

## PRESIDENTIAL MANDATES AND THE DYNAMICS OF SENATE ADVICE AND CONSENT, 1885-1996

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We examine the dynamics of Senate advice and consent for executive branch nominations from 1885 to 1996 using multinomial logit and hazard analysis. We add to the literature by considering the importance of elections on the process. In particular, we assess how presidential mandates might influence the duration and success of nominations to the executive branch. The analysis captures political nuances previously unconsidered that follow from the different ways that nominations terminate, whether through confirmation, rejection or withdrawal by the president, or expiration. As shown previously, divided government matters, especially during periods of ideological polarization in the Senate. Nominations fail more often and take longer. However, perceptions of electoral mandate strengthen the president's position vis-à-vis the Senate, smoothing the president's path to a more effective transition and staffing of the federal bureaucracy.

*Keywords:* executive branch nominations; presidential transitions; electoral mandates; presidential-congressional relations

**Staffing the political appointees** of an administration is critical for effective presidential transitions and assumptions of power. Successfully organizing the administration is vitally important for the new chief executive's policy success (Burke, 2000; Jones, 1994), as appoint-

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ees can have important effects on the implementation of policy (Wood & Waterman, 1994). A more fully staffed administration allows presidents to “hit the ground running,” an important element of legislative success (Edwards, 1989; Pfiffner, 1988).

Despite the importance of elections in structuring the political context of presidential transitions, of which the confirmation process is an important part, the literature does not take adequate account of the role that elections might play in this process. Indeed, scholars have focused on the strategic positions of the Senate and the president without considering how elections define and influence those positions. Using data from McCarty and Razaghian (1999), we consider the effects of variables related to perceptions of presidential mandate (Conley, 2001; Edwards, 1989) on the outcome and duration of executive branch nominations for the historical period of 1885-1996. Moreover, we consider how these effects, as well as effects related to the partisan and ideological context, affect differing categories of nomination outcome: success, withdrawal/rejection, and expiration.

### THE POLITICS OF PRESIDENTIAL NOMINATIONS

The Senate has the power to impede a president’s assumption of power. Constitutionally, the Senate plays an important role in giving its advice and consent to presidential nominations. However, scholars have noted the overwhelming success rates of executive nominations (Mackenzie, 1981; McCarty & Razaghian, 1999), where a “presumption of success” tends to dominate (Krutz, Fleisher, & Bond, 1998). Even so, interesting patterns emerge when scholars examine the politics of the nomination process, both in terms of the success or failure of nominations and the length of the process. Despite the high success rates, significant hurdles exist in the confirmation process. Unsurprisingly, nominees to the executive branch tend to run into greater trouble during periods when the Senate majority party differs from the president’s party (Krutz et al., 1998), especially during periods of ideological polarization (McCarty & Razaghian, 1999; see Binder & Maltzman, 2002, and Shipan & Shannon, 2003, for similar findings on court nominations). Delay in the Senate can occur irrespective of majority party status due to rules that favor the minority in

that chamber, such as the requirement of unanimous consent in order to enter into executive session (McCarty & Razaghian, 1999, pp. 1124-1125). Holds and filibusters are common delaying tools of the minority party, particularly during periods of high polarization (Sinclair, 2000).

The party and ideological environment provide only part of the political context structuring presidential assumptions of power and thus, much of the nomination process. Historically, some presidents are better situated to lead in the political system (Skowronek, 1993). Scholars have argued that presidents fortunate enough to begin governing with the perception of an electoral mandate are better positioned to lead Congress (Conley, 2001; Dahl, 1990; Kelley, 1983; Wilson, 1908). Recent work suggests that legislators respond to the messages sent by clear electoral mandates (Peterson, Grossbeck, Stimson, & Gangl, 2003). Additionally, mandates may open windows of opportunity for the new president's program, windows presumably closed following typical elections (Keeler, 1993; Steger, 2000). Presidential mandates are defined as a convincing popular vote win where significant change is signaled by the public, coupled with electoral success by the president's party in Congress (Edwards, 1989, chap. 8).

Presidents positioned to claim a mandate should be more persuasive in dealing with a reluctant Senate because such a mandate would provide senators a reason to avoid opposing the president (Conley, 2001, p. 6). Mandate theory, thus, suggests that when presidents are positioned to claim a mandate, and actually make the claim, failure in the nomination process is less likely, and delays tend to be shorter. Conversely, presidents ill positioned to claim a mandate often do not, as it would raise the expectations of the public, which could have detrimental effects on the president's political capital if he failed to deliver (Conley, 2001).<sup>1</sup> Thus, not only must presidents make a mandate claim rhetorically, but that claim must appear as legitimate by the greater Washington community. Although rarely do elections, even landslide elections, send clear policy messages to politicians (Dahl, 1990; Edwards, 1989), clear electoral victories may provide presidents with greater political capital in dealing with the Senate.

Additionally, Krutz et al. (1998) note that an abundance of political resources during transition can be critical in the nomination process because it "reinforces the presumption of success" (p. 873). Elections

provide legislators information about the strength of a new president's public support. Legislators may view popular vote margins as providing information regarding how constituents would respond to a new president and their policies. If so, the incentive to respect the president's leadership, especially on appointments to the executive branch, would increase with the perception of a mandate.

Despite the importance elections might have in structuring the president's relationship with Congress early on, mandates are unlikely to have long-term effects. Legislators can update their information regarding support for the president or his program as their constituents react to the new president's policy decisions. Given this new information, legislators are likely to respond differently to the president's appointments over time. Peterson and colleagues (2003) make this argument in their work on the roll-call voting effects of the 1964, 1980, and 1994 elections. They estimate that the mandate effect declines over time and disappears roughly 150 days following the convening of the new Congress. Therefore, in accounting for mandate effects on the nomination process, one should consider the limited time frame in which these effects are likely to influence presidential-senatorial relations.

McCarty and Razaghian (1999) note a period of transition early in presidents' terms in which the duration of the appointment process is shorter. Subsequently, however, they explain this effect in terms of anticipated reactions; presidents delay nominations when they anticipate Senate opposition (McCarty & Razaghian, 2000). They suggest that "presidents are highly responsive to the Senate during the transition, as opposed to acting more or less unilaterally during some kind of 'honeymoon' period" (p. 352).

