

Decision Making in the U.S. Senate

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ABSTRACT

Political parties, roll call votes, and agenda formation are some of the prominent areas of research focusing on the U.S. Congress. Much previous work, however, focuses on the U.S. House. Scholarship is only beginning to turn its attention to the U.S. Senate. The three essays contained within demonstrate the important role that institutions and individuals play in determining the floor's agenda in the U.S. Senate.

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SAT
May 28, 2009
Chapel Hill, North Carolina

Dedication

For Jason. I look forward to the next chapter.

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Chapter 1

Introduction

The effect of institutional design and party discipline on legislative behavior, including roll call voting, are two of the most heavily studied aspects of the U.S. Congress. A large body of scholarship examines the extent to which rules and behavior affect policy outcomes and the role parties play in constraining the legislative behavior of their members. This literature, however, primarily focuses on the U.S. House. According to Smith (2007), for models of legislative decision-making to be complete, the Senate must be taken into account. There is little scholarship regarding the effect of institutional structure and party discipline on legislative decision-making in the U.S. Senate. For many scholars, the Senate is studied as if it were an extension of the U.S. House. Yet it is clear to observers that the Senate and House function in quite different ways.

Although it is clear that parties influence individuals and policy outcomes in the Senate, the primary role given the minority party in the Senate makes studying party

effects more difficult than in the House. Thus, studies of legislative behavior in the Senate, must take into account the minority party or, at the very least, individual senators. The minority party and individual senators wield vast power in the Senate for several reasons. First, the presiding officer of the Senate lacks institutional power. The presiding officer in the Senate is not given authority to exercise discretion in recognizing senators to speak, as the Speaker is in the House. The Senate's rules state that the senator who first seeks recognition must be called on, unless one of the floor leaders wishes to speak. The lack of a strong leader on the chamber's floor suggests other actors may play a unique and powerful role in setting the agenda in the Senate at different stages in the legislative process.

Second, the majority party in the Senate is unable to impose rules changes the way the majority party in the House can. If the majority attempts a rule change that is disadvantageous to the minority party, the change is typically met with a filibuster Binder (1997). Due to the filibuster, the Senate floor is not a place controlled by the majority party, but rather one where individuals control the agenda. This suggests the need to look for party control in places other than the floor.

Also unlike the House, the Senate lacks a general germaneness rule. In the House, the germaneness rules prevents unrelated legislation from being considered as an amendment to a bill. The absence of a germaneness rule in the Senate, allows an individual senator to attach whatever she wants to a bill. In fact, a senator could attach an entire unrelated

bill as an amendment to a bill already under consideration. The lack of a germaneness requirements means that party leaders find it difficult to keep a bill off the floor.

While the aforementioned reasons prevent the Senate from functioning like the House, the Senate still passes legislation, organizes itself around parties, and maintains party leaders. Recognizing this, scholars are beginning to unpack the Senate, and find new and better ways to understand who controls the floor's agenda, how the parties control their members, and how individuals craft their legislative agendas without strong parties. As Smith (2007, 214) notes,

The conceptual issues are beginning to be addressed, but it will be some time before the Senate is well understood. The complications of the Senate are many. [Conditional party government] accounts of the House emphasize changes in the chamber rules that a majority party can impose; similar rules changes do not occur in the Senate. Cartel theory predicts low majority party roll rates on the basis of House majority party discipline on parliamentary matters; majority party discipline on parliamentary matters does not give the Senate majority control over the floor agenda. Pivotal politics theory predicts that supermajority thresholds create special pivots who determine policy outcomes; plainly, the supermajority thresholds are not always relevant in everyday Senate floor action. No persuasive treatment of the Senate exists in this recent literature.

My dissertation continues to move the discipline forward by demonstrating that the institutional design of the Senate affects decision-making in critical ways. The three essays in this dissertation all focus on how the institutional arrangements in the Senate affect political parties and outcomes. Each essay investigates the important role that institutional features play in the decision-making process of individual senators and how

these individual decisions affect the institution's ability to construct public policy and fulfill its constitutionally mandated functions.

More specifically, I investigate the effect of progressive ambition on a senator's decision to vote with his party in Chapter 2. Chapter 3 examines the extent to which individual senators refer to the legislative agendas of House members from their state to aid them in crafting their own legislative agendas. Chapter 4 analyzes the power of the Judiciary Committee in the confirmation of the president's nominees for the U.S. Circuit Courts of Appeal. Each of these chapters explores how decisions are made in the U.S. Senate and the institutional constraints under which those decisions are made.

1.1 Outline of the Dissertation

In Chapter 2, I analyze the voting decisions of individual senators. More specifically, I examine the extent to which senators may or may not feel constrained by the party when determining their positions. Individual senators have the ability to craft their own legislative agendas and vote how they see fit. However, more often than not, these choices are constrained by one of the two major parties or electoral concerns. Chapter 2 investigates what factors influence a senator's decision to vote with his party.

In the United States, the ultimate political ambition manifests itself as a desire

to be president. This ambition reveals itself most clearly in the U.S. Senate, where senators often view their time spent in the upper chamber as a way to achieve their political ambitions for the presidency. As such, the Senate, where many individuals view themselves as presidential timber, is an ideal place to test the effect of political ambition on party loyalty.

Chapter 2 examines the role progressive ambition plays in the U.S. Senate. I analyze the effect ambition has on party loyalty in the upper chamber. The theoretical argument is that senators with ambition for higher office are more loyal to the party than their colleagues who never make a bid for higher office due to their need to appeal to the party base to secure the party's nomination. I posit the following hypothesis to test this theory: a senator who seeks higher office will be more likely to vote with the party on party votes than those senators who never run for the presidency. My findings indicate that ambitious senators are more loyal to the party than their colleagues who never make a bid for higher office. That is, senators who run for higher office recognize the importance of the party when it comes to successfully navigating the primary season. I hypothesize that senators with progressive ambition are more likely to vote with their party than their colleagues who never make a bid for the presidency. The theoretical argument is that senators with ambition for higher office are more loyal to the party due to their need to appeal to the party base in order to secure the party's nomination. My results indicate that ambitious senators are more loyal, as they recognize the importance

of the party when it comes to successfully navigating the primary season.

In Chapter 3, I develop and test a theory of how senators stay abreast of home state issues and thereby responsive to their constituents. First, I argue that senators are unable to stay aware of all issues throughout their state due to the state's geographic size and/or population. Senators' constituencies also tend to be much more heterogeneous than those of representatives. Second, senators are only up for reelection every six years, which makes trips back home and staying attune to issues less of an electoral concern. I posit that one way for senators to maintain a connection to the issues back home is to take up the legislative agendas of House members from their respective states. By using representatives as district informants, senators can respond to their constituents without paying high transaction costs.

The general premise is that senators can be responsive to constituents and gain electorally by constructing a legislative agenda consisting of the "right" issues. One way to do this is to observe the legislative agendas of the representatives from their state and then take up those issues. I call this process agenda crossover. By explicitly stating a process by which senators' legislative agendas are born out of the legislative agendas of the representatives from their state, this study clearly links the two chambers together and offers a new way by which to measure legislative responsiveness in the Senate. The study of crossover allows us to gain a better understanding of how senators are able to stay in touch with large and varied constituencies, and increase their chance

of electoral success. My findings suggest that as a senator approaches reelection he or she becomes increasingly more likely to take up issues present on a representative's agenda. Additionally, senators from large states are more likely to engage in crossover.

In Chapter 4, I analyze the confirmation process for nominees to the U.S. Circuit Courts of Appeal, leveraging the fact that there is great variation in the time it takes presidential appointee to the lower federal bench to be confirmed by the Senate. Past research theorizes that the delay is the result of separation of powers battles between the president and the Senate. However, the scholarship in this area does not always support this theory.

I suggest that this is because rather than analyzing inter-branch battles, scholars should examine the intra-Senate battles. Here I explore the effect of the Judiciary Committee on judicial confirmations, focusing on the role of the committee's median member and the chair. I find that when the Committee is put into models of judicial confirmation and the president is taken out, the model more accurately predicts delay in confirmations. This suggests a primary role for the Judiciary Committee in the confirmation process and may be an indication of the power of committees in the Senate more generally, especially when it comes to confirmations, treaties, and legislation that originates in the U.S. House.

Political parties, roll call votes, and agenda formation are some of the prominent areas of research focusing on the U.S. Congress. Much previous work, however, focuses

on the U.S. House. Scholarship is only beginning to turn its attention to the U.S. Senate. The three essays contained within demonstrate the important role that institutions and individuals plays in determining the floor's agenda in the U.S. Senate.

Chapter 2

Ambition and Party Loyalty in the U.S. Senate

Introduction

In the United States, the ultimate political ambition manifests itself as a desire to be president. This ambition reveals itself most clearly in the U.S. Senate, where senators often view their time spent in the upper chamber as a way to achieve their political ambitions for the presidency (Polsby, 1989; Hess, 1986). Polsby (1989) states, “Today the Senate is the main institutional source of presidential hopefuls, and for a large fraction of senators such hopes play a significant part in guiding their behavior in the Senate” (789). As such, the Senate, where many individuals view themselves as presidential timber, is an ideal place to test the effect of political ambition on party loyalty. In presidential elections from 1988 to 2004, a total of ten former or current senators appeared on the general election ballot as either a candidate for president or vice president. If

these dates are extended back to 1972, sixteen former or current senators appeared on a presidential ballot, making the Senate the most highly represented elected office to appear on a presidential ticket. More recently, both of the major party candidates for the 2008 presidential election were sitting senators. Running for president while serving in the Senate presents a unique challenge for candidates. They must simultaneously appeal to the national party in order to raise funds and win votes in primary elections and present a message that appeals to moderate voters throughout the country to be “electable”—all while trying to keep the constituents in their home state happy. While this is no doubt a difficult challenge for senators seeking the presidency, for my purposes this challenge is ideal, as it allows me to use the Senate to study the effects of ambition for the presidency on party loyalty in the Senate.

No candidate demonstrates the difficulty of running for president from the Senate more than Senator John McCain (R-AZ). A large part of McCain’s appeal as a general election candidate comes from his reputation as a “maverick” in the Senate who is willing to stand up to the leaders of his party to vote and advocate for policies that are not consistent with the Republican party’s agenda in the Senate. However, he has paid a steep price for this reputation, as the resistance of some conservative activists to his 2008 presidential candidacy illustrates. Although McCain managed to secure the Republican party nomination, there continues to be a hailstorm of resistance to him

from some conservatives within the party. Rush Limbaugh, whose conservative radio show reaches more than 13.5 million listeners a week, continues to berate McCain for betraying conservative principles by voting against tax cuts, by supporting campaign finance reform, and for not being tough enough on illegal immigration. Ann Coulter has also spoken out against McCain, going so far as to say she would rather vote for Hillary Clinton (D-NY) than McCain. According to NEWSWEEK, when Coulter was asked if there was anything McCain could do to convince her to change her mind she responded that “McCain could invent a time machine and take back all of his liberal-leaning votes in Congress.”¹ Though conservative talk show hosts and listeners are unlikely to vote for the Democratic candidate because they are unhappy with their party’s candidate, Limbaugh frequently notes that ever since McCain emerged as the likely nominee, callers insist they plan to stay home on Election Day in November.² Although pundits often speculate that the Republicans will eventually come around on McCain once the primary season is over, there is little doubt that not being a loyal member of the party has alienated him from an influential portion of the Republican base.

In the other major party, Barack Obama (D-IL) secured the Democratic nomination, but only after a tough primary contest and the wooing of party superdelegates.

¹ “So Much for a Warm Welcome,” *Newsweek* February 18, 2008, 27.

² “Warring on McCain, Limbaugh Sees No Reconciliation,” *The New York Times* February 15, 2008, A19.

With neither Obama nor Hillary Clinton (D-NY) able to attain the 2,118 delegates needed from primaries and caucuses, the focus of the primary moved to the party's insiders—the superdelegates—governors, senators, and other party leaders. Throughout the Democratic primary, many voters, pundits, and even some superdelegates themselves lamented that the Democratic nomination could come down to superdelegates, the party insiders who represent the party organization in the nominating process.

The Hunt Commission set up superdelegates in 1982 and according to Mann and Ornstein (2008),³

The Hunt Commission proposed superdelegates to improve the party's mainstream appeal by moderating the new dominance of activists and by increasing the contributions of elected and party officials to the Democratic platform and their impact on the selection of a nominee; to provide an element of peer review, weighing the requirements of the office, the strengths and weaknesses of the candidates and the chances that they'll win; and to create stronger ties between the party and its elected officials to promote a unified campaign and teamwork in government.

The 2008 presidential battles in both the Democratic and Republican parties indicate that the relationship between a senator's constituents' preferences and the senator's desire for higher office is a complex interaction for candidates. Similarly, the conflicting values of "winning in November" versus maintaining ideological purity in nominating are difficult to bridge for party insiders.

³ "Delegates of Steel," *The New York Times* February 15, 2008, A23.

In what follows, I test Herrick and Moore's (1993) assertion that political ambition may alter roll-call behavior. I expect that the link between ambition and party loyalty will be positive, as progressively ambitious senators must first win the support of their party before seeking to win the support of a larger constituency (Fenno, 1978). By focusing on one potential motivation for party loyalty, namely ambition for higher office, the findings I present have important implications for models of party unity in the Senate.

