

**The President in the Legislative Process: Preferences, Strategy and Outcomes**

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Striving to create an executive who could act as a restraint on the legislature, the Framers of the U.S. Constitution decided on a president chosen independently of Congress and with a veto over legislation. Yet presidents are elected under the banner of one of the two major parties, they are considered the leaders of their party and Americans have come to expect their presidents to be vigorous legislative leaders. Furthermore, although American parties are considered weak by European standards, the congressional parties have become considerably more cohesive, more elaborately organized and more activist in the last several decades (Rohde 1991; Sinclair 1995). Yet it remains true that the president lacks authority over the legislature, and the electoral system makes divided partisan control of the branches possible. In fact, such divided control has been prevalent in the last half century.

What are the consequences of these varied factors for presidential success in the legislative process? How do structural features of the American government such as independent selection of the president and members of Congress and the presidential veto interact with political variables such as partisan control of the legislature and partisan polarization to affect presidential success? Specifically how dependent for success is the president on his legislative preferences coinciding with those of Congress and to what extent can the president use the veto power strategically to enhance his chances of success?

A theoretical framework for tackling these questions requires assumptions about what drives the actors' decisions. The president and members of Congress are here assumed to be goal-directed actors with both policy and electoral goals. Their legislatively-relevant decisions should, thus, be a function of their preferences, which are

assumed to be largely a function of political variables, and of the structure in which they find themselves.

The president's one formal power in the legislative process is the veto. Thus I begin with an initial assessment of the president's role in the legislative process by examining presidential vetoes. How frequently does the president use the veto on major legislation and with what effect on ultimate outcomes? The founders and their later admirers and critics assumed that the independent selection and the different constituencies of the president and members of Congress would ensure considerable conflict in preferences between them. Were they correct? And how does partisan control affect that relationship? To answer those questions, I examine the extent to which and the conditions under which the president agrees and disagrees on specific legislation with congressional actors in the legislative process. The president can use his veto to attempt to kill legislation, but is that its only use? How, how frequently and under what circumstances does the president employ the veto power as an element of his legislative strategy? The final section analyzes presidential success. How frequently is the president successful in the legislative process, on all major legislation and on his agenda, and what are the determinants of legislative success?

My data set consists of bill-level data for 11 congresses from 1961 through 1998. I confine my attention to major legislation as identified by Congressional Quarterly and augment that with legislation on which key votes occurred, again as identified by Congressional Quarterly. This yields a list of between 42 and 59 measures per Congress.<sup>1</sup> Congressional Quarterly is a specialized publication aimed at the Capitol Hill community (members of Congress, their staffs and lobbyists); CQ's list of major legislation is a list of what knowledgeable contemporary observers considered the major—but not just landmark—legislation of the day and can reasonably be interpreted as the active congressional agenda. I

chose the congresses, which are listed in Table 1, so as to provide variation on a number of crucial variables, including stage of the presidency (early versus late), partisan control of the branches (divided versus unified), level of partisan polarization in Congress and whether or not the president was perceived to have received an electoral mandate.

### **The President as Veto Player: A First Assessment**

A significant proportion of major legislation never gets to the president for his signature or veto. Of the 561 major measures under consideration here, the two chambers passed and then reached a cross-chamber agreement on 405 (72 percent). Of those, 23 did not require the president's assent; they were, for example, budget resolutions or constitutional amendments. Thus 382 got to the president and, of those, he vetoed 49—or 13 percent.<sup>2</sup> As Table 2 shows, not all of the vetoed measures died; in 11 cases, Congress overrode the veto and, in another 15, the president and Congress worked out a compromise that enabled a bill to become law.<sup>3</sup> The president, then, killed by veto 6 percent of the 382 bills that got to him—or 4 percent of the total 561 major measures. Altogether 179 of the 561 major measures failed enactment (32 percent). Of those that failed, the president, by vetoes that killed legislation, accounted for 13 percent.

If the impact of actual vetoes were taken as a true reflection of the president's effect on legislative outcomes, the verdict would be “not negligible” but also “far from massive;” certainly much less than the effect of Congress.

At least two explanations for the president's low rate of vetoing bills are consistent with presidential influence in the legislative process or at least with presidential success. The president may veto few bills because Congress and its agents, the committees, produce few that he dislikes. Alternatively, the president may veto few bills because he uses the veto power strategically to influence the content of bills without actually having to cast vetoes. The next two sections consider each explanation in turn.

### **Preferences and Preference Conflict Across the Branches**

The president and Congress will act as breaks on one another only if their legislative preferences conflict. The Framers and later commentators assumed that independent selection and different constituencies would assure frequent differences in legislative preferences. But is that, in fact, the case? To what extent and under what conditions does the president agree or disagree on specific legislation with congressional actors in the legislative process?

Using Congressional Quarterly accounts, I coded presidential support/agreement or opposition/disagreement (or a intermediate, mixed position) for every major measure at each stage of the process. On a few measures, mostly those having to do with internal congressional matters, the president did not take a position and on a few others, no presidential position could be gleaned from CQ. In the vast majority of the cases, however, CQ explicitly discussed the president's views and the coding was straight forward. Presidential opposition does not necessarily—and, in fact, infrequently—means that he opposes any bill on the issue; it simply means he opposes the bill in the form it emerged from that stage—the House committee, for example.

Table 3 shows the rate of agreement between the president and the House and Senate reporting committees, the chamber floors and the Congress's final bill (that is, the bill that emerged from House-Senate reconciliation procedures). There is more agreement than disagreement at all stages, but disagreement is hardly rare. The distribution on bills as they emerged from successful House-Senate reconciliation is similar to that at earlier stages, except that the rate of agreement is higher and the rate of disagreement lower than at any of the earlier stages. This suggests that at least some bills are altered towards the end of the congressional process in ways that make them more acceptable to the president and provides a hint of possible presidential influence.

