

Backlash and Legitimation: Macro Political Responses to Supreme Court Decisions

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This article is a first attempt to develop and assess the competing predictions of the thermostatic model of public opinion and legitimation theory for the responses of public mood to Supreme Court decisions. While the thermostatic model predicts a negative relationship between the ideological direction of Supreme Court decisions and changes in public mood, legitimation theory predicts that changes in mood should be positively associated with the ideological content of the Court's actions. I assess these rival expectations by modeling the dynamic relationship between mood and cumulative judicial liberalism. The model estimates indicate a complex interaction between the Court and the mass public characterized by short-term backlash against Supreme Court decisions in mood followed by long-run movement toward the ideological positions taken by the Court. The results emphasize the legitimacy of the Court in American politics and point to a unique role for the Court in shaping public opinion.

There is considerable evidence of a relationship between policy choices made in government and the dynamics of aggregate public opinion. In particular, there is strong support for a thermostatic model of public mood (e.g., Erikson, MacKuen, and Stimson 2002). This model predicts that citizens' preferences for future policy changes fluctuate, in part, as a function of current changes in the policy environment (Wlezien 1995, 1996). As liberal public policy choices accumulate, the public's demand for further policy liberalism is increasingly satisfied and eventually reversed, creating a more conservative public mood. Conversely, the accumulation of conservative public policy choices leads to demand for greater public policy liberalism.

Despite robust evidence of thermostatic public responsiveness to policies created by the elected branches of government, scholars of public opinion have not generally applied this same thermostatic model of public opinion to represent the relationship between the decisions of the Supreme Court and public opinion. Instead, a separate literature on the public's responses to Supreme Court decisions has developed that proceeds from very different assumptions about how the public regards the choices judges make in comparison to those made by presidents and members of Congress. The theory of legitimation

predicts that the Supreme Court's close association with the Constitution and powerful symbols of institutional legitimacy will pull Americans' attitudes toward positions adopted by the Court (e.g., Dahl 1957).

The thermostatic model of public responsiveness to policy change and legitimation theory, therefore, offer distinct and competing expectations about macro political responses to Supreme Court decisions. First, to the extent Supreme Court decisions constitute policy choices that "markedly rearrange the prior distribution of political benefits, either material or symbolic, for various segments of the population" (Flemming, Bohte, and Wood 1997, 1247), thermostatic theory anticipates a negative relationship between the ideological direction of the Court's decisions and changes in public mood. Alternatively, legitimation theory predicts a positive relationship between the ideological direction of judicial decisions and changes in public mood.

This article is a first attempt to develop and assess these competing predictions about the nature of the relationship between Supreme Court decisions and public mood. I begin by summarizing the thermostatic model of public mood and extending it to generate expectations about feedback in aggregate policy sentiment from the Court's actions. Next, I discuss the theory of legitimation

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The author gratefully acknowledges the anonymous referees, the editor, Chris Ellis, Paul Kellstedt, Jim Stimson, Justin Wedeking, and Georg Vanberg for valuable feedback on this project at various stages of its development as well as Nick Conway and Carlie Fogleman for their excellent research assistance. Replication data and supporting information are available online on the Dataverse Network at <http://dvn.iq.harvard.edu/dvn/dv/jura> and <http://dvn.iq.harvard.edu/dvn/dv/ajps>.

American Journal of Political Science, Vol. 58, No. 1, January 2014, Pp. 110–126

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DOI: 10.1111/ajps.12048

and describe its implications for the dynamics of public mood. In the following section, I assess these competing theoretical claims by modeling the relationship between public mood and Supreme Court decisions over time, controlling for policy choices made by Congress and the state of the economy. This empirical analysis points to a complex interaction between the Supreme Court and the mass public. In the short run, public mood reacts against the ideological direction of Supreme Court decisions, which is indicative of a thermostatic response. However, over the long run, this ideological backlash against Supreme Court decisions decays and is replaced by movement in public mood toward the positions taken by the Court. This long-run effect is consistent with the predictions of legitimation theory.

These results have important implications for understanding the role of the Supreme Court in American politics. In particular, they emphasize that the Supreme Court plays a much different part in shaping public opinion than the elected branches of national government. The actions of Congress and the president and public mood tend to follow one another in a thermostatic process. Policy and mood go through related cycles and swings, but neither is truly leading the other. The decisions of the Supreme Court are different. Though public opinion initially pushes back against the Court, over the long run, the authoritative voice of the Supreme Court has the capacity to pull at least some of the disagreeing public toward its decisions. This suggests both a reevaluation of the role of the Supreme Court as a “republican schoolmaster” (Lerner 1967) and continued attention to the ways that public opinion structures interactions between courts, legislatures, and executives in separation-of-powers systems (Clark 2009; Friedman 2009; Ura and Wohlfarth 2010; Whittington 2005).

A Thermostatic Model of Public Mood

Public “mood” refers to citizens’ collective “changing general dispositions” toward a “latent [liberal-conservative] continuum underlying expressed policy preferences” (Stimson 1999, 20–31). Conceptually, mood represents the nation’s aggregate preference for greater or lesser liberalism in public policy across a broad spectrum of domestic policy conflicts (Stimson, Erikson, and MacKuen 1995, 544; see also Durr 1993; Ellis, Ura, and Ashley-Robinson 2006; Enns and Kellstedt 2008; Erikson, Stimson, and MacKuen 2002; Kellstedt, Peterson, and Ramirez 2010; Mishler and Sheehan 1996; Smith 2000; Stimson 1991,

1999, 2004; Ura and Ellis 2012; Ura and Socker 2011). Empirically, mood is often represented by Stimson’s (1999) *policy mood index*, which is essentially the first principal component of shared longitudinal variance among several dozen time series of survey marginals from major polling organizations collected since the early 1950s.

Much of the variance in Stimson’s mood index has been due to Americans’ changing preferences on issues of taxing and spending, and mood has traditionally been interpreted as a dimension of attitudes related to “scope of government” (e.g., Stimson 1991). However, aggregate preferences on issues of traditional morality (such as abortion and gay rights) increasingly correspond to the underlying mood dimension and contribute to the dynamics of mood as these issues “evolve” onto the primary dimension of ideological conflict in American national politics (Adams 1997; Ellis and Stimson 2012; Ellis and Ura 2011; Layman and Carsey 2002; Mulligan, Grant, and Bennett 2012; on similar issues among political elites, see McCarty, Poole, and Rosenthal 2006).¹ The estimated mood time series therefore indicates a dimension of liberal-conservative preferences across a reasonably comprehensive set of salient policy domains at issue in American national politics and which map onto the space of issues considered by the Supreme Court (see also McGuire and Stimson 2004).

The thermostatic model of public mood is among the most widely accepted theoretical accounts of the reciprocal relationship between public opinion and policy-making in the federal government. The model predicts, inter alia, that individuals’ preferences for future policy changes adjust in response to contemporary changes in public policy (Wlezien 1995, 1996). When policies become more liberal than an individual’s preferred policy (which is assumed to be relatively fixed over the near term), she expresses support for less liberalism (greater conservatism). When policies become less liberal than an individual’s preferred policy, she expresses support for greater liberalism (less conservatism). These changes in each individual’s relative preferences aggregate up into a signal of public demand (or lack thereof) for future policy

¹For example, in the second edition of *Public Opinion in America*, Stimson (1999) writes:

[In] the period after 1989 . . . one sees mood (liberalism) and abortion (pro-choice) running nicely in tandem. I concur with Adams that we are witnessing an issue evolution. That predicts a future in which *liberal* will come to mean *pro-choice*, conservative to mean *pro-life*. (1997, 91, emphasis in original; see also Adams 1997)

Indeed, Stimson (1999) reports strong correlations between survey indicators of public preferences on various social issues (including abortion, busing, and gun control) and the first dimension of policy mood (1999, 91, Table 4.1a).

changes in one ideological direction or another, i.e., public mood (Erikson, MacKuen, and Stimson 2002; Stimson 2004). In turn, institutions of representative government attempt to adjust policy to satisfy public demand. The thermostatic model of public opinion, therefore, predicts negative ideological feedback in public mood from changes in public policy (as well as positive ideological feedback in public policy from changes in public mood).

There is substantial evidence that the thermostatic model accounts for some of the national government's responsiveness to changes in public opinion (Ellis, Ura, and Ashley-Robinson 2006; Erikson, MacKuen, and Stimson 2002; Stimson, MacKuen, and Erikson 1995; Ura and Ellis 2008; Wlezien 1995, 1996)—including the Supreme Court's responsiveness to changes in public mood (Casilas, Enns, and Wohlfarth 2011; McGuire and Stimson 2004; Mishler and Sheehan 1993, 1996)—as well as to public mood's responsiveness to policymaking by Congress and the president (Durr 1993; Enns and Kellstedt 2008; Erikson, Stimson, and MacKuen 2002; Ura and Socker 2011). Yet, its application to the study of *public responsiveness to the Supreme Court* has been more limited.

The absence of Supreme Court decision making from models of public mood represents the omission of a critical component of American national government. Over the last six decades, federal courts in general, and the Supreme Court in particular, have become increasingly prominent and institutionalized components of American national government, “seeking to control matters at the heart of contemporary politics” (Kramer 2004, 227; see also Burns 2009; McGuire 2004). At a minimum, the federal courts now define the limits of state and federal policymaking on a variety of salient issues.² More profoundly, though, the modern Supreme Court has increasingly positioned itself as the final and authoritative voice on constitutional interpretation. As Chief Justice Rehnquist wrote in *United States v. Morrison* (2000), “No doubt the political branches have a role in interpreting and applying the Constitution, but ever since *Marbury* this Court has remained the ultimate expositor of the constitutional text” (see also Friedman 2009; Starr 2002; Tushnet 2000; see Tate and Vallinder 1995 for a comparative perspective). Indeed, the growing importance of the judiciary in American national politics is evident in several ways, including the emergence of judi-

cial nominations as a salient issue in presidential election campaigns (Nemacheck 2004; Stephenson 1999) and the growing role of interest groups and public campaigns in the confirmation of federal judges and Supreme Court justices (Caldeira and Wright 1998; Gibson and Caldeira 2009; Grossman and Wasby 1972; Maltese 1998; Segal, Cameron, and Cover 1989).

