

Distributive politics and congressional voting: public lands reform in the Jacksonian era

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Abstract During the 1830s, Congress passed a series of laws reforming U.S. policy on acquiring public lands. These laws established a federal land policy of preemption, under which squatters on public land obtained legal title to it in exchange for payment of a minimum (and low) price per acre. Preemption significantly liberalized the terms of land ownership in the U.S. We analyze roll call voting on the preemption acts in Congress from a distributive politics perspective. The key finding is that a member's region of the country consistently adds explanatory power on top of that provided by ideology or party: members of Congress from the original thirteen states were less supportive of preemption on Western lands, all else constant. Moreover, this effect is much stronger in the House of Representatives than in the Senate. This is inconsistent with explanations of a West-South coalition vs. the North often found in the historical literature, but is consistent with a distributive politics perspective based on rent seeking by Western landholders.

Keywords Public lands · Preemption · Squatters · Jacksonian era · Distributive politics · Rent seeking

1 Introduction

The public lands policy of the United States changed significantly during the Jacksonian era. Those policy changes enshrined in law the rights of squatters on public lands to claim ownership of the land they occupied. Pretensions of federal law notwithstanding (Frymer 2014), squatters always had been more or less successful at claiming this right in fact

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(Gates 1968; Murtazashvili 2013); with Jacksonian land reforms, it existed in law as well. Correspondingly, rights of land ownership were effectively distributed much more widely across the socioeconomic spectrum than they had been previously. The changes exerted enduring influence on US political-economic development, and are intrinsically interesting as a major episode of distributive politics and socioeconomic redistribution. Therefore, it is important to understand the political determinants of Jacksonian-era public lands policy. That is the question we address in this paper.

We argue that the public lands bills from 1830 to 1841 were, in part, an exercise in distributive politics.¹ While Eastern interests would have benefitted from restricted access to public lands for several reasons, Western interests stood to gain from liberalized land policy. Rent seeking, in turn, would lead those interests to pressure their members of Congress to vote accordingly. In particular, a distributive perspective implies that a members' regional origins should add explanatory power to their voting decisions beyond that offered by standard ideological or partisan explanations of roll call behavior.

We explore the determinants of roll call voting on these bills in that light. Consistent with standard ideological explanations, we find that two dimensions of DW-NOMINATE scores—to which we often refer by the convenient misnomer “ideology”—do provide significant explanatory power.² That is particularly true of the first dimension, as is typically the case in DW-NOMINATE analyses (Poole and Rosenthal 2007). Ideology (in this sense) also provides greater explanatory power for Senate votes than for House votes, and somewhat greater explanatory power over time. Yet as implied by a distributive perspective, which we articulate below, a member's regional origin also provides significant explanatory power on top of the DW-NOMINATE scores. In some cases, and by some measures, regional factors add much more explanatory power than both DW-NOMINATE dimensions combined.

Overall, the results suggest that explaining the coalitions surrounding this crucial political-economic issue requires both standard measures of “ideology” and measures of distributive politics. Those coalitions cannot generally be reduced to a small number of ideological dimensions alone. And in contrast with explanations offered by several historians, Jacksonian-era land policy did not represent a coalition of the South and West versus the North. Southern members were significantly more likely to vote against preemption, conditional on ideology, than members from other sections of the country. Inasmuch as preemption votes did put the Southerners on the Jacksonian side, it appears to have been in spite of their region, not because of it.

The rest of the paper proceeds as follows. First, we provide brief background on federal public lands policy in general up to 1862, and more detail on the specific bills we examine in our roll call analysis. We then describe our data sources and methods of analysis. Finally, we present in detail the results of statistical modeling of roll call vote choice on the Jacksonian-era public lands bills in Congress.

¹ For another example of distributive politics and congressional voting during the antebellum era—on the issue of military service pensions—see Finocchiaro and Jenkins (2016).

² The first dimension revolves around the classic “left–right” conflict in politics; in the antebellum period, the second is closely related to the future of slavery in the United States and the sectional balance in the Senate (Poole and Rosenthal 2007; McCarty, Poole and Rosenthal 2000).

2 A brief overview of federal public lands policy to 1862

In its first 75 years of existence, the United States expanded its western border from the Appalachian Mountains to the Pacific Ocean. The Louisiana Purchase alone pushed the US western boundary to the Continental Divide in 1803. Cessions of western land claims by the first 13 states after the Revolutionary War meant that, from the first days of the republic, the federal government itself was the largest landowner in the United States. Naturally, the land claimed by the federal government—“public lands” in the contemporary discourse—held immense potential value to Americans. However, in order to actualize that value in economic or fiscal terms, public lands had to be distributed to Americans.

Not surprisingly, an enduring conflict emerged about the ideal nature of that distribution, as different segments of society sought to convert the value of public lands into rents for themselves. Congress, under the Articles of Confederation, passed a series of land ordinances that allowed for orderly, planned surveying and settlement of land west of the Appalachians at a pace controlled by the federal government. Those ordinances made it federal policy to divide territories into townships, and townships into 640-acre parcels of land. Federal policy held that those parcels were eventually to be auctioned at competitive prices with federally mandated minimum prices. Six hundred and forty acres was 10–20 times (or more) larger than ordinary farms; the intention of these laws was that the 640-acre parcels could be purchased by developers, then subdivided and sold to smaller farmers.

