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# The Dynamics of Interest Representation at the U.S. Supreme Court

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## Abstract

How do organized interests respond to their opponents' advocacy activities in a policy venue? Utilizing data on amicus curiae filings at the U.S. Supreme Court, the author estimates vector error correction and vector autoregression models that allow him to test whether interests respond, in a dynamic sense, to the efforts of the "other side." The author capitalizes on the temporal sequencing of variation in advocacy activity to gain leverage on the causal connection between the behaviors of opposing sets of interests and provides a richer portrait of the dynamics of interest representation in a policy venue. The results reveal that organized interests respond positively to the advocacy activities of their opponents by exhibiting both short-term counteraction and long-term countermobilization, implying that over the long run, interest representation at the Court is responsive and perhaps balanced.

## Keywords

law, courts, political organizations, parties

How do interests respond to their opponents' lobbying activities in a policy venue? Do they seek to directly confront and counter the advocacy efforts of the opposition, or do they allocate their resources to advocacy efforts targeting institutions in which opposing interests are not as active? Assuming that organized interests exert some influence over policy outcomes or at least provide relevant information to policy makers, the degree to which opposing interests compete in a given policy venue or instead sort themselves into relatively noncompetitive venues has significant implications for whether policy outputs will exhibit representational or informational bias.

Despite the significance of these questions for the study of American politics, policy making, and representation, social scientists have not yet fully settled on the answers. According to the pluralist paradigm, American politics is fundamentally about the competition between opposing interests (e.g., Becker 1983; Truman 1951). This perspective generally suggests that interests will be responsive to the lobbying activities of their opponents. This responsiveness could result from either policy-seeking or resource-maximizing behavior. To the extent that interests pursue influence over policy, they may want to provide policy makers with information that offsets the information provided by opponents (Austen-Smith and Wright 1994). Organizational maintenance concerns may

also cause interest groups to seek out conflictual venues in which a strong opposition is present, as this may make it easier to offer purposive incentives to potential supporters.

Empirical studies of the responsiveness of organized interests to the lobbying activities of opposing interests provide mixed results, however. Holyoke (2003) and Nownes (2000) present survey-based evidence that organized interests are more likely to lobby policy venues in which opposing interests are active, while W. L. Hansen and Mitchell (2000) find that corporate political activity increases in response to the advocacy efforts of unions. Austen-Smith and Wright (1994) examine lobbying activities in the U.S. Senate and also find evidence of what they call counteractive lobbying (but see Baumgartner and Leech 1996). In the context of the policy venue to be examined here, the U.S. Supreme Court, Solowij and Collins (2009) demonstrate that the filing of amicus curiae briefs in support of a litigant corresponds with the filing of amicus curiae briefs in support of the opposing litigant. Other studies, however, find little to no

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evidence of organized interests responding to activities of their opponents (e.g., Ando 2003; Hojnacki and Kimball 1998; Lowery et al. 2005; McKay and Yackee 2007). The mixed results generated by this literature may be the result of differing assumptions about the timing of organized interest responses to their opposition, the static nature of the analyses, and accompanying difficulties in identifying causal connections in the data.

In an effort to better understand how organized interests respond to the advocacy efforts of their opponents, I examine the dynamics of organized interest involvement as *amicus curiae* at the U.S. Supreme Court and assess the presence of both short-term and long-term responses to the filing of briefs by the opposition. The Court is an attractive venue for studying organized interest counteraction and countermobilization because lobbying efforts in the form of *amicus curiae* briefs are public record and can be observed far back in time. To properly assess the dynamics of organized interest activity it is critical to have a valid and reliable measure of advocacy activity over a meaningful time span.

Prior work examining the involvement of organized interests at the Supreme Court reveals that a wide variety of interests file *amicus curiae* briefs at the Court (Caldeira and Wright 1990) and that the fundamental compatibility between institutional features of the judiciary and the nature of an interest group affects the likelihood of the group using the courts (Scheppele and Walker 1991). There is also evidence that the decision to file an *amicus* brief is a function of the receptiveness of the Court (Kobylka 1991), the Court's need for information (Hansford 2004a), and the potential for this form of advocacy to allow membership-based groups to attract support (Hansford 2004b). This line of work has not, however, directly addressed whether interests respond to their opponents in a dynamic fashion.

Using data on *amicus curiae* filings from the 1946 to 2006 terms of the Supreme Court, I estimate vector error correction (VEC) and vector autoregression (VAR) models that allow a test of whether advocacy efforts respond, in a dynamic sense, to the efforts of the "other side." This modeling strategy provides a better test of the causal connections between the activities of opposing sets of organized interests because of the focus on the temporal sequencing of variation in *amicus* activity. These dynamic analyses illuminate the extent to which organized interest advocacy efforts are responsive to shocks in the level of activity of opposing interests. Existing research typically assesses lobbying activity occurring at one point in time, which makes it difficult to rule out spurious relationships and pin down causal connections.

The results of the model estimations (using both pooled and issue-specific data) reveal that organized interests respond to the advocacy activities of their

opponents in both the short and long term. An increase in the number of *amicus* briefs filed on one side leads to an increase in briefs filed by the other side, in the immediately following and subsequent Court terms. These results provide evidence that organized interests exhibit both short-term counteraction and long-term responsiveness, consistent with countermobilization, in the face of activity from their opponents. Consistent with pluralism, interest representation at the Court appears responsive and perhaps balanced in the long term. It is possible, though, that institutional characteristics of the judiciary promote counteraction and countermobilization on the part of involved interests. Ironically, this would suggest a particularly democratic, in the pluralistic sense, role for the Court.

## How Do Interests Respond to the Lobbying Activities of Their Opponents?

Assume that there are interests, in the most general sense, on both sides of an issue. How do interests on one side (to be labeled *A*, for ease of discussion), which may be organized and active or may be latent, respond to the advocacy activities of the other side (*B*)? More specifically, how does *A* respond to the lobbying efforts of *B* in a particular venue? The pluralist paradigm views American politics as centering on the competition between opposing interests (e.g., Becker 1983; Truman 1951). This active competition over policy outcomes leads organized interests to be responsive to the lobbying activities of their opponents. While Olson's (1965) famous critique of the assumption that latent interests will necessarily organize in response to threats took some of the wind out of the pluralist's sails, recent work provides pluralistic, or perhaps neo-pluralistic, theoretical justifications for the expectation that interests will respond to the advocacy efforts of their opponents. Specifically, there are both policy- and organizational-maintenance-based arguments for the possibility that organized interests will respond to an increase in the lobbying by opponents by increasing their own advocacy efforts in the same venue. Below, I outline these arguments and indicate how they apply to interest activity at the Supreme Court.

## Policy Motivations and Information Provision

Dating back to Milbrath (1963), scholars have equated lobbying with an attempt to influence policy outcomes through the strategic provision of information to policy makers. This should be particularly true of the lobbying

that occurs at the Supreme Court since there is no resource, other than information, that an interest can provide to the justices. If organized interests have any desire to shape the Court's decisions, then it must be done through information provision. This is in contrast to lobbying of Congress, where noninformational resources (e.g., those which are campaign related) are also part of the broader picture. The literature on the involvement of organized interests in the courts almost uniformly assumes (Breyer 1998; Hansford 2004a; Solowiej and Collins 2009), theorizes (Barker 1967; Collins 2008; Epstein and Knight 1999; Krislov 1963), or provides evidence (Behuniak-Long 1991; Collins 2008; Epstein and Knight 1999; Epstein and Kobylka 1992; Kearney and Merrill 2000; Spriggs and Wahlbeck 1997) that amicus briefs are a form of informational lobbying.