Parties in Congress

Recently, the most compelling debate in the congressional literature has been over the effect of legislative parties on the behavior of party members (Rohde, 1991; Cox and McCubbins, 1993, 2005; Krehbiel, 1993, 1998). Without parties, legislators face a chaotic and unpredictable agenda, and thus, legislators form parties to join themselves together into reliable coalitions (Schwartz, 1977; Aldrich, 1995; Smith and Gamm, 2001). An alternate theory of party formation is that parties are created primarily to reap electoral gains. In this case, parties provide politicians with a brand name in order to ensure that the typical problems associated with providing a public good are overcome, and that legislative actions can foster valuable reputations (Cox and McCubbins 1993; Kiewiet and McCubbins 1991; Cox 1987; Evans and Oleszek 2002; Strøm 1990). Once parties are

formed, one of the best-known models to explain how parties discipline their members is the conditional party government model (Aldrich, 1995; Rohde, 1991; Aldrich and Rohde, 2001). This model posits that more power is delegated to party leaders when the differences between the parties are great and preferences are homogenous within the party.

While the conditional party government model contributes to our understanding of responsible party government, another theory is based on the majority party's ability to control the legislative agenda. The work of Cox and McCubbins (1993, 2005) views parties as procedural cartels, which monopolize the agenda by creating and filling agenda-setting offices, filling the agenda with bills that will not split the party, and getting rank and file congressmen to support the agenda (Cox and McCubbins, 2005). This model posits a strong and cohesive party—a party that votes as a block.

Although these models clearly articulate how this process works in the House, they do not appear to fit as well in the Senate (but see Campbell, Cox, and McCubbins 2002; Brady 2002). There is some evidence to suggest that party effects are present in the Senate, but they are very different and more varied than party effects observed in the House (Lawrence et al., 2006; Monroe et al., 2008). The primary reason for the lack of scholarly research on the Senate is that some of the technical models and theories used

to examine House procedure and behavior have not travelled well to the upper chamber. In contrast to the House, the Senate has a weak presiding officer and the Senate's rules provide less structure on floor proceedings. Each senator—including the leader of each party—is a formal equal, so majority party status is often less significant than in the lower chamber. Further, the six year term in office insulates senators from the constant electoral pressure faced by their House counterparts. In addition, the supermajority cloture requirement and the lack of a general germaneness rule hampers the ability of Senate majorities to control the agenda.

While the party effects in the U.S. House literature is extensive, there has been less attention given to the role of parties in the Senate. Smith (2007) argues that neither conditional party government, cartel theory, nor pivotal politics theories can adequately account for party in the upper chamber. According to Smith, conditional party government emphasizes rules changes that never occurred in the Senate; cartel theory predicts low majority party roll rates on parliamentary procedure, but the majority party in the Senate does not control the floor agenda; and pivotal politics theory predicts supermajority thresholds that are not relevant in everyday floor action in the Senate. Although institutional constraints have made it difficult for models of the House to work for the Senate, a complete model of congressional procedure or behavior requires taking the upper chamber into account.

I argue that in order to explain party in the Senate (or lack thereof), scholars need to look at the role ambition for higher office (i.e. the presidency) plays in the upper chamber and its effect on party unity. By analyzing the role ambition plays in the Senate and, more importantly, how it affects party unity, we can gain a clearer picture of what determines the success of parties in the Senate. That is, we can begin to develop a picture of when party in the Senate resembles party in the House and when it might look and function quite differently than the lower chamber.

Analyzing parties from the level of the individual is especially salient in the Senate, as many individual party members aspire to hold higher office and individual senators have more power. As noted above, a senator who is considering a run for the presidency needs to convince the party organization that he or she is a loyal partisan, and what better way to do so than by voting as a loyal partisan on the floor? This theoretical argument is supported by Jacobson (2004) who notes that increasingly members of Congress are finding it beneficial to be loyal to their parties due to the expanded role of national party committees, leadership PACs, and other allied PACs in the recruiting, training, and financing of candidates. Considering this, it naturally follows that a senator's ambition for higher office may influence his party loyalty on floor votes. That is, those senators who see themselves as one day needing national party support for

a presidential campaign may be more susceptible to party leaders who distribute the party's funds (Jacobson, 2004).⁴

Political Ambition

Research on the causes of political ambition has been conducted since the 1960s when Joseph Schlesinger wrote about three different types of ambition in his classic 1966 study *Ambition and Politics: Political Careers in the United States*. For Schlesinger, a political actor who seeks higher office is labelled as having “progressive ambition.”⁵

The basic assumption in ambition theory is that politicians are rational actors who make political decisions consonant with their political ambitions in order to maximize the probability of realizing their ambitions. Expanding on Schlesinger's model of the causes of ambition, Rohde (1979) developed a model to predict when a member of the House would run for higher office (i.e. when a member should act on ambition).

This model is an improvement over Schlesinger's model because Rohde uses a sample of all members—not just those who sought higher office. Brace (1984) confirms and

⁴ It should be noted that the literature on national party resources and party unity in Congress is quite limited. Thus far, all of the literature in this area focuses on the House and these results remain inconclusive. However, Hershey and Beck (2003) successfully identify a number of campaign-related services and resources national party organizations provide candidates, suggesting connecting party unity to ambition for higher office is an area worthy of further research.

⁵ Schlesinger also examines what he labels discrete and static ambition. Both of these types of ambition suggest a satisfaction with the status quo and therefore are not examined here. Herrick and Moore (1993) added a fourth type of ambition to Schlesinger's work: institutional ambition. This type of ambition has to do with the Congressman's desire to hold leadership positions within the chamber. However, since I analyze ambition in the Senate and each senator, even those holding “leadership positions” is a formal equal, I will not address this type of ambition here.

further Rohde's study by showing that there are important factors, including electoral vulnerability and risk acceptance, that help determine whether a member will run for higher office. Extending this rational choice model to the Senate, it is likely that senators are more prone to make a bid for the presidency when the costs of running are low, when the candidate has no potential liabilities, and when the candidate is risk acceptant.

Research on the factors contributing to (i.e. the causes of) political ambition is prolific (Schlesinger, 1966; Brace, 1984; Abramson et al., 1987; Rohde, 1979). However, few works have analyzed the *consequences* of political ambition. In one such study of progressive ambition, Hibbing (1986) shows that ambitious House members alter their roll call voting behavior in the two years leading up to their bid for higher office and that these same Congressmen in the House participate less on floor votes. Herrick and Moore (1993) also hypothesize that ambition will affect roll-call behavior, though they do not speculate as to the direction of the relationship. They find progressive ambition increases floor activity, the number of bills introduced, and legislative specialization for members of the House. Victor (2005) extends the work of Hibbing and Herrick and Moore and examines the effect of ambition on other types of legislative behavior (constituency service, committee service, floor speeches, etc.) in the U.S. House. By accounting for other types of legislative behavior, she finds, similarly to Herrick and Moore, that higher office seekers engage in *more* legislative activity than the non-ambitious.

Although the work of Hibbing, Herrick and Moore, and Victor sheds light on the consequences of political ambition, they only look at the House and none of the authors examine the relationship between progressive ambition and party loyalty. In order to analyze this relationship, I develop a more complete model of the consequences of ambition—a model that captures more than just a congressman’s success at attaining higher office. After all, if ambition is a personality construct, as Schlesinger suggests, it should not matter whether or not the ambitious office-seeker is electorally rewarded in his bid for higher office. Thus, I expand past work on ambition, looking not just at the way ambition affects the legislative behavior of individual congressmen, but at how ambition may affect the entire party within the chamber. After all, if progressive ambition affects roll call votes as past literature suggests, it is reasonable to expect ambitious senators may affect the party.

Although prior research on the consequences of ambition is somewhat mixed, the theoretical argument that ambitious senators affect party in the Senate is compelling. First, studies tell us that ambition is a personality construct and is, therefore, seen in an individual’s behavior (Herrick and Moore, 1993; Hibbing, 1991). Thus, senators with ambition for the presidency may behave differently than those without such ambitions. Senators seeking the presidency should want to expand their audience beyond

their own constituents to potential presidential primary and general election voters. Senators content with their present position should simply want to please their current constituency.⁶ As Schlesinger notes, "...the central assumption of ambition theory is that a politician's behavior is a response to his office goals" (1966, 6). This suggests that an ambitious senator must engage in behavior that will make him a national party figure and win him national backing, and not just a single-state constituency. Senators who seek the presidency will continue to engage in Mayhew's (1974) position taking, credit claiming, and advertising, but they must partake in these activities in such a way that simultaneously allows them to reach out to the party's base across the country.

Second, there is some evidence that party affects roll rates in both the House and Senate, despite the agenda control process working differently in the two chambers (Lawrence et al., 2006; Cox and McCubbins, 2005; Cox and Poole, 2002). That is, party affects the majority party's ability to win on legislation. Knowing this, it seems plausible that a senator who sees himself as a future president may positively affect the party's ability to control the agenda and legislate effectively. This is because an ambitious senator recognizes the importance of winning the party's constituency in order to win the party's nomination. Jenkins et al. (2005) find that "higher-office seekers" in the House are more tied to the party than their retiring colleagues who are free to vote

⁶ Cox and McCubbins (1993, 2005) work on party brand name is also an important factor to consider when thinking about how an ambitious or less-ambitious senator may behave in relation to the party.

their personal preferences. As they (2005: 370) note,

[H]igher office seekers, while exiting the House, have another elective office in their sights, and campaign for that office under their traditional party banner. As a result, they endeavor to maintain good relations with the *national* party hierarchy for a variety of campaign-related reasons and strive to send signals that they are loyal party members. (Emphasis added.)

Extending the work of Jenkins et al. (2005) to the Senate, it seems plausible that senators seeking the presidency are more likely to feel constrained by the party and to vote with the party because they recognize the need for the party's support. That is, for ambitious senators, the party's support and primary voters may be what determine party voting in the upper chamber.

Hypothesis

The theoretical argument that ambitious senators are apt to appeal to the party in order to secure its support suggests that these senators will be more loyal to the party on floor votes. That is, an ambitious senator recognizes the need to appeal to the party with the hopes of winning the party's presidential nomination and securing the party's support.⁷ After all, in the age of the primary, it is necessary for a senator to convince the party that he is the best candidate in order to have the opportunity to convince

⁷ Although one could argue that endogeneity is a problem in this analysis, I suggest that because Schlesinger's theory (1964) argues that ambition is a personality construct and not something created overtime, ambition is nascent. For this reason, it seems unlikely that party loyalty leads to ambition. After all, it is unlikely that a senator needs to be convinced to run for the presidency or that the senator comes into office without any plans for the future.

the general electorate. Keeping this in mind, my theory suggests that ambition affects party loyalty in a positive direction. Thus, I test one primary hypothesis:

Party Loyalty Hypothesis: A senator who runs for the presidency will vote differently than her colleagues who do not make a bid for the presidency, holding all else equal. Since the senator needs to win her party's primary and the party's support in order to gain higher office, the directional expectation is that those senators who seek higher office will be more likely to vote with the party on party votes than their colleagues who never run for the presidency.

Data and Analysis

To test this hypothesis, I analyze U.S. senators from 1963-2004 in order to capture an entire senator's career and not just the time immediately before a presidential campaign. This is crucial for ambition theory because, as Schlesinger notes, ambition may only become evident when examining an entire career. The data set begins with the 88th Congress so that it includes only those ambitious senators who ran for president under the McGovern-Fraser Commission.⁸ I select my cases by using the freshman class of senators from the 88th-108th Congresses. Each of the senators in the analysis

⁸ There are two senators in the data set who ran for the presidency before the McGovern-Fraser Commission. These two senators are Daniel B. Brewster (D-MD) and Robert F. Kennedy (D-MA). Dropping these two senators from the data set does not change the results, so I chose to include them.

was elected to the Senate between 1962 and 2004.⁹ Although it can be argued that all senators enter their careers with aspirations for the presidency, in reality, this data set of freshman senators will provide an array of levels of ambition.

During this time period there were 267 freshman senators who did not have prior Senate service. Table 2.1 shows the number of senators examined in each of the Congresses using the selection method discussed above.

[Table 2.1 about here]

Of the 267 senators examined, 32 make a bid for the presidency, with nine making it onto a presidential ticket (either as a presidential or vice presidential candidate), and 23 running in a presidential primary.¹⁰

The unit of analysis is each senator in each Congress. The dependent variable is the senator's PARTY UNITY score obtained from *Congressional Quarterly* corrected for abstentions. According to *Congressional Quarterly*, a party unity vote is defined as one where at least 50 percent of Democrats vote against at least 50 percent of Republicans. The expectation is that loyalty to the party on party votes will depend on whether or not the senator is "progressively ambitious." The primary independent variable of interest

⁹ Senators who had previously served in the Senate were excluded.

