

GOLDEN OPPORTUNITIES:  
VACANCIES AND REPRESENTATION IN THE U.S. SENATE

by

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## ABSTRACT

### GOLDEN OPPORTUNITIES: VACANCIES AND REPRESENTATION IN THE U.S. SENATE

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This dissertation examines how vacancies in the United States Senate are filled. Despite the ability of states to set the institution for naming replacements, gubernatorial appointment continues to be the dominant method of selecting successors. The popularity of gubernatorial appointment – which empowers a single individual to substitute his/her judgment for the decision of the state electorate – is curious given that one goal of the Seventeenth Amendment was to democratize the selection of senators. However, appointments provide a notable benefit over elections by creating shorter vacancies. Drawing on biographies of governors and appointees, and primary-source accounts of appointments, ambition is found to constrain governors' selections and encourage uncontroversial appointments. The goal of avoiding negative attention is reflected in the legislative careers of appointees who provide more moderate roll-call records than elected senators. Further, appointees are not systematically advantaged in elections if they seek to retain their seat. In fact, the characteristics associated with appointee electoral success are the same as those rewarded in elections featuring non-appointees. Thus, in general, the selection, legislative behavior, and electoral careers of Senate appointees do not provide the impetus for reform. While most appointments are

uncontroversial, some draw negative attention and calls to strip governors of their power to appoint. Reform attempts face major hurdles to enactment including considerations of partisan advantage and undesirable aspects of proposed alternatives. Ultimately, the lack of controversy surrounding most selections and the difficulties faced in reforming the method of naming replacements leads to the persistence of Senate appointments.

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**To my grandmother, Jeanne Lynch**

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As I sit to write these acknowledgements, my primary goal – one that I will surely not keep – is to avoid getting choked up as I remember how lucky I am to have so many great people in my life. Any comprehensive list of acknowledgements would surely be longer than the dissertation that follows. However, I am compelled to highlight a number of people who have willingly put up with me over the past several years.

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## Chapter I Introduction

Since the citizens of each state were empowered to elect United States senators by the Seventeenth Amendment in 1913, 192 senators<sup>1</sup> have reached the chamber without being elected.<sup>2</sup> Following a tradition that pre-dates the 17th Amendment, these senators were appointed by governors to temporarily fill vacancies. The ability of governors to name replacements allows for shorter gaps in Senate representation than if elections were required to fill vacated seats. Since one of the goals of the 17th Amendment was to ensure representation that was often denied by deadlocks in state legislatures, gubernatorial appointment helps to fulfill a purpose of the institutional change. However, the aim of democratizing selection is thwarted when a single individual chooses a senator to represent the people of a state. It is this tension along with the possibility that governors manipulate the selection process to benefit themselves or their appointees which requires a holistic account of gubernatorial appointments.

This investigation begins with the senator who creates each vacancy. Gubernatorial selection creates the possibility of strategic resignation, where a senator leaves office to give their replacement a head start in winning election on their own. Once a vacancy exists, the next move belongs to the governor. The two important questions that governors face are: when will they make their selection, and who will they appoint.

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<sup>1</sup> The Senate lists 194 appointees, however, Reinzi M. Johnston (D-TX) and John Heiskell (D-AR) were both selected prior to the ratification of the 17th Amendment and are excluded from this analysis (“Appointed Senators”).

<sup>2</sup> In a now defunct tradition, many retiring senators would resign their seats after their successor was elected allowing the governor to appoint the senator-elect, giving the incoming senator greater seniority. This practice was largely abandoned with a 1980 Rules Committee decision that refused to grant greater seniority to these senators (“Senators of the United States: 1789-present”). Since these senators were elected before their appointment, they are not included among appointed senators.

The latter question is particularly important because governors typically act quickly, and the identity of an appointee helps reveal political opportunities and constraints.

Examining both the demographic characteristics and political experience of appointees provides the first means of evaluating how the power to name replacements is used by governors.

Senate appointees are more than a litmus test for how governors act; they are legislators who represent the citizens of their state. Thus, following the appointee life cycle, this study turns from gubernatorial selection to examine appointees' legislative careers. Using roll-call records, appointed senators are compared with the senator they replace. By examining the universe of post-17th Amendment senators, the relationship between selection method and representation is revealed. The roll-call analyses provide a window into how appointees behave in the Senate, demonstrate how appointed senators differ from their elected counterparts as legislators, and offer a means of evaluating how governors discharge their responsibility of selection.

The fate of appointees in the electoral process is the final piece of this investigation. The electoral careers of appointed senators are explored first. Considering the decisions of appointees to run, their success in garnering nominations and winning elections reveals the personal characteristics and political factors associated with turning an appointment into election. The group of appointees also allows insights into both the source of the incumbency advantage, and the relationship between dynastic political families and electoral success. Analysis of the electoral fates of appointees provides governors the ability to make strategic choices, which may advantage a candidate they favor or create an environment that aids their own ambition. While attempts to

strategically manipulate selections to influence electoral outcomes are potentially troubling, the electoral benefit conferred by an appointment is not clear. Thus, the final electoral analysis compares appointees with similarly situated Senate candidates who were not appointed prior to their run. Creating a reference group that is the same, with the exception of appointment, reveals the electoral value of being selected by a governor. This analysis demonstrates whether the potential dangers of gubernatorial manipulation are found in the choices of governors and electoral results, adding another element to assess the system of gubernatorial appointment.

A synthesis of the empirical analyses of gubernatorial selection, and the legislative and electoral careers of appointees, permits an appraisal of the institution for filling vacancies in the Senate. In making this assessment, the benefits of allowing governors to name replacements are contrasted with the potential dangers of filling openings through appointment. Further, this evaluation also takes into account the alternative institution of election that would be employed if appointments were eschewed. Understanding the potential risks and rewards of switching from one method of selecting replacements to another, along with the nature of Senate vacancies, will reveal why the practice of gubernatorial appointment has persisted in the face of calls for reform. Ultimately, the history of resistance to change, even in light of a number of high-profile scandals that could have ended the practice of appointment, points to the continuation of gubernatorial appointments for the foreseeable future.

### **The Seventeenth Amendment and the Selection of United States Senators**

Article I, section 3 of the U.S. Constitution creates the powers of the U.S. Senate, sets the qualifications for membership, the number of senators for each state, and the

method of senatorial selection. Regarding delegation size and method of selection, the Constitution states: “the Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof.” This provision was in effect until it was superseded by the ratification of the Seventeenth Amendment on May 31, 1913. Mirroring the original language of Article I, with one major exception, the 17th Amendment pronounces: “the Senate of the United States shall be composed of two Senators from each state, elected by the people thereof” (U.S. Constitution).

The change in the group responsible for selecting senators did not happen in one fell swoop. Reforms proceeded slowly, and occurred in a piecemeal fashion. The first proposal to empower the public to elect senators was offered in 1826, eighty-seven years before the adoption of the 17th Amendment (“Direct Election of Senators”). However, the difficulties that state legislatures experienced in choosing senators resulted in congressional action that regulated the selection of senators in 1866 (“Direct Election of Senators”; “Election Laws”). While the 1866 Act had some effect on state legislatures, deadlocks leading to long vacancies continued (“Election Laws”).

Even as Congress regularized aspects of legislative selection, states began to experiment with institutions that linked the candidacies of state legislators to U.S. Senate candidates (Riker 1955). While many states sought to give the public a greater role in choosing senators, attempts to amend the Constitution were delayed in the Senate through the strategic actions of those opposed to the change (Riker 1986). The adoption of primary elections in the 1890s and the first decade of the 1900s provided the opportunity for greater connections between state electorates and U.S. Senators. State laws were so widespread that Riker (1955) claimed, “the Seventeenth [Amendment] simply

universalized a situation which a majority of state legislatures had already created” (468). However, he also noted, “legislatures were not formally...bound by the primary results...[and] the dominant party [in the state legislature] could, and occasionally did, ignore the primary in choosing the senator” (Riker 1955, 466). Thus, even in the face of local innovation, the 17th Amendment brought concrete changes to the Senate by codifying the power of elections and providing uniformity across states.

More recent analyses have demonstrated the significance of the Seventeenth Amendment to the Senate and the behavior of senators. Crook and Hibbing (1997) find that the 17th Amendment reduced dynastic political connections and increased the elective office experience senators had prior to serving in the Senate. They also show greater partisan responsiveness to presidential elections after the adoption of the amendment (Crook and Hibbing 1997). Importantly, none of the post-17th Amendment changes in the Senate are reflected in the House, which always relied on popular election (Crook and Hibbing 1997). Following Crook and Hibbing (1997), Brunell and Grofman (1998) analyze the relationship between split partisan Senate delegations and realignment. Brunell and Grofman (1998) discover that, on average, Senate elections create three additional states with divided delegations than would have existed if state legislatures selected senators. They conclude that the high levels of unified state delegations that existed prior to the Seventeenth Amendment are unlikely because of elections (Brunell and Grofman 1998). Two of the most recent analyses use counterfactuals to demonstrate how the composition of the Senate would have differed had the 17th Amendment not been ratified (Rogers 2012; Stewart and Schiller 2011). Both Rogers (2012) and Stewart and Schiller (2011) show the consequences of the

amendment on the partisan distribution of the Senate, and explore the policy implications of the difference.

In addition to the studies that explore the chamber-level effects of the 17th Amendment, a number of investigations have examined the responsiveness of individual senators. Bernhard and Sala (2006) theorize that pre-17th Amendment senators had little reason to modify their legislative behavior because their fate was tied to the partisan distribution of the state legislature. Elected senators, on the other hand, have an incentive to moderate as elections approach. Bernhard and Sala (2006) find that pre-17th Amendment senators stood pat and simply chose to not seek another term when their party did not control the state legislature. However, senators in the post-17th Amendment era are found to moderate in election years, in an attempt to secure more votes from the public (Bernhard and Sala 2006).

Following Bernhard and Sala (2006), Meinke (2008) examines bill sponsorship, roll call participation, and party voting among senators who were selected by state legislatures and elected senators. Meinke (2008) finds differences between senators based on how they were chosen, and discovers that senators selected by state legislatures change their behavior after the adoption of the 17th Amendment. Thus, elections produce different types of senators than appointments and senators adapt to new institutions. While Bernhard and Sala (2006) and Meinke (2008) show elected senators to be more responsive to constituents, Gailmard and Jenkins (2009) focus on the ability of senators to exercise discretion. Given that the public is not as well equipped to select, monitor, and discipline senators as state legislatures – even as senators became more aligned with constituent preferences – greater ideological distance emerged within Senate delegations

(Gailmard and Jenkins 2009). Taken together, the studies of senators' legislative behavior show that they adapt to the method by which they are chosen. Thus, the 17th Amendment more than just ratified changes that had already taken place through state-level reforms. The amendment transformed the Senate and the relationship between senators and their constituents.

While the Seventeenth Amendment marked a turning point for the Senate, it provided continuity in one important way. The amendment broadly reflected the original construction of the Constitution concerning vacancies, which enabled governors to appoint 171 senators in the 124 years before the ratification of the 17th Amendment (Congressional Quarterly Inc. 1994). Article I, section 3 of the Constitution states, “if vacancies happen by resignation, or otherwise, *during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature*, which shall then fill such vacancies” (U.S. Constitution, emphasis added).

The Seventeenth Amendment similarly declares,

When vacancies happen in the representation of any state in the Senate, the Executive authority of that state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct (U.S. Constitution).

Thus, governors have an expanded ability to name replacements while the legislature is in session and states are granted greater discretion in how vacancies are filled. The message of continuity is clear. States are required to hold an election for the seat at some point, but gubernatorial appointments, the method of replacement that existed prior to the amendment, are given the seal of approval. The hundred years of post-17th Amendment appointments have not discredited the practice, as the vast majority of states currently

have provisions for gubernatorial appointments (“Filling Vacancies in the Office of United States Senator”).

Allowing governors to name replacements reflects the process for filling vacancies that was in place prior to the 17th Amendment. Gubernatorial appointment also offers an answer to a problem that arises when elections are required to fill vacancies. The lag between the creation of a vacancy and an election would result in a gap in representation in the Senate. Since the Seventeenth Amendment was designed, in part, to cure state disenfranchisement that resulted from deadlocks in state legislatures, allowing gubernatorial appointment helps limit the time a seat remains unoccupied. While allowing governors to make appointments helps to solve one problem, it runs counter to another goal of the amendment, which is to empower people to elect their senators. Thus, the institution of gubernatorial appointment is an expected source of controversy. Since state legislatures are responsible for empowering governors to name replacements, demands for reform are likely when appointments become newsworthy. However, the benefits of gubernatorial appointment, along with the lack of systematic abuse of power and the difficulty of sustaining attention on institutional reform, dim the prospects for widespread change in filling Senate vacancies.

### **Studies of Senate Appointees**

While the Seventeenth Amendment has gained a fair amount of scholarly attention, few studies have considered Senate vacancies. Existing research has focused almost exclusively on the electoral fates of appointees (King 1999; Kohn 1974; Matthews 1960; Morris and Marz 1981; Tuckel 1983). Only two, Clem (1966) and Kohn (1974), explore appointees’ legislative behavior, and no study to date has systematically analyzed

governors' selections. This investigation addresses the choices governors make and offers an in-depth examination of appointees' legislative behavior. Further, existing research is used to develop predictions about the likelihood that an appointee will convert their appointment into election. Finally, in an effort to understand the value of appointments, appointees' electoral fates are compared with similarly situated candidates who were not appointed prior to their campaign. The evidence from each appointment stage is combined to understand the persistence of the system of gubernatorial appointment.

### **A Theoretical Framework for the Persistence of Senate Appointments**

Gubernatorial appointments survived the most significant constitutional change regarding the selection of national leaders. Despite occasional efforts to end the practice, appointments have largely stood strong in the hundred years since state legislatures were granted the authority to regulate the method of filling vacancies. Several factors appear to be at play in the persistence of this institution, including: the nature of vacancies, the decisions governors make, and the difficulty of sustaining public attention on institutional change.

Vacancies and appointments are episodic and unpredictable. Most appointments are random occurrences and it is rare for more than a few vacancies to happen in close proximity. It is even more unusual for one state to see multiple appointments in a short span. Even the states with the most Senate appointees see, on average, less than one per decade. When they happen, most appointments should be relatively uncontroversial. Governors who make appointments operate under political constraints, which influence selections. The reputational costs to ambitious governors makes using an appointment for a power grab untenable. The high profile nature of the Senate and the episodic occurrence

of vacancies should draw attention to governors' selections. With the spotlight on their actions, governors have an even greater incentive to avoid controversy. Thus, future elections and the consequences of nakedly displaying ambition provide incentives for ambitious governors to act with prudence.

While the political environment encourages restraint, appointments present opportunities for governors to influence the political landscape. In making their choices, governors are expected to carefully balance the risks and rewards of seeking advantage and revealing ambitions. Governors must consider their constituents, whether those constituents are co-partisans who can deny nominations or the public that decides elections. Co-partisans, particularly party leaders, have the ability, resources, and incentive to monitor governors' behavior. Thus, co-partisans should be the primary audience considered by governors. The public, parts of which may be inattentive, cannot be discounted. Governors must consider how potential rivals could use their selection against them in a campaign (Arnold 1990). Even though the public may not pay close attention to governors' selections, the possibility that an appointment could influence their electoral fate requires them to consider how their choice will play with the public.

Uncontroversial appointments do not provide fodder for institutional reassessment. Thus, one potential answer for institutional persistence is that elections provide incentives for governors to make selections that do not draw attention to the institution. Elections also provide recourse. If partisans or the public at-large are dissatisfied with the actions of a governor, they can easily elect a different candidate in the next gubernatorial or Senate election.

While overt power grabs are unlikely, they are possible, especially if future elections do not constrain governors. Each time there is a negative reaction to a governor's choice, it brings the potential to change the institution of gubernatorial appointment. However, reform movements will be difficult to form and maintain. The difficulty of sustaining reform efforts reflects the nature of the institution, the difficulties of gaining and maintaining space on the policy agenda, and problems with proposed solutions.

Unlike other policies, filling Senate vacancies is an institutional question that has no natural constituency (Lowi 1964). No group consistently benefits from allowing governors to make appointments. Advantage changes when the governor changes. The institution is unlikely to be major focus of any group. Reform of Senate vacancies competes with other policies and institutions for attention, and nearly every other institution will be used more frequently than gubernatorial appointments. Thus, when appointments gain negative attention, no well-developed solution stream exists (Kingdon 1984). Groups interested in reform must then scramble to put forth proposals while public attention is fixed on the institution and the window for change is open (Kingdon 1984). Once a change is formally offered, the reform competes with items that were already on the agenda and it begins its way through the legislative process. By the time a proposal is considered by the legislature, other issues are expected to be more prominent than Senate appointments (Downs 1972). Since vacancies are relatively infrequent and appointments should rarely be problematic, interest in the subject is unlikely to be reignited by a similar controversy. Thus, the nature of the institution and the policymaking process combine to thwart reform.

The only way to prevent governors from abusing their power is to strip them of the ability to make appointments. Since Senate seats must eventually be filled by election, this is the natural alternative to gubernatorial appointments. However, elections require time to organize and hold. Thus, solving what should be an infrequent problem, gubernatorial abuse of power, virtually guarantees long vacancies in representation. Limited space on the policy agenda, and the inability of reforms to address long vacancies, prevent most institutional changes in response to perceived abuse by governors. Thus, even under the most favorable conditions for reform, gubernatorial appointments should remain.

### **Conclusion**

The goal of this investigation is to understand the persistence of an inherently undemocratic institution that has occasionally received negative publicity. To accomplish this, elements of Senate appointments including governors' choices and appointees' legislative behavior, which have not been systematically examined, are considered. These analyses demonstrate that governors are constrained by ambition, which prevents widespread abuse of power in selection. Governors are also shown to select more moderate senators than state electorates. Thus, the system of appointment encourages governors to be cautious in their selections and offer benefits aside from assuring full representation in the Senate. Further, the electoral analyses demonstrate only modest improvement in the ability of appointees to gain votes. Thus, appointments play only a small role in elections and do not consistently advantage appointees in a way that precipitates calls for reform. Ultimately, the system of gubernatorial appointments

persists because of the political constraints on governors that encourage prudence in selection and appointees who, in general, do not attract negative attention.

## Chapter II Making a Point

“I’ve got this thing, and it’s [expletive] golden and I’m not just giving it up for [expletive] nothing” - Gov. Rod Blagojevich (D-IL)<sup>1</sup>

“[T]he governor makes one friend and a lot of enemies” - Donald A. Ritchie, Associate Senate Historian<sup>2</sup>

A vacancy is a prerequisite for a gubernatorial appointment. However, state legislatures determine the method of replacement. Thus, it is possible for governors to be bypassed in favor of elections. Appointments have been used to fill 192 vacancies, while special elections have been the exclusive method of replacement only sixteen times.<sup>3</sup> In fact, a number of appointments have been made in states that required special elections at the time a vacancy occurred. The advantages of appointments, including the ability to quickly name replacements and the costs associated with special elections, have been used to persuade state legislatures to empower governors to temporarily fill vacancies in these cases. Gubernatorial appointment is by far the most common means of filling Senate vacancies, withstanding the test of time and attempts to strip governors of this power.

Appointments allow a single person to substitute their choice for the decision of the state electorate. This power runs counter to one of the major goals of the Seventeenth Amendment, democratizing the selection of senators. Further, the individual power to

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<sup>1</sup> Quoted in Davey (2008a).

<sup>2</sup> Quoted in Hulse (2008b).

<sup>3</sup> A number of vacancies that occur in close proximity to an election have remained unfilled until after the election was held. Sen. James Couzens (R-MI), who was not a candidate for reelection in 1936 died less than two weeks before the general election (“Couzens, James”). Appointee Sen. Andrew J. Houston (D-TX) died just two days before the special election to select his successor (“Houston, Andrew Jackson”; “O’Daniel, Wilber Lee (Pappy)”).

choose, often without any formal check, creates the potential for abuse. Most governors have an unfettered ability to advance their own ambitions through their selection. While short-term gains through appointments are possible, these actions have long-term political consequences. Since most governors have future ambitions and understand the long-term costs of short-term gains, power grabs are unlikely. Governors are expected consider the groups that are important to their political future, and attempt to balance those interests. Thus, rather than making controversial decisions, governors are more likely to subtly advance their ambitions within political constraints.

This chapter explores vacancies and the decisions governors make in filling the openings. First, vacancies are examined to determine if strategic resignations have been used to benefit Senate successors. Then, the timing of selections and appointee attributes are considered. In evaluating appointee characteristics, demographic features including gender, ethnicity, familial connections, and elective office experience are analyzed. Finally, self-appointment and placeholders are contrasted to demonstrate how these strategies influence long-term ambitions. The choices governors make show them to be keenly aware of the political environment and sensitive to how their decision affects their future electoral prospects. Ultimately, this analysis shows that ambition, which raises concerns about how governors will act, actually constrains decisions.

### **Vacancies**

Vacancies have resulted from death, resignation, failure of state legislatures to select, inconclusive election results, disqualification by the Senate, and withdrawal during the succession of Southern states surrounding the Civil War. Four of these causes have been responsible for gubernatorial appointments in the post-17th Amendment era.

However, Joseph R. Grundy's (R-PA) appointment to fill the vacancy created by William S. Vare (R-PA) is the only time an appointment was employed due to disqualification by the Senate ("Grundy, Joseph Ridgway"). Similarly, Norris H. Cotton's (R-NH) brief appointment is the only instance where a governor filled a vacancy that was declared due to a disputed election ("Cotton, Norris H.").<sup>4</sup> All other post-17th Amendment appointments have occurred because of deaths or resignations.

Since sitting senators know the method of replacement, strategic resignations are possible. If a governor and a senator share a party, they could conspire to advantage the electoral prospects of a Senate candidate they both favor.<sup>5</sup> Given the advantage incumbents have in name recognition and resources to advertise, position-take, and credit claim, senators could provide a boost to their replacement by stepping aside (Mayhew 1974).

While concerns about strategic resignation are real, a number of difficulties arise in executing this type of scheme. First, a senator must be willing to step aside and forego the term to which s/he was elected. Second, senators and governors do not always share

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<sup>4</sup> Louis C. Wyman (R-NH), declared the winner of the 1974 New Hampshire Senate election by a two-vote margin, was initially appointed ahead of his term in an effort to boost his seniority, but was not seated for the term commencing in 1975 because his victory was contested (Congressional Quarterly Inc. 1994; "States in the Senate – New Hampshire's United States Senators"). The Senate does not consider Wyman, like others appointed to gain greater seniority after winning an election, an appointee ("Appointed Senators"). Cotton was selected after the seat was declared vacant by the Senate and served a little over a month until the vacancy was filled by a special election ("States in the Senate – New Hampshire's United States Senators").

<sup>5</sup> All but two appointees have been from the same party as the appointing governor. Gov. Frank Merriam (R-CA) appointed Thomas Storke (D-CA) during a lame duck period ("Storke Succeeds McAdoo" 1938). Gov. Dave Freudenthal (D-WY) selected John Barasso (R-WY) in accordance with a state law that required appointees to be from the same party as the elected senator who vacated the seat ("National Briefing" 2007). Freudenthal selected Barasso from a list of three candidates presented by the Wyoming Republican Party ("National Briefing" 2007).

the same party. Third, senators and governors of the same party may not agree on who should be appointed. Even if a senator and governor were to reach a deal, there is no mechanism for senators to enforce the agreement. Finally, the degree to which appointed senators share in the incumbency advantage is suspect. The advantages of incumbency may be derived from holding office, however, previous election has demonstrated a profound influence by keeping high-quality challengers from entering a race (Jacobson 2004; Jacobson and Kernell 1983). Thus, strategic resignation is not expected to be a widespread practice and this type of manipulation should not provide much impetus for reform.

The majority of post-17th Amendment appointments, 133 of 192 (69.3%), have resulted from the death of a sitting senator or senator-elect, while 57 (29.7%) have come through resignations. The biographies of senators who resigned reveal no pattern of attempted manipulation. Many of the senators who resigned had been elected to another office; two, John F. Kennedy (D-MA) and Barack Obama (D-IL), were elected president, while ten were elected vice president,<sup>6</sup> and seven became governors.<sup>7</sup> Additionally, while he did not win the presidency, Sen. Bob Dole (R-KS) resigned to campaign in 1996 (“Dole, Robert Joseph”). Another group of resignations have resulted from appointments to other government positions. The Cabinet has been the most prominent destination; ten

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<sup>6</sup> The ten senators who were elected vice president are: Charles Curtis (R-KS), Harry S Truman (D-MO), Alben W. Barkley (D-KY), Richard M. Nixon (R-CA), Lyndon B. Johnson (D-TX), Hubert H. Humphrey (D-MN), Walter F. Mondale (D-MN), Dan Quayle (R-IN), Al Gore (D-TN), and Joe Biden (D-DE) (“Biographical Directory of the United States Congress”).

<sup>7</sup> The seven senators who were elected governor are: A. Harry Moore (D-NJ), Matthew M. Neely (D-WV), Monrad C. Wallgren (D-WA), Price Daniel (D-TX), Pete Wilson (R-CA), Frank Murkowski (R-AK), and Jon Corzine (D-NJ) (“Biographical Directory of the United States Congress”).

senators resigned to take these posts.<sup>8</sup> Another eight were due to judicial appointments, including three senators who became Supreme Court justices.<sup>9</sup> Finally, four left the Senate for diplomatic posts.<sup>10</sup> Thus, over 70% of the post-17th Amendment resignations have come from election or appointment to another position in government.

The fifteen other resignations do not demonstrate widespread attempts to stack the deck in favor a replacement. Four senators resigned in the face of scandal.<sup>11</sup> Most others resigned for benign reasons.<sup>12</sup> Two of the most interesting resignations involved

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<sup>8</sup> Cordell Hull (D-TN), Edmund Muskie (D-ME), Hillary Rodham Clinton (D-NY), and John Kerry (D-MA), were all named secretary of state, while J. Howard McGrath (D-RI) and William Saxbe (R-OH) resigned to become U.S. attorney general (“Biographical Directory of the United States Congress”). Additionally, Albert B. Fall (R-NM) and Ken Salazar (D-CO) left the Senate to head the Department of the Interior, while Claude Swanson (D-VA) became the secretary of the navy, and Lloyd Bentsen (D-TX) became secretary of the treasury (“Biographical Directory of the United States Congress”).

<sup>9</sup> Hugo Black (D-AL), James Byrnes (D-SC), and Harold Burton (R-OH), were appointed to the U.S. Supreme Court, while Sam G. Bratton (D-NM) and William Kenyon (R-IA) were named to the federal circuit courts of appeals, and John Miller (D-AR) became a U.S. district judge (“Biographical Directory of the United States Congress”). Josiah Wolcott (D-DE) and Raymond E. Baldwin (R-CT) took state-level judicial positions (“Biographical Directory of the United States Congress”).

<sup>10</sup> Walter E. Edge (R-NJ) was named ambassador to France, Fredric Sackett (R-KY) became the ambassador to Germany, Warren R. Austin (R-VT) served as the U.S. representative to the United Nations Security Council, and Max Baucus (D-MT) was appointed ambassador to China (“Biographical Directory of the United States Congress”).

