

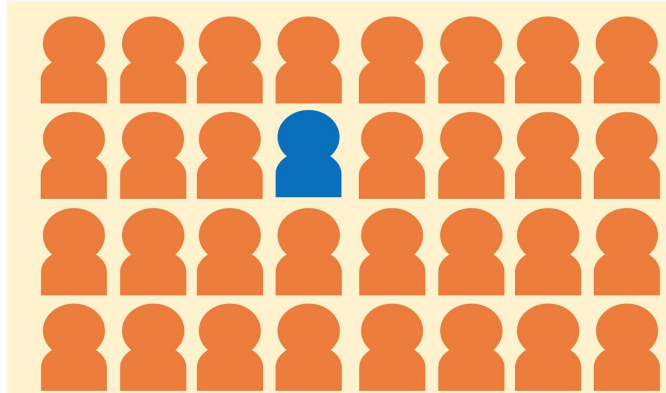


**The Supreme Court's
Countermajoritarianism? What Impact
Does Public Opinion Have on the Supreme
Court Decisions?**

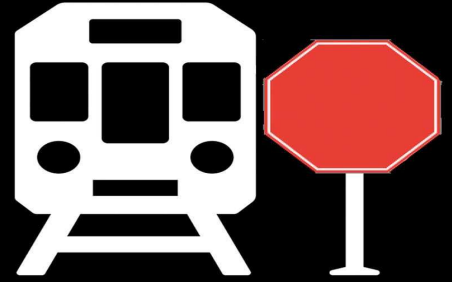
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What is a Countermajoritarian Institution?

- A Countermajoritarian Institution is an organization that goes against the majority.
- An idea that an institution is the protector of rights of minorities, whether that be race, religion, gender, or thought, against the tyranny of majorities.
- Not only about protecting the minority, but doing what is unpopular.



So What?



- **Uniqueness- Supreme Court is an unelected body of policymakers therefore, “undemocratic” and possess significant political power in our society.**
- **The assumption of the Court is that it acts as an independent power, one that protects us in pursuit of what is right and just.**
- **A brakeman is used as an analogy for the Supreme Court, unable to bring public opinion on issues to change but possess the ability to halt a train of thought that the Court deems “unconstitutional”.**

Why Does Anyone Care: The Impact on Society.

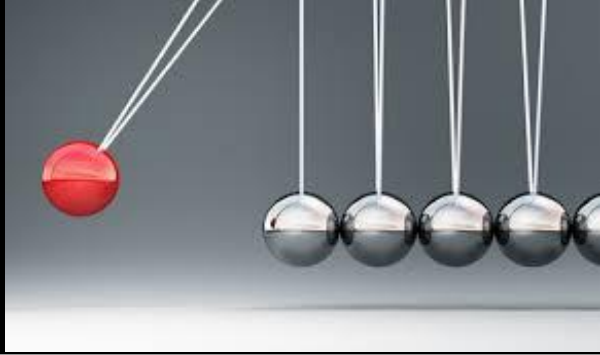
Supreme Court Cases demonstrate that the Court affects us in the most important and intimate parts of our lives.



- *Griswold v. Connecticut (1965)*- Without being explicitly stated in the Constitution, gave the general right to privacy.
- *NFIB v. Sebelius (2012)*- Millions of Americans now have access to health insurance.
- *Miller v. Alabama (2012)*- No longer permitted juveniles from receiving life without parole.
- *District of Columbia v. Heller (2008)*- guaranteed the right to possess a firearm.

We remember the Court for altering U.S. history, but what role did we the people have in influencing these decisions?

