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ARTICLE

The Effect of State Supreme Court Selection Method on Perceptions of the U.S. Supreme Court

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Abstract

We argue that perceptions of the U.S. Supreme Court can be influenced by stimuli paired with state courts. People with low levels of court knowledge will exhibit an *assimilation effect* in which residing in a state with an elected supreme court increases perceptions of the Court being political. People with greater knowledge will demonstrate a *contrast effect*, meaning that the Court will be perceived as less political compared to an elected state court. Using existing survey data and a new survey experiment, we find evidence of the assimilation effect for low-knowledge participants. Our results imply that fundamental perceptions of the Supreme Court can be shaped by stimuli that are objectively unconnected to the Court, and that many people do not effectively differentiate between different types of court.

Keywords: U.S. Supreme Court; state courts; implicit attitudes; public opinion

How do people fundamentally view courts? The answer to this question sits at the heart of theories of public evaluation of courts and their decisions, as scholars make critical assumptions regarding the extent to which people see courts as political or legal institutions (e.g., Gibson and Caldeira 2009a; Bartels and Johnston 2013). To better understand gut-level intuitions about the nature of the U.S. Supreme Court, Hansford, Intawan, and Nicholson (2018) develop an implicit association test (IAT) measuring the degree to which people subconsciously associate the U.S. Supreme Court with politics. These implicit perceptions of the level of politicization of the Court matter as, consistent with extant theory (Gibson and Caldeira 2009a), they act to decrease diffuse support for the Court (Hansford, Intawan, and Nicholson 2018).[1]

What shapes these gut-level intuitions about the Supreme Court? Gibson and Caldeira (2009a) suggest that perceptions of the Court as a less than fully political

[1]There is also evidence that implicit perceptions of the Court as a political institution can decrease specific support for a Court decision (Hansford, Intawan, and Nicholson 2018).

institution are due to exposure to the pairing of legal symbols with the Court. The U.S. Supreme Court is not the only court for which people receive stimuli, however, and there is reason to believe that people are exposed to information or stimuli about their state supreme courts. There could be consequential variation in the types of stimuli associated with these courts, as it is likely that people living in states with elected supreme courts are exposed to pairings of political stimuli with their supreme court to a greater degree than people who live in states with appointed supreme courts.

Drawing from social psychology theory on assimilation and contrast effects (e.g., Bless and Schwarz 2010), we argue that implicit perceptions of the U.S. Supreme Court will be influenced by exposure to stimuli paired with other courts. People who know little about courts will exhibit an assimilation effect in which residing in a state with an elected supreme court will increase implicit perceptions that the U.S. Supreme Court is political. People with higher levels of court knowledge, though, are more likely to effectively differentiate between the U.S. and state supreme courts. Those who are knowledgeable will thus demonstrate a contrast effect, meaning that exposure to an elected state supreme court will cause the U.S. Supreme Court to seem less political in absolute terms.

We test these predictions by pairing Hansford, Intawan, and Nicholson's (2018) data on individual-level implicit attitudes toward the U.S. Supreme Court with information on each participant's state of residence and type of state supreme court selection system. Our results suggest that exposure to state judicial elections increases implicit perceptions of the U.S. Supreme Court as a political institution for low-knowledge people. We replicate these results with a recent survey experiment that uses a state court prime to activate the assimilation and contrast effects on explicit, self-reported perceptions of the Court as political. Both sets of results imply that 1) fundamental perceptions of the Supreme Court can be shaped by stimuli that are objectively unconnected to and beyond the control of the Court and 2) many people do not effectively differentiate between different types of court in our federal system.

Implicit perceptions of the U.S. Supreme Court

While we should expect people to view much of government as highly political, courts may be the exception as they take pains to avoid the appearance of politics by emphasizing legal process and symbolism. Whether the U.S. Supreme Court, for instance, is fundamentally viewed as political or legal matters, as it influences both levels (e.g., Baird 2001; Gibson and Caldeira 2009a) and predictors (e.g., Mondak 1990; Hoekstra 1995; Bartels and Johnston 2013; Boddery and Yates 2014; Nicholson and Hansford 2014; Clark and Kastellec 2015) of the perceived legitimacy of this institution and acceptance of its decisions.[2]

Hansford, Intawan, and Nicholson (2018) make the case that implicit perceptions of the degree to which the Court is a political institution are both a theoretically meaningful quantity of interest and a determinant of the Court's legitimacy. In contrast with explicit attitudes, implicit attitudes are gut-level intuitions that exist in the subconscious mind (Greenwald and Banaji 1995). Hansford, Intawan, and

[2]Support for lower courts is similarly influenced by perceptions of politicization and/or procedural fairness (e.g., Benesh 2006; Cann and Yates 2016).

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Nicholson (2018) show that at this implicit level, the average person perceives the Supreme Court as partially political and that those who implicitly perceive the Court as more political exhibit less diffuse support for it. Consistent with Gibson and Caldeira's (2009a) positivity theory, implicit perceptions of the Supreme Court are theorized to form through repeated pairings of the Court with positive, apolitical stimuli, such as legal symbols. The association of these apolitical symbols with the Court causes most people to perceive the Court as somewhat less political than other governmental institutions.

State supreme courts and political stimuli

While it occupies a uniquely prominent position in the judiciary, the U.S. Supreme Court is not the only court for which Americans receive information or stimuli. Surveys reveal that Americans do have some knowledge about their state supreme court (Gibson 2012; Cann and Yates 2016), which suggests that they receive stimuli associated with this type of court.[3] State supreme court justices might prefer that their institutions project an aura of legality, neutrality, and an absence of politics, but we assume that variation in how these justices are selected should influence the type of stimuli or information environment associated with these courts. In particular, we assume that states in which supreme court justices are elected will more often witness the pairing of political stimuli with their courts, as judicial elections and associated campaign activities are inherently political and influence how people think about courts (Gibson 2012).[4] In fact, modern judicial elections are now known for the prevalence of campaign ads (including attack ads), interest group involvement, campaign spending, and candidate position-taking (Gibson 2012).

