Presidential Republics and Divided Government:
Comparing Lawmaking and Executive Politics in the US and France

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Abstract

This article examines presidents’ management of the condition of divided government in the United States and France, two countries with separated institutional structures and a history of split-party control of the presidency and legislature. The article draws distinctions between each executive’s constitutional powers and the intersection of those powers with informal prerogatives. The research focuses on the ways in which “blame-game” politics develop similarly under select circumstances in the two systems. Particular weight is given to the incentives for presidents in both countries to “go public” and galvanize opposition to the legislature through the rhetorical levers of their office. Short comparative case studies emphasize the relative advantage of the president compared to the Speaker of the House (US) or prime minister (France) in the war of words during periods of institutional combat, despite differences in presidents’ formal, constitutional powers.
I. INTRODUCTION

Comparative analytical approaches to the United States Presidency have been rare. Lamentably, presidential scholars have not yet availed themselves of the significant opportunities for theory-building that the comparative study of executive leadership may offer. The relatively sparse, extant literature has focused primarily on presidents and their counterparts in Anglo democracies of the Westminster parliamentary variety, including the United Kingdom, Australia, and Canada (Campbell 1998; Foley 1993; Sykes 2000). Such comparisons are more easily justified on the basis of linguistic and socio-cultural similarities than on structural grounds. The fusion of the executive within the legislature complicates comparisons with legislative bargaining in the United States. Although coalition and minority governments in Westminster-type systems may be conceptualized as a form of “divided government” that may limit executive latitude (Laver and Shepsle 1991), split-party control of the executive and legislature—a condition that has occurred six out of every ten years in the post-War era in the United States—is an impossible outcome in these systems.

The search for more direct analogies to presidential-congressional relations in the US requires the identification of other presidential or semi-presidential systems with separated structures between the executive and legislature, and hence the possibility of divided party control of national institutions. The French Fifth Republic (1958-present) operates precisely under such a framework and has withstood three incidences of split-party control between the president and the National Assembly—cohabitation in French parlance. Curiously, France has been overlooked as a model for comparison to executive politics in the US by scholars in all but the field of electoral studies (Lewis-Beck and Rice 1992; Pierce 1995).

What clearly distinguishes the French Fifth Republic from the separated institutional structure in the US is the existence of a dual executive. The semi-presidential or “dyadic” constitutional arrangement boasts a president and a prime minister with equivalent legitimacy in their respective domains. The president is the “arbiter of republican institutions” and plays the predominant role in
foreign affairs. The prime minister heads the government and is responsible for guiding the lawmaking process. A literal interpretation of key sections of the 1958 Constitution might prompt American observers, quite incorrectly, to characterize the Fifth Republic as a parliamentary-centered regime with a figurehead president.

Indeed, nothing could be further from reality for much of the Fifth Republic. The first president, Charles De Gaulle, used his formal, constitutional powers and informal prerogatives to establish important precedents—including control of cabinet council agendas and sacking prime ministers at will, despite any such formal authority—to insure presidential dominance of prime ministers and parliamentary lawmaking. His four successors—Georges Pompidou, Valéry Giscard d’Estaing, François Mitterrand, and Jacques Chirac—followed this exemplar steadfastly to solidify the Palais Élysée, the president’s Parisian headquarters, as the locus of national policymaking. In practice the prime minister is expendable—a fusible or lightening rod to deflect criticism away from the Élysée. He serves at the president’s pleasure and is his surrogate in the legislature—so long as the president has a majority in the National Assembly.

It is during recent periods of cohabitation that the axiom of presidential dominance of the prime minister has been inverted. Mitterrand (1986-88, 1993-95) and Chirac (1997-2002) confronted a majority party or coalition of parties opposed to them in the National Assembly and were forced to appoint prime ministers who were ideological rivals. De Gaulle could have scarcely conceived of such a situation and surely would have resigned had it ever occurred under his watch (Colliard 1989, 1567). But neither Mitterrand nor Chirac chose this option. They appointed an opposition prime minister. The consequences of divided government for these presidents’ policy agenda, and for relations between the president and the legislature, were immediate and far-reaching.

Without a veto power and unable to halt the legislative juggernaut of determined opposition majorities, cohabitation presidents utilized select constitutional prerogatives in combination with their institutional position in the bid to outmaneuver the prime minister in the court of public opinion.
Returning to their symbolic role of rassembleur of the Republic, Mitterrand and Chirac sought to mold public opinion against the incumbent majority through supra-partisan rhetoric aimed at ultimately reversing opposition control of the National Assembly. In this regard, French presidents’ strategic behavior is strikingly similar to their American counterparts’ management of divided government.

The objective of this article is to take a critical first step in developing a conceptual framework for analyzing how executive-legislative relations play out in similar and different ways when partisan control of national institutions is split in the French and American settings. The article draws distinctions between each executive’s constitutional powers and the intersection of those powers with informal prerogatives. By focusing on the ways in which “blame-game” politics (Groseclose and McCarty 2001) develop similarly under select circumstances in the two systems, this research paints a more intricate, comparative portrait of presidential behavior in the strategic management of split-party control of national institutions. Particular weight is given to the incentives for presidents in both countries to “go public” (Kernell 1997) and galvanize opposition to the legislative majority through the rhetorical levers of their office. Short comparative case studies emphasize the relative advantage of the president compared to the Speaker of the House (US) or prime minister (France) in the war of words during periods of institutional combat. The case studies also accent the factors that affect the president’s ability to win the blame-game—factors he cannot necessarily control, such as actions by legislative leaders, timing of inter-institutional conflict, and public opinion.

The impact of blame-game politics on policy outcomes in the two countries depends on the “relative” veto power of the president: whether the power is at most “suspensive” (France) or “substantive” (US). French presidents can only delay legislation or deny a prime minister’s request to legislate by decree. Only in the realm of constitutional change do they have the power to definitively halt amendments. The result is that divided government entails much more decisive policy shifts in France compared to the US. American presidents retain significantly more direct leverage over lawmakers. The veto power enables them to obstruct passage of laws with which they disagree, force
compromise, or utilize veto threats to regain some agenda-setting control over Congress. Veto politics, often in tandem with bicameral procedural differences, may also prompt the president and the congressional majority to “strategically disagree” (Gilmour 1995) because one, the other, or both believe it is better to “have” an issue than resolve it. The president or the congressional majority is convinced that policy stalemate may yield electoral advantages. The features of inter-institutional bargaining in the US are more likely to result in incremental changes in significant public policies, but also protracted policy stalemate. The tie that nevertheless binds presidents in both countries is the importance of their rhetorical skills to “frame” inter-branch disagreements and make a persuasive case to the electorate in the hope of overturning opposition control of the legislature at some future point.

The analysis unfolds in several stages. The next section provides an overview of the unique features of lawmaking in France, and then juxtaposes presidential strategy under split-party control of national institutions in the two countries. The third section presents brief case studies of presidential strategy on high-profile bills in each country to validate the framework. The concluding section reprises questions of institutional power, policy success, and electoral cycles in the US and French cases of divided government.

II. LAWMAKING AND PRESIDENTIAL STRATEGY IN TWO SEPARATED SYSTEMS

The United States Congress consists of co-equal chambers with a tradition of a lack of party discipline, despite heightened unity voting in recent decades. In the French Fifth Republic the Assemblée nationale, or National Assembly, is the dominant institution in the bicameral legislature and can trump the Senate’s objections to bills. The National Assembly is comprised of generally disciplined parties, though absolute majorities are less common than majority coalitions of parties on the Left or Right. The prime minister is endowed with exceptional tools to avoid legislative paralysis. Those powers far exceed anything the Speaker of the House or Senate Majority Leader enjoy in the US Congress. A brief synopsis of key constitutional provisions for prime ministerial leadership of the
National Assembly, bicameralism, and the president’s position in the lawmaking process places executive-legislative relations in France into sharper comparative perspective with the American case.

