

What Makes a Judgment "Liberal"?
Measurement Error in the United States Supreme
Court Judicial Database

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November 15, 2006

Abstract

This paper analyzes the validity of the widely used liberal/conservative judgment and vote "direction" variables reported in the United States Supreme Court Judicial Database (USSCJD). Leveraging information about a subset of the cases in the USSCJD, namely those involving the constitutional review of congressional statutes, the paper shows that the "direction" variables do not correlate with the direction of the Court's impact on the status quo *ex ante*. That is, a "liberal" judgment, as coded by the USSCJD, is no more likely to move the status quo *ex ante* in a liberal direction than is a "conservative" judgment. Further, a reanalysis of an important finding in the judicial politics literature, namely the Segal (1997) finding that congressional preferences have no effect on the Court's decisions, supports the hypothesis of substantial measurement error in the USSCJD "direction" variables. When the dependent variable in the reanalysis is the USSCJD judgment code (or the coded votes of the Justices which derive from the judgment code), the null result of no congressional influence on the Court is replicated. However, when the dependent variable measures the direction of the Court's impact on the status quo, a strongly significant effect of congressional preferences on the Court's judgments is found, in the predicted direction. This finding is robust both to several different models of the legislative process, and to alternative econometric specifications.

An important task for those who study the U.S. Supreme Court is to develop some feasible measure of judicial decision making that is consistent across Justices and cases. Perhaps the most frequently used measure in the existing literature is the coding of a judgment as "liberal" or "conservative".¹ These codes are reported in the "direction of decision" variable contained in the U.S. Supreme Court Judicial Database (USSCJD). This binary variable is coded separately for each issue which the USSCJD records as being relevant in a given case, with "liberal" judgments given a 1 and "conservative" judgments given a 0.²

The codebook for the USSCJD reports, "Specification of direction comports with conventional usage." In order to achieve this goal, each issue that is coded in a given case has an associated decision rule that specifies which outcome is to be designated "liberal" and which is to be designated "conservative". For instance, the coding of judgments in cases involving civil liberties is such that judgments in favor of "pro-civil liberties or civil rights claimant[s]" are coded as liberal judgments.³

My concern in this paper is whether these judgment codes accurately capture the conceptions of ideological direction that the Justices, and those who interact with them, may have had at the time cases were decided. In particular, I suggest that the USSCJD codes do not comport with our conventional understanding that a "liberal" judgment moves the status quo *ex ante* in a liberal direction, while a "conservative" judgment moves the status quo in a conservative direction. If it turns out that the USSCJD judgment codes bear no relationship to this definition of what constitutes a liberal or conservative

¹Works that use this measure as either a dependent or independent variable include Segal and Cover 1989, Mishler and Sheehan 1993, Segal et al 1995, Epstein and Mershon 1996, Segal 1997, Epstein and Knight 1998, Caldeira et al 1999, Maltzman et al 2000, Hansford and Damore 2000, Spriggs and Hansford 2001, Epstein et al 2001, Segal and Spaeth 2002, Bergara et al 2003, Hettinger and Zorn 2005, and Martin 2005.

²The USSCJD variables recording the ideological direction of the Justices' votes are derived from this judgment variable. If a Justice votes for the "liberal" judgment in a case, then her vote is recorded as a liberal vote. I refer throughout to the coding of the judgment variable, but my concerns about this variable extend to the vote variables.

³Civil liberties cases are defined in the USSCJD as those that involve one of the following issues: criminal procedure, civil rights, First Amendment, due process, privacy, and attorneys. See Appendix A for a full list of the USSCJD decision rules for coding the "direction of decision" variable.

judgment, and if this latter definition is a closer match to the Justices' own conceptions of the ideological impact of their decisions, then we may have a problem. The judgment codes may in fact have very little to do with how the Justices and other actors actually interpreted the judgments themselves. In other words, the codes may be rife with measurement error. When we try to relate the judgment codes to other aspects of the Justices' environment, we may fail to find significant relationships simply because we have done a poor job measuring the thing we are trying to explain.

Of course, it is difficult to test that claim in the absence of some alternative measure of the ideological impact of Supreme Court judgments. This paper leverages additional information that we have about a subset of those judgments, namely those involving the constitutionality of congressional statutes, to measure the impact of the Court's decisions on the status quo *ex ante*. It turns out that there is very little correlation between the direction in which the Court moves the status quo and the USSCJD judgment codes. Further, a reanalysis of an important finding in the judicial politics literature, namely the finding that congressional preferences have no effect on the Court's decisions (Segal 1997), supports the hypothesis of substantial measurement error in the USSCJD judgment codes. When the dependent variable in the reanalysis is the USSCJD judgment code (or the coded votes of the Justices which derive from the judgment code), the null result of no congressional influence on the Court is replicated. However, when the dependent variable measures the direction of the Court's impact on the status quo, a strongly significant effect of congressional preferences on the Court's judgments is found, in the predicted direction. This finding is robust both to several different models of the legislative process, and to alternative econometric specifications.

1 What Makes a Judgment "Liberal"?

The codebook for the USSCJD claims that the decision rules which assign an ideological direction to the Court's judgments result in judgment codes which "comport with conventional usage" for each issue area. Perhaps this claim is unproblematic. Consider some examples from the Rehnquist Court's decisions in the area of First Amendment law.⁴ The USSCJD's decision rule (a decision is coded as "liberal" if the judgment is in favor of the party claiming a First Amendment violation) results in liberal codes for such cases as *U.S. v. Playboy Entertainment Group, Inc.* (2000) (striking a federal statute effectively prohibiting cable providers from broadcasting sexually oriented programming until after 10 p.m.), *Legal Services Corporation v. Velazquez* (2001) (striking a federal statute prohibiting LSC representation of any challenge to existing welfare law), and *Ashcroft v. Free Speech Coalition* (2002) (striking a federal statute prohibiting the dissemination of any image which "appears to be" child pornography). For many, these may well seem to be liberal judgments.

But other coding decisions seem more questionable. For example, in *U.S. v. National Treasury Employees Union* (1995), the Court struck an amended section of the Ethics in Government of 1978, which sought to close loopholes in existing campaign finance law by prohibiting members of Congress and the executive branch from accepting honoraria in exchange for making an appearance, giving a speech, or writing an article. This is coded as a liberal judgment in the USSCJD. In *Colorado Republican Federal Campaign Committee v. Federal Election Commission* (1996), the Court struck limits on "independent" party expenditures during election campaigns. This is also coded as a liberal judgment in the USSCJD. Presumably there are many who would take issue with the USSCJD's coding of campaign finance statutes as conservative legislation.

Perhaps First Amendment cases are hard to code because of a confusion over

⁴The cases I cite as examples are all coded as involving only a single issue (the First Amendment) in the USSCJD.

whether "liberal" should mean "libertarian."⁵ But perhaps there is another, potentially more general, problem with the USSCJD coding framework. The USSCJD codes do not address whether the judgment in a particular case moves the status quo *ex ante* in a more liberal or a more conservative direction. One might imagine that even within the set of "liberal" judgments as coded by the USSCJD, there exist rulings that shift policy outcomes in a more liberal direction, and those that shift policy outcomes in a more conservative direction. If this is the case, and if the Justices care about the effect of their decisions on the location of the status quo, then the USSCJD's judgment codes may contain significant measurement error. Perhaps the codes are a poor measure of the ideological direction of judgments *as understood by the Justices themselves*.

Measuring the ideological locations of both the status quo and a new policy choice is not easy. However, for at least a subset of the Court's docket, namely its constitutional rulings on congressional statutes, we may be able to gain some empirical traction on this question. To do so requires a few assumptions. First, I assume that when the Court upholds a statute on constitutional grounds, it leaves intact the effect of the statute in question on the original status quo *ex ante*. That is, the statute in question moved some outcome in the world in either a liberal or conservative direction. The Court's decision in effect preserves the ideological direction of that movement. Conversely, when the Court strikes a statute on constitutional grounds, the statute ceases to have any effect, and I assume that policy reverts to the status quo *ex ante*. The Court's judgment thus moves policy in the ideological direction of the status quo that obtained before the statute was enacted.

If we have measures of both the ideological location of a statute and the status quo before the statute was enacted, then for the set of cases in which the Court rules on the constitutionality of a congressional statute, we can assess the impact of the Court's

⁵Epstein and Segal (2005) review debates over the meaning of ideological direction in the context of First Amendment cases. Of particular interest are Shapiro (1989), Sunstein (1993), Hirsch (2001), Delgado and Stefancic (2004), McGowan (date), and Eckert (date).

decision on the status quo. For the former measure, we require a theoretical model of the lawmaking process in Congress. A variety of such models exist, but at least three prominent models (a floor median model, an open rule committee gatekeeping model, and an open rule party gatekeeping model), all predict that legislation enacted in a one dimensional policy space will be located in the interval between the ideal points of the House and Senate floor medians.⁶ In keeping with Segal (1997), I assume that the statutes enacted by Congress under these models may be represented by the midpoint between the ideal points of the chamber medians.

