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978-0-521-16291-3 - Pushing the Agenda: Presidential Leadership in U. S. Lawmaking, 1953-2004

Matthew N. Beckmann

Excerpt

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## CHAPTER ONE

## Introduction

In his Farewell Address to a nascent nation, George Washington admonished its future leaders to “confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another.” For better or worse, contemporary chief executives have ignored their forefather’s advice. From the day they are elected till the day they leave office, today’s presidents not only propose legislation addressing the nation’s biggest problems but also undertake elaborate campaigns to promote its passage. What’s more, American citizens expect, if not demand, that their presidents adopt this forward-leaning legislative posture.

Yet advocating legislation is far different from signing it, and rare is the case where presidents find coalition building on Capitol Hill easy. To shepherd a policy initiative to passage, a president not only must secure approval across myriad decision-making venues, in two chambers, and among 535 independent legislators but also must navigate a precarious undercurrent of competing agendas, limited time, scarce monies, diverse constituencies, entrenched interests, and parliamentary machinations. Perhaps it comes as no surprise, then, that grand designs for presidential leadership quickly give way to more sober realities. Ronald Reagan’s quip captures the sentiment: “I have wondered at times what the Ten Commandments would have looked like if Moses had run them through the U.S. Congress.”

The ominous path to signing ceremonies notwithstanding, presidents have continued to propose and promote an ambitious legislative agenda. As a matter of fact, policy-minded presidents have cited Congress’ intractable instincts as evidence that their leadership

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is essential to effective lawmaking. No less an astute observer than Woodrow Wilson (1885) explained: “The Constitution bids [the President] speak, and times of stress and change must more and more thrust upon him the attitude of originator of policies,” adding, “His is the vital place of action in the system, whether he accept it as such or not.” Three-quarters of a century later, John F. Kennedy asserted much the same: the country needs presidents “who will formulate and fight for legislative policies, not be a casual bystander to the legislative process” (14 January 1960). Certainly no president since has disagreed.

The overriding question of presidents’ legislative leadership, therefore, is not a question of resolve; it is a question of strategy: By what means can presidents build winning coalitions for their legislative agenda? Or as Richard Neustadt (1990 [1960], 4) aptly characterized it: “Strategically, the question is not how [the president] masters Congress in a peculiar instance, but what he does to boost his chance for mastery in any instance.” This book aims to answer Neustadt’s enduring question.

The core of my argument holds that most presidential coalition building occurs before roll-call votes near, often without changing pivotal voters’ preferences. In fact, by pushing particular issues onto the congressional calendar and then manipulating which proposals ultimately surface as alternatives, I submit that postwar presidents’ foremost influence comes in the legislative earlygame, not the legislative endgame. Therefore, this book reveals that when promoting presidential initiatives, instead of cobbling together support among “centrist” lawmakers, the White House’s best options for building winning coalitions often come from mobilizing leading allies, deterring leading opponents, and circumventing endgame floor fights altogether.

Developing presidential coalition building as a generalizable class of strategies is itself instructive, a way of bringing clarity to presidential–congressional dynamics that have previously appeared idiosyncratic, if not irrational. However, the study’s biggest payoff comes not from identifying presidents’ legislative *strategies* but rather from discerning their substantive *effects*. In realizing how presidents target congressional processes upstream (how bills get to the floor, if they do) to

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influence downstream policy outcomes (what passes or does not), we see that standard tests of presidential influence have missed most of it. Using original data and new analyses that account for the interrelationship between prevoting and voting stages of the legislative process, I find that presidents' legislative influence is real, often substantial, and, to date, greatly underestimated.

Toward a better understanding of the practice and potential of presidential leadership in U.S. lawmaking, then, what follows is an extended investigation into the factors that shape presidents' policy-making prospects, the strategies presidents can employ to influence them, and the conditions that determine when those efforts will succeed – or not.<sup>1</sup> Along the way, competing claims will be tested against an eclectic array of evidence drawn from archival records, elite interviews, and systematic coding of the last half-century's presidential–congressional interactions regarding important domestic policy issues.

## 1.1 NEVER EASY

Explaining how his perception of Congress changed after he moved farther down Pennsylvania Avenue, from Capitol Hill to the White House, John Kennedy portrayed a view most presidents would recognize:

The fact is that I think the Congress looks more powerful sitting here than it did when I was there in the Congress. . . . When you are in Congress, you are one of a hundred in the Senate or one of 435 in the House . . . but from here I look at Congress and I look at the collective power of the Congress . . . and it is a substantial power. (17 December 1962)

Decades later, after his first meeting with congressional leaders as president-elect, George W. Bush articulated a similar sentiment, albeit more bluntly: “If this were a dictatorship, this would be a heck of a lot easier – just so long as I’m dictator” (Mitchell 2000).

