

Oyez! Oyez! Oyez!

An Examination of the Centrality of the Supreme Court in the Legislative Process

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Abstract

While it is the duty of the legislature to create law, the duty of interpretation rests with the judiciary. Thus, a study of Congress's attention to and probable policy response to Supreme Court a change in attention by the Court is useful to studying the functional relations between them.

Research Questions

Is there a positive relation between the U.S. Supreme Court's attention to a topic and Congress's attention to that topic in the next Congress?

Does Legislation reflect cooperation or defiance with Supreme Court rulings?

Methods

Using the Comparative Agenda's Project's legislative and judicial datasets from 1967-2008, I calculated correlation coefficients for all policy topics in the coding scheme, using the number of U.S. Bills introduced and Supreme Court cases heard as measures of attention.

I performed a content analysis of U.S. Bills from the three topics most commonly addressed by the Court between 1967 and 2008. Analysis of U.S. Bill language focused on amount and tone of legislation referring to the Supreme Court (or judicial branch more generally) after major SCOTUS decisions.

Figure 1: Text Analysis: Most Common Case Topics

Topic	Case	Number of Bills	Common Language
Civil Rights	Regents UC v Bakke (Affirmative Action), Lawrence v Texas (Privacy)	28/4831 bills	"To limit the jurisdiction of the Supreme Court...to restrict as unconstitutional [ACTION]"
Law and Crime	Zablocki v Redhail (Marriage License) Deal v US (Accused Persons)	147/14431 bills	"To limit ..." "To provide a code of ethics..."
Domestic Commerce	Garcia v SA Met. Transit (Min wage) US v Lopez (Firearms)	62/17435 bills	"To clarify that... instrumentalities... subject to suit..." "To modify the prohibition on U.S. courts to..."

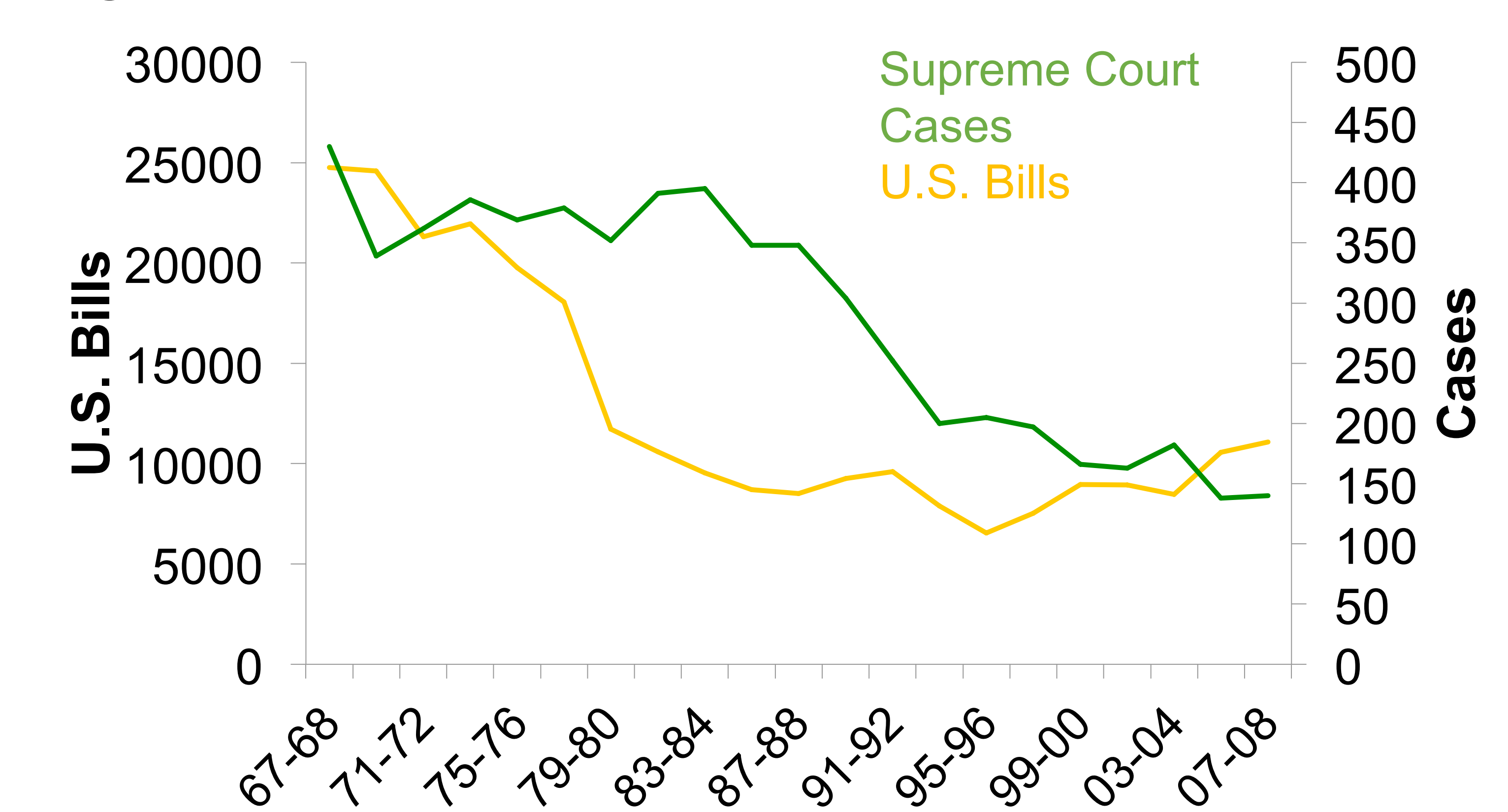
Figure 2: Correlation Coefficients of Policy Topics (1967-2008)

Topic	Congress 1	Congress 2
Strong Positive		
Transportation	0.805	0.831
Social Welfare	0.898	0.766
Defense	0.821	0.715
Labor	0.680	0.628
Gov. Operations	0.591	0.577
Moderate Positive		
Agriculture	0.522	0.481
Commerce	0.584	0.421
Civil Rights	0.464	0.391
Weak Positive/None		
Education	0.282	0.238
Law and Crime	0.093	0.194
Culture	0.372	0.155
Housing	0.105	0.119
Technology	-0.049	0.056
Weak Negative/None		
Energy	0.385	-0.014
Intl. Affairs	0.165	-0.039
Public Lands	0.067	-0.100
Immigration	-0.182	-0.125
Macroeconomics	0.063	-0.186
Foreign Trade	-0.271	-0.237
Environment	0.004	-0.248
Moderate Negative		
Health	-0.537	-0.483

*Congress 1 refers to the Congress that the case was heard in. Congress 2 refers to the Congress after the decision was delivered

Results

Figure 3: Patterns of Attention for "All Topics"



A 0.529 correlation coefficient for "All Topics."

A content analysis showed that:

(1) Civil Rights legislation referring to the Supreme Court almost always seeks to limit jurisdiction, postpone effectiveness, or compensate for inconvenience of the decision.

(2) Law and Crime legislation referring to the Court was similar to Civil Rights bills.

(3) Domestic Commerce legislation tends to reflect cooperation with the Court, often drawing on the same language used in landmark decisions.

Conclusion

While Transportation showed strong positive correlations in attention, others such as Health showed moderate negative correlations; meaning that for some topics, it is extremely likely that Congress's attention will vary with the Court's while for others, there is an inverse relation. Furthermore, whether legislation is cooperative or defiant also depends largely on the topic. These findings demonstrate that Congress responds to the Supreme Court's changes in attention to a given topic in unique ways.

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