

For Online Publication

Web Appendix

A Alternative Explanations

Omitted Variables I examine the extent to which observable case and judge characteristics, caseload, and publication tendency vary over the election cycle. Berdejo and Chen (2017) displays the t-statistics for significant changes in the quarter before presidential elections for over 106 case and litigant characteristics coded in the database. There is no increase or decrease before presidential elections on substantive legal issues.²⁴ There is also no difference before elections in litigant type or strategy, including how many appellants or respondents were persons, businesses, public interest groups, or government actors, and so on. Along four procedural issues—issues in the “other” category—there is some evidence of an increase before a presidential election. The results are robust to including these issues as controls.

Appendix Table D shows that the type, caseload, and composition of the three-judge panels do not vary over the electoral cycle. The proportion of panels with judges from both parties is evenly distributed across the political cycle (Column 1). The number of cases in each of five broad legal categories does not systematically change in the quarter before presidential elections (Columns 2-6). When I count up the monthly number of cases in each Circuit in the AOC, I also observe no electoral cycle in caseload (Column 7).²⁵

Appendix Table E, Column 5 shows that the proportion of cases published (all cases are decided but only some of them are published) does not significantly increase in the quarter before a presidential election. This table comes from Berdejó (2012), who constructs and conducts extensive analysis of a database linking the universe of Ninth Circuit cases and the AOC beginning in 1990. The table also shows that there is no systematic difference in time spent between docket and judgment (Columns 6-8) or between hearing and judgment before an election (Columns 9-11). The monthly number of cases filed is also not systematically different before elections (Column 4).

In summary, my results suggest that the electoral cycles observed are unlikely to be due to judges having more or less time on their hands or differences in unobservable case types. The large variation in the length of time required to resolve a case seen in Appendix Table E also suggests that it would be very difficult for lower court appellants to time their filing (or for District Court judges to time their decision) so that Circuit decisions occur in a particular month.

²⁴Legal issues include whether there was an issue of constitutionality; whether the court engaged in statutory interpretation; whether the issue involved state or local law, an executive order or administrative regulation, summary judgment, alternative dispute resolution, conflict of laws, international law, or agency discretion.

²⁵The large standard errors in this Column is attributable to the tremendous variation in the monthly number of cases recorded in the AOC.

Career Concerns Electoral cycles are typically explained by re-election concerns, but Courts of Appeals judges are appointed for life. I next consider career concerns, reputational capital (including legacy concerns and collegiality norms), and get-out-the-vote campaigns. In Chen (2024), I show that judges who are elevated to the Supreme Court, on the shortlist as a potential Supreme Court candidate, or about to retire after the election are not more likely to dissent before elections. Moreover, there is no correlation between dissenting before an election and the candidate from one’s party winning the presidential election.

The higher office that Courts of Appeals judges may primarily aspire to is the U.S. Supreme Court. In my 5% sample, not a single judge elevated to the Supreme Court chose to dissent before an election. Using a shortlist of 71 Courts of Appeals judges considered for the Supreme Court (Nemacheck 2007), there is also no partial correlation between dissenting before an election and being a potential nominee. It is also not theoretically clear whether dissenting is a good strategy to get promoted to the Supreme Court: it could also signal an inability to persuade colleagues and forge a majority coalition on the Supreme Court.

Getting Out the Vote Perhaps judges have electoral incentives to get out the vote despite professional rules that forbid any type of political involvement. Getting out the vote for the President is, however, unlikely to explain these electoral cycles. Political candidates from the dissenting judges’ party in the presidential and Senate elections are no more likely to win. Also, if judges are trying to get out the vote, dissents would not peak in the third month before the presidential election. Moreover, as presidential primaries involve competition within the same party to be the nominee for the general election, dissents during the presidential primary season do not obviously encourage voters to vote for a specific candidate. Theoretically, it is also unclear that casting a partisan vote will be relevant, since undecided voters may backlash to partisan behavior and may not notice the dissents. Even if partisan votes are relevant, since case decisions are promulgated at the Circuit—not state—level, judges in all states would have an interest in getting out the vote.

