

SUPPLEMENTAL MATERIALS:

**PRESIDENTIAL CAPITAL AND THE
SUPREME COURT CONFIRMATION
PROCESS**

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**Appendix 1:
Variables Affecting a President's Public
Invocation of Political Resources**

	Minimum	Maximum	Mean	Standard Deviation
Dependent Variable				
Count of Public Statements Invoking Political Resources	0.00	70.00	8.07	13.86
Independent Variables				
Ideological Distance between Nominee and Filibuster Pivot	0.00	0.62	0.36	0.19
Ideological Distance between Court Median and Filibuster Pivot	0.01	0.37	0.14	0.09
Ideological Distance between President and Filibuster Pivot	0.22	0.37	0.30	0.05
Presidential Approval at time of Nomination	0.40	0.79	0.59	0.11
Nominee Qualifications	0.11	1.00	0.77	0.27
Years Remaining in Office For President	0.25	1.00	0.73	0.22
Time (Year of Nomination)	1949	1994	1971	13.87
Natural Log of Time Between Nomination and Senate Action	1.15	2.18	1.71	0.31

Appendix 2: Alternate models for Table 2

This appendix provides alternative models for Table 2. The first model in Table A1 is a Generalized Event Count model with Robert Bork Excluded from the analysis. The second and third models in Table A1 are Negative Binomial Regression models with and without Bork included. Footnote 17 in the manuscript explains why we chose to present the results of the GEC model rather than of the NBREG models.

Table A2 provides the results of the GEC using Bailey/Chang scores for the president, the Senate, the nominee, and the Court. Note that the substantive results for our main ideological variables do not change. The reason we use our measure instead of the Bailey Chang measure is three-fold. First, we lose data points because they do not have comparable scores for the Truman appointees: Clark and Minton. Second, we believe that we run into a problem more serious than the problem we may encounter from comparing ideal points from two different scales – namely the selection bias associated with not including failed nominations in our model. Indeed, Bailey and Chang do not have measures for Haynsworth, Carswell. We are much more comfortable using our measure and ensuring against selection bias.

Third, Bailey and Chang do not derive ideal points for all senators. This means that we may not be able to pinpoint the filibuster pivot, and cannot be sure our measure for the Senate is accurate. The best we could do was use the filibuster pivots based on the DW-Nominate scores and then substitute the Bailey Chang measure for that senator. As such, while it is desirable to have ideal point measures on the same scale for all three institutions, the current form of these measures are yet reliable enough for use in our analysis.

Finally, note that the sign on the presidential approval variable is positive and significant in this model, whereas it is negative and significant in the model presented in the paper. While this change in signs may have happened for several reasons, we believe that is mainly due to the selection bias that comes from not being able to include rejected nominees in the model when we use the Bailey/Chang scores. We are therefore confident in the results presented in Table 2 of the manuscript.

**Table A1:
Alternative Model Specifications
of a President's Public
Invocation of Political Resources**

	GEC (without Bork)		NBREG (with Bork) ^b		NBREG (without Bork) ^c	
	Estimate	SE	Estimate	SE	Estimate	SE
Intercept	-105.46	24.55	-122.29	20.90	-109.11	13.81
Nominee and Filibuster Pivot Distance	1.55	1.36	2.51	0.80	1.70	0.50
Court and Filibuster Pivot Distance	2.32	0.74	2.55	1.19	2.49	0.57
President and Filibuster Pivot Distance	4.35	3.37	4.53	2.58	3.83	1.95
Presidential Approval	0.40	1.13	-1.48	1.68	0.20	0.89
Nominee Qualifications	-0.15	0.49	0.12	0.47	-0.20	0.24
Years Remaining in Office	0.56	0.96	0.78	0.71	0.65	0.45
Time (Year of Nomination)	0.05	0.05	0.06	0.01	0.05	0.01
(ln) Time between Nomination and Vote	1.52	1.08	2.07	0.57	1.46	0.43
gamma estimate ^a	-0.54	2.68				
alpha estimate ^d			0.16	0.07	n/a	
Log-Likelihood	197.41		-63.46		-49.18	
N	27		28		27	

^a A significant gamma indicates that the model is overdispersed.

^b Negative binomial Regression Model

^c Without the Bork nomination in the model, the NBREG model collapses to a Poisson

^d A significant alpha estimate indicates the model is overdispersed.