<sup>1</sup> By specifying the nature of presidents' legislative influence, this book complements recent research showing that presidents may affect policy change by executive decree (see Cooper 2002; Howell 2003; Mayer 2001; Moe 1984; Moe and Howell 1999). In particular, this study explains why presidents regularly choose to work through the lawmaking process rather than around it.

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Considering that presidents enjoy nothing like dictatorial powers, each is better understood as but one player in a multifaceted, high-stakes policymaking game (see especially Cameron 2000, chap. 3; Jones 1994; M. Peterson 1990). In this light, let me begin by pointing out some of the important factors that shape presidents' prospects for marshaling proposals through Congress.

### 1.1.1 Constitutional Constraints

One of the first "facts" America's founding fathers cited to support their actions, in declaring independence from Great Britain, was King George III's heavy-handed tactics for enacting new laws: "He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures." Suffice it to say that when, a few years later, many of these same revolutionaries turned to drafting the U.S. Constitution, enhancing the chief executive's lawmaking power was not among their concerns. Article I states their preference bluntly: "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Despite giving Congress ultimate control over lawmaking, the Constitution does still accord presidents a few explicit legislative powers: a strong "negative" power and several weak "positive" ones. The first of these – the negative power, the veto – is well known and rigorously studied. With the bar for overturning a president's veto placed so high (two-thirds of the members in each chamber must vote to enact the bill over the president's objections), the veto power gives presidents a compelling weapon to deploy in congressional negotiations, which research shows they use to good effect. Wielding vetoes and threats thereof, presidents have been able to extract concessions from an oppositional Congress, if not kill its initiatives outright (Cameron 2000; Kiewit and McCubbins 1991).

In stark contrast to its imposing negative power, flimsy are the presidency's constitutional levers for exerting positive power – that is, for moving laws toward the president's preferred position. Although the Constitution authorizes each president to "recommend . . . measures as he shall deem necessary and expedient" and call Congress into session when he sees fit (Article 2, Section 3), it does not require

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that lawmakers afford those measures any special consideration, or any consideration at all. What's more, unlike members of Congress, presidents cannot drop policy proposals in the hopper, make floor speeches, offer amendments, raise points of order, filibuster, invoke "holds," vote, or engage in any number of other activities legislators may perform. Constitutionally speaking, then, presidents are not legislators – in chief or otherwise.

But in denying presidents' potent constitutional options for advancing legislation, it is noteworthy that the nation's founding document does not prohibit presidents from finding alternative paths for exerting influence. And in contrast to many early presidents – the Whigs, in particular – modern presidents have aggressively sought out such extraconstitutional paths to presidential influence.<sup>2</sup> Actually, recent presidents (Franklin Roosevelt and beyond) have pointedly rebuffed subservient views and instead endorsed Teddy Roosevelt's (1985 [1913]) constitutional outlook: a president is permitted to act unless forbidden by "specific restrictions and prohibitions appearing in the Constitution or imposed by Congress under its constitutional power" (389). The practical implication is that although lawmakers ultimately decide the nation's laws, today's presidents routinely, unabashedly lobby congressional members about legislation under their consideration.

Plainly, the presidency was not designed to help its occupants legislate; rather, it was explicitly constructed so they would not. Despite a strong veto and modest proposal powers, Congress ultimately determines the nation's laws. When it comes to promoting and passing their legislative agenda, the Constitution offers presidents little encouragement, less guidance, and no help. Such was the backdrop that when President Bill Clinton turned to the Constitution to emphasize his power after suffering an electoral dubbing in the 1994 midterm election – "The President is relevant. . . . The Constitution gives me

<sup>2</sup> Interestingly, after Teddy Roosevelt challenged the conceptions of a compliant presidency, his successor, William Howard Taft (1975 [1916]), tried to reassert it, arguing, "There is no undefined residuum of power which [the president] can exercise because it seems to him to be in the public interest" (139–140). The White House itself suggests whose view won out. Adjacent to the Oval Office is the Roosevelt Room, named for two activist presidents: Teddy and Franklin Roosevelt. There is no Taft Room.

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relevance" (18 April 1995) – pundits, pols, and political scientists alike interpreted it as underscoring his weakness.

### 1.1.2 Partisan (and Preference) Constraints

Unfortunately for White House officials, the Constitution is not the only obstacle darkening the legislative horizon; partisan realities further curb presidents' prospects for marshaling preferred initiatives to passage. As Richard Neustadt (1990 [1960]) observed fifty years back, "What the Constitution separates the parties do not combine" (33). This is so for at least two reasons. First, American citizens rarely flood their capital with one party's members. Over the last half-century, the partisan splits within Congress have tended to be relatively close, and between the White House and the Congress, divided government has existed far more often than not.

