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Where Have You Gone, Federalism, the States Turn Their Lonely Eyes to You: An Empirical Investigation into the Rehnquist Court's Federalism Decisions[1]

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The weakening of the levels of federalism due to New Deal policies and the 1937 Court-packing scandal, as well as re-solidification under the Rehnquist Court, has received much academic attention in the past few decades. Qualitative as well as quantitative research has examined a wide variety of federalism topics in relation to the Rehnquist Court, but few have tried to uncover empirical support for the argument that a revival occurred during this era due to Chief Justice Rehnquist himself and his support of a limited central federal government. An empirical test of the effect of Rehnquist's role as a chief justice on the federalism voting of Supreme Court justices will provide the explanation that the literature lacks. Not only will this test provide evidence that the conservative ideological nature of Supreme Court justices leads to ruling in favor of the states, but that the emphasis on reestablishing federalism by Chief Justice Rehnquist during this era lead to the increased number or pro-states rulings that were issued in comparison to earlier Courts. In the end, this work seeks to add to the literature by providing an empirical test of judicial decision-making during the Rehnquist era, offering a reason as to why the increased number of state sovereignty promoting federalism decisions occurred when they did.

[1] This work would not be possible without the tireless effort of my research assistant Lizeth Damaso, and beneficial comments/suggestions from Joshua J. Dyck, Christina L. Boyd, and Claude E. Welch.

In *National League of Cities v. Usery* (1976), Justice Rehnquist wrote, "an opinion for four Justices in which, for the first time since 1937, the Court struck down a congressional statute as a violation of the commerce clause … [T]he opinion stresses repeatedly that the Constitution does not permit the federal government to expand its powers so far that the integral functions of state governments fall under the control of the central government" (Shapiro 1991, 151). With this opinion, Justice Rehnquist began establishing a Supreme Court voting record supporting a particular form of federalism that would follow him through the remainder of the Burger Court and would become the featured topic of scholarly discussion during his own Court.

The Theorized Federalism Doctrine of Chief Justice Rehnquist

The position of chief justice is strategic in nature and constitutes much more than the reading of facts of potential cases to their fellow justices or deciding who writes the opinion of the Court. The most important role of the chief justice is helping to establish precedent that will leave a lasting impact on both the study of constitutional law and this country as a whole (Johnson, Spriggs, and Wahlbeck 2005). Therefore, when Justice Rehnquist became the chief justice in the mid-eighties, a change in Court vision loomed. By the mid-1990s, pro-state rulings were becoming synonymous with the Rehnquist Court, and the chief justice himself (Hulsebosch 2004), as the Court was aggressively using judicial review to restore power to the states, thus curbing the power of the federal government. The Rehnquist Court sought, through the use of the Tenth Amendment (Shaw 2004), to restore legitimacy and functions of the powers of the states by limiting the powers of the executive and legislative branches under the Commerce Clause. Consequently, Chief Justice Rehnquist and his federalism doctrine have received much academic scrutiny.

Rehnquist came to the Burger Court with a vocal willingness to limit Congress' power through the Tenth Amendment (Dean 2001). In cases such as *National League of Cities* (1976), *Jones v. Rath Packing Company* (1977), and *Arizona Public Service Co. v. Snead* (1979), Justice Rehnquist's legal vision supporting state sovereignty was established in the written record of the Court. As a result, a number of high-ranking individuals began to take notice, including future president Ronald Reagan. When President Reagan, a well-known champion of preserving federalism, nominated the established pro-federalism associate justice William Rehnquist for the position of chief justice, the president was seeking to secure that his own policy agenda of limiting the size and scope of the centralized federal government would continue for many years past his term

in office.[2] Rehnquist's established voting record on the previous cited cases and his fourteen and one-half years as an associate justice, as well as his consistent adherence to federalism and protection of states' rights from intrusion from the federal government (Abraham 1992), made the nomination of Rehnquist to chief justice seem like a natural fit.

Upon confirmation, the newly established Rehnquist Court began granting certiorari to numerous federalism cases for the first time in half a century and reexamined several previously decided cases that, under the Commerce Clause, blurred the levels of government. In *New York v. United States* (1992), the Court ruled that by requiring states to take legal control of low levels of radioactive waste, through the Low-Level Radioactive Waste Management Act Amendments of 1985, Congress violated the Tenth Amendment. Justice O'Connor, on behalf of the majority, stated that by enforcing the "*take-title*" qualification of said act, the federal government was "commandeer[ing]" the states into the regulatory service of the federal government, which is a violation of the separation of powers doctrine of the U.S. Constitution (*New York v. United States* 1992; Garry 2006). *Jay Printz, Sheriff/Coroner, Ravalli County, Montana v. United States* (1997) expanded the ruling in *New York*, as the Court held that Congress again overstepped its Tenth Amendment boundaries by enforcing certain provisions of the Brady Handgun Violence Prevention Act (Garry 2006). Justice Scalia, on behalf of the Court, held that "the federal government could neither issue directives requiring the States to address particular problems, nor command the States' officers … To administer or enforce a federal regulatory program," as it violated "the constitutional system of dual sovereignty" (*Jay Printz, Sheriff/Coroner, Ravalli County, Montana z v. United States*, 1997).

In addition to *New York* and *Printz*, the Rehnquist Court ruled in a similar manner in the cases of *City of Boerne v. Flores* (1997) and *J. Daniel Kimel v. Florida Board of Regents* (2000). In each of the latter cases the Court found that Congress had violated the equal protection clause of the Fourteenth Amendment by interpreting the meaning of their own statutes (the 1993 Religious Freedom Restoration Act and the Age Discrimination in Employment Act of 1967), a power specifically delegated to the courts in the Constitution, therefore overstepping the constitutional role of Congress (*City of Boerne v. Flores*, 1997; *J. Daniel Kimel v. Florida Board of Regents*, 2000). Through its reinvigoration of the Tenth Amendment and the limitations/ restrictions it placed on the powers

[2] Throughout his two terms in office, President Reagan warned the country of the ills of "big government" and frequently spoke on the issue of the expanding power of the national government coming from the states. In one of his more famous attempts to secure the levels of federalism, Reagan signed Presidential Executive Order 12612, which detailed the restoring the of the division of governmental power to levels established by the framers in the U.S. Constitution (Reagan 1987).

of Congress, the Rehnquist Court became synonymous with reestablishing states' rights.

The most important and influential decisions of the Rehnquist Court's federalism doctrine came directly from the chief justice himself regarding the topic of commerce. In *United States v. Alfonso D. Lopez, Jr.* (1995), the Court ruled as unconstitutional a congressional enactment that uses the Commerce Clause (Garry 2006). In the Opinion of the Court, Chief Justice Rehnquist stated that the Gun Free School Zone Act of 1990 is unconstitutional because the possession of a gun in a school zone does not constitute an economic activity, therefore, it does not substantially affect interstate commerce. Hence the enactment of the Gun-Free School Zone Act exceeds Congress' regulatory power under the Commerce Clause. In *United States v. Antonio J. Morrison, et al.* (2000), the Court more clearly defined when Congress could use the Commerce Clause to create law. Chief Justice Rehnquist opined that commerce could only apply to "economic endeavors," and the Violence Against Women Act of 1994, which provided federal monetary remedy for "gender motivated violence," was regulating a deed that had no interstate commerce ties. As a result, the act was ruled unconstitutional, and monetary remedy for such crimes needed to come from the state where the attack occurred and not from the federal government (*United States v. Antonio J. Morrison, et al.*, 2000).

Morrison and *Lopez* demonstrate the limitations the Rehnquist Court placed on the Commerce Clause by ruling, "family law, criminal law enforcement, and education are beyond Congress' power under the Commerce Clause" (Garry 2006). But besides taking the lead in a case that limited the Commerce Clause, Chief Justice Rehnquist also wrote important decisions on the Equal Protection Clause and the Eleventh Amendment. In the opinion in *Seminole Tribe of Florida v. Florida et al.* (1996), he asserted that states are sovereign entities, as provided by the Eleventh Amendment, and are immune from being sued without their consent. This ruling was further solidified in the *Board of Trustees of the University of Alabama v. Patricia Garrett* (2001), which determined that Congress went beyond their regulatory powers by instituting the Americans with Disabilities Act. In Rehnquist's opinion, Congress could not find a pattern of workplace discrimination against the disabled, thereby nullifying the necessity of the Act (*Board of Trustees of the University of Alabama v. Garrett* 2001).