Early Federalist-era policy on public lands was dominated by policymakers who sought to transform the economic potential of public lands into a revenue stream for the federal government. Clear overtones of a revenue-maximizing leviathan are evident in Federalist public lands policy. That policy required federal control of distribution and settlement of public lands. Such control would restrict the supply of western land available at any time, thereby propping up revenues from land sales. Policymakers intended this hoped-for revenue to shrink the mountains of debt accumulated during the Revolutionary War. That would in turn enhance the flow of credit to other (economically elite) segments of the United States. Controlled settlement would also limit the frontier defense obligations of the relatively feeble US Army—allowing the peacetime army to remain small and cheap.

Moreover, a restricted supply of frontier land and pace of settlement would keep eastern wages low and land values there high.³ Those effects would all be beneficial to the economic elite of the early (Eastern) United States, both manufacturing and agrarian. Northeastern manufacturing interests stood to gain thereby, in that restricted Western settlement opportunities would reduce emigration from Eastern cities, keeping labor supply high and wages low. Southern agrarian interests stood to gain, in that demand for land in the South Atlantic states would be kept high, and product market competition from Western territories low.

Yet there is a yawning gap between the intent to control and the realization of that intent. Despite exerting *notional* sovereignty through a series of laws regulating the locus and pace of settlement of the US population on public lands (Frymer 2014), the Federal government had little *real* sovereignty on the frontier, in the sense of controlling where people actually lived (Murtazashvili 2013). The Treaty of Paris was not yet signed to end the Revolutionary War before American settlers spilled over the Appalachians to live, farm

³ Contemporary policymakers recognized that effect; e.g., Sen. Thomas Hart Benton of Missouri made the point in Senate floor speeches in 1829 (Feller 1984).

and hunt on America's newly acquired lands, irrespective of their legal title to it (Hibbard 1924; Gates 1968; White 1991). While the official boundary of the United States moved continually westward, it always trailed behind illegal squatting on public lands. Contemporary accounts indicate that it was not unusual for literal majorities of residents in border territories to be squatters (e.g., Muhn 1908). Squatters lived illegally on federal land, informally claimed plots without title and made improvements to their plots.

In the face of endemic squatting, and consistent with the designs of Eastern elites, formal US law and policy at first insisted that the federal government controlled public lands. The Intrusion Act of 1807 had made unauthorized settlement of public land a crime, and authorized the president to use military force to remove squatters. Put simply, the planter elite did not want squatters to get in the way of plantation development and expansion (Hibbard 1924), and the Northeastern economic elite also had much to gain from restrictive access to Western public lands. While special preemption privileges were occasionally granted by Congress on an ad hoc basis, restricted access was, at least formally speaking, the law of the land for roughly the next quarter century. Even with transition from Federalist to Democratic-Republican Party rule, the Federalist-era leviathan dominated official public lands policy.

However, the operational reality on the ground continued to overawe the official designs of the government. Incentives for US Army enforcement of the policy of forcibly removing squatters were weak,⁴ and the 1807 law therefore was ineffective (Prucha 1969). The federal government also attempted to exert control over settlement by giving public lands as a bounty to veterans for military service, but the vast majority of those claims was sold to third parties and did not result in government control of the frontier population (Gates 1968). In short, despite federal efforts, Western settlement was difficult to manage, and squatting on western lands continued unabated. With the populations of western territories exploding, pressures for statehood followed (McCarty, Poole and Rosenthal 2000).

The incomplete sovereignty of the early federal government resulted in a far more egalitarian distribution of US land resources, and less monetary benefit to the US Treasury from that distribution, than early federal government designs intended. Moreover, with relatively egalitarian distributions of wealth in the new states, it is not surprising (cf. Acemoglu and Robinson 2005; Boix 2003) that voting rights upon gaining statehood were more equally distributed among adult white males than voting rights in older East Coast states (Keyssar 2000).

The politics of rent seeking suggests a distributive conflict on public lands policy between representatives and senators from the new Western states and their counterparts from the East.⁵ Eastern interests, as reviewed above, stood to gain from a restrictive settlement policy. In contrast, Westerners stood to gain from more liberal terms of public lands distribution. The squatters who were “first in” would thereby see a rise in the value of the lands they claimed. A natural corollary of rent seeking behavior in this context is pressure on members of Congress to vote accordingly on public lands policy. That electoral pressure

⁴ Not only were Army troops often sympathetic to squatters, but officers leading campaigns to burn the squatters out often were tried in local courts even more sympathetic to the Army's victims.

⁵ Around the same time, beginning in the 1840 s, there was regional conflict and competition at the *sub-national* legislative level on a related issue – that of granting formal legal and economic rights to married women. Such rights included being able to own property, enter into contracts without their husband's permission, and stand in court as independent persons. For a detailed analysis, see Lemke (2016).

on members of Congress, as well as those members' own property interests, suggest that Western members of Congress should have favored a less restrictive land policy.

Indeed, by the time of President Andrew Jackson's election, Democrats from the West were initiating a radical change in federal policy on public lands distribution. In that era, public lands policy shifted from a focus on revenue generation with direct benefits flowing to Eastern elites, to a focus on access to land ownership for a broad segment of Americans—with concomitant benefits to Westerners (and, in Jackson's designs, the Democratic Party). Public lands policy lost its earlier pretensions of control, and reconciled actual and notional federal sovereignty in the distribution of Western lands. The vehicle for this reorientation of public lands policy was “preemption”.

Preemption gave squatters the right to claim legal title to a restricted plot of land, usually 160 acres, at the federally mandated price, of around \$1.00–\$1.25 per acre—far below the minimums contemplated under earlier policies. Thus, preemption claims were not subject to competition at auction. The federal government had several times granted relief to squatters in the form of preemption. However, prior to the Jacksonian era, preemption was granted sparingly. It was rare, targeted to a specific place, and limited in time.