Retirement and Reputational Capital Perhaps judges seek to influence precedent when they or their colleagues retire. But judges who are about to retire or resign after an election are not significantly more likely to dissent. Perhaps collegiality norms breakdown during the election, but a shift in collegiality norms and the retirement of colleagues should uniformly affect all judges. Perhaps judges gain reputational capital for dissenting before an election. However, elections of the most physically proximate politician—the state governor—do not affect the dissent rate. Also, newspapers are no more likely to report on Courts of Appeals decisions or their dissents before presidential elections (Appendix Table G).²⁶ Notably, judges appear to dissent for highly discretionary, procedural reasons; and various citation measures for an opinion’s impact or quality

²⁶Appendix Table G Columns 1-3 use a database of newspapers covering each Circuit and is simply the count of newspaper articles satisfying a word search. When I collapse the 5% sample by quarter-to-election and Circuit for 192 observations and remove controls in order to run the analogous specification, the dissent is still significantly elevated for each of the three quarters before the presidential election.

suggest that dissents attributable to electoral cycles do not strongly contribute to the development of law, which is inconsistent with judges seeking to build a reputation. Furthermore, even if judges are changing legal precedent in order to make signals when their state’s electorate or politicians are paying attention, this would make their activities all the more surprising, as they gain no benefit in likelihood of elevation to the Supreme Court.

Attention A final explanation is not an alternative behavioral explanation, but instead an important behavioral mechanism that would have different policy implications. Do judges shift their attention to cases that require dissent, and away from other cases, before an election? Such a shift could still be due to priming. I can determine whether judges temporally relocate their dissents by first examining the dissent rate after landslide elections, which decreases even though it did not increase before the election. Appendix Table F presents a formal test of displacement using all of the data. I analyze aggregate dissent rates and their relationship to the competitiveness of the presidential election. I estimate the dissent spike—the difference in the dissent rate in the three quarters before the election with the dissent rate in the three quarters after the election—for each Circuit and each election, and I examine its correlation with the percent of the Electoral College votes that went to the winner.²⁷ If dissents are displaced, I should see a positive correlation between the increase in the dissent rate before the election and the size of the decrease in the dissent rate after the election. Instead, I see a negative correlation. Appendix Table F reports that the dissent increase in the three months before an election is negatively correlated with the dissent decrease in the three months after. A negative correlation suggests that polarizing elections elevate dissents even after an election is over. Appendix Table F shows that the results are robust to using different definitions of the election cycle that form the baseline for the dissent increase/decrease around the election. Second, displacing controversial cases to a later time does not apply to the wartime results; wars can last for several years, and court guidelines limit the ability to delay cases for that long. Finally, delaying a case is largely a joint decision. It is conceivable that a judge could unilaterally delay the decision on a case – for instance, by being slower to respond to drafts – but it is much harder for a judge to speed up the decision and harder still for him or her to speed up a decision with dissents, as the other two judges would need to review the dissent and decide how to incorporate a response into the majority opinion (and the dissenting judge needs time to write the dissent). Note that there were no significant differences before an election in numbers of decisions, proportion of published cases, or time between stages of the case, as reported earlier. Finally, I note that I cannot determine if the political environment is affecting people around the judge, such as family members or clerks, who can have indirect effects on the judge.

²⁷In construction of all aggregate dissent rates, I winsorize at the 1% level. The results are similar when I do not winsorize.

Appendix Table A: Summary Statistics

<i>Panel A: Case Level</i>		<i>Panel B: Judge-Vote Level</i>	
	5% Sample (1925-2002)		5% Sample (1925-2002)
Dissent	0.0786 (0.00197)	Dissent	0.0234 (0.000638)
Divided (DRR or RDD)	0.697 (0.00336)	Majority	0.768 (0.00178)
Criminal	0.269 (0.00324)	Previous US Attorney or Assistant US Attorney	0.154 (0.00160)
Civil Rights	0.0859 (0.00205)	Democrat	0.510 (0.00211)
First Amendment, Due Process, Privacy	0.0281 (0.00121)	Appointed by Democrat	0.491 (0.00211)
Labor Relations	0.0723 (0.00189)	Presidential Party Candidate Wins Election	0.496 (0.00211)
Economic Activity	0.509 (0.00366)	Close Election (Electoral Count < 55%)	0.048 (0.00090)
Dissent for Procedural, not Merit Reasons	0.0925 (0.0193)	Age	62.19 (0.0393)
Citations by Subsequent Opinions	6.143 (0.0693)	Experience	10.33 (0.0335)
Citations by Subsequent Dissents	0.549 (0.00787)	Inexperience (Experience ≤ 10 years)	0.600 (0.00221)
Affirm	0.568 (0.00362)	Elevated	0.0161 (0.000555)
Reverse	0.269 (0.00303)	Retire Next Year	0.0309 (0.000731)
N	18686	N	56147
<i>Panel C: Judge Level</i>		Voting Valence if Democratic Appointee	
Resignation	0.0230 (0.00310)	Judge	
Retirement	0.124 (0.00870)	Conservative	47%
Retirement, when Same Party in Power	0.0506 (0.00521)	Liberal	36%
Retirement, when Different Party in Power	0.0732 (0.00611)	Mixed	6%
Resignation, when Same Party in Power	0.0152 (0.00248)	Could not be determined	11%
Resignation, when Different Party in Power	0.00781 (0.00178)	N	27550
N	2433	Voting Valence if Republican Appointee	
		Judge	
		Conservative	52%
		Liberal	32%
		Mixed	7%
		Could not be determined	9%
		N	28597