¹⁰ If a senator made a bid for higher office more than once, I coded his first attempt at running for the presidency.

is *political ambition*. This variable is coded 1 if the senator ran for the presidency and 0 otherwise. Also included in one or more of the models are control variables for presidential vote in each state, divided government, whether or not the senator is a member of the majority party, and whether or not the senator is a party leader. The variable *divided government* controls for the argument that when the Senate is controlled by the opposite party of the president, gridlock may occur more frequently. The variable *majority party* controls for the argument that if a senator is a member of the majority party, he may be more likely to vote with the party. The variable *party leader* controls for the argument that party leaders are more likely to vote with the party.¹¹

To test my expectations about the effect of ambition on party loyalty, I estimate a fixed effects within regression model.¹² The fixed effects model allows for the imposing of time independent effects for each individual. In this case, fixed effects allow for the estimation of the average change in party loyalty from Congress to Congress. Because I have multiple observations for each senator, I calculate robust standard errors, clustering on each senator to control for correlated errors across multiple observations. The estimated coefficient and its corresponding robust standard error are reported in Tables

¹¹ I also fit each of the models to include a variable *state presidential vote*. This variable is coded as the percent of the state's electorate that voted for the presidential candidate of the senator's party in the last presidential election. This variable controls for the argument some senators may have an easier time voting with their party if their state leans strongly toward the senator's party.

¹² This is equivalent to generating dummy variables for each of my cases and including them in a standard linear regression to control for the fixed "case effects."

2.2 and 2.3.

Results

According to the model, running for higher office at any point in time while in the Senate leads to an 11.726 ($p=0.001$) unit increase in a senator's party unity score as compared to senators who never make a bid for higher office.¹³ This suggests that those senators who run for the presidency are more likely to vote with the party on party votes. From a theoretical perspective this makes sense, as ambitious senators recognize the potential need for party support and do not want to risk alienating the party or partisan primary voters.

Also from the model, we can see that divided government significantly decreases party loyalty. This indicates that under divided government senators may be more likely to compromise in order to pass legislation. Furthermore, and as expected, being a member of the majority party increases a senator's party unity score. Being a party leader also increases a senator's party unity score, though this result is not statistically significant.

¹³ Party unity is measured on a 0 – 100 scale. The party unity mean for senators in the data set is 81.67 with a standard deviation of 16.18. The variable ranges from 6.50 to 100.

[Table 2.2 about here]

Table 2.3 presents the results for the model that takes into account whether or not the senator is the party's presidential nominee. The theoretical justification for this model is that some senators might run for higher office for a reason other than an actual desire to become president (e.g. they wish to draw attention to a particular issue). Thus, this model provides a way to sort out the "serious" from the less-serious. This model includes a variable that indicates whether the senator won the party's nomination. The results indicate, similar to the results from Table 2.2, that running in a presidential primary increases a senator's party unity score by 11.726 units ($p=0.001$), as compared to the senator's colleagues who did not enter a presidential primary. Additionally, gaining the party's nomination corresponds to an 8.318 ($p=0.006$) increase in the senator's party unity score. This indicates that senators who are loyal to the party are more likely to last through the primary season and gain the approval of the party and the party's electorate. These results suggest that senators who are the most successful in their campaign for the party's nomination are also more loyal to the party on party votes than their colleagues who do not seek higher office. These findings reinforce Fenno's assertion that senators must first win the support of their party before seeking to win the support of a larger constituency.

[Table 2.3 about here]

I also fit models to account for the presidential vote in each state.¹⁴ The theoretical argument is that depending on the partisanship of the senator's state he may be more (or less) likely to need to alter his party loyalty solely due to ambition for higher office. That is, if a senator comes from a fairly moderate state, it may be inaccurate to expect a change in his party loyalty due to ambition. However, the inclusion of this variable has no discernible effect. When presidential vote is included in the first model a Chow test with one degree of freedom reveals a χ^2 of 0.26, which is not enough to reject the null hypothesis that the variable *Ran for Higher Office* is equal in the two equations (p=0.610). This indicates senators from states that tend to share their party preferences are not necessarily more likely to run for higher office than their colleagues from less compatible states.¹⁵ The results for these models can be seen in Tables 2.2 and 2.3, alongside the initial models.

¹⁴ For these models, Harry Flood Byrd, Jr. and James Jeffords were both coded as Democrats and James Lane Buckley was coded as a Republican. Byrd left the Democratic Party in 1970 and became an Independent, although he continued to caucus with the Democrats. Jeffords became an Independent in 2001 and chose to caucus with the Democrats. Before 2001 he was a Republican, but his voting record was always moderate to liberal, which is typical of New England Republicans. Buckley was elected to the Senate as a member of the Conservative Party of New York in 1970. After moving to Connecticut, he received the Republican nomination for the Senate in 1980, but lost to current senator Democrat Christopher Dodd. Omitting these three senators from the analysis does not change the results and therefore I decided to keep them in.

¹⁵ In the second model, which includes a variable indicating whether the senator won the party's nomination, a Chow test suggests that the variables may be equal in the two equations. In the second model a Chow test with one degree of freedom gives a χ^2 of 18.28 (p=0.001) for the variable *Party's Nominee*. This value is not large enough to reject the null hypothesis that the variables are equal in the two equations.

Discussion

The results indicate that senators who run for higher office are more loyal to the party on party votes than their colleagues who do not make a bid for the presidency. Additionally, those senators who win the party's nomination have higher party unity scores than those senators who never advance beyond the party's primary. These findings suggest that progressively ambitious senators who are also the most successful in their bid for higher office have higher party unity scores than their similar colleagues who never make a bid for the presidency. This could be due to the fact that senators who hope to one day find themselves in the White House recognize the importance of the party in helping them reach that goal. That is, senators who come into the Senate with progressive ambition understand the importance of the party's support when it comes to successfully navigating the primary season. These findings confirm the Party Loyalty Hypothesis, which posits that since a senator needs to win her party's primary in order to gain higher office, a progressively ambitious senator will be more likely to vote with the party on party votes in order to gain the support of the party.

By taking progressive ambition into account in the Senate, this chapter shows that for ambitious senators, the need for the party's future support may have a rather substantial influence on party voting in the upper chamber. Future research on the work of

party loyalty in the Senate needs to address the effect ambition has on party cohesion. My results suggest that having numerous ambitious senators in any given Congress may increase the overall party unity in the caucus. This suggests that progressive ambition is a potential tool the party can use to control its members. If the party can tempt progressively ambitious senators with party support, the party may be able to glean greater loyalty in the upper chamber. This could have implications for any model of party effects in the Senate. Additionally, future work could apply these insights to the House.

This chapter argues that by adding progressive ambition as a tool the parties in the Senate can use to achieve the votes it needs, we may gain a better understanding of party in the upper chamber. Ambitious senators, especially those who turn out to be the most successful, are more loyal to the party on party votes than their colleagues who never make a bid for higher office. Recognizing the importance of the party in winning the presidential primary, progressively ambitious senators have higher party unity scores than senators who do not run for the presidency. This research also has electoral implications, as it suggests that senators are aware that the party organization rewards party loyalty.

Table 2.1: Cases by Congress

Congress	Number of Senators Examined	Number of Higher-Office Seekers Examined
88th	10	3
89th	18	6
90th	24	8
91st	38	9
92nd	47	10
93rd	57	10
94th	61	12
95th	75	13
96th	81	15
97th	87	14
98th	89	14
99th	92	17
100th	93	17
101st	95	18
102nd	97	18
103rd	97	16
104th	99	16
105th	97	13
106th	99	12
107th	98	12
108th	98	11
Total	1552	264

Number of Senators Examined refers to the number of senators in the data set for each given Congress. For example, in the 89th Congress there were 9 freshman senators and one retiree (Pierre Salinger (D-CA) who was elected in a special election on August 4, 1964 and ended service in the Senate on December 31, 1964 with the election of George Murphy (R-CA). Thus, the number of senators in the data set for the 89th Congress is 18. *Number of Higher-Office Seekers Examined* indicates the number of senators in the given Congress that made a bid for the presidency at some point in their career. It is not necessary that the senator ran for higher office in the given Congress, only that he ran at some point.

Table 2.2: Running for Higher Office and Party Loyalty

Variable	Model 1 Coef. (Robust Std. Err.)	Model 2 Coef. (Robust Std. Err.)
Ran for Higher Office	11.726* (2.204)	11.922* (2.248)
Divided Government	-1.642* (0.508)	-1.673* (0.504)
Majority Party	1.759* (0.435)	1.757* (0.436)
Party Leader	1.393 (1.509)	1.308 (1.519)
Pres. Vote in State by Senator's Party		-0.017 (0.070)
Intercept	84.891* (2.142)	85.777* (2.921)
Number of Cases	1552	1552
Number of Senators	267	267
R^2	0.847	0.847

The dependent variable is the party unity score. Cell entries are fixed effects within regression coefficients with panel corrected, robust standard errors. * = $p \leq 0.05$.

Table 2.3: Winning the Nomination and Party Loyalty

Variable	Model 1 Coef. (Robust Std. Err.)	Model 2 Coef. (Robust Std. Err.)
Divided Government	-1.642* (0.508)	-1.673* (0.504)
Majority Party	1.759* (0.435)	1.757* (0.436)
Party Leader	1.393 (1.509)	1.308 (1.519)
Ran in a Presidential Primary	11.726* (2.204)	11.922* (2.248)
Party's Nominee	8.318* (3.010)	8.201* (3.036)
Pres. Vote in State by Senator's Party		-0.017 (0.037)
Intercept	84.891* (2.142)	85.777* (2.921)
Number of Cases	1552	1552
Number of Senators	267	267
R^2	0.847	0.847

The dependent variable is the party unity score. Cell entries are fixed effects within regression coefficients with panel corrected, robust standard errors. * = $p \leq 0.05$.

Chapter 3

House Influence on Senators’ Legislative Agendas

Introduction

The Senate was designed to be the more isolated of the two chambers of Congress. Born out of a compromise, the framers intended for the Senate to both secure the rights of states and assure an educated and enlightened legislative body. In speeches before the framers, James Madison explained the Senate would be a “necessary fence” against the “fickleness and passion” that would befall both the general public and members of the House.¹ The House, on the other hand, was set up to reflect the spirit of the masses—the voice of the people. This institutional design was reinforced by George Washington, who after attending the Constitutional Convention, is said to have compared the indirect election and six-year terms for senators to a tea saucer. When explaining the role

¹ A collection of essays detailing the constitutional origins and institutional development of the Senate are available through the Senate Historical Office. The office can be accessed at http://www.senate.gov/artandhistory/history/common/generic/Senate_Historical_Office.htm.

of the Senate to Thomas Jefferson, Washington said the Senate's role was to "cool" House legislation, just as a saucer is meant to cool hot tea (Baker, 1988).

Although the Senate today remains more isolated and less susceptible (as a whole) to electoral pressure due to its staggered electoral cycle, individual senators must still stay attune to their constituents. This is especially true since the Seventeenth Amendment provided for the direct election of senators, as opposed to election by state legislatures as originally laid out in the Constitution. Although it is important for senators to stay connected and responsive to constituents, this can prove especially difficult them, as their constituencies are often much larger and diverse than those of representatives in the House. Adding to this difficulty is the fact that senators are only up for reelection every six years. Recognizing the large and diverse constituencies of most senators, leads one to wonder how a senator can best stay in touch with the opinions of constituents and foster responsiveness.

Responsiveness

There are two ways senators can be responsive. First, senators can stay abreast of the issues before the upper chamber. I call this form of responsiveness legislative responsiveness. This includes being active on legislation before their committees, aware of

legislation in other committees, and active on legislation on the Senate floor. Second, and stemming from the above discussion, senators can exhibit responsiveness by acting on the wishes of their constituents. Consistent with the literature on this topic, I call this policy responsiveness (Fenno, 1978; Miller and Stokes, 1963). This essay is concerned primarily with policy responsiveness.

Policy responsiveness stems from a delegate model of representation. The key premise underlying policy responsiveness is that legislators craft and support policy that reflects the interests of their constituents. While this may seem obvious, Miller and Stokes (1963) find that policy responsiveness is not a foregone conclusion. They note that though positive, the relationship between constituents' positions and legislators' positions is relatively weak and varies by issue area. This finding and the lack of support for a model of policy responsiveness between a member of Congress and his constituents, led generations of scholars to examine what influenced the relationship. This literature includes books and articles blaming the results on measurement strategies (Achen, 1977, 1978; Erikson, 1978) and explaining the results by including proximity to reelection or electoral vulnerability (Elling, 1982; Kuklinski, 1978; Fiorina, 1974; Kuklinski, 1977; Sullivan and Uslander, 1978). Regardless of their methodology, all of these studies find essentially the same thing: responsiveness does exist and that responsiveness is especially high on salient issues, but that responsiveness occurs less

than one might normatively expect. How does this picture of responsiveness fit with the framers notion of legislative responsiveness?

Certainly this lack of responsiveness is not what the framers had in mind for the House, but it could be how, at least some of them, envisioned the Senate—an enlightened and isolated legislative body. Though now that the Senate is directly elected, it is difficult to argue that senators need not concern themselves with the issues of greatest import to their constituents.

