votes are nearer the top (e.g., Rehnquist) than those who cast a low percentage (e.g., Brennan).

Figure 1: The relationship between newspaper editors’ characterizations of justices’ ideology prior to their appointment and the justices’ votes, 1953-2005 terms. The superimposed line represents a regression-based prediction of the justices’ votes based on their ideology. The closer a point to the line, the stronger the association between the justice’s ideology and the justice’s votes. Justices above the line voted more conservatively than predicted; justices below the line voted more liberally than predicted. The correlation between the justices’ ideology and their votes is .797.40

If the editors’ ideological assessments do a good job predicting votes, then those justices initially characterized as conservative, such as Rehnquist, should cast the highest percentage of conservative votes. Those to the left of center, such as Brennan, should cast the lowest percentage of conservative votes. Nominees labeled “moderates” by the editors ought be near the center, casting neither many nor few conservative votes.

These are the very patterns we observe in Figure 1.41 Indeed, with only scattered exceptions (e.g., the unexpected liberal voting of Harry Blackmun), press characterizations prior to appointment turn out to be remarkably good predictors of future voting. To take one example, Ruth Bader Ginsburg reaches liberal decisions in about 60 percent of the Court’s cases—almost exactly the percentage we would expect from a justice with her moderately left-of-center political outlook. Likewise, Antonin Scalia, assessed by all newspaper editors as a conservative at the time of his nomination, votes precisely as that label would suggest, reaching right-of-center results in almost seven out of every ten cases he decides. Seen in this way, Ginsburg’s vote against the military

40 See supra notes 35, 37, and 39 for information about the data depicted in Figure 1.
41 We adapt the discussion in this paragraph from Epstein & Segal, supra note 15.