What sort of information is provided in amicus briefs? Studies reveal that these briefs typically contain "new" information or arguments that were not provided by the litigants (Collins 2008; Spriggs and Wahlbeck 1997). These arguments are often legalistic in nature, although much of the information in the briefs is either policy based or about the preferences of other governmental entities (i.e., separation of powers information; Collins 2008; Epstein and Knight 1999). Justice Breyer (1998) and others (e.g., Roesch et al. 1991) also point to the importance of scientific or social scientific information sometimes provided in amicus briefs. Finally, Barker's (1967) seminal article discusses how amicus briefs often contain information about the impact of a ruling. In sum, scholars find that amicus briefs typically provide "new" information to the justices, and this information can be legal, policy based, political, or scientific in nature.<sup>1</sup>

There is evidence that the information and arguments that interests provide to the Supreme Court in their amicus briefs can influence the Court's agenda (Caldeira and Wright 1988), decisions on the merits (Collins 2008; Kearney and Merrill 2000), and majority opinions (Spriggs and Wahlbeck 1997). Thus, policy-seeking interests have an incentive to file amicus briefs to counter or balance the information provided by briefs from the opposition (Austen-Smith and Wright 1994; Solowiej and Collins 2009). Indeed, the idea that interest groups might lobby the courts in response to the efforts of opposing interests is not new. Epstein (1985), for example, argues that the rise in conservative group involvement in the courts was a delayed response to the legal advocacy efforts of liberal groups.

### **Organizational Maintenance and Purposive Incentives**

Organized interests seeking resources for the purpose of organizational maintenance often rely on purposive

incentives to attract and retain supporters. It is easier and more effective to employ this type of selective benefit if the interest is operating in a conflictual policy context (J. M. Hansen 1985; King and Walker 1992). When there is a clear and active opposition, supporters may feel that their support of the organized interest is particularly necessary. An organized interest can more easily claim that there is a credible threat to the positions held by the interest, and perceptions of threat can yield greater purposive incentives to those who support the interest's positions (see J. M. Hansen 1985). Hansford (2004a, 2004b) finds evidence compatible with the claim that some organized interests take into account the provision of purposive incentives when deciding whether to file amicus curiae briefs at the Supreme Court in a given year or in a given case. It therefore seems reasonable to expect that organizational maintenance concerns will make the Court a more desirable venue for allocating scarce lobbying resources if there is an active opposition filing amicus briefs.

### **Counteraction versus Countermobilization**

Thus, based either on a policy-seeking desire to counteract the lobbying efforts of opponents or a resource-seeking strategy of choosing conflictual venues there could be a positive relationship between *A*'s and *B*'s levels of lobbying activity at the Court. The interest group literature, however, has not clearly defined the difference between the advocacy responses of mobilized interests (i.e., counteractive lobbying) and the mobilization (or demobilization) of interests (Lowery et al. 2005). Here, I treat the length of the lag between a change in *A*'s lobbying activities, for example, and *B*'s response as an indicator of the extent to which the response is a short-term change to the behavior of mobilized interests (counteraction) or a long-term change to the mobilization of the relevant set of interests (countermobilization). This rests on the assumption that mobilized interests will quickly respond to the activities of the opposition. It should take longer, however, for less than fully mobilized interests to organize and begin lobbying the Court.<sup>2</sup>

The (neo)pluralist paradigm thus implies that the advocacy efforts of *A* and *B* exhibit a long-term equilibrium in which a shock to the level of activity of one set of interests causes opposing interests to adjust their activities to meet the new equilibrium level. It is not clear, though, what the rate or speed of this type of re-equilibration would be, meaning that it is not clear what the mix is of short-term counteraction and long-term countermobilization.

While not conclusive, there is at least tentative evidence that organized interest activity at the Court is consistent with both short-term counteraction (Solowiej and Collins 2009) and long-term countermobilization (Epstein

1985). As noted below, however, extant research has not provided a clean, systematic test of the causal claim that the activities of one set of interests cause a response from opponents.

## Analyzing Organized Interest Responses to the Activities of Their Opponents

Existing empirical studies of the responsiveness of interests to the lobbying activities of opponents provide mixed results. A variety of research designs yield evidence that organized interest lobbying activity is positively associated with the activities of opponents (e.g., Austen-Smith and Wright 1994; W. L. Hansen and Mitchell 2000; Holyoke 2003; Nownes 2000; Solowiej and Collins 2009). Other studies, however, find little to no evidence of organized interests responding to activities of their opponents (e.g., Ando 2003; Hojnacki and Kimball 1998; Lowery et al. 2005; McKay and Yackee 2007). This lack of a convergence of results in the literature may result from three related issues.

First, there is no clear agreement as to the time lag at which researchers should look for a set of interests to respond to the behavior of another set. Some explicitly test for instantaneous, anticipatory counteraction (Ando 2003; Austen-Smith and Wright 1994), while others test for counteraction after a short lag (McKay and Yackee 2007).<sup>3</sup> Studies utilizing surveys of organized interests generally do not incorporate any temporal or dynamic component and thus do not specify a lag length (e.g., Holyoke 2003; Nownes 2000). Lowery et al. (2005) examine countermobilization occurring over a single two-year lag (looking at responses in 1999 to the number of active interests in 1997). This variation in the lag length specified may explain some of the variation in the results of these studies.

A second issue that goes hand in hand with the above is that researchers typically rely on cross-sectional data when testing hypotheses regarding the response of interests to the actions of their opponents (e.g., Austen-Smith and Wright 1994; W. L. Hansen and Mitchell 2000; Hojnacki and Kimball 1998). The one systematic study incorporating a meaningful longitudinal component does not leverage this feature of the data (Solowiej and Collins 2009). Without the presence and full exploitation of longitudinal data, it is difficult to draw conclusions about responses to the activities of opposing interests. This is particularly true for tests of the mobilization (or demobilization) of interests.

Third, existing studies struggle to pin down any *causal* connections between the activities of two sets of interests. For example, survey-based research (e.g., Holyoke 2003;

Nownes 2000) assesses the correlation between an organized interest's self-reported lobbying activities and perceptions of the activities of opponents. A positive correlation in this context is consistent with counteraction and perhaps countermobilization but is not conclusive. It is entirely possible that the lobbying efforts of two opposing sets of interests are positively correlated simply because of common unobserved variables that cause the lobbying activity of both sets of interests. At the Court, a correlation between the number of amicus briefs filed on one side of a case (or on one "side" during a term) and the number of briefs filed on the other *might* be the result of the briefs filed on one side causing the briefs filed on the other. Alternatively, both sets of briefs might be caused by unmeasured case characteristics.

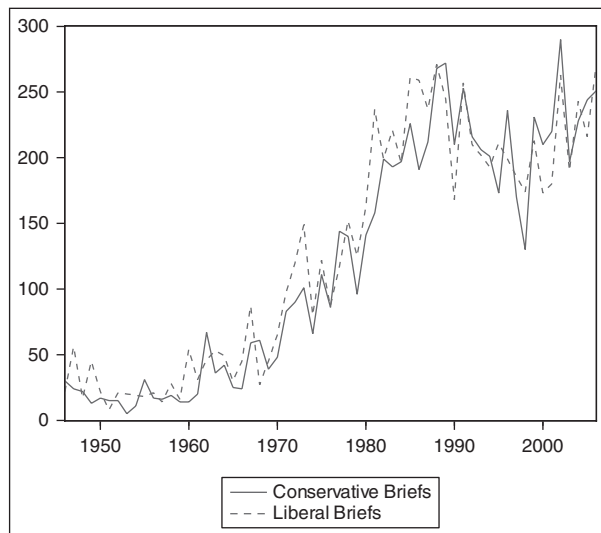
To deal with these three issues, I utilize longitudinal data on lobbying activity and estimate VAR and VEC models that need few structural constraints.<sup>4</sup> These are very general models that allow for the estimation of short-term and long-term relationships between multiple time series. These models explicitly allow the multiple series to be considered endogenous and then allow for basic tests of Granger causality to provide information about exogeneity and causal relationships. Different lag lengths can be included and tested, so there is no *ex ante* need to specify this feature of the model. In short, the data and models used will allow me to assess whether a shock in the level of lobbying activity exhibited by one set of interests has an effect on the subsequent level of lobbying activity of the opposing interests.