Jacksonian-era preemption laws began like their predecessors. They required preemption claims to have been settled in a limited timeframe before enactment, and they allowed preemption claims only in specific locations. The difference between Jacksonian-era policy and its predecessors, at first, was the frequency of renewal of preemption laws. By 1841, however, preemption became a standing and prospective federal policy on the distribution of public lands. Preemption was no longer a relief for illegal action. It was a standard, presumptively available channel for securing legal title to public lands.

The Jacksonian turn toward liberalized public lands policy was a significant break from land policy of previous decades. It recognized in law what was already true in fact—squatters of relatively low socioeconomic status could use public lands to build their farms and improve their lives. Thereafter, federal public lands policy retained the liberal bent established in the Jacksonian era. By 1842, Eastern designs to claim the bulk of revenue from public land sales were abandoned permanently. Within 20 years, federal policy on public lands distribution for private ownership and residential use culminated in the Homestead Act of 1862. That most famous of public land laws entitled citizens (or intended citizens) to claim legal ownership of tracts of public lands free of charge, in exchange for a short-term commitment to inhabit and farm their land.

Overall, Jacksonian-era public lands policy effected a much more egalitarian distribution of rights to land ownership across socioeconomic strata than was intended in earlier, Federalist-era policies. That policy reform is interesting not only as an exercise of distributive politics in its own right, but because the legacy of those policies continues to matter today. For example, Galor et al. (2009) argue that US land inequality in the late 19th century affected public spending on human capital development until the mid-20th century: states with more land inequality had lower public education expenditures. The lasting effects of that human capital distribution are in turn obvious.

3 Jacksonian-era preemption laws, 1830–1841

Between 1830 and 1841, six general preemption acts were adopted by Congress, with the 1830 and 1841 Acts considered “landmark” in their overall impact (Stathis 2003). We document and describe each of these laws below, and note the relevant roll call votes in Congress on their passage.

As mentioned previously, at the dawn of the Jacksonian era, the status quo in public land access was the restrictive Intrusion Act of 1807. In 1829, a heated debate erupted in the Senate following a resolution offered by Samuel Foot (Whig-Connecticut) to suspend new land sales in the West and abolish the office of surveyor general. Thomas Hart Benton (Democrat-Missouri) argued that Foot (and his ilk) sought to check the growth of the West in order to protect the manufacturing interests of the East and keep factory labor cheap and plentiful (Feller 1984).

The Benton position won out, resulting in the nation's first general preemption law.⁶ Historians often explain passage in terms of sectional coalitions—preemption was supported by a coalition of West and South, possibly in a logroll from which the South gained lower tariffs (Feller 1984; Gates 1968; Robbins 1931). We address (and question) support for this proposition later, but in any case, the 1830 Act reversed the 1807 Act by forgiving past intrusions on the public lands and allowing squatters who had possessed and cultivated a tract (as of 1829) to claim up to 160 acres at \$1.25 an acre. All claims had to be filed within a year of the date of enactment.

While the 1830 Act was intended to be temporary, and explicitly sold as such, the demand for further grants of preemption were incessant. As Robbins (1931, p. 342) argues: “Once the government granted this concession it could not retract. The act in reality encouraged illegal settlements, for settlers immediately took up the best lands they could find and the petitioned Congress for another general pardon.”

And Congress responded. In 1832, a new Preemption Act was passed, which reduced the smallest unit that could be purchased to 40 or 80 acres, depending on whether the land was intended for speculation or “house-keeping.”⁷ Such a law further democratized Western settlement, by opening up the frontier to men of smaller means (Gates 1968, p. 229). The demand for land was growing, however, and settlers soon petitioned Congress for larger tracts. That was granted in the Preemption Act of 1834, which reenacted the earlier 1830 law, the provisions of which allowed persons who possessed and cultivated a tract (as of 1833) to claim up to 160 acres at \$1.25 an acre.⁸ This time around a person had 2 years from the date of enactment to file a claim.

By 1836, speculation in land had increased significantly, and Congress considered adopting a measure to slow or reverse the process.⁹ The Panic of 1837 changed all of that, however. The economic downturn that followed the panic did the work for Congress, by eliminating rampant speculation and rehabilitating the image of the Western settler (Robbins 1931). As a result, support for new preemption legislation grew, and a new Act was passed in 1838.¹⁰ This law granted a right of preemption to (a) every family head or (b) settler who was at least 21 years old who had a personal residence on the land in question, while reviving the basic terms of the 1830 act (claim rights of up to 160 acres at \$1.25 an acre), with the life of the claim lasting for 2 years.¹¹ Those terms were extended yet again

⁶ 4 Stat. 420 (May 29, 1830).

⁷ 4 Stat. 503 (April 15, 1832).

⁸ 4 Stat. 678 (June 19, 1834).

⁹ At the same time, advocates of preemption sought another federal law. Those efforts were led in Congress by Sen. Robert Walker (Democrat-Mississippi) and opposed by Sen. Henry Clay (Whig-Kentucky). Walker's preemption bill gained no traction in 1836. A revised version of the bill was tried again in 1837 (during the lame-duck session of the 24th Congress), and while it passed 27-23 in the Senate it failed in the House (see Van Atta 2014, pp. 214-216).

¹⁰ 5 Stat. 251 (June 22, 1838).