Thermostatic Responses to Supreme Court Decisions

The emergence of the Supreme Court as an important national policy maker suggests the potential for linkages between the Court's decisions and the dynamics of public mood that may mirror public reactions to policymaking choices made elsewhere in government. And, indeed, there is some evidence of a thermostatic relationship between Supreme Court decisions and public opinion. A pair of studies indicates a negative relationship between the direction of decision making of federal courts and public opinion in specific issue domains. Page, Shapiro, and Dempsey (1987) find that the direction of federal courts' decision making has a negative relationship with public opinion on several issues. They conclude that the unpopular federal judiciary of the period they analyzed was a point of negative social reference and that “When their [the federal courts'] statements and actions push in one direction . . . public opinion tends to move in the opposite direction” (1987, 32). Similarly, Wlezien and Goggin (1993) find that public opinion in support of abortion policy “as it is now” increased during the 1980s as the Supreme Court permitted the states to regulate abortion more strictly over that decade.

Research on the the dynamics of aggregate confidence in the Supreme Court also suggests a thermostatic process in public responsiveness to Supreme Court decisions. For example, the degree of ideological convergence between aggregate patterns of Supreme Court decision making and public mood predicts changes in the level of public confidence in the Court (Durr, Martin, and Wolbrecht 2000), which, in turn, influences congressional support for the Supreme Court (Ura and Wohlfarth 2010) and judicial self-restraint (Clark 2009). This ideological divergence result suggests that at least some individuals are capable of comparing the political content of Supreme Court decisions with their own policy preferences to render a judgment about the fitness and faithfulness of the Court as a governmental agent.

Together, the logic of a thermostatic account of public mood's responsiveness to policy changes along with evidence suggesting thermostatic linkages between court

²These include the death penalty (*Furman v. Georgia* 1972; *Gregg v. Georgia* 1976; *Atkins v. Virginia* 2002), affirmative action (*Regents of the University of California v. Bakke* 1978; *Gratz v. Bollinger* 2003; *Grutter v. Bollinger* 2003), abortion (*Roe v. Wade* 1973; *Harris v. McCrae* 1980; *Planned Parenthood v. Casey* 1992; *Gonzales v. Carhart* 2007), the conduct of the War on Terror (*Hamdan v. Rumsfeld* 2006), and even standards for counting contested ballots in presidential elections (*Bush v. Gore* 2000).

decisions and aggregate attitudes on either individual issue attitudes or evaluations of the judiciary suggest the potential for a more general thermostatic relationship between decisions of the Supreme Court and public mood. This indicates the following hypothesis:

The Thermostatic Response Hypothesis: There is a negative relationship between the ideological direction of Supreme Court decision making and public mood. The greater the level of liberalism in Supreme Court decisions, the lower the level of liberalism in public mood.

The Supreme Court, Legitimacy, and Legitimation

In contrast to the thermostatic model, which suggests that public mood may move away from the Supreme Court, legitimation theory indicates a mechanism by which mood may be drawn toward the ideological position of the Supreme Court. Legitimation theory was first suggested by Dahl (1957), who proposed that the Supreme Court enjoyed “unique legitimacy attributed to its interpretations of the Constitution” and reasoned that this legitimacy could be conferred by judicial decisions onto “policies of the successful [governing] coalition” (1957, 293–94). This conjecture has often been interpreted as a hypothesis that Supreme Court decisions are persuasive, “shap[ing] policy attitudes on even the most controversial issues” (Hoekstra 2002, 90)—changing “people from segregationists to integrationists, from pro-lifers to pro-choicers,” for example (Caldeira 1991, 305).

There is now much evidence that supports Dahl’s premise of a unique judicial legitimacy based on the Supreme Court’s association with powerful symbols of authority and procedural fairness ranging from the Constitution itself to jurists’ black robes and the image of blind justice (e.g., Caldeira and Gibson 1995; Gibson and Caldeira 2009; Gibson, Caldeira, and Baird 1998; Gibson, Caldeira, and Spence 2003; Gibson et al. 2010). Indeed, these symbols frame Americans’ interactions with courts, helping dispel the notion of “partisan and ideological influences on legal processes” and “distinguishing courts from other political institutions,” even among those who disagree with specific decisions made by the Court (Gibson and Caldeira 2008, 142). As a result, the symbolic context of most Americans’ interactions with the Supreme Court reinforce their predisposition to regard the Court as special, that is, “worthy of more respect, def-

erence, and obedience” than other institutions of national government (Gibson and Caldeira 2008, 142).

In contrast to the strong support for Dahl’s assumption of strong judicial legitimacy, evidence supporting Dahl’s prediction of a positive public response to Supreme Court decisions has been mixed. Neither Franklin and Kosaki’s (1989) study of public reactions to *Roe v. Wade* (1973) nor Johnson and Martin’s (1998) analysis of a subsequent abortion decision (*Webster v. Reproductive Health Services* 1989) and three death penalty cases (*Furman v. Georgia* 1972, *Gregg v. Georgia* 1976, and *McCleskey v. Kemp* 1987) find evidence of increases in public support for positions endorsed by the Supreme Court from the year before the Court acted to the year of each decision (see also Brickman and Peterson 2006).³ Likewise, Stoutenborough, Haider-Markel, and Allen’s (2006) study of public responses to four gay rights cases—*Bowers v. Hardwick* (1986), *Romer v. Evans* (1996), *Boy Scouts of America v. Dale* (2000), and *Lawrence v. Texas* (2003)—finds that public support for the Court’s position on gay rights increased in the year *Bowers* was decided, decreased in the year *Lawrence* was decided, and was unchanged in the years in which *Boy Scouts* and *Romer* were handed down. Likewise, in two separate studies, Marshall (1989, 2008) compares a total of 46 predecision and postdecision polls (18 in the 1989 study and another 28 in the 2008 study) asked in similar forms, though at substantially variable intervals, investigating public attitudes on issues before the Court, finding that “poll shifts” away from positions adopted by the Court happen as often as shifts toward the Court’s positions.⁴

³In addition to evaluations of short-run legitimation, Franklin and Kosaki (1989) also test a “structural response hypothesis” of public reactions to Supreme Court decisions. They argue that Supreme Court decisions may alter the structure of public attitudes on topics related to the Court’s actions, even if the aggregate distribution of relevant attitudes is unchanged. For example, Franklin and Kosaki (1989) demonstrate that the Supreme Court’s decision in *Roe v. Wade* (1973) reinforced social and religious predispositions on abortion attitudes, leading Catholics to become more pro-life and Protestants to become more pro-choice (on average) in the year after the decision. Johnson and Martin (1998) refine the structural response theory, showing that the Court’s initial actions on an issue may have structural effects while its subsequent treatment of the same issue may not. However, Brickman and Peterson (2006) argue that the Court’s ability to bring issues onto the public agenda or influence the structure of public opinion is conditional on the state of public opinion rather than on the number of times the Supreme Court has addressed an issue. Similarly, Stoutenborough, Haider-Markel, and Allen (2006) show that presence and scope of structural responses in the Court’s gay rights cases are heavily dependent on context and case-specific factors.

⁴In addition to prior research addressing public responses to Supreme Court decisions, the literature shows that some salient decisions of the Supreme Court may direct the media’s or the

Mixed evidence of the Supreme Court's ability to quickly change the nation's mind on salient policy questions has prompted research on more focused public responses to the Court's decisions. Hoekstra's (2003) analysis of local responses to two civil liberties cases (*Lamb's Chapel v. Center Moriches Union Free High School District* [1993] and *Board of Education of Kiryas Joel v. Grumet* [1994]) and two economic cases (*Oklahoma Tax Commission v. Chickasaw Nation* [1995] and *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon* [1995]) finds that individual-level responsiveness to Supreme Court decisions is conditioned by the strength of preexisting attitudes and exposure to information about the Court and its decisions (see also Hoekstra 2000; Hoekstra and Segal 1996). Experimental studies have generally confirmed Hoekstra's analysis of observational data, showing that sufficient information about Supreme Court decisions can be persuasive in some issue domains for which respondents may not have strong prior attitudes (Mondak 1990, 1991, 1992, 1994; Hoekstra 1995; Unger 2008; but see Baas and Thomas 1984).

Empirical assessments of legitimation theory thus provide uneven support for its claim that Supreme Court decisions lead public opinion. Analyses of national surveys of issue attitudes before and after relevant Supreme Court decisions—in the small number of cases in which it exists—show little consistent evidence for public opinion movement toward the Court's positions. In contrast, analyses of local survey data and experimental results show that residents of communities where Supreme Court cases originate and test subjects sometimes exhibit attitude changes consistent with legitimation theory. Taken together, the studies indicate that Supreme Court decisions may legitimize attitudes in the near term when citizens are exposed to sufficient information about decisions dealing with issues on which they are unlikely to have strongly held prior beliefs, such as “property rights, sexually explicit material, police searches, and censorship” (Hoekstra 2000, 92).

