AN EXPLORATION OF THE MICRO-FOUNDATIONS OF CURRENT LEGISLATIVE THEORY

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A Thesis

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Abstract

of

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The micro-foundations of current legislative theory have not been developed to a level that leads to a consensus among the leading scholars in the field. Therefore, current legislative theory is still a developing field. By discussing the past history of this theory, and by parsing out some of the common un-reconciled issues in the theory, we can look at the areas that need to be addressed in future study. This study is an attempt to explore the impact of the exogenous shocks of the September 11th Attacks and the California Recall Election on the politics of California with regards to legislation allowing undocumented workers to apply for and receive a valid driver’s license. This case provides and interesting and wide-ranging set of issues that seem to be causing different interpretations and explanations by the scholars in the field of legislative theory. Thus, by using this case, we can explore how well these various explanations of legislative theory deal with this case, and conclude that before the field of legislative theory can reach a consensus, the issues of preference generation, posturing, symbolic voting, party effects, and salience need to be further addressed.

________________________, Committee Chair

Dr. James Cox

________________________

Date
DEDICATION

To my parents, for encouraging me to pursue a good education

And

To my beautiful wife, for making sure I finished it.
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Chapter 1
INTRODUCTION

Modern legislative theory has led us to differing theories on how legislators respond to uncertainty in the electoral landscape. One general theory argues that legislators respond by moderating their behavior in response to the median voter in their districts. Another argues that legislators respond by seeking refuge with the major interest groups in their parties. These seem to be divergent theories. In the discussion of the case below, I will argue that these theories are not yet fully explanatory, and that the variables of political posturing and how salient the issue is for voters are not fully explored and not fully incorporated into the leading theories. The leading theories have not differentiated between the posturing vote and the strategic vote. More work must been done to differentiate simple, salient issues from complex, abstract issues to move towards a more explanatory legislative theory.

In this paper, I am attempting to advance the field of legislative theory by positing the notion of a good legislative theory and examining how well articulated legislative theories have moved towards the qualities of that good theory. This paper is not an attempt to advance a new idea, but an attempt to examine the micro-foundations of the generally accepted legislative theories to find flaws. The hope is, from those flaws, we can move along towards that good legislative theory.
Political theorists, perhaps, will always be searching for a complete, unified theory of legislative action. The field has yet to agree on the components of such a theory. Yet that should not keep us from arguing about those components. Such research may lead to the foundations of a complete theory. In the meantime, we will have to bicker about the foundations.

All theories of legislative action, at their very core, try to explain the factors that lead to how a legislator votes. The ultimate goal is to explain results. Thus, each theory relies on one or some of these factors to explain how a legislator might vote, or why a legislator voted the way they did. These factors include political parties, individual motivations, interest groups, and institutional motivations, among others. A good theory must be able to lay out the factor or factors that drive legislative action in a way that can be replicated and built upon by future studies and that can be seen in real-world legislative action.

A good theory must also get past explanations of the mundane. A good theory must be able to explain the extraordinary. It must be able to go outside the daily norms of the institution and explain that which does not regularly occur. For the purposes of this paper, a good theory must be able to explain legislative action in light of a shock to the normal legislative process. In addition to the regular legislative process of decision-making, it must be able to explain the irregular.

A good theory on legislative decision-making should be able to explain how legislators deal with situations where the “best” decision is not readily apparent. A
complete theory would incorporate uncertainty, or incorporate contingencies for when legislators confront unusual situations. A complete theory should also explain how an individual derives their preferences, the sources of influence on those preferences, and the way in which the individual acts on those preferences. The purpose of this paper is to examine the quality, or the micro-foundations, of current legislative theories and their ability to explain the extraordinary case of allowing drivers licenses to undocumented workers.

In this paper, I will attempt to determine the quality of the two leading groups of theories by addressing their ability to explain legislative action in times of uncertainty. I have selected a case, the votes on the issue of granting driver’s licenses to undocumented workers in California from 1993-2006, which allows for an analysis of votes that occurred both before and after the major exogenous shock of the California recall election of 2003. Granting driver’s licenses to undocumented workers is a highly salient issue for voters that should demonstrate the timidity, if not outright wavering, many legislators have about dealing with simple, yet controversial, issues. This timidity is even more pronounced in uncertain political times. In this study, we should be able to gauge which theories better explain legislative action and the votes that came about during that tumultuous time in California’s political history.

My contention is not to find out which group of theories better explains the legislators’ actions post-recall, but to examine the micro-foundations of each group of
theories to uncover flaws and re-direct future study to examine these micro-foundations further.
To begin, let us examine the origins of legislative theory and the limitations of past theories of lawmaking. Over the years, the field has grown diverse and in some cases has grown divergent. During this growth, two groups, or camps, have emerged. One, the Party-Based Camp, focuses on the impacts and importance of a loosely defined group of “party effects.” Among these “effects” are political parties, interest groups, fundraising and organizing groups, union and business groups, and other organizations that seemingly have influence over legislators and/or the electoral system. The basic idea driving this camp is that there are groups of like-minded individuals that are influential in policy discussions and elections that drive political decision-making.

The second camp is the District-Based Camp. This camp focuses on the individual’s interaction with his or her electorate. The general assumption is that legislators are individual actors driven by a desire to stay in power. Votes can be predicted based on the individual’s predisposed ideology, though in some instances preferences can be malleable to align with an electorate. In order to win elections, legislators must adhere to the desires of their districts, and are usually on their own when it comes to legislative decision-making.

The first factor discussed by theorists was the political party. The original, yet normative, theory on party governance and legislative action was put forth by E.E.
Schattschneider in 1942 and followed up by the American Political Science Association in 1950 (Krehbiel, 1998). Known as the responsible party theory it assumes that Congress and the President should work together under the banner of a strong, unified party. In addition to being normative, it does not take into account divided government (instances where the legislative and executive branches are governed by different parties) or efforts by the minority to stymie legislative action. This theory was limited, by its own biases and by history. A normative theory of responsible parties simply did not describe American politics.

Aldrich (1995) addresses the normative aspects of responsible party theory by making it more descriptive (Krehbiel, 1998). He removes the normative aspects and tries to create a theory, known as conditional party theory that includes substantial party effects on the legislative process. He states that in order for parties to be strong, there must be homogenous preferences within the party, or the parties must have similar policy goals. Without homogenous preferences within the party, the party members will not delegate substantial power to party leaders. If there are strong, homogenous preferences within the party, then there will be a higher possibility of passing legislation that benefits the majority party (Krehbiel, 1998). The problem with the conditional party theory, however, is that it does not explain what happens when conditions are not met. If there are not strong homogenous preferences within the party, then it is less clear what conditional party theory can explain (Krehbiel, 1998).
While Aldrich may not create a perfect theory of how parties drive legislative action, he does come up with a description of the roles, even minimal, that parties can play. He describes the party as a sort of franchise or banner under which legislators run (Aldrich 1995). The party, then, is a sort of marker that colors the individual, but does not define the final product. As such, the party is not the driving influence, but is a background influence. As a result, the individual is not bound to carry out the will of the party, but is bound to conform to a certain rough mold, and is bound to a certain level of partisanship in order to receive the monetary and organizational benefits of being a party member.

Masket (2007) finds that it is not the party that drives preferences, but those that hold power over the nomination. If outside interest groups control the nomination process, then their influence drives the preference formation of the individual. The individual will need to conform to the will of the interest group or groups that dominate the nomination process in order to win the nomination. This means that the interest groups “shape” preferences by weeding out those individuals who do not conform. So it is not the party leadership, but the interest groups that need to be addressed when looking at preference formation. Such a finding drives the party itself to a more franchise, or branding, role.

As we will see later on, party-based theories clash with other, individual-based theories in the field. Yet it remains clear that many researchers feel that the party influences preferences and it at the very least is a minor, yet significant, contributor to
the ideological and practical capacities of the individual and a minor, yet significant, influence on the individual’s vote. Outside of the constituency the member is representing, and outside of the ideology the member holds, the party can and often does influence the member’s preferences. We can also assume that these theories account for political shocks in the same way they account for every other piece of legislation. It is assumed that the legislator takes into account the party position on every measure, regardless of the uncertainty surrounding the vote.

Some theorists decided to abandon the party as a foundation and moved to study the individual legislator (Mayhew, 1974). They looked at preferences on an individual-by-individual basis. This meant that the political party was abandoned as a jumping off point for legislative scholars. In moving away from party-based theories, we come to more empirical theories on legislative action. Median voter theory, developed by Black (1958), is a simple model in which legislators are aligned on a one-dimensional policy space according to their preferences (which are assumed to be exogenous). On this one-dimensional space it is assumed that if a simple majority were required for the passage of a bill, then the eventual policy would be finessed to match the preferences of the median voter, or the voter that would make a simple majority. If the median voter is conservative, then the final policy that wins passage would match the level of conservatism of the median voter or similarly for a liberal median voter. Black’s theory was then applied to a multidimensional issue space, resulting in various majoritarian chaos theories that explain little about legislative outcomes (Riker, 1980; Krehbiel,
The complexity of these so-called majoritarian chaos theories detracted from their explanatory power (Krehbiel, 1998). By using a multidimensional policy space, the theories aimed to be more realistic with regards to the decision-making process of an individual legislator. But the cost was parsimony, as the theories failed to explain real-world legislative action in a manner that was straightforward. Preference ordering was unique to some pre-described conditions. Any change to the conditions (which themselves are somewhat arbitrary) leads to a change in preferences and a change in outcome. The ease with which these chaos theories could be manipulated detracted from their explanatory power.

These chaos theories led to a group of formal theories called *stability-inducing theories*. These theories assumed that the decision-making process was not entirely chaotic, finding that institutions can remove some of the disequilibrium and induce stability in the process (Shepsle, 1979; Riker, 1980; Shepsle and Weingast, 1981). By seeking to calm the chaos, these theories offered up more explanation than their predecessors on how preferences and institutions interact. But the use of multidimensional spaces leads to less parsimony and a greater debate within the formal theory. Stability-inducing theories became more of a method than a unified field. As such, their explanatory power is greater than past party-based or formal theories, but not great enough to assume the role of a strong, unified, explanatory theory.