Is it reasonable for us to assume that people receive stimuli associated with their state supreme court? After all, a skeptic might contend that people know so little about state politics in general, and state courts in particular, that they will not receive the "treatment" of being exposed to political stimuli paired with a state supreme court. We need to emphasize, though, that our assumption is that people who reside in states where supreme court justices are elected will be more likely to receive (consciously or subconsciously) political stimuli that are paired with their court. We do not assume that people are necessarily knowledgeable about their state supreme court.

The literature on state courts provides substantial evidence that people do receive stimuli associated with judicial elections. While there are nuances to the effect of these elections on the legitimacy of courts (Gibson 2012; Cann and Yates 2016; Woodson 2017), judicial campaign activities have been shown to decrease ballot roll-off in judicial elections (Hall and Bonneau 2013) and decrease support for a state supreme court (Gibson 2012; Woodson 2017). The presence of judicial elections even

[3]We assume that people receive fewer stimuli about trial or intermediate appellate courts in their state, and we therefore limit our theorizing and main analysis to the effect of state supreme court selection mechanisms. A supplementary analysis including method of selection for lower courts suggests that there is no connection between selection of these judges and how people perceive the U.S. Supreme Court (see Online Appendix, Table A3).

[4]In Table A4 of the Online Appendix, we test whether people living in "battleground" states in the proximate presidential elections perceive the Court as more political and find that they do not. This result implies that it is not sufficient to simply live in a politicized state environment; instead, the political stimuli need to be paired with state supreme courts.

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shapes people's attitudes about the ideal traits of U.S. Supreme Court justices (Krewson and Owens n.d.). These findings imply that the presence and nature of judicial elections are, at some level, being received and processed by residents of states with this selection mechanism. In short, existing research supports the plausibility of assuming that people living in states with elected supreme courts are exposed to pairings of political stimuli with their supreme court to a greater degree than people who live in states with appointed supreme courts.[5]

Why and how would state court stimuli influence perceptions of the U.S. Supreme Court? Social psychologists contend that when someone receives information or stimuli about a specific object (Object A), their evaluation of a different, ancillary object (Object B) is often affected (Bless and Schwarz 2010). There are two versions of this cognitive bias. An *assimilation effect* occurs when there is a positive relationship between information about Object A and evaluation of Object B. Positively valenced information or stimuli about Object A leading to a positive evaluation of Object B would be an example of this type of effect. A *contrast effect* occurs when there is a negative relationship between information about Object A and evaluation of Object B. Whether or not someone differentiates the two types of objects determines which type of effect occurs. When the two types of objects are not differentiated in someone's mind, the assimilation effect occurs. When the objects are differentiated, the contrast effect occurs. To provide a concrete example, negative information about a politician causes negative evaluations of a different politician if they are both perceived as being in the same political party (assimilation effect) and causes positive evaluations of a politician who is perceived as being in a different party (contrast effect) (Puente-Diaz 2015).

Will information or stimuli about a state supreme court lead to an assimilation effect when it comes to evaluations of the U.S. Supreme Court, or will it lead to a contrast effect? The answer to this question depends on whether people fully differentiate their state supreme court from the U.S. Supreme Court. To draw a parallel with studies of the evaluation of politicians (e.g., Wänke, Bless, and Igou 2001; Puente-Diaz 2015), are these two courts akin to candidates of the same party or are they sufficiently differentiated in someone's mind so as to be processed like candidates from different parties? We contend that the answer to this question depends on how much someone knows about the judiciary.

It is likely that those with lower levels of court knowledge do not fully differentiate between different levels and types of court. Particularly at the implicit level, courts may be largely lumped together in someone's subconscious mind. Thus, any state supreme court stimuli received, including those that are political in nature, may be paired with a generalized concept or understanding of courts.[6] People with higher levels of court knowledge, though, should more clearly differentiate between courts

[5]We assume that even people who do not know much about courts still receive relevant political stimuli in states with judicial elections, as court knowledge is not a prerequisite for exposure to campaign-related stimuli, such as television ads, billboards, and mailers. The second study we employ allows us to assess this assumption, and, as described below, the evidence indicates that both low and high-knowledge participants who live in states with an elected state supreme court perceive their court as more political than participants who live in states with an appointed court. This result suggests that lack of information about courts does not equate to lack of exposure to political stimuli regarding the state supreme court.

[6]Cann and Yates (2008) find that there is a positive correlation between support for a state supreme court and affect toward the U.S. Supreme Court, but only for people with lower levels of knowledge. Although not the focus of their study, this result is entirely consistent with a knowledge-conditioned assimilation effect.

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and therefore be less likely to implicitly pair stimuli associated with one court with a different court. In fact, stimuli paired with one court should act to sharpen perceived differences between the courts for those who differentiate the two courts.

In summary, residing in a state with an elected supreme court will lead to an information environment where campaign-related political stimuli are associated with the court. There will be less of this type of stimuli in states where the court is not selected through competitive elections. For people who do not know much about courts, stimuli regarding their state supreme court will pair with their overall conception or mental representation of courts, meaning that they will exhibit the assimilation effect when evaluating the U.S. Supreme Court. Those who have higher levels of court knowledge and thus differentiate between courts will demonstrate a contrast effect, as the U.S. Supreme Court seems less political in comparison to the reference point of an elected state supreme court. Our two specific hypotheses are thus:

Assimilation Hypothesis: For people with lower levels of court knowledge, residing in a state with an elected supreme court will increase implicit perceptions of the U.S. Supreme Court as political.

Contrast Hypothesis: For people with higher levels of court knowledge, residing in a state with an elected supreme court will decrease implicit perceptions of the U.S. Supreme Court as political.

Study 1: Implicit perceptions

To test our hypothesis regarding the knowledge-conditioned effect of state-level judicial context on implicit perceptions of the Supreme Court, we primarily rely on the Hansford, Intawan, and Nicholson data set (2018). These researchers measure implicit perceptions of the degree to which the U.S. Supreme Court is a political institution by employing an implicit association test (IAT) in which people rapidly classify the Supreme Court with political and nonpolitical terms.[7] The difference in the reaction times between the task of classifying the Supreme Court with political terms compared to nonpolitical terms reveals the degree to which a participant implicitly pairs politics with the Supreme Court. Following convention, these reaction times are transformed into *D*-scores (Greenwald, Nosek, and Banaji 2003) that increase with a participant's implicit association of the Supreme Court with politics.[8] These *D*-scores serve as our dependent variable.[9]

[7]Political terms include "political," "politics," "partisan," "politician," and "ideological." The nonpolitical terms are "nonpolitical," "neutral," "nonpartisan," "fair," and "impartial" (Hansford, Intawan, and Nicholson 2018, 133–134).