<sup>11</sup> Sen. Thomas Coleman du Pont (R-DE) resigned in ill health while under scrutiny for his role in the Teapot Dome scandal (Walsh 1928; “T. Coleman du Pont, Ex-Senator, is Dead” 1930). Sen. Truman H. Newberry (R-MI) quit after an unsuccessful effort to unseat him and an expression of disapproval from his colleagues over the amount spent on his Senate campaign (“Newberry, Truman Handy”). Sen. Harrison A. Williams, Jr. (D-NJ) left while the Senate was considering a motion to expel him after his corruption conviction associated with the FBI’s Abscam operation, and Sen. John Ensign (R-NV) resigned while being investigated for his attempt to cover-up an extramarital affair (Lipton 2011; “Senator Williams Exits Unrepentant” 1982).

<sup>12</sup> Both Sen. Albert B. “Happy” Chandler (D-KY) and Sen. Jim DeMint (R-SC) moved to positions outside of government; Chandler took over as commissioner of baseball and DeMint left to head the conservative Heritage Foundation think tank (“Chandler, Albert Benjamin (Happy)”; Steinhauer 2012). Similarly, Sen. Fredrick Steiwer (R-OR), who had

southerners Sen. J. Strom Thurmond (D-SC) and Sen. Dixie Bibb Graves (D-AL). Thurmond left the seat that he won as a write-in candidate after failing to secure the Democratic Senate nomination, which was made by the State Democratic Executive Committee after the death of Sen. Burnet R. Maybank (D-SC) (“Thurmond Elected Senator in South Carolina Write-in” 1954). During his write-in campaign, Thurmond promised to resign the seat and contest the nomination for the special election to serve remainder of the term, if he won the election (“Thurmond Elected Senator in South Carolina Write-in” 1954). Thurmond kept his promise and was uncontested in both the primary and special election for the remainder of the term (Congressional Quarterly Inc. 1994). Thurmond’s pledge reflects the importance of party norms when the South was dominated by one-party rule. The Democratic dominance in the South is also shown in the appointment and resignation of Dixie Bibb Graves. Graves remains the only appointee to resign her seat (“Graves, Dixie Bibb”). Graves left after J. Lister Hill (D-AL) won the Democratic nomination for the special election to serve the remainder of Sen. Hugo Black’s (D-AL) term (“Hill, New Dealer, Swamps Heflin in Poll to Pick Senator for Seat Vacated by Black” 1938). Rather than seeking to advantage a candidate,

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already decided not to run for reelection due to health concerns, became a partner at a law firm (“Steiwer, Fredrick”; “Steiwer, Oregon Republican Quits Senate; Gov. Martin, Democrat, to Name Successor” 1938). Without citing a specific reason, other than a desire to start his post-Senate life, Sen. Mel Martinez (R-FL) also resigned after deciding not to run for reelection (Herszenhorn 2009). Sen. Trent Lott’s (R-MS) resignation, just a year after he won reelection, was widely seen as an attempt to avoid regulations that would have hamstrung his ability to work as lobbyist after leaving the Senate (Nossiter and Herszenhorn 2007). After an unsuccessful bid for renomination, Sen. William G. McAdoo (D-CA) left during the lame duck period of his term to take over as president of the board of directors of a ship line (“McAdoo, William Gibbs”; “McAdoo Elected to Ship Post” 1938) Other unique circumstances for resignations include active military service for Sen. Henry Cabot Lodge, Jr. (R-MA) during World War II and poor health for Sen. Robert F. Wagner (D-NY) (“Lodge, Henry Cabot, Jr.”; “Wagner, Robert Ferdinand”).

Gov. David Bibb Graves (D-AL) sought to stay out of the fray until after the primary was conducted. Thus, Sen. Graves' resignation helped to respect, not influence, the public's choice. Gov. Graves' actions demonstrate the political constraints governors confront in naming appointees, particularly in highly partisan states.

Only one resignation reveals an attempt to provide an electoral advantage to a replacement. Sen. Harry Flood Byrd's (D-VA) resignation was followed by the appointment of his son, Harry Flood Byrd, Jr. (D-VA), just two days later ("States in the Senate – Virginia's United States Senators"). The resignation took place a week after a gubernatorial election, for which the sitting governor, Albertis S. Harrison, Jr. (D-VA), could not stand (Congressional Quarterly Inc. 1994). Since the resignation and appointment came after the election, the Democratic brand was not harmed ahead of the gubernatorial contest. While Byrd, Jr. faced a potential backlash, the timing of the appointment allowed him to serve in the Senate for nearly a year before facing election. The length of the term allowed the circumstances of the appointment to fade into history and let the younger Byrd establish his own record in the Senate before facing the electorate. Byrd, Jr. also carried his family's political brand, which has been demonstrated to benefit office seekers in elections (Feinstein 2010). In spite of the circumstances of his appointment, Byrd, Jr. went on to win election, after narrowly surviving a primary challenge (Congressional Quarterly Inc. 1994).

The difficulties of coordinating senators and governors make strategic resignation unlikely. This is confirmed in the appointments that have occurred since the adoption of the 17th Amendment. The majority of vacancies have been caused by death. The resignations that have occurred demonstrate no widespread signs of coordination. In fact,

only one instance of strategic retirement is detected where a lame duck governor, who faced no repercussions for his actions, appointed the son of the senator who resigned. Given the idiosyncratic circumstances surrounding that appointment, there appears to be little to fear from strategic resignation. However, the importance of ambition as a mechanism that constrains governors is revealed.

### **Governors' Actions**

While strategic resignation is not much of a concern, governors may use their power to benefit their appointee, their party, or themselves. However, governors face a complex political environment that constrains their decisions. Governors have to consider how their choice will influence their political career, particularly if they possess static or progressive ambition. In fact, frustrated ambitions and lame duck status create the greatest likelihood that power will be abused. Governors interested in improving, or at least not harming, their career prospects must balance their ambitions with the demands of those who determine their political future. Partisan considerations are expected to weigh heavily on the minds of governors. Thus, not surprisingly, when given the unfettered ability to name an appointee, governors have selected a co-partisan nearly every time.<sup>13</sup> Co-partisan appointees are likely to share the ideological leanings of the appointing governor, and selecting a member from outside of the party would be viewed as a betrayal. Since parties have the ability to short circuit electoral ambitions by denying nominations, co-partisans are the principal audience for governors making an appointment. In addition to party members, governors must be sensitive to media portrayals and perceptions among the public. Governors are expected to take into account

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<sup>13</sup> See footnote 5 in this chapter.

the identity and characteristics of the outgoing senator, especially if that senator embodies descriptive representation.

Beyond party and the senator being replaced, governors assess which potential appointee is likely to serve their goals. Governors with Senate ambitions may take the position for themselves or, fearing a backlash, appoint a placeholder who will not contest the seat. Not all placeholders signal governors' Senate ambition. Placeholders may be named because of a particularly difficult political environment that encourages a governor to choose an uncontroversial appointee, rather than risk creating the perception of favoring a candidate or a faction within their party. While placeholders disavow any ambition, other appointees are chosen who have future Senate elections in mind. Governors interested in aiding the electoral future of an appointee will look for a replacement with the experience typically associated with successful Senate candidates. The following sections explore who gets appointed, focusing on appointees' gender, ethnicity, familial relationships, placeholder status, and experience. Special attention will be given to governors who take appointments for themselves. However, before turning to who gets appointed, exactly when governors act to fill seats is examined.

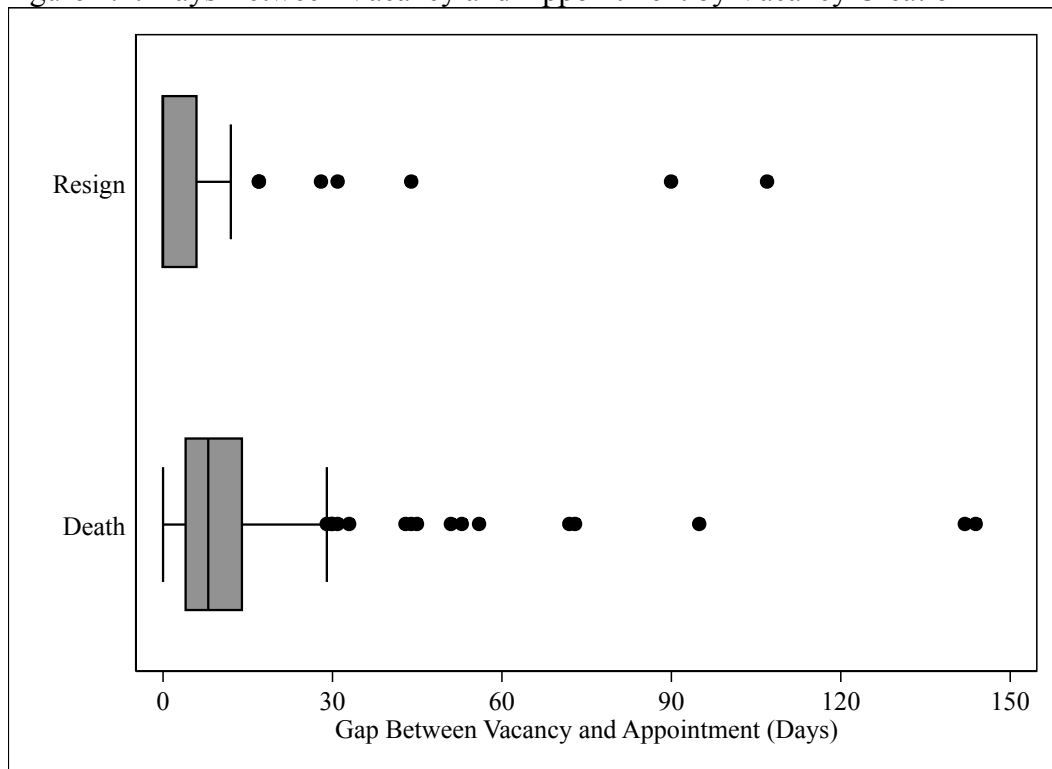
### **When?**

Governors typically name a replacement shortly after a vacancy occurs. If a vacancy results from death, governors may wait a brief time before acting, out of respect for the senator who died. The gap between a death and an appointment also allows the governor to consider possible replacements. If a senator is elected or appointed to another position, governors have the opportunity to review potential appointees before the vacancy occurs and can name a replacement as soon as the seat opens. In most

circumstances, governors have incentives to make their choice without delay. The longer a seat remains vacant, the more speculation can take place and the more attention is drawn to their actions. This attention will almost certainly be negative, distract from other initiatives, and harm a governor's image. However, some circumstances force or encourage governors to delay their selection.

Governors have tended to act fast, typically making an appointment less than a week after a vacancy occurs. As Figure 2.1 shows, deaths have resulted in longer vacancies than openings created by resignations. In fact, the median number of days to fill vacancies that occurred by death is eight, but most openings that result from resignations are filled by the day after the senator leaves office. While most vacancies are filled quickly, Figure 2.1 demonstrates a considerable range in vacancy length. Exploring the cases that buck the trend demonstrates issues with the system of replacement such as unclear state laws and governors who must receive permission from the state legislature to act. These complications exist on top of problems with appointments including the challenges of navigating difficult political environments and strategic manipulation.

Figure 2.1: Days Between Vacancy and Appointment by Vacancy Creation



Only 25 of the 192 vacancies (13%) filled by appointments have lasted more than three weeks before the governor acted. Thus, one of the supposed advantages of appointments, the ability to quickly seat replacements, is contingent on the ability of governors to navigate the political landscape and their willingness to act expeditiously. Several cases appear to be innocuous or driven by pragmatic concerns, such as holding a House and Senate special election simultaneously to reduce administrative costs.<sup>14</sup> Others

<sup>14</sup> For instance, Gov. James McCreary (D-KY) announced his intention to appoint Johnson N. Camden, Jr. (D-KY) a week after Sen. William O. Bradley's (R-KY) death, but waited another sixteen days before making the formal appointment ("For Bradley's Place" 1914). After Sen. Porter Dale's (R-VT) death, Rep. Ernest Gibson (R-VT) resigned his House seat to compete for the Senate vacancy (Crane 1933). Gibson's resignation to run for Senate allowed the special elections for Vermont's House and Senate seats to be held simultaneously (Crane 1933). Once the date for the special primary and special election were set, Gov. Stanley Wilson (R-VT) appointed Gibson to serve until the special election for the Senate seat ("Vermont Senator Named" 1933).

resulted from state laws that initially prevented governors from making appointments. In two cases, state legislatures granted governors permission to fill vacancies to provide an appointee with greater seniority in the Senate or save the cost of a special election.<sup>15</sup>

Another appointment encountered concerns over whether a governor-elect would respect the appointment made by his predecessor and faced questions about the governor's ability to name a replacement for a senator who had not taken the oath of office.<sup>16</sup> In fact, the

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Wilson's delay allowed both the House and Senate special elections to be held on the same day, reducing administrative expenses for the state.

<sup>15</sup> When Sen. Warren R. Austin (R-VT) resigned his seat, Vermont law did not have a provision for gubernatorial appointment ("Flanders Named Senator" 1946). However, the state legislature acted to grant Gov. Mortimer Proctor (R-VT) the authority to name Austin's replacement ("Vermont Senator Bill Signed" 1946). Proctor selected Ralph E. Flanders (R-VT), who was already the Republican nominee for Senate, just ahead of the general election he was widely expected to win, giving him greater seniority than other incoming senators ("Flanders Named Senator" 1946). Gov. Leslie A. Miller (D-WY) faced a similar institutional morass when Sen. John Kendrick (D-WY) died a little more than a year before the 1934 election ("Kendrick, John Benjamin"). Wyoming law required special elections for Senate vacancies lasting more than a year, but permitted gubernatorial appointments when Congress was in session ("May be Wyoming Senator" 1933). Miller hoped to avoid the expense of a special election by waiting until Congress was in session to name an appointee ("May be Wyoming Senator" 1933). While waiting for Congress to reconvene, Miller was directed to call a special election by the State Supreme Court ("Wyoming Election is Ordered" 1933). In response to the court's dictate, the state legislature passed a bill allowing Miller to fill the vacancy; Joseph C. O'Mahoney (D-WY) was appointed shortly thereafter ("Open Way for O'Mahoney as Senator for Wyoming" 1933; "O'Mahoney Named Senator" 1933). Thus, while state laws created these long vacancies, state legislatures were able to respond, helping to provide greater seniority for Sen. Flanders and avoiding a costly special election in Wyoming.

<sup>16</sup> Sen. Dwight W. Morrow (R-NJ) died just ahead of the election where A. Harry Moore (D-NJ) was elected to replace Gov. Morgan Larson (R-NJ) ("Morrow, Dwight Whitney"; Congressional Quarterly Inc. 1994). Waiting until after the election to name an appointee drew questions about whether Governor-elect Moore would respect Larson's choice or call a special election in the hope that a Democrat would win ("Right of Barbour to Seat is Target" 1931; "W.W. Barbour, Wet, Gets Morrow Post" 1931). Interest in the vacancy was intensified by the fact that partisan control of the Senate was at stake ("Senate Leaders Pleased" 1931). A further complication was introduced when Larson's right to name an appointee was challenged on the basis that Morrow had not taken the oath of office for his current term ("Right of Barbour to Seat is Target" 1931; "Senate

longest gap between the creation of an opening and an appointment occurred due to confusion over state law.<sup>17</sup>

Other long vacancies demonstrate the political nature of governors' choices, even when they are not seeking partisan or personal advantage. Gov. William Sweet's (D-CO) delay in selecting Sen. Samuel Nicholson's (R-CO) replacement resulted from political demands. Just two days after Nicholson's death, former President Woodrow Wilson telegrammed Sweet to recommend a replacement ("Wilson Brings Out a Senate

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Questioned on Morrow's Status" 1931). Larson eventually chose W. Warren Barbour (R-NJ) with the understanding that he would seek election to retain the seat ("W.W. Barbour, Wet, Gets Morrow Post" 1931). The delay in this case can be attributed to the timing of Morrow's death and concerns about whether Larson's choice would be respected.

<sup>17</sup> Immediately after Sen. Edwin F. Ladd (R-ND) died, the *New York Times* reported "no North Dakota law, as far as can be learned in Washington, will prevent Governor A.G. Sorlie from appointing a successor to fill out Senator Ladd's term" ("Radicals Crippled by Death of Ladd" 1925). In fact, there was speculation that Sorlie would appoint a placeholder so that he could take the seat when the term ended ("Radicals Crippled by Death of Ladd" 1925). However, the same day, the *Times* also reported that the vacancy "may require a special election" ("May Elect Ladd's Successor" 1925). The following day, Sorlie acknowledged the uncertainty about his power to fill the vacancy, but said he would make an appointment if it were legal ("Ladd's Successor Milder" 1925). The confusion persisted and nearly two months after the vacancy, rumors swirled that Sorlie would appoint Ladd's widow ("Senate Vacancies to Wait on Crops" 1925; "Report Ladd's Widow May Become Senator, To Be Succeeded by North Dakota Governor" 1925). Four-and-a-half months after Ladd's death, Sorlie set a special election to fill the seat ("North Dakota to Elect Senator" 1925). When the election was announced the matter appeared settled, however, a week later Sorlie announced that he would appoint Gerald P. Nye (R-ND) ("Nye Named Senator from North Dakota" 1925). The appointment was a surprise since a number of prominent Republicans had met with Sorlie to inform him that they did not think he had the power to make the appointment ("Radicals Welcome Senate Fight on Nye" 1925). Since it was feared that Nye would join the radical faction of the party, Republicans challenged his appointment ("North Dakota Republicans Protest" 1925). The case raised several constitutional issues including the ability to deny a state equal Senate representation, whether Senate seats are state or federal offices, and governors' appointment power under the 17th Amendment ("What Officer is a Senator?" 1926; "A Bad Day's Work" 1926). More than six months after Ladd died, the Senate voted to seat Nye as the Democrats joined radical Republicans because they "could not resist the temptation to raise a partisan disturbance" (Oulahan 1926).

Candidate” 1923). Following Wilson’s request, Sweet was inundated with public suggestions from prominent Democrats and others (“McAdoo for Shafroth as Colorado Senator” 1923; “Bryan for Shafroth for Colorado Senator” 1923; “General Wood Urges Shafroth for Senate” 1923; “Colorado Governor is Urged to Appoint Mrs. Kerr Senator” 1923). Eventually, Sweet settled on Alva B. Adams (D-CO), son of a former Colorado governor, who was not pushed by any faction (“Colorado’s New Senator Not Bound to Any Bloc” 1923). While the public suggestions distinguish Sweet’s situation from others, partisan political pressures have complicated many selections.<sup>18</sup>

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<sup>18</sup> When Sen. Sam G. Bratton (D-NM) was confirmed for his federal judgeship in early June, he was asked to stay in the Senate until the summer adjournment (“Helvering Wins in Senate Vote” 1933). Thus, the three-and-a-half months that Gov. Andrew W. Hockenhull (D-NM) took to name Carl A. Hatch (D-NM) did not cost New Mexico representation on roll-call votes. Hockenhull’s choice was described as difficult because of the number of qualified Democrats in the state (“Carl W. Hatch Named New Mexico Senator” 1933). However, his selection was eased considerably when Rep. Dennis Chavez (D-NM) withdrew his name because an expensive special election would have been necessary to fill his House seat (“Carl W. Hatch Named New Mexico Senator” 1933). Sen. Harrison A. Williams, Jr.’s (D-NJ) resignation, ahead of New Jersey’s Senate primary, presented a similar dilemma for Gov. Tom Kean (R-NJ) (Sullivan, 1982). Kean was caught between choosing an appointee with ambition and one who would be a caretaker (Sullivan, 1982). As candidates for the full-term emerged, it was inevitable that Kean would “make one person happy and bruise a number of large egos” (Sullivan, 1982). He eventually settled on placeholder Nicholas Brady (R-NJ), who renounced ambition to serve beyond the appointment (Perlez, 1982). Gov. Robert P. Casey’s (D-PA) replacement for Sen. John Heinz (R-PA), who was unexpectedly killed in a plane crash, was delayed as he sought a Democrat who could compete with the presumptive Republican nominee, former Gov. Dick Thornburg (R-PA) (Cushman 1991; deCourcy Hinds 1991a). In fact, Casey’s first two choices, including Chrysler CEO Lee A. Iacocca, who had tenuous ties to Pennsylvania, but was attractive because of his ability to self-finance a campaign, turned down the job (deCourcy Hinds 1991a; 1991b). Once Casey received his answer from Iacocca, he selected a virtual unknown from his Cabinet, Harris Wofford (D-PA), who went on to defeat Thornburgh to remain in the Senate (deCourcy Hinds 1991b; Congressional Quarterly Inc. 1994). Hockenhull, Kean, and Casey were confronted with different circumstances, but their delayed selections all reflected partisan considerations.

Another example of an intraparty struggle influencing a selection occurred shortly after Gov. Clyde M. Reed (R-KS) took office. Reed was confronted with a vacancy caused by Sen. Charles Curtis's (R-KS) election as vice president. Curtis, fearing that Reed would name an objectionable appointee, had considered resigning during the previous governor's administration, but remained in the Senate to lead the session that followed the election ("Henry Allen Picked for Kansas Senator" 1929). Former Kansas Gov. Henry J. Allen (R-KS) quickly shot to the top of Reed's list of potential appointees ("Curtis Vacancy to Wait" 1929). Despite Allen's status as a leading figure in the Republican National Committee and his personal role in Reed's political rise, a longstanding personal rivalry between Curtis and Allen made Reed's task difficult ("Hoover Won't Meddle in Kansas Politics" 1929). In making his selection, Reed looked for cover from President Hoover. In fact, the *New York Times* reported, "the inclination of Governor Reed is to name Mr. Allen, but he cannot find a safe way to do so...unless President Hoover would publicly say that he favored Mr. Allen" ("Hoover Won't Meddle in Kansas Politics" 1929). When the decision to select Allen was announced it was clear that President Hoover approved Reed's choice ("Henry Allen Picked for Kansas Senator" 1929). Thus, the time Reed took reflected his attempt to navigate a thorny political situation.

A set of unique political circumstances delayed the replacement of Sen. Clyde Hoey (D-NC). Hoey died just one week before the State Democratic Convention and two weeks ahead of the Democratic primary, for which he was the only candidate ("Governor to Pick Hoey's Successor" 1954). By waiting to make his selection until after the convention and the primary, Gov. William Umstead's (D-NC) appointee, Sam Ervin, Jr.

(D-NC), became the obvious nominee to replace Hoey on the ballot (“Governor to Pick Hoey’s Successor” 1954). Ervin received the nomination from the party executive committee, selected at the Democratic Convention, and went on to win an uncontested general election (“Governor to Pick Hoey’s Successor” 1954; Congressional Quarterly Inc. 1994). Gov. Albert “Happy” Chandler (D-KY) attempted a similar gambit, but failed. Like Hoey, Sen. Alben W. Barkley (D-KY) died after the filing date for the Democratic primary, empowering the executive committee of Kentucky’s Democratic Party to name the nominee for the November election (“Rift in Kentucky Likely to Grow” 1956). After the executive committee delayed a decision on the nominee for Barkley’s seat, Chandler hoped to gain leverage through victory over his political rivals in the Democratic primary for Kentucky’s other Senate seat (“Vote Tomorrow Tests Chandler” 1956). However, Chandler’s candidate was soundly defeated, limiting his influence on the nomination (“Clements Winner in Kentucky Race” 1956; “Clements Facing Chandler Fights” 1956). In a last ditch effort, Chandler selected a political ally, Joseph J. Leary (D-KY), the day before the committee was to select the nominee (“Lawyer Named to Barkley’s Senate Seat; J.J. Leary Managed Chandler Campaign” 1956). However, Leary did not receive the nomination and subsequently turned down the appointment (“Party Chairman Gets Barkley’s Senate Seat” 1956). Robert Humphreys (D-KY), the Democratic Party Chairman, was appointed two days later, with no chance to secure the nomination (“Party Chairman Gets Barkley’s Senate Seat” 1956). Both Umstead and Chandler sought to advantage their appointee by strategically delaying selections to maximize their influence, but were met with very different results.

The assassination of Sen. Huey P. Long (D-LA) set off a contentious power struggle that resulted in one of the longest vacancies to be filled by appointment. After Long's death, attention focused on Gov. Oscar K. Allen (D-LA), who assumed leadership of the Long faction. Initially it was believed that Allen would resign the governorship and be appointed to the Senate by his successor Lt. Gov. James Noe (D-LA) ("Made Huey Long, Allen Often Said" 1935). However, Allen eschewed the appointment and called for a special election instead ("Allen Move Surprises Foes" 1935). After much jockeying, including the withdrawal of the factions' endorsement of Noe for governor, and Allen's primary victory to serve the remainder of Long's Senate term, Allen died (Daniell 1935; "Gov. O.K. Allen, Heir of Huey Long, Dies" 1936). With the primary for the special election over, Noe, who succeeded Allen as governor, was expected to name the nominee for the full term, Allen J. Ellender, to fill the vacancy ("Gov. O.K. Allen, Heir of Huey Long, Dies" 1936). In what he called a tribute to Huey Long, Noe selected Long's wife, Rose McConnell Long, to serve until the special election, for which she was subsequently nominated ("Huey P. Long's Widow Is Named to Fill His Seat in the Senate" 1936; Daniell 1936). Noe's selection of Long's wife was described as key in healing intraparty divisions (Crown 1936). Thus, one of the longest vacancies was precipitated by the death of a factional leader and brought to an end by selecting an uncontroversial appointee.

While some governors weighed partisan considerations and some sought to advantage their appointee by waiting, others have delayed selection as they balanced their own Senate ambitions.<sup>19</sup> Several governors have seen their Senate ambitions disappear

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<sup>19</sup> The delay in choosing Sen. Brien McMahon's (D-CT) replacement resulted from several factors including the race for the other Connecticut Senate seat and Gov. John Lodge's (R-CT) ambitions. Lodge, on vacation at the time of McMahon's death, declined

with an appointment<sup>20</sup> and others used their power to great personal benefit.<sup>21</sup> The most direct route to fill Senate hopes is for governors to take a seat for themselves. Many

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to immediately name an appointee out of respect (“Lodge Ending Vacation” 1952). After attending McMahon’s funeral, Lodge resumed his vacation and announced that he would not take any action on the vacancy until he returned two weeks later (“Thousands Attend Rites for M’Mahon” 1952). During this time, a number of candidates emerged for the November election to replace McMahon. Lodge was rumored to be interested in the seat and justified his deliberation by noting that the Senate would not be in session before he made the appointment (“Democratic Parley Set on M’Mahon Seat” 1952; “Six Remain in Race for M’Mahon Seat” 1952). After much speculation, Lodge appointed William A. Purtell (R-CT), the Republican nominee for the other Connecticut Senate seat (“Republican Appointed to McMahon Senate Seat” 1952). Purtell’s appointment permitted him to gain seniority in the Senate ahead of his election and allowed Lodge to avoid choosing sides in the battle for the other nomination (“Republican Appointed to McMahon Senate Seat” 1952). The time Lodge took to make the appointment reflected his need to carefully calculate his choice so as to not miss an opportunity for the Senate seat or make political enemies.