Due to the aforementioned re-solidification of the values of federalism during its reign, the Rehnquist Court has received much academic attention in the past few decades. Qualitative, (Belsky 2002; Garry 2006; Overby 2003) as well as quantitative (Collins 2007; Maltzman and Wahlbeck 2005; Parker 2011) research has investigated a wide variety of federalism topics in relation to the Rehnquist Court, but few have tried to empirically uncover a reason as to why this revival occurred during this particular era. I suggest that an empirical test

of the effect of Rehnquist's role as a chief justice on the federalism voting of Supreme Court justices will provide the explanation that the literature lacks, providing evidence that it was not only the conservative ideological nature of a majority of justices during this era, but the emphasis on reestablishing federalism put forth by Chief Justice Rehnquist that lead to the increased number of pro-federalism rulings that transpired.

Chief Justice Rehnquist's Influence over His Fellow Justices?

As seen throughout the previous section, Chief Justice Rehnquist compiled a Supreme Court record that supported a limited role of the central government in federalism cases. As a result, Rehnquist was said to have a federalism doctrine, but the question remains as to whether or not his jurisprudence influenced the voting habits of the other justices, on said cases, in his Court. When Rehnquist replaced Warren Burger as chief justice, the administration of the Supreme Court changed dramatically (Maltzman and Wahlbeck 2005). During his tenure as chief justice, Burger made apparent his strategic use of opinion assignment to advance his personal policy preferences (Johnson, Spriggs, and Wahlbeck 2005). Burger consistently refused to follow the rules of seniority when voting in conference (Thomas 1979), and it was believed that he would cast "phony votes" (Woodward and Armstrong 1979) or hold back when voting in conference (Sill, Ura, and Haynie 2010) to manipulate opinion assignment in order to assign tasks to fellow colleagues and ideological allies. This was true in both highly salient cases, such as *Roe v. Wade* (1973), when Burger assigned the majority opinion to his personal friend, Justice Harry Blackmun (Douglas 1972), and in cases of lesser salience such as *Thermtron Products, Inc. v. Hermansdorfer* (1975).

Having dealt with Burger's managerial style, and witnessing the backlash from the associate justices, Rehnquist openly stated that opinion assignment during his tenure would be taken more seriously, as it is an important responsibility, and would be, "discharged carefully and fairly" (Rehnquist 1987, 297). Specifically, Rehnquist sought equal distribution of assignments across the bench and assigned cases based on a justices' legal expertise, and how efficient they were with completing their work (Davis 1989; Maltzman, Spriggs, and Wahlbeck 2000; Maltzman and Wahlbeck 1996; Maltzman and Wahlbeck 2005). Rehnquist made sure that no justice, including himself, was assigned a second opinion before everyone else had one and made no attempt to interfere with assignments when he was in the minority (Toobin 2007). The chief justice himself stated, "I tried to be as evenhanded as possible as far as number of cases assigned to each justice" (Rehnquist 1987, 297). This, combined with his

humorous and unpretentious style, therefore allowed Rehnquist to win over his colleagues in a way Burger never achieved (Obermayer 2009).

Even though Rehnquist himself promoted an assignment method based on equality and keeping the operations of the Court running smoothly, qualitative analysis suggests that the chief justice was not "entirely devoid of strategic calculations" and policy considerations (Maltzman and Wahlbeck 1996; Maltzman and Wahlbeck 2005, 121). Specifically, Maltzman and Wahlbeck (2005) found that ideology of a justice played a prominent role in opinion assignment for Rehnquist under two separate conditions: (1) when cases were considered important, and (2) when the majority margin at the conference was minimal. When a case was of high salience, Rehnquist would disproportionately assign opinions to justices ideologically similar to him or save them for himself. Rehnquist stated, "The Chief Justice is expected to retain for himself some opinions that he regards as of great significance" (Rehnquist 1987, 297). In cases with a slight conservative majority coalition, the chief justice would assign the opinion to the most liberal justice of the coalition in order to preserve the vote and secure the chief justice's most preferred outcome. Consequently, it seems Rehnquist balanced both the organizational (Baum 1997) and attitudinal/policy (Rhode and Spaeth 1976) needs of the Court when assigning opinions.

Due to previous findings, it is understood that the chief justice assigns opinions with both policy and organizational needs (Maltzman, Spriggs, and Wahlbeck 2000; Maltzman and Wahlbeck 2004), yet the question remains as to whether or not Rehnquist used his powers as chief justice to influence his conservative colleagues toward voting to preserve state sovereignty when deciding federalism cases. As previously stated, Rehnquist believed that the chief justice had the right and authority to assign cases to themselves on topics that they felt were of great significance. Seeing that Rehnquist wrote a majority of the Court opinions supporting a limited central governmental authority in federalism cases, it is reasonable to argue that Rehnquist believed federalism, and the devolution of federal power, were the most salient issues during his tenure. Because this topic was of high importance, it is also reasonable to believe that Rehnquist would seek out justices with similar ideological beliefs to write opinions on relevant cases when his workload was full. By either writing opinions himself, or assigning opinions to justices with similar policy preferences on this topic, such as Justices White, Powell, and O'Connor, or Scalia, the chief justice may have been attempting to influence the Court to rule in favor of state sovereignty. Having opinions crafted by him, or any of the previous justices, raises the supposition that by doing so, Rehnquist was transposing his federalism doctrine onto the conservative justices, who comprised the majority of the Court's membership. Therefore, a test of judicial decision-making is warranted to uncover whether Rehnquist indeed influenced

his conservative counterparts, thereby leading to the increased number of pro-federalism rulings that occurred during this era.

Chief Justice Rehnquist's Role in Reestablishing Federalism

Much of the previous work provides evidence that the Rehnquist Court frequently ruled in favor of the states' position in federalism cases.[3] However, the literature, writ large, fails to address the reason why the Court ruled in this fashion. I suggest that a test of judicial decision-making will provide evidence of an increase in the number of pro-federalism rulings witnessed during the Rehnquist era. In particular to this study, I will be examining the rulings on federalism cases of the Burger[4] and Rehnquist Courts. The conservative nature of the justices who comprised the Rehnquist Court will not only provide evidence of a change in Supreme Court ideology from the Burger to Rehnquist eras, but it will also provide reasoning as to why the Supreme Court ruled more times than not to limit the scope of power of the federal government.[5]

The attitudinal model of Supreme Court decision-making argues "that the Supreme Court decides disputes in light of the facts of the case vis-à-vis the ideological attitudes and values of the justices," (Segal and Spaeth 1993; 2002, 13). Specifically, the model suggests that the facts of the case trigger an attitudinal response in the justices, prompting them to base their vote on ideological cues (Segal and Spaeth 1993, 2002). Taken as a whole, the attitudinal model suggests, "the justices are goal-directed actors who want case outcomes to reflect as closely as possible their particular policy preferences" (Epstein et al. 1998, 802). Based on the previous underlying assumptions of the attitudinal model, the oft-mentioned pro-federalism rulings witnessed during the Rehnquist Court should come as little surprise due to the fact "that conservative justices will vote to uphold the validity of state or local laws" (Collins 2007). Even though this assumes that "the justices take the federalism dimension seriously, regardless how a case measures up on its policy dimension" (Collins 2007), it is easy to believe that the conservative values of Chief Justice Rehnquist and

[3] A list of all the federalism cases heard and decided during the Rehnquist Court is available in the Appendix.

[4] The Burger Court is chosen because it was the most liberal Court in U.S. history. Since Rehnquist served on both, if, after controlling for other relevant variables including ideology, the rulings on federalism cases between the Burger and Rehnquist Courts are statistically different, we can argue that some other variable—i.e., the pro-federalism doctrine of Chief Justice Rehnquist and President Reagan—affected the results.

[5] William Burger was a Court outsider and had difficulty creating Court consensus on difficult issues, but the increase in pro-state rulings has more to do with Rehnquist's influence than Burger's dynamic with his colleagues.

Justices Scalia, O'Connor, Thomas, and Kennedy (Segal and Cover 1989) lead to the numerous rulings in favor of state sovereignty.