Nonetheless, it is possible that during the transition period, the presence of a mandate gives some presidents greater opportunity to secure confirmation of administrators closer to their own ideology. Indeed, Krutz and colleagues (1998) show that presidential approval, which is typically higher early in the term, influences success in the confirmation process. There is reason to believe that election results might provide a better measure of presidential resources than presidential approval, especially early in the term. It would seem that newly elected presidents would draw additional popularity from the recent success of their campaigns. As such, senators have reason to discount

early approval ratings, due to their artificiality, when responding to the appointments of newly elected presidents, and to consider the election a better gauge of the breadth and extent of public support for presidential agendas. If a president won narrowly or did not even achieve 50% of the vote, such an interpretation is more likely.

### DATA AND METHOD

In their study, McCarty and Razaghian (1999) collected data on executive branch nominations from 1885 to 1996, excluding nominations in the State and Defense departments. Rather than modeling success or failure of nominees, their innovative research design taps the time it takes a nominee to be confirmed. They observe that there is not enough variation to model in simple terms of success and failure, as the vast majority of formal nominations succeed. Therefore, they test a hazard or survival model that is sensitive to variations in time.<sup>2</sup> Their model detects an ability of partisan and ideological minorities to delay nominations. This finding, which would be obscured in a simple binomial logit design examining outcomes, highlights the significance of ideological polarization during periods of divided government.

McCarty and Razaghian, however, repeat a mistake made by scholars whose primary dependent variable has been confirmation success (Krutz et al., 1998): They do not distinguish among the different ways that the nomination process terminates. This failure to consider the different modes of process termination or the different types of failures is a major flaw of past research on presidential nominations. There are at least three distinct ways that a nomination process can end: through confirmation, withdrawal or rejection, or expiration.<sup>3</sup> We argue that these outcomes are fundamentally distinct. The average days to termination vary among the different outcomes, and the variation has substantive implications. As a result, multinomial methods should be used for modeling these processes, rather than the typical binomial process.<sup>4</sup>

In this section we specify a model of nomination success and duration that takes into account perceptions of presidential mandate. We build on the partisan and polarization findings of previous work (McCarty & Razaghian, 1999). In the first part of our empirical analy-

sis we model three nomination outcomes (confirmation, withdrawal or rejection, or expiration) using multinomial logit. We then focus on the duration of the nomination processes.

Our observations are executive branch nominations from 1885 to 1996. Our data are from McCarty and Razaghian (1999) and are measured in days to success, withdrawal (or rejection), or expiration (at the end of the session). The data do not include nominations to the judicial branch, foreign policy posts (Departments of State and Defense), or to regional posts such as U.S. Attorney or U.S. Customs.<sup>5</sup>

#### DEPENDENT VARIABLES

We have two dependent variables in this analysis. First, we model the outcome of the nomination process. This variable is used in the multinomial logit analysis, with three possible outcomes. Successful confirmation occurs in 3,243 of the 3,509 nominations. We model two types of failures. A small number of nominations, 74, are rejected by the Senate on a floor vote or withdrawn by the president. However, some nominations expire when the congressional session ends prior to confirmation. In the data, 192 nominations expired due to inaction. Although both of these categories are usually treated similarly as failures (see Krutz et al., 1998), we contend that they should be treated separately if duration of the process matters. Expirations tend to take much longer than rejections, and this delay further limits the ability of presidents to staff the executive branch, as opportunities for new nominations are also delayed. Additionally, the two categories are substantively different, as rejections and withdrawals by the president, although uncommon, are particularly salient in the media because they highlight conflict between the two branches.

Our second dependent variable is the duration of time between official presidential nomination and Senate confirmation, withdrawal or rejection, or expiration. McCarty and Razaghian (1999, p. 1132) collected these data from the *Congressional Record* and the *Journal of the Executive Proceedings of the Senate of the United States*. We ignore the issue of recess days, as the correlation between days in session and total days including recesses is almost perfect (see Bond, Fleisher, & Krutz, 2002, fn. 4; Binder & Maltzman, 2002, p. 193, fn. 6). The duration of the process is interesting for two key reasons.

Nominations completed quickly afford the president the opportunity to move quickly to formulate and implement new policy. Even quick failures, though salient and highlighting publicly a weakness of the president vis-à-vis the Senate, can be preferable to long drawn-out processes where the Senate ignores the nomination (expirations). At the least, in these cases, presidents can make a new nomination more quickly.

#### INDEPENDENT VARIABLES

Our central hypothesis is that when presidents win convincingly, and/or can legitimately claim a mandate, they should have additional resources to help secure the confirmation of appointments. Our first set of independent variables represents the context of the most recent presidential election. Does the president have a case for an electoral mandate? Additionally, we account for other political contexts shown to matter in previous analyses.

*President's popular margin of victory.* A large popular vote margin of victory is the clearest indication of a president's mandate to govern. Hence, larger margins of victory should result in a higher probability of confirming the president's nominees and lower probabilities of failure due to withdrawal/rejection or expiration. Durations should be briefer as well. This variable is simply the difference between the winner's popular vote percentage and the combined popular vote percentage of all other candidates who received at least 2% of the popular vote. Thus, prominent third-party candidates are included. Note that this measure can take a negative value when the president receives less than 50% of the popular vote.<sup>6</sup> The data come from Congressional Quarterly's *Presidential Elections, 1789-2000* (2002).

*Senate turnover.* We include the turnover in Senate seats for the president's party to reflect the degree to which the election results carry over to the Senate. Positive turnover for the president's party in Congress is a significant consideration for the perception of a presidential mandate, as it signifies greater change (Conley, 2001; Edwards, 1989; Jones, 1994). Larger Senate turnover in favor of the president should produce a higher probability of confirmation and

lower probabilities of nomination failure through either method, as well as shorter durations. This variable was measured every 2 years, as we account for midterm Senate elections, which provide updated information to legislators and can signify major political change (e.g., 1994).