What determines the level of agreement between the president and Congress? Party, I hypothesize, at minimum serves as a proxy for preferences and so, when the president and the majority of the members of the House and of the Senate are of the same party, agreement should be more frequent and disagreement less frequent than when they are of different parties. Based on the partisan model of congressional organization and functioning, I further hypothesize that the advantages conferred by organizational control of a chamber allow the majority to influence outcomes beyond what its numbers alone would make possible (see Cox and McCubbins 1993; Aldrich and Rohde 2000; Sinclair 1995). Consequently even narrow control should significantly affect the level of agreement. Furthermore, if organizational control does confer such disproportionate influence, agreement between the president, on the one hand, and the congressional committees and chamber floors, on the other, should be higher when partisan control is unified than when it is divided, even when the bill's drafters do not split along party lines. That is, the majority should have disproportionate influence in shaping consensus legislation and bipartisan compromises as well as partisan legislation.<sup>4</sup> Finally, the strength of the relationship between the level of agreement and unified versus divided control should vary with the extent of partisan polarization in Congress.

As hypothesized, agreement is much more frequent and disagreement much less so when control is unified than when it is divided. (See Table 4.) When the president's party commands a congressional majority, the president supports most of the legislation reported by the committees and passed by the chambers and he opposes very little of it. In contrast, when the other party controls Congress, both committees and the floor are quite likely to approve legislation in a form the president opposes and considerably less likely to approve legislation in a form he unequivocally supports. Shared partisanship does provide the basis

for considerable agreement across the branches, while conflicting preferences are more likely when the branches are controlled by different parties.

The configuration under divided control is not, however, a mirror image of that under unified control; when control is divided, a president does not do as badly as his counterpart does well under unified control. Additionally, when control is divided, the bill that emerges from House-Senate conference (or other reconciliation procedures) tends to be considerably better from the president's perspective than the bill at any of the earlier stages; at that point and in contrast to all of the earlier stages, the president is actually more likely to support than oppose the bill. Since the same members approved the final bill as the bill that earlier passed their chamber, different preferences cannot explain this shift. Rather presidential influence is suggested. Later sections explore this suggestion further.<sup>5</sup>

A substantial correlation between policy preferences and partisanship can explain a relationship between agreement and divided versus unified control.<sup>6</sup> Simply put, if Democrats tend to share legislative preferences and make up the majority of members of both houses, then the bills committees report and chamber floors pass are likely to be ones a Democratic president agrees with and a Republican president opposes. But do numbers by themselves explain the patterns found? Specifically, if only numbers are important, would one expect such large differences between unified and divided control, even though sometimes the margins of control are small? We know that member preferences, as measured by DW nominate scores or other vote-based indices, are not perfectly homogeneous within party. If member strictly vote their preferences and party control makes no difference, should we not expect the size of the margin to be of greater importance than simply control?

A examination of the 97<sup>th</sup> Congress sheds some light on this question. In 1981-82, Democrats controlled the House by a 56 percent margin; Republicans controlled the Senate by a narrower 53 percent margin. The political environment was, of course, the same for both

chambers and favored newly elected president Ronald Reagan and the Republicans. If control makes no difference beyond the numbers, then, given the narrow margins, Reagan should agree with the Senate only marginally more than he agreed with the House. This prediction is given further credence by the contemporary consensus that Reagan actually commanded a policy majority in the House. In fact, the differences are not marginal; Reagan supported 61 percent of the bills reported by Senate committees and opposed 11 percent; in contrast, he supported only 39 percent of the bills reported by House committees and opposed 44 percent. At the floor stage, the political strength of Reagan and Republicans is evident; Reagan supported 54 percent of the bills as passed by the House and opposed 26 percent. He thus did considerably better at this stage than the typical president facing a House controlled by the other party. (See Table 4) Nevertheless, Reagan still did a great deal better in the Republican-controlled Senate; He supported 80 percent of the bills as they passed the Senate and opposed only 5 percent. Certainly these differences suggest that control in and of itself makes a difference.

How does the character of conflict at the initial stage of the legislative process affect presidential support and opposition? We would, of course, expect that when the prefloor process is partisan, the president's agreement would depend on whether his fellow partisans control the prefloor process, usually the committees. However, when the prefloor process is not partisan and especially when it is a consensus process, our expectations depend on our model of party effects. If party works only through preferences, majorities should have more influence but only in proportion to the size of their margins. If control itself confers influence, the difference in levels of agreement between unified and divided control should be more than marginal.

As Table 5 shows, when control is unified, agreement is high at the committee and floor stage in both chambers, no matter what the configuration of preferences at the prefloor



stage. As one would expect, when control is divided and the prefloor process was partisan, agreement is lowest and disagreement highest at the committee and the floor stage in both chambers. However, a nonpartisan prefloor process does not erase the depressing effects of divided control on agreement. Under divided control, even if the committee comes to a consensus or reaches a bipartisan compromise, the result is not necessarily a bill the president supports. For example, President George Bush proposed an increase in funding for the Head Start program in the 101<sup>st</sup> Congress; committees in both chambers reported bills unanimously; the House passed its bill 404 to 14 and the Senate passed its bill by voice vote. Yet, despite this seeming lack of controversy in Congress, Bush was clearly unhappy with the bill at each stage of the process; he opposed both the spending levels and other program provisions. When control is divided the president is more likely to support a bill on which the prefloor process was nonconflictual than one on which it was conflictual; but that level of support is still much less than the president's support for bills under unified control whatever their prefloor process.

Even if party is considered only a proxy for preferences, the relationship between presidential-congressional agreement and partisan control should vary with the level of partisan polarization. Partisan polarization increased over the time period under study here (see Poole and Rosenthal 1997; Rohde 1991; Roberts and Smith 2002). Table 6 breaks the congresses into three periods—the 91<sup>st</sup> and before, a period of relatively low polarization; the 94<sup>th</sup> through 97<sup>th</sup> an intermediate period; and the 100<sup>th</sup> and later, a period of higher and growing polarization. The breaks also coincide with the prereform period; the period of adjustment to the reforms; and the period of growing party leadership strength, especially in the House (see Rohde 1991; Sinclair 1995).

From the first to the second period, agreement between the president and Congress decreased under both unified and divided control, but the decrease was much steeper under

divided control. Increasing polarization, the reforms, or both seem to have made the Congress less accommodating –not only but especially to presidents of the other party. From the second to the third period, agreement under unified control goes up to exceed, often significantly, agreement during the initial period; agreement under divided control continues to decrease, with the result that the effect of partisan control is massive.