¹¹ For an extended discussion of the politics behind the Preemption Act of 1838, see Van Atta (2008).

in the Preemption Act of 1840; moreover, the provisions were liberalized, as settlers were allowed to claim 320 acres as long as one-half of the land was cultivated and the other half was maintained as a residence (Gates 1968, pp. 234–235).¹²

Until then, preemption had mostly been a Democratic initiative. That would change, however, as the 1840 elections saw the Whigs take control of both chambers of Congress and the presidency. Now, the Whigs would push preemption in a different direction: permanent prospective preemption.¹³ Retrospective claims on unsettled lands were out. Prospective claims on surveyed lands were in. Family heads, widows, or single men 21 years and older who were citizens or had filed to become citizens—which indicated a slightly nativist tilt to the legislation, also present in the congressional debate and voting—and resided on and improved the land could claim up to 160 acres at \$1.25 an acre. Applicants who already owned 320 acres or whose main residence was elsewhere would be ineligible. And only one preemption claim per individual was allowed.

The Preemption Act of 1841 passed by fairly narrow margins in both chambers, and the coalitions switched—now the Whigs predominantly voted for it and the Democrats against it.¹⁴ Why the switch? Part of the answer may have had to do with the content of the legislation itself. The 1841 Act was broader and contained a distribution provision—a method of dividing the revenue from the sale of public lands among the states for internal improvements—which had been under consideration (and had divided Whigs and Democrats) since 1832. And distribution was very clearly a Whig-preferred policy. According to Gates (1968, p. 238 fn. 52): “We may conclude that members voted yea or nay more because of distribution than preemption.”¹⁵

4 Hypotheses, data and methods

Two key implications of the distributive perspective on public lands policy were laid out above. First, conditional on ideology or political party, Eastern members of Congress should be *less* likely to support preemption than Western members. That conclusion follows from the argument that Easterners would internalize both the public revenue gains from restrictive settlement, and the benefits to their districts or states of suppressing labor wages (for Northern elites) or Western agricultural product market competition (for Southern elites). Western members, by contrast, should internalize benefits to their districts or states from migration and, in turn, higher land prices and greater economic development captured as rents for existing landholders. The natural counterarguments to this hypothesis in the literature are that (1) ideology alone could be a sufficient explanation for support for preemption; and (2) to the extent that a member’s region mattered, Southerners and Westerners allied in favor of preemption, against Northerners. Historical arguments for the latter proposition are discussed further below.

¹² 5 *Stat.* 382 (June 1, 1840).

¹³ Clay would manage this bill in the Whig-controlled 27th Congress, but the permanent prospective preemption idea was first introduced in 1840 by Robert Walker and Thomas Hart Benton in their “Log Cabin Bill.” Walker and Benton managed to get the bill through the Senate in the lame-duck session (on a 31 to 19 vote), but it died in the House. See Hibbard (1924, p. 347).

¹⁴ 5 *Stat.* 453 (September 4, 1841).

¹⁵ See also Feller (1984, pp. 187–188).

The second key implication is that the effect of region on roll call votes should be stronger in the House than in the Senate. That is because, in view of the shorter election cycle and the more direct connection to constituents,¹⁶ the electoral connection operating on representatives tends to be stronger than that operating on senators.¹⁷ To be clear, the argument here is *not* that the House is more concerned with distributive politics than the Senate. It is that constituents' rent seeking interests should exert greater influence on the *types* of distributive benefits pursued in the House than the Senate.

To analyze these determinants of the Jacksonian turn in public lands policy, we examine final-passage roll call votes for the House and Senate on the preemption legislation described in the previous section. The individual roll calls—and individual voting choices on those roll calls—appear in Table 1; they were identified using Keith Poole and Howard Rosenthal's Voteview data, and confirmed against information printed in the relevant *House* and *Senate Journals*. Party affiliations, presented in the Voteview files, are based on Martis (1989).¹⁸

We employ a two-step strategy in this analysis. First, we explore the ability of different factors to explain individual vote choices by estimating a series of logistic regression models. Individual roll call votes on preemption bills (Yea = 1, Nay = 0) are modeled a function of the following covariate groups, which we refer to as models 1–3:

- (1) Member's DW-NOMINATE scores, Dimensions 1 and 2;
- (2) DW-NOM1 and 2; regional indicators for New England, Mid Atlantic and South Atlantic; ln(population density) by congressional district¹⁹;
- (3) Member's political party; regional indicators for New England, Mid Atlantic and South Atlantic; ln(population density) by congressional district.

We compare these models using the Akaike Information Criterion with small sample correction (AICc), which measures goodness of fit as reflected in the model's log likelihood, with a penalty for additional explanatory factors (Akaike 1974; Burnham and Anderson 2002).²⁰ The key question in this step of the analysis is whether the distributive factors we explore collectively add substantively important explanatory power. If they do not, there is not much point in parsing the magnitudes or statistical significances of each one. The

¹⁶ Prior to the adoption of the 17th Amendment in 1913, US senators were elected indirectly: citizens elected state legislators, and those state legislators elected senators. As a result, the electoral connection for senators in the pre-17th Amendment era tended to be relatively weak (Gailmard and Jenkins 2009).

¹⁷ While the electoral connection in the antebellum Congress was not as fully developed as in the contemporary era, research suggests that it was indeed in operation. See Bianco, Spence and Wilkerson (1996), Carson and Engstrom (2005), and Jenkins and Finocchiaro (2016). For a general examination of the electoral connection in Congress across time, see Carson and Jenkins (2011).

¹⁸ Note that, for simplicity, we focus on two party labels—Democrats and Whigs—throughout our analysis. These labels assume antecedents (Jacksonians become Democrats and Adamsites/Anti-Jacksonians become Whigs) and combine third parties into their most natural party category (Anti-Masons into Whigs and Conservatives/Nullifiers into Democrats). We believe that the latter combination does little damage, as a check of individual third-party member backgrounds (in the Congressional Biographical Directory and Martis 1989) confirms perfectly the eventual movement into the assumed major party.