<sup>20</sup> Sen. Ernest Lundeen’s (FL-MN) untimely death, in a plane crash, left Gov. Harold Stassen (R-MN) in a difficult position (“Stassen Out of Race” 1940). Stassen, rumored to be interested in Lundeen’s seat before his death, ruled himself out for the appointment and issued assurances that he would not select a placeholder to ease his path to the Senate (“Stassen Out of Race” 1940). Over six weeks after Lundeen’s death, Stassen selected Joseph H. Ball (R-MN) (“Newspaper Man Named as Minnesota Senator” 1940). Stassen won another term as governor, but the responsibility of filling the vacancy appears to have ended his Senate hopes (“Minnesota Governor Harold Edward Stassen”). Gov. Charles W. Bryan (D-NE), a presumptive candidate in the next Senate election, faced a similar dilemma, but publicly entertained the possibility of taking the seat (Jones 1933). With the Senate in session, Bryan’s delay made the state “appea[r] to be limping along in a momentous period with only half the representation in the Senate” (Jones 1933). The decision was fraught with considerations of “ethical embarrassment” and the suggestion that the lieutenant governor may not select Bryan if he resigned without appointing himself (Jones 1933). More than two months after the vacancy began, Bryan selected political associate William H. Thompson (D-NE) to fill the seat (“W.H. Thompson, 79, is Nebraska Senator” 1933). Bryan ran in the following Senate election, but failed to secure his party’s nomination (“Nebraska Governor Charles Wayland Bryan”).

<sup>21</sup> While the Senate ambitions of Stassen and Bryan stalled, others have used their appointment powers to promote their Senate chances. Gov. Walter E. Edge’s (R-NJ) interest in Sen. William Hughes’ (D-NJ) seat, which he won in the following election, appears to have influenced his decision-making (“Edge, Walter Evans”). Edge’s comments about the vacancy, the first in New Jersey after the adoption of the 17th Amendment, reveal caution as norms were being established around electing senators. When selecting David Baird (R-NJ), who posed no electoral obstacle for the full term, Gov. Edge said the seat “...in normal times would remain unfilled until the people had

rumors of self-appointment amount to nothing; Gov. Edward Carville (D-NV), however, is an exception. Immediately after Sen. James Scrugham's death, it was suggested that Carville would take the position for himself ("Senator Scrugham of Nevada is Dead" 1945). Carville waited until after he represented Nevada at the National Governors Conference to make the appointment ("Defers Filling Scrugham Post" 1945). When he returned, Carville announced that he would resign the governorship on July 31 to take the Senate seat ("Carville Going to Senate" 1945). However, he took office several days early to participate in the vote on the United Nations charter ("Carville Sworn in as Senator" 1945). Thus, while Carville's decision to take the seat lengthened the vacancy,

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chosen his [Sen. Hughes] successor, but at this time our country is at war and patriotic duty demands that every assistance be given to the President..." ("Edge Names Baird as Jersey Senator" 1918). Thus, Edge cast his choice as necessary to ensure effective governance, while providing cover for a decision that promoted his ambition. The three-week deliberation by Gov. Frank Carlson (R-KS) before naming placeholder Harry Darby (R-KS) to the Senate demonstrates an effort to strike a similar balance. By appointing Darby, a state Republican Party leader who had never held elective office, Carlson chose a loyal partisan who commanded respect within the party, but would not challenge him for the nomination ("Darby, Kansas G.O.P. Aide, Named Senator to Fill the Vacancy Caused by Reed's Death" 1949). Carlson won the Senate seat in the subsequent election ("Carlson, Frank").

Gov. Raymond E. Baldwin (R-CT) faced an even more complicated situation than Edge or Carlson in promoting his Senate ambition. When Sen. Francis T. Maloney (D-CT) died, Connecticut required a special election to fill the vacancy ("Baldwin Chooses Hart for Senate" 1945). Thus, absent a special law granting Baldwin the power to name a temporary appointee, the Senate seat would have remained vacant for nearly six months ("Baldwin Chooses Hart for Senate" 1945). Baldwin faced a legislature firmly controlled by the opposite party, which demanded that he declare his intended appointee before agreeing to the grant him the power to fill the vacancy ("Connecticut Senate to Decide on Hart" 1945). Baldwin announced that he would name Admiral Thomas C. Hart, who had never held political office and declared that he would not seek election when the appointment expired ("Capital Ponders Hart's Affiliation" 1945). By presenting a nonpartisan appointee and rhetoric about the cost of a special election, Baldwin was able to win permission from the legislature to make the appointment ("Capital Ponders Hart's Affiliation" 1945). Baldwin's maneuvers paid off when he won the Senate seat in the subsequent election; a task that would have been more difficult if a special election had produced an incumbent with static ambition (Congressional Quarterly Inc. 1994).

he was able to advocate for Nevada at the National Governors Conference and assure representation in the Senate when an important issue arose.

Not all delays precipitated by progressive ambition involve governors interested in moving to the Senate; presidential politics also intercede. Sen. Robert F. Kennedy's (D-NY) assassination, in the midst of his campaign for the Democratic presidential nomination, created a dilemma for Gov. Nelson Rockefeller (R-NY), who was seeking the Republican presidential nomination (Apple 1968a). Once several leading candidates appeared reluctant to accept the appointment, Rockefeller had incentive to hold off naming an appointee until after the Republican National Convention (Schanberg 1968a; Madden 1968). The support of the New York delegation at the Convention was crucial to Rockefeller's hopes for the nomination and naming a Senate replacement had the potential to fracture the delegation (Apple 1968b; Madden 1968). After Rockefeller lost the nomination, a court challenge, and the fact that several candidates withdrew their names from consideration caused further delays (Schanberg 1968b). Even after Rockefeller had reportedly made the decision to appoint upstate Rep. Charles E. Goodell (R-NY), he waited at the suggestion of Lt. Gov. Malcolm Wilson (R-NY), who feared that Goodell would thwart his political ambitions (Clarity 1968). When Goodell was eventually appointed, he was noted as bringing geographic and ideological balance to the state's Senate delegation ("Rockefeller Picks Goodell for Kennedy's Seat" 1968). Thus, the lengthy vacancy following Kennedy's assassination resulted from both Rockefeller's and Wilson's political ambitions. While ambition is seen in the delay, Rockefeller's choice of an upstate conservative demonstrates how political calculations restrain governors' choices.

The death of Robert F. Kennedy's brother, Sen. Ted Kennedy (D-MA), also produced a relatively long vacancy and had a major policy impact. Kennedy's death ended the filibuster-proof Democratic majority in the Senate that was established just a month earlier, when Sen. Al Franken (D-MN) took office after a contested election (Hulse 2009a). At the time of Kennedy's death, Massachusetts law did not allow the governor to make temporary appointments and instead required a special election to fill the vacancy (Goodnough 2009a). The prohibition against gubernatorial appointments had been instituted a few years earlier to prevent Gov. Mitt Romney (R-MA) from naming Sen. John Kerry's (D-MA) replacement, if he were elected president in 2004 (Goodnough 2009b). Rather than waiting for the election to attempt to regain the 60-vote majority, the Democrats in the state legislature empowered the governor to make appointments ahead of the special election (Goodnough and Hulse 2009). Once the change was in place, Gov. Deval Patrick (D-MA) wasted no time in appointing Paul G. Kirk, who vowed to not seek election on his own (Goodnough 2009c). Even though his time in the Senate was brief, Kirk cast a critical vote in favor of the Affordable Health Care Act (Murray and Montgomery 2010). When Scott Brown (R-MA) won the special election to serve the unexpired portion of Kennedy's term, the Democrats once again found themselves without the supermajority needed to invoke cloture (Murray and Montgomery 2010). Brown's election forced congressional Democrats to rely on the version of the bill passed when Kirk was in office (Murray and Montgomery 2010).<sup>22</sup>

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<sup>22</sup> Kirk's appointment was not the first time partisan control of the Senate swung on a vacancy. The long vacancy that followed Sen. Robert A. Taft's (R-OH) death involved speculation about which party would hold the majority in the Senate and Gov. Frank Lausche's (D-OH) presidential aspirations. Even before Taft's death, his poor health prompted a discussion that he may not complete his term (Krock 1953). Replacing the

The Kirk appointment was a concerted effort to secure partisan advantage. Patrick was an accomplice, but was only willing to appoint a placeholder in an effort to protect his own political future. Patrick could have chosen a high-profile appointee who viewed the appointment as an opportunity to build a Senate career. However, since Patrick was up for reelection in 2010, a placeholder was an opportunity to avoid drawing attention to his participation in the overtly partisan law change. Further, since Democrats held a strong partisan edge in Massachusetts, choosing a co-partisan with ambition had the potential to create a factional dispute, which could have cost Patrick support with segments of the party.<sup>23</sup> Thus, partisan demands and personal preservation combined to

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Republican Taft with a Democrat, as Gov. Lausche (D-OH) would almost assuredly do, would have swung a one seat Republican majority to a one seat Democratic edge, with one independent senator (Krock 1953). However, a change in the organization of the Senate was seen as unlikely because the Democrats would enhance their chances in the congressional midterm by remaining in the minority (Krock 1953). Further, Sen. Wayne Morse (I-OR) promised to preserve the Republican majority if the Democrats challenged (“G.O.P. Senate Rule Assured by Morse” 1953).

Partisan control of the Senate was only one consideration. Lausche’s own ambitions also came to the fore. While Lausche could have named himself to the seat, his ability to resign the seat and be appointed was unlikely because the lieutenant governor was a Republican (“Lausche is Silent of Taft Successor” 1953). There was also talk of a placeholder who would step aside for Lausche in the next election (Knowles 1953). As the early speculation took place, the Republican controlled state legislature began to consider a bill to prevent Lausche from making the appointment by instituting a special election, but quickly decided that the action would have presented an unnecessary public relations risk (“Lausche Issues Challenge” 1953; “G.O.P. in Ohio Drops Senate Seat Fight” 1953; “Ohio G.O.P. Kills Plan for Senate Election” 1953). Eventually Lausche removed himself from consideration, but the delay in the selection began to be seen as part of his presidential ambition strategy (“Lausche Not for Senate” 1953; Knowles 1953). As the vacancy stretched into its third month, a lawsuit was filed over the Governor’s inaction (“Sues to Fill Taft’s Seat” 1953). Lausche appointed Cleveland Mayor Thomas A. Burke the day before the State Supreme Court was set to hear the suit (“Lausche Appoints Burke, Democrat, as Taft Successor” 1953). By delaying his choice, Lausche kept open the possibility of running for governor or Senate in the midterm election, giving him flexibility in pursuing his ambitions.

<sup>23</sup> Concerns over intraparty disputes help explain why Patrick also named a placeholder in 2013.

grant Patrick the authority to make an appointment and encourage him to name a placeholder.

Most moves to secure partisan and personal advantage have been subtle; Gov. Rod Blagojevich's (D-IL) was not. In December 2008, Blagojevich, who had been under investigation on an unrelated matter, was arrested for attempting to sell the seat vacated by President-elect Obama (Davey 2008a). The surveillance memorably recorded Blagojevich saying, "I've got this thing, and it's [expletive] golden and I'm not just giving it up for [expletive] nothing" (Davey 2008a). Several weeks later, Blagojevich, facing impeachment, selected former Illinois Attorney General Roland Burris (D-IL) to fill the vacancy (Davey 2008b). Blagojevich's actions and the uncertainty created by the investigation of the Governor delayed the appointment by over six weeks. It was another two weeks before the Illinois secretary of state agreed to issue Burris his credentials to qualify for the Senate (Hulse 2009b). Thus, Illinois had only one senator for nearly two months because of Blagojevich's actions and the repercussions it caused.

Lengthy vacancies prior to appointments, while relatively rare, reveal several features of the system for filling Senate seats. Confusion over governors' powers and undesirable aspects of special elections led a number of state legislatures to empower governors to choose replacements. Other long gaps reflect the political environment and are influenced by governors' ambition. While ambition normally spurs governors to make quick, uncontroversial choices, it can sometimes encourage them to delay selections. Thus, the mechanism of restraint also enables manipulation in some circumstances, potentially drawing negative attention to the institution of gubernatorial appointment and calls for reform.

## **Descriptive Representation and Legacies**

Elections made the Senate a less exclusive club, opening more opportunities to those without a family legacy in Congress and individuals with less wealth (Crook and Hibbing 1997). However, gubernatorial appointments provided some of the first opportunities for women and ethnic minorities to serve in the chamber. Appointments have been followed by a gradual rise in the election of women and minorities. This section will examine how appointments have diversified the Senate and how the presence of appointed senators affected the electoral prospects for members of these groups. As the chamber has become more diverse, women and minorities have begun to create vacancies. Since the move toward greater diversity in the Senate has been so slow, pressure mounts to name an appointee who matches the demographic characteristics of women and minority senators when they create vacancies. Thus, in addition to exploring the diversity brought by appointments, descriptive legacies will be examined as a constraint on governors' actions. Finally, the demographic characteristics of governors will be considered to determine if women and minority governors behave differently than their white male counterparts in naming appointees.

### **Gender Diversity**

The first woman to serve in the Senate, Rebecca Latimer Felton (D-GA), was symbolically appointed to fill the seat of Sen. Thomas E. Watson (D-GA) ("Felton, Rebecca Latimer"). The timing of the appointment, just ahead of the 1922 general election, and Felton's age, 87, meant that she would be a short-term senator ("Felton, Rebecca Latimer"). Even though her appointment came a month ahead of the election, Felton almost did not take the oath of office. Felton was only able to break down the

gender barrier in the Senate through an arrangement with Senator-elect Walter F. George, which allowed her to take the oath and serve for one day before handing off the seat (“Yields to Mrs. Felton” 1922; “George to Let Woman Take Seat in Senate” 1922; “Mrs. Felton Stars at Senate Session” 1922). The second woman senator, Hattie Wyatt Caraway (D-AR), was also appointed (“Caraway, Hattie Wyatt”). Unlike Felton, Caraway participated in committees and roll-call votes. Caraway did not merely discharge her legislative duties and retire; she ran to retain her seat and won, becoming the first woman to win a Senate election (“Caraway, Hattie Wyatt”).

To date, there have been forty-four women senators (“Women in the Senate”). Fourteen of them, nearly one-third, began as appointees. Further, nine of the first thirteen women to serve in the Senate were appointed. Thus, even though thirteen women served before the 1978 election, only six were elected. Caraway and Sen. Rose McConnell Long (D-LA), two of the pre-1978 women senators, were elected only after they were each appointed to fill the seat of their deceased husband (“Caraway, Hattie Wyatt”; “Long, Rose McConnell”). Another two, Sen. Gladys Pyle (R-SD) and Sen. Hazel Hempel Abel (R-NE), won special elections to fill unexpired terms, and served in the Senate for only a short time (“Pyle, Gladys”; “Abel, Hazel Hempel”). The final two, Sen. Margaret Chase Smith (R-ME) and Sen. Maurine Brown Neuberger (D-OR), along with Caraway and Long, demonstrate the importance of familial connections for women in Senate elections prior to 1978. Smith moved from the House to the Senate, but won her House election to fill the seat of her deceased husband Rep. Clyde H. Smith (R-ME) (“Smith, Margaret Chase”). Neuberger won election to a full Senate term, after being passed over for the appointment to fill the vacancy caused by the death of her husband Sen. Richard L.

Neuberger (D-OR) (“Neuberger, Maurine Brown”). Interestingly, Neuberger was not appointed to her husband’s Senate seat because she refused to rule out a run for the seat when the term ended (“Oregon Justice, Democrat, Gets Neuberger’s Seat in U.S. Senate” 1960).

Since 1978, only five of thirty-one women senators have been appointed to begin their Senate careers. Only one, Sen. Jocelyn Burdick (D-ND), was a placeholder who publicly stated that she would not run for election when she was appointed to take her husband’s seat (“Senator Burdick’s Wife is Interim Successor” 1992). The other four sought the Senate seat in their own right. Sen. Sheila Frahm (R-KS) lost her nomination bid, while Sen. Jean Carnahan (D-MO) lost in a special election, and Sen. Lisa Murkowski (R-AK) and Sen. Kirsten Gillibrand (D-NY) won elections to retain their seats (“Frahm, Sheila”; “Carnahan, Jean”; “Murkowski, Lisa”; “Gillibrand, Kirsten”). Thus, almost all recent women senators win their way in, and contemporary women appointees have not been used to merely warm seats.

Even as the number of women getting elected has changed, the importance of familial relationships for women appointees has remained constant. Overall, ten of the fourteen women appointed to the Senate have been related to the senator they replace or the governor who made the selection, including three of the most recent appointees. In fact, Sen. Lisa Murkowski (R-AK) became the only person to both replace and be appointed by a family member when her father Sen. Frank H. Murkowski (R-AK) was elected governor and selected her to fill the vacancy caused by his resignation (Seelye 2002). The role of familial bonds in raising the number of women in the Senate and the consequences on their electoral prospects will be considered in more detail below.

Despite gains, women are still severely underrepresented in the Senate. Given the importance of the descriptive representation women senators provide, it is useful to consider instances where a woman senator vacated a seat or a woman governor selected an appointee. Only one elected woman senator has created a vacancy.<sup>24</sup> When Sen. Hillary Rodham Clinton (D-NY) resigned to become secretary of state, Gov. David Paterson (D-NY) was empowered to name her replacement (Hakim 2008). Since Clinton's appointment did not take effect until after President Obama's inauguration, Paterson had over six weeks to choose her replacement. Paterson's decision became the source of much speculation, including a highly publicized campaign by Caroline Kennedy (Confessore 2008). Throughout the process, the symbolic importance of a potential appointee's demographics was always present. In fact, Clyde Haberman (2008) wrote in the *New York Times* "that the speculation about the next senator has turned almost exclusively on credentials like ethnicity, gender and geography," and that to satisfy all groups, "a gay black Catholic would do nicely, especially if she's from upstate." While Paterson's selection of Rep. Kirsten Gillibrand (D-NY) respected the descriptive choice of the public and brought geographic diversity to New York's Senate delegation, he was harmed by the long selection process that brought intraparty and personal rivalries to the fore (Hakim and Confessore 2009).

While Paterson was expected select a woman, an opposite pressure appears to be at work when women governors name appointees. Since relatively few women have been governors, it is not surprising that only four have named Senate appointees. While four is

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<sup>24</sup> With her resignation Sen. Dixie Bibb Graves also created a vacancy. However, Sen. Graves was not elected to the position and was appointed with the understanding that she would step aside after the Democrats selected their special election nominee.

too few to draw any conclusions about the type of appointees women governors choose, it is notable that none of them appointed a woman. The pool of potential appointees may have been a factor in each selection, but the desire to avoid charges of gender favoritism likely made these governors wary of selecting women. Only Gov. Ruth Ann Minner (D-DE) selected a placeholder. Minner's appointee, Ted Kaufman (D-DE), former Chief of Staff to Joe Biden (D-DE), was widely seen as keeping the seat warm for Biden's son Beau (Hulse 2008a; 2008b). Two other appointees named by women governors ran unsuccessfully to retain their position.<sup>25</sup> Gov. Nikki Haley (R-SC), the most recent woman to appoint a senator, selected Rep. Tim Scott (R-SC), despite rumors about several high profile women ("Scott, Tim"; Blake 2012a). When appointed, Scott became the first African American from the South to serve in the Senate since Reconstruction, and the first African American Republican since Sen. Edward Brooke (R-MA) in 1979 ("Ethnic Diversity in the Senate"). While Scott's appointment marked a number of milestones, his appeal to the conservative elements of the South Carolina Republican Party made him a practical choice for the Governor (Steinhauer 2012). Thus, Haley was able to use the appointment to burnish her conservative credentials, ahead of her own reelection bid.

Gubernatorial appointments gave women their entrance into the Senate and provided the first opportunities for women to win Senate elections. Appointments are no longer a major factor in providing women the chance to serve in the Senate. The presence of women appointees, along with changing attitudes toward women in elective office,

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<sup>25</sup> Sen. David Karnes (R-NE), appointed by Gov. Kay A. Orr (R-NE), lost to Bob Kerrey (D-NE) in 1988 and Sen. Robert C. Krueger (D-TX), appointed by Gov. Ann Richards (D-TX), lost to Kay Bailey Hutchison (R-TX) in 1993 ("Karnes, David Kemp"; "Krueger, Robert Charles"; Congressional Quarterly Inc. 1994).

helped set the stage for the progress that has been made in women's representation in the Senate. However, recent appointments point to the distinct role of gender when choosing replacements. The perceived need to maintain descriptive representation may have helped Gillibrand get appointed, but appointments, especially the early selection of women with family connections, may have marginalized them in the Senate. While the diminution of women in the legislative process seems to be waning, gender appears to constrain the choices of women governors, who do not want their selection to be charged with gender favoritism. Thus, Senate appointments have helped create and expand opportunities for women in the chamber, but also create unique challenges.

### **Ethnic Diversity**

While appointments created greater opportunities for women in the Senate, the relationship between appointments and ethnic diversity is more complicated.<sup>26</sup> The complexity emerges from the disparate experiences of minority groups. For instance, three of the seven African American senators, since the adoption of the 17th Amendment, were appointed to the Senate ("Ethnic Diversity in the Senate"). Additionally, governors selected two of the eight Hispanic American senators and one of the six Asian American senators ("Ethnic Diversity in the Senate"). However, none of the three Native American Indian senators were chosen through a gubernatorial appointment, although two, Sen. Robert Owen (D-OK) and Sen. Charles Curtis (R-KS), began their Senate careers prior to the 17th Amendment ("Ethnic Diversity in the Senate"). Thus, like women, a significant portion of post-17th Amendment minority senators, six of twenty-four (25%), have been

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<sup>26</sup> All the ethnic categories discussed in this section follow the Senate's classifications ("Ethnic Diversity in the Senate").

appointed. However, unlike women who gained entrance to the Senate through appointment, the first senator from each of these ethnic groups was elected.

Geography helped to produce two appointments, which maintained descriptive representation. Daniel K. Akaka (D-HI) replaced fellow Asian American, Sen. Spark M. Matsunaga (D-HI), in a state that has produced nearly every Asian American senator and where five of the seven senators have shared that ethnic background (“Akaka, Daniel Kahikina”; “Ethnic Diversity in the Senate”; “States in the Senate – Hawaii’s United States Senators”). Similarly, Roland Burris (D-IL), an African American, filled the vacancy created by Sen. Barack Obama (D-IL) in the only state that has elected two African American senators (“Burris, Roland”; “Ethnic Diversity in the Senate”). The historic nature of Obama’s presidential election, along with Gov. Blagojevich’s (D-IL) legal troubles, appear to have encouraged Blagojevich to seek ethnic continuity to avoid further controversy (Davey 2008b). The other four ethnic minority appointees replaced white men and created more long-term diversity in the Senate. Dennis Chavez’s (D-NM) 1935 appointment served as a springboard for his 27-year Senate career (“Chavez, Dennis”). The other three have occurred in the past decade. Robert Menendez (D-NJ), the first Hispanic senator from New Jersey, has now won two elections to the Senate and chaired the Democratic Senatorial Campaign Committee (“Menendez, Robert”). The two most recent came within a short span in early 2013. When William “Mo” Cowan (D-MA) was appointed, he joined Tim Scott (R-SC), who was chosen just weeks earlier, marking the first time two African Americans served in the Senate simultaneously (“Ethnic Diversity in the Senate”). Selected as a placeholder, Cowan’s time in office was short (Blake 2013; “Cowan, William (Mo)”). Scott, on the other hand, is poised for a 2014 run.

Minority senators have created seven vacancies. An appointee who shared the ethnic background of these senators was chosen only twice; white men have filled the other five openings, including all three vacancies created by Hispanic senators.<sup>27</sup>

Replacements for two of the Hispanic senators reflect governors' ambitions. Gov. Edwin Mechem (D-NM) took Sen. Dennis Chavez's seat for himself, while Gov. Charlie Crist (R-FL) named a personal friend and former chief of staff as a placeholder to replace Sen. Mel Martinez (R-FL) ("New Mexico G.O.P. Gets Chavez Seat" 1962; Fineout 2009). Interestingly, Crist ended his pursuit of the Republican nomination and ran for Martinez's seat as an independent when Marco Rubio (R-FL), the Hispanic speaker of the Florida House of Representatives, took a commanding lead in the primary polls (Cave 2010).

A case that has yet to be settled involves Gov. Neil Abercrombie (D-HI) and his former Lt. Gov. Brian Schatz (D-HI). Near the end of his life, Sen. Daniel Inouye (D-HI), who served in the Senate for nearly 50 years, requested that Rep. Colleen Hanabusa (D-HI) be named to replace him (Sullivan 2012). Naming Hanabusa would have provided ethnic continuity in the seat and enhanced the gender diversity of the Senate. After a process that required the State Democratic Committee to submit three names, Abercrombie selected Schatz, a white man (Blake 2012b). Both Abercrombie and Schatz are up for election in 2014. Rep. Hanabusa is challenging Schatz for the Democratic nomination, and has been endorsed by former Sen. Daniel Akaka (D-HI) (Akaka and Chun 2014). While ethnic undertones were present, Abercrombie's selection appears to be a story more about personal loyalties than race (Blake 2012b). Personal and political

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<sup>27</sup> In addition to the Chavez, Martinez, and Inouye replacements, detailed here, Michael Bennet (D-CO) was appointed to replace Sen. Ken Salazar (D-CO) and Henry J. Allen (R-KS) was selected to replace Charles Curtis (R-KS).

considerations dominate the decisions of governors, who treat openings created by ethnic minorities similar to other vacancies. The small number of cases involving minority vacancies makes it difficult to draw any firm conclusions, however, there appear to be some danger for governors who fail to consider the demographics of the elected senator.

Finally, it is important to consider how governors from minority groups have acted when faced with a vacancy. There have been relatively few governors from minority groups, limiting the number of vacancies they have filled. Five minority governors have made six appointments.<sup>28</sup> Notably, only two of their six appointees have been white men and only one has shared the ethnicity of the appointing governor.<sup>29</sup> While electing a minority governor is an indication of a public that is comfortable with elected officials from diverse backgrounds, there appears to be a greater sensitivity to descriptive representation from minority governors. The electoral success of non-placeholder appointees selected by minority governors is unblemished; all three who have run won their election.<sup>30</sup> Sen. Scott is aiming to extend this streak in 2014. Thus, minority governors have preserved and extended the diversity of the Senate in meaningful ways. Overall, appointments are a mixed bag for ethnic diversity in the Senate. On one hand, the descriptive representation created through elections has not always been reflected in the governors' selections. However, the appointees of minority governors have been

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<sup>28</sup> The five minority governors to name appointees are: John D. Waihee (D-HI), David Paterson (D-NY), Brian Sandoval (R-NV), Nikki Haley (R-SC), and Deval Patrick (D-MA) (who made two appointments).

<sup>29</sup> Gov. Patrick's selection of Paul G. Kirk (D-MA) and Gov. Sandoval's appointment of Dean Heller (R-NV) are the two white men who were named by minority governors. Patrick's selection of William "Mo" Cowan (D-MA) is the only instance where a co-ethnic senator was chosen.

