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Congress and Back Seat Driving: An Information Theory of the War Powers Resolution

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Few pieces of legislation in the realm of foreign policy decisionmaking have greater potential effect or are more controversial than the War Powers Resolution. The Resolution was intended originally to create greater leverage for Congress over executive use of military force. In this effort, it is widely believed that the Resolution has been ineffective. This paper uses an information theoretic model to examine the War Powers Resolution. Results of the modeling process allow for two general assertions. First, the model suggests that the Resolution is an optimal choice of procedure by the legislature. In other words, the War Powers Resolution is better for Congress than its alternatives. Second, the information theoretic approach used here seems to coincide with an anecdotal history of the war powers debate better than do alternative explanations. Indeed, the analysis helps to explain why war powers legislation was not considered seriously sooner. Though criticism of the War Powers Resolution has its merits, claims for a variety of alternative procedural systems may be open to challenge. Those wishing to establish mechanisms for curtailing executive adventurism abroad may find it more rewarding to focus efforts on the budgeting process or on the reduction of military force structures.

Since Congress passed the War Powers Resolution in 1973 over the veto of President Nixon, heated debate has surrounded both the legislation itself and the principles on which it is based.[1] Intelligent opinions differ about many aspects of war powers, but a consensus has developed that the Resolution has failed to provide Congress with leverage over military aspects of United States foreign policy. As one legislator exclaimed, "The War Powers Resolution doesn't work. It's that simple" (quoted in Katzmann, 1990, pages 64–65). Evidence of widespread, bipartisan dissatisfaction with the operation of the Resolution, both from within Congress and from various sectors of government, journalism, and academia, implies a strong mandate for change. A variety of alternative procedural structures have been proposed, yet little has been done to alter the original legislation (c.f. Fisher, 1995, chapter 9). It seems clear that the current legislation provides Congress with at best limited influence over executive activity in military foreign policy. Yet, the War Powers Resolution may constitute a better response to executive adventurism than is generally recognized.

This paper compares the War Powers Resolution with possible alternatives. I apply a form of game theory known as information theory to establish a basis for equating past, present, and proposed institutional arrangements.[2] To model the highly complex nature of these arrangements, I examine a facsimile of the Resolution's structure, as well as three alternatives that are broadly emblematic of the structures that preceded or that have been proposed as successors to the Resolution. Results show that the War Powers Resolution represents an optimal procedural equilibrium. That is, the Resolution provides payoffs preferable to alternatives available to players in the model, given players' preferences and the structure of play in the game.

This is not to suggest that legislative influence is substantial. Indeed, the results of the modeling process suggest strongly that, even under the most advantageous decisionmaking scheme, the degree to which the legislature can influence the outcome of military aspects of United States foreign policy is not large. The right of first decision over the use of massive military capital and the key advantage of superior resources for the collection and utilization of information mean that presidential dominance over military foreign policy probably is endemic (Lindsay, 1994; Ripley & Lindsay, 1993; Turner, 1988). Those interested in shifting the balance of power in favor of the legislature may find it more profitable to seek restraint of executive initiatives through changes in these resources or through modification of the congressional budgeting and allocations process, rather than by modifications of the War Powers Resolution.[3]

A satisfactory examination of the durability of the current War Powers Resolution also requires a theoretical explanation for the long period of United States history when the Resolution was not an equilibrium. That is, a model that claims to explain the current system of legislative-executive decisionmaking as optimal also must present a plausible scenario for the failure of Congress to adopt the system earlier. Why, after almost two hundred years, was the need felt to define more explicitly the balance of war powers? An important aspect of the study is the development of a model that relies on a single explanation for the durability and timing of the Resolution.

The model that I present owes much of its inspiration and content to others. Gilligan and Krehbiel (1987, 1989) and Krehbiel (1991) develop information theory in a political context, and use it to explain rulemaking in legislative bodies. Banks and Weingast (1992) apply information theory to congressional oversight of bureaucracies. In so doing, they describe the interaction and interdependence of the executive and legislative branches in a manner similar conceptually to that used here. Martin (1992a, 1992b, 1994) models the legislative veto, of which the War Powers Resolution is a particular (and peculiar) case.

The fact that similar methodology has been applied elsewhere does not diminish the need for or the validity of a tailored application to war powers. The research discussed here is warranted for the following reasons. First, the decision to engage in military action abroad is one of the most fundamental of state powers. The dramatic nature of the actions that result from war powers justifies more meticulous analytical scrutiny. Second, the War Powers Resolution is distinct structurally from other legislative vetoes (Gibson, 1992). The Resolution includes a lag in the decisionmaking process that produces a more complex structure (what I refer to as back seat driving), and may alter the payoffs for players in the game. Third, with the proliferation of constitutional forms of government, particularly in Eastern Europe, questions about effective and efficient procedural structures for legislative-executive war powers decisionmaking may be relevant to a wide variety of nations. Fourth, to my knowledge, there have been no previous attempts to apply information theoretic models to questions of foreign policy and international relations. The introduction of this approach to these fields may have some merit on purely methodological grounds. Previous research has done much to explain and interpret the subject of war powers. In the coming pages, I present a different approach that I hope nevertheless complements the efforts of others.

The Constitution

The debate over the War Powers Resolution characterizes a fundamental question of balance between the flexibility and authority in foreign affairs embodied in the executive and the deliberation and democracy expressed by the legislature. Proponents of increased legislative authority in war powers argue that the War Powers Resolution allows Congress to act as a counterbalance to the executive on behalf of public concerns about intervention abroad, while avoiding the unnecessary delays inherent in a national referendum. Critics charge that the Resolution is a breach of the president's role as civilian Commander in Chief, and that the shift in emphasis away from the president tends to produce a national command structure vulnerable to indecision. Proposed modifications of or alternatives to the present procedure abound (Adler, 1988; American Enterprise Institute for Public Policy Research, 1983; Fisher, 1995; Glennon, 1991; Gibson, 1992; Holt, 1978; Javits, 1973; Keynes, 1982; Nathan, 1991; Rubner, 1986, 1987; Sharpe, 1987; Thomas & Thomas, 1982; Wormuth, 1986).

While advocates on both sides of the debate have made extensive use of constitutional inference and interpretations of original intent, an uncontested rendering of the boundary between the war powers of the executive and the legislative branches does not appear to be forthcoming. As one expert on constitutional law states, "There is no clear, exclusive textual commitment of all the war, defense, and foreign-affairs powers to either Congress or the President" (Keynes, 1982, page 33; Adler, 1988). Some scholars even have argued that the absence of definitive war powers was an intentional omission on the part of the framers (Thomas & Thomas, 1982, pages 7–8). They needed to develop a system that combined the contradictory assets of agility and restraint. Most observers agree that the constitutional construction of war powers is a delicate mix of ideology, contemporary experience, and pragmatic compromise. As in many other aspects of constitutional law, most of the details of operational government were left to the imagination of future generations of politicians, jurists, and citizens. The Constitution provides a broad outline for the distribution of war powers, including a few express limits. Even express limits, however, have done relatively little to shape practice. More finite calibrations of the balance of war powers between branches is a political function, as the courts have made clear (Keynes, 1982, pages 36–38).[4]

The War Powers Resolution

For most of United States history, the ability of the executive to commit to military hostilities has been limited as much by the absence of ready military resources as by legislative opposition or legal stricture. While conflict with other nations was by no means absent, the scope and duration of conflict was limited by the relatively feeble nature of United States military capabilities. Serious military efforts required congressional consent for mobilization, authorization of funds, or both. In any case, the need to involve Congress in military foreign policy decisionmaking was a situation that presidential administrations up to and including that of Franklin D. Roosevelt had to face.

In the wake of World War II, this no longer was entirely the case. The large standing army required to pursue the Cold War with the Soviet Union also

gave postwar presidents *ready access* to military resources their predecessors could only obtain from Congress (Javits, 1973, pages 262–266). The Formosa resolution (January 25, 1955), the Middle East resolution (March 9, 1957), and the Cuban missile resolution, passed by Congress in October 1962, showed the increasing tendency for the executive to act independently of, and prior to, congressional mandate (Allison, 1971; George & Smoke, 1974, pages 286, 312–313; Javits, 1973, page 259).

The Tonkin Gulf resolution and United States entanglement in Vietnam led many legislators to question the wisdom of congressional delegation of war powers to the executive branch. Senator Jacob K. Javits, the champion of war powers legislation, described the mood as follows: "I am convinced that congressional embarrassment at the failure to weigh all the factors involved in the Tonkin resolution has been responsible for the burgeoning assertiveness of the movement in the Senate at long last to curb the war-making power of the President" (Javits, 1973, pages 259–260). Certainly by the early-1970s, Congress was aware that it had been misinformed concerning aspects of executive Southeast Asia policy. Legislators believed that this failure was due in no small part to the superior information available to the executive, and to incentives for the executive to manipulate its communication with the legislature when complete disclosure was likely to result in a divergence of policies (Holt, 1978, pages 3–7). As long as Congress was dependent on information from the executive, the conduct of military foreign policy remained chiefly in the hands of the originator of that information. Thus, the demand for consultation, in which the president sought the advice and opinions of members of Congress *prior to* the use military force, was thought to be a key component of war powers legislation (Rubner, 1986, pages 631–632).