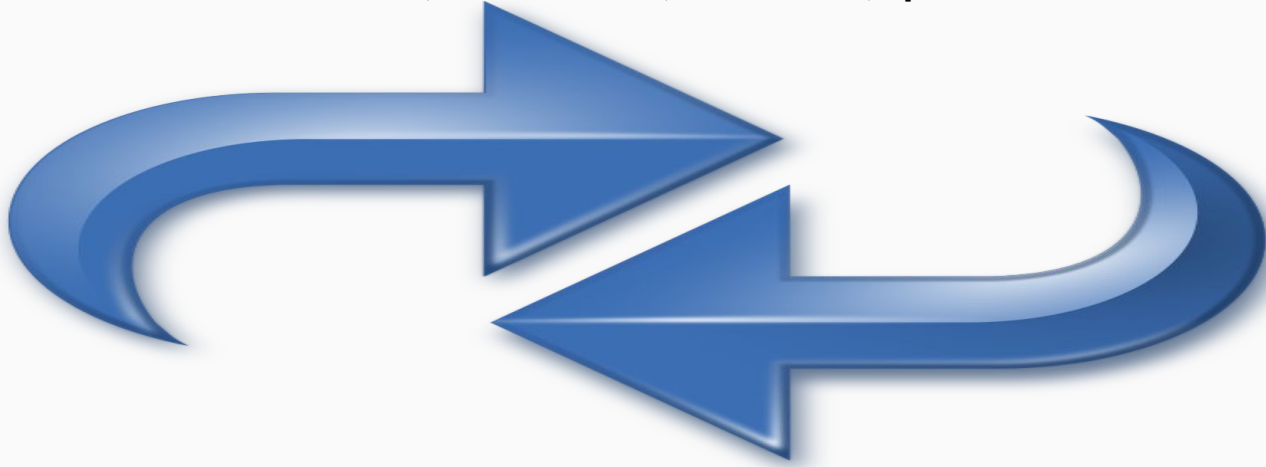
What Has Been Done?



- Legal Scholars for decades have debated the Court's role.
- Questioned if the Court could be influenced.
- To what degree can the American public affect Court decisions.
- William Mishler and Reginald Sheehan published their study in 1993.
- Concluded Court was listening.
- Was not a countermajoritarian institution.
- Found the possibility of a lag existing.
- Found the Court moving countermajoritarian at conclusion.

The Questions since 1993

- To re-consider the hypothesis that linkage between public opinion and the Supreme Court remains existent, current data must be used.
- Do ideology shifts within the Court influence their case decisions and is the lag Mishler and Sheehan found still prevalent?
- Is the Court growing more countermajoritarian as Mishler and Sheehan had found in the last portion of their study?
- Thus the question must be evaluated, has the court, since 1993, spun on Mishler and Sheehan's findings?



Sources

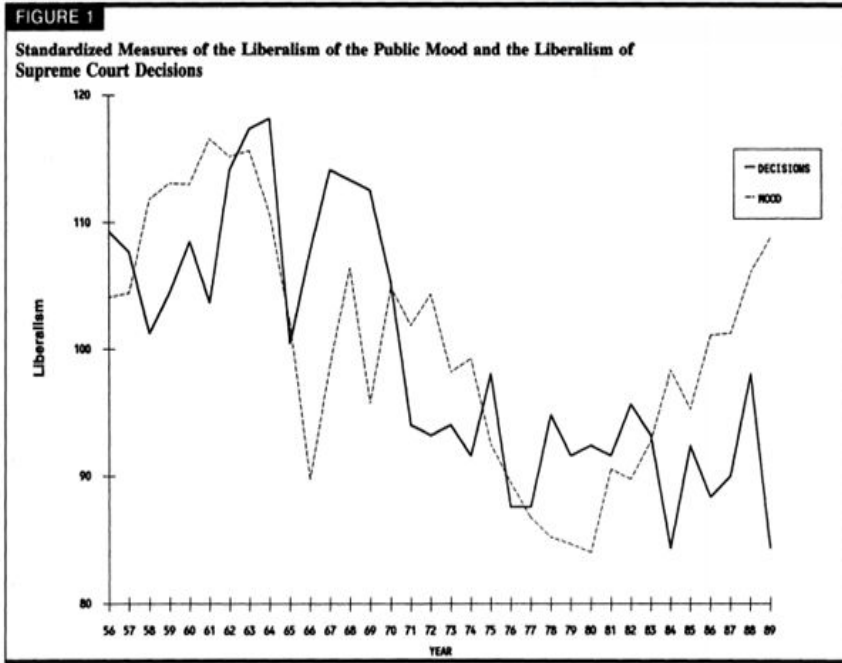
- **Spaeth Supreme Court Database.**
- **Stimson's "Public Policy Mood".**
- **Segal Cover Score.**



