At a stop on his postelection rally tour to thank his supporters, President-elect Donald J. Trump stood before a packed state fair exposition center in West Allis, Wisconsin. When Trump mentioned the name of local congressman, Speaker Paul Ryan, R-Wisc., voices in the crowd began to boo. Ryan’s home-state popularity among Republicans had clearly taken a hit in the wake of his tepid support for Trump’s presidential campaign. But Trump tried to calm his supporters. “Oh, no. I have come to appreciate him,” he said. “Speaker Paul Ryan. . . . He has been, I tell you, he has been terrific. And you know, honestly, he is like a fine wine. Every day goes by, I get to appreciate his genius more and more.” But then, with a smile, Trump added, “Now, if he ever goes against me, I’m not going to say that, okay?”

The tension between Trump and Ryan illustrates an enduring truth about presidential relationships with Congress. A shared party label by no means guarantees close coordination between presidents and members of Congress. Congress has long served as a site of fierce opposition to presidents, regardless of the partisan configuration of national institutions. Presidential interactions with Congress are often contentious and difficult, even when the same party controls both branches of government.

More than diverging policy priorities complicate the president’s relationship with Congress. Congress and the presidency are simply very different institutions. The executive branch is more hierarchical and vertical in decision making while Congress is more collegial and horizontal—with power spread among 535 independent-minded lawmakers. The legislative branch’s great strength is that it is able to give voice and visibility to diverse viewpoints, but its dispersion of power slows down decision making. By contrast, the president’s great strength is, in the words of Alexander Hamilton, its “decision, activity, secrecy, and dispatch.” Congress’s ponderousness can promote public acceptance of the nation’s policies, but it can also render decisive action impossible. These institutional differences alone are an enduring source of interbranch conflict.

Understanding the chief executive’s relations with Congress is no easy task. The founders did not clearly define the legislative–executive relationship, and it remains a work in progress. Presidents always bring their own style to the relationship, which political scientist Charles O. Jones characterizes as
ranging from a partnership model to an independent model. The partnership model means that presidents consult regularly with lawmakers and involve them directly in the policy and political affairs of the White House. On the independent model, presidents minimize their involvement with Congress and strive on their own to accomplish their top priorities. Regardless of how presidents approach Congress, they confront the basic constitutional fact that the legislative and executive branches of government can each block the other, and each needs the support or acquiescence of the other to accomplish most objectives.

In this chapter, we will examine the relationship between Congress and the president from three perspectives: (1) the president's constitutional powers relative to Congress, (2) each institution's capacity for public leadership, and (3) the persistent sources of conflict and cooperation between the two institutions.

CONSTITUTIONAL POWERS

Article II of the Constitution reflects the framers' ambivalence about executive power. Although Article I specifies the powers of Congress in considerable detail, Article II is very brief and general. Broadly speaking, the most important feature of the constitutional relationship between Congress and the president is the extent to which these two separate institutions, each independently elected, share powers. Rather than segregating executive and legislative functions in different branches of government, the Constitution blends them together. The Congress and the president each possess critical powers over legislation and administration.

Article II begins by stating, “the executive power shall be vested in a President of the United States.” But the document does not then go on to define the executive power with much specificity. The first administrative power mentioned in the Constitution is to “require the opinion, in writing, of the principal officers” of the executive departments, an obscure clause of the Constitution that has seen little judicial interpretation. Any executive’s most important administrative tool is ability to hire and fire personnel. The president is empowered to nominate appointees to executive-branch departments and agencies. But under the Constitution, these appointments are subject to the “advice and consent of the Senate” or to other processes as Congress may designate by law. In other words, Congress is able to check the president even in the exercise of the president’s most basic administrative functions.

The president’s powers extend beyond administration. The president is also a legislative leader. Presidents have a critical power over lawmaking: the veto. Article I, section 7, of the Constitution requires the president to approve or disapprove bills passed by Congress. When the president disapproves (vetoes) a measure, it dies unless it “shall be repassed by two thirds of the Senate and House of Representatives.” Because vetoes are so difficult to override, the veto power transforms the president into, in Woodrow Wilson's
words, a “third branch of the legislature.” The Constitution also enjoins the president to take an active leadership role in proposing policy. The president is instructed to “give to the Congress information on the State of the Union and recommend to their consideration such measures as he shall judge necessary and expedient.” Soon after delivering the annual State of the Union address, the president will typically send to Congress draft administration bills for introduction. What Congress chooses to do with these recommendations, however, rests entirely on its own discretion.

Veto Bargaining

The presidential veto is a powerful bargaining tool. In most cases, a presidential veto will stop a bill because presidents can usually attract enough of their supporters in Congress to prevent a congressional override. From 1789 through the end of Barack Obama’s presidency, presidents exercised their veto authority on 2,574 occasions. Congress successfully overrode these vetoes on only 111 occasions (4.3 percent).6

Most presidents have employed the veto. In fact, no president since Thomas Jefferson (1801–1809) has served two full terms without vetoing a bill. Interestingly, recent presidents have employed the veto less often than most twentieth-century presidents. Presidents Obama and George W. Bush, for example, each vetoed just twelve bills during their presidencies. Not since Warren Harding (1921–1923) had a president issued as few as twelve vetoes.7

When contemplating a veto, presidents seek advice from numerous administration sources, such as agency officials, the Office of Management and Budget, and White House aides, as well as allied lawmakers and interest groups. When issuing a veto, presidents commonly offer legal and policy justifications for their action, such as the bill is unconstitutional, it encroaches on the president’s independence, it is unwise public policy, it cannot be administered, or it costs too much.

But both president and Congress also exploit the veto for political reasons. A veto fight with Congress allows presidents to underscore how their views differ from the other party’s. By the same token, Congress may deliberately send the president of the opposite party a measure that lawmakers want and expect him to veto, so they can use the issue on the campaign trail—a “winning-by-losing” strategy.8

Veto Processes. After receiving a bill from Congress, a president has ten days (excluding Sundays) in which to exercise one of four options:

1. Sign the bill. Most public and private bills presented to the president are signed into law. The president also may issue a signing statement that expresses an interpretation of the new law’s provisions.

2. Return the bill with a veto message to the originating house of Congress.
3. Take no action, and the bill will become law without the president’s signature. This option, which is seldom employed, is reserved for bills the president dislikes but prefers not to veto. Presidents may take this course when they disapprove of a bill but expect Congress to override a veto.

4. Pocket veto the bill. Under the Constitution, if a congressional adjournment prevents the return of a bill, the bill cannot become law without the president’s signature.

**Veto Threats.** The veto is much more than a negative power to stop unwanted legislation. Presidents frequently issue threats to veto while legislation is being developed. Because vetoes are almost always successful in stopping legislation, a veto threat creates incentives for Congress to accept presidential input.

Veto threats are used for many reasons, such as protecting administration priorities, defining party differences and positions, or encouraging negotiations. Veto threats will typically spur legislative-executive bargaining. In the process, legislators will often choose to substantially accommodate executive preferences and objections. “We try to use the veto threat wisely, to change votes or to change the language of the underlying document,” explained a top White House legislative aide. “And we succeed.”

Veto threats are a pervasive feature of divided government. For its part, Congress will sometimes try to dissuade the president from vetoing provisions the president dislikes by adding them to must-pass legislation (such as appropriations bills) or to measures the president strongly favors.

Research shows that veto threats are frequently successful in getting Congress to alter legislation, even when presidents threaten to veto must-pass measures. Based on an analysis of riders added to appropriations bills, political scientists Hans J. G. Hassell and Samuel Kernell find that presidents achieve a nearly 60 percent success rate in removing provisions they threaten to veto.