One potential shortcoming of this approach is that I am not able to estimate the extent to which simultaneous or instantaneous counteraction occurs. Specifically, VAR and VEC models necessarily exclude endogenous regressors at time *t*. The temporal ordering of variation in the two time series is critical to these models, and there is no such ordering when the advocacy efforts of one set of interests at time *t* are used to predict the efforts of opposing efforts at time *t* (and vice versa).<sup>5</sup> It is theoretically reasonable to expect that instantaneous counteraction occurs (see Austen-Smith and Wright 1994), and Solowiej and Collins's (2009) results are consistent with simultaneous counteraction at the Court. But the identification strategy employed here cannot test the presence of this instantaneous counteraction. Thus, if anything, the results obtained likely underreport the extent to which counteractive lobbying occurs at the Court.

## Data

To examine the responses of interests to the advocacy behavior of their opponents, I utilize data on the filing of amicus curiae briefs on the merits of U.S. Supreme Court cases from the start of the 1946 term to the conclusion of





**Figure 1.** Number of liberal and conservative amicus curiae briefs (issue-pooled) filed at the U.S. Supreme Court, 1946–2006 terms

the 2006 term. At the Supreme Court, organized interests can participate as litigants, litigant sponsors, intervenors, and amicus curiae. This last form of participation is by far the most frequent form of organized interest involvement at the Court, the kind of participation that most closely approximates traditional notions of lobbying activity, and the type of Court involvement typically studied by judicial scholars (e.g., Caldeira and Wright 1988, 1990; Collins 2008; Epstein and Knight 1999; Songer and Sheehan 1993; Spriggs and Wahlbeck 1997). I therefore equate organized interest lobbying activity at the Court with the filing of these briefs. Amicus curiae briefs are public record and can be observed going back in time, which allows for the creation of a highly reliable data set with a meaningful longitudinal component.

For amicus curiae brief filings from the 1953 to 1985 terms, I primarily rely on Gibson (1997). Data on the briefs filed during the 1946 to 1952 and 1986 to 2006 Court terms come from the United States Reports and Lexis. Following Gibson's coding rules, I exclude from the data briefs filed by individuals qua individuals. The data thus include all amicus curiae briefs filed by organized interests, broadly defined to include, for example, public interest groups, businesses, unions, and governmental entities. The unit of analysis is the Court term. Given the lags that I ultimately introduce into the model, the time span utilized for estimation purposes ranges from the 1949 term to the 2006 term.

While a single amicus curiae brief is often cosigned by a number of interests, I choose to analyze the number of amicus curiae briefs filed instead of the number of individual signers or cosigners of these briefs. This

measurement choice is consistent with the literature on interest group involvement in the courts. Scholars testing whether amici affect court decisions (e.g., Caldeira and Wright 1988; Collins 2008; Kearney and Merrill 2000; Songer and Sheehan 1993) and efforts to measure the salience of Supreme Court cases (e.g., Maltzman, Spriggs, and Wahlbeck 2000) rely on the number of briefs filed, not the number of interests on the briefs. Solowiej and Collins's (2009) study of simultaneous counteraction at the Court also considers the brief as the relevant expression of lobbying activity. The second and perhaps more compelling reason for treating the briefs, not the cosigners, as the appropriate indicator of interest activity is that the filing of an amicus curiae brief is costly (Caldeira and Wright 1988). The act of joining as an additional cosigner is virtually costless. Cosigning is "cheap talk" while filing a brief is a costly, thus meaningful, action.<sup>6</sup>

Using Spaeth's (1999, 2007) data on the ideological direction of the lower court decision and the formal position stated by amicus curiae briefs (i.e., supporting reversal or affirmation of the lower court decision), I determine for each amicus brief whether it is a liberal brief or a conservative brief. By aggregating these briefs to the level of the Supreme Court term I generate two time series: *Liberal Briefs* and *Conservative Briefs*. The former variable is a count of all the briefs filed in a term that take a liberal position while the latter is a count of all the briefs taking a conservative position. Figure 1 presents a plot of both time series. It is immediately clear that both of these series track together, but it is difficult to informally assess whether shocks to one series leads to response in the other series. In other words, it is difficult to tell from this figure whether there is truly any counteraction or counter-mobilization. Below, I use these data to estimate an issue-pooled model in which *Liberal Briefs* and *Conservative Briefs* are the two endogenous variables of interest. This model formally tests both short-term and long-term responsiveness in one series to exogenous shocks in the other series.

Is it appropriate to pool the amicus data across issue areas? An answer to this question should start with the observation that it is not unusual for studies of interest involvement at the Court to pool together liberal and conservative interests across all issue areas (e.g., Collins 2008; Epstein 1993). Furthermore, anecdotal evidence suggests that it is not problematic to pool issue areas together at the Court when studying organized interest activity. For example, O'Connor and Epstein (1984) describe the creation of conservative public interest law groups as resulting from a conscious choice to counter the involvement of liberal interests at the Court. These are broadly conservative interests (such as the Pacific Legal Foundation) responding to the activities of broadly liberal interests like the ACLU. It is also worth noting that at the

Court even relatively focused organized interests often stray from what would be viewed as their issue area of greatest interest. Abortion cases, for example, are often accompanied by amicus briefs signed by interests such as the Sierra Club, American Library Association, and National Education Association (Epstein 1993). Perhaps the adversarial nature of the U.S. legal system leads to a clearer sorting of interests into general ideological camps than occurs at other policy venues.

Nonetheless, to further examine interest responsiveness within particular issue areas, I also disaggregate the Supreme Court cases by the thirteen broad issue areas defined by Spaeth (1999, 2007).<sup>7</sup> Some of these issue areas suffer from either a minimal number of cases or very little amicus curiae activity over much of the time frame and are thus not included in this part of the analysis. The broad issue areas included in the disaggregated data are criminal procedure, civil rights, First Amendment, unions, economic activity, judicial power, and federalism.<sup>8</sup> For each of these issue areas, I generate *Liberal Briefs<sub>i</sub>* and *Conservative Briefs<sub>i</sub>* and treat these variables as the endogenous variables in the issue-specific models.<sup>9</sup>

There are likely a number of independent variables that affect how many amicus briefs are filed at the Court in a given term. For the purposes of this article, these independent variables are not of theoretical interest but are simply controls that should be accounted for when estimating the effect of lags of *Liberal Briefs* on *Conservative Briefs* and vice versa. Generally speaking, there are two types of independent variables: those that affect liberal and conservative interests in the same manner and those that affect liberal and conservative interests differently. Beginning with the former, Solowiej and Collins (2009) find that more briefs are filed in constitutional cases and in cases involving some sort of challenge to federal policy.<sup>10</sup> I therefore include in the models *Constitutional Cases<sub>t</sub>* and *Federal Actions<sub>t</sub>*.<sup>11</sup> The former variable consists of the number of constitutional cases decided at time  $t$  and the latter includes the number of cases involving a federal legislative or executive action at time  $t$ .<sup>12</sup>

To further control for other considerations that might affect the total volume of briefs filed by both types of amicus brief, I include *Neutral Briefs<sub>t</sub>* as an exogenous regressor.<sup>13</sup> I treat this variable as exogenous because interests that do not take a firm position on a case (and presumably within the issue area in general) cannot be considered as having opponents. Thus, it seems reasonable to assume that interests filing neutral briefs are not responding to the briefs filed on either the liberal or conservative side of an issue.<sup>14</sup> For the issue-pooled model, *Neutral Briefs<sub>t</sub>* is simply the count of all the amicus briefs filed in the given term in which the brief does not

formally take a position or support a party.<sup>15</sup> This variable should serve as a reasonable proxy for the various variables that might make the Court a more attractive venue for any type of interest. For the issue-specific models, this variable is a count of all the neutral amicus curiae briefs filed in the given issue area in the term under analysis.