Note: Coefficients shown are from an OLS regression on a constant.

Appendix Table B: Electoral Cycles - Robustness Checks

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	5% Sample (1925-2002)							
	Dissent (2-1 Decision)							Concurrence
Mean of dep. var.	0.079							0.036
Quartertoelect = 1	0.0680*** (0.0135)	0.0653*** (0.0146)	0.0527*** (0.0132)	0.0668*** (0.0135)	0.0868*** (0.0221)	0.0680*** (0.0124)	0.0667*** (0.0134)	0.0195** (0.00767)
Quartertoelect = 2	0.0341** (0.0145)	0.0256 (0.0163)	0.0255* (0.0138)	0.0331** (0.0145)	0.0457** (0.0205)	0.0341*** (0.0106)	0.0329** (0.0144)	0.0182** (0.00725)
Quartertoelect = 3	0.0343** (0.0133)	0.0291* (0.0149)	0.0302** (0.0134)	0.0335** (0.0133)	0.0451** (0.0192)	0.0343*** (0.00956)	0.0337** (0.0133)	0.00923 (0.00598)
Quartertoelect = 4	0.00582 (0.0111)	0.0135 (0.0135)	0.00578 (0.0111)	0.00580 (0.0111)	0.00669 (0.0133)	0.00582 (0.0116)	0.00549 (0.0110)	0.00495 (0.00733)
Quartertoelect = 5	0.0251 (0.0159)	0.0260 (0.0176)	0.0102 (0.0156)	0.0245 (0.0159)	0.0317 (0.0215)	0.0251 (0.0215)	0.0250 (0.0158)	0.00172 (0.0103)
Quartertoelect = 6	0.0115 (0.0153)	0.0167 (0.0183)	0.00302 (0.0155)	0.0106 (0.0153)	0.0154 (0.0182)	0.0115 (0.0119)	0.0113 (0.0151)	0.00265 (0.0104)
Quartertoelect = 7	0.0238 (0.0153)	0.0290 (0.0186)	0.0194 (0.0150)	0.0233 (0.0153)	0.0286 (0.0195)	0.0238 (0.0156)	0.0233 (0.0152)	0.00626 (0.0100)
Quartertoelect = 8	0.00870 (0.0142)	0.00722 (0.0171)	0.00859 (0.0141)	0.00903 (0.0141)	0.00910 (0.0151)	0.00870 (0.0157)	0.00850 (0.0141)	0.00301 (0.00917)
Quartertoelect = 9	-0.00718 (0.0157)	-0.0151 (0.0191)	-0.0218 (0.0157)	-0.00707 (0.0157)	-0.00378 (0.0145)	-0.00718 (0.0199)	-0.00704 (0.0156)	-0.00208 (0.0111)
Quartertoelect = 10	-0.0110 (0.0168)	-0.0191 (0.0199)	-0.0193 (0.0174)	-0.0115 (0.0168)	-0.00754 (0.0144)	-0.0110 (0.0170)	-0.0107 (0.0168)	-0.00521 (0.0119)
Quartertoelect = 11	0.00269 (0.0167)	-0.0108 (0.0197)	-0.00142 (0.0171)	0.00259 (0.0167)	0.00399 (0.0159)	0.00269 (0.0162)	0.00332 (0.0165)	-0.00946 (0.0114)
Quartertoelect = 12	-0.00929 (0.0129)	-0.0116 (0.0148)	-0.00912 (0.0129)	-0.00948 (0.0129)	-0.00658 (0.0110)	-0.00929 (0.0155)	-0.00943 (0.0129)	0.00209 (0.00745)
Quartertoelect = 13	0.00451 (0.0151)	0.00913 (0.0171)	-0.0101 (0.0148)	0.00444 (0.0150)	0.00477 (0.0138)	0.00451 (0.0198)	0.00427 (0.0151)	0.00360 (0.00795)
Quartertoelect = 14	-0.0159 (0.0147)	-0.0228 (0.0166)	-0.0243 (0.0151)	-0.0166 (0.0146)	-0.0110 (0.0118)	-0.0159 (0.0149)	-0.0156 (0.0147)	-0.00425 (0.00795)
Quartertoelect = 15	-0.0154 (0.0121)	-0.0195 (0.0145)	-0.0194 (0.0127)	-0.0155 (0.0120)	-0.0121 (0.00929)	-0.0154 (0.0141)	-0.0152 (0.0122)	-0.00397 (0.00828)
Concurrence							0.0665*** (0.0154)	
Year FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Circuit FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Legal Issue FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Probability Weights	No	Yes	No	No	No	No	No	No
Season (Months 3-5/6-8/9-11/12-2) FE	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Season (Months 1-3/4-6/7-9/10-12) FE	No	No	Yes	No	No	No	No	No
Divided (RDD or DRR) FE	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Panel (DDD, DDR, DRR, or RRR) FE	No	No	No	Yes	No	No	No	No
Probit	No	No	No	No	Yes	No	No	No
Cluster Quarter-Year	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Cluster Circuit	No	No	No	No	No	Yes	No	No
Observations	18686	18686	18686	18686	18686	18686	18686	18686
R-squared	0.021	0.021	0.022	0.022		0.021	0.023	0.016