Presidential veto threats commonly spur the president’s partisans in the Senate to filibuster or put up other resistance. Such actions then frequently result in the controversial riders being dropped from the legislation. President Obama, for example, seldom needed to follow through on threatened vetoes during his first six years, in large measure because the Democratic Senate could block antiadministration bills coming out of the GOP House entirely. But even after Democrats lost their Senate majority in the 2014 elections, Democrats could still use holds and filibusters to block or force concessions and would often do so on legislation the president threatened to veto. However, President Obama had to make greater use of the veto during his final two years in office when Democrats no longer controlled either chamber of Congress.

**The Pocket Veto.** Pocket vetoes occur when the President receives a bill but does not sign or reject and return it to Congress within ten days of
a congressional adjournment. Such bills neither become law nor are subject to a congressional veto override. There has been legal controversy over exactly when a congressional adjournment prevents the return of a president’s veto. Until the Supreme Court makes a definitive ruling involving the use of the pocket veto both during and between legislative sessions, it is likely that legislative–executive conflicts over the pocket veto will continue to occur periodically. Up to now, the scope of the pocket veto power, as public-law scholar Louis Fisher has written, “has been left largely to practice and to political understandings developed by the executive and legislative branches.”

Postveto Action. Congress need not act at all on a vetoed bill. If party leaders lack the votes to override, the chamber that receives a vetoed measure may refer it to committee or table it. Even if one house musters the votes to override, the other body may do nothing. A vetoed bill cannot be amended—it is all or nothing at this stage—and the Constitution requires that votes on overriding a veto be recorded. On occasion, Congress may feel intense political heat after it receives a veto message. A week after President Nixon’s televised veto of a 1970 bill funding welfare programs, House members received more than fifty-five thousand telegrams, most of them urging support for the veto. And Congress did uphold the veto, in part because of Nixon’s televised appeal. Presidential pressure does not necessarily dissuade Congress from a veto override, of course. Despite a massive telephone campaign to congressional offices (as many as eighty thousand calls an hour) urging members to sustain President Reagan’s veto of a 1988 civil rights bill, the House and Senate easily overrode the veto.

The Line-Item Veto
Congress’s habit of combining numerous items into a single measure obliges the president to accept or reject the entire package. Presidents and supporters of executive power have long advocated allowing the president to veto items selectively. After much debate, Congress passed a line-item veto in 1996. This measure would allow the president to cancel dollar amounts specified in appropriations, strike new entitlement programs or expansions of existing programs, and delete limited tax breaks. In 1998, however, the Supreme Court held the Line-Item Veto Act unconstitutional, because it gave the president “unilateral authority to change the text of duly enacted statutes.”

Since the Court’s decision, some lawmakers and presidents have expressed interest in enacting a constitutionally valid line-item veto. But many lawmakers oppose the line-item veto because they believe it would cede too much power to the president. With a line-item veto, the president could say, “I’m going to zap your dam, but I’ve got another piece of legislation coming around, and I won’t be so inclined to do that [if you support me],” said former representative Jack Kingston, R-Ga. Critics also maintain that presidents already have the only tool they need to control spending: the veto.
The Administrative President

As the chief executive officer under the Constitution, presidents possess a range of powers to act unilaterally to advance their objectives. Presidents can announce executive orders, meaning instructions to government officials and administrative agencies to take specific actions as they carry out policies and programs within their jurisdiction. They can also issue proclamations stating administration policy to groups outside government. Proclamations have been employed for many purposes, such as to establish new national monuments, make modifications to tariffs, and explain how the administration intends to interpret a new law. Presidents can negotiate executive agreements with other countries, enabling them to circumvent the treaty process and unilaterally commit the U.S. to international deals on trade, navigation, environmental standards, and immigration, among many other issues. In the area of national security, presidents can issue presidential directives establishing administration policy across a vast range of issues, including cybersecurity, terrorism, nuclear weapons, and foreign policy toward particular countries and regions.

The president does not need support from Congress to use these administrative powers. Presidents make use of their unilateral powers in numerous ways, such as naming loyal political appointees to supervise and monitor agency activities, reorganizing executive departments to advance presidential goals, and using the budget process to reduce unwanted programs or increase priority activities. At times, they are able to use these powers to achieve outcomes blocked by Congress.

Presidents have repeatedly employed executive orders and reorganization plans to create entirely new administrative entities. For example, in the immediate aftermath of the attacks of September 11, 2001, President George W. Bush unilaterally created an Office for Homeland Security in the White House; constructed a prison for suspected terrorist noncitizens at Guantánamo Bay, Cuba; and instituted a new legal system for handling cases involving unlawful enemy combatants. Presidents establish new government agencies unilaterally with some frequency. Based on a study of all of the administrative agencies established between the end of World War II and 1995, William G. Howell and David E. Lewis report, “presidents have unilaterally created over half of all administrative agencies in the United States.” Among them are such important agencies as the Peace Corps.

Through the use of these powers, presidents have sometimes been able to institute policies that Congress would not have created of its own accord. When the Senate blocked action on Bush’s faith-based initiative (assisting religious groups in winning government grants for charitable and social service work), the president ordered his administration to implement the program through executive orders and changes in agency regulations. As another example, President Harry S. Truman issued an executive order racially integrating the armed services in 1948, an action that could not
have passed Congress at that time. When Congress resisted his proposals to close the Guantánamo Bay military prison, President Obama responded by using prisoner transfers to steadily reduce the population held there to as low as sixty.23

When presidents circumvent Congress by establishing new agencies and policies, they are often able to pressure Congress into acceptance. When presented with new “facts on the ground,” the Congress must get organized to mount a response. Congress may not succeed in doing so, even when majorities of the House and Senate are unhappy with a president’s actions. In particular, it is harder for Congress to defund or abolish an existing agency or policy than it is to institute them in the first instance. For example, when President Kennedy encountered significant opposition in Congress to the Peace Corps idea, he opted to create the agency by executive order. By the time Congress got around to reviewing the president’s actions, the Peace Corps already had 362 employees and 600 volunteers at work in eight countries.24 The administration’s action had created a fait accompli that Congress was hard pressed to undo. Generally speaking, Congress rarely attempts to overturn executive orders—and even when it tries, it often fails.25

Presidents’ use of their unilateral powers has been a pervasive source of interbranch conflict. Stymied by the GOP-controlled Congress on issues such as antismoking legislation, a patients’ bill of rights, and subsidies for school construction, President Bill Clinton made extensive use of executive orders. “His formula include[d] pressing the limits of his regulatory authority, signing executive orders and using other unilateral means to obtain his policy priorities when Congress fail[ed] to embrace them.”26 Congressional Republicans railed against Clinton’s “go-it-alone” governing.

George W. Bush similarly exploited administrative tools to advance his policy goals. For example, he quickly exercised executive authority to roll back, suspend, or challenge many Clinton-era regulations. During his presidency, he was not reluctant to implement, by executive fiat, administration programs that had stalled in Congress. Just before leaving office, Bush encouraged his departments and agencies to move rapidly to enact a wide array of so-called “midnight regulations.”