[8]These scores are specifically calculated by subtracting the mean response times when the Supreme Court is paired with political terms from the mean response times when Congress (a presumably political institution) is paired with political terms. This quantity is then divided by the pooled standard deviation over these two rounds of the IAT. Negative *D*-scores indicate that the subject is slower to match the Court with politics than she is to match Congress with politics, whereas positive scores reveal the opposite pattern. For more details, see Hansford, Intawan, and Nicholson (2018).

[9]As with any indirect measure, IAT-generated scores will have some degree of measurement error that will act to increase the size of the standard errors of our coefficient estimates and thus decrease the likelihood of rejecting null hypotheses.

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The relevant data include 666 participants in a national convenience sample recruited through Amazon's Mechanical Turk (MTurk) in 2014 (see Hansford, Intawan, and Nicholson 2018).[10] Although MTurk samples are not necessarily representative of the American public, they are superior to local convenience samples and are commonly used in social science research (Berinsky, Huber, and Lenz 2012). These MTurk participants trend somewhat on the young and Democratic side, but they report substantial variation on demographic and political variables.[11] Importantly for our purposes here, there is very good geographical representation in this sample as 47 states are represented, meaning that there is plenty of variation in the type of selection system used for the participants' state supreme courts. To be specific, 19.1% of participants are in states with an appointed supreme court, 32.1% are in states with hybrid appointment/retention election systems, 28.1% are in states with nonpartisan elections, and 20.7% are in states with partisan elections.

We follow the lead of Cann and Yates (2016) and simply code each state as either having contestable elections for its supreme court or not.[12] *Elections* is thus coded as one for respondents living in states where the supreme court is elected through partisan or nonpartisan elections and zero for those who live in states in which the court is selected by appointment or appointment with subsequent retention election. The assumption undergirding our use of this measure is that contestable elections for seats on a state supreme court present a state-level context in which the state supreme court is more visibly and consistently linked with political symbols and a politically tinged information environment. Note that we are not assuming that people are intimately familiar with how judges in their state are selected. Instead, our assumption is that contestable judicial elections are more likely to lead to an information environment in which courts and political stimuli are paired together. While it may seem intuitive that partisan judicial elections are more political than those that are nonpartisan, we do not differentiate between these types of election in our main analysis as existing evidence indicates that both types of election are, in fact, equally partisan/ideological in the eyes of the public (Bonneau and Cann 2015).[13]

We argue that the effect of this state judicial context will be conditioned by someone's level of court knowledge. *Knowledge* is measured as the total number of correct answers to three questions about the U.S. Supreme Court: "Who is the current Chief Justice of the U.S. Supreme Court?," "Can the U.S. Supreme Court

[10]We exclude 87 of Hansford, Intawan, and Nicholson's (2018) 753 participants because we cannot confirm their state of residence with their IP addresses.

[11]For example, Hansford, Intawan, and Nicholson (2018, 135, footnote 5) report that "27% of the sample are 40 years old or older, 24% identify as Republican (59% identify as Democrats), 50% are women, 22% are non-white (8% African American and 5% Hispanic/Latino), and 53% do not have a four-year college degree."

[12]A few states have recently changed their method of selection for their state supreme courts. For this analysis, we code *Elections* based on the method of selection in place in 2014 when the Hansford, Intawan, and Nicholson (2018) survey was conducted. For our secondary analysis employing a 2020 survey, *Elections* is coded based on 2020 selection method.

[13]To assess this measurement choice, the Online Appendix presents the results of our model when we utilize a finer-grained measure of the selection process for state supreme courts (*Political Selection Process*). This alternative measure is a four-point scale that ranges from appointment, hybrid/Missouri, non-partisan election, to partisan election systems. These results lead to the same inferences as those obtained with the binary *Elections* variable (see Model 2 in Table A1).

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declare an act of Congress unconstitutional?," and "How are Supreme Court justices selected?" Ideally, this measure would also include answers to factual questions about lower courts, as the conceptual variable of interest is general knowledge of the court system. Such questions were not included in the Hansford, Intawan, and Nicholson study, though. Nonetheless, knowledge about the U.S. Supreme Court is a key component of knowledge of U.S. courts, should serve as a reasonable proxy for general knowledge about U.S. courts, and, importantly, should determine whether someone differentiates the U.S. Supreme Court from other courts.[14]

We include *Elections* × *Knowledge* in our model, and, based on our expectations regarding the assimilation and contrast effects, we predict that 1) the coefficient estimate/"main effect" for *Elections* will be positive (i.e., an assimilation effect when knowledge is low), 2) the coefficient estimate for the interaction term will be negative (indicating a transition from assimilation to contrast effect as knowledge increases), and 3) the conditional coefficient for *Elections* will be negative for high values of *Knowledge* (i.e., a contrast effect at high levels of knowledge). We control for the possible influences of demographic and attitudinal variables by including *Ideology*, *Party ID*, *Education*, *Income*, *White*, *Female*, and *Age* in our model.[15]

To test our hypotheses about how political stimuli associated with their state supreme court might influence someone's perceptions of the U.S. Supreme Court, we estimate an ordinary least squares (OLS) regression model in which a participant's implicit perception of the U.S. Supreme Court as a political institution is the dependent variable. Standard error estimates allow for clustering by state of residence, which relaxes the assumption that observations within a state are independent. Table 1 presents the central results.[16]

As we hypothesize, the estimate for the "main effect" of *Elections* is positive and statistically distinguishable from zero. This result reveals that when *Knowledge* is zero (the lowest level of measured knowledge about the Supreme Court), residing in a state in which supreme court justices are elected leads to a greater implicit association between politics and the U.S. Supreme Court. In other words, people with the lowest level of knowledge exhibit an assimilation effect whereby their implicit perceptions of the U.S. Supreme Court are, in part, shaped by political stimuli (or lack thereof) that are a function of their state supreme court's selection process.