¹⁹ Combining measures of ideology and economic interests is a common way to model how members of a legislature vote (Mueller 2003, pp. 489–496). Examples include Poole and Romer (1993), Brady and Schwartz (1995), Jenkins and Weidenmier (1999), Colburn and Hudgins (2003) and Rosenson (2007).

²⁰ Estimation of linear probability models by OLS and model comparisons by F-tests reveals substantively similar results to those we outline below. Those results are available from the authors on request.

purpose of this step is to make our analysis conservative: if roll call votes can be explained without distributive factors, we assume that they are not the key determinants.

The second step in the analysis is applied to those cases wherein distributive factors do collectively add important explanatory power on top of ideology alone, according to AICc. In those cases, we analyze the marginal effect of the distributive factors, and the 95% CI of the effect, to gauge their substantive and statistical significance.

Model 1 includes only the 1st and 2nd dimension DW-NOMINATE scores. We follow standard convention by treating those scores as a measure of member ideology. Clearly, they reflect many factors besides actual ideology, and we adopt this misnomer for DW-NOMINATE scores as a shorthand. The important point of entering these variables in our analysis is that, whatever they say about ideology (either of a member per se or as induced from their district by the electoral connection), they reflect *consistency* across issues and time in the construction of voting coalitions. If DW-NOMINATE scores organize all the votes, it may not tell us much about the role of ideology as such, but it does reveal that the coalitions on this issue can be decomposed along axes of conflict that govern coalitions on most other issues.

Model 2 includes, along with the two DW-NOMINATE scores, the sectionalist origins that, we argue, map into distributive considerations. Indicator variables are entered for three regions of the United States—New England, Mid Atlantic and South Atlantic (West is the excluded category). Those indicators also allow us to examine the competing explanation offered by some historians that preemption pitted the West and South (possibly in a logroll) against the North. This model also includes the natural log of population density.²¹ Population density is probably related to the prevalence of manufacturing and importance of the commercial economy in a congressional district.²² Those factors can tap into the incentives of Eastern commercial-manufacturing interests to restrict Western settlement to affect manufacturing wages, or to reserve public lands for sale to reduce government crowding out in credit markets.

Finally, Model 3 is the same as Model 2, except that party (Democrat = 1) replaces the two DW-NOMINATE dimensions. That specification allows us to examine whether a simple binary variable performs as well or better than the two continuous measures that tap into ideology (broadly construed).

We estimate each model separately for each Congress and chamber, so that no data are pooled; for each estimator and set of covariates 10 different sets of results are reported—six for the House and four for the Senate. Separating the analyses in that way allows us to avoid the morass of specification issues in panel data models regarding time dependence and various flavors of panel heteroscedasticity. Moreover, it is not clear that a “Yea” vote on each bill means exactly the same thing, so that pooling would pose problems for interpretation of coefficients. An additional reason to avoid pooling across chambers is that cross-chamber comparisons of DW-NOMINATE are hazardous.

We are aware of two other analyses of roll calls on 19th century public lands bills. One is Murtazashvili (2013), who also developed a distributive theory of public lands policy, focusing on bills from the 1850s and later following improvements in data availability. The other is Kanazawa (1996), who focused only on the 1830 preemption act. In addition to

²¹ Population density data for House districts and states (essentially, population per square mile) was obtained from Parsons, Beech and Herman (1978).

²² Given the limited coverage of the 1830 census and other data sources, more direct measures of manufacturing-commercial intensiveness are not available at the congressional district level.

Table 1 Key votes on preemption, 21st through 27th Congresses *Source: House Journal*, 21-1, (May 29, 1830): 779; 22-1 (March 27, 1832): 546-47; 23-1 (June 13, 1834): 751-52; 25-2 (June 14, 1838): 1100-01; 26-1 (May 26, 1840): 1031-32; 27-1 (July 6, 1841): 222-23. *Senate Journal*, 21-1 (January 13, 1830): 83; 25-2 (January 30, 1838): 191; 26-1 (April 21, 1840): 329-30; 27-1 (August 26, 1841): 216. The Senate concurred in the House amendments to S. 22 in the 22nd Congress without debate or division. See *Senate Journal* 22-1 (April 3, 1832): 222. The Senate passed S. 19 in the 23rd Congress without debate or division. See *Senate Journal*, 23-1 (March 7, 1834): 177

	To Pass S. 19 (21st)		To Pass S. 22 (22nd)		To Pass S. 19 (23rd)		To Pass S. 2 (25th)		To Pass S. 12 (26th)		To Pass H.R. 4 (27th)	
House												
Party	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Democrat	74	26	82	18	100	15	75	13	91	14	0	91
Whig	26	32	36	26	24	38	32	40	30	50	117	17
Total	100	58	118	44	124	53	107	53	121	64	117	108
	To Pass S. 19 (21st)		To Pass S. 2 (25th)		To Pass S. 12 (26th)		To Pass H.R. 4 (27th)					
Senate												
Party	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Democrat	20	1	28	5	22	3	0	22				
Whig	9	11	2	13	4	6	28	1				
Total	29	12	30	18	26	9	28	23				

covering a broader set of votes from the pivotal Jacksonian era, we present a more comprehensive comparison of models and different explanatory factors. For the bills he analyzed, Murtazashvili included 1st dimension DW-NOMINATE as a covariate (but not the 2nd dimension, despite its relevance for territorial issues), and found that lower 1st dimension scores (more liberal economic “ideology”) increased the likelihood of “Yea” votes; we corroborate that finding below. Kanazawa included region dummies, party dummies, and district-level measures of agricultural activity, but not “ideology” or other factors we consider.

