Introduction

Two Puzzles

Since the presidency of George Washington, presidents have submit-ted legislative proposals to Congress. These proposals compose the president's *Legislative Policy Agenda.* This book asks why does the leg-islative policy agenda takes the shape that it does. What affects presi-dential decisions to include some proposals on their legislative agen-das but not others? Do these presidential agenda-building decisions have consequences for congressional treatment of the presidential agenda? When building their legislative agendas, do presidents take into consideration the congressional context? Based on past research, the answers to these questions are not clear. Consider, for instance, the two following puzzles, the *divided government puzzle* and the *modern president puzzle.*

PUZZLE 1: THE DIVIDED GOVERNMENT PUZZLE

Research consistently finds presidents are more successful when their party controls Congress than with opposition control. For exam-ple, from 1953 to 2007, presidents received 30.5% more support in the House and 17% more in Senate with their party in control rather than the opposition (Ragsdale, 2009, pp. 500–502). A gen-eral consensus now exists that party control is one of the most, if not *the* most important factor conditioning presidential success in Congress.

Fleisher et al. (2008, pp. 198–199) detail the theoretical ratio-nale for the large impact of party control on presidential success in

Congress. First, members of the president's party are more likely to share policy preferences with the president than opposition party members. Second, party loyalty might motivate presidential co-partisans to support the president more than opposition party legislators. Third, the electoral fate of co-partisans is tied to the president; they run on their record as well as the president's, providing them with an incentive to help and support the president. Finally, the majority party determines Congress's organization and agenda, including committee memberships, workload, which bills reach the floor, and the rules governing floor action on those bills. Congressional leaders can use their control over these organizational and agenda levers to advantage the president's legislative aims and proposals.

The strong effect of party control on presidential success raises a puzzle. Being defeated can be costly to a president. Defeat can harm a president's leadership image and undermine his public support (Brace and Hinckley, 1992; Rivers and Rose, 1985). Defeat on one proposal can spill over to affect the prospects of enactment of other proposals. During the health care debate of 2009 and 2010, journalists and pundits commented on the broad implications of victory versus defeat for President Obama. One journalistic review said this about Congress's finally giving President Obama much of his health care proposal: "Historians and political experts said that Sunday's passage of the Democrats' health care overhaul by the House of Representatives, together with the Senate's expected passage of its final terms in coming days, rescues Obama from being branded a political loser in only the second year of his presidency . . . " (Talev and Thomma, March 21, 2010). Another journalistic analysis pointed to the possible foreign policy implications of the health care victory: "President Barack Obama's domestic success on healthcare reform may pay dividends abroad as the strengthened U.S. leader taps his momentum to take on international issues with allies and adversaries" (Mason, May 26, 2010). Given the costs of defeat, the consequences of winning or losing, why do presidents allow themselves to be defeated *so often* in the face of opposition congresses when they can lessen the likelihood of defeat by modifying or refraining from submitting their legislative proposals?

PUZZLE 2: THE MODERN PRESIDENT PUZZLE

Since the mid-twentieth century, presidents have submitted several times the number of proposals to Congress than their predecessors. Using data collected for this book, from the 79th (1945–1946) Congress to the 107th (2001–2002), presidents submitted on average 313 proposals per congress compared with 60 for presidents serving during the first 78 congresses, a fivefold increase. Viewed from the perspective of the literature on presidential-congressional relations, most of which covers the modern period, this high rate of modern presidential legislative activism is puzzling. That literature emphasizes the difficulties presidents have with Congress. In the terminology of Krutz et al., there is a "presumption of failure" when presidents take positions on legislation (1998, p. 871). Empirical evidence documents the high legislative "failure" rate of the legislative proposals of modern presidents (Cameron and Park, 2008; Edwards and Barrett, 2000; Edwards, Barrett, and Peake, 1997; Peterson, 1990; Rudalevige, 2002).