**Table A2:
Generalized Event Count Regression Model
of a President's Public Invocation of Political Resources
Using the Bailey-Chang (2000)
Ideal Points for the president,
the Senate, and the Court**

Variable	Coefficient (Standard Error)
Ideological Distance between Nominee and Filibuster Pivot	0.16* (0.06)
Ideological Distance between Court Median and Filibuster Pivot	2.35* (0.49)
Ideological Distance between President and Filibuster Pivot	0.07 (0.07)
Presidential Approval at time of Nomination	1.88* (0.56)
Nominee Qualifications	0.46 (0.34)
Years Remaining in Office For President	0.09 (0.41)
Year of Nomination	0.05* (0.01)
Natural Log of Time Between Nomination and Senate Action	1.36* (0.39)
Intercept	-109.94* (0.65)
Gamma Estimate ^a	-0.27 (0.30)
Log-Likelihood	166.68
Number of Cases	23

a. A significant gamma indicates that the model is overdispersed.

* = $p < .10$

**Appendix 3:
Presidential Public Addresses
that Include Statements about Supreme Court Nominees**

<u>President</u>	<u>Nominee</u>	<u>Speech Date</u>
Truman	Clark	July 21, 1949
	Clark	July 24, 1949
	Clark	July 28, 1949
	Clark	August 24, 1949
	Minton	September 15, 1949
Eisenhower	Warren	September 30, 1953
	None	November 23, 1954
	Harlan	February 2, 1955
	Brennan	September 11, 1956
	Brennan	September 27, 1956
Kennedy	Whittaker	February 6, 1957
	White	March 29, 1962
	White	March 30, 1962
	Goldberg	August 29, 1962
Johnson	None	September 20, 1962
	none	July 20, 1965
	Fortas	July 28, 1965
	Marshall	June 13, 1967
	Thornberry/Fortas	June 26, 1968
	Thornberry/Fortas	July 31, 1968
	Thornberry/Fortas	September 6, 1968
	Thornberry/Fortas	October 2, 1968
	Thornberry/Fortas	October 10, 1968
	None	December 17, 1968
Nixon	Thornberry/Fortas	January 17, 1969
	Burger	May 21, 1969
	Burger	May 22, 1969
	Burger	June 23, 1969
	Haynsworth	September 26, 1969
	Haynsworth	October 20, 1969
	Haynsworth	November 21, 1969
	Haynsworth	December 4, 1969
	Carswell	January 19, 1970
	Carswell	January 30, 1970
	Carswell	March 21, 1970
	Carswell	April 1, 1970
	Carswell	April 9, 1970
	Blackmun	April 14, 1970
None	October 24, 1970	
Carswell	October 28, 1970	

	Powell/Rehnquist	September 23, 1971
	Powell/Rehnquist	September 25, 1971
	Powell/Rehnquist	October 12, 1971
	Powell/Rehnquist	October 21, 1971
	Powell/Rehnquist	December 10, 1971
Ford	none	September 21, 1975
	Stevens	November 14, 1975
	Stevens	November 26, 1975
	Stevens	December 31, 1975
	None	March 5, 1976
	None	October 25, 1976
Reagan	O'Connor	July 7, 1981
	O'Connor	September 18, 1981
	O'Connor	September 21, 1981
	O'Connor	October 7, 1981
	None	December 21, 1981
	O'Connor	June 3, 1983
	O'Connor	August 26, 1983
	O'Connor	September 19, 1983
	Scalia/Rehnquist	June 17, 1986
	Scalia/Rehnquist	June 21, 1986
	Scalia/Rehnquist	June 23, 1986
	Scalia/Rehnquist	June 25, 1986
	Scalia/Rehnquist	August 5, 1986
	Scalia/Rehnquist	August 9, 1986
Reagan	Scalia/Rehnquist	September 17, 1986
	Scalia/Rehnquist	September 26, 1986
	Bork	July 1, 1987
	Bork	July 4, 1987
	Bork	July 29, 1987
	Bork	August 12, 1987
	Bork	August 13, 1987
	Bork	August 15, 1987
	Bork	August 28, 1987
	Bork	September 8, 1987
	Bork	September 9, 1987
	Bork	September 11, 1987
	Bork	September 14, 1987
	Bork	September 17, 1987
	Bork	September 19, 1987
	Bork	September 25, 1987
	Bork	September 30, 1987
	Bork	October 1, 1987
	Bork	October 2, 1987
	Bork	October 3, 1987
	Bork	October 6, 1987

