Intra-Party Competition and Presidential Unilateral Action

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Abstract

While prior theoretical literature on presidential unilateral action has explored the President's first-mover advantage, this paper asks when Congress will try to preempt unilateral action with legislation. Motivated by historical examples, I examine the interaction in which Congress first decides whether to pass legislation and the President acts second. This leaves us with a puzzle: a Congress that moves first should always be at least indifferent to passing legislation that enacts the policy it knows the President would later pursue unilaterally anyway. As one possible resolution, I turn to the role of interest groups in policymaking. I argue that interest groups aligned with Congress can influence it to scuttle a compromise with an opposed President now in the hope that a future unified government will pass a more favorable policy. This can lead to legislative inaction and Presidential unilateral action, even when it appears that all parties might have benefited from a legislative compromise. I illustrate the theory with the case of immigration policy under Presidents Obama and Trump.

While prior theoretical literature on presidential unilateral action has explored the President's first-mover advantage, this paper asks when Congress will try to preempt unilateral action with legislation. In some important historical examples, Congress (or another actor) first perceived the President's implicit threat to act. Next, Congress responded either with legislation or with acceptance of the consequences of unilateral action. Finally, the President issued an executive order only if Congress had decided not to preempt it with legislation.

For example, in 1942, President Franklin D. Roosevelt gained unilateral power to impose price controls through the Emergency Price Control Act, but this excepted agricultural products. Believing that such authority over agriculture was essential to checking inflation, Roosevelt threatened to act unilaterally and interpret the law such that he would have the authority to impose such controls. Recognizing the inevitability of a policy shift, Congress acceded to the President's demands and gave him what he threatened to take himself (Mayer, 2002).

Immigration policy during Barack Obama's presidency follows a similar pattern, except Congress did not accede to the President's implicit threats. Proposals in Congress for a "DREAM" (Development, Relief, and Education for Alien Minors) Act, to grant permanent residency to undocumented individuals who were brought to the US as minors, have been put forward since 2001. Upon the election of Barack Obama in 2008, it became possible that the President might issue an order to liberalize immigration policy if Congress failed to act. Subsequently, in 2009, a bipartisan group of Senators reintroduced a version of the DREAM Act. In 2010, a revised version of the bill failed to overcome a filibuster, with 43 Senators opposed to cloture. That winter, President Obama and Congressional leaders tried again to get it passed in Congress during the lame duck session, failing to overcome a Senate filibuster (Terkel, 2010). In May 2011, Democratic Majority Leader Harry Reid reintroduced the bill (Demirjian, 2011), but with depleted strength in the Senate and the loss of the House, it went nowhere.

Frustrated with years of no progress on immigration, President Obama announced the Deferred Action for Childhood Arrivals (DACA) program on June 15, 2012. Subsequently, in 2013 the Senate overwhelmingly passed a comprehensive immigration reform bill 68-32. Authored by a bipartisan "Gang of Eight," the bill would have combined a path to citizenship for undocumented individuals — accelerated for those arriving in the U.S. before age 16 — with enhanced border security and expanded use of electronic employment verification (American Immigration Council, 2013). Yet Speaker John Boehner refused to bring the legislation to the floor of the House. In response, President Obama issued an order to expand DACA in 2014 to the parents of childhood migrants, an effort that barely failed a challenge in the courts and whose legal case established no precedent due to the Supreme Court's 4-4 split.

These episodes demonstrate that the President has often exhibited a preference for achieving policy legislatively, giving Congress ample opportunity to act before resigning himself to unilateral action. We are left with a question, though: why does Congress anticipate unilateral action with legislation at some times but not others? As many have observed before, Congress consists of 535 members and faces greater difficulty in organizing itself and acting quickly compared to the unitary executive. Yet as we see, sometimes Congress succeeds in overcoming this obstacle to pass legislation. It would be unsatisfying to conclude that when legislation succeeds, there must have been less of a collective action problem that time. Instead, I seek to understand the strategic incentives that can lead to variation in the production of legislation. I will therefore consider when these strategic incentives compel Congress to overcome its collective action problem, and when incentives instead reinforce it.

The present paper hopes to explore new territory in the theoretical literature on presidential unilateral action. Prior work has illuminated the ability of the President to act swiftly compared to Congress and the courts. In Howell (2003), the Pivotal Politics model of Krehbiel (1998) is turned on its head, with the President moving first and forcing other

actors to respond. I explore a somewhat different aspect of unilateral action. I ask instead, how did the President get into this position in the first place? Namely, in those cases in which Congress might have preempted unilateral action with legislation, why did Congress not do so, perhaps even extracting surplus through its proposal power?

However, simply allowing Congress to offer legislation first and letting the President issue an executive order second leaves us with a puzzle. A Congress that moves first should always be at least indifferent to passing legislation that enacts the policy it knows the President would later pursue unilaterally anyway. This is true of every individual member, including supposed "pivots" induced by supermajoritarian features of the Senate. This is because members should compare possible legislation to (the expected incidence of) the new policy that the President will pursue unilaterally, not the status quo.[1] Furthermore, if the President faces any cost of unilateral action, be it disapproval from the public (as suggested by Reeves and Rogowski, 2018), administrative costs, or aversion to risky implementation or judicial review, Congress should strictly prefer the opportunity to use its proposal power to extract surplus from the President, assuming some minimum ideological disagreement between the President and Congress.

As one possible resolution of this puzzle, the subsequent discussion will therefore explore the role of interest groups in policymaking. A large literature demonstrates that interest groups have outsize influence over the agenda in Congress. Yet interest groups also compete with each other even within a party coalition, hoping to claim scarce agenda time when their party is in control of government. As a form of this competition, an interest group might undermine a seemingly beneficial compromise under divided government to ensure that a more agreeable future government revisits the interest group's policy of concern, rather than attending to the priorities of some other coalition partner. The President's ability to pursue

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[1]For this reason, and the already extensive exploration of gridlock intervals in this context, the focus henceforth will be on the median member of Congress, heretofore simply labeled "Congress."

unfavorable unilateral action in the absence of legislation can even strengthen an interest group's benefit from relying on this strategy, because this puts more pressure on a future government to revisit the policy. Therefore, these dynamics can lead to legislative inaction and Presidential unilateral action, even when it appears that all parties might have benefited from a legislative compromise.

I proceed as follows. First, I review previous work relevant to presidential unilateral action in more detail. Next, I present a formal model, give substantive motivation for its assumptions, and provide solutions. Finally, I conclude.

Previous Work

The standard model of presidential unilateral action is the adaptation by Howell (2003) of Krehbiel (1998). In Howell's model, the President moves first, deciding whether to move policy with unilateral action. Next, Congress decides whether to revise the President's actions, yet it is constrained by its internal divisions and supermajoritarian thresholds (cloture and veto override). Because the President can move first and take advantage of a gridlocked Congress, he thus holds a great advantage in achieving his preferred policy. Howell's influential model illuminated a previously neglected topic by explaining where spatially the President would locate policy unilaterally. By allowing the President to move first, the model highlights the President's ability to take advantage of the slower-moving, internally divided Congress. While this has been enlightening, we are presently interested in a related but distinct feature of unilateral action. In particular, we delve deeper into the failure of Congress to offer legislation in the first place, hoping to illuminate its strategic motivations.

The impending threat of unilateral action should make us wonder why Congress does not always preempt it, given sufficient time to act. Because policy will move whether Congress legislates or not, the usual "gridlock intervals" of Krehbiel (1998) no longer tell us when

members of Congress should be willing to vote for a bill. Specifically, when the President has the threat of taking unilateral action, members of Congress should compare a hypothetical shift in policy to the executive order that they know the President will issue, not the status quo. If the President were to have any cost of issuing an order, say a drop in public opinion, Congress should strictly prefer to pass legislation and extract surplus. Incorporating unilateral action into a model of legislation thus makes legislative gridlock puzzling.

Congress is often presented with ample opportunity to pass legislation corresponding to an executive order that it should know is inevitable; consider the examples provided in the introduction. This should transcend internal divisions over moving the pre-executive order status quo, yet Congress often forfeits its opportunity to move policy on its own. This forfeiture is costly to both parties. When an issue arises under divided government, Congress could agree to a legislative compromise with a President who wields the threat of unilateral action. The President could benefit from such a compromise, avoiding potential costs of pursuing policy unilaterally. Congress therefore could also benefit from offering legislation, receiving policy concessions from the President now and freeing its legislative calendar later to work on an alternative priority should it win unified control. Yet gridlock often persists.

The role of interest groups is proposed as one possible resolution to this puzzle. As I will show, even if Congress does not face a collective action problem, it may still fail to pass legislation. A large body of work documents the role in the political system of organized interests with strong policy demands; see for example Hall and Wayman (1990), Baumgartner and Jones (1993), Hacker and Pierson (2011), and Gilens and Page (2014). This literature demonstrates that interest groups have outsize influence over the agenda pursued by Congress. Yet interest groups within a party coalition also compete for the attention of the party leadership. With finite agenda time, addressing taxes can mean setting aside abortion.[2]

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[2]The assumption that Congress has limited agenda time appears frequently in the literature on legislatures. Cox (2008) argues that scarce legislative time is the main reason for the way in which democratic

6

In the model of this paper, an interest group derives no utility from an alternative priority that Congress could address instead of that of the interest group. This potentially creates an incentive for the group to scuttle compromise. It might prefer that policy move against its own (and Congress's) preferences in Stage 1, because this will force Congress to revisit the issue in Stage 2 should it win unified control. The interest group thus bets that if it forces the rejection of a compromise now, it will soon face a constellation of actors that believes the group's pet issue is still a high priority *and* can move the status quo much closer to the interest group compared to the rejected compromise. Congress's failure to act on legislation in Stage 1 that seemingly benefits all parties thus functions as a commitment to an interest group to revisit its priority under unified government, with Congress receiving the promise of contributions in exchange. In the absence of legislation, the President is then forced to pursue unilateral action.[3]

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legislatures are organized. Wawro and Schickler (2006, p.192) observe that "As the national government grew tremendously in size and responsibilities at the turn of the century, the chamber's legislative agenda expanded," demonstrating quantitatively that the Senate's workload increased dramatically from 1881 to 1945. In the time since 1945, the complexity of policy and corresponding demands on the national government have only increased, magnifying the constraint imposed by scarce agenda time. Johnston (2015) documents the importance of scarce agenda time in the failure of the huge Democratic majorities of the 1960s to repeal the Taft-Hartley Act. Fong and Krehbiel (2017) provide a convincing theoretical explanation for empirical regularities and puzzles relating to obstruction and cloture in the U.S. Senate, with time-consuming policymaking and scarce agenda time as the key ingredients in their model. Most of these works seek not only to emphasize the importance of scarce agenda time but also to explore the ability of the minority party to influence legislation through delay, with other notable such examples including Gailmard and Jenkins (2008) and Jenkins et al. (2016). For example, Fong and Krehbiel show that the minority member's threat to obstruct can force the agenda-setter to instead take up a matter that is less disagreeable to the minority member. Although we shall make a simplifying assumption below that a unified government can enact its policy preferences perfectly, we preserve the trade-off faced by the majority party in deciding which legislative option it will pursue and which it will forsake. In this world of scarce legislative time, Adler and Wilkerson (2013, p.145) attempt to trace out the implications for the behavior of agenda-setters in the legislature: "Agenda scarcity...creates incentives for legislatures to prioritize problem solving. Reelection-oriented lawmakers have reasons to address salient public concerns and to ensure the proper functioning of programs valued by voters." If one holds a more cynical view of policymaking, it would of course be straightforward to replace "public" and "voters" with "interest group(s)."

