series. For a full description of the search of Ngram data, see the Data Appendix to this chapter.

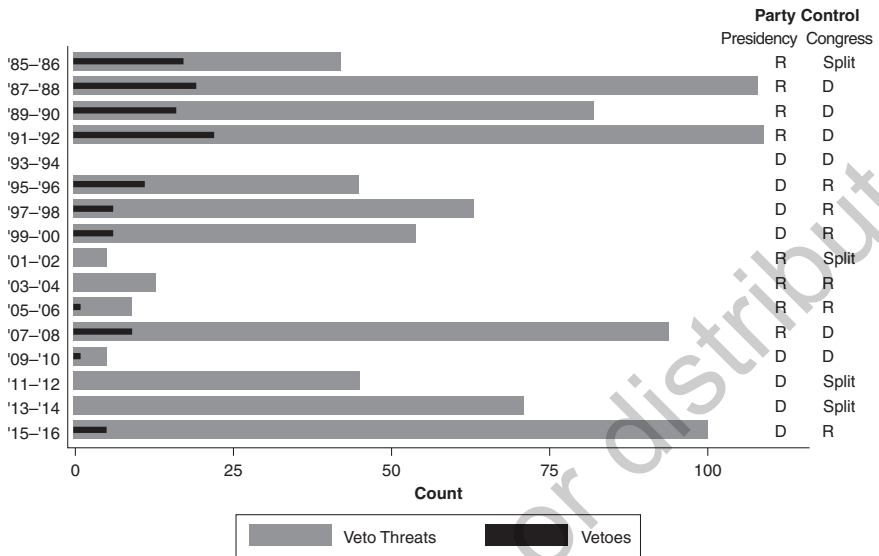
as among internal White House memos for instances of Ford's veto threats, Deen and Arnold (2002) uncovered ninety-four veto threats during his eighteen-month tenure. His threat signals took various forms such as announcements, letters to Congress, and veto recommendations from administration officials. Sixteen failed to attract national news coverage.⁶

David Stockman, who served in the House of Representatives for over a decade as a Republican staffer and, subsequently, as a representative, observed floor leaders selectively releasing information from presidents' communications to their party caucus and to the floor. Leaders revealed those contents of veto threats that suited their purposes but not necessarily those the president had sought to communicate. One can easily imagine that legislators—especially leaders of the opposition majority—might misconstrue the president's privately expressed views to suit their purposes. Even copartisans might be tempted to enlist a phantom White House endorsement on behalf of a pet bill. The following conference committee colloquy shows legislators on both sides of a medical research bill citing Dwight D. Eisenhower's position to sustain their point of view (Allen and Scott 1959). In floor debate, Republican John Taber averred that the president was on his side:

"I must warn you that if we exceed \$350 million for medical research, the President may veto this bill." "Did the President tell you that?" demanded Senator Lester Hill (coauthor of the bill). "No, but it comes from good authority." One House conferee reported he learned from Senator Thurston Morton that Ike "would not veto a large increase in medical research. That would be like voting for cancer and heart disease." A Democratic senator added, "it's not in the cards despite these mysterious veto threats."

The Reagan administration decided that it needed to register the president's position on pending legislation publicly so that it would be incontrovertible to everyone.⁷ Stockman achieved this by separating memoranda sent to the House or Senate floor from similar legislative communications to committees. He gave them the formal title (and letterhead), "Statements of Administration Policy," or SAPs, and concurrently released them to the broader Washington community including lobbyists and the news media. Now, the president decided whether, when, and what to reveal publicly.⁸ As public signals, I argue, they gave presidents the chance to establish their party's position, beef up the threat's credibility, summon public support, and strengthen their position in a policy's formulation. SAPs quickly became a favorite vehicle for presidents to deliver their views to Congress.

Figure 1.2 shows just how pervasive formal veto threats have become. During divided government, SAPs swamp actual vetoes. This simple innovation of modifying existing practice by establishing a formal title distinguishing these messages and releasing them publicly transformed them into a formidable instrument of presidential leadership. To distinguish the private, informal veto threats—which, of course, presidents and their aides may still use—from the class of explicit, public threats (mostly

FIGURE 1.2 ■ Veto Threats in SAPs and Vetoes by Congress

Source: "Veto Threat Bargaining with a Bicameral Congress," *Political Research Quarterly* 74, no. 3 (2021): 628–44. © 2020 University of Utah. Article reuse guidelines: sagepub.com/journals-permissions, doi:10.1177/1065912920925917. journals.sagepub.com/home/prq

Note: These counts apply only to authorization legislation. Democrats controlled the presidency in 1993–2000 and 2009–2016. There were no recorded veto threats in the 103rd Congress (1993–1994).