Far more potent, however, is the provision under sections 5(b) and 5(c) of the Resolution for mechanisms requiring the removal of United States forces. Section 5(b) directs the executive to recall United States forces after a specified period (generally 60 days), unless Congress makes a formal declaration of war or otherwise formally validates the continued presence of United States forces in a combat zone. Proponents argue that, "legislative *inaction* is the key to the prevention of executive encroachment on congressional prerogative" (Javits, 1973, page 269, italics added).

Inaction may be a misleading term. Delay implies that something is happening. If not, why not decide immediately? The provision for "inaction" allows Congress to use the time to learn more about how executive foreign policy initiatives are faring. The real value of Section 5(b) is that Congress can both claim a role in war powers and not commit itself to policy prior to examining important implications of executive initiatives. Section 5(b) also provides flexibility by not defining explicitly important parameters of the process. For example, a decision to invoke the 60-day clock on executive adventures even may be made retroactively (Katzmann, 1990).

Section 5(c) states: "Forces shall be removed by the President if the Congress so directs by concurrent resolution" (Nathan, 1991, pages 542–543). Congress may impose its authority under section 5(c) at any time (Katzmann, 1990; Wormuth & Firmage, 1986). Section 5(c)'s presence within the Resolution suggests that its use was anticipated, at least under some circumstances. Still, regardless of wording, a failure to repudiate executive policies immediately may be interpreted by the executive branch and by citizen observers alike as tacit approval, unless it is clear that Congress is still studying the issue. Thus, the Resolution's

primary contribution is its institutionalization of a delayed response to executive activism without abrogating congressional claims to war powers authority.

Whatever its formulation, two important myths have developed about the War Powers Resolution. The first is that the Resolution was arrived at carelessly and quickly, as a response to a particular incident. In referring to the Resolution, Fisher writes, "The resolution is better described as a slow, evolutionary culmination of institutional struggles and constitutional debate than as a narrow preoccupation with the Vietnam war" (Fisher, 1995, page 128). Second, and even more powerful, is the belief that the Resolution does not work. Again, Fisher points out that, "Although the War Powers Resolution has not worked precisely as intended, especially the two key congressional controls, the general effect has been consistent with expectations in 1973. Even if the clock does not tick on the sixty-to-ninety-day deadline, executive officials *behave* as though it does" (Fisher, 1995, page 133, italics in the original). The gradual development of the Resolution over time suggests that members of Congress were aware of what they were getting. Fisher's conclusion, that "the general effect has been consistent with expectations in 1973," supports this interpretation. Also, note Fisher's reference to the tendency of the executive to alter its behavior prior to or in the absence of any explicit action by the legislature. It should be pointed out that such anticipatory self-censoring cannot be demonstrated empirically, since it involves the commission of a *non-act*. We are left to imagine what the executive *would have done* had there been no War Powers Resolution.

One final point is in order. The War Powers Resolution was amended slightly in 1983, to require joint rather than concurrent resolutions soon after the Supreme Court's ruling in *Immigration and Naturalization Service v. Chadha* (Craig, 1988; Fisher, 1995). These changes were motivated by congressional desire to keep the Resolution viable (Korn, 1991; Martin, 1992b). The fact that the Resolution was modified when the legislative veto was changed in *Immigration and Naturalization Service v. Chadha* suggests that when change was needed, the legislature responded quickly and in a manner that implies a certain robustness in the placement of the Resolution within the legislative issue space. (Korn, 1991, notes that only a handful of the legislation affected by the *Chadha* decision was altered by Congress as of the late 1980s.)

The Legislative-Executive Balance of Power

Much research on executive-legislative decisionmaking in the area of war powers assumes, implicitly or explicitly, the realist paradigm of a balance of power, or "tug-o-war," politics (Holt, 1978, page 39; Keynes, 1982, pages 39–40; Wormuth & Firmage, 1986, page 267). Since the war powers clauses of the Constitution are not detailed, a contest has arisen between the executive and the legislative branches of government over which is to have greater say in guiding policy. Corwin describes the operation of interbranch decisionmaking as, "an invitation to struggle for the privilege of directing American foreign policy" (quoted in Sharpe, 1987, page 551). Thus, the line that delineates the respective zones of authority of the two branches is in flux, and is determined by the relative potency of the two contestants at any given moment in time. The potency of the competing branches is bolstered or hindered to some extent, in turn, by previous iterations of the contest and by practices that have come to be accepted as precedent by outside

parties, such as the courts (Holt, 1978, page 1; Katzmann, 1990, pages 36–37; Sharpe, 1987, pages 549–551).

While a tug-o-war conception of war powers is powerful and convincing, it fails to answer significant questions about the nature of the struggle. In periods of greater strength, Congress might be able to extend its authority in war powers. Why, for example, does the legislature not establish a bolder strategy on occasion? Enhancing the legislative position relative to the executive in the balance of war powers would increase the probability that Congress would achieve its preferred policy in the future.

Extending the line of argument, the shifting fortunes of the two branches of government in turn would induce fluctuations in the balance of power. Indeed, this is exactly the inference that has been used to great effect in the literature on international relations (Waltz, 1954, pages 198–210). When Congress is strong relative to the executive, it should be expected to press for greater concessions from the executive. Conversely, when congressional authority weakens, it should be the executive that makes headway. This proposition contradicts the observation made above that the War Powers Resolution has remained relatively unaltered. If one accepts the premise that the relative ability of the legislature and the executive to exercise their prerogative is in flux, what explains the failure of war powers legislation to respond to these fluctuations?

One suggestion is that the flux in balance of power exists within the larger framework of a stable institutional arrangement. Minor shifts in power occur, but they are not great enough to alter the actual structure of decisionmaking. This well may be the case. Acceptance of such a proposition places a theory of balancing powers in a secondary role, however. What establishes, maintains, and alters the institutional arrangement? If the balance of powers does not explain change (or lack of change), then the researcher must seek some other impetus for the structure of war powers decisionmaking.

Another suggestion is that uncertainty induced by frequent shifts in the institutional arrangement is counterproductive and tends to counteract near-term advantages obtained when Congress and the executive alter procedure to reflect the current balance of power. The analogy that is used occasionally is to a certain "stickiness" of procedure.[5] While the shifts in the balance of power still can be expected to cause fluctuations in procedure, adjustments are dampened by a desire to maintain some consistency in procedure. Frequent, minor shifts in the balance of power are ignored by Congress and the executive branch, while long-term adjustments are not. This still implies, of course, that changes in the institutional arrangement occur eventually.

Unfortunately, neither explanation fits well with the early history of United States legislative-executive decisionmaking. "Acquisition of power by the executive proceeded at a rapid pace from the earliest days of the Republic and was aided and abetted by a Congress that recognized the natural advantages held by the executive branch" (Wormuth & Firmage, 1986, page 178). First, the balance of power notion implies that power would not be conceded voluntarily. Second, the fact that executive dominance in war powers developed rapidly contradicts the notion of stickiness. Finally, it is suggested that congressional recognition that the executive was better able to develop *expertise* in military policy induced Congress to relinquish its authority. While the balance of power model of legislative-executive decisionmaking must be considered, it is not a complete or even adequate explanation. An alternative model is needed that pays particular attention to an exchange between Congress and the executive.

Information Theory

The fundamental assumption of information theory is that policies have no inherent value. Legislators seeking desired outcomes use policies as instruments, yet decisionmakers are unable to project with certainty the relationship between a given policy and its associated outcome. Instead, decisionmakers are forced to estimate the relationship. Information theory is an attempt to model the uncertainty that decisionmakers face in making policy, as well as the institutional arrangements they are likely to establish to manage their task.

This interpretation can be applied to decisionmaking between the executive and legislative branches. As others have shown, the tendency of the executive to specialize can be explained by the degree to which the benefits of specialization exceed the effort required to specialize (Banks & Weingast, 1992; Martin, 1992b, page 9).[6] Certain procedures, such as "fast track" ratification of trade legislation, can make it rewarding for the executive to invest in specializing (Martin, 1992a). Knowledge of the relationship between policy and outcome, combined with a legislative procedure that restricts modification of executive proposals, allows the executive to develop legislation disproportionately beneficial to itself. Conversely, if the executive knows that a piece of legislation is likely to be dismembered in Congress, it may decide to dedicate less time and effort in an attempt to craft a bill expertly.

In the model of executive specialization, the legislature can ascertain whether the executive has become expert, but it does not know whether the information supplied by the executive is accurate or honest. A rational executive might attempt to increase its own benefits by misrepresenting the relationship between a policy and its predicted outcome. The legislature no doubt is aware of the possibility that the executive will attempt to hoodwink Congress. Under these circumstances, the legislature must make an educated guess about the nature and dimensions of bias extant in information supplied by the executive. Given knowledge of executive preferences, establishing a reasonably good approximation of the executive bias is not as difficult as it sounds. Still, a procedure that allowed the legislature to second-guess executive policy might prove desirable to the legislature.