[3]Members of Congress facing a position-taking cost is another potential means of resolving this puzzle, and indeed both position-taking concerns and the process I describe herein can simultaneously push in the direction of unilateral action. However, it is worth acknowledging that in a model only with a member of Congress, the President, and a Voter, it is unclear how position-taking costs can be microfounded rationally. Supposing that the member of Congress has negative quadratic utility and must signal their ideological extremism to the Voter, separation in which an extreme member rejects compromise while a moderate

This argument echoes parts of the neopluralist literature, which explores how the population of interest groups affects public policy outcomes. Gray and Lowery (1995) look to state legislatures to test how interest group preponderance affects legislative productivity. Presenting statistical results that "provide only the weakest support for the notion that divided government is to blame" for low productivity, they show instead that states with more interest groups have fewer laws enacted and a lower rate of introduced bills becoming law. They ascribe this to either the increasing difficulty of constructing coalitions or the existence of more interests that can and will block legislation. Holyoke (2009) explores the decision of two imperfectly-aligned lobbyists in one dimensional policy space to form a coalition, formalizing the trade-off between expending effort for one's most preferred policy and the efficiency gains of joining a coalition. In a subsequent work, Holyoke (2011) shows through interest group interviews that the degree of interest group competition is associated with a decreased probability of legislation passing, arguing that legislators seek consensus before moving bills.

Like these works, this paper explores how interest group conflict can lead to legislative gridlock. However, there are two main differences to note. First, interest group competition

member accepts compromise cannot be an equilibrium. This is because the extreme member stands to lose the most from allowing unilateral action and forgoing the opportunity to use Congress's proposal power to extract ideological surplus.

Additionally, the way in which constituents learn about their member's actions and become activated is often specifically because of the efforts of strategic interest groups to mobilize sympathetic media and communicate with voters directly. The present model, then, can be interpreted as one way of endogenizing position-taking costs. Of course, the choice of punishing or not punishing a member will be more effective the more interest groups are aligned, unified, and skilled at pursuing an "outside strategy" of public communication.

Finally, even to the extent that position-taking costs exist above and beyond this, they do not always explain legislative gridlock satisfyingly. Members of the President's own party, especially those who are ideologically close, may experience a position-taking benefit. Next, voting for cloture need not receive as much attention as voting against a bill. The members we should be most concerned about, then, are moderates of the opposing party. While some may justly worry about a primary challenge, Hall and Thompson (2018) show that general electorates punish misalignment as well. At times, then, a member might actually benefit from a chance to vote for a priority of the other party's President.

For completeness, though, later in the paper I will discuss how the model's results would change if Congress faced an exogenous cost of offering legislation.

occurs over agenda time — whose importance is explained above — rather than along a one-dimensional policy space. Second, interest group competition is an instrument to explain why the implicit threat of presidential unilateral action does not necessarily lead to legislation. The model therefore unites disparate literatures that are not usually seen as related, specifically those on agenda time, interest groups, legislative gridlock, and presidential unilateral action.

A Model of Legislation and Unilateral Action

Three elements are key in driving the model. First, a presidential election allows for the possibility that today's divided government will give way to unified control, opening up an opportunity for Congress to enact more preferred policy. Second, C faces scarce agenda time and cannot pursue all desired policy changes. Third, there is an Interest Group that is aligned with C on only one issue, with no concern for C's other goals. I is therefore in competition with other interests and priorities within the party coalition. It recognizes that if C accepts a compromise with an opposed President, any subsequent unified government might instead spend its time on a different priority. I might therefore prefer to preclude such a compromise, inducing a possible unified government to work on its concerns rather than some other priority, producing a policy that I prefers to any compromise that P would have accepted.

Formal Definition

Sequence of Moves

Players consist of a President P_1, a Presidential Challenger P_2, a Congress C, and an Interest Group I. The sequence of moves is as follows:

9

Stage 1

1. Nature selects a status quo point sq for consideration.

2. I commits to a contribution schedule to Congress contingent on the outcome of Stage 1 policymaking.

3. C decides whether to pass legislation ℓ.

4. If C passes legislation, P_1 decides whether to sign it.

5. If C has not passed legislation or P_1 vetoes it, P_1 decides whether to move the status quo with an executive action e.

Stage 2

6. A presidential election occurs: with probability θ, P_2 the election and C's party wins unified control, and with probability $1 - \theta$, P_1 wins the election and C's party does not win unified control.

7. A second policy opportunity arises with utility to C, Ω, drawn uniformly between 0 and $\overline{\Omega}$. Independently, P_1 "agrees" (i.e. also derives utility of Ω) with probability q and "disagrees" (i.e. derives utility of $-\Omega$) with probability $1 - q$.[4]

8. C and P_w (where w indexes the winner of the election) mutually decide whether to pursue the outside option, revisit the Stage 1 policy, or do nothing (i.e., nothing happens if they disagree)

9. The game ends and payoffs are realized.

Utility Functions

C and P' have the following utility functions, respectively:

$$U_C(x_1, x_2) = -|x_1 - c| + \delta\left(-|x_2 - c| + \omega\Omega\right) + \beta k$$

$$U_{P'}(x_1, x_2) = -|x_1 - p'| + \delta\left(-|x_2 - p'| + \omega\Omega\right) + \beta k$$

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[4]This occurs whether P_1 is still in office or not (while P_2 is assumed to agree). This makes P_1 forward-looking in Stage 1, giving P_1 "legacy concerns." We will see that if P_1 did not have policy utility when out of office, it would be even easier to show the main equilibrium of interest, in which P_1 moves policy leftward knowing that this makes it more likely that a right-leaning government will revisit it in the future.

where x_i denotes policy at the end of Stage i, c is C's ideal point, p' is P''s ideal point, δ is the discount factor, ω indicates that C has chosen to pursue its outside option, Ω represents the outside option's value, k represents contributions from I, and β represents C's value placed on campaign contributions relative to policy.

I has the following utility function:

$$U_I(x_1, x_2) = -|x_1 - i| + \delta\left(-|x_2 - c|\right) - k^2$$

This differs from C's utility function in three ways. First, I's ideal point i replaces c. Second, zero utility is derived from the outside option. Third, contributions k are paid rather than received.

Finally, P has the following utility function:

$$U_P(x_1) = -|x_1 - p| + \delta\left(-|x_2 - p| + \omega(q\Omega + (1 - q)(-\Omega))\right) - E\epsilon$$

This differs from C's utility function in four ways. First, P's ideal point p replaces c. Second, if C exercises the outside option, there is some uncertainty about what P receives. Specifically, with probability q, P will also derive Ω, and with probability $1 - q$, P will derive $-\Omega$. Third, P does not receive utility from C's contributions k. Fourth, E indicates that P pursues executive action, which incurs an exogenous cost ϵ.

Initial Assumptions

Assumption 1. $\delta > 0$

Remark. We do not assume $\delta < 1$. Because there are only two explicit stages, allowing $\delta \geq 1$ can represent in shorthand the situation in which policy remains in place for a long time following the conclusion of the game.

Assumption 2. $k \geq 0$ *and* $\beta > 0$.

Remark. I is disallowed from contributing a negative amount to C. Next, β expresses C's relative concern for contributions compared to policy and should not be negative.

Assumption 3. *P's ideal point sits strictly to the left of C's ideal point. C and P' share the same ideal point. Finally, I's ideal point sits weakly to the right of C's ideal point. Namely, $p < c = p' \leq i$.*

Remark. We abstract away from disagreement within the unified government, while also allowing I to be at least as extreme as C. The results to follow clearly generalize to the mirror image of this scenario; specifically assuming that P sits to the left simplifies the exposition.

Assumption 4. *The policy space is continuous and bounded below by p.*

Remark. We allow players to select any policy on the real line greater than or equal to P's ideal point. Disallowing policy sitting strictly to the left of P avoids needless complication that is irrelevant to the theoretical story that the model seeks to capture.

Assumption 5. *Given that C pursues the second policy opportunity, the probability that P_1 agrees, namely q, equals $\alpha - \rho(c - p)$, with $\alpha \in [0, 1]$ and $0 < \rho < \frac{\alpha}{c-p}$.*

Remark. q represents the amount of disagreement between P_1 and C over the universe of other potential policies. It is in principle possible that C and the President agree on the new issue that arises, for which q accounts. This assumption lets q be a function of the distance between the President and Congress. For tractability, we will take it to be linear, with an intercept α and slope coefficient ρ; this also allows for a spatial interpretation of the second policy opportunity. The bounds on α and ρ ensure that q lies strictly between 0 and 1. The use of ρ is meant to be suggestive: while not literally a correlation coefficient, ρ denotes how much disagreement over the issue at hand predicts disagreement over other potential issues.

Assumption 6. $\overline{\Omega} > c - p$

Remark. Technically, this ensures that, given where players will move policy at the end of Stage 1 in any equilibrium, we will always have an interior probability that the outside

option is exercised in Stage 2. Substantively, we are assuming that even if policy moves all the way to the President's ideal point, there should still be some nonzero chance that a subsequent unified government would prefer to give its attention to some other issue that might arise. Given the multiplicity of issues competing for Congress's attention and the ever-present possibility of an unrelated crisis, this assumption seems reasonable.

Assumption 7. $\min\{sq, c\} - p > \epsilon$

Remark. This ensures that the status quo is sufficiently rightward such that in the absence of legislation, the President will prefer to initiate unilateral action. It is possible that, when policy is already close to the President's ideal point, the President might fail to take unilateral action because the cost of doing so could exceed its policy benefit. We shall instead restrict attention the case in which the President would benefit from pursuing an executive order compared to taking no action. This assumption also eliminates some additional trivial cases, ensuring that the cost of taking unilateral action is less than the entire distance from the ideal point of C to that of P.