Notes: Robust standard errors clustered at the quarter-year level in parentheses (* p < 0.10; ** p < 0.05; *** p < 0.01). Probability weights use statistics on the number of cases in each circuit year according to the 5% sample codebook. The omitted dummy variable indicating the number of quarters remaining before the presidential election is 16 quarters. Data is organized at the case level.

Appendix Table C: Electoral Cycles in Dissents - Additional Robustness Checks

	(1)	(2)	(3)	(4)
	5% Sample (1925-2002)			
Mean of dep. var.	0.079			
	OLS	Probit	Drop 1 Circuit	Keep 1 Circuit
Quarters to Election	-0.00284*** (0.000709)	-0.00293*** (0.000765)	Each coefficient represents a separate OLS regression.	
Last Quarter All Circuits				0.0680*** (0.0135)
Last Quarter Circuit 1			0.0686*** (0.0142)	0.0747* (0.0429)
Last Quarter Circuit 2			0.0679*** (0.0142)	0.0778 (0.0600)
Last Quarter Circuit 3			0.0639*** (0.0136)	0.118* (0.0661)
Last Quarter Circuit 4			0.0715*** (0.0138)	0.0301 (0.0581)
Last Quarter Circuit 5			0.0729*** (0.0138)	0.0355 (0.0296)
Last Quarter Circuit 6			0.0627*** (0.0130)	0.127*** (0.0436)
Last Quarter Circuit 7			0.0706*** (0.0142)	0.0509 (0.0372)
Last Quarter Circuit 8			0.0714*** (0.0143)	0.0252 (0.0438)
Last Quarter Circuit 9			0.0674*** (0.0135)	0.0876** (0.0345)
Last Quarter Circuit 10			0.0713*** (0.0149)	0.0459 (0.0350)
Last Quarter Circuit 11			0.0685*** (0.0139)	0.0706 (0.0537)
Last Quarter Circuit 12			0.0603*** (0.0145)	0.177*** (0.0653)
Year FE	Yes	Yes	Yes	Yes
Circuit FE	Yes	Yes	Yes	No
Season FE	Yes	Yes	Yes	Yes
Legal Issue FE	Yes	Yes	Yes	Yes
Divided (RDD or DRR) FE	Yes	Yes	Yes	Yes
Quarter-to-Election FE	No	No	Yes	Yes

Notes: Robust standard errors clustered at the quarter-year level in parentheses (* $p < 0.10$; ** $p < 0.05$; *** $p < 0.01$). The explanatory variables of interest is a dummy variable indicating whether it is the last quarter before an election (Columns 3-5) or a continuous variable for quarters to election (Columns 1-2). Marginal effect from a probit specification of dissent on continuous variable for quarters to election in Column 2. Data is organized at the case level.