Even if we can (approximately) identify the ideological location of a statute, however, we still do not know whether that statute moved the status quo *ex ante* in a liberal or a conservative direction. However, we can characterize the probability that the status quo changed by some statute lay to the left or right of that statute by thinking about the distribution of policy outcomes in one dimensional space. Imagine that we may represent actual policy outcomes in the world as a probability distribution f defined over all possible policy outcomes, represented by the real line. In Figure 1, x_1 and x_2 represent policies enacted by two different Congresses. The area under the curve to the left of x_1 represents the total probability that the status quo changed by x_1 lay to its left, while the area under the curve to the right of x_1 represents the total probability that the status quo changed by x_1 lay to its right. The same is true for x_2 . The shaded area represents (for this particular probability distribution) the *increase* in the probability that the status quo

⁶The floor median model is motivated by three institutional details of the House and Senate: a majority may order a committee to discharge a bill to the floor, thus preventing committee gatekeeping (Krehbiel 1995, 1997, 1998, 233), any restrictive voting rules must be approved by majority vote, thus ensuring open rules (Krehbiel 1997, 1998, 233), and committees do not possess ex post vetoes in the conference stage (Krehbiel 1987, 1998, 233). According to proponents of this hypothesis, these two rules imply that all legislative decisions will be made by the floor median voters of both houses of Congress (Krehbiel 1987, 1995, 1997, 1998, Krehbiel and Rivers 1988). An open rule committee gatekeeping model assumes that congressional committees possess special parliamentary powers that allow them to prevent legislation from reaching the floor, but that once released from committee, bills will be amended to the ideal point of the floor median (Ferejohn and Shipan 1990). An open rule party gatekeeping model assumes that the majority party medians act as gatekeepers. Majority party committee members, acting as agents of the majority party medians, hold back legislation when such action gets the majority party medians better outcomes than would be attained on open floor votes (Krehbiel 1998, 234). However, once released from committee, legislation again is assumed to be located at the ideal point of the floor median.

changed by x_2 lay to its left, relative to the probability that the status quo changed by x_1 lay to its left. In other words, as actual policy outcomes become more conservative, the probability that those policies moved status quos in a conservative direction increases. The same holds true in reverse as policy outcomes shift to the left along this distribution. This will be true irrespective of the shape of the distribution of actual policy outcomes.⁷

This implies that when the Court upholds a congressional statute, the more liberal the statute, the greater the probability that the Court's judgment preserves a policy shift in the liberal direction (and vice versa). Similarly, when the Court strikes a statute, the more liberal the statute, the greater the probability that the Court's judgment in favor of the status quo *ex ante* shifts policy in a conservative direction.

To return to the First Amendment examples, these are all instances of constitutional review of a congressional statute. To measure the ideological location of these statutes, I use Michael Bailey's interinstitutional preference estimates of the ideal points of the chamber medians for the years in which the statutes were enacted or last amended (Bailey and Chang 2001, Bailey 2006).⁸ The Bailey estimates exist for the years 1950-2002. During that time, the legislative output of the most conservative (1956) Congress is estimated at .24, and that of the most liberal (1975) Congress is estimated at -.20. The median legislative output measures at 0 (1983, 1985, and 1986).

The three First Amendment judgments coded as liberal by the USSCJD which seem relatively unproblematic all struck fairly conservative statutes. The statute in question in *Playboy* (enacted in 1996) measures at .08; in *Velazquez* the struck statute (enacted in 2000) measures at .14; and in *Ashcroft* the statute struck by the Court (enacted in 1996)

⁷This will be strictly true for the areas of f for which $f(x) > 0$, and weakly true for those areas of f where $f(x) = 0$.

⁸Other estimates of congressional preferences exist. The Bailey estimates, which use interinstitutional "bridging observations" and a Markov Chain Monte Carlo estimation technique, are arguably the best estimates to use when the Court, Congress, and President need to be scaled in the same interinstitutional space, as in a separation of powers (SOP) model. Because I reestimate a prominent SOP model later in the paper using the Bailey estimates, I report the Bailey estimates here for consistency. In the next section, however, I also employ Common Space estimates of congressional preferences generated by Keith Poole (1998) as a robustness check.

measures at .08.

The two campaign finance cases tell a different story, however. The statute at issue in *National Treasury* (enacted in 1991) measures at -.13. The statute at issue in *Colorado* (enacted in 1976) measures at -.19. The Court's judgments in these cases have a considerably higher probability of moving the status quo in a conservative direction than its judgments cited in the previous paragraph. Yet all 5 judgments are coded as liberal judgments by the USSCJD. Perhaps this heterogeneity is related to our greater unease about the coding decisions for the two campaign finance cases.

But perhaps these 5 cases are anomalous. Perhaps the USSCJD judgment codes are in fact systematically related to the effect of the Court's judgments on the status quo, such that when the Court moves policy in a more liberal direction, the judgment is more likely to be coded as a liberal judgment by the USSCJD (and vice versa). That is the question to which the next section turns.

2 The Data

In order to test more systematically whether the USSCJD judgment codes differ significantly from the effect of the Court's decisions on the location of the status quo, we need to generate the sample of all congressional statutes whose constitutionality was reviewed by the Court between 1950-2001.⁹ The USSCJD was used to identify all cases involving a federal statute in which the authority of the decision was cited as judicial review.¹⁰ All cases were then read to ensure that a) the constitutionality of at least one federal statute was in fact at issue in the case; b) each statute at issue in the case was counted as a separate observation; and c) a majority of the Justices voted for an opinion

⁹I did not review the decisions from the Court's 2002 term because they are not included in the SOP analysis which appears later in the paper.

¹⁰In the USSCJD all records were first selected wherein the authority for the decision was cited as judicial review (AUTHDEC1 or AUTHDEC2 = 1) for the 1950-2001 Terms. Records were then discarded if their entry in the LAW variable did not refer to a federal statute.

which clearly upheld or struck each federal statute on constitutional grounds.¹¹ The sample of struck congressional statutes generated by this process was then checked against alternate sources, resulting in the addition of one statute.¹² This generated a sample of 223 statutes.

For each observation the Congress which enacted the statute or part of a statute whose constitutionality was at issue was then identified. These statutes have been frequently amended. The decision rule used was to first identify the specific section or sections of the statute actually being reviewed by the Court, and then to identify both the original enacting date and all reenactments of or amendments to this section or sections. As long as the challenged language of the statute remained substantially intact through all amendments and/or reenactments, the most recent reenacting or amending Congress was adopted as the enacting Congress.¹³

The next task was to measure the ideology of each statute. I use both the Bailey (2006) interinstitutional and the Poole (1998) Common Space ideal point estimates for the chamber medians of the enacting Congresses. Both sets of measures are increasing in conservatism, so that the larger a positive score, the more conservative an ideal point (and the larger a negative score, the more liberal the ideal point).

The Court's disposition of each statute's constitutionality was then identified using the USSCJD binary code for whether a statute was struck or upheld in a particular case.

In some cases the USSCJD reports both codes for a case, for instance if the opinion

¹¹A few records identified using the foregoing process simply did not concern the constitutionality of a federal statute (e.g. *Knebel v. Hein* 429 U.S. 288 (1977), concerning the constitutionality of federal regulations stemming from the Food Stamp Act: "Since there is no question about the constitutionality of the statute itself..."). Sixteen cases concerned the constitutionality of multiple federal statutes. Finally, in several records, there was not an opinion majority for either upholding or striking the statute at issue.

¹²*Bartnicki et al v. Vopper et al*, 532 U.S. 514 (2001) (involving a provision of federal wiretapping law found to violate the First Amendment).

¹³For example, in *Greater New Orleans Broadcasting Assn. v. United States* (1999), the Supreme Court invalidated a 1934 congressional law prohibiting the advertisement of casinos. A 1988 amendment to the section of this law at issue before the Court had added the words "or television," thus including television broadcasting as a medium through which casino advertising was prohibited. The original prohibition on casino advertising remained intact through this amendment, clearly signaling congressional support for the thrust of the original law. The later Congress was thus designated as the enacting Congress.

upholds some sections of a statute but strikes others. If any part of a statute is struck, the statute is coded here as having been struck.

Finally, the USSCJD judgment codes were identified for each case which generated an observation or observations. 11 of the statutes in the sample of 223 have missing USSCJD judgment codes, reducing the sample to 212. In a few cases, because of multiple issues having been coded for the case, there existed multiple judgment codes for the same case. I first eliminated any judgment codes which did not correspond with my coding of the disposition of a statute's constitutionality. That is, if a case was coded as having two issues, and on one issue dimension a part of a statute was struck, but on the other issue dimension another part of the statute was upheld, I discarded the latter information, including the judgment code for that issue. In 4 observations there remained multiple judgment codes for the same disposition of the statute at issue. In these cases missing values were entered for the USSCJD judgment code, further reducing the sample to 208 observations.

3 The USSCJD Judgment Codes and Change in the Status Quo

If the USSCJD judgment codes correlate with the direction of movement in the status quo, then more liberal statutes upheld by the Court should be more likely to be coded as liberal judgments than more conservative statutes upheld by the Court. Likewise, more liberal statutes struck by the Court should be more likely to be coded as conservative judgments than more conservative statutes struck by the Court.

The degree to which measures of a statute's ideology and the USSCJD codes are in fact not correlated is somewhat surprising.¹⁴ Judgments upholding laws more liberal than the sample median for upheld laws (-.0725) are no more likely to be coded as liberal

¹⁴I report here the descriptive statistics just for the Bailey estimates but report the results of probit estimations for both the Bailey and the Common Space estimates.

judgments than judgments upholding laws more conservative than the sample median ($p = .38$; $n = 140$).¹⁵ In fact, although a judgment upholding a law more conservative than the sample median for upheld laws is significantly more likely to be coded as a conservative than as a liberal judgment (59.5% vs. 40.5%; $n = 74$; $p = .10$), a judgment upholding a more liberal law is actually also significantly more likely to be coded as a conservative than as a liberal judgment (66.7% vs. 33.3%; $n = 66$; $p = .01$).

We can also compare the average ideology measures of the upheld laws which are coded as liberal and conservative judgments. Upheld laws that are coded as liberal judgments have essentially the same average ideology ($-.04$, $n = 52$) as upheld laws coded as conservative judgments ($-.03$, $n = 88$); the slightly greater conservatism of the upheld laws coded as conservative judgments is not significant ($p = .66$). A probit estimation of the probability that a judgment will be coded as liberal or conservative as a function of the ideology of the upheld laws is likewise unresponsive, although the coefficient is in the right direction ($\beta = -.38$; $p = .66$, $n = 140$). The same estimation performed with Common Space scores is also unresponsive, although the coefficient is still in the right direction ($\beta = -1.32$; $p = .33$, $n = 140$). There appears to be no relationship between the ideology of an upheld law and the USSCJD judgment codes.

