PARTY TIME? A TEMPORAL AND PARTISAN MIXED METHODS
EXPLORATION OF CHANGES IN AMERICAN LAWMAKING

by

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A Dissertation
Submitted to the
Graduate Faculty
of
George Mason University
in Partial Fulfillment of
The Requirements for the Degree
of
Doctor of Philosophy
Political Science

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A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at George Mason University

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DEDICATION

I dedicate this dissertation to the man I met on September 13, 1995, in the Treasury, Postal Appropriations Conference who asked me to marry him one year later in the U.S. Capitol, Eric, and to our two greatest accomplishments: Grace and Patrick. Also, our dogs: Nina (1998-2013), Blue (2003-2019), Dart (2007-2020), Raven and Clancy.

ACKNOWLEDGEMENTS

I would like to thank the many friends, relatives, and supporters who have made this happen. My loving husband, Eric, who proofread too many pages and spent countless hours discussing my research. My daughter, Grace, who helped me collect data, discussed my research for hours, and has become a highly valued friend during this process. My son, Patrick, who wrote the computer program which enabled me to classify my laws much faster and who has also kindly listened to me discuss this research too much.

I also need to thank the wonderful friends I've made during graduate school—Tim, Doug, Tia, and Piper, specifically. Thank you for your friendship and support throughout this adventure. I don't know if I would have made it without you, but I do know I would have enjoyed it far less. Thank you. To my long-time friends Leslie and Dawn, our Thursday night calls through the pandemic were a great break even though far too often I ended up talking about my dissertation. Sherri, thank you for understanding all the times I declined your invitation to work on my dissertation instead. I appreciate your patience. Patricia, thank you for all the long talks. Your insights are always valued. To my siblings Kathy, Tim, Rich, and Theresa and my mother, Ann --thank you for all you have taught me about life. Your love and support are always appreciated.

The members of my committee have been most helpful. Thank you Dr. Conlan for leading me through this process. I think you always knew where this was going. The promptness of your replies made this a smooth process. Dr. Victor, thank you for helping me through this dissertation. You taught my very first class when I started the doctoral program and it seems fitting to me that you are here at the end. Dr. Reagan, you initially agreed to be the third person on a committee about Drs. Conlan and Posner's book with the two of them in the lead. When Dr. Posner passed and Dr. Conlan retired, you even agreed that, if necessary, you would take over as chair of my committee. It was never necessary but I very much appreciate your willingness. I also greatly appreciate your insightful questions.

Lastly, I want to thank two people who will never see this dissertation my father, Dr. Francis X. Splane and Dr. Paul L. Posner, my original chair. None of this would have happened without the two of you. Thank you.

This dissertation is an extension of my study of public policy which began with Dr. Posner's class in the summer of 2009.   Dr. Posner required us to work in groups and

study a particular policy issue, my group adopted a historic approach and studied Agriculture policy. We concluded that Agriculture policy between the 1930s and 2008 could be described as a hexagonal policy trap. In other words, there were six dominate forces which we identified that played out in all the twentieth century Farm Bills we studied.   From this experience I concluded that I could study the history of any policy issue and similarly identify the forces working in the policy space for a particular time period. In fact, in 2016 as a doctoral student, I took Dr. Mayer's Social foundation of Public Policy class and applied the same approach to understanding the Medicare exclusion provision (the IMD exclusion) as part of my research project.   Armed with the abstract notion that I could plot every policy space as a policy circle, I wanted to figure out how to add the budget dimension into the model. Because every year Congress makes budgetary policy decisions that affect all these programs but we don't have a policy model that integrates this overarching force into a whole picture of both authorizing and appropriating decisions. I conceptualized my model as a string running through a series of paper circles.   The circles represent the policy spaces and the string represents the annual budget decisions. The problem was how to orient the circles so they had a common meaning when proceeding from one to the next. The obvious answer is to align them on a liberal – conservative dimension but that reduces the multifaceted historical analysis to a unidimensional model and results in a loss of meaning and context. This insight led me to seek a means for studying the public policy and lawmaking in a manner that does not require issue areas. This is what led me to the *Pathways* framework.

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ABSTRACT

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In this dissertation, I argue that a nuanced examination of a random selection of public

laws based on how power is used to enact the laws may enable scholars to identify

durable shifts in governing authority in Congress, consistent with American political

development research. Specifically, by examining 557 laws enacted between 1951 and

2011, I find support for the argument that America has moved away from Congress-

centered decision making to a more plebiscitary government. In addition, my findings

suggest changes in the norms of partisan lawmaking and an enduring commitment on

behalf of the Democratic party to expert lawmaking.

CHAPTER ONE: THE PATTERN IN AMERICAN LAWMAKING

Senator John McCain (R-AZ) passed away on August 25th, 2018. A decorated Naval Officer and pilot, McCain spent six years as a Prisoner of War in Vietnam, served two terms as a member of the United States House of Representatives, and spent over 30 years in the U.S. Senate. He ran for President in 2000, losing the Republican nomination to George W. Bush, and again in 2008, losing the presidential election to Barack Obama. On August 30th, 2018, President Joe Biden (D-DE) eulogized Senator John McCain:

> We both loved the Senate. The proudest years of my life were being a United States Senator. I was honored to be Vice President, but [I loved being] a United States Senator. We both lamented, watching it change. During the long debates in the '80s and '90s, I would go sit next to John, next to his seat or he would come on the Democratic side and sit next to me. I'm not joking. We'd sit there and talk to each other. I came out to see John, we [reminisced about] it. It was '96, about to go to the caucus, we both went into our caucuses and coincidentally, we were approached by our caucus leaders with the same thing. Joe, it doesn't look good, you sitting next to John all the time. I swear to God, same thing was said to John in [the Republican] caucus. (Biden 2018)

The United States Senate is just one institution involved in America's lawmaking process. This is just one story. It is just one man's observation. However, the idea that something has changed in American politics is more than just this one remark.

Lawmakers, scholars, journalists, and the public have bemoaned changes in American lawmaking, changes often attributed to polarization (Campbell 2016; Poole and Rosenthal 1984, 1997; Theriault 2008), partisanship (Abramowitz and Webster 2016; Izadi 2014; McCarty, Poole, and Rosenthal 2006; Sinclair 2006; Theriault 2008), and gridlock (Binder 2003; Brady and Volden 1998; Gordon and Landa 2017; Klar, Kpupnikov, and Ryan 2018; Krehbiel 1998; Mann and Ornstein 2012). However, these changes appear to be relatively recent. In the 1950s and 1960s, lawmaking was widely viewed as pluralist,[1] characterized as a friendly democratic competition among interest groups (Holyoke 2015; Strolovitch and Tichenor 2016). The 1970s and 1980s saw the rise of policymaking based on conflict (Mitchell 1988; Strolovitch and Tichenor 2016). This trend gave way in the 1990s and 2000s to the now familiar idea of highly polarized political parties managing the lawmaking process.

Scholars, such as McCarty (2007), have argued that partisan polarization has made it difficult to enact "ambitious new policies" (223). Specifically, he asked if bipartisanship characterized lawmaking in the mid-twentieth century, what type of policymaking do we expect "when partisanship is the dominate political emotion?" (223).

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[1] Throughout this dissertation, I use the terms pluralist and pluralism to describe a process for building legislative coalitions based on interest group competition. I am not using these terms to reflect a philosophical or normative position.

However, this idea of partisanship being the dominant emotion in the policy process stands in stark contrast to Baumgartner and Leech's (1998) argument that interest group pluralism is central to American lawmaking. Has interest group pluralism given way to partisan lawmaking? In contrast scholars such as Derthick and Quirk (1985), Campbell and Pedersen (2014), and Béland, Carstensen, and Seabrooke (2016) argued that ideas influence policy change. Still, others have argued that the media influences public policy (Downs 1972, Baumgartner and Jones 1993, Jones and Baumgartner 2005) in ways that are more specific than simply the role of public opinion in a democracy. In addition, other scholars have discussed the evolution of the media and how it affects public policy (Baum and Kernell 1999, Berry and Sobieraj 2011, and 2014, and Rogers and Niederer 2020). Before political scientists can analyze these potential causes of political change, they must first demonstrate that change has occurred.

However, political scientists disagree about the repercussions that late twentieth- and early twenty-first-century changes in American politics have had on lawmaking. Thus, empirically determining how patterns of lawmaking in America changed between 1951 and 2011 would help to advance scholarly understanding. Some scholars have argued that broad political changes have affected lawmaking. Specifically, McCarty (2007) argued that congressional legislative productivity has declined and that policy outcomes are different. Other scholars have contended that Congress has been, and continues to be, a largely consensual body, despite recent political changes (Adler and Wilkerson 2012; Carson, Finocchiaro, and Rohde 2010; Curry and Lee 2019). This dispute is indicative of two different views regarding the impact of political changes on

lawmaking. McCarty (2007) averred that how Congress legitimately exercises its power and authority through the lawmaking process has changed over time. Conversely, Adler and Wilkerson (2012), Carson, Finocchiaro, and Rohde (2010), and Curry and Lee (2019) maintained that it has not. A key difference in these studies is what laws the authors included. McCarty (2007), like many scholars, focused on major laws and roll call vote measures. The other group of scholars took a more comprehensive approach. Specifically, Adler and Wilkerson (2012) stressed the growth of reauthorization legislation since the 1970s, while Curry and Lee (2019) stressed the importance of focusing on enacted laws. One of the key contributions of this dissertation is the evidence I found that studies based on roll call votes and major laws are unrepresentative of Congress's legislative work and therefore lead to distorted inferences about Congress.

The primary purposes of this dissertation were to examine the pattern of American lawmaking between 1951 and 2011, explore the effect of time, and assess the influence of unified and divided government. My argument is that to draw valid inferences about longitudinal change in American politics, it is important to study Congress's outputs (enacted laws) in a way that captures (1) the role power plays in lawmaking, (2) the complexity of intra-institutional strategies of lawmaking, and (3) the influence of inter-institutional power arrangement. Intra-institutional strategies include partisan strategies consistent with McCarty's (2007) view of lawmaking and bipartisan strategies consistent with Adler and Wilkerson's (2012) emphasis on reauthorizations. However, I contend that the partisan-bipartisan distinction alone does not provide enough refinement for examining the pattern of lawmaking over time. A more detailed view of

bipartisan lawmaking is necessary. The inter-institutional power arrangement, which also

must be considered, pertains to unified and divided government and its influence on

American lawmaking over time. To capture the role of power in lawmaking and a more

nuanced approach to bipartisan lawmaking, I adopted the *Pathways* framework as the

theoretical guide for this dissertation. To better understand the inter-institutional power

arrangement, I examined the effect of unified and divided government on the pattern of

lawmaking.

The *Pathways* framework was ideal for my purposes because it is based on

Schattschneider's (1960) view of power in political conflict and because it includes one

partisan and three bipartisan approaches to lawmaking (partisan, pluralist, expert, and

symbolic) based on the scope and form of mobilization involved in the enactment of the

laws. As I will demonstrate, the *Pathways* framework thus provided enough refinement

among the bipartisan strategies for changes to become observable. The following figure

depicts the *Pathways* typology:

		SCOPE OF MOBILIZATION	
FORM OF MOBILIZATION		Specialized	Mass
	Ideational	Expert	Symbolic
	Organizational	Pluralist	Partisan

Figure 1. *Pathways* Typology. *Source:* Conlan, Posner, and Beam (2014, 4).

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The *Pathways* typology is broadly applicable to the wide range of different laws enacted in the post-World War II era. Specifically, the partisan pathway reflects mass mobilization and the organizational role political parties play in the enactment of legislation, consistent with theories on the role of parties in legislatures: the party cartel model (Cox and McCubbins 2005), conditional party government theory (Rohde 1991), and strategic party government (Koger and Lebo 2017; Lebo, McGlynn, and Koger 2007). In contrast, the pluralist pathway employs a narrow mobilization effort in which interest groups are the principal organizational force (Ainsworth 1993, 1997; Baumgartner and Leech 1998, 2001; Baumgartner et al. 2009; Cigler and Loomis 2011; Dahl 1961; Truman 1951). Other common frameworks for understanding policy formation, like issue networks (Heclo 1978), iron triangles (Freeman 1955; Seidman 1970),[2] and policy sub-governments (Baumgartner and Jones 1991), are relevant to the pluralist pathway.

The remaining two pathways—expert and symbolic—do not coalesce as an organizational form like the partisan and pluralist pathways do. Rather, the expert and symbolic pathways seek to mobilize consent through the use of ideas (Jones and Baumgartner 2005) and policy narratives (McBeth and Shanahan 2004; Stone 2011). The expert pathway is associated with academics, think tanks, bureaucrats as experts (Gulick 1937; J. Wilson 1989; W. Wilson 1887), and technocrats (Beer 1973, 1978). In contrast,

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[2] In his 1955 book, *The Political Process: Executive Bureau-Legislative Committee Relations*, Freeman described the idea of an iron triangle but did not use the term. Harold Seidman (1970) appears to be the first to have used the term in his book, *Politics, Positions, and Power*, according to Beer (1977).

policymakers utilize the symbolic pathway when they associate policies with valence

issues, which, as Stone (2011) suggested, often involves active issue framing and the

manipulation of ideas by policy actors. The symbolic pathway reflects what or who the

policy represents and the feelings that surround the policy. It is thus different from the

other three pathways because it utilizes emotion, which is reminiscent of Stone's (2011)

work.

Using the four pathways to define the pattern of American lawmaking, this

dissertation focused on two research questions. First, how has the pattern of lawmaking

in America changed between 1951 and 2011? Second, does the pattern of lawmaking,

evaluated using the *Pathways* framework, change during periods of unified and divided

government between 1951 and 2011, and, if so, how?

This dissertation contributes to the political science discipline in two primary

ways. First, I created a new technique for analyzing legislative outputs. Rather than

examining partisanship or legislative productivity based on the number of bills passed, I

used the *Pathways* framework to reflect the complexity of the lawmaking process and

classified laws by drawing on Affect Control Theory (ACT) and utilizing semantic

scores, archival research, roll call vote data, and durational analysis.

ACT is a well-developed theory in sociology that argues individuals have an

internal understanding of their social positions (their affective meaning) and that they

interpret events and alter their behavior to maintain that social position. Specifically,

when an event occurs that challenges a person's affective meaning, the individual

experiences deflection, and chooses the language to describe the event to restore their

affective meaning relative to the social setting. Scholars have relied on ACT to build computer models to measure affective meaning and deflection, which have enabled them to predict behavior. Computer scientists have found ACT and a Bayesian version (BayesACT) instrumental in building advanced artificial intelligence systems. The successful application of semantic scores to the study of lawmaking in this dissertation opens up the possibility of future applications of ACT to the study of Congress and policymaking.

The second contribution I make to the political science discipline is the development of a unique approach to examining changes in the politics of policymaking over time. Once I classified the individual laws, I examined the aggregate changes in the classifications over time to identify the changes in the politics of lawmaking. This analysis was possible because my classification system reflected different uses of power. Thus, the aggregate view provided insights into how the use of power to enact laws has changed over time. This is an original approach to identifying changes in lawmaking.

This dissertation is organized into seven chapters. Chapter 1 has provided an introduction to the entire project. Chapter 2 reviews the literature relevant to the project to identify how this research complements both political science research and public policy literature. Chapter 3 discusses the role of deference in lawmaking, a necessary step for building the policy classification system in the second phase of this research project. Chapter 4 details the sequential mixed methods approach utilized in this study and explains the limitations of this exploratory research. Chapter 5 explores the classification results and answers the first research question: How has the pattern of lawmaking in

America changed between 1951 and 2011? Chapter 6 answers the second research question by examining the effect of unified and divided government on the use of alternative policymaking pathways. The final chapter summarizes the findings, discusses the implications, and identifies avenues for future research.

CHAPTER TWO: LITERATURE REVIEW

In June of 1991, *PS: Political Science and Politics* published a set of articles on public policy. The opening article by Sabatier (1991) discussed the relationship between public policy and political science. Sabatier pointed out three key differences between the two fields. First, policy scholars, as he dubbed them, view government in instrumental terms and focus on what government does that affects people's lives. Political scientists tend to be uncomfortable with this view of government and instead see citizenship and political participation as ends in and of themselves. Second, Sabatier pointed to a normative distinction that is reminiscent of Almond's (2013) separate tables. Policy scholars engage more as activists, whereas political scientists are less inclined toward activism. Lastly, Sabatier points to what he believes to be the biggest and most meaningful conflict between the fields: research quality. Policy researchers are often accused of failing to address the theoretical assumptions, implications, and/or generalizability of their research. Sabatier acknowledges the appropriateness of this criticism.

This exploratory research project bridges the gap between these fields. I adopt an instrumental approach to the purpose of government by focusing on enacted laws as my starting point for drawing inferences about Congress. This dissertation, consistent with Conlan, Posner, and Beam's (2014) *Pathways* framework, does not view power in the

traditional political science perspective of who holds office and the descriptive

representational nature of those officeholders (Dahl 1961). Rather, the *Pathways*

framework conceptualizes power as a set of resources and tools used to build coalitions to

enact laws (Conlan, Posner, and Beam 2014). It conceptualizes the second face of power

(Bachrach and Baratz 1962) as the counterforce in the struggle to enact a law.

Emphasizing enacted laws provides insights based on the output of the legislative process

and how power was used to achieve that output.

By studying a random sample of laws drawn over six decades, I contend that

reasonable inference can be made about the use of power in the lawmaking process over

time. This contention is central to my dissertation and literature review. I begin the

literature review by exploring the foundations of the *Pathways* framework to provide the

reader some background. I also explain why I selected the *Pathways* approach for this

research project and adopted a longitudinal perspective. Then I explain how my research

question can help inform the American political development (APD) literature on

Congress and how APD relates to the first research question: how has the pattern of

lawmaking in America changed between 1951 and 2011? This chapter then addresses my

use of the *Pathways* framework, which requires resolving the operationalization

challenges (discussed in more detail in Chapter 4), for which I use deference (see Chapter

3 for more detail), semantic scores, durational analysis, and roll call votes. The discussion

of roll call votes leads to a discussion of two common ways to study lawmaking: roll call

vote analysis and major laws. I explain why I rejected these approaches in favor of a

random sample of enacted laws (I discuss these issues in more detail in Chapter 5). In the

last section, I explore lawmaking and partisan credit claiming to answer the second research question: does the pattern of lawmaking, evaluated using the *Pathways* framework, change during periods of unified and divided government between 1951 and 2011, and if so, how? (See Chapter 6 for more detail.)

The Pathways' Background

In Chapter 1, I explained the *Pathways* framework as a typology with two primary dimensions—the scope and form of mobilization—resulting in four distinct pathways for building coalitions and enacting laws: expert, pluralist, partisan, and symbolic. The following figure depicts the pathways typology:

FORM OF MOBILIZATION		SCOPE OF MOBILIZATION	
		Specialized	Mass
	Ideational	Expert	Symbolic
	Organizational	Pluralist	Partisan

Figure 2. *Pathways* Typology. *Source:* Conlan, Posner, and Beam (2014, 4).

Conlan, Posner, and Beam created this typology to address a concern in existing models of policymaking. Specifically, existing models were good at explaining one dimension of lawmaking but did not capture the rich complexity of lawmaking. The *Pathways* authors designed a parsimonious model that captures the complex diversity of lawmaking. In other words, they designed a model that was simple but not too simple. To develop this model, they drew on existing theories of the policy process, which they

organized into three categories: stages, institutional, and integrative. I will discuss each in turn.

The stages approach is widely taught and provides a five-step process for thinking about how elected officials make policy. It is cyclical in nature, but political science often begins with the agenda-setting stage. It is in this stage that issue areas rise to salience and thereby become the topic of public discourse and policymaking. For example, Binder (1999) attempted to operationalize the agenda-setting stage using newspaper reports. According to the stages process, once an issue has gained enough attention it moves to the policy formation stage. When discussing lawmaking (as opposed to bureaucratic policymaking), this stage comprises the introduction of a piece of legislation and congressional consideration of the matter. The third phase is the adoption phase, during which political coalitions are constructed and a law is enacted. This stage essentially boils down to congressional passage and the White House signing ceremony. The fourth phase is implementation. One of the more famous studies of implementation comes from Pressman and Wildavsky (1984): *Implementation: How Great Expectations in Washington are Dashed in Oakland; or, Why It's Amazing that Federal Programs Work at All, This Being the Saga of the Economic Development Administration as Told by Two Sympathetic Observers who Seek to Build Morals on a Foundation.* The fifth and final stage is policy evaluation, which then feeds back into the agenda-setting process for revising the law. Integral to the policy stages model is the idea that policymaking is never finished. It is a perpetual process always attempting to improve upon what came before. The *Pathways* framework focuses on the policy formation process with a closer

examination of how an idea moves from its place on the policy agenda to become an enacted law. Specifically, the model explains how power is used to construct the coalition of support necessary to enact a law.

The second category of policy models is the institutional set. A key contributor to this type of policy-making literature is Sinclair (2007), who highlighted the lack of regular order in the modern lawmaking process. Additional literature that comprises this category includes works by Adler, Jenkins, and Shipan (2019); Adler and Wilkerson (2012); Cox and McCubbins (2005); Fenno (1973); Kingdon (1995); Mayhew (1991); Polsby (2004); and Rohde (1991). Each of these authors explains some facet of how Congress legislates. Literature regarding other policy-making institutions also falls into this category, such as Neustadt ([1960]1991) and Wilson (1989).

The third and final category of policy models is the integrative type. These models provide unique frameworks for thinking about plausible causal mechanisms for policymaking. Lowi's (1972) and Wilson's (1989) typologies both fall in this category. In addition, the Advocacy Coalition Framework (ACF) and the Narrative Policy Framework (NPF) also fall in this category (Sabatier and Weible 2014). However, none of these models capture the entirety of what the *Pathways* framework covers. Lowi and Wilson failed to capture the powerful role ideas play in policy formation. The *Pathways* framework captures this with the ideational forms of power (the expert and symbolic pathways). The ACF and the NPF do capture these ideational forms; however, they both struggle with representing the macro-level perspective of policymaking. From the ACF standpoint, I view the macro level as the coming together of all the various policy

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subsystems to compete over spending allocations in the appropriations and budget process. From the NPF perspective, the shift is from the story of shared policy in a subsystem to a larger national narrative that then intersects with issues of representation, democracy, and the role of public opinion in policymaking (Erikson, MacKuen, and Stimson 2002; Gilens 2012; Key 1961). Do policy advocates drive the narrative out to the electorate? Or do policymakers listen to the narrative that comes in from the people? The pathway model embraces this macro-level perspective in both the pluralist and symbolic pathways.

Why Use the *Pathways* Framework?

Having explained the four-part typology at the heart of the *Pathways* framework, this discussion focuses on explaining why I adopted it for this research project. Conlan, Posner, and Beam's (2014) model has two key features which are important to this research proposal. Specifically, the key features of the *Pathways* framework are (1) a theoretical connection between lawmaking and politics and (2) a process, for classifying laws, that does not rely on issue areas and is therefore useful for longitudinal analysis. After discussing these key features, I will discuss the two reasons why I selected the *Pathways* framework for my theoretical framework.

Conlan, Posner, and Beam's (2014) *Pathways* framework provides a theoretical connection between lawmaking and politics by the very premise of their argument. The authors rest their theory in part on the work of Schattschneider (1960) who provided a basic description of politics when he described conflict, as consisting of two groups— those engaged in the conflict and those watching it. The audience watching the conflict

will, according to Schattschneider, determine the outcome of the clash: "This is true because the audience is overwhelming; it is never really neutral; the excitement of the conflict communicates itself to the crowd. *This is the basic pattern of all politics."* (Schattschneider 1960, 2; italics included in the original) Thus, the basic premise of all conflict, even political conflict over legislation, rests on two things: (1) how to involve the audience and (2) how large an audience to attract. The *Pathways* framework addresses the "how to involve the audience" as the form of mobilization, either organizational or ideational. Regarding the size of the audience, Conlan, Posner, and Beam (2014) used the scope of mobilization as the second dimension of their typology. Thus, the *Pathways* framework provides an excellent means for organizing the study of enacted laws that is theoretically connected to the political conflict of lawmaking.

The second reason why the *Pathways* framework is useful for this study is that it does not rely on issue areas, which is problematic for longitudinal policy research. When scholars use issue areas, they begin by defining them; this fixes the categories in a moment in time and applies them across time, which fails to acknowledge what Lowi (1964) defines as the ephemeral nature of issue areas. Scholars, such as Baumgartner and Jones (1991) and Downs (1972), have acknowledged that issues rise and fall on the agenda or in the public discourse, but that is different from my current contention. I contend that over time policy matters can change issue areas, or said another way, policies can shift into different policy spaces. Thus, a legislative proposal under consideration has three key features. The first is the level of attention it receives (Downs 1972; Jones and Baumgartner 2005). The second is the pathway it takes to enactment

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(Conlan, Posner, and Beam 2014) and the third key feature is that the policy space, or issue area, within which a legislative proposal resides changes over time. When researchers assign policies to issue areas over time, they are holding the policy space for that legislative proposal constant throughout time. I wish to permit it to vary and the *Pathways* framework permits this because it does not use issue areas.

To illustrate the idea that legislative proposals shift policy spaces over time and that by assigning them to issue areas we are missing this variation and impeding longitudinal analysis, I will examine Lapinksi's (2013) treatment of agriculture policy and the Steagall Amendment of 1941. Lapinski (2013) classifies farming support under the category of agriculture and domestic policy; specifically, he writes: "Farmers/ farming support includes … legislation subsidizing both productions of commodities and decisions not to plant and produce…" (47), including programs under the Commodity Credit Corporation (CCC). Thus, farmer price supports, through both overproduction and underproduction, are categorized as domestic affairs. However, the Steagall amendment of 1941 (Public law 77-141) focused on the overproduction of agricultural products so the U.S. could supply food to allies in World War II; this was an important change in U.S. agriculture policy ("Surplus, Subsidy, and Support" 1954). Jones (1951), in his *Journal of Politics* article, also acknowledges war's influence on agriculture: "When the United States Congress approved support of prices of many farm products at 90 percent of parity during the war, this was pretty widely considered as a wartime measure which would be discarded when the emergency was over" (253). Pearman (1957) makes a similar point: "The termination of the Steagall Amendment which had guaranteed high

price supports to farmers as a reward for their war efforts under conditions of price control brought reconsideration of farm policy in 1948" (34). Thus, in 1941, farm support could rightly be placed in the category of foreign aid. In 1948 it could rightly be assigned to domestic agriculture policy. This change in issue area over time is something that an issue-based typology, such as Lapinski's (2013), misses. Thus, defining issue areas creates a type of stasis, which fails to allow the issue areas to vary over time naturally. Conceptually, it is similar to a partial derivative which holds the policy space for the legislative proposal constant over time. I contend that beginning a study of American laws using an issue-based typology places an unnecessary, and often unrecognized, constraint on one's research. The *Pathways* framework does not use issue areas. Therefore, by using Conlan, Posner, and Beam's (2014) approach I can (1) advance a theoretical connection between lawmaking and politics and (2) permit legislative proposals to shift issue areas naturally, thus supporting the longitudinal analysis which is central to this proposal. These two key features of the *Pathways* framework are exactly why I picked this approach for my theoretical framework.

Longitudinal Perspective

In addition to understanding the theoretical framework for this research, it is important to recognize the longitudinal nature of this study. The importance of longitudinal analysis has been discussed by political scientists, such as Pierson (2004) and Lasswell (1958). To understand the benefits of longitudinal analysis it is important to distinguish it from historical analysis. Pierson (2005) clearly distinguished these two phenomena by defining historical analysis as "…the study of something that happened at

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some point in the past…" (34). Alternatively, he defined longitudinal analysis, which he called policy development, as "…the study of how something came to be what it is…"(34). Thus, one can think of historical analysis as a snapshot at a moment in time, while longitudinal analysis is a story with a plot and motivations unfolding one after the other over time. This distinction becomes important when scholars accept the process theory of causation (Pierson 2004) as opposed to the variance theory of causation (Brady and Collier 2010). The process theory of causation is built on the idea that the variation in the independent variables cannot explain the variation in the dependent variable on their own. Knowledge of how the independent variables come together—their story—is critical to understanding the causal connection.

Scholars have used historical analysis to "… assess when and where policymaking takes place and which circumstances and actors were responsible" (Grossman 2014, 2); to describe changes to the U.S. House of Representatives and its work product (Polsby 2004); to explain institutional changes in the U.S. House of Representatives (Schickler 2001); to assess the consequences of unified and divided party government (Binder 2003), and to argue for specific causes of contemporary dysfunction (Mann and Ornstein 2012). Pierson (2005) describes three approaches to time-based p– icy studies—at enactment, before, and after. These different focuses provide different benefits. For the purpose of my first research question, laws will be examined primarily at the moment of enactment. However, the analysis of the pattern will examine the collection of laws examined over time, enabling an examination of the temporal dimension of lawmaking at an aggregate level. Pierson (2005) advocates this type of

research by arguing that: "Focusing on how social processes unfold over time suggests new questions and reveals new outcomes of interest—questions and outcomes that are linked to, but distinct from, those that command attention in existing lines of inquiry" (35). Thus, I am adopting a longitudinal approach because it brings a new perspective to our understanding of lawmaking over time, and will likely spawn new valuable questions.

Why Study Change?

This macro-level perspective is important to APD, a subfield of political science. APD seeks to identify "durable shifts in governing authority" (Orren and Skowronek 2004, 123). There are debates about what this means exactly. However, *authority* in a political science context is a " [p]ower based on a general agreement that the holder of the power has the right to issue certain commands and that those commands should be obeyed" (Shively 2019). Thus, for congressional scholars, APD requires identification and study of the ways Congress uses power and how that may have changed over time. Katznelson and Lapinski (2006) and Lapinski (2013) pointed out the lack of congressional APD scholarship. They acknowledged several historical studies but none that address the congressional use of power. Similarly, Schickler and Rubin (2016) proposed three key themes on Congress and ADP: (1) Congress's institutional development, (2) Congress's role in key policy debates, and (3) the use of historical evidence to test modern theories of legislative behavior. They mentioned power roughly 60 times as pertaining to one of five topics: external power, *vis a vis* the President in terms of the separation of powers and the balance of powers; constitutional power, in terms of Congress's power of the purse; internal power, in terms of leadership powers

and tools; personal power, in terms of members' powers stemming from the filibuster and the division of responsibilities through the committee system; and, lastly, regional power, in terms of dominant political blocks, such as the Southern caucus. At no point did Schickler and Rubin talk about power in terms of Congress's primary function: legislating. Until Conlan, Posner, and Beam's (2014) *Pathways* framework, political scientists lacked the framework for conducting a power-based analysis of legislating. Thus, I posit tracking changes in the use of the pathways may inform our understanding of the ways Congress uses power to legislate and how lawmaking has changed over time. It may provide insights into the durable shift of governing authority found in America's laws. This is why my first research question is: how has the pattern of lawmaking in America changed between 1951 and 2011?

Deference

To use the *Pathways* framework to answer the question about the changing pattern of American lawmaking between 1951 and 2011, I had to develop a valid and reliable process of classifying the laws into the four pathways. I began this operationalization with the concept of deference. Lawson and Seidman (2020) defined deference as "the giving by a legal actor of some measure of consideration or weight to the decision of another actor in exercising the deferring actor's function" (106). I contend that each of the three major congressional organizational theories—distributive, partisan, and informational—rely on deference. (I will discuss these organizational theories in more detail in Chapter 3.) However, scholars such as Diermeier (1995) and Prince and Overby (2005) also applied the concept of deference to distributive theories. All three

partisan models—responsible party government (APSA 1950; Ranney 1951), conditional

party governance (Aldrich 1995; Aldrich and Rohde 2001; Rohde 1991), and the cartel

model (Cox and McCubbins 1993, 2005)—all contain an element of deference to the

party leadership within the legislature. Lastly, informational theory (Gilligan and

Krehbiel 1987, 1989a, 1989b, 1990; Krehbiel 1991) relies on deference to those with

expertise. By uniting these theories under the concept of deference, I can see these

theories as part of a complex whole, much like what the pathway model does for policy

process theories. The idea that these legislative theories are complementary rather than

alternatives is consistent with the work of scholars such as Hurwitz, Moiles, and Rohde

(2001) and Shepsle and Weingast (1995).

In Chapter 3, I argue that the four pathways can be viewed in relation to the

concept of deference and that, by relying on a previously used measure of deference (i.e.

semantic scores), I can construct a measure that captures enough of the *Pathways*

framework to be useful. Specifically, I view the expert pathway as Congress deferring to

the experts. The partisan pathway represents deference to the political parties, and the

symbolic pathway is characterized as deference to the public. The pluralist pathway is

characterized by a lack of deference. It is this concept of deference and the adoption of a

talk-centric view of deliberative democracy (Chambers 2003) applied to the *Pathways*

framework that justifies the use of semantic scores as part of my classification system.

<div align="center">

<u>Semantic Scores</u>

</div>

The history of semantic scores begins with Osgood, Suci, and Tannenbaum

(1957), who drew on philosophy, linguistics, psychology, and sociology to define

meaning in psychological terms as the "process or state in the behavior of a sign-using organism which is assumed to be a necessary antecedent for the production of sign-responses" (9). In other words, meaning is the internal process triggered by a stimulus that results in a response. Osgood, Suci, and Tanenbaum began with an assumption of a semantic space, Euclidian in nature and of unknown dimensionality. They used pairs of polar adjectives to test for the necessary number of dimensions. Osgood, Suci, and Tannenbaum then collected data by having students score words on descriptive scales that resembled a seven-point Likert scale. The semantic scores developed from these student surveys were then used to examine differences in voters to demonstrate the usefulness of the semantic scores.

The researchers conducted a study involving 150 individuals selected to represent a typical Midwest community of 70,000 people. There were three stages of questions spaced throughout the 1952 presidential campaign, and the participants were asked to send back a response card indicating how they voted after the election. One hundred and three individuals completed the entire process, of which 30 voted for Stevenson, 37 were Taft Republicans, and 36 were Eisenhower Republicans. The participants were asked to provide scores for political figures, such as Winston Churchill, Josef Stalin, and Franklin D. Roosevelt, and 10 political concepts, such as federal spending, socialism, and "use of the Atomic Bomb" (Osgood, Suci, and Tannenbaum 1957, 107) The researchers scored the terms across 10 scales and then plotted the meaning of each concept for each person. As they expected, there was more agreement between the two Republican groups (correlation score of .79) than between either Republican group and the Democratic

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group (correlation scores of approximately .42) (Osgood, Suci, and Tannenbaum 1957, 116).

For 20 years, psychologists have researched and used semantic differentials. Then, in the late 1970s, Heise (1977, 1979, 1985, 1986), a sociologist, developed Affect Control Theory (ACT), which "expand[ed] the concept of attitude and show[ed] how affective meaning of social identities and behaviors are maintained while they control interpersonal perception and social action" (Smith-Lovin and Heise 1988, 1). Heise's first major contribution was to show that the three main concepts in social life—status, power, and expressivity—mapped onto the three primary dimensions (evaluation, potency, and activity) in semantic scores (Smith-Lovin and Heise 1988). This enabled him to bring a new level of quantification to his research, which was groundbreaking and produced the most developed subfield of control theory in sociology (Robinson 2007).