The French Fifth Republic was expressly designed to avoid legislative *immobilisme* or deadlock by according special lawmaking powers to the Government, headed by the prime minister. Article 38 of the Constitution enables the Government to legislate by decree (*ordonnance*) and bypass regular lawmaking procedures with the consent of the National Assembly and counter-signature of the president. Article 44 bears more resemblance to an extreme form of “restrictive rules” in the US House of Representatives. Under the “blocked vote” procedure the Government can decide the length of debate on bills and limit or decline amendments. Article 49 enables the Government to attach responsibility of the government to bills. Unless a motion of censure succeeds within a twenty-four hour period, the bill is considered passed. Prime ministers who have faced recalcitrant factions in the National Assembly have resorted to the *engagement de responsabilité* to whip coalition partners into line. The prime minister can also circumvent delaying tactics by the legislative opposition by declaring a bill “urgent” under Article 45. The bill only requires one reading before charging a bicameral conference committee with settling on final provisions (Cole 1998, 89-90). Article 47 insures the impossibility of “government shutdowns” like those that occurred under Presidents George H.W. Bush and Bill Clinton. The annual budget is accorded 40 days of debate in the National Assembly and 15 days in the Senate. In the case of protracted parliamentary conflict, the Government can declare its budget passed by decree after a total of 70 days has passed.

When the French president enjoys a majority or majority coalition in the National Assembly he can exercise a level of control of the legislative agenda that is unknown to American presidents (Schain and Keeler 1995), particularly because he can credibly threaten to discharge the prime minister. The prime minister’s proposals and the Government’s agenda are first deliberated in the Council of Ministers (*Conseil des Ministres*), in which the president maintains an “effective veto” over the presentation of bill proposals to the National Assembly. De Gaulle’s heavy-handed tactics in
thwarting bills to which he was opposed is well documented (Andrews 1982). Similarly, the president may intervene later in the legislative process to force the Government to pull unpopular legislation, as Mitterrand did with a controversial education bill entitled the *Projet Savary* when Socialists had a majority in the National Assembly. All told, neither the French president nor the prime minister needs to engage in the systematic lobbying of individual members to build support in the legislature that is common in the United States. The carrots, sticks, and horse trading around specific bills among members in the individualist US Congress scarcely apply in the French context. The legislative process is driven “top-down.”

French presidents also have several other tools at their disposal that provide leverage over the National Assembly. Like their American counterparts they can call the legislature into special session. Yet they can also threaten the ultimate sanction on the National Assembly—dissolution—which they are permitted to do once in a twelve-month period. Mitterrand occasionally hinted at dissolution during the first cohabitation to force the opposition prime minister to back off perceived encroachments in the president’s sacrosanct “reserved domain” of foreign affairs. Jacques Chirac made a monumental error by dissolving the legislature prematurely in 1997, despite having a majority in the National Assembly at the time. The dissolution was aimed at “renewing” the Government’s mandate, but voters punished Chirac by returning majority coalition on the Left (Goldey 1998).

French presidents can bypass the legislature altogether in some areas. For example, they can call for a referendum to change provisions in the Constitution. The results of such referenda have been mixed in the history of the Fifth Republic (Safran 2003, 132). Article 16 grants the president “emergency powers” and enables him to suspend the Constitution for up to six months. The provision has only been utilized once. De Gaulle invoked the article briefly during the Algerian War.²

Cohabitation changes the equation dramatically for presidential dominance of the prime minister and the National Assembly. All three cohabitations occurred at regularly scheduled legislative elections during the president’s term (1986, 1993) or after early dissolution (1997).
dynamic bears a certain resemblance to the dramatic mid-term loss of seats in Congress for the president’s co-partisans that overturns party control. The election outcomes were widely interpreted as a discrediting of the president’s leadership. Mitterrand and Chirac were constrained to select prime ministers to head the new majority whose issue positions and ideological stances conflicted with their preferences. They could not, at least at the outset, credibly threaten to “sack” the prime minister. Consequently, lawmaking reverted definitively to a parliamentary-dominated system. With only delaying tactics available, these French presidents were in a much weaker institutional position relative to their American counterparts who face opposition party control of one or both chambers of the US Congress.

**Bicameralism in Perspective**

US presidents can cultivate opposition in the upper chamber and benefit from the extraordinary procedural tools of the Senate to obstruct legislation. Whether they invoke the threat of a veto or not, American presidents are frequently able to profit from inter-party dissension in the Senate. Senate rules preclude even the most determined opposition majority in the House from expediting passage of bills in the upper chamber, regardless of party control. The special conventions of the Senate enable the minority party to engage in extended debate (filibuster) to halt legislation indefinitely. As Krehbiel (1998) demonstrates, 60 votes—not simply a majority as in the House of Representatives—constitutes a true working majority for the Senate leadership in order to engage cloture. Filibusters, or even their mere threat, can kill bills altogether or have a moderating influence on legislative outcomes. And unless the minority party assents to a unanimous consent agreement, its leadership (and individual members) can offer germane or non-germane amendments to stymie or alter legislative proposals. In this way American presidents can reap the benefits of bicameral procedural differences and “play off” the upper and lower chambers against one another. President George W. Bush, as will be discussed later, worked with the minority Republicans in the Senate in just such a way to insist on a Homeland Security bill—similar to the version passed by House Republicans—that gave him broader latitude
over that Department than majority Democrats in the Senate were willing to accept. Similarly, Bill Clinton effectively coordinated with the minority Democratic leadership in the Senate to thwart adoption of key elements of the *Contract with America*, the House Republicans’ policy agenda that swiftly passed in the lower chamber in early 1995.

Relations between the National Assembly and the Senate do not enable French presidents to block the Government’s agenda, constitutional amendments notwithstanding. Depending on the partisan configuration of the National Assembly and the Senate, the most French presidents can hope to do is decelerate the Government’s agenda and use inter-cameral tensions to their advantage in the public arena. Senators’ indirect election for a term of nine years through an electoral college comprised of more than 40,000 notables representing France’s communes gives the upper chamber a distinctively rural and built-in conservative bias that benefits presidents on the Right of the political spectrum. Yet Senators do not dispose of significant autonomous control over lawmaking. At most, the Senate holds a “temporary” veto over legislative dynamics (Safran 2003, 233-34). Although bill proposals can begin in either the National Assembly or the Senate, and bill texts in the two chambers must be identical for passage, the National Assembly plays the decisive role in setting the agenda and ultimately in legislative outcomes.

In the case of disagreement between chambers legislative leaders may call for a *commission mixte paritaire* (CMP), or a conference committee of seven members of each chamber. Alternatively, leaders may use the *navette* or shuttle system to send bills back and forth between chambers for a maximum of three times to reach agreement. But in either case, if divisions persist the National Assembly can force a “second reading” of the bill, after which it is considered passed. Thus, formal rules all but insure passage of legislation by a determined Government on its terms.

The only point in the legislative process at which the Senate holds an effective veto is over amendments to the Constitution. Any constitutional amendment requires an identical bill be passed by a majority in both chambers, and then by a three-fifths margin in a *Congrès* consisting of members of
both chambers (Cole 1998, 65-6). Of course, the president can circumvent the legislature and call for a referendum. But as we shall see in the case studies that follow, President Chirac refused to call a Congrès for amendments supported by Prime Minister Jospin—and encouraged the majority on the Right in the Senate to oppose them.