In sum, the president and Congress agree on the legislation the Congress and its committees produce at a high rate when control is unified but at a much lower rate when control is divided. Since divided control is considerably more frequent than is unified control, a president, to be successful in the legislative process, cannot simply rely on coinciding preferences. Especially when he confronts a Congress controlled by the other party, the president needs to exercise influence to succeed. The Constitution gives the president one major legislative tool—the veto. Does the president use the veto to try to move legislation towards his preferred position and does he succeed?

### **Veto Strategies: How the President Uses the Veto**

Presidents veto major legislation infrequently, as I documented earlier (see Table 2). One possible reason for such restraint can now be dismissed. Especially when control is divided, the congressional committees often produce and the chambers pass legislation the president does not like. Presidential restraint, thus, cannot be attributed to presidential and congressional legislative preferences being so similar that the president has no need to veto legislation. An alternative hypothesis posits that the president vetoes few bills because he uses the veto power strategically to influence the content of bills without actually having to cast vetoes.

How should presidential vetoes be understood? Sometimes a president vetoes a bill he absolutely and unequivocally opposes. President Bill Clinton, for example, opposed banning “partial birth” abortions; he objected to the concept of the bill not just the form and

legislative details. When he vetoed and thereby killed the Partial Birth Abortion Ban Act in the 105<sup>th</sup> Congress, he scored a clear policy victory (though perhaps at some political cost). Such cases are the exception. Only 12 of the 52 vetoes of major legislation were of bills the president opposed absolutely. In most cases, the president wants a bill; he opposes its current form. The veto of such a bill can be seen as a policy failure; the president was unable to induce the Congress to send him an acceptable bill and so he was forced to veto a bill in an area where he wanted legislation (see Cameron 2000). Assuming there existed a bill that both the president and Congress preferred to the status quo, both would have been better off if that bill had been sent to the president (but see Gilmour 2001).

A president who wishes to use his veto power to induce Congress to send him acceptable bills the first time needs to communicate to Congress when it strays out of his acceptable range. Do presidents do so? And, if so, under what circumstances?

Presidents, in fact, issue veto threats with considerable frequency; 27 percent of all the major measures under consideration here and 29 percent of those subject to a veto were threatened with a veto during their legislative history.<sup>7</sup> Presidents, of course, threaten to veto bills they do not like; presidential opposition to the bill at each stage in the process is strongly related to the likelihood of a veto threat.<sup>8</sup> Suggestively, the relationship is weakest for presidential support and opposition to the final bill, hinting that perhaps the veto threat moved the bill towards the president's preferred position.

Since presidents are much less likely to agree with Congresses controlled by the opposition party, they are much more likely to issue veto threats when control is divided. When the president's party controls both chambers, veto threats are rare; only 6 percent of major measures were threatened with vetoes during the congresses of unified control under study here. In contrast, when control was divided, presidents threatened to veto 43 percent of "vetoable" major measures.

As one would expect, bills on which the prefloor process was partisan were highly likely to be subject to a veto threat when control was divided. (see Table 7) After all, these are mostly, one must assume, bills shaped by the president's partisan adversaries and opposed by his co-partisans. But even bills that emerged from a consensus prefloor process were not immune; over a third of such bills were subject to a veto threat.

Finally veto threats are a great deal more frequent in the divided control congresses from the mid-1980s on than in the congresses before the mid-1980s; president's threatened to veto 16 percent of the major measures in the 97<sup>th</sup> Congress (1981-82) and before compared with 47 percent of those in the 100<sup>th</sup> Congress (1987-88) and after. An increase in partisan conflict at the prefloor stage certainly contributed to this difference but by no means completely accounts for it; whatever the character of the prefloor process, veto threats are a great deal more likely after the mid-1980s than before. It seems likely that the increasing partisan polarization had indirect as well as direct effects that contributed to this pattern, but that supposition requires further investigation.

These results can be summarized in a logistic equation "predicting" presidential veto threats. Table 8 shows that divided control, divided control in the 100<sup>th</sup> Congress and after period, and prefloor partisan conflict in either the House or the Senate when control is divided together correctly predict 78 percent of veto threats. The latter variable is of marginal significance and its coefficient is small relative to the two other independent variables. Divided control and the period variable by themselves are powerful predictors of veto threats; in other words, one can go a long way towards predicting veto threats without including a variable that directly gets at the president's views on the specific legislation at issue.

Clearly, then, presidents do issue veto threats to attempt to influence the shape of legislation. Whether they are successful is a question taken up in the final sections of the chapter, where presidential success in the legislative process is analyzed.

### **Presidential Success**

Given the president's relatively meager constitutional powers over legislation, how successful is the president in the legislative process? How is presidential success related to the preferences of congressional actors and to the strategies at his command? Specifically how dependent for success is the president on his legislative preferences coinciding with those of Congress and to what extent can the president use the veto power strategically to enhance his chances of success?

Congressional Quarterly's account is used to assess the success of the president on each major measure on the chamber floor and on final disposition along a five point scale ranging from clear win to clear loss.

Although all the bills included in this study are labeled major (or key vote) legislation by Congressional Quarterly, they nevertheless vary in significance. From the president's perspective—and that of those who judge his success—how the president's program fares in Congress is considerably more important than whether the president's preferences prevail on other legislation. Thus, presidential success on his agenda as well as on all major measures is examined.

Legislation is identified as part of the president's agenda if it is mentioned in the State of the Union address or its equivalent or in special messages of some prominence (see Sinclair 1995, 29-30). Table 9 shows the number of presidential agenda items in each of the congresses under study. Overall, 39 percent of the major measures are part of the president's agenda. The table shows that both in terms of number of items and percentage of all major measures, the president's agenda varies greatly across congresses. Two patterns stand out. In

the two earliest congresses, both congresses from the 1960s, the president dominates the agenda to a much greater extent than in any of the later congresses. Second, the president's agenda tends to make up a considerably larger proportion of the congressional agenda of major measures during an elected president's first congress than later in his term.