Summary

The exogenous parameters are θ, $\overline{\Omega}$, c, δ, β, p', i, p, α, and ρ. The endogenous choices are I's contribution schedule (a value of k contingent on x_1), C's decision whether to offer legislation and its specific value (ℓ), P's decision to sign legislation, P's decision whether to take executive action (E) and its specific value (e), and P and C or P' and C's mutual decision of what to pursue in Stage 2 (ω, or ω and x_2, respectively). The random variables are Ω and the outcome of the presidential election. The game has complete information. Therefore, the natural equilibrium concept is subgame perfect Nash equilibrium (SPNE). I focus exclusively on pure strategy SPNE.

Discussion

Notice first that C has limited agenda time and must select only one priority on which to focus. Due additionally to I's lack of concern for C's outside option, tension exists between C and I. This second assumption captures the reality that while Congress faces many competing priorities, interest groups are more narrowly focused and represent only one piece of a larger party coalition. This allows us to explore the extent to which intra-coalitional competition rather than just party competition shapes policy outcomes. Such competition plays an important role in shaping the Congressional agenda. For example, during President Obama's first term, health care interest groups edged out environmental interests to receive priority attention: the Affordable Care Act passed while "cap and trade" legislation failed (Broder, 2010). Health care companies were primarily not concerned with carbon emissions, while environmental interests would likely have traded the ACA for cap and trade. While these separate constellations of groups might at times benefit from working together—clearly this is the nature of a party coalition—their otherwise unrelated interests can conflict to the extent that they induce competition over legislative time. In keeping with this fact, each interest within a coalition almost always maintains its own separate organization apart from party institutions, in large part to put continuing pressure on the parties and members of Congress.

Next, we allow I to buy policy from C, adopting the perspective of Grossman and Helpman (1994). Consistent with this, I can commit in advance to pay C for achieving specific policies. This avoids the problem that an interest group might promise contributions and then renege as soon as policy is achieved. This is potentially an interesting commitment problem, but it is not the one with which we are presently concerned. The problem arises because the game here is finite. One can suppose that the interest group has a reputation that it wishes to maintain; if it pledges money contingent on achieving a particular policy and then fails to pay, it would very quickly find that it has lost any potential influence it may

have had. For instance, during the legislative process to pass the December 2017 Republican tax bill, there are good examples of interest groups providing contributions only after their preferred policy shift was achieved. According to one account, "Republicans in Congress faced a near-mutiny last fall from some wealthy GOP donors frustrated with Washington's inability to get anything done. Then they passed the tax bill. Now the checkbooks are open again" (Severns, 2018).

While I can commit to its contribution schedule, C cannot commit to bring up I's issue priority in the subsequent period. This is grounded in two observations. First, in American politics, an interest group only has two parties (and often practically one) with which it can work, making reneging on a promise particularly costly to interest groups. In contrast, the party in power can rely on multiple groups willing to provide campaign donations in exchange for policy. For example, despite organized labor's vigorous campaign for Lyndon Johnson and Democratic members of Congress, and repeated campaign promises from Democrats to repeal the Taft-Hartley Act, these politicians quickly de-prioritized the repeal after winning overwhelming majorities, instead allocating their scarce agenda time to the demands of other coalition partners (Johnston, 2015). Second, interest groups often have centralized leadership that pursue temporally consistent, narrowly focused policy goals. In contrast, Congress and its controlling party have multiple leaders occupying competing spheres of power, Senators and Representatives that care about a wide range of different issues, and temporal instability from periodic electoral and policy shocks that can quickly realign priorities and undo promises.

This game also assumes that C moves first and potentially proposes legislation before the President decides whether to pursue unilateral action. As discussed above, to make predictions about when we should observe unilateral action, we need to know when its preconditions should prove desirable to some actor. More specifically, we need to know when Congress would fail to pass legislation that the President wishes to sign. To speak to this

question, though, the game clearly must allow C to pass legislation before it allows P to take unilateral action. This is distinct from the model of Howell (2003), which does not allow for the possibility of anticipatory legislation. We seek instead to explore the circumstances under which Congress will preempt unilateral action with legislation, and when it will instead decline to act.

Next, consider P's cost of unilateral action, ϵ. There are multiple ways to understand this substantively. First, this can represent the public opinion hit that the President takes by pursuing unilateral action. Reeves and Rogowski (2016) show with several survey experiments that the public holds a negative view of the exercise of unilateral powers and that this outlook influences policy attitudes; furthermore, this is rooted in views about the rule of law rather than just partisanship. In a follow-up study, Reeves and Rogowski (2018) show with an experiment that voters punish presidents who pursue unilateral action rather than legislation; remarkably, this effect is strongest among ideological allies. Second, ϵ can represent administrative expense. Allocating executive branch staff to learn about policy and write regulations, navigating the lengthy rule-making process, tangling with the courts, and so on can be a costly process for the President.

Recalling Johnston (2015), we also assume that I does not have power to pressure C directly to put its issue priority on the agenda once its party has won unified control. I must thus pursue an indirect and inefficient strategy. By insisting on a rejection of compromise, I can induce policy that is indeed more extremely to the disliking of both I and C. This ensures that the issue remains a priority when its aligned political party wins unified control and can address policy demands more completely, rather than some other priority of another coalition member. One might wonder, though, why an interest group that can exert effort to prevent legislation would not simply exert that same effort to force an issue onto the agenda under unified control. Yet these are starkly different problems. When a specific interest group fights for Congress to reject a compromise addressing its area of concern, every other

interest group shares a stake in the compromise being accepted so that any one of their issues can instead become priorities, but they face a collective action problem in coordinating to apply counter-pressure. They will also face a discernible lack of competence and credibility in the issue area; indeed, the less they care about the issue at hand, the more they will want to apply counter-pressure and the less they will actually be capable of doing so. On the other hand, when a party holds unified control, its aligned interest groups each individually have an incentive to fight for the priority of their respective issues—a free-for-all that fails to mirror the problem of what to do given that a specific issue has already arisen. While strategies to pressure one's party coalition to address an issue after it has already won unified control are undoubtedly important, the present assumption will be that an interest group will instead prefer to scuttle compromise under a preceding divided government, if such a threat happens to arise.[5]

Finally, consider the second policy opportunity. This represents in reduced form a repetition of the policy-making process (save for a veto override, both Congress and the President must agree for legislation to occur) without inducing technical complication that distracts from the main point. Namely, if Congress gets an aligned President, these two might decide to focus their policy-making resources — legislative time, administrative staff, and political capital — elsewhere. It is indeed possible to think of the value of addressing the second policy as representing a spatial distance from C's ideal point, multiplied by the relative importance of the second policy domain compared to that in Stage 1. Then, the probability that P_1 agrees corresponds to the possibility that the new policy could either sit external to both ideal points or in-between. Indeed, Assumption 5 is consistent with this interpretation.[6]

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[5]The model operationalizes interest group influence through "contributions," although this can also be interpreted as working with specific sympathetic legislators who can impose costs on either the leadership or other members for failing to address the interest group's priorities, as Cox (2008) demonstrates.

[6]One might additionally wonder if the President could simply address one policy with unilateral action while signing legislation from Congress on the other policy. If divided government persists, the President will not want to address an opposed interest group's priorities. Let us examine the case in which unified government arises, though. Due to many of the same phenomena noted elsewhere in this paper, one might

We now turn to the results, which clarify how Congress, the President, and interest groups interact when legislation and unilateral action are both possible. It demonstrates formally that an interest group might engage in recalcitrant behavior, producing a seemingly inefficient failure to compromise. Furthermore, it clarifies some conditions under which we might observe unilateral action.

Results

Let us proceed by backward induction. Recall of course that P loses the election and P' wins with probability θ. Given that this occurs, we know based on the fact that $\Omega \sim U[0, \overline{\Omega}]$ that the probability that C does not exercise the outside option equals $r(x_1) \equiv \frac{c-x_1}{\overline{\Omega}}$ (we will find that in equilibrium, we must have $x_1 \leq c$). Simply put, C can either resolve its disutility arising from policy sitting away from its ideal point, or it can pursue the outside option; it chooses whichever provides greater utility.

If P instead wins reelection, the policy x_1 stays in place, but C and P can choose to pursue the outside option if it is mutually agreeable. Because the outside option value is always positive for C, this occurs whenever P also derives positive utility. In both cases, P's value of the outside option is determined by the probability function $q(p, c)$ as defined above.

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expect that the President's willingness or ability to pursue unilateral action in the future could be uncertain. The President might discover better uses for the administrative resources needed to pursue unilateral action, such as helping Congress to craft and implement legislation relating to the second policy area, or the courts might view unilateral action on the first policy unfavorably. These forces can act asymmetrically. For example, while President Obama's DACA program survived court challenges, it has so far survived the Trump Administration's attempts to end it. C and P_2's common utility of the second policy opportunity therefore can be viewed to induce a summary probability that no actor wishes to revisit I's policy priority in Stage 2.

It follows that P's expected utility as a function of x_1 is:

$$EU_P(x_1) = -(x_1 - p) + \delta\bigg(\theta\bigg(r(x_1) \cdot -(c - p) + (1 - r(x_1)) \cdot \int_{c-x_1}^{\overline{\Omega}} \big(-(x_1 - p) + q(p,c)\cdot$$
$$\Omega + (1 - q(p,c)) \cdot -\Omega\big)\frac{1}{\overline{\Omega} - (c - x_1)}d\Omega\bigg) + (1 - \theta)\bigg(-(x_1 - p) + q(p,c) \cdot \frac{\overline{\Omega}}{2}\bigg)\bigg)$$

Presently ignoring the lower-bound p, the first-order condition gives

$$x_1^* = c - \frac{(1 + \delta)\overline{\Omega}}{\delta\theta\big(1 + 2(\alpha - \rho(c - p))\big)}$$

while the second-order condition for an interior solution is satisfied given our assumptions. There are two possibilities, then. If $x_1^* > p$, x_1^* gives us P's optimal choice of unilateral action. If $x_1^* \leq p$ instead, p is P's optimal choice of unilateral action.