The basic idea of ACT is that people develop a working understanding of their social world and, in so doing, reduce existential uncertainty. Language and cultural symbols are a large part of this process. ACT assumes that this working understanding creates affective meaning, and, when confronted with information, people interpret it to restore their affective meaning. In addition, ACT holds that people alter their language and adjust their behavior to reflect the necessary reinterpretation of events to reduce existential uncertainty and maintain their affective meaning (Robinson 2007; Smith-Lovin and Heise 1988).

ACT theory has been applied to political science research. There has been some work using ACT in International Relations (Azar and Lerner 1981; Heise and Lerner

2006), Comparative Political Science (Schneider 1999, 2004), and Public Opinion

(Carter, Ruggles, and Chaffee 1968; Cronkhite 1977). However, the only piece related to

American politics is by Berbrier (1998), who examined white supremacist rhetoric. I have

found no evidence that semantic scores and/or ACT have been applied to American

lawmaking, public policy, or the U.S. Congress.

Heise continued to advance ACT throughout his career, including the

development of a computer program called *Interact,* which enables users to walk through

simulated human interactions and see representations of their emotional reactions

displayed as facial expressions. A group simulation application has also been added to the

website.[3] One of the more recent advances in this field has been Hoey and Schröder's

creation of Bayesian Affect Control Theory (BayesACT) (Schröder, Hoey, and Rogers

2016) and Bayesact-S (Hoey and Schröder 2015). These systems expanded ACT into a

probabilistic space and have generated new applications, including artificial intelligence.

Freeland and Hoey (2018) used semantic differential scales and ACT to develop a

deference score for individual people for the purpose of testing the validity of current

measures of social status. Their individual level of focus necessitated the use of ACT.

Since the deference construct is about group interactions between Congress and experts,

partisans, or the public, I limited my measure to the use of semantic scores. In addition,

Freeman and Hoey (2018) generated scores using rating scales, which have been

criticized because of human inconsistency (Baumgartner and Steenkamp 2001; Presser

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[3] https://cs.uwaterloo.ca/~jhoey/research/ACTBackup/ACT/interact.htm

and Schuman 1996). To address these concerns, Mohammad (2018) developed a 20,000-word English dictionary using "a comparative annotation technique called Best-Worst Scaling (BWS). […] The scores are fine grained real-valued numbers in the interval from 0 (lowest V, A, or D) to 1 (highest V, A, or D)" (1). The "V" stands for valance, the "A" for arousal, and the "D" for dominance. Relying on Freeman and Hoey's (2018) connection between deference and semantic scores, I use Mohammad's (2018) dictionary as the first of three variables in the pathways classification system, which I will discuss in more detail in Chapter 4.

Duration

The second variable used to classify laws is the duration, which I define as the number of days from introduction to enactment. This definition is consistent with Hughes and Carlson's (2015) work, except they included unenacted bills so in some cases they used the date the congress ended, rather than the enactment date for the endpoint. I only used enacted laws so the endpoint is always the date of enactment in this dissertation. Conlan, Posner, and Beam (2014) included this concept; however, they called it enactment time and distinguished it from incubation. Incubation is the time from when a policy first enters the policy agenda until it becomes law. This can often take several Congresses and is therefore much harder to operationalize. Conlan, Posner, and Beam defined enactment time the same way I define duration. Hughes (2012) used duration analysis to operationalize gridlock, thereby connecting this topic to the wider array of literature on gridlock, which includes Binder (2003), Brady and Volden (1998), and

Krehbiel (1998), among others. Hughes (2012) found that a divided government increases legislative delay.

Other scholars have also examined legislative delay: Binder and Maltzmann (2002) and Shipan and Shannon (2003) examined the pace of judicial nominations; Bond, Fleisher, and Krutz (2009) examined executive branch nominations; Binder (2003) and Woon and Anderson (2012) examined delays related to the budget process; Krutz and Peake (2009) and Peake, Krutz, and Hughes (2012) examined delays related to treaty-making; and Fredriksson and Gaston (1998) examined delays in different countries concerning ratification of the U.N. Climate Change Convention in the early 1990s.

Roll Call Votes

The third and final variable in the classification process I developed is roll call votes. However, I also refute their use in making general inferences about Congress, because I contend they represent a small and biased sample of Congress's work. This review of the roll call vote literature is limited to the twentieth and twenty-first centuries and will focus on two purposes: the first is to discuss the definition of a partisan law, and the second is to review the literature on roll call voting to demonstrate that congressional roll call vote data reflects a small and biased sample of Congress's work.

Lowell (1902) provided the first discussion of partisan laws. He defined a partisan law in terms of each party. A law, under his definition, could be partisan for Republicans but not for Democrats and *vice versa*. Specifically, he defined a partisan law as a vote in which more than 90% of the party membership in the legislature votes together. Conversely, a non-partisan law is one in which more than 10% of the party's membership

votes on both sides of the issue (Lowell 1902, 323). The next step in defining roll call

voting came with Rice's (1925) index of cohesion, which ranged from 0 to 100 and was

based on probabilities. A score of zero meant that 50% of the party voted on the same

side; this represented the likely outcome if voting were entirely random. The third and

final step in the evolution of the definition of party voting came from the *Congressional*

Quarterly Almanac and H. Bradford Westerfield (1955); both definitions described a

party vote as one in which more than 50% of one-party votes opposite more than 50% of

the other party (*Congressional Quarterly Almanac*, as cited in Turner [1952] 1970;

Westerfield 1955, as cited in Turner [1952] 1970). This definition became so widely used

that Cox and McCubbins (1993) refer to it as the standard measure. It has been used by

other researchers, such as Souva and Rohde (2007) and Patterson and Calderia (1988),

and is the definition used in this dissertation.

Defining partisan laws in terms of roll call vote outcomes raises an important

issue about the appropriate use of roll call votes. In this dissertation, I will use roll call

votes to classify laws into the four pathways. I contend that a roll call vote provides

useful information about the specific law upon which it is taken. However, I also contend

that roll call votes present a small and biased sample of Congress's work and that they

should not be used to draw inferences about Congress as a whole. This distinction is

central to the debate on the dimensionality of roll call votes in the literature. To elaborate

on this point, I will focus on the debate that unfolded between Macdonald and

Rabinowitz (1987), Snyder (1992), and Vandoren (1990) on one side and Poole and

Rosenthal (1997, 2007, 2009) on the other.

Poole and Rosenthal (1997) argued that roll call voting has one, maybe two dimensions; "The primary dimension is concerned with political parties, whereas the second dimension picks up issues that split the two major parties" (57). Poole and Rosenthal (1997) directly addressed Macdonald and Rabinowitz (1987), Synder (1992), and Vandoren (1990) by referring to their concern as a "selection-bias argument," which Poole and Rosenthal defined as a concern "that only a small fraction of the potential issues ever get voted on" (56). Poole and Rosenthal attempted to refute this concern by providing a list of the 13 issue areas Congress considered between January 10, 1967, and April 10, 1967, for which there was a contested vote (over 2.5 percent on the minority side). Given that Poole and Rosenthal argued that the first dimension concerns issues that divide the two political parties and that this dimension explains most roll call voting activity, this list demonstrated that between January and April of 1967 Congress considered legislation covering 13 issue topics that divided the political parties enough to warrant a roll call vote. This list of 13 issues does not provide any insight into the list of issues Congress considered for which no roll call vote was taken. The real selection bias concern is not about the number of issues covered by roll call votes; it is about the volume of material Congress considers for which there is no roll call vote.

The concern about the infrequency of roll call voting in Congress is not new. Discussing the 88th Congress (1963-64), Turner (1952) wrote: "Through its committees, in other words, Congress took decisive action on over 17,000 measures in two years, and the whole Senate and House made decisions on nearly 2,000 in the same period; but less than 300 of these decisions were by roll call" (Turner [1952] 1970, 7). Hug (2020)

stressed this point about the infrequency of roll call voting in any legislature and quoted

von Gerlach (1907, as cited in Hug 2020), who made the same point. Fenno (1973) also

made the point that few laws require roll call votes when he discussed the 834 Interior

Committee bills that passed in the House between 1957 and 1966; he pointed out that

only 42 of them required a roll call vote (258). Mayhew (1974) summed up Fenno's

Interior Committee findings succinctly when he said about 95% of bills that pass the

House go through without a formal roll call vote. Clinton and Lapinski (2008) found that

86% of the laws they studied had no roll call vote. Given the evidence on the infrequent

use of roll call votes in Congress and Poole and Rosenthal's (1997) conclusion that the

political party dimension explains roll call votes, it is reasonable to conclude that

congressional roll call voting data reflects a small and politically biased sample of

Congress' work. Thus, this research will not rely on roll call votes for making inferences

about Congress. Instead, I will use a random sample of enacted laws.

<div align="center">**<u>Major Laws</u>**</div>

In addition to using roll call votes, many scholars have attempted to study

Congress by examining major laws. Scholars such as Clinton and Lapinski (2006) argue

that theories of voting behavior and coalition size may only be applicable to major laws.

While this may be true, the purpose of the *Pathways* framework and my research is not to

test theories of voting behavior or coalition size but instead to study lawmaking with a

particular focus on Congress. I contend that studying a random sample of substantive

laws, as I do in this dissertation, is a better approach for drawing inferences about

Congress because studies utilizing major laws or roll call votes are unrepresentative of

Congress's full body of legislative work. A key contribution of this study is to point out that such studies lead to distorted inferences about Congress.

However, many scholars have used major laws and defined them in different ways. The literature often credits Mayhew (1991) with initiating the focus on major laws; however, Chamberlain (1946) and Moe and Teel (1970) also focused on major laws. Mayhew identified 267 major laws through a two-sweep process, flagging them as either important at their time of enactment or by scholarly reflection later. Other scholars such as Barrett and Eshbaugh-Soha (2007) also used Mayhew's 267 laws. Prior to Mayhew's study, conventional wisdom held that Congress was less productive under divided government than under unified government. Mayhew's findings contradicted this widely held view. Kelly (1993) challenged Mayhew's definition of major laws and instead argued that a major law should be identifiable as such at both the time of enactment as well as several decades later. Kelly modified Mayhew's list to include only laws that appeared in both of Mayhew's sweeps and then replicated Mayhew's analysis. Kelly's findings supported the conventional wisdom that Congress is more productive under a unified government than during a divided government. Thus, by changing the definition of major laws, Kelly (1993) found the exact opposite of Mayhew (1991). Other scholars have altered the definitions and also found support for the conventional wisdom (Coleman 1999; Howell et al. 2000). I argue that a random sample of laws is a better approach for evaluating the change in American lawmaking.

Howell et al. (2000) decided to address this question by studying all 17,663 public laws enacted between 1945 and 1994. They began by challenging the stationary nature of

Mayhew's (1991) data and arguing that his means of aggregation distorted the data. They also developed a multi-tier rating system for evaluating the significance of the laws. I agree with their approach of studying all laws. Studying only major laws ignores much of what Congress does and contributes to the aggregation problem that Howell et al. (2000) identified. In addition, from the *Pathways* perspective, limiting the data to major laws makes underestimation regarding the use of the pluralist and expert pathways likely, and tends to distort political scientists' estimations of how well the system is functioning. All of this led me to conclude that I, like Howell et al. (2000), would ideally study all enacted laws. However, for practical reasons, my solution in the present study was to select a random sample of all laws.

Unified and Divided Government

I bring together the above discussions on roll call votes, major laws, and duration to answer this dissertation's first research question, which I address in Chapter 5. This section and the next on messaging theory provide the necessary context for answering my second research question, which I explore in Chapter 6. The second research question is: what effect has unified and divided government had on American's pattern of lawmaking between 1951 and 2011?

The literature on unified and divided government begins, just like the roll call vote literature, with Lowell (1902), who examined the effect of unified and divided government on roll call vote patterns. Based on his data, he concluded that, during unified government, 23 percent of the English laws were partisan, but only seven or eight percent of American laws were. During divided government, he found that England's

percentages dropped to seven percent, and America's dropped below one percent (Lowell

1902, 341). He did acknowledge that his data sample was small, so he could not draw any

definitive conclusions, but he posited that the British system enacted more partisan laws

than the American system (Lowell 1902, 341). These findings are consistent with the

majoritarian nature of the Westminster system, as opposed to the consensual American

system (Lijphart 1999). However, the seminal work on the issue of unified and divided

government is Mayhew's (1991) *Divided We Govern.*

There are two main trends in the literature regarding the influence of unified and

divided government on lawmaking: conventional wisdom and the revisionist view

(Binder 2003; Coleman 1999). There is a third strand of literature that attempts to explain

why voters elect a divided government (Fiorina 2003; Franklin and Hirczy de Miño 1998;

Jacobson 1990; Sigelman, Wahlbeck, and Buell 1997); however, electoral literature is

beyond the scope of this study. The conventional wisdom holds that divided government

reduces lawmaking and contributes to legislative gridlock. Authors associated with this

position include Alt and Lowry (1994); Ansolabehere, Palmer, and Schneer (2018);

Binder (1999, 2003); Coleman (1999); Edwards, Barrett, and Peake (1997); Frymer

(1994); Howell et al. (2000); Kelly (1993); Lapinski (2013); Lohmann and O'Halloran

(1994); Peterson (1990); Rose (2001); and Thorson (1998). The revisionist view argues

that divided government does not reduce legislative productivity, and includes authors

such as Chiou and Rothenberg (2003, 2008a, 2008b); Grant and Kelly (2008); Jones

(1994); Karol (2000); Krehbiel (1996); Mayhew (2005); and Taylor (1998).

In addition, to examining the effect of divided government on legislative productivity, scholars have examined the influences of partisan arrangements on other aspects of government, such as the presidency (Cohen 2011; Conley 2003; Lebo 2008; Nicholson, Segura, and Woods 2002), the Supreme Court (Richardson and Scheb 1993), governmental spending (Garmann 2018; Streb and Torrens 2013), the bureaucracy (Epstein and O'Halloran 1996; Farhang and Yaver 2016; MacDonald and McGrath 2016; Yackee and Yackee 2009), congressional oversight (Kriner and Schwartz 2008), and foreign policy (Newman and Lammert 2011). I focus on the effect of unified and divided government on lawmaking and partisan credit claiming which leads to the messaging theory.

Messaging Theory

The messaging theory, which I explore in Chapter 6, is based on the idea that laws enable political parties to craft messages. When these messages are clear, they enable the audience to award electoral credit to one political party over another. I argue that there are two key features to partisan messages based on legislation. The first feature is clarity (clear or unclear), and it refers to the ability of the audience to award a political party credit for the legislation. The second feature is the volume (quiet or loud), and it refers to the size of the audience that hears the message. The second feature is complementary to the *Pathways*' scope of mobilization discussed in Chapter 1. I overlay these two dimensions (clarity and volume) onto the four pathways in Figure 3 below.

	SCOPE OF MOBILIZATION	
FORM OF MOBILIZATION	Specialized	Mass
Ideational	Expert	Symbolic
	(Quiet and Clear)	*(Loud and Unclear)*
	Pluralist	Partisan
Organizational	*(Quiet and Unclear)*	*(Loud and Clear)*

Figure 3. Messaging Theory and the *Pathways* Framework

The idea that parties use legislation for messaging purposes is not new. Aldrich (2011) and Campbell et al. (1960) discussed how the electorate uses the party cue to aid in elections. This party cue is a form of messaging. Aldrich (2011) and Key and Cummings (1966) expanded the idea of a party cue into the notion of a party brand, also a form of messaging. In addition, the notion of the electorate holding members accountable requires communication of members' behavior back to the electorate, which is an example of a type of message (Primo and Snyder 2010). The process by which messages are communicated in the policy-making environment is central to Jones and Baumgartner's (2005) disproportional information processing theory, in which loud and clear messages foster policy change. Scholars such as Gilmour (1995), Groseclose and McCarty (2001), and Rose (2001) have all written about how parties use legislation to send messages to voters and provide clear partisan distinctions.

Recognizing that messaging is an integral part of the partisan lawmaking theory, I turn my focus to how well each of the four pathways is able to fulfill the messaging goal of securing a partisan electoral victory. The pluralist pathway provides neither loud nor clear messages because of its narrow scope of mobilization and the lack of deference that enables elected officials to craft compromises. The partisan pathway, in contrast, sends both loud and clear messages to the voters because of its broad scope of mobilization and its low level of consensus in the legislature. The symbolic pathway also provides loud messages because of its wide scope, but the messages are unclear because they contain valance issues. The expert pathway results in quiet messages because of the narrow scope of mobilization, but the clarity of the message is likely to change over time. Scholars such as Heaney (2010), Karol (2009), and Tichenor and Harris (2005) have argued that, over time, interest groups, think tanks, and other sources of expertise have become aligned with one party or the other. I contend that this partisan alignment will enable attentive audiences to detect the deference present in the expert pathway and thereby award credit to the party with whom the expert is affiliated. I will explore this messaging theory further in Chapter 6.

<div align="center">**Conclusion**</div>

This chapter reviewed the literature that I will revisit throughout this dissertation. I began with context for why I will be studying a random sample of laws, consistent with the instrumental view of government associated with policy scholars. I reviewed how power functions in the *Pathways* framework and glossed the literature associated with the

model. I then explained how my first research question may help inform the APD literature on Congress.

However, before I could use the *Pathways* framework to inform any research, it was necessary to develop a valid and reliable system for classifying laws into the four pathways. I developed such a process using semantic scores, durational analysis, and roll call votes. In this chapter, I provided a summary of the literature associated with each of these topics. I then explained why I am using a random selection of enacted laws, as opposed to roll call vote data or major laws, as other scholars have done.

The final section of this chapter was devoted to my second research question: does the pattern of lawmaking, evaluated using the *Pathways* framework, change during periods of unified and divided government between 1951 and 2011, and if so, how? There were two parts to this literature review. The first pertained to the literature on unified and divided government. The second summarized the messaging theory I used to explain how I expect the pathway to vary during periods of unified versus divided government.

CHAPTER THREE: THE DEFERENCE CONNECTION

While this dissertation is focused on the pattern of how laws were made in America between 1951 and 2011, I also wish to bridge the gap between the political science and public policy literatures, as discussed in chapter 2. For this reason, it is important to consider the organizational context in which laws are made and how this context shapes the lawmaking process. Focusing on America's national legislature, political scientists have developed three theories of legislative organizations: distributive, partisan, and informational (Krehbiel 1991). Alternatively, the *Pathways* framework offers a theoretical argument about how the modern U.S. Congress and the president use power to enact laws. However, I assume the existence of a relationship between how legislatures are organized and how laws are made. Specifically, my contribution is to identify deference as the common thread between the organizational theories and the *Pathways* framework. Lawson and Seidman (2020) defined deference as "the giving by a legal actor of some measure of consideration or weight to the decision of another actor in exercising the deferring actor's function" (106). While the recipient of such deference varies, I contend that legislators embrace deference in how they organize legislatures—as described in the distributive, partisan, and informational theories—and in how they use the four pathways to make laws. This connection to deference is important because it joins the organizational literature and the *Pathways* framework, furthering the connection

between political science and public policy. In addition, I argue this connection enables the use of an existing measure of deference to advance the study of changes in American lawmaking.

The remainder of this chapter is organized into six parts. First, I present deference in legislative organizational theory and in the *Pathways* framework separately. Then, I discuss the connections among legislatures, the *Pathways* framework, and deference. Penultimately, I provide two examples: one of Congress deferring and a second that illustrates Congress's lack of deference. Lastly, I discuss the measurement of deference and conclude the chapter.

Deference in Legislative Organization Theories

According to the distributive theory of legislative organizations, legislators do not simply trade votes; rather, they trade special legislative rights across differing policy spaces (Shepsle 1978; Shepsle and Weingast 1995; Weingast and Marshall 1988). These special rights convert simple vote trading into credible exchanges that minimize or eliminate defections. The establishment of these special committee property rights (jurisdiction) come with two additional features. First, by accepting this system of special committee properties rights, members not on the committee of jurisdiction relinquish some of their ability to advance legislation opposed by the committee of jurisdiction (Diermeir 1995). Second, members bargain for their committee assignment to advance their constituents' interests. Thus, on policy matters outside their own committee, members defer to other members. When bargaining for their committee assignment, they

defer to their constituents. I am not the first to apply the term deference to distributive theories; scholars such as Diermeir (1995) and Prince and Overby (2005) have also.

Deference is also an element of partisan legislative theory. There are actually four key partisan legislative theories: responsible party government, conditional party government, the procedural cartel theory, and strategic party government. In responsible party government theory (APSA 1950; Ranney 1951), the decision-making power is concentrated in the hands of a central leader—usually the Speaker or Majority Leader—and the other members of Congress delegate decision making authority to this leader for the good of the party. The action of delegating decision-making authority is a form of deference. The rank-and-file members accord extra weight to the decision made by the central leader when carrying out their legislative duty, consistent with Lawson and Seidman's (2020) definition of deference provided at the start of this chapter. Similarly, conditional party government theory (Aldrich 1995; Aldrich and Rohde 2001; Rohde 1991) argues that party "backbenchers" defer to the party leadership. The cartel model (Cox and McCubbins 1993, 2005) expands the concept of leadership to an oligarchy rather than a single leader; however, the non-senior members still defer to the judgments of the senior members. Strategic party government (Lebo, McGlynn, and Koger 2007) recognizes the electoral cost individual members may incur when complying with party demands but places the responsibility for balancing the marginal cost and benefits of partisan voting in the hands of their party leaders. Again, this practice reflects the idea of deference to the party leaders, which is the common thread in all party models. The rationale for this deference is that members want the benefits that come from the party, so

they defer to the party. Regardless of which specific partisan legislative theory a scholar subscribes to (if any) it is clear that they all involve deference to the party leader or leaders. Thus, distributive and partisan theories of legislative organizations both incorporate deference consistent with the argument I am making in this chapter.

The last major theory of legislative organizations is the informational theory (Gilligan and Krehbiel 1987, 1989a, 1989b, 1990; Krehbiel 1991). According to this theory, policies are enacted to achieve outcomes. However, when enacting the policies, expertise is required to estimate the likely outcomes that are uncertain. To address this uncertainty, committees supply expertise similar to the earlier theories. For example, see the outlier, heterogeneity, and rational outlier principles (Krehbiel 1991). However, information theories go a step further and point out that committees are in a subordinate position relative to the chamber because the chamber endows the committee with their powers and can take them away relatively easily. Thus, distributive, partisan and information theories all recognize the power of the committee, but only information theories incorporate the power of the chamber. In addition to granting the committee's their jurisdiction, the chamber establishes the rule by which the full legislature will consider the committee's proposed legislation. This focus on the rule for chamber consideration is a key feature of information theories and has instigated empirical research regarding the open, closed, or modified rules (see restrictive rule and the procedural commitment principles theories by Krehbiel (1991)). Thus, information theories involve dual-deference. First, members of Congress show deference to the expertise of the committees similar to what is posited in the distributive and partisan

theories. Second, unlike the other theories, information theories incorporate the deference committees must show to the chamber because the chamber controls committee assignment, jurisdictional boundaries, and the rule under which legislative proposals are considered.

Thus, all three theories of legislative organizations embrace the idea of deference. It is important to note that some congressional scholars who have worked on legislative organizational theories, such as Shepsle and Weingast (1995) and Hurwitz, Moiles, and Rohde (2001) have suggested that the three theories (distributive, partisan and informational) do not need to be viewed as competing. Rather these scholars recognized that the differing theories help explain different situations. These scholars expressed interest in incorporating these theories into a comprehensive whole. Identifying the common thread, as I posit here, may help with this effort. In addition, the *Pathways* framework is an attempt to create a more comprehensive model, and it too relies on deference, which I will explain in more detail in the next section.

Deference in the *Pathways* Framework

Before directly addressing the *Pathways* framework it is helpful to recognize that deference is a widely used concept in political science. For example, International relations scholars have a concept of "margin of appreciation" which rests on the idea of deference (Dothan 2018). Specifically, the margin of appreciation is a doctrine applied to supranational institutions, such as the European Convention on Human Rights (ECHR), to govern when they should and should not intervene in national affairs. In other words, Dothan argues that the margin of appreciate is a doctrine that governs when the ECHR

should defer to a national government, and vice versa. In addition, the concept of deference often arises in judicial matters (Lawson and Seidman 2020), such as the idea of *stare decisis*, which requires deference to past decisions (Segal and Spaeth 1996). It has also been applied to the U.S. legislative process in terms of congressional deference to the President in matters of foreign affairs (Svensen 2019), and to congressional organization, as discussed in the previous section. Moreover, I contend that deference is a fundamental variable in the operation of pathways politics. It is a critical, but not exclusive, element of the transition between the pluralist to expert pathway, and from the partisan to the symbolic pathway. I also posit that there is a change in deference between the pluralist and partisan pathways. To further my argument about deference, it is important to review what the *Pathways* authors themselves said about deference.

In the chapter on the pluralist pathway, Conlan, Posner, and Beam (2014) discussed deference among lawmakers, which is internal to the legislative system. Specifically, they discussed reciprocity: "A decision rule to defer to the judgments reached in other committees or subcommittees in the expectation that similar deference will be shown to your (sub) committee's decision was a hallmark of congressional behavior in the pluralist epoch of the 1950s" (29). The authors acknowledge that this form of committee deference does break down, and that other techniques such as logrolling and bundling occur. However, these other techniques occur when "policymakers defer to each other's related or unrelated proposals" (29). This discussion is consistent with the idea that the pluralist pathway is exercised when deference is internal to Congress or nonexistent. Put more simply, lawmakers use the pluralist

pathway when they do not defer. Instead, using the legal authority they possess as lawmakers, they work among themselves to craft the nation's policies. In this way, the pluralist pathway can be considered a lack of deference, because the legal actors (Congress, as a whole) are not giving special consideration or weight to anyone outside the legislature. Individual members may but not the group as a whole. The legislators are making the decisions as a group.

While *Pathway*'s chapter on partisan lawmaking does not actually contain the word "deference," there are three ways in which the chapter supports my claim that deference to political parties is critical to the partisan pathway: majoritarian rules, President as party leader and chief legislator, and party discipline. By majoritarian rules, I mean the idea that whichever party has the most members is in charge. Conlan, Posner, and Beam (2014) confirmed this idea: "In Congress, majority parties shape legislative rules (especially in the House), structure committee jurisdiction and assign leadership positions, control business on the floor, and set the overall policy agenda" (43). This is consistent with the idea that the legislative chamber must defer to the political party with the most members. In addition, the authors discussed the changing role of the President in legislating in the twentieth century, specifically the fact that he has become the party leader and the chief legislator: "partisan presidential policymaking requires the president to use his position as party leader to mobilize a majoritarian coalition in Congress" (45). Deference to the President as party leader is central to the partisan pathway. The President leads policymaking in other ways, such as proposing the policy agenda, which

Conlan, Posner, and Beam distinguished from the partisan presidential lawmaking of the partisan pathway.

Lastly, the discussion of party discipline is central to the partisan pathway, which I contend shows that the legislature is deferring to the political party. Specifically, Conlan, Posner, and Beam (2014) described the partisan style of lawmaking by writing: "The lead actors in this style of policymaking are typically the president and party leaders in Congress, who possess the resources needed to build and maintain the large, majoritarian coalition on which partisan policymaking depends. Such majoritarian coalitions place a high premium on party discipline" (43).

Conlan, Posner, and Beam (2014) have clearly defined the role of deference in the expert pathway: "Experts are generally given deference by bureaucratic and political superiors owing to the technical complexity of their field and the significant credibility that expert pronouncements have in policy discussion and bureaucratic implementation" (68). This is consistent with my idea that lawmakers' deference to professionals is central to the expert pathway.

I posit that the symbolic pathway is consistent with the idea of deference to the public. While Conlan, Posner, and Beam (2014) did not suggest this consistency directly, they did allude to the idea in four ways. Firstly, they quoted Richard Liroff saying, regarding NEPA, "Clearly a gesture of Congressional concern was in order" (91). The second piece of evidence for the authors' belief that the symbolic pathway is consistent with deference to the public pertains to the simplicity of symbolic policy. The authors wrote: "They must be easy to grasp by a large and often inattentive public, which if

suddenly awakened to the issue, may become very attentive indeed" (93). Third, the authors discussed the Contract with America: "focus groups and market testing were used to help frame the issues and select the titles or the items included" (101). Lastly, they quoted Ed Koch, who talked about opposing things, as Mayor of New York City, for which he had voted when serving in Congress. Specifically, Koch said: "who can vote against clear air and water, or better access and education for the handicapped?"(93). These references to a public gesture, garnering public attention, focus groups, and market testing all reflect the relationship between the symbolic pathway and the public. As the example of using focus groups and market testing to select policy initiatives for the Contract with American suggests, I contend that deference to the public is an important element in the symbolic pathway.

The purpose of describing each of these four pathways and illustrating the connection between deference and the discussion of deference in *Pathways* was to illustrate that my focus on deference is consistent with the theoretical argument presented in the book. In addition, it is important to recognize that the *Pathways* framework has a larger scope than this study and contains elements not captured by deference alone. However, I contend that deference captures enough of Conlan, Posner, and Beam's (2014) idea that building a measure based on it will encompass a large enough share of their model to be useful. Having established an understanding of my deference construct and its potential for capturing a large portion of the *Pathways* framework, the following discussion addresses operationalizing a measure of deference using semantic scores,

which are premised on the idea that lawmaking is a talk-centric process as opposed to a vote-centric process (Chambers 2003).[4]

Connecting Legislatures, the *Pathways* Framework, and Deference

Combining the discussion of legislative organizational theories, the *Pathways* framework, and deference, I contend that each of the four pathways is predominately (but not entirely) characterized and distinguished from the other three pathways by examining to whom deference is given. For example, I argue that when lawmakers (including the President) embrace the expert pathway, they defer to people, interests, and/or professionals external to their group who have specialized knowledge relevant to policy design. This is similar to Krehbiel's (1991) discussion of seeking expertise to overcome legislative uncertainty, but it is distinct from information theories because this deference, as I conceptualize it, is external to the legislature, whereas information theories are internally focused.

Alternatively, when Congress utilizes the pluralist pathway, Congress, as a whole, does not defer. The pluralist pathway represents the legislators in Congress exercising their legal duty to create laws and make decisions on behalf of their constituents and the nation as a whole. This is not to suggest that external influence is absent in the pluralist pathway: quite the contrary. Individual members still seek to serve on committees that align with their constituents' interests, as suggested in the distributive theory of

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[4] This is not meant to imply that I think the world actually conforms to either classical deliberative democracy theory, or a more contemporary interpretation of it (see Mansbridge et al. 2010). However, I do lean towards talking as the basis for reaching decisions, not voting, and therefore focus on evaluating the words surrounding the debate.

legislative organizations. Moreover, members develop expertise in their subject matter, as discussed in the information theories of legislative organizations, and may, on an individual basis, choose to defer to outside interests. My contention thus accounts for the possibility of an individual member being influenced by an interest group or bureaucratic agency. However, Congress as a whole does not defer in the pluralist pathway. In other words, my argument is that individual members may have a wide variety of influences and pressures on them, but the resolution of these conflicts will occur inside the legislature among the individuals who hold formal positions within the U.S. Congress.

In contrast, the partisan and symbolic pathways both reflect deference external to the legislature. Partisan lawmaking occurs when the lawmakers defer to the political party's decisions. The partisan pathway is aligned with the partisan theories of legislative organizations discussed in the previous section. The key distinction between the partisan pathway and the partisan theories of legislative organizations is that the partisan legislative theories focus on the party in the legislature and only connect the theory externally to the electorate and reelection after the law is enacted. The *Pathways* framework recognizes the role of the political parties before and during enactment. Similarly, the symbolic pathway is about deferring to the public or publics (Arnold 1990), which are external to the legislature. The theories of legislative organizations include a role for the public in the committee selection process (distributive theory) and in the ex-post accountability process (reelection), but do not suggest a role for the electorate during the lawmaking process. Conversely, the *Pathways* framework does account for the electorate's role throughout the process. First, attentive publics may

attempt to influence their members or any member, in a manner consistent with the pluralist pathway described previously. Secondly, consistent with the symbolic pathway, the public can form a groundswell of support for a policy. Therefore, a law that is enacted because Congress chose to defer to the public's demands would be classified as symbolic under the *Pathways* framework.

Lawson and Seidman (2020) identify three reasons for deference: legitimacy, accuracy, and signaling. These three reasons parallel the three pathways involving external deference: partisan, expert, and symbolic. Specifically, Lawson and Seidman (2020) describe legitimacy power as that coming from the institutional roles each is assigned to play in the agreed upon game. They wrote: "If a legal structure assigns a task to specific actors but not to others, it would violate basic principles of structure, or separation of powers, for the 'wrong' actor to make the decision or to make the wrong part of the decision" (91). In the legislative process, the political party with the most seats in the chamber has the majority, and selects the chamber's leadership from among their party's members. This is viewed as legitimate in the United States, due to the organization of the national lawmaking process and the nation's cultural acceptance of majority rule. It is for this legitimacy reason, described by Lawson and Seidman, that laws are made using the partisan pathway.

In addition to legitimacy, Lawson and Seidman explained that deference occurs when participants wish to improve the accuracy of decisions as follows:

> Perhaps the most obvious reason for an actor to choose to defer to another is accuracy. Maybe the other actor is in a better position than is the deferring actor to get the right answer. This could result from the other actor having more knowledge, more expertise or experience, a better perspective from which to

glean answers, all of the above, and/or any other consideration that puts one in a position to make good decisions. (Lawson and Seidman 2020, 95)

This is clearly the reasoning behind Congress's deference to experts, and the use of the expert pathway.

Finally, the symbolic pathway is an example of signaling discussed by Lawson and Seidman (2020). This type of deference is done so others "…will simply like you better…" (105). The authors suggested that deference communicates something to those to whom one defers. I contend that, when the symbolic pathway is used, lawmakers are signaling to the general public that they are listening. Armed with this conceptual understanding of deference and how it relates to the *Pathways* framework, I will discuss two specific laws for the purpose of illustrating when Congress defers and when it does not.

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Example of Congress Deferring

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This section and the next will provide two examples of enacted laws. The first law illustrates Congress deferring to outside experts (Public Law 87-588). The second law is an example of Congress's lack of deference (Public Law 89-702). The purpose of this discussion is simply to illustrate what deference does and does not look like in a legislative setting. It is my hope that the reader will see how the connotative meanings associated with the words used helps inform the evaluation process.

Public Law 87-588 was enacted in 1961 and traveled through Congress as S. 1771. It was "An act to improve the usefulness of national banks in foreign countries."[5]

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[5] https://uscode.house.gov/statutes/pl/87/589.pdf

Specifically, it gave the Board of Governors of the Federal Reserve System the power to issue regulations to allow U.S. national banks to engage in banking practices in foreign countries which were customary in those foreign countries, but, as of 1961, were prohibited for nationally charted American banks. There are four main reasons why I decided this law followed the expert pathway to enactment: (1) the origins of the law; (2) the level of consensus; (3) the delegation of power to the Federal Reserve; and (4) the unasked question.