<sup>30</sup> Senators Daniel K. Akaka, Kirsten Gillibrand, and Dean Heller, selected by Governors Waihee, Paterson, and Sandoval, respectively, all sought and won election to retain their seat.

uncommonly successful in winning Senate elections, expanding diversity for the long-term.

### **All in the Family**

Familial connections play a role in appointments. Eleven appointees have been named to replace a relative, and governors have named three of their own family members to the Senate. Since Lisa Murkowski (R-AK) was selected by her father and filled the vacancy he created, the total number of familial appointees is thirteen (Seelye 2002). Of the thirteen appointees with family ties, ten have been women. Thus, over 70% of women appointees have a family connection, compared to less than two percent of male appointees. None of the ethnic minorities selected by governors had familial connections. Thus, family ties help to grow the number of women in the Senate, provide opportunities for women to show their skills as senators, and gain the inside track for elections. While family connections helped women gain entrance to the Senate, these ties may have marginalized early women senators whose major qualification was their last name. Since ethnic minorities do not enjoy the benefits of familial association, garnering seats has been a challenge. However, ethnic minorities who make it to the Senate do not face the specter of family tokenism that many women senators have faced.

Naming family members smacks of abuse. However, a number of familial appointees have been used as placeholders to ensure against advantaging a candidate in future Senate elections. In fact, two of the three governors who appointed a member of their own family selected their wives who had no designs on election (“Graves, Dixie Bibb”; “A Governor Picks Wife for Senate” 1972). Further, two of the ten appointees who replaced a family member, both wives of deceased senators, committed to not run

for the seat (“Woman is Named Senator by South Dakota Governor” 1948; “Senator Burdick’s Wife is Interim Successor” 1992). Thus, in several instances, familial connections have been used to prevent conferring advantage through appointment. Seven of the other nine familial appointees ran, and five of those seven won election including Harry F. Byrd, Jr. (D-VA) and Lisa Murkowski (R-AK), both of whom were appointed under controversial circumstances.

The practice of appointing family members is not widespread, but occurs frequently enough to warrant attention. The success of family appointees demonstrates their ability to overcome the stigma of nepotism and serves as a reminder of the power of family brands in elections (Feinstein 2010). Ultimately, familial appointments tell a complicated story. Some governors use family as way of creating open-seat elections where no candidate has the advantage of incumbency, while others place these high-profile replacements in a position take over for the long-term. Thus, family appointments have the potential to cause concern, but do not deviate from electoral norms that reward family dynasties.

### **Selfies**

Gubernatorial self-appointments are attempts by governors to stack the deck in their own favor. Self-appointments follow a formula where a sitting governor resigns and is subsequently named to fill the vacancy by their replacement.<sup>31</sup> All nine governors who

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<sup>31</sup> The possibility of a governor making the appointment before leaving office has been suggested a number of times, but not seen in practice. The formula where a governor resigns before being appointed may have prevented other potential self-appointments because of the unwillingness of the lieutenant governor to participate in the scheme. See footnotes 20 and 22 (in this chapter) on the decisions of Gov. Charles W. Bryan (D-NE) and Gov. Frank Lausche (D-OH) regarding a sitting governor naming himself and lieutenant governor resistance to appointing after a resignation.

took an appointment for themselves ran to retain the position. However, only one, Gov. Albert “Happy” Chandler (D-KY), won election after his appointment (Rudin 2009). In fact, although nomination tends to be relatively easy for appointees to secure, five self-appointers were denied the endorsement of their party (Rudin 2009). Further, two of the governors who received their party’s nomination lost their contest by over 15 points (Congressional Quarterly Inc. 1994). In fact, Wendell R. Anderson (D-MN) went from winning his gubernatorial election by over 30 points in 1976, to losing his Senate contest by 16 points to a political newcomer just two years later (Congressional Quarterly Inc. 1994). It is safe to say that neither co-partisans nor the public are willing to forgive these power grabs.

The two most troubling instances of self-appointment came after the 1962 general election. Just two weeks after Gov. Edwin L. Mechem (R-NM) lost his bid for reelection, Sen. Dennis Chavez (D-NM) died (Congressional Quarterly Inc. 1994; “Chavez, Dennis”). Mechem, by then a lame duck governor, took the vacancy, assuring himself a position until 1964 (“New Mexico G.O.P Gets Chavez Seat” 1962). Barely a month after Mechem was appointed to the Senate, Sen. Robert S. Kerr (D-OK) died (“Kerr, Robert Samuel”). Gov. J. Howard Edmondson (D-OK), who was leaving office, had himself appointed to the seat in the waning days of his administration (“Edmondson Succeeds Kerr in Senate” 1963). These cases, and the actions of Virginia’s Gov. Harrison detailed above, point out the dangers of lame duck periods where there is no opportunity to hold governors accountable for their actions. Thus, political futures constrain governors’ choices and help to explain why overt power grabs are rarely seen.

The nine self-appointers do not represent the universe of governors with Senate ambitions. In fact, a number of governors who have made appointments have run for Senate. However, most governors who run for Senate in the election immediately after they make an appointment selected someone other than themselves. These governors have experienced much greater electoral success than self-appointers. In fact, 14 of the 19 (73.7%) non-self-appointed governors who ran for Senate in the election after making an appointment won their contest. While governors can help set the stage for their electoral success, there are no guarantees that they will win a Senate election. Charlie Crist's failed Senate run serves as a reminder that the political environment is a critical determinant of elections (Muskal 2010). Even though Crist's appointee closely resembled Joe Manchin's (D-WV) pick, they experienced very different outcomes in their 2010 bids for Senate (Smith 2010).

Self-appointment is detrimental to public favorability and harms electoral chances. However, when governors have an unfettered ability to name replacements, the power to appoint serves as an outlet for lame duck governors whose ambitions have been frustrated. For governors who are not politically desperate, naming someone else, particularly a placeholder who will not challenge for the seat, provides a much better chance for long-term success. Subtle ways of advancing electoral ambition appear to create opportunities for governors to use their power for strategic benefits. However, when governors choose to run after appointing someone else, they are competing in an open-seat election as a candidate who has won statewide election. Thus, the influence of their appointment powers may not be as powerful as it first appears. Self-appointment is one of the greatest potential dangers of governors' power. However, the repudiation of

self-appointers shows that they are held accountable for their actions. Thus, the lesson is that self-appointment harms future electoral prospects and that governors are generally constrained by political ambition.

### **Placeholders**

A number of appointees are selected precisely because they possess no electoral ambition. Placeholders are not merely appointees who do not run for office. A number of appointees, including Muriel Humphrey (D-MN) and Roland Burris (D-IL), explored the possibility of running to retain their seat, but chose to not run for various reasons (Kneeland 1978; Chase and Pearson 2009). Placeholders are lame duck appointees, those selected after a nomination has been granted, those who resign, and those who commit to not seek election when they are appointed.

The three appointees chosen after the election of another candidate to the Senate are counted as placeholders. These appointees had no chance to capitalize on their incumbency because they were merely serving out the lame duck period of a term. The selection of Elijah Grammer (R-WA) helped the Republicans to retain the majority in the Senate for over three months, through the end of the short legislative session (“Party Division in the Senate”). Interestingly, Grammer’s selection came just ahead of the 20th Amendment, which shortened the lame duck period and made appointments like his less likely. Wilton Hall’s (D-SC) short time in the Senate came because the governor, Olin D.T. Johnston (D-SC), was senator-elect when the vacancy occurred and he wanted to fulfill his duty until the next governor was sworn in (“Johnston, Olin DeWitt Talmadge”). The final lame duck appointee, Thomas M. Storke (D-CA), was chosen after Sen. William G. McAdoo (D-CA) resigned following his failure to secure renomination for his

seat (“Storke Succeeds McAdoo” 1938). Gov. Frank Merriam (R-CA) refused to name Senator-elect Sheridan Downey (D-CA), but chose Storke instead (“Storke Succeeds McAdoo” 1938). In addition to the three lame duck appointees, two appointees from Kentucky, George B. Martin (D-KY) and Robert Humphreys (D-KY), were named after nominations were made, limiting their ability to seek election. Similarly, Norris H. Cotton (R-NH) was named to his old Senate seat ahead of a special election to fill the vacancy created by a disputed election, for which he was not a candidate.

While several appointees are placeholders because of the timing of their appointment, others disavow electoral ambition. One appointee indicated her placeholder status through resigning. Sen. Dixie Bibb Graves (D-AL) resigned after her party held a primary election to fill the vacancy; the nominee, J. Lister Hill (D-AL), was then appointed to replace her (“Hill, New Dealer, Swamps Heflin in Poll to Pick Seat Vacated by Black” 1938). The other placeholders committed to not seek election, at the time of their appointment. In fact, 38 appointees announced that they would not run to retain their seat when their term expired.<sup>32</sup> The most obvious reason to select a placeholder is a governor’s Senate ambition. Governors who want to serve in the Senate and avoid the stigma of self-appointment can set the stage for their electoral success by selecting a placeholder. In fact, governors have sought a Senate seat nine times within two years of naming a placeholder and two others ran for a full Senate term within three years.<sup>33</sup> Thus,

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<sup>32</sup> Announced placeholders were coded by examining *New York Times* articles on each appointee who did not run to remain in the Senate.

<sup>33</sup> The nine governors who ran for Senate in the subsequent election are: Henry W. Keyes (R-NH), Thomas W. Hardwick (D-GA), Richard B. Russell (D-GA), Leverett Saltonstall (R-MA), Raymond E. Baldwin (R-CT), John O. Pastore (D-RI), Frank Carlson (R-KS), Charlie Crist (R-FL), and Joe Manchin (D-WV). The two governors who ran within three years of making appointments are: David Sholtz (D-FL) and Frank G. Clement (D-TN).

governors' Senate ambitions account for more than a quarter of all appointees who renounce ambition.

While governors' ambitions are the primary reason placeholders are named, others exist. Placeholders have been used in two instances where the apparent first choice did not meet the age requirement to serve in the Senate at the time of the vacancy. Gov. Earl K. Long (D-LA) chose a placeholder because his nephew, Russell B. Long (D-LA), was only 29 when Sen. John Overton (D-LA) died ("Long Names Oil Man to Senate" 1948). Russell Long, who turned 30 the day after Election Day, won election to serve the remaining two years of Overton's term, after narrowly winning the Democratic primary ("Long, Russell Billiu"; Congressional Quarterly Inc. 1994). Similarly, Ted Kennedy (D-MA) was just 28 when his brother John resigned from the Senate after being elected president in 1960. While it was no secret that Ted was a possible contender, a placeholder who was willing to step aside when Ted was old enough to run for the seat in 1962 was needed (Fenton 1960). Ben Smith (D-MA), a former college roommate of Pres. Kennedy, fit the bill (Fenton 1960). Smith vowed not to run for election when he was appointed and Ted Kennedy went on to win the seat (Fenton 1960; "Kennedy, Edward Moore (Ted)"). Family connections were also on display when Ted Kaufman (D-DE), a placeholder, was chosen to replace Joe Biden (D-DE) after he was elected vice president. Kaufman, Biden's former chief of staff, was widely seen as keeping the seat warm for Biden's son, Beau (Hulse 2008a). These examples demonstrate the power of familial connections; even though relatives were not directly chosen, seats were held open for them. Thus, only

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Augustus O. Stanley (D-KY) was already nominated for the Senate when he made his appointment.

looking at the familial relationships of the governor, previous senator, and appointee underestimates the influence of family in Senate appointments.

In addition to governors and family members, one presumptive Senate nominee, Dwight W. Morrow (R-NJ), benefited from the selection of a placeholder (“Larson Will Name Morrow to Senate; Baird to Step Out” 1929). Morrow, originally slated to receive the appointment, delayed his entrance to the Senate until after his election to fulfill his duty as Ambassador to Mexico (“Larson Will Name Morrow to Senate; Baird to Step Out” 1929; “Morrow, Dwight Whitney”). Thus, many placeholders have been named to advance the senatorial ambitions of the selecting governor, a political ally, or a relative of the governor or the senator who vacated the seat. These examples also show that governors have selected placeholders when they were prevented from choosing someone due to constitutional mandates or political constraints, displaying the limits on governors’ actions. While limits exist, these cases also demonstrate that subtle manipulations take place that are not repudiated by parties or the public.

While a number of placeholders have been named to foster electoral ambitions, they also offer refuge for governors confronted with political challenges. Placeholders offer a convenient way to appear above the political fray. Governors who face a complex political environment due to the circumstances surrounding a vacancy or partisan considerations may opt for a placeholder. Both of these factors appear to have influenced the selections of Gov. Deval Patrick (D-MA). As noted above, Patrick faced the possibility of offending the electorate that would decide his gubernatorial reelection bid and members of his own party, if he chose appointees with ambition. By appointing placeholders, Patrick assured continuity in representation, but deflected criticism,

particularly when the legislature changed state law regarding gubernatorial appointments. Similarly, in a scenario that mirrored Gov. Thomas Kean's (R-NJ) dilemma,<sup>34</sup> Gov. Clifford J. Rogers' (R-WY) selection of a placeholder ahead of the Republican primary was designed "to prevent any intra-party split" ("Crippa Appointed Wyoming Senator" 1954). In another case from Wyoming, it was unclear whether Gov. Frank C. Emerson (R-WY) had the power to name an appointee ("Sullivan May Face Contest in Senate" 1929). By selecting a placeholder, Emerson lowered the spotlight on his selection, making it more likely that the Senate would seat his appointee. These examples demonstrate the dangers for governors who have the responsibility of making Senate appointments, particularly if they are politically ambitious. Ambition acts as the mechanism that constrains governors, and potentially transforms appointments from opportunities into burdens.

Governors have also used placeholders to register protests. Gov. James F. Byrnes (D-SC) refused to choose the nominee selected by the Democratic Executive Committee after Sen. Burnet R. Maybank (D-SC) died ("Byrnes Bypasses Party's Nominee" 1954). Byrnes appointed a placeholder to demonstrate his objection to the decision not to hold a primary for the nomination ("Byrnes Bypasses Party's Nominee" 1954). The party's choice lost to write-in candidate, Sen. J. Strom Thurmond (D-SC), in the subsequent election. Thurmond's symbolic gesture of resigning the seat to contest a primary led to the selection of another placeholder, who held the seat until Thurmond reclaimed the seat through election. Lastly, Gov. Jesse Ventura (I-MN) named an appointee to protest a Senate debate that only featured the two major party candidates (Wilgoren 2002). Thus,

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<sup>34</sup> See footnote 18 for details on Gov. Kean's decision.

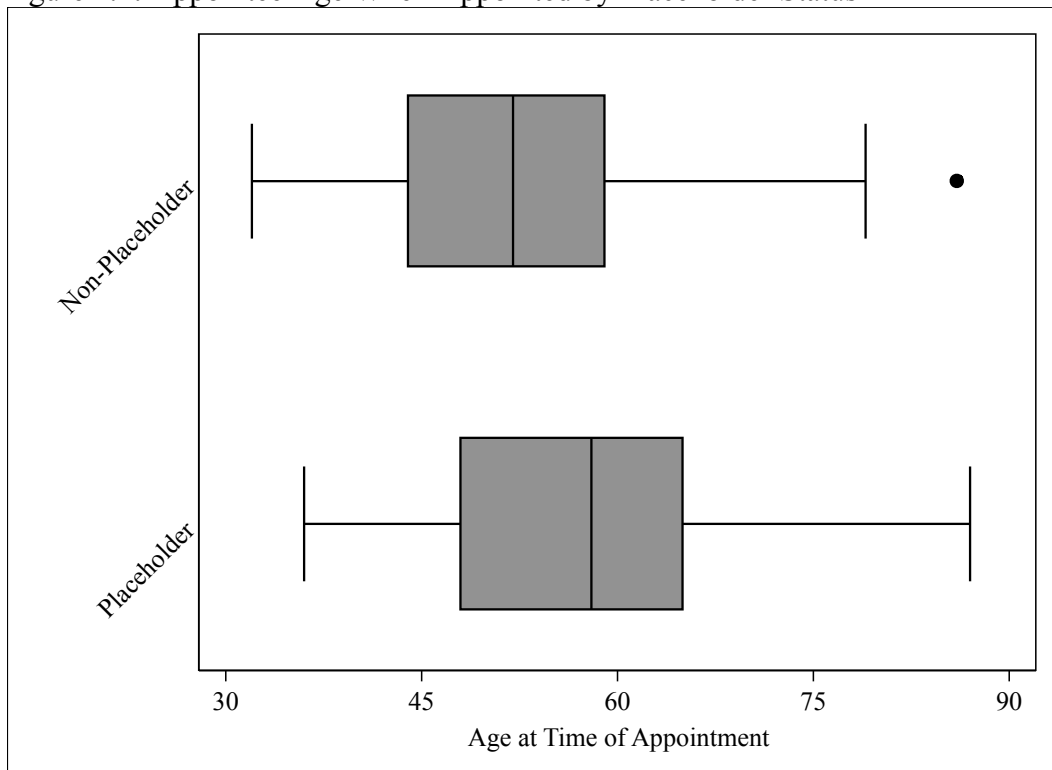
placeholders have been used in several instances to show disapproval of partisan moves, drawing positive attention to governors and highlighting perceived abuses.

Placeholder status is associated with several appointee demographic characteristics including gender, family ties, age, and experience. Almost a quarter of all appointees have been placeholders. However, six of the fourteen women selected to fill vacancies have been placeholders; four of these six women were the wives of the senator they replaced or the appointing governor. This also means that four of the thirteen family members named to the Senate were placeholders. Since all familial placeholders have been women, a strong case can be made for the marginalization of women senators, particularly among the first women appointed to the Senate. The public role for the women placeholders appears as an extension of their domestic responsibilities, loyally taking care of the seat for their family and then dutifully stepping aside. While women senators may have been marginalized through placeholder appointments in the past, more women are winning their way to the Senate, and recent women appointees have not shied away from running for their appointive seat. In fact, only one woman placeholder has been named since 1972. Thus, the effect placeholders had on women's place in the Senate and their electoral chances appears to fading.

Placeholders tend to be older than appointees in general. Governors often use placeholder appointments to honor long-term party service. As Figure 2.2 shows, the median age of placeholders is 58 compared to 52 for non-placeholders. Further, only one-third of placeholders have experience in a representative office compared to over fifty percent of non-placeholders. Since these appointees tend to be older and have little experience in elective office, they also offer greater assurance that the commitment to not

seek office will be kept. Older placeholders who have not served in elective office are typically uncontroversial and serve to unite rather than divide party factions. Thus, governors who choose a placeholder because of intraparty challenges can often foster goodwill with their appointment. Ultimately, appointments offer both opportunities and risks for governors. Naming a placeholder is one strategy for governors who face political constraints on their actions. Placeholders clear a path for governors with Senate ambition. They also offer a way to navigate political challenges and turn a potentially dangerous situation into a positive one for the governor.

Figure 2.2: Appointee Age When Appointed by Placeholder Status



## Experience

The final appointee characteristic to consider is elective office experience. Experience serves as a signal of an appointing governor's goals for the vacancy.

Governors who name experienced appointees set the stage for their appointee to run for the Senate when their term is up. On the other hand, inexperienced appointees create favorable conditions for governors to run for Senate or set up an open-seat contest where no candidate has the advantages of incumbency.

Beyond the intent of governors, experience indicates appointees' ambition and skills. As Table 2.1 shows, nearly half of all appointees have no previous experience in representative office. However, non-placeholders tend to have experience, which should positively influence their electoral chances. Past electoral runs show a willingness to endure the difficulties of campaigning, illustrating ambition. Previously winning legislative or executive office demonstrates an ability to succeed in elections, indicating electoral skills. Once a campaign is over, the winning candidate must discharge the duties of office. Officeholders develop legislative and executive skills; they also learn how to use their office to appeal to constituents, positioning themselves for reelection. Thus, previous experience should influence the legislative and electoral behavior of appointees. Experienced appointees are expected to tailor their Senate voting record to appeal to constituents, enhancing their electoral chances.

Table 2.1: Previous Elective Office by Placeholder Status

<b>Previous Elective Office</b>	<b>Non-Placeholder</b>	<b>Placeholder</b>	<b>Total</b>
None	62 (48.18%)	30 (66.67%)	92 (47.92%)
Local	8 (5.44%)	3 (6.67%)	11 (5.73%)
State Legislature/Large City Mayor	26 (17.69%)	9 (20.00%)	35 (18.23%)
Statewide Office (Lt. Gov. & AG)	10 (6.80%)	1 (2.22%)	11 (5.73%)
House	21 (14.29%)	0 (0%)	21 (10.94%)
Governor/Senator	20 (13.61%)	2 (4.44%)	22 (11.46%)
<b>Total</b>	<b>147 (100%)</b>	<b>45 (100%)</b>	<b>192 (100%)</b>

Note: Only elections to representative and executive offices are included. Judicial elections are excluded due to the nature of these elections and offices.

## **Conclusion**

Whenever a single individual is allowed to substitute their judgment for the decision of a group, concern is natural. However, since governors' political futures depend on others, including co-partisans and the public, they are constrained in the choices they make. These constraints extend to the appointments they make to fill Senate vacancies. Most governors act quickly when vacancies arise in an effort to avoid speculation and controversy. Thus, governors concerned about their political future maintain the advantage of appointment over special elections.

Governors also face pressures regarding the identity of appointees. When ethnic minority and women senators create vacancies, governors are expected to appoint someone from a similar background to maintain continuity with the public's choice. Even selections that appear to constitute abuse, such as naming familial replacements, are often done with an eye toward creating a competitive race. Many other family appointees receive the endorsement of the public in the following election, indicating that familial appointments are not out of step with the electorate. Caution is also demonstrated when examining self-appointers, who always resign their seat to be appointed by their successor. Further, even though many governors have Senate ambitions, most choose to forego self-appointment, often in favor of a placeholder, to avoid the perception of a power grab. Thus, governors are seen attempting to advance ambitions in subtle ways. These shrewd choices show governors manipulating selections to remain under the radar and are not accompanied by calls for reform. Ultimately, most gubernatorial appointees do not cause controversy when they are chosen. However, the legislative and electoral

careers of appointees must be examined to determine if they make waves after they are selected. The legislative records of elected and appointed senators are examined next.

### **Chapter III**

#### **Senate Seats in Transition: Stopping the Leapfrogs from Jumping?**

The data in Chapter 2 demonstrate that gubernatorial appointments have contributed to the gender and ethnic diversity of the Senate. While this alone may be counted as a benefit of appointments, it also suggests that governors make fundamentally different selections than the public. However, whether these differences extend to the substantive representation provided by appointees is not known. In this chapter, I develop and test a theory of responsiveness that is conditional on how senators are chosen. The analyses conducted here disentangle the effects of selection and sanctioning in creating responsiveness. Using Senate appointees as a comparison group for elected senators, the findings speak to the relationship between both appointments and elections, and representation.

#### **Senate Appointments and Legislative Behavior**

When thinking about classes of U.S. senators, we are most often reminded of the staggered electoral terms of the Senate's membership. However, in classifying senators, it is important to remember that there are a number of paths to the upper chamber. The two most prominent ways to the Senate have been selection by state legislatures, prior to the adoption of the Seventeenth Amendment, and election by the citizens of each state, in the post-17th Amendment era. While the Seventeenth Amendment has gained a fair amount of attention from scholars interested in representation and the institutional development of the Senate, the provision that permits governors to name temporary replacements when vacancies occur has largely been overlooked.

## **Appointees**

Investigation of gubernatorial appointees has been almost wholly limited to the exploration of their future electoral careers (King 1999; Kohn 1974; Matthews 1960; Morris and Marz 1981; Tuckel 1983). Several of these studies explicitly appeal to worries about the quality of representation provided by appointed senators (King 1999; Kohn 1974; Morris and Marz 1981), but mainly offer anecdotes about appointees' legislative behavior before moving on to analyze electoral prospects. For example, Morris and Marz (1981) compare the committee assignments of appointed and elected senators and find that more prestigious assignments are granted to elected newcomers than appointees. However, they eschew an exploration of representation and exclusively focus on the potential electoral repercussions of these assignments. Ultimately, these studies recognize that appointees may be more out of step with their constituents than elected senators, but do not directly address the legislative behavior of appointees.

The most prominent examination of representation by appointees, Clem (1966), discovers no substantive differences between appointees who ran for election and those who did not. However, since no comparison was made between appointed and elected senators, the relationship between method of selection and representation is not assessed. This chapter takes a different approach, considering all seat transitions since the Seventeenth Amendment through 2010. By including senators who were elected along with those who were appointed, the effect of selection method on representation is isolated.

## **The Seventeenth Amendment**

Scholarship on the 17th Amendment is distinct from the work on appointees and has two main components: one looks at the creation of the amendment, while the other explores its effects. However, both components focus on the policy consequences of the institutional change. King and Ellis (1996) make the case that the 17th Amendment was adopted, in part, to thwart the Republican advantage in the Senate that resulted from the admission of “rotten borough” states during the second half of the nineteenth century (Stewart and Weingast 1992). While change in partisan advantage is demonstrated, Wirls (1999) claims that the partisan shifts in the Senate emerged from regional rather than partisan considerations. Regardless of whether partisan advantage was sought, King and Ellis (1996) and Wirls (1999) agree that the amendment influenced the partisan composition, and by extension the policy output, of the Senate.

Scholars focusing on the effects of the 17th Amendment have found significant changes in Senate composition and senator behavior associated with its adoption. Elections are shown to increase responsiveness to presidential elections and the number of split partisan Senate delegations (Brunell and Grofman 1998; Crook and Hibbing 1997). The amendment also demonstrates an effect on the composition of the chamber (Rogers 2012; Stewart and Schiller 2011). In addition to the chamber-level studies, ideological moderation is found among post-amendment senators as elections approach (Bernhard and Sala 2006). In another analysis of individual legislative behavior, Meinke (2008) discovers differences in patterns of bill sponsorship and roll call participation between senators who were originally elected and those originally selected. These differences continued even after the adoption of the amendment, implying that the

legislative behavior of senators may bear the imprint of their selection regardless of the group empowered to hold them accountable. However, Meinke (2008) also finds increased ideological responsiveness on roll-call votes amongst both originally elected and originally selected senators in post-17th Amendment Senates. Thus, there appears to be room for senators who are not originally elected to adapt and respond to the public. This indicates that selection may not indelibly cast a senator's legislative behavior, particularly on the highly visible function of roll-call voting.

Gailmard and Jenkins (2009) formulate an explicit theory based on a principal-agent relationship between the group making the selection and a senator. They recognize the differing abilities of state legislatures – a relatively small group of experts – and state electorates – a large group mainly composed of non-experts – to select, monitor, and hold senators accountable (Gailmard and Jenkins 2009). Since the representation provided by senators is relative to how well they reflect opinion in their state, removing the intermediaries of the state legislature made senators more responsive to the public (Gailmard and Jenkins 2009). However, because the public is less able to monitor performance and hold senators accountable than state legislatures, post-17th Amendment senators are able to exercise greater discretion than those selected by state legislatures (Gailmard and Jenkins 2009). Thus, Gailmard and Jenkins (2009) provide a conceptual framework to assess the relationship between selection, sanctioning, and responsiveness.