Measuring constituency attentiveness and responsiveness in the Senate is particularly challenging, as most states are, geographically, much larger than congressional districts. This makes it more difficult for a senator to rely on trips home to connect with constituents. The same is true regarding the population of the state. All but seven states have a greater population than the typical congressional district.² This means that senators are more likely to have a greater number of constituents to represent and, perhaps most importantly, these constituents are often heterogeneous. Taken together, this means that senators may need to rely on other ways to remain connected back home.

In what follows I will posit that one such way for a senator to remain in contact with

² Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming each have one at-large representative in the House.

the state back home is to stay attune to the legislative agendas of House members from the senator's respective state, and then add the representatives' agenda items to his own legislative agenda in the Senate. Accounting for this type of behavior, which I call agenda crossover, I suggest that senators are more responsive than previously thought—they just may respond in different ways than representatives or, in this case, indirectly. By not taking agenda crossover into account, past research may have overlooked some of the ways senators remain connected to their large and diverse constituencies back home.

By explicitly stating a process by which senators' legislative agendas are born out of the legislative agendas of the representatives from their state, this study clearly links the two chambers together and offers a way by which to measure legislative responsiveness in the Senate. The study of agenda crossover allows us to gain a better understanding of how senators are able to stay in touch with large and varied constituencies without spending excessive time and money maintaining a large physical presence throughout the state. Additionally, engaging in agenda crossover may help a senator ward off quality challengers (or defeat them) in the next election. That is, by staying informed about issues throughout the state and sponsoring responsive policy, a quality challenger may be persuaded not to run against the senator or be left with little to run on in the event of a challenge.

The claim that senators and representatives of the same state may have similar legislative agendas certainly is not new, as is evident from the high number of representatives who become senators. Making the jump from being a representative to being a senator is natural—the two groups have overlapping constituencies and often similar issue concerns. Senators and representatives of the same state tend to serve on similar committees in their respective chambers, and from time to time they can be seen spending time in the district or making a speech in Washington together. However, despite the central role in the legislative process given to both chambers, there is a dearth of knowledge regarding how the legislative agendas of individual representatives in the lower chamber influence the agendas of their counterparts in the upper chamber.³ By neglecting to examine the link between representatives' and senators' agendas, there may be important questions about the policy responsiveness of legislators missing from the literature. Without studying the process of agenda crossover, we are left with an incomplete picture of legislative behavior. In fact, we may be understating the degree to which senators are responsive to the needs of their constituents.

My definition of agenda crossover refers to senators claiming for their own the

³ It is possible that agenda crossover works in the opposite direction as well, with House members referring to issues on a senator's agenda. This is especially likely given the literature on elected officials legislating for the job they want to have and not necessarily the job they currently have. Future studies should examine this by focusing on the differences between ambitious representatives and those who choose to remain in the House.

issues on the legislative agendas of representatives from their home state. My theory of crossover falls under the agenda-setting paradigm in political science literature. Typically agenda-setting in the congressional literature emphasizes roll-call votes and whether or not votes can be used to infer individual preferences or the preferences of the parties (Cox and McCubbins, 2002, 2005). Crossover, however, is distinct from this type of agenda-setting model. At its roots, it is about issue formation, issue selection, issue evolution, and how different political actors vary on these dimensions. Voting is certainly one way to express an agenda or claim an issue, but it is not the only way. This study of crossover, similar to the work of Sulkin (2005), provides a different way to think about agenda-setting and, thereby, responsiveness in the Senate. This study of agenda crossover examines how the agendas of individual senators are created. How does a senator determine what issues to place on his legislative agenda?

Analyzing crossover allows me to look at legislative agendas as a whole and not just roll call votes as an indicator of responsiveness. Furthermore, the concept of crossover explicitly analyzes the influence of elites on elites. This way it is possible to analyze how responsive individual senators are to districts within their state. At the institutional level, examining crossover allows me to assess the responsiveness of the Senate as a whole. Is the Senate as isolated as often perceived or is it more responsive than it is typically depicted? Are senators attune to the issues raised in congressional districts

in their state? Are senators more responsive to certain representatives' agendas and thereby certain districts and constituents?

It is important to note that in no way do I claim to have *the* theory of legislative responsiveness. Agenda crossover simply provides senators with a way by which to stay attune to constituents and craft a legislative agenda that represents them. As previously mentioned, there are numerous other ways by which a senator can maintain close ties with the state (Fenno, 1977). My only claim is that crossover is a fairly straightforward way for senators to stay aware of issues important to their constituents. Additionally, crossover allows senators to ward off possible challenges in the next election.

The Theory of Crossover

This section lays out a detailed theory of cross-chamber responsiveness. The underlying question is to what extent do senators use the legislative agendas of representatives from their state in crafting their own issue agendas? In order to answer this question I first explain why senators should be motivated to take up representatives' issues, how they would do so, and the potential payoffs of such behavior. The general premise is that senators have the potential to gain electorally by constructing a legislative agenda consisting of the "right" issues. Therefore, it is key that senators correctly identify the

appropriate issues and act on them. One way to do this is to observe the legislative agendas of the representatives from their state. The model requires that senators recognize and act on representatives' issues. I acknowledge that whether or not a senator chooses to do this is a strategic choice.

Reelection is the most proximate goal of legislators because without being in office other goals (constructing good public policy, institutional advancement) are unobtainable (Mayhew, 1974). There are many ways by which a congressman increases his chance of reelection, some which will be detailed below. Perhaps the most general way in which a congressman can increase his likelihood of holding office in the future is to strengthen his weaknesses and stay attune to his constituents' concerns. Although there are many ways in which a congressman can shore up his liabilities, engaging in agenda crossover is one such way. Agenda crossover may be electorally useful to senators on two levels. First, agenda crossover allows senators to keep abreast of issues in congressional districts within their state without having to spend a large amount of time traveling to the state. Second, crossover allows senators to be aware of electoral trends in congressional districts and potential campaign issues in years the senator is not running for reelection. I will expand on each of these below.

Staying in Touch with Constituents

Although congressional districts each have approximately the same number of constituents, the number of people living in a state—a senator’s constituency—varies a great deal. For example, according to the U.S. Census Bureau, as of July 1, 2007 the state of Wyoming had 522,830 people, while the state of California had 36,553,215. This means that some senators are responsible for representing and responding to a much larger (and likely more diverse) constituency than others.

Keeping in mind the interests of the constituents back home is of utmost importance to any senator expecting to run for reelection in the future. If we assume that one of the foremost goals of legislators is to win reelection, remaining in touch with the issues back home while legislating in Washington is tantamount (Mayhew, 1974). Accepting the reelection goal of legislators, scholars continue to explore how electoral considerations influence behavior in Congress, including voting (Fiorina, 1974; Kingdon, 1989); committee assignments and participation (Fenno, 1973; Hall, 1996); legislative entrepreneurship (Schiller, 2000; Wawro, 2000); and casework (Bond, 1985). Remaining in touch with the issues back home can act as both a deterrent to a potential quality challenger (Sulkin, 2005) or, in the event of a challenge, provide the opponent with fewer issues with which the electorate is displeased.

While staying in touch back home is thought of as a necessary condition for reelection (Fenno, 1978), there is often an assumption in the literature that going home is the primary way, if not the only way, to stay connected. Fenno (1977: 894) notes,

A House member's decision on how to allocate his time between home and Washington is affected: (1) by his seniority, if it is very low or very high; (2) by the distance from Washington to home, if that distance is very long or very short; and (3) by the place where his family is located, whether his family moves to Washington or remains in the district.

Although these three factors help determine how often someone goes home, going home is not the only way to remain connected to constituents. Fenno (1977) goes on to note that the size of the congressman's district staff and the district staff expenditures are also ways to measure one's attentiveness to the constituency. While these methods of measuring constituency attentiveness work particularly well in the House, they are less than ideal for measuring attentiveness in the Senate. When a senator decides to head back to the home state, he must decide where in the state to travel. Does he spend time traveling around the state or simply go to where his family resides? Does the senator always go to the same city in the state or spend time throughout the state? Furthermore, does the senator set up multiple offices throughout the state or only in certain locations? Clearly senators, especially those from large states, cannot traverse their entire state on each visit home. Thus, measuring how often a senator travels home or where he sets up offices may not be accurately measuring senators' responsiveness to their home states.

One way senators can stay attune to their constituents' concerns is through agenda crossover. Agenda crossover provides senators with the perfect mechanism by which to gain knowledge of the issues of utmost importance to the districts within the state. In one sense, the theory of crossover suggests that senators use representatives as scouts. Representatives travel to their home districts, noting important issues in need of attention to increase their chances at reelection, report back to Washington, and put the issues on their legislative agenda. Senators then, simply by being aware of the legislative agendas of the representatives from their states, can also address these issues. Thus, crossover enables the senator to remain aware of the most important issues in each district and act upon those of greatest importance. Representatives can act as a senators' district informant, saving the senator a large amount of time and effort it might otherwise take to remain abreast of all issues in all congressional districts. Later I will touch upon the many factors which contribute to when and why a senator chooses to engage in agenda crossover.

Electoral Incentives for Crossover

The desire to be reelected is the primary motivation behind a senator's decision to engage in agenda crossover. In order to stay aware of potential electoral vulnerabilities

such as new issues in the state, senators can look to the legislative agendas of representatives from their state. The strategy of agenda crossover is useful here because members of the House are always running for reelection and therefore know what issues prove important in the campaign in their district. Thus, by engaging in agenda crossover, senators can claim credit for these issues and possibly ward off potential quality challengers from running against them in the next election or, at the very least, leave a challenger with little leverage on new issues. Since the study of crossover assumes that one way for a senator to pick the “right” issues on which to claim credit, is to monitor the legislative agendas of House members from their state, this study assumes that a senator should engage in crossover when a representative is placing something new or increasing the attention paid an issue on his agenda, as it signals either a demand by local constituents or a threat by challengers.

Hypotheses

This theory leads me to several hypotheses about what type of senator engages in crossover and when to expect agenda crossover. The rest of this article will test each of these hypotheses. They are as follows:

Electoral cycle: Senators’ agenda crossover levels will vary depending on whether or not they are up for reelection. Those senators who are up for reelection in the current

Congress, are more likely to engage in crossover in that Congress than their colleagues not up for reelection.

Large states: Senators from large states are more likely to use crossover as a strategy to stay in touch with the home state than their colleagues from smaller states in the Senate.

Data

The content of legislative agendas lies at the core of the theory of crossover. The items members of Congress place on their agendas allow me to link the legislative activity of the House and Senate. The extent to which senators' legislative agendas reflect the legislative agendas of House members from their states provides both a measure of crossover and, I argue, an indicator of responsiveness. But before examining the dynamics of crossover, it is important to clearly understand legislative agendas—their content, size, and variation across legislators.

The first step is to demonstrate, for a large number of senators, that the representatives in the senators' respective states had a given set of issues on their legislative agendas in the past Congress, that the senators performed a certain number of activities related to those issues in the next Congress, and that this behavior is in response

to the representatives' legislative agendas. The second step of the analysis is to explain why there is variation in levels of crossover over time. After having demonstrated these connections, I will then discuss what crossover teaches us about the responsiveness of senators and the upper chamber as a whole.

Before addressing the aforementioned questions, there are several terms that need to be defined. For the purposes of this analysis, an "issue" is defined as a topic that relates to public policy, and it must be a topic that transcends time. And in order to compare across chambers, parties, and time, I only examine the underlying issue concern, not the specific legislative proposal. That is, I have no expectation about what side of an issue a legislator falls on, only that he puts it on his legislative agenda. In order to classify bills introduced in Congress I use the Policy Agendas Project, which categorizes a wide range of policy-related activities, so that the activities can be tracked over time.⁴ The Policy Agendas Project develops a coding scheme that consists of 19 major issues and 223 subtopics.⁵ The coding scheme is both exhaustive and mutually exclusive, with each bill receiving only one code.

In the following analyses and discussion, I refer to "legislative agendas," which I

⁴ Details of the Policy Agendas Project are available at <http://www.policyagendas.org>.

⁵ The Policy Agenda Project uses a 20th category for general government operations and procedure. I chose not to include this category as it is generally administrative and often pertains to only one chamber of Congress.

define as the set of issues a congressman or senator puts on his policy agenda. While a legislative agenda could include any issue on which a member of Congress engages in some type of formal activity, this study only examines bills introduced by a member of Congress. Members of Congress typically cosponsor and make floor statements more frequently than introducing legislation, so my use of introductions provides the most conservative measure by which to analyze agenda crossover. Additionally, the meaning of cosponsorships is difficult to untangle. Many legislators cosponsor a bill simply because it is an easy way to claim credit. Cosponsorships also allow senators to dabble broadly in many issues, and since I want to make sure I am capturing issue priorities, and not simply talking points, I do not include cosponsorships in the analyses that follow. While there may be uncertainty about the meaning of cosponsorships, there is little to debate when it comes to the strong signal introducing legislation sends. By signing his name to a bill and placing it in the hopper, the legislator is clearly stating that he supports the bill and is interested in the issue. Thus, for this article, a legislative agenda is made up bills on particular issues, which legislators introduce in Congress.