On September 12, 1961, the U.S. House of Representatives Committee on Banking and Currency held a hearing regarding S. 1771. The report on the hearing begins with a summary of a previous Senate report numbered 738. The summary includes the following: "The provisions of S. 1771 were contained in S. 3922, 84th Congress, which was introduced at the request of the Board of Governors of the Federal Reserve System" (National Banking Legislation 1961, 11). Careful review of the language introduced at the request of the Federal Reserve in 1955 and the language enacted in 1961 revealed no meaningful changes. Thus, the Federal Reserve originated the law and Congress enacted it as requested, reflecting Congress's deference to the expertise of the Federal Reserve.

The level of consensus surrounding S. 1771. was high. This consensus is evident in the fact that, according to the House Calendar, no roll call votes were recorded, and in the fact that statements of support were present in the hearing record. The summary of the Senate report number 738 concludes with the following sentence: "No objections to the

bill have been made known to the committee" (National Banking Legislation 1961, 11).

In addition, Kenneth M. Johnson, Vice President and Counsel, Bank of American National Trust and Savings Association, testified, in part, "In conclusion it should be observed that S. 1771 is word for word the same as paragraph (f) of chapter 8, section 44, title II of the Financial Institutions Act of 1957. As far as known, there was no opposition to this feature of the act in 1957, and no opposition is known at the present time" (National Banking Legislation 1961, 16). This high level of consensus is consistent with the idea that Congress is deferring to the Federal Reserve.

Moreover, the hearing record evidences this idea of deference, granting full discretion and authorizing the Board of Governors of the Federal Reserve to approve regulations granting additional powers to banks. Specifically, the Senate Report Number 738 included the statement: "S. 1771 would empower the Board of Governors of the Federal Reserve System by regulation to authorize foreign branches of national banks to exercise the usual banking powers of banks of the foreign country in which the branch is located" (National Banking Legislation 1961, 10). In addition, the report discusses the granting of full discretion. "The bill would give the Board of Governors full discretion to consider these and any other respects in which foreign laws and regulations differ from the laws and regulations otherwise applicable, and to permit these foreign branches to engage in such activities if the Board feels that to do so would further U.S. foreign commerce, and would be consistent with sound banking practices" (National Banking Legislation 1961, 11). Lastly, Erle Cocke, Sr., Chairman of the FDIC, wrote in his letter of support for S. 1771: "National banks with capital and surplus of $1 million or more are

now authorized, with the approval of the Board of Governors and upon such conditions

and under such regulations as the Board may prescribe, to establish branches in foreign

countries or dependencies or insular possessions of the United States for the furtherance

of foreign commerce of the United States." (National Banking Legislation 1961, 13) The

empowering, granting, and authorizing of the Federal Reserve Board central to this

legislation is steeped in the concept of deference to the experts at the Federal Reserve.

The last example of why I consider this law to be expert is because of the

deference shown by Congress to the Federal Reserve, which is the unasked question.

During the hearing, Congressman Reuss (D-WI) asked Mr. Johnson to explain the

problem this law was designed to address. The exchange went as follows:

> Mr. JOHNSON. I can give you an example that came to my attention only last
> week. It arose out of Laos and Nigeria. We were trying to secure the business of a
> large contracting firm and it is quite common in the area formerly dominated by
> the United Kingdom for banks to give guarantees which are very similar to what
> we call a surety company bond. They were trying to get their business and we
> were asked if we could give guarantees. We said we might do it disguised as a
> letter of credit. They said, "We do not like that. We are not used to doing business
> that way. Can you or can you not give a straight guarantee?" We said, "No." Then
> they said, "We will take our business elsewhere."
> Mr. Reuss. His business consisted of what he had?
> Mr. JOHNSON. He would have been…
> Mr. Reuss. He had money he wanted to deposit, or he wanted to lend something
> or what?
> Mr. JOHNSON. This was primarily a deposit of money that he wanted to deposit
> with us. When I say, "he" it was a corporation.
> MR. REUSS. But the corporation obviously had in mind a loan or something, or a
> guarantee in the future, and because you could not give the kind of guarantee
> customary in Laos, he said, "I will take it across the street"; is that about it?
> Mr. JOHNSON. That is exactly correct.
> MR. REUSS. That is a very good answer to my question. (National Banking
> Legislation 1961, 16-17)

The fundamental question that no one asked during this exchange, or at any time during any of the hearings, was as follows: why was it, in 1961, impermissible for an American bank to offer such a guarantee? No one focused on the risks; they simply trusted the Federal Reserve to handle it and focused on doing what Congressman Reuss described as "anything and everything possible to increase the exports of this country" (National Banking Legislation 1961, 17).

In conclusion, the September 12 House Banking Committee hearing record demonstrates that the Federal Reserve originated S. 1771 and it was a widely supported proposal. In addition, the law granted a high level of discretion to the Federal Reserve and Congress failed to push back even when presented with obvious questions. For these reasons, I concluded that Public Law 87-588 traveled the expert pathway to enactment and that the key characteristic of this trajectory was the deference Congress showed to the Federal Reserve, as evidenced in the discussion in the hearing records.

Example of Congress's Lack of Deference

In contrast to the external deference Congress exhibited towards the Federal Reserve in the previous example, Public Law 89-702 is an example of Congress's lack of deference. There are a number of ways in which this lack of deference was exhibited, such as denying the Department of Interior's request to include sea otters in the bill, and the compromise over the funding arrangement. However, the clearest example of the lack of deference comes from an exchange I would title "As the Senator Well Knows." This is a dispute during a hearing between the Senate Committee Chairman and the Department of Interior's witness over the formal title of the bill: a rather trivial matter in most

hearings. The Department of Interior witness, Mr. McKernan, was taking the Senator

through the list of amendments the Department wanted. The first was an amendment to

the official title of the bill to include sea otters. The exchange was as follows:

> Senator BARTLETT: Let me ask you two questions in connection with what you
> just said. Is it illegal for American fishermen to take salmon on the high seas?
> Mr. MCKERNAN: Yes; and that is a Federal law, of course.
> Senator BARTLETT. The Japanese take salmon on the high seas.
> Mr. McKERNAN. Yes.
> Senator BARTLETT. We objected.
> Mr. MCKERNAN. Yes.
> Senator BARTLETT. Can they refrain from taking them?
> Mr. MCKERNAN: They have in the eastern north Pacific, of course. They have
> refrained from taking salmon east of 1750 W. longitude, as the Senator well
> knows.
> Senator BARTLETT. Yes; they do, so far as we are aware, except occasionally
> they come across the line, when we first discover them there. But they don't
> refrain because of our law barring American citizens from doing this. They refrain
> because of the treaty arrangements; is that right?
> Mr. McKERNAN. That is perfectly true. I don't wish to-make a big point of this
> Mr. Chairman. But, I think the chairman will agree that if we prohibit our own
> citizens from taking sea otters beyond the territorial -limits we would have a
> much better basis for a complaint, to any foreign government whose nationals
> took sea otters. Without this protection it seems to me that we would not have as
> good a reason for objecting, although I think this perhaps is a matter of judgment.
> But the other point that I make is that American citizens, for example, halibut
> fishermen who do not stop in Alaskan ports, also fish in these waters. It would be
> legal for them to harvest sea otters on the high seas if some provision were not
> provided by Federal law. Essentially what we are trying to do is to protect sea
> otters through Federal legislation consistent with Alaskan law. To fail to do that in
> some form or another in this bill would leave this whole question open and allow
> the harvest of sea otters beyond the territorial sea.
> Senator BARTLETT. You want to protect sea otters
> Mr. MCKERNAN: I want to protect sea otters.
> Senator BARTLETT. I want to protect sea otters. No one wants to see sea otters
> taken until there are enough to permit this being done. My only point—and
> parenthetically I will say that you make out a case—is that you know and I know,

for reasons that they will have to explain later, the officials of the State of Alaska have made in the past objections—maybe their opinions have been altered—to incorporate one with the other. The Secretary of Alaska, Mr. Hugh Wade, will follow you as a witness. I don't know whether he would be prepared to declare on this point or not. We will ask him. And then, after he has spoken, maybe you could come back to the stand. As far as I am concerned, if this will give you any assurance, I am willing to introduce a bill on this separate subject today in the Senate and call for prompt hearings. I don't want to leave an area of doubt here. But I don't want to endanger this bill, either. Let's go on to the next amendment. (Fur Seals—Pribilof Island 1965-66, 126-127)

The tone of these two hearings and the records surrounding these two laws are very different. It is this difference between Congress' acceptance of the Federal Reserve's request, in contrast with the contentious exchange between Senator Bartlett and Mr. McKernan (representing the Department of Interior) that I am attempting to highlight by drawing attention to the concept of congressional deference.

Measurement of Deference

Recognizing the merits of the deference in lawmaking, and comprehending its application to the *Pathways* framework, I turn, at this point in the chapter, to the measurement of deference. Freeland and Hoey (2018) used semantic differential scales and ACT to develop a deference score for individual people for the purpose of testing the validity of current measures of social status. Their individual level focus necessitates the use of ACT. Since my deference focus is about group interaction—Congress to experts, partisans, or the public—I will limit my measure to the use of the semantic scores. In addition, the scores Freeman and Hoey (2018) used were generated using ratings scales, which have been criticized (Baumgartner and Steenkamp 2001; Presser and Schuman 1996). To address these concerns, Mohammad (2018) developed a 20,000-word English

dictionary using "a comparative annotation technique called Best-Worst Scaling (BWS) […] The scores are fine grained real-valued numbers in the interval from 0 (lowest V, A, or D) to 1 (highest V, A, or D)" (1). The "V" stands for valance, the "A" for arousal, and the "D" for dominance. These terms, and the validity of these scores as a concept, have been well researched (Osgood, May, and Miron 1975; Osgood, Suci, and Tannenbaum 1957).

To apply the semantic scores to the *Pathways* framework, I contend that the arousal scores will approximate the scope of mobilization and that the dominance will indicate the level of deference. Specifically, the scope of mobilization can be viewed in terms of Schattschneider's (1960) image of a fight, in which the losing side wants to expand the scope by drawing more attention to the fight/issue. One way to draw attention and promote action is to increase the arousal level of the language used (Poels and Dewitte 2008). Thus, the scope dimension is measured using the arousal scores. In short, more arousing language correlates with more attention, which increases the scope of the conflict.

The dominance scores are theorized to relate to the level of deference reflected in the language surrounding the legislation. I contend that, as dominance increases, Congress is being more deferential to experts or the public. However, for political parties, Congress will not show the same increases in dominance language for two reasons. The first is because the deference is not to "others," but to an organization, consistent with the *Pathways* conceptualization. The second reason is because political parties have a formal role in the organization of Congress. Thus, high dominance scores will be attributable to

the expert or symbolic pathway. Low dominance scores will correspond to either the pluralist or partisan pathway.

If we overlay the deference concept and its operationalization using dominance and arousal scores onto the existing *Pathways* framework, it would look like this:
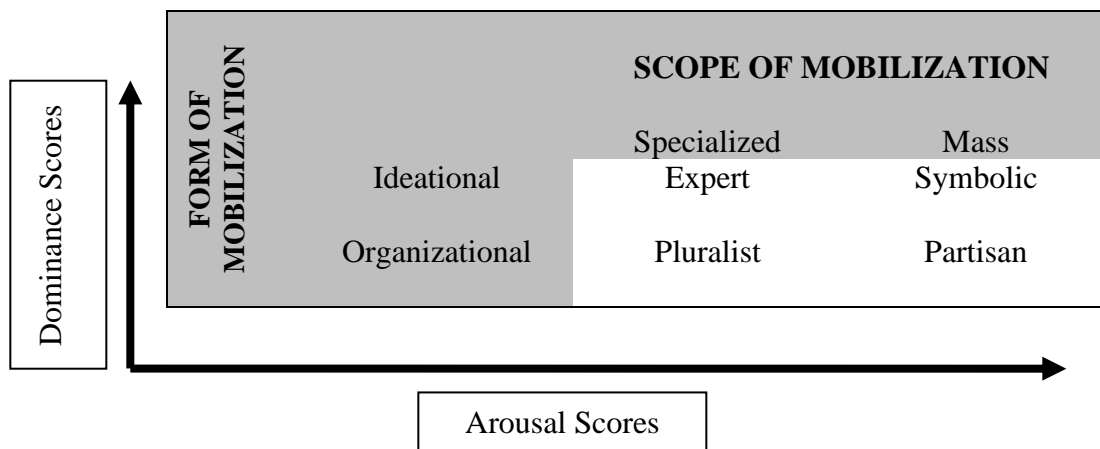
Figure 4. The *Pathways* Framework and the Measurement of Deference

Borrowing from Freeland and Hoey's (2018) use of semantic scores to measure deference, theorizing about how these scores map onto the *Pathways* framework, and recognizing Mohammad's (2018) dictionary can be used to find semantic scores for words; however, there are two issues remaining. The first issue is how to identify the words, and second is connecting those words to the laws under investigation. Both of these issues can be addressed by using congressional reports and hearings.

I contend that identified laws can be connected to specific congressional hearings and reports. The hearings and report can be used to identify the key words, which I define

as the 100 most frequent words. The words can then be connected to semantic scores

using Mohammad's (2018) dictionary and ultimately mapped onto the Semantic-Policy

space. Moreover, I posit that the laws will map into four quadrants in that Semantic-

Policy space, which will correspond to the four quadrants presented in the *Pathways*

framework (see Figure 4). I tested this contention in phase two of this project (the

preliminary analysis), which will be discussed in more detail in the following chapter.

Conclusion

This chapter began by focusing on the construct of deference and building a

connection between the political science literature and the public policy perspective.

Specifically, I adopted Lawson and Seidman's (2020) definition of deference: "the giving

by a legal actor of some measure of consideration or weight to the decision of another

actor in exercising the deferring actor's function" (106). I then discussed the three

primary theories of legislative organization—distributive, partisan, and informational—

from the political science literature for the purpose of illustrating how each contains an

element of deference. Distributive theories capture deference to the committee of

jurisdiction and deference to the electorate during the committee assignment process

within Congress. Partisan theories reflect the common practice of deference to the party

leadership within the legislature. I conceptualized congressional leadership both

narrowly, as including only chamber and floor leadership (Speaker, Majority Leader,

Whip), and broadly, as also including the committee chairs and ranking members.

Information theories build on the concept that members defer to the committee of

jurisdiction and add recognition of deference to the full chamber's power to define the committee jurisdictions and establish the procedural rules for considering legislation.

This chapter then discussed the role of deference in the four pathways. Specifically, the expert pathway reflects deference to individuals and organizations with specialized knowledge, which I illustrated with the Federal Reserve example. The partisan pathway reflects deference to the political parties, both within the legislature and outside of it. The symbolic pathway reflects deference to the public at large. Lastly, the pluralist pathway involves the absence of deference. The lawmakers negotiate the policies among themselves and do not give special weight or consideration to the opinions of others. I illustrated the lack of deference in the pluralist pathway using the example of the Department of Interior's discussion of sea otters.

Establishing this connection between legislative organization theories from political science, the *Pathways* framework, and deference raises a question about how to measure deference. Borrowing from Freeland and Hoey's (2018) research, I argued that semantic scores can be used to operationalize the role of deference in the *Pathways* framework. In building this link, I also made a connection between ACT, semantic scores, and lawmaking, which may have implications beyond this study (see Future Research, chapter 7).

By establishing deference as a construct of lawmaking and demonstrating that semantic scores are a reasonable approach to measuring deference and applicable to the *Pathways* framework, I laid the foundation for the rest of this study. In the next chapter, I will explain the research methodology I utilized and identify two key issues: (1) the lack

of directly comparable data and (2) the *Pathways* operationalization challenge. Both of

these challenges stem from the fact that *Pathways* does not provide a clear continuum for

the vertical dimension of the typology. The deference construct provides a vertical

continuum (dominance scores, see Figure 4) and thereby enables direct comparisons

across all four pathways, reflecting to whom or what Congress grants deference. Thus,

deference and semantic scores are key to operationalizing the policy coalition focused

Pathways framework, which is the topic of the next chapter.

CHAPTER FOUR: HOW TO OPERATIONALIZE THE *PATHWAYS* FRAMEWORK

The purpose of this chapter is to introduce the research methodology for this exploratory sequential mixed methods study regarding changes in American lawmaking between 1951 and 2011, which uses *Pathways* as a theoretical framework. This approach allowed for further development of the *Pathways* framework, a longitudinal examination of lawmaking unencumbered by issue areas, and has the potential to raise new research questions. The research plan—including the research question; the methodology; a discussion of the *Pathways* operationalization challenge and solution; the procedures for random selection of the laws; and the analysis method—are components of this chapter.

Research Questions

This chapter is focused on how to answer this study's principal research question: How has the pattern of lawmaking in America changed between 1951 and 2011? As discussed in chapter 1, some scholars believe the pattern of lawmaking is fairly stable (Alder and Wilkerson 2012; Carson, Finocchiaro, and Rhode 2010, and Curry and Lee 2019). These scholars stress the consensual nature of the majority of congressional enactments. Alternatively, others scholars, such as McCarty 2007, have focused on major laws and found reduced productivity and substantive changes in policies. Among political scientists there is a debate over the value of "*how*" questions.

When researching "*how*" questions, some scholars view the research as factual or descriptive. Descriptive questions are often considered less desirable, in political science research, which generally aims at identifying relationships between or among variables; however, when a factual dispute exists, factual and descriptive research can be valuable (Johnson and Reynolds 2012). Alternatively, I would argue that this research does explore the relationship between two variables. The first variable is the use of the four pathways and the second variable is time, which is what makes this study longitudinal (Kraska-Miller 2014). Regardless of which view the reader adopts—descriptive or longitudinal—this "how" question is the focus of the third phase of this four-part research project.

The fourth and final part of this project is focused on answering the question: what effect has unified or divided government had on America's pattern of lawmaking between 1951 and 2011? I will provide a brief discussion of my approach to answering this question in the analysis method section of this chapter. I also provide an answer to this question at the end of Chapter 6.

Methodology Selected

This research project is best described as an exploratory sequential mixed methods study (Creswell and Creswell 2018; Creswell and Plano Clark 2018; Watkins and Gioia 2015). This type of study is primarily described as having two parts: a qualitative phase that subsequently informs a quantitative phase (Watkins and Gioia 2015). I began with qualitative research for two reasons. First, *Pathways* suggests four predictor variables but only provides 21 examples of classified enacted laws; this is too

small a sample size for quantitative analysis (de Jong et al. 2017). Second, as described in *Pathways*, the change from the organizational form to the ideational form is not directly comparable, by which I mean it is unclear what is changing when a law moves from the pluralist pathway to the expert pathway or from the partisan pathway to the symbolic pathway. Gerring (2017) recommended qualitative analysis when observations are noncomparable. For these reasons, I adopted a qualitative approach initially and transitioned to a quantitative approach, consistent with an exploratory sequential mixed methods research design.

An exploratory sequential mixed methods approach is generally described as having two parts; however, this research project actually had four. The first phase involved archival research (Frisch et al. 2012). In the first phase, I read documents regarding 50 randomly selected laws and classified those laws based on my understanding of the *Pathways* framework. This phase gave rise to the idea of deference in lawmaking (see Chapter 3). The deference construct was critical in the transition from a qualitative study to a quantitative one. It was what made the four pathways directly comparable. The second phase of this research was the validation study, which is discussed in this chapter. The purpose of the second phase was to develop a valid and reliable system for classifying laws into the four pathways.

The third phase, which is the primary focus of this chapter (and the next) is both quantitative and longitudinal. It is considered quantitative because of the data collection process, which focuses on two features associated with quantitative research: numerical data and replicability (Creswell and Creswell 2018). Numerical techniques used to

answer the research question will be addressed in the next chapter. The study is

considered longitudinal because it explores one variable, the pathways, over time

(Kraska-Miller 2014).

In the fourth and final phrase of this research project, I explore the effects of

unified and divided government on American's pattern of lawmaking (see Chapter 6). In

addition, consistent with the exploratory sequential mixed methods approach, I examine

the basic features of the data including the frequencies, the Pearson's Chi2 test of

independence, Kruskal-Wallis test and correlations. The final phase of this research

project is discussed in more detail at the end of Chapter 5.

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The *Pathways* Operationalization Challenge

</div>

The dependent variable for this study is the number of laws enacted during six

decades, categorized into the four pathways. To operationalize this dependent variable, it

was necessary to develop a valid and reliable system for classifying a random selection of

557 laws (3% of laws enacted in each Congress between 1951 and 2011). The number of

laws and time constraints precludes in-depth, case-by-case analysis of each law.

Recognizing this constraint, it will be helpful to clarify what I mean by validity and

reliability with respect to this study and then discuss each in the context of my dependent

variable. "Validity refers to measuring what we think we are measuring"(King, Keohane,

and Verba 1994, 25). "Reliability in this context refers to the consistency or repeatability

of an instrument" (Creswell and Creswell 2018 154). Consistent with these definitions,

the remainder of this chapter describes my development of a valid and reliable process

for classifying laws into the four pathways.

With respect to the operationalization of my dependent variable, validity means measuring the scope and form of mobilization consistent with the *Pathways* framework. Thus, I began by assuming the four variables (Chief Sponsor, Public Salience, Roll Call Votes, and Enactment Time) proposed by the authors (Conlan, Posner, and Beam 2014) were valid indicators. I then sought to operationalize them in a manner consistent with the discussion in *Pathways* and undertook an exploratory study. Since these variables were included in *Pathways*, I do not provide a theoretical justification for their validity. However, these variables alone do not provide a complete method for operationalizing my dependent variable. To address this, I added a third element—semantic scores—and found it to have acceptable validity. For more detail on the literature related to semantic scores, see Chapter 2; for the theoretical justification for using semantic scores, see Chapter 3.

With respect to the reliability of this classification process, I concentrated on two factors: procedures and transparency. The classification procedures discussed in this section are substantially detailed, so others can replicate the process. In addition, I disclose all my decision rules so that other scholars can easily apply them and obtain the same results. However, it is important to recognize that these decision rules are built on exploratory research and are representative of the trade-offs made during any research design (Gerring 2012). In addition, this study embraces the pragmatic worldview, specifically two important ideas: (1) what works and (2) the utilization of multiple approaches (Creswell and Creswell 2018). Thus, this presentation of one approach should be viewed as a valid and reliable first step in operationalizing the *Pathways* framework,

not as the definitive answer. Because it is a relatively new theoretical argument, one of

the challenges of using the *Pathways* framework is the limited number of classified laws.

This dissertation, as a first attempt at a valid and reliable classification system, which I

used to categorize 557 laws, makes an important contribution to the literature on public

policymaking and to future studies of the *Pathways* framework in particular.

      Pathways contains a *prime facie* case for the framework using four variables

(Chief Sponsor, Public Salience, Degree of Consensus/Partisanship, and Enactment

Time). After exploring each of these variables, I determined that these variables alone

cannot be used to operationalize a valid and reliable typology (Gerring 2012) for

classifying laws into the four pathways because they are not discriminating enough to

capture the subtle complexities of lawmaking that are critical to the *Pathways* framework.

Specifically, I found that two of the variables (Chief Sponsor and Public Salience) were

not discriminating enough to aid in measuring the scope and form of mobilization, this

finding is discussed in more detail in the methodological appendix. In contrast, I found

the other two variables (Roll Call Votes and Enactment Times) to be useful and included

those in the classification process subsequently described.

      The authors of *Pathways* acknowledged the limitations of their four variables

when they wrote: The variables "do not provide a definitive test for the pathways

framework or all the critical variables that distinguish pathways from one another" (5). I

advance this line of research by undertaking a validation study using 21 of the laws

classified in *Pathways* for the purpose of developing and testing a system for classifying

laws. The remainder of this chapter will present the validation study; solving the

operationalization challenge, selecting the law, and discussing how I will analyze the hypotheses related to the pattern of lawmaking and ultimately answer this study's first research question.

Validation Study

In this dissertation, I identified a random selection of laws using the Public Law number for each bill. Thus, each law studied is the entire law, not a subpart, and has been enacted. The enactment status is important since the purpose of this study is to examine changes in laws over time. Examining non-enacted bills is unnecessary given this purpose. Moreover, the legislative politics, which the *Pathways* framework evaluates, is different when different bills are rolled together into an omnibus package (e.g., when 11 appropriations bills are combined into a single budget proposal) versus when a law is enacted as a standalone piece of legislation. Also, it is hard to determine the appropriate measure for the sub-part of a law. For example, is the vote on final passage of the law an applicable representation of the support for all of the subparts? For these reasons, I focus on whole laws, and do not study subparts of enacted laws, and do not study bills that have not been enacted.

Thus, to conduct a validation study and develop a classification system, I needed a set of laws that met three criteria: (1) they had to be enacted; (2) they had to be complete laws, not parts of laws; and (3) I had to already know how they should be classified using the *Pathways* framework so I could reverse engineer a classification process. The only place to find a set of laws meeting the third criteria was from *Pathways*, in which Conlan, Posner, and Beam (2014) classified 42 laws. However, half

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these laws did not meet the first two criteria, as I've defined them for this study.

Specifically, four of the laws were not enacted (1993 Clinton Health Care Plan; 1999

Gun Show Control Act; the 2000 Security and Exchange Commission Reform Act; and

the 2000 Budget Lockbox). In addition, 17 of the 42 proposals were not enacted as

standalone bills. Table 1 provides a list of the laws studied in *Pathways*, which I used for

the validation study discussed in this chapter.

Table 1. List of Laws Included in *Pathways* That Were Enacted as Standalone Laws

2002 No Child Left Behind Act	1996 Safe Drinking Water Amendments
1988 Family Support Act	Repeal: 1989 Medicare Catastrophic Care Act
1986 Tax Reform Act	2002 Farm Bill
1982 Tax Equity and Fiscal Responsibility Act	1990 Farm Bill
1990 Clean Air Act Amendments	2008 Farm Bill
1988 Medicare Catastrophic Care Act	2002 Sarbanes-Oxley
1993 Brady Bill	1986 Asbestos Hazard Emergency Response
1981 Economic Recovery and Tax Act	1996 Defense of Marriage Act
2010 Dodd Frank	1998 IRS Restructuring and Reform Act
2010 Statutory Pay-As-You-Go	1986 Safe Drinking Water Amendments
1986 Firearm Owners Protection Act	

Operationalizing the *Pathways* Framework

Measurement problems are common in political science: "The first step in

measuring any phenomenon of interest to political scientists is to have a clear sense of

what the concept is that we are trying to measure" (Kellstedt and Whitten 2013, 99). This

is where the pathways challenge begins. As addressed previously, the four pathways are

conceptualized as a two-by-two table representing the scope of mobilization and the form

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of mobilization. The scope is easy to conceptualize for measurement. The scope is measured as the number of people attending to the policy issue. However, the change in form of mobilization does not immediately offer a simple measure. However, in Chapter 3, I provided a discussion of deference in lawmaking, which provides a means of measuring the conceptual change in the form of mobilization using semantic scores (for a more detailed description of deference in lawmaking, see Chapter 3). The remainder of this chapter will focus on operationalizing a pathways classification process using my preliminary analysis as an illustration and as a validating comparison.

To operationalize the *Pathways* framework, I used Kluge's (2000) stages for empirically grounded type construction. Kluge's first stage is to define the dimensions of the typology. Conlan, Posner, and Beam (2014) suggested four variables that could be used to estimate the form and scope of mobilization: chief sponsor, salience, roll call votes, and duration. I began this project assuming these were valid and reliable indicators because of their inclusion in *Pathways*.

The second stage of Kluge's (2000) four-part process involves evaluating the cases and dimensions for empirical regularities. This phrase requires examining the independent variables against the cases to determine the internal homogeneity and the external heterogeneity. In other words, can each variable be used to distinguish one category from another in the typology? During this process, I rejected the chief sponsor and salience variables as valid indicators (see Appendix A for details.) I also decided to include semantic scores because they are the measure of the deference construct discussed in Chapter 3. Deference is the construct I used to distinguish the four pathways

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and make them directly comparable (Gerring 2017) so this study could transition from the qualitative phase to the quantitative phase (Creswell and Plano 2018). In the next section of this chapter, I will discuss my empirical examination of each of the three variables: semantic scores, roll call votes, and duration.

The third phase of Kluge's (2000) process is to analyze the data and reduce the groups, as appropriate. This part of the process primarily focuses on reducing the space covered by the attributes. In the case of this study, which involves four semantic classes, three roll call vote classes, and four durational classes, the conceptual space is comprised of 48 combinations or classification paths. However, by analyzing the three variables and the 21 cases, I determined this space can be reduced to the 22 decision paths presented in Table 4 below. I provide a full explanation for these decision paths in Appendix A.

The fourth and final stage of Kluge's procedure is to discuss the types constructed from the above process. Since the purpose of my application of Kluge's process was to operationalize an existing typology, I deferred to *Pathways* for the detailed discussion of the types estimated by this process. My purpose in applying Kluge's (2000) empirically grounded constructed type process to *Pathways* was to measure the laws for the purpose of identifying the pathways used for enactment. In this way, I adopted Collier, LaPorte, and Seawright's (2012) concept of measurement, which requires the assignment of labels (numeric or non-numeric) based on rules.

The remainder of this section is organized into four parts, each of which I illustrate using the 21 laws identified for this validation study. The four parts are: semantic scores, roll call votes, durational analysis, and classification process.

Semantic Scores

Using Saif Mohammad's (2018) dictionary of semantic scores for words, I generated the semantic scores for the individual laws by averaging two scores: one based on hearings and the other based on reports.[6] I developed the hearing and report scores by building two corpora for each law (one for hearings and one for reports). Then, I used NVivo to identify the 100 most frequent words in each corpus. I then obtained the semantic score for each of those 100 words for both the hearings and reports from Mohammad's (2018) dictionary. I averaged the score for all the identified words to calculate the hearing and report scores, then averaged these together to calculate the law's semantic score. To build the corpora, I used the legislative histories provided in the *ProQuest Congressional* database. In both cases, I used the documents for the last session of the last Congress for which data was available. This temporal choice enabled me to place the information analyzed as close as possible to enactment, and limit the amount of data I needed to handle.

In the validation study, I began by searching for each bill by name. In the third phase of my research, I used the public law number to begin my search. For all 21 laws examined in the validation study, ProQuest had at least one hearing and one report I could use to calculate the semantic scores. Using these procedures, I was able to build

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[6] If both hearings are reports were not available for the law, just the one available document type was used. If neither hearings nor reports were available, floor debates were used. Floor debates were rejected as an initial document because they are more time consuming to collect. During the validation study no floor statements were needed. When classifying the 557 laws for this study 42 floor statements were needed.

two corpora for the 21 preliminary laws studied, which included 182 hearing documents and 64 reports.

I treated these corpora as two separate projects in NVivo. I used the word frequency command in NVivo to generate the list of the 100 most frequently occurring words in the set of documents associated with the law. I exported the word frequency lists from NVivo to Excel then found the semantic scores for each word in the 20,000 word Canadian VAD dictionary (Mohammad 2018). I was able to find all of the words identified by NVivo in the dictionary; however, occasionally, NVivo identified a number instead of a word. There are no semantic values for numbers, so I ignored these data and calculated the law's semantic score using the remaining words. I did this for the reports and for the hearings and then averaged the two sets of scores together. Consistent with Kluge's (2000) empirically grounded constructed type process, I examined the semantic scores for the 21 laws examined in this validation study and plotted them in the semantic–policy space (see Figure 5). The quadrant labels indicate which colored shapes *should* be in that space, according to the *Pathways*-deference argument presented in Chapter 3.

Semantic Policy Space
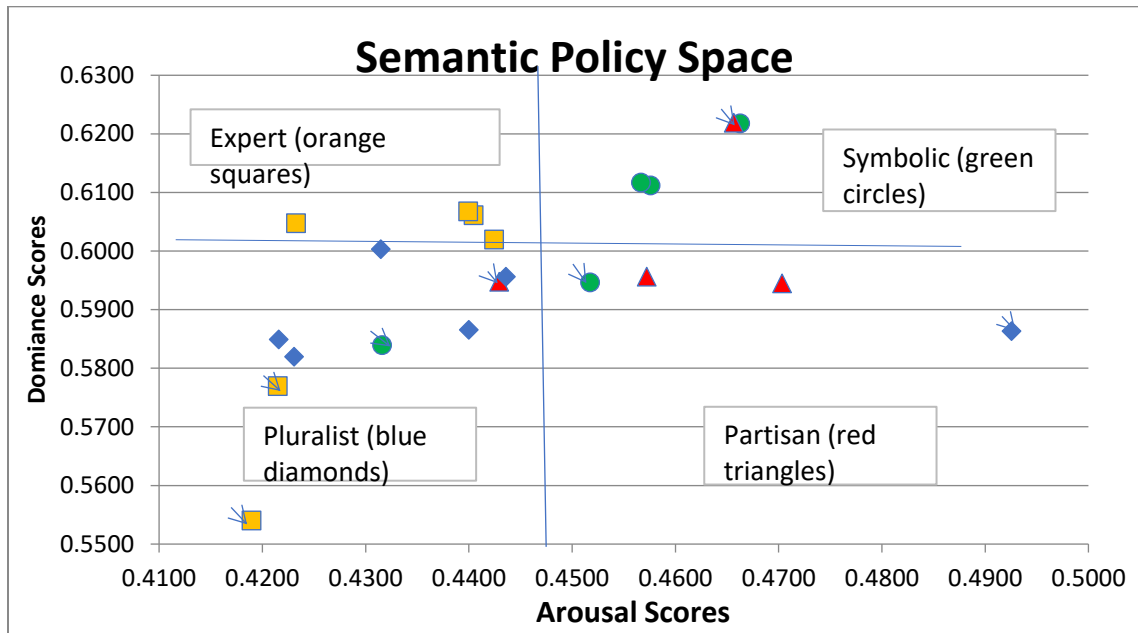
Figure 5. Semantic-Policy Space[7]

The arrows in Figure 5 mark the seven incorrectly classified laws; the semantic scores only correctly classified about 67% of the laws, which was noticeably better than random assignment which would yield a 25% correct classification rate. A law is considered correctly classified if the semantic classification for the law matches the classification given in *Pathways*. Given that this was a proxy indicator attempting to capture a part of *Pathways*, it was a useful starting position. However, by considering other indicators, specifically roll call votes and duration, I was able to improve upon this process.

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[7] Based on examination of the preliminary analysis displayed above and the 50 laws studied in phase 1 of this project, I defined the horizontal line as y =.6012 and the vertical line as x=.4477 in the computer program used in phase 3 to classify the laws. For more details, see Appendix A.

Roll Call Vote Analysis

To conduct the roll call vote analysis, I used Voteview data and Congress.gov to find roll call vote numbers and the date each vote occurred. The numbers and dates enabled me to use *CQ Almanac's* "Floor Vote tables" to find the voting records including the partisan breakdowns. I then calculated the percentage of party support in each chamber and averaged them together to obtain the level of overall party support. Using the roll call vote analysis process, I was able to classify the laws into one of four categories: partisan, symbolic, other and those with no roll call votes.