*Mandate claim effect.* To capture the effects presidential mandate claims might have on the process, we code all the nominations by presidents who claimed an electoral mandate a 1, according to Conley's (2001, Table 4.1) content analysis of presidential statements following their election. We seek to capture the effects of other mandate-related variables noted as important by Conley, such as the election being one marked with political change. To account for the limited time effects of mandates on legislative behavior (Peterson et al., 2003), we change the code to 0 for all nominations occurring after 5 months (~150 days) into the new administration. Hence, the variable is coded 1 for nominations by mandate-claiming presidents during the early period of their administration.<sup>7</sup>

*Partisan-ideological context.* Additionally, we include several measures to control for the effects of the political contexts that structure presidential-senatorial relations. We include the size of the president's Senate majority to capture the president's raw advantage or disadvantage in voting on nominations. To account for ideological polarization between the president and the Senate, we use the first dimension of Keith Poole's (2001) DW-NOMINATE data (see Binder & Maltzman, 2002, p. 193). Each Senate-president relationship in our study period is assigned a polarization score, ranging from 0 to 100, that taps the ideological distance between the president and senators of the opposing party.<sup>8</sup> We also control for divided government, coding as 1 periods when the president's party holds the majority in the Senate. Nominations should take longer when the Senate and the White House are controlled by different parties, as divided government is an important indicator of gridlock in the legislature (Edwards, Barrett, & Peake, 1997). Finally, we interact polarization with divided government to reflect that divided government takes on added significance during polarized periods.<sup>9</sup>

*Control variables.* We add to our model several control variables. We include a dummy variable to capture our expectation that previously confirmed nominees should be more readily confirmed by the Senate. We also use a dummy variable to capture the possibility that Republican nominations might face greater difficulties securing confirmation because they tend to portend a greater change of the status quo (see McCarty & Razaghian, 1999, p. 1130). Additionally, late-term nominations might take longer. Senators from the opposing party have reason to delay the nomination if they expect their party's success in the upcoming presidential election. We therefore code as 1 the last year of first and second terms.<sup>10</sup> The level of the appointment should also be controlled for (Hammond & Hill, 1993, p. 53; McCarty & Razaghian, 1999, pp. 1133-1134). We control for both first- and second-tier appointments. First-tier appointments include members of the president's cabinet. Second-tier appointments include deputy secretaries, assistant secretaries, and undersecretaries, and associate, deputy, and assistant attorneys-general. The remaining nominees compose a third tier.<sup>11</sup>

### MULTIPLE NOMINATION OUTCOMES

Descriptive statistics of selected independent variables are provided in Appendix Table 1. The data confirm our decision to explore different termination points of the nomination process, treating the analysis in a multinomial fashion. The average duration of processes ending in confirmation is 31 days. Nomination failures, on average, take much longer and therefore would seem to negatively affect the president's ability to govern. Between 1885 and 1996, only 2% of the presidents' nominees were rejected or withdrawn (4 rejected, 70 withdrawn). Although both withdrawals and rejections are rare, the duration of nomination processes ending in withdrawal or rejection can be quite long; the average withdrawal or rejection required about 83 days. Political variables can affect this duration. The duration of withdrawal or rejection processes varied from an average 44 days under unified party control of the presidency and Senate to 102 days when control was divided. More generally, average durations lasting nearly

3 months pose a considerable burden on an administration and diminish the president's ability to direct the implementation of policy. Nomination failures due to expiration compose about 5.5% of all nominations. They are the most common method through which the Senate rejects presidential nominations, and average about 85 days. Bond and colleagues (2002) show that this method of rejection has become increasingly prevalent during the recent era.<sup>12</sup> By rejecting nominations in this manner, the Senate ensures a delay in which the president will be denied an important tool for controlling the bureaucracy (Wood & Waterman, 1994).

In summary, research designs that do not distinguish how nominations terminate (Krutz et al., 1998) or restrict their analyses to successful nominations (McCarty & Razaghian, 1999) miss some interesting aspects of nomination politics.<sup>13</sup> There is considerable variation between confirmations and nominations that fail, with the lapse of time associated with failed nominations on average much greater than that associated with confirmations. Thus, we focus attention on nominations where the delay of time might have real significance to policy implementation. Additionally, termination processes are substantively different for the two categories of failures. Our decision to use multinomial methods to model both the probabilities of nomination termination and the duration of nomination processes is appropriate.

### RESULTS: NOMINATION OUTCOMES

We use multinomial logit analysis to model the probabilities of confirmation, withdrawal or rejection, and expiration. As mentioned, this approach implicitly assumes independence of disturbances across the three processes and that the three processes are substantively distinct.<sup>14</sup> Results from the multinomial logit analysis are contained in Table 1. We focus the discussion on the results related to how elections influence the political context as well as results that reflect the influence of conditions of party control and polarization.

The first characteristic of a presidential mandate appears to have little effect on nomination outcomes. The president's margin of victory has no statistically significant effect on the probability of confirma-

**TABLE 1**  
**Multinomial Logit Analysis of Disposition of**  
**Presidential Nominations From 1885 to 1996**

| <i>Effect</i>                     | <i>Confirmation</i> | <i>Withdrawal or Rejection</i> | <i>Expiration</i> |
|-----------------------------------|---------------------|--------------------------------|-------------------|
| Constant                          | 2.89** (0.319)      | -1.73** (.691)                 |                   |
| Presidential vote margin          | 0.01 (0.09)         | 0.03 (0.14)                    |                   |
|                                   | [-0.01]             | [0.01]                         | [-0.01]           |
| President's party turnover        | 0.089** (0.019)     | 0.142** (0.036)                |                   |
|                                   | [0.05]              | [0.02]                         | [-0.07]           |
| Mandate claim effect              | 1.28* (0.61)        | 1.76* (0.74)                   |                   |
|                                   | [0.01]              | [0.01]                         | [-0.02]           |
| President's Senate majority       | 0.045** (0.011)     | -0.022 (0.02)                  |                   |
|                                   | [0.23]              | [-0.12]                        | [-0.10]           |
| Polarization                      | 0.011* (0.005)      | 0.022* (0.009)                 |                   |
|                                   | [0.01]              | [0.02]                         | [-0.02]           |
| Divided government                | 2.09** (0.42)       | 1.90* (0.89)                   |                   |
|                                   | [0.05]              | [-0.00]                        | [-0.04]           |
| Polarization * Divided Government | -0.026** (0.008)    | -0.031* (0.014)                |                   |
|                                   | [-0.19]             | [0.00]                         | [0.19]            |
| Previously confirmed              | -1.93** (0.17)      | -0.54 (0.29)                   |                   |
|                                   | [-0.09]             | [0.02]                         | [0.07]            |
| Republican                        | 0.148 (0.30)        | -0.74 (0.54)                   |                   |
|                                   | [0.01]              | [-0.01]                        | [0.00]            |
| Late first term                   | -1.43** (0.20)      | 0.12 (0.41)                    |                   |
|                                   | [-0.09]             | [0.03]                         | [0.06]            |
| Late second term                  | -0.97** (0.29)      | 1.39** (0.45)                  |                   |
|                                   | [-0.12]             | [0.09]                         | [0.03]            |
| Tier-one nomination               | 0.47 (0.30)         | 0.46 (0.48)                    |                   |
|                                   | [0.01]              | [0.00]                         | [-0.01]           |
| Tier-two nomination               | 0.14 (0.18)         | 0.18 (0.31)                    |                   |
|                                   | [0.00]              | [0.00]                         | [0.00]            |
| LogL = -874.18                    |                     |                                |                   |
| N = 3,509                         |                     |                                |                   |
| $\chi^2 = 425.55$                 |                     |                                |                   |
| $p(\chi^2_{26}) = 0.00$           |                     |                                |                   |