SAPs), we will refer to the latter as *veto rhetoric*. I argue that veto rhetoric so strengthens the threat signal that it may allow presidents to enter deliberations and influence policy well before an enrolled bill arrives on their desk. In Chapter 2, I refer to the altered legislative process that arises when presidents use veto rhetoric to pry open deliberations as *veto threat bargaining*, or VTB.

In Figure 1.2, we see that since 1985 veto rhetoric, so plentiful during divided party control, largely dried up during the occasional unified Congress. Four of the five Congresses with the lowest incidence of veto rhetoric were unified. The fifth is the special case of the 107th. Initially, George W. Bush entered office in 2001 with a Republican House and Senate, but early that summer, Republican Senator Jim Jeffords switched parties, giving Democrats a slight majority. And with 9/11 that fall subordinating the normal play of party politics, the president registered few veto threats during this technically divided government.

Since 1985, there has been a steady drumroll of threatening SAPs sent to opposition-controlled Congresses.⁹ One indicator of the sea change that SAPs created can be seen in the sharp increase of references to veto threats in national news. Not surprisingly, the number of threats the above studies gleaned from news coverage increased greatly after the introduction of SAPs. During the last eighteen

months of Spitzer's original series, the introduction of SAPs sharply increased coverage of veto threats in national news. When Spitzer (1994) updated the series for 1987 and 1988, he found nineteen veto threats for those two years alone. (Recall that he found only fifty-six threats for the previous twenty-five years.) Similarly, Cameron and his colleagues collected eighty veto threats from 1946 through 1984, about two per year. For the next eight years (1985–1992) with the introduction of SAPs, they discovered an additional forty veto threats in the news, about five per year.¹⁰ Stockman may have been the agent to secure presidents' control over their messages, but the root cause was the rise of divided party control of government as the normal state of affairs in Washington. During half the years (1946–1984) covered by Spitzer's initial research, the same party controlled the presidency, the House, and the Senate. This compares to only a quarter of the Congresses during the next three decades (1985–2016). The introduction of SAPs can itself be viewed as a product of divided government.

VETO RHETORIC'S SUSPECT STATUS

Does veto rhetoric work? This is the “\$64 question” that will preoccupy us throughout the book. Others, whom I've reported have collected examples of veto threats from presidential archives (Conley 2003; Deen and Arnold 2002) or news sources (Cameron 2000), have also tackled this question. But they labored under the severe disadvantage of not having available SAPs' detailed statements and specific objections targeting individual provisions. Instead, they carefully examined individual cases and concluded that veto threats generally did win some concessions from the opposition Congress (Conley 2003; Deen and Arnold 2002). Cameron performs a quantitative analysis of changes in legislation, but in the absence of the actual threats, he too has to make do with marginally reliable news sources and presidents' suspiciously self-serving signing statements. Moreover, veto rhetoric changed during the period of his study, so that it is unclear how successful presidents were before and after veto threats became routine public communications. Nonetheless, Cameron's findings provide a basis for optimism that this strategy is having at least some effect. Of the 106 nonminor enrolled bills in his sample for the postwar era ending in 1992, sixty-three evince “some concessions,” ten appear to have forced Congress's capitulation, but thirty-three found Congress stonewalling the president and passing the bill it wanted (Cameron 2000, 188). While there are signs of legislative movement on almost two-thirds of the bills, the extent to which this leadership strategy confers real influence over an opposition Congress's legislation remains an open question.

Beyond these suggestive findings, veto threats have a poor reputation in political science as levers of presidential influence. One recent review of the literature summed up the matter this way: “While . . . we assumed that the executive can make veto threats that the legislature regards as perfectly credible, it is not clear how he can do

so” (Miller 2019, 14). The most memorable threats were confrontational and prone to backfire. They were “negatives,” which is how they were commonly referred to at the Constitutional Convention, capable of blocking bad bills but incapable of helping presidents extract positive policy from an opposition chamber. Moreover, Congress sharply discounts presidents’ messages. Cheap-talking presidents can say one thing during deliberations and reverse themselves after Congress has acted. Each of these putative liabilities deserves careful consideration before we dive deep into analysis of veto rhetoric searching for its impact on legislation.