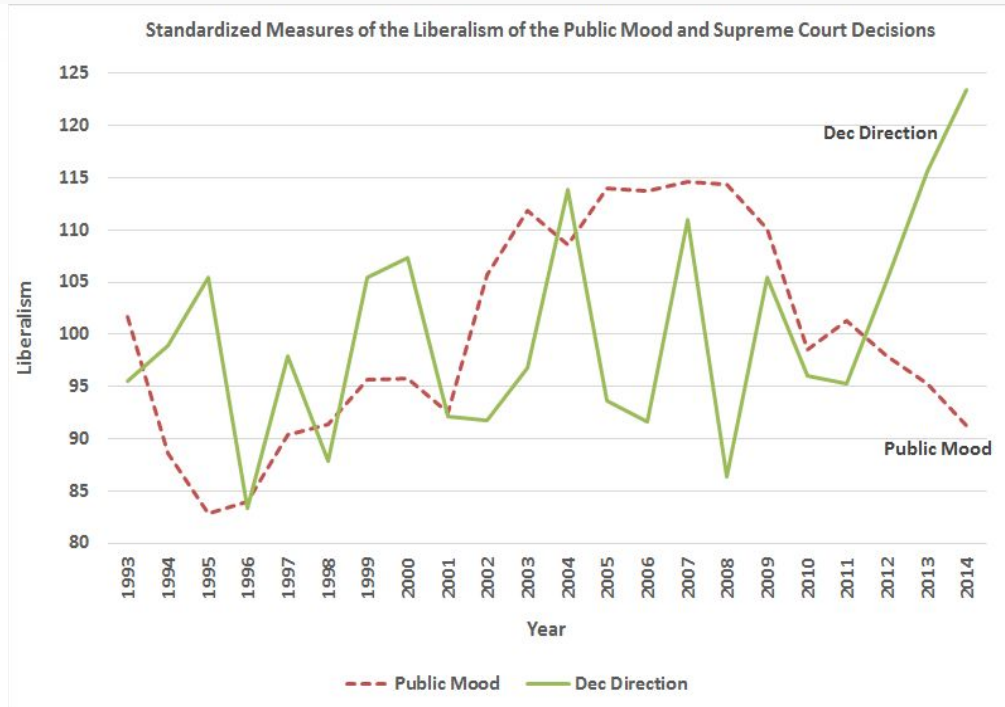
Methods

- **Composed a composite measure of the Supreme Court ideological tenor of each decision each year.**
- **Summarized Stimson's "Public Policy Mood" for every year.**
- **A sum of each justice's "Segal Cover Score" sitting on the Court each year was collected.**
- **Created multiple indexes that analyzed and compared Supreme Court decisions and public mood.**