This discussion will focus on the first three categories, Partisan laws should have a voting pattern in which 50% or more of one party supports the bill, and 50% or more of the other party opposes the bill. This is the vote pattern that reflects the situation in which the majority of one party opposes the majority of the other party. Alternatively, symbolic laws should garner at least 66%[8] support from both parties. I considered any unanimous consent requests or voice votes to have greater than 95% support. These classification rules provided for three possible outcomes: partisan, symbolic, or other. I used the category "other" because pluralist, expert and symbolic policies are all likely to have high degrees of consensus and low levels of partisanship. Symbolic laws tend to have more agreement than pluralist or expert laws, so I used "other" as a catch-all for laws not meeting the symbolic threshold. Conlan, Posner, and Beam (2014) alluded to a similar

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[8] I use 66% because that is what is required under the House Rule to pass a bill via a suspension, which is a process set up in the House for consideration of consensus legislation. https://www.congressionalinstitute.org/112th-congress-house-floor-procedures-manual/viii-suspension-of-the-rules/

observation: "Although the four cases of expert policymaking were largely consensual …

the four examples of symbolic policymaking were even more so" (7). As required by

Kluge's (2000) empirically grounded constructed type process, I examined the roll call

vote analysis using the 21 laws. The results appear in Table 2. The *Pathways* column

indicates how Conlan, Posner, and Beam (2014) classified the law. The classification

column indicates how I classified the law based on the roll call vote analysis process.

Any incorrectly classified law appears in italics in the classification column.

Table 2. Roll Call Vote Analysis

Title	Public Law #	Pathway	Democrat Support	Republican Support	Classification
2002 No Child Left Behind Act (NCLB)	107-110	Expert	92.5%	89.5%	*Symbolic*
1988 Family Support Act	100-485	Expert	93%	93%	*Symbolic*
1986 Tax Reform Act	99-514	Expert	71.5%	72%	*Symbolic*
1982 Tax Equity and Fiscal Responsibility Act	97-248	Expert	35%	67%	*Partisan*
1990 Clean Air Act Amendments	101-549	Expert	99.5%	88.5%	*Symbolic*
1988 Medicare Catastrophic Care Act	100-360	Expert	98%	68.5%	*Symbolic*
1993 Brady Bill	103-159	Partisan	78.5%	34.5%	Partisan
1981 Economic Recovery and Tax Act	97-34	Partisan	67%	98.5%	*Symbolic*
2010 Dodd-Frank	111-203	Partisan	4.5%	95%	Partisan
2010 Statutory Pay-As-You-Go Act (PAYGO)	111-139	Partisan	97%	0%	Partisan
1986 Firearm Owners Protection Act	99-308	Pluralist	>95%	>95%	*Symbolic*
1996 Safe Drinking Water Act Amendments	104-182	Pluralist	92%	100%	*Symbolic*
Repeal of the 1989 Medicare Catastrophic Care	101-234	Pluralist	>95%	>95%	*Symbolic*
2002 Farm Bill	107-171	Pluralist	76.5%	54%	Other
1990 Farm Bill	101-624	Pluralist	68.5%	*69.5%*	*Symbolic*
2008 Farm Bill	110-246	Pluralist	100%	100%	*Symbolic*
2002 Sarbanes-Oxley Bill	107-204	Symbolic	100%	99.5%	Symbolic
1986 Asbestos Hazard Emergency Response Act	99-519	Symbolic	>95%	>95%	Symbolic
1996 Defense of Marriage Act	104-199	Symbolic	67%	100%	Symbolic
1998 IRS Restructuring and Reform Act	105-206	Symbolic	96%	100%	Symbolic
1986 Safe Drinking Water Amendments	99-339	Symbolic	100%	69.5%	Symbolic

Overall, this process resulted in a 42% correct classification rate. Only nine of the 21 laws are correctly classified on roll call vote data alone. Roll call vote analysis, under these rules, correctly identified all five of the symbolic laws, and three out of four partisan laws. Conversely, roll call vote analysis incorrectly identified 10 of the 12 expert and pluralist laws as symbolic. These 10 laws were symbolic-roll-call false positives. Thus, the strength of including this variable does not lie in its overall influence; rather its strength is relative to partisan laws. Based on this preliminary analysis, roll call vote analysis does not provide a reliable means for distinguishing pluralist, expert, and symbolic laws. Thus, when the roll call vote classification is symbolic, the law's final classification will rest heavily on the semantic and durational analysis. See Table 2 for more details.

Durational Analysis

The final indicator included in this classification process is enactment time: the length of time between introduction and enactment. I call this the durational measure. Conlan, Posner, and Beam (2014) proposed enactment time as a variable to consider for classifying laws (7). However, they made an important distinction in their discussion of time between incubation and enactment time. Incubation was the period between the first policy discussions of the issue and enactment. The incubation period usually spans more than one Congress. In contrast, enactment time is used to mean the period of congressional consideration from introduction to enactment within a specific Congress. Researching the incubation period was beyond the scope of this research project, so I used the enactment time.

The development of a durational classification scheme was the product of two factors: first, the discussion of enactment time in *Pathways* provided the relative speed of each pathway. Conlan, Posner, and Beam (2014) described symbolic laws as the fastest, then partisan, pluralist, and lastly, expert as the slowest (7). The second influence on the durational classification scheme was the validation study, in which I used a trial-and-error process to develop specific cut scores to maximize the correct classification rate. Table 3 provides the results of the empirical examination of this variable, consistent with Kluge's (2000) process, and Figure 6 shows the key that I developed to create the classifications. In Table 3, the *Pathways* column indicates how Conlan, Posner, and Beam (2014) classified the law, and the classification column indicates how the durational analysis classified the law. Any incorrectly classified law appears in italics in the classification column.

Table 3. Enactment Time and Durational Classification

Title	Public Law #	Pathway	Days	Classification
2002 No Child Left Behind Act (NCLB)	107-110	Expert	286	*Pluralist*
1988 Family Support Act	100-485	Expert	564	Expert
1986 Tax Reform Act	99-514	Expert	319	Expert
1982 Tax Equity and Fiscal Responsibility Act	97-248	Expert	290	*Pluralist*
1990 Clean Air Act Amendments	101-549	Expert	421	Expert
1988 Medicare Catastrophic Care Act	100-360	Expert	411	Expert
1993 Brady Bill	103-159	Partisan	278	Partisan
1981 Economic Recovery and Tax Act	97-34	Partisan	20	*Symbolic*
2010 Dodd-Frank	111-203	Partisan	229	Partisan
2010 Statutory Pay-As-You-Go Act (PAYGO)	111-139	Partisan	283	Partisan
1986 Firearm Owners Protection Act	99-308	Pluralist	496	*Expert*
1996 Safe Drinking Water Act Amendments	104-182	Pluralist	294	Pluralist
Repeal of the 1989 Medicare Catastrophic Care	101-234	Pluralist	26	*Symbolic*
2002 Farm Bill	107-171	Pluralist	287	Pluralist
1990 Farm Bill	101-624	Pluralist	142	*Partisan*
2008 Farm Bill	110-246	Pluralist	26	*Symbolic*
2002 Sarbanes-Oxley Bill	107-204	Symbolic	139	Symbolic
1986 Asbestos Hazard Emergency Response Act	99-519	Symbolic	118	Symbolic
1996 Defense of Marriage Act	104-199	Symbolic	134	Symbolic
1998 IRS Restructuring and Reform Act	105-206	Symbolic	271	*Partisan*
1986 Safe Drinking Water Amendments	99-339	Symbolic	526	*Expert*

	Key	
Expert	> =300 days	
Pluralist	<300 & >=285	
Partisan	<285 & >=140	
Symbolic	<140	

Figure 6. Durational Classification Decision Key

	>300 days	<300 days and >285 days	<285 days and > 140 days	<140 days	Total
	Theorized Expert	Theorized Pluralist	Theorized Partisan	Theorized Symbolic	
Expert (longest)	**4**	2	0	0	6
Pluralist	1	**2**	1	2	6
Partisan	0	0	**3**	1	4
Symbolic (shortest)	1	0	1	**3**	5
Total	6	4	5	6	21

Figure 7. Durational Classification Results

On its own, using this classification system enabled me to correctly classify 12 of

the 21 laws for a 57% correct classification rate, roughly twice what would be expected

via random assignment. In Figure 7, the gray boxes indicate incorrect classification and

the colored boxes indicate correct classification. I refer to the classifications made

through consideration of enactment time as the durational classification. Like the roll call

vote analysis discussed in the previous section, the benefit of the durational analysis is

not its stand-alone accuracy, but rather how it complements the other variables and

contributes to the overall classification process by resolving conflicts between the other

two variables.

Classification Process

The classification process for combining these three indicators is depicted in

Figure 8 as a decision tree and in Table 4 as a list of decision paths. The order of the

presentation is justified both theoretically and empirically, consistent with Kluge's (2000)

empirically grounded constructed type process. I began by using semantic scores because

they operationalize the deference construct discussed in Chapter 3, which I identified as

important for distinguishing the different paths, particularly along the vertical dimension,

and making the paths comparable (Gerring 2017). This is a critically important part of

any exploratory sequential mixed methods study, because it facilitates the progression

from qualitative to quantitative research. In addition, I began with the semantic scores

because they had a 67% correct classification rate, which is the highest of the three

variables. I then moved to considering roll call votes, because they are commonly used

indicators in political science literature and are the defining characteristic of partisan

laws. I also turned to the roll call votes because of their effectiveness. After considering

semantic scores and roll call votes, I used the durational analysis to make a final

determination on the law's classification if necessary. Consistent with Kluge's (2000)

empirically grounded constructed type process, I reduced the conceptual space. This

process resulted in 22 decision paths (Paths A–V in Table 4). In Table 4, the numbers in

the duration column correspond to the decision rules in the key in Figure 8. It is

important to note that the decision tree is based on the assumption that one already knows

the semantic, roll call, and durational class for the law. The purpose of the tree was to

determine the final classification of the law. The decision tree does not explain the

reasoning for the classifications. For a discussion of the reasoning, see Appendix A.
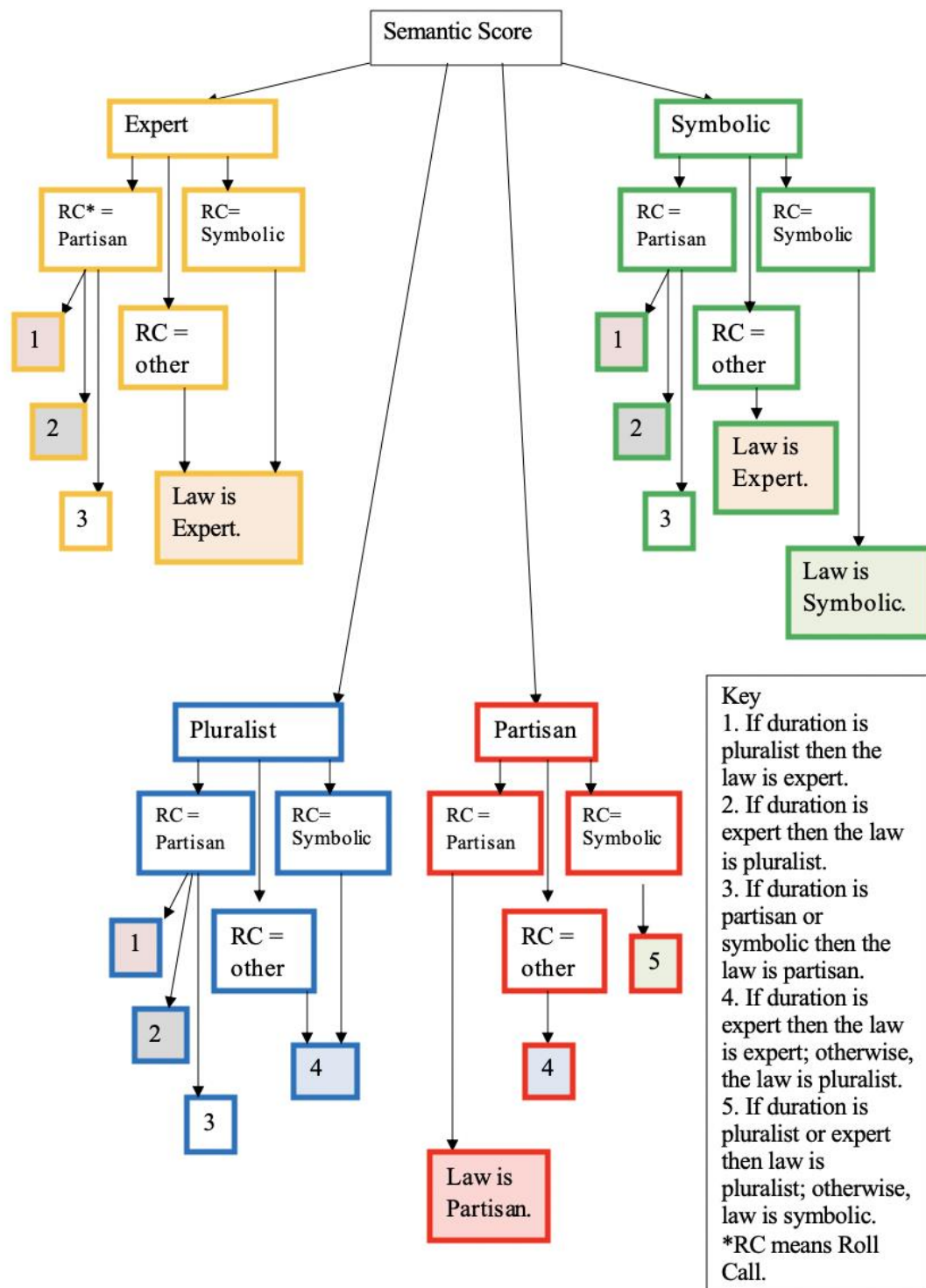
Figure 8. Classification Process

Table 4. The 22 Decision Paths

Decision Path	Semantic	Roll Call	Duration	Conclusion
A	Partisan	Partisan	---	Partisan
B	Partisan	Symbolic	(5) If duration is pluralist or expert then the law is pluralist.	Pluralist
C	Partisan	Symbolic	(5) If duration is neither pluralist nor expert then the law is symbolic.	Symbolic
D	Partisan	Other	(4) If duration is expert then the law is expert.	Expert
E	Partisan	Other	(4) If duration is not expert then the law is pluralist.	Pluralist
F	Symbolic	Partisan	(1) If duration is pluralist then the law is expert.	Expert
G	Symbolic	Partisan	(2) If duration is expert then the law is pluralist.	Pluralist
H	Symbolic	Partisan	(3) If duration is partisan or symbolic then the law is partisan	Partisan
I	Symbolic	Symbolic	---	Symbolic
J	Symbolic	Other	---	Expert
K	Pluralist	Partisan	(1) If duration is pluralist then the law is expert.	Expert
L	Pluralist	Partisan	(2) If duration is expert then the law is pluralist.	Pluralist
M	Pluralist	Partisan	(3) If duration is partisan or symbolic then the law is partisan.	Partisan
N	Pluralist	Symbolic	(4) If duration is expert then the law is expert.	Expert
O	Pluralist	Symbolic	(4) If the duration is not expert then the law is pluralist.	Pluralist
P	Pluralist	Other	(4) If duration is expert then the law is expert.	Expert
Q	Pluralist	Other	(4) If duration is not expert then the law is pluralist.	Pluralist
R	Expert	Partisan	(1) If duration is pluralist then the law is expert.	Expert
S	Expert	Partisan	(2) If duration is expert then the law is pluralist.	Pluralist
T	Expert	Partisan	(3) If duration is partisan or symbolic then the law is partisan.	Partisan
U	Expert	Other	---	Expert
V	Expert	Symbolic	---	Expert

Concluding the Operationalization

This classification process resulted in a 90% correct classification rate in the preliminary study of 21 laws. In addition, the process has a kappa score of .871, which Landis and Koch (1977) qualitatively described as "almost perfect agreement."[9] However, some scholars have argued that such labels are misleading. For example, Krippendorff (2019) described the problem of using either the percent agreement (a liberal measure) or the Kappa (a conservative measure) and the problem of having a high percent agreement and a low Kappa (358). However, this is not the problem in the present case, as both the percent agreement (90%) and the Kappa (.871) are high. Alternatively, one could consider using Krippendorff's alpha, but that is a measure of intercoder reliability aimed at variations in the people involved, which is not the case in this study. Thus, I concluded that the 90% classification agreement combined with the .871 Kappa score reflect a reasonably reliable classification process, given the current stage of development for the *Pathways* framework.

Table 5 summarizes the outcomes of the classification process. The pathway column is the classification Conlan, Posner, and Beam (2014) gave the law. The semantic column provides the outcome of the semantic process. The roll call column repeats the findings depicted in Table 2. The duration column shows the results from Table 3. The final column presents the results of applying the classification process described previously to each of these laws. The two errors are shown in italics. (For an explanation

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[9] https://www.graphpad.com/quickcalcs/kappa2/

of why the semantic, roll call, and durational classifications result in the final

classification, please see Appendix A.)

Table 5. Final Classification Results

Title	Pathway	Semantic	Roll Call	Duration	Final
2002 No Child Left Behind Act	Expert	Expert	Symbolic	Pluralist	Expert
1988 Family Support Act	Expert	Expert	Symbolic	Expert	Expert
1986 Tax Reform Act	Expert	Expert	Symbolic	Expert	Expert
1982 Tax Equity and Fiscal Responsibility Act	Expert	Expert	Partisan	Pluralist	Expert
1990 Clean Air Act Amendment	Expert	Pluralist	Symbolic	Expert	Expert
1988 Medicare Catastrophic Care Act	Expert	Pluralist	Symbolic	Expert	Expert
1993 Brady Bill	Partisan	Partisan	Partisan	Partisan	Partisan
1981 Economic Recovery and Tax Act	Partisan	Pluralist	Symbolic	Symbolic	*Pluralist*
2010 Dodd Frank	Partisan	Partisan	Partisan	Partisan	Partisan
2010 Statutory Pay-As-You-Go	Partisan	Symbolic	Partisan	Partisan	Partisan
1986 Firearm Owners Protection Act	Pluralist	Partisan	Symbolic	Expert	Pluralist
1996 Safe Drinking Water Amendments	Pluralist	Pluralist	Symbolic	Pluralist	Pluralist
Repeal of the 1989 Medicare Catastrophic	Pluralist	Pluralist	Symbolic	Symbolic	Pluralist
2002 Farm Bill	Pluralist	Pluralist	Other	Pluralist	Pluralist
1990 Farm Bill	Pluralist	Pluralist	Symbolic	Partisan	Pluralist
2008 Farm Bill	Pluralist	Pluralist	Other	Symbolic	Pluralist
2002 Sarbanes-Oxley	Symbolic	Symbolic	Symbolic	Symbolic	Symbolic
1986 Asbestos Hazard Emergency Response	Symbolic	Symbolic	Symbolic	Symbolic	Symbolic
1996 Defense of Marriage Act	Symbolic	Symbolic	Symbolic	Symbolic	Symbolic
1998 IRS Restructuring and Reform Act	Symbolic	Partisan	Symbolic	Partisan	Symbolic
1986 Safe Drinking Water Amendments	Symbolic	Pluralist	Symbolic	Expert	*Expert*

Selecting the 557 Laws

To answer my research question, I used a set of randomly selected laws for each Congress between 1951 and 2011 and a process for classifying the laws into their respective pathways. In this subsection, I will begin by discussing why I am using a random selection of laws, as opposed to studying major laws as many other political scientists have done. Then, I will discuss my process for selecting laws and present the list of laws used for this study.

Random Selection of Laws

Political scientists often focus on major or significant laws. However, how one defines major or significant laws appears to dramatically alter one's findings. For example, Mayhew (2005) identified 267 major laws through a two-sweep process: either as important at their time of enactment or by scholarly reflection later. Prior to Mayhew's study, conventional wisdom held that Congress was less productive under divided government then under unified government. Mayhew's findings contradicted this widely held view. Kelly (1993) challenged Mayhew's definition of major laws and instead argued that a major law should be identified at both the time of enactment and several decades later. Kelly (1993) modified Mayhew's list to include only laws that appeared in both of Mayhew's sweeps and then replicated Mayhew's analysis. Kelly's (1993) findings indicate that whether a government is unified or divided matters, consistent with conventional wisdom. Thus by changing the definition of major laws, Kelly (1993) found the exact opposite of Mayhew (2005). Other scholars have altered the definitions and found support for the conventional wisdom (Coleman 1999; Howell et al. 2000).

Howell et al. (2000) decided to address this problem by studying all 17,663 public laws enacted between 1945 and 1994. They began by challenging the stationary nature of Mayhew's (2005) data and arguing that his means of aggregation distorted the data. They also developed a multi-tier rating system for evaluating the significance of the laws. I agree with their approach of studying all laws. Studying only major laws ignores much of what Congress does and contributes to the aggregation problem Howell et al. (2000) identified. In addition, from the *Pathways* perspective, limiting the data to major laws makes underestimation regarding the use of the pluralist and expert pathways likely, and tends to distort political scientists' estimations of how well the system is functioning. All of this leads me to conclude that I, like Howell et al. (2000) would ideally study all enacted laws; however, for practical reasons, my solution in the present study was to select a random sample of all laws.

Selecting the Laws

To identify the laws used in the study, I needed a way to discuss: (1) the variation in the number of laws enacted in each Congress and how I could address this to enable across-Congress comparisons; (2) a random selection process; and (3) a means for identifying laws in which the form of policymaking is unobservable (Conlan, Posner, and Beam 2014, 7). After addressing these three issues, I will present the list of laws included in this study.

The number of laws enacted in each Congress varies widely. In fact, for the thirty Congresses included in this study the range spans from a low of 333 laws in the 104th Congress to a high of 1,028 laws in the 84th Congress. To address this variation in the

number of laws enacted in each Congress and keep the project manageable, I decided to

select 3% of all laws for each Congress, for a total of 557 laws. It was important that I

draw some laws from each Congress, because my second research question is designed to

explore the impact of unified or divided government. The form of government—unified

or divided—can change with each new Congress. Table 6 lists each Congress, the

number of laws enacted, and the number of laws from that Congress included in this

study. I used the House Clerk's report to compile this information

(http://library.clerk.house.gov/congressional-data.aspx).

Table 6. Composition of Laws Included

Congress	# of public laws	% of laws in this study	Laws to Study
82	594	3.00%	18
83	781	3.00%	23
84	1028	3.00%	31
85	936	3.00%	28
86	800	3.00%	24
87	885	3.00%	27
88	666	3.00%	20
89	810	3.00%	24
90	640	3.00%	19
91	695	3.00%	21
92	607	3.00%	18
93	649	3.00%	19
94	588	3.00%	18
95	633	3.00%	19
96	613	3.00%	18
97	473	3.00%	14
98	623	3.00%	19
99	664	3.00%	20
100	713	3.00%	21
101	650	3.00%	20
102	590	3.00%	18
103	465	3.00%	14
104	333	3.00%	10
105	394	3.00%	12
106	580	3.00%	17
107	377	3.00%	11
108	498	3.00%	15
109	482	3.00%	14
110	460	3.00%	14
111	383	3.00%	11
Total	18610		557

Knowing how many laws to select from each Congress constitutes an important first step in the process. In addition, it was necessary to develop a process for random selection. The system for numbering public laws provides such a means for random selection. Every public law is assigned a two-part number; the first part identifies the Congress in which the law was enacted, and the second part identifies the specific law. To identify the laws I use in this study, I decided to use a random number generator (Haahr 2018). For each draw, I set the minimum value equal to one and the maximum value equal to the total number of laws enacted in the Congress (see Table 6). If there are any duplicates, I discard the second one and redraw, so I have 557 unique laws for this study.

The third concern for the selection process is identifying any law to which the *Pathways* framework does not apply. These are laws in which the policymaking process is unobservable (Conlan, Posner, and Beam 2014, 7). I have interpreted this to mean two things. First, I excluded laws identified as commemoratives by the Comparative Agenda project (Jones 2020). In addition, I discarded laws for which no substantive policy debate or record could be found. The specifics of this process will be discussed in more detail in Chapter 5, where I report my results.

<div align="center">

<u>Analysis Method</u>

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Before discussing the results, it is important to explain how I will use the data collected to address the five hypotheses associated with the research question. To evaluate the hypotheses and answer Research Question 1, I will analyze the data using Pearsons chi2 test of independence, Fishers Exact test, Kruskal-Wallis test and

correlation analysis. The examination of these changes will inform my answer to this project's first research question: How has the pattern of lawmaking in America changed between 1951 and 2011?

In a traditional quantitative research design, at this point in the research, specific hypotheses seeking statistical significance and directionality in the theorized relationships would typically be explored. However, this study does not lend itself to that level of specificity at this juncture for three reasons. The first reason is the exploratory nature of the design (Creswell and Plano Clark 2018). Second, this study's longitudinal component represents a tradeoff between statistical power and conducting the study at all (Kraska-Miller 2019). Kraska-Miller (2019) argues that statistical power is diminished in longitudinal studies because of the lack of control over the independent variables and the ensuing increased likelihood of extraneous variables undermining the findings. The third reason this study does not lend itself well to specific hypotheses is the small sample size. While I evaluated 557 laws, when they are classified into four categories, each category becomes relatively small and it therefore becomes difficult to obtain statistically significant results. This is another reason for considering additional research using the *Pathways* framework as operationalized in this study.

Recognizing these limitations of statistical testing, I turned my attention to how to evaluate the five research hypotheses central to answering my first research question. Most of the hypotheses (1, 2, 4, and 5) speculate about the usage pattern of the four pathways. Therefore, I will evaluate these hypotheses using Pearsons Chi2 test of independence. I will evaluate Hypothesis 3—that the use of the pluralist pathway will be

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inversely related to the partisan pathway between 1951 and 2011—using correlations. In this hypothesis, I am seeking a statistically significant and inverse relation between the pluralist and partisan pathway variables; if found, it would lend support to this hypothesis.

After addressing these specific hypotheses, I will undertake some exploratory analysis consistent with my research question and the data I collected. This type of exploration is appropriate in an exploratory sequential mixed methods study. Based on this evaluation of hypotheses and data exploration, I provide an answer to Research Question 1 in the next chapter.

<div align="center">**<u>Conclusion</u>**</div>

In this chapter, I focused on the first research question: How has the pattern of lawmaking in America changed between 1951 and 2011? I described the exploratory sequential mixed methods approach I used in my research and why it was necessary to begin with a qualitative study. Specifically, *Pathways* only provided 21 enacted laws upon which to build the classification system, and the *Pathways* framework did not define a continuous vertical dimension, thereby undermining direct comparison across the four pathways. This lack of a vertical dimension resulted in the *Pathways* operationalization challenge, which I resolved using the deference construct and semantic scores discussed in Chapter 3 and Kluge's (2000) empirically grounded constructed type approach. Kluge's (2000) four-part approach enabled me to build a valid and reliable system for classifying laws into the four pathways. This classification process allowed me to operationalize the *Pathways* framework and is a key contribution I make to

political science research with this dissertation. Lastly, I explained how I selected the

laws for this study and how I analyzed the data to answer my first research question,

which is the focus of the next chapter.

CHAPTER FIVE: PATHWAY RESULTS

This chapter implements the plan described in the previous chapter in order to answer my first research question: How has the pattern of lawmaking in America changed from 1951 to 2011? This chapter is divided into two parts. The first provides background for the results and, in the second, I answer the research question and address the hypotheses. Specifically, the background section includes a discussion of the laws randomly selected for this study; a review of the data used to classify the laws (semantic scores, roll call votes, and durational analysis); and a reappraisal of the decision to study enacted laws. It is necessary to revisit this decision in order to illustrate how a randomly selected sample of enacted laws is different from studying major laws or issue areas. The second section of this chapter begins with an introduction to the classification results. Then the longitudinal analysis is presented, including an answer to the first research question, an evaluation of the five related hypotheses, and a discussion of the implication of these five hypotheses.

The Selection of Laws

The laws randomly selected for this study needed to be consistent with the *Pathways* framework (Conlan, Posner, and Beam 2014), which I used as the framework to answer my research questions (for information on how I selected the laws, see Chapter 4.) The *Pathways* framework applies to substantive laws; therefore, I had to remove non-

substantive laws. I defined non-substantive laws as commemoratives and cases with no

substantive policy debate or public record.[10] The Comparative Agenda Project's data on

U.S. laws identifies commemoratives, so I checked each law I drew against their

database. According to the Comparative Agenda data, the naming of a post offices or

federal buildings is considered a commemorative. However, during the 110th and 111th

Congresses, several laws naming post offices and federal buildings were not identified as

commemoratives. I corrected for these errors. Overall, this process was manageable

because of its size and consistency. The lists of discarded laws and selected laws can be

found in Appendix B.

During the selection process I drew approximately two substantive laws for every

one commemorative law. These results were fairly consistent with existing research

regarding commemoratives. Specifically, the Congressional Research Service (CRS) has

published several reports on commemoratives and identified minimal use of

commemoratives prior to 1960 (often less than 5% of legislation) and increased use

during the 1960s and 1970s. The number of commemoratives peaked in the 1980s, when

they made up roughly 66% to 70% of all legislation (Stathis 1999). This dramatic

increase contributed to the adoption of House Rule XII, clause 5, at the start of the 104th

Congress in 1995 (Straus and Negal 2019). This rule change prohibited House

consideration of some commemoratives, such as special days, months, and years. After

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[10] In the process of classifying the 557 laws for this study, I discovered four laws that had no substantive policy debate or public record. The four laws were PL 99-65, regarding telephone service for senators; PL 99-75, regarding the printing of the Senate procedures manual; PL 99-225, regarding the office space for former House Speakers; and PL 100-229, which was the convening resolution for the second session of the 100th Congress.

1995, there was a sharp decline in the number of commemoratives in the U.S. House of Representatives. The Senate can, and does, still consider them. In addition, the President can authorize them without congressional action (Straus et al. 2019). When selecting the 557 laws for this study, I found the presence of commemoratives to be consistent with the pattern described by CRS.

<div align="center">

Review of Data Used to Classify the Laws

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Before proceeding to the discussion of the classification results for the 557 laws examined for this study, I wish to review the three elements of the classification process to illustrate the variation in each. This discussion is designed to parallel the presentation of the validation study in Chapter 4. In Chapter 4, I demonstrated that the quantitative data—semantic scores, roll call votes, and duration—can be combined to accurately predict a law's final classification 90% of the time. This final classification for the 557 laws will be presented in the next section. This discussion is limited to a review of the semantic scores, roll call votes, and duration.

Semantic Scores

In Chapter 4, I explained the process for generating two semantic scores: arousal and dominance. I then explained how I plotted these points into a semantic-policy space and studied the locations of the laws compared to their actual classification, which resulted in a 67% correct classification rate. I improved upon this rate by combining the semantic scores with the roll call vote data and the durational analysis. After conducting a validation study of the 21 laws included in *Pathways*, I classified an addition 50 laws and used the combined 71 laws to generate lines dividing the pathway quadrants. The

equation for the horizontal line is y = 0.6012 and the vertical line is x = 0.4477. Figure 9

shows the 557 laws plotted in the semantic-policy space using these lines. The upper-left

quadrant is associated with the expert pathway, the lower-left is associated with the

pluralist, lower-right with partisan, and upper-right with symbolic.
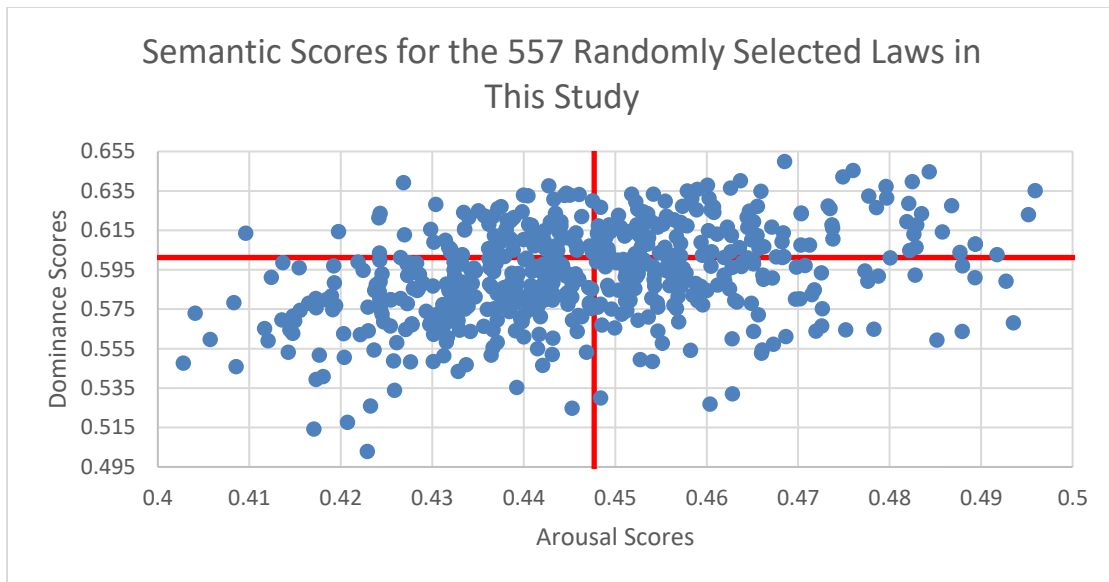
Figure 9. The 557 Randomly Selected Laws in the Semantic-Policy Space

Roll Call Votes

      As part of the classification process, I divided laws into four roll-call-based

categories: partisan, symbolic, other, and no roll call vote. The fourth category comprised

laws that had no roll call votes anywhere throughout the legislative process. This

categorization aided in the preliminary empirical analysis of roll call votes, consistent

with Kluge's (2000) empirically grounded constructed type approach.

For classification purposes, I used three categories: partisan, symbolic, and other. I considered that laws with no roll call vote must have had high levels of support on both sides of the aisle and therefore classified them as symbolic. I found these roll call vote categories to be 57% effective in classifying laws. If a law has one or more roll call votes throughout its longevity, then the roll call vote closest to enactment was used. This is consistent with the effort to estimate the pathway the law was on when enacted. I classified laws with roll call votes as partisan if 50% or more of one party supported the law and 50% or more of the other party opposed the law. This definition is consistent with other research, such as Patterson and Calderia (1988) and Souva and Rohde (2007). Symbolic laws are those in which 66% or more of each party support the law. The other category comprises any law that had a roll call vote that was neither Partisan nor Symbolic. The last category, the largest of the four, comprises laws that had no roll call vote at all. Table 7 presents the frequency data for the four categories.