Veto Threats as Confrontations

Veto rhetoric definitely has an edge. Even when presidents propose compromise provisions and couch them in conciliatory language, veto rhetoric invites the other party to a game of chicken. Every veto threat is, fundamentally, a promise and a dare. Therefore, a common criticism of veto rhetoric is that it polarizes party conflict, which voters do not like (more on this in Chapter 4), while offering little compensation in moving legislation closer to the president’s preferences. But I argue this is not so severe a problem as some believe. Indeed, we’ll find veto rhetoric can have a salutary effect of revealing preferences, including intensities, that lead to brokered agreements. Nonetheless, the most famous instances of veto rhetoric that politicians and their biographers recount are those that ended in or barely skirted disaster. These rare train wrecks have contributed to veto rhetoric’s poor reputation. Let’s review them to see where the presidents went wrong.

When I’ve occasionally asked colleagues for the veto threat that comes first to mind, they invariably respond with a disaster story. After three decades, “Read my lips” remains the most famous, or infamous. Perhaps G. H. W. Bush was caught up in the euphoria of his nomination at the 1988 Republican National Convention, when he promised cheering delegates and the national television audience, “Read my lips: no new taxes.” By the time he had reached this punch line, the hole had been dug that he would subsequently fall into: “The Congress will push me to raise taxes and I’ll say no. And they’ll push, and I’ll say no, and they’ll push again, and I’ll say to them, Read my lips: no new taxes.” It’s not the Gettysburg Address, but it certainly is memorable.

A couple of years later, Republicans everywhere expressed deep disappointment, even disgust, when Bush discreetly signed a tax increase. Democrats forced his hand by attaching the tax hike to an appropriations bill presented to him as an ultimatum. Suddenly, Bush confronted a serious dilemma. Vetoing the bill would have shut down those government agencies and programs dependent on the bill’s annual appropriations—a specter for any president looking to seek reelection. So he signed the bill over the weekend, when national news coverage tended to slack off. Having a hard time using the *t* word, the White House press release referred to the new law euphemistically as providing “revenue enhancements.” In the following month, a national survey recorded a 19 percentage point decline in the president’s public standing (Sinclair 2014). The episode was still fresh in the minds of voters when they went to the polls

and replaced Bush with Bill Clinton in 1992. Republican pollster Richard Wirthlin called Bush's promise "the six most destructive words in the history of presidential politics" (Hillygus and Shields 2009, 146).¹¹

The second most frequently mentioned case in my informal survey was the prolonged budget confrontation with its partial government shutdown in 1995. With party control of the branches reversed, Republican leaders adopted the Democrats' playbook as they set their sights on retribution. If fearing a government shutdown had caused Bush to squirm and capitulate, so too would President Clinton, they reasoned. They would send him an appropriations bill that slashed taxes and funding for social programs (even zeroing out some of Clinton's previously passed initiatives) and then dare him to veto the bill and shut down the government. He could threaten vetoes until he was blue in the face, but in the end, he too would cave, according to the Republican playbook. In mid-November, Clinton appeared to take the bait. He issued a blistering SAP threatening to veto the appropriations bill if Congress did not restore his funding priorities. Republicans ignored him and sprung the trap by passing their ideal bill and daring him to veto it. He promptly did and went on national television blasting congressional Republicans' intransigence as forcing the shutdown.

A week of back-and-forth carping followed. The national parks and other nonessential services closed, and other government services began planning to curtail operations. Pensioners worried about their Social Security checks. With foreboding and doom attracting top of the news coverage, Republicans blinked. They passed a temporary funding bill to allow government to reopen as negotiations resumed. Congress then made minor revisions to the vetoed bill, offering the president a few face-saving concessions, and resent it to the White House. Clinton quickly rebuffed Republicans' token concessions by promptly vetoing the bill and again using the occasion to blast Republicans as intransigent ideologues on national television. By February, with funding for the 1996 fiscal year four months late and numerous government agencies closed, the two sides negotiated a settlement that accepted many more of Clinton's demands.