From this mix of past theories comes *pivotal politics theory*. Krehbiel (1996, 1998) takes a simple median voter theory with a one-dimensional policy space and adds
the idea that supermajority institutions affect how the legislators act. The members’ preferences are assumed to be predetermined in some way (see Fenno, 1973; Mayhew, 1974; Arnold, 1990). To fulfill the constitutional requirement, a simple-majority must pass a bill in both the House and the Senate then get the President’s signature. But this is the bare minimum requirement. As we notice with real-life legislation, there are several roadblocks that both protect the minority (the filibuster) and enhance the separation of powers (the veto). Instead of the median of the legislature driving policy, the members at the “pivots” or the members in a position to make a bill veto-proof or filibuster-proof become the focus. The policy must then zero in on the ideal preferences of those members at the pivot or else the bill will not overcome the roadblocks.

Pivotal politics theory is an individual-based theory. Like other formal theories, it assumes each individual legislator acts according to some exogenously generated preferences. The theory is very much in the abstract, as it relies on a formal game legislature, and is intended not for the purposes of explaining what drives preference formation, but for how legislators act on their preferences when bound by the rules of the institution within which they work.

Brady and Volden use a similar method as Krehbiel to construct a theory on legislative action. In fact, they claim that the pivotal politics theory of Krehbiel and their own revolving gridlock theory springs from the same research and subsequent paper (Brady and Volden, 2006). Like Krehbiel, their theory is on a one-dimensional
policy space and the alignment of the members on that space is derived from their individual preferences. Brady and Volden note that their theory differs from Krehbiel’s “…with regards to uncertainty, exogenous shocks, and bargaining with the President and Congress over final outcomes” (Brady and Volden, 2006). As such, their theory tries to incorporate a response to the actual machinations of Congress and not the formal game legislature that Krehbiel uses (Brady and Volden, 2006).

Like Krehbiel, Brady and Volden attribute preference-generation to exogenous forces. This means that how legislators form preferences is not included in the theory. They also assume, in a departure from Krehbiel, that exogenous shocks adjust attitudes and can allow for a reformation of policy. Pivotal politics theory is built for a one-game legislature. It is intended to explain the actions of legislators over a single vote. As such, it does not account for vote sequencing, or past votes affecting the present vote. Brady and Volden add the idea that new, major events can cause the individual to adjust attitudes. They outline three such categories of events: the election of new legislators, changes in the preferences of constituents, and shifting policy realizations over time (Brady and Volden, 2006). The temporal aspect of changes in constituent preference or shifting policy realizations is not something Krehbiel’s pivotal politics theory addresses. He assumes that preferences are fixed, and that policy change comes as a result of a change in the composition of the institution. Because revolving gridlock theory does allow for preference shifts, the theory is able to account for some changes
over time, and may be better able to explain some of the uncertainty surrounding legislative decision-making.

Kousser et al. find some evidence that legislative preferences can adjust to major political shocks (Kousser et al., 2007). They show that post-recall Democrats in competitive districts, specifically districts where the recall was popular and the Republican candidates won a majority of the votes, moderated their voting behavior in order to stave off potential electoral defeat. Such a finding lends credence to the concept that preferences are not fixed, but adjustable as the result of a shock. The question remains, however, whether or not adjustments are temporary or permanent.

A major departure for Brady and Volden, as noted above, lies in the area of uncertainty. Krehbiel does not seem to build any into his model. He assumes that the legislators are operating with perfect information. Brady and Volden do not think that legislators act with perfect information and try to account for the uncertainty legislators face when voting on an issue. They note that, “Uncertainty influences policy when legislators face two constraints: complexity and time” (Brady and Volden, 2006). Thus, for complex issues or for votes that come in a hurry, legislators face a greater level of uncertainty and their votes cannot be counted on to fit nicely on a one-dimensional space. Krehbiel’s theory, being more abstract, and because it relies on fixed preferences, does not allow for situations where confusion may alter, adjust, realign, confuse, or otherwise change preferences. Brady and Volden, then, are comfortable saying that, “We claim that the revolving gridlock theory will hold true
generally, even when uncertainty surrounding legislative decisions makes the process more complex.” In other words, though uncertainty can often alter the ease with which legislation can be explained, Brady and Volden feel that even high levels of confusion will not destroy the explanatory power of their theory.

Individual-based theories seem to break down in situations where there are political shocks. Krehbiel assumes preferences are fixed, and that is shown to be untrue both with the later theory of Brady and Volden and with year-over-year voting on many pieces of legislation. Brady and Volden argue their case loses explanatory power during times of uncertainty. As was stated earlier, good theories explain the irregular. Kousser et al. rescue individual-based theories by arguing that during shocks, legislators respond to the median voter. This, at the very least, can be tested.

After a period in which the individual was the sole focus of legislative theories, the pendulum swung back and a new set of party-based theories (or more correctly party-based explanations or arguments) emerged. The reaction of these theories results in the deconstruction of linear, policy-space oriented, individual-based theories and a re-emergence of party-based explanations.

Smith (2000) levels several critiques on Krehbiel’s pivotal politics thesis that center mainly on the limitations it (along with other theses in the field) has in fully explaining legislative outcomes. He critiques Krehbiel’s use of a one-dimensional policy space, the use of preferences (how legislators vote) as opposed to policy predispositions (how legislators generally feel about an issue) in determining the
position a legislator occupies on that policy space, and the role of the pivot (which only occurs on a one-dimensional policy space). In this case parsimony may be colliding with a fuller explanation of the phenomenon, and Smith is calling out not only Krehbiel, but also other theorists that use these sorts of methods to discuss legislative outcomes. Smith does not, however, state that Krehbiel’s theory has no explanatory power, only that it may not have the most and that theorists using multidimensional policy spaces and theorists working with party-based theories better start working on more parsimonious theories to advance the field.

Another, and more thorough, critique of the pivotal politics thesis is that it does not include a notion of powerful or even vaguely powerful parties (Smith, 2000; Sinclair, 2002). Krehbiel’s theory challenges the notion that parties play a major role in legislative outcomes, endorsing the thesis of Cooper and Brady (1981) that, “party-outcomes or party relationships are spurious” (Smith, 2000). This clashes with other theories that state that parties have at least some effect on influencing members’ preferences and in turn legislative outcomes (Cox and McCubbins, 1993; Aldrich, 1995; Sinclair, 2002; Smith 2007). While Krehbiel does not discount the value of parties in influencing members at a pivot, he denies that parties overall make a major contribution to an individual’s adoption of a preference. Sinclair (2002) argues that parties can influence decisions by using the rules of the legislature to their advantage. This may not be of the same stripe as a responsible party theory, but nonetheless shows
a sort of party control. As Smith (2000) notes, as of yet no theorist has come up with convincing evidence for or against strong party influence.

The disregard for the importance of parties, or the lack of a detailed, logical conclusion that parties are irrelevant, brings us to Smith. Smith (2007) is determined to show that the current debate about party effects is on the wrong track. The notion, for Smith and others, that parties are entirely irrelevant is absurd. They, at the very least, have some effect on the determination of preferences (a point Smith gets Krehbiel to admit (Smith, 2007)), on influencing decisions through what, for lack of a better term, amounts to political bribery (earmarks, committee assignments, election support in the form of money, staffing, surrogates, etc), and/or other such day-to-day activities within the legislature. If they are found to have a measurable effect on any of these activities, then parties do, in fact, matter.

Smith (2007) cites various instances of possible party effects, building the case that on circumstantial evidence alone, parties have been found to have an effect. He also attempts to poke holes in Krehbiel’s theory that parties do not have a significant impact on the decision-making of individual legislators. First, he points out that in spatial models like Krehbiel’s, preferences are formed exogenously (outside the theory). It is possible, then, according to Smith, for parties to affect preferences. Rohde describes a possible instance where the party may influence the preference formation of an individual legislator (Rohde, 1991; Smith, 2007). On this point, even Krehbiel admits that parties may play a role in the formation of preferences (Krehbiel,
If parties can play a role in the formation of preferences, then it cannot be said that they have little or no effect on legislative outcomes.

The debate can be brought up to date by looking at two recent studies. Masket (2007) and Kousser et al. (2007) use the shock of the recall election in 2003 to make the case for and against party influence, respectively. Kousser et al. compile a database of NOMINATE scores that show that many Democratic legislators moderated (stopped voting with the party as often) following the recall election in 2003. With the broad base of data, Kousser et al. revive individual-based theories by demonstrating that they do have a response for what happens post-shock. They make the case that legislators abandon party interests for the interests of the median voter in their district. Such a finding demonstrates that legislators do not seek shelter with their party in times of uncertainty, but with voters. By demonstrating this movement to the median voter, Kousser et al. break down party-based theories. They attempt to show that if parties are not a major contributor to preference-generating or preference-ordering in times of panic, then they probably are not much of a factor when the system is operating in normal times.

Masket’s argument runs counter to Kousser et al. by saying the arguments in favor of party-effects too often seek those effects from political parties and not from the interest groups that drive those political parties. True, the Democratic Party may not have an effect on a legislator’s vote, but perhaps an interest group aligned with the Democratic Party (unions, minorities, urban groups, certain women’s groups, etc) does
have an effect. If so, then the legislator is being driven by a party, just not an organized political party.

Masket shows that legislators would prefer to be the free agents Mayhew describes, but are bound by the rules guiding nominations. By using the period of cross-filing in California politics, Masket shows that the individual legislator is bound by nomination process and the parties that control it. While the legislators may wish to be free of this constraint, they are nonetheless tied to the wishing of the interest groups controlling the nomination process.

The purpose of this paper will be to explore some of the flaws each of the two studies. We can use each of these studies as examples from each camp. As a result, we can analyze the flaws in the micro-foundations of each camp.
Chapter 3

RESPONDING TO EXOGENOUS SHOCKS: THE CALIFORNIA RECALL

To date, there is still disagreement over which factors should be included in a good legislative theory. What we do know is that there is a strong individual component that cannot be overlooked, and that there is some sort of party-ish motivation at play as well. What we can do moving forward is look at the conditions under which legislators react. From that, we can start to discuss the elements of a good theory based on the legislators’ reactions to the events presented in this case.

This paper will look into how legislators react to an uncertain political environment. Do they moderate preferences and votes or do they seek refuge with the major players in their respective parties? And what are the variables that need to be explored further?

This paper will attempt to address the explanatory power of two leading groups of theories of legislative action that occurs in times of uncertainty by looking at two representative cases, one from each camp. It will attempt to flesh out some of the flaws in the current leading theories, specifically with issues involving how well the theories incorporate the role of policy complexity into their explanations.

