

FEDERALISM AND SEPARATION OF POWERS

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INTRODUCTION

FEDERALISM AND THE SEPARATION OF POWERS

Federalism

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- Divides government into two levels

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- National and state

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Separation of powers

- Limits government
- Divides government against itself
- Share powers across branches

FEDERALISM

Federalism system of government that divides power between a central government and regional governments

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Sovereignty supreme and independent political authority

Expressed powers given directly in Constitution

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Implied powers necessary and proper clause

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Implied powers necessary and proper clause

Supremacy clause national laws trump state laws

Reserved powers tenth amendment reserves powers not specified in the Constitution to the states

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Police power power to regulate health, safety, welfare, and morals of citizens

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Concurrent powers power possessed by both the state and national government (e.g. taxation)

- Full faith and credit clause

OBLIGATIONS OF STATES TO EACH OTHER

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 - States must honor other states' laws

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 - No special treatment of residents
- Extradition

EVOLUTION OF FEDERALISM IN THE US

- Up through the 1930s

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- Fundamental government powers shared by national and state governments

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- State governments more important

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- Judiciary dominated by states rights interpretations post Marshall

- FDR elected in 1932

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- FDIC, TVA, SEC, FHA, NLRB, social security, etc

- Post 1930s through 1960s

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- Federal government uses subsidies to encourage states to pursue federal goals

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- Subsidies called grants-in-aid

- Layer cake - marble cake

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- Federal aid to states makes up roughly 30-35% of states budgets

- 1960s to present

REGULATED FEDERALISM

- 1960s to present
- More active federal government

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 - E.g. American with disabilities act
- Unfunded mandates
- Conditional grants, block grants

SEPARATION OF POWERS

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- Baron de Montesquieu

- Separate functions of government to preserve liberty

SEPARATION OF POWERS

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- Legislative

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- Legislative
- Executive

SEPARATION OF POWERS

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- Judicial

Ambition must be made to counteract ambition

- Violates separation of powers

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- National policy represents views of all three branches

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- Each branch may “check” the two others
- National policy represents views of all three branches
- “Separated institutions sharing power”

- Executive

LEGISLATIVE CHECKS

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- Override veto

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- Appropriations

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- Pardons
- Executes decisions

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- Declare executive actions unconstitutional

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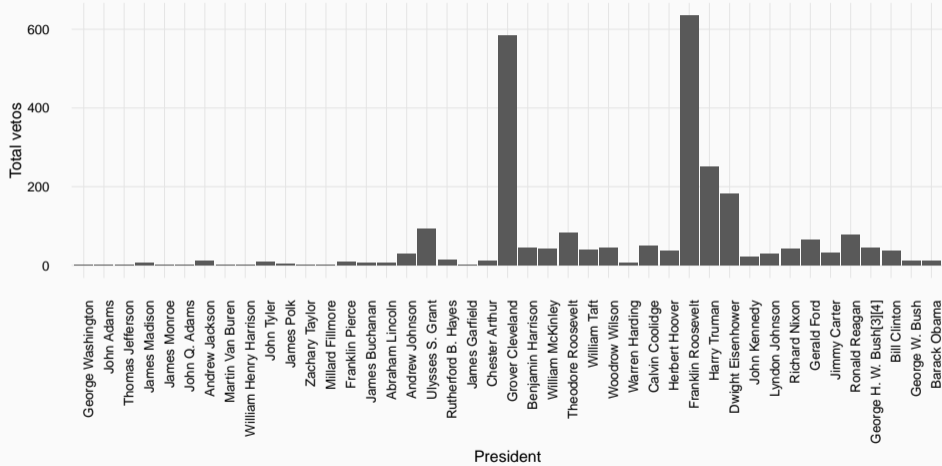
- Declare executive actions unconstitutional
- Issue warrants

- Which president(s) used the veto power most often? What do they have in common?

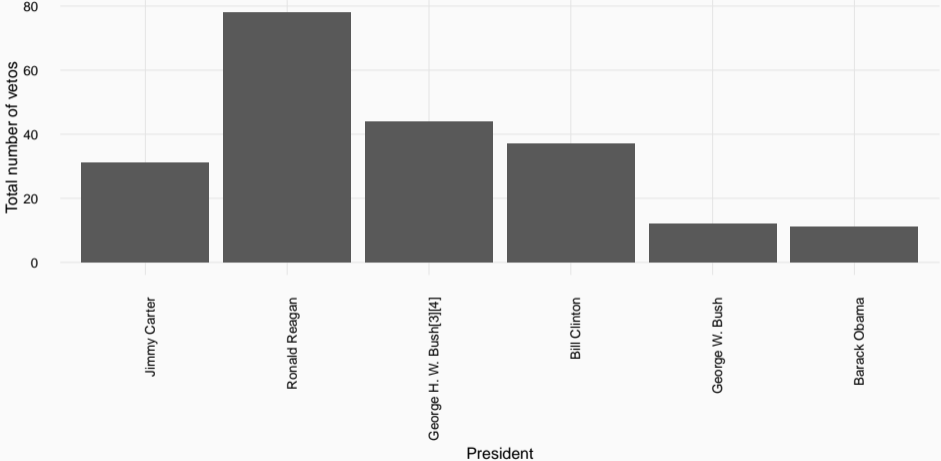
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- Which president(s) used the veto power most often? What do they have in common?
- How about among recent presidents?
- What presidents had their vetos overridden most often? Are they the same as above?

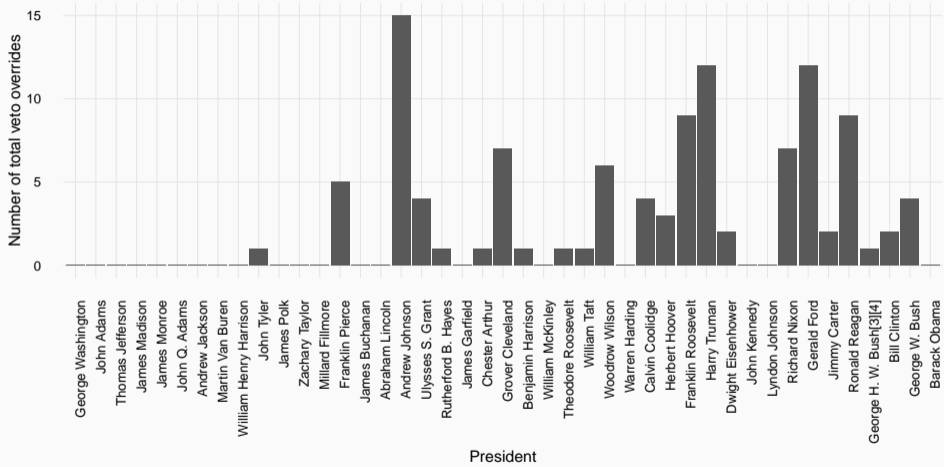
VETOS OVER TIME



RECENT VETOS



VETO OVERRIDES - TOTAL NUMBER



VETO OVERRIDES - PERCENTAGE

