

PLSC 476: Empirical Legal Studies

Christopher Zorn

February 23, 2021

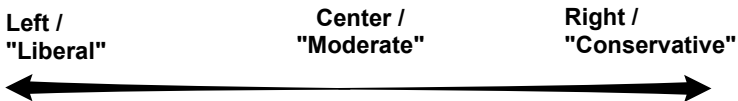
“Ideology”

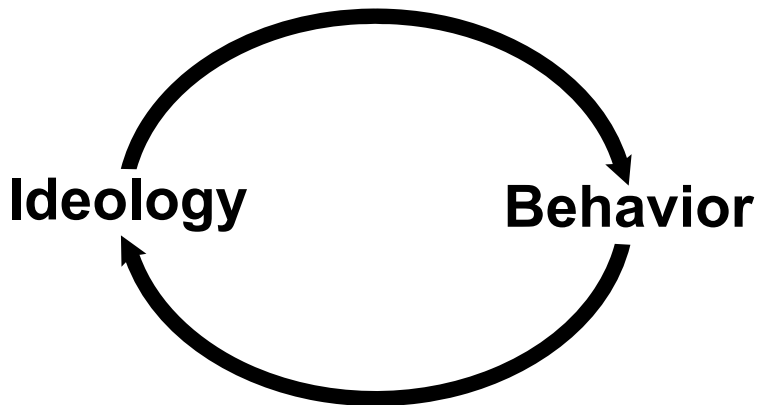
“...a certain ethical set of ideals, principles, doctrines, myths, or symbols of a social movement, institution, class, or large group that explains how society should work, and offers some political and cultural blueprint for a certain social order.”
(Wikipedia)

“...an idea supported by a norm.” (Bierstadt 1974)

“...the pattern of utilities, externalities, a person gets from the presence or absence of variously collectively-supplied public and private goods.” (Aranson 1981)

20th / 21st Century U.S. Ideology





Example: Stevens, *Tribune* (12/1/75)

Judge Stevens' nomination

President Ford has made an excellent choice in his nomination of Federal Judge John Paul Stevens of Chicago to the Supreme Court. If confirmed by the Senate, he will fill the vacancy caused by the retirement of Justice William O. Douglas.

We are pleased, of course, that Judge Stevens is from Chicago—he is only the fourth Illinoisan out of the 105 justices who have served on the court. But a strong case could also be made—and was made—for naming a woman, and there were some creditable candidates.

Judge Stevens' virtue is that he has earned this appointment not by controversial stances or his place of residence or his sex or his politics, but simply because in his five years on the 7th Circuit Court of Appeals he has been a steady judge and a good one. He has looked for the right answer or the best one, not for the one that would bring cheers or headlines. A good measure of his success is that in these five years he has never been reversed by the Supreme Court. His record supports the comment by White House counsel Philip

Buchen that "he won't stretch to find a federal question arising in cases where there are only state questions."

His virtue as a strict constructionist is enhanced by the fact that his reputation is not engraved in stone as either a liberal or a conservative. For too long the Supreme Court has been divided between relatively inflexible blocs—the liberal activists on one side and the conservatives on the other. As the usual "swing" members, Justices Stewart and White have had more influence than any two men should. If Judge Stevens' nomination is confirmed, he will become a third member of this influential group and will thereby strengthen the court.

His nomination has the endorsement of Sen. Stevenson as well as of Sen. Percy and Atty. Gen. Levi, both of whom have known and worked with him. We have every reason to hope and believe that his nomination will be confirmed quickly. The Supreme Court has been weakened too long by its strong ideological division and by the illness of Justice Douglas. It has much important work ahead of it.

Example: Stevens, *Tribune* (12/1/75)

Judge Stevens' nomination

President Ford has made an excellent choice in his nomination of Federal Judge John Paul Stevens of Chicago to the Supreme Court. If confirmed by the Senate, he will fill the vacancy caused by the retirement of Justice William O. Douglas.