Before proceeding further with solving the game, we can better understand P's problem in this subgame by examining comparative statics on x_1^*. First observe that when x_1^* increases, it means that P takes a more conciliatory stance, whereas when x_1^* decreases, P takes a harder line. We see that x_1^* is increasing in δ, θ, p, and α and decreasing in ρ and $\overline{\Omega}$; the effect of shifting c is ambiguous. As δ increases, P is less willing to risk C revisiting the policy, preferring them to pursue the outside option. As θ increases, P increasingly believes that a future unified government will have the opportunity to revisit the policy and forestalls this by moderating it. As p increases, α increases, or ρ decreases, the chance of P benefiting from C's outside option increases, so P can increase the chance that it is pursued by moderating unilateral action on the present policy. On the other hand, as $\overline{\Omega}$ increases, P recognizes that C will feel increasingly compelled to pursue the outside option and P can get away with more extremity on the present policy. A shift in c is ambiguous because of two competing effects. On one hand, as C moves farther rightward, policy must also sit farther rightward for C not to want to revisit it and move it even farther. On the other hand, a farther-right

C means that P and C are less likely to agree on the outside option anyway.

Let us resume backward induction. Recall that P must incur a cost of ϵ to promulgate unilateral action. Given this non-legislative option for P, what is the set of legislative offers from C that would be acceptable? Any such offer ℓ must satisfy the inequality $EU_P(\ell) \geq EU_P(\max\{x_1^*, p\}) - \epsilon$; that is, expected utility from legislation must be greater than or equal to expected utility from the optimum unilateral action net of the cost of enacting it. Denote ℓ satisfying this condition to be P's "Acceptance Set" (AS). If C wishes to offer legislation ℓ that P will sign, it must select it subject to the constraint that $\ell \in AS$. Define $\underline{AS} \equiv \min AS$ and $\overline{AS} \equiv \max AS$.

Assumption 8. $\overline{AS} < c$

Remark. For convenience and to focus on interesting cases, we suppose that P will not trivially accept C's offer of its ideal point c.

We can find AS by solving the corresponding equality. Suppose first that $x_1^* > p$ ("Case 1"). (As we recall, this means that P's optimal unilateral action reflects a relatively conciliatory stance). It follows that legislation must satisfy the inequality $EU_P(\ell) \geq EU_P(x_1) - \epsilon$. Denote the first root of the corresponding (quadratic) equation as R_1 and the second root as R_2. Then, because we have shown that EU_P is concave down (and recalling that the policy space is bounded below by p), we have $AS = [\max\{R_1, p\}, R_2]$. We find specifically that

$$AS = \left[\max\left\{x_1^* - \sqrt{\frac{\epsilon\overline{\Omega}}{\delta\theta\left(\frac{1}{2} + \alpha - \rho(c-p)\right)}}, p\right\}, x_1^* + \sqrt{\frac{\epsilon\overline{\Omega}}{\delta\theta\left(\frac{1}{2} + \alpha - \rho(c-p)\right)}}\right]$$

Let us now suppose instead that $x_1^* \leq p$ ("Case 2"). This implies that P's optimal unilateral action e^* sits at the corner p. It follows that legislation must satisfy the inequality

$EU_P(\ell) \geq EU_P(p) - \epsilon$. Then, defining

$$N \equiv \overline{\Omega}\sqrt{\frac{4\delta\epsilon\overline{\Omega}\theta\left(\frac{1}{2} + \alpha - (c-p)\rho\right) + \left(2\delta\theta(p-c)\left(\frac{1}{2} + \alpha - (c-p)\rho\right) + (\delta+1)\overline{\Omega}\right)^2}{\overline{\Omega}^2}}$$
$$- 2\delta\theta(p-c)\left(\frac{1}{2} + \alpha - (c-p)\rho\right) - (\delta+1)\overline{\Omega}$$

we find that

$$AS = \left[p, p + \frac{N}{\delta\theta\left(\frac{1}{2} + \alpha - (c-p)\rho\right)}\right]$$

Let us now turn to C's calculation. First we will examine its utility absent the ability of I to make contributions, which we shall denote EU_C. Observing that we will never in equilibrium end up with $x_1 > c$, this expression is

$$EU_C(x_1) = -(c - x_1) + \delta\left(\theta\left(r(x_1) \cdot 0 + (1 - r(x_1)) \cdot \int_{c-x_1}^{\overline{\Omega}} \left(-(c-x_1) + \Omega\frac{1}{\overline{\Omega} - (c-x_1)}\right)\right.\right.$$
$$\left.\left. + (1-\theta)\left(-(c-x_1) + q(p,c) \cdot \frac{\overline{\Omega}}{2}\right)\right)\right)$$

Notice that $\frac{dEU_C}{dx_1} > 0$. Therefore, in the absence of I's contributions, C has a corner solution in Stage 1 of offering $\ell = \overline{AS}$, which the President would sign. That is, C prefers to offer the rightmost legislation that P is willing to sign. C and P find a moderate legislative compromise, with P avoiding the need for unilateral action and C extracting the surplus.[7]

This leads us to I's problem. If it wishes to induce a policy other than $\overline{AS}$, it must make

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[7]This result need not break even if C faces an exogenous cost of offering legislation to P, say π; as long as $\pi < \epsilon$, this will continue to hold. It will soon be shown in-text that I's optimal action must be a corner: either accept this legislation or to induce unilateral action; with $\pi > 0$, I will continue to have a corner solution. I's cost of compensating C to allow unilateral action would now shift downward uniformly across the parameter space by π. Thus, while marginal cases of legislation when $\pi = 0$ may now instead result in unilateral action, the model's parameters continue to describe movement between the two possible equilibria in the same manner. This persists even if $\pi > \epsilon$. While C's default would now be to allow unilateral action, I could still choose to pay C to pass compromise legislation instead; once again, the model's parameters will exhibit the same qualitative effects.

a contribution of

$$\tilde{k}(x_1) \equiv \frac{1}{\beta}\left(EU_C(\overline{AS}) - EU_C(x_1)\right)$$

which is C's utility lost from passing policy other than the rightmost that P would have accepted, normalized by C's relative value placed on campaign contributions. Then I's expected utility is

$$EU_I(x_1) = -(i - x_1) + \delta\left(r(x_1) \cdot -(i - c) + (1 - r(x_1)) \cdot -(i - x_1)\right) - \tilde{k}(x_1)$$

The second derivative is always positive, so I will have a corner solution. That is, it will always prefer either to induce $\underline{AS}$ or to make no contribution knowing that it will receive $\overline{AS}$. This reflects two possible means of optimizing for I, which we recall sits on the right. It can move policy as far-right as possible, enjoying right now a policy that sits closer to its preference and guarding against the possibility that government will continue to be divided in the future. Alternatively, it can push (perhaps circuitously) for farther-*left* policy, effectively inducing a hypothetical conservative unified government in Stage 2 to want to revisit I's policy priority. This might lead to an even more favorable dispensation of policy for I, compared to C compromising now and attending to the demands of some other party coalition member later.

Observe then that there are two general ways in which legislation might occur. First, P, fearing the consequences of moving policy too far left, might moderate sufficiently such that his optimum unilateral action sits interior in the policy space, corresponding to $x_1^* > p$ (*i.e.* we are in Case 1). Because I has a corner solution, it will always want C to induce a policy on either end of AS. The only way to do this, of course, is to offer legislation, so this will occur in any equilibrium outcome. This is illustrated in Figure 1.
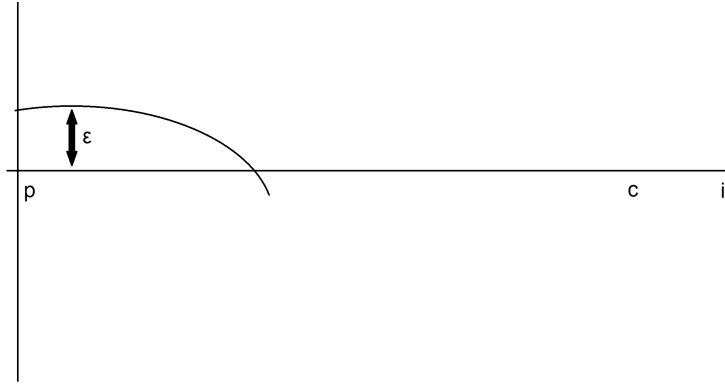
Figure 1: P's excess utility from legislation over optimal unilateral action, as a function of legislation's location ℓ. This figure illustrates Case 1, in which P's optimal unilateral action (located at the maximum of the parabola) sits interior in the policy space. Recalling that I's expected utility as a function of ℓ is convex, I optimizes by inducing a policy on either end of P's Acceptance Set AS. In the above figure, this will either be p, or the point at which the above curve crosses the x-axis. Inducing either of these points requires legislation.

Second, even if $x_1^* \leq p$ and thus P wishes to push policy all the way to his ideal point (*i.e.* we are in Case 2), there is another way in which legislation might yet occur regardless. Namely, I might prefer to settle for the moderate compromise of $\overline{AS}$ right now rather than inducing the farther-left p and hoping that a unified government revisits the policy later. This is illustrated in Figure 2.
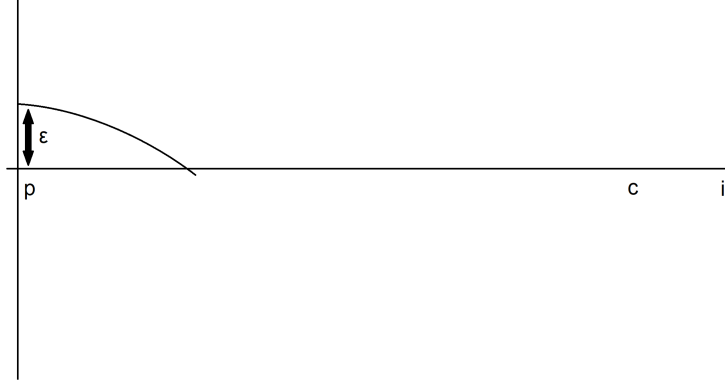
Figure 2: P's excess utility from legislation over optimal unilateral action, as a function of legislation's location ℓ. This figure illustrates Case 2, in which P's optimal unilateral action (located at the maximum of the parabola) sits at the corner p. Recalling that I's expected utility as a function of ℓ is convex, I optimizes by inducing a policy on either end of P's Acceptance Set AS. In the above figure, this will either be p, or the point at which the above curve crosses the x-axis. While the latter still requires legislation, the former can now be achieved by unilateral action in contrast to Case 1.