The estimate for *Elections* × *Knowledge* is negative and statistically significant, which is also consistent with our expectations. This result reveals

[14]An alternative approach would be to use only the "How are Supreme Court justices selected?" question as our indicator of relevant court knowledge, as it is arguably the most relevant piece of knowledge here. The results of our model estimation are substantively the same when using this single-question measure of knowledge (i.e., the direction and statistical significance of the key estimates are the same as those reported in Table 1). See Table A2 in the Online Appendix for the full set of results for this robustness check.

[15]*Ideology* is the traditional seven-point scale that increases with self-reported conservativism. Participants who do not place themselves are coded as zero (i.e., moderate) and are then indicated by a dummy variable. *Party ID* is a seven-point scale with larger values for Republicans. *Education* is a six-point scale increasing with levels of educational attainment. *Income* is an 11-point scale, with those who decline to answer placed in the lowest category and indicated with a dummy variable. *White* and *Female* equal one for participants who identify as such. *Age* is measured in years.

[16]The full table of results is presented in the Online Appendix (Table A1, model 1).

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Table 1. Implicit Perceptions of the U.S. Supreme Court as Political

Independent variable	Estimate (Clustered standard error)
Elections	.162*
	(.087)
Elections × Knowledge	–.073*
	(.038)
Knowledge	.008
	(.023)
Ideology	–.011
	(.012)
Party ID	.004
	(.010)
Education	.004
	(010)
N	666
F	3.64*
R^2	.028

Note: The model uses data from the 2014 survey conducted by Hansford, Intawan, and Nicholson (2018) and also includes *Income*, *White*, *Female*, *Age*, and dummy variables indicating non-response to the ideology and income questions. Full results are presented in the Online Appendix (Table A1). Standard errors are clustered on states.
*$p \leq .05$ (one-tailed test, for hypothesized effects).
**$p \leq .05$ (two-tailed test, for control variables).

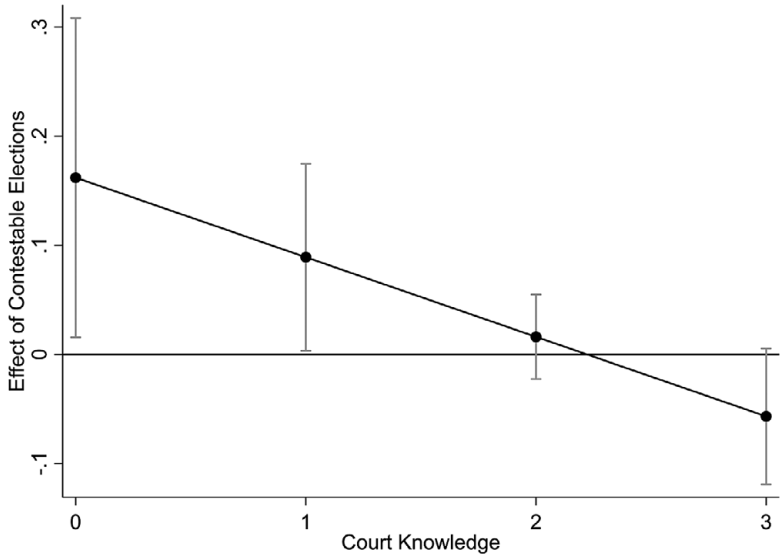

Figure 1. Effect of State Judicial Elections on Implicit Perceptions of the U.S. Supreme Court as Political. *Note*: This plot provides the conditional effect/coefficient (and 90% confidence intervals, to allow for one-tailed hypothesis tests at an alpha of .05) for *Elections*, as conditioned by the participant's level of *Knowledge*.

that the positive effect of *Elections* on perceptions of the Court as a political institution diminishes and ultimately changes direction with increases in *Knowledge*. To illustrate this conditional effect of *Elections*, Figure 1 plots the coefficient for this variable at each of the four possible values of *Knowledge*. Due to the

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directional nature of our hypotheses for the effect of *Elections* at the lower and upper values of *Knowledge*, we plot 90% confidence intervals around the coefficient estimates.[17]

The conditional effect of residing in a state with contestable elections for state supreme court seats on gut-level perceptions of the U.S. Supreme Court as a political entity is positive and significant for the two lower rungs of the *Knowledge* scale. The effect then switches direction and is negative for those with the highest level of measured knowledge regarding the Court, which is consistent with the contrast effect we expect for those with higher levels of knowledge. However, note that the confidence interval for this conditional effect at the highest level of knowledge (barely) includes zero. This means that while these results clearly support the presence of the assimilation effect for lower-knowledge participants, we cannot be as sure about the presence of the contrast effect for those with higher knowledge. To put the size of these effects in context, the dependent variable has a standard deviation of just over 0.3. Thus, the range of effects associated with *Elections* are nontrivial in size, though certainly not overwhelming either.

These results support our contention that for those with relatively low levels of knowledge regarding the U.S. Supreme Court, there is imperfect differentiation between fundamentally different types of court. Underlying conceptions of the Supreme Court are thus partly a function of stimuli and bits of information about the relevant state supreme court. Politicized state supreme courts add a political component to this court-related information environment, and this manifests itself in implicit beliefs that the U.S. Supreme Court is a political institution. Those with high levels of knowledge, on the other hand, likely maintain distinct understandings of their state supreme court and the U.S. Supreme Court. High-knowledge participants clearly do not exhibit the assimilation effect and, if anything, may exhibit a contrast effect whereby the Supreme Court appears less politically oriented relative to an elected state supreme court.

Interestingly, the estimate for the main effect of *Knowledge* is not statistically significant. Knowledge of the Court matters, in the sense that it conditions whether state-level political stimuli bleed over to evaluations of the U.S. Supreme Court, but it does not have a direct on whether people think the Court is a political institution. Consistent with Hansford, Intawan, and Nicholson's (2018) results, the results for the other control variables included in the Table 1 model reveal that demographic and attitudinal variables do not help explain implicit perceptions of the Court. Only the combination of state judicial context and knowledge of the U.S. Supreme Court has explanatory power here.

Study 2: Replication with explicit perceptions

While we are primarily interested in how stimuli paired with state supreme courts might influence *implicit* perceptions of the U.S. Supreme Court, social psychological theory about assimilation and contrast effects is typically tested in the domain of

[17]We expect *Election* to have a positive effect for low values of *Knowledge* and a negative effect for high values of *Knowledge*. The conditional coefficient estimates match these expectations; thus the 90% confidence interval bars for estimates at the low and high values of *Knowledge* are analogous to a conventional one-tailed statistical significance test with an alpha of .05.