Still, criticism exists with regard to how large a role federalism played when these cases were decided. Citing cases such as *Bush v. Vera* (1996) (Abernathy 1996; Baybeck and Lowery 2000; Colker and Scott 2002; Cross 1999; Solberg and Lindquist 2006; Tiller 1995; Young 2005) and *Bush v. Gore* (2000), scholars have argued that the justices of the Rehnquist Court used the "guise of federalism" to strike down liberal policy to pursue conservative policy goals (Colker and Brudney 2001; Cross 1999). In both cases, the aforementioned justices abandoned their commitment to the states and ruled in favor of conservative national policy, as well as national supremacy. As a result, the field is left with conflicting opinions vis-à-vis the factors that produced a general increase in pro-federalism rulings during this era.

Establishing a comprehensive reason for the increased rulings supporting state and local governments during the Rehnquist era has been challenging. Due to this, a test of judicial decision-making that accounts for strategic influences is necessary. That a strategic model is preferable as critiques of the attitudinal methodology as simplistic (Friedman 2006; Gillman 2001; Richards and Kritzer 2002), or that the model's underlying assumption that legal considerations do not play a role in a justice's decision-making process (Benesh and Martinek 2002; Bussiere 1999) will provide the field with empirical support of the Rehnquist Court voting with an eye toward reestablishing federalism.

Judicial Decision-Making during the Rehnquist Court

Within the literature, two different schools of thought pertain to decision-making during the Rehnquist era. One of these lauds the revival of federalism under the Rehnquist Court, while the other criticizes the conservative justices as using federalism to knock down liberal policy. However, a gap exists in the literature, in that it lacks statistical evidence to support either of the aforementioned schools of thought. Based on this, I ask first whether any empirical evidence exists of an increased number of rulings in favor of the state's position on the federalism cases during the Rehnquist Court. Second, and more generally, I ask if the conservative justices of the Rehnquist Court based their voting on their ideological policy attitudes or on the belief of reestablishing distinct levels of federalism emphasized by Chief Justice Rehnquist. By empirically testing these questions, my goal is twofold. First, I am attempting to find if there was a tendency for the justices of the Rehnquist Court to rule in favor of federalism, or whether the few heavily cited landmark cases inflate this argument. Second, I am examining whether Rehnquist's emphasis on restoring

the lines of federalism to his preferred level influenced the conservative justices' decision-making during the Rehnquist era.

To test the effect that the Rehnquist Court had on federalism, multiple facets of the proposed relationship need to be examined. Understanding that the attitudinal model of decision-making argues that justices base their vote decisions on their personal ideologies and beliefs, it is necessary to uncover whether or not there was something special about federalism cases that caused the justices of the Rehnquist Court to rule in favor of said cases more frequently than previous Courts. If the justices acted in an attitudinal manner during this era, the conservative justices throughout this Court (Rehnquist, Powell, Blackmun, Scalia, Kennedy, O'Connor, and Thomas), more times than not, should vote in favor of the states' rights position in the federalism cases, as conservatism generally supports the belief of a small central government. For that reason:

> *Hypothesis one* states that as a justice's ideology becomes more conservative, that justice will vote more in favor of the individual state or states in federalism cases.

Continuing with the argument that conservative ideology promotes the belief in smaller governmental bodies, it is likely that conservative justices will pursue this end goal when voting on cases that directly affect the size and scope of the central government. Therefore, as a justice's ideology becomes more conservative, the probability of that justice casting a vote that increases or centralizes the power of the federal government will be low. Understanding the proposed role that conservative ideology has on justice voting on federalism cases, it is still necessary to uncover if there was a pro-federalism bias specific to the Rehnquist Court as the previous literature suggests. *Therefore*,

> *Hypothesis two* states that there will be more state sovereignty promoting rulings during the Rehnquist Court than the Burger Court,[6] not only because the justices in the Rehnquist era were conservative, but also because Chief Justice Rehnquist emphasized the importance of reestablishing distinct lines of federalism.

Specifically, I am attempting to demonstrate that the conservative ideology of the Rehnquist Court, which manifested as support for federalism, was distinct to this Court. Overall, the previous research questions and the two hypotheses

[6] There is no empirical difference in the number of federalism cases heard annually between the Burger and Rehnquist Courts.

lay the foundation to empirically test the role the justices' ideology and the chief justice had on the ruling of federalism cases during the Rehnquist Court.

Data, Method, Measurement

To estimate a model of judicial decision-making on the federalism cases of the Rehnquist Court, I compiled a data set of all Supreme Court cases[7] decided during the Burger and Rehnquist Courts, from 1969 to 2005, derived from the variables in the Supreme Court Database (2010). As the dependent variable for the test is the votes of the Supreme Court justices, a logistic regression model[8] is estimated to predict a Supreme Court justice's decision direction. This dependent variable is dichotomous, taking on the values of 0 for liberal (not supporting federalism) voting decisions and 1 for conservative (supporting federalism) voting decisions. Last, I cluster the model by case, making the standard errors robust, "to control for the non-independence of observations and to limit the effects of model misspecification" (King 1998, 34), which arise due to each case having up to nine observations (Collins 2007).

The main independent variable for the model is ideology derived from the Martin and Quinn ideal point estimates[9] of each justice's ideological scores (2008).[10] The scores range from −6.820, most liberal, to 4.414, most conservative (Martin and Quinn 2002). The expectation is that the variable will be positively signed (Collins 2007), demonstrating that the conservative justices are more likely to cast votes in favor of federalism.

[7] All civil and criminal cases.

[8] This model is preferable to an ordinary least squares regression, because running an OLS will violate the three key assumptions of error, with the first being the predicted values of the outcomes will be greater than one and less than zero, when moving across the X-axis. This is not permissible as the values of the dependent variable are no less than zero and no greater than one (Spector and Brannick 2009). The second assumption of regression that would be violated if an OLS were run is variance. Regression assumes the variance of Y is constant across X, but this is not the case with a categorical DV, as the variance is a proportion of the 1s and 0s. If OLS is run, as the proportion of Y reaches one or zero, the variance will near zero, failing to allow us to accurately predict the Supreme Court's decision direction. Lastly, the third violated assumption deals with *beta* and the belief that prediction error is normally distributed in a regression. As our dependent variable is categorical, this is a difficult assumption to justify, as the regression weights will be inflated, if an OLS model is run (Spector and Brannick 2009).

[9] Recommended by Martin and Quinn, due to actual voting of the justices during Supreme Court cases. Preferable to Segal-Cover Scores (1989) as SC scores rely on perceived ideology of justice, created by indexing editorials from the *New York Times*, relating to how the justices voted on cases prior to their Supreme Court nomination. Values of justices tend to over- or understate how the justices actually vote.

[10] Although these scores are based on actual voting behavior of the justices, they are appropriate as the voting behavior in the cases deal with policy and not federalism (Baybeck and Lowery 2000).

In addition to ideology, I control for the existence of who the chief justice was at the time of the decision, as well as who was the president. The chief justice dummy is coded 1 when Rehnquist was chief justice and 0 when he was not.[11] This is included in order to compare the justice's voting habits of the two Courts. The presidential dummy is coded 1 if Ronald Reagan and 0 if not, in order to capture the effect, if any, that Reagan's emphasis on restoring state sovereignty had on the Court ruling in a pro-federalism manner. I also create an interaction variable for the ideology of the Rehnquist Court. Specifically, the variable is created by multiplying the ideal point estimations for the Rehnquist justices by the dummy controlling for the existence of Rehnquist as chief justice. This variable shows whether, on federalism cases, conservatism is a stronger predictor of behavior in the Rehnquist Court rather than the Burger Court. The expectation is that the variable will be positively signed as well as having a larger effect for federalism cases. This demonstrates, if statistically significant, that there was an extra emphasis on federalism during the Rehnquist Court.

The next variable in the data set is ideological direction of the lower court's decision. The variable is a dummy, coded 1 if the decision followed a conservative direction, or one favoring state sovereignty; and 0 if the position is liberal, or one not favoring a state sovereignty position. This variable is included since the lower court's decision-direction is the prime determinant of the Court's decision-making (Collins 2007). Therefore, the variable should be negatively signed, as the conservative justices of the Rehnquist Court are unlikely to overturn a decision, which already had an outcome they would ideologically prefer.