In order to demonstrate that senators engage in crossover and that their use of such a strategy varies in systematic ways, I need data on legislative activities from both chambers of Congress. These data must be coded so that they can be compared across chambers, individuals, and time. Legislators' congressional activity is readily available

through the Library of Congress's THOMAS website. THOMAS provides information about bills in recent congresses. Additionally, I use the database constructed by the Congressional Bills Project.⁶ The Congressional Bills Project provides a database of about 400,000 bills introduced in Congress along with detailed information about the bill's sponsor.

Table 3.1 presents each of the issue categories from the Policy Agendas Project and the number of bills and resolutions introduced on each issue in both chambers for the time period studied.

[Table 3.1 about here]

The table clearly shows that there is great variety in the issue agendas of legislators. All issue categories were the subject of numerous introductions in both the House and the Senate across the time period studied. The table also illustrates that legislative agendas cover a wide array of issues. While the expansive agendas of senators provides for great activity, this does not guarantee that senators are partaking in agenda crossover. Legislative action is a necessary, but not sufficient condition for agenda crossover to be present. For a senator to be engaged in crossover, he must not only be legislatively active, but that action must revolve around the legislative agendas of representatives from the senator's state.

⁶ Details of the Congressional Bills Project can be found at <http://congressionalbills.org>.

In order to test the aforementioned hypotheses I analyze legislative agendas from the 97th Congress to the 107th Congress.⁷ Before analyzing crossover at the individual level, it is useful to get a sense of the relationship between House agendas and Senate agendas at the institutional level. Figure 3.1 illustrates this relationship. The figure focuses on agricultural policy in both the House and Senate between 1981 and 2002. I chose to examine agricultural bills only for simplicity. The pattern that emerges here is indicative of other issue areas as well.

[Figure 3.1 about here]

The top line in the figure represents the number of bills and resolutions introduced in the House with agriculture as the priority issue. The bottom line represents the number of bills and resolutions on agriculture introduced in the Senate. As is clear from the figure, the two are associated. Although this demonstrates the possibility of agenda crossover, it is not a definitive test. Figure 3.1 simply shows a relationship for the number of agricultural bills exists between the House and Senate. It needs to be determined whether this figure does, in fact, demonstrate agenda crossover, whether the relationship we see here for agriculture reflects a more general pattern at the individual

⁷ To do this, I must first collapse the data so that the unit of analysis is each senator by the issue of the bill sponsored in each Congress. I also collapse the data so that for each observation (senator-issue), I also know both the mean number of bills and the total number of bills sponsored by representatives from the senator's state.

level, and whether it holds up to rigorous analysis.

Assessing Agenda Crossover

Having already demonstrated that legislators have the ability to craft legislative agendas on a wide range of issues while in office and that there is an association between the two chambers on issues, I next examine agenda crossover at the individual level. The most straightforward way to measure individual crossover is to test whether legislative attention to a particular issue by a representative leads to greater levels of legislative attention to the issue by the senators from the state.

To analyze agenda crossover, I use a negative binomial regression model to test whether introductions in the House are a significant predictor of subsequent introductions in the Senate at the individual level.⁸ Since this is an aggregate analysis, several controls are necessary. First, there must be a control for the different issues themselves. Some issues inherently receive greater attention than other issues (see Table 3.1). To control for this, I include a series of indicator variables for each of the issue categories. I also add indicator variables for each of the different congresses. These indicator variables control for differences in overall activity from congress to congress.

⁸ A negative binomial regression model accounts for observed heterogeneity. Additionally, my models show strong evidence of overdispersion, so the negative binomial regression model is preferred to the Poisson regression model.

Table 3.2 presents the results of this analysis. The dependent variable in both models is a measure of legislative attention to issues for each senator. It is a raw count of the number of bills introduced in the Senate by each senator on each issue. The primary independent variable in both models is the total number of bills (by issue) introduced by representatives from the senator's state. Since I have no *a priori* expectation as to the timing of agenda crossover, I let the data determine the length of the lag. In this case the lag is one Congress. Both models also include the indicator variables described earlier and a control variable for the senator's legislative agenda in the previous Congress. Since the coefficients for the issue and the Congress indicator variables are of no particular interest to the theoretical argument, they are not included in the table.

While the first model in Table 3.2 is interesting, it really tells us little about the potential partisan influence of agenda crossover. Although my models do not account for a specific direction of policy, I do expect that senators will be more likely to follow the lead of representatives who share their party affiliation.

[Table 3.2 about here]

Table 3.2 demonstrates that legislative attention to particular issues by representatives from one state affects the legislative attention senators from that state pay the issue in the next Congress. However, in order to interpret the table, I must calculate the factor and percent changes.⁹ In the first model, for every additional bill sponsored on a particular issue by representatives from a senator's state increases the expected number of bills the senator sponsors on that issue by a factor of 1.0004, holding all other variables constant. This change is relatively small, but this is primarily driven by the fact that some issues simply do not come up all that often. Thus I also examine the expected change for a standard deviation increase. For a standard deviation increase in House sponsorship on an issue, the senator's expected mean of sponsorship increases by 9.6%.¹⁰

In the second model, for every additional bill on a particular issue sponsored by a House member from the senator's state and of the senator's party, the senator's expected mean sponsorship increases by 0.1%, holding all other variable constant. For a standard deviation increase in the House member's sponsorship, the senator's expected mean sponsorship on that issue increases by 9.6%, holding all other variables constant.

⁹ Factor and percent changes are calculated with the `spost` commands available in STATA 10.

¹⁰ Future analyses will also examine particular issues which are prone to greater variety in sponsorship. Some issues simply do not come up enough across congresses for this analysis to be representative.

The independent variable *Senate Agendas* controls for the senator's agenda in the previous Congress. Unsurprisingly, if an issue is on the senator's agenda in the previous Congress, it increases the likelihood that the issue appears on the senator's agenda in the next Congress. Figure 3.2 shows the probability of a senator sponsoring zero bills decreases when representatives who share the senator's party and are from the senator's state increase their bills sponsorship on that issue.

[Figure 3.2 about here]

All of this is to suggest that there clearly is an argument to be made for the general theory of agenda crossover. The above analysis shows that senators do increase their attention to the issues House members from their state place on the House agenda. This is especially true when the representative shares a political party with the senator. Next I must test my hypotheses that reelection and state size affect agenda crossover. More specifically, are senators up for reelection at the end of the Congress are more likely to engage in crossover and are senators from large states are more likely to engage in crossover?

Reelection, State Size, and Agenda Crossover

Although Models 1 and 2 show that senators engage in agenda crossover throughout their time in the Senate, I hypothesize that senators are more likely to engage in crossover as they approach reelection. That is, in order to ward off a potential quality challenger in the next election senators will engage in higher levels of agenda crossover when they are approaching reelection. Engaging in higher levels of agenda crossover before running for reelection is also helpful in case the senator faces a quality challenger. Having used representatives from the districts as scouts, and therefore aware of the issues back home, the senator will be more likely to keep his seat. For these reasons, I hypothesize that senators will increase their levels of agenda crossover prior to a reelection bid. Model 1 in Table 3.3 shows the results for this analysis. The dependent variable in this analysis is again the number of bills sponsored by each senator on each issue in a Congress.

[Table 3.3 about here]

The primary variable of interest in Table 3.3 is the interaction term *Reelection*Same Party House Agendas*, which represents a senator who is up for reelection and the number of bills on each issue sponsored by representatives from the senator's state who share a party identification. This interaction term captures my conditional hypothesis that

a senator will increase his level of agenda crossover when he is up for reelection. After calculating the appropriate conditional standard errors for this linear combination, it is possible to determine that being up for reelection increases the number of crossover bills a senator sponsors by 0.00066.¹¹ For those not up for reelection, the coefficient for *Same Party House Agendas* applies. My hypothesis that those senators up for reelection are more likely to engage in agenda crossover than their colleagues not up for reelection is confirmed.

The final hypothesis to be tested is that senators from large states are more likely to engage in agenda crossover.¹² I expect those senators from large states to engage in more crossover since they are unlikely to have offices accessible to all constituents throughout the state and because the size of the state makes it unlikely that a senator will be in contact with all of the state's populations and issue publics. For these reasons, it becomes especially important that senators from large states make use of the information representatives can provide them.

Since I have no *a priori* expectation about whether the population of a state or the geographical area of a state affects a senator's likelihood of crossover more, I take a

¹¹ The standard error is 0.00020 (p=0.001). The interpretation of the interaction term follows the suggestions of Brambor et al. (2005) and Friedrich (1982).

¹² This analysis, as well as the preceding analyses excludes single-district states.

joint approach to the analysis. I first categorize as “large states” the 25 largest states by area. Out of these 25 states, I then only include in my final coding those states that have eight or more seats in the House.¹³ I chose to make the cut-point for population at eight House seats because 75 percent of the United States comes from those states with eight or more representatives. The results of this analysis can be seen in Table 3.3. They are listed under Model 2.

The independent variable of primary interest in Model 2 is *Large State*Same Party House Agendas*. This interaction term captures my conditional hypothesis that if a senator is from a large state he will be more likely to engage in agenda crossover. After once again calculating the correct conditional standard errors, it is possible to determine that being from a large state increases the number of crossover bills a senator sponsors by 0.00055.¹⁴ Senators from large states are more likely to engage in agenda crossover.

Conclusion

The two chambers of Congress have long been studied as separate entities. My theory of agenda crossover posits that there are links between the legislative agendas of the two chambers that have gone unexamined until now. The findings presented here suggest

¹³ Using this coding scheme, the states I categorize as large states are Arizona, California, Florida, Georgia, Illinois, Michigan, Minnesota, Missouri, New York, North Carolina, Texas, and Wisconsin.

¹⁴ The standard error is 0.00018 (p=0.002).

that senators, despite not needing to run for reelection as often as members of the House, are responsive to the issues of import to their constituencies. One way senators stay abreast of issues back home is by engaging in agenda crossover. Senators stay aware of the issues on the legislative agendas of representatives from their respective states and then claim those issues for themselves in the following Congress. Senators are able to use representatives as scouts—the representatives go into the districts, learn the issues of greatest import to their constituencies, and then place these issues on their legislative agendas. Senators can then use this glean this information simply by keeping an eye on House agendas.

My analysis shows that senators are engaging in agenda crossover. This is true even when controlling for a senator's past legislative agenda and attention given to particular issues in specific congresses. Furthermore, if a senator is up for reelection, he is more likely to engage in agenda crossover than a senator not up for reelection. The same is true for a senator from a large state. That is, those senators from the largest eight states (categorized by both population and area) engage in more agenda crossover than those senators from smaller states.

Agenda crossover has been shown to be widespread in the U.S. Senate and this study

offers new insights into the responsiveness of senators and the connections between legislators from the same state. Crossover suggests that, in many ways, representatives may set the agenda for senators. There are other possible conclusions to be drawn from this study, but before discussing them, it is useful to review the major findings presented here. First of all, the legislative agendas of representatives have a clear influence on the legislative agendas of senators from the same state. House agendas and the campaign issues that arise every two years are subsequently put on the House agenda do affect legislation in the Senate. Second, those senators approaching reelection are more likely to engage in agenda crossover. This suggests that senators are aware that being responsive to constituents' concerns is an excellent way to scare off a challenger or defeat a challenger in an election. Third, those senators who hail from large states are more likely to engage in agenda crossover. This finding suggests that senators who represent a large and spread out constituency may need to rely on crossover in order to stay abreast of issues throughout the state.

The study of agenda crossover offers new insight into how legislators in the House and Senate are connected and how senators might stay connected to their constituents. It also contributes to the literature in American politics on legislative responsiveness. By engaging in crossover senators have a unique way to remain responsive to constituents without having to make frequent trips home or maintain large staffs throughout the

state.