We are pleased, of course, that Judge Stevens is from Chicago—he is only the fourth Illinoisan out of the 105 justices who have served on the court. But a strong case could also be made—and was made—for naming a woman, and there were some creditable candidates.

Judge Stevens' virtue is that he has earned this appointment not by controversial stances or his place of residence or his sex or his politics, but simply because in his five years on the 7th Circuit Court of Appeals he has been a steady judge and a good one. He has looked for the right answer or the best one, not for the one that would bring cheers or headlines. A good measure of his success is that in these five years he has never been reversed by the Supreme Court. His record supports the comment by White House counsel Philip

Buchen that "he won't stretch to find a federal question arising in cases where there are only state questions."

His virtue as a strict constructionist is enhanced by the fact that his reputation is not engraved in stone as either a liberal or a conservative. For too long the Supreme Court has been divided between relatively inflexible blocs—the liberal activists on one side and the conservatives on the other. As the usual "swing" members, Justices Stewart and White have had more influence than any two men should. If Judge Stevens' nomination is confirmed, he will become a third member of this influential group and will thereby strengthen the court.

His nomination has the endorsement of Sen. Stevenson as well as of Sen. Percy and Atty. Gen. Levi, both of whom have known and worked with him. We have every reason to hope and believe that his nomination will be confirmed quickly. The Supreme Court has been weakened too long by its strong ideological division and by the illness of Justice Douglas. It has much important work ahead of it.

“Segal-Cover Scores”

Original:

$$\text{Ideology}_j = \frac{N_{\text{Liberal Paragraphs}} - N_{\text{Conservative Paragraphs}}}{N_{\text{Liberal Paragraphs}} + N_{\text{Conservative Paragraphs}}}$$

Rescaled:

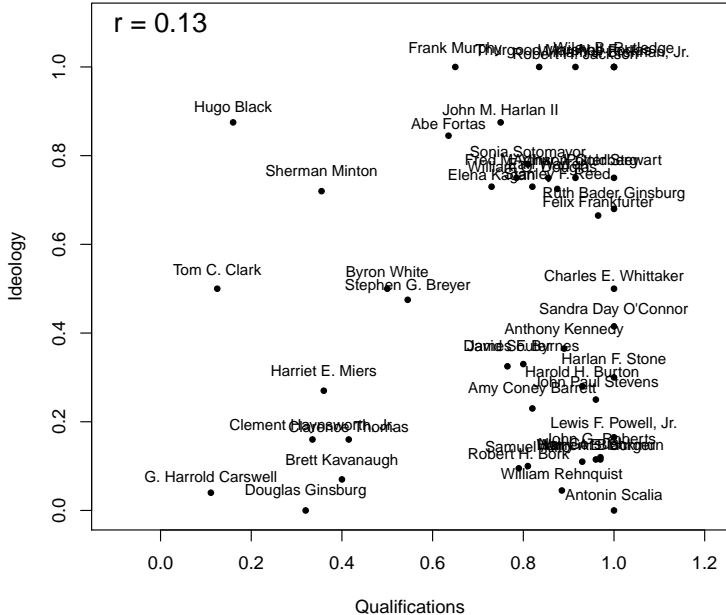
$$\text{Ideology}_j = \left[\left(\frac{N_{\text{Liberal Paragraphs}} - N_{\text{Conservative Paragraphs}}}{N_{\text{Liberal Paragraphs}} + N_{\text{Conservative Paragraphs}}} \right) + 1 \right] / 2$$

“Segal-Cover Scores”