	Bork	October 7, 1987
	Bork	October 8, 1987
	Bork	October 9, 1987
	Bork	October 10, 1987
	Bork	October 13, 1987
	Bork	October 14, 1987
	Bork	October 15, 1987
	Bork	October 16, 1987
	Bork	October 22, 1987
	Bork	October 23, 1987
Reagan	Ginsburg	October 29, 1987
	Ginsburg	October 31, 1987
	Ginsburg	November 2, 1987
	Ginsburg	November 6, 1987
	Ginsburg	November 7, 1987
Reagan	Kennedy	November 11, 1987
	Kennedy	November 14, 1987
	Kennedy	November 19, 1987
	Kennedy	November 23, 1987
	Kennedy	November 30, 1987
	Kennedy	December 4, 1987
	Kennedy	December 8, 1987
	Kennedy	January 2, 1988
	Kennedy	January 19, 1988
Reagan	Kennedy	January 27, 1988
	Kennedy	February 3, 1988
	Kennedy	February 11, 1988
	Kennedy	February 18, 1988
	None	December 13, 1988
Bush	Souter	July 23, 1990
	Souter	July 24, 1990
	Souter	July 27, 1990
	Souter	July 30, 1990
	Souter	August 20, 1990
	Souter	September 12, 1990
	Souter	September 14, 1990
	Souter	September 27, 1990
	Souter	October 8, 1990
	Thomas	June 27, 1991
	Thomas	June 28, 1991
Bush	Thomas	July 1, 1991
	Thomas	July 10, 1991
	Thomas	July 24, 1991

<u>President</u>	<u>Nominee</u>	<u>Speech Date</u>	
Bush	Thomas	August 5, 1991	
	Thomas	August 6, 1991	
	Thomas	August 7, 1991	
	Thomas	August 14, 1991	
	Thomas	August 18, 1991	
	Thomas	September 4, 1991	
	Thomas	September 6, 1991	
	Thomas	September 11, 1991	
	Thomas	September 12, 1991	
	Thomas	September 13, 1991	
	Thomas	September 16, 1991	
	Thomas	September 27, 1991	
	Thomas	October 10, 1991	
	Thomas	October 11, 1991	
	Thomas	October 13, 1991	
	Thomas	October 15, 1991	
	Thomas	October 17, 1991	
	Thomas	October 18, 1991	
	Clinton	Ginsburg	June 14, 1993
		Ginsburg	June 15, 1993
Ginsburg		June 16, 1993	
Ginsburg		June 24, 1993	
Ginsburg		July 20, 1993	
Ginsburg		August 3, 1993	
Ginsburg		August 10, 1993	
Ginsburg		October 3, 1993	
Clinton	Breyer	April 6, 1994	
	Breyer	April 12, 1994	
	Breyer	April 19, 1994	
	Breyer	May 5, 1994	
	Breyer	May 12, 1994	
	Breyer	May 13, 1994	
	Breyer	May 16, 1994	
	Breyer	May 17, 1994	
	Breyer	July 29, 1994	

NOTE: “Speech Date” indicates the day on which at least one public comment about the nomination or vacancy was made. Numerous speeches may, in fact, have occurred on that day.

Appendix 4: Outlier Analysis:

Robert Bork had to be excluded from the model in Table 3 of the paper because by any diagnostic measure he is an influential outlier. As Fox (1991) notes, such an outlier “may be a signal that the regression model fails to capture important characteristics of the data.” We conducted three diagnostic measures to make this determination. First, the hat value for the number of statements President Reagan made about Bork is 6.75 times the mean hat value, which is considerably larger than the suggested cutoff of 3 times the mean hat value (Fox 1997, 280). Second, the Cook’s distance measure for this variable is 11.3, which is also considerably above the cutoff value of .71. In fact the Cook’s distance is so large that we cannot estimate a robust regression model with Bork included in the data. Finally, the number of statements made by Reagan about Bork is almost six standard deviations from the mean number of statements made for all other nominees. The bottom line of these diagnostic analyses is that including Bork in this model would drastically move the slope and the intercept for all the other variables in the model. Such an effect is unacceptable, and we are not willing to risk including him in the model.

