

The Politics of Constitutional Review

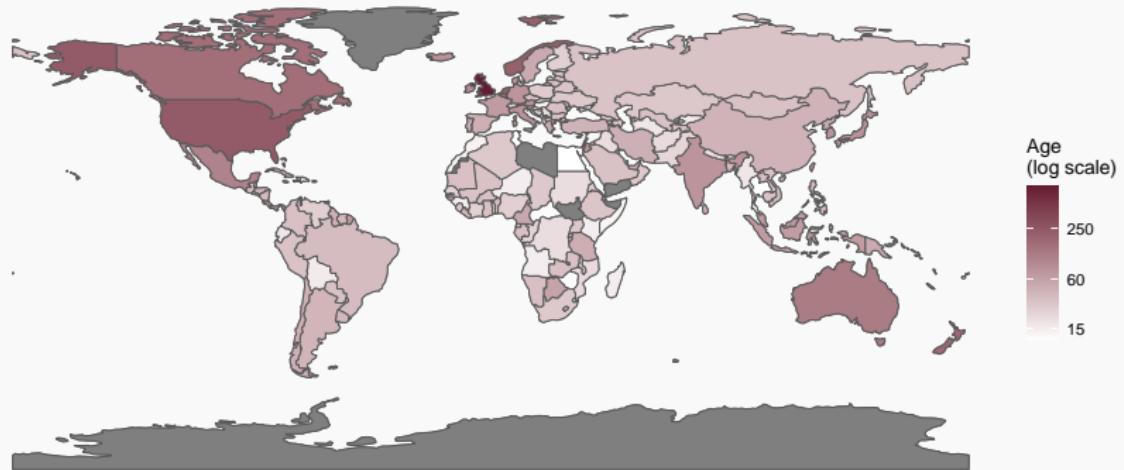
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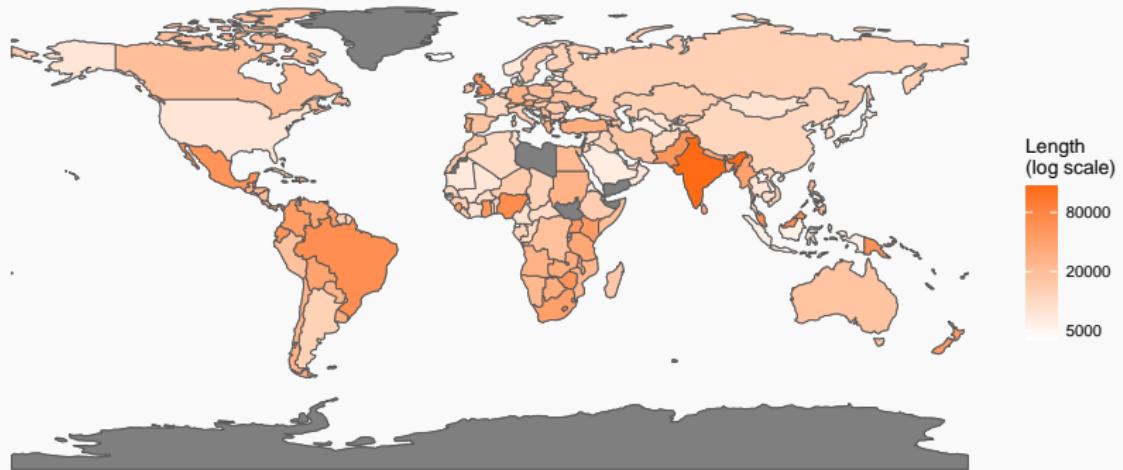
September 17, 2025

Ages of National Constitutions



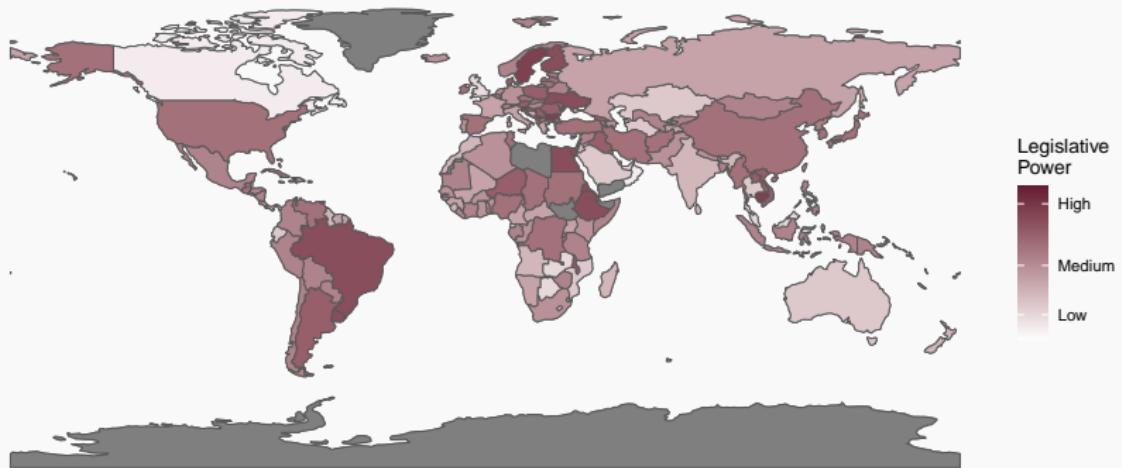
Source: The Comparative Constitutions Project.