**The Veto, Delaying Tactics, and Presidential Strategy: Blame-Game Politics and Strategic Disagreement**

Spitzer (1988) describes the veto power as the “touchstone” of the American presidency. How French presidents in the Fifth Republic operate without a formal veto power under cohabitation is surely a critical benchmark of their political skill. During periods of cohabitation the only partial analogies to the American president’s veto consist of the French president’s constitutional prerogative to refuse a prime minister’s request to expedite legislation by decree (ordonnance), call the legislature into a special session, or convene a Congrès to consider constitutional amendments.

None of these prerogatives, singly or as a whole, amounts to the powerful trump card of a US president’s veto. *But they are not unimportant in the blame-game between the president and the prime minister.* Requests for decrees require the counter-signature of the president. Mitterrand refused to sign several decrees under divided government. His refusals did not change the ultimate outcome, but compelled opposition Prime Minister Chirac (1986) to force the measures through the legislature via the regular legislative process. The ample controversy surrounding the bills in the National Assembly constrained the prime minister to resort to the blocked vote procedure or government responsibility to insure passage by narrow supporting coalitions. Most importantly, the political tempest enabled the president to appear to return to a symbolic role of guardian of the public interest, creating a platform to “go public” and engage in high-profile criticism of the prime minister and his majority. Mitterrand also refused to call the legislature into a special session, so long as Prime Minister Chirac insisted on reconsidering the status of the Renault automobile company following a European Union directive.
regarding government subsidies. The highly symbolic move by Mitterrand simply delayed the legislative debate.

Manipulation of the public levers of the presidency to castigate or gain leverage over an opposition majority in the legislature scarcely seems out of place to an American observer. Presidents and opposition leaders in the US Congress often exchange salvos and blame the other branch for “bad” policy or for stalemate under divided government. But the process by which American presidents and leaders in Congress arrive at such “blame-game” politics takes a different route compared to the French case—and with far different impacts on policy outcomes because of the veto.

American presidents may veto or threaten to veto legislation for a number of reasons. First, they may seek to kill the bill outright. A majority opposition that is unwilling to compromise on policy details and cannot muster a two-thirds majority might simply be persuaded to drop the proposal altogether following a veto threat. Second, presidents may threaten to veto bills in order to gain some proposal power vis-à-vis the opposition. Since a president cannot feasibly threaten to veto any bill he prefers to the status quo, a veto threat signals how legislation must be altered to meet his demands. The congressional majority must then decide how far to compromise without provoking a veto that the leadership may or may not be able to override.

Scholars have constructed several formal models to explain veto bargaining between the branches. In the “commitment model” (Ingberman and Yao 1991) and “coordination model” (Cameron 2000; Matthews 1989) the central assumption is that both the president and the congressional majority are interested in passing laws. Neither model fully considers the possibility of the blame-game, which is critical for comparison to executive-legislative dynamics in France under cohabitation.

The premise for blame-game politics in the American case is that the president, Congress, or both may not necessarily be interested in substantive policy outcomes. Rather, Congress intentionally sets out to provoke a veto even if there is little possibility of a successful override. Alternatively, the
president may veto a bill simply to make a point, even if the bill was originally adopted by a bipartisan coalition in Congress and may be subject to a successful override. Either the president or the congressional leadership perceives electoral benefits in the blame-game that outweigh the potential of a loss or policy stalemate. The goal is to garner public sympathy, rally partisan support, and posture for the next round of negotiations or the next electoral cycle.

Insofar as the American president and the congressional majority are engaged in a “position-taking” game that intersects with public and electoral politics (Conley and Kreppel 2002), blame-game politics can develop in analogous ways in the US and France. The emphasis is on public posturing. The common objective of presidents on both sides of the Atlantic is to accentuate policy disagreements with the legislative majority, force legislative leaders into uncomfortable positions, and draw public criticism of Congress or Matignon (the French prime minister’s headquarters). The key difference between the French and American cases remains the low probability of “strategic disagreement” and policy stalemate in France due to enhanced parliamentary control under divided government.

[Figure 1]

Decision trees of executive-legislative relations are useful heuristics to understand at which juncture in the legislative process the president can engage in the blame-game in each country. Figure 1 shows hypothetical interactions between the American president and Congress when the latter chooses to ignore his veto threat. The scenario P1>C1>P2>C2>C4 occurs when legislation contains “veto bait” and is passed by a narrow partisan majority. The president has stated his objections to provisions of the bill, but such provisions were retained by the majority. The presidents’ co-partisans in Congress have supported his position, and the roll-call vote suggests that the majority leadership cannot prevail in an override attempt. Nevertheless, following the president’s veto, the majority leadership pursues an override as a symbolic effort to garner public attention and blame him for policy stalemate.
Alternatively, the president may threaten to veto legislation (P1) and Congress refuses to modify the bill to his satisfaction (C1). But rather than challenge the president, the majority leadership decides to put off a vote on the bill. The goal is to make an issue of the president’s stance and blame him for stalemate, particularly in an election year, as the majority leadership may see a potential electoral advantage in policy deadlock.

On the other hand, the president may decide to veto legislation that has broad support in Congress and for which an override of his veto is probable (based on a bipartisan voting coalition on the bill’s passage). The scenario P1>C1>P2>C2>C4 is a “position-taking” veto on the part of the president. He is willing to accept the override to make a point “on principle.” Jimmy Carter’s veto of public works projects and Ronald Reagan’s second-term vetoes of spending bills are exemplary of this dynamic.

[Figure 2]

The interaction scenarios are slightly more complicated in the French case because the president does not dispose of the veto power. Figure 2 suggests a president’s “effective veto” when he has a majority in the National Assembly and a prime minister appointed from that majority. In the scenario PM2>P4 the president may simply sideline bills which he opposes in Cabinet Council deliberations or refuse to accept them in the ordre du jour (agenda minutes). If, on the other hand, the president supports the measure and the prime minister wishes to expedite passage, the scenario PM2? P3? PM3? P5 (following parliamentary authorization or loi d’habilitation) circumvents the normal legislative process and enables the prime minister to effect the law by decree. These scenarios apply outside cohabitation periods.

Under cohabitation several particular junctures of the process furnish the president opportunities to strategically criticize and cast doubt on the majority’s agenda in the media spotlight. In the scenario PM2>P4>PM3>P6>L1>L2>L3>L4>CC1 the president cannot credibly halt a determined prime minister from pursuing his agenda unless he is willing to risk the consequences of a
dissolution of the National Assembly. But the president can refuse the prime minister’s request to legislate by decree. The president may “go public” and explain his rationale, taking the opportunity to censure the Government’s agenda from his position as “arbiter of Republican institutions” in the Élysée. The prime minister must then decide whether to drop the bill or route it through normal legislative procedures. Assuming the prime minister is determined, the president’s co-partisans cannot halt the bill in the National Assembly (L1), but they can follow the president’s cues and bombard it with hundreds of amendments and force the prime minister to resort to majoritarian tactics to insure timely passage (Paillard 2003). They can also ask for a record vote to demonstrate their solidarity with the president’s position (if blocked vote or urgency measures are not employed). In the Senate (L2) the president can publicly or privately cultivate the opposition, whether in majority or minority, to amend the legislation and draw public attention to bicameral negotiations (L3). Regardless, the National Assembly has the last word on the outcome (constitutional amendments notwithstanding).