Despite its development over the last three decades, the literature on legitimation remains incomplete in several important ways. Previous studies have established some sense of the conditions under which legitimation may follow Supreme Court decisions in the near term—e.g., sufficiently malleable public attitudes and sufficiently

public's attention to issues before the Court (e.g., Flemming, Bohte, and Wood 1999; Ura 2009). This process may create opportunities for the Supreme Court's decisions and its symbols of institutional legitimacy to influence public opinion by heightening information flows that potentially connect the Supreme Court to salient policy questions. This is especially likely for issues on which the public may not have fully “elaborated” opinions (Brickman and Peterson 2006).

high information flows. However, the literature offers little systematic consideration of the frequency with which these conditions are met. Likewise, whatever conditions may limit the Supreme Court's ability to legitimize attitudes in the short run, the literature includes few efforts to evaluate whether and under what conditions the Court may persuade the disagreeing public over the long run. Indeed, the literature's emphasis on comparing public opinion shortly before and shortly after individual Supreme Court decisions or assessing the immediate responses of experimental research subjects to information about the Court cannot provide much insight into the dynamic processes which may link the Court's decisions to public opinion on any given issue or set of related issues. Even when time series of public opinion on issues before the Court are considered, scholars have generally used longitudinal data to assess the instantaneous effects of Supreme Court decisions on the level of public support for a related issue position (e.g., Stoutenborough, Haider-Markel, and Allen 2006).

Implications of Legitimation for Public Mood

Despite the limited scope of the literature's empirical analyses, legitimation theory predicts that Supreme Court decisions may have important dynamic implications on Americans' political attitudes. In particular, legitimation theory argues that at least some people will not support policies they regard as “illegitimate,” even if they might approve of them otherwise, and, furthermore, that individual judgments about the legitimacy of public policies are influenced by the actions of the Supreme Court. By Dahl's (1957) account, the Court may cement or undermine a policy's legitimacy by bringing its unique association with the U.S. Constitution to bear in support of or in opposition to a policy it considers. Recent developments in positivity theory (Gibson and Caldeira 2009; Gibson et al. 2010) suggest that there are many other potent symbols of judicial legitimacy beyond the Constitution itself, including the image of blind justice and justices' black robes, which are symbolic of procedural fairness and the related concepts of law, fairness, and justice—at least in the context of American politics. When the Supreme Court decides a case, these powerful legitimizing symbols accompany the Court's judgment and attach, positively or negatively, to the policy or policies in question. In turn, the Supreme Court's decision may become an important consideration weighing for or against expressing support for a policy related to any given decision (e.g., Zaller

1992).⁵ As a result, those who favor a policy contrary to the result of the Court's decision must overcome the social and cognitive costs of standing against the Court and the substantive import of the Court's unique symbols of institutional legitimacy to do so. Those whose preferences or attitudes are contrary to the direction of the Court's decision and that are insufficiently strong to resist the legitimizing influence of the judiciary will come to express support for the Court's position, shifting aggregate public opinion toward the Court.

Legitimation theory most clearly predicts an effect at the level of cases and individual attitudes. Yet, the effects of many Supreme Court decisions may accumulate over time, drawing public attitudes toward the Supreme Court across the many issues that come before the Court. Especially to the extent that the Supreme Court's decisions reflect common ideological tendencies across issue domains (e.g., Martin and Quinn 2002; McGuire and Stimson 2004), the cumulative effect of Supreme Court decision making should be a net change in public mood toward the positions taken by the Court. Additionally, Dahl also writes about the Court's role in legitimizing the "the fundamental policies of the successful [governing] coalition" (1957, 294). To whatever extent the public may transpose the Court's treatment of any given policy of a governing coalition or party onto other elements of its agenda or platform, the Supreme Court's power to invoke symbols of legitimacy on a policy in one issue domain may pull attitudes toward the Court's position on other issue domains as well.

Whether the process of legitimation proceeds strictly on an issue-by-issue basis or whether the Court's decision in any particular case may color public perceptions of other politically related policies, legitimation theory predicts that the accumulation of Supreme Court decisions in one ideological direction or another should pull public opinion in that same direction. Legitimation theory therefore predicts the following:

The Legitimizing Response Hypothesis: There is a positive relationship between the ideological direction of Supreme Court decision making and public mood. The greater the level of liberalism in Supreme Court decisions, the greater the level of liberalism in public mood.

⁵Alternatively, we might consider a Supreme Court decision in favor of or in opposition to a particular policy as a contribution to an individual's running tally of considerations, which, in turn, informs survey responses through summary affective judgments without the need for individuals to retain or recall specific supporting information (e.g., Lodge, Steenbergen, and Brau 1995). The present account of legitimation does not depend on a particular model of political attitude formation or survey response.

Assessment

The thermostatic model and legitimation theory therefore suggest two distinct, competing hypotheses about the nature of public responses to Supreme Court decisions. The thermostatic response hypothesis predicts a negative relationship between Supreme Court liberalism and public mood. The legitimizing response hypothesis predicts a positive relationship between Supreme Court decisions and public mood. These competing predictions may be assessed by incorporating a measure of aggregate liberalism of Supreme Court decisions into an existing model of public mood.

Prior empirical analysis indicates that public mood changes over time as a function of economic conditions and the current supply of policy liberalism. First, the attractiveness of government policies is related to the current state of the macro economy, often indicated by the rates of inflation and unemployment (Enns and Kellstedt 2008; Erikson, MacKuen, and Stimson 2002; Ura and Ellis 2012). Greater unemployment spurs increased demand for public services and, therefore, more public opinion liberalism (more demand for government). Increased inflation produces pressure to limit public expenditures, which has the effect of reducing demand for government and predicts greater conservatism.

Second, the marginal quantity of government demanded is a function of the amount of government currently supplied. This is usually represented empirically by either an indicator of cumulative legislative enactments (Erikson, MacKuen, and Stimson 2002; Kelly 2009) or federal spending (Wlezien 1995, 1996; Soroka and Wlezien 2009; Ura and Socker 2011). Regardless of the measurement approach employed, these models regularly show negative feedback in public opinion from changes in public policy. In other words, the greater the level of spending on domestic programs or the greater the accumulation of liberal legislative enactments, the lower the marginal demand for additional programs, services, benefits, and other public policies.

Measurement and Data

I measure aggregate policy sentiment (liberalism) using the 2009 estimates of Stimson's (1999, 2009) annual mood index from 1956 through 2009.⁶ Inflation is the percentage change in the Consumer Price Index (January to

⁶Stimson estimates the mood index from 1952 through 2009. However, mood estimates from the early 1950s are based on small amounts of data and have few prior reference points against which the dimensional extraction algorithm used to estimate mood may

December) in each year (Bureau of Labor Statistics 2009a). Unemployment is the average annual rate of unemployment (Bureau of Labor Statistics 2009b).

Since the Supreme Court's "outputs" are discrete decisions, which are more analogous to individual pieces of legislation rather than budget authorization, I measure public policy based on counts of major legislative enactments rather than budget authorizations. Following Erikson, MacKuen, and Stimson (2002) and Kelly (2009), I begin with Mayhew's (1991, 2011) list of major or important pieces of legislation passed in each year (selected based on media coverage of Congress), code each law as liberal or conservative, and take the net number of important liberal laws created in each year as an indicator of the annual amount of policy liberalism created by Congress. Next, these values are used to construct a measure of cumulative policy liberalism produced by Congress and the president by scoring each year's policy outputs as the difference between its value and the mean of the annual series and then taking the sum of the resulting series at each point in time. Erikson, MacKuen, and Stimson (2002) refer to the resulting series as the *policy* index, a convention I also adopt. The policy liberalism series, extended through 2009, is illustrated in the top panel of Figure 1.⁷

To measure the aggregate ideological content of Supreme Court decisions, I compute a cumulative index that mirrors the basic approach employed in the construction of the policy index. I begin by identifying a set of important or salient Supreme Court cases. Following Epstein and Segal's (2000) approach, I define "salient cases" as those with a decision mentioned on the front page of the *New York Times*.⁸ Next, I identify the ideological direction of each case using the original U.S. Supreme Court Database (2011). This allows me to compute the net number of salient or important Supreme Court decisions in each year.⁹ Finally, I construct a cumulative

scale survey marginals in that period. With this in mind, I follow Erikson, MacKuen, and Stimson (2002, 232–35) by limiting my analysis to mood estimates from 1956 forward.

⁷Mayhew has extended his list of important legislation passed in each year from 1990 to 2008 (1991, 2008). Ideological coding for laws passed through 1996 is from Erikson, MacKuen, and Stimson (2002), and coding for laws passed through 2000 is from Kelly (2009). Subsequent important laws are coded by the author based on the procedure described by Erikson, MacKuen, and Stimson (2002).

⁸Epstein and Segal (2000) report cases appearing on the front page of the *New York Times* through 1996. This list is extended through the 2010 term by Spaeth et al. (2011).