Lengths of National Constitutions



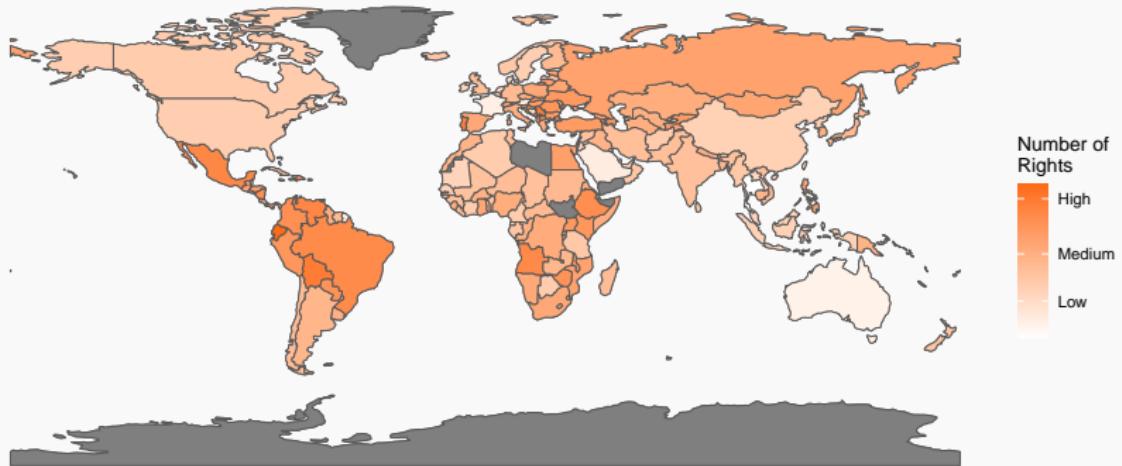
Source: The Comparative Constitutions Project.

Scope of Legislative Power



Source: The Comparative Constitutions Project.

Rights Protected



Source: The Comparative Constitutions Project.

John Marshall



Marshall, on Judicial Review

"It is emphatically the province and duty of the Judicial Department to say what the law is."

- *Marbury v. Madison* (1803)

Marshall, on Judicial Review

"It is emphatically the province and duty of the Judicial Department to say what the law is."

- *Marbury v. Madison* (1803)

"The Constitution and laws of a State, so far as they are repugnant to the Constitution and laws of the United States, are absolutely void. These States are constituent parts of the United States. They are members of one great empire – for some purposes sovereign, for some purposes subordinate."

- *Cohens v. Virginia* (1821)

John Bannister Gibson



Gibson, on Judicial Review

“...it will not be pretended, that the legislature has not at least an equal right with the judiciary to put a construction on the constitution.”

"...it will not be pretended, that the legislature has not at least an equal right with the judiciary to put a construction on the constitution."

"I am of opinion that it rests with the people, in whom full and absolute sovereign power resides to correct abuses in legislation, by instructing their representatives to repeal the obnoxious act."

- *Eakin v. Raub* (1825)

The Supreme Court Database

The screenshot shows the homepage of the Supreme Court Database. At the top left is the Penn State College of the Liberal Arts logo. A search bar is at the top right. Below the header is a red banner with three stars and the text "SUPREME COURT DATABASE". The main content area features a large statue of a person with a blindfold, with a red box highlighting the head. To the right of the statue is a text box describing the database as a definitive source for researchers, students, journalists, and citizens interested in the U.S. Supreme Court. It highlights over two hundred pieces of information about each case decided by the Court from its founding to today, including the identity of the court whose decision the Supreme Court reviewed, the parties to the suit, the legal provisions considered in the case, and the votes of the Justices. Two buttons are below this text: "EXPLORE OUR DATA" and "LEARN HOW TO CITE US". At the bottom of the page, there is a dark footer with text about the project being a part of the Initiative on Legal Institutions and Democracy in the McCourtney Institute for Democracy, supported by Washington University in St. Louis and the National Science Foundation. Logos for WashU and the National Science Foundation are also in the footer. The bottom section is divided into two panels: "LATEST DATA RELEASES" on the left and "LEGACY DATABASE: SCDB LEGACY 01" on the right, both listing release dates and term ranges. A "VIEW ALL DATA RELEASES" button is at the bottom right.