The relationship may be thought of as that between an automobile operator and that often-maligned individual, the back seat driver. In the analogy, the driver (the executive) may claim to have specialized knowledge about the proper operation of the vehicle (traffic regulations, etc.). The back seat driver (the legislature) has limited information that precludes active involvement in vehicle operation but allows the passenger to monitor overall performance of the driver and the vehicle. Mistakes or intentional infractions are difficult for the passenger to identify from inputs to the controls, but are far easier to observe from the behavior of the automobile. Criticism is based on the driver's actions after it is clear that the actions result in undesirable outcomes!

It is a rare passenger, however, who finds it more satisfactory to criticize a driver for a mishap than to avert the incident in the first place. Invoking sections of the Resolution, should the executive policy turn out to be undesirable, results in costs for members of Congress, if only in terms of time and controversy. Similarly, it is not in the interest of the operator of the automobile (the executive)

to see an action (policy) repudiated by a passenger. Much of the impact of the War Powers Resolution, as with a back seat driver, resides in its value as a deterrent.

A more sophisticated description of the interaction between Congress and the executive branch is needed. The model below characterizes the actors, choice structure, strategies, and payoffs involved in the war powers debate. Many, arguably peripheral, actors have not been included. I assume that the preferences of many interested parties exhibit themselves through the electoral process. Following Mayhew (1974) and the convention in the literature, I assume that reelection is the "proximate goal" of members of Congress. Not every conceivable institutional structure has been included in the model. For reasons of brevity and tractability, four procedural archetypes are substituted for the continuous range of alternatives that actually are available. Payoffs (outcomes times utilities) are generalized along the same line of reasoning. I believe that this model reflects the essential aspects of the war powers situation. I hope to show this through a detailed description of the model below.

The Model

There are two actors in the model: the president, or "the executive" (E), and the pivotal member of the legislature (L). The pivotal member possesses the critical vote in the formation of a dominant coalition under the given voting rule in effect in the legislature. (The legislative member may or may not represent the median preference of Congress, depending on the voting rule.) The member will be referred to here as "the legislature."

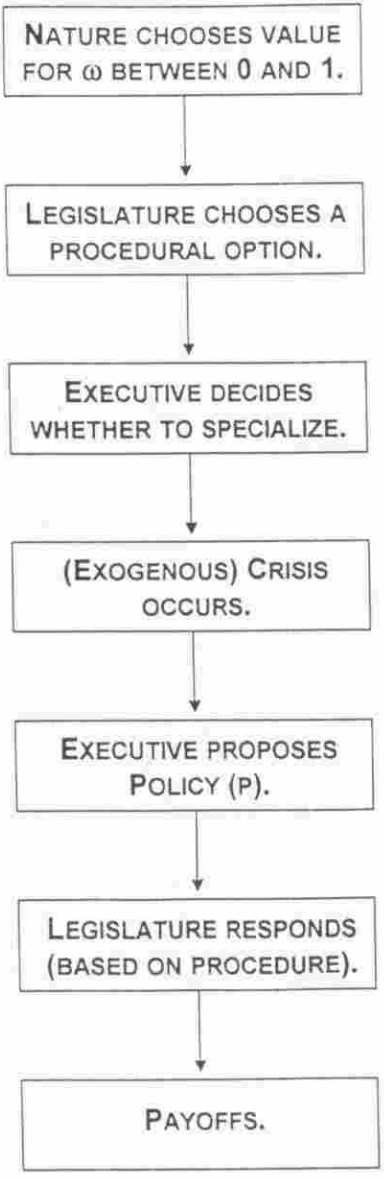
Figure 1 outlines the sequence of play in the game. Political actors encounter a crisis for which they must determine the most effective policy (ρ) to achieve a desired outcome (χ) from the set of possible policies, $\rho \in \Re^1$. The relationship between policies and outcomes is represented by the linear equation; $\chi = \rho + \omega$, where ω is a stochastic variable, uniformly distributed on the region [0,1] with mean (ϖ) and variance (σ^2_ω).[7] Nature, an exogenous actor, determines a random value for ω. Uncertainty exists in the model because the value of ω is not common knowledge. Players may attempt to reduce uncertainty by acquiring knowledge of the stochastic element relating policies to outcomes (ω).

There is a cost of learning the value of ω that varies at different points in the game. Significant costs for establishing the value of ω, referred to as specialization costs (k), exist early in the game. One way to view the expense of specialization is as an opportunity cost incurred by the executive for using finite time and resources on a given issue. For a busy executive, obtaining the knowledge to place a policy intelligently in a given issue space inevitably means being less informed about other issues. Formally, the specialization alternative is represented by a dichotomous variable (s), where 1 = "specialize" and 0 = "not specialize." The option of early specialization is available only to the executive branch. I assume that the executive branch alone has the resources and institutional prerequisites necessary to make use of this alternative in a foreign policy context.[8]

Late in the game, the legislature may obtain the value of ω by collecting relevant information indirectly through "fact-finding," committee hearings, and other forms of observation of the effects of executive policies (c, where $c << k$). Again, the information collection alternative is represented by a dichotomous variable (w), to which the following values apply: 1 = "wait and see," 0 = "not wait." A delay in obtaining information, however, may prove more costly than rewarding the

executive for specialization. As the model will show, the strategic importance of information derives not just from its presence or absence, but from the timing involved. In politics, often it is not just what one knows, but when one knows something that is of preeminent importance. Finally, actors possessing limited information are said to form rational beliefs about the value of the stochastic element (ω).

Figure 1
Sequence of Moves



For reasons of tractability, and with no loss of generality, I establish the legislature's ideal point at $\chi_l = 0$ and the executive's ideal point at $\chi_e > 0$ (lowercase subscripts designate relevant actors). Both actors are rational utility-maximizers whose preferences conform to the constraints associated with Black's median voter theorem (i.e., continuous, differentiable, single-peaked utility functions). Actors' utility functions are represented by the negative of the square of the difference between their ideal outcome and the outcome that actually results from the game (i.e., negative quadratic-loss utility functions). This simply means that, *ceteris paribus*, actors are averse to taking risk. The utility functions of the legislature and the executive, U_l and U_e respectively, are defined as follows:

$$U_l = -(\chi - \chi_l)^2 - wc = -\chi^2 - wc \qquad U_e = -(\chi - \chi_e)^2 - sk$$

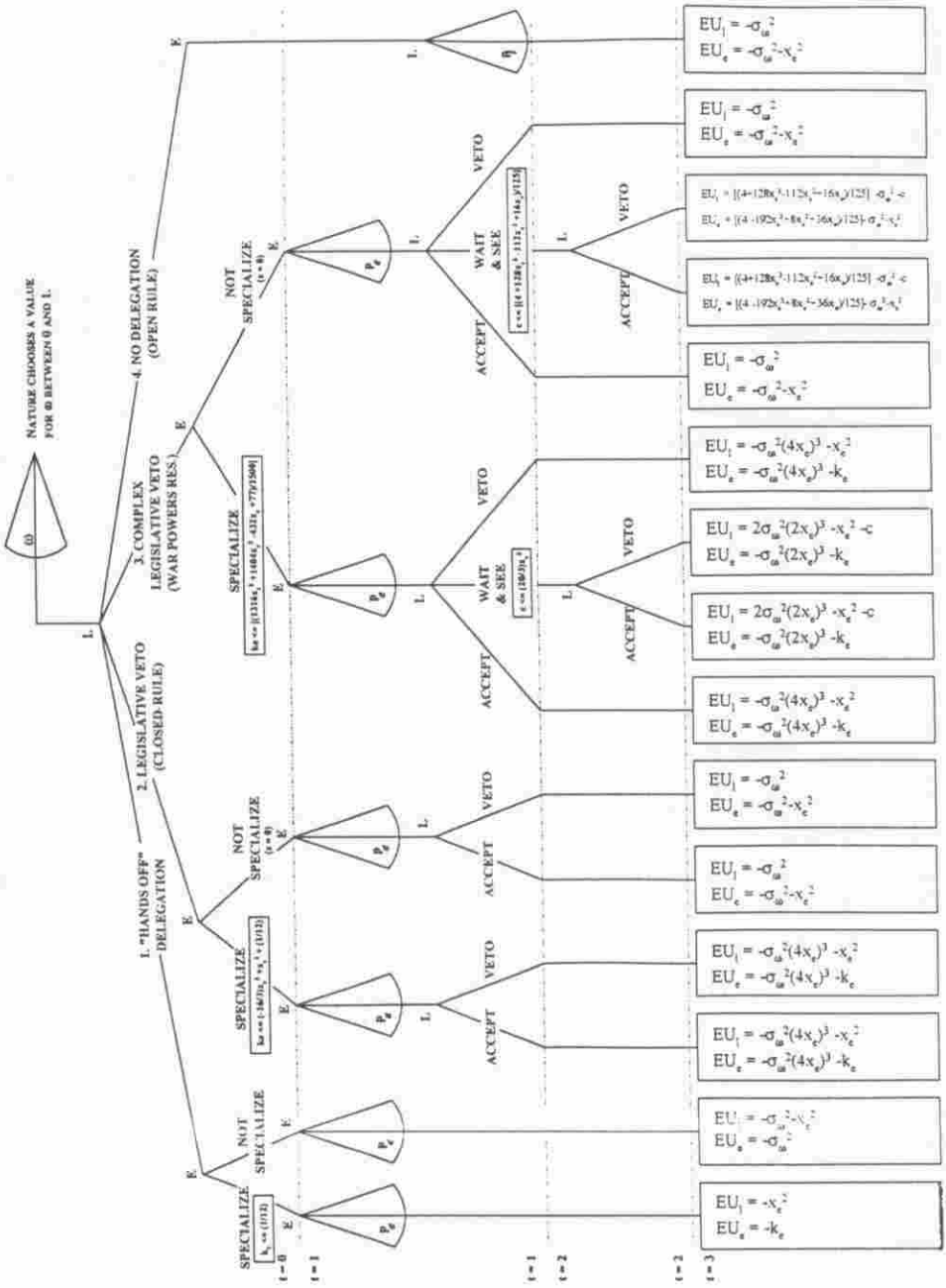
Finally, a decision-rule is assumed by which actors faced with two or more alternatives to which they are indifferent will choose the alternative that lies on the contract curve on or between the ideal points of the two actors $[0,\chi_e]$, (i.e., Pareto efficiency). Gilligan & Krehbiel (1987, pages 304–305) acknowledge the normative nature of this assumption, but argue, as I do, that the assumption is well-justified. The utility functions described by the above equations translate into symmetric and geometrically decreasing utilities for outcomes equidistant from a given ideal point. For every point not on the contract curve between the two ideal points, there is a point on the curve at which one actor is at least indifferent and the other actor is better off. Since, by definition of the utility functions, no actor suffers a net loss by shifting a given outcome to a point opposite and equidistant from the actor's ideal point, rational utility maximization is not inconsistent with this kind of cooperation. One might even be able to tell a convincing tale about the *quid pro quo* benefits that result from instituting such a norm.[9]