Upon entering office in 2009, the Obama administration moved quickly to block or reverse many of the Bush administration’s rules and regulations. Even before Obama was sworn into office, his transition team “compiled a list of about 200 Bush administration actions and executive orders that could be swiftly undone to reverse White House policies on climate change, stem cell research, reproductive rights and other issues.”27 True to form, in his first seven days in office, President Obama blocked action on Bush’s last-minute rules. Immediately after being sworn into office, President Trump sought to reverse an array of Obama regulatory actions. On the campaign trail, Trump singled out a range of regulations for criticism, including rules governing carbon emissions, fracking, clean water, payday lending, food labeling,
net neutrality, banking, and financial services. The new president is also considering withdrawing the United States from the Paris Climate Agreement, a landmark accord reached in 2015 among 195 countries seeking to stave off the effects of climate change. Trump has also indicated an intention to keep the Guantanamo military prison open and to increase its population. “We’re gonna load it up with some bad dudes, believe me, we’re gonna load it up,” he said.

The push and pull of regulatory actions as the presidency changes hands points to one of the key vulnerabilities of the administrative presidency. Regulations grounded only in executive discretion are vulnerable to changes in political control of the presidency. However, reversing promulgated regulations requires more than a new executive order. Administrative rulemaking is a rule-bound process governed by the Administrative Procedure Act (discussed in Chapter 11). New presidents who seek to rescind existing regulations must go through a process of notice and public comment on new proposed rules, as well as navigate possible litigation over the changes they seek to implement. Compared with reversing rules already in place, it is easier for a new president to issue a stop-work order on pending regulations still in the process of agency development or to refrain from defending regulations blocked in court.

A president’s best-case scenario is often to get Congress to enact laws, rather than to use administrative actions. Unilateral action often indicates that the president has failed to win congressional support for his policies. Winning congressional support for new laws is almost always a major hurdle. Even when Congress is not actively opposed, getting Congress to pass even relatively uncontroversial legislation is an arduous process. But in the event Congress will not move forward in a manner consistent with presidential priorities, presidents can often achieve some of their aims via administrative action. But these actions are more vulnerable than policies enshrined in law. Thus, a president’s core strategy is to win policy goals by enacting legislation whenever feasible, but when such an effort falls short, he advances his aims through organizational or managerial techniques.

Faced with powerful congressional resistance to most of his agenda, Obama did not shy away from using executive power. “If Congress refuses to act [on my priorities],” he said, “I’ll continue to do everything in my power to act without them.” Obama used administrative actions on numerous issues. After legislation addressing climate change stalled in Congress, President Obama used executive power to promulgate greenhouse gas emission regulations issued by the Environmental Protection Agency. Most controversially, Obama granted about five million undocumented immigrants protection from deportation by executive action. GOP lawmakers were infuriated and called Obama’s action “mass amnesty by executive fiat.” The Obama administration raised the minimum wage for federal contractors, banned federal contractors from discriminating against gay workers, and required them to
disclose labor law violations, including workplace safety violations, when bidding for contracts. In all of these areas, Obama would have preferred legislation to unilateral action, but opted to do what he could when no other path was available. Many of these administrative actions have been blocked from implementation in court. Should the Trump administration decline to defend them in court further, they will lapse.

**Signing Statements.** At times, presidents issue proclamations called signing statements to accompany bills they have signed into law. Even though they are not mentioned in the Constitution, signing statements have been used since James Monroe’s presidency (1817–1825). Ronald Reagan was the first president to use signing statements as a way to challenge congressional enactments on constitutional grounds. George W. Bush, however, employed them more often than any other president. Bush issued signing statements to override laws that he claimed would impinge upon his constitutional prerogatives as commander in chief. When Congress banned torture of war prisoners, for example, the president held that the law trespassed on his powers as commander in chief. (See Box 10-1 for three examples of Bush’s signing statements.) It is not clear how much signing statements actually affect the administration of laws. Studies have shown that “federal agencies seem to have generally complied with thousands of legislative provisions that [Bush] had questioned.” While running for president in 2008, Obama criticized President Bush’s use of signing statements, but in office, he made clear that signing statements are appropriate in limited circumstances. Obama continued to use signing statements in a manner similar to Bush, albeit less often.

**Patronage.** Patronage is another administrative asset presidents can employ to advance their aims. Presidents often grant or withhold their patronage resources to cultivate support and goodwill in Congress. Broadly conceived, patronage involves not only federal and judicial positions but also federal construction projects, location of government installations, campaign support, access to strategic information, plane rides on Air Force One, White House tours for important constituents, and countless other favors, large and small. Some presidents even keep records of the political favors they grant to lawmakers, IOUs that they can cash in later for needed support in Congress. There are limits, however, to the persuasive power of patronage. As one White House congressional-relations chief said, “The problem with congressional relations is that with every good intention, at the end of the day you can’t accommodate all the requests that you get.” More importantly, many factors influence how members vote on issues important to the White House. Although a president’s skillful use of patronage might sometimes tip the balance, other considerations—lawmakers’ constituency interests, policy preferences, and ideological dispositions, as well as public opinion and the number of partisan seats in each chamber—are more important in shaping congressional outcomes.
BOX 10-1  Examples of Signing Statements

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<th>Congressional directive</th>
<th>Signing statement</th>
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<tbody>
<tr>
<td><strong>Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458)</strong> Signed December 17, 2004</td>
<td>Created a position for a national intelligence director in response to past intelligence failures and required the president to consult with Congress on the person’s responsibilities. “To the extent that provisions of the Act . . . purport to require consultation with the Congress as a condition to execution of the law, the executive branch shall construe such provisions as calling for, but not mandating, such consultation.”</td>
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<td><strong>Fiscal 2006 Defense Appropriations (P.L. 109-148)</strong> Signed December 30, 2005</td>
<td>Outlawed “cruel, inhumane or degrading treatment” of suspected terrorists in U.S. custody. “The executive branch shall construe Title X in Division A of the Act, relating to detainees, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief.”</td>
</tr>
<tr>
<td><strong>Department of Defense Appropriations Act, 2007 (P.L. 109-289)</strong> Signed September 29, 2006</td>
<td>Blocked money from being spent to process foreign intelligence if it was gathered unlawfully; stipulated that information gathered on U.S. citizens must comply with constitutional limits on searches and seizures. “The executive branch shall construe [the provision] in a manner consistent with the President’s constitutional authority as Commander in Chief, including for the conduct of intelligence operations, and to supervise the unitary executive branch.”</td>
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**LEADERSHIP**

Beyond the constitutional powers possessed by Congress and the president, both also have the ability to engage in public leadership. Presidents and members of Congress are players in a “public sphere,” which David R. Mayhew defines as “a realm of shared . . . consciousness in which government officials and others make moves before an attentive stream of the public.”*41* Within this public sphere, institutional leaders “persuade, connive, hatch ideas, propagandize, assail enemies, vote, build coalitions, shepherd legislation, and in general cut a figure in public affairs.”*42* All of these activities shape the public’s concerns, attention, perceptions, opinions, and support. Momentarily, we will consider how these institutional leaders can engage in public leadership.
The president’s capacity for leadership is powerfully driven by expectations. Everyone—including Congress, the press, and the public—expects the president to take the lead in proposing legislative initiatives.\textsuperscript{43} Despite the president’s limited powers specified in the Constitution, the president has come to be called the chief legislator. Over time, Congress has delegated increasingly more agenda-setting power by requiring the president to submit annual budgets and other reports. The legislative presidency emerged after World War II when this new presidential role was institutionalized, meaning it was established in institutional arrangements and standard operating procedures not merely because of some unique combination of personality and circumstance.

As a collegial body of 535 members, Congress does not provide a focal point for leadership comparable to the president. Nevertheless, one should not underestimate Congress’s capacity to engage in public leadership. When issues prove to be highly controversial in Congress, the news media covers them more intensely. Political scientist W. Lance Bennett refers to this phenomenon as index\textit{ing}, meaning that the news media systematically benchmark the amount and intensity of their issue coverage against the degree of controversy that occurs among political elites, especially in Congress.\textsuperscript{44} When Congress collectively makes decisions about what topics to debate, to consider for legislation, and to serve as the subjects for hearings, Congress is also engaging in public leadership.