PennState
College of the Liberal Arts

SUPREME COURT DATABASE

HOME ABOUT THE COLLECTION THE CONTRIBUTORS DATA DOCUMENTATION CITE US

The Supreme Court Database is the definitive source for researchers, students, journalists, and citizens interested in the U.S. Supreme Court. The Database contains over two hundred pieces of information about each case decided by the Court from its founding to today. Examples include the identity of the court whose decision the Supreme Court reviewed, the parties to the suit, the legal provisions considered in the case, and the votes of the Justices.

EXPLORE OUR DATA LEARN HOW TO CITE US

The Database is a project of the Initiative on Legal Institutions and Democracy in the McCourtney Institute for Democracy and is made possible with support from Washington University in St. Louis and the National Science Foundation.

WashU U.S. National Science Foundation

LATEST DATA RELEASES

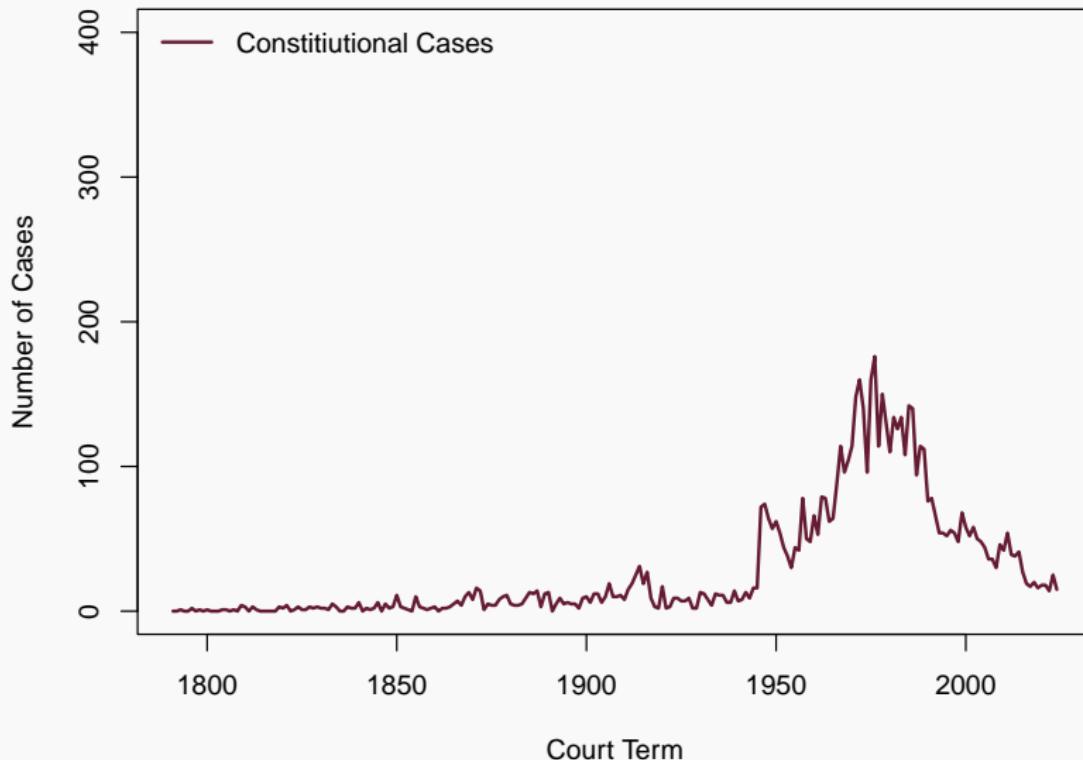
MODERN DATABASE: SCDB MODERN 01
RELEASE DATE: SEPTEMBER 1, 2025
INCLUDES TERMS: 1946 - 2024