"Read my lips" and "the 1995 shutdown" are certainly among the most famous applications of veto rhetoric in recent history.¹² Although Clinton fared much better than Bush, both cases are cautionary. Neither president's threat dissuaded Congress from passing an objectionable bill. In both, Congress called the president's bluff. Bush's irresoluteness and Clinton's resoluteness distinguish their different outcomes.

There are other famous veto-laced pratfalls in modern presidential history. We turn to one now that offers a different lesson in demonstrating the futility of presidents in trying to use the veto threat to extract policies they favor from an opposition Congress.

The Veto (aka "the Negative")

In his first State of the Union address in 1993, President Clinton vowed to veto any health care reform that failed to include universal coverage. Before a national television

audience, the president warned that if Congress did not send him a bill offering comprehensive coverage, “I will take this pen and veto it.” Before Hillary Clinton, heading a large task force, could unveil a major health care bill, congressional Republicans scurried in search for an alternative, more modest reform they could unite behind and take to voters. But by setting up a high threshold of universal coverage, Clinton’s veto declaration appears to have stunted efforts to fashion a more modest, incremental reform of the nation’s health care system.

Several months later, Hillary Clinton’s task force sent Congress a 1,342-page proposal. This impenetrable bundle hit Capitol Hill with a loud thud. Not even her Democratic allies in Congress were ready to reconfigure the entire insurance, hospital, and medical industries in a single stroke and at unheard-of levels of public financing. The massive bill never made it through committee. And with the president’s “all or nothing” veto threat, the dozen or so more modest alternative proposals floated as trial balloons were quickly shot down. Clinton later rued his strategy, confessing to biographers, “I shouldn’t have issued the veto threat as it turns out” (Johnson and Broder 1996, 269–70).

This case appears to confirm a common rap against veto rhetoric. “The veto is a tool for blocking change rather than propagating it” (McCarty 2019). It is incapable of generating positive policy goods for presidents. They can use it to block objectionable bills, but it does not give them leverage to win new policy. Even before the Constitution’s ratification when the veto was still hypothetical, a rule untested anywhere, Alexander Hamilton foresaw that its threat could be an effective blocking instrument. In *Federalist* 73, he mused, “A power of this nature in the Executive will often have a silent and unperceived, though forcible, operation. When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of opposition, from doing what they would with eagerness rush into, if no such external impediments were to be feared.”

Most presidency scholars agree with Hamilton’s characterization of the veto as an asymmetric asset—good for blocking but lousy for advancing presidents’ alternative policy ideas. McCubbins (1990, 138) sums up the general sentiment: “The veto provides the president with only the power to reject acts of Congress; it does not provide him with the power to modify these acts. Thus, Congress submits take-it-or-leave-it offers to the president, who is then faced with choosing between the bill passed by Congress and, at best, some future legislation that may or may not be better for the president.”

Presidents can ask for legislation, which, of course, they continue to do even during divided control (Kernell et al. 2021). But if Congress is uninterested, presidents must resort to weaker unilateral options, such as executive orders and memoranda instructing agencies to take a different course of action. One might think during divided government, presidents would seldom venture down Pennsylvania Avenue.

When Reagan's annual budgets arrived at the House of Representatives, Democrats rushed to announce that they were DOA ("dead on arrival"). When he threatened to veto the 1986 fiscal year's defense appropriation bill if his demands for significantly more funds were not accommodated, the bemused chair of the House Budget Committee responded, "What's he going to do, veto the defense bill because it's too low?" (McCubbins 1990).

Yet Presidents Reagan through Obama did employ veto rhetoric to try to place alternative programs on the legislative agenda, and occasionally they succeeded. Obviously, Hamilton, McCubbins, and the chair of the House Budget Committee are correct, particularly when a single dimension, like dollars, is in play. But the great majority of bills beyond appropriations have several dimensions. They might reflect the complex character of the policy proposal or perhaps be a product of assembling a majority coalition from diverse interests. The proverbial, ever-present "log roll" bundling disparate policies to broaden a bill's appeal is such an instance. From their perch at the center of Washington's political marketplace, presidents are better able to discern opportunities for exchange as fellow Washingtonians approach them for help in achieving their goals.