⁹There are strong reasons to suspect that Supreme Court decisions which affirm the judgment of a lower court may provide mislead-

measure of liberalism in the Supreme Court's decisions by rescaling the net number of liberal decisions in each period as its deviation from the mean value of the annual Supreme Court liberalism series and taking the sum of the series at each point in time. For convenience's sake, I refer to the resulting time series, which is shown in the lower panel of Figure 1, as the *caselaw* index.¹⁰

Model Specification and Estimation

With these data in hand, I test the theory of thermostatic responsiveness to Supreme Court decision making by incorporating the caselaw index into a model of public mood. Among alternative statistical models, the error correction model (ECM)—which explicitly models short-run and long-run effects for each independent variable—stands out as an appropriate choice for assessing the dynamic linkages between Supreme Court decisions and changes in public mood (DeBoef and Keele 2008). In the bivariate case, the Bardsen (1989) single-equation ECM takes the form

$$\Delta Y_t = \alpha_0 + \alpha_1^* Y_{t-1} + \beta_1^* \Delta X_t + \beta_2^* X_{t-1} + \epsilon_t, \quad (1)$$

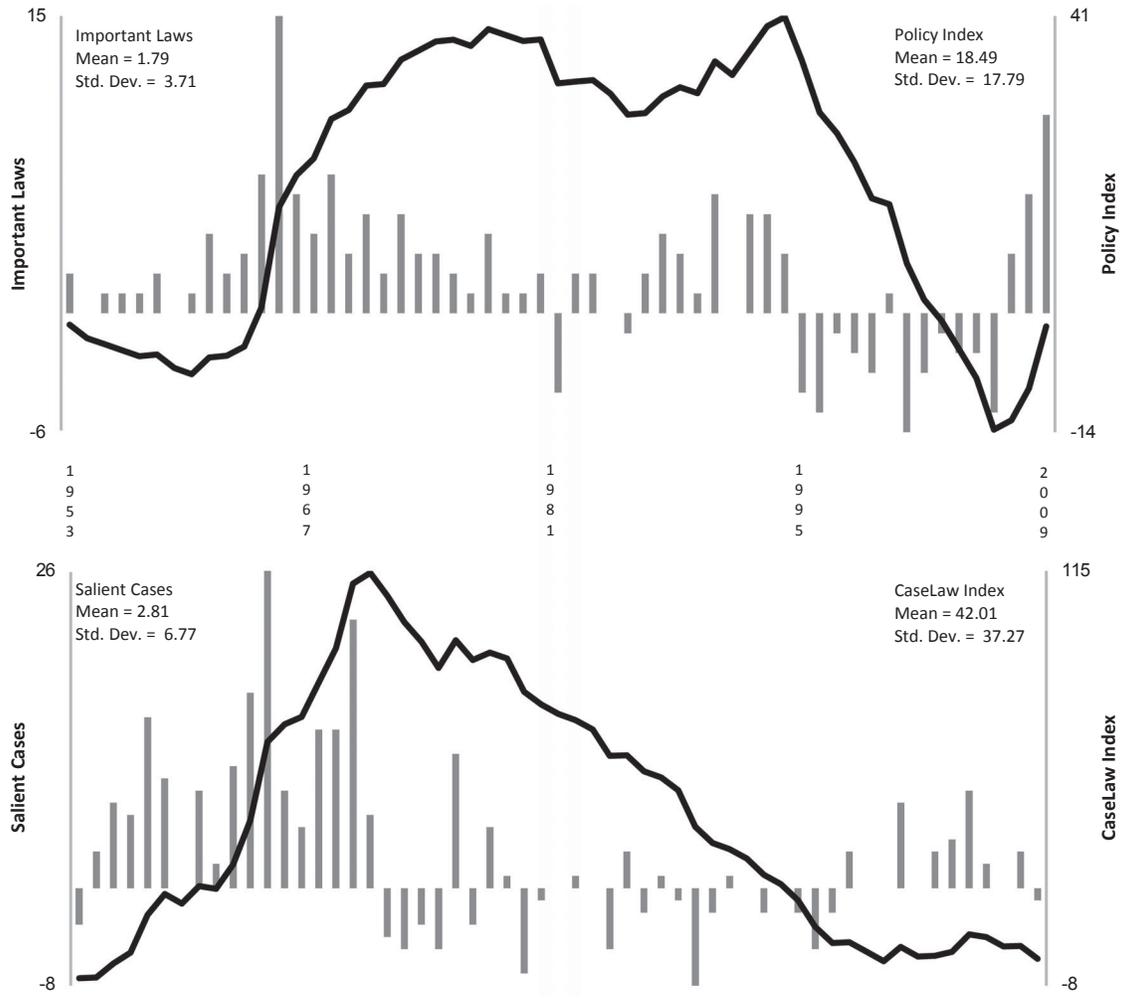
where α_1 indicates the speed of the reequilibration of Y to a deviation from its equilibrium with X , β_2 reflects the long-run effect of changes in X on Y , and β_1 indicates the contemporaneous relationship between a change in X and a change in Y .

Thus, in addition to indicating the direction and magnitude of the effect of each independent variable on changes in public mood, the ECM can also reveal the temporal dynamics of the specified predictive relationships. Though ECMs were originally developed for investigating cointegrated time series, DeBoef and Keele (2008) note

ing information about the ideological preferences of the Supreme Court and its members (e.g., McGuire and Stimson 2004). However, both affirmances and reversals may have important legal and policy implications. Since this study is about the political consequences of the Court's decisions rather than an effort to understand the behavior of the Court or individual justices, this analysis includes both types of rulings.

¹⁰The caselaw index, like the policy index, represents cumulative policymaking. This construction is designed to match the theoretical claims of the thermostatic model of public mood and the legitimation theory's predictions about the dynamic implications of Supreme Court decisions. The thermostatic model of public mood suggests that the strength of the public signal for more or less policy liberalism across issues is, in part, a function of the total, issue-by-issue divergence between public policy and the public's preferences. Legitimation theory predicts that the Supreme Court may support or undermine policies by validating or vetoing them in its decisions. In both cases, it is the accumulated liberalism or conservatism of Supreme Court decisions that should act on mood.

FIGURE 1 Measuring Cumulative Liberalism in “Important” Legislation and “Salient” Supreme Court Cases



Note: Bars are the net number of liberal “important” laws enacted by Congress (Mayhew 1989, 2011) and “salient” Supreme Court decision (Epstein and Segal 2000; Spaeth et al. 2011) in each calendar year from 1953 through 2009. Bar values correspond to the left vertical axes. Lines are the policy and caselaw indices described in the text and represent the cumulative liberalism of congressional legislation and Supreme Court decisions. Lines are scaled on the right vertical axes.

that they may also be applied in a variety of time-series contexts in the absence of cointegration with either stationary or nonstationary data. Indeed, they show that the ECM is equivalent to the autoregressive distributed-lag model. In addition to these attractive analytic properties, Monte Carlo experiments indicate that an ECM implemented through ordinary least squares (OLS) capably recovers the data-generating process even in small samples (DeBoef and Keele 2008).

I therefore implement the ECM approach, estimating an OLS model of the first difference of mood expressed as a function of the first lag of mood (error correction) as well as the first difference (short-run effect) and first lag

(long-run effect) of the caselaw index (Supreme Court liberalism), policy (congressional liberalism), inflation, and unemployment. Data are jointly available from 1956 through 2009. Model estimates and diagnostics are reported in Table 1.¹¹

¹¹Evidence that public mood predicts patterns of Supreme Court decision making indicates obvious problems of endogeneity for estimating the effects of judicial decisions on public opinion (Casillas, Enns, and Wohlfarth 2011; Giles, Blackstone, and Vining 2008; McGuire and Stimson 2004; Mishler and Sheehan 1993, 1996; Stimson, MacKuen, and Erikson 1995). To account for this potential endogeneity, I reestimated the error correction model with instrumental variables (IV) regression, using measures of justices’

TABLE 1 An Error Correction Model of Annual Mood (1956–2009)

Predictors (Expected Sign)	Effects
Long-Run Effects	
Caselow Index _{t-1} (+/-)	0.02* 0.01
Policy Index _{t-1} (-)	-0.07* (0.02)
Inflation _{t-1} (-)	-0.29* (0.13)
Unemployment _{t-1} (+)	-0.24 (0.19)
Short-Run Effects	
Δ Caselow Index _t (+/-)	-0.09* (0.04)
Δ Policy Index _t (+)	0.07 (0.07)
Δ Inflation _t (-)	-0.30* (0.13)
Δ Unemployment _{t-1} (+)	-0.23 (0.19)
Long-Run Multipliers (LRMs)	
LRM Caselow Index (+/-)	0.09* (0.03)
LRM Policy Index (-)	-0.26* (0.08)
LRM Inflation (-)	-1.02* (0.36)
LRM Unemployment (+)	-0.84 (0.57)
Error Correction, Constant, and Diagnostics	
Error Correction (Mood _{t-1})	-0.28* (0.08)
Constant	19.49* (5.14)
R ²	0.42
Breusch-Pagan Test for Heteroskedasticity ^a	0.28
First-Order Residual Autocorrelation ($r_{\varepsilon_t, \varepsilon_{t-1}}$)	0.15
Breusch-Godfrey LM Test for Autocorrelation ^b	1.84
Augmented Dickey-Fuller Test for Unit Root ^c	-6.09*

Note: Ordinary least squares estimates (standard errors in parentheses). $N = 54$.

* $p < 0.05$; One-tailed tests where unidirectional hypothesis indicated and two-tailed tests otherwise.

^aThe Breusch-Pagan statistic tests the null hypothesis of constant error variance.

^bThe Breusch-Godfrey Lagrange multiplier tests the null hypothesis of uncorrelated residuals.

^cThe augmented Dickey-Fuller statistic tests the null hypothesis of a unit root process in the model's residuals.

Results and Analysis

The data indicate significant relationships between Supreme Court decision making and public mood in both the short run and the long run, yet the directions of these two effects are different. The short-run relationship between changes in cumulative Supreme Court liberalism and public mood is negative, which is consistent with the thermostatic response hypothesis. The long-run relationship between changes in cumulative Supreme Court liberalism and public mood is positive, which is consistent with the legitimizing response hypothesis. Together, these results point to a complex interaction between the Supreme Court and the mass public characterized by short-term backlash against Supreme Court decisions in public mood followed by a long-run movement in public opinion toward the ideological position taken up by the Court.