### **The Two Faces Of Success (and Failure)**

The enactment of a bill he supports or the demise of a bill he opposes can both be considered presidential successes. Yet the implications for public policy of the two types of presidential "wins" are quite different. Of presidents' clear wins, 65 percent are enactments; of their clear losses, 76 percent are failed legislation. Thus almost two-thirds of presidents' clear wins are positive achievements and over three-quarters of their clear failures are bills that did not become law. Conversely, however, over a third of presidents' clear wins were scored when bills failed.

Few bills that the president thoroughly dislikes become law. The president scored a clear loss on only 6 percent of enacted bills. In fact, relatively few bills that the president absolutely opposes get on the congressional agenda of major legislation; only 43 over these 11 congresses could be thus categorized. Of those, very few were enacted; 7 such bills, accounting for 2 percent of the 382 enacted bills, became law.

How did the president fare on his agenda? Presidential agenda items were enacted at a slightly higher rate than other major measures—73 percent versus 65 percent. Given that presidential agenda items are likely to be at least as controversial as other major measures, their higher enactment rate suggests that, while the president does not dominate the agenda, his items do get priority attention.

The substantial rate of enactment of the president's agenda items does not, however, mean that the president necessarily wins. Congress may pass much of the president's agenda but not always in his most preferred form. On those of his agenda items that were enacted,

the president did do well—better, in fact, than on all measures; he clearly won on 48 percent and won on balance on another 28 percent. However, the president lost—clearly or on balance—on 14 percent of his enacted agenda items; the Congress passed his program but in a form he disliked.

### **The Configuration of Preferences and Presidential Success**

The configuration of preferences within and across the chambers and branches should be a strong predictor of presidential success. The more similar congressional and presidential legislative preferences are on an issue, the more likely the final bill is to be close to the president's most preferred position, even without the president exercising influence. In fact, one can "predict" the president's ultimate success on enacted legislation quite well from his agreement or disagreement with the House and the Senate bill—as they emerge from committee and even better as they pass on the floor.<sup>9</sup> However, given the proximate character of the agreement variables, these findings tell us little about the circumstances under which presidents are likely to be successful.

To discover the more distal determinants of presidential success, it make sense to start with those variable earlier found to be related to presidential-congressional agreement. Earlier analyses showed that the president and Congress (that is, the congressional committees and the chamber floors) are most likely to agree when partisan control of the branches is unified rather than divided; the likelihood of agreement is related to the character of the prefloor process but is higher under unified than under divided partisan control, even when the bill's drafters do not split along party lines. The strength of the relationship between the level of agreement and unified versus divided control also varies with the extent of partisan polarization in Congress.

### Partisan Influences on Presidential Success

As Table 10 shows, the president is much more successful on the House floor and on the Senate floor when his party controls the chamber than when the other party does. Opposition party control of the House seems to be worse for the president than such control of the Senate; when control is divided, the president clearly loses on the House floor on half of major measures.

Presidential success on final disposition is much less strongly related to whether control is divided or not. However, **how** the president wins is very much a function of partisan control. When his party controls the Congress, almost all of the president's clear wins (94 percent) are on bills he supported becoming law; almost all of his clear losses (90 percent) are bills he supported failing enactment. When the opposition party controls Congress, the president's wins are much less likely to be positive accomplishments; 57 percent of his clear wins occur when bills he disliked failed to become law.

As hypothesized, presidential success on the chamber floors is related to the character of the prefloor process, but is higher under unified than under divided partisan control even when the bill's drafters do not split along party lines. When the House committee does split along partisan lines, which party controlled the House has enormous effect on presidential success, as one would expect; presidents clearly won on 63 percent of such measures on the House floor when control was unified and clearly lost on 67 percent when control was divided. The effect is still considerable but not as great in the Senate; the comparable figures are 57 percent clear wins under unified control and 44 percent of clear losses under divided control. Even when the prefloor process was nonconflictual, presidents fared very considerable better on the chamber floors when control was unified than when it was divided. With his party controlling the chamber, the president scored clear wins on the House floor on 81 percent of measures on which the House prefloor process was consensual or a bipartisan compromise was reached; the comparable figure for the Senate was 73 percent. In contrast,



when the other party controlled the chamber, the president clearly won on the House floor on 45 percent –and clearly lost on 42 percent—of measures on which the House prefloor process was consensual or a bipartisan compromise was reached; the comparable figures for the Senate were 30 percent clear wins and 25 percent clear losses. These results, like those reported earlier, point to the majority party having considerably more influence than the minority party in shaping the content of consensual measures and bipartisan compromises. The impact on presidential success at the floor stage is considerable.<sup>10</sup>

Did increasing partisan polarization lead to decreasing presidential success when control was divided? Later in the period when partisan polarization was high (100<sup>th</sup> Congress on), presidents who faced congresses controlled by the other party were much less likely to win in the House than they had been earlier in the period; in the later period, presidents score clear wins on only 16 percent of major bills on the House floor and clear losses on 62 percent; compare that with the earlier period when presidents scored 45 percent clear wins on the house floor and 37 percent clear losses. In the Senate, in contrast, presidential success does not decrease significantly.<sup>11</sup> Presidential success on the final form of legislation that is enacted suffers with the increase in polarization. When control is divided, presidents clearly won on final disposition on 30 percent of major measures enacted in the earlier period and 17 percent in the latter period; they scored wins of any sort on 56 percent of enacted measures in the earlier period and only 35 percent in the latter.

#### The Impact of An Electoral Mandate

The legislative preferences of members of Congress are not only a function of relatively stable constituency policy preferences of the sort that determine a district's partisan complexion. More ephemeral constituency signals can also affect a member's legislative preferences (see Sinclair 2002; Arnold 1990). If members believe their constituents strongly support a legislative proposal, they may well decide that reelection concerns dictate that they

too shift their legislative preferences to support. Thus, if members of Congress conclude that the winning presidential candidate has received a mandate for his program from their constituents, their legislative preferences may shift towards greater agreement with the president.