The fact that 67% of the laws in this study had no roll call vote at all may surprise some readers, who share a similar perspective to Carrubba et al. (2006), Hug (2010), and Poole and Rosenthal (1997) in assuming that the U.S. Congress records and publishes nearly all its votes. However, my finding is consistent with the work of Clinton and Lapinski (2008), who studied laws from 1891 to 1994. They found that roughly 86% of laws had no roll call vote, but this number decreased after the 1970s when electronic voting was instituted in the House of Representatives. Laws are often enacted without roll call votes by using voice votes or unanimous consent requests. The fact that Clinton and Lapinski (2008) studied a longer time period before the implementation of electronic

voting in the U.S. House of Representatives likely explains why their number (86%) is higher than my finding (67%). In either case, the majority of laws enacted in the U.S. Congress have no recorded vote, contrary to what some scholars believe, which suggests that care should be taken when drawing general inferences about Congress based on roll call vote studies. This supports my argument for studying enacted laws when the research goal is to draw inferences about longitudinal changes in American lawmaking. Moreover, this dissertation makes a key contribution to political science by quantifying the limits of roll call voting in Congress. Specifically, I found that at least 92% of the laws included in my random sample passed with bipartisan support (classified as symbolic or no roll call vote). Moreover, roughly two thirds of the enacted laws examined for this study had no roll call vote. These patterns, if confirmed in future research, could have interesting implications for conclusions drawn from roll call vote studies.

Table 7. Roll Call Type Frequencies

Type	Number	Percentage
No Roll Call Vote	375	67.32
Symbolic	139	24.96
Partisan	25	4.49
Other	18	3.23

Duration

As discussed by Conlan, Posner, and Beam (2014), the time between a law's introduction in Congress to its enactment varies for the different pathways. After studying the examples and utilizing a trial-and-error method aimed at improving the

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classification rate, I determined that expert laws generally have a duration greater than or

equal to 300 days. Pluralist laws have a duration ranging from 284 to 300 days. The

partisan durational classification spans from 139 to 285 days, and symbolic laws

generally take less than 139 days. By using this classification scheme, I was able to

correctly classify 57% of the 21 laws used in the validation study. Table 8 and Figure 10

below summarize and depict the percentage of the 557 laws by duration. (For a

discussion of how these cut-scores were created, please see Chapter 4.)

Table 8. Frequency of Laws Per Duration Category

Duration Category	Frequency	Percentage
Expert (≥ 300 days)	131	24
Pluralist (≤ 285 & < 300 days)	14	3
Partisan (≥ 140 & <285 days)	151	2
Symbolic (<140 days)	261	47
Total	557	100
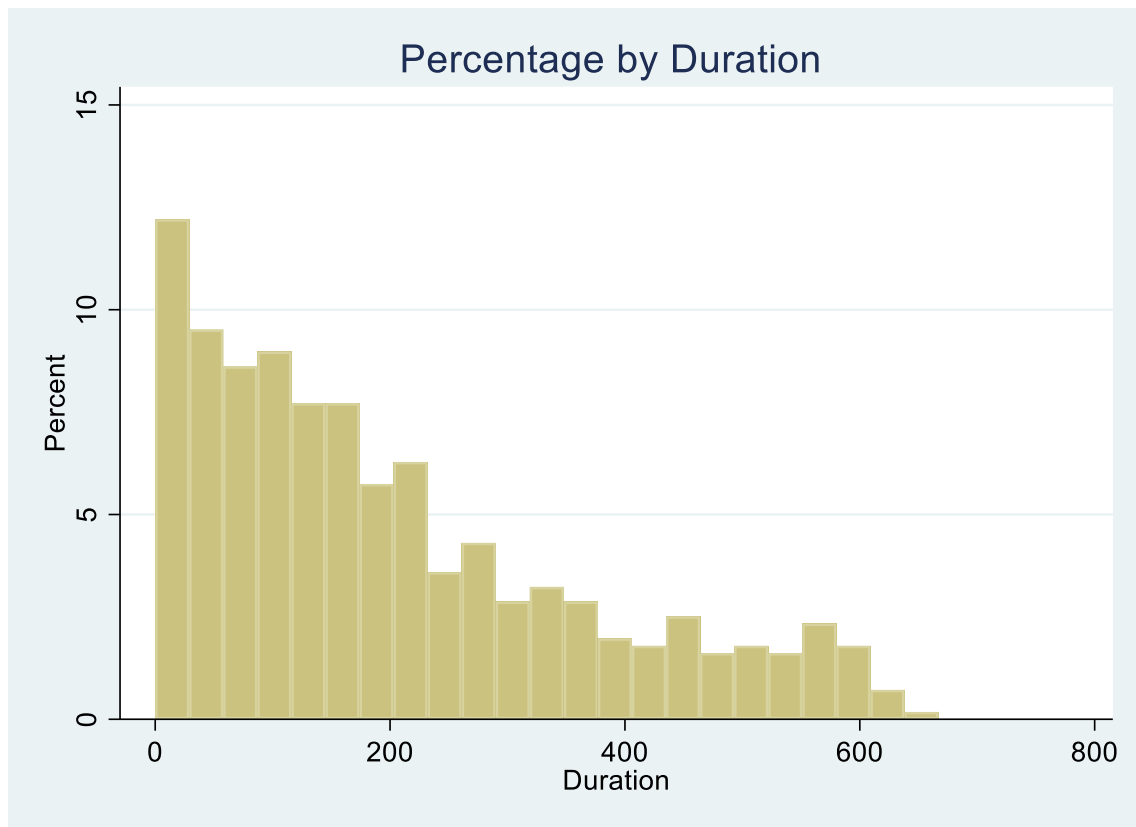
Figure 10. Percentage of the 557 Randomly Selected Laws by Duration (in Days)

Why Enacted Laws?

As discussed in Chapter 2, I chose a comprehensive approach to selecting laws for

the purposes of this study and did not wish to constrain the laws by issue areas over time.

The comprehensive approach I used was to randomly select 557 enacted laws.

Alternatively, some scholars have chosen to study major laws. Many scholars have also

assigned laws to issue areas before studying change over time. However, as I illustrated

in Chapter 2, some laws change policy spaces over time; thus, I argue issue areas should

be avoided when searching for changes in American lawmaking over time. Instead, I

contend scholars should focus on how power is used to enact laws. The *Pathways*

framework does not require laws to be assigned to issue areas before studying them, and

it provides a theoretical foundation based on how power is used to enact laws.

Recognizing that discarding issue areas and focusing on power differ from other

scholarly approaches, I decided to compare my 557 laws to Stathis's list of major laws

and to explore the issue areas found in my dataset.

Major Laws

Starting with Mayhew's (1991) book, *Divided We Govern,* many scholars have

attempted to define and redefine what constitutes a major law, including Stathis (2014),

and based on such definitions, to draw inferences about Congress or lawmaking. To

avoid this definitional problem, avoid the bias associate with studying major laws, and

improve the external validity of my findings, I chose to study a random selection of laws.

In this section, I will demonstrate that these two different approaches to studying

Congress give rise to statistically significant different results.

Consistent with other research (Carson and Jenkins 2011; Clinton and Lapinski

2006; Dougherty, Lunch, and Madonna 2013; Grant and Kelly 2008; Jenkins and Nokken

2008; Lapinski 2013; Lynch and Madonna 2013; Madonna 2011), I used Stathis's list of

major laws (2nd edition) because it covered the entire time period from which I drew

laws. I compared Stathis's (2014) list for each Congress (82nd to 111th) to the list of laws

selected for this study and found 24 in common. The *Pathways* classification for each of

the 24 laws is presented in Table 9. In addition, I summarize the variation in the major

laws compared to the overall random sample in Table 10.

Table 9. Major Laws in Random Dataset

Public Law #	Classification
82-213	Expert
85-745	Expert
94-580	Expert
95-256	Expert
97-261	Expert
100-379	Expert
104-1	Expert
105-298	Expert
91-671	Partisan
101-73	Partisan
107-16	Partisan
109-171	Partisan
89-793	Pluralist
98-397	Pluralist
100-119	Pluralist
100-352	Pluralist
101-239	Pluralist
103-417	Pluralist
87-297	Symbolic
93-288	Symbolic
96-283	Symbolic
98-525	Symbolic
110-85	Symbolic
110-175	Symbolic

Table 10. Pathways Usage in Major Laws Versus Random Sample

Pathway	Major Laws	Random Sample
Expert	33% (8)	25% (140)
Pluralist	25% (6)	34% (192)
Partisan	17% (4)	5% (27)
Symbolic	25% (6)	36% (198)
Total	100% (24)	100% (557)

An examination of Table 10 indicates that the set of major laws emphasizes the use of the partisan pathway (17%) and expert pathway (33%) to a greater extent than the random sample, where they account for 5% and 25%, respectively. Similarly, the focus on major laws appears to undervalue the pluralist and symbolic pathways, which make up 34% and 36%, respectively, in the random sample, but only 25% in both cases in the sample of major laws. This suggests that studies based on the use of major laws may not accurately reflect the entirety of Congress's work; therefore, the external validity of congressional studies based on major laws may be questionable. It is important to recognize that the collection of major laws is small, and therefore may not reflect the actual breakdown in Stathis's full collection of major laws. However, it does suggest that studies attempting to explain congressional politics or lawmaking may benefit from the use of a random sample, as opposed to a collection of major laws, consistent with the argument I am making in this dissertation.

To test the statistical difference in these two distributions, I ran a Pearson's chi2 test and the Fisher's exact test (see Table 11) because both the rows and columns are unordered (Fagerland et al. 2017). The Pearson's chi2 test is the generally used test, and in this case, it indicates a statistically significant difference between the two distributions (pr=0.011). However, the Pearson's test can be misleading when cell counts are small, generally considered to be less than 5. The number of partisan major laws is only four. Therefore, I ran the Fisher's exact test which is also statistically significant (p<0.027) (Fagerland et al. 2017). Based on these findings, I infer that the composition of the random sample is statically significantly different from this sample of major laws. Since

this sample of major laws is small, this is an issue which could benefit from further research. However, generally one would expect a random sample of enacted laws to provide a better estimate of the characteristics of all enacted laws, than a sample of major laws would. Thus, there is reason for concern when inferences about lawmaking, generally, are drawn from a study of major laws. Since the purpose of this study is to make inferences regarding lawmaking, generally, I contend that the random sample is better for this study. In addition, statistically demonstrating that major laws are an unbalanced sample and do not provide a representative sample of Congress's work is a key contribution this study makes to political science.

Table 11. Frequency of Pathways Used in Major Laws Versus Random Sample

Pathway	Random Sample	Major Laws	Total
Expert	132	8	140
Pluralist	186	6	192
Partisan	20	4	24
Symbolic	195	6	201
Total	533	24	557
Pearson chi2(3) = 11.0668 Pr=0.011			
Fisher's Exact = 0.027			

Issue Areas

In addition to studying major laws, many scholars (Madonna 2011; Lapinski 2013; and others) study issue areas. For this reason, I decided to examine the issue areas in the random sample of the laws selected for this study. I decided to use the Comparative Agenda Project's classification system for this analysis for two reasons. The first reason

is because I used their data to identify commemoratives in my classification system. Second, their data is widely used and easily accessible. Figure 11 presents the number of laws per issue area.

Number of Laws in Random Sample by Issue Area
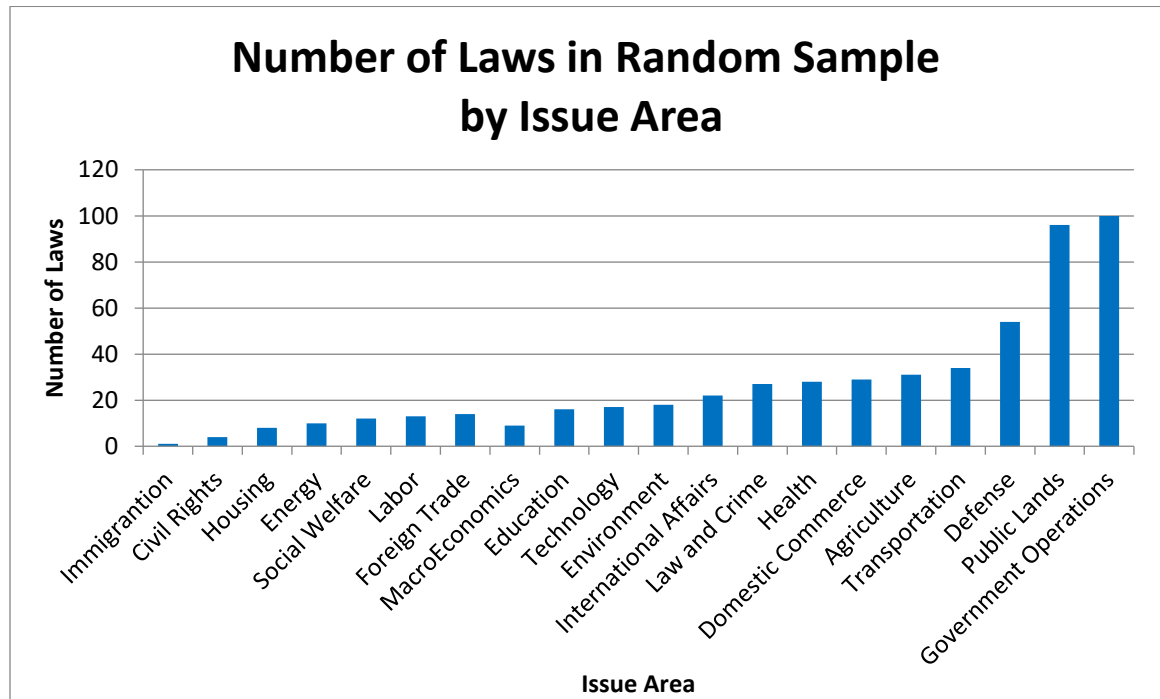
Figure 11. Number of Laws in Random Sample by Issue Area

The three categories with the most laws during this time period were Government Operations, Public Lands, and Defense. In contrast, the three categories with the fewest laws were Housing, Civil Rights, and Immigration. Given the large number of issue areas considered by Congress during this 30-year time span, I will illustrate the variation over time using the three largest and smallest issue areas (see Figure 12 and Figure 13).
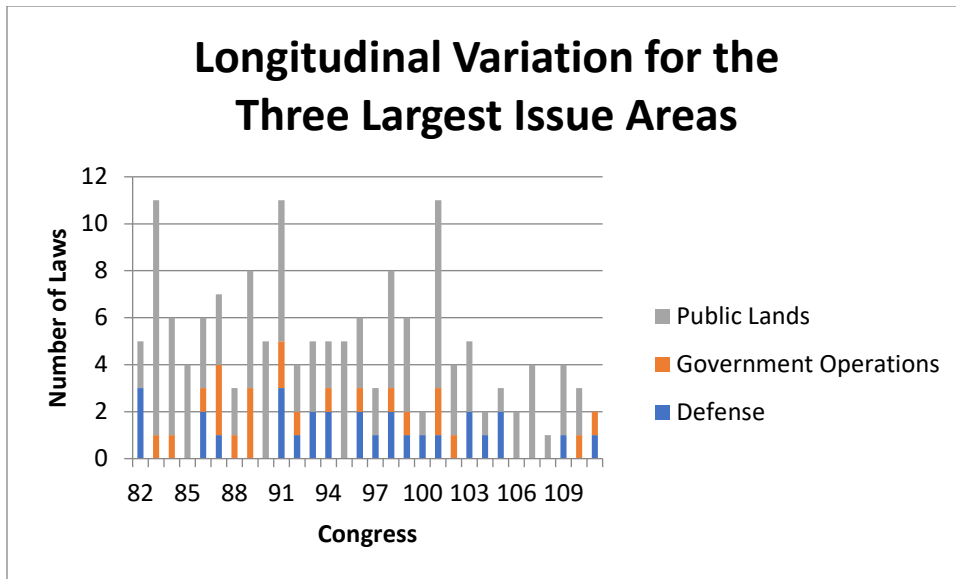
Figure 12. Variation for the Three Largest Issues Areas
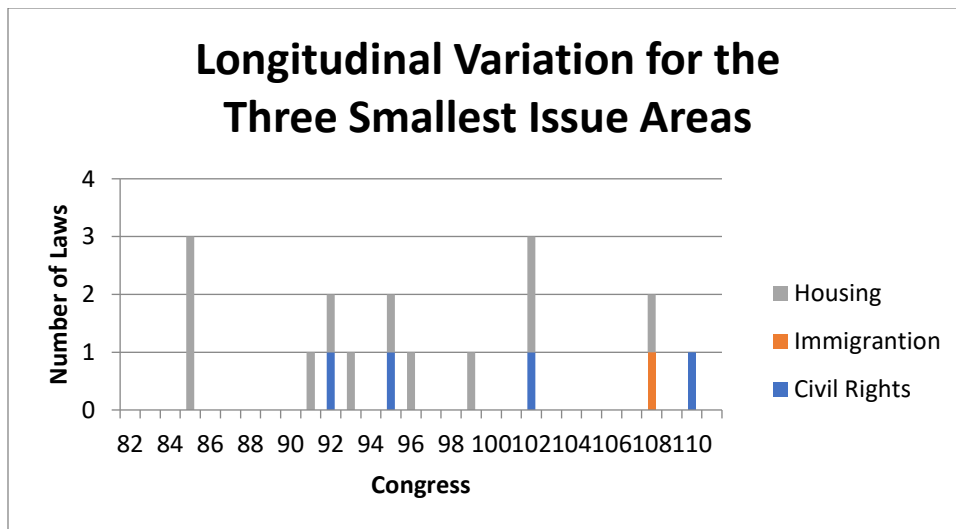
Figure 13. Variation for the Three Smallest Issue Areas

Table 12. Descriptive Statistics for the Three Largest and Smallest Issue Areas

	Mean	Minimum	Maximum	Standard Deviation
Three Largest				
Defense	0.97	0.00	3.00	0.96
Government Operations	0.73	0.00	3.00	0.87
Public Lands	3.33	0.00	10.00	2.15
Three Smallest				
Civil Rights	0.13	0.00	1.00	0.35
Immigration	0.03	0.00	1.00	0.18
Housing	0.40	0.00	3.00	0.72

An examination of Figure 12 indicates that, according to the random sample used for this study, lawmakers enacted Public Lands legislation in all but one Congress (the 111th has no Public Lands legislation). However, the second and third largest issue areas—Government Operations (16 out of 30) and Defense (18 out of 30)—corresponded with enacted legislation in slightly more than half of the Congresses examined. Among the three smallest issue areas, Housing appears in nine of the 30 Congresses, Civil Rights in four, and Immigration in only one. The lack of action in these three issue areas may be an indicator of the status quo bias in lawmaking or the difficulty in reaching agreement.

This sampling suggests that studying issue areas like Defense, Government Operations, or Public Lands would provide a great supply of data over time. Conversely, issues like civil rights, which only appeared in four Congresses, would not provide a large amount of data upon which to make inferences about change over time. These results contrast with Poole and Rosenthal's finding of low dimensionality in roll call voting and their finding that 84% of the variation in roll call voting can be captured using

economic and regional issues, such as civil rights matters (Poole and Rosenthal 2009, 33). Lapinski (2013) cites this finding of low dimensionality as one of the major reasons why scholars have stopped examining fine-grain measures such as issue areas in congressional research, instead relying on ideology-based roll call votes. Poole and Rosenthal's research on roll call votes suggests a different legislative agenda (one that emphasizes economics and regional issues, such as civil rights) than what is suggested by my random sample of enacted laws (which identified Defense, Governmental Operations, and Public Lands as the three most active policy areas).

I contend that this discrepancy in legislative agenda between the roll call vote sample and the random sample of laws raises questions about the external validity of inference about Congress, in general, based exclusively on roll call voting. Between the data presented in the previous section about the large number of enacted laws that have no roll call votes at all, and the apparent distortion of the legislative agenda, it appears that roll call votes are a biased sample of the legislative work Congress does. Roll call votes may have more to do with electoral activity then governing, as several studies suggest (Canes-Wrone, Brady, and Cogan 2002; Groseclose and McCarty 2001). This discussion of issue areas and roll call votes and how they present a distorted view of Congress's work supports my contention that a random sample of laws is needed to draw valid inferences about changes in American lawmaking.

Introduction to the Classified Laws

Of the 557 laws collected for this study, 140 were expert, 192 were pluralist, 24 were partisan, and 201 were symbolic. Table 13 presents the percentages of these categories.

Table 13. Frequency Chart of the Four Pathways in Random Dataset

Pathway	Number	Percentage
Expert	140	25%
Pluralist	192	34%
Partisan	24	4%
Symbolic	201	36%
Total	557	99% (due to rounding)

This finding suggests that most laws, a combined 70%, are made through either the symbolic or pluralist pathways. The symbolic pathway is one of the ideational forms of lawmaking and represents a symbolic deferential gesture from lawmakers to the public. These laws are about support or opposition to a goal, with little or no consideration of how to achieve the goal (Conlan, Posner, and Beam 2014, 91). The frequent use of the symbolic pathway (36% of the 557 laws) may explain some of the public's dissatisfaction with Congress. The public believes action has occurred to meet an illustrative goal or affirm a shared value when a symbolic law is enacted, but the policy implications are often given cursory consideration leading to disappointing outcomes. Pluralist laws, on the other hand, represent a group-centered approach to lawmaking, and account for 34% of the 557 laws examined in this study. In the pluralist pathway, members do not defer to people or entities external to the legislature. The elected officials

act as brokers attempting to forge a compromise among competing interests. This pathway is associated with concepts such as subsystems, iron-triangles, and issues networks; it views lawmaking as a patchwork quilt of policy spaces, each defined as a separate policy issue. The focus on policy issues comes from this view of lawmaking. In this way, the *Pathways* framework embraces the study of issue areas advocated by scholars such as Lapinski (2013), but also permits primary examination of the power arrangement before exploring issue areas.

Of the 557 laws examined in this study the expert pathway accounts for 25% and the partisan pathway only accounts for 4%, despite these facts that the above examination of major laws tends to emphasize these two pathways. The expert laws are ideational, like the symbolic laws; however, in this case, professional knowledge or technical competence plays an important role in defining the problem and imparting wide spread acceptance and legitimacy to the solution. In these laws, Congress defers to experts external to the legislature. This external deference distinguishes the expert law from the pluralist law, both of which involve a narrow scope of mobilization. Recalling from the second chapter, a narrow scope of mobilization means the audience for the policy fight is intentionally kept small. The losing side is either unable to attract more attention to the issue, or does not see doing so as a winning strategy. This is important because, as Schattschneider (1960) said the audience determines the outcome.

In contrast, the partisan pathway represents a broad scope of mobilization utilizing political parties as the means for organizing and building the coalition necessary to enact a law. This pathway accounts for 4% of the enacted laws in this study. This

appears to suggest that the traditional responsible party government theory is not a very successful strategy for enacting laws. However, it is important to recognize Cox and McCubbins' (2005) twist on responsible party government theory, which does not emphasize the party's ability to assemble a voting bloc, but rather focuses on the procedural power of the majority party to set the legislative agenda. As operationalized in this study, partisanship places greater emphasis on the voting bloc consistent with the traditional view of responsible party government theory. I define partisanship as 50% of one party supporting the law and 50% of the other party opposing the law. This definition is consistent with the work of other scholars, such as Patterson and Caldeira 1988 and Souva and Rohde 2007.

In conclusion, it is helpful to remember the visual diagram of the four pathways and the levels of deference and arousal from Chapter 3 (reprinted here as Figure 14). The mass scope of mobilization associated with the symbolic and partisan laws appears to be used mostly in an ideational way with a high level of deference to the public, as indicated by the symbolic pathway accounting for 36% of the laws included in this study. Otherwise, lawmaking tends to utilize the narrow scope of mobilization in either an organization form with a low level of deference (pluralist 34%) or a high level of deference (expert 25%). Partisan lawmaking, as an organizational method for constructing a voting bloc, appears from this sample to be the least utilized source of power when enacting laws between 1951 and 2011 in America, whether this may be changing as society grows more polarized is an issue that will be examined shortly, and it is an area worthy of further research.
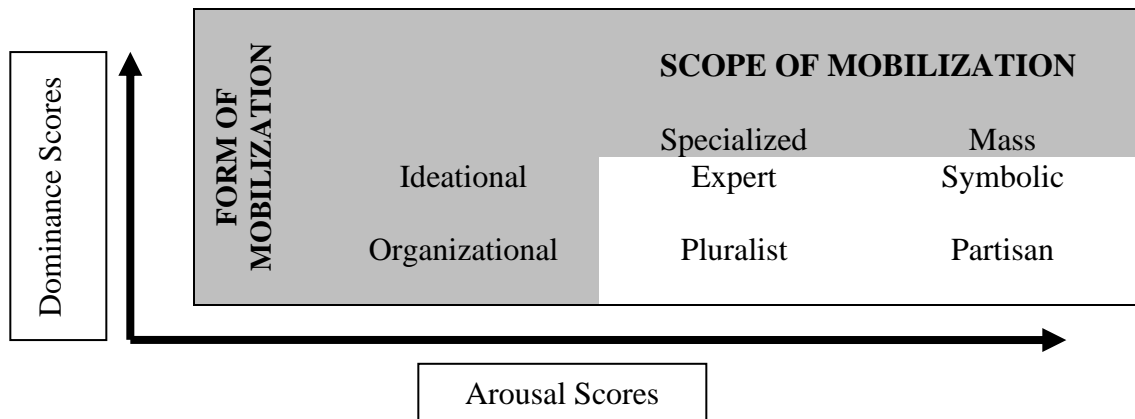
Figure 14. *Pathways* Framework and the Measurement of Deference

<u>Longitudinal Analysis</u>

The above discussion summarizes the findings based on the 557 laws as a pooled sample, in other words without considering time. This section considers the role of time when analyzing the data. Specifically, it focuses on my first research question: How has the pattern of lawmaking in America changed between 1951 and 2011? The purpose of this study was to map the pattern of change using the *Pathways* framework over time. I needed to make two important decisions before this question could be answered. The first pertained the levels of temporal analysis and the second concerned the type of data used in this study. The second question was critical to determining the appropriate statistical test for evaluating the research question and the five hypotheses.

The data collected for this study actually have three different levels of time. The smallest is by Congress, with each Congress representing a 2-year period. The meso-time layer is the decades, each of which is comprised of five Congresses. The largest measure

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of time available in these data is the three eras, each of which represents two decades. I

have decided that time should be explored in terms of the three eras because that is when

the literature suggests changes should be observed. The first era is the 1950s and 60s. The

second is the 1970s and 1980s. The last is the 1990s and 2000s. The motivation for these

three eras is found in the political science literature. In the 1950s and 1960s, lawmaking

was widely viewed as pluralist, characterized as a friendly democratic competition among

interest groups (Holyoke 2015; Strolovitch and Tichenor 2016). The 1970s and 1980s

saw the rise of policymaking based on conflict (Mitchell 1988; Strolovitch and Tichenor

2016). This trend gave way to the now familiar idea of highly polarized political parties

managing the lawmaking process in the 1990s and 2000s. Thus, we would expect the

pluralist pathway to dominate in the 1950s and 1960s, then to decline in the 1970s and

1980s, and the partisan pathway to abound during the 1990s and 2000s (these expected

temporal changes are explored in more detail in the hypothesis section below). It is this

view of time, based on eras, which I use in the remainder of this section.

The last issue to be resolved before answering the research question is to identify

the type of data collected and the statistical tests appropriate for examining it. The data in

this study is categorical, the eras are ordinal and the pathways are nominal, meaning the

eras have a meaningful sequential order and the pathways do not. Categorical data are

organized in a contingency table (see Table 14), in this case with the three eras

constituting the ordered rows and unordered columns representing the four pathways. In

such a case, Fagerland et al. (2017) recommends the Kruskal-Wallis test, so this is what I

used.

Table 14. Contingency Table of Pathways by Era

	Expert	Pluralist	Partisan	Symbolic	Total
1950s-60s	23%	37%	4%	36%	100%
	(55)	(87)	(9)	(84)	(235)
1970s-80s	29%	32%	5%	34%	100%
	(54)	(59)	(9)	(64)	(186)
1990s-2000s	23%	34%	4%	39%	100%
	(31)	(46)	(6)	(53)	(136)
Total	25%	34%	4%	36%	100%
	(140)	(192)	(24)	(201)	(557)

Answering the First Research Question

Armed with an understanding of the units of time to be used and the appropriate statistical test for evaluating this data, it is now possible to begin to answer the first research question and evaluate the related hypotheses. The first research question is: How has the pattern of lawmaking in America changed between 1951 and 2011? Figure 15 displays the percentages of laws enacted for each pathway grouped by eras. The figure shows that the partisan pathway only accounts for roughly 4% or 5% of all laws enacted throughout all three eras. Rather, the majority of law were enacted via the pluralist and symbolic pathways. In the 1950s, consistent with the eras discussed previously, the pluralist pathway was utilized the most frequently. Since then, the symbolic pathway has become paramount. The expert pathway appears to have peaked during the 1970s and 1980s.

Percentage of Enacted Law in Each Pathway per Era

	Era1	Era2	Era3
■ Expert	23%	29%	23%
■ Pluralist	37%	32%	34%
■ Partisan	4%	5%	4%
■ Symbolic	36%	34%	39%
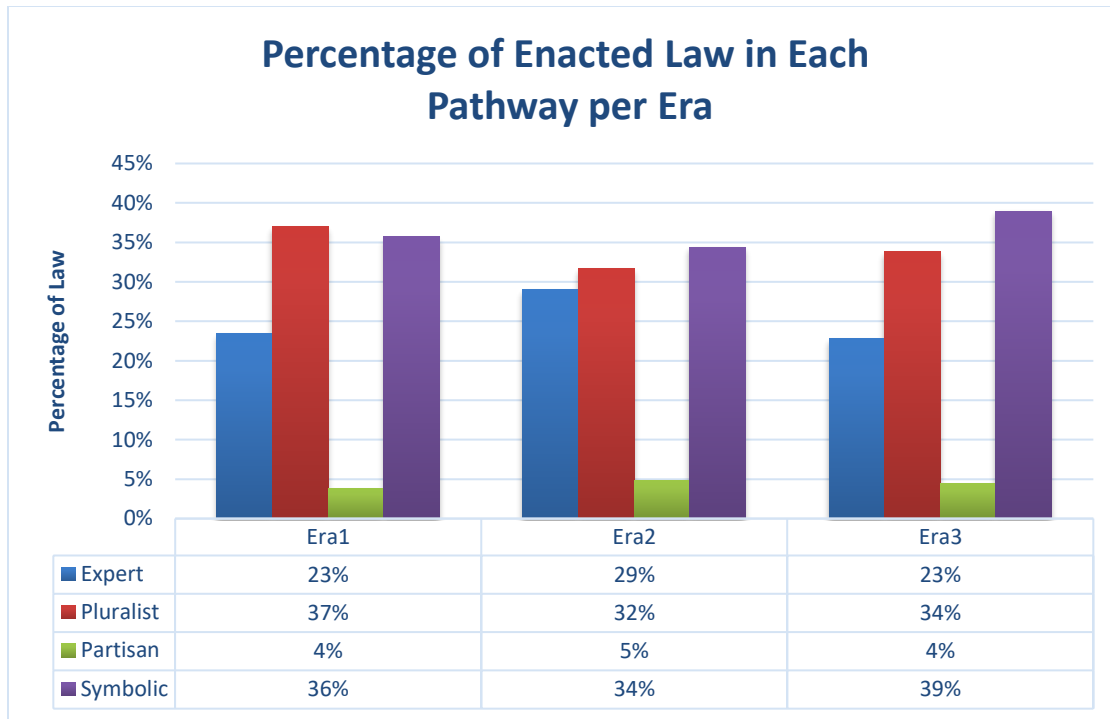
Figure 15. Percentage of Enacted Laws in Each Pathway Per Era

In addition to the discussion included in the previous section, answering the research question requires statistical testing. As discussed previously, I employed the Kruskal-Wallis test (see Table 15), the results of which indicate a lack of meaningful variation in the utilization of the four pathways across the three eras. For this reason, I conclude that the pattern of lawmaking between 1951 and 2011 is stable. This is consistent with the research by Adler and Wilkerson (2012) Carson, Finochiaro, and Rohde (2010), and Curry and Lee (2019) and adds depth and greater subtlety to their findings because the *Pathways* framework is a more refined policy analysis tool which emphasizes the use of power in coalition building. This is contrary to the work by McCarty (2007, 224), who wrote, "polarization greatly distorted both the policy process

and the outcomes." This result indicates that the power used to enact laws has not

changed in a statistically significant way between 1951 and 2011. Of course, McCarty's

(2007) argument uses both major laws and DW-Nominate scores, so it may be

appropriate to infer that major laws and roll call votes are distorted and polarized;

however, that is very different from saying the policy process and the outcomes are

polarized. My findings, based on a random sample of enacted laws, reflect stability in the

use of power to enact laws in America between 1951 and 2011.

Table 15. Kruskal-Wallis Test

Eras	Obs.	Rank Sum
1	235	65941.50
2	186	50109.00
3	136	39352.50
chi-squared = 1.248 with 2 d.f.		
probability = 0.5358		
chi-squared with ties = 1.393 with 2 d.f.		
probability = 0.4985		

To understand why the finding of stability is reasonable, it important to recognize

the difference between studying a biased versus an unbiased sample. Moreover, it is

important to recognize that studies of major laws and roll call votes represent biased

samples when the goal is to make inferences about Congress and/or lawmaking generally.

This finding of stability in American lawmaking from 1951 to 2011 is consistent with

research findings by other scholars, such as Adler and Wilkerson (2012), Carson,

Finochiaro, and Rohde (2010) and Curry and Lee (2019). Additional support for the

stability finding is one of the key contributions of this dissertation.

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<u>Evaluating the Hypotheses</u>

I used two research questions to guide this dissertation. The first was: How has the pattern of lawmaking in America changed between 1951 and 2011? In the previous section, I concluded that the overall pattern had not changed. The following five research hypotheses explore changes in each of the individual pathways. The hypotheses are:

Partisan Hypothesis: The percentage of laws enacted using the partisan pathway was statistically significantly different and positive in the second and third eras compared to the first era.

First Pluralist Hypothesis: The use of the pluralist pathway was statistically significantly different and negative in the second and third eras compared to the first era.

Second Pluralist Hypothesis: The use of the pluralist pathway was statistically significant different and inversely related to the partisan pathway across the three eras.

Expert Hypothesis: The percentage of laws enacted using the expert pathway was statistically significantly different and positive across the three eras.

Symbolic Hypothesis: The percentage of laws enacted using of the symbolic pathway was statistically significantly different and positive in the third era than in the other two eras.

The partisan, expert, symbolic, and the first pluralist hypotheses all assume that there is meaningful variation in the pathways across the three eras, then make specific predictions about how the pathway has changed. However, the results of the Kruskal-

Wallis test show no meaningful variation exists (p>0.4985). This means that the partisan, expert, symbolic, and first pluralist hypotheses must be rejected (the implication of these findings will be discussed in more detail in the following section). In addition, the second pluralist hypothesis postulates that an inverse relationship exists between the use of the pluralist and the partisan pathways. I evaluated this hypothesis using a correlations matrix (see Table 16) and found there to be a statistically significant (p > 0.0003) negative (coeff = -1.539) relationship between these two variables. Thus, the second pluralist hypothesis is supported.