NOTE: Numbers in parentheses are Huber-White robust standard errors for the null hypothesis that the coefficient is 0. Numbers in brackets are changes in probability from moving the variable from minimum to maximum values with all other variables at a reference value.<sup>20</sup>

\* $p < .05$ . \*\* $p < .01$ .

tion, withdrawal or rejection, or expiration of nominations. However, party turnover in the Senate and mandate claims have statistically significant effects. Changing the number of turnover seats from minimum to maximum in the president's direction produces a .05 increase

in the probability of confirmation, little change in the probability of withdrawal or rejection, and a .07 decline in the probability that a nominee will be rejected through expiration. During the early period following a presidential mandate claim, nominees are only marginally more likely to be confirmed or fail due to withdrawal or rejection.

Changing the size of the president's majority in the Senate from the minimum to the maximum increases the probability of confirmation by .23, with a corresponding decrease of .12 and .10 in the respective probabilities of failure through withdrawal or rejection or expiration. Considered together with the marginal findings of our electoral variables, these are substantial effects suggesting that electoral outcomes can have strong effects on the president's ability to secure confirmation of appointees. However, the link to mandate theory as defined by the president's margin of victory and actual claims of mandate prove marginal at best.

The partisan and ideological contexts appear to have the greatest effects on nomination outcomes. When the least polarization between parties exists in the Senate (represented by the divided government variable), the shift from unified to divided government produces a .05 higher probability of confirmation, no change in the probability of withdrawal or rejection, and a .04 lower probability of failure due to expiration (see Note 9). Under unified government, a shift in polarization from the minimum to the maximum (as represented by the polarization variable) produces minimal substantive effects, with only a 1% positive change in the probability of confirming presidential nominees, a 2% change in the probability of withdrawal or rejection, and a 2% reduction in the probability of rejection due to expiration. The effects of divided government and polarization become clear when we interact the two variables. Under divided government, shifting polarization from the minimum to the maximum produces a large decline of .19 in the probability of confirming presidential nominees, no substantive effect on the probability of withdrawal or rejection, but a corresponding increase of .19 in the probability of failure through expiration. The Senate more reluctantly confirms executive branch nominations under conditions of divided government during periods of ideological polarization. Additionally, late-term nominations are more likely to be denied confirmation than other nominations, particularly during the second term of an administration.

### RESULTS: DURATION OF NOMINATION PROCESSES

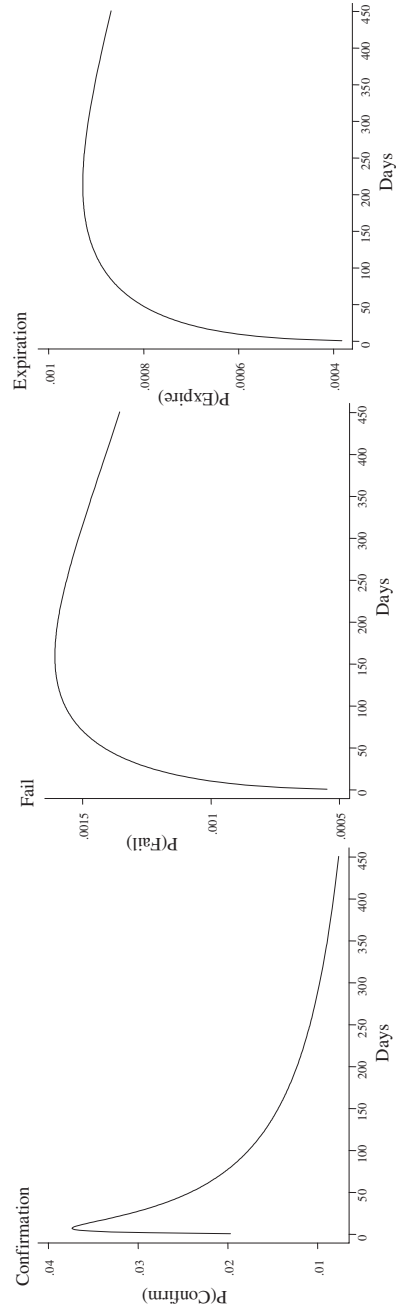
We can gain an even better sense of the effect of the electoral and partisan context provided by perceptions of presidential mandate by considering them in light of the duration of the different modes of nomination termination. Because nomination duration represents a unit of time (days), we employ “hazard” analysis (Binder & Maltzman, 2002; Box-Steffensmeier & Jones, 1997; McCarty & Razaghi, 1999). Duration data are not normally distributed. Using ordinary least squares on our duration count would generate specification error and biased coefficients (Bennett & Stam, 1996, p. 244). Survival or hazard models employ a hazard rate that is the “probability that an event will end in an interval of time  $t + \Delta t$ , as the interval goes to 0, given that the event has survived up to time  $t$ ” (p. 244). Hazard models provide information on duration dependence. Positive duration dependence means that a process is increasingly more likely to end the longer it continues, and negative duration dependence means that events become “institutionalized” and therefore less likely to end as they endure (p. 244).