The set of struck laws is somewhat more reassuring. Here, judgments striking laws which are more liberal than the Bailey sample median for struck laws ($-.06$) are significantly more likely to be coded as conservative than judgments striking laws which are more conservative than the sample median ($p = .07$; $n = 69$). And, judgments striking relatively conservative laws are significantly more likely to be coded as liberal than as conservative judgments ($p = .00$; $n = 35$). But again, judgments striking relatively liberal laws are no more likely to be coded as conservative judgments than they are to be coded as liberal judgments ($p = .13$; $n = 34$).

Comparing the ideology measures of struck laws which have different judgment

¹⁵All p values reported here are for 2-tailed t-tests unless otherwise noted.

codes, struck laws that are coded as liberal judgments are indeed significantly more conservative ($.03$, $n = 50$) than struck laws coded as conservative judgments ($-.07$, $n = 19$; $p = .01$). And a probit analysis of the probability that a judgment will be coded as liberal or conservative as a function of the ideology of the struck laws is supportive of a relationship in the predicted direction ($\beta = 3.63$; $p = .01$; $n = 69$). Likewise, the same probit analysis performed using Common Space scores is also supportive of the predicted relationship ($\beta = 5.27$; $p = .02$; $n = 69$). The more conservative a struck law, the more likely the observation is recorded as a liberal judgment by the USSCJD.

For struck laws, then the USSCJD codes appear to have a strong correlation with the direction in which the Court's judgments move the status quo *ex ante*. But we rarely single out struck statutes for analysis in isolation. It would therefore be helpful if we could pool the struck and upheld statutes together. We can perhaps do this relatively simply by multiplying the ideology of struck statutes by -1 , thus generating a predicted (negative) relationship between the USSCJD judgment codes and a statute's ideology that is the same for both struck and upheld statutes.¹⁶ The probit estimates of the effect of a statute's ideology on the probability that a judgment will be coded as liberal for this pooled sample are not reassuring. For the Bailey estimates, the coefficient is in the predicted direction but is short of significance at conventional levels ($\beta = -.81$; $p = .21$, $n = 209$). For the Common Space estimates, the coefficient is even in the wrong direction albeit not significant ($\beta = .47$, $p = .61$, $n = 209$).

Perhaps the observed lack of correlation between the USSCJD codes and the movement of the status quo only exists in certain issue areas. We can disaggregate our sample by issue area to check this possibility.

Conventional practice divides the sample into two broad issue groups, namely civil liberties and economic activity (Segal et al 1995). The civil liberties group in the USSCJD is composed of cases involving criminal procedure, civil rights, First Amendment, due

¹⁶The distributions of Bailey and Common Space ideal point estimates are both centered around a mean of 0, making a rotation of the scale of struck laws around 0 an appealing strategy.

process, privacy, and attorneys. Within this group we again observe no significant relationship between the Bailey pooled measure of a statute's ideology and the probability that the judgment in that case is coded as liberal, although the coefficient is at least in the right direction ($\beta = -.74$, $p = .32$, $n = 160$). For the Common Space estimates, however, there is now a significant relationship with the USSCJD judgment codes in the wrong direction: the more conservative the pooled measure of a statute's ideology, the more likely that the USSCJD codes the judgment as a liberal one ($\beta = 2.11$, $p = .07$, $n = 160$). Given that the civil liberties group is one of the most commonly studied groups of cases in the field of law and politics, this result gives particular cause for concern about what it is the USSCJD judgment codes are measuring.¹⁷

The economic activity group in the USSCJD is composed of cases involving unions, commercial business litigation, litigation involving injured people or things, employee actions vis a vis employers, zoning regulations, and governmental regulation of corruption other than that involving campaign spending (Segal et al 1995). There are many fewer observations for this issue area in our sample. In any case, the probit estimates for both the Bailey pooled measure of a statute's ideology ($\beta = 1.16$, $p = .71$, $n = 19$) and the Common Space pooled measure ($\beta = 1.84$, $p = .63$, $n = 19$) are unresponsive to a systematic relationship between these measures and the probability that a judgment is coded liberal or conservative.

We can also look at more finely disaggregated issue areas: criminal procedure, civil rights, First Amendment, due process, privacy, attorneys, unions, economic activity, judicial power, federalism, and federal taxation. Probit estimations of the probability that an observation would be reported as a liberal judgment as a function of the pooled measures of a statute's ideology were conducted in each of these issue areas. In three, namely privacy, attorneys, and judicial power, there were insufficient observations to

¹⁷Articles that rely primarily or exclusively on the USSCJD judgment codes for civil liberties cases include Segal and Cover 1989, Segal et al 1995, Epstein and Mershon 1996, Segal 1997, Bergara et al 2003, and Hettinger and Zorn 2005.

estimate a coefficient. For the Bailey measure, in seven of the remaining eight issue areas there is no relationship with the USSCJD judgment codes. In only one issue area, namely cases involving federalism, is there a significant relationship in the predicted negative direction ($\beta = -8.11$, $p = .03$, $n = 18$). For the Common Space measure, there is no relationship with the USSCJD judgment codes in six of the remaining eight issue areas. For First Amendment observations, there is actually a strong relationship in the wrong direction ($\beta = 4.75$, $p = .01$, $n = 57$). As with the Bailey measure, there is a significant relationship with the USSCJD codes in the correct direction only in the 18 federalism cases ($\beta = -11.67$, $p = .02$, $n = 18$). These estimates suggest that the absence of a correlation between the USSCJD judgment codes and the Court's effect on the status quo is widespread and is not isolated to a particularly problematic issue area.¹⁸

In a recent paper, Jeffrey Segal and Lee Epstein examine the relationship between the USSCJD judgment codes and the ideology of the Supreme Court median for First Amendment cases (Epstein and Segal 2005). They find that this relationship weakens or disappears entirely when there are multiple, potentially crosscutting, issues involved in a case. Perhaps if observations stemming from cases involving multiple issues are eliminated from our analysis, we will find a better fit between the judgment codes and our measures of a statute's ideology.

Examination of the USSCJD's issue codes reveals that only 14 of the 208 observations for which we have USSCJD judgment codes stem from cases in which multiple issues were coded. However, 4 of these 14 observations result from two separate statutes having been considered by the Court in each of two cases. Because of the nature of our statute-based data, these have been separated into 4 distinct observations, thereby eliminating the problem of multiple issues arising in the same observation. When we drop

¹⁸Appendix B contains the full list of cases in the sample, sorted by issue area, the USSCJD judgment code, and the pooled Bailey estimate of the statute's ideology. One can then easily identify, by issue area, the cases that have the strongest and weakest correlations between the two measures of the ideological direction of the Court's judgments (liberal judgment codes should be associated with larger negative values of a statute's ideology, the reverse should be true for conservative judgment codes).

the remaining 10 observations from our analyses, we find that there continues to be no systematic relationship between our pooled measures of statute ideology and the USSCJD judgment codes for the overall sample. There are also no systematic relationships with the pooled measures for either civil liberties or economic activity observations. When the sample is disaggregated by issue, we continue to observe the same patterns we found when multiple issues were included (with the sole exception that we are now unable to estimate a coefficient for observations involving unions for either pooled measure of statute ideology).

It would appear that, whatever the USSCJD codes are measuring, it is not the direction of the effect of the Court's judgments on the location of the status quo. This presents a problem if in fact the Justices care about whether their judgments move policy to the left or to the right.¹⁹ If this is the case, then the USSCJD codes are not really measuring the ideological impact of the Court's decisions in a way that would make sense to the Justices themselves. In other words, the USSCJD codes may contain significant measurement error.

Of course, there remains the possibility that in fact the Justices do not consider the impact of their decisions on the status quo *ex ante*. Perhaps the Justices gauge the ideological impact of their decisions according to the USSCJD decision rules. If so, then the fact that the codes are not correlated with the impact of the Court's decisions on the status quo is not a problem for developing and testing models of judicial decision making. We no longer have to worry about measurement error.

Which of these scenarios is closer to the truth? While there may not be a way to answer this question definitively, we can perhaps gain some insight by thinking about the empirical implications of measurement error in our analyses of the Justices' decisions.

What would we expect to find if such measurement error exists?

¹⁹If the Justices care about policy outcomes, as is assumed in most modern models of judicial decision making (e.g. Segal and Spaeth 2002), then this certainly seems plausible.

4 The Problem of Measurement Error

Say we want to estimate the equation

$$Y_i = \alpha + \beta X_i + u_i \tag{1}$$

where u_i represents the population disturbance term. Yet what we can actually observe is

$$Y_i^* = Y_i + \varepsilon_i \tag{2}$$

where ε_i represents the errors of measurement in Y_i . Therefore, instead of estimating Equation 1, we estimate

$$\begin{aligned} Y_i^* &= (\alpha + \beta X_i + u_i) + \varepsilon_i \\ &= \alpha + \beta X_i + (u_i + \varepsilon_i) \\ &= \alpha + \beta X_i + v_i \end{aligned} \tag{3}$$

where $v_i = u_i + \varepsilon_i$ is a composite error term containing both the population and measurement error terms. If we make the standard assumptions for linear regression, namely we assume that $E(u_i) = E(\varepsilon_i) = 0$ and that $cov(X_i, u_i) = cov(X_i, \varepsilon_i) = cov(u_i, \varepsilon_i) = 0$, then our estimates of β (and its variance) will be unbiased. However, the variance of the $\hat{\beta}$ estimated from Equation 3 will be larger than that estimated from Equation 1. This is so because the variance of $\hat{\beta}$ estimated from Equation 1 is

$$var(\hat{\beta}) = \frac{\sigma_u^2}{\sum x_i^2} \tag{4}$$

while the variance of $\hat{\beta}$ estimated from Equation 2 is

$$\begin{aligned}
\text{var}(\hat{\beta}) &= \frac{\sigma_v^2}{\sum x_i^2} \\
&= \frac{\sigma_u^2 + \sigma_\varepsilon^2}{\sum x_i^2}
\end{aligned}
\tag{5}$$

The latter is clearly larger than the former.