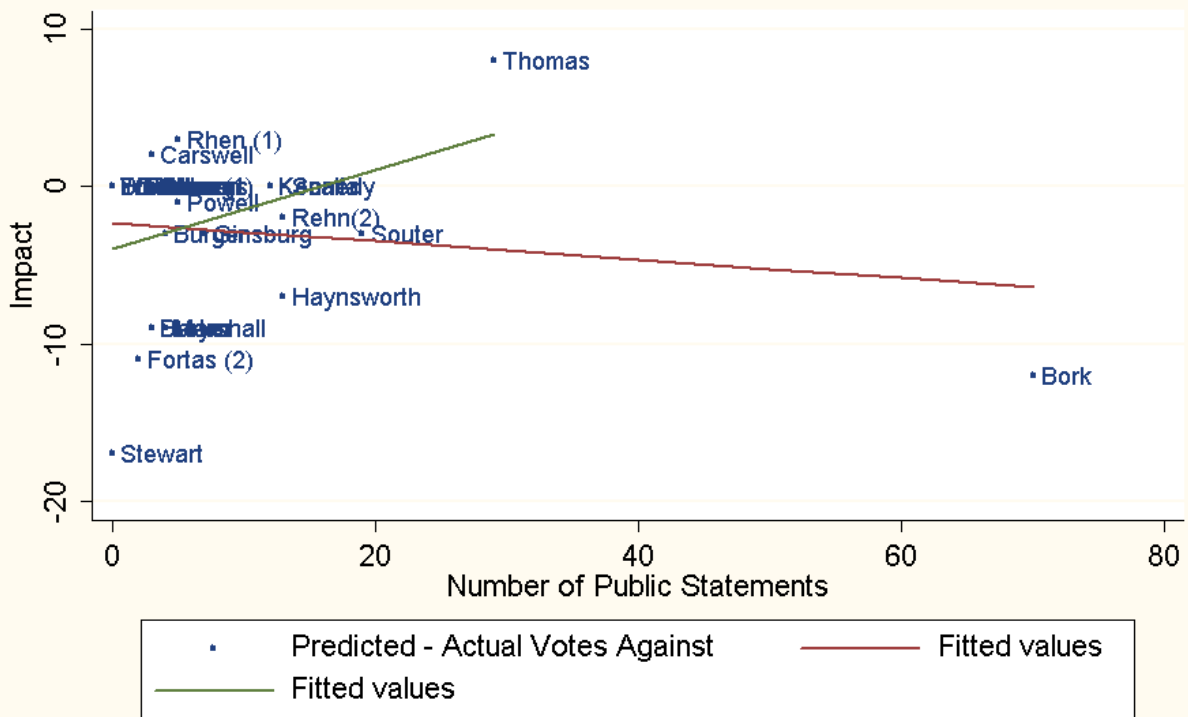
Additionally, we have included a graph on the next page to demonstrate what an extreme outlier Bork really is in this dataset. The graph is a simple scatterplot of our measure of presidential capital exerted (x-axis), and the difference between the actual and predicted number of no votes for each nominee (impact on the y-axis). The downward sloping line is the regression line with Robert Bork included in the model, while the upward sloping line is the regression line with Bork excluded. As the graph indicates, including Bork in the analysis attenuates both the slope and intercept of the line, leading to a reversal in direction of the slope. This is a textbook example of an influential outlier and, as such, we cannot ignore its effect on our model.

We do realize that our theory cannot explain what happened to Robert Bork. However, no theory is perfect, and the fact that we are able to say, with confidence, that 25 of the last 26 Supreme Court nominees have been helped by presidents willing to go public on their behalf is a very important finding both theoretically and substantively. We can think of one possible explanation, however, for our inability to explain the impact of President Reagan’s open support for Bork – his nomination was doomed even before the confirmation process began. As Osterlund (1987) notes, even prior to the judiciary committee hearings, “Twenty-six senators have formally come out against Bork, and a number of those pledge to stall the nomination with a filibuster. At least 40 senators have yet to declare themselves. Yet the momentum is clearly with the opposition, and a large number - possibly the majority - of the officially undecided senators are leaning heavily against Bork.

Certainly we would prefer not to exclude data points, but in this case one data point far exceeds all statistical criteria for an outlier and substantively reverses the sign on a coefficient (Fox 1997, 1991). We still believe our findings are important – given that we have been able to explain that the president is very influential in 25 of the last 26 confirmation processes. Indeed, while our theory may not perfectly conform to every confirmation battle, we clearly have a model that has a high degree of explanatory power.

Outlier Analysis

Robert Bork as an Outlier



**Appendix 5:
Generalized Event Count Regression Model
of a President's Public Invocation of Political Resources
Including a Measure of the Predicted No-Votes (Segal and Spaeth 2002)**

Variable	Coefficient (Standard Error)
Ideological Distance between Nominee and Filibuster Pivot	2.58* (0.25)
Ideological Distance between Court Median and Filibuster Pivot	2.91* (0.26)
Ideological Distance between President and Filibuster Pivot	6.83* (0.27)
Predicted No Votes in the Senate	-0.01 (0.01)
Presidential Approval at time of Nomination	-2.76* (0.26)
Nominee Qualifications	-0.01 (0.61)
Years Remaining in Office For President	0.31 (0.25)
Year of Nomination	0.06* (0.00)
Natural Log of Time Between Nomination and Senate Action	2.63* (0.25)
Intercept	-126.14* (0.27)
Gamma Estimate ^a	0.69* (0.19)
Log-Likelihood	411.18
Number of Cases	26

a. A significant gamma indicates that the model is overdispersed.
* = $p < .10$