5 Findings

We begin with a visual depiction of the public lands votes in Fig. 1. As far as the House is concerned, the roll calls did not break down neatly either by political party or any combination of the DW-NOMINATE dimensions. That was especially true in the earlier Congresses. Explaining the Jacksonian-era liberalization of public lands policy is not a simple story of the “ideology” of members, either on the 1st DW-NOMINATE dimension capturing classic “economic liberalism” or the 2nd dimension capturing ideology on slavery in this period (McCarty, Poole and Rosenthal 2000). Nor is it a simple story of political parties determining voting coalitions. The one exception is that the 1st dimension of DW-NOMINATE organizes the graph considerably better in the 27th Congress than other Congresses. However, note the major reversal in the side each political party took, and the related effect of 1st dimension scores on voting: the Whigs and members with larger 1st dimension scores were strongly in favor of the preemption bill in 1841, while they had

been strongly against this policy in the past. That finding is a reprise of the point made by numerous historians of this issue.

In the Senate, voting was considerably better organized by “ideology” dimensions and political party. Indeed, by the 26th Congress, the two dimensions of “ideology” perform exceedingly well, and in the 27th Congress, the 1st dimension is essentially perfect. This is in contrast to the typical pattern of Senate votes in general; the explanatory power (e.g., proportional reduction in error, or PRE) for DW-NOMINATE is lower overall for the Senate than for the House (Poole and Rosenthal 2007).

We now turn to the first step of our statistical analysis. The small-sample AIC (that is, AICc) of the models we estimate is presented in Tables 2 and 3. Note that for a given set of votes, a lower AICc corresponds to greater explanatory power.

For the House (Table 2), the key finding is that distributive factors, as captured by a member’s region and population density, always add substantial explanatory power in the sense of AICc. Model 2 provides the best fit for all Congresses. While sharp statistical characterizations of AICc differences are not possible, Burnham and Anderson (2002) suggest that AICc changes of more than 7 can conclusively be regarded as demonstrating superior fit.²³ In 5 of 6 house votes, model 2 (with regional indicators and population density on top of ideology) easily passes that standard. AICc changes between 2 and 7 provide substantial, but less conclusive evidence of superior fit, and in the sixth case (27th Congress), model 2 passes the threshold. In short, the distributive models we advance clear the hurdle of our first step for all House votes.

The situation is markedly different in the Senate (Table 3). AICc comparisons bear out the visual impression from Fig. 1, namely that Senate voting is much better organized by “ideology” than is House voting. Indeed, in two Senate votes (26th and 27th Congress), AICc is *higher* in the fuller models with regional indicators and population density on top of ideology. In the 26th Congress, two dimensions of “ideology” perfectly explain all votes, and come close to doing so in the 27th. Moreover, when the fuller models do have lower AICcs (21st and 25th Congress), the differences are only marginal. Burnham and Anderson (2002) suggest that changes in AICc of 2 or less do not present strong evidence of superior explanatory power. In no case of Senate voting do the fuller models pass that threshold. In short, none of the Senate models pass the hurdle in our first step of analysis.²⁴

While the Senate results do not themselves support a distributive perspective on preemption policy, the House and Senate results together do lend clear support to our second hypothesis laid out above: distributive factors connected to constituent rent seeking play a substantively greater role in the House, where they are important for all preemption votes, than in the Senate, where they can be considered important for none.

We now turn to the second step of our analysis. For House votes, which cleared the first step, we consider the marginal effects and statistical significance of individual covariates. Rather than display a wall of numbers from 6 different regression tables, we use a graph to show the key results (full model output is reported in the “Appendix”). Figure 2

²³ Based on $\exp(-\Delta\text{AICc}/2)$, where ΔAICc is the difference in AICc between the minimum AICc and AICc from alternative model, a difference of 7 indicates that the alternative model is roughly 3% as likely to provide the best fit; a difference of 2 indicates that the alternative is roughly 36% as likely (Burnham and Anderson 2002).

²⁴ In both the Senate and House models, replacing 1st and 2nd DW NOMINATE scores with party never results in the best fitting model in the sense of AICc. And in only one of the ten roll calls (in the Senate of the 27th Congress) does a party-based distributive model outperform an ideology-based distributive model.