LEGACY DATABASE: SCDB LEGACY 01
RELEASE DATE: MARCH 14, 2016
INCLUDES TERMS: 1791 - 1945

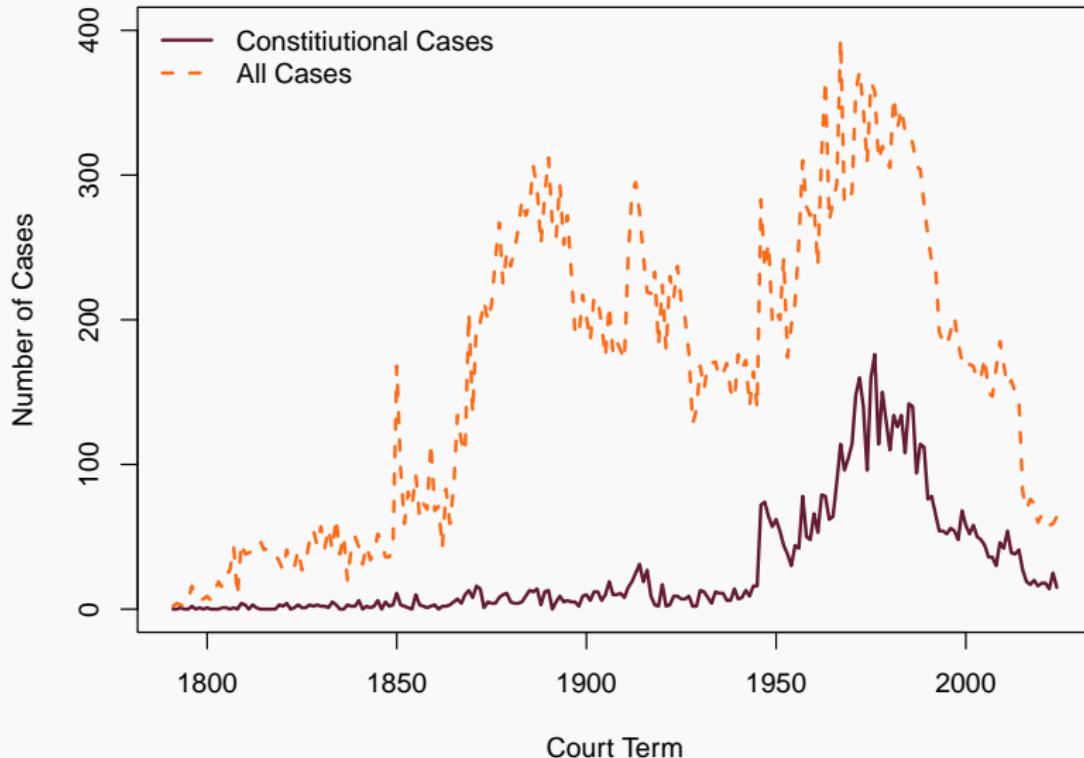
VIEW ALL DATA RELEASES

At <https://scdb.la.psu.edu/>.