Representing the District-Based Camp, Kousser et al. make the argument that after the shock of the recall, the legislators responded by moderating their preferences (Kousser, 2007). The recall, it is argued, showed the legislators that they need to be
mindful of the median voter in their district, and they responded by becoming less partisan and more moderate. If this is true, we should see legislators changing their preferences on the issue immediately after the recall and the driver’s license issue becoming less popular. We should see some Democrats moderate and respond to the median voter in their district on this issue by voting against the driver’s license issue.

For the Party-Based Camp, Masket makes the argument that it is not necessarily the party that determines how legislators vote, but the major interest groups within the party (Masket, 2007). If the issue is salient to a large interest group in the party, it is expected to be salient to the members of the party. When confronted with a choice between the median voter in the district and the interest group responsible for winning a primary or a general election, the legislator will choose the interest group. If Masket is correct, we should see little to no moderation by the Democrats on issues important to these interest groups immediately following the recall. We should see them respond to the party, or the major interest groups within the party, and continue to vote in favor of the driver’s license bill.

In order to test theories that deal with shocks and uncertainty, we must find a case in which an issue comes up for a vote both before and after a political shock. We must find a case in which we can see how legislators alter (or do not alter) their voting patterns. And if we are looking at how salience plays a role, we must find a case that is easy for voters to wrap their heads around. The California recall provides us with a legitimate shock (Kousser et al., 2007; Makset, 2007) with a salient policy enduring
that shock. We can take an issue like the driver’s license issue and compare pre-recall votes with post-recall votes to see if legislators move towards the median voter (as Kousser et al. argue) or towards some other group (as Masket argues).

The case I have chosen is a good case to test because it has a long history and is an easy, salient issue for the voters to wrap their heads around. Thanks to Senator Gil Cedillo, we have evidence of a bill in this form coming up for a vote over the course of seven years. We can see how two different governors (Davis and Schwarzenegger) deal with the issue, as well as how the legislators deal with the institutional changes that come from having a new governor. Moreover, we can see how legislators react to two major political shocks: the September 11th attacks and the recall of Governor Davis. Since this issue is highly salient and easy to comprehend for the voting public, and since it is an important issue to a key Democratic constituency, we get different predictions from these two views.

The major variable that appears to be overlooked by both camps appears to be the salience of the issue to the voters. Is the issue obscure and complex, like workman’s compensation reform was to many voters, or is the issue simple, like gay marriage? Does the complexity of the policy matter when it comes to mapping legislative behavior? The Kousser et al. study, in using NOMINATE scores, does not break down votes issue-by-issue based on how salient the issue is. Neither does the Masket study.
If we were to incorporate complexity into a meta-theory derived from the two studies mentioned above, we could get an explanation with two different paths based on the salience of the issue. One would assume, at first blush, that if they did score complexity in their theories, that in situations of uncertainty legislators would act differently based partly on how salient the issue is to voters. One would reasonably expect the legislator to follow Kousser et al. and move to the median voter when the issue is highly salient to the voter. And one would reasonably expect the legislator to follow Masket and follow the major interest groups when the issue is complex and somewhat obscure to the voters. They would moderate on the simple issues and hunker down on the complex ones. It would be reasonable to assume that the legislators would take a different path based on how well the issue is understood by voters, and that the path would lead the legislator to the least scary electoral outcome.

That is not how legislators react in this case, however. They seem to go the opposite way. On this highly salient issue, whether or not undocumented workers deserve driver’s licenses, the legislators do not moderate and move to the median voter. Instead, they hunker down with the major interest group. I will explore this phenomenon more in the analysis and conclusion, but it is important to note up front as it gives us a lead into exploring salience as an unexplored variable in legislative reactions to uncertainty.

The other variable I will explore is what I will call the differentiation between a posturing vote and a strategic vote. From the literature review, we can see that
institutional constraints can play a role in how a legislator votes (Krehbiel, 1998; Brady and Volden, 2006). Do these constraints lead to positions that are purely political and not based upon actual preferences? Do legislators act one way under certain political situations, only to switch behavior based on a new political reality? And do the leading theories account for this differing behavior? In the case to follow, the legislators will go from a position where they are safe to posture, to a position where their true preferences must be demonstrated. Do the theories account for this difference?

This study cannot be definitive given that we are only looking at one case, however the case is unique an important enough that it can provide insight into how legislators behave during times of uncertainty. We can look at how the legislators responded to the shocks of the September 11th attacks and the recall, and how they eventually came down on the issue of driver’s licenses for undocumented workers. The evidence we can glean from a case like this might shed some light on legislative behavior and preferences by showing us how they respond to crises. Such tendencies might be incorporated into future theories. This case presents us with a unique chance to see how legislators react to shocks. It also provides us a chance to see if they come down on the side of the party, or if they moderate their votes. It also might lead to more study into the relevance of salient versus complex issues concerning legislative reactions and the role of posturing in voting. Such contributions will be valuable to future theories on legislative action.
The driver’s license issue is a simple subject for both the legislators and the voters. The complexity of this issue is low and the pressure from both the right and the left is high. Either way the legislator comes down in the end, he or she is certain to see a thirty-second advertisement complaining about the vote. It also has that “all-in” quality in that the vote comes immediately after the recall. It is the first major test of the Democratic Party post-recall. In this environment, this becomes a good test to see if the Democratic legislators follow Kousser et al. and the District-Based Camp and back off this obviously unpopular issue (Field Poll, 2003), or if they stay loyal to the major interest group backing the measure, as Masket and the Party-Based Camp says. In short, this case allows us to see how well uncertainty, salience, and posturing have been included in the leading legislative theories.
Chapter 4

CASE HISTORY

The driver’s license issue began in 1993, when Senate Bill 976 changed the requirements for earning a driver’s license. Prior to SB 976, a person only needed to pass the required driving exams to receive a license. SB 976, noting that the driver’s license had become a major form of official identification, and backed by some of the anti-immigration zeal of the time (Proposition 187, an attempt to deny social services to undocumented workers, was gathering signatures at the time and would appear on the ballot in 1994), required that the applicants for a license show a Social Security Number and proof of legal residence.

This change forced a large part of the population (estimates of the undocumented population are in the millions) either off the road or into a situation where they were driving illegally. Some on the left, and some in the Latino community, began to question this side-effect, and whether or not this was good public policy (Cedillo, 1998).

The debate in the legislature over who qualifies for a driver’s license gets back on the agenda in the late 1990s. A new Assemblyman, Gil Cedillo, brings forth a bill, AB 1954, that will overturn SB 976 and allow undocumented workers the chance to earn a California driver’s license. The initial bill dies in committee.
At this point, it is important to note that the legislators are viewing this issue through several lenses. Granting driver’s licenses to undocumented workers can be seen as, in no particular order: a public safety issue, a human rights issue, a security risk, good politics (for Democrats), a wedge issue (for Republicans), or even an economic issue. Republicans will line up behind the security risk lens, as well as attempt to use the Democrats’ support as a wedge in the next campaign. Democrats will attempt to balance the good intra-party politics and the rights and safety issues, while at the same time hedging against the potential electoral losses that may come from supporting the overall bill. This hedge provides an opportunity to see whether some sorts of party effects, as outlined by Masket, have an effect on the legislators. Kousser et al. expect plenty of hedging, in the form of lost support for Cedillo’s bill, especially after the recall in 2003. The Party-Based view would predict legislators stick with their major constituencies, in this case the Latino community who supported Cedillo’s bill.

It is important to remember that we are comparing just two of the leading theories. When we look at how the legislators react, it is simple to see if they are following Kousser et al. If they do, they will change votes and drop the issue. For legislators to be following Masket, it is more complex. Legislators can do two things to follow Masket: they can vote in favor of the issue because they want it to become policy, or they can vote in favor of the issue because they want to look like they support it. The latter is the posturing effect we are looking at. In a short study like this, it is
hard to determine which legislator is doing which. What we do need to remember is that any vote in favor of Cedillo’s bills is a demonstration of the legislator following Masket, regardless of whether or not they actually want the issue to become law.

Cedillo came from a safe Democratic district in Los Angeles where well over half of the district’s population was Latino (UCLA Health policy, 2009). Because he was in such a safe position electorally, he felt unafraid of bringing forth potentially controversial, or unpopular, bills (CSUS interview, 2008). Eventually, he got a bill to come up for a full vote, and it passed both houses. Assembly Bill 1463 would have expanded the number of people that can qualify for a license and allow people that had applied for, but had not yet received, citizenship to gain access to a license. AB 1463 passed both houses (46-23 in the Assembly; 21-9 in the Senate) but was vetoed by Governor Davis, who cited concerns over fraud and implications for national security in his veto message (Davis, 2000).

The issue clearly had momentum at this point, and became a major policy effort by the Democratic Party. The Democrats had slowly become more in tune to Latino issues as the party consistently became more diverse (DeSipio, 1994; Citrin and Campbell, 1997; DeSipio, 2005; Barreto and Ramirez, 2005). The Latino population in California had grown tremendously over the past few decades. As it had grown, Latino influence in politics, and the need to seek out the votes of Latinos, had grown as well. Since the Republican Party in the state had aligned itself with anti-immigration policies (Prop 187, among others), Latinos in the state have migrated to the Democratic Party to
cast their lot. Recently, the Latino bloc had become a major bloc, if not the major bloc, in the Democratic Party. Several Latino politicians held major legislative positions, including the Speakership. The effects of Latino voters will be discussed in more detail later in the paper, but it cannot be understated how important this group had become to the Democratic Party.

Because of the multiple lenses, there was a split with the Democratic Party between the proponents of good public policy and the proponents of good politics. The hard-chargers like Cedillo, and many in the Latino caucus, preferred pursuing the issue on policy grounds. Due to their strong electoral standing, they had the luxury of playing down some of the potential electoral backlash. Those in the leadership, whose job it was to look into politics, and those in swing districts, who were more likely to hedge against electoral losses, preferred a more cautionary approach. There will be more on this split in the party and the possible alternative motives in the analysis portion. For now, in light of the events that actually occurred, we have to assume the leadership recognized some benefit from letting the bill get out of both committee and the entire legislature. Thus the two halves of the party were not working against each other yet. I recognize that making the assumption that the passage of the bill represents the will and wishes of the leadership, or even the party, may be a false assumption. For this part of the story, I have to assume that since the leadership did not actively kill the bill, they, at the very minimum, want the issue for intra-caucus reasons. This is the
dichotomy I discussed earlier. We do not know the true motivations of the leadership, only that they saw some benefit in letting the issue proceed.