I also control for the ideological nature of the Court at time  $t$ . In the issue-pooled model I include *Court Median<sub>t</sub>*, which is the location of the median justice according to the first dimension of the Martin and Quinn (2002) scores of justice ideology. This general measure of judicial ideology may not be appropriate for the issue-specific models, so for these models the percentage of conservative Court decisions in the issue area over the previous three terms is utilized (*Conservative Decisions*). Three previous terms are used here because of the smaller number of decisions within a specific issue area. Prior work (Hansford 2004b) suggests that this variable may have a negative effect on *Liberal Briefs* and a positive effect on *Conservative Briefs*.<sup>16</sup>

### Model Specification and an Initial Test of the Responsiveness of Interests at the Court

As mentioned earlier, there are two related statistical models designed for estimating relationships between multiple time series when the researcher does not want to make strong structural assumptions: VAR and VEC models. If the endogenous time series are stationary, then the VAR model should be used. If the multiple endogenous series are cointegrated, then the VEC model is appropriate.<sup>17</sup> The issue-pooled and the issue-specific versions of *Liberal Briefs* and *Conservative Briefs* thus need to be tested to determine whether these series are cointegrated or stationary.

When testing for cointegration, I am essentially providing an initial test of the long-term relationship between *Liberal Briefs* and *Conservative Briefs*. In other words, these tests should provide insight into whether there appears to be a long-run equilibrium in the amount of advocacy activity by opposing sets of interests. The presence of this type of long-term relationship is consistent with the counteraction and/or countermobilization theses and is also consistent with the pluralism paradigm.

For two time series to be truly cointegrated, it must first be established that each series is integrated (i.e., has a nonstationary mean,  $I(1)$ ). Table 1 reports augmented Dickey–Fuller tests of the null hypothesis that each series is integrated. For the series in the unions and federalism issue areas, this null hypothesis can be rejected. For the series in the First Amendment and judicial power issue areas, the results are split. In the other issues areas, the

**Table 1.** Testing Cointegration

Issue area	Series	Reject I(1)? ADF test	Reject I(0)? Robinson est.	(d)	Cointegrated?	Rank
All issues (pooled)	Liberal briefs	No	Yes	.45	Yes	1
	Conservative briefs	No	Yes	.55		
Criminal procedure	Liberal briefs	No	Yes	.42	Yes	1
	Conservative briefs	No	Yes	.68		
Civil rights	Liberal briefs	No	No	.14	—	
	Conservative briefs	No	No	.22		
First Amendment	Liberal briefs	No	Yes	.31	No	
	Conservative briefs	Yes	Yes	.41		
Unions	Liberal briefs	Yes	No	.12	—	
	Conservative briefs	Yes	No	-.03		
Economic activity	Liberal briefs	No	Yes	.27	Yes	1
	Conservative briefs	No	Yes	.34		
Judicial power	Liberal briefs	No	Yes	.37	Yes	1
	Conservative briefs	Yes	Yes	.29		
Federalism	Liberal briefs	Yes	Yes	.47	Yes	1
	Conservative briefs	Yes	Yes	.25		

Note: Augmented Dickey–Fuller (ADF) tests are performed with the appropriate number of lags for the series and a trend term. Robinson's (1995) estimate of  $d$  and test of whether it is equal to zero are used to test the  $I(0)$  null hypothesis. The maximum eigenvalue test (with intercepts in both the VAR and cointegrating equation) is used for the cointegration tests. Null hypotheses are rejected at  $p \leq .05$ .

null cannot be rejected, meaning that it is possible that the series are integrated. Using Robinson's (1995) approach to estimating  $d$  (the differencing parameter, which equals one when a series is truly integrated and zero when a series is stationary) and then testing the null that  $d$  equals zero further reveals that the series in the civil rights and unions issue areas can be considered stationary (see Table 1). For the rest of the series, the null of stationarity can be rejected, although the estimates for  $d$  are not particularly close to a value of one.

It thus appears that for most of the issue areas (and the issue-pooled data) there could be a cointegrating relationship, although it is likely of a fractional nature. I therefore perform Johansen's (1995) cointegration test for all but the civil rights and unions issue areas.<sup>18</sup> As reported in the last column of Table 1, *Liberal Briefs* and *Conservative Briefs* are cointegrated with a rank of one when all the issues are pooled together. Likewise, these series are cointegrated with a rank of one in the criminal procedure, economic activity, judicial power, and federalism issue areas. When modeling the relationship between the briefs filed on the liberal side of an issue and those filed on the

conservative side, I utilize the VEC model for these (fractionally) cointegrated series. For the series in civil rights, First Amendment, and unions, I estimate VAR models.

Substantively, the results of Table 1 suggest that for the issue-pooled data and most issue areas there exists a long-run relationship between *Liberal Briefs* and *Conservative Briefs*. Increases in the activity of interests on one side are associated with increases in the activity of interests on the other side. While the VEC and VAR model estimations below provide more information about these relationships, these initial results are consistent with a pluralistic view of interest representation.

### Issue-Pooled Model of Amicus Brief Filings

To begin to assess the full dynamics of the relationship between the activities of liberal interests at the Supreme Court and those of conservative interests, I estimate a VEC model of amicus curiae brief filings at the Court from the 1949 to 2006 Court terms. There are two endogenous variables in the model: *Liberal Briefs* and



**Table 2.** Vector Error Correction Model of Amicus Curiae Brief Filings (issue-pooled) at the U.S. Supreme Court, 1949–2006 Terms

	$\Delta$ liberal briefs <sub>t</sub>		$\Delta$ conservative briefs <sub>t</sub>	
Cointegration term	–0.737**	(0.293)	0.578**	(0.294)
$\Delta$ liberal briefs <sub>t-1</sub>	–0.180	(0.248)	–0.479*	(0.249)
$\Delta$ liberal briefs <sub>t-2</sub>	0.101	(0.180)	–0.095	(0.181)
$\Delta$ conservative briefs <sub>t-1</sub>	–0.596**	(0.232)	–0.256	(0.233)
$\Delta$ conservative briefs <sub>t-2</sub>	–0.508**	(0.173)	–0.324*	(0.174)
Constitutional cases <sub>t</sub>	0.747*	(0.388)	0.172	(0.389)
Federal actions <sub>t</sub>	0.200	(0.347)	–0.204	(0.348)
Neutral briefs <sub>t</sub>	0.162	(0.220)	0.223	(0.221)
Court median <sub>t</sub>	–3.81	(8.01)	–8.70	(8.03)
Constant	–37.8*	(22.4)	12.5	(22.4)
Cointegration term =				
Liberal briefs <sub>t-1</sub>	1.00	(—)		
Conservative briefs <sub>t-1</sub>	–0.953**	(0.030)		
Constant	–12.2	(—)		
N	58		58	
R <sup>2</sup>	.537		.475	

Note: Entries are coefficient estimates (with standard errors in parentheses).

\* $p \leq .10$ . \*\* $p \leq .05$  (two-tailed).

*Conservative Briefs*. Each of these endogenous variables contains amicus curiae briefs filed across all the issue areas and, consistent with the VEC approach, is included in first difference form (e.g.,  $\Delta$  *Liberal Briefs*). Based on the results of a sequential likelihood ratio test, it is appropriate to include two lags of each differenced endogenous variable. The four exogenous control variables, *Constitutional Cases*<sub>t</sub>, *Federal Actions*<sub>t</sub>, *Neutral Briefs*<sub>t</sub>, and *Court Median*<sub>t</sub>, are included in levels. The results of this model estimation are presented in Table 2. The model appears to fit the data well, as the  $R^2$  values are large (just above .5 for  $\Delta$  *Liberal Briefs*<sub>t</sub> and just below .5 for  $\Delta$  *Conservative Briefs*<sub>t</sub>) considering that the dependent variables are in first-difference form.