Appendix Table D: Panel Composition, Case Type, and Case Load Over Political Cycle

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Divided Panel	Criminal	Civil Rights	First Amendment, Due Process, Privacy	Labor Relations	Economic Activity	Monthly # of Publications (AOC 1971-1999)
Mean of dep. var.	0.697	0.269	0.086	0.028	0.072	0.509	260
Quartertoelect = 1	-0.0100 (0.0196)	-0.0168 (0.0221)	-0.0111 (0.0156)	-0.0140 (0.00996)	-0.000990 (0.0114)	0.0143 (0.0304)	0.501 (8.242)
Quartertoelect = 2	0.0161 (0.0212)	0.00356 (0.0215)	-0.0131 (0.0144)	-0.00190 (0.00952)	-0.0174 (0.0126)	0.0234 (0.0269)	-7.276 (9.106)
Quartertoelect = 3	0.00598 (0.0212)	-0.0109 (0.0195)	-0.0164 (0.0135)	-0.0122 (0.00842)	0.00858 (0.0124)	0.0248 (0.0247)	2.358 (8.693)
Quartertoelect = 4	0.00489 (0.0220)	0.00925 (0.0213)	-0.0159 (0.0147)	0.00653 (0.00867)	0.00697 (0.0114)	-0.0217 (0.0261)	-11.83 (8.653)
Quartertoelect = 5	-0.0305 (0.0311)	-0.0242 (0.0293)	-0.00742 (0.0174)	-0.00931 (0.0107)	-0.0195 (0.0147)	0.0326 (0.0344)	-8.162 (11.05)
Quartertoelect = 6	-0.00880 (0.0302)	-0.0109 (0.0267)	-0.00751 (0.0184)	-0.00821 (0.0106)	-0.00586 (0.0159)	0.0256 (0.0313)	-16.91 (11.78)
Quartertoelect = 7	0.00431 (0.0298)	-0.0161 (0.0255)	0.00225 (0.0175)	-0.00722 (0.00969)	0.00697 (0.0165)	0.0190 (0.0305)	-10.39 (11.58)
Quartertoelect = 8	0.0288 (0.0270)	-0.0216 (0.0242)	0.000676 (0.0162)	-0.00713 (0.00850)	-0.00418 (0.0130)	0.0216 (0.0262)	-10.21 (10.26)
Quartertoelect = 9	0.00651 (0.0308)	-0.00947 (0.0292)	-0.0205 (0.0202)	-0.0131 (0.0109)	-0.0209 (0.0155)	0.0575* (0.0300)	-6.158 (11.85)
Quartertoelect = 10	0.00915 (0.0311)	-0.00102 (0.0290)	0.00251 (0.0185)	-0.0186* (0.0100)	-0.0362** (0.0148)	0.0484 (0.0322)	-19.02 (12.21)
Quartertoelect = 11	-0.00562 (0.0287)	-0.0372 (0.0293)	-0.00187 (0.0164)	-0.0210** (0.00940)	-0.0134 (0.0142)	0.0703** (0.0319)	-10.85 (11.58)
Quartertoelect = 12	-0.00609 (0.0264)	0.0127 (0.0220)	-0.0123 (0.0145)	-0.0108 (0.00700)	-0.0160 (0.0110)	0.0305 (0.0217)	-11.29 (8.398)
Quartertoelect = 13	-0.0270 (0.0302)	0.00922 (0.0239)	-0.0152 (0.0168)	-0.00570 (0.00855)	-0.0248** (0.0117)	0.0396 (0.0248)	-6.209 (9.896)
Quartertoelect = 14	-0.00711 (0.0300)	0.0176 (0.0234)	-0.00223 (0.0158)	-0.0126 (0.00893)	-0.0189 (0.0124)	0.00518 (0.0241)	-11.01 (9.421)
Quartertoelect = 15	-0.00282 (0.0307)	-0.00209 (0.0226)	-0.00727 (0.0164)	-0.0209*** (0.00778)	-0.0174 (0.0123)	0.0518** (0.0251)	-6.834 (9.101)
Divided (DRR or RDD)		-0.0108 (0.00750)	0.00151 (0.00472)	0.00271 (0.00266)	0.00396 (0.00443)	0.00396 (0.00770)	
Year FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Circuit FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Season FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Observations	18686	18686	18686	18686	18686	18686	4344
R-squared	0.048	0.050	0.053	0.022	0.021	0.099	0.773