The president must then weigh whether to send the bill to the Constitutional Council for review. The Council’s role is primarily to determine whether the legislation violates constitutional distinctions between regulation and organic law. But the Council scarcely has a history of jurisprudence commensurate with the US Supreme Court and is reticent to go beyond its circumscribed constitutional mandate, with civil liberties issues an exception (Jan 2001). Given the Council’s narrow scope of decision-making, the president may not ask for such a review to avoid a potential “defeat.” But even as he promulgates the law, the president may use the occasion to express his misgivings about the legislation in much the same way that American presidents use “signing statements” to convey their reservations. Regardless, it is clear that specific points of the parliamentary process are ripe for the president to exploit opportunities to blame the opposition prime minister and his Government for objectionable policies.

III. COMPARING BLAME-GAME POLITICS
Brief case studies substantiate how blame-game politics between the branches and presidential strategy are comparable in the two systems. President Clinton’s standoff with congressional Republicans from 1995-96, and Socialist President Mitterrand’s confrontations with Prime Minister Chirac from 1986-88, share certain commonalities. The common linkage in the two cases is the narrow two-year window of opportunity the Speaker (US) and Prime Minister (France) had to accomplish significant policymaking before scheduled presidential elections. The electoral calendar pushed legislative leaders in both countries to rush the lawmaking process and presidents exploited their missteps. The second comparative case study weighs presidential manipulation of bicameral politics. The American example is drawn from President George W. Bush’s interactions with the Democratic Senate over the establishment of the Department of Homeland Security and President. The French case details Jacques Chirac’s relations with the Senate and his bid to frustrate elements of Socialist Prime Minister Lionel Jospin’s social agenda, including constitutional amendments. The thread that runs throughout each of these blame-game scenarios is the force of the president’s rhetoric to reproach the opposition in the public arena and eclipse, at least partially, the policy accomplishments of the opposition legislature—and in the American case, to compel substantial changes.

**Clinton, the Republican Congress, and Strategic Disagreement**

The federal budget was the pivot point in presidential-congressional relations following the Republicans’ stunning victory in the 1994 mid-term elections, which gave the party its first majority in the House in forty years. Led by Speaker Newt Gingrich, Republicans rushed to make good on their electoral pledges connected to the *Contract with America*, the party’s platform for smaller government and reductions in government spending and regulation. The leadership of the Grand Old Party (GOP) even arrogated the “100 days” benchmark from the White House in the legislative onslaught (see Gimpel 1996). Yet, by June 1995 the harbinger of the intense conflict between Democratic President
Clinton and Speaker Gingrich that would hasten a lengthy government shutdown was evident in the president’s decision to veto a supplemental appropriations bill.

Republicans took specific aim at programs favored by the president, including education and national service. Clinton followed through on his veto threat, and he demonstrated that he could “make it stick by commanding enough votes not to be overridden by Congress” (Cloud 1995). The president then waged a carefully designed campaign to maximize public sympathy against the GOP. He attempted to depict himself as a centrist willing to negotiate and portray the congressional majority as intransigent. Clinton pointed to disagreement “over priorities” and not over the basic goal of reduction of the budget deficit. He then outlined how the bill could be amended to win his signature (Public Papers of the President 6/7/95, 828-29). This is the basic blame-game strategy that Clinton would follow in the fiery veto battles over the budget in late 1995 and early 1996.

Blame-game politics came into full swing by December, following a brief government shutdown in November 1995 when Clinton and congressional Republicans could not come to terms on a temporary spending bill. Disagreement between the White House and Capitol Hill centered on the budget reconciliation bill (HR 2491) and would ultimately deteriorate into strategic disagreement, as both the president and House Republicans believed that policy stalemate was of greater advantage than compromise. Clinton objected to a host of provisions, including reductions to the Medicare and Medicaid programs and education spending, as well as proposed tax cuts, and he threatened to veto the bill. The president’s veto threat emboldened House Democrats’ resolve to take the issue public and rally traditional Democratic constituencies who would be affected by the cuts (Hager 1995). Yet these measures comprised the heart of the GOP’s Contract agenda from which the majority was unwilling to retreat, including components of welfare reform and a balanced budget within seven years (Pear 1995; Kamen 1995).

For months Speaker Gingrich insisted that he would hold other spending bills hostage to the president’s acceptance of a balanced budget targeted by the reconciliation bill (Pianin and Harris
Gingrich emphatically denied that the reconciliation measure and other spending bills could be divorced. Moreover, he accentuated his steadfast opposition to assent to any further temporary spending measures unless the president accepted the Republican version of a balanced budget (Hager 1995a).

By locking themselves into irreversible positions, the White House and congressional Republicans raised the stakes dramatically. Clinton’s eventual veto of the reconciliation bill became embroiled in the politics of high rhetoric and was joined by symbolic, if failed, override attempts on other bills that Republicans hoped would enable them to scapegoat the president for a lengthy government shutdown. For his part, the president accentuated that the veto was consistent with his long-standing threats the majority chose to ignore (Purdum 1995). In returning the bill to Congress, Clinton symbolically used the same pen to veto the measure as Lyndon Johnson used to sign bills that created the Medicare and Medicaid programs. And the president’s rhetorical attack on the GOP agenda became harsher. Clinton’s veto message placed the blame for policy deadlock squarely on the Republican majority, contending the bill would “make extreme cuts and other unacceptable changes in Medicare and Medicaid, and…raise taxes on millions of working Americans” (Public Papers of the President 12/6/97, 1853). The president went on to detail how he and Congress could arrive at a balanced budget within a seven year time frame without endangering basic entitlement programs.

In this effort, Clinton endeavored to portray himself as a centrist defender of principles and responsible governance, emphasizing that he was protecting more than just narrow programs. In the president’s view a self-serving congressional majority was attacking fundamental American values, not just Democratic Party values (Purdum 1995). For his part, Speaker Gingrich accused the president of being uninterested in balancing the budget. From Gingrich’s perspective Clinton was simply engaging in hollow “campaign gimmickry.” The House Speaker contended that the president was unwilling to accept that “Lyndon Johnson’s Great Society has failed. The people know that a Washington-based,

The ensuing budget stalemate between the White House and Capitol Hill precipitated shutdowns of portions of the executive branch in December 1995 and January 1996. Neither Clinton nor Gingrich would budge from his position. Instead, each continued to posture in the bid for public sympathy. The Republican majority sought to embarrass Clinton by sending him four appropriations bills that he had promised to veto. Speaker Gingrich brought three of the four bills to the House floor for override attempts. The overrides had little chance of passing, as the bills had been passed via party-unity votes and few Democrats could be compelled to abandon Clinton’s “principled” vetoes. The override attempts of the Commerce, State, and Justice (HR 2076), Defense (HR 1530), and Interior (HR 1977) bills all failed—as the GOP leadership expected them to. The Chairman of the House Appropriations Committee, Bob Livingston, summed up the leadership’s strategy to reprove the president: “The Congress did its job. We sent the President three major funding bills that would have enabled Federal employees to return to work, but the President vetoed them. We are here once again attempting to send these people back to work” (Gray 1996). However, while Republicans blamed the president for refusing to compromise, a closer reading of the bills indicated that the GOP leadership had retained the very programmatic cuts to which the president had objected, as outlined in his veto threats.