**The President’s Power to Persuade**

“Presidential power is the power to persuade,” wrote Richard E. Neustadt, a former staff aide in the Truman White House and adviser to President-elect John F. Kennedy.\textsuperscript{45} This power of persuasion, Neustadt asserted, meant more than the executive’s ability to persuade Congress to enact a bill. “Strategically, the question is not how he masters Congress in a peculiar instance, but what he does to boost his chances for mastery in any instance.”\textsuperscript{46} Presidents striving to be successful are urged to employ all of their resources—constitutional, political, bureaucratic, personal, and more—to persuade Congress and others to follow their lead.

Presidents are better able to persuade other Washington political elites when they are perceived as possessing both \textit{skill} and \textit{will}.\textsuperscript{47} Skillful presidents recognize the limits of their political capital and have a good sense for what is politically possible. Backing proposals for which he cannot win sufficient support depletes a president’s reputation for skill. “If [a president’s] failures seem to form a pattern,” writes Neustadt, “the consequence is bound to be a loss of faith in his effectiveness next time.”\textsuperscript{48} Perceptions of a president’s \textit{will} focus on whether the president is seen as being strongly committed to advancing a specific agenda. A president who has realistic ambitions and is strongly committed to them stands a better chance of success in persuasion.

From this analysis, it follows that presidents are more persuasive when they advance a clear, focused, achievable agenda. There is a limit to how much
Congress can tackle at once. President Jimmy Carter (1977–1981) offers an instructive case of problematic agenda setting. As President Ronald Reagan (1981–1989) was taking office, his staff studied the difficulties his predecessor had faced in dealing with Congress. Reagan found that Carter quickly overloaded Congress’s agenda and never made clear what his priorities were. There were three major consequences:

First . . . there was little clarity in the communication of priorities to the American public. Instead of galvanizing support for two or three major national needs, the Carter administration proceeded on a number of fronts. . . . Second, and perhaps more important, the lack of priorities meant unnecessary waste of the President’s own time and energy. . . . Third, the lack of priorities needlessly compounded Carter’s congressional problems. . . . Carter’s limited political capital was squandered on a variety of agenda requests when it might have been concentrated on the top of the list.49

By contrast, agenda control was the hallmark of Reagan’s leadership during his first year in office. By limiting his legislative priorities, Reagan focused Congress’s and the public’s attention on one priority issue at a time. Most were encapsulated as “Reaganomics”—tax and spending cuts. He exploited the usual honeymoon period for new presidents by moving his agenda quickly, during a moment of widespread anticipation of a new era of GOP national political dominance.

Even when presidents set agendas skillfully, persuading Congress is not easy. Even when the president’s party possesses majority control of Congress, it is difficult to marshal action from a bicameral body of 535 members. Research has shown that presidents typically craft their legislative agenda in consultation with party leaders in Congress. During what Matthew N. Beckmann terms the early game of a legislative drive, presidents work most frequently and closely with congressional party leaders, rather than with rank-and-file members or with moderate, potentially pivotal members.50 Presidential lobbying for individual votes may become increasingly important in the later stages of the legislative process. Although commonly employed, this sequence offers no guarantee of success. Early in the Trump presidency, for example, the administration worked closely with Speaker Ryan and House committee chairs to craft a replacement for Obamacare. But when it came time to marshal the votes for the bill, neither extensive lobbying from the president nor pleading from congressional leaders was sufficient to bring on board rank-and-file Republicans on the conservative and moderate flanks of the party.51 Defections from these two factions killed the bill and dealt the new president a stunning early defeat.

Deft congressional relations can sometimes make a difference. Reagan, for example, dealt skillfully with Democratic Speaker Thomas P. “Tip” O’Neill Jr. of Massachusetts, including a private dinner with the Speaker...
and his wife. Enjoying a Republican majority in the Senate, the Reagan White House focused primarily on lobbying the Democratic House to pass the president’s economic program—the “greatest selling job I’ve ever seen,” said Speaker O’Neill. As critical roll call votes approached, Reagan reached out to numerous rank-and-file lawmakers. He personally called or telegraphed all of the “Boll Weevils,” the forty-seven southern Democrats in the Conservative Democratic Forum.\(^{52}\) He persuaded several governors to meet with members from their states who were opposing the program. Top executive officials were dispatched to targeted Democratic districts to drum up public support. On the key House vote, all 191 GOP members and 63 Democrats backed the president’s budget plan. Presidents recognize the importance of maintaining informal contacts with Congress as a means of facilitating trust and open lines of communication. As Lyndon Johnson—who had served as Senate minority leader (1953–1955) and majority leader (1955–1960)—once declared, “Merely placing a program before Congress is not enough. Without constant attention from the administration, most legislation moves through the congressional process at the speed of a glacier.”\(^{53}\)

Some presidents deal with Congress more adeptly than others. Lyndon Johnson assiduously courted members. He summoned legislators to the White House for private meetings, danced with their wives at parties, telephoned greetings on their birthdays, and hosted them at his Texas ranch. He also knew how to twist arms to win support for his programs. “There is only one way for a President to deal with the Congress,” he said, “and that is continuously, incessantly, and without interruption.”\(^{54}\) Johnson regularly (and sometimes crudely) admonished his aides and departmental officers to work closely with Congress. “[Get off] your ass and see how fast you can respond to a congressional request,” he told his staff. “Challenge yourself to see how quickly you can get back to him or her with an answer, any kind of an answer, but goddamn it, an answer.”\(^{55}\)

Critics of President Obama charge that he did not make effective use of informal contacts to persuade members of Congress to support his programs. Obama showed less interest in socializing with members of Congress than some of his predecessors, and his office of legislative liaison did not enjoy especially close ties to legislative leaders and rank-and-file members. According to former senator Tom Coburn, R-Okla., the president was not especially adept at schmoozing or developing social relationships with lawmakers:

> My friend the president isn’t a great people person in terms of reaching out . . . how many times do you just invite four or five Republicans over, just sit down just to get to know them? Or how many times do you call people? What you have to do is invest in relationships. And I think that’s probably one of his biggest failings, is not investing enough in the relationships in the Congress.\(^{56}\)
Defenders of the president contend that no amount of socializing or informal persuasive efforts could have bridged the deep divisions separating the two parties in Congress during his presidency. But even some Democrats expressed exasperation that the president was not as attentive to members of Congress as they would have liked. Obama frequently outsourced the congressional liaison role to Vice President Joe Biden—given his more than three decades of Senate service. Biden’s close ties to many House and Senate members, especially Senate GOP leader McConnell, enabled him to craft some bipartisan compromises that passed both chambers.

Informal and personal relationships between the president and the top House and Senate party leaders, as well as rank-and-file members, can promote but not guarantee productive problem solving. “These kinds of relationships just don’t pop up out of the air or out of necessity,” observed a former aide to Speaker Boehner. “They require trust, and they take time. You just don’t grow that necessary trust and relationship overnight.”

Going Public: The Rhetorical President

“With public sentiment, nothing can fail; without it nothing can succeed,” Abraham Lincoln once observed. Lincoln’s idea is the essence of the rhetorical presidency: how and when a chief executive strategically employs contemporary campaign techniques and media technology to promote “himself and his policies in Washington by appealing to the American public.” The rhetorical president’s ultimate objective is to produce an outpouring of public support that encourages lawmakers to push his ideas through the congressional obstacle course. Presidents often turn to these strategies when they find that they do not have the votes they need to pass their favored initiatives. As one analyst observes, “If [the president] had the votes he would pass the measure first and go to the public only for the bill-signing ceremonies.”