Based on substantive theory and the information gleaned from descriptive statistics, we expect different probability functions to be appropriate for the three methods of ending the nomination process. Nominations are confirmed relatively quickly, but those that fail due either to withdrawal or rejection or expiration can require considerable time. Accordingly, we use a “competing risks” approach to model the duration of the three separate outcomes (Gordon, 2002, pp. 202-203).<sup>15</sup> For confirmations, the probability of process termination is low immediately following the nomination and for a period thereafter. Some time is required for the Senate to do its work of investigating, holding hearings, and bringing nominations to a floor vote. After the process has had an opportunity to run its course, the probability of termination increases and peaks at the modal day when most nominations are confirmed. After this, the probability of process termination through confirmation declines as there are fewer and fewer nominees to be confirmed. This theory points toward a nonmonotonic distribution as a baseline hazard function of duration dependence. Based on Akaike information criteria (AIC), we used the generalized gamma distribution to model the duration of confirmations.

Processes terminating in failure should be fundamentally different from successful processes in their duration dependence. Withdrawals or rejections should be similar in that both typically result from a confluence of political forces biasing the process toward failure (Krutz et al., 1998). Such conditions are suggested when the nomination process continues without confirmation, thereby making it more likely that the nomination will be withdrawn or rejected. This points to a strictly monotonic distribution to model duration dependence. However, monotonic distributions can be encompassed by nonmonotonic distributions with appropriate parameterization. Based on AIC, we evaluated all available probability distributions and chose the log-logistic distribution for processes terminating in withdrawal or rejection. Although terminations due to expiration should be similar to withdrawal or rejection in that the longer the nomination process has continued, the more likely the nomination will fail due to expiration, there is an additional nuance for this risk category. Failure due to expiration is not, strictly speaking, a random variable. All expirations occur at the end of a Congress and therefore occur at the same time during each Congress. This means that expirations cluster by Congress. Therefore, we adjusted standard errors for this risk category to account for the nonrandom nature of failures within each Congress. Based on AIC, we again chose the log-logistic distribution to model the duration dependence.

Figure 1 contains the baseline hazard functions for the competing risks survival model. The shapes of these hazard functions generally confirm our theories of duration dependence. For confirmations, the risks of process termination are initially low, peaking on a modal day and then declining as fewer nominations are confirmed. The risk of failure through either withdrawal or rejection or expiration increased monotonically to ultimately reach a relatively constant probability of failure.<sup>16</sup>

Table 2 presents the statistical results for the competing risk survival analysis of presidential nominations. The numbers in the table are time ratios, with robust standard errors in parentheses. Time ratios provide a proportional comparison when changing the variable of interest by one unit relative to the baseline hazard.<sup>17</sup> We focus the discussion on the electoral variables related to presidential mandates and the partisan/ideological context.



**Figure 1: Baseline Hazard Functions for Competing Risk Survival Analysis of Disposition of Presidential Nominations From 1885-1996**

NOTE: The horizontal axis reflects days in the nomination process, whereas the vertical axis reflects the probability of process termination the very next day.

**TABLE 2**  
**Competing Risk Survival Analysis of Disposition**  
**of Presidential Nominations From 1885 to 1996**

| <i>Effect</i>               | <i>Confirmation</i>     | <i>Withdrawal or Rejection</i> | <i>Expiration</i>       |
|-----------------------------|-------------------------|--------------------------------|-------------------------|
| Presidential vote margin    | 0.987** (0.002)         | 0.977* (0.011)                 | 0.99 (0.016)            |
| President's party turnover  | 0.964** (0.004)         | 0.945* (0.025)                 | 1.07* (0.035)           |
| Mandate claim effect        | 0.594** (0.044)         | 0.462* (0.156)                 | 1.99 (1.13)             |
| President's Senate majority | 0.98** (0.003)          | 1.04** (0.020)                 | 1.03* (0.017)           |
| Divided government          | 0.336** (0.037)         | 0.343 (0.302)                  | 2.79 (2.38)             |
| Polarization                | 0.984** (0.001)         | 0.978* (0.01)                  | 1.001 (0.01)            |
| Polarization * Divided      |                         |                                |                         |
| Government                  | 1.024** (0.002)         | 1.033* (0.014)                 | 1.002 (0.014)           |
| Previously confirmed        | 1.26** (0.06)           | 0.491** (0.11)                 | 0.242** (0.08)          |
| Republican                  | 1.25** (0.09)           | 3.22* (1.60)                   | 1.52 (0.89)             |
| Late first term             | 1.21* (0.09)            | 0.39** (0.13)                  | 0.38 (0.14)             |
| Late second term            | 1.22 (0.89)             | 0.37** (0.011)                 | 0.66 (0.41)             |
| Tier-one nomination         | 0.55** (0.05)           | 0.80 (0.30)                    | 1.53 (0.45)             |
| Tier-two nomination         | 1.06 (0.04)             | 0.995 (0.20)                   | 1.09 (0.14)             |
|                             | LogL = -5,443.08        | LogL = -314.42                 | LogL = -668.70          |
|                             | $\chi^2_{13} = 865.24$  | $\chi^2_{13} = 46.28$          | $\chi^2_{13} = 86.16$   |
|                             | $p(\chi^2_{13}) = 0.00$ | $p(\chi^2_{13}) = 0.00$        | $p(\chi^2_{13}) = 0.00$ |
| Events                      | 3,584                   | 3,584                          | 3,584                   |
| Failures                    | 3,243                   | 74                             | 192                     |
| Time at risk                | 126,675                 | 126,675                        | 126,675                 |

NOTE: The numbers are time ratios comparing the effect on duration of changing each variable by one unit. The numbers in parentheses are Huber-White robust standard errors for the null hypothesis that the time ratio equals 1. The expiration standard errors were adjusted for clustering on each Congress.

\* $p < .05$ . \*\* $p < .01$ .