Notes: Robust OLS standard errors in parentheses (* p < 0.10; ** p < 0.05; *** p < 0.01). In Columns 1-6, data comes from 5% Sample (1925-2002) and standard errors are clustered at the quarter-year level. The outcome variable in Column 1 is a dummy variable equal to 1 if the case was heard by an ideologically divided panel. The outcome variables in Columns 2-6 are dummy variables indicating the type of legal issue addressed in the case. Data is organized at the case level. The outcome variable in Column 7 is the number of opinions; observations are at the month-year-circuit level. The explanatory variables of interest are dummy variables indicating the number of quarters remaining before the upcoming presidential election (16 quarters to the election is the omitted dummy variable). The sample comes from the Administrative Office of the U.S. Courts.

Appendix Table E: Workload, Fraction of Opinions Published, and Time Spent per Case Overall Over Political Cycle

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
							Average			Average
							Number of			Number of
	Number of				Average	Median	Months	Average	Median	Months
	Months in				Number of	Number of	Between	Number of	Number of	Between
	sample for				Months	Months	Docket and	Months	Months	Hearing and
					Between	Between	Judgment	Between	Between	Judgment
Quarters to	Correspondin			Fraction of	Docket and	Docket and	Dates	Hearing and	Hearing and	Dates
Election from	g Quarter-to-	Total	Frequency	Opinions	Judgment	Judgment	(Winsorized	Judgment	Judgment	(Winsorized
Judgement	Election	Frequency	per Month	Published	Dates	Dates	at 1%)	Dates	Dates	at 1%)
1	12	52746	4396	0.2495074	8.5920	7	8.4868	3.7137	3	3.6145
2	12	53391	4449	0.2813046	8.9610	7	8.8485	3.3079	2	3.2679
3	12	54443	4537	0.2516766	8.6393	7	8.5670	3.1136	2	3.0737
4	12	47668	3972	0.2465562	8.7825	7	8.5154	3.0224	2	2.9523
5	12	50326	4194	0.270668	8.5823	7	8.4547	3.5885	3	3.5145
6	10	44171	4417	0.2720845	8.6311	7	8.5164	3.1347	2	3.0906
7	9	41154	4573	0.2342064	8.6963	7	8.5808	2.9408	2	2.9010
8	9	38264	4252	0.2344589	8.6380	7	8.5039	2.9515	2	2.8933
9	9	40306	4478	0.2743085	9.2000	7	8.8493	5.0413	3	4.1418
10	11	51733	4703	0.2524602	8.8967	7	8.7849	3.1818	2	3.1350
11	12	58064	4839	0.2241771	9.0300	7	8.8910	3.0743	2	3.0056
12	12	53912	4493	0.2186259	8.7906	7	8.6921	3.0238	2	2.9656
13	12	55714	4643	0.2533894	8.9531	7	8.8551	3.6881	3	3.6047
14	12	57527	4794	0.2568451	8.7720	7	8.5901	3.2822	2	3.2325
15	12	55131	4594	0.2342661	8.6848	7	8.5649	2.9590	2	2.9247
16	12	51019	4252	0.2325924	8.6368	7	8.5363	2.9959	2	2.9382
Obs				494686		805569	805569		178613	178613
Mean			4474	0.2565648		8.7818	8.6446		3.3074	3.2053
Std. Dev.			228.6077			8.0387	7.1462		4.0422	3.3524

Notes: Data come from Administrative Office of the U.S. Courts.