Going public on an issue is not without its risks. Political scientist Samuel Kernell argues that the strategy may alienate legislators who feel that the president is going over their heads, cutting them out of the process, and disregarding their constitutional role. As opposed to bargaining and exchange, presidents who “go public” are not offering Congress anything. Instead, they are implicitly trying to threaten members’ public standing or reelection if they block the president’s agenda. As such, going public is often interpreted as a zero-sum game, a matter of winning or losing, rather than working toward a compromise outcome. For these reasons, going public has a tendency to make enemies in Congress. Going public can also limit presidents’ bargaining flexibility by putting the details of their proposals on display in advance of negotiations. The president can also raise expectations that cannot be met, make inept appeals, or stiffen the opposition.

Even so, the president’s supporters typically expect and demand that the administration mount media campaigns to bring the public on board with their agenda. Reagan’s adroitness with the media is a legacy that has loomed
large for subsequent presidents and Congresses. The Hollywood actor turned president was at home in front of cameras and microphones, and he had a keen sense of public ritual and symbolism as means of rallying support. After an assassination attempt on his life on March 30, 1981, Reagan quickly recovered and, a month later, made a dramatic public appeal for his economic program. “The White House shrewdly tied Reagan’s return to action to the budget and tax debate, scheduling an April 28 comeback speech before a joint meeting of Congress. It was a triumph, and people began to call him the ‘Great Communicator.’”

Not unlike Reagan, President Obama was an exceptionally skilled speaker. Winston Churchill once said that of “all the gifts bestowed upon [modern leaders], none is so precious as the gift of oratory.” Obama had that gift. But despite his eloquence, Obama—by many accounts, including his own—was not able to employ the “bully pulpit” to move public opinion toward supporting his ambitious agenda. As a Democratic governor put it, “Ironically, the best communicator I ever saw in a campaign has turned out to be not so good at getting out the message as president.” Obama himself agreed with this criticism: “What I have not done as well as I would have liked to is to consistently communicate to the general public why we’re making some of these decisions.” Throughout the Obama presidency, for example, Republicans constantly and successfully framed the national debate on health care reform as a “government takeover,” “socialized medicine,” or a bill with “death panels.”

Systematic research raises questions about presidents’ capacity to use campaign techniques and speeches to change public opinion on issues. An important factor affecting members’ willingness to support a presidential proposal is the president’s popularity in their own states and districts. But in an era where the parties’ supporters are sorted along geographic lines, a president’s popularity varies widely across the country. A president can be reasonably popular nationally and yet simultaneously very unpopular in many states and districts, as was often the case with both presidents Barack Obama and George W. Bush. By the same token, President Trump entered office with historically low approval ratings in national polls, but he maintained solid support among his base voters concentrated in many Republican members’ states and districts. A president’s ability to wield public opinion against Congress declines when many legislators are more popular than the president in their own districts or states.

Political scientist George Edwards’s work demonstrates that presidents rarely succeed in moving public opinion to favor their agenda. Numerous obstacles get in the way of effective presidential opinion leadership. Presidents struggle to command large audiences. Given the increased range of choices available to consumers of news and entertainment today, presidents garner a declining audience share for their major speeches. Ironically, those most likely to tune in to a presidential address tend to be already highly informed and
opinionated and thus very hard to persuade. Furthermore, many of those who watch will not remember what the president said. Compounding presidents’ difficulties in persuasion, partisanship powerfully structures how viewers respond. Presidents struggle to shift the views of those who align with the opposing party while a president’s fellow partisans often do not need to be persuaded. Edwards’s data even reveal that the public often reacts against presidents’ issue campaigns, rather than moving toward the president. Generally speaking, Democratic presidents tend to provoke conservative backlashes, and Republican presidents provoke liberal backlashes.

Rather than trying to move public opinion, presidents do better when they champion issues that the public already favors. Successful presidents are often skilled in timing their media campaigns with moments when the public is especially open to presidential leadership. For example, President Bill Clinton (1993–2001) capitalized on a battle over funding for flood relief to make a positive case for the role of government against House Republican “revolutionaries.” The public already found flood victims sympathetic and wanted to see them helped. Preexisting public opinion thus set the stage for Clinton to use the issue to push his own agenda. One reporter noted,

News accounts portrayed Republicans as, well, crazy extremists bent on playing games with flood victims. Rank-and-file Republicans writhed in political agony. Michigan Republican Fred Upton’s mother watched the news accounts with alarm and warned her son, “You’re getting killed.” “When your mom tells you that, you know you’re in trouble,” said Upton.

Similarly, George W. Bush (2001–2009) came into his own as a communicator in the aftermath of the 2001 terrorist attacks on the World Trade Center in New York City and on the Pentagon. In the context of a public outraged about the attacks and eager to see an effective response, Bush’s direct and confident manner resonated with Americans and boosted both public and congressional support for his antiterrorism and war plans. These examples point to how presidents can use public campaigns to rally support for their proposals most effectively when the public already, in principle, supports the president’s efforts. In these cases, presidents do not change public opinion so much as capitalize on it for their own purposes.

With mixed success, presidents continually strive to shape their public image in the news media. They employ aides with expertise in lighting, camera angles, and backdrops. The most elaborately staged event during the Bush presidency was his flight to and speech on the aircraft carrier Abraham Lincoln during which he prematurely announced the end of major military combat in Iraq. White House aides “choreographed every aspect of the event, even down to the members of the Lincoln crew arrayed in coordinated shirt colors . . . and [a] ‘Mission Accomplished’ banner placed to perfectly capture
the president and the celebratory two words in a single shot.” When the war continued for years afterwards without producing stability and security in Iraq, those same images were used to ironic effect by war critics, Democratic candidates, and late-night comedians.

President Obama continually experimented with different media technologies to reach audiences. He recognized that “in a fragmented media universe, presidents must communicate nearly constantly across an array of platforms, both traditional and new.” President Obama held fewer press conferences than his predecessors, such as George W. Bush and Bill Clinton, but he was willing to be a guest on various “soft news” and entertainment programs. He experimented with a live Internet “town hall” meeting in which he fielded questions in the White House from citizens across the nation, as well as from a live audience in the East Room. Obama also held town hall meetings using Twitter, YouTube, and Facebook. The president even created a webpage called “We the People” where citizens were able to create and sign petitions seeking the government’s action on a range of issues. Obama turned to celebrities—movie stars, professional athletes, and others—to assist in White House messaging. “After several YouTube stars met with the president in late February [2014] to discuss the Affordable Care Act, they created 25 videos touting the law—garnering more than 32 million viewings.” In the Internet age, with its 24/7 media cycle, presidents “must exploit an array of traditional and nontraditional communication methods if they are to influence and shape the public conversation.”

The Trump presidential campaign demonstrated the effectiveness of a new communications model relying heavily upon social media. Trump’s tweets were powerful agenda-setting devices. A Trump tweet would be disseminated first to his millions of followers and then be discussed extensively in traditional media, both in newspapers and on cable news. As a candidate, Trump “used social media to replace the traditional apparatus of a political campaign,” said an aide who oversaw Mitt Romney’s digital outreach in 2012. The candid, spontaneous quality of Trump’s tweets forged a connection with his supporters. It is not clear whether social media will be as effective for Trump as president as it was for him a candidate, but his ability to break through with his message using social media points to a possible new model for presidential communications, one in which the president speaks directly to supporters, circumventing news media gatekeepers.