The variables representing perceptions of presidential mandate strongly influence the duration of nomination processes resulting in both confirmation and failure. Presidents who win convincingly, come into office with positive partisan turnover in the Senate, or claim an electoral mandate are granted faster confirmations and greater opportunities to replace the nominee when nominations fail. Each 1% increase in the presidential vote margin produces a 1.3% decrease in the time required for confirming the president's nominees and a 2.3% decrease in the time required when the president's nominees are rejected due to withdrawal or rejection. Faster rejections allow presidents to replace failed nominees with more confirmable candidates.

We can illustrate the magnitude of this effect by considering the durations implied by the largest presidential election victory in our sample. President Richard Nixon won the popular vote by 25.6% in 1972. The findings imply that Nixon was allowed to replace failed nominees about 59% faster (about 48 days) than under conditions where an election was about even. Additionally, his appointees were confirmed about 10 days faster than under conditions of an even election.<sup>18</sup>

Senate turnover in favor of the president's party also affects the duration of nomination processes. Each 1-seat turnover in favor of the president's party in the Senate produces a 3.6% reduction in the time required for confirmations, a 5.5% reduction in the time required for withdrawal or rejections, but a 7% increase in the duration of nominations that expire. For confirmations, a 12-seat turnover (maximum in the data set) would lead to about 13 days shorter duration, an average improvement of 42%. The substantive effects can be quite substantial for nominations resulting in failure. The same 12-seat gain for the president's party in the Senate implies a decrease of about 66% in the time required for nomination failures due to withdrawal or rejection (about a 55-day reduction on average). On the other hand, a gain of 12 seats produces about an 84% increase in the duration of nomination processes that are allowed to expire. This implies that when the president's party is successful in Senate elections there is greater reluctance to oppose the president's nominees openly. Rather, they are typically allowed to languish due to Senate inaction or behind-the-scenes maneuvering.

When presidents claim an electoral mandate, the effects on the duration of the confirmation process can be substantial. During the early months of a presidency where a mandate is claimed, the time required for confirmation is only 59% of the time required for confirmation processes on average, or 13 fewer days. Failures occur more quickly as well, with the time to withdrawal or rejection equivalent to 46% of the average time, or 45 fewer days. Our electoral variables suggest that presidents can gain political capital from their recent election and that those who do fare better in the nomination process. Table 3 presents the marginal effects of our variables on the baseline predicted median duration for confirmations. This may provide a better baseline to compare than the mean duration to confirmation, as

**TABLE 3**  
**Time to Confirmation: Marginal Effects and Predicted Durations**

| <i>Independent Variable</i>       | <i>dy/dx</i> | <i>Standard Error</i> | <i>p &gt;  z </i> |
|-----------------------------------|--------------|-----------------------|-------------------|
| Presidential vote margin          | -0.279       | 0.005                 | .000              |
| President's party turnover        | -0.761       | 0.099                 | .000              |
| Mandate claim effect              | -8.89        | 0.969                 | .000              |
| President's Senate majority       | -0.417       | 0.058                 | .000              |
| Polarization                      | -0.332       | 0.023                 | .000              |
| Divided government                | -20.82       | 2.21                  | .000              |
| Polarization * Divided Government | 0.489        | 0.044                 | .000              |
| Previously confirmed              | 4.97         | 1.08                  | .000              |
| Republican                        | 4.48         | 1.33                  | .001              |
| Late first term                   | 4.15         | 1.71                  | .015              |
| Late second term                  | 4.45         | 3.68                  | .225              |
| Tier-one nomination               | -9.90        | 0.977                 | .000              |
| Tier-two nomination               | 1.13         | 0.825                 | .170              |

Baseline predicted media duration = 20.7 days

Predicted median duration with election  
margin of victory set to 25; others at  
mean = 15.9 days

Predicted median duration with electoral  
margin of victory set to 25 and mandate  
claim to 1; others at mean = 10.0 days

NOTE: Baseline model has all variables set to mean.

median values are not affected greatly by statistical outliers. The median predicted duration is 21 days.<sup>19</sup> A major popular vote victory by the president (set at Harding or Nixon's 25%) reduces the median to 16 days. The mandate claim effect further reduces the predicted median duration to confirmation to 10 days, fewer than half the days of the baseline median.

The absolute size of the president's party in the Senate affects the duration of failed nomination processes counterintuitively. As expected, the size of the president's majority reduces by about 2% per seat the time required for confirmation of presidential nominees. However, the size of the president's majority also increases the time required for nomination processes to fail by about 4% per seat for withdrawal or rejection and by about 3% per seat for expirations. A plausible explanation is that presidents continue the fight for their nominee longer than they otherwise would when their party controls

the Senate, thus lengthening the duration of failed processes. These results also imply that what matters, consistent with mandate theory, is the perception of presidential strength as a result of the recent election, not necessarily the raw number of presidential partisans in the Senate.

As expected, divided government and polarization affect the duration of nomination processes. Divided government with minimal polarization has no statistically significant effect on the duration of failed processes but is strongly significant for confirmations. The time required to confirm the president's nominations declines substantially under these conditions, requiring only about 34% of the time needed for confirmations under unified government. The substantive effect is an average decrease of 19 days. Ideological polarization also influences the duration of nomination processes. Under unified government, a positive change in polarization is statistically significant for confirmations and withdrawals or rejections but not for expirations. Each 1% increase in polarization reduces the time required for confirmation and withdrawal or rejection by about 1.6% and 2.2%, respectively. This suggests that under unified government and the most polarized conditions, the president can expect more cooperation from the majority party in confirming nominations, as they occur more quickly. The president's party is more likely to be loyal in moving nominees through the process in a polarized Senate, as more of the majority party's senators are likely to be close to the president's ideal point than in periods of lower polarization.

Interacting polarization with divided government clearly shows that when the Senate and presidency are polarized, divided government is particularly problematic for presidential nominations. Under divided government, each 1% increase in polarization produces an additional 2.4% increase in the time required for confirmation and 3.3% increase in the time required for withdrawal or rejection. Moving polarization from the minimum to the maximum more than doubles the number of days for confirmation under divided government or, on average, about a month and a half is added to the confirmation process. The same change in polarization under divided government results in a withdrawal or rejection lasting more than 3 times as long as on average, or over half a year longer. This demonstrates the impor-

tance of distinguishing the different ways that nominations terminate; polarization is much more important for processes that fail than for processes that end in confirmation, as durations are substantively much longer. The analysis suggests that facing off against a Senate controlled by the opposition party during periods of ideological polarization is the worst condition for presidents' speedily confirming their executive branch nominees. However, perceptions of an electoral mandate can increase the speed of the process for the president, possibly limiting the effects of the ideological/partisan context.