It is impossible to discount the effect of the president’s rhetoric on the eventual resolution of the crisis on his terms. From the time of his veto of the reconciliation bill through the end of December Clinton made innumerable public comments, which apparently contributed to an upswing in his popularity as he sought to frame the conflict as a product of Republicans’ intransigence. Indeed, some studies have concluded that esteem for Congress declines when the legislative branch challenges the president (Durr, Gilmour, and Wolbrecht 1997). In December 1995, at the outset of the budget imbroglio, Clinton’s job approval climbed above 50 percent. As the budget confrontation continued
into the New Year his approval reached 58 percent and peaked at 62 percent by mid-January. One irritated Senate Republican, Pete Domenici, contended that Clinton would not accede to the Republicans’ demands because “it looks like they like what they’re getting in the polls, and they don’t want to take any risks” (NY Times Dec 18).

Gingrich and GOP House leaders clearly underestimated the president’s influence from the bully pulpit. Not only had public esteem for Clinton increased but the public progressively blamed congressional Republicans for the stalemate. “Part of the Republicans’ strategy in the budget fight with President Clinton,” Washington Post writer Jerry Gray (1995) argued, “has been to use the furloughed workers as leverage against the White House.” Frustrated Republicans, like Susan Molinari of New York, posited that “This is not our Government shutdown, this is his Government shutdown” (quoted in Rich 1996, my emphasis). But the public was not persuaded. By early January 1996 44 percent of survey respondents blamed Republicans for the continuing budget impasse, while only 25 percent blamed Clinton. The numbers worsened for the GOP a little less than a week later when one poll found that 50 percent approved of the way Clinton was handling the dispute, while less than a quarter approved of the Republicans’ efforts (Maraniss and Weisskopf 1996).

A large part of the Republicans’ failure to cast Clinton as the primary obstructionist in the rhetorical blame-game over the budget stemmed from a central dilemma for Congress. The “public speakership” has a difficult time competing with the vast media resources of the “public presidency.” As the focal point of media attention the president commands far more attention than the Speaker of the House. And as the only nationally-elected leader, the president can speak with a single voice and claim to be the spokesman for the national interest. These factors combined to strengthen Clinton’s strategic position in the public arena. Clinton deftly manipulated his veto power alongside centrist rhetoric that transcended partisan debates on budget details. Negative media coverage of how the budget impasse affected routine government services to tourists unable to access national parks turned the tide against the GOP leadership, which Clinton more or less successfully depicted as “extreme,”
intransigent, and self-aggrandizing. The president capitalized on his position in late January to reach an accord with Republicans, who eventually compromised on the specifics of a balanced budget target to Clinton’s satisfaction.

**Mitterrand, The Decrees Controversy, and Blame-Game Politics**

François Mitterrand’s presidency represented the first *alternance* in the Fifth Republic. He was the first Socialist to win the Élysée. He did so in 1981 on an ambitious agenda to nationalize certain industries and spur job growth. However, the failure of his economic plan to redress employment stagnation, followed by an about-face with austerity measures that looked more Thatcheresque than neo-Marxist, yielded a steady loss of public support three years into his *septennat* or seven year term (Christofferson 1991). With his public approval rating below 40 percent in advance of the regularly scheduled legislative elections in spring 1986, Mitterrand and the Socialists in the National Assembly saw the writing on the wall. The electorate stood poised to deal the president an opposition legislature—and the first cohabitation in the Fifth Republic.

To minimize their losses, the Socialists scrapped the traditional two-ballot majority vote and adopted proportional representation. The change was a success insofar as the Left’s representation in Parliament was diminished but not decimated. The Socialists and Communists retained 247 of the 577 seats in the National Assembly and comprised a viable opposition. Nonetheless, the proportional scheme left the two parties of the Right with a narrow 3 seat majority between them with the support of several independents—155 seats for Jacques Chirac’s *Rassemblement pour la République* (RPR) and 131 for former President Valéry Giscard d’Estaing’s *Union pour la Démocratie Française* (UDF). The new electoral rules also enabled the extreme-right candidate Jean-Marie Le Pen and his National Front party to capture 35 seats. The RPR and UDF had no interest in allying themselves with the feisty Le Pen, who promised to engage in disruptive tactics that would add to the new Prime Minister’s frustrations.
Mitterrand defied those who argued that he should resign now that he was confronted with an opposition legislature. He moved quickly to dispel notions that the Fifth Republic was in crisis. He duly appointed Jacques Chirac, the leader of the largest block of deputies on the Right, to the post of Prime Minister and invited him to form a government. Mitterrand also let it be known that he would neither remain silent about nor facilitate the new majority’s ambitious agenda, the core of which was to privatize a range of state-owned enterprises.

On April 8, 1986 Mitterrand addressed the opening session of Parliament. He called to mind his institutional responsibilities and prerogatives, and accentuated to the deputies that he would respect “the Constitution, nothing but the Constitution, and all of the Constitution” and invited them to do the same (Mitterrand 1986a, my translation). He also sought to set limits on a range of acceptable legislative actions and procedures contemplated by the prime minister, even if he could not ultimately prevent the majority from enacting its agenda. He explicitly warned about intentions to legislate by decree:

I think that decrees (ordonnances), as I have already stated, should not be used to backpedal on entitlements (acquis sociaux), should be limited in number, and enabling legislation sufficiently precise so that the Parliament and Constitutional Council can make clear decisions. I have conveyed this point to the Prime Minister as I was presented with two bills that will be examined tomorrow by the Council of Ministers (Mitterrand 1986a, my translation).

One of the measures to which Mitterrand referred was a proposal to transfer authority to the Ministry of the Economy, Finances, and Privatizations to de-nationalize 65 state-owned enterprises. Some of the corporations were historical icons of French dirigisme of the national economy, such as Saint Gobain (glass), banks including Parisbas (now BNP-Parisbas), the Compagnie d’Électricité de France (electricity), and the TF-1 television network. The next day, on April 9, Chirac addressed both the National Assembly and the Senate and outlined his Government’s plans. He gave no indication that he had heard Mitterrand’s words of caution. “The French people,” the Prime Minister contended, “understand the dangers of state intervention and do not want it anymore” (Chirac, 1986, my
And in that day’s Council of Minister’s meeting Chirac offered up his plans to implement privatization by decree. Mitterrand flatly refused.

After the first Council of Ministers meeting the Élysée quickly issued a communiqué that elucidated that Mitterrand would not assent to any decree that, in his view, violated employee evaluation rules as the enterprises passed from the public to private sector, or contained measures that were “contrary to the democratization” of the public sector (Mitterrand 1986c). Mitterrand also made it clear that he would not allow changes to electoral boundaries to be overhauled by decree, another agenda priority of the Government. Nonetheless, on 10 April, the RPR-UDF majority (along with 1 National Front member and 5 independents) voted enabling legislation (loi d’habilitation) that authorized the Government to legislate by decree relative to the denationalization project.

Thus, at the opening of the legislative session, the rhetorical battle between the Élysée and the Hôtel Matignon was joined. Through early June Chirac made numerous television appearances to expound upon his Government’s plans to rapidly redress economic stagnation through privatizations and reform of social services. For his part, President Mitterrand appeared to anticipate disputes with Chirac and selectively used the bully pulpit to remind the Prime Minister, and the electorate, of his stance. In a key interview with the International Herald Tribune, Mitterrand recapitulated that while his institutional position had been weakened by cohabitation, his essential responsibility was to guard the nation’s interests—and he retained sufficient constitutional powers to put the National Assembly on notice. When asked how he could affect the equilibrium of national institutions, he replied:

I can dissolve the National Assembly and organize presidential elections or a referendum. As for the rest, I must respect the parliamentary majority—but that does not prevent me from making known to the country my opinion on issues that concern the general interest, both at home and abroad, without waging a petty personal war that would be of no use to anyone. You are, as well, familiar with the preeminent role of the President on foreign and defense policy, security, and for the respect of basic rights. This is not changed by electoral outcomes (Mitterrand 1986b, my translation).

