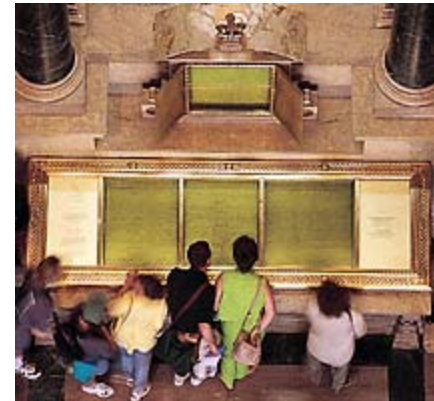


The Constitution and Congress

17.251/17.252
Fall 2012



Road map

- Pre-constitution
- Politics of the constitutional convention
- Key features of the Constitution pertaining to Congress

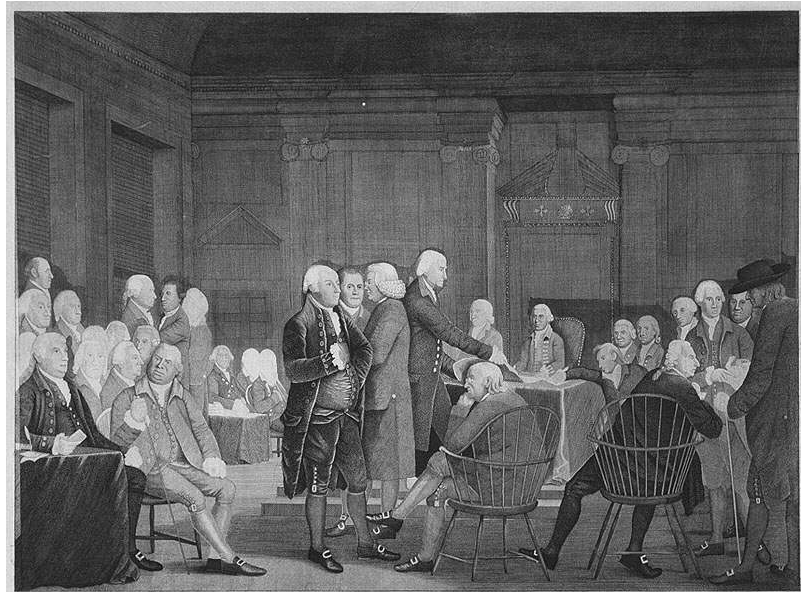
Pre-Constitution

- Self-governance came over to American from East Anglia
- Colonies had legislatures
 - SJC
 - House of Burgesses



The First Congress

- Continental Congresses, 1774-1781
 - Council of independent state governments
 - Coordinate state action
 - Attempted to provide national services
 - Post Office
 - Foreign Affairs
 - Etc.



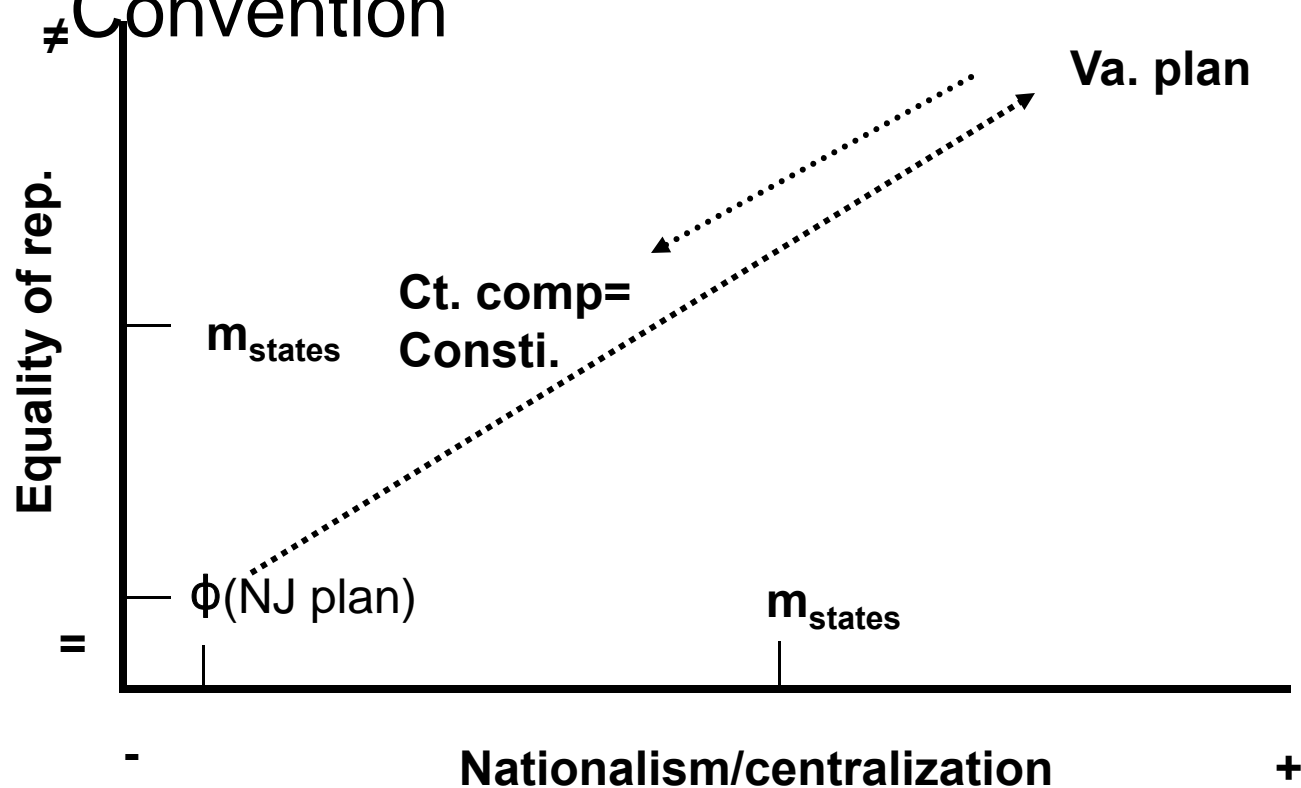
The Second Congress

- Congress of the Confederation, 1781-1789
 - Authorized under the *Articles of Confederation*
 - Basic structure
 - Equality of states
 - Congress was the “united states in Congress assembled”
 - Weaknesses
 - Lack of popular moorings
 - Lack of compulsion on states or individuals
 - Weak floor rules
 - Committees given no special standing