It is when an issue or problem figures prominently in an election campaign and the outcome is decisive that the political community is likely to conclude that the winning presidential candidate has received a mandate. Immediate post-election news stories and analyses in the New York Times from 1960 through 1996 were scrutinized to determine whether each election was so perceived. In one case, post-election coverage in other major newspapers was also examined to ascertain that, in this regard, interpretations were similar across newspapers and that was, in fact, found to be so. The analysis revealed two elections clearly interpreted as carrying a presidential mandate—1964 and 1980. (See also Conley 2001)

Does an electoral mandate translate into presidential success in the legislative process? Mandated presidents did win significantly more on the chamber floors and on final disposition than presidents in the remaining congresses. That, however, is a questionable comparison, given the effect of other variables, especially partisan control. If presidential success in these two congresses is compared with presidential success in the other unified but “mandateless” congresses, there is no significant relationship at the floor stage. On final disposition, Johnson and Reagan together clearly won on 52 percent of the major measures in the 89<sup>th</sup> and 97<sup>th</sup> and clearly lost on 15 percent; the other presidents in those years in which their party controlled the Congress won on 35 percent of major measures and lost on 25 percent.<sup>12</sup>

One would expect that mandated presidents win at a higher rate, but on issues related to their mandate, not necessarily on all measures. A fair test of the hypothesis demands

separating out, from the universe of major measures, those the mandate could reasonably be expected to affect. A first approximation suggests examining the president's agenda. Before testing the mandate hypothesis, however, the effect of the factors related to the configuration of preferences on presidential success must be examined. Is the effect any different on the president's agenda than on all major measures?

When the president's party controls one or both houses of Congress, a larger proportion of the president's agenda is enacted than when both chambers are in opposition party hands; the difference—75 percent versus 69 percent—is not enormous though the total number of presidential agenda items is a great deal larger during periods of unified or mixed control than under divided control.<sup>13</sup> Moreover, the president is considerably more successful in seeing his agenda enacted in a form he prefers when control is unified than when it is divided. (See Table 11.)

Similar to the findings for all major measures, presidential success on the chamber floors on his agenda is related to the character of the prefloor process, but is higher under unified than under divided partisan control even when the bill's drafters do not split along party lines. Again as for all measures, the increase in partisan polarization from the mid-1980s on is associated with a decline in presidential success on his agenda in the House—but not in the Senate—when the other party controls the chamber. Presidential success on the final disposition of his agenda items also declines.

Presidents with a mandate are more successful on their agenda than are presidents under otherwise comparable circumstances. A significantly larger proportion of the president's agenda was enacted in the 89<sup>th</sup> and 97<sup>th</sup> Congresses—82 percent—compared with other unified-control congresses—69 percent. Moreover, mandated presidents got agenda legislation in their most preferred form more often.<sup>14</sup> As Table 12 shows, Johnson in the 89<sup>th</sup> and Reagan in the 97<sup>th</sup> were considerably more likely to win and considerably less likely to

loose on their agenda items than Kennedy in the 87<sup>th</sup>, Carter in the 95<sup>th</sup> and Clinton in the 103<sup>rd</sup>.

### A Summary Model

Ordered logit provides a handy way of summarizing these findings concerning presidential success on enacted legislation and of ascertaining whether the variables that singly are related to presidential success in fact have an independent influence when one controls for the other variables. As Table 13 shows, presidents tend to be more successful on their own agenda, when they have a mandate, and when the committee process in the House is nonconflictual; presidents are less successful when control is divided and the committee process is partisan in either or both chambers or control is divided in the period of high partisan polarization from the mid-1980s on. However, controlling for all of these variables, the three-way interaction among divided control, partisanship at the prefloor stage and the high partisanship period actually increases presidential success.

In sum, presidential success in the legislative process on all major bills and on his own agenda is strongly related to the same variables that determine congressional preferences. Unsurprisingly presidents are much more likely to win in the legislative process when congressional preferences are most likely to be similar to their own. Presidents have little control over the circumstances that determine congressional preferences, however. If a president is confronted with a congress controlled by the other party, is there anything he can do to increase his chances of legislative success?

### **Veto Strategies and Presidential Success**

When the president opposes a bill absolutely, the veto is a powerful weapon. Of the 43 such measures, Congress sent the president 15<sup>15</sup>; he vetoed 12 and in only two cases did the Congress override his veto. Interestingly, the president did not veto the other 3 even though he was completely opposed. These were instances in which the political costs of a

veto were deemed to be too high and there were likely enough votes to override the veto anyway. For example, Ronald Reagan strongly opposed plant closing notification legislation, but eventually let it become law without his signature in 1988.

Much more frequently, the president wants legislation, but is unsatisfied with the form of the bill reported by the committees or passed on the chambers' floors. As I showed earlier, when the president does not like the form of the bill, he often threatens a veto. Presidents seem to issue veto threats to attempt to influence the shape of legislation. Do they succeed? Is that an effective strategy? Do veto threats move legislation towards the president's preferred outcome?

A number of earlier analyses showed the president to be more successful at the end of the legislative process than at earlier stages, suggesting presidential influence. Especially when the Congress is in opposition party hands, the president tends to win more and lose less on final disposition of legislation than on either chamber floor initially. He is more likely to support legislation at the end of the process than in the form it emerges from committees controlled by the other party. Can these shifts be linked to veto threats?

Variables indexing presidential support for or opposition to legislation at a number of stages in the process and presidential wins and losses at several stages make tests of the effects of veto threats possible. One can gauge whether a bill changed in terms of presidential support between when, for example, it was reported from the House committee and its final form. If the president opposed the House committee bill but supported the final bill, that would be considered a change in the bill in the president's direction. If the president supported the House committee bill and supported the final bill, that would be considered no change. If the president had a mixed response to the House committee bill and opposed the final bill, that would be a change away from the president's position. Only bills that were enacted are analyzed.

Table 14 shows that the likelihood of change from any preliminary stage (committee or floor in either chamber) to final form is much higher for legislation under a veto threat than for other legislation. The direction of movement in legislation tends to be disproportionately towards (rather than away from) the president's position whether or not the president has issued a veto threat, but the movement is always more towards the president's position when a veto threat has been issued than when it has not.