In a VEC model, the coefficient estimates for lagged, differenced endogenous variables reveal the short-term or immediate effect of prior values of the variable in question on the variable being explained. For example, the results indicate that  $\Delta$  *Conservative Briefs*<sub>t-1</sub> exerts a statistically significant effect on  $\Delta$  *Liberal Briefs*<sub>t</sub>. Granger causality block tests of the explanatory power of the lagged endogenous variables reveal that *Conservative Briefs* “Granger causes,” in the short-term sense, *Liberal Briefs* (see Table 3). The  $p$  value associated with the

**Table 3.** Granger Causality Tests (for short-term effects), Issue-Pooled Vector Error Correction Model

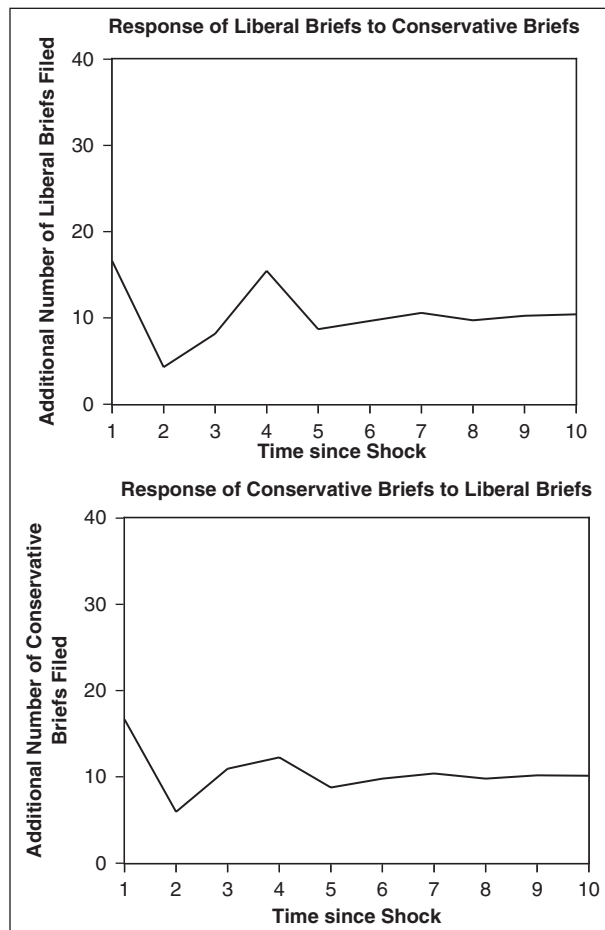
Relationship	$\chi^2(2 \text{ df})$	$p$ value
Conservative briefs → liberal briefs	9.41	.009
Liberal briefs → conservative briefs	5.17	.075

test of whether *Liberal Briefs* has a short-term effect on *Conservative Briefs* is very close to the conventional .05 threshold, suggesting that changes to the number of liberal briefs filed in one term may have a short-term effect on the number of conservative briefs filed in the following terms. While the evidence thus far points to at least a short-run relationship between *Liberal Briefs* and *Conservative Briefs*, much should not be made of the direction of the coefficients for the lagged endogenous variables because of the presence of the error correction mechanism in the model. Impulse response functions presented later provide a better sense of the direction of both short- and long-term effects.

Returning to Table 2, the coefficient estimates for the control variables mostly fail to achieve statistical significance. The exception is *Constitutional Cases*<sub>t</sub>, which has a positive and significant effect on changes to the number of liberal amicus briefs filed. All else equal, liberal interests are more active at the Supreme Court in years in which the Court is hearing a large number of constitutional cases. Conservative interests do not appear to respond to the number of constitutional cases.

Interestingly, the estimates for *Court Median*<sub>t</sub> are not statistically significant. The ideological position of the Court does not appear to affect the numbers of briefs filed in support of either liberal or conservative positions.<sup>19</sup> This aggregate-level result stands in contrast to Hansford’s (2004b) finding that an individual organized interest is more likely to file amicus briefs at the Supreme Court when the Court is ideologically compatible with the interest. This result is also somewhat inconsistent with studies of the decision whether to lobby friends or foes in Congress, which often find that friendly legislators are targeted (e.g., Hojnacki and Kimball 1998; cf. Austen-Smith and Wright 1994).

Of greater interest here, the estimate for *Conservative Briefs*<sub>t-1</sub> is statistically significant in the cointegrating equation, and the predictions of the cointegrating equation (i.e., the cointegration terms) are significant in the main equations.<sup>20</sup> These results further emphasize that *Liberal Briefs* and *Conservative Briefs* exist in a long-term equilibrium relationship. When these two variables are out of equilibrium, they start to re-equilibrate in the following term. For example, if there is an impulse of additional liberal briefs filed at time  $t$  that is not simultaneously accompanied by a similar increase in conservative



**Figure 2.** Impulse response functions for issue-pooled vector error correction model

briefs, then the cointegrating equation produces positive values in the following term (owing to the positive coefficient for *Liberal Briefs*<sub>*t*-1</sub> and the negative coefficient for *Conservative Briefs*<sub>*t*-1</sub> in the cointegrating equation). These positive values then act to decrease the number of liberal briefs filed at *t* + 1 while also increasing the number of conservative briefs (indicated by the negative estimate for the cointegrating equation predictions for *Liberal Briefs* model and the positive estimate for *Conservative Briefs*).

In substantive terms, this re-equilibration implies a dynamic responsiveness in lobbying activities, which in turn suggests the existence of a dynamic representational balance at the Court. A burst in activity by organized interests on one side of the ideological spectrum leads to an increase in activity by interests on the other side. The Court can be viewed as a competitive, conflictual policy venue in which a disturbance (Truman 1951), meaning in this context an increase in activity by a set of interests, stimulates advocacy by interests on the other side.

At a very general level, this result is consistent with what Austen-Smith and Wright (1994), W. L. Hansen and Mitchell (2000), Holyoke (2003), and Nownes (2000) have found when examining lobbying patterns in other policy venues. Other studies, however, have suggested an absence of counteraction or countermobilization (e.g., Ando 2003; Hojnacki and Kimball 1998; Lowery et al. 2005; McKay and Yackee 2007). As argued above, these mixed results may be from issues with identifying causal relationships. By utilizing the temporal sequencing of variation in lobbying activity, the approach used here allows for a better assessment of the causal connection between the lobbying activities of opposing interests, and the results support a pluralistic, competitive, and responsive view of advocacy efforts at the Court.

Given the fairly complex dynamics of the VEC specification, it is useful to generate and consider impulse response functions (IRFs) that reveal the over-time effect of a one standard deviation (orthogonal) shock to one of the endogenous variables at time *t*. Figure 2 presents the IRFs for the VEC model of amicus briefs filed in all issue areas. To make the various IRFs consistent and comparable from this point on, all IRFs have a y-axis that is scaled to range from zero to approximately one-half a standard deviation of the number of liberal briefs filed in a term.