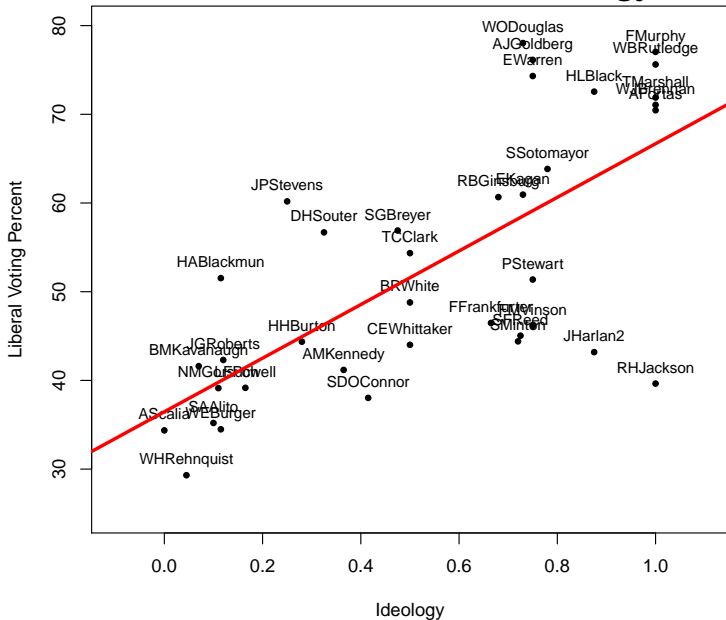
Characteristics

- Minimum = 0 (most conservative)
- Maximum = 1 (most liberal)
- 0.5 = “moderate”
- Based on “*expert*” opinion
- *Fixed* over time

Segal-Cover: Ideology and Qualifications



Ideology and Votes



An “audit” of “Segal-Cover” scores...

- Update + back-date
- Compare to voting scores
- “Split”: Pre-Warren Court vs. post...

Civil Rights / Liberties & Economics

A14 varIssuesAreas 14 Distinct Values

varIssuesAreas is used in conjunction with:
issueArea

Values:

- 1 Criminal Procedure
- 2 Civil Rights
- 3 First Amendment
- 4 Due Process
- 5 Privacy

105 of 130

The Supreme Court Database Codebook

- 6 Attorneys
- 7 Unions
- 8 Economic Activity
- 9 Judicial Power
- 10 Federalism
- 11 Interstate Relations
- 12 Federal Taxation
- 13 Miscellaneous
- 14 Private Action

A Little Code

```
# Civil Rights / Liberties Votes ONLY:

CRCL<-Master[Master$issueArea<6,]

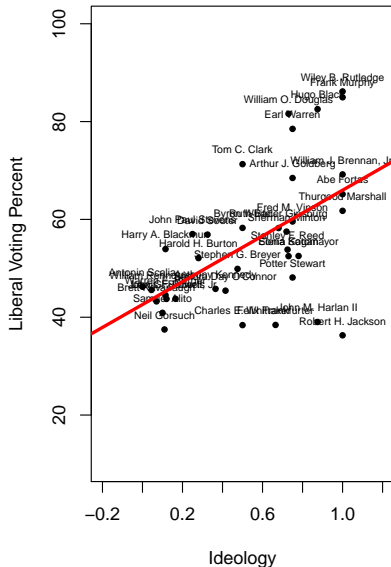
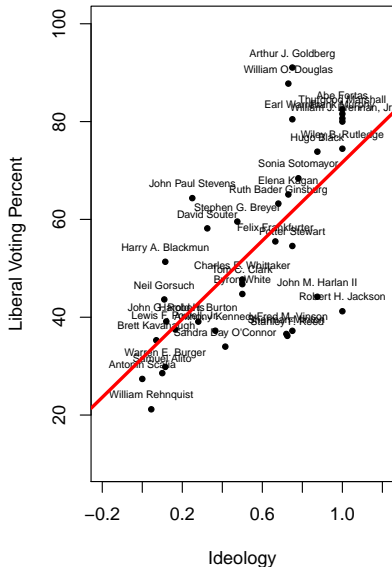
# Aggregate justice-level data / scores:

Civ<-ddply(CRCL, .(justice,President), summarize,
           LibVote = mean(LibVote,na.rm=TRUE)*100)
Civ<-merge(Civ,SCScores,by="justice")

# Plot vs. ideology:

with(Civ, plot(Ideology,LibVote,pch=20,
              ylab="Liberal Voting Percent",xlab="Ideology",
              xlim=c(-0.2,1.2),ylim=c(10,100),
              main="Civil Rights and Liberties"))           # plot
with(Civ, text(Ideology,LibVote,Ideology,
              labels=Nominee,pos=3,cex=0.6))                 # labels
with(Civ, abline(lm(LibVote~Ideology),lwd=3,col="red"))      # line
```