Why do modern presidents allow themselves to be defeated so often, which imposes previously noted costs, when they have alternative means of making policy? Modern presidents can use unilateral tools like executive orders, thereby sidestepping Congress in making many policies (Mayer, 1999, 2001, 2009; Moe and Howell, 1999). Only rarely does Congress challenge an executive order. Why are modern presidents so *stubbornly legislatively active* in the face of these high expected failure rates and the availability policy-making alternatives?

CONVENTIONAL EXPLANATIONS OF PRESIDENTIAL BEHAVIOR

Conventional explanations of the legislative proposing of presidents take the number and nature of presidential proposals behavior as a given, not something worthy of explanation. With regard to the divided government puzzle, the conventional view argues that presidents do not care whether their proposals will be defeated, what I will call the presidential sincerity perspective (e.g., Peterson, 1990). Thus,

presidents send proposals to Congress that they like, without considering whether Congress accepts or defeats their proposals. For the reasons laid out in Fleisher et al. (2008), as noted earlier, presidents will be defeated more often when confronting an opposition-controlled Congress than one controlled by the president's party.

The conventional view about the high level of modern presidential activism argues that presidents are primarily reacting to public and political expectations to supply legislative leadership (e.g., Greenstein, 1988; Shaw, 1987). Like the sincerity perspective, this reactive perspective implies that presidents care little whether Congress defeats their legislative proposals. Instead, modern presidents submit numerous proposals to Congress only because of public and political expectations that they should.

Both the divided government and modern presidency perspectives suggest that presidents do not care much about success with Congress, a somewhat odd position given that the bulk of the research on presidential-congressional relations studies the conditions that help or hinder presidential success with Congress. Second, both puzzles suggest that presidential agenda-building decisions are divorced from the rest of the legislative process. In effect, there is a presidential agenda-building process and another distinct legislative policy-making process.

CONGRESSIONAL ANTICIPATIONS AND PRESIDENTIAL AGENDA BUILDING

In *The President's Legislative Policy Agenda, 1789–2002*, I offer a theory, *congressional anticipations*, that resolves both of these puzzles. The core tenet of the theory is that presidents take into account the congressional environment when deciding which proposals to submit to Congress: That is, they calculate the likelihood that Congress will enact a proposal. For reasons noted earlier, presidents want to avoid being defeated by Congress. If presidents expect a proposal to be defeated, they have several ways to minimize being defeated. First, a president can decide not to submit a proposal to Congress. Second, presidents can modify their proposals to increase the likelihood that Congress will enact them. Third, presidents can collect resources to improve their

bargaining situation with Congress, using those resources to increase the likelihood that Congress will approve and not defeat their proposals. Presidents engage in these strategic behaviors to minimize being defeated because presidents view congressional defeat of their legislative proposals as costly.

This congressional anticipations theory thus begins with a simple assumption: that presidents do not want Congress to defeat their legislative proposals because of the cost of such defeats. As I show in the pages to follow, this simple assumption helps us to resolve the seemingly disparate divided government and modern president puzzles. This assumption also allows us to integrate the presidential agenda-building process to the later congressional policy-making process: Presidential agenda choices affect the congressional policy-making process. Finally, especially with regard to the modern president puzzle, we can understand the institutional development of one important aspect of the presidency.

I am not the first to argue that the presidential agenda-building and congressional policy-making processes are linked, or that presidential agenda-building decisions have consequences for the latter congressional policy-making process, nor am I the first to argue that presidents take into account the congressional context in constructing their legislative policy agendas (cf. Cameron and Park, 2008; Larocca, 2006; Light, 1991). But compared with the vast literature on presidential-congressional relations, this is a decidedly minority position. Moreover, as I detail in this text, there are important limitations to the existing studies arguing that presidential agenda building is linked to congressional policy making.

To test these ideas, I use a data set that consists of every presidential proposal submitted to Congress from 1789 to 2002, over 14,000 proposals. The proposals from 1789 to 1992 come from the Presidential Request Table, under the direction of Michael Malbin, a part of the larger *Database of Historical Congressional Statistics* project, supported by the National Science Foundation (Swift et al., 2000). Andrew Rudalevige updated the presidential request data through 2002, which he graciously made available to me. As I discuss further in this book, I also matched each proposal from 1789 to 1992 to specific congressional roll calls by using the Rollreq Table of the *Database of Historical*

Congressional Statistics. These data represent the most comprehensive and temporally extensive data sets in existence on presidential legislative proposals to Congress.