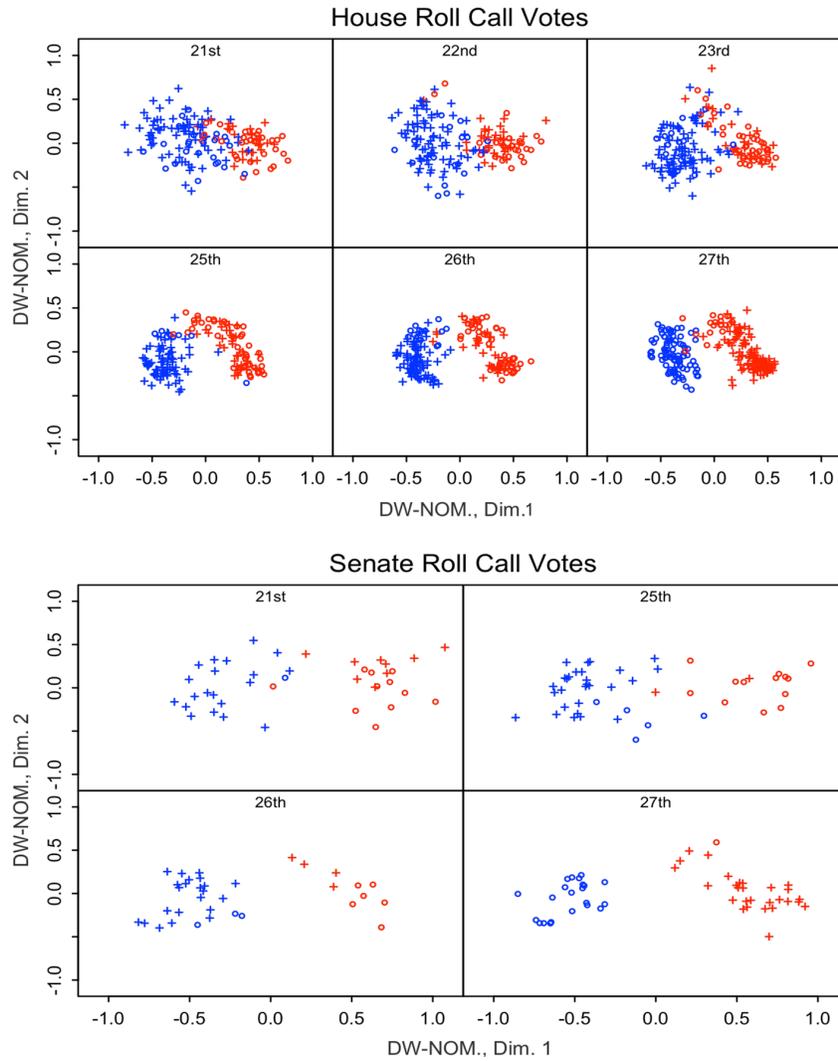


Fig. 1 Roll call votes on preemption, by Congress, for House and Senate. Each dot is a vote. Dot color represents a member’s party (blue = Democrat, red = Whig). Dot symbol represents yea (“+”) or nay (“o”) on final passage. The Congress number is in the top of each panel. (Color figure online)

displays the marginal effects and 95% CI, for member region of origin, for each session of Congress.

There are 3 region indicators for different segments of the East (New England, Mid Atlantic and South Atlantic) in each of 6 different House vote models. Figure 2 reveals that in almost all cases—17 out of 18—the estimated (average) marginal effect of the region indicators is negative (and the one positive effect, New England in the 21st Congress, is

Table 2 Small sample AIC, House vote models

Congress	Model 1	Model 2	Model 3
21	189.5	173.9	186.9
22	170.4	156.9	164.5
23	186.5	155.7	156.6
25	151.7	84.3	102.1
26	160.9	97.6	135.6
27	46.9	42.3	61.4

Smaller AICc denotes better fit

Model 1: $\text{logit}(\text{Vote}) \sim \text{NOM1} + \text{NOM2}$

Model 2: $\text{logit}(\text{Vote}) \sim \text{NOM1} + \text{NOM2} + \text{New Eng.} + \text{Mid Atl.} + \text{Sou. Atl.} + \ln(\text{Pop./Miles}^2)$

Model 3: $\text{logit}(\text{Vote}) \sim \text{Democrat} + \text{New Eng.} + \text{Mid Atl.} + \text{Sou. Atl.} + \ln(\text{Pop./Miles}^2)$

Table 3 Small sample AIC, Senate vote models

Congress	Model 1	Model 2	Model 3
21	35.4	34.1	37.7
25	17.7	16.8	43.9
26	6.8	18.2	23.3
27	14.4	22.7	19.3

Smaller AICc denotes better fit

Model 1: $\text{logit}(\text{Vote}) \sim \text{NOM1} + \text{NOM2}$

Model 2: $\text{logit}(\text{Vote}) \sim \text{NOM1} + \text{NOM2} + \text{New Eng.} + \text{Mid Atl.} + \text{Sou. Atl.} + \ln(\text{Pop./Miles}^2)$

Model 3: $\text{logit}(\text{Vote}) \sim \text{Democrat} + \text{New Eng.} + \text{Mid Atl.} + \text{Sou. Atl.} + \ln(\text{Pop./Miles}^2)$

small and not significantly above 0). In 13 of 18 cases, the 95% CI of the average marginal effect does not cross 0. Across all models, the marginal effects indicate that representing an Eastern district reduces the probability of voting for preemption, conditional on ideology, by about 20–40%. Substantively and statistically, these results provide strong support for a distributive perspective on Jacksonian-era public lands policy: representatives of Eastern interests that stood to lose from preemption were much less likely to support it, and representatives of Western interests that stood to gain were much more likely to vote “Yea”.

Another interesting finding is that, all else constant, the Southern representatives most consistently opposed to preemption. The consistent and large negative effect of South Atlantic origin is surprising given the widespread view that Jacksonian-era land reform turned on a coalition of Western and Southern representatives against Northerners. The statistical results suggest that, inasmuch as Southerners voted in favor of preemption, they did so in spite of their sectional origin, not because of it—their votes are explained by factors other than their section. Put differently, the conventional historical explanation suggests that the Jacksonian-era land reforms depended on a sectional coalition that was built *for this issue*, possibly in a logroll for low tariffs. The fact that those Southerners who did vote for preemption did so for ideological (or partisan) reasons that cut across issues in Congress undermines the argument that the Southern-Western coalition on public lands