Continuing, I control for five different strategy variables: the ideology of Congress, the ideology of the president, a measure for the median justice ideology, a dummy for divided government, and the lower-court decision direction. These variables are included in the model to address whether or not the Supreme Court justices keep the policy preferences of the other two branches of government in mind when making their rulings. The institutional constraint argument suggests that the Court may be concerned that both Congress and the president believe that the Court is attempting to override the democratic process by legislating from the bench. Congress, and to a lesser extent the president, will be less accepting of this action by the Court when they are ideologically divergent. Therefore, it is necessary to account for each branch's ideology within the model (Parker 2011).

To account for congressional and presidential ideology, I create two variables using Poole and Rosenthal's DW Nominate scores. The ideological score of the president is simply provided within the 1st Dimension of the

[11] No control is necessary for presidential appointment; control will not capture intended effect of federalism cases and the Rehnquist Court.

Nominate scores. Averaging the 1st Dimension scores of the median member of the House and Senate creates the ideology of Congress variable by providing the ideological midpoint for the entire branch for that year. By including these two variables, it can be determined if/when the justices are more likely to cast votes that limit federal authority.

By simply accounting for the ideology of Congress, it will be possible to uncover which congressional ideology allows for more state sovereignty policies, but this does not provide the entire answer as to when the justices vote in favor of the states. Therefore, a dummy variable on divided government is added to the model. This variable accounts for instances when the Congress is prohibited from reacting to policies or rulings that they find unfavorable. The main reason why Congress is at times slow to react in instances when it seems that the Court is legislating from the bench is that the House and Senate are controlled by different parties and are bogged down in legislative gridlock. In situations such as the previous, the expectation is for the Court rule to undermine federal authority; dummy coded 1, because divided government may impede congressional action (Cox and McCubbins 1993; Hall and Grofman 1990).

The last variable in the model is one accounting for the ideology of the median justice. The role of the median justice is quite important since, as the median-voter theorem suggests, the median justice should exercise decisive influence over the content of opinions (Black 1958; Caminker 2004; Carrubba et al. 2012; Epstein, Knight, and Martin 2003), which, in turn, provides a meaningful representation of the Court (Martin, Quinn, and Epstein 2005). Therefore, understanding that the median justice of the Rehnquist Court (either Justice O'Connor or Justice Kennedy) was conservative, the expectation is more decisions supporting the devolution of federal power during this era. As five votes are needed for a majority, having a median justice with a conservative ideology will skew the Court to the right, as the median justice joins the votes of the four other justices' with stronger conservative ideology. As a result, the Rehnquist Court should rule in a more state sovereignty–supporting fashion when compared to the Burger Court.

By estimating models of all the cases from these two eras, I am testing to find statistically significant evidence of a stronger relationship in the rulings of the Rehnquist Court in favor of the states in the federalism cases than the Burger Court. In order to do so, I need to find the direction of the relationship between the ideology of the Supreme Court justices and their votes. Ultimately, I need to identify why the numerous pro-federalism rulings came about during this era, allowing for a better understanding of whether a "federalism revolution" truly occurred, or if the justices were hiding behind the "guise of federalism" to eliminate liberal policy. By comparing the rulings on all Court cases between the two eras, I can empirically establish that conservative ideology, or

supporting smaller government, predicts low levels of liberal decision-making, or supporting rulings that centralize the power of the federal government. This, in turn, allows for the previously stated theoretical argument that conservative ideology is synonymous with pro-federalism rulings. Therefore, we can pinpoint that the votes cast for the federalism position on a Supreme Court case come from conservative justices.

If evidence supporting the previous claim is found, we can limit the model to specifically test vote choice on only the federalism cases. Again, we should find that a justice's conservative ideology predicts higher levels of pro-federalism voting. If this is found, we can compare the predicted probabilities of justices' voting for the federalism position during each Court to uncover whether there was a large emphasis placed on reestablishing federalism when Rehnquist was chief justice. In the end, the comparison will not only uncover whether there was a difference in justice voting on these cases during the separate eras, but will also return evidence supporting the claims of either of the previous critiques of the Rehnquist Court's role on federalism.

Findings

To begin to investigate whether pro-federalism case decisions were more likely to be made under the Rehnquist Court, I estimated a model of judicial decision-making during both the Burger and Rehnquist eras on all Court cases. Table 1 displays the results of the first logit analysis. First and foremost, six of the nine variables in the model are statistically significant. Also, all the variables act in the hypothesized manner.

As previously stated, the main independent variable in the model is the ideological position of individual justices. Combining this with the assumption of the attitudinal model that justices vote based on ideological cues, it should be found that as an individual justices' ideology becomes more conservative, the probability of that justice casting a conservative vote should increase. As can be seen in Table 1, the model returns results that provide for exactly this phenomenon. The statistically significant evidence suggests that as a justice's ideology becomes more conservative, the likelihood of that justice casting a vote in favor of the conservative position increases for all Supreme Court cases. Although this finding is to be expected, the results of the model not only further solidify the arguments for the existence of attitudinal decision-making by the justices, it also allows for a further investigation into the influence Chief Justice Rehnquist had over his conservative associate justices.

If Rehnquist, who emphasized the reestablishment of federalism when deciding cases, had influence over the conservative members of his Court, the

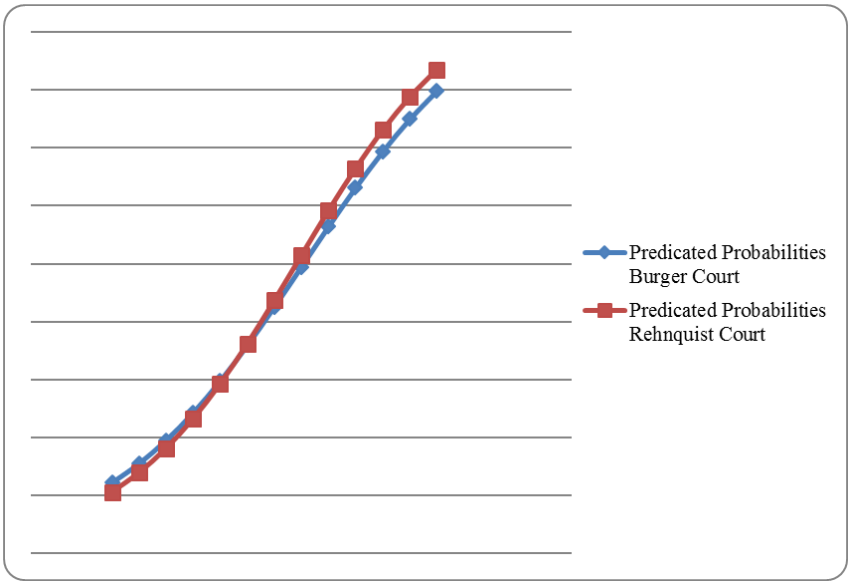
Table 1: Logit Regression on the Justices' Decision-Making on all Supreme Court Cases during the Burger and Rehnquist Courts

Independent Variable	B	SE	p-value
Justices' Ideology	.2793**	.0055	0.000
Rehnquist Court	.0800**	.0230	0.001
Ideology (x) Rehnquist	.0336**	.0088	0.000
Ideology of Congress	.0413	.0887	0.0641
Ideology of the President	.0109	.0269	0.685
Ideology of Median Justice	-.1951**	.0400	0.000
Lower-Court Decision Direction	-.6619**	.0191	0.000
Divided Government	.0560*	.0316	0.076
Reagan	.0290	.0275	0.291
Constant	.3827**	.0251	0.000
N	51171		
Pseudo R2	.0927		

Notes: **p < .05, *p < .10, 2-tailed test. Dependent variable is coded as the direction of a Supreme Court Justice's decision with 0 = liberal, and 1 = conservative.

likelihood of these justices supporting the conservative position on federalism cases should be greater than that of the Burger Court conservatives, but only on federalism cases. Therefore, it is not surprising that on all Court cases, the main variable driving decision-making is ideology and not the presence of Rehnquist as chief justice. Figure 1 illustrates that as a justice's ideology becomes more

Figure 1: Predicated Probabilities of Justice Votes on all Supreme Court Cases during the Burger and Rehnquist Courts



Note: Graphical representation of the predicted probabilities of a justice voting the conservative position on all Supreme Court cases during the Burger and Rehnquist Courts. X-axis: −8 represents the most liberal justice and 6 represents the most conservative justice. Y-axis: the probability of casting the conservative vote where 0 = no probability of casting a conservative vote and 1 = 100% probability of casting a conservative vote.

conservative, the probability for a conservative vote increases as justices want case outcomes to reflect closely their personal policy preferences (Epstein et al. 1998). What is interesting is that, when comparing the rulings for all cases for the Burger and Rehnquist Courts, there is a significant difference between the two Courts, albeit substantively small. Specifically, the predicted probabilities in Table 2 suggest, on the whole, that the most conservative Rehnquist Court justice is approximately 3 percent more likely to cast a conservative vote on a Court case than the most conservative Burger Court justice. In normative terms, this small difference in ruling suggests that, regardless of the fact that the Rehnquist Court was a bit more conservative than was the Burger Court, the preferences of the Chief Justice had little to do with justice voting when accounting for all of the Court cases.