In 2013, Obama threatened to veto cybersecurity legislation unless it included a provision to "require private entities to take reasonable steps to remove irrelevant personal information when sending cybersecurity data to the government or other private sector entities. . . ." This was no trivial amendment. Republicans and many in the social media industry vocally resisted the proposal until late in negotiations.¹³ H. W. Bush's chief of staff John Sununu tells the story of a middle-of-the-night conversation between the president and Democratic House Speaker Tom Foley. Sununu woke up Foley at 2:30 a.m. to tell him that the president planned to veto the bill awaiting its final vote if a childcare voucher provision was not included in the final bill. Foley replied, "Well, we'll have to put it in a trailing bill," and added that the president surely wouldn't veto the bill. Sununu continued the story: "I called the President, got him out of bed. I said, Mr. President, you told me you would veto the budget bill if the childcare provision wasn't in it. He said, 'That's right'. . . The Speaker said, 'Thank you, Mr. President. Somewhere, there is a hand-written version of the childcare provision . . . inserted in the budget'" (Sununu 2000). The threat of a veto pried the president's preferred policy out of a Democratic Congress that appeared poised to test the president's resolve by renegeing on an earlier deal.

The Veto as an Ultimatum

Clearly, by limiting presidents to accepting or rejecting enrolled bills in their entirety, the Constitution's presentment clause (Article I, Section 7) gives Congress a serious advantage in deciding what to legislate. This dominant structural asymmetry provides the foundation for "separation of powers" models of presidential-congressional relations. Unless presidents can break into deliberations as the legislation is being

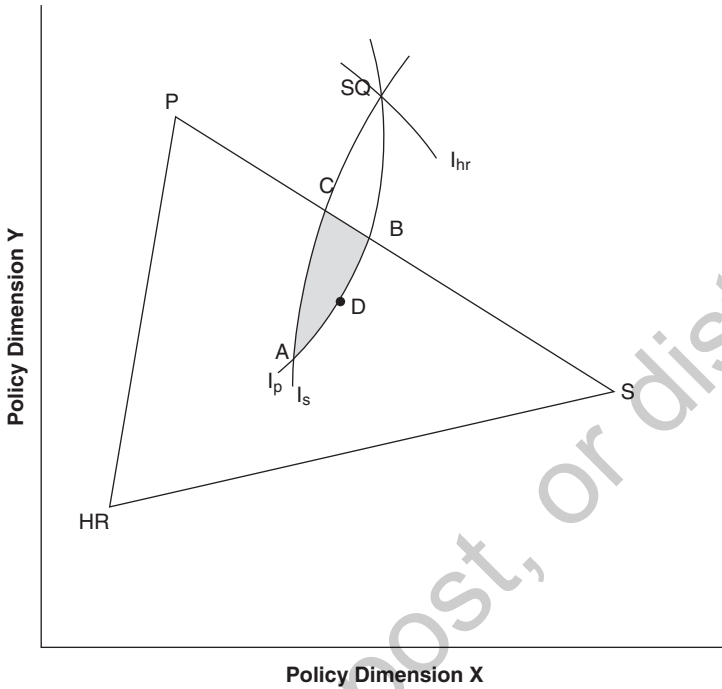
formulated—say, by veto rhetoric or some other means of going public—they will risk being left with an unattractive “take it or leave it” choice.

Of course, the opposition majority always has the option to ignore the president and pass its preferred bill. This approach enjoys its best prospects when Congress knows the president’s preferences. It passes a bill slightly inside the president’s indifference point (Kiewiet and McCubbins 1988). If Congress does its job well, it can get most of the new policy it wants while carving out a sliver of concessions to the president who will slightly prefer it to current policy and sign it. When Congress is uncertain about the president’s preferences, it may scrutinize White House signals to locate the vicinity of the president’s ideal and minimally acceptable preferences. Knowing presidents will have an incentive to overstate their demands, legislators will discount their threats and promises.