We shall later focus our attention on Case 2. Presently, though, we evaluate Case 1 in more detail. A first proposition identifies the conditions that lead P to moderate sufficiently such as to be in Case 1:

Proposition 1. *Define a threshold in the value of C's outside option $\overline{\Omega}$ as $T_\ell \equiv \frac{(c-p)\delta\theta\left(1+2(\alpha-\rho(c-p))\right)}{1+\delta}$. In any subgame perfect equilibrium outcome in which the outside option $\overline{\Omega}$ is less than the threshold T_ℓ, C passes legislation that is signed by P.*

Proof. In text. □

This condition is simply a rearrangement of the inequality $x_1^* > p$. This seems to imply that the most important policies (relative of course to an outside option) will be the most likely to become legislation, at least through this route of P's strategic moderation. We shall now explore how other model parameters move the threshold T_ℓ. Notice that if we were to find that a parameter shift is associated with an *increase* in T_ℓ, then a larger value of the

outside option could be consistent with legislation becoming law. This is specifically because P's optimal unilateral action moves rightward and eventually sits interior, at which point it becomes impossible for C to induce a corner by failing to offer legislation. Intuitively, then, when P is more willing to moderate, we should see more legislative compromise. P's willingness to moderate is thus summarized by comparative statics on T_ℓ:

Proposition 2. *The space of the value of C's outside option $(\overline{\Omega})$ in which legislation is guaranteed to succeed because P's optimal unilateral action is greater than the ideal point p is increasing in the discount factor (δ), the probability that P loses re-election (θ), and the probability that P derives positive utility from the outside option (either an increase in α or a decrease in ρ), and is increasing in C's ideal point (c) if and only if the probability of agreement on the outside option is large (namely $\rho < \frac{1+2\alpha}{4(c-p)}$).*

Proof. See appendix. □

Each of these comparative statics has an intuitive explanation. Consider the discount factor, δ. As the future becomes more valuable (or as an alternative and looser interpretation, policy takes a longer time to come up for reconsideration in the future), P is more willing to strategically moderate in Stage 1 to ensure that the present issue does not come up again and C can instead pursue the outside option.

Next, the more likely that P is to lose re-election, the more likely that C will be able to revisit the present policy in Stage 2. This forces P to moderate more now to ensure that a future C and P' instead choose to pursue the outside option.

Next, we see that the more likely that P and C are to agree on some other issue, the more likely P is to strategically moderate now such as to allow said other issue to emerge. Said another way, for P to want to moderate on the present issue, he must share some other policy priority with C. If the outside option that C can pursue is guaranteed to displease P, P will not want to moderate. That is because the threat of C revisiting the present issue

in the future no longer poses a threat at all: bringing up the present issue again prevents C from pursuing the outside option, which would displease P just the same. In fact, the first three comparative statics all diminish as disagreement over the present issue predicts disagreement over other issues, and as the overall level of disagreement over other issues increases.

Finally, examine C's ideal point, c. Given that disagreement over the outside option is sufficiently small, a farther-right C means that P needs to offer more of a compromise to forestall the present, disagreeable issue from coming up again.

Two propositions summarize the effects of disagreement about the outside option on the willingness of P to moderate strategically.

Proposition 3. *As the probability of agreement between P and C on the outside option decreases (through either a decrease in α or an increase in ρ), the rate at which the space of $\overline{\Omega}$ described in Proposition 2 increases in δ, θ, and c decreases.*

Proof. See appendix. □

That is to say, as we increase predicted policy disagreement on the outside option, we diminish the effects of increasing δ, θ, and c on P's willingness to moderate strategically. Put simply, for the intuitive explanations of Proposition 2 to hold strongly, P must actually hope to anticipate that C's outside option might actually also provide P with some benefit. Yet if there is disagreement over all policies that could potentially arise, there is no longer any reason for P to moderate his optimal executive order. That is, the hypothesis of Proposition 1 will never hold. Our final proposition of the subsection summarizes this result.

Proposition 4. *If the probability of P and C agreeing on the outside option is 0, we must have $x_1^* < p$, implying that P's optimal unilateral action $e^* = p$.*

Proof. See appendix. □

In other words, the more that issues become correlated with one another, and disagreement over the present issue predicts disagreement over all other potential issues, the less P is willing to moderate his optimal executive order even on the present issue, potentially leading to less legislative compromise and more unilateral action.

Main Results

We will now examine Case 2 (*i.e.* $x_1^* \leq p$, implying that P's optimal unilateral action $e^* = p$) and seek conditions under which I nevertheless prefers to compromise. Recalling that I's utility maximization problem results in a corner solution, if I does desire a compromise, it can induce Congress to offer the rightmost legislation that the President is willing to sign, which we recall is $\ell = \overline{AS}$. If instead I's problem finds a solution in implementing disagreeable policy now so that a unified government must revisit it later, then it can contribute to C to induce $x_1 = p$. C can do this in two ways: it can offer legislation implementing p, which the President will sign; or it can do nothing, anticipating that P will issue an executive order implementing $x_1 = p$. We will presently prefer to assume that C breaks the tie in favor of the latter strategy. Indeed, supposing that C faces any positive cost of producing legislation eliminates the first equilibrium. This might once again take the form of expending scarce agenda time, as discussed above, or it might manifest as a position-taking cost, such that conservative voters find it strange that a supposedly conservative Congress passes exactly what a liberal President desires.

Let us thus now examine I's choice either to allow $\overline{AS}$ or induce unilateral action $e = p$. It would seem obvious to ask what condition implies that I's expected utility from $\overline{AS}$ is greater than that from p—*the* condition that holds if and only if signed legislation occurs rather than unilateral action—and then perform comparative statics upon the resulting threshold. We first summarize the importance of this condition in a proposition and then discuss when it should hold.

Proposition 5. *Let S_I^* denote I's optimal selection of a Stage 1 policy x_1 to induce. In any SPNE, $S_I^* \in \{p, \overline{AS}\}$. When $EU_I(p) > EU_I(\overline{AS})$, it is an SPNE outcome to have $S_I^* = p$, C to fail to pass legislation, and P to issue a unilateral action $e = p$; furthermore, if C faces any cost of offering legislation, there exists no other SPNE outcome. When $EU_I(p) < EU_I(\overline{AS})$, in any SPNE outcome $S_I^* = \overline{AS}$, C passes $\ell = \overline{AS}$, and P signs the legislation.*

Proof. See appendix. $\square$

This proposition makes clear that policy in Stage 1 has become I's choice variable. If I yields higher utility from $x_1 = p$ net of the cost of contributing to C, then it contributes the amount necessary to make this policy happen. If not, it does not contribute, and C implements what we previously found to be its optimum in the absence of contributions, which is the rightmost legislation that P will sign, namely $\overline{AS}$.

Under what conditions, though, do we find that $EU_I(p) > EU_I(\overline{AS})$? Answering this generally proves impractical, as an intractably long list of seemingly arbitrary conditions determines whether this is true. The specific difficulty arises from the fact that both sides of this inequality can move with a shift in parameters. Substantively, a parameter shift might make I more willing to compromise if we were to fix the location of $\overline{AS}$. Yet that same parameter shift might also make P more recalcitrant, simultaneously shifting $\overline{AS}$ leftward. This leads to ambiguity in determining whether that parameter shift leads to greater or less willingness of I to accept compromise legislation now rather than allow unilateral action. Instead of attempting to unpack this directly, then, we will lean on geometric intuition to disambiguate the problem and uncover some comparative statics.

Recall that I's expected utility function is a convex parabola. We will be interested in the location of this parabola's minimum point, specifically its x-coordinate. This, the location of the parabola's vertex, is simply the argument that minimizes the Interest Group's expected

28

utility. We will refer to this as V_{EU_I}; we have

$$V_{EU_I} \equiv \arg\min EU_I(x_1) = c - \frac{\overline{\Omega}(1+\delta)(1+\beta)}{\delta(2\beta+\theta)}$$

This object would summarize how I's best strategy moves as we move parameters, if we could ignore P's strategic adjustments (*i.e.* hold fixed $\overline{AS}$). Suppose for some initial parameter values, $\overline{AS} = \widehat{\overline{AS}}$. Now suppose for some parameter κ that $\frac{\partial V_{EU_I}}{\partial \kappa} > 0$. Let us now increase κ by $\Delta_\kappa > 0$ from its initial value (say $\tilde{\kappa}$). The convex parabola shifts right. Comparing its value at the original lower and upper corners (p and $\widehat{\overline{AS}}$, respectively) before and after this shift, we conclude that if $EU_I(p; \tilde{\kappa}) \geq EU_I(\widehat{\overline{AS}}; \tilde{\kappa})$, we must have $EU_I(p; \tilde{\kappa}+\Delta_\kappa) > EU_I(\widehat{\overline{AS}}; \tilde{\kappa}+\Delta_\kappa)$; if $EU_I(p; \tilde{\kappa}) < EU_I(\widehat{\overline{AS}}; \tilde{\kappa})$, we may either have $EU_I(p; \tilde{\kappa}+\Delta_\kappa) < EU_I(\widehat{\overline{AS}}; \tilde{\kappa}+\Delta_\kappa)$ or $EU_I(p; \tilde{\kappa}+\Delta_\kappa) \geq EU_I(\widehat{\overline{AS}}; \tilde{\kappa}+\Delta_\kappa)$. Put more simply, shifting V_{EU_I} right only makes p a relatively more attractive policy to I, compared to $\widehat{\overline{AS}}$. Shifting V_{EU_I} left only makes $\widehat{\overline{AS}}$ relatively more attractive.

By looking at comparative statics on V_{EU_I}, we can therefore examine how shifts in parameters affect I's relative value of legislation compared to unilateral action, still ignoring P's strategic adjustments. This is summarized in a lemma:

Lemma 1. *V_{EU_I} is increasing in C's value of campaign contributions (β), the discount factor (δ), and C's ideal point (c), and is invariant to P's cost of unilateral action (ϵ) and the probability of agreement on the outside option (q, a function of α and ρ).*

(V_{EU_I} also increases in the probability of unified government (θ) and decreases in the upper-bound on the outside option value ($\overline{\Omega}$), but we will not use these facts to help prove any proposition).

First, consider C's value of campaign contributions (β). We find simply that as the marginal benefit to C of contributions increases, unilateral action becomes relatively more desirable. This should be an obvious result, as being able to influence C more cheaply should

make I more willing to do so.

Next, the relative value of unilateral action increases in the discount factor (δ). That is, the more the future is worth, the more utility I gets from unilateral action relatively. I becomes more willing to accept undesirable policy now in order to ensure that an aligned government revisits the policy and more fully meets its demands later. As previously mentioned, it is also possible as a form of shorthand to imbue $\delta \geq 1$ with substantive meaning, representing policy remaining in place for a long time after it has been acted upon. This could be increasingly plausible when more and more policy priorities compete for the attention of the President, Congress, and other actors. This then implies that an interest group will find it more beneficial to scuttle compromise and hold out for a possibly long-lived policy shift closer to its ideal point.

Next, consider C's ideal point (c). We show that as C becomes more conservative, inducing unilateral action becomes relatively more desirable to the Interest Group. This is because we have assumed that I sits to the ideological right of C. Then, as C shifts right, it becomes more closely aligned with the Interest Group. For I, this increases the benefit of foregoing compromise and holding out for better policy later under unified government.