Civil Rights and Liberties



Civil Rights / Liberties & Economics

TABLE 3

CORRELATIONS BETWEEN VALUES AND VOTES

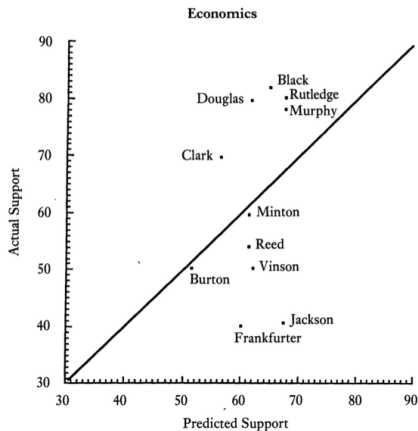
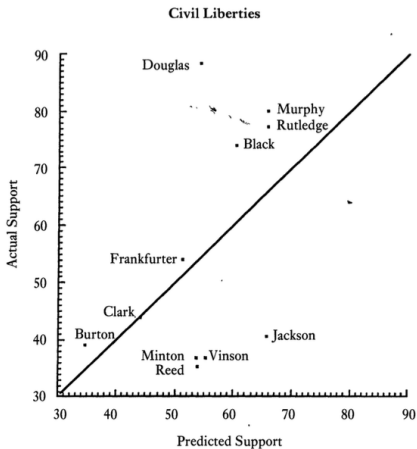
	Justices Appointed By					
	Roosevelt–Truman		Eisenhower–Bush		Roosevelt–Bush	
	Civil Liberties	Economics	Civil Liberties	Economics	Civil Liberties	Economics
<i>R</i>	.47	.31	.80	.61	.69	.56
<i>RMSE</i>	19.2	16.3	13.5	9.9	15.6	12.1

Note: The *RMSE* is the root mean squared error of the bivariate regression equation of *Civil Liberties* and *Economic Votes* with *Ideological Values*.

Updated Table

	Roosevelt-Truman		Eisenhower-Trump		Roosevelt-Trump	
	Civil Rights	Economics	Civil Rights	Economics	Civil Rights	Economics
<i>R</i>	0.45	0.30	0.80	0.60	0.68	0.54

Ideology and Voting: Predictions



Some Predictions Of Our Own

```
# Post-Truman justices ONLY:
```

```
CivNew<-Civ[Civ$presname!="roosevelt, franklin delano" &  
            Civ$presname!="truman, harry s.",]
```

```
# Fit a regression and generate predictions:
```

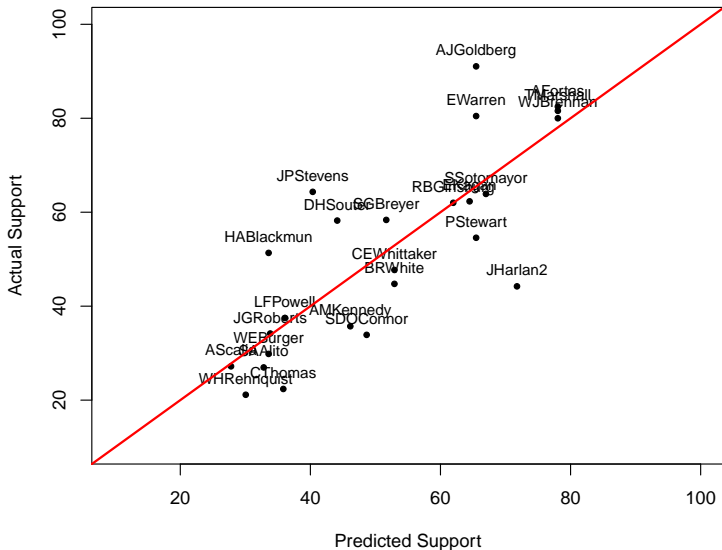
```
CFit<-with(CivNew, lm(LibVote*100~ideology))  
CPreds<-CFit$fitted.values
```

```
# Plot them against each other:
```