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explicit evaluations (i.e., those that are conscious, self-reportable). To assess whether our theory of the influence of state court stimuli on perceptions of the U.S. Supreme Court also applies to explicit perceptions, we conducted a simple survey experiment administered to a national sample of 975 participants provided by Prolific.[18]

Before turning to the experimental component, we can first use this survey to empirically assess the plausibility of our key assumption that living in a state with an elected supreme court increases the extent to which political stimuli are paired with that court. We do so by examining explicit perceptions of state supreme court politicization, which are measured with a four-question battery. Two of these items are adapted from Gibson and Caldeira (2011) and ask to what extent the participant agrees that their state supreme court's decisions are a function of law and political views, respectively. A third question asks whether their state supreme court is too mixed up in politics (see Bartels and Johnston 2012).[19] The fourth item is the participant's folded ideological placement of their state supreme court, where 0 is moderate and 3 is ideologically extreme. We then use factor analysis to generate a single factor that increases with the perception that the state supreme court is political.[20]

A difference-of-means test reveals that the mean perception of state court politicization is higher for people living in states with courts selected by contestable election than it is for those living in states without contestable elections.[21] Interestingly, if we conduct the same test while dividing our participants by whether they report thinking that they live in a state with contestable elections, we find that the difference in the mean perception of a political state supreme court is not statistically significant.[22] In other words, it is living in a state with contestable elections that matters, not believing that one lives in a state with contestable elections.

These results are consistent with our assumption that living in a state where the high court is elected will increase the extent to which political stimuli are paired with the court, regardless of whether people are fully aware of how the justices are selected,

[18]This survey experiment was administered in October 2020. Prolific provided us with a nationally representative sample, which it defines as a sample that approaches Census-generated benchmarks for age, ethnicity, and sex. Prolific recruited 1,000 subjects, of which 975 completed the survey: 60% of the sample are 40 years old or older, 29% identify as Republican (59% identify as Democrats), 50% identify as female, 26% are non-white (13% African American and 4% Hispanic/Latino), and 48% do not have a four-year college degree. All states except for Alaska are represented in this sample. Advantages that the Prolific platform has over Mechanical Turk include response honesty and participant naivete (Peer et al. 2017).

[19]Specifically, respondents are asked their level of agreement (on a five-point scale) with the following three statements: 1) "When deciding cases, your state's supreme court justices base their decisions on the law and the Constitution," 2) "When deciding cases, your state's supreme court justices base their decisions on their own political views," and 3) "Your state's supreme court is too mixed up in politics."

[20]The factor analysis of these four variables leads to a single factor with an Eigenvalue greater than one. Ideologically extreme placement of the supreme court and agreement with the statements that justices follow their own political views and that the court is too mixed up in politics positively load on this factor, while agreement with the statement that the justices follow the law negatively loads on this factor.

[21]The mean perception of the state supreme court as political for people who have an elected state supreme court is .084 on the factor scale, while the mean for people with appointed courts (including those subject to retention) is –.081. This difference is statistically significant ($p = .001$, two-tailed test).

[22]The mean perception of the state supreme court as political for people who believe they elect the state supreme court is –.005 on the factor scale, while the mean for people who believe their court is appointed (including those subject to retention) is .002 ($p = .917$, two-tailed test).

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as election-related stimuli should only be received by people who live in states with judicial elections. Mistakenly believing that their state supreme court is elected should not, in fact, mean that a participant has been exposed to such stimuli. We should also note that in a similar analysis we find that both low- and high-knowledge participants who live in states with elected state supreme courts perceive their court as more political than participants who live in states with an appointed court. This result again suggests that lack of information about courts does not equate to lack of exposure to political stimuli regarding the state supreme court.[23]

Now turning to the experimental component of this survey, we note that the typical experimental design used by psychologists to test assimilation and contrast effects uses knowledge questions about the potential exemplar as a randomly assigned prime. For example, the studies that assess whether affect toward one politician (a potential "exemplar") influences attitudes about a different politician (the "target") randomly assign participants into a priming condition or control condition. In the priming condition, participants are first asked a knowledge question about the exemplar in order to bring this exemplar to mind. They are then asked to evaluate the target. The control condition reverses the order of these questions, meaning that the exemplar is not first brought to mind before the participant is asked about the target. Examples of this approach include Schwarz and Bles (1992), Puente-Diaz (2015), and Wänke, Bless, and Igou (2001).

Following this approach, we randomly assigned participants to either a treatment that consists of priming the potential exemplar (state supreme courts in our case) or a control condition in which participants evaluate the object of interest (i.e., the U.S. Supreme Court) without the exemplar prime. The state supreme court prime simply consists of participants being given a five-question battery about their state's supreme court before then being asked a four-question battery measuring explicit perceptions of the U.S. Supreme Court as political. Participants assigned to the control group are given the four-question battery on the U.S. Supreme Court before receiving the questions about their state supreme court, and thus have not had their state supreme court brought to mind before answering the questions that will be used to generate the dependent variable.

The state supreme court priming battery includes three factual knowledge questions and two questions about the incidence and nature of campaign activity for state supreme court seats in the participant's state.[24] While these questions are primarily intended to activate a possible exemplar – the participant's state supreme court – it is

[23]We examine whether lower-knowledge people are receiving political stimuli associated with an elected state supreme court by splitting our sample into two roughly equal subsamples, people with lower levels of judicial knowledge (i.e., those who correctly answered five or fewer knowledge questions, n = 502) and people with higher levels of judicial knowledge (i.e., those who correctly answered six or more knowledge questions, n = 473). For both subsamples, the mean perception of a political state court is higher for those who live in a state with contested elections than for those who do not, and these differences are statistically significant ($p \leq$ .05, two-tailed test). This result reveals that political stimuli associated with elections seem to be received regardless of level of judicial knowledge.