Table 3.1: Summary of Legislative Agendas by Chamber for the 97th-107th Congresses

Major Issue	Chamber	
	House	Senate
Macroeconomics	2,913	1,250
Civil rights and civil liberties	1,335	664
Health	5,545	3,077
Agriculture	1,950	1,197
Labor and trade	3,831	1,604
Education	2,190	1,236
Environment	3,259	1,701
Energy	2,017	1,178
Transportation	3,073	1,528
Crime	4,052	2,087
Welfare	2,541	949
Housing/Community Development	1,445	576
Finance	4,354	2,037
Defense	3,604	1,702
Science/Technology	1,191	696
Trade	4,052	2,594
Foreign Policy	1,798	907
Governmental Operations	6,836	2,849
Public land/water	5,036	3,372
Total	63,377	32,635

Figure 3.1: Agriculture Bills Introduced in the House and Senate for the 97th-107th Congresses

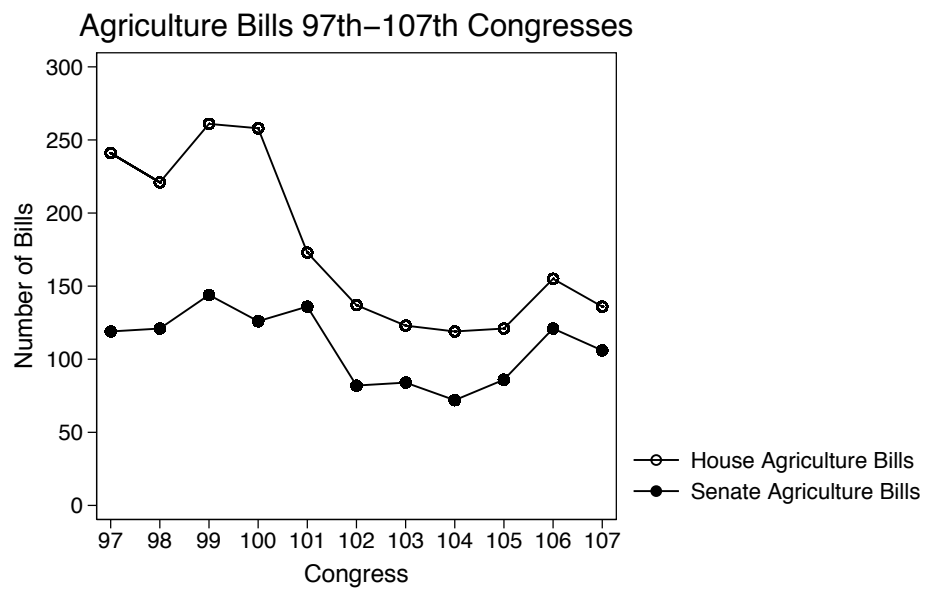


Table 3.2: Representatives' Attention to Issues and Senators' Legislative Agendas

Variable	Model One (Robust Strd. Error)	Model Two (Robust Strd. Error)
House Agendas	0.00039* (0.00009)	
Same Party House Agendas		0.00064* (0.00016)
Opposite Party House Agendas		0.00008 (0.00016))
Previous Senate Agendas	0.08955* (0.00644)	0.08898* (0.00646)
Intercept	0.14596 (0.16155)	0.54474 (0.11754)
Number of Observations	2697	2697
Wald Chi-square	564.33	572.67
Log likelihood	-5582.874	-5578.491

The dependent variable is the number of bills sponsored by each senator on each issue in each Congress. Cell entries are negative binomial regression coefficients with standard errors in parentheses. * = $p \leq 0.05$.

Figure 3.2: Probability of a senator sponsoring zero bills on a particular issue when representatives from the senator's state are sponsoring bills on that issue.

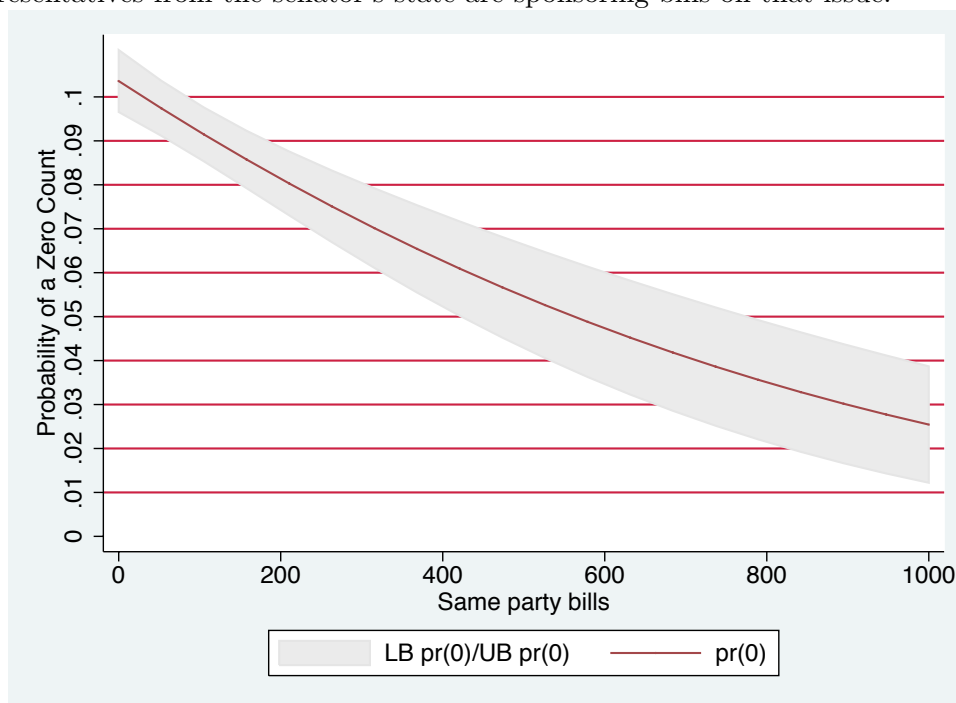


Table 3.3: Reelection, State size, and Agenda Crossover

Variable	Model 1 (Robust Std. Error)	Model 2 (Robust Std. Error)
Same Party House Agendas	0.00059* (0.00017)	0.00061* (0.00032)
Previous Senate Agendas	0.10103* (0.00559)	0.100976* (0.00557)
Reelection	0.13855* (0.03944)	0.13852* (0.03915)
Reelection*Same Party H. Agendas	0.00007 (0.00024)	0.00006 (0.00024)
Large State		0.03047 (0.04037)
Large State*Same Party H. Agendas		-0.00006 (0.00031)
Intercept	0.42293* (0.10141)	0.23988* (0.10598)
Number of Observations	3729	3729
Wald chi-squared	806.12	824.44
Log likelihood	-7636.6281	-7636.1293

The dependent variable is the number of bills sponsored by each senator on each issue in each Congress. Cell entries are negative binomial regression coefficients with standard errors in parentheses. $* = p \leq 0.05$. Interaction terms cannot be interpreted directly from table. Refer back to the text for interpretation of interaction terms.

Chapter 4

Controlling Judges: The Judiciary Committee's Role in Confirmations

Introduction

Studies of judicial appointments have long fascinated scholars of Congress and the courts. Typically, scholarship portrays the nomination and confirmation process as a separation of powers game played out between the president and the Senate (Segal, 1997). The president, in making his nominee selection, rationally anticipates Senate preferences (Moraski and Shipan, 1999; Johnson and Roberts, 2005). This inter-branch deference tends to explain the rare rejection of a president's nominees.

However, rational anticipation and inter-branch deference only work so long as both the president and the Senate make decisions in predictable ways. Typically, senatorial

courtesy allows us to understand the nomination and confirmation process in this way. Senatorial courtesy is the practice by which the Senate will refuse to confirm a president's nominee should a senator from the nominee's home state return a negative blue slip regarding the nominee.¹ Recognizing this process, scholarship on confirmations usually assumes senatorial courtesy, but what happens when senatorial courtesy is not observed? Anecdotal evidence indicates that there are numerous times when a chair of the Judiciary Committee decides to disregard standard blue slip procedure. In fact, several chairs have ignored all blue slips while head of the Judiciary Committee.² The chairs' ability to ignore blue slips suggests an important role for both the chair and the Committee in the confirmation process. When senatorial courtesy is not observed, the Senate becomes unpredictable, likely confounding research that models confirmation as a separation of powers game. Past literature that relies on studying inter-branch battles and deference to home-state senators has difficulty explaining what happens when senatorial courtesy is not observed.

Later in this chapter, I detail several cases in which senatorial courtesy was explicitly ignored. In these cases, and perhaps even in cases where blue slips are observed, who controls judicial confirmations and their timing? This essay explores the important role

¹ Blue slips are literally pieces of blue paper that the committee gives to the two senators from the nominee's home state. On these slips, the senators can indicate their approval for the nominee or any concerns they may have about the nominee.

² Examples of panel chairs ignoring blue slips will be given later in the chapter.

the Judiciary Committee plays in setting the Senate floor's agenda when it comes to judicial nominations to the U.S. Circuit Courts of Appeal. Instead of emphasizing the role of the president and the Senate floor in models of judicial confirmation, I posit that when it comes to confirmations, the Judiciary Committee controls the Senate's agenda.

Unlike the U.S. House, the Senate does not have autonomy over its agenda. The Senate must place budget legislation that originates in the House and presidential nominees and treaties on its agenda. Although it may seem that this gives the Senate little power when it comes to making decisions, this chapter argues that in cases such as these, the committee with jurisdiction becomes the Senate's primary agenda setter. For judicial nominees, rather than focus on the president, the median senator, or even the filibuster pivot, scholarship should analyze the ideology of the Judiciary Committee. By accounting for the Committee, political science literature can more accurately predict the timing of judicial confirmations.

Inter-branch Nomination and Intra-branch Confirmation Battles

Article II, Section 2 of the Constitution states that the president of the United States “shall nominate, and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States...” Although written explicitly in the Constitution, the Framers’ intent in writing those words is often disputed. Some scholars contend that the founders envisioned the Senate as merely a minor check on the president’s ability to appoint judges (Eastman and Sandefur, 2002). That is, since the appointment power is located in *Article II*, the founders must have intended for the president to control who sits on the federal bench. Alexander Hamilton clearly supported this viewpoint when he wrote in *Federalist 76*:

But might not his intention be overruled? I grant it myself, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them.

While many a president has supported Hamilton’s interpretation of “advice and consent,” senators are apt to refute this position. Senators and an increasing number

of legal scholars suggest that it is the Senate's responsibility to reject the president's nominees if it deems them unfit for the bench (Palmer, 2003). After all, once confirmed to the federal bench, a justice can remain for the duration of his life. Giving credence to this interpretation of "advice and consent" is the fact that in 1795 the Senate rejected one of George Washington's Supreme Court nominees (Epstein et al., 2006). In addition to debating the Senate's role in "advice and consent," scholars also frequently debate the framers' intent when it comes to whether or not politics, ideology, or partisanship should be a part of the nomination and confirmation process (Epstein and Segal, 2005).

The Senate's prominent role in "advice and consent" is bolstered by the fact that even under unified government, not all nominees are confirmed. If the process of confirmation is essentially completed before the nominee reaches the Senate, then we would expect to see all nominees confirmed under unified government. However, we know this is not the case. Only about 80 percent of nominees succeed under unified government. So what about the 20 percent of nominees that occur under unified government, but are never confirmed? The fact that 20 percent of nominees are still rejected (or never receive a hearing) under unified government suggests that there are limits to senatorial courtesy and to the president's ability to rationally anticipate Senate preferences. Scholarship's inability to account for the confirmation of all of the president's nominees suggests the need to analyze the *intra*-Senate conflicts during the confirmation stage.

In what follows below, I briefly discuss models of inter-branch battles, further explain the need to turn our analysis inward and focus on the Senate, and then lay out how I go about modeling the Committee's role in confirmations.

Inter-branch Models

Before discussing the importance of intra-Senate negotiations, I first briefly summarize past research on confirmations within the separation of power system (i.e. inter-branch models of confirmation). Regardless of one's interpretation of "advice and consent," there is no disputing the fact that the Senate was designed to play a role, even if a perfunctory one, in confirming federal judges. Thus, a vast literature has developed to examine the Senate's involvement in the confirmation process. This line of research recognizes the importance of a court's membership and the delicate task of filling a court vacancy. As previously mentioned, the majority of this scholarship to date focuses on inter-branch battles in the nomination and confirmation process (Epstein and Segal, 2005; Johnson and Roberts, 2005; Binder and Maltzman, 2004). This line of research examines the bargaining between the president and senators during the nomination process, the effect of a lame duck president on the process (Scigliano, 1971; Palmer, 1983), and the role of partisan politics when the Senate's majority and the president are of different parties (Warren, 1923; Palmer, 1983; Epstein and Segal, 2005; Johnson and

Roberts, 2005). Most of this literature suggests that the president rationally anticipates the Senate's reaction, thereby rarely nominating someone the Senate is unlikely to confirm. Thus, the system of checks and balances is what accounts for the low number of failed nominations.

There is a related line of scholarship that analyzes similar questions post-nomination, primarily focusing on the confirmation process. This scholarship focuses on delays in confirmation due to Senate procedure and divided government (McCarty and Razaghi, 1999), ideological incentives and institutional opportunities (Binder and Maltzman, 2002; Segal, 1987), and the context in which the nominee is discussed (Krutz et al., 1998). While this work begins to inform us of the intra-Senate battles that occur during the confirmation process, it still places significant weight on the role of the president in intra-Senate negotiations. Thus, the results of these analyses are likely strongly affected by the presence of divided government. That is, the farther the president's ideology is from some determined pivotal senator, the longer the confirmation will take.

While divided government surely influences the timing of confirmation, I argue that once a nominee is put forth, there is no longer a need to model the president's proximity to a pivotal senator. There may still be a place for presidential approval and lame duck status, but beyond that, the president's ideology is irrelevant once he puts forth

his nominee. My theory of the president's influence in the process only extends as far as his popularity, and where in his term the nomination occurs. By still modeling the president's popularity and the time remaining in his term, I am able to account for strategic decision making in the Senate and his political capital without placing him directly in the model. After removing the president's ideology from models of judicial confirmations, I posit that one of the key players at the confirmation stage is the median senator on the Judiciary Committee and the panel chair. The chair's decision whether to hold a hearing or ignore blue slips is likely to affect the timing of confirmation. The importance of the chair will be discussed at length below.