Debates in academic and legal circles centered on whether the president was constitutionally obligated to sign decrees presented by the prime minister with parliamentary support. Proponents of a
strict constructionist interpretation of the Constitution argued that the president’s counter-signature is a constitutionality linked responsibility that links the Élysée to the Government and the legislature, and binds the president to sign (Gaudemet 1986). Mitterrand, supported by many scholars, took a “presidentialist” interpretation that the president’s counter-signature is a discretionary power (pouvoir discretionaire), since the Constitution does not set a time limit for him to sign (Nguyen 1986, 120-22). General de Gaulle seemed to elaborate such an interpretation during a press conference on July 31, 1964 when he simply stated that the president either signs or does not sign decrees.

Mitterrand himself had refused to sign a decree in 1982 when Socialists had majority control of the National Assembly (Avril and Gicquel 1982, 193).

What arguably added to the fiery debate was that the use of decrees in the history of the Fifth Republic had been both relatively moderate and typically for issues that were far less controversial than the privatization of longstanding national industries (see Maus 1981). Several decisions in late June and early July 1986 by the Constitutional Council essentially endorsed Mitterrand’s position, much to the consternation of the majority in the National Assembly (Mathieu 1987, 715). Some on the Right would even go so far as to suggest that Mitterrand had, for the first time in the Fifth Republic, arrogated a veto power (Le Monde, 1986a).

The timing of the decree controversy could have scarcely turned out worse for Jacques Chirac. Forcing the privatization issue on the legislative calendar in July gave President Mitterrand a superlative platform from which to rally the public, and Socialists in the legislature, against the project. Mitterrand took to les petits écrans—television—on Bastille Day, 14 July, in the annual address to the nation, which is the closest analogy to the US president’s State of the Union Address. He made his opposition to the privatization project clear and carefully admonished the prime minister and his parliamentary majority:

Let me briefly recall that the present majority, which was elected on 16 March, wants to sell part of the national trust (patrimoine national) to private interests. That’s the majority’s opinion, not mine…But it is critical to understand the scope of this proposal:
Selling off sixty-five industrial and banking enterprises is enormous, just enormous…In particular, the Constitutional Council has raised several objections, or rather demanded clarifications. The first, which is very important, I would sum up in this way: ‘You don’t have the right to sell even a fraction of the national trust cheaper—not one franc less—than its value.’ Therefore, we have a real problem of evaluating worth.

Mitterrand then sought to elevate the debate to a different level and accentuate his supra-partisan responsibilities as president:

The second principle elaborated by the Constitutional Council is this: ‘Be careful, you cannot harm the national interest,’ in other words, we cannot cede property that belongs today to the Nation under the pretext of transferring such property to private or foreign interests…But I have an additional responsibility: I am not only responsible for guaranteeing respect for the Constitution, but I am also the guarantor of national independence.

Mitterrand vigorously defended his decision to refuse to sign the decree by appealing to the symbolic value of state-owned enterprises and nationalistic sentiments that traversed partisan divides. All told, Mitterrand referred to the “national interest” nine times during his televised speech to cast doubt on the denationalization plans. He insisted that his refusal did not block the Government from its plans. Rather, the legislation would have to be passed via the standard parliamentary route. Mitterrand contended that the Prime Minister should “not look to me, as I do not have this responsibility. It is up to Parliament to make laws” (Mitterrand 1986d, my translations).

Chirac, loathe to engage in a protracted constitutional conflict over the decree power, moved quickly in late July to end the controversy and force parliamentary adoption of the bill. The longer the debate continued in the National Assembly, however, the more vociferous the criticism was from the Socialists. Moreover, the RPR’s junior coalition partner, the UDF, evidenced signs of internal fissures over the denationalizations. After only 55 minutes of debate, Chirac decided to peg the responsibility of the government on the denationalization project to end deliberation and pass the bill. The motion of censure failed and the bill was adopted. Nonetheless the “scars” of the battle following Mitterrand’s refusal to sign the decree
left the Prime Minister’s spokesman to cast the best light on the decision to fall back on majoritarian tactics to pass such a controversial bill. He blamed the president’s staunch opposition to consider legislating by decree for Chirac’s move, which was putatively aimed at avoiding a “shouting session” in the National Assembly (Le Monde, 1986b).

Mitterrand would use the refusal to sign decrees on other high profile issues later in 1986, such as proposed changes to electoral boundaries, and would continue to criticize the Government on hot-button issues such as immigration reform. In each case he publicly cast the majority’s legislative proposals as imprudent, ill-conceived, and hastily constructed. Mitterrand’s deft use of rhetoric to criticize the opposition majority and inform the public of his unhappiness with the way the majority was handling national affairs, combined with his use of institutional rules, compelled Chirac to resort to extraordinary legislative tools—and had the effect of portraying the prime minister as brash and impetuous. The proof was evident in public approval ratings of Chirac, which began near 60 percent in Spring of 1986 and plummeted to just above 40 percent in advance of his bid for the presidency in the election of May 1988. Mitterrand’s job approval, by contrast, rose from the low 40s when cohabitation first began to the low 60s by the time of the 1988 presidential and legislative elections.

Without the veto power, Mitterrand lost the policy battles of the first cohabitation. But Chirac and the Right lost the next presidential election. Mitterrand’s skillful manipulation of the media enabled him to reconstruct his image and move to the center of the electorate by 1988 (Maus 1991, 29). Running for reelection on a platform of “neither privatization nor nationalization” Mitterrand handily defeated Chirac for the Élysée. His subsequent dissolution of the National Assembly returned the Left to power, at least until the next legislative elections in 1993.

*Reflections on Bicameralism and the Blame-Game*
A brief, comparative examination of bicameral politics and presidential strategy under divided government reinforces the centrality of strategic disagreement in the United States. The analysis also shows how the French Senate can work to the advantage of Right or Center-Right presidents, particularly if the prime minister’s agenda includes proposals for constitutional change. The two examples that follow trace inter-cameral relations when the lower and upper chambers of the legislature were split. In the case of George W. Bush’s standoff with the Democratic Senate over the establishment of the Department of Homeland Security in 2002, the blame-game deteriorated into strategic disagreement. The protracted deadlock was broken only by legislative elections that reversed partisan control of the Senate. In the case of Jacques Chirac’s opposition to Socialist Prime Minister Lionel Jospin’s agenda from 1997-2002, Senate Gaullists’ solidarity with Chirac forced the Government to bypass the upper chamber altogether on a number of laws. Most importantly, Chirac worked with the conservative majority in the Senate to block constitutional changes proposed by Jospin. Chirac’s blame-game with Jospin did not hamper most of the Government’s agenda, but was critical in renewing his presidential legitimacy following the disastrous decision to dissolve the National Assembly in 1997.

**Bush, the Democratic Senate, and Strategic Disagreement over Homeland Security**

Vermont Senator James Jeffords’ stunning decision to leave the Republican Party in May 2001 and throw his support to Democrats reversed GOP control of the upper chamber just 5 months into George W. Bush’s presidency. Democratic control of the Senate not only complicated Bush’s judicial appointments but also put him at odds with new majority leader, Tom Daschle, over the creation of the Department of Homeland Security—the largest reorganization of the federal bureaucracy in over a half century.