### CONCLUSION

Our results complement the recent scholarship on nomination processes of McCarty and Razaghian (1999), Krutz et al. (1998), and Binder and Maltzman (2002) and add additional insights on the possible effects of presidential mandates (Conley, 2001). First, we provide evidence that perceptions of presidential mandate can affect the nomination process. As the presidential margin of victory grows, the time it takes nominees to be confirmed decreases. Additionally, positive turnover for the president's party enhances his ability to successfully confirm his political appointees and complete the process more quickly. Finally, presidential mandate claims shorten the process.

Second, we gain further understanding of the process when we focus on nominations that fail. Although failed nominations clearly present an obstacle to a president trying to gain control of the bureaucracy, they pose additional problems for an administration because of their significantly longer duration. Therefore, failed nominations should be treated separately when analyzing the nomination process.

Similarly, our analysis confirms that the partisan context matters greatly in the nomination process. The effect of divided control of the presidency and the Senate is most clear during highly polarized periods, such as the last years of our analysis (1984-1996). Nominees are significantly less likely to be confirmed and more likely to fail through expiration as opposed to rejection or withdrawal. Additionally, polarized periods under divided government add significant delay to the confirmation and rejection processes, whereas the effects during low

polarized periods are the reverse. Party polarization combined with divided government, then, tells much of the story of nomination failures (through expiration) and delays (in confirmation and rejection). The Senate majority is more likely to challenge a president when such conditions exist.

When nominees run into trouble, presidents might broaden the fight by drawing public attention to a recalcitrant Senate and can do so more effectively when they can legitimately claim a mandate. Although confirmation or failure is equally likely no matter the size of the president's electoral victory or claim of mandate (though Senate turnover does have an effect), the increase in public attention that follows from an electoral mandate might put pressure on the Senate to move forward on a nomination and thereby decrease the duration of the nomination process. In terms of policy formulation and implementation, a quick senatorial rejection or withdrawal by the president is more desirable than a nomination languishing in the Senate for the rest of the congressional session.

McCarty and Razaghian (1999, p. 1141) conclude their study by suggesting that presidents can best avoid damaging confirmation delays by making appointments that are likely to receive broad support in the Senate. Doing so, however, limits the president's ability to politically control the federal bureaucracy, as ideological appointments can have major effects on bureaucratic outputs (Wood & Waterman, 1994). Our analysis suggests that presidents who are able to claim an electoral mandate are better positioned to successfully staff their administrations with appointees who share their ideology. Doing so allows presidents the opportunity to appoint administrators who are likely to help new administrations shape and change the direction of policy implementation. Perceptions of presidential mandates strengthen the president's claim to control the administration of public policy. Therefore, presidents who can convincingly claim a mandate should appoint administrators that best enable them to direct the implementation of policy. Of course, perceptions of mandates are fleeting (Peterson et al., 2003), so we also suggest that the president move quickly once inaugurated.

**APPENDIX**  
**Selected Descriptive Statistics on Disposition**  
**of Presidential Nominations From 1885 to 1996**

|               | <i>p(Confirm)</i> | <i>p(Reject or Withdraw)</i> | <i>p(Expire)</i> | <i>Days to Confirm</i> | <i>Days to Reject or Withdraw</i> | <i>Days to Expire</i> |
|---------------|-------------------|------------------------------|------------------|------------------------|-----------------------------------|-----------------------|
| Entire sample | 0.924             | 0.021                        | 0.055            | 30.85                  | 83.18                             | 84.93                 |
| Sample effect |                   |                              |                  |                        |                                   |                       |
| Unified       | 0.946             | 0.011                        | 0.043            | 26.11                  | 43.58                             | 68.15                 |
| Divided       | 0.910             | 0.017                        | 0.073            | 39.14                  | 102.18                            | 101.37                |

| <i>Independent Variable</i>       | <i>Mean</i> | <i>Standard Deviation</i> | <i>Minimum</i> | <i>Maximum</i> |
|-----------------------------------|-------------|---------------------------|----------------|----------------|
| Popular vote margin               | 5.77        | 12.1                      | -13.4          | 25.6           |
| Senate turnover                   | 0.56        | 5.7                       | -13            | 12             |
| Presidential partisans in Senate  | 6.5         | 16.8                      | -30            | 58             |
| Polarization                      | 37.4        | 27.1                      | 0              | 100            |
| Polarization * Divided Government | 13.3        | 23.3                      | 0              | 100            |

NOTE: The total number of nomination events was 3,509. Of these, 3,243 were confirmed, 70 were withdrawn, 4 were rejected, and 192 failed due to expiration. The numbers in the second through fourth columns of the upper half of the table are probabilities. The numbers in the fifth through seventh columns are durations. The independent variables left unreported were all dummy variables, coded either 0 or 1.

### NOTES

1. Mandates have been defined in any number of ways by scholars. Conley (2001) found that elections that signify change or provide the winner a convincing win often lead presidents to claim mandates. We assert that both the claim of mandate and perceptions of mandate (given the election results) are important in structuring legislative behavior on nominations. Whether a true policy message is evident given the electoral results is immaterial for our study. It is the perception of a clear electoral message of support for the new president that creates the perception of a mandate, lending legitimacy to any mandate claim that a new president may make.

2. See Box-Steffensmeier and Jones (1997) for a discussion of hazard models.

3. Treating withdrawal and rejection separately makes little sense, as over our time period there are only four rejections among the set of nominations we examine.

4. Gordon (2002, p. 202) makes a similar argument on presidential nominations in discussing examples in which multinomial duration models might apply.

5. By limiting our scope, we avoid complications from senatorial courtesy related to judicial branch and regional executive branch nominations and the added deference typically given to presidents on foreign policy issues. Previous analyses have also limited their scope, to either federal appeals court nominations (Binder & Maltzman, 2002), Supreme Court nominations

(Shipan & Shannon, 2003), or similar executive branch nominations (McCarty & Razaghian, 1999). However, the reader should keep in mind the limitations of our study.