Consistent with expectations derived from the thermostatic theory of public responsiveness to Supreme Court decision making, the model shows that changes in the caselow index are negatively and significantly associated with changes in public mood in the short run. Thus, an increase in cumulative liberalism in Supreme Court decision making predicts a short-run decrease in liberalism (increasing conservatism) in public opinion, and vice versa. All else equal, each additional salient liberal Supreme Court decision at time t significantly predicts a conservative change in mood of 0.09 points at time t . This effect indicates that a typical year's change in the caselow index (5.21 net Supreme Court decisions in one ideological direction or the other) is expected to alter public mood by 0.47 points, and that a one standard deviation increase in the caselow index (37.27 points) predicts a short-run decrease of 0.78 standard deviations in mood (3.35 points).

ideology derived from newspaper editorials published at the time of their nominations (Segal and Cover 1989; Segal and Spaeth 2002) and the rate of economic growth (Brennan, Epstein, and Staud 2009a, 2009b) as exogenous predictors for the lagged and differences values of Supreme Court liberalism. This approach produces comparable estimates of the short-run and long-run effects of Supreme Court liberalism for public mood. Indeed, the coefficients estimated by instrumental variables regression are actually somewhat larger than those estimated by OLS. Thus, the IV estimates indicate that neither the estimated relationships reported below nor the substantive inferences drawn from them are affected by these considerations. Additionally, the principal long-run relationship identified by the error correction estimates may also be recovered by a more simple lagged dependent variable model of public mood estimated with either OLS or IV. The results of these alternative model estimates and specifications are reported in the online appendix.

Short-run effects, however, decay at a rate estimated by the error correction parameter, in this case, -0.28 .¹² This parameter estimate predicts that 28% of a short-run effect which appears at time t will decay by year $t + 1$, that 28% of the effect remaining at $t + 1$ will decay by $t + 2$, and so on until the effect reaches zero. Therefore, the model predicts that just under half of the predicted short-run effect of a change in cumulative Supreme Court liberalism will remain in the mood time series two years later and that nearly a quarter of a short-run response to Supreme Court decision making will remain in public mood four years later. This modest rate of error correction indicates that a short-run response to Supreme Court decision making may represent a substantively important disequilibrium in public mood over a period of several years despite its eventual decline.

Yet, the data indicate this initial backlash response eventually decays and is ultimately replaced by public mood's movement *toward* the ideological direction of Supreme Court decisions. As the negative short-run effect of a change in the caselaw index begins to decay at $t + 1$, the model estimates indicate that a positive long-run response to cumulative Supreme Court liberalism begins to filter into public mood. Consistent with the legitimizing response hypothesis, an additional liberal salient Supreme Court decision at time t predicts an increase (liberal change) of 0.02 points in public mood at time $t + 1$ as well as further increases in mood that, asymptotically, cumulate to 0.09 points, the total long-run effect indicated by the long-run multiplier. Though modest in terms of a unit change in the caselaw index, the predicted long-run effect of changes in Supreme Court liberalism is reasonably large relative to the observed range of the data. A standard deviation increase in the caselaw index (32.27) predicts a total long-run increase of 0.78 standard deviations in public mood (3.35 points). Likewise, a typical year's production of five net salient decisions in one ideological direction or another predicts

a total long-run change in mood of about one-half of a point.

The dynamics of the long-run effect are also estimated by the error correction parameter, -0.28 . This error correction estimate indicates that the system of public responsiveness to Supreme Court decisions adjusts at a modest pace, predicting that 28% of the predicted long-run multiplier (0.02 points, the long-run effect) would appear in the mood time series in year $t + 1$, with 28% of the remainder appearing in year $t + 2$, and so forth until mood has increased a total of 0.09 points. This rate of error correction predicts that nearly half of the predicted long-run effect of a change in policy will appear in mood over a two-year period (though the median lag length is technically three), and that about 75% of this total effect will filter into the mood time series within four years.

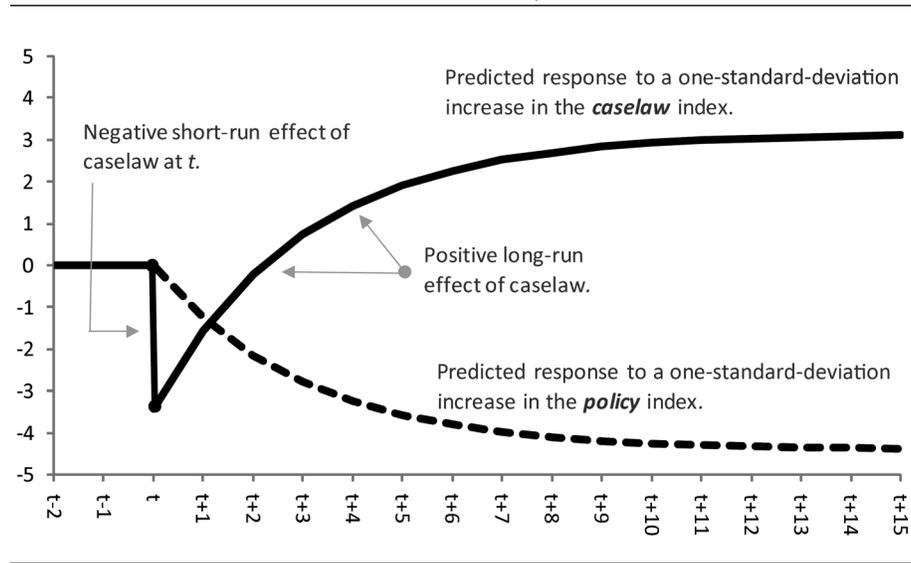
The solid line in Figure 2 illustrates the predicted response of public mood to a one standard deviation increase in the caselaw index at time t , holding all else constant. First, at time t , the predicted mood time series shifts in a conservative direction 0.09 points. This negative "instantaneous adjustment" is the short-run effect. This initial response begins to decay and the countervailing, positive long-run response begins to filter into the predicted mood time series at $t + 1$. Together, the decay of the short-run effect and the onset of the long-run effect combine to shift the predicted mood time series about halfway back toward its starting value. At $t + 2$, the declining negative short-run effect and emerging positive long-run effect effectively cancel each other out. The net effect of Supreme Court liberalism for predicted public mood becomes positive at $t + 3$ (0.02) and continues to grow, moving forward until it reaches its total asymptotic effect of 0.09.

The model estimates support an account of public responsiveness to Supreme Court decisions in which both thermostatic dynamics and legitimation play important roles. First, the model indicates that changes in the caselaw index predict negative short-run changes in public mood. This indicates that public mood pushes back against the ideological direction of Supreme Court decisions in the near term, which is consistent with the thermostatic response hypothesis. Under this account, the initial backlash against Supreme Court decisions constitutes a corrective signal that arises in response to changes in the policy environment related to the Supreme Court's actions.

However, this initial, negative reaction decays over time and is replaced by a more persistent, positive response. Over the long run, the model indicates that public mood shifts toward the ideological position of cumulative

¹²There is some disagreement about the interpretation of short-run effects in single-equation error correction models. Some interpret short-run effects as essentially ephemeral. DeBoef and Keele, for example, write that short-run effects do not "persist into the future" and have "no memory" (2008, 190). Others suggest the effects are more durable. Kelly asserts that short-run effects are not "impermanent"; rather, the terminology reflects their property of "happen[ing] all at once at a specified point in time" (2009, 105). The interpretation advanced here suggests that the permanence of a short-run effect relates to the strength of the dependent variable's "memory," which is estimated by the error correction parameter. Short-run effects are more persistent (and long-run effects take longer to appear) in series with relatively slow rates of error correction, and vice versa.

FIGURE 2 Predicted Responses in Mood to One Standard Deviation Increases in Caselaw and Policy



Supreme Court liberalism, holding all else constant. This predicted long-run change supports the legitimizing response hypothesis and is consistent with its theoretical claim of changes in individuals' absolute policy preferences following the ideological direction of Supreme Court decision making.

This distinctive pattern of dynamic responsiveness to Supreme Court decision making—short-run backlash followed by long-run legitimization—provides important insights into the process of legitimization in the mass public. First, the estimated dynamics of public mood's reaction to the Supreme Court provide some novel support for a long-run view of the legitimization hypothesis. Indeed, the data indicate that legitimization involves an extensive process in which Supreme Court decisions catalyze conditions under which public opposition to positions adopted by the Court can be mitigated. As Dahl (1957) suggests, this mitigation may involve the influence of the Court's unique association with the Constitution and what has been more recently characterized as the "legitimizing symbols associated with law and courts" (Gibson and Caldeira 2009, 3).

Moreover, the data can provide a preliminary suggestion about the pathways through which the Court's dynamic influence on public opinion may develop. The estimated effects of cumulative Supreme Court decisions on public mood appear limited to salient cases. Reestimating the model reported in Table 1 with an alternative caselaw index generated from the time series of the net number of liberal *nonsalient* cases shows positive associations between Supreme Court liberalism and changes in public mood in both the short run and the long run.

However, neither of these effects are significantly different from zero. (Model estimates are reported in the online appendix.)

One possible interpretation of these results is that the Supreme Court's influence on public opinion is limited to those cases in which the material and symbolic stakes are largest and that the effects of the Court's decisions on mood follow from the public's experiences with the policy implications of these cases. Another plausible interpretation emphasizes the intermediate role that the media may play in the public's reaction to the Court's decisions by filtering which cases become "salient," that is, which cases receive prominent attention in the news media, and perhaps also how they are framed in ongoing political discourse. Thus, ordinary citizens may learn about the Supreme Court's decisions, even long after they are handed down, through their subsequent experiences with the policy environment created by the Court. In any case, though, the data indicate that the quality of cases' salience or importance may provide touchstone for efforts to identify the intermediate links between the Court and the people.