Next, ϵ and q are parameters in the President's utility function and do not affect I's expected utility given the realization of a specific Stage 1 policy.

Next, as I becomes more assured that it will face a unified government in the future (θ), it is more willing to pursue a strategy depending on one. That is, making more policy liberal now only works for I if a conservative unified government comes into power later.

Finally, as the outside option increases in maximum possible value ($\overline{\Omega}$), I moves toward preferring legislation. This is because it becomes less likely that letting policy go to P's ideal point now will actually forestall C from pursuing the outside option in the future.

If this were the entire story, there would be no ambiguity in the effect of parameter shifts on the outcome of either signed legislation or unilateral action and we would largely be done.

Yet we know that even as V_{EU_I} shifts (reflecting shifts in I's best responses), $\overline{AS}$ is shifting at the same time (reflecting shifts in P's best responses). Consider for example an increase in C's ideal point, c. As we just saw, this should make unilateral action more attractive to I. Yet we must also consider how $\overline{AS}$ shifts. This turns out to be ambiguous. On one hand, it might shift right: the President increasingly fears a conservative unified government revisiting the policy, so he is more willing to accept a compromise now and hope the outside option is instead invoked later. It would therefore be ambiguous whether unilateral action or legislation becomes relatively more attractive to I. Even as the former option provides I greater utility, the latter does the same, because P becomes more conciliatory. On the other hand, $\overline{AS}$ might shift left: as c shifts right, the President views it less and less likely that the outside option will prove agreeable. So even if unilateral action provokes a more conservative unified government to revisit it later, the disliked outside option is at least avoided. In such case, unilateral action becomes more attractive to I even after accounting for P's adjustment, particularly because P demands more from any legislative compromise.

To narrow down the possibilities, we shall specify a sufficient and tractable (if not strictly necessary) condition to ensure that as some parameter κ shifts, the shift in $\overline{AS}$ relative to that in V_{EU_I} unambiguously implies that one specific strategy becomes better for I. First observe that, by the symmetry of EU_I (a quadratic function with a positive second derivative) around the line $x_1 = V_{EU_I}$, we will have $EU_I(p) \geq EU_I(\overline{AS})$ if and only if $|p - V_{EU_I}| \geq |\overline{AS} - V_{EU_I}|$. Whenever $p < V_{EU_I} < \overline{AS}$, then when the quotient $\frac{|p - V_{EU_I}|}{|p - \overline{AS}|}$ increases (decreases), we must conclude that $\frac{EU_I(p) - EU_I(V_{EU_I})}{EU_I(\overline{AS}) - EU_I(V_{EU_I})}$, the ratio of excess utility of unilateral action over the minimum to excess utility of optimal legislation over the minimum, increases (decreases) as well. (Of course, if V_{EU_I} increased [decreased] sufficiently such that $p < \overline{AS} < V_{EU_I}$ [$V_{EU_I} < p < \overline{AS}$], we would always conclude that $EU_I(p) > EU_I(\overline{AS})$ [$EU_I(p) < EU_I(\overline{AS})$]). By this geometric argument, the following will be a sufficient condition to ensure unambiguity in determining which strategy improves relatively when we shift some parameter κ:

Definition 1. *A parameter κ exhibits* **strategic unambiguity** *(is strategically unambiguous) when, given $\frac{\partial V_{EU_I}}{\partial \kappa} \geq (\leq) \, 0$, we have $\frac{\partial V_{EU_I}}{\partial \kappa} \geq (\leq) \, \frac{\partial \overline{AS}}{\partial \kappa}$.*

That is, if the vertex moves right (left), the upper corner moves right (left) weakly less quickly, or perhaps even moves left (right). The following figures illustrate this:
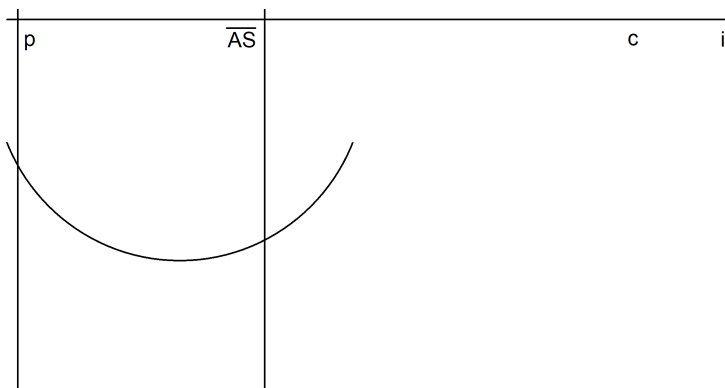

Figure 3: I's expected utility as a function of x_1, plotted against x_1's two corners, p and $\overline{AS}$.
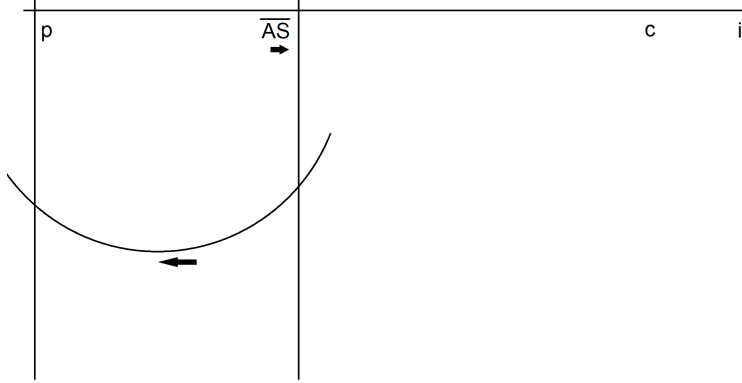
Figure 4: Some parameter shift causes I's expected utility function to shift leftward, *i.e.* I moves more toward preferring the rightmost legislative compromise P would have accepted prior to the shift, compared to unilateral action implementing p. At the same time, the upper corner, $\overline{AS}$, shifts rightward, indicating that P has become more conciliatory and the new rightmost compromise has become more favorable to I. Unambiguously, legislation improves relative to unilateral action for I. This would hold even if P became *less* conciliatory, as long as this occurred at a slower rate than I's move toward preferring legislation.

The following lemma summarizes which parameters exhibit strategic unambiguity:

Lemma 2. *β, q, and ϵ exhibit strategic unambiguity. As long as $q = 0$, c and δ also exhibit strategic unambiguity.*

Proof. See appendix. □

This fact, along with the above geometric argument, allows us to present the following proposition, which summarizes how I's optimum strategy (denoted S_I^*) changes as parameters shift. Recall that its optimal strategy will be to induce a policy outcome of either p or $\overline{AS}$. Because $p < \overline{AS}$, decreasing S_I^* means that I moves toward preferring allowing unilateral action, while increasing S_I^* means that it moves toward preferring legislative compromise.[8]

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[8]S_I^* is actually a correspondence, with any mix of p and $\overline{AS}$ optimal when $EU_I(p) = EU_I(\overline{AS})$. In a slight abuse of terminology, we will say that S_I^* is (globally) weakly increasing in κ whenever $\kappa' < \kappa''$ implies

33

Proposition 6. S_I^* *is weakly increasing in the probability of agreement on the outside option* *(q) and the cost to P of unilateral action (ϵ), weakly decreasing in C's value of campaign* *contributions (β), and as long as $q = 0$, also weakly decreasing in C's ideal point (c) and* *the discount factor (δ). Furthermore, at any vector of parameter values at which $EU_I(p) =$* *$EU_I(\overline{AS})$, these increases/decreases are strict.*

Proof. In text. □

The first two results follow partly from the observation above that I's expected utility is not directly related to P's cost of unilateral action (ϵ) or the probability of agreement on the outside option (q). At the same time, decreasing the probability of agreement on the outside option (q) leads to $\overline{AS}$ shifting leftward. That is because if C's other priorities are likely to displease P, P becomes less willing to accept a moderate compromise that forestalls the Stage 1 issue from being revisited such as to allow pursuit of the outside option. Next, increasing P's cost of unilateral action (ϵ) increases $\overline{AS}$. This is simply because P's non-legislative option of unilateral action becomes relatively less effective, leading P to accept an increasingly conservative compromise.

C's value of campaign contributions (β) is strategically unambiguous because $\overline{AS}$ is not a function of it; β only directly relates to the relationship between I and C. At the same time, we recall from above that as I can influence policy more cost-effectively, legislation becomes less desirable.

Finally, when C and P definitely disagree on the outside option ($q = 0$), we find that increases in C's ideal point (c) and the discount factor (δ) move I toward a preference for unilateral action "faster" than the President strategically moderates. As above, with q small, P sees less reason to cooperate with Congress in allowing the outside option to

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$\min S_I^*(\kappa') \leq \min S_I^*(\kappa'')$, and is strictly increasing in κ at κ''' whenever there exists an $\tilde{\epsilon}' > 0$ such that $0 < \epsilon' < \tilde{\epsilon}'$ implies $\min S_I^*(\kappa''') < \min S_I^*(\kappa''' + \epsilon')$. Analogously, we will say that S_I^* is (globally) weakly decreasing in κ whenever $\kappa' < \kappa''$ implies $\max S_I^*(\kappa') \geq \max S_I^*(\kappa'')$, and is strictly decreasing in κ at κ''' whenever there exists an $\tilde{\epsilon}' > 0$ such that $0 < \epsilon' < \tilde{\epsilon}'$ implies $\max S_I^*(\kappa''') > \max S_I^*(\kappa''' + \epsilon')$.

come up instead of inducing a potentially unified government to revisit the Stage 1 policy. The intuition on I's response to c and δ is as discussed above. As c shifts rightward, the potential reward from strategically inducing reconsideration of the Stage 1 issue increases, as the point to which C would shift the policy under unified government moves closer to I's ideal point. As δ increases, I's willingness to accept disagreeable policy now in the hope of winning agreeable policy in Stage 2 increases.

Yet for each of these parameters, does there always exist an interior threshold to separate I's two potentially optimal corner strategies? In other words, does there always exist a sufficiently large shift in these parameters such that I would switch from preferring legislation to inducing unilateral action? This need not hold at all times. For example, if β were sufficiently close to 0, there might exist no value of $q(p, c; \alpha, \rho) \geq 0$ sufficiently small such that $EU_I(p) \geq EU_I(\overline{AS})$. We can easily show, though, that for each such parameter κ, there exist values of all other parameters—satisfying necessary hypotheses—such that an interior threshold of κ exists separating the interest group's two possible equilibrium strategies, and thus our two equilibria of concern. We summarize this in our final proposition.