It is also important to note that at this time in the process, most of the hedging is being done by Governor Davis. As a statewide office holder and leader of the party, it was his job to worry about the politics. At this point in the story, Davis can offer that hedge. It will be a different story when the Governor himself tried to use the issue in the recall campaign. For the time being, the executive position and the legislative position differ on their opinions of the driver’s license issue. The fact that the governor was against the issue creates a situation in which Democrats can posture and vote in favor of an issue they know will not become law. They can get the benefits from looking like they are in favor of the bill, without the downside of having to defend an unpopular law, or having to face down a worse outcome in the form of an initiative.

It is at this time we come to the first political shock. The September 11th attacks changed the context in which this issue is being dealt with, leading to a reformation of preferences among the legislators, most strongly among the Republicans. No longer was the issue an economic justice issue or good public policy with regards to drivers’ safety. It was now a security issue, as several of the hijackers of that day had legally gained driver’s license to board their planes.

As expected, the Republican support for the driver’s license issue dried up following the September 11th attacks. The last time a Republican voted for any of Cedillo’s driver’s license bills is SB 804 in 2002. After that vote, there were straight
party-line Republican votes against all of Cedillo’s attempts to allow undocumented workers the ability to gain a driver’s license.

The shock of the September 11th attacks did not halt the momentum of the issue, however. It kept coming up for a vote in both houses, and it kept being sent to the governor for his signature. Initially in late 2001, Cedillo withdrew a version of the bill that, in view of the recent attacks, lacked the security measures Governor Davis would have preferred (San Diego Union Tribune, October 5, 2001). But that was not the end of the process.

Cedillo tried again in 2002 with SB 60 and a trailer bill, SB 804, which attempted to incorporate the concerns over security and fraud by adding more stringent requirements regarding an applicant’s status with the United States Immigration and Naturalization Service, and by adding background checks, proof of work, and valid proof of identity (AP Online, October 1, 2002). Yet these bills did not, in the mind of Governor Davis, address his underlying concerns on the issue and on the bills. In a long veto message, he detailed his remaining concerns, which centered again on the two bills’ weaknesses with regard to fraud (Davis, 2002).

At this point in the story, the shock of the September 11th attacks had created uniform Republican resistance to the effort. The Democrats, however, did not put the issue to rest. The hard-chargers like Cedillo still wanted the issue to become law and continued to modify the legislation to try to win over votes. At the same time, the Democratic Party leadership was still comfortable with the issue being on the agenda,
which would seem to support Masket’s view that interest groups and informal organizations within the party have a lot of influence on legislative parties.

Our second political shock came with the recall election in the fall of 2003. During this term, Cedillo introduced a version of the driver’s license bill for a third time, again entitled SB 60. Again, the bill attempted to address the concerns over security and fraud by requiring more stringent forms of identification to be used to show proof of identity, as well as a different color scheme (Los Angeles Times, September 6, 2003). This time, the issue gained the support of another major Democratic constituency, unions (Sacramento Bee, June 5, 2003). Unions, many of whom boasted large numbers of Latinos and undocumented workers, viewed the issue as a worker’s justice issue. Thus, many of them decided to support Cedillo’s efforts. The legislation had gone, over time, from a Latino issue, to a Democratic issue. The Democratic Party, presumably with the consent of the leadership, had become the party driving this issue.

Again, the bill passed the legislature, but this time, and in a possible last minute attempt to win over some Latino votes to stave off a recall, Governor Davis signed it (Sacramento Bee, July 29, 2003; Bowler and Cain, 2006). It is not clear whether all Democrats were enthralled with this development. Many probably voted in favor of it in the past, but only with the expectation that Davis would provide political cover with a veto. However, other Democrats, like those in the Cedillo camp, were comfortable with Davis’ actions. It is at this time we enter the uncertainty phase of the process,
especially for the Democrats. The institutional change had put an end to the era of posturing for Latino support.

At this point, the Democratic Party broke down in confusion. There were four possible outcomes the leadership was weighing at this point: the bill dies in committee, the bill fails on a vote, the bill passes but is vetoed, or the bill becomes law. From past events, the leadership seems to be comfortable with at least the first two outcomes. They have let the bill pass the past two years. Even if they made these votes knowing the legislation would be vetoed, the leadership has taken the gamble that it may become law. And they have done it more than once. If the leadership is afraid that the passage of the bill will hurt the image of the party and hence their electoral chances in the next election, they do not seem to worry about the risks of sending a bill to the governor. In fact, the leadership seems willing to take on the issue in the press (Oakland Tribune, November 19, 2003; Oakland Tribune, November 20, 2003), risking any potential electoral ramifications. The fact that a member of the leadership would be so open in defiant support of the issue speaks volumes as to how supportive of the issue a significant segment of the Democratic leadership had become of the issue. It also showed how much the party feared the electoral ramifications of supporting the issue. They did not fear them. Before the recall, it is probably safe to assume that the leadership is comfortable with the driver’s license issue being part of the Democratic brand, either on policy grounds or as the result of the large Latino influence exerted on the party (Citrin and Campbell, 1997; DeSipio 2005; Barreto and Ramirez, 2005).
After Davis signed it, however, the party had to come to grips with the issue on strategic grounds. Having Davis as a hedge allowed many in the party, including the leadership, to posture as if they were in favor of the issue. They could vote for the legislation, but be covered politically by Davis’ veto. It allowed them to follow Masket without having to cast a hard vote. Now, they had to cast that hard vote. If they cast it in favor of Cedillo’s bill, they will continue on with Masket. If they go against it, even just this once, it will revive the theory of Kousser et al. and open up the posturing variable for further discussion.

Unfortunately for Governor Davis, his signing of the bill was not a political boon in his campaign to avoid being recalled (Bowler and Cain, 2006). The concept of allowing undocumented workers the right to acquire a driver’s license was not a popular concept, as California voters disapproved of the attempt to grant them by a margin of 54% to 39% (Field Poll, Sept. 2003), nor was it viewed by Latino voters as the “only” reason to support Davis in his anti-recall effort (DeSipio and Masonka, 2006). Davis’ Latino support did not spike as a result of his signing of the bill. His signing of the bill, as an extension, just added fuel to the fire by sparking outrage on the right. Anti-immigration leaders, some of the same leaders that led the efforts for Proposition 187 in the 1990s, began organizing new initiatives aimed at driver’s licenses (Sacramento Bee, October 10, 2004). The confluence of these factors resulted in Davis’ removal from office (Bowler and Cain, 2006). When the dust settled from the recall, Republican Arnold Schwarzenegger was governor, Republicans in general were
invigorated, and Democrats were confused as to the full realignment of the political landscape.

In the wake of his ascension to the governorship of California, Arnold Schwarzenegger threatened to pass, via initiative if need be, a sweeping platform of reform and a repeal of certain legislation that was not very popular. The legislature, unsure of the new governor’s power, acquiesced on some measures, notably the raise in vehicle registration fees. They also agreed to repeal SB 60. Cedillo, citing the new governor’s concerns over the bill, and in a possible, calculated political move to avoid a rebuke from the voters via initiative, agreed to repeal the bill in order to work out a compromise bill with Governor Schwarzenegger (AP, November 25, 2003; Knight Ridder, December 1, 2003; AP December 4, 2003). Shortly after he was sworn in as governor, Schwarzenegger signed the repeal of SB 60.

The popularity of the recall itself, coupled with the overwhelming win by Arnold Schwarzenegger in most of the districts (more on this in Table 1 below), put the legislators on notice. The new governor was popular (Field Poll, January 15, 2004; Field Poll, February 24, 2004), and he was threatening to repeal legislation he did not like, through the initiative if need be. The driver’s license legislation was not popular outside the Democratic Party, as witnessed by the lack of a single Republican vote after 2002 and through polling data (Field Poll, Sept. 2003). In this climate, the leaders of the legislature decided to repeal their own law and revisit the issue on the new governor’s terms. So the vast majority of the legislature (33-0 in the Senate, 64-9 in the...
Assembly) chose to repeal the law (Oakland Tribune, November 25, 2003). However, this is the only hint of moderation we will see by the bulk of the Democratic Party.

Senator Cedillo and Governor Schwarzenegger agreed to repeal SB 60 and return to the issue in due time. Cedillo, thinking there was a deal to be made, agreed and helped lead the repeal in the legislature (Sacramento Bee, November 3, 2003). Schwarzenegger’s issues with the legislation were similar to reservations Governor Davis harbored in his past veto messages (Davis, 2002). They centered on the impact for criminal wrongdoing and fraud (Sacramento Bee, September 23, 2004; Sacramento Bee, May 14, 2005). Schwarzenegger argued that the legislature should pause on its own version of the bill and wait for forthcoming federal legislation dealing with identification, known as the REAL ID Act, as well as any recommendations coming from the federal investigation of the September 11th attacks (Sacramento Bee, July 29, 2004).

Cedillo and the leadership, however, would not be so patient. One month after the recall election, Cedillo and Schwarzenegger began negotiations on a new driver’s license bill (Sacramento Bee, December 1, 2003). When negotiations over that bill failed, Cedillo tried to pass SB 1160, a similar measure to the newly repealed SB 60. It did not gain traction and faltered in committee. The issue looked settled (and Kousser et al. seem to be correct) until the Assembly Speaker, Fabian Nunez, revived and repackaged SB 1160 into AB 2895. It passed through both houses. In an act of desperation, Cedillo tried to convince the Lieutenant Governor Cruz Bustamante to sign
the bill while Governor Schwarzenegger was out of the state, a right the Lieutenant Governor holds (Sacramento Bee, September 1, 2004). Bustamante did not sign AB 2895, and Governor Schwarzenegger vetoed it upon his return to the state (Sacramento Bee, September 23, 2004). Another attempt, SB 60#2, was also vetoed by the Governor.

It is clear at this point that the Democrats were posturing when the institutional constraints were right and moderating when they were not. Every time they had a roadblock in front of them, like a recalcitrant Davis, an invigorated Schwarzenegger, or even the flimsy absentee governor situation, the Democrats were in favor of the issue. The one time they had the issue as law, when Davis signed it, they moderated and cooperated in a repeal to avoid a worse outcome. There is clearly a difference, at this point, between posturing and strategic voting that has not been incorporated into either of the theories discussed in this paper.

At this point, the motives of the leadership became clear. They wanted the issue, not the law. If we can assume from past votes that the leadership was comfortable with the bill becoming law, it is difficult to explain why they immediately repealed the law. The three explanations for this would be that: the leadership was being strategic on policy grounds, the leadership was protecting the image of the Democratic Party within the party itself (as per Masket), or the leadership was protecting the image of the party with regards to the entire voting public (as per Kousser, et al.). For sake of clarity, we will call the first argument the policy
explanation, the second the intra-party image explanation, and the third the general election explanation. We cannot fully determine, yet, whether or not the policy explanation is correct because we do not know what would happen if the institutional constraints were different i.e. the popularity of the driver’s license issue increases or a liberal governor takes over for Schwarzenegger. That situation has not happened and we do not have that piece of history. We can, however, dismiss the general election explanation as the weakest of the three.