A similar analysis using the win variables, both with the full five category classification and with the scale collapsed into three categories (the two win and two loose categories are each collapsed into one) tells very much the same story. (See Table 15) Of course a five category classification yields more change from earlier stages to final form than either of the three category variables. Nevertheless the analyses also show more change in bills which are under a veto threat than in those that are not and a considerably greater proportion of those changes being in the direction of the presidents' position for bills under a veto threat than for those that are not.

Presidents do seem to be able to use veto threats strategically to move legislation towards their preferred position. The veto gives the president a positive not just a negative tool.

### **Conclusion: The Separation of Powers, the President's Role in the Legislative Process and Legislative Outcomes**

What do these findings reveal about the impact of the separation of powers on legislative outcomes? The Founders and later analysts assumed that the independent selection and different constituencies of the president and members of Congress would ensure considerable conflict in preferences between them. Were they correct? Certainly the president and Congress do disagree with some frequency, but party control is the key exacerbating or mitigating variable. If the president and the majorities of the two chambers of

Congress share a party affiliation, they are much more likely to agree on legislation than if different parties control the branches. Since the constituencies of the president and members of Congress of the same party are more similar than those of opposing parties, unified control mitigates the effects of the separation of powers. However, the importance of party control as a determinant of agreement between the branches varies across time; as the parties have polarized, at least in part as a function of a decrease in constituency heterogeneity within both parties, party control has increased in importance (Stonecash 2002 forthcoming). Control of one or both chambers by the opposition party is a considerably greater problem for a president than it used to be. More ephemeral variables also affect agreement; specifically Congress agrees at a higher rate with presidents perceived to have received an electoral mandate; seemingly members' legislative preferences are influenced by the signals their constituents are perceived to have sent.

The findings provide considerable support for the partisan model. A president fares much better when his party controls a chamber even if the margin is narrow than he does if the opposition controls the chamber by a narrow margin. The president fares much better when his party controls the chamber than when it does not even on legislation on which the committee reached a consensus. That the effect is greater for the House than the Senate provides further substantiation; control of the House confers greater parliamentary powers on the Speaker than control of the Senate confers on the Majority Leader, that chamber's central leader. These results strongly suggest that the majority party can and does use the parliamentary powers control of the chamber bestows to advance partisan objectives.

How dependent for success is the president on his legislative preferences coinciding with those of Congress and to what extent can the president use the veto power strategically to enhance his chances of success? Quite clearly, the Founders succeeded in creating an

executive who can act as a restraint on the legislature; the veto is a powerful negative weapon; very few bills the president unequivocally opposes become law; few even get very far through the process. Seemingly members of Congress choose not to waste their time and effort on legislation with almost no prospects of becoming law. Presidents are most likely to amass positive legislative achievements when their own preferences and those of a majority in Congress coincide and that is most likely to occur frequently when both branches are under the control of the same party. Yet a president not blessed with same-party control of Congress can nevertheless influence the legislative process. Presidents do seem able to use veto threats strategically to move legislation towards their preferred position. As the congressional parties have become more polarized, presidents, when confronted with chambers' controlled by the opposition, have with increased frequency resorted to using veto threats strategically. Preferences are very important but structure matters too.



**Table 1**  
**Congresses in the Study**

<b>Congress</b>	<b>Dates</b>	<b>House</b>	<b>Senate</b>	<b>President</b>
<b>87</b>	1961-62	<b>262D</b> , 175R	<b>64D</b> , 36R	Kennedy (D)
<b>89</b>	1965-66	<b>295D</b> , 140R	<b>68D</b> , 32R	Johnson (D)
<b>91</b>	1969-70	<b>243D</b> , 192R	<b>58D</b> , 42R	Nixon (R)
<b>94</b>	1975-76	<b>291D</b> , 144R	<b>61D</b> , 37R	Ford (R)
<b>95</b>	1977-78	<b>292D</b> , 143R	<b>61D</b> , 38R	Carter (D)
<b>97</b>	1981-82	<b>243D</b> , 192R	46D, <b>53R</b>	Reagan (R)
<b>100</b>	1987-88	<b>258D</b> , 177R	<b>55D</b> , 45R	Reagan (R)
<b>101</b>	1989-90	<b>260D</b> , 175R	<b>55D</b> , 45R	Bush (R)
<b>103</b>	1993-94	<b>258D</b> , 176R	<b>57D</b> , 43R	Clinton (D)
<b>104</b>	1995-96	204D, <b>230R</b>	47D, <b>53R</b>	Clinton (D)
<b>105</b>	1997-98	207D, <b>227R</b>	45D, <b>55R</b>	Clinton (D)

**Table 2**  
**Direct Effect of President's Veto Decisions on Legislative Outcomes**

<b>Total CQ measures</b>			<b>561</b>		
<b>Passed both chambers</b>			<b>425</b>		
<b>Successful cross-chamber resolution</b>			<b>405</b>		
<b>Sent to president</b>			<b>382</b>		
<b>President's action</b>	<b>Pres signature not required 23</b>	<b>Signed 333</b>		<b>Vetoed 49</b>	
<b>Outcome: Enacted (underlined) or killed (italics)</b>	<b><u>23</u></b>	<b><u>333</u></b>	<b>Veto overridden <u>11</u></b>	<b>Post-veto deal <u>15</u></b>	<b>Killed by veto 23</b>

**Table 3**  
**Presidential Support for and Opposition to Bills at Various Stages**  
**of the Legislative Process**

<b>President's position on</b>	<b>House committee</b>	<b>House floor</b>	<b>Senate committee</b>	<b>Senate floor</b>	<b>Final bill</b>
<b>Support</b>	50	48	53	57	59
<b>Mixed</b>	17	17	18	19	22
<b>Oppose</b>	33	34	29	25	19

**Table 4**  
**The Relationship of Presidential Support for and Opposition to Bills**  
**and Divided versus Unified Control**