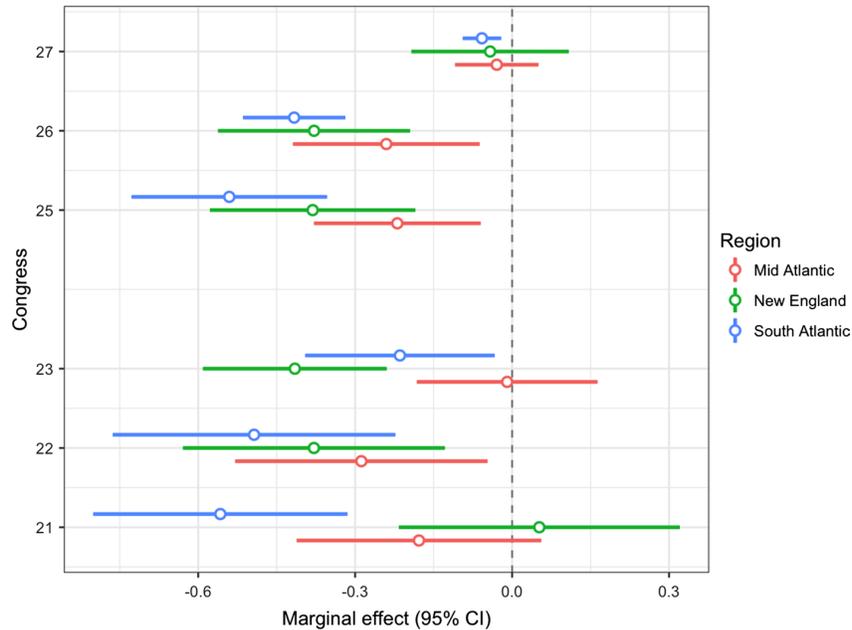


Fig. 2 Marginal effects of region on yea vote in the House, by Congress. (Color figure online)

reform was specific to that issue or a small number of issues in a logroll. If that were the case, the South Atlantic dummy would exhibit a positive sign, holding ideology or party fixed. The negative effect is, instead, consistent with a distributive account.

By the same token, the results indicate that New England representatives were often inclined against preemption, but not always significantly so, and not as strongly as Southerners were. The New England effect is about half the Southern effect on average, and significant in four of six regressions.

The effects of population density are mixed, substantively and statistically. They are statistically significant in some regressions, but of very small magnitude. Overall, the results suggest that whatever effect population density exerted already is picked up in ideology or region.

Overall, our analysis suggests that distributive factors played a significant role in preemption policy in the House, and were more important in the House than in the Senate. These findings are consistent with the expectations we derived from a distributive perspective. Congressional voting was not just ideological business as usual. This is especially true in the House, where Yea and Nay coalitions cut across DW-NOMINATE space and political party. Sectional politics played a crucial role, in the sense of both goodness of fit and statistical significance of explanatory factors. Our findings also are at odds with accounts of a West-South coalition versus the old North. Southerners were *less* likely to support the liberal policy of preemption than their DW-NOMINATE scores alone would predict. And New Englanders, while typically opposed, were less so than Southerners, all else constant, in the sense of substantive magnitude and statistical significance.

6 Conclusion

Jacksonian-era land reform represented a pivotal change in public policy. It was a major program of economic redistribution, and it affected settlement and institutional development throughout the United States. Thus, it is important to understand how existing theories of voting in Congress explain the passage of land reform laws from 1830 to 1841.

Our findings, based on goodness of fit of roll call models and statistical significance of individual components, suggest that rent-seeking pressure from constituents translated predictably into support for preemption in Congress, particularly in the House where the electoral connection is stronger. The rent-seeking explanation is consistent with Murtazashvili (2013), who argues for a distributive view of public lands policy later in the 19th century. Ideology in the sense of DW-NOMINATE scores does have significant explanatory power in our analysis, more so in the Senate than the House, and somewhat more so in later Congresses. But in the House, distributive factors as captured by a member's region, on top of "ideology," are crucial for explaining votes. And, importantly, this regional effect is the *opposite* of that which historians typically have identified.

While informative, the results reported herein are far from a definitive explanation of the determinants of public land reform voting in Congress. Our analysis is limited by data availability at the congressional district level. Finer-grained measures of interests within congressional districts, and the district electoral connection, would strengthen the analysis. Nevertheless, these results nicely capture an episode of rent seeking in early America, clear up an historical inaccuracy, and make clear that distributive politics was alive and well in the antebellum US Congress.

Appendix: Logit results for House votes

Variable	Congress					
	21	22	23	25	26	27
Intercept	2.32 (0.66)	3.65 (0.86)	2.31 (0.5)	6.53 (1.39)	4.3 (0.83)	2.84 (1.91)
DWNOM1	- 3.72 (0.81)	- 3.24 (0.76)	- 3.65 (0.79)	- 10.72 (3.05)	- 8.36 (1.79)	22.84 (5.42)
DWNOM2	2.81 (1.29)	1.72 (1.36)	- 2.03 (1.47)	- 12.52 (3.89)	- 6.65 (2.69)	- 9.73 (6.61)
ln(Pop. Density)	- 0.16 (0.17)	- 0.11 (0.21)	- 0.26 (0.16)	- 0.48 (0.36)	0.08(0.28)	- 0.67 (0.74)
New England	0.31 (0.81)	- 2.66 (0.97)	- 3.24 (0.83)	- 5.56 (1.82)	- 5.38 (1.62)	- 2.45 (4.51)
Mid Atlantic	- 1.06 (0.72)	- 2.03 (0.9)	- 0.07 (0.69)	- 3.2 (1.35)	- 3.42 (1.44)	- 1.71 (2.38)
South Atlantic	- 3.31 (0.87)	- 3.47 (1.07)	- 1.67 (0.76)	- 7.89 (1.97)	- 5.92 (1.18)	- 3.36 (1.29)
N	158	162	177	160	184	225

Entries are logit model coefficients, with standard errors in parentheses. N is the sample size for each model

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