First, if the leadership was afraid of this issue as a potential rallying point for the Republicans that would force major electoral losses, then they would have avoided the numerous votes they had taken on this issue over the past several years. The legislature had passed the bill twice before Davis signed it. The issue was already there for the attacking. The idea that the votes cast by the Democrats would only be used against, or would only be effective, after the bill became law does not mesh with the reality of a thirty-second advertisement. There was a record already, and the Democrats showed no fear of that record.

Also, and probably more pertinent, if the leadership was so concerned about losing votes, they probably would not have tried to ram the bill through after the repeal. By publicly wishing for passage of a newly repealed bill, and even going to the extreme of circumventing the governor to do it, the leadership of the Democratic Party clearly does not care about appealing to the general electorate, which has rejected the issue. The party seems to care more about the law or the issue.
We can look into half of the policy explanation. The idea that the leadership was acting strategically to get to a better policy end holds better as an explanation for the motivations of the leadership. First, the recall election modeled an initiative election and produced a popular new governor. The fear that the governor could go back to the population that just elected him to write new laws was a legitimate fear (Gerston and Christensen, 2004). Second, the fact that the sponsor of the law, Gil Cedillo, was on board makes a strategic analysis seem like the more plausible explanation. As stated before, Cedillo had no worries about political consequences. His major worry was about policy. He also thought he had a deal with the incoming governor. If Cedillo had complained about the repeal, and voted against it as some in his party did, then the general election explanation holds more sway. The fact that he led the charge for the repeal demonstrates some sort of strategic policy thinking outside of the general election. At this point, it is fairly safe to assume that the strategic, policy-based motivations help explain where the leadership was on this issue at this time than the general election motivations.

The other consideration that needs to be made with regards to the repeal vote is the intra-party image consideration. This is where the Democrats seem to score points by going after the issue. As the Democratic Party became more diverse, those constituent wants and needs became more prevalent in policy and political discussions. The Democratic Party, by this point, has to look out for how Latinos view the party, and has to look like it is responding to Latino voters. Latino-centered politics was the
driving factor for the leadership, and it cannot be dismissed as an ulterior motive. As we will see in the analysis of votes, potentially symbolic votes intended to give a legislator bona fides when it comes to Latino issues consist of a lot of the variance from the straight party line. In reality, the motivations of the leadership were a combination of the policy explanation and the intra-party image explanation offered here.

If the general election explanation were to be correct, then we would assume that once repealed, the Democrats would stay away from the issue. The fact that they do not tells us policy or intra-party image was probably the concern. Again, they had several options. Option 1, they stop trying to pass legislation. Option 2, they try to pass legislation, regardless of politics. Or Option 3, they seek to maximize the political benefits of being in favor of the legislation while minimizing the possibility that they end up with a worse outcome.

Obviously, they do not go with Option 1. The votes on the issue post-recall demonstrate they did seek to, at a minimum, bring the issue back up again for a vote. This leaves the Democrats to choose from Option 2 or Option 3. Some Democrats would continue to try to make the issue law. Others would balk at actually making the issue law, but would continue their support for it at all other stages of the process in order to gain the benefits of looking like they are supporting the issue. Due to the temporal aspects of lawmaking (Loomis, 1994) and the institutional constraints of the veto pivot (Krehbiel, 1998; Brady and Volden, 2006), the Democrats could not turn the issue into law as long as the Republican Schwarzenegger was in office. But, as we will
see in the analysis, this would not keep them from trying, or looking like they were trying.
Before we get too far into an analysis of votes, some housekeeping is in order. First, since I do not believe the calculus of voting changes with regard to the legislative house the members serves in, I do not distinguish between a Senator and an Assemblyman on any of the charts listed below. The legislators are designated by party or by intra-party caucus, but not by house served in. The lists of legislators I include combine the two houses. Also, both Masket and Kousser et al.’s studies (as well as most of the studies of the two camps) rely on individual legislator votes, not group votes. While party is a factor in the Party-Based camp, the interaction that is being studied is not how the party behaves over time, but how individuals interact within the party. As such, it is important that we limit most of our discussion to legislators that had the chance to experience the driver’s license issue pre- and post-shock. Therefore, any discussion of individual legislators will be limited to the population of legislators that voted pre- and post-recall.

It is also important to know the chronological order of the bills, as this study focuses on attitudes over time. There are three bills pre-recall, the repeal vote, and two bills post-recall in our sample. The chronological order of the bills is: AB 1463, AB 60, SB 60, the repeal, AB 2895, and SB 60 #2.

The purpose of this endeavor is to use a complicated and politically perilous
circumstance, in this case the California recall election, as a tool to see the "true"
intentions and/or behaviors of legislators. The idea is that these perilous situations
force the legislators to react at their cores, giving us, the researchers, a clue as to their
"true" motivations. From these "true" motivations, we can develop simple models that
describe legislative behavior. Two of these general models have been discussed in this
paper. The purpose from here forward is to analyze the flaws in these theories, and to
propose new areas of research to cover or otherwise address these flaws. I will do this
in two subsections. Subsection one will put the legislators into relevant groups and
look at what those groupings show us about our camps. Subsection two will look at the
whole series of votes and what the timeline tells us about our two camps.

Before discussing the pros and cons of each model, the facts must be laid out. First,
it becomes apparent at first look that the Republican Party is strongly and
uniformly opposed to the driver's license issue. As such, this analysis portion of this
study will only deal with the Democratic Party and its legislators, as they are the ones
displaying a tendency to alter positions.

Second, since we are looking at the same issue over a long-term, and since we
are looking at how legislators react to changing political circumstances, we need to
know the legislators that are in the most trouble electorally (the ones in close districts)
and the ones that changed votes over time. I have composed a list of Democratic
legislators that faced potentially challenging elections based on the results of the recall
election. I have made two assumptions: that Democrats would react to a combined
Republican win in their district (a scenario in which the Republicans candidates Schwarzenegger and McClintock combined to get more votes than the Democrat Bustamante), and that Democrats would react to the recall passing in their district. Combined, this list makes my list of “Endangered Democrats.” The list of these "Endangered Democrats" can be found below in Table 1: Endangered Democrats.

Table 1: Endangered Democrats

<table>
<thead>
<tr>
<th>Member</th>
<th>House</th>
<th>Recall Difference in District*</th>
<th>Republican Win in District**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parra</td>
<td>Assembly</td>
<td>31.8</td>
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</tr>
<tr>
<td>Dunn</td>
<td>Senate</td>
<td>28.2</td>
<td>Yes</td>
</tr>
<tr>
<td>Ducheny</td>
<td>Senate</td>
<td>22.4</td>
<td>Yes</td>
</tr>
<tr>
<td>Negrete-McLeod</td>
<td>Assembly</td>
<td>21.0</td>
<td>Yes</td>
</tr>
<tr>
<td>Florez</td>
<td>Senate</td>
<td>20.1</td>
<td>Yes</td>
</tr>
<tr>
<td>Bermudez</td>
<td>Assembly</td>
<td>17.6</td>
<td>Yes</td>
</tr>
<tr>
<td>Correa</td>
<td>Assembly</td>
<td>17.0</td>
<td>Yes</td>
</tr>
<tr>
<td>Matthews</td>
<td>Assembly</td>
<td>16.7</td>
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</tr>
<tr>
<td>Reyes</td>
<td>Assembly</td>
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</tr>
<tr>
<td>Lowenthal</td>
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</tr>
<tr>
<td>Levine</td>
<td>Assembly</td>
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</tr>
<tr>
<td>Alpert</td>
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<td>11.2</td>
<td>Yes</td>
</tr>
<tr>
<td>Karnette</td>
<td>Senate</td>
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</tr>
<tr>
<td>Longville</td>
<td>Assembly</td>
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</tr>
<tr>
<td>Machado</td>
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<td>Bowen</td>
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<td>Scott</td>
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<td>Chu</td>
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<td>Salinas</td>
<td>Assembly</td>
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<tr>
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<td>Chamber</td>
<td>Margin</td>
<td>Vote</td>
</tr>
<tr>
<td>------------</td>
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<td>--------</td>
<td>------</td>
</tr>
<tr>
<td>Romero</td>
<td>Senate</td>
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<td>Berg</td>
<td>Assembly</td>
<td>-7.8</td>
<td>Yes</td>
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<tr>
<td>Torlakson</td>
<td>Senate</td>
<td>-9.8</td>
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<tr>
<td>Kuehl</td>
<td>Senate</td>
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<td>Assembly</td>
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<td>Steinberg</td>
<td>Assembly</td>
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<td>Canciamilla</td>
<td>Assembly</td>
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<td>Yes</td>
</tr>
<tr>
<td>Chesbro</td>
<td>Senate</td>
<td>-14.0</td>
<td>Yes</td>
</tr>
<tr>
<td>Dutra</td>
<td>Assembly</td>
<td>-15.8</td>
<td>Yes</td>
</tr>
<tr>
<td>Wiggins</td>
<td>Senate</td>
<td>-16.9</td>
<td>Yes</td>
</tr>
<tr>
<td>Laird</td>
<td>Assembly</td>
<td>-18.4</td>
<td>Yes</td>
</tr>
<tr>
<td>Vincent</td>
<td>Senate</td>
<td>-19.0</td>
<td>Yes</td>
</tr>
<tr>
<td>Figueroa</td>
<td>Senate</td>
<td>-19.1</td>
<td>Yes</td>
</tr>
<tr>
<td>Lieber</td>
<td>Assembly</td>
<td>-20.9</td>
<td>Yes</td>
</tr>
<tr>
<td>Simitian</td>
<td>Assembly</td>
<td>-21.8</td>
<td>Yes</td>
</tr>
<tr>
<td>Vasconcellos</td>
<td>Senate</td>
<td>-23.1</td>
<td>Yes</td>
</tr>
<tr>
<td>Sher</td>
<td>Senate</td>
<td>-23.4</td>
<td>Yes</td>
</tr>
<tr>
<td>Mullin</td>
<td>Assembly</td>
<td>-25.0</td>
<td>Yes</td>
</tr>
<tr>
<td>Koretz</td>
<td>Assembly</td>
<td>-28.1</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*This is recorded as “yes” votes on the recall minus “no” votes.
**This means the combined total vote for Schwarzenegger and McClintock was greater than the vote for Bustamante.