Table 2: Predicted Probabilities of Justices' Vote on All Supreme Court Cases during the Burger and Rehnquist Courts

Ideology	Burger	Rehnquist
(Most Liberal)		
−7	.1219	.1063
−6	.1551	.1398
−5	.1953	.1818
−4	.2429	.2331
−3	.2978	.2935
−2	.3593	.3623
−1	.4258	.4372
0	.4950	.5150
1	.5645	.5922
2	.6315	.6650
3	.6938	.7308
4	.7497	.7878
5	.7984	.8354
(Most Conservative)		

The main finding on all Court cases is that of more empirical evidence supporting the median justice and lower-court decision-direction literatures (Collins 2007, Carrubba et al. 2012, Caminker 2004, Epstein, Knight, and Martin 2003; Martin, Quinn, and Epstein 2005). Specifically, on all Court cases, the ruling of the lower court and the vote of the median justice have the largest statistical effect on determining the Court's decision direction on the case. In effect, this finding suggests that for any case, the best prediction of an individual justice's vote is the justice's ideology, and the best predictors of the Court's decision direction is based on the vote of the median justice and the decision direction of the lower court.

For cases involving federalism, Table 2 provides the results of the second logit analysis on all federalism cases during the two Court eras. In this model, seven of the nine variables are statistically significant at the 0.05 level.

If a Rehnquist federalism bias exists, there should be evidence that the conservative justices of this Court, those who are pro-federalism, have a higher probability than the conservative justices of the Burger Court to cast votes in favor of states' rights. As can be seen in Table 3, this is exactly what is found. Again, conservative ideology predicts pro-federalism voting, but the interesting

Table 3: Logit Regression on the Justices' Decision-Making on all Supreme Court Federalism Cases during the Burger and Rehnquist Courts

Independent Variable	B	SE	p-value
Justices' Ideology	.1433**	.0251	0.000
Rehnquist Court	.0051	.0999	0.959
Ideology (x) Rehnquist	.0851**	.0347	0.014
Ideology of Congress	−1.0545**	.3457	0.002
Ideology of the President	−.3239**	.1093	0.003
Ideology of Median Justice	.1377	.1884	0.465
Lower-Court Decision Direction	−.6976**	.0814	0.000
Divided Government	.3015**	.1185	0.011
Reagan	−.2070*	.1150	0.072
Constant	.0357	.1156	0.758
N	2848		
Pseudo R2	.0597		

finding is when the ideology variable is interacted with the Rehnquist dummy. The model returns results that demonstrate that the probability of a justice casting a state sovereignty–supporting vote increases dramatically during the Rehnquist Court as compared to the Burger Court. As can be seen in Table 4 and Figure 2, the most conservative justice during the Rehnquist Court is approximately 10 percent more likely to cast a pro-federalism vote than the most conservative justice during the Burger Court. What is even more interesting is that the most liberal justice during the Rehnquist Court is about 10 percent less likely than the most liberal justice on the Burger Court to cast a pro-federalism vote. Taking this one step further, it can also be seen that there is no statistically significant difference in voting on federalism cases for the most moderate justices in both Courts. Needless to say, these findings have many implications, as there is evidence of a pro-federalism doctrine.

Beginning with the main focus of the article, the regression analysis returned findings supporting the claim that the Rehnquist Court emphasized federalism. Comparing Figure 1 to Figure 2, it can easily be seen that the conservative justices of the Rehnquist Court took a federalism stance. If the critique that the justices used the "guise of federalism" to strike down liberal policy to pursue conservative goals (Colker and Brudney 2001; Cross 1999) was accurate, there would be no empirical difference in voting on all Court cases in relation to federalism cases. As can be seen, this is not the situation. The probability of a

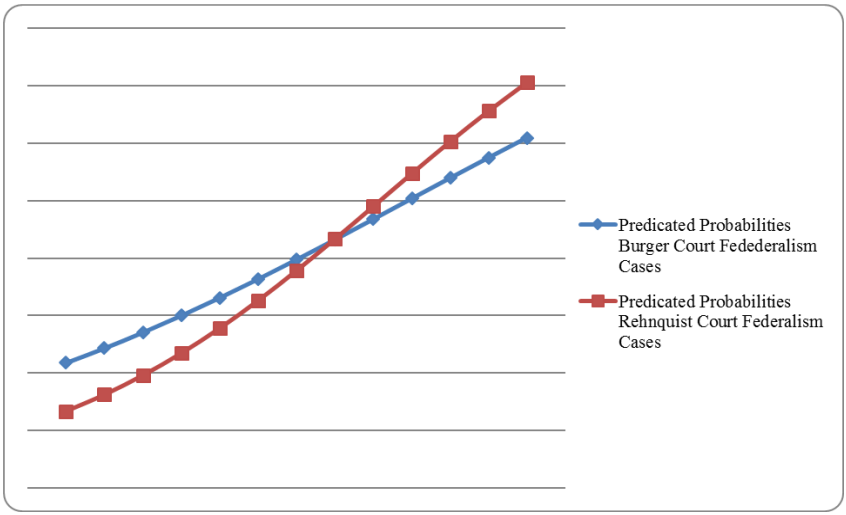
Table 4: Predicted Probabilities of Justices' Vote on all Supreme Court Federalism Cases during the Burger and Rehnquist Courts

Ideology	Burger	Rehnquist
(Most Liberal)		
−7	.2183	.1339
−6	.2437	.1627
−5	.2711	.1963
−4	.3003	.2348
−3	.3312	.2783
−2	.3637	.3264
−1	.3975	.3785
0	.4322	.4335
1	.4677	.4902
2	.5035	.5472
3	.5392	.6029
4	.5745	.6561
5	.6091	.7057
(Most Conservative)		

conservative Rehnquist Court justice casting a conservative vote noticeably increases when specifically studying federalism cases, suggesting that conservative ideology during the Rehnquist Court was synonymous with a federalism doctrine. As seen previously, there was a slight difference in voting on all cases between the two Courts, but on federalism cases, the difference is magnified. What is found is that the conservative justices of the Rehnquist Court identified with the states' rights–supporting policy at higher rates than the Burger justices, therefore increasing the number of votes cast supporting reestablishing federalism. Overall, the findings suggest that the justices of the Rehnquist Court voted with a federalist vision, casting doubt on the literature supporting the argument that the justices used the "guise of federalism" to thwart liberal policy.

Besides the voting behavior of the conservative justices, fascinating results in relation to the liberal justices' decision-making on the federalism cases are also found. Specifically, there is evidence of justice polarization during the Rehnquist Court, as the most liberal Justice was approximately 60 percent less likely to cast a pro-federalism vote than was the most conservative Justice. In comparison to the Burger Court, the most liberal member of the Rehnquist Court

Figure 2: Predicated Probabilities of Justice Votes on all Supreme Court Federalism Cases during the Burger and Rehnquist Courts



Note: Graphical representation of the predicted probabilities of a justice voting the conservative position on all Supreme Court federalism cases during the Burger and Rehnquist Courts. X-axis: −8 represents the most liberal justice and 6 represents the most conservative justice. Y-axis: the probability of casting the conservative vote where 0 = no probability of casting a conservative vote and 1 = 100% probability of casting a conservative vote.

was 35 percent less likely than the most conservative member to cast a vote in favor of federalism. Taken together, these high levels of federalism polarization that occurred during the Rehnquist Court suggest that the federalism topic itself was an important issue to this Court. Based on this, there is evidence that the federalism doctrine stressed by Rehnquist not only impacted the number of votes favoring the states, but of those that supported the rule of the federal government.