The diagram of the extensive form of the game appears in Figure 2. Action in the game takes place in four stages, designated time zero ($t = 0$) through time period three ($t = 3$). Choices made during the initial period ($t = 0$) are assumed to occur prior to a crisis and to remain unalterable throughout the rest of the game. Choices made during periods one through three are constrained by the initial conditions established by both actors prior to the crisis. The only decision nodes present in time period two occur when the legislature chooses to use a complex legislative veto (the War Powers Resolution). Payoffs are received during time period three. The solution concept used in solving the game is perfect Bayesian equilibrium (Gilligan & Krehbiel, 1987, page 303).

At time zero, the legislature (L) chooses an institutional procedure (P), which will remain throughout the game. The legislature may choose simple "hands off" delegation [option 1], the legislative veto (closed rule) [option 2], the complex legislative veto or "back seat driving" (the War Powers Resolution) [option 3], or "micromanagement" (no delegation) [option 4].

Simple "hands off" delegation [option 1] is similar to the institutional structure that predominated in post-World War II war powers decisions prior to the Vietnam era. As the name suggests, "hands off" delegation leaves policymaking largely in the hands of the executive. "Hands off" delegation was used when Congress anticipated conflicts involving relatively minor commitment of military assets and, paradoxically, when external considerations such as threats and crises involving nuclear weapons seemed to place a premium on decisive action.

Figure 2
Extensive Form of Game



The legislative veto [option 2] is similar to the closed rule models of the legislative process championed by the New Institutionalists (Krehbiel, 1991, page 32). The option creates a simple "take it or leave it" choice in legislative voting. The legislature will veto an executive policy if it believes that the executive policy will result in an outcome farther from the congressional ideal point than will existing conditions; that is, $(E(\chi|\rho_e) - \chi_l) > (\chi_o|\chi_o - \chi_l)$, where existing conditions are represented by a status quo policy, ρ_o, and where (E) here represents an expected value, rather than referring to the executive. On the other hand, Congress will support executive policies that it believes will produce better outcomes than the status quo. Closed-rule legislative vetoes have been used when commitments of military resources are expected to be substantial. The Tonkin Gulf resolution, authorizing President Johnson to engage in a "police action" in Vietnam, is an example of both the process and perils of the legislative veto.

I argue that the Tonkin Gulf resolution and similar referenda represent the procedural equivalent of a legislative veto. While technically not a legislative veto (modifications of the resolution might have been offered), any serious attempt to change the legislation would have amounted to a vote of no confidence in executive initiatives. Neither of the two senators who voted against the policy, Gruening (D–Alaska) and Morse (D–Oregon) made any attempt to propose amendments to the resolution. The Tonkin Gulf resolution also illustrates executive gains from specialization. Congress could have refused Johnson's call for a dramatic escalation in United States involvement in Vietnam. Yet, Johnson knew the actual situation and Congress did not (Lebow, 1981, page 31): "Hell, those dumb stupid sailors were just shooting at flying fish" (Johnson, quoted in Karnow, 1983, page 374). Johnson's superior information about the incident allowed him to misrepresent details to Congress.

A complex legislative veto [option 3] expands on the previous delegation procedure by placing a second veto opportunity at a later moment in the decisionmaking process. The addition of a second-stage (t = 2) veto allows the legislature to withhold explicit approval of a policy until better information is available, as long as the legislature is willing to absorb some additional costs.[10] Better information can be collected through formal or implicit use of section 5(b) of the Resolution, which provides for a delay in congressional decisionmaking. Though commonly regarded as a measure designed to allow the executive leeway in the conduct of military emergencies abroad, that provision also affords the legislature time to evaluate the relationship between executive policies and their effects. There remains a cost to the legislature for collecting information about the value of ω. This cost (c) is incurred only if the legislature decides to follow a wait and see policy. Finally, while it may be possible for the executive also to learn the value of ω at this point, executive policy (ρ_e) has already been chosen. Thus, a key advantage for the legislature is knowledge of the relationship between policy and outcomes prior to the final closed-rule vote. If the policy chosen initially by the executive is incompatible with the preferences of the legislature, the legislature will know with certainty that this is so, and will choose the reversion policy, ρ_o. Thus, the legislature is able to exert leverage on the executive, both to specialize and to use information to the advantage of the legislature.

The final procedural option serves as a counterpoint to hands-off delegation and as a response to arguments in favor of greater legislative control over decisions concerning war powers. It would seem, prima facie, to be the most advantageous of all options for the legislature. No delegation [option 4] allows the legislature to

micromanage the operation of policy. This subbranch allows the legislature to determine policy unfettered by restrictions on voting or executive influence. In doing so, micromanagement eliminates the opportunity for the legislature to benefit from executive specialization.[11] The legislature is assumed, therefore, to be informed imperfectly. Collection of information is not available because no actor has the opportunity to specialize, and thus no information is available to collect. The requirement for immediate policy responses to crises and the constraints imposed upon the legislature by its finite resources and by its decisionmaking style also constrains potential outcomes. Micromanagement is not a technique that has been demonstrated in the area of war powers. Instead, variants have been proposed by some critics of the current procedure as a means to bolster legislative influence in war powers (Korn, 1991; Rubner, 1986, 1987; Sharpe, 1987). While a variety of minor modifications of the basic micromanagement format might represent specific proposals more fully, these do not seem fundamentally to alter obtainable payoffs. For simplicity, the fundamental form alone is retained in the model.

Once the legislature has chosen from among procedural options, the executive determines whether to specialize. The executive specializes if and only if the expected benefits are positive, that is, $EU_e^{s=1} > EU_e^{s=0}$. Otherwise, the executive chooses to avoid the expense of specialization (k). The early decision to specialize is suggested by the lead times necessary in directing a large bureaucratic apparatus, the need to develop, organize, and disseminate substantial policies, and the frequent necessity to respond quickly once a specific crisis develops.

Time period one begins when an appropriate institutional structure is in effect and the executive has allocated resources among policy areas, represented by the specialization decision. Both conditions remain fixed throughout the remainder of the game. The model also assumes that a crisis exists to stimulate the two actors to contemplate some departure from the status quo. I assume that both branches of government have an interest in the outcome of the crisis. The executive determines its optimal policy (ρ_e). The executive's policy is designed to optimize its payoffs given constraints and given the information available concerning the stochastic element (ω). The legislature then can respond in a variety of ways, depending on the established decision procedure.

If the legislature initially chose hands-off delegation [option 1], then the executive's choice of policy is implemented unchallenged. The policy remains unaltered by either actor during the rest of the game.[12] Here, ρ_e is the policy that is implemented with payoffs received in period 3. Outcomes are a function of whether the executive has chosen to specialize (incurring cost k) or not (incurring the cost of uncertainty, σ^2_ω).

The closed-rule legislative veto [option 2] is identical to the model of delegation procedure described as a "restrictive rule" by Gilligan and Krehbiel (1987, pages 315–322). Under the legislative veto procedure, an executive policy (ρ_e) faces a simple up-or-down vote. The results of voting depend on two other conditions: the location of the current, or status quo, policy ((ρ_e) in the model), and the value of the stochastic element (ω). In order for the legislature to approve the executive proposal, the legislature must believe that ρ_e would combine with ω so that future outcomes will be closer to the legislative ideal point than under the combination of the status quo and a stochastic element. Unequivocal information about the value of ω is not available to the legislature, but it can interpret the executive policy for clues. The legislature is said to hold beliefs about the value of ω, as well as about

the anticipated location of outcomes within the issue space. Policies accepted by the legislature under the legislative veto procedure are implemented unchanged. If vetoed, the policy submitted by the executive is said to be "dead on the floor," and the status quo policy (ρ_o) is retained. The game ends with payoffs given during period three.