The analyses in this chapter bring together two distinct, but related literatures: one that considers Senate appointees as a group of quasi-incumbents facing unique electoral challenges, and another that explores modes of selection through the lens of a constitutional change. Here I examine the group of post-17th Amendment Senate

appointees in light of the studies that explore the effect of selection method on representation.

### **Creating Congruence – Election v. Appointment**

Elections and appointments are designed to create congruence between the groups or individuals making selections and a senator. Elections create a clear link between constituents and representatives. However, when appointments are made for representative offices, an intermediary intervenes between the representative and the group they represent. This creates the potential for representatives to reflect the preferences of the intermediary rather than the public (Gailmard and Jenkins 2009). Regardless of the mode of selection, congruence can be created in one of two ways: selecting a representative who reflects constituents' views, or sanctioning a representative who is out of step with their constituents.

Elections are generally viewed as mechanisms that create accountability, because it can be difficult to determine how officials will act in office based on their pre-election behavior (Barro 1973; Ferejohn 1986). However, the degree to which elections are useful in compelling responsiveness depends on two factors: a representative's estimation of the public's ability to monitor, reward, and punish, and the type of representative in office. If a representative does not take the public's ability to sanction seriously, there is no reason to think that their behavior will be influenced by elections. However, if a representative is reflective of the public's preferences, elections are not needed to compel congruence. Thus, threats of removal are not the only way to ensure effective representation. The power of selection is noted by Fearon (1999), who demonstrates the rationality of the

public seeking to determine the type of representative a candidate will be, despite the difficulties they will face in making this determination.

The discovery by Gailmard and Jenkins (2009) that elected senators exercise greater discretion than those selected by state legislatures could mean that senators see less of a threat from the public than state legislatures. However, this could also result from the choices made by state legislatures and state electorates when they select senators. The public will have a difficult time holding senators accountable, but they will also have trouble separating representatives who reflect their preferences from those who do not, at the time of selection. Elites who possess superior information and face fewer social choice problems than the public are better suited for both tasks. Thus, it is impossible to pinpoint whether the change in the group making a selection or monitoring is responsible for the post-amendment discretion.

The only way to effectively solve the problem of observational equivalence between selection and monitoring is to examine cases where different groups choose and sanction. Meinke (2008) presents one such situation where the principal changes in the middle of the game and finds that the agents adapt some behavior to the new group holding them accountable. By considering gubernatorial appointment, I am able to focus exclusively on selection because governors bear the sole responsibility for making an appointment,<sup>1</sup> but play almost no role in monitoring and sanctioning. Thus, any

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<sup>1</sup> Several states require that an appointee share the party of the vacancy-creating senator (“Filling Vacancies in the Office of United States Senator”). Typically, these states empower the party of the vacancy-creating senator to create a list of potential replacements from which a governor can make their selection. This was done in Wyoming in 2007 when Democratic Governor Dave Freudenthal appointed John Barrasso (R-WY) to fill the seat of Craig Thomas (R-WY) (“National Briefing 2007”). When state law ensures partisan continuity, state party committees can also limit the

differences between senators appointed by governors and those who are elected are the result of selection, and not how they are held to account.

Governors have an advantage over state legislatures. As individuals, governors do not face any social choice problems. State legislatures should suffer from fewer social choice problems than the public. However, as the history of senator selection shows, state legislatures were not always able to solve these problems and often engaged in protracted consideration of candidates (King and Ellis 1996). Ultimately, governors are better positioned to make use of their superior knowledge in selecting senators than state legislatures or the electorate.

While governors bring their expertise, they also encounter political constraints. The evaluation of selection, in Chapter 2, demonstrates that governors face pressures from both their party and the public to choose an acceptable replacement. Given the chronological proximity and the credible threat of primary challenges, governors must pay attention to their party first. Governors are expected to name a co-partisan, even if it overturns the partisan choice of the electorate. In fact, when given the opportunity, governors have almost always picked a member of their own party,<sup>2</sup> resulting in a partisan change in nearly one-quarter of all appointments. This puts governors in the unenviable position of potentially offending a group that has the ability to sanction them. Since governors will want a competent appointee who does not create a great deal of

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discretion of a governor of their own party. This was seen in the recent appointment to fill the vacancy created by the death of Daniel Inouye (D-HI) (Blake 2012b), but is not evident in any other appointment. Since the analysis does not extend to the 113th Congress, Inouye's replacement, Brian Schatz (D-HI), is not included in the analysis.

<sup>2</sup> Only two appointees have come from a different party than the governor who selected them. One was due to state law that required an appointee share the party of the vacancy-creating senator and the other was a lame duck appointment that occurred after an election, but before the senator-elect could take office. See Chapter 2, footnote 5.

controversy within their party or the electorate, they should try to choose a relatively moderate member of their party, especially when they replace a senator of the opposite party.

Senate elections should increase ideological extremity when the partisanship of the seat changes. Senators who seek election must first pass the hurdle of getting nominated. Party activists help create extreme nominees in electoral contests (Fiorina 2006). Thus, the electoral process is associated with “leapfrog representation,” where an extreme member of one party is replaced by an equally extreme member of another party, rather than a moderate who approximates the preferences of the electorate (Fiorina 1974; Bafumi and Herron 2010).

Gubernatorial appointment stands in contrast to elections, leading to the main hypothesis of these analyses: appointments by governors will produce more moderate senators than elections. Further, moderation should be heightened when the partisanship of a seat changes through an appointment. Essentially, appointments should temporarily stop the leapfrogs from jumping when partisanship changes. Since the only difference between appointed senators and their elected counterparts is the method of selection, the power of selection will be demonstrated if appointees stand out from other senators.

### **Data and Variables**

The ubiquity of appointed senators in the post-17th Amendment era makes it important to consider if and how appointees behave differently than elected senators. In the hundred years since the adoption of the amendment, gubernatorial appointees constitute over twenty percent of all U.S. senators. Further, appointed senators have represented 46 states, and at least one has served in 49 of the 51 Congresses since the

ratification of the 17th Amendment. The number of recent appointees serves as a reminder that, although episodic, appointments continue to have the potential to impact how constituents are represented and the outcome of legislation in the Senate.

### **Dependent Variables**

Since roll-call votes are the most visible way senators provide substantive representation, these actions are placed at the center of the analysis. DW-NOMINATE scores, which consider all non-consensual roll-call votes, provide a snapshot of a senator's ideology, making this an appropriate measure of substantive representation (Poole and Rosenthal 2007).<sup>3</sup> Roll calls have several investigational benefits. First, they cover the entire post-17th Amendment era. Second, since incumbents or their opponents can highlight roll calls in an attempt to sway the public, senators will cast votes with this in mind (Arnold 1990). Finally, in part because of the visibility of roll calls, these votes provide a difficult test to detect differences between appointed and elected senators. As Meinke (2008) demonstrates, even senators originally selected by state legislatures are responsive to the electorate, the group holding them accountable, after the adoption of the 17th Amendment.

Two dependent variables are analyzed; both are created by pairing each senator with their predecessor. Considering senators and their predecessors reveals changes in substantive representation associated with seat transitions. Since each transition takes place by a particular method, the influence of selection mechanisms on representation can be isolated. The first dependent variable assesses the distance between senators and their

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<sup>3</sup> All transitions that took place between the 62nd and 111th Congresses are examined here. This data was obtained from: <http://voteview.com/dwnominate.asp> (Poole 2012). Excluding transitions for senators who do not have a DW-NOMINATE score, due to lack of roll call participation, does not affect the models presented here.

replacement, while the other measures the direction of the difference between senators and their replacement. For distance, the absolute value of the difference in first dimension DW-NOMINATE scores between the incoming and outgoing senator is considered. Since DW-NOMINATE scores range from -1 to 1, the distance variable has a theoretical range from 0-2. To assess direction, the first dimension DW-NOMINATE score of the incoming senator is subtracted from the score of the senator they replace. Thus, the direction variable has a theoretical range from -2 to 2. Since direction is not bounded in the same way as distance, this variable provides a better test of ideological extremity and moderation.

### **Independent Variables**

Three categories of independent variables are employed. The first measures the method of selection. Incoming senators, in the post-17th Amendment era, can either be appointed or elected. Since transition pairs are analyzed here, it is necessary to consider how both the incoming and outgoing senators were selected. Outgoing senators can be appointed, selected by state legislatures if their career spanned the pre- and post-17th Amendment eras, or elected.<sup>4</sup>

The second set of independent variables involves partisanship. The importance of party in determining roll-call votes is undeniable. Even when an individual remains in the same position and merely switches their affiliation, a significant difference in roll-call records is detected (McCarty, Poole, and Rosenthal 2001). Party is such a powerful

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<sup>4</sup> Only senators selected by governors and state legislatures and never elected are included in those categories; senators who were elected after governors or state legislatures chose them are considered elected senators. Meinke's (2008) discovery that senators originally selected by state legislatures adjust their roll-call records after the 17th Amendment demonstrates that senators who seek and win election after being appointed by a state legislature should be treated as elected senators.

predictor that any effect from selection has a difficult hurdle to overcome. In the distance analysis, same party replacements are considered in order to test how close an incoming senator is to the senator they replace. Given that smaller values on distance represent senators who are ideologically proximate, the same party variable should produce a negative effect. In the directional analysis, transitions from Republican to Democrat and Democrat to Republican are evaluated. The expectations are straightforward, given the DW-NOMINATE coding where negative scores represent liberal voting records and positive scores represent conservative ones, when a Democrat replaces a Republican there should be a negative effect, and when a Republican replaces a Democrat there should be a positive effect.

Since the focus of this chapter is the relationship between method of selection and roll-call votes, interactions between the selection and partisanship variables are at the center of the analyses. In evaluating distance, the same party variable is interacted with both incoming and outgoing appointees. Incoming appointees who replace elected senators from another party are expected to be closer to their predecessors than elected senators who follow members of another party. However, when an elected senator replaces an appointee, the elected senator is predicted to create distance between themselves and their appointive predecessor as they are pulled to more ideological extremes by elections. This holds true for elected senators who replace appointees from their own party; same party elected senators are expected to flee appointees and return to a record that pleases the partisan base from the appointees' more moderate record. A somewhat similar pattern should emerge when senators selected by state legislatures but never elected are replaced by an elected senator. However, since the choices of state

legislatures are largely reflective of the population (Rogers 2012), transitions from pre-17th Amendment senators to elected senators should look more like transitions from one elected senator to another than replacement of an elected senator by a gubernatorial appointee.

Each partisan transition is also interacted with both the incoming and outgoing appointee variables in the directional analysis. Since appointees should distinguish themselves from elected senators by being more moderate, the direction of the partisan transition interactions should be the opposite of the main effects of each partisan transition variable. A positive effect is expected when a Democrat appointee replaces a Republican, and a negative effect is expected when a Republican appointee replaces a Democrat. However, when an elected senator replaces an appointee, no effect should be observed since the appointee they replace will be more moderate than the elected senators who are typically replaced. As with the distance analysis, a greater effect is anticipated in the directional models when senators selected by state legislatures are evaluated than when outgoing appointees are considered.

The final independent variable assesses polarization. Since appointees are believed to be chosen for their more moderate stances and are not exposed to the public through elections, they should be less influenced by polarization than their elected counterparts. Ideological polarization is represented by the difference in the mean first dimension DW-NOMINATE score of Republicans and Democrats in the House of Representatives, during the previous Congress.<sup>5</sup> Larger ideological differences in the House should be reflected by smaller differences between senators of the same party in

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<sup>5</sup> The House is chosen because it provides an exogenous measure of polarization. The previous Congress is used to maintain temporal order.

the distance model, creating a negative effect. As polarization increases, more extreme swings should occur in the direction analysis, creating a positive effect when Republicans replace Democrats and a negative effect when Democrats replace Republicans.

### **Analysis**

The analysis proceeds as follows: first, the ideological distance between senators and their predecessors is assessed, considering selection, partisanship, and the interaction of the two. Polarization is then introduced and interacted with selection and partisanship to test how selection influences senator sensitivity to polarization. This process is repeated for the direction of ideological changes, which permits a more straightforward assessment of ideological extremity and moderation. Given the nature of the dependent variables, all models employ OLS regression with standard errors clustered by state.

### **Distance**

The analysis of ideological distance, Table 3.1, begins with a base model (column 1) that tests how far senators are from their predecessor by assessing selection, partisanship and the interaction of the two. The findings on partisanship are clear: when a senator replaces a co-partisan they tend to stick close to the roll-call record of their predecessor. The influence of selection is more complex; appointees are closer to the senator they replace, regardless of partisan turnover or continuity. As Figure 3.1 demonstrates, when appointees who follow senators of a different party are compared with similarly situated elected senators, appointees remain much closer to their predecessor. Thus, as expected, gubernatorial selection creates greater continuity in representation, particularly when cross pressures exist between the demands of party and the public.

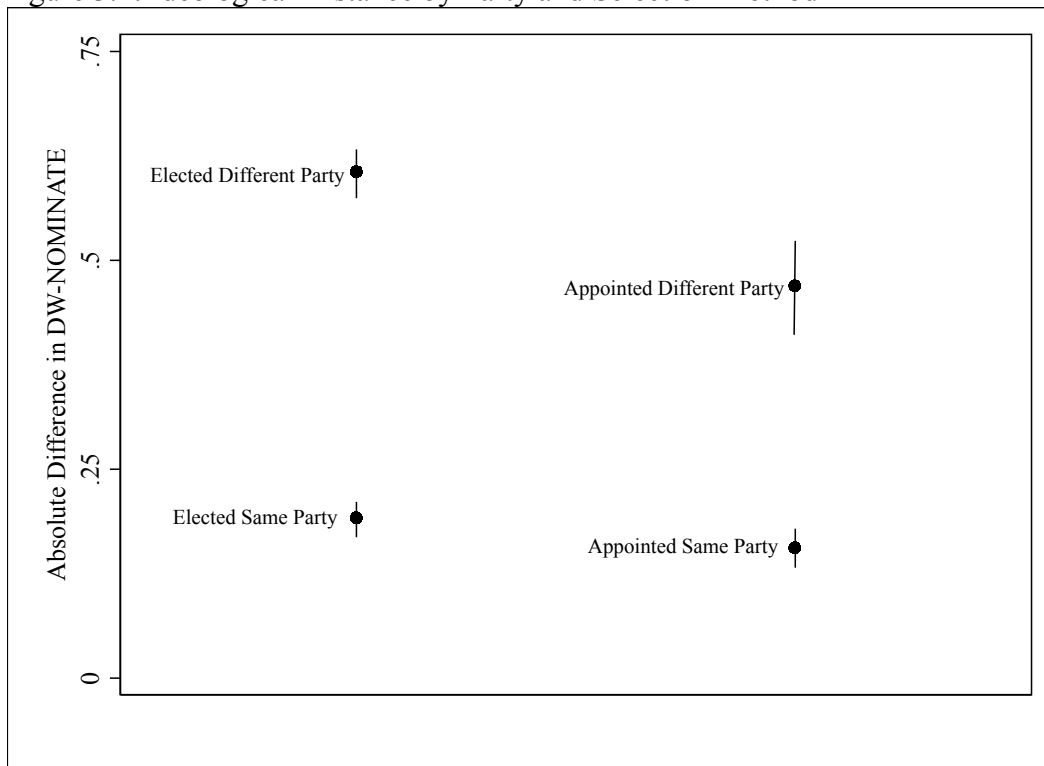
Table 3.1: Ideological Distance in Senate Seat Transitions 1912-2011

	Base Model	Outgoing Appts	Outgoing Pre-17 Sens
Incoming Appointee	-0.137* (0.03)	-0.159* (0.04)	-0.130* (0.03)
Incoming/Outgoing Same Party	-0.415* (0.02)	-0.415* (0.02)	-0.403* (0.02)
Incoming/Outgoing Same Party x Incoming Appointee	0.101* (0.03)	0.116* (0.04)	0.094* (0.04)
Outgoing Appointee	-	0.112* (0.06)	-
Incoming/Outgoing Same Party x Outgoing Appointee	-	-0.054 (0.08)	-
Outgoing Pre-17th Senator	-	-	0.177* (0.03)
Incoming/Outgoing Same Party x Outgoing Pre-17th Senator	-	-	-0.193* (0.05)
Constant	0.606* (0.01)	0.606* (0.02)	0.595* (0.02)
Adj. $R^2$	.51	.52	.52
$N$	788	788	788

DV absolute value of the difference in first dimension DW-NOMINATE between outgoing and incoming senators. OLS regression with clustered standard errors in parentheses.

\* $p < 0.05$  one-tailed test of significance.

Figure 3.1: Ideological Distance by Party and Selection Method



The effect of selection is subjected to further tests in the second and third columns of Table 3.1. Both models show that partisanship and the interaction between partisanship and appointment remain relevant when tested in conjunction with other selection mechanisms. The second column tests the shift away from appointees who were never elected to the U.S. Senate by those elected to replace them. The analysis of outgoing appointees shows that elected senators are willing to stand apart from appointees, and not even shared partisanship can compel them to narrow this distance. This confirms expectations by demonstrating that the natural partisan bond between pairs of senators is weaker when one of the senators is appointed.

The third column of Table 3.1 considers senators selected by state legislatures prior to the 17th Amendment, who were not subsequently elected, alongside appointees. Unlike the case of outgoing appointees, same party elected senators stick closer to their co-partisans who were selected by state legislatures than members of other parties. Thus, selection by state legislatures is more akin to Senate elections than gubernatorial appointment. This finding is a reflection of the fact that state legislatures have the same constituency as elected senators, but that governors face a more complex task in choosing an appointee. The results from Table 3.1 display the contrast between gubernatorial appointees and senators chosen by other means, confirming that even on the most visible task of representation, roll-call votes, appointees are a class apart.

With the distinctiveness of gubernatorial appointees established, polarization is introduced to evaluate another potential influence on senator ideology (Table 3.2). Polarization encourages greater distance when Senate seats change hands, and its effect is contingent on how senators are chosen. Figure 3.2 shows that polarization has little

influence on the distance between co-partisans and their predecessor, but it does have a substantial effect on transitions that result in partisan change. As polarization increases, elected transitions produce more extreme ideological changes. Appointees are influenced by polarization, but remain more moderate than their elected counterparts even in polarized eras. While the expectation that appointees represent constituents differently than elected senators is met, the distance analysis does not test the direction of ideological change or the differences between the parties on appointments.

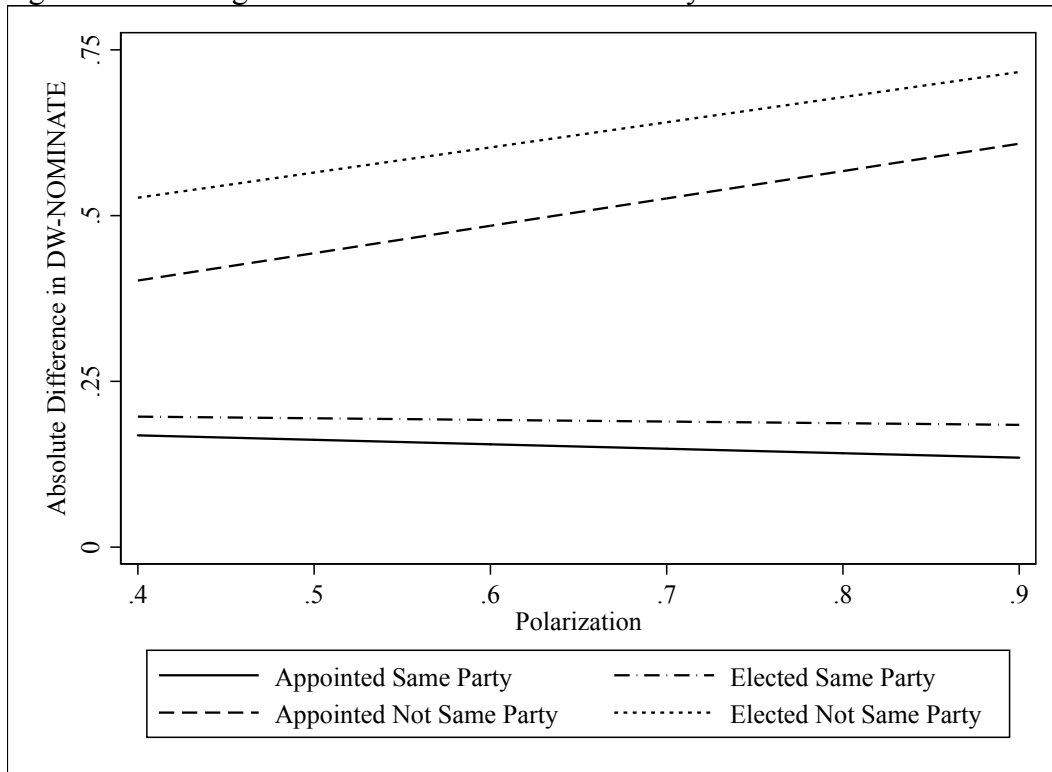
Table 3.2: Ideological Distance in Senate Seat Transitions 1912-2011, Polarization

	Polarization
Incoming Appointee	-0.138 (0.12)
Incoming/Outgoing Same Party	-0.169* (0.06)
Incoming/Outgoing Same Party x Incoming Appointee	0.127 (0.13)
Polarization	0.379* (0.07)
Polarization x Incoming Appointee	0.033 (0.19)
Polarization x Same Party	-0.404* (0.09)
Same Party x Polarization x Incoming Appointee	-0.076 (0.21)
Constant	0.375* (0.05)
Adj. $R^2$	.54
$N$	788

DV absolute value of the difference in first dimension DW-NOMINATE between outgoing and incoming senators. OLS regression with clustered standard errors in parentheses.

\* $p < 0.05$  one-tailed test of significance.

Figure 3.2: Ideological Distance in Seat Transitions by Polarization



### Direction

The direction of ideological change is addressed in Table 3.3. As with distance, a base model for direction that employs the appointment and partisanship variables along with the interactions of those variables is created. The negative effect of the change from a Republican to Democrat confirms expectations of a liberal shift when a Democrat takes a seat that was previously held by a Republican. On the other hand, a conservative move is found when Republicans replace Democrats. Appointees blunt these extreme swings. Appointed Democrats who replace Republicans are still more liberal than their Republican counterparts, however, appointed Democrats are more moderate than if a Democrat were elected to replace the Republican senator. A similar effect is found when Republican appointees replace Democrats.

Table 3.3: Direction of Ideological Changes in Senate Seat Transitions 1912-2011

	Base Model	Outgoing Appts	Outgoing Pre-17 Sens
Incoming Appointee	-0.038 (0.03)	-0.034 (0.03)	-0.043 (0.03)
Rep. to Dem.	-0.628* (0.03)	-0.628* (0.03)	-0.622* (0.03)
Dem. to Rep.	0.582* (0.03)	0.582* (0.03)	0.566* (0.03)
Rep. to Dem. x Incoming Appointee	0.138* (0.05)	0.158* (0.06)	0.131* (0.05)
Dem. to Rep. x Incoming Appointee	-0.107* (0.06)	-0.124* (0.07)	-0.100* (0.06)
Outgoing Appointee	-	-0.032 (0.07)	-
Rep. to Dem. x Outgoing Appointee	-	-0.069 (0.12)	-
Demo. to Rep. x Outgoing Appointee	-	0.104 (0.08)	-
Outgoing Pre-17th Senator	-	-	-0.071 (0.07)
Rep. to Dem. x Outgoing Pre-17th Senator	-	-	-0.152* (0.07)
Dem. to Rep. x Outgoing Pre-17th Senator	-	-	0.221* (0.07)
Constant	0.026 (0.02)	0.026 (0.02)	0.032 (0.02)
Adj. $R^2$	.76	.76	.76
$N$	788	788	788

DV in difference in first dimension DW-NOMINATE between outgoing and incoming senators. OLS regression with clustered standard errors in parentheses. \* $p < 0.05$  one-tailed test of significance.

The case for moderation among appointees is further supported in the second and third columns of Table 3.3. The party transition variables retain predictive power even as other modes of transition, outgoing appointees who are replaced by elected senators and outgoing senators selected by state legislatures who are replaced by elected senators, are introduced to the models. Further, the interactions between party transition and

appointment continue to work in the same direction. While appointees continue to show moderation, no effect is found when an elected senator replaces an appointee of the opposite party. This confirms expectations, since senators elected to follow appointees replace more moderate members of the opposite party than when transitions occur between two elected senators. Thus, when an elected senator replaces an appointee of the other party, the ideological move will be less extreme than other transitions because of the more moderate baseline provided by the appointee.

While transitions from appointed to elected senators show no effect, seat changes spanning the constitutional amendment era behave the same way as transitions between two elected senators. Elected Republican senators move in a conservative direction from Democrats selected by state legislatures, and elected Democratic senators move in a liberal direction from Republicans chosen by state legislatures. Thus, the ideological moderation observed among appointees is unique and attributable to gubernatorial selection.

Polarization is also taken into account for the direction of ideological change (Table 3.4). Since polarization is expected to give heightened importance to partisanship, interactions between each partisan transition and polarization are tested. Additionally, because appointees are believed to be less sensitive to the political environment than elected senators, the effect of polarization among appointees is examined separately. The analysis reveals that partisan transitions occurring in polarized eras produce even more dramatic ideological swings. Confirming the findings of the distance analysis, polarization is found to influence both elected and appointed senators. Republican

appointees look virtually identical to elected Republicans in polarized eras, but Democratic appointees are less affected than their elected co-partisans.

Table 3.4: Direction of Ideological Change in Senate Seat Transitions 1912-2011, Polarization

	Polarization
Incoming Appointee	-0.148 (0.11)
Rep. to Dem.	-0.356* (0.10)
Dem. to Rep.	0.322* (0.09)
Rep. to Dem. x Incoming Appointee	0.037 (0.21)
Dem. to Rep. x Incoming Appointee	-0.085 (0.21)
Polarization	-0.147 (0.10)
Polarization x Incoming Appointee	0.177 (0.17)
Polarization x Rep. to Dem.	-0.464* (0.15)
Polarization x Dem. to Rep.	0.419* (0.13)
Rep. to Dem. x Polarization x Incoming Appointee	0.156 (0.34)
Dem. to Rep. x Polarization x Incoming Appointee	-0.009 (0.33)
Constant	0.119* (0.07)
Adj. $R^2$	.77
$N$	788

DV in difference in first dimension DW-NOMINATE between outgoing and incoming senators. OLS regression with clustered standard errors in parentheses.

\* $p < 0.05$  one-tailed test of significance.

## **Discussion and Implications**

The major takeaway from these analyses is that appointed senators are a class apart. Appointees provide different substantive representation than their elected counterparts. The manner of selection is the key difference between appointees and all other senators. The unique nature of gubernatorial selection, where a single individual who plays virtually no role in disciplining their agent chooses appointees, provides confidence that the observed differences result from selection and not sanctioning.

Appointments produce more moderate senators than elections. Thus, the presence of appointees creates more common ground between parties in the Senate, which has the potential to assuage some of the negative effects of polarization, like legislative gridlock. While the presence of appointees may improve the efficiency of the chamber, it is not likely that the power to name all senators will be granted to governors. However, with nearly a third of all appointees winning election in their own right and the ideological consistency that appears throughout most senators' careers (Poole 2007), appointees promote moderation beyond their appointive term.<sup>6</sup> While gubernatorial appointments appear to preserve the existence of moderates in polarized eras, the increasing use of primary challenges to create ideological orthodoxy threatens the long-term prospects for these moderates.