Advancing administration priorities requires skill at both the inside game of mobilizing winning coalitions on Capitol Hill and the outside game of stirring popular support for the president’s agenda. President Richard Nixon made a keen observation on how administrations can win favorable congressional action on their policies: “In the final analysis, [legislative successes] are not won or lost by programs. They are won or lost on how these programs are presented to the country, and how all the political and public relations considerations are handled.”
Congressional Opinion Leadership

Like the president, Congress's importance for American politics extends beyond its formal powers under the Constitution. Congress is far more than a legislative institution. As a representative body, members deploy debate, hearings, resolutions, media events, interviews, and other types of public action to great effect. Congress has numerous informal ways to mobilize political opposition and thereby shape both the political context and the president's strategic options. Congress can engage in all of these influential activities, even when it is unable to coalesce around any particular legislative enactment.

Based on a survey of actions taken by members of Congress that receive coverage in major texts of United States history, David Mayhew finds that only about half of the actions for which members are known in public-affairs history were associated with legislating. To a great extent, members of Congress have instead made their mark on U.S. history by investigating, taking stands, making major speeches, writing books and articles, and disclosing information. Members' ability to engage in opinion leadership has by no means declined. Instead, Congress is perhaps even more potent in this regard than ever. Developments in media technology have enabled even backbench members of Congress to cultivate national constituencies. Today's members have public-speaking opportunities that extend well beyond the House or Senate floor. They can tweet, Facebook, and make themselves social media celebrities.

Congressional opinion leadership has significant consequences for presidents. First, congressional controversy undercuts the president's standing with the public. Research has shown that congressional investigations of presidents and their administrations tend to drive down the president's approval ratings. Low public-opinion ratings then harm presidents' ability to advance their agenda in Congress. Second, the presence of congressional opposition constrains presidents' choices. Presidents who are facing intense criticism in Congress are less tolerant of additional political risk. For example, research has shown that presidents facing tougher investigatory scrutiny from Congress take fewer and more limited military actions when faced with international crises. Third, the content and intensity of congressional discourse has significant effects on public opinion. Indeed, political scientist John Zaller regards elite discourse—of which Congress is a key component—as the key driver of public opinion more generally.

Put simply, Congress has considerable capacity to “go public,” just as the president does. Congress is not just a passive entity that presidents seek to bend to their will. In the constitutional system of checks and balances, Congress is a formidable opinion leader in its own right.

The “Two Presidencies”

“The United States has one president, but it has two presidencies; one presidency is for domestic affairs, and the other is concerned with defense and
foreign policy.” According to this formulation by political scientist Aaron Wildavsky, presidential proposals achieve markedly more success with Congress in the international arena than in the domestic arena. This differential success does not stem so much from the president’s formal constitutional powers, such as being designated commander in chief of the armed forces. Instead, the reason is political: “Presidents prevail [more often in foreign affairs] not only because they may have superior resources but because their potential opponents are weak, divided or believe that they should not control foreign policy.” Put simply, Congress tends to assert itself more in domestic policy making than in foreign policy.

The two-presidencies thesis seems especially relevant to the presidency of George W. Bush. Bush’s presidency was transformed by the terrorist attacks of September 11, 2001. Before the attacks, Bush was embattled. Democratic control of the Senate after May 2001 had generated significant problems for the administration. Democrats were holding hearings to spotlight their agenda and critique Bush’s, as well as modifying and blocking administration bills coming from the GOP House. By June 2001, Bush’s public standing had fallen “to a tepid 50 percent approval, the lowest presidential approval rating in more than five years.”

After an uncertain response during the first days following the attacks, Bush emerged as a resolute, decisive, and strong commander in chief. Images of the president consoling firefighters and others at the site of the World Trade Center, his calm and confident demeanor, and his eloquent statements to the public—including an address before a joint meeting of Congress on September 20, 2001—rallied the nation to fight a global war on terrorism. Bush’s public approval ratings soared to a record-level 91 percent, breaking his father’s record of 89 percent during the 1991 Persian Gulf War. Meanwhile, Congress moved on a bipartisan basis to enact significant measures, including passage of legislation authorizing the president to employ “all necessary and appropriate force” against those groups or nations involved in the terrorist attacks. Subsequently, as directed by the president, the military ousted the Taliban regime in Afghanistan, which had provided safe haven for Osama bin Laden, the al Qaeda leader behind the September 11 attacks.

President Bush’s focus then turned to Iraq, a nation he declared to be part of the “axis of evil” that threatened the world. In October 2002, the administration persuaded Congress to enact a joint resolution granting the president unilateral authority to launch a preemptive military strike against Iraq. On March 19, 2003, President Bush went on national television and informed the nation of the start of the war in Iraq. Three weeks later, on April 9, U.S. forces entered Baghdad, ending the regime of longtime dictator Saddam Hussein. The free hand Bush enjoyed in launching all of these major foreign-policy initiatives contrasts strongly with the constraints with which he had to contend on the domestic front both before and after 9/11.

Since its emergence, Wildavsky’s analysis has been the subject of much reexamination and comment. One recent study has found continued support
for the central thesis. Comparing federal agencies dealing with defense and foreign affairs with agencies dealing with domestic issues, political scientists Brandice Canes-Wrone, William Howell, and David E. Lewis find that presidents achieve better success in obtaining their requested appropriations for agencies dealing with defense and foreign affairs. In addition, presidents tend to possess more centralized administrative control over agencies dealing with defense and foreign affairs. A key challenge for the two-presidencies thesis, however, is differentiating the two arenas in a world in which the international and domestic constantly overlap. Scores of issues are both domestic and transnational in character, including climate change, refugee flows, global economic crises, and the struggle against terrorism.

Even if presidents can better shape foreign than domestic policy, it is important not to underestimate Congress's influence over foreign affairs. When Congress is displeased with a president's foreign policy, it has many means of expressing itself. Mayhew finds that fully a quarter of all the significant congressional actions mentioned by historians were in foreign affairs, an underappreciated fact about the institution's role in American politics. Most of the time, members' significant foreign-policy actions did not take the form of legislation. Instead, members of Congress exert their influence by investigating, making speeches, and engaging in other forms of public criticism. In turn, controversy in Congress strongly influences media coverage, generating more press scrutiny and skepticism of administration policy. Even though Congress has almost never used legislation to force the president's hand in foreign policy, such as by cutting off funds for a military operation, Congress's capacity for leadership extends far beyond its formal legislative powers.

**SOURCES OF LEGISLATIVE–EXECUTIVE CONFLICT AND COOPERATION**

Unlike the legislative assemblies of many nations where executive authority is lodged in the leader of parliament—called the prime minister or premier—Congress truly is separate from the executive branch. Legislative–executive conflicts were evident in 1789, and they are pervasive today.

Yet the executive and legislative branches are also mutually dependent in policy making. The structure of the U.S. government, with its elaborate system of checks and balances and veto points, generally means that policy making requires cooperation across branches and across parties. Legislation is rarely achievable when the two parties emulate parliamentary systems in which one party governs (or tries to) and the other is united in opposition. Bargaining and compromise are thus essential to public policy making in the U.S. In recent years, compromise has proven to be exceptionally difficult. Many factors account for this development, including the ideological divide between the two political parties and intense party competition for control of national institutions.
But now, as in the past, the interdependence of the U.S. system gives each branch of government an incentive to bargain. The 125 volumes of the *United States Statutes at Large* testify to the cooperative impulses of the two branches. Each volume contains the joint product of Congresses and presidents over the years, from the 108 public laws enacted by the First Congress (1789–1791) to the 328 enacted by the 114th Congress (2015–2016).