If the legislature selects the complex legislative veto of back seat driving [option 3], the legislature then may accept the executive policy, veto the executive policy, or delay its decision (wait and see). Accepting or vetoing the proposal ends the choice process (payoffs are received in period 3). Doing nothing, or wait and see, is analogous to letting the 60-day clock run under section 5(b) of the War Powers Resolution. In the second period, the legislature is informed of the value of ω, paying a collection cost (c). The legislator then encounters a final decision node and a second up-or-down vote (the legislative veto). When collection costs are relatively high, the complex legislative veto results in equilibria similar to those in the simple (closed rule) legislative veto.

If the legislature chooses "micromanagement" [option 4], the executive cannot specialize or submit a policy. The legislature has the opportunity under the structure of micromanagement to establish any policy (ρ_l), $\forall \rho \in \Re^1$. Obviously, the fact that the legislature can choose any policy (ρ_l) means that it will attempt to locate the outcome as close to its ideal point (0) as possible, that is, $EU_l(\rho^*_l) > EU_l(\rho_l)$. This should result in a policy that in expectation achieves the legislative ideal point, though uncertainty will remain about the exact value of ω.

Equilibria

The equilibria for each of the four procedural branches in Figure 2 are described below.[13] Solutions for three of the four branches appear in previous literature, and so are described here in less detail (Gilligan & Krehbiel, 1987; Martin, 1992a, 1992b, 1994). The focus of this section is a complete solution for the complex legislative veto (War Powers Resolution). Specialization equilibria then are determined by evaluating each branch in terms of the utility-maximizing principles ascribed to actors in the model. Finally, I present optimal procedural equilibria over the domain of specialization costs and the divergence in preferences between executive and legislative branches.

Equilibrium strategies represent optimal choices for each player at each node in the game, subject to choices made at previous nodes, and depending on expectations of future actions by other players. The optimal executive policy proposal is designated (ρ^*_e), to differentiate it from other ρ_e. The legislature's optimal response is ($v^*(p_e)$). The legislature's optimal belief about the value of ω, given the executive proposal, is ($b^*(p_e)$). Player's expected utilities are given for appropriate terminal nodes and identified by Figure 2 as well as in the description of each equilibrium. These are calculated by maximizing actor's utility functions over the range of possible values of ω, subject to a given chosen policy or policies. Since $\omega \sim U[0,1]$, integrated over the interval, ω is equal to unity.

The reversion policy is assumed to equal the negative of the mean of the stochastic element ($\rho_o = -\varpi$). This is the most demanding assumption that can be made, because it means that the reversion policy is equal to the legislative ideal point, χ_l, or 0. For executive proposals to be accepted by the legislature, they must provide informational improvements that at least compensate for losses due to a

shift in the status quo. The executive, on the other hand, will not propose any policy that makes it worse off. In reality, the reversion policy is likely to deviate from zero, resulting in larger incentives for both actors to accept changes in the status quo.

1. [Procedural Option 1] Hands Off Delegation (HO)

Assume that the legislature has chosen [option 1]. Hands-off delegation means that the outcome is up to the executive, so only the choice of specialization affects the outcome and payoffs. We can expect the executive to attempt to ensure that the outcome is at or near the executive's ideal point. If the executive specializes, the outcome will be (χ_e). This costs the executive the price of specialization (k). Not specializing incurs the variance cost, or σ^2_ω.

a. Specialize: If the executive chooses to specialize, its knowledge of the relationship between its ideal point (χ_e) and ω results in it choosing $\rho_e \; \forall \; \rho_e + \omega = \chi_e$. The optimal legislative response to the executive policy is satisfied trivially by any strategy. The legislature's belief about the value of ω also is incidental. Equilibrium strategies, utilities, and Pareto optimality outcomes are as follows:

1. The equilibrium for the first procedural branch, with specialization (HO, s = 1):

$$\begin{aligned} \rho^*_e &= \chi_e - \omega \\ v^*(\rho_e) &= \rho \in \Re^1 \\ b^*(\rho_e) &= \{\omega | \omega \in [0,1]\} \end{aligned}$$

2. The expected utilities are calculated by integrating the value of the equilibrium policy (ρ^*_e) over $\omega \in [0,1]$. Expected utilities for the legislature and for the executive are as follows:

$$EU_l^{HO(s=1)} = -\chi^2_e \qquad EU_e^{HO(s=1)} = -k$$

b. Not specialize: If the executive has not specialized, it does not know the exact relationship between a policy and its outcome. Without specialization, the executive has to absorb the costs associated with not knowing which policy yields the preferred outcome, σ^2_ω. Note that the expected utility for each player follows directly from the definition of variance over a continuous domain, that is, the integral sum of squared deviations from the mean. The legislature knows that the information available to the executive is no better than its own. This knowledge and the legislature's beliefs about ω again are incidental.

1. The equilibrium strategy for hands-off delegation without executive specialization (HO, s = 0) is:

$$\begin{aligned} \rho^*_e &= \chi_e - \omega \\ v^*(\rho_e) &= \rho \in \Re^1 \\ b^*(\rho_e) &= \{\omega | \omega \in [0,1]\} \end{aligned}$$

2. Expected utilities are given below:

$$EU_l^{HO(s=0)} = -\sigma^2_\omega - \chi^2_\varepsilon \qquad EU_e^{HO(s=0)} = -\sigma^2_\omega$$

2. *[Procedural Option 2] (Closed Rule) Legislative Veto (LV)*

The status quo, or reversion, policy (ρ_o) plays an important role in the establishment of equilibria under the legislative veto procedure. The legislature may be thought of essentially as asking: "Is the new policy better (for the legislature) than the existing policy?" Since the existing policy expectationally is at the legislature's ideal point, new proposals face a potentially daunting challenge. Key to the promise that executive policy proposals offer is the chance to reduce uncertainty. Though on average the reversion policy stands to provide the legislature with its most preferred outcome, the variance around that outcome, resulting from uncertainty about the exact value of ω, means that a risk-averse legislature may find it cost-effective to reward executive specialization.

a. Specialize: If the executive has specialized under the legislative veto procedure, then a proposed executive policy (ρ_e) can be crafted that the legislature just prefers to the reversion policy (ρ_o). Such proposals represent joint, rather than distributional, gains. Distributional losses can be acceptable to the legislature if the distributional cost is at least compensated for by the joint benefits of better information.

1. Equilibria for the (closed rule) legislative veto procedure (LV, s = 1):

$$
\begin{aligned}
\rho^*_e &= \chi_e - \omega \text{ if } \omega \in [0, -3\chi_e + \varpi) \text{ or } \omega \in [\chi_e + \varpi, 1] \\
&= 4\chi_e - \varpi \text{ if } \omega \in [-3\chi_e + \varpi, -\chi_e + \varpi] \\
&= \rho_o \text{ if } \omega \in (-\chi_e + \varpi, \chi_e + \varpi) \\
v^*(\rho_e) &= \rho_e \text{ if } \rho_e \in [4\chi_e - \varpi, \chi_e] \text{ or } \rho_e \in [\chi_e - 1, -\varpi], \\
&\quad \text{or } \rho_e \in [\chi_e, \varpi] \text{ or if } \rho_e \in [-\varpi - 1, \chi_e - 1] \\
&= \rho_o \text{ otherwise.} \\
b^*(\rho_e) &= \chi_e - \rho_e \text{ if } \rho_e \in [4\chi_e - \varpi, \chi_e] \text{ or } \rho_e \in [\chi_e - 1, -\varpi] \\
&= \{\omega | \omega \in [-3\chi_e + \varpi, -\chi_e + \varpi]\} \text{ if } \rho_e = 4\chi_e - \varpi \\
&= \{\omega | \omega \in (-\chi_e + \varpi, \chi_e + \varpi]\} \text{ if } \rho_e \in [-\varpi, 4\chi_e + \varpi] \\
&= 0 \text{ if } \rho_e > \chi_e \\
&= 1 \text{ if } \rho_e < \chi_e - 1
\end{aligned}
$$

2. Expected utilities for the legislature and the executive are as follows:

$$EU_l^{LV(s=1)} = -\sigma^2_\omega(4\chi_e)^3 - \chi^2_e \qquad EU_e^{LV(s=1)} = -\sigma^2_\omega(4\chi_e)^3 - k$$

b. Not specialize: If the executive has not specialized, the legislature will be aware that the information available to the executive is no better than its own, and form a policy accordingly.