[24]The state supreme court knowledge questions ask how supreme court justices in the participant's state are selected, retain their seats, and whether the court has the power of judicial review. The campaign activity questions ask how often during an election year the participant sees judicial campaign activity and to what degree this activity is partisan. See the Online Appendix for the specific wording and response options for these knowledge questions. We do not expect the state court prime to have any direct effect on perceptions of the political nature of the U.S. Supreme Court, and the results bear this out. The mean explicit perception that

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worth considering the general accuracy of responses about state supreme court selection systems. Table A5 in the Online Appendix provides the details, but the thrust of these results is that 43.8% of our participants correctly identify whether justices in their state are initially appointed (making no distinction between who does the appointing) or elected, 25.0% are incorrect, and 31.2% select the "don't know" option. It is important to again emphasize that our theory does not assume that people know or think much about how the justices on their state supreme court are chosen. We assume that in states with judicial elections, people have some degree of exposure to political, campaign-related stimuli associated with the court, which in turn leads to evaluations of the state supreme court as being more political. That said, many of our participants appear to know whether their state supreme court is elected or appointed.

The dependent variable for this analysis, explicit perceptions of the U.S. Supreme Court as being political in nature, is measured with four survey-based items that parallel the ones used above to measure perceptions of state supreme courts. Participants are asked to what extent they agree that Supreme Court decisions are a function of law and political views, respectively. A third question asks whether the Supreme Court is too mixed up in politics.[25] The fourth item is the participant's folded ideological placement of the U.S. Supreme Court, where 0 is moderate and 3 is ideologically extreme. We then use factor analysis to combine these four indicators of explicit perceptions of a politicized Supreme Court into a single factor that increases with the perception that the Court is political.[26] This factor serves as the dependent variable in the model to be estimated.

Elections is coded in the same manner as in the previous analysis and equals one if the participant resides in a state that has contestable elections for its supreme court.[27] *Knowledge* is measured as the number of correct answers to a total of nine knowledge questions about courts. Three of these are the questions about the participant's state

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the U.S. Supreme Court is political is very slightly larger for the primed ("treated") group, but this difference in means is not statistically significant ($p = .468$, two-tailed test).

[25]Specifically, respondents are asked their level of agreement (on a five-point scale) with the following three statements: 1) "When deciding cases, justices base their decisions on the law and the Constitution," 2) "When deciding cases, the justices base their decisions on their own political views," and 3) "The U.S. Supreme Court is too mixed up in politics."

[26]The factor analysis of these four variables leads to a single factor with an Eigenvalue greater than one. Ideologically extreme placement of the Court and agreement with the statements that justices follow their own political views and that the Court is too mixed up in politics positively load on this factor, while agreement that the justices follow the law loads negatively.

[27]We prefer our objective measure of whether a participant's state has contestable elections for the supreme court over subjective perceptions/knowledge of the selection mechanism for two reasons. First, our theoretical claim is that people can be exposed to court-related political stimuli flowing from state court elections, even if they are not particularly well-versed in the specifics of how judges in their state are selected. Our objective measure of whether a state has contestable elections for state supreme court is thus a good theoretical fit for our purposes. Second, our objective measure also has the advantage of being exogenous to perceptions of courts, while subjective beliefs about courts are likely to endogenous. Re-estimating the model presented in Table 2 of the article while using the participants' self-reported belief about whether state supreme court justices are selected by contestable election yields weaker results (see Table A6 of the Online Appendix). This is not surprising given that, for example, people who live in states without judicial elections but report believing that these elections exist are not, in fact, exposed to election-related stimuli associated with their state supreme court.

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supreme court that were discussed above. There are also two knowledge questions about the U.S. Courts of Appeals and four about the U.S. Supreme Court.[28]

We expect that the participants who receive the state supreme court prime will exhibit either the assimilation or contrast effect, depending on their level of *Knowledge*. For those who are primed, residence in a state with elections for state supreme court should make them view the U.S. Supreme Court as more political (the assimilation effect) if they know little about courts and thus are unlikely to differentiate between courts. High-knowledge participants who have been primed should view the U.S. Supreme Court as less political if they live in a state with an elected supreme court (the contrast effect). Our model of explicit perceptions of the degree of politicization of the U.S. Supreme Court thus includes *State Court Prime* × *Elections* and *State Court Prime* × *Elections* × *Knowledge*. The coefficient estimate for the former term should be positive, while the estimate for the latter should be negative, which would indicate that *Elections* increases perceptions of a politicized U.S. Supreme Court for the lowest-knowledge participants (for whom *Knowledge* is zero), while increasing knowledge diminishes this positive effect and ultimately leads to *Elections* having a negative effect for high-knowledge participants. These expectations are identical to those for the previous analysis, with the exception of the addition of a state supreme court prime, which is indicated by existing experimental work on explicit attitudes and assimilation/contrast effects.

We also include *State Court Prime* × *Knowledge* and *Elections* × *Knowledge* in the model, as they are constituents of the triple interaction term and thus their exclusion could introduce bias. We have no theoretical expectation regarding constituent components, though, as studies of assimilation and contrast effects on explicit attitudes suggest that these effects need to be brought to mind through a prime. Consistent with the previous analysis, we also include *Ideology*, *Party ID*, *Education*, *Income*, *White*, *Female*, and *Age* in the model.[29] To account for any non-independence of residuals for participants residing in the same state, we estimate robust standard errors that allow for clustering by state of residence.

With our measure of explicit perceptions of a political U.S. Supreme Court serving as the dependent variable, we estimate an OLS regression model and present the results in Table 2. [30] In a nutshell, for the participants given the state supreme court prime the pattern of results for *Elections* and *Knowledge* are very similar to those obtained in the model of implicit perceptions.

Consistent with our hypotheses, the estimate for *State Court Prime* × *Elections* is positive and statistically significant, and the estimate for *State Court Prime* ×

[28]See the Online Appendix for the wording and response options for these questions. Following Clifford and Jerit (2016), we use a commitment question to reduce "cheating" on these questions.

[29]These variables are measured as described in Footnote 15, with the exception that in this survey *Income* is measured on a six-point scale. We place those who decline to answer in the modal category (2) and indicate with a dummy variable.

[30]Table A8 in the Online Appendix presents results for an alternative specification of this model that includes as the key independent variable our measure of perceptions of a political state supreme court (as described above) instead of *Elections*. The estimate for *Political State Court* is positive, and the estimate for *Political State Supreme Court* × *Knowledge* is negative. Both estimates are statistically significant, indicating that the more political someone thinks their state supreme court is, the more political they think the U.S. Supreme Court is. But this assimilation effect diminishes with judicial knowledge. These results are thus quite consistent with our theory. We do not make too much of these results, though, since *Political State Supreme Court*, unlike *Elections*, is likely endogenous to views of the politicization of the U.S. Supreme Court.