In the following sections, we consider four key factors that affect inter-branch bargaining: partisan ties, public expectations, institutional constituencies, and time horizons.

**Party Loyalties**

Party ties can, at times, bridge the institutional differences that separate presidents from Congress. Both the president and his party in Congress tend to be judged together by voters, giving them incentive to cooperate in their common political interest. But these same party ties pull in opposing directions when different parties control the White House and Congress. Party is thus a source of both collaboration and conflict between the branches.

The best predictor of presidential success with Congress is the number of seats his party controls.\(^{100}\) The skills individual presidents bring to bear make only a modest difference beyond this brute institutional circumstance.\(^{101}\) Obviously, much of presidents’ support from their copartisans reflects the fact that party members agree more with one another than with members of the opposing party. Politicians who share a party label also cater to many of the same interest groups. But party affects the relationship between Congress and the president for reasons that go beyond the extent to which copartisans agree among themselves and disagree with their party opposition on policies and priorities.

Members of Congress benefit politically and fare better in elections when a president of their own party is popular and perceived as successful. Congressional Democrats wanted President Obama to succeed in moving his agenda, even when they did not always share his priorities. As Rep. Chris Van Hollen, D-Md., once said, “Our political fortunes are tied to Barack Obama’s.”\(^{102}\)

In a two-party system, however, political benefits to one party are necessarily political harms to the other. As such, members of the president’s opposition party are better off politically when the president is not popular or seen as successful. The party not controlling the presidency normally gains seats in midterm elections, but it will gain even more when the public disapproves of the president. These basic facts create powerful political incentives for both parties.

Members of the president’s party have political reason to go along with the president’s proposals. Put differently, members of the president’s party have incentive to seek out reasons to support the president, even if they have policy or ideological reservations about the president’s proposals. As a result, copartisans tend to give the president the benefit of the doubt. Of President
George W. Bush’s No Child Left Behind legislation, for example, House minority whip Roy Blunt, R-Mo., said, “I always had misgivings about it. . . . But I did vote for it on the basis that maybe [President Bush] was right and this was his big domestic initiative, and let’s give him a chance.” Along the same lines, many Republicans who staunchly opposed President Obama’s requests for additional investment in infrastructure are much more open to supporting an infrastructure bill proposed by President Trump. “According to several [conservative] members, there has been informal talk of accepting an [infrastructure] bill that’s only 50 percent paid for, with the rest of the borrowing being offset down the road by ‘economic growth.’ It’s an arrangement Republicans would never have endorsed under a President Hillary Clinton,” writes a National Review reporter.

By the same token, members of the president’s opposition have political reasons to resist the president’s leadership. Rather than looking for reasons to go along with the president, opposing partisans are inclined to seek out reasons to withhold their support. They have little incentive to give the president the benefit of the doubt. Members of the president’s opposition do not gain in political terms (and likely will suffer political harm) if the president wins broad bipartisan approval of his initiatives and is seen as a successful, consensus-building leader. As Senate minority leader Mitch McConnell, R-Ky., explained in dealing with President Obama’s agenda, “It was absolutely critical that everybody be together because if the proponents of the bill were able to say it was bipartisan, it tended to convey to the public that this is O.K., they must have figured it out. . . . It’s either bipartisan or it isn’t.”

As the presidential out party in 2009–2010, there was strategic reason for Republicans to deny bipartisan legitimacy to the president’s efforts. Looking toward the 2010 midterms, McConnell went on to say, “I think the reason my members are feeling really good is they believe that the reward for playing team ball this year was the reversal of the political environment and the possibility that we will have a bigger team next year.” Undoubtedly, McConnell’s strategy was vindicated by the election outcome, a historic landslide in favor of Republicans.

Under conditions of divided government, partisan incentives create additional hurdles to interbranch cooperation, in addition to the political differences that already exist between the parties. The president’s opposition, in control of the legislative branch, wants to build an argument against the president’s reelection or against the president’s party’s continuation in office. They cannot do so, if they are working cooperatively with the president and demonstrating that both parties are able to achieve their objectives under such conditions.

Partisan interests thus powerfully shape the relationship between Congress and the president. Because one party has a stake in the president’s success and the other party a stake in the president’s failure, presidential leadership often tends to exacerbate partisan divisions and polarize the parties further. Research has shown that most types of policy issues become more controversial when incorporated as part of a president’s agenda.
For example, the COPS program, a grant-in-aid program to assist local law enforcement in hiring police officers, was a hugely controversial program during the Clinton administration, when it was a signature initiative championed by the president. During the Clinton years, there were numerous straight party line votes as Republicans sought to defund the COPS program. But once Clinton was no longer president, the issue faded from the political agenda, though the program continues to exist. At times, parties even exchange positions in reaction to presidential leadership. For example, when the president is a Democrat, Republicans have tended to oppose federal education standards and Democrats to support them. When the president is a Republican, Democrats have tended to oppose federal education standards and Republicans to support them. Partisanship shapes congressional–presidential relations in foreign and military policy, as well as on domestic issues. “When the opposition party holds a large number of seats or controls one or both chambers of Congress, members routinely challenge the president and step up oversight of foreign conflicts; when the legislative branch is dominated by the president’s party, it generally goes along with the White House,” conclude political scientists William G. Howell and Jon C. Pevehouse. Generally speaking, presidents enjoy a freer hand in managing military operations when their party controls Congress. Controversy over a president’s foreign policy is especially likely under conditions of divided party control.

Partisan incentives can help smooth the operation of separation of powers under circumstances of unified party control. But in a political system characterized by divided party control 70 percent of the time between 1954 and 2017, partisan ties are more often an obstacle to interbranch cooperation.

**Public Expectations**

Despite the political incentives that work against bipartisan cooperation under conditions of divided government, political scientist David Mayhew concluded that with respect to productivity of laws and investigations, it “does not seem to make all that much difference whether party control of the American government happens to be unified or divided.”

Subsequent research has concluded that divided government makes some difference for legislative productivity. Reexamining Mayhew’s data from 1947 through 2012, R. Douglas Arnold concludes that unified governments enacted 23 percent more bills that contemporary observers deemed important than did divided governments. But divided government by no means brings the operation of U.S. government to a halt. Generally speaking, it is fair to say that even in light of subsequent analysis, Mayhew’s findings remain an important corrective. Other factors shaping interbranch relations often obscure or counterbalance the effects of party control of governing institutions.

Most importantly, the public expects government to function under conditions of both divided and unified government. Politicians have incentives to
respond to public expectations at all times. Members of Congress continually seek credit-claiming opportunities as individual lawmakers, not just as partisans. This is especially true of legislators with presidential ambitions. Individual credit can be won from legislating regardless of conditions of party control.

The public also expects the president and Congress to work together in response to crises. Interbranch agreement is often achieved as a result of events. At times, the Washington community comes to focus on a particular problem, and wide agreement can often be forged when this happens. The bipartisan response to the September 11, 2001, terrorist attacks offers a representative example.

Finally, there is much that is just not understood about lawmaking over time. The most salient pattern in any analysis of legislative productivity in the modern Congress is a “huge surge of legislative activism that began in the Eisenhower years and peaked with the Great Society but continued well into the Nixon administration.” This surge has a larger effect on legislative productivity than the circumstances of party control of governing institutions. Mayhew attributes this remarkable surge of legislation to an activist public mood characterized by the era’s “interlocking civil rights, consumer, antiwar, labor, student, women’s liberation, environmental, and ‘public interest’ movements.” Congress and the president responded to the public expectations of this time period with much important new legislation expanding the role of the federal government to a host of new areas, including the rights of women and minorities, as well as a wide range of new environmental, consumer, and business regulations. The bottom line is that when the public seems to demand action from the federal government, presidents and Congress have incentives to respond.