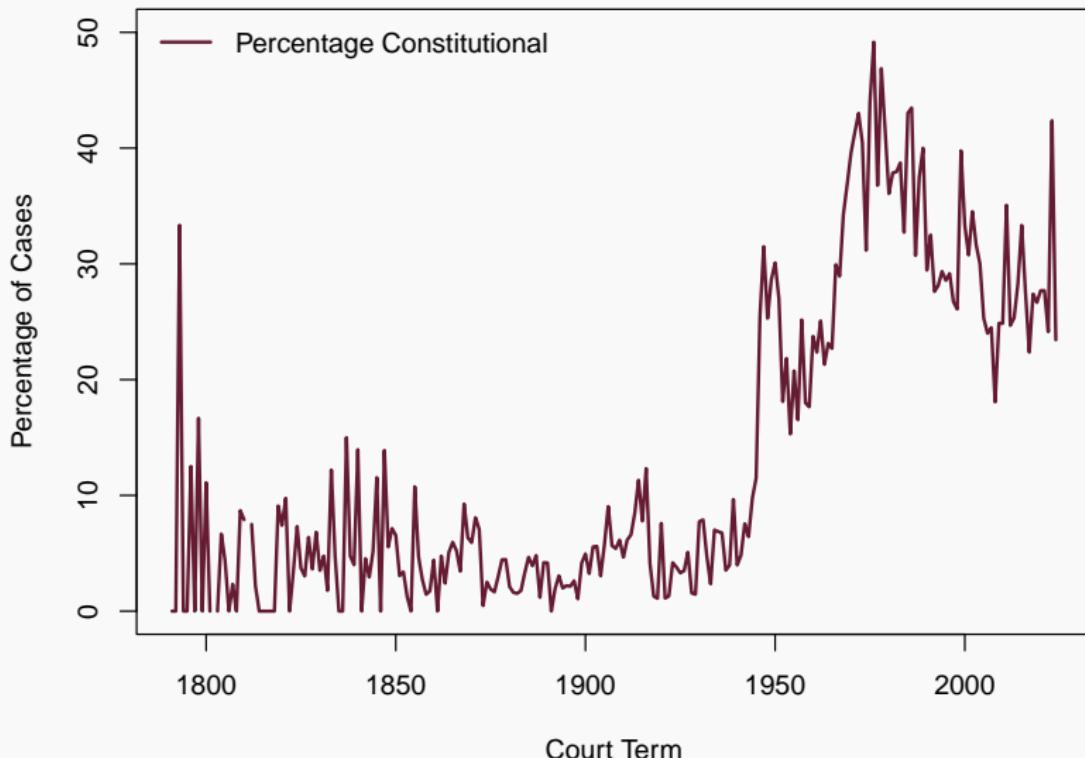
Constitutional Cases, 1789-2024



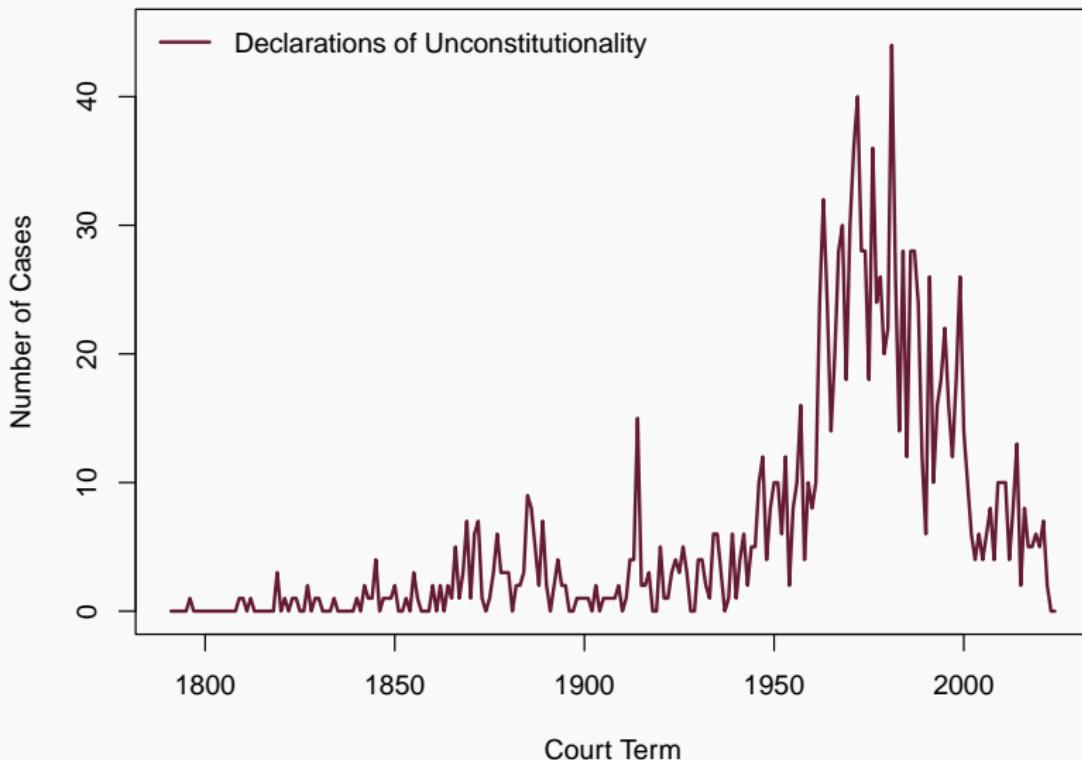
SCOTUS Cases, 1789-2024



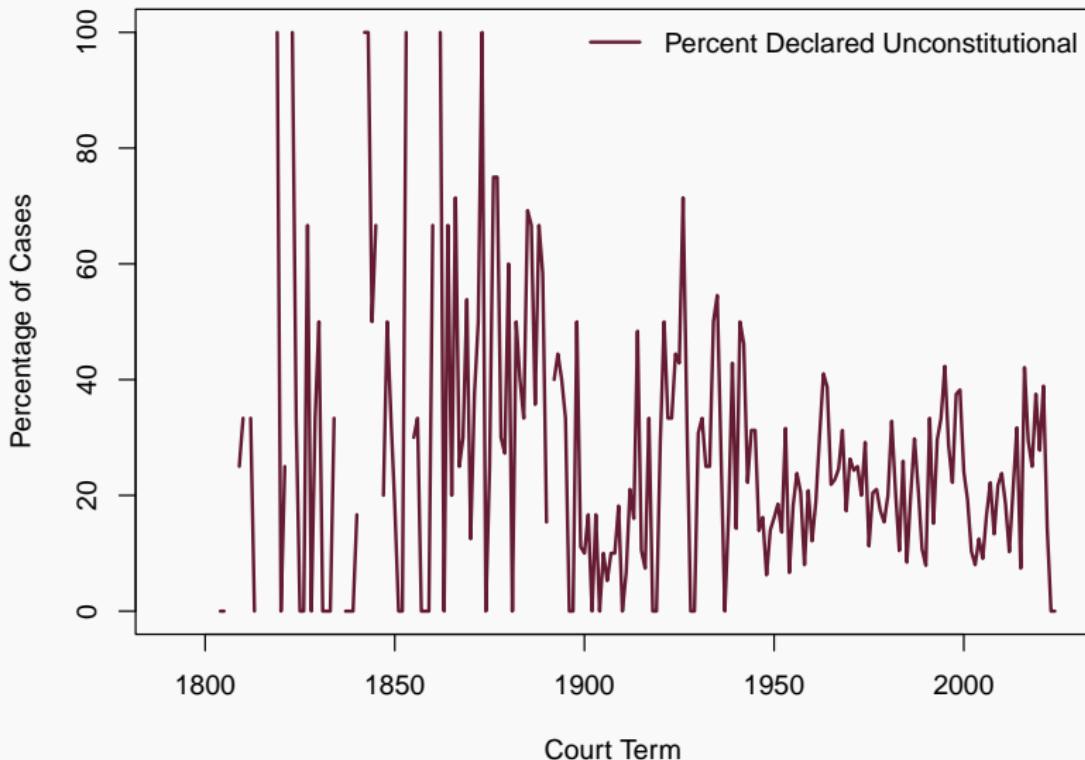
Percentage Constitutional Cases, 1789-2024