This means that if our errors in measurement are in our dependent variable, we will obtain unbiased estimates of our parameters under the foregoing assumptions, but we will have larger variances and standard errors than if there were no measurement error.²⁰ If the measurement error is large enough, we may fail to reject a null hypothesis of no systematic relationship between our independent and dependent variables, even if such a relationship exists.

One sign that the USSCJD judgment codes contain measurement error, then, is the existence of "false negative" null results when the codes are used as the dependent variable. If the measurement error in the dependent variable is adequately addressed, then these "false negative" null results should disappear.

5 The USSCJD Judgment Codes and SOP Models

One place where null results have been extensively published in the judicial politics literature is in the area of "separation of powers" (SOP) models. These models typically hypothesize that the Court has incentives to respond to congressional preferences in statutory and/or constitutional cases (Gely and Spiller 1990, Eskridge 1991, Spiller and Gely 1992, Ferejohn and Weingast 1992). However, empirical support for this proposition has been nonexistent in several studies (Segal 1997, Hansford and Damore 2000, Spriggs and Hansford 2001, Segal and Spaeth 2002, Sala and Spriggs 2004, Martin 2005).

²⁰If there is measurement error in one of our explanatory variables, then our estimates of β will also be biased. In the reanalysis to follow, however, I focus only on measurement error in the dependent variable.

Importantly for the purposes of this paper, these published null results have all been obtained using the USSCJD judgment or vote codes as the dependent variable. We can thus ask whether these null findings are at least in part due to measurement error in those codes.

I reanalyze the findings in Segal (1997) because of their prominence in the judicial politics literature.²¹ However, some adjustments need to be made to Segal's analysis in order to accommodate the available data. First, I restrict my attention to constitutional rather than statutory cases. Segal focuses on the latter category rather than the former because of an assumption that the Court has incentives to respond to congressional preferences only in statutory cases. The logic is as follows: if there is an interpretation of a statute that the pivotal members of Congress prefer to the Court's interpretation, they can enact that interpretation following the Court's ruling. There thus may well be situations in which the Court is better off issuing a statutory interpretation that is not the preferred interpretation of the Court's median Justice, but is both unlikely to be overturned by a sitting Congress, and is preferable to the interpretation which would be enacted by that Congress were it to act (Gely and Spiller 1990, Eskridge 1991, Spiller and Gely 1992, Ferejohn and Weingast 1992) In constitutional cases, by contrast, the Court is insulated from congressional pressure. Under Article III of the Constitution, appointed Supreme Court Justices are given life tenure and are protected from congressional salary reductions. In addition, constitutional decisions cannot be overturned by a simple congressional statute; only a constitutional amendment can alter the Supreme Court's constitutional determinations.

However, there are other means by which the Congress can influence the Court in its constitutional decisions. The Congress can alter the Court's appellate jurisdiction (Friedman 1990; Nagel 1965, 928; Rosenberg 1992, 377, 385, 387, 390; Mcnollgast 1995, 1664; Friedman 1998, 740-741, 744-745, 748-749, 751-3; Cross and Nelson 2001, 11; Segal

²¹I follow the corrected version of Segal (1997), as detailed in Groseclose and Schiavoni (2001) and Segal (1998).

and Spaeth 2002, 29-30, 230; and Martin 2005, 10), manipulate the number and composition of the lower federal courts (Nagel 1965, 926 fn. 3; Landes and Posner 1976, 885; Friedman 1990, Rosenberg 1992, 380-1; Mcnollgast 1995, 1648, 1663; Friedman 1998, 740; Cross and Nelson 2001, 11; Segal and Spaeth 2002, 29-30, 226 fn8, 227-228, 230, 236, 236 fn 34), control the Court's budget (Landes and Posner 1976, 885; Cross and Nelson 2001, 12), change the size and composition (via impeachment) of the Court ((Stone et al 1991; Rosenberg 1992, 381; McNollGast 1995, 1632; Friedman 1998, 740, 743, 746, 749-750; Cross and Nelson 2001, 10), and refuse to implement Court decisions (Rosenberg 1991; Fisher 1993; Friedman 1998, 742; Cross and Nelson 2001, 13). These opportunities for congressional action would seem to provide relatively powerful incentives for the Justices to be mindful of congressional policy preferences, even in constitutional cases. And while earlier analyses had largely failed to find evidence in support of this claim (Spriggs and Hansford 2001, Sala and Spriggs 2004, Martin 2005), Friedman and Harvey (2003) and Harvey and Friedman (2006) report strong evidence that in fact the Court is quite sensitive to the preferences of elected officials even in constitutional cases.

Constitutional cases should thus provide an appropriate sample with which to test hypotheses concerning congressional influence on the Court's decision making. Moreover, constitutional cases permit the construction of our pooled measure of the direction of movement in the status quo as a result of the Court's judgment, which is conditioned on whether a statute was struck or upheld by the Court. We would not easily be able to construct such a measure for statutory cases.

Second, because typical models of congressional influence on the Court assume that the Justices and the Congress are interacting in the same one dimensional policy space, I employ the Bailey interinstitutional estimates of congressional and judicial ideology. This departs from Segal's practice, as he uses a variety of ideological measures for the Court and Congress which are not explicitly scaled in the same space.²² However, the Bailey estimates

²²Segal uses ADA support scores to measure the ideology of members of Congress and both Segal-Cover scores (Segal and Cover 1989) and predicted annual liberalism support scores in nonunanimous civil liberties

should still enable us to distinguish between the performance of the USSCJD judgment codes and our measure of movement in the status quo.

Finally, I expand the number and variety of legislative models considered by Segal, although I maintain his method of calculating legislative influence on judicial decisionmaking. Segal (1997) analyzes two legislative models which I also estimate, namely the committee gatekeeping and party gatekeeping models discussed earlier (with veto pivots).²³ I also estimate the floor median model discussed earlier, and test all models both with and without veto pivots. Finally, I estimate all models using both the median Justice's vote (as in Segal 1997) and the case outcome as the dependent variable.²⁴

I assume, with Segal (1997), that both Justices and members of Congress have symmetric single-peaked preferences over a common left-right policy continuum. As noted earlier, I also follow Segal (1997) in assuming that each law (L) enacted by a given Congress reflects the midpoint between the chamber medians in that Congress.

In Segal's statutory analysis, the Court's median Justice reviews a statute L and selects a point on the policy continuum (L') at which it will locate its interpretation of the statute. The median Justice's utility from L' is a decreasing function of the distance between it and her ideal point (C): $U(L') = -|C - L'|$. In the absence of any institutional constraint, the median Justice will select C as the interpretation applied to the statute. If the Court faces institutional constraints, however, L' may not equal C . In this case, after the Court chooses L' , the Congress can choose an alternative interpretation of the statute.

constitutional cases, as estimated from the USSCJD, to measure the ideology of the Justices. He then assumes that these measures lie in the same one dimensional ideological space. At the time of the 1997 article, there were no measures available which estimated congressional and judicial ideology from the same pool of observations. Segal's original data spanned the 1946-1992 terms; the Bailey data cover the 1950-2001 terms.

²³For a Democratic president, the veto pivots are the 146th Representative and the 34th Senator; for a Republican president, the veto pivots are the 290th Representative and the 67th Senator. Segal also estimates a multiple veto model, which essentially includes all pivotal players, but which cannot be estimated here because it generates too little variation in the extent to which the Court is unconstrained.

²⁴Segal's dependent variable is the percentage of all statutory civil liberties cases in a given year in which the median Justice votes in favor of the liberal judgment, as coded by the USSCJD. Because of the smaller sample used here I include every statute in the sample as a separate observation. In 31/217 observations, the ideological direction of the median Justice's vote differed from the USSCJD judgment code for the case. In 28/217 observations, the median Justice's vote on constitutionality differed from the Court's judgment.

The Congress will act if all pivotal legislators prefer the best statute they can enact (L^*) to L' . Should at least one pivotal legislator be closer to (or equidistant from) L' than to L^* , that member will choose either not to introduce, or to block, legislation shifting the Court's ruling. However, if the pivotal members are all closer to L^* than to the Court's chosen interpretation, those members will act to ensure passage of an alternative statute.

In this constrained case, the median Justice will set L' as close to her ideal point as possible, while yet forestalling congressional action. The equilibrium location of L' can be found by constructing a constraint set for each legislative model being considered. For the gatekeeping models with veto pivots, the constraint set for the Court will be defined by the two chamber medians, the gatekeepers' indifference points with respect to the midpoint between the chamber medians, and the two veto pivots. For the floor median model with veto pivots, the constraint set consists of the chamber medians, the indifference points of the chamber medians with respect to the midpoint between them, and the veto pivots. For the models without veto pivots, the veto pivots are taken out of these constraint sets.²⁵

If the Court median lies within the appropriate constraint set, then the Court is unconstrained and L' will be set at the ideal point of the median Justice. The constraint variable in this case takes on a value of zero. If the Court median lies to the left (right) of the leftmost (rightmost) point in this set, then the Court is constrained and will set L' at this leftmost (rightmost) point. The value of the constraint variable then takes on the value of $L' - C$. If the Court lies to the left of the constraint set, then this value is positive, and we expect it to have a negative relationship with the USSCJD judgment or vote code: the Court is being constrained in a conservative direction, which should lead to a greater probability of a conservative judgment or vote (0). If the Court lies to the right of the

²⁵When the ideal points of both gatekeeping pivots lie within the set composed of the two chamber medians and the two veto pivots, then the gatekeepers' ideal points are substituted for their indifference points in the construction of the constraint set (Groseclose and Schiavoni 2001). Similarly, for the floor median model, the chamber medians' indifference points are only relevant when they lie on the side of the chamber medians which is most distant from the veto pivots. For the models without veto pivots, the indifference points of the gatekeepers and, for the floor median model, the floor medians, are always relevant to the construction of the constraint sets.

constraint set, then this value is negative, and we also expect it to have a negative relationship with the USSCJD judgment code: the Court is being constrained in a liberal direction, which should lead to a greater probability of a liberal judgment or vote (1).