What makes this finding even more interesting is that the justices not only voted to support federalism, but also acted strategically when so doing. The justices were more likely to cast states' rights–leaning votes on federalism cases when there was divided government and when Congress as a whole and the president were more conservative. Specifically, in instances of divided government, the Rehnquist Court decided more cases in favor of the states, as the potential for congressional action to overturn the decision was low, because each chamber was under control by a different party.

Continuing, when the average congressional and presidential ideological score was right leaning, the Court decided more cases in favor of limiting the size of the federal government because the Court's policy preferences were in line with the other two branches. In normative terms, the Court picked the most opportune times, instances where the probability of the decision being rendered moot was low, to cast votes in support of state sovereignty. This provides empirical support for the institutional constraint argument that the Court takes into account the preferences of the other branches of government. Particularly, the Court considers whether the Congress, with the urging of a president, may pass new legislation that overturns the Court's decision on a case if they believe that the Court is attempting to override the democratic process by legislating from the bench (Parker 2011). Consequently, the results suggest that there was not only a federalism emphasis during the Rehnquist Court, but that the justices were also strategic when voting to support this doctrine.

Overall, the results of the analyses suggest that the issue of federalism had a significant impact on the Rehnquist Court. Figure 1 shows that both the Courts behave ideologically, and conservatism translates from one Court to the other, but Figure 2 demonstrates that on the federalism subset, conservatism translates to more pro-federalism rulings in the Rehnquist Court than in the Burger Court. This provides initial evidence of a distinct ideological movement in favor of states' rights, above and beyond normal ideological constraints, during the Rehnquist Court. Overall, the results provide preliminary empirical evidence that the conservatism of the Rehnquist Court had a decidedly federalist feel. In the end, this result provides the field with little support of the claim that the conservative justices of the Rehnquist Court used reestablishing federalism as an excuse to overturn liberal policy. It seems that the justices relied on the most fundamental conservative ideal of supporting a limited national government, and they cast their votes to preserve federalism.

Discussion

Even though the previous finding provides incipient empirical evidence that the justices during this era stayed true to supporting federalism on cases where federalism principals were the major constitutional issues at hand, skepticism remains as to the Court's strength of ideology on other cases. Although I compared the ruling of all cases between the conservative Burger and Rehnquist Courts, a thorough investigation into other issue areas will solidify the previous findings. One case issue area, besides federalism, for the Rehnquist Court that has received much scholarly interest is criminal punishment cases.

The criminal punishment issue area is commonly referenced in "guise of federalism" arguments, as many scholars suggest that the justices of the

Rehnquist Court used federalist language to knock down liberal criminal punishment policy. Avery (2009) argues that the Rehnquist Court seemed "more committed to protecting the government and government officials from the people than it was in protecting the people from the government" (1), which directly refutes the notion that the Rehnquist Court ruled in favor of federalism, as federalism would protect the people from the government. Critics of the Rehnquist Court argue that the strongly conservative Court "abdicated its responsibilities as the institutional guardian of the Bill of Rights" (Smith 1997) and allowed government officials, at a higher rate than the preceding Courts, to act unconstitutionally without being checked. Maclin (2009) argues that, in multiple cases,[12] the Rehnquist Court overlooked Fourth Amendment violations by officers of the government, as they protected officers who transformed routine traffic stops into warrantless narcotics searches.

Critics, such as Maclin, also cite cases such as *Employment Division of Oregon v. Smith* (1990), where the Court limited the Free Exercise Clause to exclude the use of peyote in religious ceremonies, to bolster arguments that the justices consistently abandoned their federalism doctrine when they wanted to thwart liberal policy. This was done in order to reestablish conservative principles that were overturned by the Warren Court and left alone by the Burger Court (Smith 1997). Baum (1992b) summarizes this overall critique by stating that due to this Court's narrow conceptualization of individual and criminal rights, the United States would finally witness the elimination of constitutional rights of convicted offenders that Thurgood Marshall warned of in his dissent in *Jones v. North Carolina Prisoners' Labor Union* (1977).[13]

Clearly, the main argument that arises from the previous critics is that the Rehnquist Court not only hid behind the concept of federalism, but also used this terminology to disguise an attempt to create conservative policies. For these to be correct, there would need to exist a marked difference in the rulings between the conservative Rehnquist and Burger Courts on criminal punishment.

[12] Other cases that support Maclin's argument include the public safety exception to the Exclusionary Rule in non-traffic-stop cases in *New York v. Quarles* (1987) Rehnquist's abstention in *Illinois v. Caballes* (2005), where the state of Illinois allowed for police to use drug-sniffing dogs to search a car without reasonable suspicion; *Ohio v. Robinette* (1996), where the Court ruled they had federal jurisdiction over the Ohio constitution to rule on state policing and drug cases; and in *Maryland v. Wilson* (1997), where Rehnquist wrote an opinion that overruled Maryland's suppression of drug evidence collected illegally during a traffic stop.

[13] "If the mode of analysis adopted in today's decision were to be generally followed, prisoners eventually would be stripped of all constitutional rights, and would retain only those privileges that prison officials, in their informed discretion, deigned to recognize. The sole constitutional constraint on the prison officials would be a requirement that they act rationally. Ironically, prisoners would be left with a right of access to the courts … but no substantive rights to assert once they get there." Thurgood Marshall dissent in *Jones v. North Carolina Prisoners' Labor Union* (1977).

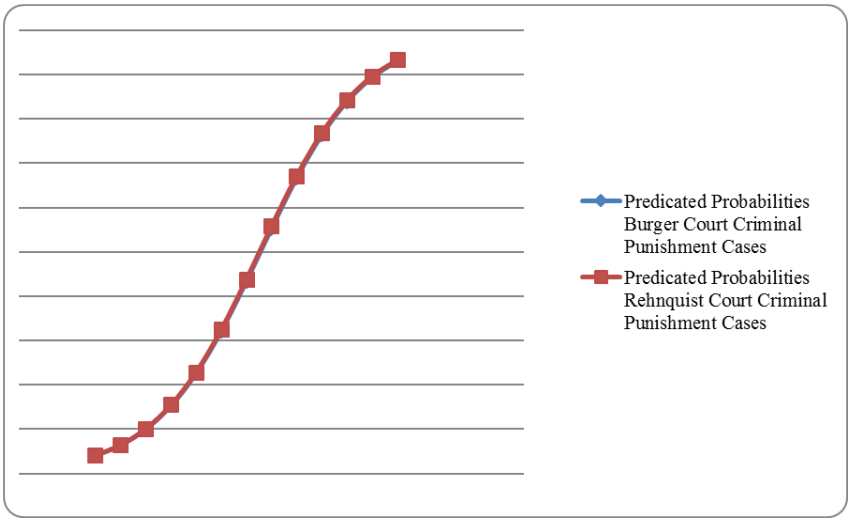
Table 5: Logit Regression on the Justices' Decision-Making on all Supreme Court Criminal Punishment Cases during the Burger and Rehnquist Courts

Independent Variable	B	SE	p-value
Justices' Ideology	.4811**	.0152	0.000
Rehnquist Court	.0201	.0539	0.709
Ideology (x) Rehnquist	.0013	.0227	0.956
Ideology of Congress	.3460*	.2053	0.092
Ideology of the President	.1281**	.0624	0.040
Ideology of Median Justice	−.0715	.0624	0.463
Lower-Court Decision Direction	−.9234**	.0464	0.000
Divided Government	.0587	.0780	0.451
Reagan	−.0065	.0722	0.928
Constant	.7251**	.0619	0.000
N	10672		
Pseudo R2	.1922		

Specifically, the predicted probabilities of vote choice for the Rehnquist Court justices would have to be as different from the Burger Court justices in criminal punishment cases as they were in federalism cases to have evidence of the claims that the justices were just purely conservative policy seekers. Consequently, it seems necessary to replicate the previous model exclusively studying criminal punishment cases and comparing the results with the findings on all cases generally and federalism cases specifically. If the aforementioned critiques are true and empirical evidence is uncovered that supports Avery, Maclin, Baum, and/or the other scholarly claims, it will be difficult to argue that this Court's policy preference for federalism superseded the totality of the justices' ideology. Therefore, by reestimating the model, there should be a better understanding of what drove a significant portion of the decisions that came during this Court, be it conservative ideology, a federalism doctrine, a combination of both, or neither.