In the wake of the terrorist attacks of September 11, 2001, Bush issued an executive order just a few weeks later creating an Office of Homeland Security (OHS) within the
Executive Office of the President. But in the months to follow many members of Congress contended that the Director of OHS, Tom Ridge, had inadequate human and financial resources, as well as a lack of authority, to effectively coordinate governmental anti-terrorist programs scattered across numerous agencies. As proposals for a full-scale governmental reorganization emerged on Capitol Hill, Bush preempted Congress in Spring 2002 and launched his own effort to reorganize 22 agencies into a new Homeland Security Department.

The Republican-controlled House passed the president’s plan swiftly by mid-summer. Senate action, however, became embroiled in debates about federal labor rules. Bush repeatedly called upon the Senate to follow the House’s example and pass the legislation on his terms. The president insisted that he would not accept any Senate version of the legislation that did not accord him broad latitude on hiring, firing, and organizational authority in the new department. He issued a clear veto threat to that effect. Senate Democrats contended that Bush’s demands were unprecedented, and if accorded, might serve as a blueprint to undo labor protections in other agencies.

The standoff between the White House and Senate Democrats continued from late July 2002 and was settled only after the mid-term elections in early November. During these months the whip count for the president’s preferred bill in the Senate evidenced a tie. All Republicans save for Lincoln Chafee of Rhode Island favored the president’s plan; all Democrats except Zell Miller of Georgia were opposed to it. During the three-month long hiatus, Bush could therefore claim that each and every Democrat up for reelection was to blame for the delay in passage, since the White House was one vote short of victory.

Bush used this as a mantra in the run-up to the mid-term elections. Between August and the end of October he referred to the Senate deadlock over three dozen times on the campaign trail. He accused Democrats of being less interested in the security of the nation and more beholden to “special interests” (Bush 2002). Democrats, for their part, staked out their
position on the principle of federal employee workplace protections. Taking cues from the White House, Senate Republicans filibustered Democrats’ attempt to bring their version of the bill to the floor in lieu of the president’s preferred bill. Neither the president nor Senate Democrats would budge on the issue. Each believed that the impasse had electoral advantage and could galvanize key constituencies in the November balloting.

Democrats lost the blame-game definitively. The issue of national security, and Bush’s steadfast campaigning on the deadlock of the homeland security bill, turned key Senate elections to the Republicans’ favor, particularly in Missouri and Georgia (see Busch 2004). The GOP picked up two seats in the upper chamber and re-took the majority. Admitting defeat, Democrats dropped their objections and the lame-duck session of the 107th Congress passed the reorganization on the president’s terms.

Chirac and the Senate vs. Jospin’s “Plural Left”: Resistance and Reform

The third cohabitation (1997-2002) was nothing less than a self-inflicted wound for Jacques Chirac. He dissolved the National Assembly a year in advance of scheduled legislative elections in order to “renew” the Government’s mandate. But the elections turned on the lack of popularity of Chirac’s incumbent Prime Minister, Alain Juppé, and the President himself. Juppé’s public approval had declined precipitously since his appointment in 1995. His job approval hovered in the mid-30s by Spring of 1997 following a number of attempted reforms of the social security system that proved highly unpopular and led to national strikes. Moreover, Chirac’s own job approval was only 40 percent when he made the fateful decision to disband Parliament. Many voters apparently perceived Chirac’s move as a slapdash power-grab. The electoral backlash resurrected the Left, enabling the Socialists, Greens, and other smaller parties to win a majority referred to as the “plural left” or gauche plurielle. Worse yet for the president was the disarray of the Right, including Chirac’s RPR party, over which one of his principal rivals, Philippe Séguin, took control (Marlowe 1997).
The war of words between Chirac and the Prime Minister he was forced to appoint, Lionel Jospin, commenced quickly with the President’s Bastille Day address to the nation in July 1997. The politically weakened president took responsibility for the electoral defeat. But he quickly sought to reassert his authority by stating that the Constitution essentially gives the president “the last word” on policy, even under cohabitation (Chirac 1997). Jospin quickly issued a defiant rejoinder in a Council of Ministers meeting, citing in particular Article 20 of the Constitution, which clearly states that the Government determines the nation’s policies (Schrameck 2001, 95). The letter of the Constitution may have been on Jospin’s side, but the reality of the configuration of institutional power gave Chirac some decided advantages in the blame-game that would develop.

For any majority of the Left in the National Assembly, the Senate—with its built-in conservative bias—represents a more or less difficult obstacle to surmount (Maus 1988, 130). But as one scholar observed, Lionel Jospin “is the prime minister in the most uncomfortable position of all prime ministers in the Fifth Republic” (Verdier 1998, 84; my translation). Not only did he have to manage a loose coalition of Socialists, Communists, Greens, and independent groups on the Left in the National Assembly, but he also confronted a Gaullist Senate that stood squarely in line with Chirac’s opposition to the Government’s agenda, whatever the extent of inter-party disputes on the Right in the upper chamber. Key to the Chirac-Senate axis of opposition was the appointment of conservative Christian Poncelet to the presidency of the Senate in 1998. Poncelet would spearhead a veritable revolt against the central objectives of the Government’s policies, including legislation authorizing civil unions for homosexuals (Elgie 2002, 300). It is little wonder that Jospin called the Senate “an anomaly among democracies” and a “relic of a conservative upper chamber” (quoted in Laquièze 2000, 27; my translation).

The rhetorical battle between Chirac and Jospin is best described as “punch-counterpunch.” Ever the grassroots campaigner, Chirac was most comfortable traveling around la France profonde—everyday France—to revitalize his image. His public criticisms of the Government were typically
followed by Jospin’s rejoinders (see Elgie 2002, 307-8). On the institutional terrain, Senate opposition to the Government’s social reforms— with Chirac’s blessing— forced Jospin to resort to the extraordinary measure of Article 45 of the Constitution to adopt laws despite the objections of the upper chamber. As Verdier (1998, 84-85) reports, the Senate categorically rejected bills concerning social security, government appropriations, youth employment, immigration reform, and the 35-hour work week. Between 1997-98 21 conference committees were established to iron out inter-chamber differences, but 15 failed to reach agreement, with the National Assembly forcing a second reading (and passage). Similarly, between 1998-99 12 of 18 conference committees failed to find common ground, compelling the Government to have the last word (Maus 1999, 76).

The inter-chamber discord was unique for periods of cohabitation inasmuch as open warfare between the National Assembly and the Senate had not occurred from 1986-88 or 1993-95. In those instances Socialist President Mitterrand was the sole résistant: Prime Ministers Chirac and Balladur, respectively, worked with the Right/Center-Right majorities in the Senate to carefully avoid having recourse to Article 45. This enabled the Government to present a more unified front against Mitterrand’s critiques.

Chirac and his Senate colleagues were most successful in blocking institutional reforms. Senate recalcitrance derailed several important constitutional changes envisioned by the Left, including the accumulation of political offices (cumul des mandats), judicial reform, and the adoption of the European Charter on Regional Languages. The Senate vetoed an organic law that would have limited the types of political offices senators could concurrently hold.7 Chirac dickered with Jospin over judicial reform, but ultimately withdrew the convocation of a Congrès to hold a vote on a constitutional amendment when it became clear that Senate Gaullists’ opposition would preclude a three-fifths majority (see Schrameck 2001, 113-16). Finally, Chirac referred the matter of the European Charter of Regional Languages to the Constitutional Council, which found the directive incompatible with the Constitution of the Fifth Republic (Courtois 1999). Chirac used the Council’s
decision to refute Jospin’s position, arguing that he would not “undertake any constitutional reform initiative that would harm the fundamental principles of the Republic” (quoted in Chambraud and Jérôme 1999; my translation).