Table 16. Pluralist-Partisan Correlations Matrix

		Pluralist	Partisan
Pluralist	Coefficient	1.0000	
	p-value		
Partisan	Coefficient	-0.1539*	1.0000
	p-value	0.0003	

Implications

In this section I provide possible explanations for the four rejected hypotheses (partisan, expert, symbolic and first pluralist), and discuss the one supported hypothesis (second pluralist). For the partisan hypothesis I relied on research by Collie (1988), Cox and Poole (2002), and Theriault and Rohde (2011), and posited that the third era would be the most partisan. However, my findings do not support this conclusion that there is meaningful variation over time in the partisan pathway. Specifically, in the 1950s-60s the partisan pathway accounted for 4% of the laws, in the 1970s-'80s 5%, and in the 1990s-

2000s 4%. (See Table 14.) One possible explanation for the failure of this hypothesis is the fact that all three of these studies relied on roll call votes. In contrast, this study focused on enacted laws. An earlier section in this chapter found that laws with roll call votes differ in pathway usage from those without and roll call votes are absent from a significant portion of enacted laws. Roll call votes primarily occur on amendments and procedural motions, both of which lean more partisan than final passage votes.

Regarding the expert pathway I hypothesized that the percentage of laws would increase coextensively with the increased educational attainment levels of Americans, consistent with Sherkat's (2017) finding that educational attainment increases trust in science. In so doing, I chose not to follow Sherkat's (2017) other finding based on the General Social Survey—that citizens have a stable view of science. My current research findings are consistent with Sherkat's General Social Survey findings of a stable view of science. The percentage of laws enacted using the expert pathway were fairly stable with 23% the first era, 29% in the second, and 23% in the third. (See Table 14.)

The third rejected hypothesis pertained to symbolic laws and was based on a critical juncture in the history of congressional media identified by Cook (2000). I posited that the percentage of laws enacted using the symbolic pathway would be larger in the third era than in either of the earlier two. This did occur. The percentage of symbolic laws enacted in the third era was 39%, the first was 36% and the second was 34%. However, based on the Kruskal-Wallis test it appears this variation is a product of random chance, not a meaningful difference. This finding suggests that the critical juncture did not

contribute to a noticeable change in the use of power in lawmaking. However, it may have had other influences on Congress which are beyond the scope of this study.

The first pluralist hypothesis was also rejected. In this hypothesis I posited a decline in the use of the pluralist pathway over time; however, the era produced minor variations which are most likely attributable to randomness. Specifically, 37% of the laws enacted in the first era were pluralist, 32% in the second era, and 34% in the third. My hypothesis was based on the argument in the political science literature which minimized the role of pluralist theory in the latter part of the twentieth century. I assumed that the political science literature's rejection of pluralist theory would be reflected in the laws. My results signify a disconnect between political scientist's treatment of pluralist theory and Congress's continued use of the pluralist pathway to make laws.

The second pluralist hypothesis is the only one supported by this research. It posited an inverse relationship existing between the pluralist and partisan pathways. The correlation matrix (Table 16) indicates that two pathways are statistically significantly and inversely related (coefficient = -0.1539, P<0.0003). This finding may lend support to the argument that interest groups have become closely aligned with political parties (Heaney 2010; Karol 2009; Tichenor and Harris 2005). It clearly suggests that tradeoffs exist between the pluralist means of organizing with a specialized scope of mobilization versus the partisan organizational process with its broad scope of mobilization.

Conclusion

The primary purpose of this chapter is to answer the first research question: How has the pattern of lawmaking in America changed between 1951 and 2011? The evidence

in this chapter indicates that lawmaking in America has not changed. Power is used in roughly the same way (characterized by the expert, pluralist, partisan, and symbolic pathways) in roughly the same proportions (the variation over time is not statistically significantly).

This chapter began with a discussion of the 557 laws randomly selected for this study; a review of the semantic scores, roll call vote data, and durational analysis for those 557 laws; and a discussion of why studying enacted laws provides a more accurate reflection of lawmaking than studying major laws and issue areas. This chapter provided evidence supporting three of the key factual contributions that this dissertation makes to the study of Congress: (1) the statistically significant difference in the pathways' distributions between major laws and the random sample of laws; (2) the limited use of roll call votes in enacted laws (approximately two thirds of laws had no roll call vote) and the limited supply of contentious roll call votes (approximately 8%); and (3) the discussion of issue area over time. These facts support my contention that the best approach to studying changes in American lawmaking over time is a random sample of enacted laws.

Following this background information, the chapter turned to a discussion of the results of this study, including the fact that most enacted laws travelled the pluralist and symbolic pathways between 1951 and 2011. Very few laws utilized the partisan pathway during this time period, while the use of the expert pathway remained relatively stable. In fact, I conclude that there is no statistically significant variation in the use of these four pathways between 1951 and 2001. This finding reflects stability in the use of power to

enact laws in America during the late twentieth and early twenty-first centuries, despite widely reported concerns about polarization. This finding confirms earlier research by scholars such as Adler and Wilkerson (2012), Carson, Finochiaro, and Rohde (2010) and Curry and Lee (2019) and is a key contribution of this dissertation.

Lastly, I discussed the implications of each of the five hypotheses I examined. Specifically, my research does not support the partisan hypothesis. I expect this is because the partisan hypothesis was based on studies that used roll call vote data to reach their conclusions, while this study relied on a random sample of laws. My research also does not support the expert hypothesis. The results of this study are more consistent with Sherkat's (2017) survey research, as opposed to his research on the influence of educational attainment on trust in science, upon which I based the expert hypothesis. The symbolic hypothesis was consistent with the observed pattern in the use of the symbolic pathway over time, but the variation was not statistically significant, so I also rejected that hypothesis. Regarding the pluralist pathway, I hypothesized there would be meaning variation, which the data did not support. I also hypothesized that the pluralist and the partisan pathways would be negatively related. This is the one hypothesis supported by my study.

This chapter provides support for three of the four elements of my primary argument. Specifically, I argue that to draw valid inferences about longitudinal change in American lawmaking, it is important to study Congress's outputs (enacted laws) in a way that captures (1) the role power plays in lawmaking, (2) the complexity of intra-institutional strategies of lawmaking, and (3) the influence of inter-institutional power

arrangement. This chapter demonstrates that alternatives to enacted laws, such a roll call vote studies, lists of major laws, and issue area analysis, provide a distorted picture of Congress's work and do not provide as strong a foundation for drawing valid inferences about American lawmaking as a selection of random laws does. Moreover, the successful application of the *Pathways* framework in this chapter illustrates the benefits of focusing on the role of power in lawmaking and the need to examine the complexity of intra-institutional strategies for enacting laws. These intra-institutional strategies can be thought of in terms of the legislative organizational theories discussed in political science literature or in terms of the various public policy models associated with the *Pathways* framework (see Chapters 1 and 2 for a discussion of these related public policy models). The final element of my argument—the influence of inter-institutional power arrangement—is the subject of the next chapter.

CHAPTER SIX: UNIFIED AND DIVIDED GOVERNMENT

There is a substantial amount of political science literature concerning the influence of political parties on American lawmaking. The influence of political parties is often discussed in terms of unified or divided party government. Unified government occurs when one political party controls all three of the lawmaking institutions (the presidency, the U.S. House of Representatives, and the U.S. Senate). Divided government occurs when one political party, often referred to as the dominant party, controls two of the three lawmaking institutions. During divided government, the party that controls only one lawmaking institution is referred to as the opposition party. *Dominant* and *opposition* are used to distinguish institutional-level partisan divisions, as opposed to intra-chamber partisan divisions, where the terms *majority* and *minority* are used.

There are two main strands of literature regarding the influence of unified and divided government on lawmaking—conventional wisdom and the revisionist view (Binder 2003; Coleman 1999). There is a third strand of literature that attempts to explain why voters elect a divided government (Fiorina 1992; Franklin and Hirczy de Mino 1998; Jacobson 1990; Sigelman, Wahlbeck, and Buell 1997); however, electoral literature is beyond the scope of this study. The conventional wisdom holds that divided government reduces legislative productivity and contributes to legislative gridlock. Authors associated with this position include Alt and Lowry (1994); Ansolabehere, Palmer, and Schneer

(2018); Binder (2003); Coleman (1999); Edwards, Barrett, and Peake (1997); Frymer (1994); Howell et al. (2000); Kelly (1993); Lapinski (2013); Lohmann and O'Halloran (1994); Peterson (1990); Rose (2001); and Thorson (1998). By contrast, the revisionist view argues that divided government does not reduce legislative productivity and includes authors such as Chiou and Rothenberg (2003, 2008a, 2008b); Grant and Kelly (2008); Jones (1994); Karol (2000); Mayhew (1991); and Taylor (1998). Despite the conflict among these authors, there is some consensus. None of these authors suggest that divided government *alone* explains a reduction in legislative productivity. They all acknowledge that other factors matter, such as how one defines legislative productivity, the differences between the political parties, the differences among elected officials within the parties, institutional features, and historical variation in both political parties and the three lawmaking institutions, among other things. However, this is contrary to the original conventional wisdom, which simply asserts that unified and divided government makes a difference in lawmaking. In this chapter, I explore the influence unified and divided government alone has on lawmaking, utilizing the *Pathways* framework. Thus, the research question for this chapter is: does the pattern of lawmaking, evaluated using the *Pathways* framework, change during periods of unified and divided government between 1951 and 2011, and, if so, how?

Recognizing that this question is a reexamination of the conventional wisdom associated with the literature on unified or divided government, I will provide two answers to this question. The first answer is: I find no evidence to suggest that unified and divided government has a meaningful effect on the pattern of lawmaking between

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1951 and 2011. This conclusion is consistent with the revisionist view and work by authors such as Chiou and Rothenberg (2003, 2008a, 2008b); Grant and Kelly (2008); Jones (1994); Karol (2000); Mayhew (1991); and Taylor (1998). I base this conclusion on the fact that this chapter contains no statistically significant findings. However, this may be attributable to my small sample size. Since this is an exploratory study, I did not have the information to conduct a power and sample size analysis before undertaking the study. Thus, additional research would be necessary to confirm my findings.

The second answer, which will be the focus of the remainder of the chapter, will concentrate on the pattern found in the sample collected for this study. This discussion serves four purposes. First, I illustrate how to use the *Pathways* framework to explore the effect of unified and divided government on lawmaking. Second, I demonstrate how the *Pathways* framework can be used to explain the discrepancy in previous research regarding the effect of unified and divided government. This explanation of the discrepancy in existing research is a key contribution I make to political science. Third, the observed pattern in the laws suggest a durable shift in Congress's legislating authority away from the pluralist pathway and towards the symbolic. This could be significant contribution to American Political Development research. Fourth, the patterns, if confirmed in future research, suggest a connection between electoral messaging strategies and how power is used to legislate.

The presentation of the second answer begins with some background on unified and divided government and my sample. Then I present a messaging theory to explain how unified and divided government may impact the four pathways. Third, I conduct a

pooled analysis using odds ratios to evaluate the four messaging hypotheses during divided government. Fourth, I conduct a pre-post analysis using the first three and the last three Congresses in my data set. This chapter illustrates the research benefits of both longitudinal analysis and the use of the *Pathways* framework in studying U.S. lawmaking.

Unified and Divided Government

For the 30 Congresses included in this study, 18 are examples of divided government, and 12 are examples of unified government. Table 17 provides a detailed breakdown of all 30 Congresses and their institutional arrangement. Table 18 provides the results from examining the correlation between the number of laws enacted and unified or divided government. I coded unified or divided government as a dichotomous variable, with unified government equaling one and divided government equaling zero. The results indicate that the two variables (total laws and unified or divided government) do not have a statistically significant relationship ($p < 0.9896$).

Table 17. Unified and Divided Governments and Institutional Arrangements Between 1951 and 2001

	Context			Party Control			Conclusion
Congress	1st Session Convened	Final Adjournment	President	White House	Senate	House	Unified/ Divided
82	3-Jan-51	7-Jul-52	Truman	Dem	Dem	Dem	Unified
83	3-Jan-53	20-Aug-54	Eisenhower	Rep	Rep	Rep	Unified
84	5-Jan-55	27-Jul-56	Eisenhower	Rep	Dem	Dem	Divided
85	1/3/1957	8/24/1958	Eisenhower	Rep	Dem	Dem	Divided
86	1/7/1959	9/1/1960	Eisenhower	Rep	Dem	Dem	Divided
87	1/3/1961	10/13/1962	Kennedy	Dem	Dem	Dem	Unified
88	1/9/1963	10/3/1964	Johnson	Dem	Dem	Dem	Unified
89	1/4/1965	10/22/1966	Johnson	Dem	Dem	Dem	Unified
90	1/10/1967	10/14/1968	Johnson	Dem	Dem	Dem	Unified
91	1/3/1969	1/2/1971	Nixon	Rep	Dem	Dem	Divided
92	1/21/1971	1/18/1972	Nixon	Rep	Dem	Dem	Divided
93	1/3/1973	12/20/1974	Nixon/Ford	Rep	Dem	Dem	Divided
94	1/14/1975	10/11/1976	Ford	Rep	Dem	Dem	Divided
95	1/4/1977	10/15/1978	Carter	Dem	Dem	Dem	Unified
96	1/15/1979	12/16/1980	Carter	Dem	Dem	Dem	Unified
97	1/5/1981	12/21/1982	Reagan	Rep	Rep	Dem	Divided
98	1/3/1983	10/12/1984	Reagan	Rep	Rep	Dem	Divided
99	1/3/1985	10/18/1986	Reagan	Rep	Rep	Dem	Divided
100	1/6/1987	10/22/1988	Reagan	Rep	Dem	Dem	Divided
101	1/3/1989	10/28/1990	Bush	Rep	Dem	Dem	Divided
102	1/3/1991	10/9/1992	Bush	Rep	Dem	Dem	Divided
103	1/5/1993	12/29/1994	Clinton	Dem	Dem	Dem	Unified
104	1/4/1995	10/4/1996	Clinton	Dem	Rep	Rep	Divided
105	1/7/1997	12/19/1998	Clinton	Dem	Rep	Rep	Divided
106	1/6/1999	12/15/2000	Clinton	Dem	Rep	Rep	Divided
107	1/3/2001	11/22/2002	Bush	Rep	Dem	Rep	Divided*
108	1/7/2003	12/7/2004	Bush	Rep	Rep	Rep	Unified
109	1/4/2005	12/9/2006	Bush	Rep	Rep	Rep	Unified
110	1/4/2007	1/3/2009	Bush	Rep	Dem	Dem	Divided
111	1/6/2009	12/22/2010	Obama	Dem	Dem	Dem	Unified

*Post Senator Jim Jeffords's departure from the Republican Party.

Table 18. Correlation Table for Enacted Laws and Unified or Divided Government

	Total Law	Unified or Divided
Total_Law	1.0000	
Unified or Divided	0.0025	1.0000
	(p < 0.9896)	

As discussed in Chapter 2, political scientists were correct to notice the change from primarily unified government in the 1950s and '60s and the transition to increased divided government in the 1970s and '80s. This phenomenon of divided government is still common in America. However, it does not appear to influence the number of laws enacted ($p < .9896$). I contend that a more nuanced approach, using the pathways to study the types of enacted laws, may provide better insights into the influence of unified and divided government. First, I will present my argument for a relationship between *Pathways* and unified or divided government. Subsequently, I will explore this relationship in two ways: pooled and longitudinal.

Sample of Laws

Table 19 provides an introduction to the 557 randomly selected laws examined for this study. Overall, 25% of the laws were classified as expert, and 34% were pluralist. The partisan laws accounted for only 4% of the sample. Symbolic laws were the largest category, with 36% of the laws. Laws enacted during divided government accounted for 60% of the sample, and unified government accounted for 40% of the laws. This is consistent with the fact that I drew 3% of the laws from each Congress and that 60% of the Congresses in the data set were examples of divided government.

Table 19. Introduction to the 557 Laws Classified for This Study

		Expert	Pluralist	Partisan	Symbolic	Total
Divided						
	Count	80	119	14	122	335
	Row Percentage	24	36	4	36	100
	Column Percentage	57	62	58	61	60
Unified						
	Count	60	73	10	79	222
	Row Percentage	27	33	5	36	100
	Column Percentage	43	38	42	39	40
Total						
	Count	140	192	24	201	557
	Row Percentage	25	34	4	36	100
	Column Percentage	100	100	100	100	100

Messaging Theory

To examine the relationship between unified and divided government and the

Pathways framework, I begin by drawing on three strands of literature: (1) the role of

political parties both in the legislature and in the electorate, (2) information processing

(Jones and Baumgartner 2005), and (3) bargaining before an audience (Groseclose and

McCarty 2001). The simple view of political parties in the legislature contends that the

majority party selects the chamber leader, and this individual controls the agenda for

legislation that comes before the chamber (Campbell, Cox, and McCubbins 2002; Chiou

and Rothensberg 2003; Den Hartog and Monroe 2011; Gailmard and Jenkins 2007). This

control can take the form of either positive or negative agenda setting (Cox and

McCubbins 2005; Finocchiaro and Rohde 2008). The argument is that strong parties will

be able to discipline their fellow partisans to vote as a bloc (Aldrich 2011; Cox and McCubbins 2005). When parties are weak, leaders will have a reduced or nonexistent ability to discipline fellow partisans. One of the main reasons members of Congress vote as a bloc is that it helps create a party brand that can be used in the next election (Cox and McCubbins 1993; Gilmour 1995). It is important for the majority party to enact policies that distinguish themselves from the minority party; this makes the party cue more useful to the voters (Aldrich 2011; Campbell et al. 1960). This gives way to the view of parties in the electorate, where voters use the party brand and related policies to select elected officials (Aldrich 2011; Key and Cummings 1966). In addition, the electorate is responsible for disciplining elected officials who stray from the party platform by voting them out of office; in this way, electoral activities influence legislative activities (Primo and Snyder 2010), which in turn results in compliant party members within the legislature.

Having reviewed a parsimonious theory of political parties in both legislatures and the electorate, I will now discuss the second strand of literature relevant to this discussion: information processing. Jones and Baumgartner (2005) apply the idea of information processing to lawmaking; specifically, they focus on their theory of disproportional information processing, which they developed to address the weaknesses in incrementalism and capitalize on their popular theory of punctuated equilibrium (Baumgartner and Jones 1993). Their theory is that information is a mutable commodity, subject to uncertainty and ambiguity. When information is broadcast loud and clear, the status quo policy position can be overcome, and policy will approach the punctuating

equilibrium end of the policy-making spectrum. When information is muddled, then policy will approach the incremental end of the policy-making spectrum, or no policy change may occur. In addition, their information processing system contains resistance in the form of institutional rules, political parties, issue framing, and mobilization. The key to the information processing theory is focusing attention through the use of loud, clear messages.

The third strand of literature that I pull into my argument is the idea of lawmakers legislating before their electors (Gilmour 1995; Groseclose and McCarty 2001; Rose 2001). This public position makes them less likely and less willing to compromise. It also makes them more likely to write legislation that draws clear party-line distinctions and advances their reelection. Groseclose and McCarty (2001) demonstrated this phenomenon using a game theoretic approach and thereby found support for several existing theories regarding unified and divided government, such as the increased use of vetoes during an election year and divided government (Grier, MacDonald, and Tollison 1995; Rohde and Simon 1985; Woolley 1991). Groseclose and McCarty observed that major vetoes during divided government reduce the president's approval rating. They contributed a theory to explain gridlock based on the idea that, rather than compromising, elected officials sometimes wish to retain an issue for the campaign trail.

Drawing on these three strands of literature, I posit a messaging layer that can be applied to the *Pathways* framework (see Figure 16). In this paradigm, messages are either loud or quiet and either clear or unclear. Messages are loud when they reach a large public audience. The loud messages coincide with the mass scope of mobilization present

in the *Pathways* framework. Similarly, the quiet messages coincide with the specialized

or narrow scope of mobilization. How well the attentive audience (be it large or small) is

able to identify the winning political party is what determines the messages' clarity. Clear

messages are ones by which it is easy for an attentive person to identify the winning

political party. Unclear messages make it hard, for even an attentive individual, to align

legislative accomplishment with a specific political party. The need for clear messages, as

defined here, is important for credit-claiming purposes. Figure 16 shows that the

symbolic and partisan pathways are loud, and the expert and pluralist are quiet. However,

the expert and partisan pathways provide clear messages, establishing the first diagonal

feature (see Figure 16). By contrast, because the pluralist and symbolic pathways draw on

agreed-upon values and valence issues, thus muting partisan differences, they provide

unclear messages, establishing the second diagonal feature of this argument (see

Figure16). Observers are easily able to distinguish the winning political party when the

partisan pathway is used because of the roll call vote pattern. Attentive observers will be

able to perceive Congress's deference to the expert and thus distinguish the partisan

winner, particularly in more recent times, when experts are often affiliated with one

political ideology or the other (Heaney 2010; Karol 2009; Tichenor and Harris 2005).

(For more information on the role of deference in lawmaking and operationalizing

Pathways, see Chapter 3.) Conversely, the role of compromise in the pluralist pathway

and the overwhelming support for symbolic laws make it difficult or impossible to

identify the winning political party when lawmakers use these two pathways.
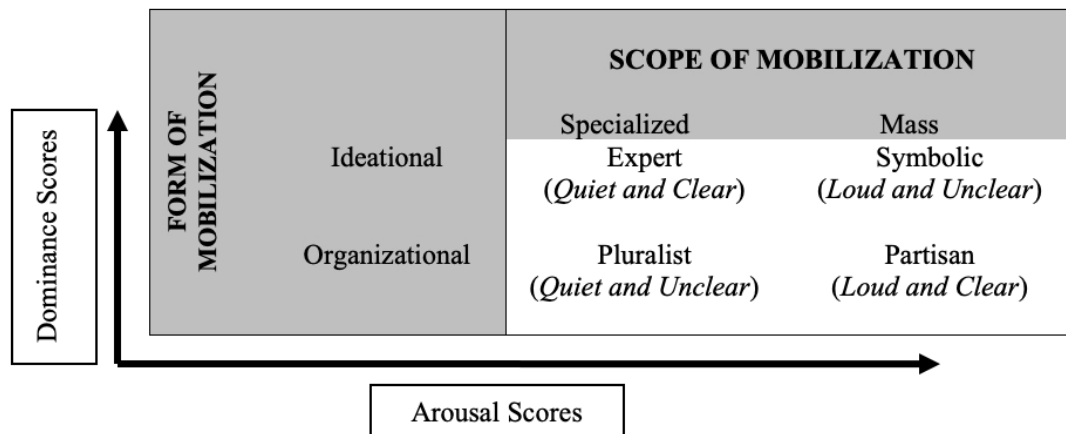
Figure 16. The *Pathways* Framework With Deference and Messaging Overlays

I posit that it is this messaging characteristic and the goal of credit claiming that drive political parties' use of power to enact laws. Specifically, partisans will prefer the partisan pathway, and it will be the most frequently used pathway during unified government. In addition, partisans will accept the expert pathway, because it enables clear messages to the narrower attentive public, and it will also be used more often during unified government. The partisan-expert messaging argument creates the first diagonal. In contrast, political parties will use the pluralist and symbolic pathways (the second diagonal) less frequently during unified government, because the credit-claiming messages are less loud and it is unclear which political party to credit. Divided government would have the reverse effect, lowering the use of the partisan and expert pathways and increasing the use of the pluralist and symbolic pathways. In the next section, I will explore these four divided government messaging relationships.

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Pooled Analysis

In this pooled analysis section, I will conceptualize divided government as an intervention and dichotomize each of the pathway variables. This enables me to use an odds ratio calculation to evaluate the chances of enacting laws through each of the four pathways during divided government. Odds ratios are a measure of effect size and are recommended when insights into the magnitude of the relationship are of interest (Sullivan and Feinn 2012). Odds ratio values greater than 1 indicate an increased chance of the event occurring (in this case, the use of the pathway). Odds ratios less than one indicate a reduced chance of the event happening. Specifically, an odds ratio is a fraction composed of two fractions. Using the partisan laws in this study as an example, the bottom fraction is the number of partisan laws enacted during divided government divided by the total number of non-partisan laws enacted during divided government (10/212 = 0.04717; see Table 20). The top fraction is the number of partisan laws enacted during unified government divided by the total number of non-partisan laws enacted during unified government (14/321 = 0.04361; see Table 20). I then divided these two numbers to calculate the odds ratio (0.04361/0.04717 = 0.925; see Table 20).

In addition, the output I used does not include p-values but does provide Baptista-Pike exact confidence intervals (Fagerland 2012, Fagerland, Lydersen, and Laake 2015) that can be used to evaluate statistical significance. Fagerland specifically advocates the use of the Baptista-Pike exact confidence interval for studies involving small sample sizes, but his recommendation is not limited to such studies. Given that I only identified 24 partisan laws, a small sample size approach is appropriate. To evaluate my

hypotheses, I used Stata to calculate the odds ratios and the Baptista-Pike exact confidence intervals. The results for divided government appear in Table 20 through Table 23. As indicated earlier, none of these results are statistically meaningful, because the confidence intervals all include 1, which indicates the effect in the parent populations could be either positive or negative. However, I am going to discuss the effect found in my sample to illustrate the potential benefits of both examining partisanship via unified and divided government and studying the use of power in lawmaking by employing the *Pathways* framework.

Hypotheses

I began with the following hypotheses:

Partisan Hypothesis: Comparing partisan to non-partisan laws, the odds of enacting a partisan law during divided government will be less than 1.

Pluralist Hypothesis: Comparing pluralist to non-pluralist laws, the odds of enacting a pluralist law during divided government will be greater than 1.

Expert Hypothesis: Comparing expert to non-expert laws, the odds of enacting an expert law during divided government will be and less than 1.

Symbolic Hypothesis: Comparing symbolic to non-symbolic laws, the odds of enacting a symbolic law during divided government will be greater than 1.

Table 20. Odds Ratio for Partisan Laws During Divided Government

	Partisan laws	Non-Partisan laws	Total
Divided	4%	96%	100%
	(14)	(321)	(335)
Unified	5%	95%	100%
	(10)	(212)	(222)
Total	4%	96%	100%
	(24)	(533)	(557)

Odds ratio estimate = .925

95% Confidence Interval = 0.381, 2.170 (Batista-Pike exact)

Table 21. Odds Ratio for Pluralist Laws During Divided Government

	Pluralist laws	Non-Pluralist laws	Total
Divided	36%	64%	100%
	(119)	(216)	(335)
Unified	33%	67%	100%
	(73)	(149)	(222)
Total	34%	66%	557
	(192)	(365)	

Odds ratio estimate = 1.124

95% Confidence Interval = 0.782, 1.619 (Batista-Pike exact)

Table 22. Odds Ratio for Expert Laws During Divided Government

	Expert laws	Non-Expert laws	Total
Divided	24%	76%	335
	(80)	(255)	
Unified	27%	73%	222
	(60)	(162)	
Total	25%	75%	557
	(140)	(417)	

Odds ratio estimate = 0.847

95% Confidence Interval = 0.574, 1.265 (Batista-Pike exact)

Table 23. Odds Ratio for Symbolic Laws During Divided Government

	Symbolic laws	Non-Symbolic laws	Total
Divided	36%	64%	100%
	(122)	(213)	(335)
Unified	36%	64%	100%
	(79)	(143)	(222)
Total	36%	66%	100%
	(201)	(356)	(557)
Odds ratio estimate = 1.037			
95% Confidence Interval = 0.727, 1.491 (Batista-Pike exact)			

Interpretation

Focusing on what these results indicate about the 557 laws studied for this dissertation, they suggest that divided government increased the use of the pluralist and symbolic laws and decreased the use of the partisan and expert pathways. Specifically, the odds ratios indicate that divided government increased the odds of enacting a law via the pluralist pathway by approximately 12% (odds ratio = 1.124) and the symbolic pathway by roughly 4% (odds ratio = 1.037). In addition, divided government decreased the odds of enacting a law through the partisan pathway by approximately 8% (odds ratio = 0.925) and the expert pathway by roughly 15% (odds ratio = 0.847).

This increase in the pluralist and symbolic pathways and decline in the partisan and expert pathways, if verified in future studies, may help explain the mixed findings on the question of unified and divided government. Remember the initial view was that divided government should reduce legislative productivity. However, the simple correlation in Table 18 at the beginning of this chapter contradicts that idea. Instead, scholars have argued that divided government reduces the ability to enact major laws. In

Chapter 5, I explored the relationship between major laws and the four pathways. Using Stathis's list of major laws, I found a meaningful difference between the pathway composition of the list of major laws compared to my random sample of laws. Specifically, the list of major laws over selects from the partisan and expert pathways. Given the pattern observed in my sample of laws, which suggests a decrease in the partisan and expert pathways during divided government, pathways analysis could be helpful in two ways. First, pathways analysis could explain the effect of divided government on lawmaking, specifically, these observations suggest increased use of the pluralist and symbolic pathway. Second, it could explain the discrepancy among previous research findings which utilized a non-random sample of laws. These non-random samples most likely over selected laws from certain pathways while undercounting others, thus explaining the differences. This explanation of the previous conflicting findings is one of the key contributions I make to political science. Both these benefits would be realized if further research confirms my findings with respect to major laws and the effect of divided government on the four pathways.

Pre-Post Analysis

Another method for examining change over time is to look at the data before and after an event and compare the results. The first three Congresses in this data set are the 82nd, 83rd, and 84th, which are examples of unified Democratic government, unified Republican government, and divided government, respectively. The last three Congresses in the data set are the 109th, 110th, and 111th, which are examples of unified Republican government, divided government, and unified Democratic government, respectively.

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Both examples of divided government involve a Republican president and a Democratic Congress. The close temporal proximity of these three institutional arrangements makes them useful for study. In addition, one set falls at the beginning of the 60-year period examined for this research, and the other triad falls at the end. Thus, in this section, I will do three things: (1) examine the variation in the pattern of lawmaking across the three institutional types in the 1950s, (2) examine the variation in the pattern of lawmaking across the three institutional types in the 2000s, and (3) compare the pattern in the 1950s to the pattern in the 2000s.

The 1950s

An examination of the pattern of lawmaking in the 82nd, 83rd, and 84th Congresses appears in Table 24. These data suggest that unified Democratic government (the 82nd Congress) utilized the pluralist pathway the most (39% of the time). The symbolic (33%) and expert (28%) pathways were a close second and third, respectively. In contrast, during unified Republican government (the 83rd Congress), Congress passed the majority of laws using the symbolic pathway (52%). During the 83rd Congress, the pluralist pathway accounted for 39% of enactments, and the expert pathway only accounted for 9% of the laws. During divided government (the 84th Congress), Congress enacted the majority of the laws via the pluralist pathway (57%). The symbolic pathway accounted for 30% of the laws enacted during divided government, and the expert pathway accounted for 10%. In addition, Congress enacted only one partisan law during this entire six-year period, and it was enacted during divided government (the 84th Congress).

Across these three Congresses, the pluralist pathway was the most commonly used,

accounting for 46% of all laws enacted during this six-year time span.

Table 24. An Examination of the Pattern of Lawmaking During the 82nd, 83rd, and 84th Congresses

Congress	Values	Expert	Pluralist	Partisan	Symbolic	Total
82nd Unified Democratic	Frequency	5	7	0	6	18
	Expected Frequency	2.5	8.4	0.3	6.8	18.0
	Row Percentage	28	39	0	33	100
	Column Percentage	50	21	0	22	25
83rd Unified Republican	Frequency	2	9	0	12	23
	Expected Frequency	3.2	10.7	0.3	8.7	23.00
	Row Percentage	9	39	0	52	100
	Column Percentage	20	27	0	44	32
84th Divided	Frequency	3	17	1	9	30
	Expected Frequency	4.2	13.9	0.4	11.4	30.0
	Row Percentage	10	57	3	30	100
	Column Percentage	30	52	100	33	42
Total	Frequency	10	33	1	27	71
	Expected Frequency	10.0	33.0	1.0	27.0	71.0
	Row Percentage	14	46	1	38	100
	Column Percentage	100	100	100	100	100

Pearson's Chi2 (6) = 7.5758 Pr = 0.271
Cramer's V = 0.2310
Fisher's Exact = 0.271

The 2000s

An examination of the pattern of lawmaking in the 109th, 110th, and 111th

Congresses appears in Table 25. These data suggest that unified Republican government

(the 109th Congress) utilized the pluralist pathway the most (43% of the time). The 109th

Congress used the symbolic pathway 36% of the time and the expert pathway only 14%

of the time. During divided government (the 110th Congress), Congress passed the majority of laws using the symbolic pathway (57%). During the 110th Congress, the pluralist pathway accounted for 36% of enactments, and the expert pathway accounted for 7% of the laws. During unified Democratic government (the 111th Congress), Congress used the symbolic and expert pathways in equal amount, each accounting for 36% of the laws. The pluralist pathway accounted for only 18% of the laws. In addition, each of the unified Congresses enacted one partisan law. Across this six-year time span, Congress used the symbolic pathway the most accounting for 44% of all laws enacted.

Table 25. An Examination of the Pattern of Lawmaking During the 109th, 110th, and 111th Congresses

Congress	Values	Expert	Pluralist	Partisan	Symbolic	Total
109th Unified Republican	Frequency	2	6	1	5	14
	Expected Frequency	2.5	4.7	0.7	6.1	11
	Row Percentage	14	43	7	36	100.
	Column Percentage	29	46	50	29	36
110th Divided	Frequency	1	5	0	8	14
	Expected Frequency	2.5	4.7	0.7	6.1	14.0
	Row Percentage	7	36	0	57	100
	Column Percentage	14	38	0	47	36
111th Unified Democratic	Frequency	4	2	1	4	11
	Expected Frequency	2.0	3.7	0.6	4.8	11.0
	Row Percentage	36	18	9.	36	100
	Column Percentage	57	15	50	23	28
Total	Frequency	7	13	2	17	39
	Expected Frequency	7.0	13.0	2.0	17.0	39.0
	Row Percentage	18	33	5	44	100
	Column Percentage	100	100	100	100	100

Pearson's Chi2 (6) = 6.3425 Pr = 0.386
Cramer's V = 0.2852
Fisher's Exact = 0.386

Comparing the 1950s and 2000s

Comparing the 1950s (the 82nd, 83rd, and 84th Congresses) to the 2000s (the 109th, 110th, and 111th Congresses) suggests four key findings. It is important to remember that I randomly selected these data and that none of the above relationships show a statistically distinguishable difference. It is unclear if these patterns would hold if additional laws were studied; however, the above observations do indicate that additional longitudinal

research utilizing the *Pathways* framework has the potential to provide valuable insights into the changing use of power in American lawmaking.

First, during the 1950s, the pluralist pathway was the primary means for enacting laws, overall and during unified Democratic and divided governments. However, unified Republican government relied heavily on the symbolic pathway. Second, during the 2000s, the symbolic pathway was the most utilized, suggesting a change from the pluralist dominance that occurred in the 1950s. This emphasis on the symbolic pathway was true overall and during divided government in the 2000s. However, during unified Democratic government in the 2000s, the usage of the symbolic pathway tied with the expert pathway. During unified Republican government, the pluralist pathway dominated, which is a change from the 1950s when unified Republican government relied predominately on the symbolic pathway. Third, in both the 1950s and the 2000s, Congress used the expert pathway most during unified Democratic government. Lastly, the partisan pathway still accounts for few of the laws in either time period. However, in the 2000s, Congress enacted both partisan laws during unified government, which is consistent with the conventional wisdom of unified and divided government. In the 1950s, Congress enacted the only partisan law during divided government. This pattern of lawmaking suggests a change from the pluralist pathway dominating in the 1950s to the symbolic pathway dominating in the 2000s. However, unified Republican government showed the exact opposite pattern, emphasizing the symbolic pathway in the 1950s and the pluralist pathway in the 2000s. Additional research is necessary to verify these patterns.