Additionally, the long-run view of legitimization that develops from the analysis reported here supports a reevaluation of some prior evidence addressing the relationships between Supreme Court decision making and public opinion. Further examination of Marshall's (1989) seminal study, for example, reinforces both the limitations of such before-and-after comparisons and the prospects for legitimization over the long run. The most prominent result in Marshall's study is, of course, his finding of no average shift toward issue positions adopted by the

Supreme Court in 18 pre- and post-decision polls. Yet, there is much variance in the time between the pairs of polls. This allows Marshall to estimate the effects of time on the magnitude of observed poll shifts. He finds that each year's lag between a Supreme Court decision and the observed post-decision poll predicts a shift of 2.2% toward the position adopted by the Court, with a constant difference of -7.4% (1989, 153). Taking the model's linear predictions at face value, Marshall's estimates predict that average public reactions to Supreme Court decisions will be negative for just over three years (i.e., $t + 3$) following a decision before becoming positive and, ultimately, becoming increasingly supportive of the Court's position. Despite employing very different data and methods, Marshall essentially identifies a similar pattern of short-run backlash and long-run legitimation found here.

In addition to informing an understanding of the link between the Supreme Court and public opinion, the model recovers important results of prior studies of the public mood. Consistent with a thermostatic model of public opinion, the model indicates a negative and significant long-run relationship between the ideological direction of policy change and public opinion liberalism. In particular, the model predicts that each additional piece of important liberal legislation predicts a total long-run decrease in public mood of 0.26 points. Thus, a standard deviation increase in the policy index (17.79) predicts a decrease of 1.09 standard deviations (4.63 points). In contrast, the estimated short-run effect of changes in the policy index is positive and insignificant.

The comparative dynamics of mood's predicted response to Supreme Court decisions and its predicted response to changes in public policy created by Congress and the president also support additional speculation about the nature of the public's relationship with the Supreme Court. First, the positive, long-run effect of Supreme Court decision making for public mood suggests that public reactions to Supreme Court decisions are qualitatively different from its responses to policy changes enacted through the legislative process. Over the long run, legislation generates thermostatic backlash; judicial decisions generate increased support.

Also, the model predicts significant short-run thermostatic responses to Supreme Court decision making while it indicates that responses to laws enacted by the elected branches of government appear in the long run only. These divergent patterns of dynamic responsiveness may be plausibly explained by simple differences in the timing of judicial and congressional actions as well as the processes by which the Supreme Court reaches decisions and Congress produces legislation. First, the Court's de-

isions are much more likely to be given in the first half of each year than the second half. This pattern arises from the Supreme Court's term, which opens in October and is usually concluded by June. As a result, the public regularly has at least six months to register its political reaction to a typical Supreme Court decision in the same calendar year as the decision itself. Though this process is dynamic in the real world—unfolding over days, weeks, and months—both the Supreme Court decisions and public responses to them are likely to register in the same year, appearing contemporaneous in a matrix of annual data.

The nature of the dynamics of public mood's response to judicial decisions may also be related to the timeline of the Supreme Court's decision process. Supreme Court decisions typically offer "news" only three times in their life cycle: when the Court grants certiorari, when a case is argued, and when a decision is rendered. Though public debate about cases can (and often does) accompany them between these events, actual news coverage of cases is punctuated. Conference votes as well as subsequent deliberations among the justices are kept secret. The announcement of decisions, therefore, amounts to a sudden release of information which can be absorbed into public opinion only after the Court has acted.

In contrast, the availability of advanced information about policy changes made by Congress may diminish the estimated short-run influence of policy for public mood. The partisan makeup of Congress, proposed legislation, committee hearings, amendments, and floor debates are all public record. Thus, it is often clear well before major legislation receives a final up or down vote whether it is likely to become law. As such, information about the future state of public policy changes can often be incorporated into public opinion well before they have actually been enacted. Public responses to congressional policy-making, then, may be spread out in a way that makes them difficult to discern or systematically estimate, especially in the short run, since some part of the response may occur before legislation becomes law.

Finally, the model also shows the influence of the economy on public opinion liberalism. In particular, mood is negatively associated with the rate of inflation in both the short run and the long run. Each point increase in the rate of inflation predicts a short-run decrease of 0.25 points in public mood (which decays at the estimate rate of error correction), followed by a total long-run decrease (long-run multiplier) of 1.02 points in mood, about a fourth of a standard deviation. Thus, higher inflation predicts greater conservatism in public mood. In contrast, the predicted effects of unemployment for

public mood are wrong-signed and insignificant in both the long run and the short run.¹³

Conclusions

This article offers a first attempt to develop and assess the competing predictions of the thermostatic model of public opinion and legitimation theory for the likely responses of public mood to Supreme Court decision making. While thermostatic theory predicts a negative relationship between the ideological direction of Supreme Court decisions and changes in public mood, legitimation theory predicts that changes in public mood should be positively associated with the ideological content of the Court's actions. To assess these rival expectations, I estimate a model of the dynamic relationship between changes in public mood and Supreme Court decisions, controlling for policy choices made by Congress and the president as well as the state of the macro economy.

The results show that both thermostatic and legitimizing forces bear on the response of public mood to the Supreme Court. The model predicts that the public's initial response to changes in aggregate Supreme Court liberalism is negative. When the Supreme Court hands down salient decisions in one ideological direction, public mood shifts in the opposite direction in the short run, which is consistent with thermostatic accounts of public mood. However, the model predicts that this negative response ultimately decays and is replaced by a positive response to Supreme Court decisions. Aggregate Supreme Court liberalism is significantly and positively associated with liberalism in public mood over the long run. Though the model shows mood to be a reasonably

slowly adjusting time series, there is significant evidence that public mood shifts toward the ideological position of the Supreme Court.

These patterns of responsiveness are indicative of both thermostatic dynamics and legitimation, though the persistent, long-run relationship between Supreme Court decision making and public mood is characterized by legitimation. Additionally, the difference between the predicted response of public mood to Supreme Court decision making and its reaction to policy choices enacted by Congress and the president provides further support for the intuition of Dahl (1957) and subsequent scholars (e.g., Gibson and Caldeira 2009) who have argued that the unique legitimacy of courts in the public mind support public responses to information about courts and their actions that are distinct from responses to similar information about the elected branches of national government. Courts are different, and this difference indicates substantial obstacles for developing a unified theoretical framework that addresses both public responsiveness to the choices made by courts and those made by other institutions of national government.

These findings also have important implications for interpreting the role of the Supreme Court in American politics. In part because of the limited empirical support for legitimation found in prior empirical studies, claims about the Supreme Court's role as a "republican schoolmaster" have been relatively rare. However, the results presented here argue for a reconsideration of the idea of judicial leadership of public sentiment. Most obviously, the present analysis supports Lerner's classic claim that judges can somehow "transfer to the minds of the citizens the modes of thought lying behind legal language and the notions of right fundamental to the regime" (1967, 180). Additionally, the results suggest that this judicial teaching function may influence political attitudes about issues in the domain of normal politics and which may be important for policy choices made in the elected branches of national government (e.g., Erikson, Stimson, and MacKuen 2002).

This judicial leadership of American public opinion may also have important strategic implications for the behavior of the Supreme Court. Studies of macro politics generally support thermostatic models of reciprocal relationships between policymaking in the elected branches of national government and public mood. Policymaking follows public opinion through elections and dynamic representation, which tends to shift away from the ideological direction of policymaking, creating the well-known cycles and swings of public opinion and policymaking in America (Stimson 1999). The process is animated, in part, by the strategic incentives of elected

¹³The null relationship between unemployment and public mood is inconsistent with other evidence that growing joblessness increases liberalism in public mood (e.g., Erikson, MacKuen, and Stimson 2002). Yet, recent research suggests that the link between unemployment and policy sentiment may be more complex than classic macro political analyses indicate. Enns and Kellstedt (2007) and Ellis and Ura (2011) show that the strength of the positive association between unemployment and mood is conditional on political sophistication. In the aggregate, therefore, the relatively high responsiveness of more sophisticated cohorts "averages out" with the relatively low responsiveness of less sophisticated cohorts. Using somewhat different data and modeling approaches, some scholars have continued to find a stronger association between unemployment on public opinion liberalism (Enns and Kellstedt 2007; Erikson, Stimson, and MacKuen 2002), whereas others show a weaker, more limited relationship between the two (Ellis and Ura 2011; Ura and Ellis 2012; Ura and Socker 2011). This mixed set of results suggests a need for care in modeling opinion dynamics that vary systematically across various social and political cleavages in general and about the dynamic consequences of unemployment for policy mood in particular.

officials to keep “in step” with the preferences of voters and potential voters (Canes-Wrone, Brady, and Cogan 2002). Supreme Court justices who are appointed in the first place and enjoy lifetime tenure do not face similar electoral imperatives. This study shows that the Court may have incentives to push or challenge public opinion with its decisions. Though the Court will generally face some backlash against its actions, public opinion will gradually move toward the Court, creating a political climate more consistent with the preferences of a controlling majority on the Court and, perhaps, ultimately influencing the composition and behavior of other branches of government in ways supportive of the Court and its decisions. The potential for the Supreme Court to help create a political environment that reinforces and extends the policy implications of its own decisions may provide new ways to interpret and investigate a variety of important social movements and public opinion trends that have ultimately played out in the Court, Congress, and public opinion, including the development of the civil rights movement (e.g., Klarman 2004) and the emergence of the modern conservative movement (McMahon 2011; Perlstein 2001).