Table 1.1 lists the presidential party's percentage of seats in each chamber, from 1953 to 2004. As it shows, few presidents have enjoyed large partisan majorities in both houses; most have confronted a Congress with at least one chamber controlled by members of the opposing party. Furthermore, even presidents who entered office with especially strong partisan majorities in both the House and the Senate – for example, Presidents Kennedy, Johnson, and Carter – knew that Congress' (liberal) northern and (conservative) southern Democrats were different species, even though they shared the same class.

The second reason parties prove insufficient for providing presidents with a reliable voting bloc is hinted at in the first: the ties that bind presidents and their fellow partisans in Congress are important but far from unbreakable. Sharing a party label and a stake in its public reputation may engender some "team spirit" (see Cox and McCubbins 1993; Smith 2007), but ultimately lawmakers operate according to their individual self-interests (Jacobson 2000; Sinclair 2006; Wattenberg 1991, 1998). As such, legislators can (and do) turn away from their party's president when they believe he has chosen the wrong path. President Carter's tumultuous time in Washington underscores this reality. He wrote, "I learned the hard way that there was no party loyalty or discipline when a complicated or controversial issue was at stake – none. . . . It was every member for himself, and the devil take the hindmost!" (Carter 1995, 84).

TABLE 1.1. *Presidential party’s percentage of seats in Congress, 1953–2004*

President	Congress (years)	Percentage of members in president’s party	
		House	Senate
Eisenhower	83rd (1953–54)	51%	50%
Eisenhower	84th (1955–56)	47%	49%
Eisenhower	85th (1957–58)	46%	49%
Eisenhower	86th (1959–60)	35%	35%
Kennedy	87th (1961–62)	61%	64%
Kennedy/Johnson	88th (1963–64)	59%	67%
Johnson	89th (1965–66)	68%	68%
Johnson	90th (1967–68)	57%	64%
Nixon	91st (1969–70)	44%	42%
Nixon	92nd (1971–72)	41%	45%
Nixon/Ford	93rd (1973–74)	44%	43%
Ford	94th (1975–76)	33%	38%
Carter	95th (1977–78)	67%	62%
Carter	96th (1979–80)	64%	59%
Reagan	97th (1981–82)	44%	53%
Reagan	98th (1983–84)	38%	54%
Reagan	99th (1985–86)	42%	53%
Reagan	100th (1987–88)	41%	45%
Bush (41)	101st (1989–90)	40%	45%
Bush (41)	102nd (1991–92)	38%	44%
Clinton	103rd (1993–94)	59%	57%
Clinton	104th (1995–96)	46%	46%
Clinton	105th (1997–98)	47%	45%
Clinton	106th (1999–2000)	49%	45%
Bush (43)	107th (2001–2)	51%	50%
Bush (43)	108th (2002–4)	52%	51%

Several recent scholars have amplified President Carter’s point of view. Building on the idea that a president’s policymaking prospects turn less on Congress’ partisan breakdown than lawmakers’ preference distribution, Keith Krehbiel (1998) and Henry Brady and Craig Volden (1998) further theorize that presidents’ congressional fortunes depend on specific “pivotal” voters’ ideological outlook.

The crux of the pivotal politics model, depicted graphically in Figure 1.1, is that presidential initiatives require support from 218 representatives and 60 senators, so the president’s legislative fate

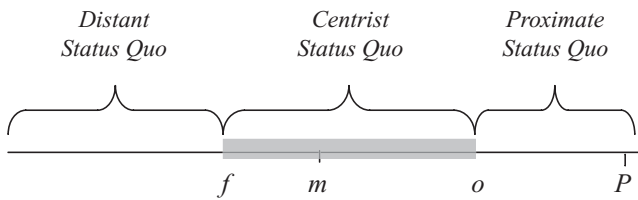


Figure 1.1 The Pivotal Politics Model of Lawmaking.

hangs with the legislators who cast those decisive votes. When facing a chamber whose members are ideologically aligned from liberal to conservative, success for a conservative president (*P*) seeking to replace some “distant” status quo (*sq*) – that is, one on the opposite side of the median (or pivotal) voter – depends on winning over the House’s median voter (*m*) and the Senate’s swing voter to overcome filibusters (*f*).<sup>3</sup>

Table 1.2 locates pivotal voters’ ideological predispositions for the last half-century of president–Congress constellations using Keith Poole and Howard Rosenthal’s (1997) estimates of congressional members’ basic ideological outlook, ranging from  $-1$  (extremely liberal) to  $+1$  (extremely conservative). As it shows, the Senate’s filibuster pivot – who happens to have always been the more disagreeable of the two pivotal voters – is almost always someone from the opposite side of the ideological divide. Of these ten presidents, only Jimmy Carter entered Washington with House and Senate pivotal voters who shared his basic ideological outlook, and barely even then. Every other president has found at least the Senate’s swing voter predisposed toward opposition, with Presidents Ford, Reagan, and (post-1994) Clinton confronting particularly unsympathetic swing voters.