Estimating the same judicial decision-making model previously discussed, Table 5 displays the results of the criminal punishment logit analysis. The initial results return little evidence supporting the critiques that the Rehnquist Court justices' rulings on criminal punishment cases were empirically different from the Burger Court's decisions on the same cases. Of most interest, the interaction variable of Rehnquist and ideology is not statistically significant, which was the situation in regard to federalism cases, preliminarily suggesting that the Rehnquist Court justices were not substantially more conservative than Burger Court justices

Figure 3: Predicated Probabilities of Justice Votes on all Supreme Court Criminal Punishment Cases during the Burger and Rehnquist Courts



Note: Graphical representation of the predicted probabilities of a justice voting the conservative position on all Supreme Court criminal punishment cases during the Burger and Rehnquist Courts. X-axis: −8 represents the most liberal justice and 6 represents the most conservative justice. Y-axis: the probability of casting the conservative vote where 0 = no probability of casting a conservative vote and 1 = 100% probability of casting a conservative vote.

in other areas. Furthermore, Figure 3 displays almost identical voting habits between the two Courts on all cases and criminal punishment cases. This suggests that the justices were not actively seeking to strike liberal policy on all cases,[14] only those that allowed the federal government to usurp the powers of the state. This claim is further solidified by Table 6, which displays the predicted probabilities of the justices voting the conservative position on criminal punishment cases. The average Rehnquist Court justice was only 0.2 percent more likely than the average Burger Court justice to vote the conservative position on criminal punishment cases. In normative terms, the voting habits of

[14] Although the Burger Court created a conservative agenda in criminal cases, see *United States v. Leon*, 468 U.S. 897 (1984) and *Massachusetts v. Sheppard*, 468 U.S. 981 (1984), the literature on Rehnquist's activist role in striking liberal policy (Avery 2009; Baum 1992a; Smith 1997) emphasizes that his Court was substantially more conservative on this issue then the Burger Court. Empirically, I find this claim to be unsubstantiated.

Table 6: Predicted Probabilities of Justices' Vote on All Supreme Court Criminal Punishment Cases during the Burger and Rehnquist Courts

Ideology	Burger	Rehnquist
(Most Liberal)		
−7	.0409	.0414
−6	.0646	.0653
−5	.1005	.1017
−4	.1530	.1550
−3	.2262	.2291
−2	.3210	.3249
−1	.4334	.4381
0	.5531	.5581
1	.6669	.6716
2	.7641	.7682
3	.8397	.8429
4	.8945	.8968
5	.9320	.9337
(Most Conservative)		

the justices of each court were identical. If the Rehnquist Court were attempting to establish a conservative revolution, there would have been evidence of the Justices voting at stronger rates in all areas of cases, not just federalism. As this is not the case, there is now stronger support for the earlier finding that the Rehnquist Court's conservatism was distinctive on federalism cases.

Conclusion

Although there have been explanations provided that account for the increased number of pro-federalism rulings during the Rehnquist era, such as the justices waging a "federalism revolution" or using the "guise of federalism" to strike liberal policy, the literature lacked an empirical piece solidifying either argument. Although more research needs to be completed, a void has begun to be filled with this work, as empirical evidence of the pro-federalism stance of the Rehnquist Court was found.

When President Reagan nominated Justice Rehnquist for chief, and Justices O'Connor, Scalia, and Kennedy to serve on the Court, the president solidified a Court-based federalism agenda for at least twenty years after his term in office.

By taking the reins in the mid-1980s, the Rehnquist Court began breathing life back into federalism by ruling for state sovereignty, which, in turn, started the Court's slow and continuous process of returning power to the states. Testing the judicial decision-making of the Rehnquist Court uncovered empirical evidence of this very event. Even though the "federalism revolution" may be a bit of an overstatement, there is now empirical evidence supporting the already sound qualitative findings on this topic. Due to this, there is preliminary evidence supporting the notion that the majority of the justices in the Rehnquist Court had the primary objective of handing down decisions on federalism cases that preserved state sovereignty.

Appendix: All Rehnquist Court Federalism Cases, 1986–2005

Case Name	Docket Number	Decision Date
Rose v. Arkansas State Police et al.	479 U.S. 1	1986
West Virginia v. United States	479 U.S. 305	1987
International Paper Co. v. Ouellette et al.	479 U.S. 481	1987
California Costal Commission v. Granite Rock Co.	480 U.S. 572	1987
Pilot Life Insurance Co. v. Dedeaux	481 U.S. 41	1987
Metropolitan Life Insurance Co. v. Taylor	481 U.S. 58	1987
Rose v. Rose et al.	481U.S. 619	1987
International Brotherhood of Electrical Workers, AFL-CIO, et al. v. Hechler	481 U.S. 851	1987
Fort Halifax Packing Co., Inc. v. Coyne, Director, Bureau of Labor Standards of Maine, et al.	482 U.S. 1	1987
Utah Division of State Lands v. United States et al.	482 U.S. 193	1987
Caterpillar Inc. et al. v. Williams et al.	482 U.S. 386	1987
Perry et al. v. Thomas	482 U.D. 483	1987
South Dakota v. Dole, Secretary of Transportation	483 U.S. 203	1987

United States of America v. State of Louisiana et al. (Alabama and Mississippi Boundary Case)	485 U.S. 88	1988
Eric J. Schneidewind, et al. v. ANR Pipeline Company and ANR Storage Company	485 U.S. 293	1988
George S. Bennett v. Arkansas	485 U.S. 395	1988
Puerto Rico Department of Consumer Affairs, et al. v. Isla Petroleum Corporation et al.	485 U.S. 495	1988
South Carolina v. Baker, Secretary of the Treasury	485 U.S. 505	1988
City of New York et al. v. Federal Communications Commission et al.	486 U.S. 57	1988
Lingle v. Norge Division of Magic Chef, Inc.	486 U.S. 399	1988
Mackey et al. v. Lanier Collection Agency & Service, Inc.	486 U.S. 825	1988
Felder v. Casey et al.	487 U.S. 131	1988
Shell Oil Company v. Iowa Department of Revenue	488 U.S. 19	1988
Bonito Boats, Inc. v. Thunder Craft Boats, Inc.	489 U.S. 141	1989
Volt Information Sciences, Inc. v. Board of Trustees of Leland Stanford Junior University	489 U.S. 468	1989
Davis v. Michigan Department of the Treasury	489 U.S. 803	1989
Oklahoma Tax Commission v. Graham et al.	489 U.S. 838	1989
California et al. v. ARC America Corp. et al.	490 U.S. 93	1989
Mansell v. Mansell	490 U.S. 581	1989
California State Board of Equalization v. Sierra Summit, Inc.	490 U.S. 844	1989
Pennsylvania v. Union Gas Co.	491 U.S. 1	1989
Tafflin et al. v. Levitt et al.	493 U.S. 455	1990
Adams Fruit Co., Inc. v. Barrett et al.	494 U.S. 638	1990
Yellow Freight System, Inc. v. Donnelly	494 U.S. 820	1990
Employment Division, Department of Human Resources of Oregon v. Smith	494 U.S. 872	1990
United Steelworkers of America, AFL-CIO v. Rawson, Individually and as Guardian ad Litem for Rawson, et al.	495 U.S. 362	1990