Additionally, this study points to important issues of research design in the study of public reactions to judicial decisions. The results reported here highlight the potential for conclusions about the general dynamics of public responsiveness to Supreme Court decisions based on small numbers of decisions and public opinion surveys may be highly sensitive to the peculiarities of particular cases and the timing of the surveys analyzed. In particular, research designs that involve comparisons of the distribution of attitudes revealed in surveys taken shortly before and after salient Supreme Court decisions are not likely to identify important, long-run consequences of those decisions in mass political behavior. Public reactions to Supreme Court decisions, and other changes in the macro political environment, are dynamic. Assessing the scope and scale of those reactions is best undertaken by longitudinal analysis, which suggests a recourse to either panel data, where they are available, or to time-series analysis of macro-level data.

Finally, this analysis represents only a first step in exploring the dynamics of public responsiveness to the Supreme Court. As in the case of most macro political analysis, caution is warranted when attempting to draw inferences about microlevel processes from aggregate dynamics. While the present analysis shows that long-run changes in national public mood are consistent with Supreme Court legitimation, there remains much work to be done to understand and elaborate the individual-level behaviors and intermediate connections by which

this pattern obtains. Is public responsiveness to Supreme Court decisions simply an aggregation of reactions to individual cases, or is it a response to broader ideological patterns in the Court’s decision making? Which symbols of judicial legitimacy are most potent in shaping public responses to the Supreme Court and its decisions, and to what extent might these symbols be expropriated by other political actors? Are public responses to liberal decisions symmetrical with public responses to conservative decisions? Is there heterogeneity in responsiveness to Supreme Court decisions in various issue domains or across various social and political cleavages, such as partisanship, education, or gender? Through what channels does information about the decisions of the Supreme Court reach the mass public? The answers to these questions stand to clarify much about the mechanics that animate the aggregate responses to Supreme Court decisions identified here and to provide additional insights into the connections between courts and public opinion in American national politics.

References

- Adams, Greg D. 1997. “Abortion: Evidence of an Issue Evolution.” *American Journal of Political Science* 41(3): 718–37.
- Atkins v. Virginia*. 2002. 536 U.S. 304.
- Baas, Larry R., and Dan Thomas. 1984. “The Supreme Court and Policy Legitimation.” *American Politics Research* 12(July): 335–60.
- Babbitt, Secretary of the Interior v. Sweet Home Chapter of Communities for a Great Oregon*. 1995. 515 U.S. 687.
- Bardsen, G. 1989. “The Estimation of Long-Run Coefficients from Error Correction Models.” *Oxford Bulletin of Economics and Statistics* 54: 225–55.
- Board of Education of Kiryas Joel Village School District v. Grumet*. 1994. 512 U.S. 687.
- Board of Regents of the University of California v. Bakke*. 1978. 438 U.S. 265.
- Bowers v. Hardwick*. 1986. 478 U.S. 186.
- Boy Scouts of America v. Dale*. 2000. 530 U.S. 640.
- Brennan, Thomas, Lee Epstein, and Nancy Staudt. 2009a. “Economic Trends and Judicial Outcomes: A Macro-Theory of the Court.” *Duke Law Journal* 58(7): 1191–1230.
- Brennan, Thomas, Lee Epstein, and Nancy Staudt. 2009b. “The Political Economy of Judging.” *Minnesota Law Review* 93(5): 1503–34.
- Brickman, Danette, and David A. M. Peterson. 2006. “Public Opinion Reaction to Repeated Events: Citizen Response to Multiple Supreme Court Abortion Decisions.” *Political Behavior* 28(March): 87–112.
- Burns, James McGregor. 2009. *Packing the Court: The Rise of Judicial Power and the Coming Crisis of the Supreme Court*. New York: Penguin Press.
- Bush v. Gore*. 2000. 531 U.S. 98.

- Caldeira, Gregory A. 1991. "Courts and Public Opinion." In *The American Courts: A Critical Assessment*, ed. John B. Gates and Charles A. Johnson. Washington, DC: CQ Press, 303–34.
- Caldeira, Gregory A., and James L. Gibson. 1995. "The Legitimacy of the Court of Justice in the European Union: Models of Institutional Support." *American Political Science Review* 89(June): 356–76.
- Caldeira, Gregory A., and John R. Wright. 1998. "Lobbying for Justice: Organized Interests, Supreme Court Nominations, and the United States Senate." *American Journal of Political Science* 42(2): 499–523.
- Canes-Wrone, Brandice, David W. Brady, and John Cogan. 2002. "Out of Step, Out of Office." *American Political Science Review* 96(March): 127–40.
- Casillas, Christopher J., Peter K. Enns, and Patrick C. Wohlfarth. 2011. "How Public Opinion Constrains the U.S. Supreme Court." *American Journal of Political Science* 55(January): 74–88.
- Clark, Tom S. 2009. "The Separation of Powers, Court Curbing, and Judicial Legitimacy." *American Journal of Political Science* 53(4): 971–89.
- DeBoef, Suzanna, and Luke Keele. 2008. "Taking Time Seriously." *American Journal of Political Science* 52(January): 184–200.
- Durr, Robert H. 1993. "What Moves Policy Sentiment?" *American Political Science Review* 87(March): 158–70.
- Durr, Robert H., Andrew D. Martin, and Christina Wolbrecht. 2000. "Ideological Divergence and Public Support for the Supreme Court." *American Journal of Political Science* 44(October): 768–76.
- Ellis, Christopher, and James A. Stimson. 2012. *Ideology in America*. New York: Cambridge University Press.
- Ellis, Christopher R., and Joseph Daniel Ura. 2011. "United We Divide? Education, Income, and Heterogeneity in Mass Partisan Polarization." In *Who Gets Represented?* ed. Peter K. Enns and Christopher B. Wlezien. New York: Russell Sage, 277–91.
- Ellis, Christopher R., Joseph Daniel Ura, and Jenna Ashley-Robinson. 2006. "The Dynamic Consequences of Nonvoting in American National Elections." *Political Research Quarterly* 59(June): 227–33.
- Enns, Peter K., and Paul M. Kellstedt. 2008. "Policy Mood and Political Sophistication: Why Everybody Moves Mood." *British Journal of Political Science* 38(3): 433–54.
- Epstein, Lee, and Jeffrey A. Segal. 2000. "Measuring Issue Salience." *American Journal of Political Science* 44(1): 66–83.
- Erikson, Robert S., Michael B. MacKuen, and James A. Stimson. 2002. *The Macro Polity*. Cambridge: Cambridge University Press.
- Flemming, Roy B., and B. Dan Wood. 1997. "The Public and the Supreme Court: Individual Justice Responsiveness to American Policy Moods." *American Journal of Political Science* 41(April): 468–98.
- Flemming, Roy B., B. Dan Wood, and John Bohte. 1999. "Attention to Issues in a System of Separated Powers: The Macrodynamics of American Policy Agendas." *American Journal of Political Science* 41(October): 1224–50.
- Franklin, Charles H., and Liane C. Kosaki. 1989. "Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion." *American Political Science Review* 83(September): 751–71.
- Friedman, Barry. 2009. *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution*. New York: Farrar, Straus and Giroux.
- Furman v. Georgia*. 1972. 408 U.S. 153.
- Gibson, James L. 2008. "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and 'New-Style' Judicial Campaigns." *American Political Science Review* 102(1): 59–75.
- Gibson, James L., and Gregory A. Caldeira. 2009. *Citizens, Courts, and Confirmations: Positivity Theory and the Judgments of the American People*. Princeton, NJ: Princeton University Press.
- Gibson, James L., Gregory A. Caldeira, and Vanessa A. Baird. 1998. "On the Legitimacy of National High Courts." *American Political Science Review* 92(2): 343–58.
- Gibson, James L., Gregory A. Caldeira, and Lester Kenyatta Spence. 2003. "The Supreme Court and the US Presidential Election of 2000: Wounds, Self-Inflicted or Otherwise?" *British Journal of Political Science* 33(4): 535–56.
- Gibson, James L., Milton Lodge, Charles Taber, and Benjamin Woodson. 2010. "Can Judicial Symbols Produce Persuasion and Acquiescence? Testing a Micro-Level Model of the Effects of Court Legitimacy." Presented at the Annual Meeting of the Midwest Political Science Association.
- Giles, Micheal W., Bethany Blackstone, and Richard L. Vining. 2008. "The Supreme Court in American Democracy: Unraveling the Linkages between Public Opinion and Judicial Decision Making." *Journal of Politics* 70(2): 293–306.
- Gonzales v. Carhart*. 2007. 550 U.S. 124.
- Gratz v. Bollinger*. 2003. 539 U.S. 244.
- Gregg v. Georgia*. 1976. 428 U.S. 163.
- Grossman, Joel B., and Stephen L. Wasby. 1972. "The Senate and Supreme Court Nominations: Some Reflections." *Duke Law Journal* 2: 557–91.
- Grutter v. Bollinger*. 2003. 539 U.S. 306.
- Hamdan v. Rumsfeld*. 2006. 548 U.S. 557.
- Harris v. McCrae*. 1980. 448 U.S. 297.
- Hoekstra, Valerie J. 1995. "The Supreme Court and Opinion Change: An Experimental Study of the Court's Ability to Change Opinion." *American Politics Research* 23(January): 109–29.
- Hoekstra, Valerie J. 2000. "The Supreme Court and Local Public Opinion." *American Political Science Review* 94(March): 89–100.
- Hoekstra, Valerie J. 2003. *Public Reaction to Supreme Court Decisions*. New York: Cambridge University Press.
- Hoekstra, Valerie J., and Jeffrey A. Segal. 1996. "The Shepherding of Local Public Opinion: The Supreme Court and Lamb's Chapel." *Journal of Politics* 58(4): 1079–1102.
- Johnson, Timothy R., and Andrew D. Martin. 1998. "The Public's Conditional Response to Supreme Court Decisions." *American Political Science Review* 92(June): 299–309.