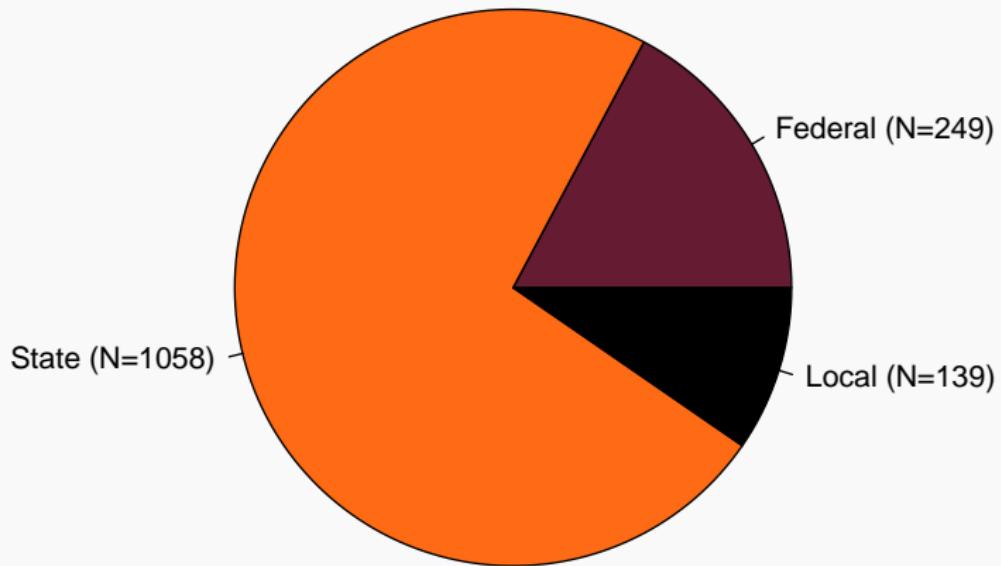
Declarations of Unconstitutionality, 1789-2024



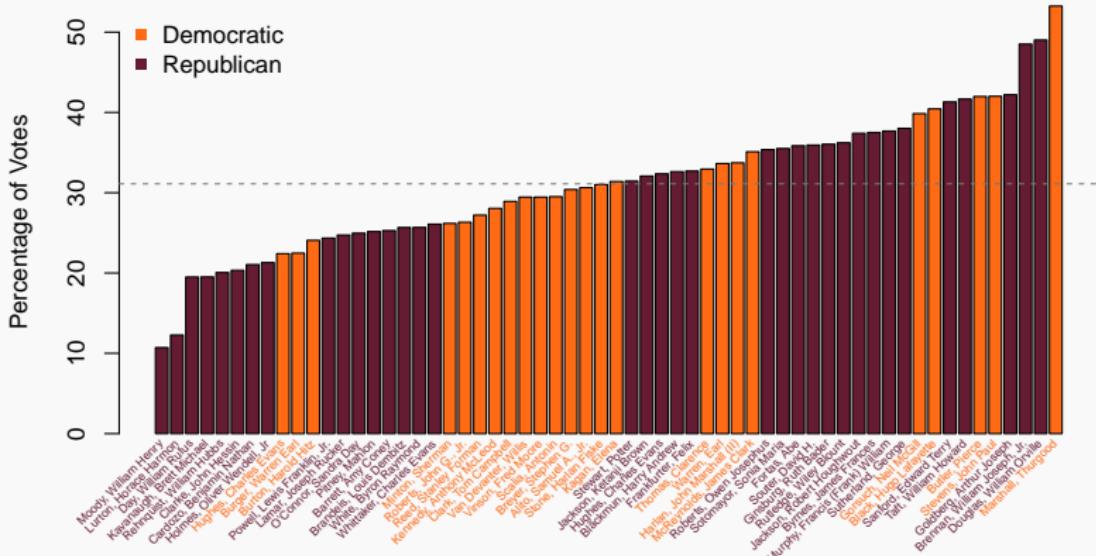
Percent Declared Unconstitutional, 1789-2024