The directional analysis suggests some potentially important differences between the political parties; Democratic appointees who replace Republicans moderate more than Republican appointees who replace Democrats. However, it is not possible to tell if Democratic moderation is the result of more extreme elected Republicans, more moderate

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<sup>6</sup> Appointees who replace members of another party and go on to win election moderate in the same way as appointees who do not continue past their appointment.

elected Democrats, or the composition of the political parties. One possible explanation for this finding is that greater intraparty heterogeneity among Democrats leads Democratic governors to make more moderate choices than their Republican counterparts. Since the degree to which each party elects extremists and party consensus are beyond the scope of this analysis, future research is required to determine the relationship between party composition and ideological moderation in Senate appointees.

Elections produce transitions with large ideological swings when senators lose to a member of another party. A similar effect is noticed when elected senators replace senators selected by state legislatures. Thus, it does not appear as though the proposals to repeal the 17th Amendment, offered by several tea party Republican candidates in the 2010 and 2012 elections (Lesniewski 2012), would do much to reign in ideological extremity. Repealing the Seventeenth Amendment has the potential to bring back the nineteenth century problem of state legislature deadlocks without any discernable benefit.

The results of these analyses have implications beyond the Senate. Any time a person is chosen for a representative office, a number of selection methods could be employed. While elections are created to provide accountability, part of the reason the threat of sanction is necessary is due to poor choices at the outset. Selection by a group of relative experts, such as a state legislature, may improve an initial choice somewhat, but also improves the ability to discipline. However, social choice problems are impediments to groups exercising their collective expertise in both selection and sanctioning.

Empowering a single political actor to select a representative, even one with virtually no ability to discipline their choice, removes the problems of social choice and allows that individual to make use of their expertise. These principles, displayed in the relationship

between selection and representation in the U.S. Senate, can be broadly applied to achieve the desired level of responsiveness when creating or reforming representative institutions.

### **Conclusion**

This chapter created a series of expectations for U.S. senators selected by various methods. These expectations, derived from the incentives and abilities of non-expert groups, expert groups, and expert individuals to choose and sanction representatives, are confirmed in the analyses of senators' legislative behavior. Appointees are shown to be relative moderates who retain this status even in the face of polarization. These findings demonstrate possible salutary effects appointees may have on legislative productivity, particularly in polarized eras. Thus, as with the evaluation of governors' choices, appointees' voting records do not attract negative attention to the institution of gubernatorial appointment. In fact, appointees appear to offer some substantive benefits over their elected counterparts. This provides another piece of evidence that the persistence of gubernatorial appointment can be attributed to the relative lack of controversy that surrounds appointees.

## **Chapter IV**

### **Converting Appointment into Election**

While governors face constraints in their selections and appointees provide more moderate representation than elected senators, the electoral fates of appointees must be assessed to understand the effects of gubernatorial appointments. As with representation, gubernatorial appointees are class apart in elections; they run to retain their seats at lower rates than previously elected incumbents and are less successful in their bids when they run.<sup>1</sup> However, a great deal of variation exists in appointees' personal attributes and the political environment they face. This chapter leverages these factors to determine the personal characteristics and aspects of the political environment that contribute to the electoral fate of appointees. Senate appointees also serve as a comparison group to assess incumbency since they are unelected members who have access to the same official resources as elected members. Thus, in discovering the differences among appointees' electoral careers the components of incumbency that are relevant to electoral advantage will be revealed.

This chapter furthers understanding of Senate elections in three ways. The analyses assess the electoral prospects of Senate appointees, which provide insights into the persistence of gubernatorial appointments. In addition to exploring the electoral careers of appointees, their unique position as quasi-incumbents allows elements of the incumbency advantage to be tested. Finally, the presence of appointees who are related to

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<sup>1</sup> Appointees who seek election win just over half of their elections while elected incumbents who seek reelection win nearly 75% of the time (Huckabee 2002; King 1999).

the senator they replace addresses the understudied association between dynastic political families and electoral politics.

### **Previous Research**

The literature on the electoral prospects of Senate appointees is relatively small (King 1999; Kohn 1974; Matthews 1960; Morris and Marz 1981; Tuckel 1983).

Matthews (1960) was the first to note the importance of “the manner in which they [senators] first became senators” (240). He demonstrates that appointees fare worse in getting elected than originally elected senators. These results hold even accounting for placeholders identified, by Matthews (1960), as appointees who did not run. Matthews (1960) suggests that the reason for appointee failure in elections is the relatively short amount of time they serve compared to elected senators. However, this hypothesis is not investigated, creating a testable claim regarding the relatively high failure rate of appointees in elections.

Tuckel (1983) explores Matthews’ (1960) assertion regarding length of service and election. Examining all appointees since the adoption of the Seventeenth Amendment, Tuckel (1983) found that longer service did not enhance the electoral prospects of appointees. In fact, when appointees were divided by how long they served, those who served less than a year were more successful in winning elections than those who served between one and two years. These results lead Tuckel (1983) to speculate that factors other than the amount of time spent as a senator, such as the prior electoral experience of an appointee, influence appointees’ ability to win elections. Ultimately, Tuckel (1983) concludes that the value of incumbency comes from more than just holding office.

Party continuity in appointments is another possible explanation for Tuckel's (1983) discovery regarding the lack of importance for appointive length. Investigating appointees who served since 1945, Kohn (1974) found that Democrats who replaced Democrats and Republicans who replaced Republicans stood a better chance of getting elected than appointees who replaced a member of the opposite party. The findings are consistent with expectations, however, unmeasured aspects of the political environment could account for this pattern. Clem's (1966) study of the representation provided by vacancy replacements, while inconclusive on the influence of roll-call records in elections, offers a rival explanation. Thus, rather than looking only to party consistency, the substantive record of appointees in office should be taken into account when considering appointees' electoral careers.

Following Kohn's (1974) lead, Morris and Marz (1981) restrict their analysis to appointments that occur after 1945. They offer descriptive statistics regarding how often appointees who ran, won nominations and general elections compared to senators elected in regular and special elections (Morris and Marz 1981). They show that senators elected in regular and special elections win reelection at similar rates, while appointees lag behind (Morris and Marz 1981). Morris and Marz (1981) explore several factors that may disadvantage appointees, including party continuity in appointment and appointee previous electoral office. They demonstrate that appointees with experience in higher elective office run more often and are more successful when they run than appointees with low-level experience or no elective office background (Morris and Marz 1981). Further, they discover that as the previous office of an appointee rises, the chances of facing an opponent with experience in high office decreases (Morris and Marz 1981).

Morris and Marz's (1981) findings suggest that the electoral value of incumbency is derived from constituent familiarity with the officeholder and not just holding office.

For all the contributions Morris and Marz (1981) make, they only offer bivariate analyses. King (1999) addresses this by conducting a multivariate analysis of appointee vote share in primary and general elections between 1948 and 1996. King (1999) foregoes an exploration of appointees' decisions to run, claiming that previous elective office is a good proxy for placeholder status. In arriving at this conclusion he notes that many of the appointees who chose not to run announced their intention at the time they were appointed (King 1999). Further, he shows that the majority of appointees who chose to not run did not have prior elective experience and only a very small number of those who had experience in high elective office did not run (King 1999). However, if the group of appointees without elective office experience were examined instead of appointees who did not run, King (1999) would have found that appointees without elective office experience ran on their own nearly half of the time, during period he examined. Further, when placeholders are excluded and the entire universe of appointees is considered, over 80% of appointees without representative office experience ran for their seat.<sup>2</sup> Thus, lack of previous elective office is not a suitable proxy for lack of ambition. Building on King's (1999) work, this chapter tests the factors that make, non-placeholder appointees likely to run.

A number of the variables King (1999) employs in his primary and general election models emerge from Morris and Marz (1981). As Morris and Marz (1981)

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<sup>2</sup> Between 1914-2010, 37 of 56 (66%) appointees with an opportunity to run were voluntary placeholders. This number includes all announced placeholders and Dixie Bibb Graves (D-AL) who resigned her seat.

suspect, King (1999) discovers a greater impact from opponent experience than from the appointees' own experience. These findings lead him to conclude that the relative inability of appointees to dissuade quality challengers from entering a race accounts for their lack of electoral success (King 1999). This again suggests that the value of incumbency lies in the perception of electoral strength, which is demonstrated by previous election rather than occupying a seat.

King (1999) explores several variables that are unique to appointees, and others that fit standard analyses of Senate elections. Self-appointment, a phenomenon exclusive to appointees, is included to test whether the electorate punishes governors who take a vacancy for themselves. King (1999) discovers a large negative coefficient without statistical significance for self-appointment in primaries and a negative substantive and statistical effect in general elections. Among the variables employed in investigations of Senate elections generally, ideological distance is used in both the primary and general election models; state partisanship, primary vote margin, state size, and national political conditions are reserved for the general election model (King 1999). King (1999) finds that being further from the state's U.S. House delegation helps appointees in primaries, but that ideological distance has no influence on general election vote share. All of the variables only included in the general election model conform to expectations (King 1999).

The scholarly literature displays progress toward understanding the electoral careers of appointees, but these analyses are far from comprehensive. No investigation has analyzed the fifteen appointments made between 1996-2010 and no study has conducted a multivariate analysis on the universe of appointees. Further, several factors,

including appointees' age, gender, and dynastic familial relationships, have been ignored by past research. Other variables such as party continuity in appointment and length of service have only been explored in bivariate analyses. In addition to analyzing these variables, all stages of the electoral process: deciding to run, getting nominated, and winning an election are assessed to determine the likelihood that an appointee will convert their appointment into election. Thus, the analyses in this chapter further understanding of appointee electoral careers in four ways: 1) all appointments from the adoption of the 17th Amendment through 2010 are included, 2) previously unexplored factors are examined, 3) variables only investigated in bivariate analyses are subject to more rigorous tests, and 4) all electoral stages are taken into account to predict whether or not an appointee will convert their appointment into election on their own.

### **Analytical Framework**

The presence of quality challengers decreases the chances of incumbent reelection. This has led to investigations that attempt to predict the conditions under which quality challengers emerge (Bond, Covington, and Fleisher 1985; Jacobson 1989; Jacobson and Kernell 1983). Carefully discriminating among challengers has been particularly important in the Senate where nearly all challengers have some previous electoral experience, but where this experience varies widely (Adams and Squire 1997; Abramowitz 1988; Canon 1990; Lublin 1994; Squire 1989; Squire 1992). As King (1999) notes, Senate appointees are analogous to Senate challengers in typical elections. In both cases, higher previous political office indicates candidate knowledge of constituents and constituent familiarity with a candidate. Thus, scholarship on quality challengers in the

Senate, serves as a key theoretical anchor for the examination of appointees' electoral careers.

The variation in appointees' previous political experience is tested against the resources available to senators and their actions in the Senate. The incumbency advantage is often thought to emerge from the ability of legislators to advertise their brand, claim credit for outcomes, and take popular positions (Mayhew 1974). In particular, incumbents appear to be advantaged by their ability to perform casework (Fiorina 1981; Fiorina 1989; Yiannakis 1981) or represent their constituents on roll-call votes (Griffin 2006). Length of appointment is used as a proxy for the value accrued by holding office. This measure is compared against not only the previous experience of appointees and their opponents, but also the ideological congruence of appointees to the state they represent (Canes-Wrone, Brady, and Cogan 2002; Griffin 2006; King 1999). Thus, competing explanations of the incumbency advantage are tested.

Familiarity with an appointee takes on another dimension when a family member is selected. These appointees offer a degree of continuity that is unmatched, particularly those who share the same last name and political brand of the senator who was elected to serve (Feinstein 2010). While Congress has a strong dynastic bias (Dal Bó, Dal Bó, and Snyder 2009), appointing family members without demonstrated political ambition should suppress how often these appointees take advantage of the opportunity to build a career in the Senate. Thus, family members who are positioned to turn their appointment into a career may not be inclined to capitalize on their chance. However, family members who do harbor ambition should have a similar opportunity structure to celebrity candidates (Canon 1990). Thus, the electoral prospects of family appointees run counter

to Crook and Hibbing's (1997) finding that the 17th Amendment curtailed political dynasties in the Senate.<sup>3</sup> If family brands are able to create electoral advantage for appointees, the anti-aristocratic influence of the amendment may be thwarted when governors appoint family members and they run for election. Ultimately, family connections may be a powerful determinant of the Senate's composition despite the Seventeenth Amendment.

### **Converting Appointment into Election**

After an appointment is made, three hurdles must be overcome to turn an appointed senator into an elected senator. First, an appointee must decide to run. Second, that appointee must secure their party's nomination. Finally, the appointee must win a special or general election. Personal attributes and elements of the political environment condition the decisions and outcomes for appointees at each stage of the electoral process.

Age at the time of the appointment is expected to exercise its strongest influence on the decision to run. Elderly appointees who cannot look forward to a career in the Senate should forgo running. While older appointees are often selected precisely because they will not seek to retain the seat, assuming *ex ante* that any appointee is a seat warmer is inappropriate because even those least likely to run, sometimes run. If older appointees buck the expected trend, they should face additional obstacles in securing nominations and winning elections given the public's age bias (Sigelman and Sigelman 1982).

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<sup>3</sup> Interestingly, the widow tradition is more pronounced in special elections to fill House vacancies than in Senate appointments (Gertzog 1979). This serves as an indication that voters respond to familial connections when choosing a replacement and provides further justification for expecting Senate appointees with family ties to outperform appointees without these connections in elections.

Like age, gender should also have its greatest impact on appointees' decisions to run. Women are shown to win nominations and elections at similar rates to men, but are less likely to run than similarly situated men (Fox and Lawless 2010). The tendency to not seek election is compounded by the number of appointed women senators without previous elective experience. The lower likelihood of women running for office compared to men combined with the presence of less demonstrated political ambition among women appointees, further lowers the probability that they will run. While gender should show the greatest impact on running, since gender bias was prevalent during much of the period considered (Erskine 1971), women appointees who run are predicted to face more obstacles in securing nominations and winning elections than men.

Self-appointment has no impact on the decision to run; all self-appointers have sought election. However, the power grab is not likely to be well received by co-partisans or the public. Self-appointers should anticipate challenges from members of their own party who sense weakness or feel they were passed over for an appointment, making nominations difficult. If they secure nominations, self-appointing governors can expect to be repudiated by the electorate for their power grab (King 1999). Thus, while self-appointers attempt to make the most of their appointment, they are likely to face a difficult time retaining their seat.

The hypothesized relationship between family members of vacancy-creating senators converting appointment into election is the opposite of self-appointers. Family members are expected to rule themselves out of contention. Given that many family members have not demonstrated a previous desire to serve in political office, these appointees should run less than other appointees. However, when family members decide

to run, the advantage of their political brand should aid them in winning party nominations and elections (Canon 1990; Feinstein 2010).

The last three personal attributes serve as the key variables in assessing the components of the incumbency advantage. Constituency familiarity and appointee ability are measured through highest previous office.<sup>4</sup> High offices show appointees, like challengers in typical Senate elections, to be politically ambitious and offer the best position to win nominations and elections (King 1999; Squire 1992). The amount of time an appointee serves before facing election proxies the benefit derived from serving in the Senate. If part of the value of incumbency lies in holding office, longer service as an appointee should aid appointees in converting their appointment into election. Length of service should have its weakest influence on the decision to run, however, the allure of the Senate should encourage those who serve longer to seek election at higher rates. Securing nominations and winning elections are also expected to increase as appointment length increases. In essence, the longer an appointee serves, the more they should appear to be an actual incumbent (Matthews 1960). Finally, ideological distance will show the extent to which appointees' substantive representation influences their electoral fate.<sup>5</sup>

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<sup>4</sup> Six categories are created for previous elective office experience, 1=appointee with no experience in representative/executive office (this includes appointees who have won elections for judgeships, as these positions differ due to the nature of the judiciary and judicial elections), 2=appointee with local representative experience, 3=appointee with experience in the state legislature or as a large city mayor, 4=appointee with experience as Attorney General or Lieutenant Governor, 5=appointee with experience in the House, and 6=appointee with experience in the Senate or as Governor. These categories are broadly consistent with the scales created by Abramowitz (1988) and Squire (1989).

<sup>5</sup> Ideological distance is calculated by generating the absolute value of the difference between an appointee's first dimension DW-NOMINATE score and the mean first dimension DW-NOMINATE score of the House delegation from the appointee's state in the preceding Congress. This measure is similar to the one created by King (1999); DW-NOMINATE is used instead of ADA (American's for Democratic Action) scores because

While there is no reason to think that actions in Congress will discourage appointees from running, extremity should be rewarded when seeking nominations, but harm prospects in general elections (King 1999). The relative impact of previous elective office, length of service, and ideological distance helps separate the elements of incumbency.

Aspects of the political environment should also influence appointees' decisions and outcomes at each stage of the electoral process. Since party identification has been and remains the most powerful predictor of political behavior, the strength of state partisanship is a key factor in converting an appointment into election (Abramowitz 1988). Like the family and self-appointment variables, state partisanship is expected to cut both ways in seat retention. Strong parties should dampen the likelihood that appointees run, since they will see a pool of quality co-partisan opponents on the horizon limiting their nomination chances. However, strong parties should help appointees who secure nominations get elected. The ability of strong parties to aid their nominees in elections should heighten competition for nominations, especially when vulnerable incumbents, like appointees, exist. Two measures are used to proxy state partisanship. The deviation of a state's popular vote from the national popular vote in recent presidential elections is used to assess the relative strength of partisanship in that state compared to the nation as a whole (Griffin 2006).<sup>6</sup> The second measure of party strength is a dummy variable for southern Democrats prior to 1980.<sup>7</sup> The one-party nature of the South during this period is included to capture the unique political culture of this region.

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it is available for the entire period under consideration and takes into account all votes cast.

<sup>6</sup> Following Griffin (2006) home state advantage for the presidential candidate is taken into account by reducing the two-party share of the vote by five percent in the candidate's home state.

<sup>7</sup> Southern states are the 11 states of the former Confederacy.

Southern Democrat appointees are nearly assured election if they are able to make it to the general election, but face significant obstacles in securing nominations where these endorsements are tantamount to election<sup>8</sup> (Ewing 1953). Thus, this variable is only employed in the nomination stage.

The two environmental factors that are present in only special and general elections are the quality of the opponent an appointee faces and the partisan tide of the election. Opponent strength, measured in the same manner as appointee elective office, will have the opposite effect of appointee experience. Stronger opponents decrease the likelihood that a nominated appointee will get elected (King 1999). Additionally, partisan tides in favor of an appointee's party should help sweep them into office, while negative tides should harm appointees' chances (King 1999). Finally, party continuity from an elected senator to an appointee, addressed by both Kohn (1974) and Morris and Marz (1981), will also be tested in general elections. This will demonstrate whether the bivariate relationship noted by in previous analyses is an artifact of state partisanship and appointee ideology or the result of angering the public by not respecting their partisan choice.

### **Data and Methods**

These analyses consider all Senate appointees from 1914 through 2010 ("Appointed Senators"). Information regarding appointee state, party affiliation, age, gender, previous elective office, self-appointment, family connection to the senator they

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<sup>8</sup> Only one Southern Democrat prior to 1980, Sen. William Blakely (D-TX), was nominated, but lost in a special election. However, of the 24 appointees, included in the analysis, denied nomination, nine were Southern Democrats appointed prior to 1980; this represents over 40% of Southern Democrats who sought nomination in this period. Only 15% of all other appointees have lost nomination bids and no Southern Democrat appointee, who sought election, has failed to get nominated after 1980.

replace, and length of service prior to facing election were collected through official Senate biographies (“Biographical Directory”). These biographies also indicated appointees’ decisions to run, and their success in garnering nominations and winning elections. The information regarding presidential election results, used to calculate state partisanship, was drawn from national and state presidential election results from *Congressional Quarterly’s Guide to U.S. Elections* and the Clerk of the House of Representatives (“Political Divisions”). For appointees who compete in general or special elections, their opponent was identified in *Congressional Quarterly’s Guide to U.S. Elections* and from state election officials. The previous elective experience of appointee opponents was gathered from official congressional biographies and supplemented by “The Political Graveyard.” Finally, national tide considers the distribution of House seats for an appointee’s party that result from the election in which an appointee competes compared to the average distribution of House seats for their party in the two previous Congresses.<sup>9</sup> A comparatively high percentage of House seats won by an appointee’s party in the election in which that appointee competes indicates a positive tide, which should help them in elections.

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<sup>9</sup> The information regarding the political division of the House was coded from the House Clerk (“Political Divisions”). The divisions for earlier elections were identified in *Congressional Quarterly’s Guide to U.S. Elections*. National tides are calculated as the deviation in the distribution of House seats for an appointee’s party after the election they contest from the mean distribution of House seats their party held in the previous two Congresses. When an election does not take place during national elections the most proximate national election is used. This differs from King (1999), which scored the national tide as neutral in elections that were not run concurrently other national elections. Models were run with both versions of the national tide variable; the model fit was better for the measure that used the national tide from the most proximate election. Thus, for theoretical and empirical reasons the variable that uses the most proximate election is employed here.

Since this chapter is concerned with the ability of appointees to convert their appointment into election, dichotomous dependent variables are employed for each stage of the electoral process.<sup>10</sup> Logistic regression is employed to determine the likelihood that appointees will choose to run, get nominated, and win election. Predicted probabilities are created for each variable to test the effect at each stage, holding all other variables constant.<sup>11</sup> Finally, the predictions from each stage are combined in simulations using *Clarify* (King, Tomz, and Wittenberg 2000), to assess the overall impact of each personal characteristic and element of the political environment on the likelihood that an appointment will be converted into election.

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<sup>10</sup> Due to the nature of this investigation and various modes of selecting nominees, it is not possible to conduct an examination of vote share in primaries in the same manner as King (1999). This also prevents opponent experience from being used in the nomination model and the relative competitiveness of the nomination contest from being considered in the general election model. Additionally, the period considered does not allow campaign spending to be analyzed.

<sup>11</sup> Previous elective office is held at its median value (local elective experience for the decision to run and experience in a state legislature for nominations and elections); family connection to the vacancy-creating senator is held at its modal value (no family connection) in each stage; gender is held at its modal value (men appointees) in all stages; age is held at its median value (52 years old for the decision to run and 51 years old for nominations and elections); state partisanship is held at its mean value (a positive deviation from the national popular vote in favor of an appointee's party of 5.36% for the decision to run, 3.85% for nominations, and 3.02% in general elections); length of appointment is held at its median value (313 days for the decision to run, 363 days for nominations, and 364 days in general elections); ideological distance is held at its mean value (.25 in nominations and .28 in general elections); the Southern Democrat prior to 1980 variable is held at its modal value (not a Southern Democrat from that era) when it is tested in the nomination stage; opponent previous elective office is held at its median value (experience as a state legislator) when it is tested in the election stage; national tide is held at its mean value (-.82, indicating that the distribution of the House that resulted from the election that included an appointee was slightly negative, resulting in a loss of approximately 3.57 seats for the appointee's party from the mean number of seats the party held in the two previous Congresses); finally sharing the party of the elected senator being replaced in the appointment is held at its modal value (party continuity in appointment) when it is included in the general election stage.

Before moving to the results, a few features of the data must be addressed.<sup>12</sup> The universe of potential contenders, between 1914-2010, is lower due to deaths (3), resignations (1), lame duck appointments (3), appointees selected after nominations were made (3), appointments that occur within two weeks of an election (1), and appointees who renounce their candidacy at the time the appointment takes place (36).<sup>13</sup> The exclusion of appointees who do not make it to the end of their appointed term is obvious. Lame duck appointees and those chosen when nominations were already secured are also excluded for their inability to use their position for electoral gain. The two-week cutoff is chosen because appointees selected so close to an election do not have the chance to capitalize on their position; a period longer than two weeks has the potential to bias the sample against appointees from states with fast-track special elections. Additionally, appointees who announce that they will not seek election at the time of their appointment are also excluded so as not to overestimate the influence of the characteristics associated with seat warmers on the decision to run. Finally, only appointees who face a challenger in a general election are included in the general election model.<sup>14</sup>

### **Analysis**

Table 4.1 shows the analysis for each stage of the electoral process. As expected, the decision to run is influenced by age, previous elective office, and state partisanship.

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<sup>12</sup> While six appointments have been made since 2010, the distribution of appointee characteristics presented in Chapter 2 reflects the demographics of appointees analyzed here.

<sup>13</sup> Sen. William A. Purtell (R-CT) who was already a candidate for Connecticut's other Senate seat at the time of his appointment is excluded from the decision to run and nomination stages. However, Purtell is included in the general election stage because he was in the Senate for over two months when he faced election.

<sup>14</sup> The elections of, Sen. David W. Stewart (R-IA), Sen. J. Lister Hill (D-AL), Sen. Rose McConnell Long (D-LA), and Sen. Sam J. Ervin, Jr. (D-NC) went uncontested.

The negative effect of the squared term indicates that age exercises its influence only on the oldest appointees. Appointees with no experience or experience in lower office and appointees from strong parties run less than average.

Table 4.1: Appointee Success at Each Electoral Stage

	Run for Election	Get Nominated	General Election
Previous Office	0.375* (0.19)	0.134 (0.17)	0.081 (0.16)
Family Replacement	-1.758 (1.49)	3.663* (1.93)	1.480 (1.74)
Woman Replacement	2.497 (1.90)	-3.209* (1.50)	-0.047 (1.84)
Appointee Age	0.312 (0.23)	0.378 (0.27)	-0.359 (0.33)
Appointee Age <sup>2</sup>	-0.003* (0.00)	-0.004 (0.00)	0.003 (0.00)
State Partisanship	-0.056* (0.03)	0.043 (0.04)	0.084 (0.06)
Length of Appt. (Per 100 days)	0.134 (0.15)	-0.052 (0.13)	-0.315* (0.15)
Self-Appointment	- -	-2.497* (1.06)	-1.950 (1.52)
Ideological Distance	- -	1.811 (1.71)	-0.893 (1.50)
S. Democrat before 1980	- -	-2.154* (0.78)	- -
Opp. Previous Office	- -	- -	-0.148 (0.14)
National Tide	- -	- -	0.085* (0.04)
Same Party Replacement	- -	- -	-0.043 (0.66)
Constant	-5.407 (6.30)	-7.313 (7.01)	14.039 (8.94)
$\chi^2$	23.74	25.44	29.62
Pseudo-R <sup>2</sup>	.21	.22	.26
<i>N</i>	138	115	88

Logistic regression, standard errors in parentheses.

\* $p < 0.05$  one-tailed test of significance

Nominations, for appointees who run, are hard to predict. The difficulty in predicting nominations stems from the relatively little variation that exists; appointees who run usually get nominated. This is due, in part, to the decision to not run by appointees who would have faced a difficult time garnering nominations. Despite the challenges in predicting nomination outcomes, several theoretically consistent relationships are discovered. Notably, self-appointers face considerable challenges getting nominated. Southern Democrats prior to 1980 and women are also subject to greater nomination difficulties, however, the span of time encompassed by the data point away from the contemporary relevance of these factors. Unlike the other predictors, when family members of the elected senator run they are able to secure nominations at higher rates than the average appointee, showing that the advantage of political bloodlines extends into the post-17th Amendment era.