The success of the partisan pathway during divided government, as occurred in the 1950s, is particularly interesting given that the 84th Congress had a Democratically controlled House and Senate and a Republican in the White House. Using the partisan pathway during such an institutional arrangement makes one wonder why the president did not veto the bill, rather than allow the other party to claim a win. The issue of institutional veto power arose in 58% of all the partisan laws identified in this study (Congress enacted 14 of the 24 partisan laws during divided government). This is another topic for future research.

Conclusion

This chapter illustrated the research benefits of both examining partisanship via unified and divided government analysis and studying the use of power in lawmaking by employing the *Pathways* framework. Establishing the benefits of both these lines of research is a key contribution of this dissertation. Specifically, I discussed how the pathways could be used to study the effect of divided government on lawmaking and may not only explain the effect, if a larger study was undertaken, but also has the potential to explain the discrepancies in earlier research. The patterns observed during the research discussed in this chapter suggest that the conflict conclusions in earlier studies may be a product of the biased sampling from certain pathways. Providing a plausible explanation for the inconsistencies in earlier research is a key contribution of this study.

In addition, the longitudinal finding from the pre-post analysis indicating that the pluralist pathway dominated in the 1950s and the symbolic pathway rose to prominence in the 2000s suggests a shift in how parties use power to enact laws over time. Being able

to empirically document changes in the way Congress uses power to enact laws would be useful to political scientists, such as American Political Development scholars. Additional research with a large sample size will be necessary to further explore this observation.

This chapter contributes to my central argument by illustrating the value of considering the inter-institutional power arrangement when studying changes in American lawmaking over time. Specifically, I conceptualized the inter-institutional power arrangement in terms of unified and divided government, but I also discussed differences regarding the specific political parties, such as the apparent enduring relationship between the Democratic party and expert lawmaking.

CHAPTER 7: DISCUSSION AND CONCLUSION

James Q. Wilson (1989), in his seminal work, *Bureaucracy*, made the point that "lower the cost of shipping plywood!" does not have the same appeal as "save the baby dolphin!" (84). Wilson's observation has important implications for policymaking, predominantly if lawmakers increasingly rely on the symbolic pathway, as suggested by the data in this dissertation. If the symbolic pathway is becoming the dominant mode for enacting laws in America, it may become harder for the nation to address issues, such as the price of shipping plywood, that do not inherently have the emotional appeal to take on symbolic meaning. Such mundane matters are nevertheless critical at times, such as during hurricane season; moreover, their importance accumulates over time. This recognition that not all issues can utilize the symbolic pathway is just one example of the valuable insights, which emanate from studying lawmaking and Congress using a more comprehensive model of the policy process, such as that provided by the *Pathways* framework.

This chapter will begin by reviewing the problem statement and the research questions that were the focus of this dissertation. I will then revisit the approach I took to conduct this study, discuss my key findings, and elaborate on the contribution this study makes to the fields of political science and public policy. Lastly, I will acknowledge the limitations of this study and make recommendations for future research.

Problem Statement and Research Questions

The purposes of this exploratory sequential mixed methods study (Creswell and Plano 2018) were to examine the pattern of American lawmaking between 1951 and 2011; explore the effect of time, and assess the influence of unified and divided government. As discussed previously, researchers debate whether lawmaking in America has been stable over time (Adler and Wilkerson 2012; Carson, Finocchiaro, and Rohde 2010; Curry and Lee 2019) or variable (McCarty 2007). I contend that to draw appropriate inferences about longitudinal change in American lawmaking, it is important to study Congress's outputs (enacted laws) in a way that captures: (1) the role power plays in lawmaking; (2) the complexity of intra-institutional strategies of lawmaking; and (3) the influence of the inter-institutional power arrangement. Intra-institutional strategies include both partisan and bipartisan strategies. However, I contend that the partisan-bipartisan distinction alone does not provide enough refinement for examining the pattern of lawmaking over time. A more detailed view of bipartisan lawmaking was necessary. To capture both the role of power in lawmaking and a more nuanced approach to bipartisan lawmaking, I adopted *Pathways* as the theoretical framework for this dissertation. The inter-institutional power arrangement, which also must be considered, was addressed by studying the effects of unified and divided government on American lawmaking over time.

Specifically, this dissertation explores two research questions. First, I asked, how has the pattern of lawmaking in America changed from 1951 to 2011? Second, I asked,

does the pattern of lawmaking, evaluated using the *Pathways* framework, change during periods of unified and divided government between 1951 and 2011, and, if so, how?

<div align="center">

Research Approach

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To address the dispute in the literature and answer the two research questions that instigated this study, I made three key decisions about the approach I would use. First, I elected to use the *Pathways* framework for two reasons. First, *Pathways* furnished the necessary theoretical connection to politics and the use of power in lawmaking. Second, it did not require the classification of laws into issue areas at the start of the study, which enabled me to see how the laws naturally shifted within policy spaces across time rather than locking them into preordained categories. Temporal flexibility allowed me to take a longitudinal approach, which was crucial to address the problem statement and the research questions.

Second, I decided to follow the public policy tradition (Sabatier 1991) of viewing government in instrumental terms. This approach led me to focus on enacted laws and also allowed me to examine legislation—Congress's output—for the purposes of drawing inferences about congressional behavior. To limit the time and cost of this study, I chose to examine a random selection of 3% of enacted laws from each Congress between 1951 and 2011, which resulted in a total of 557 laws. In making this decision, I rejected other common approaches used in political science, such as studying roll call votes or major laws which represent a small and biased sample of Congress's legislative work.

The third key decision I made in this research project was choosing an exploratory sequential mixed methods (Creswell and Plano 2018) approach to conduct

the study. A mixed methods exploratory sequential approach is defined as a multi-phase

iterative approach in which qualitative research is undertaken for the purpose of

developing an approach or tool for quantitative analysis (Creswell and Plano 2018, 84).

This approach is specifically recommended when the classification instrument is

unavailable and when some of the variables are unknown (Creswell and Plano 2018, 84).

Both these issues applied to the operationalization of the *Pathways* framework. The

initial qualitative phase of this project was the archival phase, during which I randomly

selected 50 laws, read the congressional documents related to the laws, and hand

classified all 50 laws in a month. From this phase I developed the theoretical construct—

deference—which I employ to guide the operationalization of the *Pathways* framework

using semantic scores. The second phase of this project was the validation study, in

which I developed a valid and reliable system for classifying laws into the four pathways

using semantic scores, roll call votes, and durational analysis. I was able to correctly

classify 90% (19 out of 21) of the laws included in *Pathways* via this valid and reliable

process. The third phase used the process developed in the validation study to classify

557 randomly selected laws and address my first research question: How has the pattern

of lawmaking in America changed from 1951 to 2011? I concluded that lawmaking in

America between 1951 and 2011 was stable. This third phase also enabled me to explore

the prevalence of congressional roll call voting and to compare a list of major laws

against the random sample of laws, to confirm the benefit of studying a random sample of

enacted laws when the research goal is to draw inferences about Congress. The fourth

and final stage of this exploratory study examined the effect of unified and divided

government on the use of the four pathways between 1951 and 2011.

<div align="center">**<u>Findings and Implications</u>**</div>

In this section, I will present the key findings and implications of this research. I

have organized the section around the four phases of this exploratory sequential mixed

methods study: the archival phase, the validation study, answering the first research

question, and analyzing unified and divided government. I will first present all of the key

findings related to the specific phase of the project and then discuss the implications of

that phase.

The Archival Phase

Consistent with the mixed methods approach selected for this study, the first

phase was qualitative and designed to explore the data to inform the developmental stage

of the process. The two key findings from the archival research phase of this project were

the theoretical construct of deference and the related semantic scores. Specifically, after

conducting the archival research, I concluded that the key difference between the pluralist

and the expert pathways and between the partisan and symbolic pathways was a change

in congressional deference. In Chapter 3, I provided two examples from the archival

research illustrating the effects of deference as well as the lack thereof. Once I had

established deference as the construct for the change in the form of mobilization (the shift

from organizational to ideational and vice versa) contained in the *Pathways* framework, I

sought a method to systematically measure deference. Freeland and Hoey (2018)

measured deference among professions using Affect Control Theory (ACT) and semantic

scores. I borrowed the use of semantic scores from sociological research and applied them to legislation, enabling me to situate laws in a semantic policy space. The deference construct and this application of semantic scores are a unique contribution I make with this study, and they provided the key developmental transition that enabled this study to move from the qualitative phase to the quantitative phase, consistent with the exploratory sequential mixed methods approach adopted for this study.

As part of the transition from the qualitative phase to the quantitative phase, I employed Kluge's (2000) empirically grounded constructed type approach to develop a systematic process for using the semantic scores and classifying the laws into the four pathways. Specifically, using the 21 laws from *Pathways* and the 50 laws from my archival study, I identified the horizontal and vertical lines that divide the semantic policy space into four quadrants, each quadrant representing a different pathway. These lines were instrumental in writing the computer program that I used to classify the 557 laws in the third phase of this research project.

The implications of the archival phase findings are two-fold. First, I had the insight to use deference to distinguish the four pathways. This required expanding the traditional view of deference in lawmaking from that of members not on the committee of jurisdiction deferring to the specialized knowledge of those on the committee. This traditional form of deference is internal to Congress (among its members) and can be considered a lack of deference on the part of Congress as a whole, because Congress is performing its legal duty of making laws without giving consideration or weight to the decisions of another outside the legislature. This lack of deference is associated with the

pluralist pathway. I expand the concept of deference to include three additional types of deference: deference to the political parties (inside and outside the legislature), experts, and the public at large.

The second implication is connected to the use of the semantic scores to map the semantic policy space. My research suggests the possible application of ACT to the study of public policy. ACT is based on the idea that people seek to maintain their affective meaning during human interactions. When the interactions are consistent with our understanding, humans attach neutral or positive words to the description; however, when the situation is inconsistent, people tend to use negative words. It was this premise that justified my method for studying laws using the language contained in the documents related to the laws and enabled my use of semantic scores.

The Validation Study

Central to the mixed methods sequential research method is the development phase, during which the qualitative findings are transformed into a means for collecting quantitative data (Creswell and Plano 2018). The validation study was the developmental stage of this project, and three key contributions arose from it. The first was the fact that semantic scores alone were sufficient to correctly classify 67% of laws, well above the 25% I expected through random assignment. However, I needed additional variables to improve the classification rate, so I assumed the four variables (chief sponsor, salience, roll call votes, and duration) identified in *Pathways* were valid. Upon closer examination of these four variables, I decided to include roll call votes and durational analysis in the classification process. (For an explanation of why chief sponsor and salience were not

utilized, see Appendix A.) The second key contribution was the development of a systematic, valid, and reliable classification process. The third key contribution was the computer program I used to classify the laws. The classification process and the computer program will make it easier for other scholars to use the *Pathways* framework to study a set of laws. The implications of the success of the semantic scores and the possible application of ACT theory to the study of public policy are even more significant.

Since 1945, when Herbert Simon wrote *Administrative Behavior*, policy scholars have acknowledged that emotions play a role in decision-making. However, Simon limited the role of emotions to a motivational force and a means to capture attention (Simon [1945] 1997, 91). The idea of emotions as a tool to focus attention was also adopted by Jones and Baumgartner (2005). However, I contend this is a narrow view of the influence of emotions on policymaking. The successful application of semantic scores in this dissertation raises the possibility of applying ACT, and the role of emotions in social interactions, to public policy. Much like Rational Choice Theory (RCT) introduces the idea of a rational person attempting to maximize his or her utility, ACT introduces the idea of an emotional person attempting to maintain his or her affective meaning. Moreover, just as RCT aligns with the spatial model of voting, ACT has the potential to provide insights into a social model of legislative decision-making that illuminates the intensity of the conflict associated with political polarization. Viewed through an ACT lens, the behavior associated with polarization appears as each side's struggle to reduce existential uncertainty. In other words, political polarization is the result of a struggle, by

all involved, to feel heard and valued in American society and in the country's

lawmaking process.

The success of the semantic scores in improving the classification process also

signals a greater role for emotions in the policy process. Thus far, researchers have

primarily limited the discussion of emotions in the policy process to the agenda-setting

phase (Jones and Baumgartner 2005; Simon [1945] 1997). These scholars acknowledged

two primary ways emotions influence the agenda. First, emotions can elevate an issue on

the public agenda and inspire a rapid response. Second, emotions can fixate attention on a

particular problem, thereby securing the issue a place on the agenda. This dissertation, via

the successful application of semantic scores in the classification of laws to evaluate how

power is used in the coalition building and advocacy processes, suggests a possible

means for measuring the role that emotions play in the policy formulation and adoption

phases. Scholars like Martha Derthick and Paul Quirk (1985) and Deborah Stone (2011)

have demonstrated heuristically the important role that emotions and ideas play in

congressional policymaking. However, ACT is a well-developed mathematical model, so

it has the potential to incorporate the emotive dimension of lawmaking into systematic

quantitative research.

Answering the First Research Question

In addition to the qualitative and developmental stages, the exploratory sequential

mixed method also has a quantitative stage (Creswell and Plano 2018). This study had

two quantitative parts: the analysis of longitudinal policy change and the analysis of

unified and divided government. While answering the first research question (How has

the pattern of lawmaking in America changed between 1951 and 2011?), I explored the

pattern of policy pathway usage, both in the aggregate and over time; the pattern of roll

call voting in Congress; and the distribution of the four pathways in a sample of major

laws. Exploring the aggregate pattern involved the classification of the 557 randomly

selected laws. The first key finding, at the aggregate level, was that Congress used the

symbolic pathway most heavily. Second, Congress used the partisan pathway very

infrequently. Third, the variation in the use of the pathways was not statistically

significant across the three eras examined. Thus, I concluded that lawmaking in America

is relatively stable.

Regarding roll call votes, I found that 67% of all the laws I studied had no roll call

votes at all. An additional 25% of the laws that did have roll call votes were bipartisan,

with 66% or more support from both parties. This leaves a remainder of only 8% of the

laws that were controversial. In addition, only 4.5% of the laws were partisan, indicating

that studies focused on roll call votes have been examining a small sample of all the laws

Congress enacts.

To examine major laws and compare them with a random sample of laws, I used

Stathis's (2014) list and discovered that 24 of the 557 randomly selected laws in my data

set were also on his list. I compared the pathway distributions of the two sets of laws and

found a statistically significant difference: when compared to the random sample, the

major laws overrepresent the partisan and expert pathways and underrepresent the

pluralist and symbolic pathways. This pattern is interesting, given that the pluralist and

symbolic pathways are the two most utilized pathways throughout all six decades covered

in this study. The discrepancy between Stathis's list and mine suggests that studies based on major laws lead to skewed and unrepresentative conclusions about Congress.

The implications of my findings begin with the symbolic pathway. The prevalent use of this pathway reflects lawmakers' deference to the public's general will. When consensus is high among the public, the legislative process appears to respond. The infrequent use of the partisan pathway suggests a limited role for partisan theories of lawmaking, such as those which rest on the idea that political parties and ideologies are aligned and that a single dimension can explain decision-making in the legislative process. However, the use of enacted laws does not allow me to fully ascertain the effects of negative partisanship, wherein party coalitions succeed in blocking passage of legislation (gridlock).

My finding of stability in the deployment of these pathways indicates that the use of power to build coalitions of support has been consistent during the 60-year period I studied. This reflects the idea that coalitions of support generally need to be larger than a bare majority, in keeping with the non-majoritarian nature of the American political system (McCarty 2019), which is analogous to Lijphart's (2012) consensual system. This finding suggests that the Madisonian protections, such as the separation of powers and federalism, are still working.

Analyzing Unified and Divided Government

My discussion of unified or divided government in Chapter 6 resulted in five key findings. First, I found that unified and divided government had no statistically significant influence over the pathway used to enact a law when I examined the entire 60-

year period. This finding is consistent with the revisionist view of scholars such as Chiou and Rothenberg (2003, 2008a, 2008b); Grant and Kelly (2008); Jones (1994); Karol (2000); Krehbiel (1996); Mayhew ([1991] 2005); and Taylor (1998), who have argued that divided government does not reduce legislative productivity. In other words, the overall pattern is consistent with the idea that the norms of lawmaking follow the consensual view of governing.

Second, this portion of my study illustrated the benefits of using the *Pathways* framework for studying changes in the use of power over time because it provides a method for a more refined examination of the patterns of lawmaking. For example, my findings associated with the examination of unified and divided government and major laws may help explain why previous research into unified and divided government drew conflicting conclusions: variations in the sample. As discussed in Chapter 6, my pathways analysis indicated increased odds that Congress will use the pluralist and symbolic pathways during divided government. In addition, my findings in Chapter 5 indicated that the pluralist and symbolic pathways are underrepresented in lists of major laws. Thus, the discrepancy among previous research findings could be the result of how the researchers defined the sample of laws they studied and whether the samples contained a representative number of laws from all four pathways. In other words, scholars who find that divided government reduces legislative productivity and those who find that divided government has no effect on legislative productivity may be studying different sets of laws. Specifically, these different sets may not contain a representative sampling of the four pathways, which may explain the conflicting findings.

Third, the pre-and-post analysis I performed, comparing the first three Congresses to the last three Congress in the dataset, suggested a shift from the pluralist pathway dominating in the 1950s to the symbolic pathway dominating in the 2000s. While this observation was not statistically significant, I fully expected that outcome, as my analysis was based on a small sample size. I will need to classify more laws to determine if my observations are statistically meaningful. Nevertheless, this observed change suggests that careful examination of Congress's outputs (enacted laws) is important for identifying and understanding changes in American lawmaking, such as the shifts in the role power plays in lawmaking; the complexity of intra-institutional strategies of lawmaking (expert, pluralist, partisan, and symbolic); and the influence of inter-institutional power arrangements (unified and divided government).

Fourth, the messaging theory I presented in Chapter 6 may be helpful for understanding changes in the use of the four pathways; however, additional research with a larger sample is necessary. The messaging theory builds off Mayhew's (1974) idea that lawmaking is about electoral credit claiming. The theory is founded on two premises: first, unified government will result in increased use of the partisan and expert pathways, through which credit for the legislative accomplishment can be awarded to a particular party; second, because the pluralist and symbolic pathways make it hard to identify a clear partisan victor, Congress will use these pathways most often during divided government. The patterns I observed in the effect sizes reported in Chapter 6 lend some support to this messaging theory.

A primary implication of these findings is the fact that the *Pathways* framework is suitable for examining "durable shifts in governing authority" (Orren and Skowronek 2004, 123) in Congress. This is a crucial issue for American political development (APD) scholars, who have struggled to identify changes in power in Congress. However, to reach a decisive conclusion about the shift from predominately pluralist to symbolic lawmaking, it is important to note that I will need to classify more laws for my analysis to have enough statistical power. If further research confirms this shift, it would lend support to the work of Goidel (2014), who posited that the problem of polarization arises not from too little democracy but rather from too much of it (or, in other words, too much deference to the public). This finding also raises an interesting normative question about the relationship between pluralism and the symbolic pathway. Pluralism has been criticized because it does not represent all interests evenly. Is the symbolic pathway better at representing all interests? One may argue, like Richard Nixon, that a silent majority exists and that the symbolic pathway is therefore not very representative. The symbolic pathway may only represent the interests of the vocal public. Is representation simply a matter of aggregating policy preferences, such as in a public opinion survey, or is it about having one's argument heard and reckoned with as part of a deliberative process? The findings from Chapter 6 thus raise more questions than answers, which is reasonable, given the exploratory nature of this research.

The additional implications relate to earlier studies' contradictory results regarding the influence of unified and divided government on legislative productivity because their samples did not contain a properly proportioned sample of laws from each

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of the four pathways. If subsequent research supports this finding, it could help resolve

the dispute in the literature and demonstrate the value of the *Pathways* framework for

studying Congress. Lastly, despite the lack of rigorous findings, which is likely

attributable to the small sample size, this research suggests some value in pursuing the

messaging theory in more detail, because the patterns I observed support the theory.

<u>**Contributions**</u>

This study makes seven contributions to the study of political science and public

policy: confirming the stability of lawmaking; explaining the findings of unstable

lawmaking; quantifying the limits of roll call voting analysis; demonstrating the bias in

analysis of only major laws; operationalizing the political coalition focused *Pathways*

framework; establishing the research value of the *Pathways* framework; and developing a

connection among semantic scores, ACT, and the study of lawmaking.

First, this study provides support to the scholarship that has argued American

lawmaking is largely stable (such as Adler and Wilkerson (2012) and Curry and Lee

(2019)). I found no statistically significant changes in the utilization of different policy

pathways over time. In addition, this research helps to explain why some scholars, such

as McCarty (2007), have found policy instability. Specifically, he relied on roll call vote

data, which does not include the majority of enacted laws, and he focused on major laws,

which this study demonstrated is unlikely to contain a balanced sample of the four

pathways. Fifth, this study operationalized the *Pathways* framework by creating a new

technique for analyzing legislative outputs. Rather than examining partisanship or

legislative productivity based on the number of bills passed, the process used in this

dissertation reflects the complexity of the lawmaking process embraced in the *Pathways* framework and draws on ACT by utilizing semantic scores, archival research, roll call vote data, and durational analysis to classify laws. Sixth, I demonstrated value of the *Pathways* framework for studying American lawmaking over time during the post-World War II era by developing a unique approach to examining changes in the politics of policymaking over time. Once the individual laws are classified, I examine the aggregate changes in the classifications over time to identify the changes in the politics of lawmaking. Lastly, this research developed a connection among lawmaking, semantic scores, and ACT theory, which has the potential to open new lines of research, such as quantitative exploration of the role of emotions in lawmaking.

Limitations

The primary limitation of this study was the sample size of laws, which was partially a reflection of the exploratory nature of this research. Going forward, it will be necessary to classify more laws to ensure a large enough sample size to draw more robust and statistically significant inferences from the data. However, since there was no information available about the longitudinal distribution of the laws across the four pathways before I conducted this study, I contribute to political science by filling this gap. With the groundwork I laid in this study, I will be able to generate more robust findings in my future work by enlarging my sample size. I plan to increase the percentage of laws drawn and classified from each Congress to 5% and to add an additional decade covering 2011 to 2021 in order to account for the most recent and extreme period of party

polarization in Congress. Together, these modifications will require identifying and classifying an additional 374 laws, increasing my overall sample size by roughly 67%.

The second limitation of this research was the relatively small body of evidence I presented regarding the biased character of the lists of major laws. I would like to bolster this evidence by classifying Mayhew's ([1991] 2005) list of 267 laws into the four pathways and examining the distribution. I intend to further strengthen my discussion of bias by analyzing more enactments from Stathis's (2014) list of major laws, which is also widely used. Stathis's list covers a period from 1951 to 2013 (the 82nd to the 112th Congress) and contains 590 laws. I estimate I would need to classify an additional 500 laws to make this comparison because I anticipate that there would be some overlap between Mayhew's selections, Stathis's selections, and my expanded random sample.

In total, improving this study would require classifying an additional 1,100 laws. I would need to add roughly 400 additional laws to strengthen my statistical findings of stability in Congress's use of power to enact laws over time and the influence of unified and divided government on the pattern of lawmaking. To further address the issue of major laws, I would need to classify roughly 700 additional laws based on Mayhew's ([1991] 2005) and Stathis's (2014) lists.

A third limitation of this study may be the documents used to calculate the semantic scores. Given that the purpose of the semantic scores is to capture the emotion surrounding the piece of legislation, there may be other sources of language that could be consulted, in addition to the congressional hearings and reports used in this study. For example, I considered floor statements but rejected them because of time constraints (see

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footnote 7 in Chapter 4). Subsequent researchers may wish to reexamine the use of floor statements and other possible sources of language in calculating the semantic scores for the laws.

A fourth limitation of this study may be the initial qualitative phase, which was dictated by my choice to use the *Pathways* framework to make my argument in favor of studying change in American lawmaking based on how power is used to enact laws. Future scholars may wish to construct a modified or new typology of lawmaking and apply a quantitative approach, such as multinomial logit and principal components analysis, to identify a classification equation. Given my decision to use the *Pathways* framework, these approaches were not appropriate, because there were too few known cases. Generally, researchers recommend 10 known cases for each predictor in a binary logistic regression model, and researchers have found this rule to be applicable to predictive multinomial logistic regressions as well (de Jong et al. 2017). Moreover, recent research by Rainey and McCaskey (2021) recommended using a penalized maximum likelihood estimator when working with small samples sizes; however, they defined a small sample as having 50 observations. *Pathways* only provided 21 cases and recommended four variables; as I discussed earlier, I rejected two of the variables (see Appendix A) and added an additional variable (semantic scores) for conceptual reasons (see Chapter 3). Thus, I did not have the necessary number of known cases to employ a quantitative approach for developing the three-predictor model used in this dissertation. The short supply of known cases was a factor in my decision to begin the study with a

qualitative phrase and was why I employed an exploratory sequential mixed methods research design for this study (Creswell and Plano Clark 2018).

In addition, de Jong et al. (2017) found that having sufficient cases for the smallest nominal category is a key factor in the performance of a predictive multinomial regression model. I was able to lay the necessary groundwork for future researchers by identifying the partisan pathway as the smallest nominal category. Future scholars will thus be able to use the information gleaned from my study to inform quantitative approaches for advancing this line of research.

Regarding principal component analysis, scholars seeking to explore this approach may find it helpful to set aside my base assumption. I began by assuming the variables identified in *Pathways* were accurate and added only one additional variable, semantic scores, to facilitate direct comparisons (see Chapter 4 for details) and to keep the project manageable. Future researchers may wish to explore a wider array of variables using principal component analysis. Such an approach would provide a set of ordered orthogonal variables, which may reduce the dimensionality of the classification model, and thereby provide a more parsimonious model for examining longitudinal change in the use of power to enact laws in the United States.

Future Research

There are five primary areas of additional research that follow from this work. The first, as described in the limitations, is collecting, and classifying a sample of approximately 400 additional laws. This would enable me to further examine three key parts of this study: the finding of stability in lawmaking between 1951 and 2011, the

percentage of laws with roll call votes, and the effect of unified and divided government on the pattern of lawmaking.

The second area for additional research relates to the study of major laws. As described above, classifying Mayhew's ([1991] 2005) and Stathis's (2014) lists of major laws would provide corroborating evidence to confirm or abrogate my finding of a statistically significant difference in the pattern of laws identified as major and the random sample of laws examined in this study. My current finding indicates that lists of major laws are biased in favor of the partisan and expert pathway, and underrepresent the two most utilized pathways – pluralist and symbolic.

The third strand for further research is exploring the value of applying ACT theory more directly to the study of lawmaking. I have two ideas under this heading. The first is formally applying ACT theory to the Narrative Policy Framework (NPF). NPF identifies characters, actions, and events in policy related stories, so the application of ACT to these stories may provide a mathematical means for modeling stories and identifying the emotions generated by the policy stories. If this is possible, it would be interesting to explore the relationship between the affective meaning generated by the legislative story and the likelihood of enactment.

Second, the basic model of ACT is $r=Mt$, where r stands for the affective response, M is the matrix created by Smith-Lovin (1987), and t represents the initial affective state. Sociologists primarily use this formula to calculate human responses to shared events. However, I anticipate that modifying the equation to the form $t=r/M$ would allow for the identification of differences in the initial affective states of the people

experiencing a shared event, which could provide valuable insights into the differences between the polarized groups in our society. For example, what was the initial affective position of people who viewed the January 6th attack and called the participants patriots? What about those who called them traitors? This type of work would be more in line with affective polarization research, as opposed to partisan polarization research, but I suspect the two intersect, and that this might help bridge the gap.

The fourth strand of research is about the role of emotions in public policy. Herbert Simon ([1945] 1997) acknowledged the role of emotions in agenda setting. Jones and Baumgartner (2005) expanded on this idea from their information-processing perspective but still primarily restricted the influence of emotions to the agenda-setting phase. Given the 67% correct classification rate for the semantic scores, I posit there is a place for emotions in the formation and adoption phase of the policy process. Furthermore, I expect that ACT theory and semantic scores would aid in demonstrating this broader application of emotions to the policy process.

The fifth strand of research that follows from this project is the development of the deference construct discussed in Chapter 3 into a formal theory. Developing the appropriate rules and assumptions for such a project will require additional research and thought. This line of research has the potential to make an additional worthwhile contribution to political science.

APPENDIX A: CHAPTER FOUR APPENDIX

Chief Sponsor

One of the variables considered in *Pathways* was legislative sponsorship. The purpose of this discussion is to illustrate the problems associated with developing fine enough indicators to capture the *Pathways* framework. On the topic of chief sponsor, Conlan, Posner, and Beam (2014) wrote: "The chief legislative sponsors of the four pluralist policies examined in table 1.2 were the chairmen and/or ranking members of the authorizing committees with jurisdiction in Congress. The same was true of the four examples of the expert pathway" (5). This illustrates the problem of overlap between the pluralist and expert pathways. In addition, the authors suggested that committee leaders and party leaders are a distinct set of actors but did not clearly define the two sets. Moreover, according to the authors either set of leaders and/or any member of Congress can introduce a piece of symbolic legislation. Thus, committee leaders are more likely to introduce legislation on the expert, pluralist, or symbolic path; party leaders are more likely to introduce legislation beginning on the partisan or symbolic pathway; but any member can introduce a symbolic law. Thus, knowing who introduce that legislation cannot be used to identify symbolic laws.

In addition, the likelihoods are not firm rules. There are numerous exceptions when examining specific laws, such as the 1993 Brady Bill, the 2010 Dodd Frank Act,

and the 1981 Economic Recovery and Tax Act. The 1993 Brady Bill (Public Law 103-159)—which Conlan, Posner, and Beam (2014) classified as partisan—was introduced by Representative Charles Schumer (D-NY) when he was simply the representative from the 9th congressional district of New York, not a member of the party leadership, as would be expected for a partisan law. Thus, identifying the actor who introduces the legislation does not constitute a clear method for operationalizing a classification system.

In addition, the chief sponsor variable focuses on the introduction of the law, but the law can undergo a shift in pathways during its journey to enactment (Conlan, Posner, and Beam 2014, 11). The purpose of this study was to examine the changing pattern of lawmaking; thus, I focused on what pathway the law was on at the end of its journey to enactment. This difference in temporal focus further diminishes the usefulness of legislative sponsor as a classification criterion for this study. In conclusion, the purpose of this discussion of the chief sponsor was to illustrate the complexity of using this variable as an indicator of the pathway. I contend that it is too large a measure to capture the fine differences necessary for classifying laws through the *Pathways* framework model. It is like using a ruler to measure the thickness of paper. It will not work well.

<u>**Public Salience**</u>

Public salience is the second variable suggested by Conlan, Posner, and Beam (2014), which I rejected because it is not fine enough to enhance the *Pathways* classification system needed for this project. The following discussion serves to explain how I reached this conclusion. The discussion of public salience in *Pathways* alludes to a conceptual salience scale ranging from laws considered in a manner "obscure to most

members of the general public" (Conlan, Posner, and Beam 2014, 7) to laws that receive

"enormous media attention" (Conlan, Posner, and Beam 2014, 7). In addition, pluralist

laws are described as having "relatively low" public salience, symbolic as "relatively

high," expert as "highly variable," and partisan as "high." Common sense suggests that

"high," "relatively high," and "highly variable" categorizations are unlikely to result in

clear distinct categories, because they are descriptive, not discrete. In addition,

Dennison's (2019) review of the literature on public salience clearly indicates that

measuring public salience is problematic. However, Dennison was interested in

evaluating salience within the electorate and not its role in agenda setting. Agenda setting

is a more appropriate perspective for analyzing salience in the case of the *Pathways*

framework. In addition, Conlan, Posner, and Beam (2014) clearly indicated that, when

they discussed salience, they meant media attention (7). To measure salience, I decided to

use data from the Comparative Agenda Project, which provided a means for connecting

public laws to issue topics and, through those issue topics, to media stories (Jones 2020).

    The Comparative Agendas Project (CAP) uses a set of policy topics, which are

assigned to each law and to each media article in CAP's datasets. CAP assigns these

policy issue codes across time, which is contrary to the argument presented in this

dissertation. I argue that issue topics need to be allowed to fluctuate over time. To

address this concern, I limited the search for related articles to the year in which the law

was enacted.[11] Specifically, I used the database of laws to find the topic code for each

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[11] I also conducted an analysis using the year of enactment and the two years prior, but it did not improve the results.

law. I then used the year the law was enacted and the topic code to count the number of

media references in the *New York Times Index* and the *Congressional Quarterly Almanac*

datasets on the Comparative Agendas Project website. Specifically, I used the "countifs"

command in Microsoft Excel. Combined, these two datasets contain over 69,000 media

references and span the years from 1946 to 2014 (*New York Times Index*) and 1948 to

2015 (*Congressional Quarterly Almanac*).[12] The number of references for each law is

shown in Table A1.

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[12] https://www.comparativeagendas.net/datasets_codebooks

Table A1. Measure of Salience

Title	Total References	Pathway
2002 Farm Bill	4	Pluralist
2008 Farm Bill	7	Pluralist
1988 Family Support Act	10	Expert
1981 Economic Recovery and Tax Act	13	Partisan
2002 No Child Left Behind Act	14	Expert
1990 Farm Bill	15	Pluralist
2010 Statutory Pay-As-You-Go	22	Partisan
1986 Safe Drinking Water Amendments	23	Symbolic
1986 Asbestos Hazard Emergency Response Act	23	Symbolic
1996 Safe Drinking Water Amendments	26	Pluralist
1988 Medicare Catastrophic Care Act	31	Expert
Repeal of the 1989 Medicare Catastrophic Care Act	33	Pluralist
1982 Tax Equity and Fiscal Responsibility Act	34	Expert
1990 Clean Air Act Amendment	35	Expert
1998 IRS Restructuring and Reform Act	43	Symbolic
1986 Tax Reform Act	47	Expert
1986 Firearm Owners Protection Act	49	Pluralist
1993 Brady Bill	61	Partisan
1996 Defense of Marriage Act	61	Symbolic
2010 Dodd Frank	67	Partisan
2002 Sarbanes-Oxley	186	Symbolic

Conlan, Posner, and Beam (2014) explained that salience should be lowest for pluralist laws; highly variable for expert laws; relatively high for symbolic laws, and high for partisan laws. Measuring salience using the number of news references and sorting

the list from low to high, I would expect the pluralist laws at the top of the list, the expert laws evenly distributed throughout, most of the symbolic laws in the bottom half of the list, and the majority of partisan laws in the bottom of the list. However, contrary to this expectation, a third of the pluralist laws are in the bottom half of the list, two thirds of the expert laws are in the bottom half of the list, 60% of the symbolic laws are in the bottom half of the list, and the partisan laws are evenly distributed, with half on top and half on the bottom. This suggests that the pluralist and expert laws are more salient than anticipated. The symbolic laws are roughly as salient as expected, but the partisan laws are less salient than expected. Moreover, the data does not cluster in any meaningful way that can be used to develop classification rules. Thus, I decided not to use salience as an indicator in the classification system.