In addition to giving the president a prominent role at the confirmation stage, past literature that focuses on the confirmation process tends to analyze floor votes when studying delays in confirmation. The exception to this is the work of Krutz et al. (1998) who recognize the importance of committee hearings in their analysis.³ Krutz et al. (871) note that "...most unsuccessful nominations fail before reaching the floor, so cases defeated by floor votes are not representatives of failures." They analyze committee hearings in order to assess how the opposition uses the hearings to expand the conflict with regards to the nominee's confirmation. Besides the work of Krutz et al. (1998) there is little scholarship that examines in detail the role the Judiciary Committee plays

³ Binder and Maltzman (2002) also examine the ideology of the chair, but only in relation to the president's ideology.

in the confirmation of federal judges. The Committee's role in confirmation must be explored if we are to understand the intra-negotiations of the Senate's confirmation process. By only measuring the nominee's ideology in relation to the floor's median, current scholarship cannot give us an accurate picture of confirmation delay. Based on the work of Krutz et al. (1998), I theorize that the median senator on the Judiciary Committee is who should be modeled rather than the floor median.

I expand on the work of other scholars who examine senatorial delay in the confirmation process, floor votes, and constituency effects (Segal, 1987; Moraski and Shipan, 1999; Johnson and Roberts, 2005; Cameron et al., 1990; Overby et al., 1992). However, instead of analyzing floor votes, this analysis takes a step back and studies the confirmation battles that occur on the Judiciary Committee. While this is similar to the work of Binder and Maltzman (2002; 2004), my theory focuses on the role of the median senator on the committee and the panel chair, thereby emphasizing the potential battles between the chair, the committee, and the senators from the nominee's state. This theory allows me to focus on confirmations within the Senate and how the Judiciary Committee sets the agenda for the Senate floor. In sum, I suspect that the Committee, more so than the floor, affects the timing of confirmations.

The Judiciary Committee

Like other standing committees in Congress, the Judiciary Committee's composition reflects the partisan balance in the Senate. Also similar to other standing committees, the Judiciary Committee reviews proposed bills within its jurisdiction (e.g. criminal and antitrust bills). In addition to its standard committee powers, the Committee also serves a gatekeeping role for judicial nominees. The Committee decides whether a nominee will be recommended to the full Senate, giving the Committee an important role in the confirmation process.

The Judiciary Committee's Agenda

The Judiciary Committee is free to hold hearings on nominees and invite the nominee to testify, but it is not required to do so. In fact, it did not become customary to hold hearings on judicial nominees until the mid-1900s. The first Supreme Court nominee to testify before the Committee was Supreme Court nominee Harlan Fiske Stone (1925-1941). And instead of the Committee inviting Stone to testify, Stone asked the Committee for permission to appear before it in order to defend some decisions he made as attorney general (Epstein and Segal, 2005). According to Epstein and Segal (2005) it was not until 1950 that the Judiciary Committee began to request that all Supreme Court nominees appear before it.

While it is typical for Supreme Court nominees today to testify before the Judiciary Committee, it is less of a standard procedure for lower court nominees. Thus, even before the Committee votes on a nominee, it must decide whether or not to hold a hearing. Sollenberger (2004) tells us that failure to invite a nominee to appear before the Committee means the nomination is effectively dead. A candidate who does not receive a hearing will not receive a vote in the Committee and therefore will never receive a vote on the Senate floor (Sollenberger, 2004). The Committee's scheduling of hearings can also play a role in the setting of the Senate's agenda. Delaying a hearing may be done strategically in order for opposition to rally, in the hopes of a new party gaining control of the White House, or simply to postpone an inevitable effect on legal policy (Binder and Maltzman, 2002; Shipan and Shannon, 2003). Even after holding a hearing, the Committee can still decide to take no action on the nominee or report the nominee unfavorably to the floor.

When a nominee is reported to the Senate floor it is placed on the Senate's *Executive Calendar*.⁴ Although the Senate's rules dictate that when the majority leader decides to switch from the *Legislative Calendar*, where bills are debated and voted on, to the *Executive Calendar*, where nominations and treaties are scheduled, the motion to proceed

⁴ The Senate can only debate and vote on nominees (and treaties) when it is in executive session.

is debatable. Precedent, however, allows the majority leader to offer a nondebatable motion in legislative session to resolve into executive session to consider a certain nomination or treaty. Once the motion is agreed to, there is no need for a debatable motion to begin an executive session. Of course, the nomination (or treaty) itself is still subject to extended debate.⁵

This process is relevant to the confirmation of judicial nominees because past scholarship has found an unexpected positive relationship between the ideological distance between the nominee and the Senate median and the timing of confirmation. By taking the Judiciary Committee into account, it is not necessarily surprising that nominee-Senate distance would have a positive effect, since the majority party does most of its work at the committee stage before the nominee even reaches the Senate floor. Since my theory suggests that the Committee is really the gatekeeper for judicial nominees, I expect that if the nominee makes it to the Senate floor, the nomination will continue to move forward. After all, the majority party would not put forth a nominee if it did not have the backing of its party members.

These Committee powers indicate that the Judiciary Committee has a significant amount of influence when it comes to determining the fate of a president's nominee.

⁵ Information on the Senate's *Executive Calendar* is taken from the CRS report #98-709 "Senate Executive Business and the Executive Calendar" by Walter J. Oleszek.

Recognizing this begs the question: who controls the Committee's decision-making process once the president selects the nominee? That is, who controls agenda setting on the Committee?

Home-state Senators and Senatorial Courtesy

The speed with which a nominee is confirmed is directly correlated with the Senate's willingness to bring the nominee to the floor for chamber consideration. However, before a nominee can even make it to the Senate floor, she must get on the Judiciary Committee's agenda. After a president chooses a nominee to fill a seat on the federal bench, the name is sent to the Senate. The Senate then refers the nominee to the Judiciary Committee, just as it would a bill. Once a nominee is referred to the Judiciary Committee, the committee has autonomy over how to proceed and determine whether or not to recommend the nominee to the full Senate.

As mentioned above, the Committee's decision whether or not to hold a hearing on the nominee is crucial to the nominee's success. Epstein and Segal (2005) state that "Figuring prominently into the decision of whether to schedule a hearing is how the committee chair interprets blue slips" (89). Blue slips are pieces of blue paper given by the Judiciary Committee to the two senators from the nominee's home state. On

the blue slip, the senator can indicate whether or not he is in favor of the nominee. Senatorial courtesy and tradition dictate that if one or both of the home-state senators fails to return a blue slip, the nomination would effectively end.⁶ Senatorial courtesy suggests a primary role of home state senators.

While senatorial courtesy is the norm for judicial confirmations, blue slips are far from a binding contract. In fact, recent history offers numerous examples of panel chairs refusing to honor blue slips. The blue slip process and its inherent deference to home state senators first changed in 1979 when Senator Ted Kennedy (D-MA) became chair of the Judiciary Committee. Kennedy required the committee to discuss all nominees, even if a home-state senator failed to return a positive blue slip (Goldman, 1997).⁷

Kennedy did this in order to prevent conservative senators from blocking President Carter's female and minority nominees to the federal bench.

Kennedy is not the only chair of the Judiciary Committee to assert the power of his position over the Senate. When Senator Orrin Hatch (R-UT) chaired the Judiciary Committee between 1995 and 2000 he allowed Republicans to block Clinton's nominees by refusing to hold a hearing without two positive blue slips. However, when George

⁶ Failure to return a blue slip is typically thought of as an indication that the senator disapproves of the nominee.

⁷ Information on blue slips is obtained from the Congressional Research Services report RL31948 "Evolution of the Senate's Role in the Nomination and Confirmation Process," by Betsy Palmer.

Bush won the presidency, Hatch pushed through Bush's nominees even if a Democratic senator refused to return a positive blue slip, foregoing the tradition of senatorial courtesy in a similar way to Senator Kennedy. In an article in *Jurist*, Maltese (2004) notes that according to Senator Patrick Leahy, Hatch even altered the language on the blue slips. Before Bush won election in 2000, the slips stated, "No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators." Hatch dropped that proviso when Bush became president.

In fact, Hatch held hearings for a nominee for the Ninth Circuit despite both home-state senators objecting. Carolyn Kuhl was nominated by President Bush for a seat on the Ninth Circuit. Hatch held a hearing for Kuhl despite both Barbara Boxer (D-CA) and Dianne Feinstein (D-CA), the committee's ranking Democrat, objecting. Although the Democrats ended up filibustering the nomination, Hatch provided Kuhl with both a hearing and a scheduled vote in the Senate, which never would have happened if senatorial courtesy was observed.

Although anecdotal, these examples suggest the Senate might not always behave in predictable ways when it comes to confirmation. Senators Kennedy and Hatch's behavior as chairs of the Judiciary Committee acts as a testament to the importance of the chair and the Judiciary Committee in the confirmation process. Yet, past literature

tends solely to focus on presidential negotiations with the home-state senator of the president's party. Much of the decision whether or not to hold a hearing is left up to the chair's interpretation of blue slips. Since a powerful chair can act as the agenda setter for the committee, it is essential to scrutinize a chair in order to gain a better understanding of the confirmation process in the Senate. Additionally, it is important to understand the make-up of the Judiciary Committee and how the Committee's ideology affects confirmation.

The Chair of the Judiciary Committee

Although senatorial courtesy suggests a primary agenda-setting role for home-state senators, clearly there are other key actors in the Senate that can influence the confirmation of judicial nominees. As detailed above, there are limitations to senatorial courtesy both at the nomination stage and the confirmation stage. At the nomination stage, instead of making nomination decisions solely based on the preferences of senators of the president's party who come from the potential nominee's state, Binder and Maltzman (2004) show that the president may take other political actors into account when making his decision. Additionally, instead of simply deferring to blue slips at the confirmation stage, Binder and Maltzman (2004) show that the chair of the Judiciary Committee wields vast power when it comes to determining how heavily to weight the opinions of

home-state senators. There is no rule stating that the chair must defer to the home state senators.

Influencing the role blue slips play in the confirmation process is how the chair of the Judiciary Committee chooses to interpret them. As previously mentioned, tradition dictates that chairs do not move on a nominee if one or both home-state senators objects. However, past anecdotal evidence, as previously discussed, suggests that senatorial courtesy is not always observed.

Chairs can also obstruct judicial nominees by delaying hearings. Chairs effectively set the Committee's calendar, which gives them the power to delay a nominee—perhaps indefinitely. Toward the end of the George H.W. Bush administration, Chair Joseph Biden (D-DE) slowed the Committee's consideration of the president's judicial nominees in the hopes that a Democrat would win the White House in 1992 (Epstein and Segal, 2005).

Recognizing the role of the chair, I theorize that the chair and his ideology relative to the nominee's ideology, influences the length of time before confirmation. As mentioned above, I am not the first person to propose modeling the role of the chair (see Binder and Maltzman 2004 and Krutz 1998). Although Binder and Maltzman (2004) leave room

for outside forces and senators other than those from the home state to influence judicial confirmations, they only examine this relationship within the separation of powers system. Their model's chair specific independent variable incorporates the ideological distance between the president and the Judiciary Committee Chair. I theorize that it is necessary to examine the ideology of the chair outside of the separation of powers system. Instead of measuring the distance between the president and the chair, in this chapter I measure the distance between the chair and the senators from the nominee's home state, and the distance between the chair and the committee's median.

Judiciary Committee Make-up

In addition to the panel chair, the median senator on the Judiciary Committee also influences the confirmation process. While the median senator on the committee is of the chair's party, this does not guarantee he is ideologically close to the chair. Thus, the greater the distance between the chair and the median senator, the slower the confirmation process.

I also theorize that the larger the distance between the Judiciary Committee median and the nominee, the longer it will take to confirm the nominee. The median senator on the Committee is pivotal because without that key vote, the nominee will never be

placed on the *Executive Calendar* and sent to the Senate floor for an up or down vote. The following analyses that focus on the Judiciary Committee will provide an extension of Binder and Maltzman's work by analyzing how senators influence one another and who controls the Committee's agenda. Most importantly, my theory keeps confirmation battles within the Senate instead of focusing them on the president. I will test the theoretical expectation below that the Judiciary Committee is the gatekeeper when it comes to judicial nominees.

Hypotheses

Stemming from the above theoretical argument, I put forth four hypotheses.

Chair-Home State Senator Distance: The greater the ideological difference between the chair and the farthest home-state senator, the longer it will take for a nominee to be confirmed.

Judiciary Committee-Nominee Distance: The greater the ideological difference between the nominee and the median senator on the Judiciary Committee, the longer confirmation will take.

Chair-Committee Median Distance: The greater the ideological distance between the

chair and the median senator, the longer the confirmation process will take.

Senate-Nominee Distance: I expect that once a nominee makes it to the Senate floor, it is likely she will be confirmed. Thus, the closer the nominee is to the Senate median, the faster the nominee will be confirmed.

Methods and Analysis

In my analysis I examine all U.S. Circuit Courts of Appeal nominees from 1947-1998. During this time period, nine different senators chaired the Judiciary Committee. Four of these chairs were Republicans and five were Democrats. To test my hypotheses about the timing of judicial confirmation decisions, I estimate a hazard rate model.⁸ This model is appropriate since my data are right-censored. That is, for some nominees in the sample confirmation never occurred.⁹ The coefficients in the model indicate whether a particular variable increases or decreases the hazard rate. In this analysis, an increase in the hazard rate means that the variable has the effect of speeding up a confirmation. Robust standard errors are calculated because multiple observations

⁸ The choice of a Cox model over parametric alternatives was made because I have no *a priori* expectation about the dependence of the baseline hazard rate on time (Box-Steffensmeier and Jones, 1997; Binder and Maltzman, 2002).

