

THE SUPREME COURT, THE PRESIDENT, AND CONGRESS: LAWMAKING IN A SEPARATION OF POWERS SYSTEM

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Online Appendix Table 1. Summary Statistics

Variable	Mean	Std. Dev.	Min.	Max.
Multinomial Logit Model (N=360)				
Presidential Agreement	-0.09	0.51	-0.69	0.69
Presidential Distance	0.13	0.35	-0.54	0.59
Reelection Year	0.18	0.38	0.00	1.00
US Lost	-0.02	0.74	-1.00	1.00
Unconstitutional	0.25	0.44	0.00	1.00
Court Invite	0.04	0.21	0.00	1.00
Solicitor General Invite	0.06	0.24	0.00	1.00
Presidential Approval	52.81	11.24	26.00	87.00
Lawyer	0.39	0.49	0.00	1.00
News Coverage	0.21	0.41	0.00	1.00
Post-Carter Presidency	0.52	0.50	0.00	1.00
Previous Calls	2.12	3.45	0	21
Logit Model (N=168)				
Congressional Agreement	0.03	0.15	-0.29	0.29
Presidential Distance	0.18	0.36	-0.54	0.59
News Coverage	0.34	0.47	0.00	1.00
Unconstitutional	0.27	0.45	0.00	1.00
Court Invite	0.07	0.25	0.00	1.00
Override	0.56	0.50	0.00	1.00
Presidential Approval	51.13	10.2	30.00	87.00
Spoken Remark	0.55	0.50	0.00	1.00
First Term	0.71	0.45	0.00	1.00
Honeymoon	0.12	0.32	0.00	1.00
Case Age	6.98	9.61	0.00	60.00

Online Appendix Table 2. Multinomial Logit Model of Presidential Calls to Congress to Implement or Override Supreme Court Decisions, 1953-2017

Variable	Coefficient	Standard Error	P-value (one-tailed)
Implementation Model			
Presidential Agreement	-0.03	0.37	0.47
Presidential Distance	2.16	0.78	0.01
Reelection Year	-0.22	0.66	0.37
US Lost	0.22	0.34	.26
Unconstitutional	6.21	0.53	0.01
Court Invite	2.12	0.75	0.01
Solicitor General Invite	2.35	0.77	0.01
Presidential Approval	0.002	0.01	0.46
Lawyer	-0.71	0.51	0.09
News Coverage	0.33	0.59	0.29
Post-Carter Presidency	0.11	0.39	0.39
Previous Calls	0.15	0.46	0.01
Constant	-6.67	1.12	0.01
Override Model			
Presidential Agreement	-2.64	0.61	0.01
Presidential Distance	-0.93	0.70	0.09
Reelection Year	-0.93	0.60	0.06
US Lost	0.93	0.32	0.01
Unconstitutional	6.87	0.54	0.01
Court Invite	-0.55	0.84	0.26
Solicitor General Invite	-13.75	0.80	0.01
Presidential Approval	-0.03	0.02	0.06
Lawyer	-2.11	0.56	0.01
News Coverage	1.37	0.54	0.01
Post-Carter Presidency	0.85	0.44	0.03
Previous Calls	0.34	0.06	0.01
Constant	-5.51	1.01	0.01
N	360		
Pseudo R2	0.46		

Online Appendix Table 3. Logit Model of Congressional Responses to Presidential Calls to Congress to Implement or Override Supreme Court Decisions, 1953-2017

Variable	Coefficient	Standard Error	P-value (one-tailed)
Congressional Agreement	-0.03	1.27	0.49
Presidential Distance	-0.66	0.56	0.12
News Coverage	-0.18	0.41	0.33
Unconstitutional	-0.78	0.49	0.05
Court Invite	1.37	0.82	0.05
Override	-0.68	0.39	0.04
Presidential Approval	-0.00	0.02	0.49
Spoken Remark	-0.11	0.36	0.38
First Term	0.84	0.51	0.05
Honeymoon	0.41	0.58	0.24
Case Age	-0.02	0.02	0.19
Constant	-0.67	1.25	0.30
N	168		
Pseudo R2	0.08		

Other Methodological Considerations

- **Independence of Irrelevant Alternatives Assumption:** We employ a multinomial logit model to examine the factors that shape presidents' decisions to call on Congress to implement or override the Court's decisions. This model makes the Independence of Irrelevant Alternatives (IIA) assumption (that is, that the chances of making a particular choice is independent of the addition of other alternatives). To test whether our model violates this assumption, we ran Hausman tests of the IIA assumption, which indicated that the IIA assumption was not violated.
- **Other modeling choices.** In the paper, we use a multinomial logit model to estimate whether the president made no call to Congress, called on Congress to implement the decision, or called on Congress to override the decisions; and 2) a logit model to estimate whether Congress responded to the president's call. An alternative modeling strategy is to run two logit models in place of the multinomial logit model, or to use a Heckman selection model. We believe the multinomial logit is the appropriate modeling strategy. If we were to run two separate logit models, the comparison category would be instances in which presidents made no call to Congress and those in which the president called on Congress to override the Court's decision (in a separate implementation logit model) or those in which the president made no call to Congress and those in which the president called on Congress to implement the Court's decision (in a separate override logit model). This does not most accurately reflect the three options available to presidents. Our decision to use a multinomial logit model, instead of a Heckman model, is because the Heckman model limits our dependent variable to a dichotomous choice. Because we are interested in why presidents call for congressional overrides or congressional implementation relative to making no call on Congress, the Heckman model is unable to capture this three-choice dependent variable. Instead, it would only examine whether the president called on Congress or not.
- **Democratic Presidents:** Of the four presidents who were lawyers, three were Democrats. Including a variable identifying Democratic presidents in the multinomial logit model does not change the substance of the conclusions, nor is it significant.
- **Statutory Construction:** We also ran a model that included a variable indicating whether the case involved statutory construction, as opposed to, for example, judicial review. This variable was coded 1 if the Spaeth et al. (2017) database indicated the authority for the decision was statutory construction, and 0 otherwise. This variable fails to achieve statistical significance in the logit model.
- **Public Mood:** We also ran a model that included a variable indicating if public mood was aligned with the president. To capture this, we coded a variable 1 if public mood was aligned with the party of the president (where mood > 60 is aligned with Democratic presidents and mood < 60 is aligned with Republican presidents). That variable fails to achieve statistical significance in the multinomial logit model.
- **Measuring News Coverage:** In the paper, we use an updated version of the Epstein and Segal (2000) news coverage (salience) measure. More recently, Collins and Cooper (2012) have developed a measure of case salience that improves on the Epstein and Segal (2000) measure in several ways. We are unable to employ the Collins and Cooper measure since that data begins in 1953 and our data include cases decided well before that.
- **Identifying Presidential Speeches:** To identify presidential speeches on the Court's decisions, we searched for the term "Supreme Court" in the *Public Papers of the Presidents*. To ensure that this was an inclusive search process, we also searched for a random sample of 78 case names in which the term "Supreme Court" appeared (giving us precision of ± 10 percent at 95 percent

confidence). Using the case names to search for cases only identified 19 of the 78 cases, all of which also included the term "Supreme Court." As a result, we conclude that our search strategy was much more inclusive than searching for the names of cases, which presidents generally do not specifically mention when they discuss Supreme Court cases.

References

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