The Politics of the Constitutional Convention

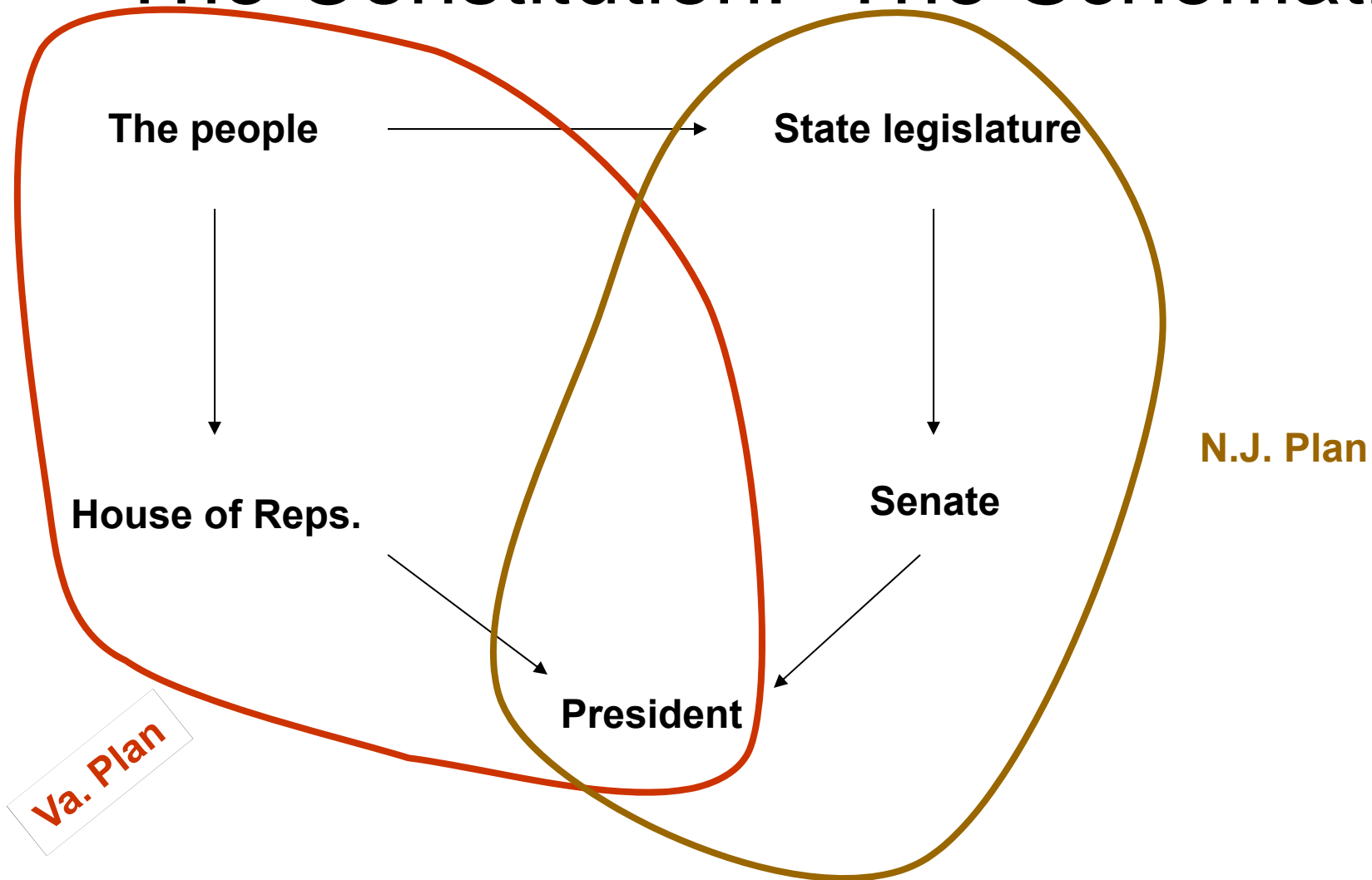
- 1787
- General flow of the Convention



What the Compromise Gave Us

- Virginia
 - **Population-weighted representation**
 - *Unicameral legislature*
 - *National nullification* → **Strong national government**
 - *Congress elects Senate & President*
- N.J. (Status quo)
 - **Equal representation of states**
 - *Coalition, not nation*
 - *Congress elects President (no Senate)*
 - *State sovereignty* → **Shared sovereignty**

The Constitution: The Schematic



Key Features of the Constitution for Congress

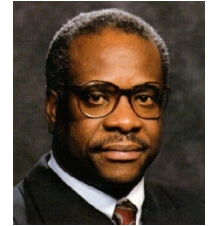
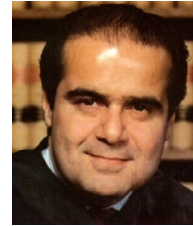
- Membership
- Powers
 - Free trade and one foreign policy
 - Congress and the president sovereign
 - House and Senate autonomous as institutions
- Walk through constitutional features

Walk through Article I

Constitutional Questions Raised by ACA

- Direct power to legislate under the Commerce Clause.
- Federal taxing power
- Indirect regulation through conditional federal spending
- Federalism
 - Roberts+4 dissenters: anti-tyranny
 - Ginsberg: Congress solves national problems