Given the weeding out that occurs in the first two stages, it is not surprising that national tides have a strong influence on appointees in elections. Since tides condition the electoral fate of all senators, this finding indicates that appointees who make it as far as an election look more like their elected counterparts than the average appointee. Surprisingly, longer terms harm an appointee's chances at election. This runs counter to the hypothesis that the benefits derived from holding office aids incumbents, but is consistent with Tuckel's (1983) finding on term length.

The results of each stage reveal that characteristics and conditions are relevant at different electoral phases. Many of the variables show a consistent positive or negative influence on the likelihood of election, across all stages. For instance, previous elective office is always positive, even though it is not universally statistically significant.

However, some variables have inconsistent effects across stages; for example, state partisanship reduces the likelihood that an appointee will succeed in one stage, but boosts chances in another. Thus, the cumulative effect of each variable is not apparent from examining each stage independently. To assess the overall influence of each factor on the likelihood that an appointee will convert their appointment into election estimates for every variable at each stage are combined in Table 4.2.

Table 4.2: Likelihood of Converting an Appointment into Election in the Senate

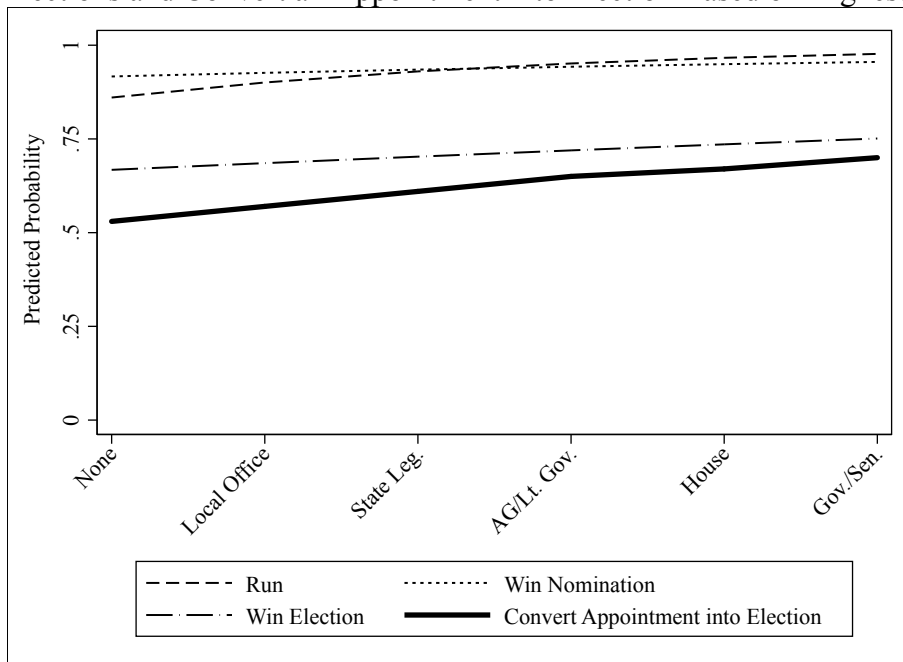
	Direction	p-value
Previous Office	+	.0188
Family Replacement	+	.0836
Woman Replacment	-	.5988
Appointee Age	-	.0004
State Partisanship	-	.2496
Length of Appt.	-	.2696
Self-Appointment	-	.0124
Ideological Distance	-	.7284
S. Democrat before 1980	-	.0044
Opp. Previous Office	-	.6640
National Tide	+	.0108
Same Party Replacement	+	.5320

Note: *Clarify* simulations (2500) were created for every variable holding all other variables at the appropriate level of central tendency in each stage. The simulated probabilities from each stage were multiplied for both the minimum and maximum value of every variable. The difference between the predictions for the minimum and maximum values were generated. The number of differences less than zero were calculated and divided by the total number of simulations to reveal the percent of simulations where predictions remained the same from the minimum to the maximum value. This number was then subtracted from one to produce the percent of cases that reveal no difference, the p-value. (Each variable was also tested with values set at +/- 1 standard deviation from the mean – the only difference that was observed was for length of appointment, which showed a marginal statistical effect, against the predicted direction).

Combining the estimates from each stage reveals that higher previous elective office experience makes appointees more likely to win election to the Senate. Figure 4.1, details the both the path and overall likelihood of converting an appointment into election

for appointees by their previous electoral office. As the figure shows, the greater likelihood of running combined with somewhat greater success in getting nominated and getting elected enhances the chances that an appointee will convert their appointment into election, as their previous office rises. While prior experience helps appointees, long service, which harms prospects of winning elections, has little impact on the overall fate of appointees. Thus, appointees appear to be neither advantaged nor disadvantaged by how long they serve prior to election. Looking only to the results of elections distorts the effect of length of service. The negative influence of appointment length in elections appears to be an artifact of some low quality appointees deciding to run and winning nominations. Since time in office does not influence the electoral fates of appointees and elective office experience does, these results speak to the relative importance of previous election as an element of the incumbency advantage.

Figure 4.1: Prediction of Appointees’ Decisions to Run, Ability to get Nominated, Win Elections and Convert an Appointment into Election Based on Highest Previous Office



Considering all the stages together also reveals suggestive evidence that family members are advantaged in converting appointment into election. The somewhat surprising tendency of appointees with familial connections, to run at similar rates to other appointed senators shows the pull of office for the politically connected. However, the favorable reception appointees with family ties receive in nomination contests and from the electorate boosts their chances for winning election to the Senate by over seven percent over those not related to the senator they replace.

If governors are interested in having their appointee win election to the Senate (there is little guarantee that this is desirable for all governors), they should look to appoint someone with previous elective office experience and, if possible, name a member of the departing senator's family. However, they should not seek to manipulate the length of the appointment since this will have little impact on the appointee's fate. The other factors considered in these analyses are beyond the control of governors and appointees, but warrant exploration in predicting the fates of appointees. State partisanship produces the most compelling results in this regard. While success in winning elections is not significantly different for appointees from the weakest parties and those from the strongest parties, their paths diverge. Appointees from strong parties rule themselves out of consideration, short circuiting their chances of election. On the other hand, appointees from weak parties easily get to an election, but face somewhat greater challenges in winning the elections in which they compete.

### **Discussion and Implications**

Governors faced with the opportunity to fill a vacancy can use the findings of this chapter to either promote or suppress the chances that their appointee gets elected.

Selecting an appointee who is relatively young, has experience in high elective office, and is closely related to the senator who is replaced will give that appointee the best chance to succeed in winning election. If a governor has designs on the seat for him/herself they are best served by appointing someone with less desirable attributes. However, if the public can detect a governor's ambition, as with self-appointers, they will suffer electorally. Thus, governors interested in winning a Senate election should not appoint themselves, but rather seek to select someone who is unlikely to stand in the way of their election.

The results of these analyses are also of practical use to those seeking to predict outcomes for appointees and potential candidates making a decision about entering a Senate contest involving an appointee. In particular, the importance of considering each stage of the electoral process before predicting an appointee's fate is displayed. Analyzing all electoral stages offers an explanation for the counterintuitive finding, in past research, that longer appointed terms harm electoral prospects. Long appointive terms appear to create a pool of candidates who are vulnerable to defeat. Ultimately, long terms of service are not acting independently to harm the prospects of appointees.

The conclusions regarding incumbency and dynastic political families are more suggestive. Caution is warranted when attempting to extend the finding that holding office does not help appointees retain office to all senators. The length of service measure does not take into account how appointees act in office. Having access to the benefits of office does not mean that appointees take advantage of their position in the same way as elected incumbents. In fact, part of the benefit of previous elective office may be in training experienced appointees to handle the ombudsman responsibilities of senators.

Further, the muted influence of ideological distance points out the need to appeal to distinct constituencies at different electoral stages and the potential difficulty of escaping party brands in elections. The claims of those who see the benefits of office as a key element of the incumbency advantage rest on the ability of those in office to exploit their position for electoral advantage. Rather than disconfirming the importance of the benefits of office, this analysis suggests that further investigation is needed into the level of skill with which the tools available to officeholders are employed. However, it is clear that merely occupying a seat does little to confer electoral advantage.

Finally, the results suggest that family members are advantaged through their political brand. However, the most surprising result in regard to family appointments is the tendency of these appointees to run at similar rates as other appointees, even if they had not displayed political ambition prior to their appointment. This suggests a degree of vocation following, possibly due to the believed benefit of familial association. It also shows that members of political families may not see a need to build a strong record of holding low-level political offices before running for the Senate or other prominent positions. The belief in de facto qualification among members of political families is worrisome from the perspective of democratic theory, since it is clear that even when the public is able to vote, not all candidates will receive equal consideration. While the 17th Amendment may have made the Senate slightly less aristocratic, this analysis demonstrates the continued relevance of familial connections even after the institutional reform.

## **Conclusion**

This chapter explores three questions, two of which have not received much scholarly attention. First, the analyses reveal the characteristics that condition the likelihood that a Senate appointee will convert their appointment into election. Since the traits of appointees are key determinants of eventual election, gubernatorial selection plays a major role in what becomes of a vacancy. These findings offer several suggestive conclusions for governors seeking to make an appointment that will serve their long-term goals. However, since self-appointing governors are rebuffed when they run, the discretion exercised by governors is constrained.

The other understudied question is the role of family in electoral politics. The results here are consistent with other recent findings: family plays a surprising and possibly troubling role in elections. Finally, this chapter broaches the well-worn question of what creates the incumbency advantage. The results show that previous elective office is important for an appointee to turn their appointment into election, but that merely holding a Senate seat does little to help appointees in this regard. This investigation confirms that the incumbency advantage results from constituent familiarity and suggests the importance of officeholders' skill in exploiting the benefits of office. The extent to which appointees are incumbents and can expect to benefit from their time in the Senate varies considerably based on their prior political experience and family brand. Ultimately, appointee experience and family ties determine whether an appointment is actually golden or fool's gold.

**Chapter V**  
**Temp to Perm?:**  
**The Electoral Value of Senate Appointments to Representatives and Governors**

Sen. John Ensign's (R-NV) May 2011 resignation allowed Gov. Brian Sandoval (R-NV) to appoint Rep. Dean Heller (R-NV) to the U.S. Senate. While the appointment was overshadowed by the news of Osama bin Laden's death, it allowed Heller, who was expected to run for the seat in 2012, to move up to the office he desired, at no cost. The appointment also made Heller an incumbent in his first run for the Senate. In November 2012, Heller defeated his former House colleague, Rep. Shelley Berkley (D-NV), by less than 12,000 votes out of nearly a million ballots cast, to retain his position. Impressively, Heller was able to edge out Berkley even as his party's presidential candidate lost Nevada by nearly seven points. At first blush, Heller's election appears to confirm the concerns of those who worried that the deck was stacked in his favor through the appointment (Chaddock 2011). However, others pointed to the relative lack of success for appointees who have run for election, to cast doubt on the electoral benefit Heller derived from the appointment (Silver 2011). In an election as close as the 2012 Nevada Senate contest, virtually anything that provided an edge could be cited as "the" difference in the outcome. While Heller's appointive incumbency may have contributed to his victory, this case raises the question of whether Senate appointments systematically advantage candidates. The primary goal of this chapter is to test whether appointed senators parlay their appointment into votes when they run for Senate.

The most obvious potential electoral advantage is for appointees, however, governors who make appointments are also possible beneficiaries of Senate vacancies. This proposition came through in the infamous comments made by Gov. Blagojevich (D-

IL) when choosing Pres. Obama's Senate successor. After Blagojevich described the value of the position, he stated he would seek something in return for the appointment and that he was "not just giving it up for [expletive] nothing" (Davey 2008a).

Blagojevich and the nine governors who took vacancies for themselves are examples of the naked self-interest that has been pursued when naming replacements. As demonstrated in the assessment of governors' selections in Chapter 2, there are also subtle ways for governors to seek strategic advantage when filling vacancies. For example, Gov. Chris Christie's (R-NJ) recent decision to schedule a Senate special election, which did not coincide with the state's gubernatorial election, was criticized by those who saw the move as his attempt to preserve his electoral margin (Zernike and Halbfinger 2013). While Christie's move was directed toward his gubernatorial reelection, governors with ambitions to serve in the Senate may be able to enhance their electoral prospects through filling a vacancy. As demonstrated in Chapter 2, governors who appointed placeholders have experienced an uncommon level of electoral success when they run in the election following an appointment. Thus, in addition to exploring if appointees gain an electoral advantage, this chapter examines whether governors benefit in Senate elections through appointments.

Assessing the influence of making and receiving appointments on elections requires an understanding of how governors and their appointees would have fared had they not made or received an appointment. To create baseline expectations for electoral performance, this chapter assesses House members and governors who competed in

Senate elections from the adoption of the 17th Amendment through 2010.<sup>1</sup> Governors and representatives who made or received an appointment to the Senate are compared with their colleagues who did not. Further, since some House members and governors challenge sitting senators, some of whom were appointed, the extent to which appointed incumbents stand in the way of the candidates best positioned to move up to the Senate is tested. Using appointees as a comparison group for elected incumbents allows the findings of these analyses to speak to the value holding office has in creating the incumbency advantage. The analyses in this chapter demonstrate the electoral value Senate appointments have to those who are named senators and those who do the naming, as well as the prospects for challenging an appointee.

### **Appointees in Senate Elections**

The distinctive dynamics of Senate elections have, by now, been explored (Abramowitz 1980; 1988; Abramowitz and Segal 1992; Hibbing and Brandes 1983; Highton 2000; Hinckley 1980; Jacobson 2004; Krasno 1994; Lee and Oppenheimer 1999; Schiller 2000). While many have seen Senate elections as unique, others contend that they are not as novel as they first appear (Gronke 2000; Westlye 1991). Whether focusing on the similarities or differences between Senate elections and elections for other offices, these studies have generally ignored the presence of appointees. Appointive status is only raised to explain results that deviated from expectations or as a reason to exclude appointees from analyses. For example, Jacobson (2004) refers to appointee Sen. John Seymour (R-CA) as “an incumbent in name only” (202) to explain his landslide loss to Sen. Dianne Feinstein (D-CA) in 1992. Further, Krasno (1994) notes that including

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<sup>1</sup> The analyses exclude governors and representatives who run unopposed or as third party candidates, as well as those whose closest competitor is from a third party.

appointees among Senate incumbents who stood for reelection deflates their success rate. Thus, while appointees are recognized as being a class apart from elected incumbents, the value of an appointment in Senate elections has not been systematically examined.

The studies on the electoral fates of appointees show that they are less likely to retain their position than their elected counterparts (Clem 1966; Huckabee 2002; King 1999; Kohn 1974; Matthews 1960; Morris and Marz 1981; Tuckel 1983). However, as noted in Chapter 4, the factors that influence the electoral fates of appointees who run are strikingly similar to those in Senate elections involving elected incumbents (Abramowitz 1988; Abramowitz and Segal 1992; King 1999). Thus, a question emerges about appointees' ability to use incumbency to their advantage.

While appointees' poor electoral performance relative to their elected counterparts has been long recognized (Matthews 1960), more than half of the appointees who have run on their own have won election.<sup>2</sup> The level of appointee success means that they stand a better chance of election than both Senate challengers and candidates for open seats. However, the likelihood that an appointee will win an election is lower than previously elected incumbent senators. The quasi-incumbent classification of appointees indicates that part of the value of incumbency may be derived from holding office and the actions officeholders take to gain public attention (Fiorina 1989; Mayhew 1974). However, the difficulty in establishing a link between ombudsman duties and incumbent electoral success along with the conceptualization of incumbency offered by Stonecash (2008) (which includes candidates who are elected but never seated) points to the centrality of previous election in the incumbency advantage. Unlike elected senators,

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<sup>2</sup> Of the 121 appointees who ran for Senate between 1914-2010, 64 (52.8%) won election on their own ("Appointed Senators").

appointees are unable to demonstrate their strength with a previous electoral margin, which serves as a signal to potential opponents about their invulnerability (Jacobson 1989; 2004). Thus, it appears that appointees do not typically dissuade quality challengers because they do not have the electoral track record in Senate elections to convince opponents to stay away (King 1999).

Incumbent senators nearly always face a challenger and Senate challengers usually have at least some background in electoral office. However, the quality of challengers' previous experience varies greatly and affects the threat they pose to an incumbent (Bond, Covington, and Fleisher 1985; Lublin 1994; Squire 1989; 1992). Given that potential quality challengers have the most to lose in making a bid for the Senate, they prefer to seek opportunities that maximize the likelihood that they will win election, such as an open-seat contest (Banks and Kiewiet 1989; Rohde 1979; Schlesinger 1966). Since virtually no appointee has a proven ability to win a Senate election,<sup>3</sup> elections involving appointees provide the best opportunity for quality candidates to win their way to the Senate next to an open seat. This fits neatly with King's (1999) discovery that appointees face challengers with greater experience than elected senators in their first run as an incumbent. Thus, appointees are unable to participate in the most powerful advantage of incumbency (Jacobson 2004; Jacobson and Kernell 1983).

While appointed senators do not reach the gold standard of incumbency, there are reasons to suspect that they have advantages over non-senators when they seek election.

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<sup>3</sup> Obviously, no representatives had won a Senate election before their appointment. However, two governors, Matthew M. Neely (D-WV) and Ernest W. McFarland (D-AZ), were elected to the Senate previously. Both Neely and McFarland are included in the analysis of governors since the electoral constituency is the same for governors and senators; excluding them does not influence the effect of any variable.

The primary reason to believe that appointees benefit electorally is their success relative to challengers and candidates in open-seat contests. These results, however, have a number of possible explanations. Appointees may be able to use the resources of office to gain attention and win votes. Thus, appointees may outperform what would be expected from a similarly situated nominee facing that electoral context. Alternatively, appointed senators, who would have been high-quality candidates without an appointment, may perform no better than if they had not been appointed. By taking the other factors that influence electoral outcomes into account, the analyses conducted here demonstrate the electoral value of Senate appointments.

### **Data and Methods**

The focus of this chapter is the effect appointments have on Senate elections. To assess the electoral impact of an appointment, appointees are compared to similarly situated non-appointees who run for Senate. Comparing appointees to candidates who are similar, but who were never appointed, isolates the effect of appointments on elections. Two sets of Senate candidates, House members and governors, are explored to determine if appointees from each group outperform those who were not appointed prior to their Senate bid. Representatives and governors are chosen for two reasons. First, more senators emerge from these positions than any others, and this path has been persistent since Senate elections began (Schlesinger 1966). Thus, by examining House members and governors, the appointees best positioned to take advantage of their opportunity are considered. Further, since representatives and governors are high-quality challengers for any incumbent, they test the limits of appointed incumbency. Second, the differences in

the constituencies of House members and governors are leveraged to understand the components of the incumbency advantage.

### **Dependent Variable**

The dependent variable, for each group, is the percent of the two-party vote won by a candidate.<sup>4</sup> Two-party vote is employed to capture candidate performance in a manner that assesses individual performance relative to partisan baselines. This measure allows variables to be introduced, which separate the influence of candidate traits from other factors. This approach helps to reveal the unique contribution of appointive status to electoral prospects. The data analyzed here were gathered from *Congressional Quarterly's Guide to U.S. Elections* (1994) for elections between 1914-1993 and directly from the state agency responsible for elections between 1994-2010.

### **Independent Variables**

Four independent variable categories are included to assess the factors that influence vote share in Senate elections: candidate appointive status, opponents' experience, state characteristics, and electoral context. The main variable of interest is appointive status. Expectations for House members are straightforward: representatives who are appointed to the Senate, prior to their run, should have higher vote shares than those who were not appointed. For governors, the link between appointment and electoral prospects is more complex. Former governors appointed to the Senate should outperform governors who were not appointed. However, governors who take vacancies for themselves are expected to be punished by the electorate and have lower vote shares than

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<sup>4</sup> Candidates who served in the House and as governor are only included amongst governors who ran for Senate. However, each attempt for candidates who make multiple bids for the Senate, without winning, is considered.

governors who were not appointed. Finally, since governors may be able to create favorable conditions for their candidacy through an appointment, governors who appoint someone else in the two years prior to running for Senate should have a higher vote share than their counterparts who did not make an appointment.<sup>5</sup> Information on the previous elective experience and appointive status of representatives and governors was gathered from the “Biographical Directory of the U.S. Congress” and the National Governors Association (“Former Governors’ Bios”).

The second set of independent variables focus on the opponents these candidates face. When considering incumbent senators it is necessary to distinguish between senators who are elected, those selected by state legislatures in the pre-17th Amendment era, and gubernatorial appointees. Representatives and governors who challenge elected senators should have lower vote shares than those who do not challenge an elected incumbent. Similarly, if holding office contributes to the incumbency advantage, House members and governors who oppose senators selected by state legislatures and gubernatorial appointees should have lower vote shares than those who do not face an incumbent. However, since previous election is central to the incumbency advantage, opposing an elected incumbent is expected to be more detrimental to challengers than taking on a pre-17th Amendment senator or an appointee. Not all representatives and governors who run for Senate challenge incumbents. The previous elective experience of

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<sup>5</sup> Overall, 43 governors ran for Senate after making an appointment. However, 16 of the governors run more than five years (with the longest over 16 years) after they named an appointee. Since it is difficult to imagine how appointments made very far in advance of a Senate bid could be manipulated to benefit a governor, the two-year cutoff is employed. This timeframe examines governors who run in the election immediately following an appointment. Employing a cutoff at four years or no cutoff at all does not impact the effect of this or any other variable.

opponents in open-seat races should influence candidate vote share. House members and governors who face opponents who are former senators, governors, or representatives are expected to face greater difficulties in winning votes than those who face opponents who did not hold these offices. As with candidates, opponent experience was coded from the “Biographical Directory of the U.S. Congress” and the National Governors Association (“Former Governors’ Bios”).

In addition to the candidates competing, the partisan composition of the state electorate must be considered. State partisanship creates opportunities for some, but makes election more difficult for others. Thus, controlling for partisanship is necessary to reveal the effect candidates and their opponents have on vote shares. Two measures are used to capture state partisanship. First, the average two-party presidential vote for the nominee from the candidate’s party in their state, in the two previous presidential elections, is employed. State-level presidential vote was gathered from *Congressional Quarterly’s Guide to U.S. Elections* (1994) and the Clerk of the House of Representatives (“Election Information”). This measure permits an assessment of a state’s partisan leanings that is exogenous from the electoral careers of governors and House members who stand as Senate candidates.<sup>6</sup> As presidential nominees from the candidate’s party perform better in their state, candidates should garner a greater share of the two-party vote. Second, to capture the one-party nature of the South for the majority of the period

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<sup>6</sup> Since the two groups analyzed here have contributed to the vote totals for past gubernatorial elections and totals for statewide House vote, neither of these measures is appropriate for calculating state partisanship in this analysis. Similarly, since some representatives and governors challenge elected incumbents, returns from past Senate elections must also be excluded. Thus, for the reasons outlined in Highton (2000), presidential vote offers the best approximation of state partisanship that is not affected by the candidates competing in the elections considered.

under consideration, a dummy variable is created for Southern Democrats who ran prior to 1980.<sup>7</sup> Since Democrats dominated Southern elections in this era, these candidates should receive a higher vote share than other candidates.

The final state-level characteristic considered is House delegation size. While much has been written about the importance and theoretical relevance of state size to Senate elections (Ensley, Tofias, and de Marchi 2009; Gronke 2000; Hibbing and Brandes 1983; Westlye 1991), House delegation size is employed as measure of the candidate pool. For representatives, a large delegation means more candidates with the same experience and less overlap between their House district and the state. Thus, House delegation size is only considered for House members who run for Senate. Since large House delegations will typically harm the electoral prospects of House members who have Senate ambitions, representatives from large states who are appointed to the Senate stand to benefit more than those from other states. Essentially, the promotion to the Senate should raise the profile of House members from larger states more than appointees from smaller states who will already be known by many in their statewide constituency. Thus, in assessing the electoral chances of House members, both House delegation size and an interaction between delegation size and appointment will be employed. As House delegations get larger, representatives who run for Senate should receive a lower share of the two-party vote. However, an inverse relationship should exist for House members who are appointed; as House delegation size rises, so should their share of the vote.

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<sup>7</sup> Southern states are the 11 states of the former confederacy. The 1980 cutoff is selected for the reasons outlined in Chapter 4; Democrats before 1980 faced difficulties in getting nominated, but were aided by their partisanship in general elections.

House delegation size was coded from *Congressional Quarterly's Guide to U.S. Elections* (1994) and the Clerk of the House of Representatives ("Election Information").

The last independent variable category is electoral context. As with state-level factors, controlling for the electoral environment is necessary to understand how candidates uniquely impact vote share in elections. First, a dummy variable is created for special elections that do not coincide with regularly scheduled general elections. The non-concurrent special election variable is employed to capture the unique circumstances that arise in off-cycle elections. Since candidates do not risk their current position in off-cycle elections, candidates with a lower likelihood of winning are expected to run in these elections. Thus, representatives and governors who participate in non-concurrent special elections should perform worse than those who run in other elections. These elections were identified from the "Biographical Directory of the U.S. Congress." In addition to special elections, it is necessary to consider the partisan tide of the election. To assess tide the standing of a party before and after the election, in which the candidate competes, is considered. The difference between the average percent of House seats held by a party in the two previous Congresses and the percent of seats held after the election, in which the candidate competes, is used to assess the relative position of the party.<sup>8</sup> As national tides become more favorable to a candidate's party, they should win a larger share of the two-party vote. Party divisions in the House of Representatives were gathered from *Congressional Quarterly's Guide to U.S. Elections* (1994) and the Clerk of the House of Representatives ("Election Information").

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<sup>8</sup> Since special elections do not take place in a vacuum, the closest previous electoral tide is used for non-concurrent special elections. This measure was found to be superior to treating special elections as neutral (King 1999). Thus, for theoretical and empirical reasons the tide from the previous is employed in this analysis.

## **Analysis**

In this section, I analyze the two-party vote of both House members and governors who ran for Senate between 1914-2010. Given that Senate elections may differ from state to state, both analyses employ OLS regression with standard errors clustered by state. The results from representatives who run for the Senate are considered first, and are followed by a discussion of the findings on governors and a comparison of the two groups.

### **House Members in Senate Elections**

The results for House members who ran for Senate are in Table 5.1. The analysis shows that all of the variables associated with the electoral environment behave as expected. After controlling for the fundamentals of each race, it is apparent that the type of opponent a representative faces matters to their electoral fate. All else equal, challenging an elected incumbent reduces the vote share of a House member running for Senate by over six points. In fact, running against an elected incumbent turns the typical representative who runs for Senate from a winner into a loser. Opponent quality in open-seat races also conforms to expectations. However, the most interesting results are found when representatives challenge senators selected by state legislatures and those appointed by governors. House members perform nearly four points better against senators attempting to span the pre- and post-17th Amendment eras, but when they challenge appointed incumbents their vote share is reduced by over five percent. Thus, there is little difference between the predicted vote share House members receive when they face an elected incumbent rather than a gubernatorial appointee. This finding indicates that appointed incumbents are dangerous opponents for representatives who run for Senate,

and that House members should view an appointed incumbent as only slightly less formidable than an elected one (see Figure 5.1).