Since all the legislators in Table 1 saw the Republicans win in their districts, we can use the recall vote to rank them from most vulnerable to least vulnerable. From Table 1, we would assume the members atop the list would be the most likely to switch votes, while the members at the bottom would be less likely.

Third, we need to group the legislators by type. We can do this in two ways. The first is to group them by vote pattern. Three groups emerge from the data when we do it this way. The first group is the Party-Line Group. It is composed of the majority of legislators in our sample. These legislators displayed the pattern of voting in favor of the issue AND voting for the repeal. The second group, call them the Switchers, is composed of legislators that strayed from the party-line vote and had cast votes both in favor of AND opposed to the driver’s license issue. The third group is the Proponents.
This group voted in favor of the issue AND voted against the repeal. It should be noted that there is a one-man group of Democrats opposed to the issue altogether in the form of Senator Canciamilla, whom I have put in the switchers column. These groups are displayed in Table 2.

**Table 2: Categories of Democrats**

<table>
<thead>
<tr>
<th>Switchers</th>
<th>Party-Line</th>
<th>Proponents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canciamilla</td>
<td>Alpert</td>
<td>Laird</td>
</tr>
<tr>
<td></td>
<td>Berg</td>
<td>Leno</td>
</tr>
<tr>
<td>Karnette</td>
<td>Bermudez</td>
<td>Levine</td>
</tr>
<tr>
<td>Machado</td>
<td>Bowen</td>
<td>Liu</td>
</tr>
<tr>
<td>Matthews</td>
<td>Burton</td>
<td>Lowenthal</td>
</tr>
<tr>
<td></td>
<td>Calderon</td>
<td>Migden</td>
</tr>
<tr>
<td></td>
<td>Cedillo</td>
<td>Murray</td>
</tr>
<tr>
<td></td>
<td>Chavez</td>
<td>Nakano</td>
</tr>
<tr>
<td></td>
<td>Chesbro</td>
<td>Nation</td>
</tr>
<tr>
<td></td>
<td>Cohn</td>
<td>Nunez</td>
</tr>
<tr>
<td></td>
<td>Corbett</td>
<td>Oroteza</td>
</tr>
<tr>
<td></td>
<td>Ducheny</td>
<td>Parra</td>
</tr>
<tr>
<td></td>
<td>Dunn</td>
<td>Pavley</td>
</tr>
<tr>
<td></td>
<td>Dutra</td>
<td>Perata</td>
</tr>
<tr>
<td></td>
<td>Escutia</td>
<td>Reyes</td>
</tr>
<tr>
<td></td>
<td>Firebaugh</td>
<td>Ridley-Thomas</td>
</tr>
<tr>
<td></td>
<td>Frommer</td>
<td>Scott</td>
</tr>
<tr>
<td></td>
<td>Jackson</td>
<td>Simitian</td>
</tr>
<tr>
<td></td>
<td>Jerome Horton</td>
<td>Speier</td>
</tr>
<tr>
<td></td>
<td>Kehoe</td>
<td>Steinberg</td>
</tr>
<tr>
<td></td>
<td>Koretz</td>
<td>Torlaksen</td>
</tr>
<tr>
<td></td>
<td>Kuehl</td>
<td>Vasconcellos</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vincent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wesson</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wiggins</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
This grouping shows us that the bulk of the Democratic Party either supported the party-line of voting for the repeal, or bucked the party and voted against the repeal. Very few members voted against the legislation outside of the repeal. If we add the recall difference (“yes” votes in favor of the recall minus “no” votes against it), the table tells us more about the status of each legislator with regards to electoral “danger.”

Table 3: Recall Difference

<table>
<thead>
<tr>
<th>Switchers</th>
<th>Recall Difference</th>
<th>Party-Line</th>
<th>Recall Difference</th>
<th>Proponents</th>
<th>Recall Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matthe ws</td>
<td>16.7</td>
<td>Parra</td>
<td>31.8</td>
<td>Negrete-McLeod</td>
<td>21.0</td>
</tr>
<tr>
<td>Karnette</td>
<td>10.0</td>
<td>Dunn</td>
<td>28.2</td>
<td>Florez</td>
<td>20.1</td>
</tr>
<tr>
<td>Machado</td>
<td>9.1</td>
<td>Ducheny</td>
<td>22.4</td>
<td>Correa</td>
<td>17.0</td>
</tr>
<tr>
<td>Wolk</td>
<td>3.7</td>
<td>Bermudez</td>
<td>17.6</td>
<td>Longville</td>
<td>9.7</td>
</tr>
<tr>
<td>Canciamilla</td>
<td>-13.9</td>
<td>Reyes</td>
<td>14.8</td>
<td>Ortiz</td>
<td>9.1</td>
</tr>
<tr>
<td>Lowenthal</td>
<td>13.9</td>
<td>Alarcon</td>
<td>1.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Levine</td>
<td>12.2</td>
<td>Romero</td>
<td>-1.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alpert</td>
<td>11.2</td>
<td>Chu</td>
<td>-1.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chavez</td>
<td>9.0</td>
<td>Salinas</td>
<td>-3.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nakano</td>
<td>8.5</td>
<td>Figueroa</td>
<td>-19.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kehoe</td>
<td>7.9</td>
<td>Lieber</td>
<td>-20.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calderon</td>
<td>4.1</td>
<td>Mullin</td>
<td>-25.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jackson</td>
<td>3.6</td>
<td>Chan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Frommer</td>
<td>2.3</td>
<td>Diaz</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oropeza</td>
<td>0.6</td>
<td>Dymally</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Escutia</td>
<td>-0.1</td>
<td>Goldberg</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liu</td>
<td>-0.9</td>
<td>Hancock</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bowen</td>
<td>-1.2</td>
<td>Montanez</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scott</td>
<td>-1.4</td>
<td>Soto</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pavley</td>
<td>-3.7</td>
<td>Vargas</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Berg</td>
<td>-7.8</td>
<td>Yee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Torlakson</td>
<td>-9.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kuehl</td>
<td>-10.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cohn</td>
<td>-10.2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steinberg</td>
<td>-10.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
This representation causes me to believe that this issue has more driving it than policy preferences. The most “endangered” Democrat, Nicole Parra, votes with the party on these bills, while four lesser “endangered” Democrats switch votes. And there are three Democrats in the Proponents column that saw the recall win with a larger percentage in their district than it did in the districts of the four Switchers. Finally, you have Canciamilla voting against the issue throughout, even though he is not as electorally imperiled as several members who chose other paths.

We can look at the some statistics for the legislators in each of these groups, as well. To do this, we narrow the parameters of the groups by citing specific legislation. The Switcher group becomes legislators that voted against SB 60. The Party-Line vote
becomes legislators that voted for SB 60 and the repeal. And the Proponents group becomes legislators that voted for SB 60 and against the repeal. We can use these scores to highlight both the good and the bad of our models. These results are found in Table 4.

Table 4: Percent for Assembly Democratic Legislators Voting for and Against SB60 and Its Repeal.

<table>
<thead>
<tr>
<th></th>
<th>Voted Against SB 60 (Switchers)</th>
<th>Voted for Repeal and for SB60 (Party Line)</th>
<th>Voted Against Repeal and for SB 60 (Proponents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DW Nominate Scores</td>
<td>-.593</td>
<td>-.698</td>
<td>-.778**</td>
</tr>
<tr>
<td>Percent Latino in District</td>
<td>.365</td>
<td>.372</td>
<td>.402</td>
</tr>
<tr>
<td>Percent for Recall</td>
<td>.512</td>
<td>.450</td>
<td>.379*</td>
</tr>
<tr>
<td>N</td>
<td>5</td>
<td>31</td>
<td>12</td>
</tr>
</tbody>
</table>

*probability that mean1-mean2 =0 <.1
**probability that mean1-mean2 =0 <.05

Table 4 lists averages across the three groups of DW Nominate Scores, the percentage of Latinos in the district, and the percentage voting for the recall. I am only looking at the Assembly here because DW Nominate scores are only available for this house. The DW Nominate scores were calculated by Masket (from personal website, 2010).

These statistics show us that the legislators that switched were more conservative and had a lower percentage of Latinos in their districts than the other groups. And the legislators in the Proponents group are more liberal and the recall percentage in their districts was much lower. These were the only two categories that were statistically significant. Although only a couple of these categories are
statistically significant, the sample is small. We can see some clear patterns emerging, though.

First, we can see that as the Latino population goes up, so does the tendency to support the legislation. The same goes for the legislators’ voting preference as scored by DW-NOMINATE scores. Again, the same pattern is apparent with the Recall scores as well. Those legislators that saw a higher recall vote seemed more likely to switch than those that saw a low score. At first blush, these statistics seem to give evidence to the District-Based Camp. Based on these three measures, we can see that legislators in non-favorable driver’s license bill districts switch and legislators in favorable driver’s license bill districts support.

These numbers do not tell causation, however. We do not know if the Switchers are moderating or moderate. And we do not know the effects of the Latino vote on preference-generation. We can only see that legislators with certain statistics switch votes, and legislators with different statistics continue to support.

The second way to group the data is to put together some groupings that show the non-uniform behavior, or the non-party line behavior, of some of the legislators. These lists will help us flesh out what factors are driving non-compliance. I have compiled a list of Democratic “outliers,” or legislators that voted “No” on any Cedillo-sponsored bill. These legislators can be found in Table 5: Democratic Outliers, below.
Table 5: Democratic Outliers

<table>
<thead>
<tr>
<th>Democrats Voting &quot;No&quot; Before the Recall</th>
<th>Democrats Voting &quot;No&quot; After the Recall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canciamilla</td>
<td>Canciamilla</td>
</tr>
<tr>
<td></td>
<td>Machado</td>
</tr>
<tr>
<td></td>
<td>Matthews</td>
</tr>
<tr>
<td></td>
<td>Wolk</td>
</tr>
</tbody>
</table>

Table 5 shows us that there are not a lot of legislators voting against the issue, and that there are only three who actually changed votes. If we are looking for moderation from these legislators, then the expected pattern would be a pattern of “yes” votes on the driver’s license issue before the recall, followed by a pattern of “no” votes after the recall. The idea being the shock of the recall would force some sort of moderation in the voting of the legislators, switching their previous “yes” votes into “no” votes.