1. Equilibria for the (closed rule) legislative veto without specialization (LV, s = 0):

$$
\begin{aligned}
\rho^*_e &= \rho \in \Re^1 \\
v^*(\rho_e) &= \rho_o \\
b^*(\rho_e) &= \{\omega | \omega \in [0,1]\}
\end{aligned}
$$

2. The expected utilities (payoffs) for the (closed rule) legislative veto without specialization:

$$EU_l^{LV(s=0)} = -\sigma^2_\omega \qquad EU_e^{LV(s=0)} = -\sigma^2_\omega - \chi^2_e$$

3. [Procedural Option 3] Back Seat Driving Complex Legislative Veto (BD)

The complex legislative veto expands upon the structural characteristics already described in procedural option 2 (closed-rule legislative veto). The basic argument of this paper has been that the complex legislative veto (back seat driving) allows the legislature to obtain a margin of influence over war powers policy while inducing the executive to produce the informational benefits of specialization. To show that this is the case and to describe the equilibrium conditions, two additional procedural equilibria need to be derived under the complex legislative veto procedure. In addition to specialization and nonspecialization, this section breaks equilibria into categories by whether the legislature has chosen to respond to executive policy in the first period or to delay the decision and wait and see, relinquishing the collection cost (c). Equilibria for the wait-and-see alternative, both with and without specialization, are described in detail. Equilibria for first-period legislative decisionmaking are obtained from the simple legislative veto procedure described above. Formally, w = 1 for the wait-and-see alternative.

a. Specialize - legislature adopts wait-and-see: If the executive specializes, it knows the relationship between ρ and ω. Perhaps more importantly, the executive also knows the relationship between outcomes associated with any ρ_e and ρ^*_e. If we also assume for the moment that the legislature chooses to wait and see at the first-stage decision node, rather than accepting or vetoing the executive proposal immediately, then, as the legislature becomes informed of the value of ω in period two, it also is able to establish exact relationships between policies and outcomes, and thus to evaluate them precisely.

1. An equilibrium for the complex legislative veto procedure with specialization, and under the wait-and-see alternative, is shown below (BD, s = 1, w = 1):

$$\begin{aligned}
\rho^*_e &= \chi_e - \omega \text{ if } \omega \in [0, -\chi_e + \varpi) \text{ or } \omega \in [\chi_e + \varpi, 1] \\
&= \varpi - 2\omega \text{ if } \omega \in (-\chi_e + \varpi, \varpi) \\
&= \rho_o \text{ if } \omega \in [\varpi, \chi_e + \varpi) \\
v^*(\rho_e) &= \rho_e \text{ if } EU_l(\rho_e) \geq EU_l(\rho_o), \\
&= \rho_o \text{ otherwise.} \\
b^*(\rho_e) &= \{\omega | \omega \in [0,1]\}
\end{aligned}$$

2. The expected utilities for the legislature and the executive are as follows:

$$EU_l^{BD(s=1,w=1)} = 2\sigma^2_\omega(2\chi_e)^3 - \chi^2_e - c$$
$$EU_e^{BD(s=1,w=1)} = -\sigma^2_\omega(2\chi_e)^3 - k$$

b. Not specialize - legislature adopts wait-and-see: If the executive has not specialized, the legislature will be aware that the information available to the

executive actually is inferior to its own. Given any proposed executive policy (ρ_e), the legislature will be able to evaluate the policy against the reversion policy (ρ_o) $\forall$ $EU_l(\rho_e) \geq EU_l(\rho_o)$ or $EU_l(\rho_e) < EU_l(\rho_o)$ and act accordingly. The executive has not specialized, and does not know the value of the stochastic element. It does know, however, that the legislature's better information sometimes will impel it to prefer the executive policy. The legislature's superior knowledge of the value of ω allows it to determine the occasions when a given ρ_e will result in outcomes at least as close to 0 as ρ_o. Given the symmetric nature of the legislature's utility function, indifference occurs only when the executive policy and ρ_o are equidistant from the legislative ideal point. At all other points in the interval $\omega \in [0,1]$, the legislature is said to prefer either one policy or the other. Thus this indifference point serves as the boundary point between the implementation of competing policies.

The executive, though unaware of the exact value of ω, can establish a ρ_e that is expectationally most likely to benefit itself. Uninformed of the value of ω, the executive proposal must take the form of a scaled function of the status quo policy, $t + \rho_o$, $-.5 \leq t \leq .5$. Absolute values of t close to zero result in an executive policy similar to ρ_o, and thus there is a larger region over which the executive policy is preferred to the status quo. On the other hand, absolute values of t farther from zero, if acceptable to the legislature, produce bigger payoffs for the executive. The executive thus faces an optimization problem, in which it must weigh the acceptability of potential policies to the legislature and the desirability of those policies to itself. Given all this, the executive will propose a policy $\forall$ $EU_e(\rho_e) > EU_e(\rho'_e)$, where $\rho'_e = \rho \in \Re^1 \neq \rho_e$.

1. An equilibrium for the complex legislative veto procedure without specialization and under the wait-and-see alternative exists, such that (BD, s = 0, w = 1):

$$\begin{aligned} \rho^*_e &= 2\varepsilon - \varpi \\ v^*(\rho_e) &= \rho_e \text{ if } \omega \in [0, -\varepsilon + \varpi] \\ &= \rho_o \text{ otherwise.} \\ b^*(\rho_e) &\{\omega | \omega \in [0,1]\} \end{aligned}$$

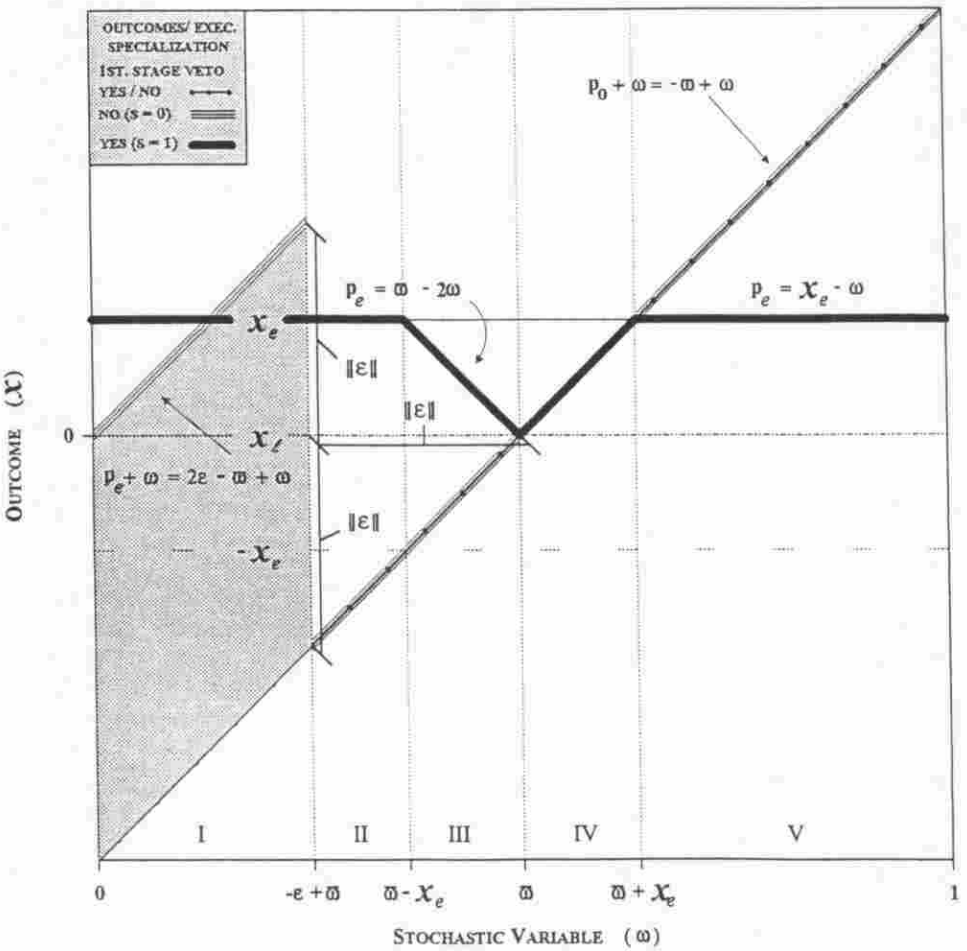
2. The expected utilities (payoffs) for the legislature and the executive are as follows:

$$EU_l BD(s=0,w=1) = \frac{128\chi^3_e - 112\chi^2_e + 16\chi_e + 4}{125} - \sigma^2_e - c$$

$$EU_e BD(s=0,w=1) = \frac{-192\chi^3_e + 8\chi^2_e + 36\chi_e + 4}{125} - \sigma^2_e - \chi^2_e$$

c. First-period legislative decisionmaking: Whether the legislature is assumed either to accept or to veto the executive proposals, equilibria are identical to those presented for the simple closed-rule legislative veto. Executive specialization affects equilibria as discussed under the legislative veto in [option 2].

Figure 3
Back Seat Driving (War Powers Resolution) [Option 3]



The equilibria for both wait-and-see alternatives are presented in Figure 3. Other alternatives are omitted, to simplify presentation. Equilibrium outcomes with executive specialization are represented by a thick black line. Three narrow parallel lines represent equilibrium outcomes under the wait-and-see alternative without executive specialization. The status quo policy, marked by a thin accented line, is included for reference. Roman numerals at the bottom of the figure label regions that have been subdivided, in order to clarify presentation.