Resulting Graphs



Mishler and Sheehan 1993



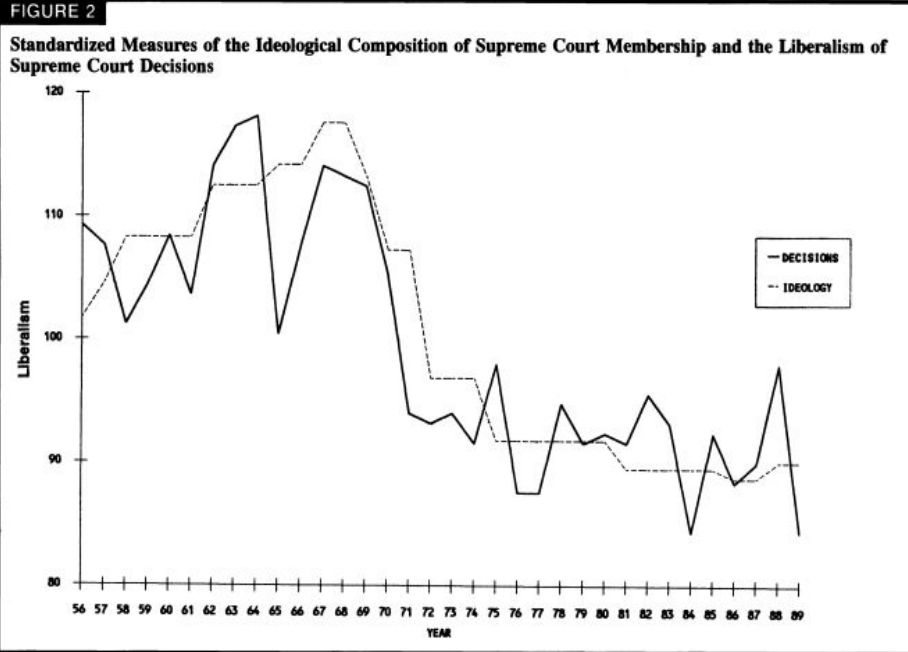
My updated graph

Listening to Public Opinion?

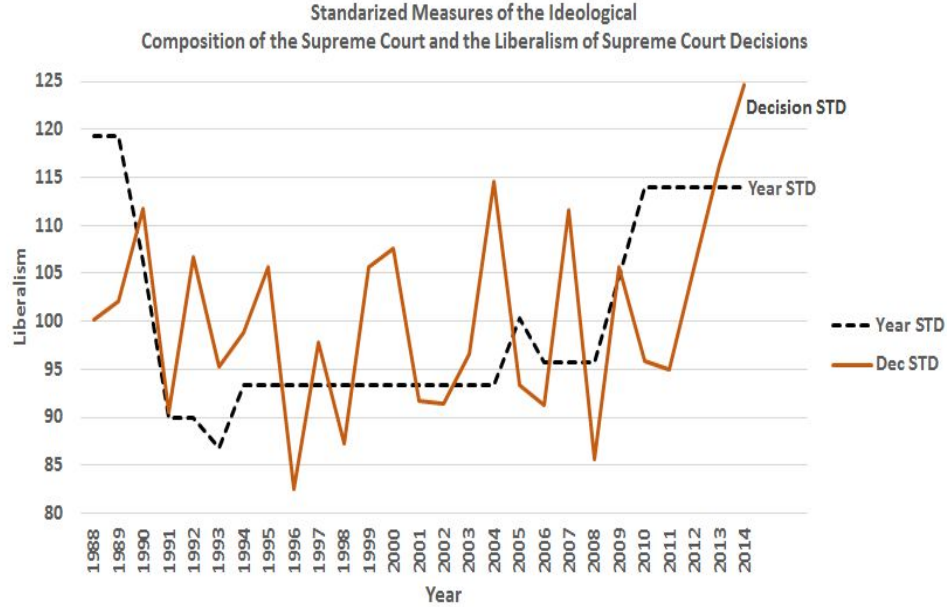


- **Despite some correlation, the Court's decisions experience very little matching of the public's liberalism.**
- **This is especially evident in the years following 2011.**
- **The question of if the Supreme Court is listening directly to the public opinion and correlating itself with the public's liberalism is found untrue.**
- **The Idea of a Countermajoritarian Court grows stronger.**