Notes on Durational Analysis Process

Using Congress.gov, I was concerned when I pulled up Public Law 93-4, opened the actions tab, and the earliest entry read: "01/23/1973 Senate Reported to Senate from the Committee on Banking, Housing and Urban Affairs, S. Rept 93-3." From this information, it was unclear when the law was introduced. I therefore undertook a small study of the 19 laws I had selected from the 93rd Congress. For each of these laws, I located the announcement of introduction in the Congressional Record and compared it to the earliest date listed under the actions tab on Congress.gov. In every case, the earliest entry date on Congress.gov matched the date of introduction found in the Congressional Record, even when the description following the date indicated some other action, not introduction. Thus, I concluded it was safe to infer that the earliest date listed on

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Congress.gov was the date of introduction despite the description and handled all subsequent laws in this manner.

Semantic Lines

After plotting the original 21 laws in the semantic-policy space, I identified the three laws closest to each other that could be used to define the horizontal line. Specifically, I used the pluralist law (Repeal of the 1989 Medicare Catastrophic Care Act), and the two expert laws (1986 Tax Reform Act and NCLB). I calculated two midpoints between the pluralist law and each of the expert laws. Then I used to the two midpoints to define the horizontal line. The equation for the horizontal line is $y = -.1459x + .6648$. To establish the vertical line, I used only one pair of laws, because the gap was more visually obvious. Specifically, I used the symbolic law (1988 IRS Restructuring Act) and pluralist law (2008 Farm Bill) to calculate the midpoint and defined that line mathematically as $x = .4477$.

I then calculated the semantic scores for the 50 laws studied for the first phase of this research (the archival phase). The additional laws necessitated no adjustment to the vertical line calculated above ($x=0.4477$). The horizontal line, however, became a visually discernible straight line. Specifically, I placed it between the 1986 Tax Reform Act (0.442449, 0.601969) and Repeal of the Medicare Catastrophic Care Act (0.431464,

0.600334). I then averaged the two y values (0.601969+0.600334)/2 = 0.601152. Thus, the equation for the horizontal became y=0.6012.

Classification Reasoning

This discussion explains the reasoning for the final classification of the laws reflected in the classification decision tree (see Figure 4). The decision rules discussed below correspond to the rules found in the key on the classification decision tree in Chapter 4. In addition, the decision paths discussed below correspond to the paths identified in Table 4 in Chapter 4. In classifying the laws, I followed these steps: (1) I used semantic scores to narrow the options initially, then (2) I used the roll call votes to further narrow the options, and then (3) if there was a discrepancy between the semantic scores and roll call votes, I applied the durational analysis to guide the final determination. I organized the paths into six categories. The first subsections below discuss duration rules 1 through 5, which appear in the key found in Figure 4. The sixth subsection discusses the decision paths that did not involve durational analysis. These paths are indicated in Figure 4 by a box which states: "This law is…".

I determined each law's final classification based on three lines of reasoning. The first was based on *Pathways*'s (2014) theoretical discussion of the level of consensus related to each of the four pathways. Specifically, the paths' level of consensus was crucial when the roll call vote classification was partisan and did not agree with the semantic classification (see Rules #1, 2, and 3). My second line of reasoning was based on the levels of arousal and dominance consistent with the deference construct discussed in chapter 3 (see Rule #4, Rule #5, and No Duration Analysis below). My third line of

reasoning was pragmatic. If the semantic and roll call votes classifications agree, then that is the law's classification (see No Duration Analysis.)

Rule #1

Paths F, K, and R involve Rule #1: if the duration is pluralist, the law is expert. Path F is semantically symbolic, Path K is semantically pluralist, and Path R has an expert semantic classification. The symbolic, pluralist, and expert pathways have high levels of consensus (Conlan, Posner, and Beam, 2014, 6) All three of these paths also have a partisan roll call vote classification, which represents a low level of consensus, according to the *Pathways* archetypes (Conlan, Posner, and Beam 2014, 6). I posited that this contradiction between the semantic classes, which indicate high levels of consensus, and the partisan roll call votes, which represent a low level of consensus, results in a reordering of the pluralist and expert durational hierarchy. Under the decision-making rules that I discussed in Chapter 4, expert laws take more than 300 days and pluralist laws take between 285 and 300 days. I postulated the reason these laws normally take a relatively long time is because more time is necessary to build consensus. However, the partisan roll call votes indicated that this assumption does not hold in cases involving Rule #1. To resolve this point of contention, I speculated that pluralist laws still require approximately the same amount of time because of the multiple actors involved in the pluralist (interest group) process. The expert pathway, however, takes less time, because I reasoned that normally the time is used to build a large coalition, but the partisan roll call vote indicates that the constructed coalition was approaching minimum winning and would therefore take less time. In other words, the partisan roll call vote indicates a lack

of consensus and therefore the expert and pluralist durations exchange relative positions. Thus, if the durational class is expert (indicating the law took longer than 300 days) the law in actually pluralist in Paths F, K, and R.

Rule # 2

Paths G, L, and S utilize Rule #2: if the duration is expert, the law is pluralist. Path G is semantically symbolic, Path L is semantically pluralist, and Path S has an expert semantic classification. All three of these paths have a partisan roll call vote. Thus, all of these paths involve a semantic class which indicates a high level of consensus and a roll call vote class indicating a low level of consensus. This is the same setup as discussed under Rule #1, which results in expert laws moving faster than would normally be expected because lawmakers are not taking time to build a larger coalition of support. Thus, this arrangement, like the one discussed under Rule #1, results in expert and pluralist pathways flipping positions on the durational hierarchical scale. This flip was the basis for my reasoning in constructing Rule #2.

Rule #3

Paths H, M, and T involve Rule #3: if the duration is partisan or symbolic, the law is partisan. The semantic classification for these paths is as follows: Path H is symbolic, Path M is pluralist, and Path T is expert. All three of these semantic classifications are associated with high levels of consensus. All three of these paths involve a partisan roll call vote, which is associated with a low level of consensus. If the durational analysis is partisan, the law is classified as partisan, since the roll call vote analysis and the durational analysis agree. The key question for this rule is, why does the symbolic

durational classification result in a final classification as partisan? The answer comes in two parts. First, symbolic laws are by far the most consensual of the four pathways (Conlan, Posner, and Beam 2014, 7). Second, the roll call vote analysis correctly identified every symbolic law. It errored on the side of over identifying symbolic laws. Thus, the partisan roll call vote contradicts the level of consensus needed for a symbolic law and would be highly unlikely. Therefore, for Paths H, M, and T, I classified laws with either a partisan or a symbolic duration as partisan.

Rule #4

Decisional paths D, E, N, O, P, and Q utilize Rule #4, which states that the final classification for the law is expert if the durational classification is expert; otherwise, the law is pluralist. Paths D and E are semantically partisan and have a roll call vote designation of "other." The partisan semantic class suggests the laws have a low level of dominance and are therefore unlikely to be expert or symbolic. The roll call class indicates the laws are neither partisan nor symbolic, which both have their own roll call vote classification with high positivity rates. Thus, because of the low level of dominance, I concluded that these laws are most likely pluralist, but may be expert if the duration is expert.

Paths N and O are semantically pluralist and have a roll call vote classification of symbolic. The pluralist sematic classification suggests low levels of both dominance and arousal, which make it unlikely that the law is symbolic, because symbolic laws tend to have high levels of both. The symbolic roll call classification effectively identifies symbolic laws, but over identifies pluralist and expert laws as symbolic (the false

positives). The absence of a partisan roll call vote makes it unlikely these laws are partisan. Thus, I concluded these laws are most likely pluralist but could be expert, consistent with Rule #4.

Paths P and Q are semantically pluralist and have an "other" roll call vote classification. The pluralist semantic classification suggests a low level of arousal and dominance, making it unlikely that laws on this path are symbolic. The other roll call vote classification suggests these laws are neither partisan nor symbolic, both of which have their own highly effective roll call vote classification. Thus, I concluded that these laws are also likely to be pluralist but could be expert.

I used the durational analysis to draw the final distinction between these six paths. The expert pathway is the slowest of the four pathways and is more accurate than the pluralist pathway. Specifically, the expert durational analysis correctly classified four out of seven laws (57% correct), compared to two out of six (33% correct) for the pluralist pathway (see Table 3). Recognizing the limitations in this data, I nonetheless adopted a rule for these six decisional paths that an expert durational finding indicates an expert law, and all other durational findings indicate a pluralist law.

Rule #5

Two of the decision paths (B and C) rely on Rule #5: if duration is pluralist or expert, then the law is pluralist; otherwise, it is symbolic. Both these decision paths begin with a partisan semantic classification, suggesting the law has a high level of arousal, which would be indicative of a symbolic or partisan classification. Similarly, the partisan semantic classification indicates a low level of dominance, suggesting a pluralist or

partisan classification. Thus, the semantic classification enabled me to eliminate expert as an outcome. The roll call analysis indicates these laws are symbolic and therefore have a high level of consensus. This level of consensus eliminates partisan as a possible classification for these laws, leaving pluralist and symbolic as the remaining options. I used duration to determine whether the law is pluralist or symbolic. As theorized in *Pathways*, pluralist laws move more slowly than symbolic laws. Thus, the two slower durational classes—expert and pluralist—result in the law being classified as pluralist, and the faster durational classes—partisan and symbolic—result in the law being classified as symbolic.

No Durational Analysis

Five of these decision paths (A, I, J, U, and V) do not involve durational analysis at all. For decision paths A and I, the reason durational analysis is unnecessary is because the semantic and roll call analyses agree. Roll call votes only come in three categories: partisan, symbolic, and other. Thus, the only two combinations of semantic and roll call classifications that can match are path A, with a partisan classification for both, and path I, with a symbolic classification for both.

The other three paths that do not use durational analysis are J, U, and V. Decision path J is semantically symbolic and the roll call classification is "other." Decision paths U and V are semantically expert, but U's roll call classification is "other" and V's is symbolic. These three paths' semantic classifications—symbolic and expert—suggest a high level of dominance and therefore suggest these laws are not pluralist or partisan. Thus, my focus was on determining if these laws are symbolic or expert. In the roll call

vote analysis, all of the symbolic laws were correctly identified as symbolic, making it

unlikely that decision paths J or U would be symbolic, since their roll call classification

was "other." Thus, I concluded that laws following these two decision paths (U and J) are

expert. Decision path V involves an expert semantic classification and a symbolic roll

call classification. Given the high number of false positives associated with symbolic roll

call findings and given that five of the six expert laws were incorrectly identified as

symbolic-roll call laws, I concluded that laws in path V are also expert.

Classification Program Code

(This code uses a mix of HTML, CSS, and JavaScript consistent with normal web design
practices.)

```
<html>
<head>
   <style>
      h1 {text-align: center;}
      h2 {text-align: center;}
   </style>
</head>
<body style="background-color: rgb(165, 209, 187);">
   <h1>Pathways Classification Process Application</h1>
   <h2>Pathways model developed by Conlan, Posner and Beam (2014).</h2>
   <h2>This application was created by Patrick Buehlmann based on Michelle
Buehlmann's research.</h2>
Notice: To clear entered data, refresh the page.
        <hr>
        <br>
        Public law number <input type="text" id="law" value=""> <br> <br>
   <hr>
   <h3>Semantic Classification</h3>
   Law arousal <input type="text" id="TLA" value=""> <br> <br>
   Law dominance <input type="text" id="TLD" value=""> <br>
   <hr>
   <h3>Role call analysis</h3>
   Democratic support <input type="text" id="TDS" value=""> <br> <br>
   Republican support <input type="text" id="TRS" value=""> <br>
   <hr>
```

```html
<h3>Duration classification</h3>
Enactment time (in days) <input type="text" id="NoD" value="">  <br>
<hr>
<br>
<button onClick="semantic()" style="width:180px;height:30px;"><font size="4">find
classifications</font></button>
<script>//for the javascript
  var SC = "";
  var DC = "";
  var RC = "";
  var LA = 0;
  var LD = 0;
  var DS = 0;
  var RS = 0;
  //global variables set
  function semantic(){
    LA = document.getElementById("TLA").value;
    LD = document.getElementById("TLD").value;
    LA = parseFloat(LA);
    LD = parseFloat(LD);
    quadPick(); //calls next function
  }
  function quadPick(){
    if(LD<=.6012){//x-axis equation
      if(LA>.4477){//y=axis equation
        console.log("The semantic classification for this law is partisan.");
        SC = "Partisan";
      } else if(LA<=.4477){
        console.log("The semantic classification for this law is pluralist.");
        SC = "Pluralist";
      }
    } else if(LD>.6012){
      if(LA>.4477){
        console.log("The semantic classification for this law is symbolic.");
        SC = "Symbolic";
      }else if(LA<=.4477){
        console.log("The semantic classification for this law is expert.");
        SC = "Expert";
      }
    }
    Rolecall();//continues to the next function
  }
  function Rolecall(){
  RS = document.getElementById("TRS").value;//gets the text out of the text boxes
```

```
   RS = parseFloat(RS);
   DS = document.getElementById("TDS").value;
   DS = parseFloat(DS);//makes variable a number
   if(RS>=.5 && DS<.5){
      console.log("Role call classifcation is Partisan.");//republican support
      RC = "Partisan";
   } else if(RS<.5 && DS>=.5){
      console.log("Role call classifcation is Partisan.");//democrat support
      RC = "Partisan";
   } else if(RS>=.66 && DS>=.66){
      console.log("Role call classifcation is Symbolic.");
      RC = "Symbolic";
   } else {
      console.log("Role call law classifcation is Other.");
      RC = "Other";//for when the support is weird
   }
   duration();
}
   function duration(){
   var days = document.getElementById("NoD").value;
   days = parseFloat(days);//makes it so that the input is a number, not sure if that is
required for this part.
   if(days>=720){
      console.log("The entered number is too high, please recheck the math.");//not sure if
needed
   } else if(days>=300){
      console.log("The duration classification for this law is expert.");
      DC = "Expert";
   } else if(days>=285){
      console.log("The duration classification for this law is pluralist.");
      DC = "Pluralist";
   } else if(days>=140){
      console.log("The duration classification for this law is partisan.");
      DC = "Partisan";
   } else if(days<140){
      console.log("The duration classification for this law is symbolic.");
      DC = "Symbolic";
   }
   pathway();//this calls the decision tree
}
   //next section is the decision tree section
var lawN = ""
function pathway(){
   lawN = document.getElementById("law").value;
```

```javascript
    //the 3 classes were already figured out earlier, so i just recall those variables
    if(SC=="Expert"){
       expert();
    } else if(SC=="Symbolic"){
       symbolic();
    } else if(SC=="Partisan"){
       partisan();
    } else if(SC=="Pluralist"){
       pluralist();
    } else {
       alert("Error. Semantic input invaild.")
    }
}
function expert(){
   if(RC!="Partisan"){
      EA();
   } else if(RC=="Partisan") {
      nested()//wanted to have the funciton be 123, but the program doesn't like the use of
numbers in a function name.
   } else {
      alert("Error. Role call input invaild.")
   }
}
function partisan(){
   if(RC=="Partisan"){
      PaA();
   } else if(RC=="Symbolic"){
      five();
   } else {
      four();
   }
}
function symbolic(){
   if(RC=="Partisan"){
      nested();
   } else if(RC=="Symbolic"){
      SA();
   } else {
      EA();
   }
}
function pluralist(){
   if(RC=="Partisan"){
      nested();
```

```
    } else {
       four();
    }
}
function nested(){//was a bunch of if statements inside if statements
   if(DC=="Pluralist"){
      EA();
   } else if(DC=="Expert"){
      PlA();
   } else if (DC=="Partisan"||DC=="Symbolic"){
      PaA();
   } else {
      alert("Error. Duration input invaild.")
   }
}
function four(){
   if(DC=="Expert"){
      EA();
   } else {
      PlA();
   }
}
function five(){
   if(DC=="Pluralist" || DC=="Expert"){
      PlA();
   } else {
      SA();
   }
}
function EA(){
   alert("End classification found, public law number " + lawN + " is expert.");
}
function PlA(){
   alert("End classification found, public law number " + lawN + " is pluralist.");
}
function PaA(){
   alert("End classification found, public law number " + lawN + " is partisan.");
}
function SA(){
   alert("End classification found, public law number " + lawN + " is symbolic.");
}
   </script>
</body>
</html>
```

Classification Process as a Mathematical Logical Equation

Any decision tree can be written as a series of mathematical terms. In the equation generated here, the mathematical term is the piece of a mathematical expression between the "+" signs. Each term is made up of two parts: the variable and the coefficient or constant. When changing a decision tree to a mathematical expression indicator, statements are used for the variable, and multiple indicator statements can be combined. The constant appears at the end of the term in this type of mathematical expression. First, I present the full classification equation using a separate letter of the alphabet for each term. Second, I present two examples in detail. Third, I present the four semantic indicator statements, the three roll call indicator statements, and the seven durational indicator statements individually. Fourth, I present the equations in a table that parallels Table 4 presented in the body of my dissertation. Lastly, I present the full classification equation.

The Classification Equation

Cl=A+B+C+D+E+F+G+H+I+J+K+L+M+N+O+P+Q+R+S+T+U+V

Cl= the law's final classification

The letters A through V correspond to the rows in Table 4 in the dissertation. Each of the terms A through V are expressed as a variable multiplied to a constant (variable*constant). The variable is a set of indicator functions expressed as Z(f). If the indicator function is true, the value is 1; if the indicator function is false, that value is 0.

Throughout this discussion, when writing the expressions in their equation form, I will use the following numbers to indicate the four pathways: 1=expert, 2=pluralist,

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3=partisan, and 4=symbolic. The pathway segments of the equations will appear in black type. In addition, I combined the pathway segments with the durational segments for simplicity. The indicator statements are color coded throughout the paper for clarity: the semantic segments appear in red, the roll call vote segments appear in blue, and the durational segments appear in green.

Exemplars

<u>Term A Case</u>

A = Z(Semantic=Partisan) *Z(Roll Call =Partisan) *Partisan

 This expression means that if the semantic classification is partisan and the roll call classification is partisan, then term A is partisan. Substituting the tests for the semantic classification (for which there are two: one for the dominance score "d" and one for the arousal score "a"); for the roll call classification (for which there are also two parts: one for Republican support "r" and for Democratic support "d"); and using the value "3" to indicate the partisan pathway the equation becomes:

A = Z(d>.6012)* Z(a<.4477) *(Z[Z(r>50%)*Z(d<50%)]+Z[Z(r<50%)*Z(d>50%)]) *3

 This means that the law is partisan if the dominance score is greater than .6012, the arousal score is greater than .4477, Republication support is greater than 50% and the Democratic support is less than 50%, or Republican support is less than 50% and Democratic support is greater than 50%. For this classification, the durational analysis is not needed. I have color coded the parts to make it easier to follow what is happening. The red is the semantic classification, the blue is the roll call classification.

<u>Term B Case</u>

B = Z(Semantic=Partisan) *Z(Roll Call=Symbolic) *Z(Duration=Expert or Pluralist)

*Pluralist

This expression means that the final classification is pluralist if the semantic classification is partisan, the roll call classification is symbolic, and the duration classification is either expert or pluralist. The letter "e" will be used in the mathematical expression for the duration classification.

B= Z(d>.6012)* Z(a<.4477) *Z(r>=66%)*Z(d>=66%) *Z(e>=285days) *2

This expression means that the law is pluralist if the dominance score is greater than .6012, the arousal score is less than .4477, Republican support is greater than or equal to 66%, Democratic support is greater than or equal to 66%, and the law took 285 days or more to enact. I have added a green segment for the durational section.

Indicator Statements

In building the other terms, it is helpful to see the segments that make up the terms. The key to distinguishing these four segments is the direction of the signs. For the semantic classification (the red part) there are four options:

An expert semantic classification is represented as: Z(d<.6012)* Z(a>.4477)

A pluralist semantic classification is represented as: Z(d<.6012)* Z(a<.4477)

A partisan semantic classification is represented as: Z(d>.6012)* Z(a<.4477)

A symbolic semantic classification is represented as: Z(d>.6012)* Z(a>.4477)

The roll call vote analysis has three terms, as follows:

A partisan roll call vote classification is represented as: Z[Z(r>50%)*Z(d<50%)]+

Z[Z(r<50%)*Z(d>50%)]

A symbolic roll call vote classification is represented as: $Z(r>=66\%)*Z(d>=66\%)$

An "other" roll call vote classification is represented as follows:

setting $g= Z[Z(r<=50\%) + Z(d>=50\%)]*Z[Z(r>=50\%) +Z(d<=50\%)]$

and $h= Z(r<66\%)+Z(d<66\%)$

then other becomes: $Z(g*h)$

(Note: g and h are the negation of the partisan and symbolic equations, which is achieved by altering the signs.)

The durational analysis includes the final classification and has seven options; they are listed in Table A2 as options 1 through 5 but options 4 and 5 both have a negative alternative. I will list all seven here. The durational analysis is represented by the letter "e," because "d" was used in the roll call vote analysis.

Option 1 is: $Z(e<300 \text{ days})*(e\geq285 \text{ days}) *1$

Option 2 is: $Z(e\geq300 \text{ days}) *2$

Option 3 is: $Z(e<285 \text{ days}) *3$

Positive Option 4 is: $Z(e\geq300 \text{ days}) *1$

Negative Option 4 is: $Z(e<300 \text{ days}) *2$

Positive Option 5 is: $Z(e\geq285 \text{ days}) *2$

Negative Option 5 is: $Z(e<285 \text{ days}) *4$

Equation Table

Following Table 4's format, these segments of equations can be put together to indicate the terms for insertion into the longer classification equation presented above.

Table A2.

Term in Classification Equation	Semantic segment	Roll Call Segment	Duration Segment	Final Classification (in words)
A	Z(d>.6012)*Z(a<.4477)	Z[Z(r>50%)*Z(d<50%)]+ Z[Z(r<50%)*Z(d>50%)]	*3	Partisan
B		Z(r>=66%)*Z(d>=66%)	Z(e≥285 days) *2	Pluralist
C			Z(e<285 days) *4	Symbolic
D		Z(g*h)	Z(e≥300 days) *1	Expert
E			Z(e<300 days) *2	Pluralist
F	Z(d>.6012)*Z(a>.4477)	Z[Z(r>50%)*Z(d<50%)]+ Z[Z(r<50%)*Z(d>50%)]	Z(e<300 days)*(e≥285 days) *1	Expert
G			Z(e≥300 days) *2	Pluralist
H			Z(e<285 days) *3	Partisan
I		Z(r>=66%)*Z(d>=66%)	*4	Symbolic
J		Z(g*h)	*1	Expert
K	Z(d<.6012)*Z(a<.4477)	Z[Z(r>50%)*Z(d<50%)]+ Z[Z(r<50%)*Z(d>50%)]	Z(e<300 days)*(e≥285 days) *1	Expert
L			Z(e≥300 days) *2	Pluralist
M			Z(e<285 days) *3	Partisan
N		Z(r>=66%)*Z(d>=66%)	Z(e≥300 days) *1	Expert
O			Z(e<300 days) *2	Pluralist
P		Z(g*h)	Z(e≥300 days) *1	Expert
Q			Z(e<300 days) *2	Pluralist
R	Z(d<.6012)*Z(a>.4477)	Z[Z(r>50%)*Z(d<50%)]+ Z[Z(r<50%)*Z(d>50%)]	Z(e<300 days)*(e≥285 days) *1	Expert
S			Z(e≥300 days) *2	Pluralist

T			Z(e<285 days) *3	Partisan
U		Z(g*h)	*1	Expert
V		Z(r>=66%)*Z(d>=66%)	*1	Expert

The Full Classification Equation

The classification equation appears below; each row corresponds to a different letter in the classification equation presented at the beginning of this discussion.

Cl= Z(d>.6012)* Z(a<.4477) *(Z[Z(r>50%)*Z(d<50%)]+Z[Z(r<50%)*Z(d>50%)]) *3 +
Z(d>.6012)* Z(a<.4477) *Z(r>=66%)*Z(d>=66%) *Z(e≥285 days) *2 +
Z(d>.6012)* Z(a<.4477) *Z(r>=66%)*Z(d>=66%) *Z(e<285 days) *4 +
Z(d>.6012)* Z(a<.4477) *Z(g*h)*Z(e≥300 days) *1 +
Z(d>.6012)* Z(a<.4477) *Z(g*h)* Z(e<300 days) *2 +
Z(d>.6012)* Z(a>.4477) *(Z[Z(r>50%)*Z(d<50%)]+ Z[Z(r<50%)*Z(d>50%)]) *Z(e<300 days)*(e≥285 days) *1+
Z(d>.6012)* Z(a>.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e≥300 days) *2 +
Z(d>.6012)* Z(a>.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e<285 days) *3+
Z(d>.6012)* Z(a>.4477) *Z(r>=66%)*Z(d>=66%) *4+
Z(d>.6012)* Z(a>.4477) *Z(g*h) *1 +
Z(d<.6012)* Z(a<.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e<300 days)*(e≥285 days) *1+
Z(d<.6012)* Z(a<.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e≥300 days) *2+
Z(d<.6012)* Z(a<.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e<285 days) *3+
Z(d<.6012)* Z(a<.4477) *Z(r>=66%)*Z(d>=66%) *Z(e≥300 days) *1+
Z(d<.6012)* Z(a<.4477) *Z(r>=66%)*Z(d>=66%) *Z(e<300 days) *2+
Z(d<.6012)* Z(a<.4477) *Z(g*h) *Z(e≥300 days) *1+
Z(d<.6012)* Z(a<.4477) *Z(g*h) *Z(e<300 days) *2+
Z(d<.6012)* Z(a>.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e<300 days)*(e≥285 days) *1+
Z(d<.6012)* Z(a>.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e≥300 days) *2+
Z(d<.6012)* Z(a>.4477) *(Z[Z(r>50%)*Z(d<50%)]* Z[Z(r<50%)*Z(d>50%)]) *Z(e<285 days) *3+
Z(d<.6012)* Z(a>.4477) *Z(g*h) *1+
Z(d<.6012)* Z(a>.4477) *Z(r>=66%)*Z(d>=66%) *1+

APPENDIX B: CHAPTER FIVE APPENDIX

Table B1. Discard Laws

1950s Public Law #	1960s Public Law #	1970s Public Law #	1980s Public Law #	1990s Public Law #	2000s Public law #
84-33	87-56	92-56	97-10	102-32	107-266
84-91	87-464	92-230	97-193	102-66	107-127
84-447	87-553	92-236	97-210	102-71	107-257
84-480	87-734	92-274	97-325	102-121	108-407
84-535	87-789	92-290	98-3	102-128	108-475
84-900	88-35	92-536	98-23	102-144	108-490
84-912	88-47	92-565	98-55	102-160	108-353
85-174	88-97	93-11	98-85	102-176	108-391
85-290	88-105	93-34	98-162	102-192	108-17
85-491	88-147	93-379	98-234	102-210	108-235
85-498	88-169	93-547	98-272	102-224	109-25
85-522	88-181	93-585	98-338	102-255	109-185
85-561	88-194	94-137	98-413	102-259	109-332
85-687	88-366	94-221	98-423	102-288	109-191
85-702	88-387	94-235	98-560	102-319	109-259
85-830	88-453	94-257	99-19	102-370	110-184
85-873	88-587	94-337	99-43	102-450	110-212
86-214	88-646	94-115	99-50	102-457	110-217
86-529	89-146	94-211	99-65	102-462	111-56
86-536	89-228	94-146	99-75	102-483	111-58
86-736	89-338	94-242	99-99	102-525	111-74
	89-385	95-11	99-153	102-543	111-99
	89-429	95-34	99-164	103-27	111-304
	89-484	95-259	99-192	103-83	111-54
	89-567	95-272	99-220	103-304	111-305
	89-767	95-289	99-225	103-449	
	89-786	95-569	99-282	103-362	

1950s Public Law #	1960s Public Law #	1970s Public Law #	1980s Public Law #	1990s Public Law #	2000s Public Law #
	90-74	95-547	99-313	104-135	
	90-98	95-309	99-364	104-159	
	90-184	96-65	99-376	105-91	
	90-251	96-237	99-511	105-122	
	90-262	96-292	99-642	105-215	
	90-277	96-432	100-56	106-267	
	90-517	96-487	100-69	106-454	
	90-526	96-531	100-164		
	91-104	96-555	100-166		
	91-192	96-566	100-229		
	91-252	96-588	100-257		
			100-291		
			100-299		
			100-444		
			100-484		
			100-493		
			101-347		
			101-451		
			101-458		
			101-587		
			101-489		
			101-307		
			101-266		

Table B1 (cont.)

Table B2. Included Laws

1950s Public Law #	1960s Public Law #	1970s Public Law #	1980s Public Law #	1990s Public Law #	2000s Public Law #
82-2	87-68	92-44	97-38	102-11	107-3
82-9	87-84	92-52	97-105	102-74	107-16
82-31	87-113	92-63	97-199	102-87	107-47
82-58	87-138	92-78	97-232	102-106	107-90
82-100	87-159	92-96	97-261	102-124	107-108
82-179	87-297	92-115	97-278	102-151	107-109
82-194	87-398	92-171	97-311	102-173	107-113
82-213	87-400	92-187	97-328	102-236	107-260
82-215	87-404	92-198	97-354	102-260	107-281
82-305	87-442	92-258	97-358	102-301	107-289
82-306	87-444	92-356	97-384	102-372	107-302
82-314	87-480	92-364	97-428	102-420	108-1
82-340	87-482	92-367	97-434	102-431	108-23
82-380	87-489	92-380	97-455	102-512	108-43
82-397	87-492	92-401	98-49	102-520	108-77
82-464	87-532	92-495	98-51	102-554	108-109
82-485	87-554	92-523	98-91	102-569	108-183
82-580	87-587	92-591	98-98	102-580	108-184
83-54	87-588	93-4	98-139	103-19	108-215
83-59	87-665	93-52	98-191	103-21	108-377
83-139	87-689	93-53	98-202	103-76	108-378
83-157	87-727	93-55	98-258	103-79	108-383
83-161	87-728	93-69	98-340	103-121	108-448
83-178	87-743	93-71	98-372	103-208	108-493
83-192	87-795	93-99	98-397	103-242	108-45
83-232	87-810	93-172	98-453	103-269	108-428
83-299	87-851	93-198	98-462	103-290	109-14
83-302	88-44	93-259	98-486	103-297	109-18
83-305	88-75	93-272	98-525	103-346	109-54
83-343	88-135	93-288	98-562	103-373	109-69
83-366	88-165	93-289	98-578	103-396	109-90
83-384	88-173	93-317	98-601	103-417	109-93
83-405	88-200	93-335	98-617	104-1	109-100
83-506	88-216	93-467	99-47	104-33	109-105
83-535	88-217	93-516	99-73	104-62	109-113
83-594	88-248	93-569	99-156	104-91	109-151
83-595	88-268	93-649	99-159	104-150	109-155

Table B2 (cont.)

1950s Public Law #	1960s Public Law #	1970s Public Law #	1980s Public Law #	1990s Public Law #	2000s Public Law #
83-600	88-343	94-10	99-180	104-220	109-158
83-659	88-346	94-90	99-189	104-250	109-171
83-679	88-356	94-113	99-204	104-270	109-174
83-719	88-380	94-133	99-238	104-298	110-85
84-6	88-487	94-237	99-258	104-304	110-94
84-27	88-497	94-238	99-338	105-8	110-137
84-42	88-559	94-240	99-381	105-155	110-143
84-61	88-589	94-247	99-387	105-177	110-175
84-68	88-617	94-345	99-399	105-185	110-183
84-148	88-621	94-366	99-424	105-227	110-201
84-229	89-18	94-448	99-491	105-237	110-208
84-295	89-25	94-452	99-519	105-263	110-228
84-340	89-47	94-464	99-581	105-298	110-281
84-359	89-56	94-471	99-587	105-300	110-370
84-362	89-57	94-473	99-590	105-315	110-401
84-397	89-134	94-546	99-641	105-321	110-449
84-419	89-137	94-575	100-6	105-340	110-458
84-449	89-152	94-580	100-45	106-37	111-43
84-460	89-257	95-52	100-95	106-58	111-73
84-591	89-258	95-53	100-97	106-63	111-205
84-592	89-259	95-54	100-119	106-101	111-207
84-614	89-271	95-55	100-138	106-109	111-267
84-691	89-359	95-65	100-184	106-129	111-268
84-703	89-363	95-69	100-192	106-228	111-269
84-808	89-422	95-71	100-197	106-245	111-320
84-826	89-482	95-99	100-198	106-368	111-341
84-842	89-555	95-198	100-322	106-382	111-357
84-871	89-572	95-256	100-331	106-412	111-382
84-874	89-612	95-288	100-352	106-446	
84-886	89-702	95-317	100-379	106-463	
84-889	89-710	95-335	100-395	106-465	
84-893	89-745	95-374	100-407	106-475	
84-917	89-752	95-379	100-457	106-519	
84-930	89-793	95-390	100-487	106-527	
84-1017	90-45	95-487	100-551		
85-93	90-73	95-516	100-695		

Table B2 (cont.)

1950s Public Law #	1960s Public Law #	1970s Public Law #	1980s Public Law #	1990s Public Law #	2000s Public Law #
85-104	90-132	95-547	100-703		
85-143	90-174	96-17	101-48		
85-168	90-194	96-55	101-56		
85-217	90-208	96-118	101-73		
85-231	90-212	96-137	101-156		
85-242	90-221	96-181	101-172		
85-465	90-287	96-210	101-179		
85-505	90-334	96-249	101-202		
85-519	90-337	96-283	101-222		
85-587	90-369	96-304	101-229		
85-592	90-380	96-339	101-236		
85-608	90-388	96-459	101-239		
85-609	90-452	96-481	101-365		
85-621	90-465	96-482	101-369		
85-627	90-469	96-526	101-452		
85-645	90-471	96-541	101-454		
85-683	90-472	96-559	101-504		
85-744	91-51	96-568	101-505		
85-745	91-53	96-590	101-509		
85-787	91-138		101-520		
85-798	91-187		101-595		
85-809	91-204				
85-817	91-210				
85-870	91-217				
85-905	91-220				
85-920	91-227				
85-929	91-261				
86-070	91-342				
86-121	91-389				
86-175	91-410				
86-192	91-430				
86-232	91-464				
86-249	91-494				
86-256	91-555				
86-343	91-569				
86-365	91-619				
86-379	91-652				

Table B2 (cont.)					
1950s Public Law #	1960s Public Law #	1970s Public Law #	1980s Public Law #	1990s Public Law #	2000s Public Law #
86-441	91-671				
86-463					
86-513					
86-550					
86-599					
86-608					
86-617					
86-620					
86-670					
86-672					
86-726					
86-767					
86-785					
86-798					

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