As can be seen from the diagram, under a second-stage game of complete information with specialization by the executive, outcomes always are going to be within the Pareto set. Payoffs still depend on the position of the status quo policy (ρ_o). The executive, for example, is not able successfully to propose a policy that results in outcomes preferable to the status quo if the status quo results in an outcome in the Pareto set (region IV). If, on the other hand, the interaction of (ρ_o) and ω results in policies located along the issue space farther from the legislative ideal point than is the executive ideal point (either positive or negative), then the executive will be able to propose a policy that the legislature will accept such that the executive ideal point is achieved (regions I, II, and V). Finally, if the status quo policy results in an outcome within the area between the legislative ideal point and the inverse of the executive ideal point (i.e., outcomes with small negative values), then the executive can propose a policy that it prefers and to which the legislature is at least indifferent (region III).

The shaded area in region I represents gains achieved for both actors by the introduction of the wait-and-see policy without executive specialization. Recall that the executive, though it is uninformed about the value of ω, is able to separate legislative behavior over some regions. The executive offers a policy such that expectationally it optimizes the tradeoffs between benefits to the executive and acceptability to the legislature. As the diagram shows, if the value of ω is small, the legislature will prefer the executive policy to the status quo. Notice also that the legislature switches back to ρ_o at its point of indifference between the two policies. The value $\|\varepsilon\|$ (with double bars on either side) represents the distances between the legislative ideal point and both the status quo and executive policies when both distances are equal. Because of the linear additivity of ω, ε also is the distance along the ω axis from the point of indifference between the two policies to ϖ. Given this characteristic and the fact that any ρ_e must equal $2\varepsilon - \varpi$, an unknown optimal policy can be solved by evaluating ρ_o and ρ_e as two separate integrals.

Given equilibria that result from first-period decisions by the legislature and common knowledge of the status of executive specialization, the cost of collecting information from nonlegislative sources, and the position of the executive's ideal point relative to the legislature's, the procedural equilibria for the legislative response to executive proposals under the complex legislative veto procedure [option 3] can be described. Equilibria under executive specialization and nonspecialization differ, of course, but in both cases it is the relationship between legislative collection costs (c) and legislative-executive ideal point divergence (the executive ideal point) that provides a critical value that determines legislative choice. If costs exceed the critical value, the legislature would rather make an immediate decision (accept or veto) than to wait. Alternately, costs are recouped expectationally if they fall below the critical value. The critical value with executive specialization is

$$c = \frac{20}{3}\chi 3_e.$$

The critical value without executive specialization is

$$c = \frac{128\chi^3_e - 112\chi^2_e + 16\chi_e + 4}{125}.$$

Critical values are determined by setting legislative expected utilities for the alternative equilibria equal to each other and solving for (c).

4. [Procedural Option 4] (No Delegation) Micromanagement (MM)

Assume that the legislature has chosen option 4. The executive does not have the option of specializing or not specializing, and cannot submit a policy to the legislature. Instead, under the no-delegation procedure, the legislature is free to propose a policy (ρ_l). Any policy chosen by the legislature is assumed to have been ratified formally by the pivotal legislator (L) representing the dominant legislative coalition. The optimal legislative policy is $-\varpi$, since the expected outcome of $-\varpi$ is $\chi_l = 0$, the legislature's ideal point ($\chi = (\rho^* + \omega) = (-\varpi + \varpi) = 0 = \chi_l$). The legislature can have any belief about the value of ω, ($\omega|\omega \in [0,1]$).

1. Equilibria for the open or unrestricted rule without executive specialization are shown below (MM, s = 0):

$$\begin{aligned} \rho^*_e &= \rho \in \Re^1 \\ v^*(\rho_e) &= \rho_0 \\ b^*(\rho_e) &= \{\omega|\omega \in [0,1]\} \end{aligned}$$

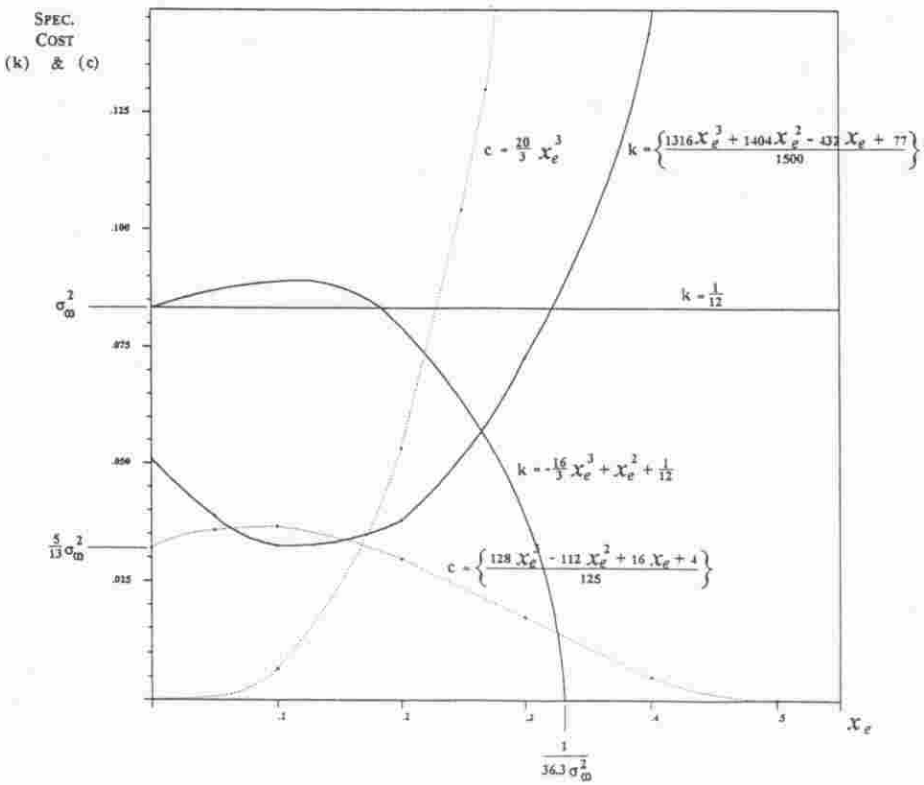
2. The expected utilities are:

$$EU_l MM(s=0) = -\sigma^2_\omega \qquad EU_e MM(s=0) = -\sigma^2_\omega - \chi^2_e$$

Specialization occurs under a variety of circumstances unique to each procedural option. In general, specialization requires that specialization costs remain low, that the executive ideal point not differ too much from that of the legislature, or that both conditions hold. Figure 4 represents specialization equilibria. Regions below the curves are areas in which appropriate actors will absorb specialization or collection costs. Solid lines represent executive specialization, while dashed lines are areas where the legislature will pay collection costs. Figures representing the specialization or collection functions appear near the appropriate curves.

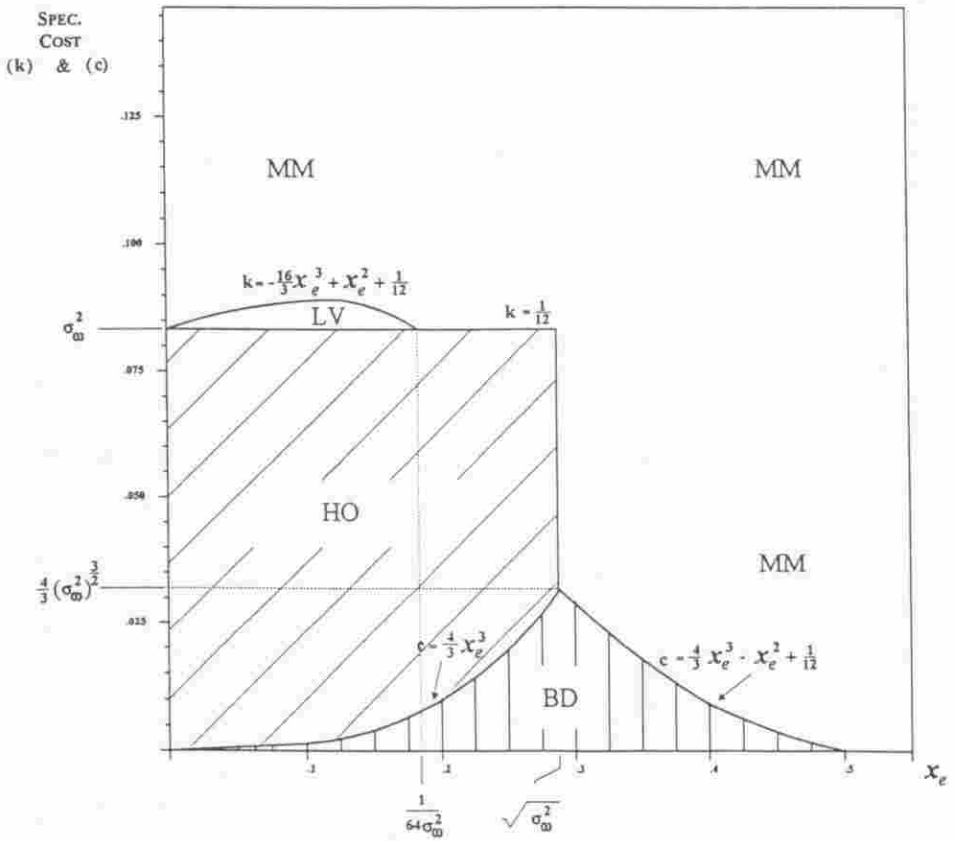
Finally, procedural equilibria are depicted in Figure 5. All four procedural options appear on the graph, identified by a two-letter designation and surrounded by the region over which the procedure is the optimal legislative option. Given relatively high divergence between executive and legislative ideal points and low collection costs, back seat driving is optimal. With low divergence of ideal points and high collection costs, back seat driving gives way to the simple legislative veto, or hands-off delegation. High divergence and high collection costs result in micromanagement. These results appear consistent with a broad interpretation of historical circumstance. Early on, the executive and legislative branches saw the mutual benefit in allowing the executive greater authority over military foreign policy. In return for specialization, the executive was given control over war powers. Still, limited material resources meant that the legislature retained what