There are three noteworthy features of the IRFs presented in Figure 2. First, a positive shock to the number of briefs filed by one side has a positive effect on the future number of briefs filed by the other side.<sup>21</sup> An increase in the number of briefs filed by one side leads to a subsequent increase in the number filed by the other. Again, this result clearly supports the contention that organized interests will attempt to counter the lobbying efforts of their opponents. Second, both IRFs reveal an immediate response to a shock in the number of briefs filed by opponents. This pattern is supportive of the notion of short-term counteraction. Third, after a dip in the second term following the shock there is a resurgence in the number of additional briefs filed in response to the shock. A shock at time *t* clearly has a long-term effect on the number of briefs filed by the opposition. A burst of activity by liberal groups, for example, leads to both a short-term spike in the activity of conservative groups and a long-term increase in conservative advocacy at the Court. This latter, long-run component fits with Epstein's (1985) description of the rise in conservative group involvement in the courts as a result of liberal legal advocacy in previous years.

Although it cannot be viewed as definitive evidence of countermobilization, the long-term "error correction" revealed by this model is certainly consistent with countermobilization. It seems unlikely that an interest that is already organized, politically active, and prepared to file

**Table 4.** Granger Causality Tests, Issue-Specific Models

Issue	Relationship	$\chi^2$	p value	Model type
Criminal procedure	Conservative briefs → liberal briefs	4.03	.045	VEC(1)
	Liberal briefs → conservative briefs	16.1	.000	
Civil rights	Conservative briefs → liberal briefs	7.32	.026	VAR(2)
	Liberal briefs → conservative briefs	0.566	.754	
First Amendment	Conservative briefs → liberal briefs	12.6	.002	VAR(2)
	Liberal briefs → conservative briefs	3.91	.142	
Unions	Conservative briefs → liberal briefs	2.93	.087	VAR(1)
	Liberal briefs → conservative briefs	1.09	.296	
Economic activity	Conservative briefs → liberal briefs	24.4	.000	VEC(3)
	Liberal briefs → conservative briefs	5.35	.148	
Judicial power	Conservative briefs → liberal briefs	4.62	.328	VEC(4)
	Liberal briefs → conservative briefs	12.3	.015	
Federalism	Conservative briefs → liberal briefs	0.664	.882	VEC(3)
	Liberal briefs → conservative briefs	7.88	.049	

Note: VEC = vector error correction; VAR = vector autoregression. For VEC models, these tests reveal only whether a variable Granger causes another variable in the short term. Lag lengths are selected by sequential likelihood ratio tests and are indicated parenthetically in the "model type" column.

amicus briefs would wait a few years before responding to an increase in activity by opposing interests. It is more plausible that delayed responses in the number of amicus briefs filed are the result of either existing organized interests engaging the Court for the first time or the activation and organization of new interests, both of which I have loosely termed countermobilization. Many of the earlier studies of organized interests in the courts provide qualitative support for this inference. For example, Epstein (1985, 1993) documents the creation of legally oriented interests that formed in response to the activities of opponents in the courts. O'Connor and Epstein (1984) describe the creation of conservative public interest law groups, like the Pacific Legal Foundation, as resulting from a conscious choice to counter the involvement of liberal interests at the Court.<sup>22</sup>

### Issue-Specific Models of Amicus Brief Filings

Repeating the above analysis with the issue-specific data leads to similar results. Table 4 presents a summary of Granger causality block tests performed after the model estimations. It is important to note that Granger tests have a different meaning depending whether they are being applied to a VAR or VEC model. In the former, these tests reveal whether one variable Granger causes another, regardless of time frame. In the latter, these tests apply only to the short-term effect of one variable on another.

Of the seven issue areas analyzed, there is only one, unions, in which it is unclear that either series Granger causes the other. In criminal procedure cases, *Conservative Briefs* Granger causes *Liberal Briefs*, and vice versa. In First Amendment, civil rights, and economics cases (as

well as perhaps cases dealing with unions), shocks to the number of conservative briefs filed elicit a response from liberal interests, while the opposite is not true. In judicial power and federalism cases, liberal amicus briefs lead to conservative advocacy at the Court. Taken together, these results again suggest that organized interests are responsive to the advocacy efforts of their opponents, although this responsiveness is not uniform across the issue areas.

To gain a richer picture of the impact of a shock to the number of briefs filed by one side in a given issue area, Figure 3 presents IRFs for all seven issue areas analyzed. Again, the y-axes are scaled to range from zero to half a standard deviation of the number of liberal briefs filed per term in the issue area in question. IRFs based on VAR models contain dashed lines indicating two standard errors above and below the predicted response function. Unfortunately, there are no equivalent analytical standard errors for VEC-based IRFs. It should also be noted that VAR-based IRFs generally exhibit a different pattern than those that are VEC based in that the former should approach zero over time while the latter need not. This dissimilarity is a result of the fact that the dependent variables in the VAR models are in levels, while they are in first-difference form in the VEC models.<sup>23</sup>

Two clear patterns stand out when examining these IRFs. First, an increase in the number of briefs filed in support of one side of an issue consistently leads to additional briefs being filed by interests on the other side. There is absolutely no evidence of organized interests decreasing their efforts at the Court in response to an increase in activity by their opponents. Second, there is both an immediate response at time  $t+1$  and a long-term response that plays out over subsequent periods. The only real exception to this is the unions