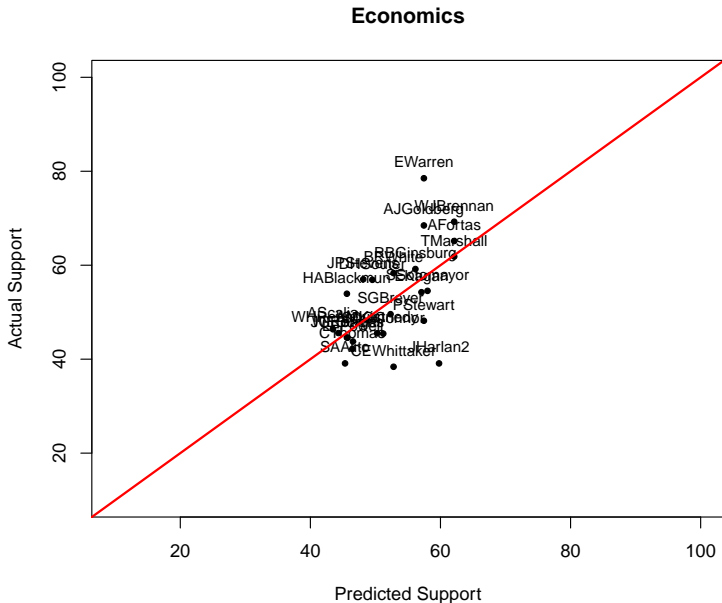
```
plot(CPreds,CivNew$LibVote*100,pch=20,  
      ylab="Actual Support",  
      xlab="Predicted Support",  
      xlim=c(10,100),ylim=c(10,100),  
      main="Civil Rights and Liberties")
```

Ideology and Voting: Predictions

Civil Rights and Liberties



Ideology and Voting: Predictions



Segal et al: Breyer and Ginsburg Predictions

What is more, in all likelihood Ginsburg will be no doctrinaire liberal. To generate predictions of her votes, we multiplied her score of .36 by the coefficients of the attitudinal measure produced for the Eisenhower–Bush appointees (for both civil liberties and economic votes) and added the constant¹². The results indicate that she will cast about 61% of her civil liberties votes and 57% of her economic votes in a liberal direction. Of course, this suggests that she will be ideologically distinct

Turning to Breyer, we can see, in table 2, that his value score of $-.05$ puts him slightly closer to the center of the current Court than Ginsburg. Indeed, our predictions for Breyer's civil liberties (50.4%¹⁴) and economics (53.2%¹⁵) votes suggest that he will sit to the left of O'Connor and to the right of Ginsburg on the ideological spectra. To put it another way, his presence will, in all likelihood, help to

Ginsburg and Breyer: Actual Votes (OT1993/4-2019)

	Civil Rights	Economics
Ginsburg (Segal et al. prediction)	61.0	57.0
Ginsburg (actual)	63.2	58.2
Breyer (Segal et al. prediction)	50.4	53.2
Breyer (actual)	59.6	49.9

Our Own Predictions: Justice Barrett

Civil Liberties equation is:

$$\widehat{\text{Percent Liberal}}_i = 31.07 + 46.96 \times \text{Segal-Cover Score}_i$$

Economics equation is:

$$\widehat{\text{Percent Liberal}}_i = 43.06 + 18.77 \times \text{Segal-Cover Score}_i$$

Barrett's Segal-Cover score is 0.23, so in civil liberties cases:

$$\begin{aligned}\widehat{\text{Percent Liberal}} &= 31.07 + (46.96 \times 0.23) \\ &\approx \mathbf{41.9 \text{ percent}}\end{aligned}$$

In economics cases:

$$\begin{aligned}\widehat{\text{Percent Liberal}} &= 43.06 + (18.77 \times 0.23) \\ &\approx \mathbf{47.4 \text{ percent}}\end{aligned}$$