That is not what happens, however. Only a handful of votes on this issue stand out as being outside the norm for each party. By the time of the recall, the Republicans are in complete unity on the issue. There are no Republican votes in favor of any Cedillo-sponsored driver’s license bills after 2002. At first glance, the Democrats, though not as uniform, are remarkably similar in their voting pre-recall and post-recall, as well. The vast majority of the party continuously votes in favor of these Cedillo-sponsored bills. Because of this near party-line unity, there are only a handful of switchers. This tells us that, for some reason, moderation is not the pathway most legislators chose.
The left side of the table above, Table 5: Democratic Outliers, shows any Democrat that voted against a Cedillo-sponsored driver’s license bill at any time before the recall. These would be the outliers, as most of the Democratic Party members supported these bills. Note that only one Democrat deviates from the party on these pre-recall votes. The right side of the table shows every Democrat that voted against a driver’s license bill after the recall. Again, note the small number of deviating votes. The population of legislators voting against their party on this issue is very small, demonstrating that there are homogenous preferences within both parties. Couple this with the limited amount of vote switching and we can see that there is not a large willingness to abandon core party preferences for electoral security, at least not on this issue.

What about those legislators in the Proponents group from Table 2? What was the electoral situation in their districts? Below is Table 6: Outlier Reactions to Repeal. In compiling the NOMINATE scores used above, all these legislators were classified as “No” votes on the repeal (as if they were in favor of Cedillo’s bill and against the repeal of it). The italicized names are legislators that appear on Table 1: Endangered Democrats.

Table 6: Outlier Reactions to Repeal

<table>
<thead>
<tr>
<th>“No” on Repeal</th>
<th>Abstained on Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chen</td>
<td></td>
</tr>
<tr>
<td>Alarcon</td>
<td></td>
</tr>
<tr>
<td>Dymally</td>
<td>Chu</td>
</tr>
<tr>
<td>Goldberg</td>
<td>Diaz</td>
</tr>
</tbody>
</table>
Hancock  Figueroa
Longville  Florez
Montanez  Lieber
Vargas  Mullin
Yee  Negrete-McLeod

*Italicized legislators are legislators from Table 1: Endangered Democrats*

It is striking to see so many so-called “Endangered Democrats” voted against, or did not vote for, the repeal of this issue. These are legislators that should be worried about future elections, but they do not feel the need to moderate their positions on this issue. For that reason, they are very interesting.

We can look at how the parties voted on the issue over time by looking at Appendix 1, which includes all the votes on each of the bills. That will show us that the Republicans stopped supporting the issue in 2001-2002, and that, other than the outliers from Table 5, most Democrats supported the issue over the whole time period. Appendix 2 will show us those legislators in our overall sample, the ones that had a chance to vote on the issue before and after the recall. That list shows us much of the same thing, that Democrats are mostly in favor, and Republicans uniformly against. Table 5 shows us the extent to the moderation, where three Democrats switch their position and vote against the driver’s license bill post-recall. It should be no surprise, then, that there are a few Switchers in Table 2, and a whole lot of Proponents and Party-Line voters.
A couple of things jump out at first blush when we look the whole series of votes. First, there seems to be a difference between a strategic vote and a posturing vote that neither of the theories has nailed down. Why, for instance, do the Democrats repeal a law in one situation, yet support the same law in others? Each theory would assume uniform support or opposition based on the issue. However, neither theory accounts for the different climates that votes occur in based on institutional constraints, timing, or salience. They just assume that Democrats should vote Democratic all the time. As we can see from the case, there were certain climates where the Democrats felt comfortable voting for the driver’s license issue, and there were some climates where they were not. Some of the votes were posturing, and some of the votes were to avoid worse outcomes. The distinction between these two climates is not included in either of the camp’s theories.

Second, the role of salience is not fully explored. If the legislators are posturing in once instance, but repealing in another, what effect does public opinion have in each circumstance? Masket does a decent job of incorporating the salience of an issue by saying that each legislator differentiates among interest groups. Hence, each legislator is reacting to the level of salience based on the interest group that is associated with the issue. There is no distinction made, however, for the voting public at large. The legislator is expected to react to the interest group in different ways based on salience, but is not expected to react to the voters in different ways based on the salience of the issue. This does not seem to follow even cursory looks into legislative behavior by
untrained eyes.

In using NOMINATE scores, the Kousser et al. study make no distinction between highly salient issues and more obscure or complex issues. (For that matter, it makes no distinction between strategic and posturing votes, either). Therefore, if salience does play a role in legislative behavior, the Kousser et al. study has lost it in the data. The level of salience seems to be driving the level of posturing, yet neither is fully explored.

For the purposes of this paper, it is not vital that we determine whether policy or intra-party image (posturing) is the driving factor of the Democratic legislators. Masket says that, in light of a shock, legislators will respond by attaching themselves to the important power brokers within the party, the ones that control the primaries. Democrats can do this by seeking to grant undocumented workers the right to a driver’s license, or they can do this by giving themselves the image of the Latino advocate. In other words, Democrats can respond to the major interest groups by going with (from above) Option 2 (pass the issue) or Option 3 (posture). What they cannot do is follow Option 1 (abandon the issue), which is why the party went forward with the legislation, post-recall. The fact that we do not know who chooses Option 2 or 3, or the fact that we do not know why or what causes a legislator to choose Option 2 or 3, tells us that the theories are missing something.

As we will see in the analysis of the votes, the vast majority of the Democratic Party opts for either Option 2 (policy) or Option 3 (posturing). Only two legislators
follow Kousser et al. and respond to the median voter in their district, which would be demonstrated by a pursuit of Option 1 and a vote switch on the issue. The rest of the Democratic Party become policy advocates or cast themselves in that image.
Chapter 6

CASES FOR CORREA AND WOLK

The little data we can gather shows that there were not a lot of legislators changing votes on the driver’s license issue. While we cannot determine the impact of timing or political climate, the potential impact of posturing, or whether or not there are strong party effects, we can look into how legislators facing close elections or re-elections act on this issue. As discussed above, there may be a flaw many of the studies of California politics in that they look past the impact of gerrymandered districts and the prevalence of “safe” elections. So let us look at some of the reactions by legislators that faced close elections.

Assemblyman/Senator Correa presents an interesting case. He is a Latino serving in a relatively safe Assembly district in what is normally conservative Orange County. He won his first Assembly election in 1998 with 54% of the vote, and won subsequent elections in 2000 and 2002 with 63% and 65% respectively (California Secretary of State). Soon after, however, he decided to seek election to two offices that were much more conservative. Since he is entering into more difficult political terrain, we can see how he reacts to the different climate and get some circumstantial evidence as to which of the camps seem to be more accurate.

During the opening of the driver’s license issue, Correa represented the 69th Assembly District in what is traditionally conservative Orange County. The district,
however, was 79% Latino in a county with only 34% Latino population (UCLA Health Policy; US Census Bureau). Here we have the potential effects of gerrymandering. Not surprisingly, he voted in favor of Senator Cedillo’s bills.

What is surprising is his insistence on supporting those bills, even as he moves on to different, more politically treacherous office. After serving three terms in the Assembly, Correa decided to run for the Orange County Board of Supervisors. The seat was much more competitive, yet he won with 54% of the vote (OC Board of Elections). In winning, he became the first Democrat to serve on the Board since 1987 (Orange County Register, January 24, 2006). In moving on to this seemingly more conservative seat, Correa did not switch or denounce his support of Senator Cedillo’s bills. In fact, he continued his support for the broader immigration issue by voting against a plan to have sheriff’s deputies check the immigration status of people they pulled over for other violations (Orange County Register, October 18, 2006) and by marching in May Day parades for immigrant rights (Orange County Register, October 18, 2006; November 7, 2006). In moving to a more conservative electorate, we do not see a vote shift from Correa.

In 2006, Correa announced he would run for the state Senate (Orange County Register, January 24, 2006). Before the general election, he would face off against another Democrat, Assemblyman Tom Umberg, in a primary (Orange County Register, January 24, 2006; May 23, 2006). The two were formidable candidates that represented the wide range of views within the Democratic Party. Umberg was more
conservative on taxes and social issues, and did not support Senator Cedillo’s bills (Orange County Register, May 23, 2006). Correa, no liberal on taxes himself (Orange County Register, October 25, 2010), was not in favor of gay marriage, ran with the support of business over labor, and had relatively little with regards to scandal or “dirty laundry” (Orange County Register, May 23, 2006). Umberg also had the support of much of the Democratic establishment, in the form of major labor endorsements and the endorsements of several prominent Democrats (Orange County Register, May 23, 2008). A quotation from the Orange County Register sums up their respective stances on immigration, “Overall, Correa is the stronger advocate for rights for illegal immigrants. Umberg has consistently opposed licenses for illegal immigrants, while Correa has consistently favored them, citing a need to insure and regulate all drivers (May 23. 2006).” Correa would go on to win the primary with 59.8% of the vote.

He is singled out in the Kousser et al. study as one of the legislators to demonstrate the most moderation, as per their definition (Kousser et al., 2007). On this issue, however, he seems to be a pretty standard Democrat. He votes for SB 60 before the recall, supports the repeal, and supports AB 2895, just like the majority of his party. If he is demonstrating so much moderation elsewhere that he is singled out in the Kousser et al. study, why is he going against the positions Kousser et al. would expect from him on this issue?

The first and most obvious is that he was seeking higher office. In 2004, he ran for and won a seat on the Orange County Board of Supervisors. As of 2009, he was in
the state Senate (Orange County Register, November 8, 2006). As the party-based camp would state, he needs the support of the most relevant interest groups that will help him make those jumps. In this case, the jump from County Supervisor to state Senate would require the support of Latinos, which made up 54% of his district (UCLA Health Policy Center). If this is the case, then Masket and the party-based camp seem to be correct. Correa, in his move to higher office, is not looking for broad, general election appeal but support from the groups necessary for winning a primary and moving into higher office.

The Latino influence is difficult to overlook. Though the district he ran in became more conservative (65% win in 2002 in the Assembly district, 50.6% win in 2006 in the Senate district), it remained majority Latino (79% in the Assembly district, 54% in the Senate district). Even though he ran a primary against the establishment’s choice, he won handily. In this respect, he is not straying from the Democratic, or Latino, line in order to win their support in upcoming elections.

The second possible reason, and the most germane to this case study, is that Correa is seeking refuge from the uncertain political storms by voting with the major interest groups in his party, in this case Latinos and liberals. He is looking to the major power brokers in his party and not to the general electorate. If this is the case, then we have more evidence in support of the party-based camp.