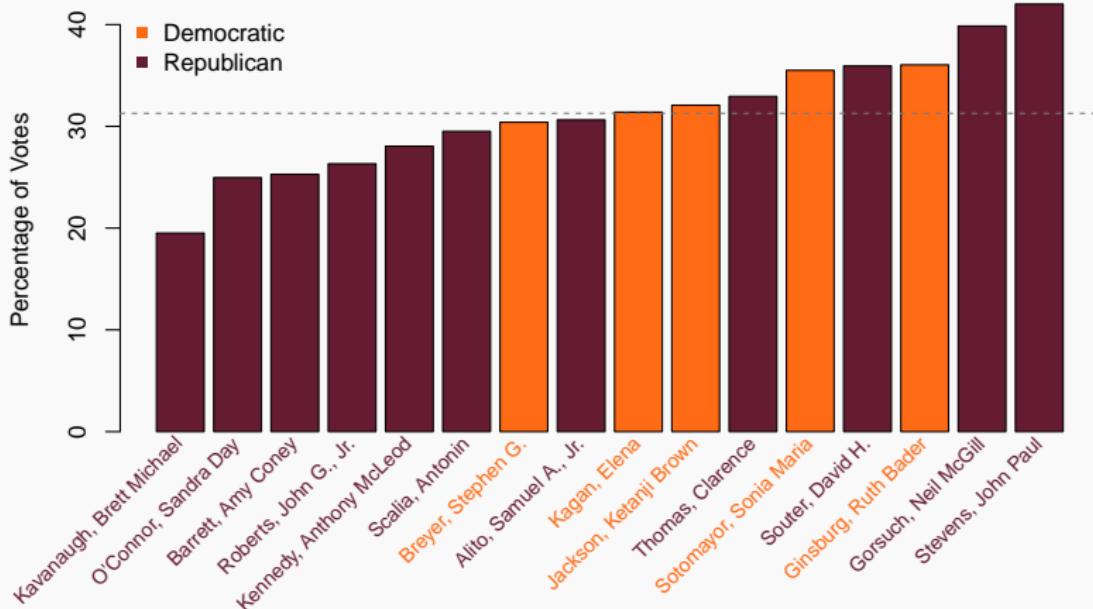
Laws Declared Unconstitutional, 1789-2024



Votes for Unconstitutionality, Justices 1900-present



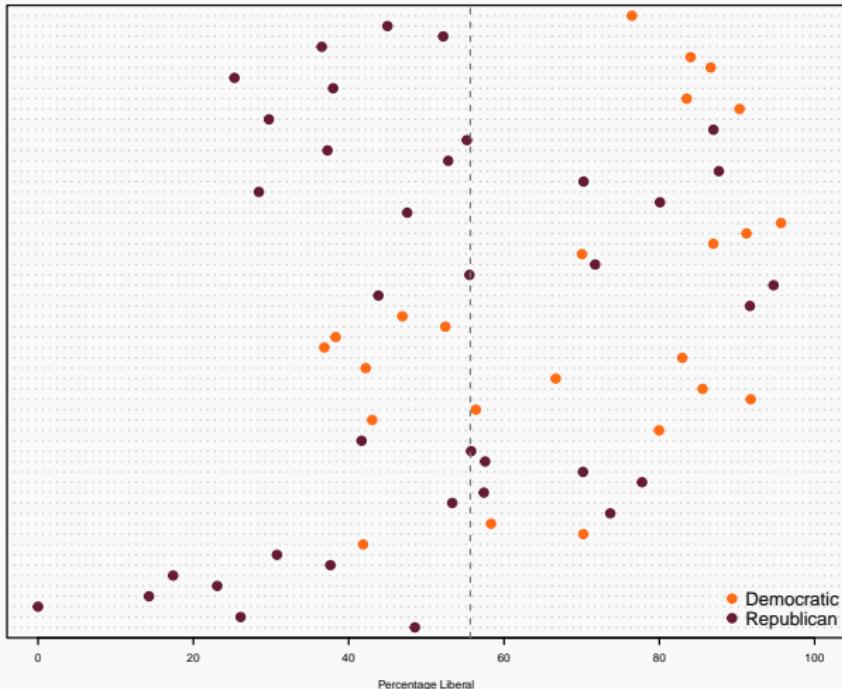
Votes for Unconstitutionality, Justices 1974-present