Graphs Continued



Mishler and Sheehan 1993

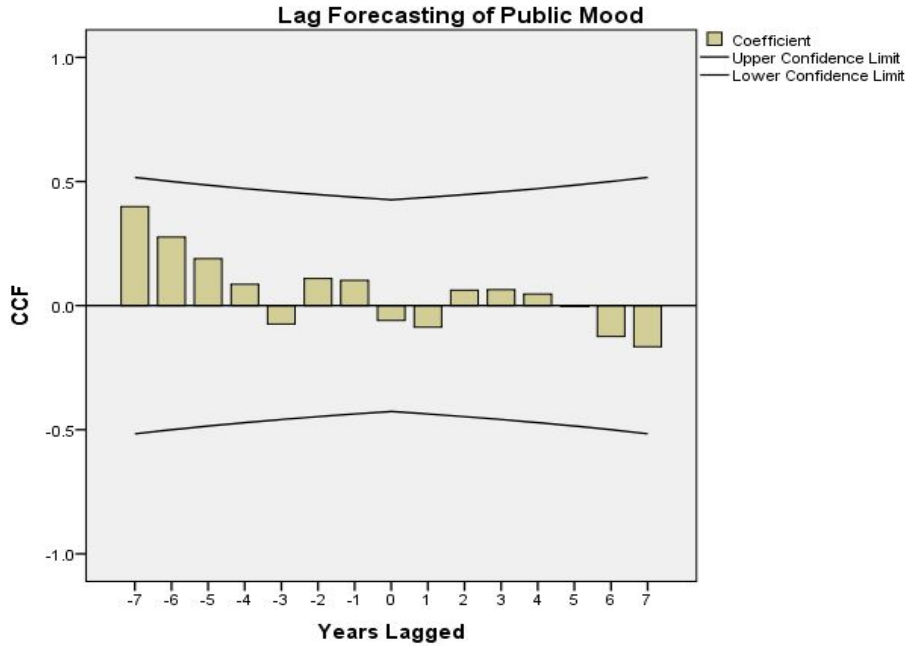


My updated graph

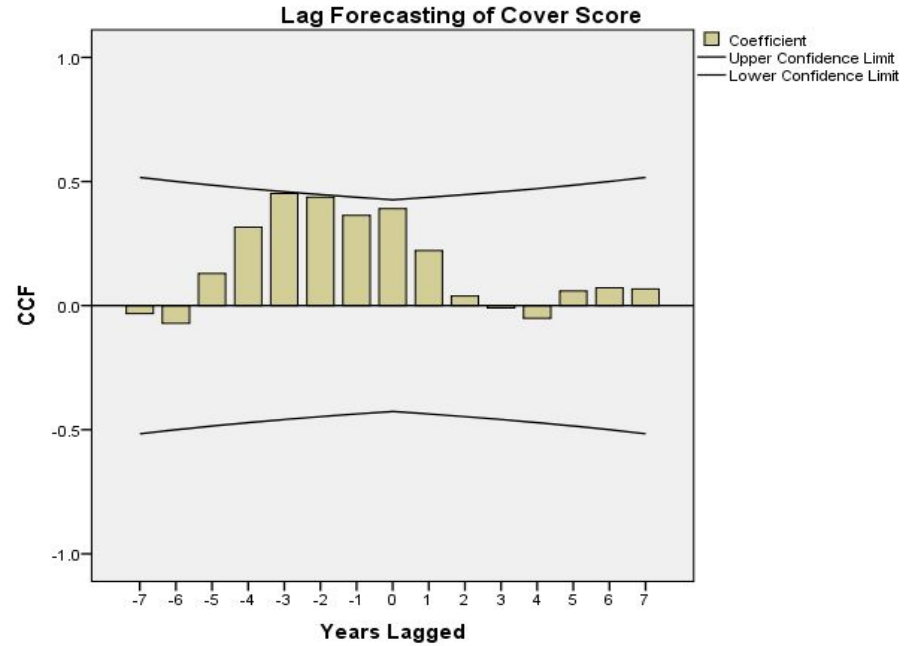
Court Ideology a Cause?

- **Despite upward shifts in ideological liberal membership, Court maintains its inconsistent decisions.**
- **Any positive correlations are with a perceived lag.**
- **Most profound in years after 2010.**

Resulting Lag Indexes



Supreme Court Decisions Impacted by Lag in Public Mood



Supreme Court Decisions Impacted by Lag in Court Ideology

Lag Results



- The public mood lag does not cross, therefore insignificant.
- No matter the direction of the lag, public mood does not impact the Supreme Court.
- The ideology lag eclipses the confidence threshold and is significant
- Concluding that the Court is influenced by ideology, taking about 3 years to reach the Court.

My Findings

- The Supreme Court has flipped on Mishler and Sheehan's 1993 conclusion.
- Mishler and Sheehan's conclusion of the Court growing more countermajoritarian was demonstrated.
- The public is moving more conservative while the Court is moving more liberal.
- The Supreme Court is accomplishing what it was intended to be, independent of and not swayed by public opinion.