It is only one case, but it is one of the few where the legislator is moving into a more difficult climate (65% in the Assembly to 50.6% in the Senate). We would expect
to see more moderation in that case. On this issue, however, nothing changes. According to the NOMINATE scores in the Kousser et al. study, Correa did change some votes. But that leads us to ask yet again, why not this vote?

Lois Wolk, another legislator facing close elections, voted for SB 60 before the recall, voted for the repeal of SB 60, and voted “no” on AB 2895. She is a lead candidate for a switcher, along the lines of Machado and Matthews. Then, on the final vote counted in this study, SB 60 #2, she switched positions and votes “yes.” This runs counter to the notion that legislators would moderate by trending towards the center, or towards a vote against an issue like the driver’s license issue.

What was Lois Wolk facing, electorally, at the times of these votes? First, she was looking to move from the Assembly to the Senate (she was elected to the Senate in 2008). The seat she was looking to move into was the Fifth Senate District, held by former Senator Michael Machado. Machado is one of our Endangered Democrats who moderated, as per the District-Based camp, by switching his votes on the Cedillo bills. He also faced 4 of the 21 close elections of the past decade, making him by far the most battle-tested Democrat in the legislature. So it follows that Wolk, seeing the potential legislative minefield ahead of her, matched her voting record with that of Senator Machado. Yet, as her own election came closer, she moved away from that “safe” position and switched positions. Was this a district-based move or a party-based move?

On the party-base side, it seems as though she has decided that her electoral fate is in the hands of the Democratic Party and not in the hands of the median voter. But
then why the past votes? On the district-based side, she voted with her district in order to win. But then why the switch? Again, it seems that each camp can stake a claim to explaining this case. The problem is, it is only half a stake each time. Her case shows, again, that there are flaws to the micro-foundations of each camp’s theses. She may also show how the effects of posturing are not fully taken into account.
Chapter 7

CONCLUSION

After viewing the circumstances surrounding this case, we can come to the conclusion that the various theories of legislative action have yet to encompass the vast complexity of actual legislative action. Legislative action, as it occurs in real time, has more subtly, nuance, and complexity than current theories take into account. As such, there is more for the field to look into, incorporate, and refine with regards to legislative decision-making.

While I am not creating or presenting any new theories, I would like to point out a few observations made in this study and their implications for future theories. The first regards legislator preferences. As we have seen throughout this case, the preferences assumed by each theory have not matched, or do not explain entirely, the action taken by the legislators. It is often assumed that the legislator has one or a few factors driving his or her decision-making process, when in reality those factors seem to be numerous and sensitive to other factors like salience, time, intra-party reputation, and general political gamesmanship. These highly complex preferences have yet to be incorporated into the major legislative theories.

From this case, we see that the most vulnerable legislators, as measured by electoral threat in the form of the recall vote in their districts, do in fact moderate their voting. But it is only among the most vulnerable. The slightly vulnerable do not alter
their voting pattern. And some of those that could be considered vulnerable actually signed on to be the most vocal proponents of the legislation. As such, electoral vulnerability is not necessarily the automatic trigger to moderation. There is a level of electoral vulnerability to be achieved. We need to explore that level and its effects on how legislators moderate.

This case showed us that there is a role for posturing and symbolic voting in a complete legislative theory. In some instances, legislators in this case appeared to be voting for the sake of pleasing an intra-party interest group and not for the policy, which they probably hoped would not become law. In other instances, we saw the legislators throw caution to the wind and vote in favor of an issue that may cost them their jobs. This posturing was best demonstrated by a significant amount of votes for the driver’s license bills in situations where a veto was certain, and the vote-switching that ensued during the repeal vote after the politics had changed. Legislators seemed to be posturing on some votes and reacting to policy or overall party strategy on others. We need to understand the circumstances surrounding these posturing votes and incorporate them into future theories.

This case showed us there is an interplay between the political party’s desire to protect its reputation with the general public and the political party’s desire to achieve a policy outcome. Some legislators, like the ones in leadership roles, react to legislation in ways that differ from the reactions of the policy-driven legislators. For the most part, the policy-driven legislators have to convince the politically-driven legislators that the
policy would help win elections. The circumstances surrounding this divide are easy to understand for the Speaker or the author of the bill in question, but become less defined with regards to a general legislator that is in neither position. The factors surrounding the preferences of the uninvolved legislators have yet to be fully defined.

This case also showed us that the salience of the issue plays a role in how legislators react. Issues that are highly salient to the voting public are treated differently by the legislators that issues that are less salient. Salience also plays a role in how legislators react to certain intra-party groups, in this case Latinos. Before legislative theory can move forward, there needs to be a better explanation of the role salience plays in legislative decision-making.

We are confronted with a case that demonstrates that both the Party-Based camp and the District-Based camp are sometimes right and sometimes wrong. That tells us that the micro-foundations of general legislative theory need to be reinforced before we can move towards that “good” legislative theory.

What conclusions can we draw from this story? First, there is the issue with the electoral climate. Neither camp sets up their theories with a relevant explanation of the current political climate with regards to salience, electoral safety, or general political mood. As a result, we get a case where one of the theories seems to be correct, until the other one takes over. On an issue that seems to be fairly simple and ripe for causing a permanent change in preferences, we do not see moderation by a majority of the legislators. That is, except after the issue had become law. Then we see a complete
reversal of votes and major moderation. The legislators seem, when the chips are
down, to drastically moderate their preferences. In all other instances, and under all
other situations, the legislators seem to stick with the party. This shows a weakness in
the micro-foundations of both major camps. It appears that behavior differs based on
situations that are not adequately explained by the current theories.

Two other factors emerge that are not discussed by the two camps. One is that
there is little explanation for effect of a low probability for close elections. The effect
of gerrymandering and "safe" seats is not fully explored. Does a legislator take a
different approach, all else being equal, to a vote when she resides in an even district
than when she resides in a safe one? If so, what is the difference? From 2000 to 2008,
there were only twenty-one elections where the Democrat won with under 55% of the
vote, out of a total of 600 elections. That is a rate of 3.5%. So the legislators are facing
very low probabilities of losing an election. The effect of this safety on how a
legislator interacts with his or her district is not explored by the two camps. This has
major implications for the District-Based camp.

The second factor is the lack of distinction between the district and the
legislator. It is highly likely that a legislator is more or less conservative than the
district as a whole. As the issue moves to the forefront of the general public's
understanding of the political world, the positions the public takes on the issue change.
So a vote in favor of the driver's license issue in 2002 may have been an unpopular
vote, but a vote in favor of the issue in 2006 may have been less unpopular. For
legislators like Canciamilla, who voted against the Cedillo bills, there may be the issue where the legislator is more conservative than the district. This mangles the explanations coming from the District-Based camp, especially.

Why did the NOMINATE scores in the Kousser et al. study show a one-direction moderation by many “Endangered Democrats” while the evidence from this single issue did not? Perhaps the problem in using NOMINATE scores is that those scores aggregate all votes and do not single-out any one issue. It is possible that the legislators moderated when the votes are aggregated, but issue-by-issue NOMINATE scores do not help explain the outcome. Case in point, the Kousser et al. study points out that the, “…moderates in these competitive districts…moved especially far to the right after the recall” (Kousser et al., 2007). Of the four moderates they name in their study, three (Canciamilla, Matthews, and Correa) show up in our eligible population. Canciamilla did not moderate his position, as he was consistently against the issue. Matthews did moderate, as she was one of two legislators to go from “yes” to “no.” And Correa stayed in favor of the issue the whole time. NOMINATE scores would tell us we should see moderation by all three, but we only see such moderation with one of the two legislators who could moderate. NOMINATE scores might tell us who is moderate, but not who is moderating. And they miss narrow or "special" situations or circumstances.

On Latinos, the models seem to have an overlap. The District-Based Camp says that the influence of Latino voters in the district will cause the legislator to gravitate
towards the Latino position as that is where the median voter in the district resides. The more Latino the district, the closer the median voter is to the Latino voter, and the closer the legislator is to the Latino voter. For the Party-Based Camp, the higher the percentage of Latino voters means the higher likelihood that Latinos control the primaries. So the more Latino the district, the more in tuned each legislator is with Latino issues. Are these differences, or just different ways of explaining the same phenomenon? And if they are not differences, then what accounts for the large number of Endangered Democrats in the Proponents group? Why were there so many Democrats in potentially awkward political situations voting against the repeal of SB 60, and how much did Latinos have to do with it?

The point of the two studies I am following is to isolate instances where there is a shock to the normal political situation in order to determine the true colors of the politicians. The idea is to take away the safety net that they operate within under “normal” conditions so that when push comes to shove, the legislators are forced to reveal their “true” intentions. The upside to this sort of analysis is that we can uncover some truth as to the real motivating factors of legislators. We can put these real motivating factors into theories and progress the field. The major downside is that when we take these motivating factors that occur during times of shock and extrapolate them out to cover times of non-shock, we ignore other, important, motivating factors like posturing, salience, implications for future office, etc. If we take the motivations from the “shocked” legislators and put them and only them into our legislative theories,
we miss some other, seemingly major, motivations. We do not build a good legislative theory with good micro-foundations. More will have to be done with regards to creating examples and case studies to prevent this potential flaw in theory-making.

The real effects of timing on this issue cannot be addressed until there is a situation where the issue becomes law and stays law. So far, the issue has done everything but become permanent. Is there a situation that could occur where this issue becomes permanent law? If so, what is that situation and in looking back, how well do the models predict it? I make the assumption in this paper that the reason the driver’s license issue is not law is that party leaders are motivated by policy concerns, but situated in a poor temporal situation, policy-wise, to get and keep the policy as law. This assumption will only prove true if, when the timing is better (i.e. there is a governor willing to sign the legislation or the policy mood of the population shifts in favor of the issue, nullifying the threat of a voter initiative) the legislature actually turns the bill into law. Thus far, the timing has not been correct for this to happen. If, under good timing, the legislature fails to enact this policy, then more information can be gathered with regards to the Party-Based camp’s issue with relevant party factors, as well as the District-Based camp’s issue with the median voter and exogenous factors.

Future study will have to tell us why the driver’s license issue was not an issue that saw permanent moderation or permanent party unity. If the District-Based camp is correct, then legislators did indeed moderate their position on some issues. Why wasn’t the driver’s license issue one of them? And if the Party-Based is correct, then why do
the Democrats repeal a law that they had sacrificed so much for? Time will tell. For
now, the only conclusion that can be made is that the micro-foundations of a good
legislative theory have yet to be solidified.
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