Proposition 7. *There exists a vector of parameter values at which $EU_I(p) = EU_I(\overline{AS})$ and the values of q, ϵ, β, c, and δ are interior.*

Proposition 7 tells us that at this vector, any increase in one of these parameters will imply one strategy, while a decrease will imply the other. Simply put, shifting each of these parameters can be "non-trivial," not only affecting I's relative utility of p compared to $\overline{AS}$ but also changing its optimum strategy and moving the game from one equilibrium to another.

Case Study

The last major immigration reform bill to become law was the Immigration Reform and Control Act of 1986 (the "IRCA"), which prohibited employers from employing undocumented

immigrants while granting legal status to such individuals who had resided continuously in the United States since before January 1, 1982. Yet in the decades since, many interests have become increasingly dissatisfied with the immigration system. This includes members of the left and some Latino groups (who believe that the immigration system should be less punitive and that legal status should be granted to a number of additional individuals), business groups (who want to hire inexpensive or skilled labor), and immigration hardliners (who want to sharply reduce all immigration and move to a skills-based point system). Yet of these demands for policy reform, it is immigration hardliners who have most often lost out. After labor unions abandoned their previous anti-immigration stances, members of the Democratic coalition increasingly reached a consensus that immigration policy should be moved leftward. In contrast, the Republican coalition has been internally divided, with the strong influence of business interests often overcoming anti-immigration groups' contrasting priorities.

For years, many Republican politicians have ignored the anti-immigration hardliners, repeatedly attempting to broker another similar "grand bargain" in which stronger immigration enforcement is bundled with legal status for undocumented immigrants who have already been present for sufficiently long. Although the IRCA was signed by Ronald Reagan, hardliners see it as proof that such a bargain can never work because while legal status for immigrants will never be revoked, enforcement can always fail to materialize, due to government bureaucracies supposedly captured by the left and Republican politicians who are more interested in advancing the priorities of the Chamber of Commerce. As Leary notes, "Lawmakers wrestled with immigration for more than a decade leading up to 1986 and were eager to move on, [Migration Policy Institute President Demetri] Papademetriou said. 'They felt they took care of the issue. Nobody was going to invest significant money on additional border control"' (Leary, 2013).

Subsequently, hardliners believed the law's enforcement provisions to be ineffective, blam-

ing business. According to Wayne Cornelius at UC San Diego's Center for Comparative Immigration Studies, the bill's authors "gutted the employer sanctions" to ensure the support of the business community (Plumer, 2013). Additionally, Border Patrol's staff remained relatively constant until 1993 (Plumer, 2013). Jerry Kammer of the anti-immigration group Center for Immigration Studies (CIS) believes that this was because "Reagan was never committed to the worksite regulation that was essential to the effort to control the border. Reagan was a small-government conservative and a frequent critic of just the sort of regulation that was a linchpin of the 1986 immigration reform. Indeed, Reagan showed his fealty to the California agribusiness interests that — in concert with Mexican-American congressmen — led the effort to ensure the failure of IRCA's procedures for verifying that a worker was not an illegal immigrant" (Kammer, 2019). The 1986 law was followed by a sharp increase in the population of undocumented immigrants, going from 3.5 million in 1990 to about 11 million since 2005. This perceived failure led hardliners to be skeptical of subsequent attempts to reform immigration. Writing in the conservative *American Interest*, Nicholas Gallagher writes, "[T]he 2007 Comprehensive Immigration Reform Act and the 2013 Gang of Eight bill were the same basic compromise, with tweaks and a 'trust us, this time we mean it.' Only, many people don't" (Gallagher, 2016). More bluntly, Coulter writes, "The amnesty came, but the border security never did. Illegal immigration sextupled. There have been a half dozen more amnesties since then, legalizing millions more foreigners who broke our laws. Perhaps we could have trusted Washington's sincerity thirty years ago, but Americans have already been fooled once—then, six more times. They aren't stupid" (Coulter, 2016).

Yet despite hardliners' deep skepticism of reform, Republican politicians have brought it up repeatedly in a testament to hardliners' difficulty in controlling the political agenda directly. As Wroe notes, one of George W. Bush's priorities coming into office was getting comprehensive immigration reform passed. The 9/11 attacks intervened, but Bush would later push Senators to pass reform, culminating in a 2007 proposal in the Senate in which

Republican Senator John McCain was heavily involved (Wroe). Although this bill failed, reform would come up again in 2011. While this bill also failed, Obama's re-election with 71% of the Latino vote (Nakamura and O'Keefe, 2014) against the strongy anti-immigration Mitt Romney seemingly revived the issue.[9] Two days after Obama's re-election, Republican House Speaker John Boehner said, "[Immigration is] an important issue that I think ought to be dealt with. This issue has been around far too long. While I believe it's important for us to secure our borders and to enforce our laws, I think a comprehensive approach is long overdue, and I'm confident that the president, myself, others, can find the common ground to take care of this issue once and for all" (Nakamura and O'Keefe, 2014).

It was not only Speaker Boehner who thought that the party needed to move on comprehensive immigration reform. Establishment Republicans in general perceived an opportunity to reinforce Republicans' seemingly shaky electoral position while also maintaining the favor of business interests. In the "Growth and Opportunity Project" report issued in March 2013, often called the "GOP autopsy report," the Republican National Committee emphasized the need to appeal to Latinos. According to Schaller (2015), "The GOP report included recommendations for softening the party's off-putting image as a male-dominated, judgmental, and unsympathetic coalition of moral scolds; a plan to reengage and appeal to the growing Latino swing vote that is steadly trending toward the Democrats; and a call to reverse the strategic, tactical, and technological advantages the Democrats now enjoyed."

In response to the general sense among pundits and the Republican establishment that

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[9]While this might come as a surprise, while Massachusetts Governor Romney had vetoed a bill to provide in-state tuition to undocumented immigrants (Drobnic Holan, 2007) and expressed opposition to providing them driver licenses (Mortensen, 2011). Even though some conservatives still distrusted Romney, they acknowledged that Romney ran in 2012 as an immigration conservative (Baldwin and Murdock, 2012). Other candidates struck a more moderate tone; among the ten 2012 Republican candidates as of September 9, 2011, Mitt Romney earned a grade of C- from the anti-immigration group NumbersUSA, second only to Michelle Bachmann's B- (Beck, 2011). Noted anti-immigration pundit Ann Coulter strongly supported Romney, stating, "Both as governor of Massachusetts and as a presidential candidate, Romney has supported a fence on the border, E-Verify to ensure that employees are legal and allowing state police to arrest illegal aliens. He is the rare Republican who recognizes that in-state tuition, driver's licenses and amnesty are magnets for more illegal immigration" (Coulter, 2012).

the party should soften on immigration, presidential aspirant Marco Rubio emerged as the embodiment of the establishment's response to political conditions of the time. As Schaller (2015) notes, Rubio "knew he had to come out in favor of a comprehensive immigration policy that included some path to citizenship for undocumented immigrants with clean records.... The legislation could include tougher border standards and increased funding for enforcement, but any hope Rubio might have of building a general election coalition to win the White House would have to include a citizenship component. Polls showed that Rubio or Jeb Bush—or even Paul Ryan—could capture at least 40 percent of the Latino vote if they backed a version of immigration reform with a path-to-citizenship component." Rubio published an editorial in Tech Crunch entitled "America Needs a Pro-Growth Immigration System," arguing that the U.S. should encourage more high-skilled immigration and that the current system's treatment of 11 million undocumented immigrants amounted to "de facto amnesty" (Rubio, 2013).

Yet remembering the 1986 reform, immigration hardliners were deeply suspicious of these arguments, believing that once an immigration compromise was struck, the issue would be considered "settled" for some time and in an unsatisfactory manner. Schaller (2015) notes, "conservative commentators Rich Lowry and Bill Kristol specifically lambasted Rubio for claiming he didn't want to have to come back in a decade to pass another bill when, according to the Congressional Budget Office, the enforcement provisions conservatives found insufficient would require exactly that." Conservative commentator Rosemary Jenks wrote, "The bill guarantees amnesty now in exchange for promises of future enforcement, just like the failed 1986 amnesty. In addition to inviting the next wave of illegal immigration, though, the bill would double legal immigration and vastly expand guest worker programs" (Jenks, 2013).

Hardliners did not only complain, though. They put pressure on Republicans seen as

disloyal on immigration.[10] On January 30, 2014, John Boehner released a "statement of principles" on immigration that expressed support for a combination of increased enforcement and protection against deportation with conditions for those already here. According to Sinclair and Koger (2018), "Even before the principles were released, far-right outside groups began a campaign against moving forward on broad immigration reform legislation, with Heritage Action calling the principles 'a full embrace of amnesty.' The Tea Party Patriots began a massive campaign to gin up phone calls to members from their districts, and FreedomWorks gathered signatures on a 'fire the Speaker' petition.... A week later, Boehner retreated, saying he did not believe a bill could pass in 2014."

Hardliners' efforts also led to the defeat of House Majority Whip Eric Cantor by an economics professor, David Brat. As Baker (2017) notes, Cantor "had signaled willingness to consider more limited [immigration] measures like legalizing the children of adults who came to the country illegally. For that, he was judged insufficiently stalwart in standing up to Obama." The efforts of Tea Party activists and right-wing talk radio proved crucial in catapulting the previously unknown Brat ahead of the number-two member of the House majority leadership (Chace, 2017).

Congress's inaction over years of efforts to secure immigration bills caused President Obama to pursue unilateral action as a substitute multiple times. As discussed in the introduction, the Senate's failure to take up the "DREAM Act" led the President to announce the Deferred Action for Childhood Arrivals (DACA) program on June 15, 2012. Obama stated, "I have said time and time and time again to Congress that, send me the DREAM Act, put it on my desk, and I will sign it right away," adding, "In the absence of any immigration action from Congress to fix our broken immigration system, what we've tried to do is focus our immigration enforcement resources in the right places" (White House Office

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[10]While the model operationalizes this as contributions for preferred policy, as mentioned previously this can be reinterpreted as punishment for dispreferred policy. Technical concerns prevent this from being implemented literally in the model.

of the Press Secretary, 2012).