Appendix Table F: Test for Displacement

	(1)	(2)	(3)
<i>Panel A: Election cycle begins with a year divisible by four</i>	Dissent Increase: Dissent Rate in Three Quarters Before Election - Mean Dissent Rate (5% Sample, 1925-2002)		
Mean of dep. var.	0.006		
Dissent Decrease: Mean Dissent Rate - Dissent Rate in Three Quarters After Election	-0.246*** (0.0839)	-0.266*** (0.0910)	-0.246** (0.0993)
Circuit FE	No	Yes	Yes
Election FE	No	No	Yes
Observations	211	211	211
R-squared	0.049	0.108	0.191
<i>Panel B: Election cycle begins with a year where year-2 is divisible by four</i>	Dissent Increase: Dissent Rate in Three Quarters Before Election - Mean Dissent Rate (5% Sample, 1925-2002)		
Mean of dep. var.	0.008		
Dissent Decrease: Mean Dissent Rate - Dissent Rate in Three Quarters After Election	-0.230*** (0.0641)	-0.241*** (0.0692)	-0.244*** (0.0755)
Circuit FE	No	Yes	Yes
Election FE	No	No	Yes
Observations	211	211	211
R-squared	0.053	0.131	0.184

Notes: Robust OLS standard errors in parentheses (* $p < 0.10$; ** $p < 0.05$; *** $p < 0.01$). Each election-circuit is a separate observation. Standard errors are clustered at the election level. Dissent rate in three quarters before election is winsorized at the 1% level. The number of cases in these three quarters are used as regression weights. Mean Dissent Rate is the mean dissent rate in the electoral cycle not including the three quarters before and after the election. For example, dissents from February to October of 2000 comprise the mean dissent rate in the three quarters before the 2000 election, dissents from November of 2000 to July of 2001 comprise the mean dissent rate in the three quarters after the 2000 election, dissents from other months between 2000 and 2003 comprise the mean dissent rate for that election cycle. Election fixed effects represent every group of four consecutive years beginning with a year divisible by four in Panel A. Results are robust to shifting the cycle by two years so that the mean dissent rate comprise months between 1998 to 2001 not including the six month window around the election in Panel B.

Appendix Table G: Electoral Cycles in Newspaper Articles

	(1)	(2)	(3)	(4)	(5)	(6)
	Mentioning Federal Appellate Court Dissents			Mentioning "Republican" and "Democrat"		
Mean of dep. var.	3.09			148		
Last Quarter	-0.343 (0.711)	0.214 (0.966)	-0.662 (1.505)	81.54*** (9.646)	65.74*** (13.95)	24.65*** (9.501)
Quarter-to-election FE	No	Yes	Yes	No	Yes	Yes
Year FE	No	No	Yes	No	No	Yes
Observations	183	183	183	1294	1294	1294
R-squared	0.000	0.075	0.273	0.065	0.121	0.810

Notes: Robust OLS standard errors in parentheses (* $p < 0.10$; ** $p < 0.05$; *** $p < 0.01$). Data is collapsed to quarter-year level. Data in Columns 1-3 come from Newsbank searches using (judgment or 'court ruling') and ([enumerated circuit names]) and (not 'supreme court') and dissent from 1981 to 2013. Data in Columns 4-6 come from ProQuest search of New York Times articles from 1900-2007 mentioning 'Republican' and 'Democrat' in the same article.