Despite the destabilizing effect of the 1997 elections on the Élysée, Chirac utilized the longest cohabitation in the history of the Fifth Republic to reformulate his role into the suprapartisan “guardian of the Constitution.” He did so through several mechanisms, including careful coordination with partisans in the Senate to frustrate the Government’s reform initiatives and his prerogative to call for the Constitutional Council’s review of legislation. In sum, the president’s ability to halt constitutional reform enables him to retain a powerful role in the institutional game (Portelli 1999, 69). For Chirac, his rehabilitation in the court of public opinion took five years. His job approval climbed from lows of 38 percent before the dissolution to the mid-50s by the time of the 2002 election, and he was eventually able to overtake Jospin’s popularity.

IV. CONCLUSIONS

This article has demonstrated the potential for, as well as a few of the limits of, comparing executive-legislative relations in the US and France—two systems with separated institutional structures and recent experiences with divided government. The focus on blame-game politics is consistent with elements of the “new institutionalism” perspective. Formal rules matter for explaining divergent policy outcomes in the two countries. The veto power in the US and its loose analogies in France (countersigning decrees, constitutional change) do fundamentally shape the degree to which presidents can moderate or block policies to which they are opposed. But some of the determinants of the president’s success at blame-game politics hinge on factors beyond his control. The analysis emphasizes presidents’ use of informal prerogatives to frame disagreements in their blame-game with an opposition legislature, build public sympathy against policies, and prevail in the public relations and electoral arenas. Success in this endeavor depends significantly on legislative leaders’ willingness to
engage in open and sometimes protracted conflict with the president, the timing of such conflict, and
the president’s ability to exploit his institutional position.

This research accentuates the disjuncture between presidential policy, rhetorical, and electoral
success under divided government in the two systems. When divided government intersects with
different formal powers of the president, the relative advantages of each constitutional arrangement for
executive power becomes clearer. In France the president is not helpless under cohabitation, but his
ability to delay or block legislation is contingent upon prime ministerial actions (e.g., decree requests),
the partisan configuration of the National Assembly and Senate, and the nature of the Government’s
agenda (organic laws or constitutional revisions). He seeks to carefully manage public relations and
criticize the majority while appearing “above the fray” of partisan politicking, even as he may work
behind the scenes to cultivate partisan opposition in the legislature. But winning the rhetorical battle
against an opposition prime minister is little compensation in policy terms. The Constitution of the
Fifth Republic was established to avoid legislative paralysis, and the president’s misgivings about the
majority’s policies notwithstanding, considerable policy shifts—from the social realm to
denationalizations—have been the result of divided government in the last two decades. Parliament’s
responsibility for such policy changes is clear.

In the United States the president’s veto power fundamentally alters the nature of the blame-
game and gives him a decided advantage against an opposition legislature. Using the veto in
conjunction with the rhetorical levers of their office, US presidents are usually better placed in the
institutional setting to prevail in strategic disagreement—at least with respect to the cases examined
here. While strategic disagreement may galvanize partisan electorates to a president’s advantage, the
drawback is the possibility of policy paralysis that can wield significant damage to day-to-day
governmental operations (i.e., the budget shutdown of 1996/97) or short- and long-term imperatives
(i.e., homeland security). And it is more difficult for the electorate to assign blame or credit for policy
changes or stalemate. Divided government in the United States is more likely to obscure responsibility.

The first set of empirical cases suggests that while Speaker Newt Gingrich and Prime Minister Jacques Chirac were well within their formal, constitutional authority to press their majority’s agenda, the presidents they confronted were skillful in exploiting missteps and attempts by the legislative leaders to upstage them in the court of public opinion. Neither Gingrich nor Chirac could neutralize the president’s public criticism, and they apparently underestimated the president’s privileged position vis-à-vis the national media. In other words, as Malouines (2001, 28) notes in the case of Chirac, they misjudged the president’s force de la parole—the power of his words and rhetoric, and misjudged the difficulty in offsetting or overtaking the White House’s or Élysée’s advantages of the bully pulpit. The reelection victories of both Clinton and Mitterrand following two years of institutional combat reinforce this point.

Evaluating presidential success in the second set of case studies obliges nuance. The president in both systems seems to have gained the upper hand in the blame-game with the aid of bicameral politics, though policy outcomes differed dramatically. Bush earned a narrow Republican Senate after the elections of 2002 and won the reorganization of the federal government on his terms. But what was the cost of strategic disagreement for homeland security? It is arguable that the price of the three or four month stalemate between the White House and Senate Democrats delayed vital efforts in interagency coordination at a critical juncture in time (Conley 2004, 182).

In France, Chirac was unsuccessful in halting the Jospin Government’s agenda, and sometimes he even sought to share in credit for popular policy accomplishments such as the 35-hour work week (Elgie 2002). He was most successful in blocking constitutional change. Ultimately, cohabitation may have benefited Chirac in ways he could not have predicted. He was no longer constrained by the internal bickering in the RPR, he was no longer compelled to support the unpopular reform efforts of Alain Juppé, the opposition Government’s program provided an opportunity to differentiate his vision
from the Left, and he found solace in the “statesman” role of the presidency. His manipulation of institutional and public politics helped rehabilitate his image. The very weakness of his position after 1997 may have marshaled public sympathy. His public approval increased over the five year cohabitation period, and eventually surpassed Jospin’s by the 2002 election (see Méchet 2002). At the same time, Chirac’s showing in the first round of the presidential election—at just 19.9 percent of the popular vote—was the worst for any incumbent president in the Fifth Republic. The only definitive conclusion to draw is that voters may have liked cohabitation more than they liked either Chirac or Jospin individually.

The constitutional frameworks in the American and French Republics are remarkable insofar as they have proven pliable enough for presidents to adapt to changing policymaking contexts and shifting balances in institutional power, despite important differences in formal powers. In neither country did the principal founders envision a presidency-centered regime. It may be argued that the advent of cohabitation in the Fifth Republic is more in line with the expectations of parliamentary-centered policymaking than de Gaulle’s “hyperpresidentialism.” Similarly, the temporary deadlock and slow movement on policymaking in the American context would probably not surprise Madison, Jefferson, or other constitutional architects who favored legislative government.

In neither system did the founders anticipate the plebiscitarian politics that accompany the modern presidential office. Regardless, given the importance of media and public opinion in both countries how presidents “play” the rhetorical game must be one criterion in scholars’ evaluation of their success. Whether it is more or less important than the imprint they leave on policy outcomes is an equivalently important question for political scientists and historians alike.
Figure 1

Presidential-Congressional Interaction and Blame-Game Politics

Figure 2

Presidential-Prime Ministerial Interactions and Cohabitation
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NOTES

1 The word fusible comes from the French verb fuser, which connotes a fuse or circuit-breaker.

2 The extraordinary circumstances required for future usage of emergency powers seem highly unlikely given France’s position with the European Union and the loss of its colonial interests in the 1960s and 1970s.

3 Republicans’ victories in the 1946 mid-term elections, and again in 1994, are prime examples.

4 Congrès are held at the Château de Versailles outside Paris.

5 Depending on where one classifies Valéry Giscard d’Estaing, Mitterrand may also be considered the first non-Gaullist.

6 All speeches, public comments, and communiqués issued by French presidents and prime ministers cited in this research are available on-line at La Documentation française at http://discours-publics.ladocumentationfrancaise.fr.

7 Any proposed law that changes the Senate’s powers and prerogatives must obtain that chamber’s consent.

8 Cases in which the US president was in a particularly weak position might include Harry Truman during the 80th Congress, when the conservative coalition of the majority Republicans in Congress and southern Democrats were able to trump a number of his vetoes of anti-New Deal legislation.