For the constitutional context, I keep the structure of the Segal setup and simply substitute an alternative interpretation of L' , or the location of the Court's ruling. In the context of challenges to the constitutionality of some statute L , L' is interpreted as the standard of constitutionality against which the statute L will be judged. If the Court is institutionally constrained, then after the Court chooses L' , the Congress can choose to punish the Court with retributive legislation. I assume that the Congress will punish the Court only if all pivotal legislators prefer L^* , or the best constitutional standard it can enact, to L' . Should at least one pivotal legislator be closer to (or equidistant from) L' than to L^* , that member will choose either not to introduce, or to block, legislation disciplining the Court. However, if the pivotal members are all closer to L^* than to the Court's chosen constitutional standard, those members will act to ensure passage of punitive legislation. The rest of the model remains as described above.

My reanalysis of the Segal (1997) estimations thus consists of the following equation, which includes a variable measuring the ideal point of the median Justice and a variable measuring the congressional constraint described above. The dependent variable is either the ideological direction of the median Justice's vote on the particular statute at issue (Columns 1-3 of Tables 1 and 3), or the ideological direction of the Court's judgment on the statute at issue (Columns 1-3 of Tables 2 and 4).

$$\Pr(\text{Liberal_Vote/Outcome}_i) = \Phi(\alpha + \beta_1 \text{Court_Median}_i + \beta_2 \text{Congressional_Constraint}_i + \varepsilon_i) \quad (6)$$

If the unconstrained model is correct, then we expect to find a significant negative relationship with the *Court Median* variable but no relationship with the *Congressional*

Constraint variable. If the constrained model is correct, then we expect to find significant negative relationships with both variables. I estimate Equation 6 using a probit link function with robust standard errors, for all three legislative models, both with and without veto pivots.

The first two columns of Table 1 most closely replicate Segal’s party and committee gatekeeping estimations. Here the dependent variable is the ideological direction of the median Justice’s vote on the judgment in the case. As in Segal (1997), the variable measuring the ideology of the median Justice for these two models is significant in the predicted direction, but the variable measuring congressional constraint is not significant at conventional thresholds, although it is in the predicted direction. We find the same pattern in column 3 of Table 1, which estimates a floor median model with veto pivots, also using the median Justice’s vote as a dependent variable.

Columns 1-3 of Tables 2-4 estimate alternative versions of these models. In Table 2, the dependent variable is the judgment in the case rather than the median Justice’s vote on that judgment. In Table 3, the dependent variable is the median Justice’s vote, but the models are estimated without veto pivots. In Table 4, the models without veto pivots are estimated with the judgment as the dependent variable.

In all these estimations, the committee and party gatekeeping models display the same pattern: the variable measuring the ideology of the median Justice is significant in the predicted direction (just missing conventional levels of significance in column 1 of Table 2), while the *Congressional Constraint* variable is never close to significance in the predicted direction. In the case of the floor median model, the *Congressional Constraint* variable is also never significant in the predicted direction; neither is the *Court Median* variable.

These are the null results that have been widely replicated by those following Segal (1997). However, things change rather dramatically once we substitute the pooled measure of the effect of a judgment on the status quo for the USSCJD codes. In columns 4-6 of Tables 1-4, the dependent variable is the estimated ideology of the statute under review,

multiplied by -1 if the median Justice voted to strike the statute as unconstitutional (for Tables 1 and 3) or if the judgment in the case was to strike the law as unconstitutional (in Tables 2 and 4). Because of the scaling of this variable, we now expect a positive significant relationship with the *Court Median* variable but no relationship with the *Congressional Constraint* variable if the unconstrained model is correct, and significant positive relationships with both variables if the constrained model is correct. These equations are estimated using OLS regression with robust standard errors.

The difference between the two sets of estimations is striking, across all models estimated. We now find strongly significant coefficients in the predicted positive direction on both variables in every estimation. Since we changed nothing else about these estimations except for the substitution in the dependent variable, these results are quite suggestive of measurement error in the USSCJD judgment and vote codes.

We may have reason to be concerned about the rotation of the pooled measure of statute ideology around zero for struck statutes. With one additional assumption we can, however, use the unrotated measure of statute ideology to test the predictions of the SOP models. Recall that the SOP models require the computation of L' , or the equilibrium location of the Court's opinion given the preferences of the sitting Congress. If the preferences of the sitting Congress are irrelevant for the median Justice's decision, then $L' = C$. It seems reasonable to assume that there is a probabilistic relationship between the Court's opinion and its ruling on the the statute's constitutionality, such that as the location of the Court's opinion moves further away from the ideological location of the statute, there is an increased likelihood that the Court will strike the statute.

We can thus estimate the probability that the median Justice will vote to strike or uphold a congressional statute as a function of the absolute ideological distance between the statute being reviewed and the median Justice's ideal point (for the unconstrained model), and between the statute and L' (for the constrained model). If the unconstrained model is correct, then as the statute being reviewed by the Court moves further away from

the ideal point of the median Justice, the likelihood that the median Justice will vote to strike the statute increases. We thus expect a positive coefficient on $|C - L|$, conditional on the unconstrained model being correct. If the constrained model is correct, then the key factor is not the ideal point of the median Justice, but rather the best opinion that the median Justice can write, conditional on congressional preferences. As the distance between the statute being reviewed and that opinion (L') increases, then the probability that the median Justice will vote to strike the statute should increase as well. We thus also expect a positive coefficient on $|L' - L|$, conditional on the constrained model being correct.

Columns 1-2 of Tables 5-8 report the results of these estimations, for models with (Tables 5-6) and without (Tables 7-8) veto pivots, and using the median Justice's vote (Tables 5 and 7) and the case outcome (Tables 6 and 8) as dependent variables. We obtain positive and strongly significant coefficients on the key variable of interest for both the unconstrained and constrained models. In order to uncover which of these models provides a better fit to our data, Columns 3 and 4 of Tables 5-8 report the results of Davidson-MacKinnon tests of the two models. In this test, the predicted ($\mathbf{X}\beta$) values of each model are obtained and then included as a variable in the competing model. The correct model, if there is one, is the model whose coefficient is robust to the inclusion of the competing model's predicted values, and whose predicted values are themselves significant in the competing model (Davidson and MacKinnon 1981). The correct model using this test is clearly the constrained model, for all legislative models tested.

This exercise thus provides additional support for the results obtained in Columns 3 and 4 of Tables 1-4. Because the results in Tables 5-8 were obtained without any manipulation of the measure of the ideology of congressional statutes, we can perhaps be more confident that the results that we see in Tables 1-4 are not a product of the rotation of the ideology scale for struck statutes.

6 Conclusion

The USSCJD is a valuable resource for studying the Court. However, the results obtained here suggest that the USSCJD liberal/conservative judgment and vote codes should be used with considerable caution. At least for the sample of congressional statutes whose constitutionality was reviewed by the Court, those codes do not appear to correlate with the ideological direction of the Court's impact on the status quo. Moreover, reanalysis of the SOP models in Segal (1997) suggests that a measure of the direction of that impact reduces what appears to be significant measurement error in the USSCJD judgment codes (and the consequent coding of the Justices' votes on those judgments). This is potentially relevant for the numerous studies using those codes which have failed to find evidence in support of the hypothesis of congressional influence on the Court in either statutory or constitutional cases (Segal 1997, Hansford and Damore 2000, Segal and Spaeth 2002, Spriggs and Hansford 2001, Martin 2005), and more generally, for any empirical analyses which employ the judgment or vote codes.

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7 Appendix A: The USSCJD Judgment Coding Rules

In the context of issues pertaining to criminal procedure, civil rights, First Amendment, due process, privacy, and attorneys, 1 =

- pro-person accused or convicted of crime, or denied a jury trial
- pro-civil liberties or civil rights claimant, especially those exercising less protected civil rights (e.g., homosexuality)
- pro-child or juvenile
- pro-indigent
- pro-Indian
- pro-affirmative action
- pro-neutrality in religion cases
- pro-female in abortion
- pro-underdog
- anti-government in the context of due process, except for takings clause cases where a pro-government, anti-owner vote is considered liberal except in criminal forfeiture cases or those where the taking is pro-business
- violation of due process by exercising jurisdiction over nonresidents
- pro-attorney
- pro-accountability and/or anti-corruption in campaign spending
- pro-privacy vis-a-vis the 1st Amendment where the privacy invaded is that of mental incompetent

- pro-jurisdiction in due process jurisdiction claims over non-resident litigants
- pro-disclosure in FOIA and related federal or state statutes or regulations, except for employment and student records;

0 = reverse of above.

In the context of issues pertaining to unions and economic activity, 1 =

- pro-union except in union antitrust (involving the legality of anti-competitive union activity), where 1 = pro-competition
- anti-business
- anti-employer
- pro-competition
- pro-liability
- pro-injured person
- pro-indigent
- pro-small business vis-a-vis large business
- pro-debtor
- pro-bankrupt
- pro-Indian
- pro-environmental protection
- pro-economic underdog
- pro-consumer

- pro-accountability in governmental corruption
- anti-union member or employee vis-a-vis union
- anti-union in union antitrust
- pro-trial in arbitration;

0 = reverse of above.

In the context of issues pertaining to judicial power, 1 =

- pro-exercise of judicial power
- pro-judicial "activism"
- pro-judicial review of administrative action;

0 = reverse of above.