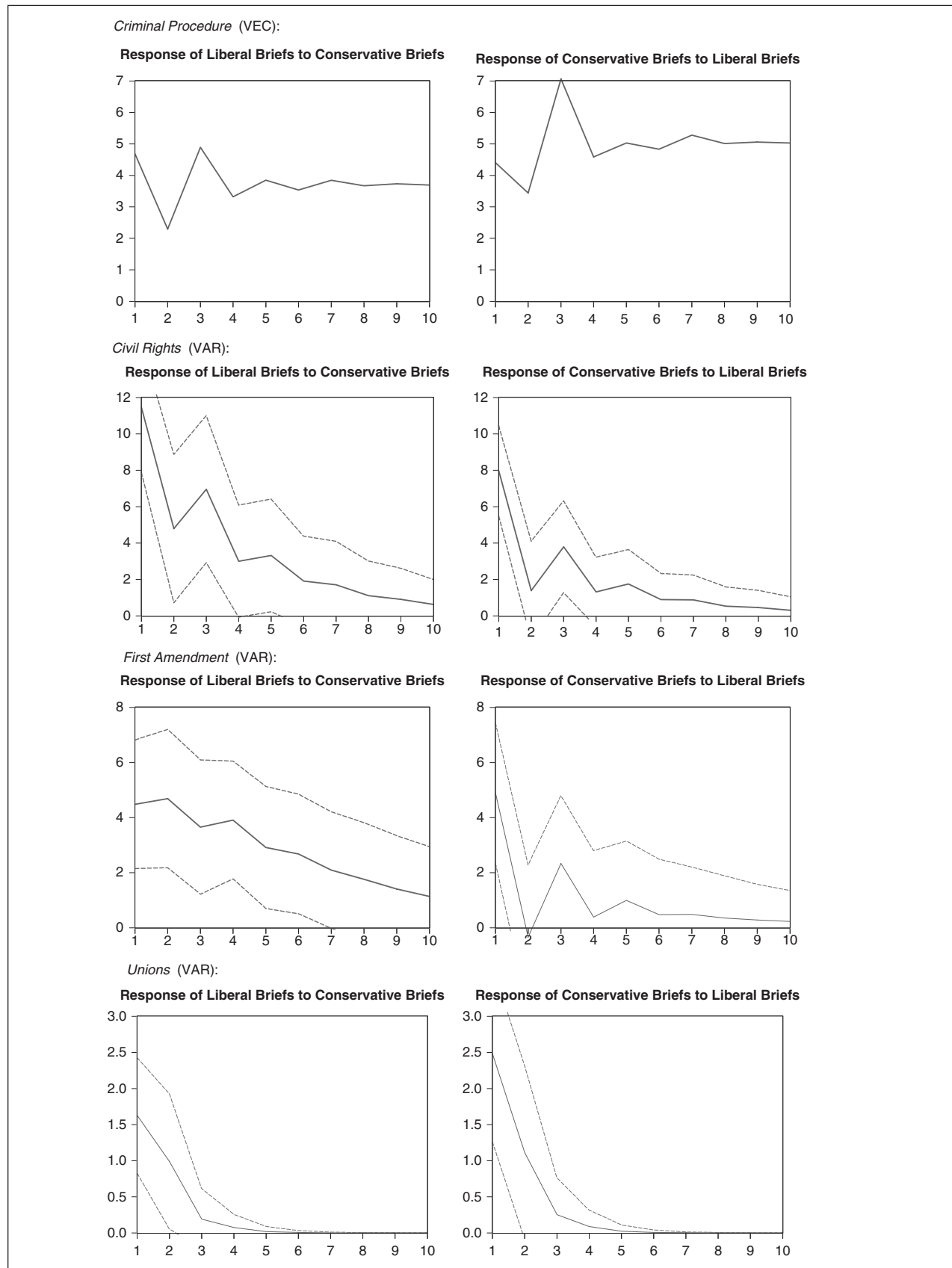
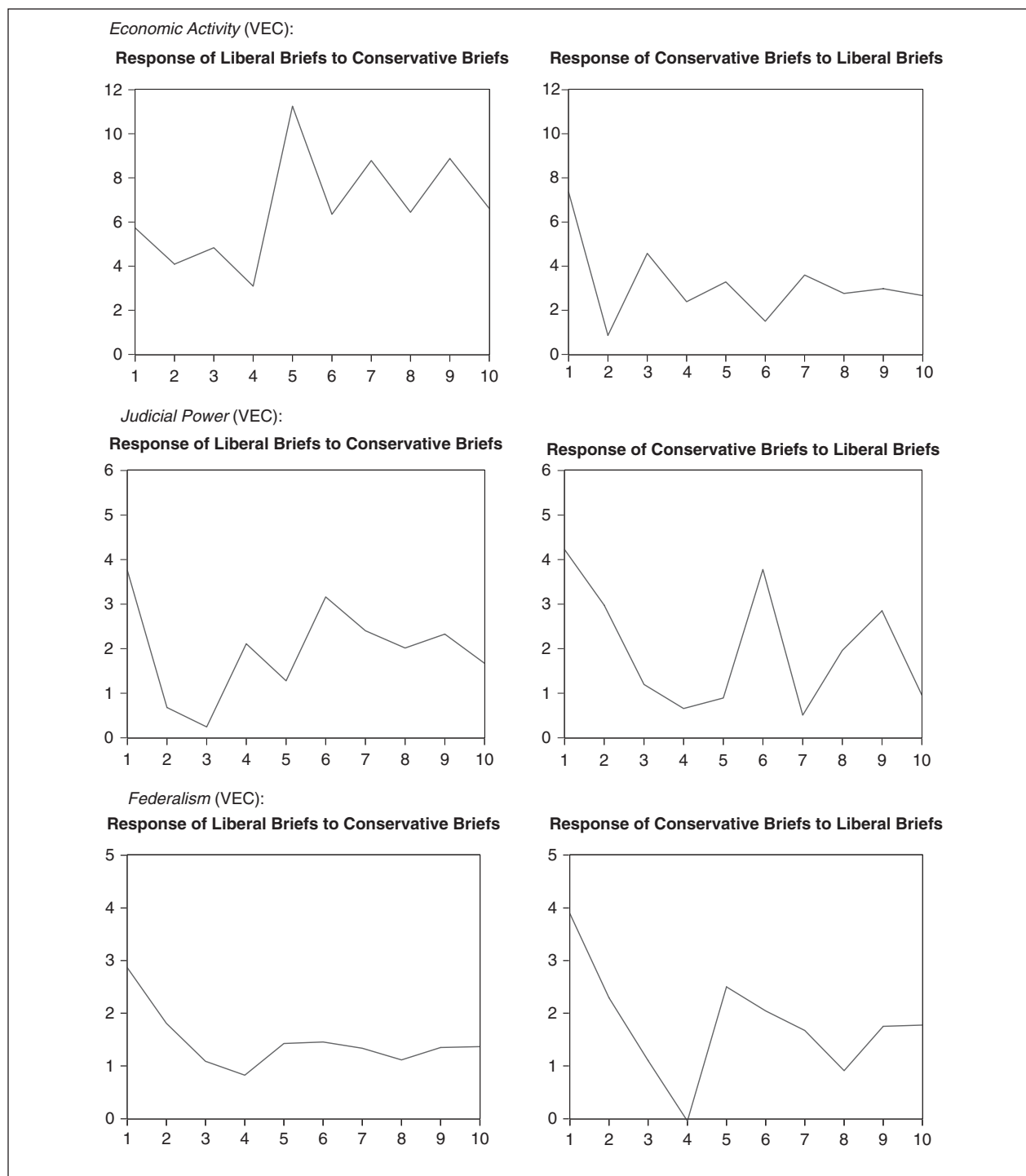


Figure 3. (continued)



**Figure 3.** Impulse response functions for issue-specific models

For each of these figures, time since the shock (in years) is on the x-axis and number of additional briefs filed is on the y-axis. The dashed lines in the impulse response function (IRFs) produced by vector autoregression (VAR) models represent plus and minus two standard errors. IRFs produced with vector error correction (VEC) models have no analytical standard errors.

issue area, in which the effect of a shock dissipates quickly. While Baumgartner and Leech (2001) find that the extent to which organized interests appear to

compete might vary by issue area, the results here suggest that competition at the Court occurs across relatively broad issue domains.



## Conclusion

How do organized interests respond to their opponents' advocacy activities in a policy venue? Do they shy away from competing in the venue, preferring instead to put their resources into lobbying less competitive venues? Or will they increase their own lobbying efforts in this venue in an effort to compete over policy outcomes and perhaps make persuasive resource appeals to potential supporters or members? My analysis of nearly sixty years of amicus curiae brief filings at the U.S. Supreme Court clearly indicates an affirmative answer to this last question. An increase in the number of liberal (i.e., proliberty) briefs filed in criminal procedure cases, for example, leads to both a short-term and a long-term increase in the number of briefs filed by those on the conservative (i.e., law and order) side.

Unlike previous studies testing the response of interests to the activities of the opposition (e.g., Austen-Smith and Wright 1994; W. L. Hansen and Mitchell 2000; Hojnacki and Kimball 1998; Solowiej and Collins 2009), I utilize the temporal sequencing of variation in advocacy activity to gain leverage on the causal connection between the behaviors of opposing sets of interests. The results support the existence of such a causal connection. This approach also allows for a richer portrait of the dynamics of interest representation in a policy venue. The results are consistent with a pluralistic view of the behavior and role of organized interests. At least in this particular policy venue, organized interests appear to compete over policy instead of avoiding conflict or simply ignoring the activities of opponents (see also Solowiej and Collins 2009).

One of the more important implications of the main result that organized interests respond positively to the lobbying activities of their opponents is that the U.S. Supreme Court, and perhaps other policy venues, is more likely to receive information and arguments from opposing sources, at least in the long term. Presumably, this dynamic balancing of interest representation ought to result in a better informed, and perhaps more representative, policy making. It also implies that organized interests cannot expect to easily "capture" the Court.

The distinction between short-term counteraction and the possibility of longer-term countermobilization is another important feature of the patterns of interest involvement revealed here. The results clearly indicate that the response of one set of interests to the lobbying behavior of another does not end after one Court term. Instead, the full response is spread out over several subsequent terms. While not conclusive, this feature of the data implies that some of the response may be the result of countermobilization. This countermobilization could involve new organized interests forming to become involved in Court litigation and/or existing interests

making internal structural changes to shift advocacy resources toward the Court. Either way, it seems unlikely that the delayed responses observed here are solely the function of "counterpunching" (Lowery et al. 2005) by currently existing entities that are already mobilized and organized so as to engage in advocacy at the Court. Prior studies testing short-term or instantaneous counteractive lobbying (e.g., Austen-Smith and Wright 1994; W. L. Hansen and Mitchell 2000; Hojnacki and Kimball 1998; McKay and Yackee 2007; Solowiej and Collins 2009) miss this important feature of the dynamics of interest representation in a policy venue.