Appendix Table H: Electoral Cycles in Dissents by Case Type

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	1-Digit Case Category						2-Digit Case Category			
	Criminal	Civil Rights	First Amendment	Due Process	Labor Relations	Economic Activity	Misc.	Criminal Federal	Economic Commercial	Economic Property
Mean of dep. var.	0.077	0.100	0.185	0.100	0.093	0.071	0.073	0.071	0.071	0.061
Quartertoelect = 1	0.0737*** (0.0192)	0.0339 (0.0494)	0.114 (0.152)	0.0486 (0.127)	0.0449 (0.0573)	0.0586*** (0.0162)	-0.00848 (0.0950)	0.0569*** (0.0202)	0.0942** (0.0375)	0.185*** (0.0690)
Quartertoelect = 2	0.0453** (0.0178)	-0.00204 (0.0432)	0.0300 (0.141)	-0.0625 (0.0639)	-0.0351 (0.0388)	0.0306** (0.0154)	-0.0679 (0.0840)	0.0362* (0.0184)	0.0311 (0.0300)	0.0513 (0.0357)
Quartertoelect = 3	0.0300 (0.0220)	0.0518 (0.0554)	-0.117 (0.133)	0.0486 (0.105)	0.0134 (0.0457)	0.0223 (0.0143)	-0.102 (0.0805)	0.0234 (0.0217)	0.0186 (0.0220)	0.0638* (0.0349)
Quartertoelect = 4	0.0406** (0.0179)	-0.0395 (0.0460)	-0.176 (0.124)	0.152 (0.143)	0.00417 (0.0374)	-0.00981 (0.0123)	-0.130* (0.0750)	0.0310 (0.0203)	-0.00592 (0.0200)	0.0217 (0.0212)
Quartertoelect = 5	0.0590*** (0.0204)	-0.0251 (0.0436)	0.0441 (0.153)	0.0804 (0.155)	0.00345 (0.0456)	0.0159 (0.0152)	0.0258 (0.0922)	0.0592** (0.0234)	0.0234 (0.0262)	9.08e-17 (1.93e-09)
Quartertoelect = 6	0.0155 (0.0166)	-0.0163 (0.0454)	-0.250** (0.105)	-0.00694 (0.0837)	-0.0519 (0.0356)	0.0341* (0.0174)	-0.0615 (0.0877)	0.00613 (0.0170)	0.0670** (0.0274)	0.0357 (0.0256)
Quartertoelect = 7	0.0467*** (0.0171)	0.0101 (0.0475)	-1.58e-16 (0.156)	0.00417 (0.0901)	-0.0238 (0.0396)	0.0234 (0.0146)	-0.0749 (0.0932)	0.0504** (0.0208)	0.0481* (0.0255)	0.0870** (0.0430)
Quartertoelect = 8	0.0301* (0.0177)	0.00907 (0.0510)	0.0167 (0.158)	0.104 (0.113)	-0.0158 (0.0381)	0.0347** (0.0148)	-0.0554 (0.0859)	0.0269 (0.0179)	0.0857*** (0.0304)	0.100** (0.0464)
Quartertoelect = 9	0.0324* (0.0167)	-0.0167 (0.0458)	-0.0735 (0.130)	0.0208 (0.100)	0.00145 (0.0498)	0.0285* (0.0155)	-0.0679 (0.0851)	0.0415** (0.0193)	0.0512* (0.0294)	0.0435 (0.0418)
Quartertoelect = 10	0.0362** (0.0165)	0.0219 (0.0517)	-0.107 (0.132)	0.0913 (0.127)	0.0169 (0.0451)	0.0218* (0.0131)	-0.130* (0.0750)	0.0297 (0.0185)	0.0235 (0.0226)	0.154*** (0.0567)
Quartertoelect = 11	0.0415** (0.0208)	-0.0212 (0.0461)	-0.0833 (0.151)	0.0144 (0.0962)	0.0196 (0.0439)	0.0345** (0.0153)	-0.00223 (0.0919)	0.0480* (0.0257)	0.0557** (0.0224)	0.0417 (0.0404)
Quartertoelect = 12	0.00841 (0.0162)	0.0270 (0.0502)	-0.0921 (0.132)	-0.0625 (0.0639)	0.0294 (0.0501)	0.0285** (0.0143)	-0.0638 (0.0871)	0.000290 (0.0172)	0.0268 (0.0228)	0.0278 (0.0266)
Quartertoelect = 13	0.0558** (0.0225)	0.0256 (0.0455)	-0.0395 (0.131)	0.204 (0.156)	-0.00769 (0.0463)	0.0223 (0.0158)	-0.0749 (0.0918)	0.0460** (0.0212)	0.0578* (0.0297)	1.58e-16 (2.92e-09)
Quartertoelect = 14	0.0134 (0.0151)	-0.0555 (0.0399)	-0.200* (0.115)	0.00417 (0.0896)	-0.0394 (0.0363)	0.0394** (0.0170)	-0.0374 (0.0852)	0.0166 (0.0174)	0.0648** (0.0301)	0.100* (0.0511)
Quartertoelect = 15	0.00777 (0.0152)	-0.0341 (0.0405)	-1.70e-16 (0.167)	-0.0625 (0.0639)	-0.0518 (0.0398)	0.0270* (0.0139)	-0.0698 (0.0887)	0.0143 (0.0177)	0.0465* (0.0279)	0.0769* (0.0406)
Observations	5023	1605	275	209	1351	9509	518	4224	2543	610
R-squared	0.005	0.009	0.056	0.063	0.009	0.003	0.029	0.005	0.011	0.043

Notes: Robust OLS standard errors clustered at the quarter-year level in parentheses (* p < 0.10; ** p < 0.05; *** p < 0.01). Data comes from 5% Sample (1925-2002).