In the context of issues pertaining to federalism, 1 =

- pro-federal power
- anti-state;

0 = reverse of above.

In the context of issues pertaining to federal taxation, 1 =

- pro-United States;

0 = pro-taxpayer.

In interstate relations and miscellaneous issues, a missing value is entered for the "direction of decision" variable.

Figure 1

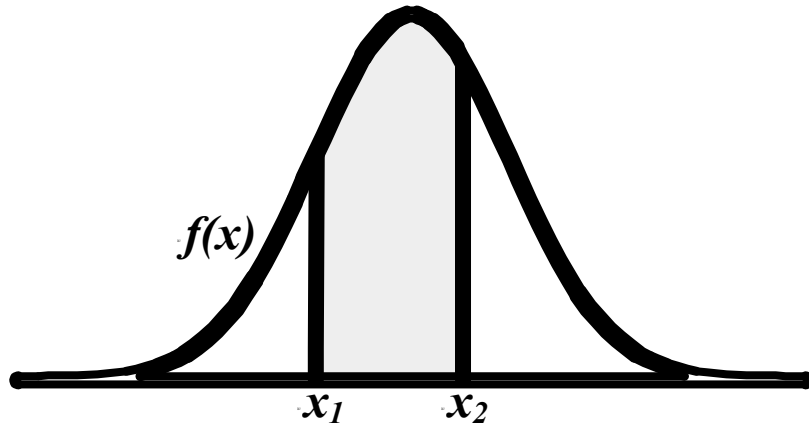


Table 1
All Models, With Veto Pivots
Dependent Variable: Median Justice Vote or Pooled Statute Ideology

	DV: Median Justice Vote			DV: Pooled Statute Ideology		
	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model
<i>Court Median</i>	-.88* (.48)	-.92** (.46)	-.86* (.50)	.13*** (.08)	.14*** (.04)	.14*** (.04)
<i>Congressional Constraint</i>	-.17 (1.33)	-.33 (1.25)	-.10 1.45	.14* (.10)	.21*** (.08)	.19* (.11)
<i>Constant</i>	-.12 (.09)	-.12 (.09)	-.12 (.09)	-.03*** (.01)	-.03*** (.01)	-.03*** (.01)
LR chi ²	7.61	7.66	7.59			
Prob > chi ²	.02	.03	.02			
R ²				.04	.05	.04
N	205	205	205	217	217	217

Note: All p values are two tailed. Robust standard errors are reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$. The measure of pooled statute ideology is the ideology of the statute being reviewed, multiplied by -1 if the median Justice voted to strike the statute.

Table 2
All Models, With Veto Pivots
Dependent Variable: USSCJD Judgment Code or Pooled Statute Ideology

	DV: USSCJD Judgment Code			DV: Pooled Statute Ideology		
	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model
<i>Court Median</i>	-.73 (.46)	-.74* (.46)	-.44 (.52)	.17*** (.04)	.18*** (.04)	.19*** (.04)
<i>Congressional Constraint</i>	.63 (1.38)	.62 (1.30)	1.65 (1.67)	.18** (.11)	.24*** (.09)	.27*** (.11)
<i>Constant</i>	-.02 (.09)	-.02 (.09)	-.04 (.09)	-.02*** (.01)	-.03*** (.01)	-.03*** (.01)
LR χ^2	9.49	9.46	9.55			
Prob > χ^2	.01	.01	.01			
R ²				.08	.09	.09
N	208	208	208	223	223	223

Note: All p values are two tailed. Robust standard errors reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$. The measure of pooled statute ideology is the ideology of the statute being reviewed, multiplied by -1 if the Court struck the statute.

Table 3
All Models, No Veto Pivots
Dependent Variable: Median Justice Vote or Pooled Statute Ideology

	DV: Median Justice Vote			DV: Pooled Statute Ideology		
	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model
<i>Court Median</i>	-.99*** (.40)	-.90*** (.3446)	.11 (.87)	.14*** (.04)	.12*** (.04)	.31*** (.08)
<i>Congressional Constraint</i>	-.52 (.93)	-.41 (.89)	1.39 (1.19)	.20*** (.08)	.17*** (.06)	.32*** (.10)
<i>Constant</i>	-.15 (.10)	-.15 (.11)	-.14 (.09)	-.01*** (.01)	-.01*** (.01)	-.03*** (.01)
LR χ^2	8.01	7.62	9.24			
Prob > χ^2	.02	.02	.01			
R ²				.06	.05	.07
N	205	205	205	217	217	217

Note: All p values are two tailed. Robust standard errors are reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$. The measure of pooled statute ideology is the ideology of the statute being reviewed, multiplied by -1 if the median Justice voted to strike the statute.

Table 4
All Models, No Veto Pivots
Dependent Variable: USSCJD Judgment Code or Pooled Statute Ideology

	DV: USSCJD Judgment Code			DV: Pooled Statute Ideology		
	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model	Committee Gatekeeping Model	Party Gatekeeping Model	Median Model
<i>Court Median</i>	-1.28*** (.40)	-1.06*** (.33)	-.02 (.82)	.18*** (.04)	.16*** (.03)	.38*** (.08)
<i>Congressional Constraint</i>	-1.29 (.93)	-.94 (.88)	1.32 (1.16)	.21*** (.07)	.22*** (.06)	.38*** (.11)
<i>Constant</i>	-.09 (.10)	-.08 (.11)	-.03 (.09)	-.01*** (.01)	-.01*** (.01)	-.03*** (.01)
LR chi ²	11.47	10.36	10.34			
Prob > chi ²	.00	.01	.01			
R ²				.09	.10	.12
N	208	208	208	223	223	223

Note: All p values are two tailed. Robust standard errors reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$. The measure of pooled statute ideology is the ideology of the statute being reviewed, multiplied by -1 if the Court struck the statute.

Table 5
All Models, With Veto Pivots
Probit Estimations of Probability of Vote to Strike

		Committee Gatekeeping Model		Party Gatekeeping Model		Median Model	
	Unconstrained Model	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test
$ C - L $	1.25*** (.38)						
$ L' - L $		1.95*** (.52)	3.70*** (1.45)	2.01*** (.52)	4.49*** (1.45)	1.90*** (.52)	3.07** (1.42)
Unconstrained XB Values			-1.09 (.85)		-1.56* (.91)		-.73 (.84)
Constant	-.88*** (.14)	-1.00*** (.16)	-2.00*** (.79)	-1.02*** (.16)	-2.45*** (.85)	-.98*** (.15)	-1.65** (.78)
LR χ^2	10.83	14.02	15.82	15.02	17.33	13.59	14.52
Prob > χ^2	.00	.00	.00	.00	.00	.00	.00
N	217	217	217	217	217	217	217

Note: All p values are two tailed. Robust standard errors reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$

Table 6
All Models, With Veto Pivots
Probit Estimations of Probability of Strike

		Committee Gatekeeping Model		Party Gatekeeping Model		Median Model	
	Unconstrained Model	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test
$ C - L $	1.33*** (.37)						
$ L' - L $		2.09*** (.50)	4.54*** (1.53)	2.16*** (.51)	5.37*** (1.71)	2.18*** (.50)	4.74*** (1.57)
Unconstrained <i>XB</i> Values			-1.46* (.84)		-1.96* (.92)		-1.48* (.86)
Constant	-.77*** (.13)	-.90*** (.15)	-2.09*** (.70)	-.92*** (.15)	-2.50*** (.78)	-.92*** (.15)	-2.12*** (.72)
LR χ^2	12.95	17.40	18.57	18.18	17.59	18.73	22.02
Prob > χ^2	.00	.00	.00	.00	.00	.00	.00
N	223	223	223	223	223	223	223

Note: All p values are two tailed. Robust standard errors reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$

Table 7
All Models, No Veto Pivots
Probit Estimations of Probability of Vote to Strike

		Committee Gatekeeping Model		Party Gatekeeping Model		Median Model	
	Unconstrained Model	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test
$ C - L $	1.25*** (.38)						
$ L' - L $		1.96*** (.45)	4.64*** (1.19)	1.64*** (.41)	4.71*** (1.13)	3.73*** (.77)	3.84*** (.95)
Unconstrained <i>XB</i> Values			-2.13** (.90)		-2.71*** (.92)		-.07 (.40)
Constant	-.88*** (.14)	-.93*** (.13)	-2.64*** (.73)	-.90*** (.12)	-3.06*** (.74)	-1.15*** (.16)	-1.20*** (.34)
LR χ^2	10.83	18.51	27.45	16.46	25.05	23.34	23.91
Prob > χ^2	.00	.00	.00	.00	.00	.00	.00
N	217	217	217	217	217	217	217

Note: All p values are two tailed. Robust standard errors reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$

Table 8
All Models, No Veto Pivots
Probit Estimations of Probability of Strike

		Committee Gatekeeping Model		Party Gatekeeping Model		Median Model	
	Unconstrained Model	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test	Constrained Model	Davidson-Mackinnon Test
$ C - L $	1.33*** (.37)						
$ L' - L $		1.71*** (.43)	2.44** (1.01)	1.59*** (.39)	3.09*** (1.07)	3.79*** (.74)	3.93*** (.94)
Unconstrained XB Values			-.56 (.69)		-1.27 (.82)		-.09 (.35)
Constant	-.77*** (.13)	-.75*** (.12)	-1.13** (.48)	-.75*** (.12)	-1.61*** (.58)	-1.02*** (.15)	-1.08*** (.28)
LR χ^2	12.95	15.45	16.25	16.77	19.06	26.05	26.22
Prob > χ^2	.00	.00	.00	.00	.00	.00	.00
N	223	223	223	223	223	223	223

Note: All p values are two tailed. Robust standard errors reported. * $\alpha=.10$; ** $\alpha=.05$; *** $\alpha=.01$