- Kellstedt, Paul M., David A. M. Peterson, and Mark D. Ramirez. 2010. "The Macro Politics of a Gender Gap." *Public Opinion Quarterly* 74(March): 477–98.
- Kelly, Nathan J. 2009. *The Politics of Income Inequality in the United States*. Cambridge: Cambridge University Press.
- Kramer, Larry D. 2004. *The People Themselves: Popular Constitutionalism and Judicial Review*. New York: Oxford University Press.
- Lamb's Chapel v. Center Moriches Free High School District*. 1993. 508 U.S. 384.
- Layman, Geoffrey C., and Thomas M. Carsey. 2002. "Party Polarization and 'Conflict Extension' in the American Electorate." *American Journal of Political Science* 46(October): 786–802.
- Lerner, Ralph. 1967. "The Supreme Court as Republican Schoolmaster." *The Supreme Court Review* 1967(January): 127–80.
- Lodge, Milton, Marco R. Steenbergen, and Shawn Brau. 1995. "The Responsive Voter: Campaign Information and the Dynamics of Candidate Evaluation." *American Political Science Review* 89(June): 309–26.
- Maltese, John Anthony. 1998. *The Selling of Supreme Court Nominees*. Baltimore: Johns Hopkins University Press.
- Marshall, Thomas R. 1989. *Public Opinion and the Supreme Court*. Boston: Unwin Hyman.
- Marshall, Thomas R. 2008. *Public Opinion and the Rehnquist Court*. Albany: State University of New York Press.
- Martin, Andrew D., and Kevin M. Quinn. 2002. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953–1999." *Political Analysis* 10(2): 134–53.
- Mayhew, David R. 1991. *Divided We Govern: Party Control, Lawmaking, and Investigations*. New Haven, CT: Yale University Press.
- Mayhew, David R. 2011. *Datasets for Divided We Govern*. <http://pantheon.yale.edu/~dmayhew/data3.html> (accessed September 15, 2011).
- McCarty, Nolan, Keith T. Poole, and Howard Rosenthal. 2006. *Polarized America*. Cambridge, MA: MIT Press.
- McGuire, Kevin T. 2004. "The Institutionalization of the U.S. Supreme Court." *Political Analysis* 12(2): 128–42.
- McGuire, Kevin T., and James A. Stimson. 2004. "The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences." *Journal of Politics* 66(November): 1018–35.
- McMahon, Kevin J. 2011. *Nixon's Court: His Challenges to Judicial Liberalism and Its Political Consequences*. Chicago: University of Chicago Press.
- Mishler, William, and Reginald S. Sheehan. 1993. "The Supreme Court as a Countermajoritarian Institution? The Impact of Public Opinion on Supreme Court Decisions." *American Political Science Review* 87(March): 87–101.
- Mishler, William, and Reginald S. Sheehan. 1996. "Public Opinion, the Attitudinal Model, and Supreme Court Decision Making: A Micro-Analytic Perspective." *Journal of Politics* 58(1): 169–200.
- Mondak, Jeffery J. 1990. "Perceived Legitimacy of Supreme Court Decisions: Three Functions of Source Credibility." *Political Behavior* 12(December): 363–84.
- Mondak, Jeffery J. 1991. "Substantive and Procedural Aspects of Supreme Court Decisions as Determinants of Institutional Approval." *American Politics Research* 19(April): 174–88.
- Mondak, Jeffery J. 1992. "Institutional Legitimacy, Policy Legitimacy, and the Supreme Court." *American Politics Quarterly* 20(4): 457–77.
- Mondak, Jeffery J. 1994. "Policy Legitimacy and the Supreme Court: The Sources and Contexts of Legitimation." *Political Research Quarterly* 47(3): 675–92.
- Mulligan, Kenneth, Tobin Grant, and Daniel Bennett. 2012. "The Dynamics of Public Opinion on Cultural Policy Issues in the U.S., 1972–2010." *Political Behavior*. doi: 10.1007/s11109-012-9209-x.
- Nemacheck, Christine. 2004. "Campaigning on the Court: Supreme Court Nominations as an Issue in Presidential Election Campaigns." Presented at the Annual Meeting of the American Political Science Association.
- Oklahoma Tax Commission v. Chickasaw Nation*. 1995. 508 U.S. 114.
- Page, Benjamin I., Robert Y. Shapiro, and Glenn R. Dempsey. 1987. "What Moves Public Opinion?" *American Political Science Review* 81(March): 23–43.
- Perlstein, Rick. 2001. *Before the Storm: Barry Goldwater and the Unmaking of American Consensus*. New York: Hill and Wang.
- Planned Parenthood of Southeastern Pennsylvania v. Casey*. 1992. 505 U.S. 833.
- Roe v. Wade*. 1973. 410 U.S. 113.
- Romer v. Evans*. 1996. 517 U.S. 620.
- Segal, Jeffrey A., and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83(June): 557–65.
- Segal, Jeffrey A., Charles M. Cameron, and Albert D. Cover. 1992. "A Spatial Model of Role Call Voting: Senators, Constituents, Presidents, and Interest Groups in Supreme Court Confirmations." *American Journal of Political Science* 36(1): 96–121.
- Segal, Jeffrey A., and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.
- Smith, Mark A. 2000. *American Business and Political Power: Public Opinion, Elections, and Democracy*. Chicago: University of Chicago Press.
- Soroka, Stuart N., and Christopher Wlezien. 2009. *Degrees of Democracy: Politics, Public Opinion, and Policy*. Cambridge: Cambridge University Press.
- Spaeth, Harold J., Lee Epstein, Theodore W. Ruger, Keith E. Whittington, Jeffrey A. Segal, and Andrew D. Martin. 2011. *The Supreme Court Database*. <http://sccb.wustl.edu/>.
- Starr, Kenneth W. 2002. *First Among Equals: The Supreme Court in American Life*. New York: Warner Books.
- Stephenson, D. Grier. 1999. *Campaigns and the Court: The United States Supreme Court in Presidential Elections*. New York: Columbia University Press.
- Stimson, James A. 1991. *Public Opinion in America: Moods, Cycles, and Swings*. 1st ed. Boulder, CO: Westview Press.
- Stimson, James A. 1999. *Public Opinion in America: Moods, Cycles, and Swings*. 2nd ed. Boulder, CO: Westview Press.

- Stimson, James A. 2004. *Tides of Consent: How Public Opinion Shapes American Politics*. New York: Cambridge University Press.
- Stimson, James A. 2009. *Mood Data File (Release May 29, 2009)*. <http://www.unc.edu/~jstimson/time/> (accessed March 26, 2010).
- Stimson, James A., Michael B. MacKuen, and Robert S. Erikson. 1995. "Dynamic Representation." *American Political Science Review* 89(September): 543–65.
- Stoutenborough, James W., Donald P. Haider-Markel, and Mahalley D. Allen. 2006. "Reassessing the Impact of Supreme Court Decisions on Public Opinion: Gay Civil Rights Cases." *Political Research Quarterly* 59(3): 419–33.
- Tate, C. Neal, and Torbjorn Vallinder. 1995. *The Global Expansion of Judicial Power*. New York: New York University Press.
- Tushnet, Mark. 2000. *Taking the Constitution Away from the Courts*. Princeton, NJ: Princeton University Press.
- Unger, Michael A. 2008. "After the Supreme Word." *American Politics Research* 36(5): 750–75.
- United States v. Morrison*. 2000. 529 U.S. 598.
- Ura, Joseph Daniel. 2009. "The Supreme Court and Issue Attention: The Case of Homosexuality." *Political Communication* 26(4): 430–46.
- Ura, Joseph Daniel, and Christopher R. Ellis. 2008. "Income, Preferences, and the Dynamics of Policy Responsiveness." *PS: Political Science and Politics* 41(4): 785–94.
- Ura, Joseph Daniel, and Christopher R. Ellis. 2012. "Partisan Moods: Polarization and Party Preference Dynamics." *Journal of Politics* 74(1): 277–91.
- Ura, Joseph Daniel, and Erica M. Socker. 2011. "The Behavioral Political Economy of Budget Deficits: How Starve the Beast Policies Feed the Machine." *Forum* 9(2): Article 7.
- Ura, Joseph Daniel, and Patrick C. Wohlfarth. 2010. "An Appeal to the People: Public Opinion and Congressional Support for the Supreme Court." *Journal of Politics* 72(4): 939–56.
- Whittington, Keith E. 2005. "Interpose Your Friendly Hand': Political Support for the Exercise of Judicial Review by the United States Supreme Court." *American Political Science Review* 99(November): 583–96.
- Wlezien, Christopher. 1995. "The Public as Thermostat: Dynamics of Preferences for Spending." *American Journal of Political Science* 39(November): 981–1000.
- Wlezien, Christopher. 1996. "Dynamics of Representation: The Case of U.S. Spending on Defence." *British Journal of Political Science* 26(1): 81–103.
- Wlezien, Christopher B., and Malcolm L. Goggin. 1993. "The Courts, Interest Groups, and Public Opinion about Abortion." *Political Behavior* 15(December): 381–405.
- Zaller, John R. 1992. *The Nature and Origins of Mass Opinion*. Cambridge: Cambridge University Press.

Supporting Information

Additional Supporting Information may be found in the online version of this article at the publisher's website:

- **Table A1:** Granger Associations of Δ Mood and the Supreme Court Liberalism Instrument
- **Table A2:** IV Estimates of an Error Correction Model of Annual Mood (1956–2009)
- **Table A3:** OLS and IV Estimates of an LDV Model of Annual Mood (1956–2009)
- **Figure A1:** Long-Run Predicted Responses in Mood to a One Standard Deviation Increase in CaseLaw (ECM and LDV Specifications Estimated with OLS and IV)
- **Table A4:** Nonsalient Cases and the Dynamics of Annual Mood (1956–2009)