In 2014, after two additional years of attempting to secure a bill, hardliners' efforts to stymie legislation spilled over into executive policymaking. As Coleman (2018) observes, "Obama's aversion to taking further executive action began to change in 2014 when the effort to pass the Senate legislation faltered in the House, where conservatives dominated the leadership and played a strong role in determining immigration policy positions." Following Eric Cantor's loss and the realization that no deal would be forthcoming, on June 30 Obama announced his intention to issue an additional immigration order (Dovere and Brown, 2014). Obama followed up on November 20, unveiling the "Deferred Action for Parents of Americans" (DAPA) program, which would grant protected status to certain undocumented immigrants who had citizen or lawful permanent resident children. Obama stated, "To those members of Congress who question my authority to make our immigration system work better, or question the wisdom of me acting where Congress has failed, I have one answer: Pass a bill" (Baker, 2017).[11]

Conservatives used these actions to rally Republicans to the cause of opposing immigration. In a column entitled "Get Angry Now," Ann Coulter wrote, "Democrats will have two years to sign up 30 million illegal immigrants for Social Security benefits, food stamps and voting cards and Obama won't be up for election ever again. There is no more important political issue than this: Republicans must take the Senate this year" (Coulter, 2014a). Coulter later focused some of her opprobrium on fellow Republicans reluctant to run on immigration: "The magnificent Republican Tom Cotton, running for the Senate against amnesty-supporting Mark Pryor in Arkansas, says he's gotten more questions about immi-

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[11]Although a district court issued an injunction against the program, later upheld by the Fifth Circuit Court of Appeals, it barely failed before a 4-4 Supreme Court and in expectation posed a real threat to the policy preferences of conservatives. Presidents before had issued numerous orders granting temporary protected status to undocumented immigrants. In fact, in 1987 Ronald Reagan issued an order deferring deportation of some children of non-citizens who applied for legal status under the 1986 reform, affecting 200,000 families, and in 1990 George H.W. Bush deferred deportation of some 1.5 million spouses and children of individuals legalized under the 1986 reform (American Immigration Council, 2013).

gration than any other issue. He says voters keep asking: 'What can we do to stop the border crisis. ... What can we do to stop Obama issuing another unilateral amnesty?'.... But while individual Republicans are talking like Tom Tancredo, the national GOP seems strangely reluctant to make this election a referendum on immigration. If there is a single Democrat running for office this year who isn't forced to take a position on Obama's coming amnesty, Republicans aren't doing their job" (Coulter, 2014b). Dan Stein, the president of the anti-immigration Federation for American Immigration Reform (FAIR), called for "bold [and] definitive response from Congress – particularly Republicans, whether they control one or both Houses of Congress next year.... They need to go equally as big in defense of the American people and the Constitution they have sworn to uphold" (Stein, 2014a). Following election results in which Republicans won back the Senate, Stein argued that the public was demanding conservative immigration policy: "Yesterday, the American people said, 'Enough.' It is now up to the new Republican majority in Congress to honor the wishes of the American people and reverse the president's unlegislated and unconstitutional immigration policies. And, over the next two years, congressional Republicans need to earn the trust placed in them by offering an alternative vision of immigration reform: One based on the principle that the first responsibility of U.S. immigration policy is to serve the broad interests of the American people" (Stein, 2014b).

These events and arguments helped pave the way for the results of the 2016 Republican presidential primary, in which the consistently anti-immigration candidate Donald Trump beat alternatives who had previously expressed support for compromise, such as Marco Rubio and Jeb Bush. Trump ran an overtly anti-immigration campaign in which he promised to build a wall across the southern border and ban Muslim immigration. Following Trump's victory, Mark Krikorian of CIS perceived President Obama's DACA order as giving President Trump an opportunity to move immigration policy to the right. Krikorian argued that phasing out DACA "would light a fire under Congress to pass a package upgrading the DACAs

from their lawless Obama amnesty to a genuine lawful one, in exchange for the RAISE Act, the Davis-Oliver Act, and mandatory E-Verify" (Krikorian, 2017). While Trump has not been completely successful in implementing conservative policies, hardliners used Obama's orders to win a primary candidate and later president who they perceived as reorienting partisan politics around immigration.

Conclusion

In important historical instances of unilateral action, Congress (or another actor) first perceived the President's implicit or explicit threat to act, Congress responded either with legislation or with acceptance of the consequences of unilateral action, and finally, the President issued an executive order if Congress failed to act. Yet when Congress moves first, why is it not always at least indifferent to passing legislation that enacts the policy it knows the President would later pursue unilaterally anyway?

While existing explanations suggest that Congress is simply too divided and inertial to act, I instead asked whether Congress might prefer not to act, focusing on the relationship between Congress and interest groups to resolve this puzzle. I have demonstrated that Congress can fail to compromise with the President because this functions as a commitment device to spend scarce legislative time on a specific interest group's concerns rather than some other priority, if the majority party subsequently wins unified control. Indeed, an interest group can prefer policy farther away from its preferences in the short term (*e.g.* as induced by unilateral action) as a mechanism to ensure its concerns must be addressed more completely later. I have also traced out the implications of this model for the conditions under which we should observe presidential unilateral action that seeks to substitute for legislation. Namely, unilateral action production should increase as ideological polarization increases, issue positions become more highly correlated, and policy takes a longer time to be

revisited following the policymaking process. Finally, the case of immigration policy under Presidents Obama and Trump demonstrated an example of the model in action. The present model thus reinforces the importance of interest group politics to Congressional inaction and presidential unilateral action.

Appendix: Formal Proofs

Proof to Proposition 2. Observe that $\frac{\partial T_\ell}{\partial \delta} > 0$ and $\frac{\partial T_\ell}{\partial \theta} > 0$. Next, we are concerned with two means of q increasing: an increase in α or a decrease in ρ. Observe that $\frac{\partial T_\ell}{\partial \alpha} > 0$ and $\frac{\partial T_\ell}{\partial (-\rho)} > 0$. Last, $\frac{\partial T_\ell}{\partial c} = \frac{\delta \theta (1 + 2\alpha - 4(c-p)\rho)}{\delta + 1}$. Because $\delta > 0$ and $\theta > 0$, the entire expression is positive if and only if $1 + 2\alpha - 4(c-p)\rho > 0$. Rearranged, this condition is $\rho < \frac{1+2\alpha}{4(c-p)}$. $\qquad \square$

Proof to Proposition 3. We have $\frac{\partial T_\ell}{\partial c} = \frac{\delta \theta (1 + 2\alpha - 4(c-p)\rho)}{\delta + 1}$. Next, we are concerned with two means of q decreasing: a decrease in α or an increase in ρ. Observe that $\frac{\partial^2 T_\ell}{\partial (-\alpha) \partial c} < 0$ and $\frac{\partial^2 T_\ell}{\partial \rho \partial c} < 0$. Next, $\frac{\partial T_\ell}{\partial \delta} = \frac{(c-p)\theta \left(1 + 2(\alpha - (c-p)\rho)\right)}{(1+\delta)^2}$. Observe that $\frac{\partial^2 T_\ell}{\partial (-\alpha) \partial \delta} < 0$ and $\frac{\partial^2 T_\ell}{\partial \rho \partial \delta} < 0$. Finally, $\frac{\partial T_\ell}{\partial \theta} = \frac{(c-p)\theta \left(1 + 2(\alpha - (c-p)\rho)\right)}{1+\delta}$. Observe that $\frac{\partial^2 T_\ell}{\partial (-\alpha) \partial \theta} < 0$ and $\frac{\partial^2 T_\ell}{\partial \rho \partial \theta} < 0$. $\qquad \square$

Proof to Proposition 4. Recall that the condition $\overline{\Omega} < T_\ell$ is derived by rearranging the condition $x_1^* > p$. It follows that if $\overline{\Omega} > T_\ell$, we must have $x_1^* < p$. Substituting $\alpha - \rho(c-p) = 0$, we have $T_\ell = \frac{(c-p)\delta \theta}{1+\delta}$. This is maximized by letting $\theta = 1$. By assumption, $\overline{\Omega} > c - p$. Next, because $\delta > 0$, it follows that $0 < \frac{\delta}{1+\delta} < 1$. Then putting this all together, $\overline{\Omega} > c - p > (c-p)\frac{\delta}{1+\delta} \geq T_\ell$, implying that $\overline{\Omega} > T_\ell$ and therefore $x_1^* < p$. $\qquad \square$

Proof to Proposition 5. To see that $S_I^* \in \{p, \overline{AS}\}$, recall that EU_I is a quadratic function with a positive second derivative, implying a corner solution in the domain of policy acceptable to P. If $EU_I(p) > EU_I(\overline{AS})$, I prefers to induce the policy p. I compensates C just enough to do so. There are two ways for C to ensure this policy is carried out: pass legislation $\ell = p$ or do nothing knowing that P will issue $e = p$. If it is costless to offer legislation, C will be indifferent between these two actions, but if legislation cost C any $\epsilon' > 0$ to offer, C will strictly prefer to do nothing. When $EU_I(p) < EU_I(\overline{AS})$, I prefers to induce the policy $\overline{AS}$. I compensates C just enough to do so, namely zero. The only way for C to induce this policy, given P's equilibrium behavior, is to pass $\ell = \overline{AS}$. With P indifferent, we assume P signs the legislation. $\qquad \square$

Proof to Lemma 1. Recalling that $V_{EU_I} = c - \frac{\overline{\Omega}(1+\delta)(1+\beta)}{\delta(2\beta+\theta)}$, observe that $\frac{\partial V_{EU_I}}{\partial \beta} > 0$, $\frac{\partial V_{EU_I}}{\partial \delta} > 0$,

$\frac{\partial V_{EU_I}}{\partial c} > 0$, $\frac{\partial V_{EU_I}}{\partial \epsilon} = 0$, and $\frac{\partial V_{EU_I}}{\partial q} = 0$. $\qquad\square$

Proof to Lemma 2. $\frac{\partial V_{EU_I}}{\partial \beta} \geq \frac{\partial \overline{AS}}{\partial \beta}$, $\frac{\partial V_{EU_I}}{\partial q} \leq \frac{\partial \overline{AS}}{\partial q}$, and $\frac{\partial V_{EU_I}}{\partial \epsilon} \leq \frac{\partial \overline{AS}}{\partial \epsilon}$. As long as $q = 0$, $\frac{\partial V_{EU_I}}{\partial c} \geq \frac{\partial \overline{AS}}{\partial c}$ and $\frac{\partial V_{EU_I}}{\partial \delta} \geq \frac{\partial \overline{AS}}{\partial \delta}$. $\qquad\square$

Proof to Proposition 7. One example at which this holds is $\alpha = \frac{1}{10}$, $\beta = \frac{3\sqrt{170}-38}{267\sqrt{170}-3481}$, $c = 1$, $\delta = 2$, $\epsilon = \frac{1}{20}$, $i = \frac{101}{100}$, $\overline{\Omega} = \frac{11}{10}$, $p = 0$, $\rho = \frac{1}{20}$, and $\theta = \frac{1}{5}$. Observe that $T_\ell = \frac{11}{75}$, such that $\overline{\Omega} > T_\ell$ and we are indeed in Case 2. Finally, one can verify that each of Assumptions 1-8 is satisfied as well as the requirement that probabilities lie in the unit interval. $\qquad\square$

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