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Table 2. Explicit Perceptions of the U.S. Supreme Court as Political, with State Court Prime

Independent variable	Estimate (Clustered standard error)
Elections	−.061
	(.220)
Elections × Knowledge	.017
	(.043)
Knowledge	.004
	(.028)
State Court Prime	−.220
	(.135)
State Court Prime × Elections	.507*
	(.246)
State Court Prime × Elections × Knowledge	−.079*
	(.042)
State Court Prime × Knowledge	.039
	(.029)
Ideology	−.084**
	(.012)
Party ID	−.039**
	(.019)
Education	.003
	(022)
N	975
F	9.50*
R^2	.093

Note: The model uses data from 2020 Prolific survey and also includes *Income*, *White*, *Female*, *Age*, and a dummy variable indicating non-response to the income question. Full results are presented in the Online Appendix (Table A7). Standard errors are clustered on states.
*$p \leq .05$ (one-tailed test, for hypothesized effects).
**$p \leq .05$ (two-tailed test, for control variables).

Elections × *Knowledge* is negative and significant. There is no evidence of either an assimilation or contrast effect for self-reported explicit perceptions of those who were not given the state supreme court prime.

To more clearly assess whether these results are compatible with our expectations, Figure 2 illustrates how the effect of *Elections* on perceptions of the politicization of the U.S. Supreme Court is conditioned by *Knowledge* and the *State Court Prime.* For participants in the control group, the effect of living in a state with elections for state supreme court has no discernible effect on explicit perceptions of the U.S. Supreme Court. For participants given the state court prime, *Elections* has a positive and statistically significant effect for those who have lower levels of *Knowledge.*[31] For the most knowledgeable, this effect turns negative but is not discernible from zero. Primed, lower-knowledge participants exhibit the assimilation effect with explicit evaluations of the U.S. Supreme Court. Living in a state with elected justices, and thus exposure to political stimuli associated with this potential exemplar, leads the less knowledgeable to report views of the U.S. Supreme Court being a political institution.

[31]For the *State Court Prime* condition, we expect *Election* to have a positive effect for low values of *Knowledge* and a negative effect for high values of *Knowledge.* The conditional coefficient estimates match these expectations; thus the 90% confidence interval bars for estimates at the low and high values of *Knowledge* are analogous to a conventional one-tailed statistical significance test with an alpha of .05.

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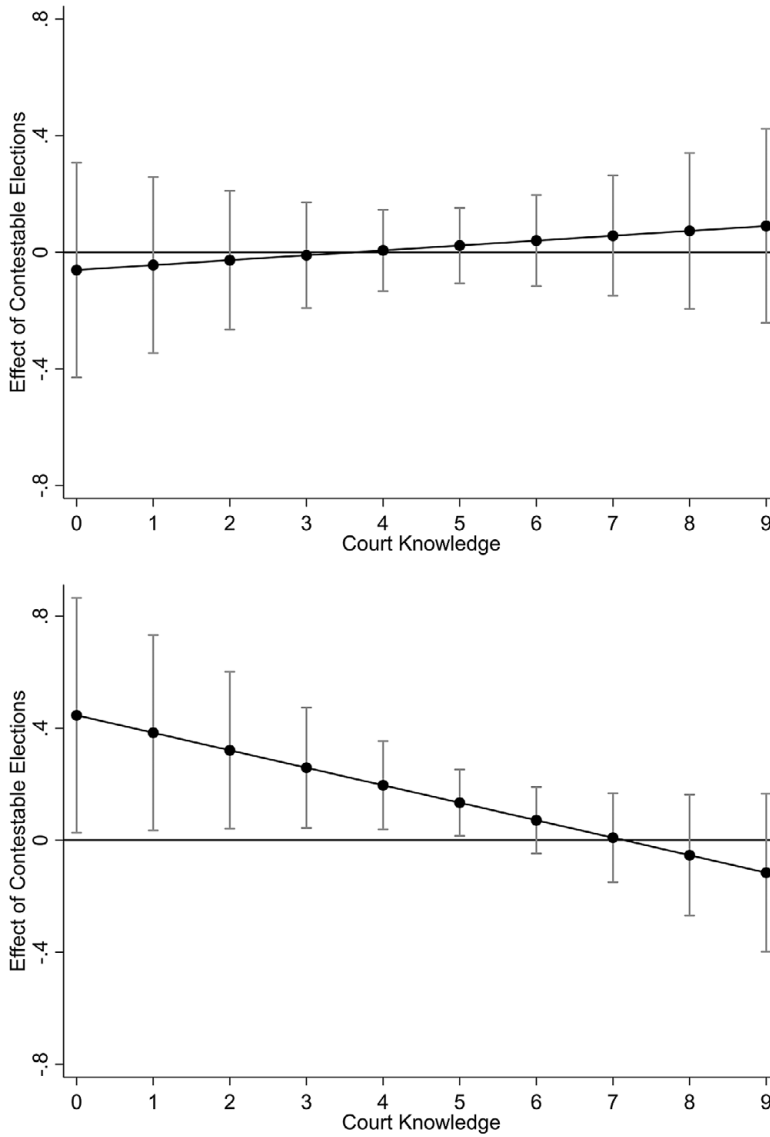

Figure 2. Effect of State Judicial Elections on Explicit Perceptions of the USSC as Political.
Note: These plots provide the conditional effects/coefficients (and 90% confidence intervals, to allow for one-tailed hypothesis tests at an alpha of .05) for *Elections*, as conditioned by the participant's level of *Knowledge*.

These results do not provide clear evidence of a contrast effect for the more informed, but they also do not demonstrate assimilation.