North Dakota et al. v. United States	495 U.S. 423	1990
California v. Federal Energy Regulatory Commission et al.	495 U.S. 490	1990
Vera M. English v. General Electric Company	496 U.S. 72	1990
Rudy Perpich, Governor of Minnesota, et al v. Department of Defense, et al.	496 U.S. 334	1990
Mark Howlett, a Minor, By and Through Elizabeth Howlett, His Mother, Natural Guardian and next Friend v. Scott Rose, As Superintendent of Schools for Pinellas County, Florida, et al.	496 U.S. 356	1990
United States of America v. State of Louisiana, et al. (Alabama and Mississippi Boundary Case).	498 U.S. 9	1990
State of Mississippi v. United States	498 U.S. 16	1990
FMC Corporation v. Cynthia Ann Holliday	498 U.S. 52	1990
Ingersoll-Rand Company v. Perry McClendon	498 U.S. 133	1990
James B. Beam Distilling Co. v. Georgia et al.	501 U.S. 529	1991
Wisconsin Public Intervenor, et al. v. Ralph Mortier, et al.	501 U.S. 97	1991
United States of America v. State of Alaska on Bill of Complaint	503 U.S. 569	1992
Keyton E. Barker and Pauline Barker, et al., Petitioners v. Kansas, et al.	503 U.S. 594	1992
Dan Morales, Attorney General of Texas v. Trans World Airlines, Inc., et al.	504 U.S. 374	1992
New York v. United States et al.	505 U.S. 144	1992
Thomas Cipollone, Individually and as Executor of the Estate of Rose D. Cipollone v. Liggett Group, Inc. et al.	505 U.S. 504	1992
The District of Columbia and Sharon Pratt Kelly, Mayor v. The Greater Washington Board of Trade	506 U.S. 125	1992
Building and Construction Trades Council of the Metropolitan District v. Associated Builders and Contractors of Massachusetts/Rhode Island, Inc., et al.	507 U.S. 218	1993
United States, et al. v. Texas et al.	507 U.S. 529	1993

CSX Transportation, Inc. v. Lizzie Beatrice Easterwood	507 U.S. 658	1993
United States v. Idaho, ex rel. Director, Idaho Department of Water Resources	508 U.S. 1	1993
United States Department of the Treasury and Mitchell A. Levine, Assistant Commissioner v. George Fabe, Superintendent of Insurance of Ohio.	508 U.S. 491	1993
Henry Harper, et al. v. Virginia Department of Taxation	509 U.S. 86	1993
Northwest Airlines, Inc. et al. v. County of Kent, Michigan, et al.	510 U.S. 355	1994
American Dredging Company v. William Robert Miller	510 U.S. 443	1994
O'Melveny & Meyers v. Federal Deposit Insurance Corporation as Receiver for American Diversified Savings bank et al.	512 U.S. 79	1994
Karen Livadas v. Victoria Bradshaw, California Labor Commissioner	512 U.S. 107	1994
Hawaiian Airlines, Inc. v. Grant T. Norris	512 U.S. 246	1994
Nebraska Department of Revenue v. John Loewenstein	513 U.S. 123	1994
American Airlines, Inc. v. Myron Wolens et al.	513 U.S. 219	1995
Allied-Bruce Terminix Companies, Inc. and Terminix International Company v. G. Michael Dobson et al.	513 U.S. 265	1995
Freightliner Corporation, et al. v. Ben Myrick, et ux., et al.	514 U.S. 280	1995
United States v. Alfonso D. Lopez, Jr.	514 U.S. 549	1995
New York State Conference of Blue Cross & Blue Shield Plans, et al. v. Travelers Insurance Company, et al.	514 U.S. 645	1995
U.S. Term Limits, Inc., et al. v. Ray Thornton et al.	514 U.S. 779	1995
United States of America v. State of Maine et al.	516 U.S. 365	1996
Thomas Dalton, Director, Arkansas Department of Human Services et al. v. Little Rock Family Planning Services et al.	516 U.S. 474	1996

Barnett Bank of Marion County, N.A. v. Bill Nelson, Florida Insurance Commissioner, et al.	517 U.S. 25	1996
Seminole Tribe of Florida v. Florida et al.	517 U.S. 44	1996
Doctor's Associates, Inc. and Nick Lombardi v. Paul Casarotto et ux.	517 U.S. 681	1996
Medtronic, Inc. v. Lora Lohr et vir	518 U.S. 470	1996
California Division of Labor Standards Enforcement, et al. v. Dillingham Construction, N.A., Inc., and Manuel J. Arceo, DBA Sound System Media	519 U.S. 316	1997
Barbara A. De Buono, New York Commissioner of Health, et al. v. NYSA-ILA Medical and Clinical Services Fund, etc., et al.	520 U.S. 806	1997
Sandra Jean Dale Boggs v. Thomas F. Boggs, harry M. Boggs and David B. Boggs	520 U.S. 833	1997
Marian Johnson et al. v. Kristine L. Fankell	520 U.S. 911	1997
United States of America v. State of Alaska	521 U.S. 1	1997
Idaho, et al. v. Coeur D'Alene Tribe of Idaho, etc., et al.	521 U.S. 261	1997
City of Boerne v. Flores	521 U.S. 507	1997
Jay Printz, Sheriff/Coroner, Ravalli County, Montana v. United States	521 U.S. 898	1997
American Telephone and Telegraph Company v. Central Office Telephone, Inc.	524 U.S. 214	1998
Humana Inc., et al. v. Mary Forsyth et al.	525 U.S. 299	1999
Arizona Department of Revenue v. Blaze Construction Company, Inc.	526 U.S. 32	1999
Jefferson County, Alabama v. William M. Acker, Jr., Senior Judge, United States District Court, Northern District of Alabama, and U. W. Clemon, Judge, United States District Court, Northern District of Alabama	527 U.S. 423	1999
Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank and United States	527 U.S. 627	1999

College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board et al.	527 U.S. 666	1999
John H. Alden, et al. v. Maine	527 U.S. 706	1999
J. Daniel Kimel, Jr., et al. v. Florida Board of Regents, et al.	528 U.S. 62	2000
Janet Reno, Attorney General, et al. v. Chaorle Condon, Attorney General of South Carolina, et al.	528 U.S. 141	2000
United States v. Gary Locke, Governor of Washington, et al.	529 U.S. 89	2000
Norfolk Southern Railway Company v. Dedra Shanklin, Individually, and as Next Friend of Jessie Guy Shanklin	529 U.S. 344	2000
United States v. Antonio J. Morrison, et al.	529 U.S. 598	2000
Alexis Geier, et al. v. American Honda Motor Company, Inc., et al.	529 U.S. 861	2000
Stephen P. Crosby, Secretary of Administration and Finance of Massachusetts, et al., v. National Foreign Trade Council	530 U.S. 363	2000
United States of America v. State of Alaska	530 U.S. 1021	2000
Buckman Company v. Plaintiffs' Legal Committee	531 U.S. 341	2001
Board of Trustees of the University of Alabama, et al., v. Patricia Garrett, et al.	531 U.S. 356	2001
Donna Rae Egelhoff v. Samantha Egelhoff, a Minor, By and Through Her Natural Parent Kate Breiner, and David Egelhoff	532 U.S. 141	2001
Arkansas v. Kenneth Andrew Sullivan	532 U.S. 769	2001
Lorillard Tobacco Company, et al. v. Thomas F. Reilly, Attorney General of Massachusetts, et al.	533 U.S. 525	2001
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Paul D. Lapides v. Board of Regents of the University System of Georgia, et al.	535 U.S. 613	2002
Verizon MD. Inc,. v. Public Serv. Comm'n of MD.	535 U.S. 635	2002

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Rush Prudential HMO, Inc. v. Debra C. Moran et al.	536 U.S. 355	2002
City of Columbus, et al. v. Ours Garage and Wrecker Service, Inc., et al.	536 U.S. 424	2002
Rex R. Sprietsma, Administrator of the Estate of Jeanne Sprietsma, Deceased v. Mercury Marine, A Division of Brunswick Corporation	537 U.S. 51	2002
Kentucky Association of Health Plans, Inc., et al. v. Janie A. Miller, Commissioner, Kentucky Department of Insurance	538 U.S. 329	2003
Nevada Department of Human Resources, et al. v. William Hibbs et al.	538 U.S. 721	2003
Entergy Louisiana, Inc. v. Louisiana Public Service Commission et al.	539 U.S. 39	2003
American Insurance Association, et al. v. John Garamendi, Insurance Commissioner, State of California	539 U.S. 396	2003
Linda Frew, On Behalf of Her Daughter, Carla Frew, et al. v. Albert Hawkins, Commissioner Texas Health and Human Services Commission, et al.	540 U.S. 431	2004
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