Ideological Valence of Judicial Review, 1900-present

Liberal Percentage

Jackson, Ketanji Brown
Brennan, Amy Coney
Kavanaugh, Brett Michael
Gorsuch, Neil McGill
Kagan, Elena
Sotomayor, Sonia Maria
Alito, Samuel A.
Roberts, John G., Jr.
Breyer, Stephen G.
Ginsburg, Ruth Bader
Thomas, Clarence
Souter, David H.
Kennedy, Anthony McLeod
Scalia, Antonin
O'Connor, Sandra Day
Stevens, John Paul
Powell, Lewis Franklin, Jr.
Rehnquist, William Hubbs
Black, Robert H.
Warren, Earl Andrew
Burger, Warren Earl
Marshall, Thurgood
Fortas, Abe
Goldwater, Arthur Joseph
White, Byron Raymond
Stewart, Potter
Whitaker, Charles Evans
Brennan, William Joseph, Jr.
Harlan, John Marshall [II]
Warren, Earl
Minton, Sherman
Clark, George Campbell
Vinson, Fred Moore
Burton, Harold Hitz
Rutledge, Wiley Blount
Jack, Edward Joseph
Byrnes, James Frances
Murphy, Francis (Frank) William
Douglas, William Orville
Frankfurter, Felix
Reed, Stanley Forman
Black, Hugo Lafayette
Cardozo, Benjamin Nathan
Roberts, Charles J.
Hughes, Charles Evans
Stone, Harlan Fiske
Sanford, Edward Terry
Butler, James
Sutherland, George
Taft, William Howard
Clarke, John Hessin
Brennan, William Gombitz
McReynolds, James Clark
Pitney, Mahlon
Van Devanter, Willis
Lamont, Louis Fisher
Hughes, Charles Evans
Lurton, Horace Harmon
Moody, William Henry
Day, William Rufus
Holmes, Oliver Wendell, Jr.



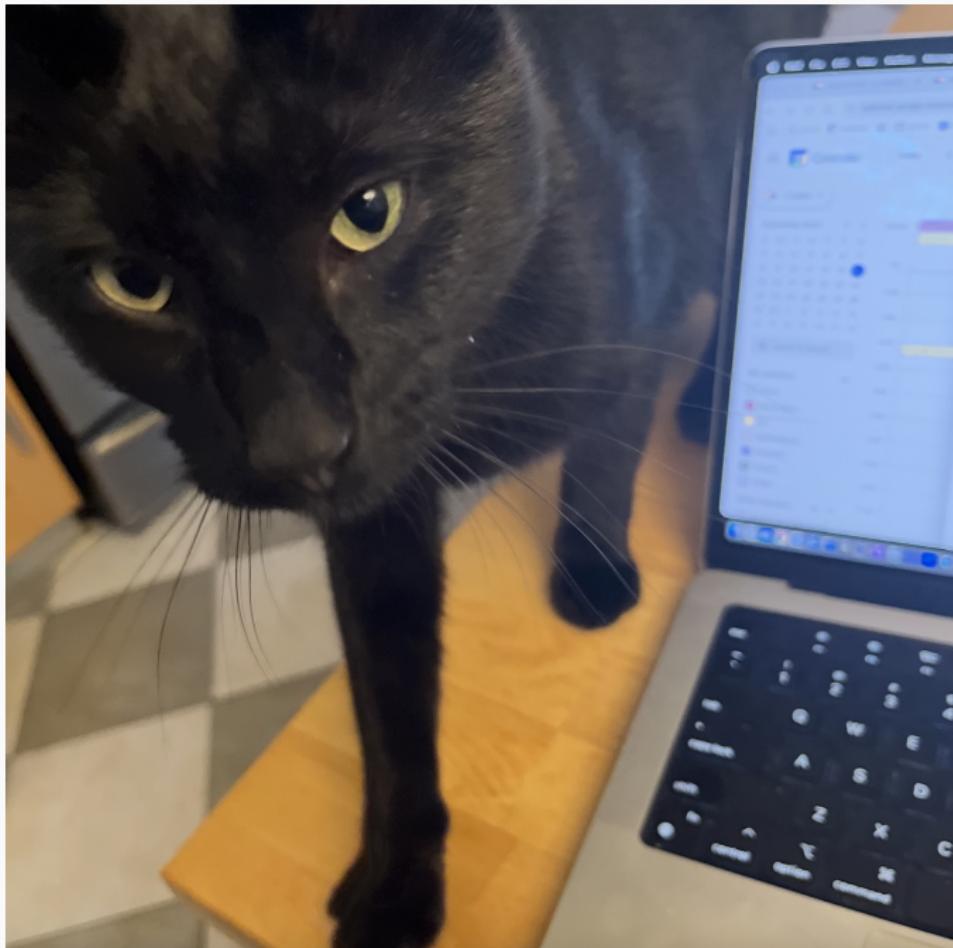


“...courts are only effective under particular circumstances. You need a court that the public thinks is independent, and you also need citizens that value the rule of law. And unless both of those conditions are met, the consequences for executives ignoring the court are pretty minimal.”

- Dr. Michael Nelson, [Niskanen Center podcast](#), March 5, 2025

Thank you!





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