Constitutional Questions Raises by ACA



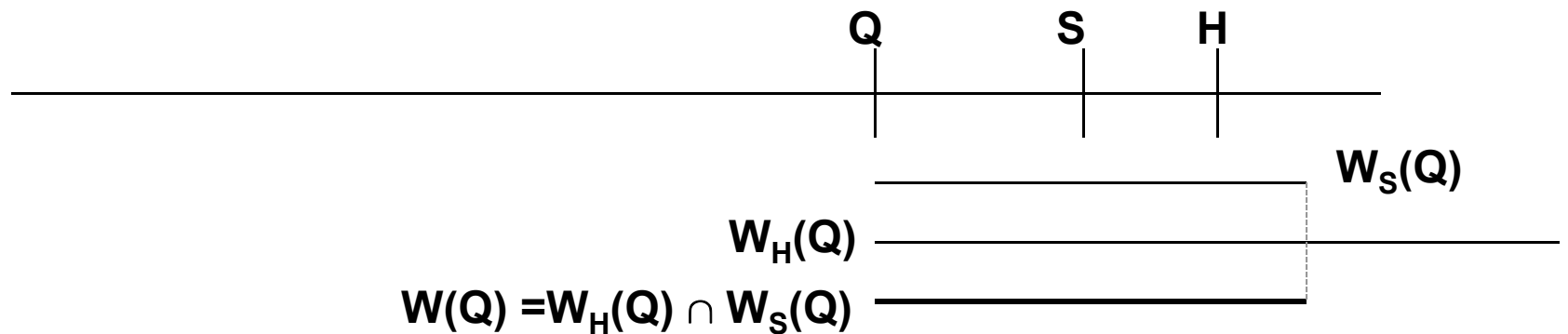
Taxing power sufficient for mandate

Commerce Clause prohibits mandate

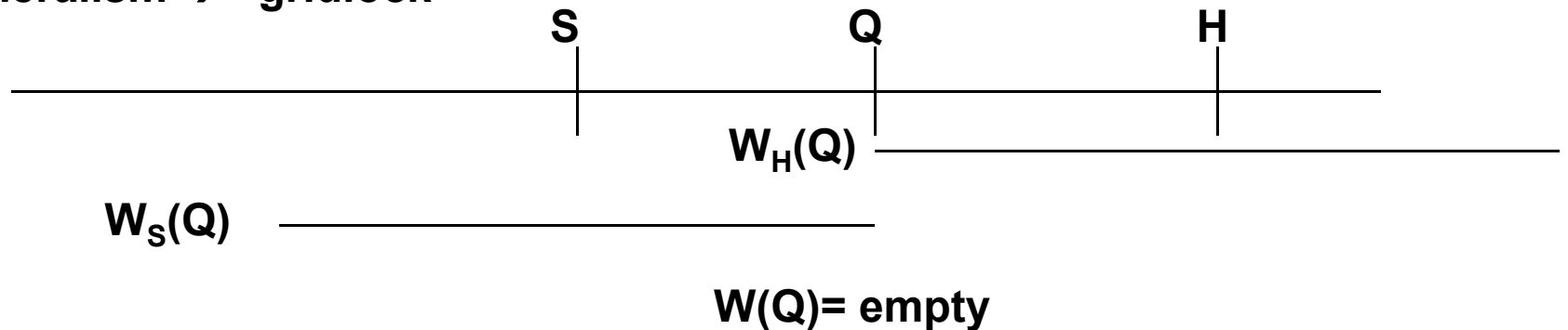
Medicaid expansion coercive

Formal analysis of bicameralism

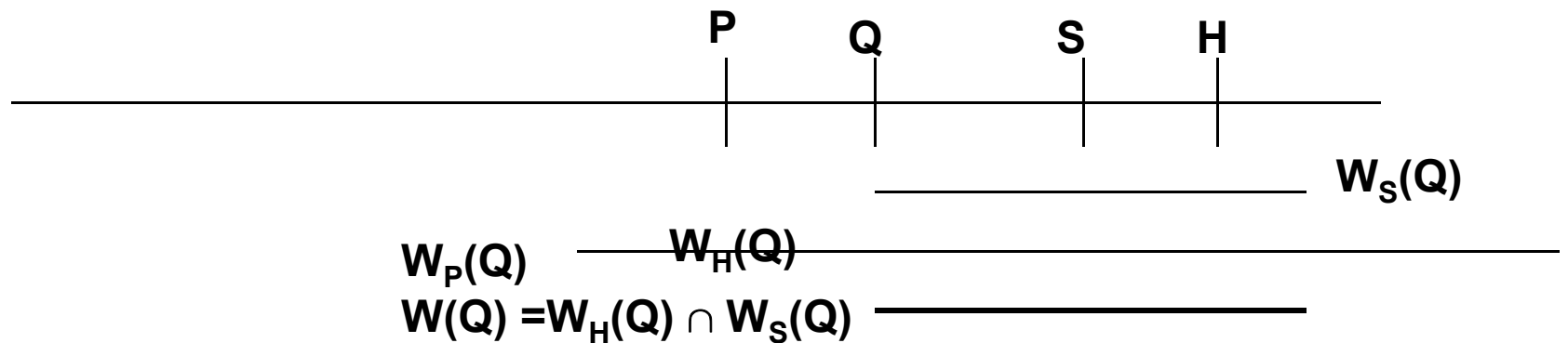
Bicameralism → greater “power” to more “conservative” body



Bicameralism → “gridlock”

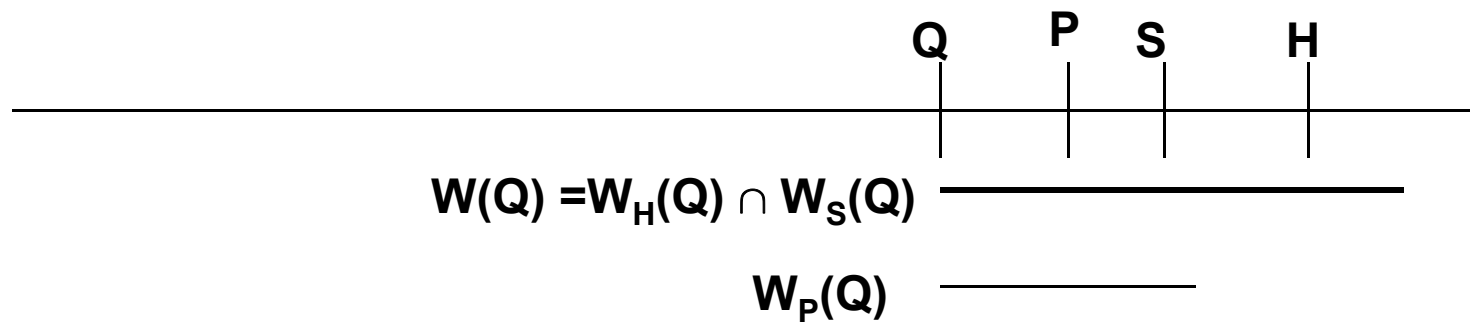


Presidential veto: “Tricameralism”