The vast historical scope of these data allows us to test the modern presidency puzzle, which requires that we have data on presidential proposals and congressional roll calls spanning the traditional and modern presidency epochs. Not only do these data allow such a comparison but also, by covering almost the entire history of the presidency, we can be quite confident about the generality of the findings unearthed. Unlike so much of the research on the presidency and presidential-congressional relations, this study is not time bound.

In addition to the temporally sweeping data for this study, I classify each presidential proposal by policy area. The policy classification of proposals allows us to test whether the logic of strategic presidential anticipations applies across policy areas or is restricted to only some types of policies. As a side benefit, the policy data allow us to describe the historical trend in the policy emphasis and direction of the president's legislative agenda. We are sorely lacking in basic description of this type of presidential behavior, among other important presidential behaviors. In this sense, this study makes two contributions, one theoretical and the other descriptive and empirical.

To foreshadow some of the key findings presented in *The President's Legislative Policy Agenda, 1789–2002*, I show in these pages:

- The president's legislative agenda is smaller during divided than united government, as presidents strip proposals destined for congressional defeat from their agenda.
- Once the size of the president's agenda is taken into account, divided government no longer has the pronounced direct effects on success in Congress as found in the extant literature. Most of the effect of divided government on success is mediated through the size of the president's agenda.
- Presidents moderate their policy positions during divided as opposed to united government. Such policy moderation improves the odds for presidential success during divided, but not united, government.

- Beginning with the full implementation of the legislative clearance process in 1949, the size of the president's agenda grew remarkably. The legislative clearance process gave modern presidents a newfound institutional resource that increased their prospects for success in Congress. Consequently, the legislative agendas for modern presidents are larger than those of traditional, pre-1949 presidents.
- Modern presidents are more successful with Congress than traditional presidents, and there is a positive relationship between the size of the agenda and success for modern presidents, but there is no relationship between agenda size and success for traditional presidents. Modern presidents have larger agendas than traditional ones partly because they foresee greater success with Congress than their traditional counterparts.

PLAN OF THE BOOK

Chapter 1 lays the foundation for the study. It provides a historical discussion of presidential legislative proposals, showing that the practice of submitting legislative proposals to Congress began early in George Washington's term. Submitting legislative proposals to Congress has been a mainstay activity for presidents ever since. In 1946, under Harry Truman, proposing legislation to Congress became more formalized, creating what we now call the *president's program.* In Chapter 1 I define and distinguish important terms, such as the president's legislative policy agenda, other presidential policy agendas, the presidential program, and presidential position taking on congressional roll calls. Doing so helps to clarify what we are talking about and delimits the scope of this study. Finally, in Chapter 1 I briefly introduce the data used in this study, which consists of all presidential proposals submitted to Congress for legislative consideration, more than 14,000 proposals.

Chapter 2 reviews the literature on building the president's agenda, pointing out three major limitations: The research on presidential agenda building looks at only the modern presidency, that literature also looks at only domestic policy, and rarely does that literature test

hypotheses about agenda building or the consequences of agenda building. *The President's Legislative Policy Agenda, 1789–2002* looks at presidential agenda building across virtually the entire history of the presidency, considers foreign as well as domestic policy proposals, develops hypotheses about factors that affect the construction of the president's agenda and the implication of the composition of the president's agenda on presidential success with Congress, and tests those hypotheses. Chapter 2 also discusses the major approaches to the study of agenda building, process and agenda comparison. Process approaches trace the life history of issues, whereas agenda comparison looks at the similarities and differences across agendas. In this book, I employ the agenda comparison approach.