1.1.3 Contextual Constraints

Lacking a strong constitutional anchor, resilient partisan loyalties, or widespread ideological agreement, proactive presidents have instead had to utilize a less durable source of strength: persuasion. As Richard Neustadt (1990 [1960]) explained it, “Presidential ‘powers’ may be

<sup>3</sup> The Senate first introduced the cloture option for cutting off debate (Senate Rule 22) in 1917, which then required a two-thirds majority. In 1975, senators reduced the cloture threshold to a three-fifths supermajority (i.e., sixty votes).



TABLE 1.2. *Congressional pivotal voters’ distance from the president, 1953–2004*

President	Congress (years)	Pivotal voter’s distance from president <sup>a</sup>	
		House (median)	Senate (filibuster pivot)
Eisenhower	83rd (1953–54)	0.88	1.04
Eisenhower	84th (1955–56)	0.95	1.19
Eisenhower	85th (1957–58)	0.95	1.18
Eisenhower	86th (1959–60)	1.07	1.31
Kennedy	87th (1961–62)	1.00	1.16
Kennedy/Johnson	88th (1963–64)	1.00	1.08
Johnson	89th (1965–66)	0.85	1.09
Johnson	90th (1967–68)	1.01	1.08
Nixon	91st (1969–70)	1.00	1.31
Nixon	92nd (1971–72)	1.04	1.27
Nixon/Ford	93rd (1973–74)	1.04	1.34
Ford	94th (1975–76)	1.19	1.35
Carter	95th (1977–78)	0.83	0.93
Carter	96th (1979–80)	0.86	0.95
Reagan	97th (1981–82)	1.05	1.13
Reagan	98th (1983–84)	1.12	1.15
Reagan	99th (1985–86)	1.10	1.16
Reagan	100th (1987–88)	1.11	1.23
Bush (41)	101st (1989–90)	1.12	1.25
Bush (41)	102nd (1991–92)	1.14	1.26
Clinton	103rd (1993–94)	0.85	1.00
Clinton	104th (1995–96)	1.19	1.25
Clinton	105th (1997–98)	1.18	1.29
Clinton	106th (1999–2000)	1.16	1.29
Bush (43)	107th (2001–2)	0.82	1.30
Bush (43)	108th (2002–4)	0.76	1.27

<sup>a</sup> Ideological distance scaled from 0 to 2, based on estimates from all members’ roll-call voting behavior (see Poole and Rosenthal 1997).

inconclusive when a President commands, but always remain relevant as he persuades” (30). This – the recognition that presidential power turns more on effective bargaining than on institutional prerogative – was Neustadt’s seminal insight.

Yet presidential persuasion does not occur in a vacuum, and its effectiveness is anything but categorical. In contrast to constitutional options like the veto, which is always viable, persuasive pitches and

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bargaining appeals work only inasmuch as those on the receiving end are willing to listen and respond thereafter. Again, Richard Neustadt (1990 [1960]) expressed the point artfully: “Persuasion deals in the coin of self-interest with men who have some freedom to reject what they find counterfeit” (40). Subsequent work has built from Neustadt’s base to specify how various macro-level “contexts” help determine when congressional members will deem a president’s micro-level appeals compelling, and when they will reject them as counterfeit.

**1.1.3.1 Historical context.** Among the contexts that presidents inhabit and that condition members’ responsiveness, the most elemental is what Stephen Skowronek (1993) calls the president’s “political time” – a function of his position vis-à-vis the dominant regime (an amalgam of the prevailing governing philosophy coupled with its partisan embodiment) and the public’s view of it. Presidents who challenge the dominant regime as it falls into public disrepute will have ample opportunities to wield influence. “Presidents stand preeminent in American politics when government has been most thoroughly discredited, and when political resistance to the presidency is weakest, presidents tend to remake government wholesale” (37). Presidents whose historical moment led other officials to defer to their leadership include Abraham Lincoln and Franklin Roosevelt.

On the other end of the congressional receptivity spectrum, according to Skowronek (1993), are presidents who either support a “discredited” regime or oppose a “resilient” one. These presidents, including Herbert Hoover and Jimmy Carter, will find occasions for legislative success rare and fleeting, as they are “consumed by a problem that is really prerequisite to leadership, that of establishing any credibility at all” (39). Indeed, presidents operating in such unfavorable “political times” get tagged as being out of touch, or even incompetent, and are largely ignored as a consequence.

At the broadest level, then, presidents’ prospects for exerting influence are shaped by the political-historical moment they happen to occupy (see also Lewis and Strine 1996). Presidents in favorable political-historical circumstances find other Washington officials willing to follow their lead; presidents in unfavorable moments do