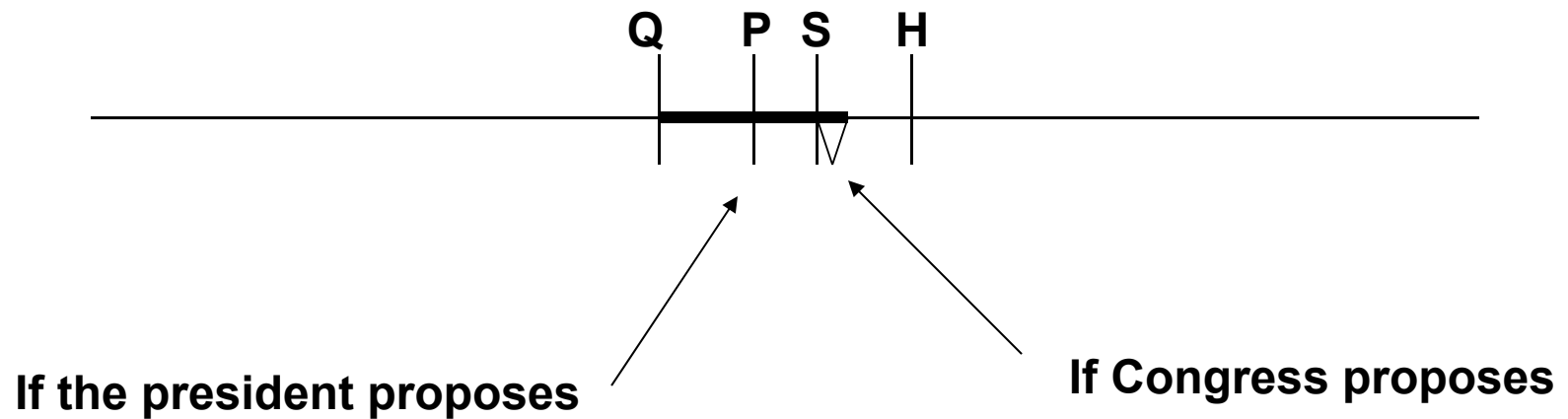
If president is on one side of the status quo and both chambers are on the other side, tricameralism induces gridlock

Presidential veto: Tricameralism



If the president is within the win set of the two chambers, the president is a “conservative” force

The effect of the “presentation clause”

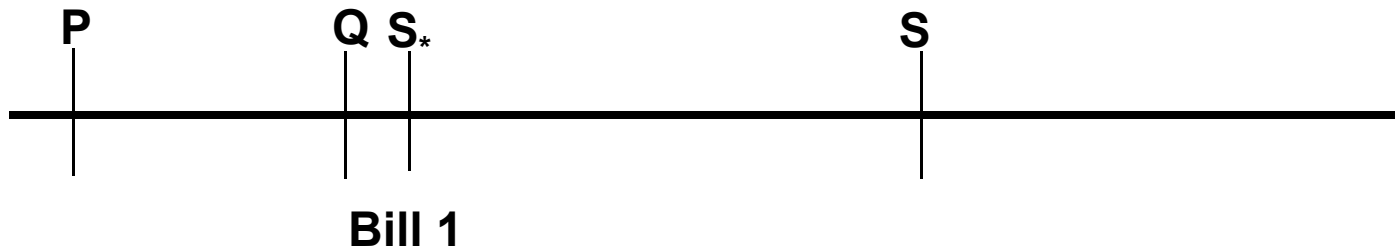


Adding the veto pivot

No bill with $\frac{1}{2}$ requirement



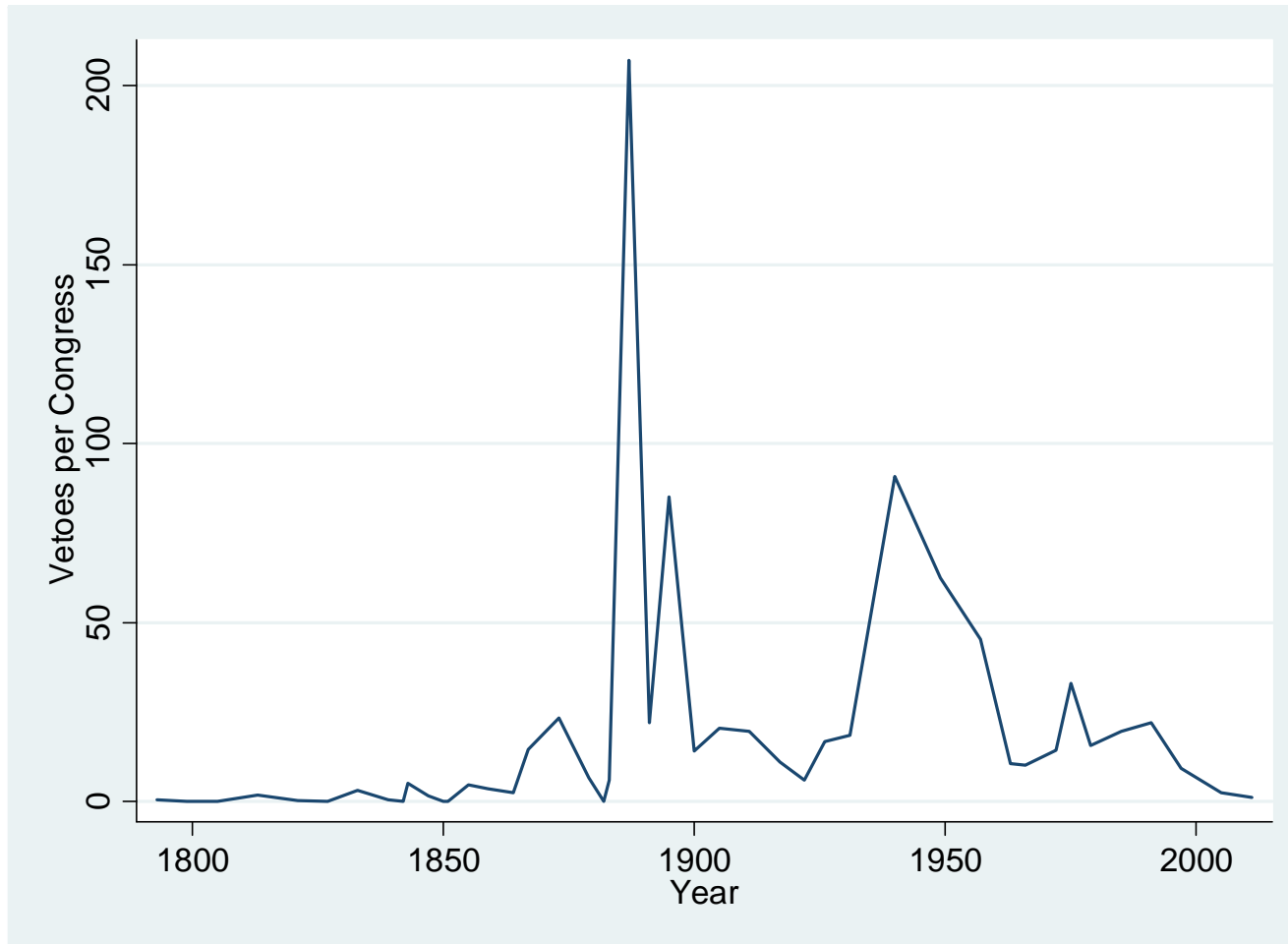
Strategic bill 1 with $\frac{2}{3}$ requirement