<b>Bill</b>	<b>Control</b>	<b>Support</b>	<b>Opposition</b>
<b>House committee</b>	<b>Unified</b>	84	5
	<b>Divided</b>	28	52
<b>House floor</b>	<b>Unified</b>	77	6
	<b>Divided</b>	31	52
<b>Senate committee</b>	<b>Unified</b>	79	9
	<b>Divided</b>	28	49
<b>Senate floor</b>	<b>Unified</b>	82	5
	<b>Divided</b>	33	43
<b>Final bill*</b>	<b>Unified</b>	83	4
	<b>Divided</b>	40	31

- 97<sup>th</sup> Congress is excluded because control was mixed

**Table 5**  
**The Relationship of Presidential Support and Opposition to the Character of the Prefloor Process and Divided versus Unified Control**

<b>Bill</b>	<b>Control</b>	<b>Partisan</b>		<b>Other Split</b>		<b>Consensus</b>	
		<b>Support</b>	<b>Oppose</b>	<b>Support</b>	<b>Oppose</b>	<b>Support</b>	<b>Oppose</b>
<b>House committee</b>	<b>Unified</b>	93	2	79	7	81	7
	<b>Divided</b>	8	81	28	44	51	30
<b>House floor</b>	<b>Unified</b>	86	4	71	8	83	5
	<b>Divided</b>	19	69	31	46	47	37
<b>Senate committee</b>	<b>Unified</b>	84	12	73	11	87	3
	<b>Divided</b>	12	81	28	49	38	34
<b>Senate floor</b>	<b>Unified</b>	89	6	78	6	90	1
	<b>Divided</b>	28	53	31	45	40	38

Table 6

**The Relationship of Presidential Support for Bills and Divided versus Unified Control in Three Periods of Increasing Partisan Polarization**

Bill	Control	House			Senate		
		91 <sup>st</sup> and Before	94 <sup>th</sup> , 95 <sup>th</sup> and 97 <sup>th</sup>	100 <sup>th</sup> and after	91 <sup>st</sup> and Before	94 <sup>th</sup> , 95 <sup>th</sup> and 97 <sup>th</sup>	100 <sup>th</sup> and after
Committee	Unified	82	76	94	85	67	89
	Divided	57	30	19	44	28	23
Floor	Unified	74	66	94	88	76	83
	Divided	61	38	19	42	33	31

**Table 7**  
**Veto Threats and the Character of the Prefloor Process during**  
**Periods of Divided Control**  
(% of “vetoable” measures under veto threat)

<b>Prefloor Process</b>	<b>House</b>	<b>Senate</b>
<b>partisan</b>	<b>57</b>	<b>63</b>
<b>other split</b>	<b>41</b>	<b>45</b>
<b>consensus</b>	<b>35</b>	<b>37</b>

**Table 8**  
**Predicting Veto Threats**  
(logistic regression)

Variables	B	s.e.
Divided control	1.49	.369
Divided control* pefloor process is partisan in either or both chambers	.535	.278
Divided control in the era of high partisan polarization (100 <sup>th</sup> Congress on)	1.422	.270
Constant	-2.762	.298

% correctly predicted      78.0

Nagelkerke R<sup>2</sup>              .351



**Table 9**  
**The President's Agenda**

<b>Congress</b>	<b># of Items</b>	<b>% of total congressional agenda</b>
<b>87</b>	<b>35</b>	<b>70</b>
<b>89</b>	<b>45</b>	<b>76</b>
<b>91</b>	<b>25</b>	<b>47</b>
<b>94</b>	<b>12</b>	<b>21</b>
<b>95</b>	<b>27</b>	<b>47</b>
<b>97</b>	<b>24</b>	<b>45</b>
<b>100</b>	<b>8</b>	<b>18</b>
<b>101</b>	<b>10</b>	<b>18</b>
<b>103</b>	<b>25</b>	<b>46</b>
<b>104</b>	<b>2</b>	<b>4</b>
<b>105</b>	<b>13</b>	<b>31</b>
<b>Total</b>	<b>226</b>	<b>39</b>

**Table 10**  
**Presidential Success at Various States of the Legislative Process under**  
**Unified and Divided Control**

	House Floor		Senate Floor		Final Disposition*	
	Unified	Divided	Unified	Divided	Unified	Divided
<b>Won</b>						
<b>1</b>	59	29	60	27	42	35
<b>2</b>	17	6	21	14	23	14
<b>3</b>	9	5	8	15	9	20
<b>4</b>	8	9	5	12	3	18
<b>5</b>	8	51	6	33	23	13
<b>Lost</b>						

\* 97<sup>th</sup> Congress is excluded because control was mixed.

**Table 11**  
**Presidential Success on his Agenda under Unified and Divided Control**

	<b>Control:</b>	
	<b>Unified</b>	<b>Divided</b>
<b>Won</b>		
<b>1</b>	41	23
<b>2</b>	22	16
<b>3</b>	7	19
<b>4</b>	4	24
<b>5</b>	27	19
<b>Lost</b>		

**Table 12**  
**The Effect of an Electoral Mandate on the President's Success on his Agenda**

<b>Congresses:</b>	<b>Mandate?</b>	
	<b>YES 89<sup>th</sup> &amp; 97<sup>th</sup></b>	<b>NO other unified control</b>
<b>Won</b>		
<b>1</b>	54%	31%
<b>2</b>	15	28
<b>3</b>	7	6
<b>4</b>	6	2
<b>5</b>	18	33
<b>Lost</b>		

**Table 13**  
**Predicting Presidential Success: A Summary Model**  
 (ordered logit)

Variables	B	s.e.
President's agenda	.725	.216
Mandate	.643	.282
House prefloor process consensual	.483	.237
Divided control* prefloor process is partisan in either or both chambers	-1.49	.380
Divided control in the era of high partisan polarization (100 <sup>th</sup> Congress on)	-1.08	.260
Divided control in the era of high partisan polarization (100 <sup>th</sup> Congress on)* prefloor process is partisan in either or both chambers	1.16	.360

LR  $\chi^2 = 75.2$

**Table 14**  
**The Impact of Veto Threats:**  
 Change in Bills from Earlier Stages to Final Bill –Presidential Support Variables  
 ( enacted bills only)