While the results presented here are quite consistent across the various issue domains dealt with by the Court, this research cannot assess to what extent these patterns hold for other policy venues. On one hand, U.S. courts could be viewed as unusual policy venues because of the adversarial nature of the American legal system and the highly formal nature of allowable lobbying contacts, which reduces the formation and importance of relationships between interests and policy makers, that is, judges (but see Galanter 1974). Perhaps these institutional features contribute to counteraction and countermobilization on the part of involved interests, which might suggest, counterintuitively, a particularly democratic (in the pluralistic sense) role for courts. On the other hand, courts may be simply another policy battleground for organized interests and the patterns of interest involvement found here could also be found in other types of policy venue, data allowing. Future research could continue to improve on the identification of the dynamic causal connections between the lobbying activities of opposing sets of interests and test whether these connections vary because of institutional context.

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## Notes

1. While the above work focuses on the informational content of amicus briefs, it is also likely that the mere presence of these briefs, regardless of textual content, provides relevant information to the justices. Caldeira and Wright's (1988) research on the effect of amicus briefs on the Court's cert. decisions is based on this type of informational model, where the presence of the briefs is what matters.
2. In the empirical component of the article, I do not consider instantaneous counteraction. As discussed later, this modeling constraint is the result of an issue of model

identification. Solowiej and Collins (2009) test the possibility of instantaneous counteraction at the level of the Court case and find evidence of this form of responsiveness among competing interests.

3. Solowiej and Collins (2009) test both anticipatory and very slightly lagged counteraction when they examine the filing of amicus curiae briefs at the U.S. Supreme Court. Their study is limited to examining patterns in the briefs filed within a single case, meaning that they do not examine responses that could occur after the case under analysis.
4. See Freeman, Williams, and Lin (1989) for an introduction to vector autoregression (VAR) models in political science. See Johansen (1995) for a detailed treatment of vector error correction (VEC) models.
5. Another potential shortcoming to the use of VAR and VEC models is that it is much more difficult to include multiplicative terms involving the endogenous variables. Austen-Smith and Wright's (1994) classic article proposes that counteraction is conditioned by whether the target is supportive of a group's position. My approach does not allow for this conditional relationship.
6. Furthermore, the number of liberal amici signing onto amicus briefs in a given year is highly correlated with the number of liberal amicus briefs filed ( $r = .91$ ). The number of conservative amicus briefs also correlates very highly with the number of individual interests signing onto these briefs ( $r = .90$ ). When reestimating the model presented in Table 2 while using number of individual signatories and cosignatories instead of the number of briefs, the results are very similar. The one unrestricted estimate in the cointegrating equation (for *Conservative Amici* <sub>$t-1$</sub> ) is statistically significant, as is the estimate for the cointegration term in the *Conservative Amici* model (the equivalent estimate in the *Liberal Amici* model has a  $p$  value of .063, with a two-tailed test). The Granger causality results lead to the same inferences, and the impulse response functions look very similar to those presented in Figure 2.
7. Spaeth terms these broad issue areas as "values."
8. The broad issue areas I do not include in the issue-specific models because of limited numbers of cases and/or amicus briefs are due process, privacy, attorneys, federal taxation, interstate relations, and miscellaneous. Briefs filed in these cases are included in the issue-pooled model.
9. There are practical data issues associated with further subdividing these broad issue categories into narrower issue areas. The more narrowly the issues are defined the fewer cases there are in the issue area in a given term, which means fewer amicus briefs. To estimate the VAR and VEC models, it is necessary to have meaningful over-time variation in the endogenous variables. Narrowly defined issue areas often have zero amicus briefs for many of the terms under analysis because of a lack of relevant cases in these terms. This disaggregation is particularly problematic for the earlier decades under analysis. There is one relatively narrow issue area, though, that has witnessed enough amicus activity over time to allow for the proper model estimation—search and seizure law (which is otherwise aggregated in the "criminal procedure" issue area for the purposes of the issue-specific models). To see whether the results obtained with the pooled model or the relatively broad issue-specific models are also found in this narrower issue area, I estimated a VEC model in which the two endogenous variables are number of prosecution briefs (i.e., support the search or seizure) and number of prodefense briefs (i.e., oppose the search or seizure). The results for interest activity in this narrower issue area are very similar to the patterns observed in the broader issue areas and the issue-pooled data. The only difference of note is that the re-equilibration happens more quickly with these data than with the broader issue areas (i.e., there is less in the way of long-term countermobilization).
10. Solowiej and Collins (2009) also find that *New York Times* coverage of a case and an invitation to the solicitor general to file an amicus brief increase the number of briefs filed in the case. If the total number of cases covered on the front page of the *New York Times* during the course of a term (see Epstein and Segal 2000) is included in the model, the estimate for this variable is statistically insignificant, and I exclude it from the models presented here. This variable may do a better job of explaining case-to-case variation in the number of briefs filed than term-to-term variation. This same is likely true for invitations to the solicitor general.
11. Solowiej and Collins (2009) include all constitutional challenges to federal legislation and instances of interpretation of federal statutes in their variable. *Federal Actions* includes these cases as well as cases involving the constitutionality of a federal executive branch action.
12. Both of these variables are derived from Spaeth (1999, 2007).
13. While I use Stata to perform all the initial tests regarding integration, cointegration, and lag lengths, I use EViews to estimate the VEC models because, unlike Stata, it allows for the inclusion of exogenous variables. See Krause (2002) for a political science application of the VEC model with exogenous controls.
14. Granger causality tests indicate that *Neutral Briefs* is exogenous to *Liberal Briefs* and *Conservative Briefs*.
15. Briefs coded as neutral in the United States Reports sometimes do actually advocate a position in the text of the brief. As long as the mistakes are distributed evenly (i.e., miscoded neutral briefs are just as likely to be liberal briefs as they are to be conservative briefs), this measurement error should not pose a significant problem for the subsequent analyses.
16. I also estimated all of the models while including an exogenous variable controlling for the ideological position of Congress. Using Common Space scores (Poole 1998), I calculated the midpoint between the House median and

the Senate median in a given term. This variable is statistically significant in the issue-pooled model (the coefficient is positive and significant for both *Liberal Briefs* and *Conservative Briefs*), but its inclusion does not affect the inferences and, for the sake of parsimony, I exclude this variable from the models.

17. The VEC model is similar to the VAR model, but (1) the endogenous series in a VEC model are differenced while they are typically included in levels in a VAR model and (2) a VEC model includes a cointegrating equation that allows for a long-run equilibrium relationship.
18. The number of lags included in these tests is determined by sequential likelihood ratio tests.
19. This null result remains if the percentage of conservative Court decisions (lagged one term) is used as an alternative measure of the Court's ideological position.
20. There is no test for the significance of the estimate for  $Liberal\ Briefs_{t-1}$  because the coefficient is fixed at one for estimation purposes.
21. These results are not simply driven by the fact that both *Conservative Briefs* and *Liberal Briefs* generally trend upward over time. The VEC specification employed contains constants in both the error correction component and the main model, which explicitly accommodate a linear trend in the endogenous variables.
22. Some interests explicitly claim to have formed in response to the advocacy efforts of opponents. Often, this countermobilization (and then subsequent counteraction) is couched in terms of balancing interests in the courts. The Washington Legal Foundation, for instance, says its mission is to "maintain balance in the Courts" (<http://www.wlf.org/org/mission.asp>, accessed September 30, 2010).
23. Thus, a shock in a VAR model is fleeting while it can be permanent in a VEC model.

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