To examine the ultimatum game in action and set the stage for extending it to cover the dynamics of VTB I introduce in the next chapter, consider the options available in Figure 1.3 to each veto actor. It depicts the president (P), the Senate (S), and House of Representatives (HR) negotiating legislation to replace current policy (SQ). Assuming each actor’s utility is proportionate to the distance of current policy or proposed reform from its ideal point on the two dimensions, the figure depicts the HR as most alienated from current policy—the distance of HR to SQ—and consequently, leading the charge to pass a new law. (In the next chapter, I argue that this makes the House the logical first mover, and Chapter 5 confirms that the House initiates most threatened authorization bills.) The indifference curves (I_{HR} , I_S , and I_P) allow us to identify the alternative reforms that are closer to the veto player’s ideal point than is current policy. The triangle connecting their ideal points (HR, S, and P) contains the available Pareto optimal outcomes such that a proposal that would shift policy outside of the triangle would make one or more of the veto players worse off. The shaded area within the triangle represents the feasible set of reforms. If presented with a choice between current policy and a proposal in the shaded area, all three veto actors would select the latter. Here is where one should expect to find successful compromise occurring. *Within this equilibrium* set, each actor’s most preferred policy is C for the president, S for the Senate, and A for the House. Where the enrolled bill ends up will depend on the quality of information legislators have available about the president’s preferences.

Above, we introduced the ultimatum game in which the president’s preferences are common knowledge. This is the simplest scenario, since it requires no bargaining between the branches. Congress knows the president will sign any bill along the precisely AD curve. Where precisely along this curve the enrolled bill will settle depends on negotiations between the House, which prefers A, and the Senate, which favors B. Reflecting their veto parity, the chambers should converge in the vicinity midway between these alternatives. The challenge for presidents is to move policy closer to point C. The ultimatum game does not give them the wherewithal to achieve this. In the next chapter, we’ll see that VTB does.

FIGURE 1.3 ■ Legislating among Veto Players with Common Knowledge of Preferences



Note: The gray zone contains all Pareto-efficient equilibria outcomes.

Veto Threats as Cheap Talk

An important variant of the separation of powers framework for analyzing the influence of veto threats is “cheap talk.” It removes the common knowledge assumption, depicted in Figure 1.3, that the actors know each other’s most preferred and minimally acceptable policies. Unlike the simple mapping of an equilibrium outcome along the A–B arc as a function of fixed, known preferences, a legislative process in a limited information setting becomes one of learning and discovering. Preferences are now selectively revealed over a series of exchanges—such as haggling. Throughout our inquiry, we will encounter numerous instances of these politicians exchanging promises and threats—presidents mostly with their rhetoric and legislators in their collective decisions. As parties respond to each other by modifying their demands or stonewalling, they selectively reveal new information about their preferences. A history (Hilley 2008) of the passage of the historic balanced budget for 1998 found President Clinton and Republican congressional leaders repeatedly requesting the other side to distinguish those demands that represented what they “wanted” in the legislation from

what they “must have.” And, typically, the contested provisions in the latter set became the agenda that dominated the next round of negotiations. Yet, even as Speaker Newt Gingrich and Senate Majority Leader Trent Lott stood smiling near the beaming president as he signed the bill, they all had to wonder if the agreement was the best deal they could have made.

Clearly, in swapping out “common knowledge” with the “limited information” assumption, cheap talk introduces a healthy dose of reality to presidential–congressional relations. It helps explain why it has emerged as an industry standard for modeling and investigating the efficacy of veto threats (Cameron 2000; Cameron, Lapinski, and Reimann 2000; Ingberman and Yao 1991a; Matthews 1989).¹⁴ Uncertainty puts everyone in the market for information, which generates strategic communications. Legislators pay attention to presidents’ messages to learn what they can about what the White House will require to sign the bill. Of course, presidents communicate to persuade and can be expected to skew their threats and promises to promote a bill that ends up as near their ideal policy as possible.

Moreover, the presentment clause, which proved presidents’ undoing in the ultimatum game, poses a different kind of problem for them here. Once Congress “commits” to a bill—perhaps one reflecting adjustments to the administration’s threats and promises—presidents could then veto the bill and demand that Congress sweeten the deal. Or they could turn the veto game into a prisoner’s dilemma in which Congress plays the sucker. After surrendering policy preferred by their core supporters to reach a deal and now stuck without the new law’s compensations, they must explain themselves to their unrequited constituents. So, aware that presidents will overstate their demands to bring the policy as close to their ideal as possible, savvy legislators will consume presidents’ communications warily.

Cheap talk holds that presidents’ threat signals will so exaggerate their demands that those demands will supply legislators little useful information. Even if they sincerely convey accurate information on a bill, legislators, unable to distinguish the sincere from the strategic, will severely discount the signal. The fundamental problem, according to cheap talk, is veto threats are costless. “Presidents can say one thing and do another” (Cameron 2000; Matthews 1989). Consequently, the only thing legislators can reliably learn from them is that the “president might veto the bill.” And they learn this obliquely from what the president fails to say. When the chief executive threatens, opposition legislators can reasonably infer that the president must prefer current policy over the proposal; otherwise, he would have avoided jeopardizing its passage with a threat. Instead, Reagan’s briefest signal ever “The Administration supports enactment of H.R. 439” would have been in order.