<b>Initial Stage</b>		<b>House committee</b>	<b>House floor</b>	<b>Senate committee</b>	<b>Senate floor</b>
% that changed	No veto threat	24	23	23	19
	Veto threat	59	47	52	38
% that changed pro Pres position	No veto threat	69	81	64	63
	Veto threat	84	89	84	78

**Table 15**  
**The Impact of Veto Threats:**  
 Change in Bills from Earlier Stages to Final Bill –President Won/Lost Variables  
 ( enacted bills only)

Initial Stage		House floor		Senate floor	
		5 categories	3 categories	5 categories	3 categories
% that changed	No veto threat	44	21	42	22
	Veto threat	76	51	71	48
% that changed pro Pres position	No veto threat	49	64	38	43
	Veto threat	85	87	57	56

## References

- Aldrich, John and David Rohde. 2000. "The Consequences of Party Organization in the House: Theory and Evidence on Conditional Party Government." in Jon Bond and Richard Fleisher, eds. Polarized Politics: Congress and the President in a Partisan Era. Washington, DC: CQ Press.
- Arnold, R. Douglas. 1990. The Logic of Congressional Action. New Haven, Conn.: Yale University Press.
- Cameron, Charles M. 2000. Veto Bargaining. New York: Cambridge University Press.
- Conley, Patricia Heidotting. 2001. Presidential Mandates. Chicago: University of Chicago Press.
- Cox, Gary and Mathew McCubbins. 1993. Legislative Leviathan: Party Government in the House. Berkeley: University of California Press.
- Gilmour, John B. 2001. "Sequential Veto Bargaining and Blame Game Politics as Explanations of Presidential Vetoes." Paper presented at the annual meeting of the Midwest Political Science Association, Chicago, IL.
- Krehbiel, Keith. 1993. "Where's the Party?" British Journal of Political Science, 23: 235-266.
- Poole, Keith T. and Howard Rosenthal. 1997. Congress: A Political-Economic History of Roll Call Voting. New York: Oxford University Press.
- Roberts, Jason M. and Steven S. Smith. 2002. "Conditional Party Voting: Procedural Contexts, Party Strategy and Party Voting in the U.S. House of Representatives, 1971-2000." Paper presented at the annual meeting of the Midwest Political Science Association, Chicago, IL.
- Rohde, David. 1991. Parties and Leaders in the Postreform House. Chicago: University of Chicago Press.
- Sinclair, Barbara. 1995. Legislators, Leaders and Lawmaking. Baltimore: Johns Hopkins University Press.
- Sinclair, Barbara. 2001. "Structure, Preferences and Outcomes—Explaining When Bills Do—and Don't—Become Law." Paper prepared for delivery at the Annual Meeting of the American Political Science Association, August 30-September 2, San Francisco.
- Stonecash, Jeffrey, Mark Mariani, and Mark Brewer. 2002 forthcoming. Diverging Parties: Social Change, Realignment, and Party Polarization. Boulder, CO: Westview Press



## Notes

<sup>1</sup> The total number of cases is 585 and for most analyses all cases are used. For the analysis of enactment specifically I excluded these key vote measures on which controversy was confined to the amendment on which the key vote occurred and the underlying legislation was not controversial (and thus enactment of the legislation itself is not of interest), unless the amendment carried either the president's or the majority party leadership's agenda. With these exclusions N=561.

<sup>2</sup> If all cases are included, there were 52 vetoes.

<sup>3</sup> These are examples of what Cameron (2000) calls veto chains. I consider them one measure for analysis even though the initial bill was technically killed by the veto so long as all the bills were clearly part of the same legislative battle.

<sup>4</sup> For every measure in the data set, the committee process in each chamber was examined and that process coded as partisan, as reflecting another split (along ideological or constituency-lines, for example), or as consensual or reflecting a bipartisan compromise. I relied primarily on Congressional Quarterly but, when not enough information was presented there, I examined committee reports and then, if necessary, floor debate. To distinguish between partisan coalitions and ideological coalitions that badly split one of the major parties but nevertheless happened to be marginally partisan, I set the barrier for coding the conflict as partisan higher than the usual definition of a party vote on approving the bill in committee. A simple party vote of just over half of Democrats versus just over half of Republicans in committee was not sufficient to code the process as partisan. At least two-thirds of one party had to vote against at least two-thirds of the other. Note that coding is based on the entire process in the committee as described by CQ, including the tenor of the debate and votes on amendments in the committee, not just on the vote on approving the bill in committee. For the majority of my cases such a recorded vote is not available, yet there is enough information to allow for coding into the three categories described above. In those cases where the committee was not the drafter, the entity doing the drafting—the party leadership, a partisan or bipartisan task force—was similarly coded. For multiply referred bills, the lead committee was coded if there was one; otherwise the assessment was based on all the committees significantly involved.

<sup>5</sup> For that reason, the remainder of this section only considers bills earlier than the final bill.

<sup>6</sup> Krehbiel (1998) argues that what looks like party effects are, in fact, just preference effects.

<sup>7</sup> CQ was the source of the veto threat information.

<sup>8</sup> The correlation between a veto threat and the three-category presidential support to opposition variable on the House committee bill is .62; Senate committee bill, .60; House-passed bill, .59; Senate-passed bill, .58; bill that emerged from House-Senate agreement, .51.

<sup>9</sup> Agreement with both chambers' bills are independent and approximately equally important predictors. The pseudo  $R^2$  for ordered logit with the variables indexing presidential agreement with House and Senate floor bills is .24; for logit with presidential success dichotomized is .43. In none of the equations are other variables such as divided

control and character of the prefloor process significant when added to the agreement variables.

<sup>10</sup> There is no significant relationship between prefloor process and presidential success on final disposition. This will be considered further later.

<sup>11</sup> Clear wins go from 29% to 26%; clear losses from 29% to 35%.

<sup>12</sup> This relationship is of borderline significance.

<sup>13</sup> 155 measures versus 70.

<sup>14</sup> If only legislation enacted is considered, the clear win rate for the mandated congresses is 66 percent compared with 45 percent for the non-mandated, unified-control congresses.

<sup>15</sup> Two others the president could not veto; both were disapprovals of reorganization plans.