Appendix B: List of Cases

Case	US	Term	Issue	USSCJD Jdgmt Code	Pooled Statute Ideology
Walters v. National Ass'n of Radiation Survivors	473/0305	1984	attorney	conserva	0.2199
Fiallo v. Bell	430/0787	1976	civil ri	conserva	-0.1955
Vance v. Bradley	440/0093	1978	civil ri	conserva	-0.1904
Harris v. Rosario	446/0651	1979	civil ri	conserva	-0.1904
Schweiker v. Wilson	450/0221	1980	civil ri	conserva	-0.1904
Cleland v. National College of Business	435/0213	1977	civil ri	conserva	-0.1681
Bowen v. Owens	476/0340	1985	civil ri	conserva	-0.1681
Harris v. Rosario	446/0651	1979	civil ri	conserva	-0.145
Schweiker v. Hogan	457/569	1981	civil ri	conserva	-0.1358
U.S. R.R. Retirement Bd. v. Fritz	449/0166	1980	civil ri	conserva	-0.1225
Johnson v. Robison	415/0361	1973	civil ri	conserva	-0.1053
Mathews v. Diaz	426/0067	1975	civil ri	conserva	-0.1053
Mathews v. Lucas	427/0495	1975	civil ri	conserva	-0.1053
Mathews v. de Castro	429/0181	1976	civil ri	conserva	-0.1053
Califano v. Webster	430/0313	1976	civil ri	conserva	-0.1053
Califano v. Jobst	434/0047	1977	civil ri	conserva	-0.1053
Califano v. Aznavorian	439/0170	1978	civil ri	conserva	-0.1053
Califano v. Boles	443/0282	1978	civil ri	conserva	-0.1053
Rostker v. Goldberg	453/0057	1980	civil ri	conserva	-0.0934
Richardson v. Belcher	404/0078	1971	civil ri	conserva	-0.0644
Tuan Anh Nguyen v. I.N.S.	533/53	2000	civil ri	conserva	-0.0554
Bowen v. Gilliard	483/0587	1986	civil ri	conserva	-0.0053
Heckler v. Mathews	465/0728	1983	civil ri	conserva	0.001
Lyng v. International Union, United Auto., Aerospace and Agr.	485/0360	1987	civil ri	conserva	0.0465
Lyng v. Castillo	477/0635	1985	civil ri	conserva	0.0479
Vance v. Terrazas	444/0252	1979	civil ri	conserva	0.0986
U.S. v. Morrison	529/598	1999	civil ri	conserva	0.1234
Kinsella v. Krueger	351/0470	1955	civil ri	conserva	0.2166
Reid v. Covert	351/0487	1955	civil ri	conserva	0.2166
Rogers v. Bellei	401/0815	1970	civil ri	conserva	0.2347
Parker v. Levy	417/0733	1973	civil ri	conserva	0.238
Secretary of Navy v. Avrech	418/0676	1973	civil ri	conserva	0.238
Reid v. Covert	354/0001	1956	civil ri	liberal	-0.238
Schneider v. Rusk	377/0163	1963	civil ri	liberal	-0.2347
Afroyim v. Rusk	387/0253	1966	civil ri	liberal	-0.2347
Frontiero v. Richardson	411/0677	1972	civil ri	liberal	-0.2199
United States ex rel. Toth v. Quarles	350/0011	1955	civil ri	liberal	-0.2166
Fullilove v. Klutznick	448/0448	1979	civil ri	liberal	-0.1681
U. S. v. Sioux Nation of Indians	448/371	1979	civil ri	liberal	-0.145
South Carolina v. Katzenbach	383/0301	1965	civil ri	liberal	-0.1253
Katzenbach v. Morgan	384/0641	1965	civil ri	liberal	-0.1253
EEOC v. Wyoming	460/0226	1982	civil ri	liberal	-0.1225
Kinsella v. United States	361/0234	1959	civil ri	liberal	-0.1059
Frontiero v. Richardson	411/0677	1972	civil ri	liberal	-0.1036

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Heart of Atlanta Motel, Inc. v. United States	379/0241	1964	civil ri	liberal	0.0204
Katzenbach v. McClung	379/0294	1964	civil ri	liberal	0.0204
Califano v. Westcott	443/0076	1978	civil ri	liberal	0.0644
U. S. Dept. of Agriculture v. Murry	413/0508	1972	civil ri	liberal	0.0934
U. S. Dept. of Agriculture v. Moreno	413/0528	1972	civil ri	liberal	0.1053
Weinberger v. Wiesenfeld	420/0636	1974	civil ri	liberal	0.1053
Califano v. Goldfarb	430/0199	1976	civil ri	liberal	0.1053
Jimenez v. Weinberger	417/0628	1973	civil ri	liberal	0.1253
United States v. Raines	362/0017	1959	civil ri	liberal	0.2245
Donovan v. Dewey	452/0594	1980	criminal	conserva	-0.1681
Kastigar v. U.S.	406/0441	1971	criminal	conserva	-0.0725
California Bankers Ass'n v. Shultz	416/0021	1973	criminal	conserva	-0.0725
U.S. v. DiFrancesco	449/0117	1980	criminal	conserva	-0.0725
U.S. v. Freed	401/0601	1970	criminal	conserva	-0.0644
U.S. v. Biswell	406/0311	1971	criminal	conserva	-0.0644
U.S. v. Monsanto	491/0600	1988	criminal	conserva	-0.0053
Caplin & Drysdale, Chartered v. U.S.	491/0617	1988	criminal	conserva	0.0047
Selective Service System v. Minnesota Public Interest Research Group	468/0841	1983	criminal	conserva	0.0479
Felker v. Turpin	518/0651	1995	criminal	conserva	0.0763
Miller v. French	530/327	1999	criminal	conserva	0.1516
Ullmann v. U.S.	350/0422	1955	criminal	conserva	0.2167
Minor v. U.S.	396/0087	1969	criminal	conserva	0.2167
Turner v. U.S.	396/0398	1969	criminal	conserva	0.2167
United States v. Gainey	380/0063	1964	criminal	conserva	0.2199
Reina v. U.S.	364/0507	1960	criminal	conserva	0.238
Minor v. United States	396/0087	1969	criminal	conserva	0.238
Leary v. U.S.	395/006	1968	criminal	liberal	-0.238
Grosso v. U.S.	390/0062	1967	criminal	liberal	-0.2199
Haynes v. United States	390/0085	1967	criminal	liberal	-0.2199
U.S. v. Hubbell	530/27	1999	criminal	liberal	-0.1234
Dickerson v. U.S.	530/428	1999	criminal	liberal	0.0644
Marshall v. Barlow's, Inc.	436/0307	1977	criminal	liberal	0.0725
U.S. v. Bajakajian	524/321	1997	criminal	liberal	0.1362
Leary v. U.S.	395/006	1968	criminal	liberal	0.238
Turner v. U.S.	396/0398	1969	due proc	conserva	-0.238
U. S. v. Raddatz	447/667	1979	due proc	conserva	-0.1904
Federal Deposit Ins. Corp. v. Mallen	486/0230	1987	due proc	conserva	-0.145
Arnett v. Kennedy	416/0134	1973	due proc	conserva	-0.1376
Marshall v. Jerrico, Inc.	446/0238	1979	due proc	conserva	-0.1225
Marshall v. U.S.	414/0417	1973	due proc	conserva	-0.1053
U. S. v. Powell	423/0087	1975	due proc	conserva	-0.0725
United States v. Salerno	481/0739	1986	due proc	conserva	-0.0053
Hodel v. Irving	481/0704	1986	due proc	conserva	-0.001
Schweiker v. McClure	456/0188	1981	due proc	conserva	0.0465
Babbitt v. Youpee	519/0234	1996	due proc	conserva	0.077
Eastern Enterprises v. Apfel	524/498	1997	due proc	conserva	0.1362
Hannah v. Larche	363/0420	1959	due proc	conserva	0.2245
United States v. Romano	382/0136	1965	due proc	liberal	-0.2199
Blanchette v. Connecticut General Ins. Corporations	419/0102	1974	due proc	liberal	-0.1225
Andrus v. Allard	444/0051	1979	due proc	liberal	-0.1225
Usery v. Turner Elkhorn Mining Co.	428/0001	1975	due proc	liberal	-0.1053
Andrus v. Allard	444/0051	1979	due proc	liberal	-0.1053