The fact that the president did not “green light” the bill offers a bit of actionable information for the opposition legislators. Congress may respond in a couple of ways. It can ignore the threat, pass its ideal bill, and wait to see if the president vetoes it. Perhaps the opposition will get lucky and catch the president bluffing. But if the legislation is

vetoed, Congress can then formulate and send the White House another, more moderate bill (i.e., one closer to status quo), which the president signs or vetoes. Theoretically, this sequence could be repeated until the several veto actors find a mutually acceptable policy or set it aside to await a more sympathetic administration. This process offers a leading explanation of legislators and presidents navigating in a cheap talk regime. It's called "sequential veto bargaining" (Cameron 2000). In Chapter 3, we will compare its performance with an alternative model based on the efficacy of credible threat signals, which I introduce in the next chapter.

Alternatively, legislators might respond to cheap talk threats by drawing on their minimally informative "may veto" statement. Congress might send the president a modified bill that is closer to the status quo than the one the president threatened. Or, more ambitiously, legislators might rummage through the president's past communications and actions to try to tease out the president's indifference point. Of course, it might result in inadvertently surrendering more of their ideal policy than necessary. Nonetheless, the exercise remains guesswork. Or, conversely, they might undershoot the president's demands, resulting in a veto, at which point, sequential veto bargaining would come into play.

CONCLUSION

In the present-day setting of polarized political parties hotly contesting and dividing control of the legislative and executive branches, presidents frequently find themselves resisting the opposition majority's legislative program. Whether a Democrat or Republican occupies the Oval Office, presidents and their staffs vigilantly monitor legislative deliberations, ready to pounce on the opposition's wrong-headed schemes. Frequently, the purpose of early interventions is to nip a proposal before it accumulates supporters. An olive branch in the form of a counterproposal may accompany the threat. Frequently, the president pre-commits to signing the bill if Congress removes objectionable provisions or moderates it in other ways prescribed in the threat message.

The models we have reviewed so far serve the narrow purpose of isolating the impact of the Constitution's presentment clause on presidents' influence on legislation. Some impose common knowledge assumptions (Kiewiet and McCubbins, 1988, 1991; Krehbiel 1998), which render veto rhetoric irrelevant, while others—specifically, cheap talk models—relegate them to marginally informative. Both have Congress homing legislation around the president's known or suspected indifference point.

We turn now to veto threat bargaining, VTB. Unlike the above models, VTB is designed to explore how presidents and legislators jointly develop new policy and avoid gridlock. We begin in the next chapter by dismantling the seriously restrictive assumptions in the formal models that consistently weigh against presidents' success.

Yet the separation of powers model and its variants are not useless for testing veto rhetoric's effect on new public policy. Their value lies in identifying the equilibrium properties of the Constitution's structural barriers to positive action. We have learned that the veto authority does not ensure the president's entry into legislative deliberations. If Article II contained a pre-commit clause—say, allowing the president to “sign” a specified bill in advance—Congress would have more certain information about the outcome of passing that policy. And it would inform conjecture about the president's likely response to nearby alternatives. Uncertainty creates a demand for presidential communications, but it tightly circumscribes what the president will be able to credibly reveal. In the next chapter, I upgrade the president's chances of conveying credible threats and influencing legislation by adding an audience that observes and evaluates the performances of their elected officeholders in Washington.

DATA APPENDIX

The frequency of these entries on the y -axis is weighted by the number of books scanned during a year. Not all veto threat entries reflect presidential decisions on legislation. Some refer to a country's veto of a UN Security Council resolution or some other international setting. Google Ngram data were used to collect veto threat usage; Google Ngram collects the frequency of word strings within text, collecting the number of observations of a word or phrase in published material. The goal was to capture veto threats specifically about the president and not unrelated references of veto threats. This required that we focus on narrowly defined, clearly presidential references; nearly sixty presidential specific word string frequencies were employed from 1880 until 2020 using the American English Corpus 2012/2019. The sixty searches were then pooled into an index.

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