Why is it the case that living in a state with judicial elections needs to be primed to influence *explicit* perceptions of the U.S. Supreme Court (Study 2) but does not need to be primed to influence *implicit* perceptions of the Court (Study 1)? Implicit attitudes are latent and stable, while explicit attitudes, at least as measured, are

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influenced by accessibility and priming. Furthermore, studies examining both implicit and explicit attitudes typically find that these two types of attitudes are largely unrelated (Mo 2015; Pérez 2016; Intawan and Nicholson 2018). Hansford, Intawan, and Nicholson (2018), for example, report that there is no correlation between implicit and explicit perceptions of the Supreme Court as a political institution. It is therefore not surprising to find that residing someplace where politics pairs with courts has a consistent effect (as conditioned by knowledge) on implicit perceptions of the U.S. Supreme Court but needs to be brought to mind to affect how people answer questions on explicit perceptions. We should also emphasize that prior work on assimilation/contrast effects with explicit perceptions theorize and find that these effects need to be primed (Schwarz and Bless 1992; Wänke, Bless, and Igou 2001; Puente-Diaz 2015). More generally, public opinion research often involves the importance of primes or frames in shaping explicit attitudes. To use a classic First Amendment example, tolerance of unpopular speech is conditioned by free speech frames (Nelson, Clawson, and Oxley 1997).

As with the previous analysis, the results in Table 2 provide no evidence of *Knowledge* exerting a "main effect" on perceptions of the politicization of the Supreme Court. How much people know about courts determines whether there is a linkage between political state court stimuli and perceptions of the U.S. Supreme Court, but it does not directly influence these perceptions. Turning to the control variables in the model, it is worth noting that *Ideology* and *Party ID* are significant predictors of explicit perceptions, which differs from the results for implicit perceptions. Here, it appears that conservatives and Republicans report perceptions that the Supreme Court is less political. It is unclear, however, whether this is due to differences between implicit and explicit attitudes regarding the Court or due to changes in perceptions that may have occurred between 2014 (the year of Hansford, Intawan, and Nicholson's survey and IAT) and 2020 (the year we conducted our survey).

Conclusion

Where do perceptions of the fundamental nature of the U.S. Supreme Court come from? Gibson and Caldeira (2009a) point out the importance of exposure to legal symbols and their pairing with the Court, but judicial-oriented symbols and stimuli are not limited to the U.S. Supreme Court. State supreme courts are another possible source or target of such stimuli. Our primary contribution here is our argument and supporting evidence that implicit perceptions of the U.S. Supreme Court as a political institution, which have consequences for how people evaluate this institution (Hansford, Intawan, and Nicholson 2018), can be shaped by the extent to which the relevant state supreme court is linked to politics through the existence of judicial elections. For people who know little about courts and thus likely fail to fully differentiate between different types of court, exposure to the pairing of political stimuli with state courts leads to gut-level perceptions that the U.S. Supreme Court is political (i.e., an assimilation effect). If anything, the opposite relationship may manifest for those with higher levels of knowledge about courts (i.e., a contrast effect). A secondary survey experiment shows that this assimilation effect also occurs for explicit perceptions of the politicization of the Court, as long as the state supreme court is first brought to mind.

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These results suggest several important implications about how people form impressions of the U.S. Supreme Court. First, the manner in which someone's state supreme court justices are selected, and thus the degree to which political and state-level judicial stimuli are paired, is objectively unrelated to the U.S. Supreme Court. And yet, it appears that many people incorporate this irrelevant information into their evaluations of the Supreme Court, which is consistent with Krewson and Owens (n.d.) finding that state-level judicial selection influences opinions about the selection of Supreme Court justices. More generally, these results are another example of people using irrelevant information to judge political institutions or actors (e.g., Healy, Malhotra, and Mo 2010).

A second implication here is that while the information environment resulting from the manner of selection of a state supreme court is consequential, it is not manipulable by the Supreme Court. There are many ways in which the justices can attempt to cultivate a legal aura for their institution and thus perhaps foster the impression that the Court is above politics. The justices have no control over variation in the political stimuli associated with state courts, however. No matter what they do, people who know little about courts and reside in states with elected supreme courts will see the Supreme Court as somewhat more political.

Gibson and Caldeira (2011, 200) summarize the research examining the relationship between judicial knowledge and explicit, self-reported perceptions of institutional legitimacy with the statement "To know the Court is to love the Court." Gibson and Caldeira (2009b) contend, however, that effect of knowledge is indirect, and, similarly, our results are consistent with a more nuanced relationship between knowledge and attitudes about the Court. To know the Court is to differentiate the Court from other courts and thus not assimilate information or stimuli originating from other judicial institutions. This variation in the degree to which people actually differentiate between different levels or types of court is a previously unrecognized aspect of public opinion regarding American courts. For those who do not "know the Court," it may be the case that all courts fall into the same mental category, and as a result any stimuli associated with one court can inform impressions and judgments about all courts.

While this work focuses on perception of the U.S. Supreme Court, it is also worth considering how it fits with the literature on state courts. Several studies imply that people receive information or stimuli about judicial campaigns and elections. Judicial campaigns activities can influence ballot roll-off (Hall and Bonneau 2013), decrease support for a state supreme court (Woodson 2017), and affect how people think about the traits of nominees to the U.S. Supreme Court (Krewson and Owens n.d.). Our results reveal that views of the Supreme Court can be tied to the type of judicial selection system used in a state, which similarly implies that people do receive stimuli associated with judicial elections in the states. This does not mean that people have high levels of knowledge about their state supreme courts, but it does suggest that information or stimuli associated with these courts is at least making its way into the subconscious mind.

We believe this research also speaks to literature outside of judicial politics. Political knowledge is a core concept in public opinion research and has been shown to have consequences for political behavior (Delli Carpini and Keeter 1996) and opinion change (Zaller 1992). Our paper connects to this research tradition by suggesting a new consequence for political knowledge: that it can reduce the extent to which stimuli regarding one institution is used to form impressions of another institution. Scholars interested in public attitudes regarding other types of governmental institution (e.g., executives, agencies, legislatures) might consider using our

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theoretical framework of knowledge-conditioned assimilation effects. Finally, psychology research on assimilation effects relies on experimental evidence, generated in a manner similar to the approach we use in the survey experiment that is the basis of our second study (e.g., Schwarz and Bless 1992; Wänke, Bless, and Igou 2001). The results produced with our first study, however, provide observational evidence of the presence of the assimilation effect. To the extent that analyses using observational data can offer greater external validity, our results constitute useful evidence on behalf of the existence of this cognitive bias.

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