**Different Constituencies**

The different constituencies presidents and Congress represent are often a source of conflict between the branches. Presidents and their vice presidents are the only public officials elected nationally. To win, they must create vastly broader electoral coalitions than are necessary for legislators, who represent either states or districts. Presidents and legislators tend to view policies and problems from different perspectives. Members of Congress often subscribe to the view that “what’s good for Portland is good for the nation.” Presidents are apt to say that, “what’s good for the nation is good for Portland.”

In other words, public officials are likely to view issues differently when they represent diverging interests. For example, a president might wish to reduce international trade barriers. A representative from a district where a manufacturer is threatened by imported products is likely to oppose the president’s policy, whereas retailers of imported products are likely to support the president. The challenge to national policy making is to forge consensus within an electorate that simultaneously holds membership in two or more competing constituencies.
Disparities in constituencies are underscored by differences in the ways voters judge presidents and members of Congress. Studies of presidential popularity suggest that presidents are judged on the basis of broad policy outcomes: economic boom or bust, the presence or absence of wars or other crises, and the impact of policies on given groups. Individual legislators, by contrast, cannot be held accountable for the overall outcomes of government. Instead, they tend to be assessed on the basis of their personalities, their communication with constituents, the positions they take, and their service in material ways to the state or district. Not only do presidents and legislators serve different constituencies, but they also labor under divergent incentives.

Different Time Perspectives

Finally, Congress and the president operate on different timetables. Presidents have four years, at most eight, to win adoption of their programs. They are usually in a hurry to achieve all they can before they leave office. In practice, they have even less time because of the typical falloff in presidential support after the initial “honeymoon.” Indeed, presidents and their advisers actually often have a year, perhaps less, to sell their basic programs to Congress and the public. “A president’s most effective year is his first,” explained Sen. Richard Durbin, D-Ill. “After the first year, an election year is under way and people look at [a president] differently.” Presidents think in terms of four years; most lawmakers think in terms of two.

On major, long-standing issues, however, Congress typically moves slowly. Seldom does it pass presidential initiatives quickly unless an emergency or crisis of some sort is looming. Moreover, many legislators are careerists. Once elected, House members are likely to be reelected, and senators serve six-year terms. Most members hold office a good deal longer than the presidents they deal with. Skeptical legislators, reluctant to follow the president, realize that if they resist long enough, someone else will occupy the White House.

THE BALANCE OF POWER

“The relationship between the Congress and the presidency,” wrote Arthur M. Schlesinger Jr., “has been one of the abiding mysteries of the American system of government.” Part of the mystery inheres in the Constitution, which enumerates many powers for Congress, as well as those “necessary and proper” to carry them out, while leaving the president’s powers largely unstated. Where does the balance of power lie?

Generally speaking, presidents have grown in power relative to Congress over the course of U.S. history, just as executives have increased their power relative to legislatures around the world. Even so, periods of presidential ascendancy have often been followed by eras of congressional assertiveness. The First Congress of “its own volition immediately turned to the executive
branch for guidance and discovered in [Treasury Secretary Alexander Hamilton] a personality to whom such leadership was congenial.”\textsuperscript{119} Two decades later (by 1825), the “initiative in public affairs remained with [Speaker Henry] Clay and his associates in the House of Representatives” and not with the president.\textsuperscript{120} Thus, dominance in national policy making can pass from one branch to the other. Strong presidents sometimes provoked efforts by Congress to reassert its own authority and to restrict that of the executive. Scholars have even identified periods of congressional government or presidential government.\textsuperscript{121}

However, even during periods in which one branch appears to dominate, the actual balance of power varies widely across policy areas. The mid-1960s and early 1970s, for example, are often cited as a time of imperial presidents and compliant Congresses.\textsuperscript{122} But Congress was an important instigator of policy during this time period, not just a rubber stamp for presidents. Although Congress enacted much of President Johnson’s Great Society program, it also initiated scores of laws, including consumer, environmental, health, and civil rights legislation. Nor did executive actions go unchallenged. Nationally televised hearings conducted in 1966 by the Senate Foreign Relations Committee helped to mobilize congressional and public opposition to the Vietnam War. The refrain “imperial presidents” and “compliant Congresses” was heard again when Republicans were in charge of Congress from 2001 to 2007, and George W. Bush was in the White House. More recently, a former House majority leader called President Obama an imperial president for using his regulatory and executive authority to govern without Congress.\textsuperscript{123} Yet both Bush and Obama faced numerous setbacks on domestic policy throughout their terms in office, including Bush’s failed push for Social Security privatization and Obama’s inability to persuade Congress to enact immigration reform or legislation to combat climate change.

Legislative–executive relationships are not zero-sum games. If one branch gains power, the other does not necessarily lose it. The expansion of the federal government since World War II has augmented the authority of both branches. Their growth rates were different, but each expanded its ability to address complex issues, initiate legislation, and frustrate the proposals of the other. Conflict between Congress and the president is embedded in the system of separation of powers and checks and balances. But the founders also expected their governmental arrangement to promote accommodation between the branches. Historical patterns have veered between these two extremes. The two branches worked together in the early days of Woodrow Wilson’s progressive New Freedom (1913–1916); during the New Deal (1933–1937) and World War II (1941–1945); during the brief Great Society years (1964–1966) following John F. Kennedy’s assassination in 1963; for the even briefer “Reaganomics” juggernaut during Ronald Reagan’s first year in office (1981); during most of George W. Bush’s first six years in office (2001–2007); and during Barack Obama’s first two years (2009–2011). At other times, the two branches fought fiercely—during Wilson’s second term (1919–1921);
after 1937, during the Franklin Roosevelt administration; after 1966, during the Lyndon Johnson administration; and for much of the Nixon, Reagan, George H. W. Bush, and Clinton administrations, the final two years of George W. Bush's presidency, and Obama's presidency after 2010.

Finally, a wide gap often separates what presidents want from what they can achieve. Congress can influence what, when, how, or even whether executive recommendations are sent to Capitol Hill. Expectations of what will pass Congress frequently shape White House agendas. At times, this indirect priority-setting power of the House and Senate will discourage presidents from even attempting to get Congress to consider certain proposals. At other times, the White House will forward and endorse recommendations because they are known to have broad legislative support. “The president proposes, Congress disposes” is an oversimplified adage.

CONCLUSION

Conflict would seem to be the inevitable result of a system that intentionally divides lawmaking and other powers between the executive and legislative branches. But neither branch is monolithic. Presidents find supporters in both chambers even when presidents are opposed by congressional majorities. Likewise, presidents encounter resistance even when their parties control both House and Senate. To achieve common goals, Congress and the president must find ways to work together. Much of the time, the relationship between Congress and the executive is better characterized as accommodation rather than conflict. Both branches seek support for their policy preferences from each other and from outside allies.

Nevertheless, confrontation is a recurring element in dealings between Capitol Hill and the White House. The framers of the Constitution consciously distributed and mixed power among the three branches. They left it unclear how Congress or the president would assert control over the bureaucracy and over policy making. Even when both houses of Congress are controlled by the same party as the White House, the two branches have different constituencies and political incentives and often become adversaries.
Bureaucracy: The Fourth Branch.