Chapter 3 offers a theory of presidential agenda building, congressional anticipations. The theory is offered to resolve the two puzzles that motivate this study, the divided government and modern president puzzles. Underlying the theory of congressional anticipations is a simple assumption, namely, that presidents want to avoid congressional defeat of their legislative proposals. They want to avoid defeat because of the costs of defeat. Chapter 3 reviews the two puzzles and why the extant literature does a poor job of accounting for those puzzles. The theory of congressional anticipations is presented, and hypotheses from the theory are derived. Importantly, the theory of congressional anticipations views presidential agenda building and congressional action on presidential proposals as two phases of the same process, not two separate processes, as implied in some research. Finally, the chapter reviews other factors that can affect presidential agenda-building decisions. Incorporating these factors into the analysis provides a more well-rounded understanding of presidential agenda building and also acts as a statistical control in the analysis that follows. If we detect support for the hypotheses from the theory in the face of these controls, our confidence in the theory will be bolstered.

The next four chapters present the empirical tests of the hypotheses of the theory of congressional anticipations. Chapter 4 looks at the trend in the overall number of presidential proposals. The first part of that chapter describes this trend, finding a large surge in the number of presidential proposals in the year immediately after the end of the Second World War, coinciding with the creation of the legislative

clearance process. The second half of the chapter statistically accounts for this trend, in particular testing for the effects of divided government on the size of the agenda. Consistent with the theory proposed here, presidents submit smaller agendas during divided government, except during reelection congresses, when they appear to engage in a "blame game" with Congress. A final section in Chapter 4 looks at the trends in the size of the agenda for the modern period, when public opinion data are available. That analysis indicates that the agenda seems to grow when the public is in a liberal mood.

Chapter 5 disaggregates presidential proposals into policy type, focusing on four major policy domains: government operations, national sovereignty, international affairs, and domestic policy. Disaggregating by policy type allows us to trace presidential attention to different policies over time, to test whether the congressional anticipations theory applies to all types of policies, and to raise the question of the interrelations among policies that appear on the president's agenda. The first part of the chapter describes the trends for the four policy domains. The major point revealed by this description is that most of the surge in presidential proposals in the post-World War Two era is a function of increased presidential attention to domestic policy, and social welfare policy in particular. Analysis in this chapter also found that congressional anticipations affect agenda choice for all policy domains except for national sovereignty. Finally, the analysis revealed that the presidential decision to place proposals from one policy domain had implications for placement of proposals from other policy domains. The president's legislative policy agenda needs to be viewed as a package, not a set of discrete, separate proposals.

Chapter 6 tests the moderation hypothesis, the idea that minority presidents modify their policy proposals to bring them closer to the position of key decision makers in Congress. Instead of the presidential proposal data, I use roll call–based measures to test this hypothesis, because we cannot locate a presidential proposal in a policy space. Results of the analysis in Chapter 6 find support for the divided government-moderation hypothesis and also show that party polarization conditions the degree to which minority presidents will moderate. When polarization between the parties is wide, presidents moderate less than when the parties are not so highly polarized.

Chapters 4 to 6 tested various aspects of the theory of congressional anticipations as related to presidential agenda building. Support was found for all of the major hypotheses developed from that theory, but the theory has implications for presidential success with Congress, the topic of Chapter 7. Chapter 7 presents tests of several hypotheses derived from the theory of congressional anticipations. The first is that with controls for the size of the agenda, the large effect of divided government so often found in the literature will fall. Second, there is a positive direct impact of size of the president's agenda on success in Congress. The next relates to the modern presidency puzzle, hypothesizing that the resources of the modern presidency should be associated with increases in success. Finally, Chapter 7 tests the strategic moderation hypothesis, that policy moderate presidents are more successful with Congress than extreme presidents, but only during divided government. Using data at various levels of aggregation, the chapter presents support for all of these hypotheses, making the larger point that congressional factors that influence presidential agenda building in turn affect presidential success with Congress. The presidential agenda building and congressional policy-making processes are not two distinct, divorced processes but form one process. Finally, Chapter 8 concludes the book, putting the findings into perspective, raising several unresolved questions, and posing directions for future research.

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