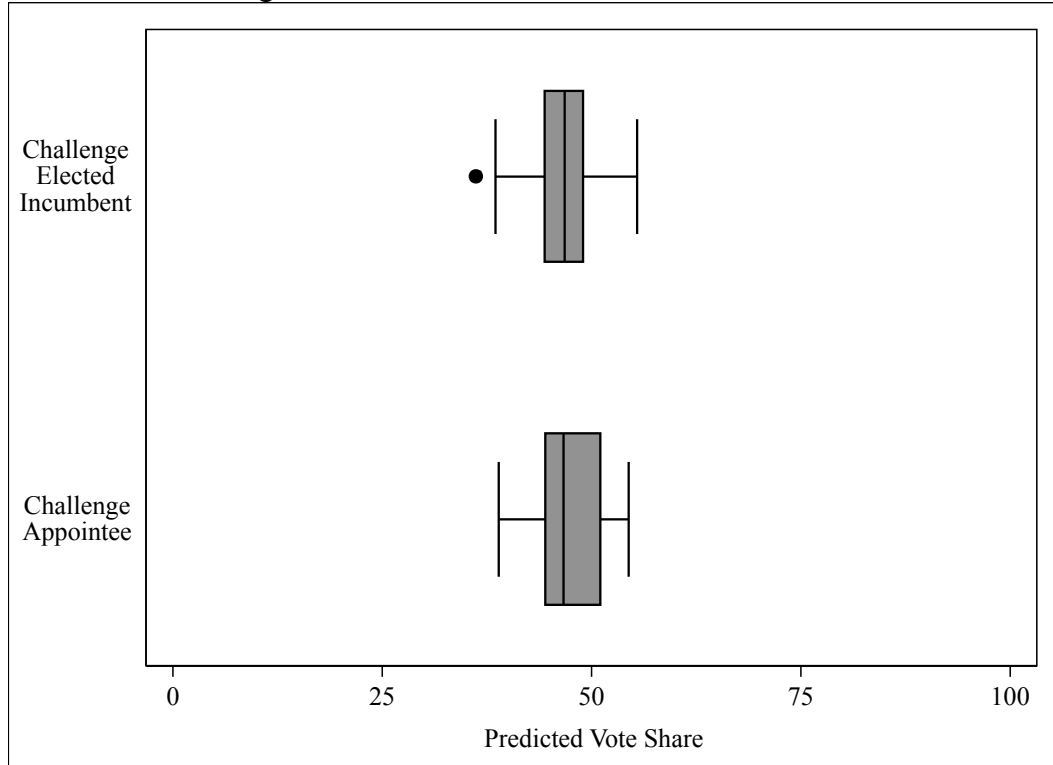
Table 5.1: House Members Who Ran for Senate, 1914-2010

Appointee	7.136*
	(3.80)
Challenge Elected Incumbent	-6.504*
	(0.80)
Challenge Appointed Incumbent	-5.656*
	(1.95)
Challenge Pre-17th Incumbent	3.877*
	(1.86)
Opponent Former Senator	-4.008
	(2.76)
Opponent Governor	-2.486*
	(1.34)
Opponent House	-3.297*
	(0.62)
State Partisanship	0.555*
	(0.07)
Southern Democrat Before 1980	10.658*
	(2.84)
National Tide	0.246*
	(0.04)
Non-Concurrent Special Election	-2.122
	(2.70)
House Delegation Size	-0.051*
	(0.03)
House Delegation x Appointee	-0.334
	(0.31)
Constant	53.666*
	(0.66)
Adj. R <sup>2</sup>	.48
<i>N</i>	459

Estimates for OLS Regression, clustered standard errors in parentheses.

\* $p < 0.05$  one-tailed test of significance

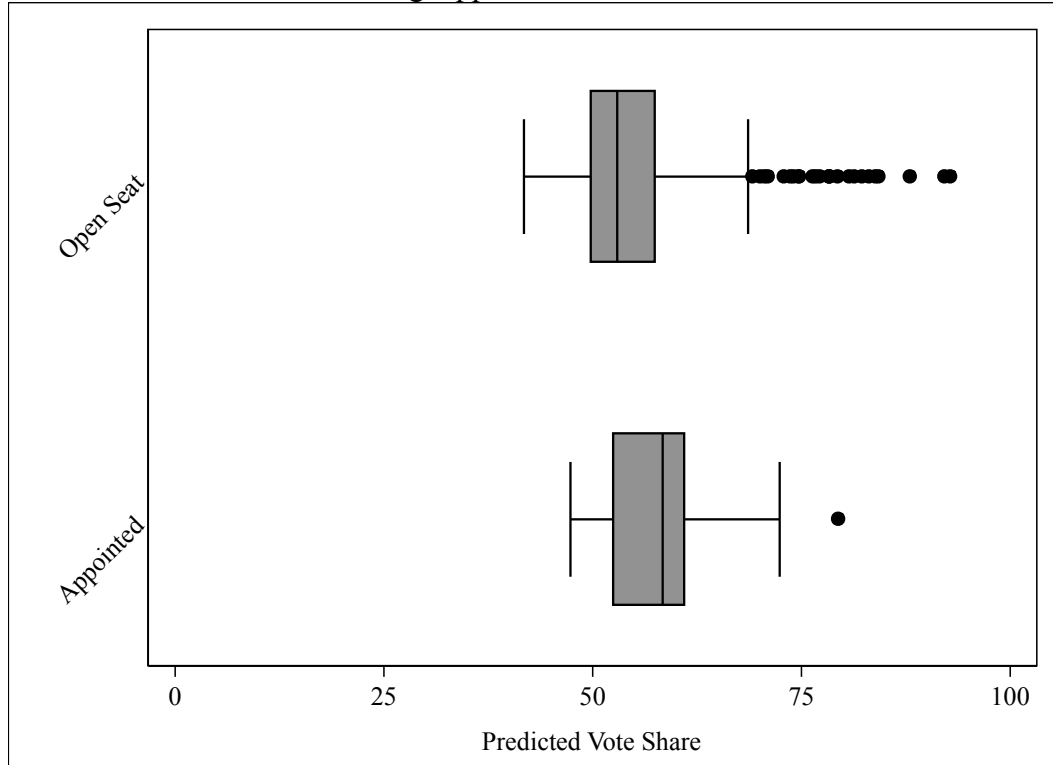
Figure 5.1: Predicted Vote Share for House Members Who Challenge Appointees and Those Who Challenge Elected Incumbents



Challenging an appointee is one thing and being an appointee is another.

Representatives who are appointed to the Senate before they run for the seat receive a boost of over seven percent. As Figure 5.2 shows, House members who are appointed to the Senate receive a substantial electoral benefit from their appointment, even when compared to representatives who run for open seats. Appointive incumbency distinguishes House members from their similarly situated counterparts who did not serve in the Senate prior to running. Considering these results alongside the difficulties faced by representatives who challenge appointees makes it imperative for House members with Senate ambitions to vie for appointment when vacancies occur. Thus, the choices governors make in filling vacancies have important consequences for the electoral careers of House members.

Figure 5.2: Predicted Vote Share for House Members Who Ran for Open Senate Seats and Those Who Ran After Being Appointed



### Governors in Senate Elections

The estimates for governors who ran for Senate are in Table 5.2. State characteristics and contextual factors are consistent with expectations. The opponent a governor faces also influences their vote share. Governors who compete in open-seat races against others who served as governor see their vote share reduced by over three percent. Similarly, facing a House member in an open-seat race decreases governors' two-party vote by four points. Further, when a governor challenges an elected incumbent they perform nearly five points worse than if they had competed against someone else. However, in an important deviation from representatives, governors' vote shares are not affected by challenging an incumbent selected by a state legislature or appointed by a

governor. This means that appointees should not be viewed as obstacles for governors making Senate bids in the same way as elected incumbents.

Table 5.2: Governors Who Ran for Senate, 1914-2010

Made Appointment in Past 2 years	1.728 (1.57)
Appointee	4.928 (3.62)
Self Appointed	-3.262 (3.90)
Challenge Elected Incumbent	-4.681* (1.13)
Challenge Appointed Incumbent	-1.124 (1.66)
Challenge Pre-17th Incumbent	2.088 (1.75)
Opponent Former Senator	-3.974 (2.42)
Opponent Governor	-3.217* (0.79)
Opponent House	-4.070* (1.66)
State Partisanship	0.250* (0.11)
Southern Democrat Before 1980	12.928* (5.22)
National Tide	0.281* (0.05)
Non-Concurrent Special Election	-2.702 (2.33)
Constant	53.414* (0.82)
Adj. R <sup>2</sup>	.32
<i>N</i>	229

Estimates for OLS Regression, clustered standard errors in parentheses.

\* $p < 0.05$  one-tailed test of significance

There are a number of ways governors become involved with Senate vacancies, and each has the potential to influence their electoral prospects. Governors who take

vacancies for themselves see a reduced vote share that is not statistically significant. This result can largely be explained by the fact that few governors who appoint themselves make it as far as a general election. While all self-appointers run, five of the nine self-appointers failed to receive nominations. Former governors who are appointed to the Senate do not see a boost in their vote share through appointment. While the magnitude of the effect is only slightly lower for governors than representatives, the coefficient falls shy of statistical significance (.09 one-tailed test). Thus, there is only suggestive evidence that governors who receive appointments perform better than their non-appointed counterparts. The final way governors are involved in appointments is by making them. The results for governors who run after making a Senate appointment show that making an appointment does not improve the vote share of governors who run for Senate.

### **Comparing House Members and Governors in Senate Elections**

Examining House members and governors who run for Senate side-by-side provides several insights. The effects of environmental factors, particularly national tide, show that no matter the identity of the candidate, electoral conditions influence vote share. Further, the reduced vote share for House members and governors who challenge elected incumbents confirm the difficulties even high-quality challengers face in winning Senate elections. However, the groups begin to diverge when they are appointed. House members see clear improvement after an appointment, but the evidence for governors is less conclusive. For House members with senatorial ambition, appointment is both a sure way to get to the Senate and offers the electoral advantages of incumbency. The findings on representatives and governors indicate the power of both previous election and holding office in creating advantages for incumbents. When an appointee has been

elected to a high profile statewide position, being in office does less to boost vote share than for other appointees. However, when an appointee has less experience in the electoral politics of the state, holding office appears to compensate for this shortcoming. Thus, the centrality of previous election in the incumbency advantage is confirmed, as credence is lent to the notion that holding office can boost the electoral prospects of some incumbents.

Another important difference between representatives and governors is revealed. House members face a greater challenge in winning election when they run against appointed incumbents, but governors do not. This again shows the importance of election in creating advantages for incumbents. Governors mitigate the advantages of appointed incumbents, but representatives do not. Thus, for governors who run against appointees, it is tantamount to seeking an open seat, where the race fundamentals and past experience of their opponent condition the outcome. Ultimately, governors, the candidates who are best positioned to win Senate elections, are left largely unaffected by appointments because they are already quality candidates who have the experience to win statewide elections. While governors do not face great challenges from appointed incumbents, they do not create their own advantage by making an appointment ahead of an electoral bid. Thus, the ability to appoint does little to advance or inhibit governors' progressive ambition.

### **Discussion and Implications**

While appointments appear to play some role in Senate elections, a number of questions remain unanswered. The observed electoral benefits invite exploration of appointees who do not have experience in the House or as governor. These appointees

will likely raise their profiles more through an appointment than representatives or governors, making the benefit they receive through appointment a question worthy of investigation. In addition to considering appointees other than representatives and governors, earlier stages of the electoral process should be assessed. For instance, the lack of influence of self-appointment in general elections is most likely due to the repudiation of self-appointers by their parties. Since both general election vote share and the value of nominations vary with electoral context, the ability of appointees to garner coveted party endorsements may reveal value in appointments obscured in the analyses presented here.

Governors' decisions may also have effects beyond Senate elections. Indeed, as suggested in the Christie example discussed in the introduction to this chapter, governors may be able to enhance their gubernatorial reelection bid through an appointment. Thus, comparing gubernatorial elections for governors with static ambition who have made an appointment to those who have not, is a logical next step. While receiving an appointment is positive for all those who are not self-appointed, making appointments is fraught with peril. Governors who make appointments face possible dangers in securing nominations and in general elections. Given that governors always select a member of their own party, co-partisans who feel slighted by the selection of someone else may decide to challenge a governor in a primary. It is also possible that the public could show its displeasure with an appointment at the polls. Thus, it is not clear that the opportunity to name a Senate replacement will be positive for governors with static ambition. Contrary to Blagojevich's claim that governors stand to benefit from making

appointments, many governors may be better off without having the responsibility thrust on them.

### **Conclusion**

This chapter marks the first systematic exploration of how gubernatorial appointments influence Senate elections. By controlling for environmental elements and comparing the vote share of appointed incumbents to similarly situated Senate candidates, representatives are shown to improve their electoral performance through appointment. More suggestive evidence exists that former governors appointed to the Senate benefit from appointments, as well. However, governors who challenge an appointed incumbent face no greater difficulties in winning election than they would in a typical open-seat race. This stands in contrast to House members who challenge appointed incumbents; representatives who face appointed incumbents perform as they would if they had opposed an elected incumbent. Taken together these findings suggest that previous election from a constituency plays a greater role in creating the incumbency advantage than holding office, but that holding office can help appointed incumbents who were not previously elected from a statewide constituency.

These analyses also provide the first evidence that gubernatorial appointments can create an electoral edge. While these findings may cause concern about the institution of gubernatorial appointment, they must be balanced against the constraints on governors' actions noted earlier. Further, since neither self-appointment nor naming someone else to the Senate prior to running benefits governors in Senate elections, they cannot confer electoral advantages to themselves. Thus, even the most worrisome findings demonstrate the limits governors face in exploiting appointments.

## **Chapter VI**

### **The Persistence of Gubernatorial Appointments**

While several prominent scandals have heightened concerns about gubernatorial appointment, these instances stand out precisely because they are so exceptional.

Gubernatorial ambition encourages uncontroversial appointments. Ambitious governors do, however, seek advantage through subtle actions that do not draw scrutiny. While there is some room to seek benefits from appointments, political constraints limit how much governors can gain. Thus, the method of gubernatorial selection is rarely cast in a negative light. This general lack of controversy limits calls for change.

Appointees do not often create waves in Congress. However, the Kirk and Goodell appointments serve as reminders that appointees do occasionally cast critical votes (Kohn 1974; Murray and Montgomery 2010). Even instances where appointees influence legislative outcomes are often lost in the long causal chain between appointments and roll-call votes. Further, when all roll calls are considered, appointees distinguish themselves by the continuity they provide in representation. Continuity is particularly notable when appointees replace elected senators from another party. Rather than providing an extreme alternative, which would be expected with an election, appointees offer more moderate records when they replace a member of another party. If appointees have any effect on the Senate, the relatively moderate records they provide should improve the efficiency of the chamber, especially in polarized eras. Thus, appointees' legislative behavior should rarely draw negative attention to the system of gubernatorial appointments, blunting any impetus for reform.

Post-appointment elections show the types of appointees who benefit from being named to the Senate. Family members of outgoing senators have an easier time retaining

the position than appointees without family connections. However, non-placeholder familial appointments account for a relatively small number of all appointees. Further, since family ties advantage candidates in congressional elections generally (Dal b6, Dal b6, and Snyder 2009; Feinstein 2010), it is not clear that appointments independently enhance the electoral prospects for familial appointees.

The other characteristic associated with appointees' electoral fate is previous elective office experience. Appointees with experience in high elective office are more likely to convert their appointment into election than those with little or no experience. This pattern fits with the findings of non-appointees who challenge incumbents or run in open-seat Senate elections. In fact, House members who are appointed are the only group shown to increase their vote share through appointment. Evidence for the influence of appointment on the vote share of former governors named to the Senate is less conclusive. However, since both representatives and governors are well positioned to move up to the Senate, the influence of appointments on election results is limited. Further, self-appointed governors have been repudiated when they sought to remain in the Senate. Additionally, governors who name someone else to the Senate, while they win election at high rates, see no boost in their general election vote share though making an appointment. While governors can enhance the electoral prospects of an appointee by choosing someone with familial connections or experience in high political office, they cannot provide a boost for themselves. Thus, even the electoral advantages that are available do not allow governors to strengthen their own electoral prospects. The limited effect of appointments on elections once again demonstrates why reform movements rarely form around changing the institution of gubernatorial appointment.

### **Calls for Change**

While instances of gubernatorial abuse are rare, a number exist. Many of the most controversial appointments occur in lame duck periods. A lame duck governor enabled the only strategic resignation, and two self-appointments were lame duck governors desperate to hold onto political power. Thus, many of the most controversial appointments emerge from governors who were not constrained by ambition. Other appointment scandals appear to be miscalculations of the public backlash. Even the most famous scandal, demonstrates sensitivity to the perception of impropriety; Gov. Blagojevich attempted to cut a secret deal for the appointment, but was exposed by another investigation. Although unusual, gubernatorial abuses bring negative attention to the system of appointment, which are often accompanied by calls for reform. While these reform movements begin with strong momentum, they rarely result in changes.

One path to change the institution is to amend the Constitution to prohibit gubernatorial appointments. In the aftermath of Blagojevich's actions, Sen. Russ Feingold (D-WI) proposed an amendment that would "put the power to replace senators where it belongs – with the people" (Welna 2009). When Feingold introduced the amendment its prospects seemed so strong that media commentator Nate Silver titled his analysis of the proposal: "Feingold Introduces 28th Amendment" (Silver 2009). Silver (2009) cited the momentum for reform created by controversies surrounding the New York and Illinois vacancies, and noted that neither party stood to gain an immediate or long-term advantage by instituting special elections. However, since neither party stood to benefit from reforming the institution, there was also little incentive for either party to expend resources on pursuing reforms. Further, the proposed reform would require states

to incur the cost of special elections and ensure much longer vacancies than typically occur with appointments. Thus, a number of issues exist with the proposed “solution” Feingold offered. Timing also complicated the proposed amendment’s chances. While the controversies brought attention to gubernatorial appointments, once appointees were chosen the attention on the institution faded from public view. Further, the amendment was proposed during the first days of a new presidential administration, a period that is traditionally marked by a flurry of policy initiatives (Light 1991). Thus, the institutional reform faced stiff competition for space on the agenda. Finally, since state legislatures are empowered by the 17th Amendment to grant governors the authority to name replacements, alternative venues for reform exist. The opportunity for states to seek reforms on their own acted as a “pressure valve” (Shipan and Volden 2006), reducing the need for reform through a constitutional amendment. Ultimately, the amendment’s chances were sunk by a lack of political will, problems with proposed reforms, a crowded policy agenda, and the opportunity to seek change at the state level.

Reform by state legislatures appeared to be a more promising path to reform than amending the Constitution, particularly in states that experienced an appointment, and neighboring states. Since states can act on their own, they can address issues more quickly than constitutional changes. Thus, proposed reforms were less likely to fall off of the policy agenda in states than in the amendment process. Further, since the scrutiny of the institution is heightened in states that experienced scandals, the relevance of the appointment system to representation in the Senate was apparent in these states. While these ingredients suggest a favorable environment for changes to occur, several obstacles exist that make state-level reforms unlikely. Using special elections ensures relatively

long vacancies in representation. Additionally, the partisan benefits of state-level reforms can be easily determined. Removing governors' power to make appointments in states with unified partisan control requires a majority party willing to limit the power of a co-partisan. Without gubernatorial appointment, the partisanship of the Senate seat would be up for grabs in a special election. In states with divided government, one house of the state legislature or the governor (assuming that large enough majority to override a governors' veto could not be mustered) could act to preserve the system of gubernatorial appointment. Ultimately, there is little incentive for majority parties to act in unified partisan states, and reforms can be blocked in states where divided government exists. Thus, while constitutional changes to gubernatorial appointments failed because of a lack of partisan gain, state-level reforms will almost always fall victim to partisan politics, as parties seek to preserve advantages.

Recent state-level attempts to change the system of filling Senate vacancies demonstrate the difficulties of instituting reform, even in the wake of scandal. In 2008, prior to the Blagojevich scandal, four states considered changes to Senate vacancy practices, including Massachusetts, which would have restored gubernatorial appointment ("Filling Vacancies in the Office of United States Senator"). All four attempted reforms failed ("Filling Vacancies in the Office of United States Senator"). In 2009, twelve states had legislation introduced to remove gubernatorial appointment power. Not surprisingly, three of the four states that experienced vacancies after the 2008 election, including Illinois, had proposals to strip governors of their power to appoint ("Filling Vacancies in the Office of United States Senator"). Further, five of the nine other states to consider changes bordered a state where an appointment was made after the 2008 election

(“Filling Vacancies in the Office of United States Senator”). Despite the introduction of legislation in twelve states, only Rhode Island and Connecticut actually passed restrictions on governors. Rhode Island completely removed the power of governors to appoint, while the Connecticut law allowed appointments under certain circumstances (“Filling Vacancies in the Office of United States Senator”). That same year, Massachusetts empowered its governor to make appointments when it became necessary to maintain the Democratic supermajority in the Senate (Goodnough and Hulse 2009). Thus, there was no net change in states that permit appointments even after a high profile scandal. Every subsequent year has seen fewer states consider reforms to gubernatorial appointments and no state has actually changed their law since 2009 (“Filling Vacancies in the Office of United States Senator”).

While calls to strip governors of the power to name appointees are related to scandals, few changes occur in response to perceived flaws in the institution. Shifts to empower governors to fill vacancies have also been seen. These changes occurred in states that had no provision for gubernatorial appointment or adopted special elections to fill vacancies. As noted above, both the Vermont and Wyoming state legislatures empowered governors to make selections to promote appointee seniority and limit the cost of special elections (“Vermont Senator Bill Signed” 1946; “Open Way for O’Mahoney As Senator for Wyoming” 1933). Further, the Connecticut legislature permitted Gov. Baldwin to name an appointee to prevent both a costly special election and a long gap in representation (“Baldwin Chooses Hart for Senate” 1945). Similarly, the Massachusetts state legislature acted to empower Gov. Patrick to replace Ted Kennedy when the appointment guaranteed partisan advantage (Goodnough and Hulse

2009). This change occurred because the reward was worth the risk of the potential backlash. The partisanship of the state and the difficulty of holding any single legislator responsible for the change insulated the legislators from electoral repercussions. Thus, state laws regarding vacancies are subject to manipulation, to achieve partisan goals under certain circumstances. While the political will rarely aligns to remove governors' appointment powers, special elections are subject to revision to reduce costs and gaps in representation, and to pursue partisan goals.

### **Conclusion**

The institution of gubernatorial appointment provided continuity with the original construction of the Constitution when the Seventeenth Amendment was adopted. The system of appointment helped to prevent the pre-17th Amendment problem of long gaps in representation from reemerging when elections became constitutionally mandated. However, allowing governors to substitute their choice for the decision of the state electorate ran counter to the goal of democratizing selection embodied in the 17th Amendment. Since state legislatures are granted the authority to empower governors to make appointments, special elections may have been predicted to emerge as the dominant method of filling Senate vacancies. However, in the hundred years since the adoption of the Seventeenth Amendment, gubernatorial appointments have been used in well over ninety percent of vacancies, and forty-six states currently permit governors to name replacements. The institution of gubernatorial appointment has survived because governors do not systematically abuse their power, and appointees do not draw attention to themselves with their legislative behavior. The lack of controversy noted in appointments is traced back to gubernatorial ambition, which constrains governors'

actions. Further, when controversies do emerge, the difficulty of finding a superior institution for choosing replacements and sustaining attention on reform, limits the prospects for change even in the aftermath of a scandal. Ultimately, the history of institutional persistence points to the continued use of gubernatorial appointment to fill Senate vacancies for the foreseeable future.

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**Curriculum Vitae**

**Education**

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- M.A. Political Science, Fordham University (May 2005)
- B.A. Government and Politics, St. John's University (May 2003)

**Employment**

*Teaching*

Instructor, University of Wisconsin-Milwaukee:

- Introduction to American Government and Politics, Fall 2012-Spring 2014

Instructor, Fordham University:

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Instructor, New York City College of Technology:

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Teaching Assistant, University of Wisconsin-Milwaukee:

- Capstone Course in Political Science, Fall 2011-Spring 2012
- Introduction to Political Science Research, Fall 2011
- Introduction to American Government and Politics, Fall 2009-Spring 2010
- Introduction to Political Science, Fall 2008-Spring 2009

Teaching Assistant, Fordham University:

- Political Analysis, Spring 2005
- American Political Parties, Fall 2004
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Coordinator, University of Wisconsin-Milwaukee:

- University of Wisconsin United Nations Seminar, Summer 2010 & 2012

*Research*

Research Assistant, University of Wisconsin-Milwaukee:

- Voting for Women: The Impact of Gender Stereotypes on Support for Women Candidates in the United States (NSF funded project), September 2010-Present

- For the Folks Back Home: Accountability and Representation in the United States Senate, July 2011-August 2012

Research Assistant, Fordham University:  
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### **Peer-Reviewed Publications**

“It Takes a Survey: Understanding Gender Stereotypes, Abstract Attitudes and Voting for Women Candidates.” with Kathleen Dolan. Forthcoming. *American Politics Research*.

### **Book Chapters**

“Voter Attitudes, Behaviors, and Women Candidates.” with Kathleen Dolan, in *Women and Elective Office: Past, Present, and Future, Third edition*. Edited by Sue Thomas and Clyde Wilcox. 2014. Oxford University Press.

### **Working Papers and Papers Under Review**

“The Impact of Gender Stereotypes on Voting for Women Candidates by Level and Type of Office.” with Kathleen Dolan. Revise and Resubmit. *Politics & Gender*.

“Senate Appointments: Fool’s Gold?”

“Selection Method and Representation in the U.S. Senate.”

“Temp to Perm?: Assessing the Electoral Value of Senate Appointments.”

“Judicial Campaign Funds and the Legitimacy of State Courts.” with Zachary Wallander.

### **Conference Presentations**

“U.S. Senate Seats in Transition: Evaluating the Influence of Selection Method on Representation.” Presented at the 2013 meeting of the Midwest Political Science Association.

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“At the Appointed Hour: Representation and Senate Appointees.” Presented at the 2011 meeting of the Midwest Political Science Association.

“Drawn to (not) Run: District Continuity and Quality Challengers.” Presented at the 2011 meeting of the Southern Political Science Association.

“The Replacements: Appointed Senators and “Re” Election 1914-2008.” Presented at the 2010 Meeting of the Midwest Political Science Association.

**Honors & Awards**

Chancellor's Award, University of Wisconsin-Milwaukee, \$3,000  
Comprehensive Exam High Pass, Fordham University  
Pi Sigma Alpha, National Political Science Honor Society, Fordham University  
Gold Medal Award for Highest Undergraduate GPA, St. John's University  
Gerald Fitzgerald Award, St. John's University  
Gold Key Award, St. John's University  
Silver Key Nominee, St. John's University  
Dean's List, St. John's University, 1999-200, 2000-2001, 2001-2002, 2002-2003

**Professional Memberships & Discipline Service**

Member:

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Manuscript Referee:

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