6. In 1948, Truman's popular margin was -0.32%. Nixon's popular margin was -12.87% in 1968. Clinton lost the popular vote by 13.44% to Bush and Perot combined in 1992. An alternative measure would be to use the difference between the winner and the opponent from the opposing major party. This, however, does not relate well to the concept of presidential mandate. If the president does not muster the majority of popular votes, claiming a mandate legitimately becomes much more problematic, as most Washingtonians will fail to perceive a clear message of support for the new president emanating from the election results. However, as Conley (2001) points out, presidents might claim mandates even when popular vote margins are not on their side. If the election makes major changes in Washington (such as a change in the party of the president) or signals support for the new president over policies of the opposing party, the president may still make a mandate claim. Clinton did so in 1992 and again in 1996, according to Conley (2001, Table 4.1). Of course, political opponents of the president are more likely to disagree with his characterization of the election as a mandate.

7. Including this measure of Conley's (2001) mandate claim necessitates removing the honeymoon variable from our analysis, as the variables are highly correlated (Pearson's  $r = .71$ ). Readers should keep in mind that honeymoon appointments are more likely to be confirmed and durations of the process are shorter (McCarty & Razaghian, 1999). Early versions of this article verify this result in our model, and including honeymoon while excluding the mandate claim variable does not significantly change the other substantive results of our analysis. Additionally, we should note that we do not similarly limit the effects of our electoral variables, margin of victory, and senate turnover. Doing so would introduce further methodological problems in that all of these variables would be collinear. We control for timing effects among our control variables.

8. NOMINATE scores are unavailable for presidents prior to the 1950s. Like McCarty and Razaghian (1999), we assume presidents are close to the median ideology of their party in the Senate and use that as a proxy for the president's ideology over the time of our study. McCarty and Poole (1995) show that presidents generally have been located near the median of their congressional party. We use a similar procedure as McCarty and Razaghian (1999), but we use the more recent DW-NOMINATE scores to construct our polarization measure. The two measures differ slightly. DW-NOMINATE scores offer improvements based on the use of the normal distribution (as opposed to logit) and dimension weighting.

9. Because we also include the interaction between divided government and polarization in the model, the coefficients for the components must be interpreted carefully. The coefficient for divided government represents the effect of a shift from unified to divided government when polarization is zero (i.e., the least polarized Congress). The coefficient for polarization represents the effect under unified government of a 1% change in polarization. The coefficient for the interaction between divided government and polarization represents the added effect under divided government of polarization on the probability of each outcome or the duration of process.

10. McCarty and Razaghian (1999) use the number of days into the term to account for the timing of a nomination. We prefer our simpler method, as it avoids any problems with congressional recess periods.

11. An important counterexplanation that our model does not account for is the more immediate resources presidents may possess, including popular support reflected by public approval ratings or efforts by presidents on behalf of their nominees. Krutz, Fleisher, and Bond (1998) show that approval and efforts made by presidents influence the likelihood of success; however, studies on duration of the nomination process either exclude approval and presidential efforts (McCarty & Razaghian, 1999) or find no significant effect of approval on duration (Binder &

Maltzman, 2002). Including a public approval measure in our analysis presents several methodological problems. First, we would have to censor our data to post-1952 nominations only, as monthly approval ratings are not available before 1952. We would lose 1,090 observations doing so, along with historically significant claims of presidential mandate (1892, 1896, 1912, 1916, 1924, 1928, 1932, 1936, 1940, and 1948). Second, it is not clear which approval measure is appropriate, monthly approval or yearly approval averages. Traditionally, studies use the monthly approval when legislation goes to the floor; however, most of our failed observations (all but 4) never went to the floor, and it is unclear which month to use. We correlated monthly approval (when the nominations were made) with duration and success and find a negative correlation between approval and duration (Pearson's  $r = -.10, p < .01$ ) and a positive correlation between approval and success (Kendall's tau-b =  $.09, p < .01$ ). Average yearly approval is insignificant. Moreover, we exclude public approval for theoretical reasons. We seek to test the degree to which electoral factors (e.g., mandates) structure the politics surrounding the nomination process. Introducing a more dynamic variable of presidential resources that varies from month to month draws interest away from our primary focus. Finally, as approval tends to be artificially high early in a new administration, legislators are more likely to focus on electoral factors for presidential nominations. We do not argue that approval is unimportant in the equation, just that for duration models, accounting for approval becomes problematic when so many significant nominations occur early in the term.

12. Interpretation of expiration duration is problematic. Nominations that terminate through expiration are distinctive in that they occur uniformly at the end of a Congress. This means that the length of the process is determined by the point at which the president makes the nomination, rather than being a random variable determined by institutional decisions. This distinctive feature means that terminations due to expiration must be treated separately in a statistical sense from the first two modes of process termination.

13. Additionally, as we note below, treating successful and failed nominations separately in the duration model is required methodologically, as estimators could be biased if censored (or failed) cases are not handled differently (Box-Steffensmeier & Jones, 1997).

14. Note that these assumptions are consistent with the discussion in the previous section. We tested the latter assumption using a Hausman test for independence of irrelevant alternatives (IIA). The test showed no evidence of violating the IIA assumption.

15. Gordon (2002, p. 202) uses the different modes at which the process of presidential nominations may end as an example where the "logic of competing risks" apply.

16. We assumed *independent* competing risks in estimating our model. If we do not make the independence assumption, then we need a trivariate joint probability distribution for estimation. Such functions are difficult to estimate because of the need for evaluating triple integrals. This is especially true given the few observations in two of the three nomination failure categories. Additionally, the clustering of nomination failures in the expiration category presents an additional complication.

17. Interpretation is rather straightforward using this approach. For continuous variables, coefficients greater than 1.00 indicate longer durations, with each .01 increase over 1.00 indicating a 1% increase in duration per unit of the independent variable. Coefficients lower than 1.00 indicate a decreased duration in similar magnitude. For dummy variables, the magnitude of duration change is expressed as a ratio when going from 0 to 1.

18. These substantive impacts include holding all other variables at their mean values.

19. This analysis includes all nominations in predicting median durations.

20. Reference values are 0 for dummy variables, the variable's mean for continuous variables. First difference analyses were done using Clarify (King, Tomz, & Wittenberg, 2000).

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