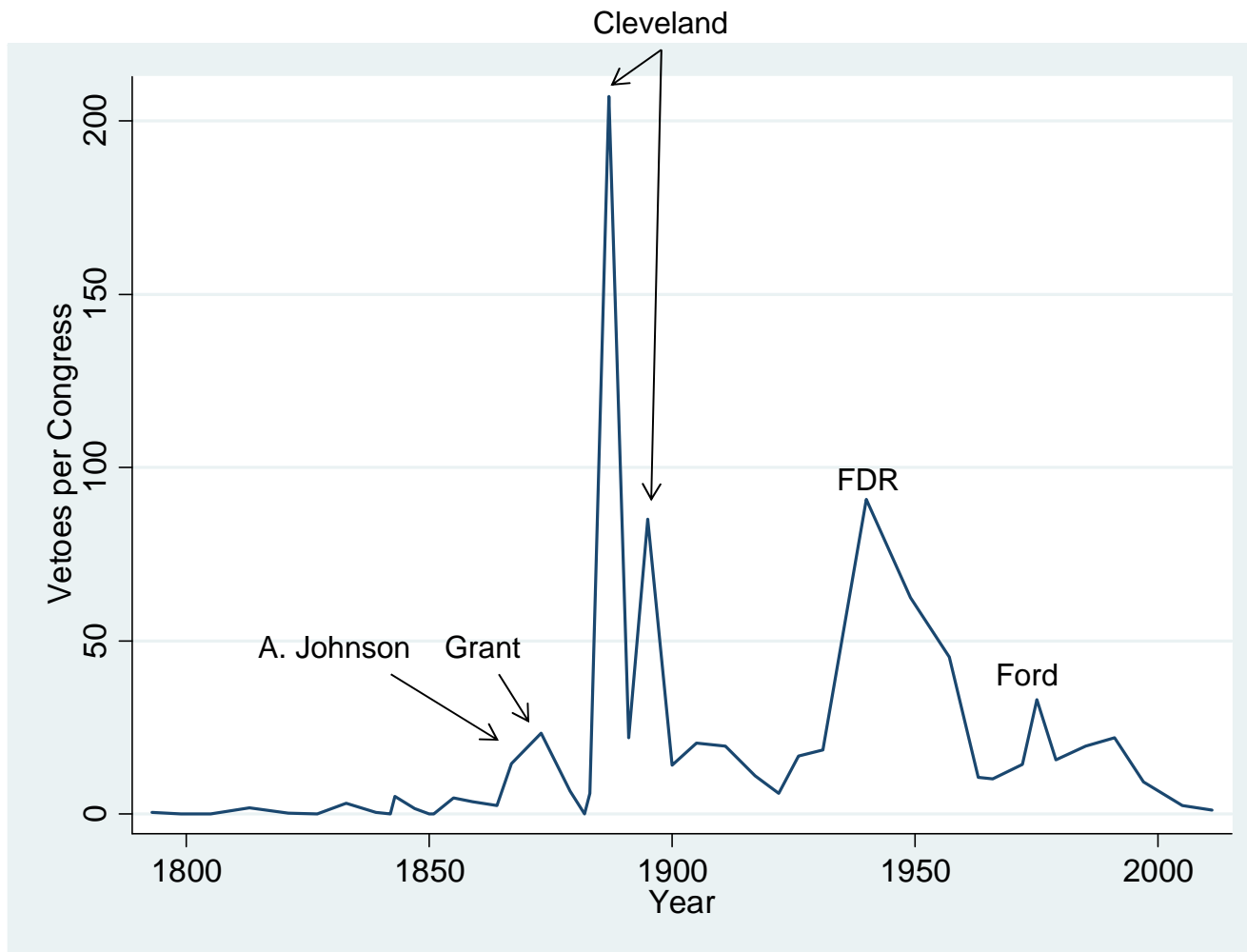
No bill 1 with $\frac{2}{3}$ requirement