Figure 4
Specialization and Collection Costs



DEVIATION OF EXECUTIVE IDEAL POINT FROM LEGISLATIVE IDEAL POINT

Figure 5
Procedural Equilibria



amounted to veto power over executive policies. In order to enact war powers policies, authorization for new military funding and recruitment had to be levied through Congress. By the mid-twentieth century, however, these constraints were less effective. Although the effectiveness of a legislative veto of executive policy had been reduced, the authority of the executive in war powers remained unaltered, either because executive preferences initially closely matched those of the legislature or because information collection costs could not yet be borne by the legislature.

Two forces combine to create an environment in which the War Powers Resolution represents the optimal equilibrium. First, dramatic increases in staffing available to legislators and the development of critical and rapidly-responding media like television journalism meant that the costs of collecting information on the effectiveness of executive policies was reduced dramatically. Where previously a simple legislative veto procedure offered comparable payoffs, the lower collection costs brought on by larger staffs and the advent of the electronic media allowed the legislature to implement the War Powers Resolution to their advantage. Second, the rising divergence of preferences between the executive and legislature from the late-1960s onward threatened the limited scope of the simple legislative veto. The sense of a common Cold War threat, which served to limit the divide between the branches in the 1950s and early-1960s, gave way to the more contentious politics engendered by the late-civil rights era and the fiasco of Vietnam. Under these conditions, back seat driving provides the executive with incentives to respond to legislative preferences.

Conclusion

The War Powers Resolution long has been seen as an effort by Congress to establish itself as a full partner in United States military foreign policy. As Katzmann (1990, page 65) notes, "In enacting the War Powers Resolution, Congress sought to claim a role in the decision to commit troops to combat." In fact, this role always was available to Congress. The limited nature of pre-World War II United States military resources meant that executive policy was subject to review by Congress' power of the purse. Treaties, as well, were reviewed carefully by the Senate. The late date in United States history during which Congress sought and obtained a more explicit statement of its direct war powers suggests that conventional and piecemeal explanations depending on balance of power metaphors, or a myopic focus on current events, are not complete. Though the extent of legislative involvement seldom is thought of as an efficient accommodation between the two branches, modeling war powers shows that this is precisely the case.

Perhaps the most striking result of the model is the determination that efforts to concentrate additional war power in the legislative branch most likely will backfire (to continue with the automobile analogy). Micromanagement of use-of-force decisions by the legislature results in a loss of specialized information. The information available to both actors deteriorates, resulting in less effective policies. Though the actual form of procedural changes is likely to depart from the generalized structures discussed here, the tendencies demonstrated by archetypal procedural structures will exist to a greater or lesser extent in all variations. The paradoxical result uncovered by the modeling process is that increasing the legislature's proportion of the balance of war powers through altering decisionmaking mechanisms is likely to result in inferior rewards.

The executive has lost some of the autonomy that it exercised during the post-World War II era, but not so much that it lacks incentives to collect information and to develop expertise. The legislature enhanced its position through the War Powers Resolution less through decisive action (which the Resolution allows) than through the threat of that action should the information supplied by the executive turn out to be disingenuous. Still, the advances gleaned from an optimization of the procedural structure may not be large. If Congress is intent on increasing its role in military foreign policy at the expense of the president, it must do so through the use of other powers.

Finally, the results of the modeling process imply some speculative arguments about the nature of legislative-executive decisionmaking in the realm of war powers in the post-Cold War era. Reductions in military resources, though substantial, are unlikely to result in a qualitative difference in the ability of the executive to plan and conduct military foreign policy.[14] Legislative support, though at times perhaps crucial in securing national consensus for action, will continue to lack the vital material impact that it had in the early part of this century. With resources readily available to the executive, legislative attempts to restrict adventurism abroad can achieve little more than marginal consequences. The War Powers Resolution presents Congress with the time to inform itself and to establish a consensus, while casting a shadow backwards on executive planning. Though it often is seen as being ineffectual, the War Powers Resolution appears to be the most potent alternative available.

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Notes

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[1] References to "the Resolution" should be taken throughout to mean the War Powers Resolution.

[2] Application of game theoretic models is not without controversy. An anonymous reviewer pointed in particular to the critique of rational choice theory offered by Green and Shapiro (1994). Green and Shapiro base their criticism on the lack of robust quantitative testing for many rational choice models. I agree that such analysis should be done where possible. The problem, of course, is that this standard would stymie *every* methodology currently applied to the study of war powers. I know of no statistical method capable of handling the overdetermined arguments inherent to a subject where complex processes impinge on infrequent events. For a more complete critique of Green and Shapiro's critique, see O'Neill (1995). Of course, assessment of the general debate over the utility of rational modeling is beyond the scope of this paper. Still, two recent works are particularly worthy of note (Fearon, 1991; King, Keohane, & Verba, 1994). Both assess the challenge of qualitative research and recommend the approach I use here.

[3] Altering budgeting procedures will not lead inevitably to greater control (Ferejohn & Krehbiel, 1987).

[4] In the wake of the invasion of Grenada by United States forces, on October 25, 1983, 11 members of Congress sought an injunction against President Reagan on grounds that the invasion violated Congress's constitutional authority to declare war. The court denied the injunction, arguing that it would "unnecessarily and unwisely interfere with the legislative process and raise significant separation of powers concerns" (quoted in Rubner, 1986, page 642).

[5] Krehbiel (1991, page 33) refers to the paradoxical application by researchers of the notion of "stickiness" to procedure, while at the same time examining policy as if it responds freely and immediately to majoritarianism.

[6] Krehbiel (1991, 1987) describes the tradeoffs in terms of distributional losses to the legislature (benefiting a specializing committee), offset by legislative informational benefits. The process is not zero-sum (as pure distributional arguments would imply), but benefits both the committee and the larger legislative body. Incentives for the legislature to promote specialization come from reduced uncertainty (Krehbiel assumes risk-averse actors).

[7] Assuming that $\omega \sim U[0,1]$, $\varpi = 1/2$, $\sigma^2_{\omega} = 1/12$ (Gilligan & Krehbiel, 1987, pages 299 ff; Martin, 1992a, pages 21 ff).

[8] The idea that actors in the model gain complete knowledge of the state of nature is a simplifying convention, and obviously a piece of fiction. A more sophisticated model (involving degrees of uncertainty) would complicate the presentation appreciably without altering the basic argument or the applicability of the results. The effect here should be thought of as a net loss in uncertainty, with the lower (informed) value normalized to 0.

[9] This does not mean that outcomes *must* be Pareto-efficient. Given the nature of uncertain games, it often is impossible for one or both actors to determine outcomes precisely prior to the end of the game. Under such circumstances, Pareto-inefficient outcomes can and do occur, as the complete description of the model shows below.

[10] It is no coincidence that serious consideration of the Resolution did not begin until the late-1960s, the same period that saw a dramatic increase in congressional staffs (Kingdon, 1984, pages 43–45; Oleszek, 1989, pages 277–279; Sinclair, 1989, page 93). While legislative staffers cannot compete directly with the executive bureaucracy in the acquisition, development, and analysis of information, they can collect and reinterpret information already processed. Legislative staffs are a relatively inexpensive way for Congress to become informed (eventually) and to oversee policy. The Resolution legitimizes a delay in legislative reaction to executive policy until legislative staffs have a chance to do their jobs, while allowing the executive to conduct foreign policy at a less leisurely pace.

[11] Martin (1992a, 1992b, 1994) introduces the "micromanagement" procedural option. Gilligan & Krehbiel (1987) develop an "unrestrictive procedure" similar to New Institutionalist notions of open-rule legislative voting. The Gilligan and Krehbiel model achieves a confusing multitude of equilibria in a subgame off the equilibrium path. Using this approach greatly complicates the model without altering conclusions substantially.

[12] I do not suggest that the executive actually is precluded from altering policy, only that doing so is outside the legislative process. Congress cannot insist that the executive alter its policy under the hands-off procedure.

[13] Solutions to propositions in the paper are given in an appendix provided by the author on request.

[14] Reserve forces are an area in which modest force reductions may have a major impact on the influence that Congress has over executive use of the military abroad. Downsizing the military has led to the placement of key sectors of the defense infrastructure within the nation's reserve forces. Binkin and Kaufmann (1989) point out that the movement of even relatively modest forces abroad now requires mobilization of reserve forces.

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