⁹ I choose not to eliminate these nominees because if I did there would be selection bias in my sample (Box-Steffensmeier and Jones, 1997). Additionally, treating nominees with similar lengths of confirmation the same (regardless of the end result of their nomination) would likely lead to biased estimates. Thus, I choose to estimate a hazard rate model.

are possible (i.e. a nominee who fails in one Congress can be resubmitted in a later Congress). The standard errors are clustered on each nominee to control for correlated errors across multiple observations for a single nominee.

Dependent Variable

The dependent variable is the length of time each nomination was pending in the Senate before confirmation.¹⁰ The data come from the Senate Judiciary Committee’s Final Legislative and Executive Calendar for each congress, the *Journal of the Executive Proceedings of the Senate*, the Senate Judiciary Committee, and the Federal Judicial Center. The variable is coded such that the duration of the nomination consists of the number of calendar days the nomination was pending from the day the president makes his choice, to the day the Senate confirmed the nominee.¹¹ As previously mentioned, some nominees are right-censored, meaning the nominee was never confirmed. For those nominees who are right-censored, the last date the Senate was in session or the day the president withdrew the nominee is used as the end of the confirmation. This can be thought of as the last day the nominee was “at risk” for confirmation.

¹⁰ I thank Sarah Binder and Forrest Maltzman for their data on the duration and fate of nominations.

¹¹ The analysis does not distinguish between recess and nonrecess days because recesses are so short during this time period.

Key Independent Variables

During the time period analyzed (1947-1998) there are 413 nominations to the U.S. Circuit Courts of Appeal. The following independent variables are coded for each of the 413 nominees.¹² It is important to keep in mind that my hypotheses are based on the theory that the Judiciary Committee wields significant power during the confirmation process and that the president need not be placed in models of confirmation. The independent variables in the model reflect this theory.

Judiciary Committee-nominee distance: The nominee's ideology is estimated using GHP scores (Giles et al., 2002, 2001). These are calculated simply taking the home-state senator's first dimension DW-NOMINATE score if the home-state senator is a member of the president's political party. If both home-state senators are members of the president's party, the senators' DW-NOMINATE scores are averaged. Similarly, if neither home-state senator is from the president's party, the president's DW-NOMINATE is used as a proxy for the nominee's ideology.¹³ The absolute difference between the nominee's imputed ideology and the median Judiciary Committee member's NOMINATE score is then calculated to provide a measure of Judiciary Committee-nominee distance.¹⁴

¹² The 35 nominees from Washington, D.C. are dropped because there is no home-state senators. Thus, if they were included many several of the independent variables below would be missing data.

¹³ GHP scores are the conventional way the literature on judicial confirmations measures nominee's ideology. Other measures of ideology, such as *Judicial Common Space* scores are typically used only once a judge is on the bench.

¹⁴ The Judiciary Committee median is calculated using The U.S. Supreme Court Justices Database (Epstein et al., 2007).

Chair-farthest home-state senator distance: Both the chair's and the home-state senator's ideology are calculated using DW-NOMINATE. The home-state senator whose ideology is farthest from the Chair's is used to calculate this variable. By using the ideology of the home-state senator farthest from the chair, the estimate is more conservative. The home-state senator who is farthest from the chair will be more likely to have divergent views from the chair's regarding the nominee. In fact, this senator is likely a member of the opposite political party. The distance is, once again, calculated by taking the absolute value. The expectation is that the bigger the distance between the chair and the home-state senator, the more likely the chair is to delay a hearing, not schedule a hearing, or ignore blue slips.

Chair-Committee distance: I calculate the ideological distance between the Chair and the Committee median in each congress as the absolute difference between the DW-NOMINATE scores for the president and the Senate median.

Senate-nominee distance: I calculate the ideological distance between the nominee and the Senate in each congress as the absolute difference between the imputed ideology for the nominee and the DW-NOMINATE score for the Senate's median.

Critical nomination: Using the balance in party affiliations for sitting judges on the relevant circuit courts as a proxy for the court's ideological balance, any nomination

is critical if the make-up of the court ranges between 40 percent Democratic and 60 percent Democratic. Critical nominations are coded 1, 0 otherwise.¹⁵

Divided government: Split party control of the Senate and the executive branch is coded 1, 0 otherwise.

*Chair-Home state senator distance*Divided government*: This interaction term captures the fact that under divided government, the farthest home-state senator is likely to be a member of the president's party.

Additional Controls

The variable *Chair Power* is an indicator variable for those three chairs known to have ignored senatorial courtesy while chairing the Judiciary Committee. Senators Kennedy, Hatch, and Biden are each coded as 1, others are coded 0.

Although I emphasize the role of the committee in this chapter, there is no denying the role of the president in the confirmation process. A popular president may use his high approval ratings as a way to persuade senators to move forward on his nominee. Thus, I control for the popularity of the president and the time until the end of the

¹⁵ The party composition of each circuit bench at the time of nomination is determined from Zuk et al. (1997).

presidential term.¹⁶ I also control for the quality of the nominee.¹⁷ For Senate institutional controls, I account for the number of pending appointments and the amount of time remaining in a given congress after the president submits the nomination (McCarty and Razaghian, 1999). Fixed effects for each president and each Congress are also included to control for any president-specific or Congress-specific temporal trends in the data.

Results and Discussion

The descriptive statistics for the time period analyzed make clear that the Senate treats nominees to the federal bench unevenly. There is substantial variation in how long it takes a nominee to be confirmed. From the descriptive statistics, it is also clear that the longer the Senate delays a nomination, the less likely the nominee will be confirmed.¹⁸

[Table 4.1 about here]

¹⁶ Presidential approval is taken from Gallup approval ratings for the month in which the nomination was made. Nominations submitted or still pending in a presidential election year are coded as 1, 0 otherwise.

¹⁷ Nominee quality is based on American Bar Association (ABA) scores. I use a dichotomous variable to indicate whether a nominee received any type of qualified ranking, coding quality nominees as 1, 0 otherwise.

¹⁸ Pearson's $r=-0.52$, significant at $p<0.001$.

The estimation results appear in Table 4.2.¹⁹ The overall fit of the model is good, and I can reject the null hypothesis that the coefficients are jointly zero beyond the 0.001 level.

[Table 4.2 about here]

The primary hypotheses tested by this model involve the role of the Judiciary Committee in the confirmation of judicial nominees. Previous work neglects the important gatekeeping job of the Committee. Thus, I expect that by adding committee specific variables into models of confirmation delay, the results will be more in line with what I and other scholars have hypothesized.²⁰

As expected, as the distance between the Judiciary Committee median and the nominee increases, the length of time each nominee awaits confirmation increases. This finding indicates a primary role for the Committee in the confirmation process. This suggests that presidents might find it useful to consider the make-up of the Committee when nominating an individual to the federal bench.

Similar to other analyses of the confirmation process, the preferences of the median senator and her relationship to the nominee has a positive effect on the length of time

¹⁹ The model is estimated using Stata 10.0's *stcox* routine.

²⁰ Past work on delay in confirmation finds no effect for the distance between the Senate median and the nominee. In fact, the work of Binder and Maltzman (2002) finds that as the distance grows, the speed of confirmation actually increases, which is contrary to their expectations.

each nominee awaits a Senate decision. That is, the closer the nominee is to the Senate median, the quicker the nomination occurs. While other literature expects this variable to have a negative effect on confirmation timing, I expect the positive finding. This is because in this analysis most of the major decisions about whether or not to confirm the nominee happen at the committee stage. Therefore, once a nominee reaches the Senate floor, it is expected that if the nominee is close to the median the nomination will go through fairly quickly. If it is expected that the nominee will be filibustered by the minority, the Committee has no incentive to hold up the confirmation. In fact, it is likely that the Committee and the majority party leadership will want to push the nominee through in order to draw attention to the minority's obstruction. This finding suggests that Senate institutions attenuate the independent effect of the median senator (Binder and Maltzman, 2004).

I find no effect for the variable *Chair-Committee Median Distance*. The preferences of the Committee median have little effect on the length of time each nominee awaits a Senate decision. Perhaps this simply indicates the power of the majority party. The median member of the Judiciary Committee is, most likely, a member of the chair's party. Thus, it is unlikely that the ideological distance between the two is ever enough to significantly delay a confirmation.

As the distance between the farthest home-state senator and the chair increases, the length of time until confirmation also increases. Once again, this finding confirms the hypothesis that the chair wields significant power when it comes to moving nominees along in the confirmation process. While the above finding is interesting, it tells us little until it is interacted with divided government. Under divided government, the farthest home-state senator from the chair is likely to be a member of the president's party. The variable *Farthest Home-State Senator*Divided* captures this. After calculating the appropriate standard errors for the interaction, it is determined that under divided government, the farther apart the farthest home-state senator and the chair the greater the delay in confirmation. The coefficient on the interaction term under divided government is -0.644 (p=0.061).

Divided government in this model constrains the president's ability to swiftly confirm a nominee, even when the president is not directly in the model. This finding alone suggests the power of the Senate independent of the president. Divided government has pervasive effects throughout the confirmation process.

The results for the control variables are similar to those found by Binder and Maltzman (2002). Nominations to critical courts do not take significantly longer than those non-critical vacancies. However, when there is a nomination to a critical court during

divided government, the timing of confirmation slows down. After calculating the correct standard errors the coefficient on the variable *Critical nomination during divided government* is -0.939 (p=0.024) for those nominations to critical courts during divided government. Under divided government, the majority (including the chair) exploits its ability to slow down the confirmation. When government is not divided, the coefficient on this variable is -0.454 (p=0.154).

The qualifications of the nominee, as measured by the American Bar Association, do not significantly affect the timing of confirmation. High presidential approval speeds up confirmations, but this finding is not significant. As expected, a nomination that occurs during a presidential election takes significantly longer than one in an off-election year. The number of nominations pending and the time left in session both significantly slow.

Past scholarship has found little effect for the Senate's ability to slow down judicial confirmations except during divided government. However, by taking into account the role of the Judiciary Committee, the chair of the Committee, and the home-state senators relationship to the chair, this chapter suggests an important role for the Senate in the confirmation process of federal judges. These results show how Senate institutions, such as senatorial courtesy can affect outcomes, but that these effects are attenuated by the Judiciary Committee and strong panel chairs.

As the distance between the Judiciary Committee median and the nominee increases, the slower the confirmation. This result has implications for legislative-executive actions. Rather than assume a primary role for the president in the confirmation process, this chapter paints the Senate as more autonomous than previously thought. Rather than focus on the relationship between the president and the Senate in the confirmation of judicial nominees, scholars should pay more attention to the institutional workings of the Senate and how these affect judicial nominees. The results also suggest that the median senator is not all-powerful when it comes to confirmations, more important is the median senator on the Judiciary Committee, for this is where gatekeeping occurs.

Table 4.1: Descriptive Statistics

Variable	Mean	Std. Dev.	Min.	Max.
Time from nomination to confirmation	92.368	116.792	1	711
Committee-nominee distance	0.459	0.247	0.002	1.175
Senate-nominee distance	0.333	0.189	0	0.874
Chair-Committee distance	0.255	0.136	0.010	0.535
Chair Power	0.421	0.494	0	1
Home-state senator-chair distance	0.493	0.280	0.005	1.187
Critical nomination	0.349	0.477	0	1
Divided government	0.487	0.500	0	1
Home-state senator-chair dist.*Div. govt.	0.259	0.332	0	1.187
Critical nomination during divided govt.	0.165	0.371	0	1
President approval	54.697	11.062	28	76
Presidential election year	0.218	0.413	0	1
Well-qualified nominee	0.649	0.478	0	1
Qualified nominee	0.985	0.120	0	1
Number of nominations pending	17.985	14.531	1	67
Time left in session	357.910	187.640	6	722

Table 4.2: The Timing of Senate Confirmation Decisions, 1947-1998

Variable	Expected Sign	Coefficient
Committee-nominee distance	-	-1.131* (0.392)
Nominee-Senate distance	+	1.204* (0.486)
Chair-Committee distance	-	0.156 (0.660)
Home-state senator-chair distance	-	-0.095 (0.220)
Home-State Chair Distance*Divided	-	-0.189 (0.442)
Chair Power	-	-0.006 (0.323)
Critical nomination	-	0.238 (0.156)
Divided government	-	-0.454 (0.319)
Critical nomination during divided govt.	-	-0.485 (0.265)
President approval	+	-0.012 (0.010)
Presidential election year	-	-1.239* (0.170)
Well-qualified nominee	+	0.049 (0.116)
Qualified nominee	+	1.058 (0.764)
Number of nominations pending	-	-0.011* (0.006)
Time left in session	-	-0.003* (0.001)
Number of Observations		413
Log Likelihood		-1777.740
Chi-squared		314.760*

* = $p \leq 0.05$ (all one-tailed tests). Fixed effect controls are included in the model, but not reported above. Robust standard errors are in parentheses. For interpretation of interaction terms please see the *Results* section.

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