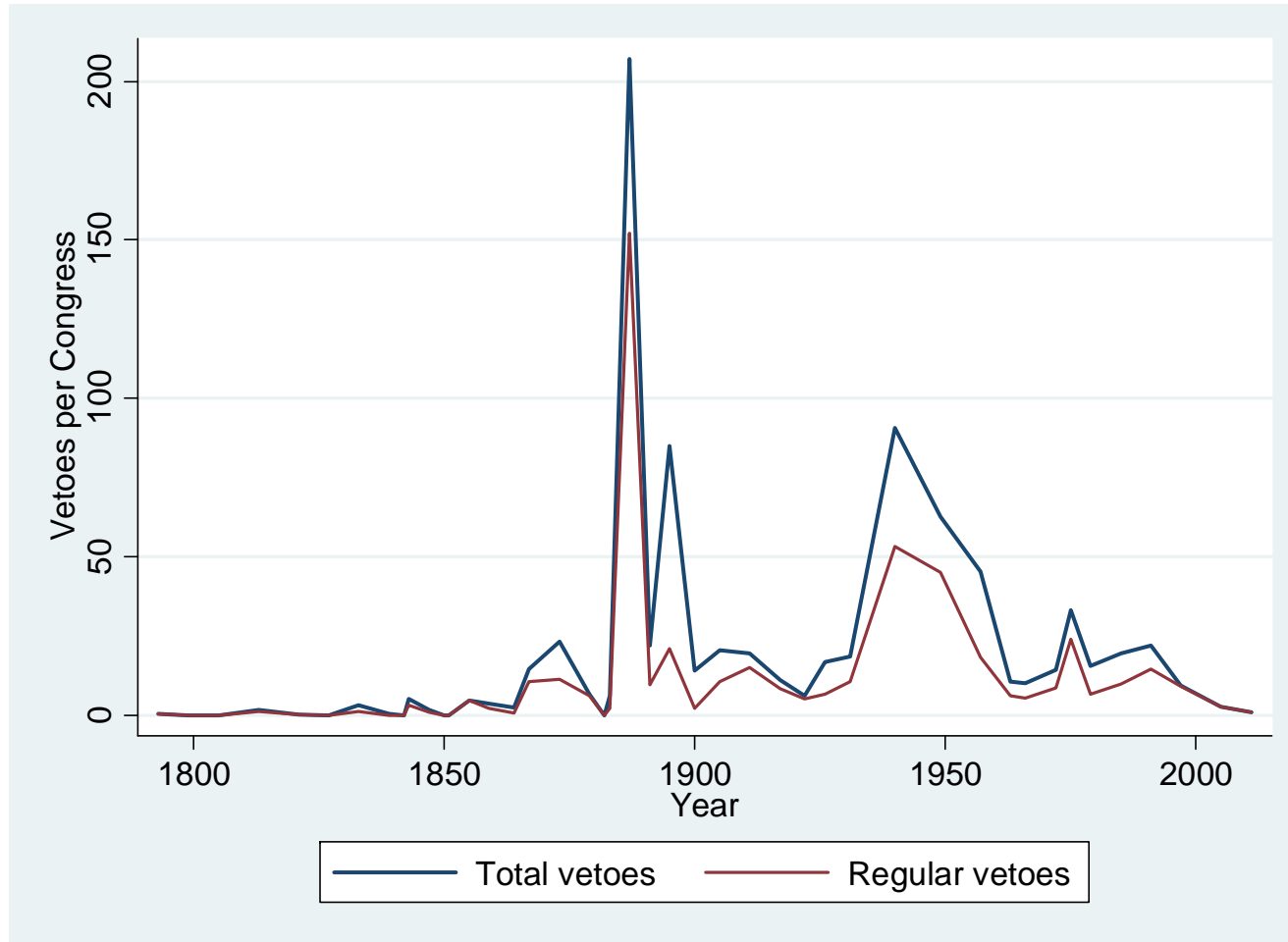
History of the Veto's Use



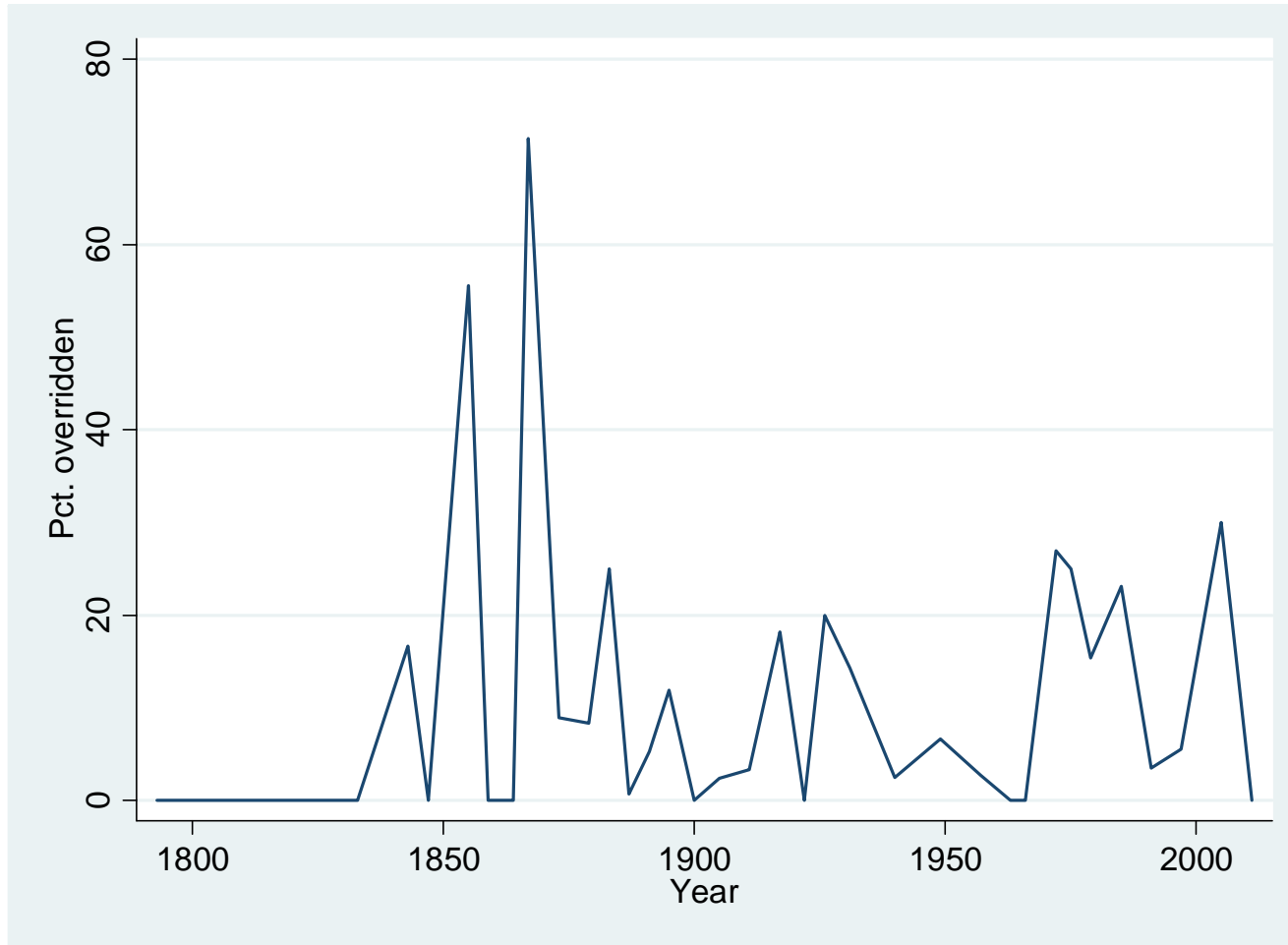
History of the Veto's Use



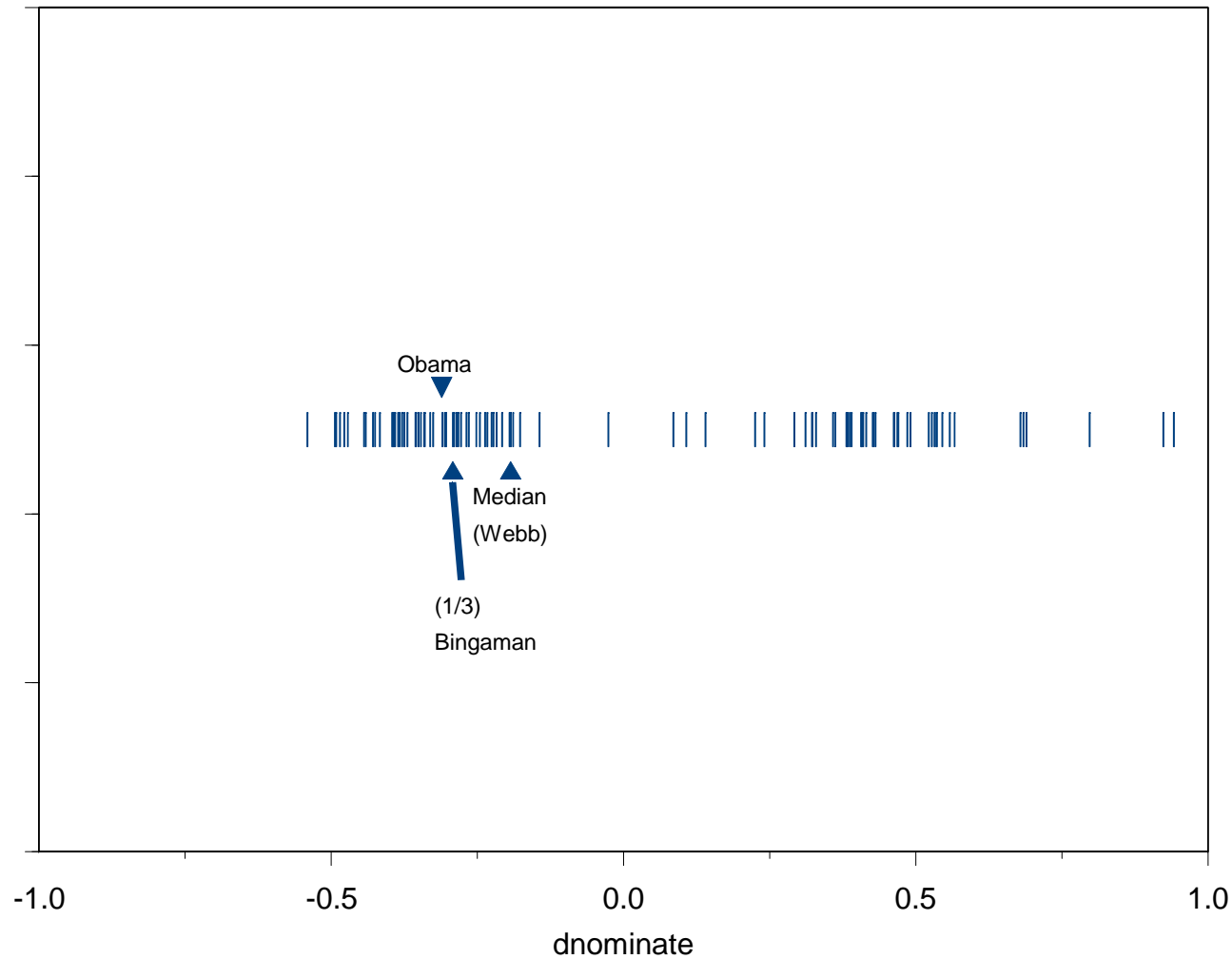
History of the Veto's Use



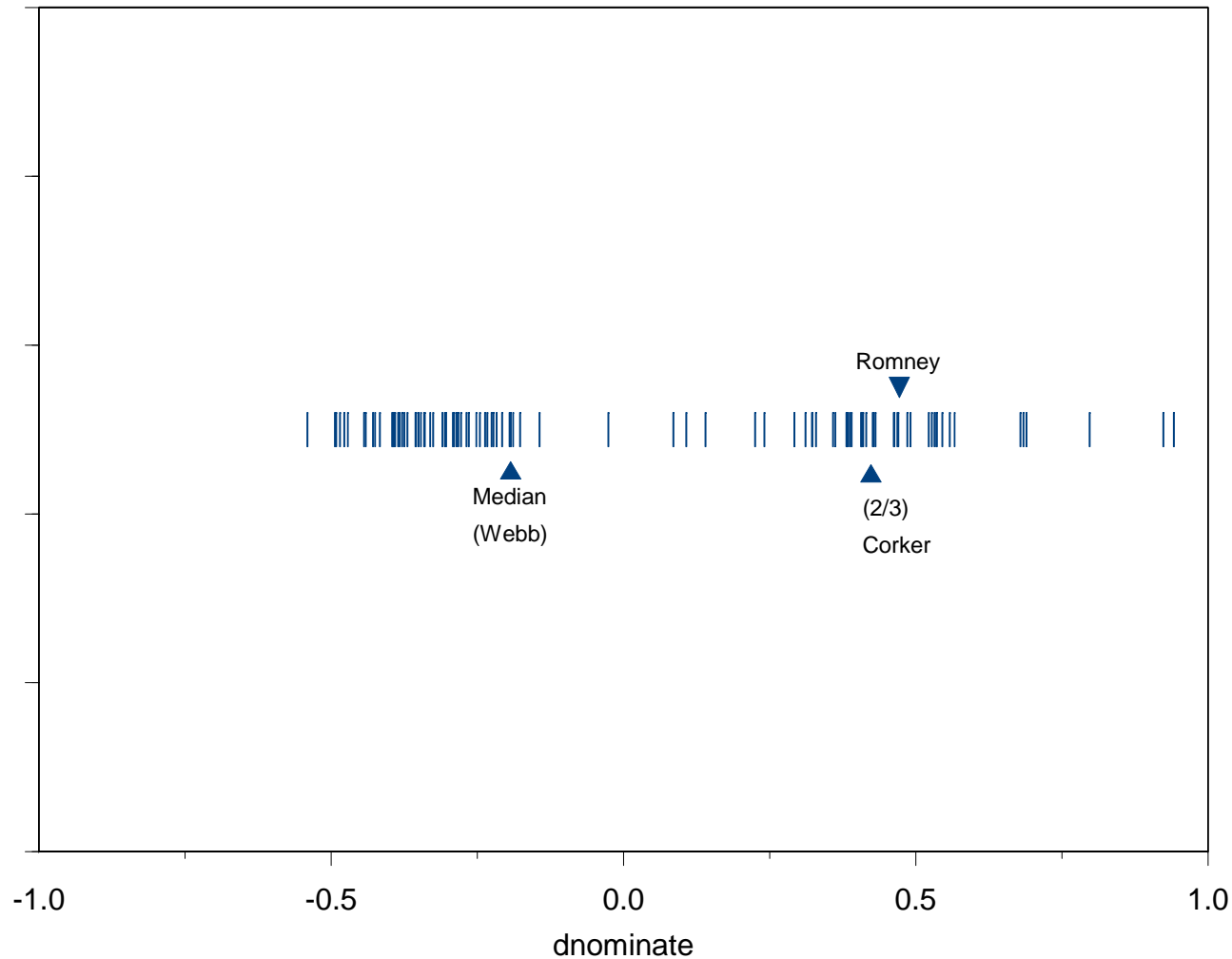
Overrides



What difference it makes: President Obama



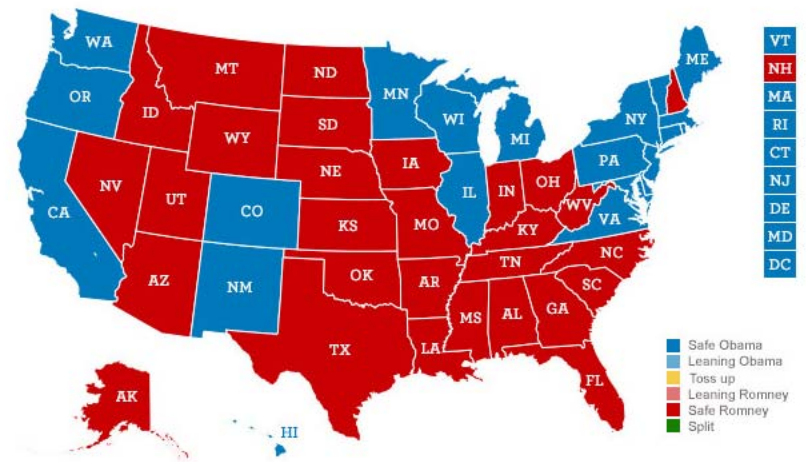
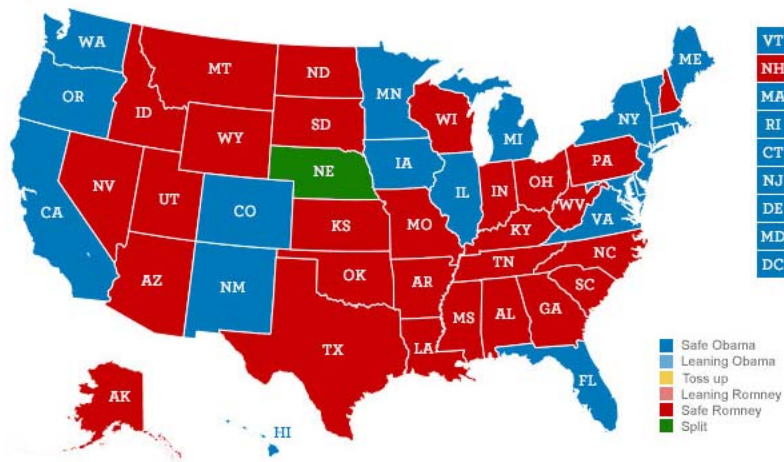
What difference it makes: President Romney



12th Amendment in 2008

- Process:
 - Electoral College canvassed Jan. 6 (per federal law)
 - If tie
 - President: states vote in HoR; majority required to win
 - V.P.: senators vote; majority required to win

Tie scenarios



<http://www.cnn.com/2012/07/26/politics/gallery/ec-tie-scenarios/index.html>

Voting by State

- 1. **CA** +15
- 2. **NY** +13
- 3. **MA** +9
- 4. **MD** +6
- 5. **CT** +5
- 6. **OR** +3
- 7-10. **RI, HI, ME, WA** +2
- 11-14. **NM, DE, AZ, VT** +1
- **NJ, NV, IL, IA, MN** 0
- 1-7. **CO**, SD, AK, WY, MT, ND, WV -1
- 8-13. MS, UT, ID, KY, **WI**, NH -2
- 14. NE -3
- 15-20. GA, MO, AR, **MI**, KS, LA -4
- 21-27. AL, IN, OK, TN, SC, NC, **VA** -5
- 28. **PA** -6
- 29. OH -8
- 30. FL -11
- 31. TX -14

Bold = state that goes to Obama under scenario # 2

Based on <http://www.rollcall.com/politics/race-ratings-chart-2012-house-elections.html>