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Connolly v. Pension Ben. Guar. Corp.	475/0211	1985	due proc	liberal	-0.0595
F.C.C. v. Florida Power Corp.	480/0245	1986	due proc	liberal	-0.0053
Bowen v. Public Agencies Opposed To Social Sec. Entrapment	477/0041	1985	due proc	liberal	0.001
Preseault v. ICC	494/0001	1989	due proc	liberal	0.001
United States v. Sperry Corp.	493/0052	1989	due proc	liberal	0.0039
Clinton v. City of New York	524/417	1997	due proc		-0.0763
U. S. v. Jim	409/0080	1972	due proc		-0.0644
Brock v. Roadway Express, Inc.	481/0252	1986	due proc		0.001
U.S. v. Lee	455/0252	1981	economic	conserva	-0.1904
Thomas v. Union Carbide Agr. Products Co.	473/0568	1984	economic	conserva	-0.145
Robertson v. Seattle Audubon Soc'y	503/0429	1991	economic	conserva	-0.0779
Hodel v. Virginia Surface Min. and Reclamation Ass'n, Inc.	452/0264	1980	economic	liberal	-0.1681
Hodel v. Indiana	452/0314	1980	economic	liberal	-0.1681
Kleppe v. New Mexico	426/0529	1975	economic	liberal	-0.0934
Whitman v. American Trucking Associations	531/457	2000	economic	liberal	-0.0725
Perez v. U.S.	402/0146	1970	economic	liberal	-0.0644
Pension Ben. Guar. Corp. v. R.A. Gray & Co.	467/0717	1983	economic	liberal	-0.0595
Concrete Pipe and Products of CA, Inc. v. Construction Laborers...	508/0602	1992	economic	liberal	-0.0595
F.C.C. v. Beach Communications, Inc.	508/0307	1992	economic	liberal	-0.0053
Skinner v. Mid-America Pipeline Co.	490/0212	1988	economic	liberal	0.0047
National R.R. Passenger Corp. v. Atchison Topeka and Santa Fe Ry. Co.	470/0451	1984	economic	liberal	0.0465
U.S. v. U.S. Shoe Corp.	523/360	1997	federal	conserva	0.077
United States v. IBM	517/0843	1995	federal	conserva	0.1904
U. S. v. Darusmont	449/0292	1980	federal	liberal	-0.1904
United States v. Munoz-Flores	495/0385	1989	federal	liberal	-0.0554
U.S. v. Carlton	512/0026	1993	federal	liberal	-0.0508
U.S. v. Hatter	532/557	2000	federal	liberal	-0.0047
U.S. v. Ptasynski	462/0074	1982	federal	liberal	0.001
U.S. v. Hatter	532/557	2000	federal	liberal	0.1516
New York v. United States	505/0144	1991	federali	conserva	-0.0047
Seminole Tribe of Florida v. Florida	517/044	1995	federali	conserva	0.0554
Board of Trustees of University of Alabama v. Garrett	531/356	2000	federali	conserva	0.077
Kimel v. Florida Bd. of Regents	528/62	1999	federali	conserva	0.1225
U.S. v. Lopez	514/0549	1994	federali	conserva	0.1234
Printz v. U.S.	521/0898	1996	federali	conserva	0.1348
Florida Prepaid Postsecondary Educ. Expense Bd. v. College Sav. Bank	527/627	1998	federali	conserva	0.1362
College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd.	527/666	1998	federali	conserva	0.1362
Kimel v. Florida Bd. of Regents	528/62	1999	federali	conserva	0.1681
F. E. R. C. v. Mississippi	456/0742	1981	federali	liberal	-0.145
Fry v. U.S.	421/0542	1974	federali	liberal	-0.1358
Block v. North Dakota ex rel. Bd. of University and School Lands	461/0273	1982	federali	liberal	-0.1053
Massachusetts v. U. S.	435/0444	1977	federali	liberal	-0.0725
F. E. R. C. v. Mississippi	456/0742	1981	federali	liberal	-0.0595
South Dakota v. Dole	483/0203	1986	federali	liberal	0.0047
Perpich v. Dep't of Def.	496/0334	1989	federali	liberal	0.0047
South Carolina v. Baker	485/0505	1987	federali	liberal	0.0479
Reno v. Condon	528/141	1999	federali	liberal	0.1711
California Med. Ass'n v. Federal Elec. Com'n	453/0182	1980	first am	conserva	-0.1904
Federal Election Com'n v. National Right to Work Committee	459/0197	1982	first am	conserva	-0.1904
Regan v. Taxation With Representation of Washington	461/0540	1982	first am	conserva	-0.1904
U.S. v. Lee	455/0252	1981	first am	conserva	-0.1681
San Francisco Arts & Athletics, Inc. v. U.S. Olympic Committee	483/0522	1986	first am	conserva	-0.145

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U. S. Civil Service Commission v. National Ass'n of Letter Carriers,	413/0548	1972	first am	conserva	-0.1376
Meese v. Keene	481/0465	1986	first am	conserva	-0.1376
United States v. O'Brien	391/0367	1967	first am	conserva	-0.1253
Corporation of Presiding Bishop v. Amos	483/0327	1986	first am	conserva	-0.1053
U.S. v. Reidel	402/0351	1970	first am	conserva	-0.0934
U.S. v. Thirty-Seven (37) Photographs	402/0363	1970	first am	conserva	-0.0934
U.S. v. 12 200-Foot Reels of Super 8mm. Film	413/0123	1972	first am	conserva	-0.0934
U.S. v. Orito	413/0139	1972	first am	conserva	-0.0934
Hamling v. U.S.	418/0087	1973	first am	conserva	-0.0934
Smith v. U. S.	431/0291	1976	first am	conserva	-0.0934
National Endowment for the Arts v. Finley	524/569	1997	first am	conserva	-0.077
Rowan v. U.S. Post Office Dept.	397/0728	1969	first am	conserva	-0.0563
U.S. v. Edge Broadcasting Co.	509/0418	1992	first am	conserva	-0.0554
Glickman v. Wileman Bros. & Elliott, Inc.	521/457	1996	first am	conserva	-0.0554
Tilton v. Richardson	403/0672	1970	first am	conserva	-0.0115
Bowen v. Roy	476/0693	1985	first am	conserva	-0.0053
Bowen v. Kendrick	487/0589	1987	first am	conserva	-0.0053
Alexander v. U.S.	509/0544	1992	first am	conserva	-0.0053
United Transp. Union v. Long Island R. Co.	455/0678	1981	first am	conserva	0.0465
Bowen v. Roy	476/0693	1985	first am	conserva	0.0479
Turner Broadcasting System, Inc. v. F.C.C.	520/0180	1996	first am	conserva	0.0763
City of Boerne v. Flores	521/0507	1996	first am	conserva	0.1348
Communist Party of United States v. Subversive Activities Control Bd	367/0001	1960	first am	conserva	0.2167
Flemming v. Nestor	363/0603	1959	first am	conserva	0.238
Schacht v. U.S.	398/0058	1969	first am	liberal	-0.238
Regan v. Time, Inc.	468/0641	1983	first am	liberal	-0.2199
Aptheker v. Secretary of State	378/0500	1963	first am	liberal	-0.2167
Albertson v. Subversive Activities Control Bd.	382/0070	1965	first am	liberal	-0.2167
Thompson v. Western States Medical Center	535/357	2001	first am	liberal	-0.1516
Legal Services Corp. v. Velazquez	531/533	2000	first am	liberal	-0.1411
Nixon v. Administrator of General Services	433/0425	1976	first am	liberal	-0.1225
United States v. Brown	381/0437	1964	first am	liberal	-0.1059
Lamont v. Postmaster General	381/0301	1964	first am	liberal	-0.1036
United States v. Robel	389/0258	1967	first am	liberal	-0.1036
Reno v. American Civil Liberties Union	521/0844	1996	first am	liberal	-0.0763
U.S. v. Playboy Entertainment Group, Inc.	529/803	1999	first am	liberal	-0.0763
Ashcroft v. Free Speech Coalition	535/234	2001	first am	liberal	-0.0763
Federal Election Com'n v. Colorado Republican Federal Campaign	533/431	2000	first am	liberal	-0.0595
F.C.C. v. League of Women Voters of California	468/0364	1983	first am	liberal	-0.0465
Sable Communications of California, Inc. v. FCC, Nos. 88-515	492/0115	1988	first am	liberal	0.0554
Federal Election Com'n v. Massachusetts Citizens for Life,	479/0238	1986	first am	liberal	0.0595
Blount v. Rizzi	400/0410	1970	first am	liberal	0.0725
U.S. v. United Foods, Inc.	533/405	2000	first am	liberal	0.077
United States v. Eichman, Nos. 89-1433	496/0310	1989	first am	liberal	0.0779
U.S. v. National Treasury Employees Union	513/0454	1994	first am	liberal	0.0779
Bolger v. Youngs Drug Products Corp.	463/0060	1982	first am	liberal	0.0934
Federal Election Com'n v. National Conservative Political Action	470/0480	1984	first am	liberal	0.0934
Greater New Orleans Broadcasting Ass'n, Inc. v. U.S.	527/173	1998	first am	liberal	0.1234
Bartnicki v. Vopper	532/514	2000	first am	liberal	0.1234
U.S. v. National Treasury Employees Union	513/0454	1994	first am	liberal	0.1319
Denver Area Educational Telecommunications Consortium, Inc. v. F.C.C.	518/0727	1995	first am	liberal	0.1362
Colo. Republican Fed. Campaign Comm. v. FEC	518/0604	1995	first am	liberal	0.1904

Appendix B: List of Cases

Buckley v. Valeo	424/0001	1975	first am		0.1225
Verlinden B.V. v. Central Bank of Nigeria	461/0480	1982	judicial	liberal	-0.1904
Northern Pipeline Const. Co. v. Marathon Pipe Line Co.	458/0050	1981	judicial	liberal	0.145
Glidden Co. v. Zdanok	370/530	1961	judicial	liberal	0.2199
Glidden Co. v. Zdanok	370/530	1961	judicial	liberal	0.2199
U. S. v. Will	449/0200	1980	miscella		-0.1681
U. S. v. Will	449/0200	1980	miscella		-0.145
Mistretta v. United States	488/0361	1988	miscella		-0.0554
Morrison v. Olson	487/0654	1987	miscella		-0.0508
I.N.S. v. Chadha	462/0919	1982	miscella		-0.0465
Metropolitan Washington Airports Authority v. Citizens for Abatement	501/252	1990	miscella		-0.0047
Bowsher v. Synar	478/0714	1985	miscella		-0.0039
Freytag v. C.I.R.	501/868	1990	miscella		0.0047
Plaut v. Spendthrift Farm, Inc.	514/0211	1994	miscella		0.1319
U. S. v. Will	449/0200	1980	miscella		0.1681
U. S. v. Will	449/0200	1980	miscella		0.1904
Harris v. McRae	448/297	1979	privacy	conserva	-0.0811
National League of Cities v. Usery	426/0833	1975	unions	conserva	0.1225
Maryland v. Wirtz	392/0183	1967	unions	liberal	-0.1376
Maryland v. Wirtz	392/0183	1967	unions	liberal	-0.1376
Garcia v. San Antonio Metropolitan Transit Authority	469/0528	1984	unions	liberal	-0.1225
Railway Labor Executives' Ass'n v. Gibbons	455/0457	1981	unions	liberal	0.0595
Railway Emp. Dept. v. Hanson	351/225	1955	unions	liberal	0.2337