

LAW, COURTS, AND JUDICIAL PROCESS

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Articles and Commentary

Brief articles and notes describing matters of interest to the field will be published subject to review by Newsletter editors. Authors are encouraged to share research findings, teaching innovations, or commentary on developments in the field which would interest members of the section. Footnote and reference style should follow that of the American Political Science Review. Please send two copies of prospective articles and commentary to:

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Editor's Note: As my four-year stint as articles editor for our newsletter comes to a close, I am pleased to pass on to you a piece that is especially suitable for the Newsletter's mission and readership. Hensley's and Rhoad's thorough update of an earlier study of our visible work-product has just the right "busman's holiday" flavor.

It is full of provocative data, some reassuring, some worrisome, and some which simply tells us more about each other's work. If such self-examination fascinates us, I trust this fascination measures the extent to which our specialty has graduated from a convenient professional association to a true scholarly community.

STUDYING THE STUDIES: AN ASSESSMENT OF JUDICIAL POLITICS RESEARCH IN FOUR MAJOR POLITICAL SCIENCE JOURNALS, 1960-1987

by

Thomas R. Hensley & James C. Rhoads

INTRODUCTION

Judicial politics scholars have written numerous bibliographical essays assessing the historical development and current conditions of the field (e.g., Schubert, 1967b, 1968, 1972a, 1972b; Danelski, 1968; Gluckman, 1968; Karlen, 1968; Mendelson, 1968; Murphy, 1968; Peltason, 1968; Pritchett, 1968; Risenfeld and Casper, 1968; Schmidhauser, 1968; Rigby and Witt, 1969; Becker, 1970; Vines, 1970; Ulmer, 1974 and 1979b; Shapiro, 1975; Clark, 1976; Peterson, 1981; Baum, 1983; Gibson, 1983 and 1986; Tate, 1983; Stumpf, Shapiro, Danelski, Sarat, and O'Brien, 1983; Schubert, 1985; Gibson, 1986; Provine, 1988; Smith, 1988; and Stumpf, 1988). These various studies have made important contributions to the understanding and advancement of knowledge about judicial politics. While these essays have been based upon careful reviews of the scholarly literature, they have not been based upon systematic, quantitative analysis. This study seeks to address this shortcoming through a detailed analysis of all judicial politics articles which have appeared during the past twenty-eight years in the four major political science journals which have been published continuously since 1960: *American Journal of Political Science*, *American Political Science Review*, *Journal of Politics*, and *Western Political Quarterly*. While this survey certainly does not include all of the important research which has been done on judicial politics in the past three decades, it is representative of much of the best scholarship in the field. It is hoped that the results will prove useful in a variety of ways to those seeking to understand the field as well as those seeking to advance the frontiers of knowledge.

THE RESEARCH QUESTIONS

The specific questions to be raised in the study can be grouped into five categories: attention given to judicial politics research in the journals, authorship of judicial politics articles, methodological issues, the subject matter concerns of the studies, and the utilization of these studies in judicial politics textbooks. Throughout the analysis, attention will be given to changes which have occurred during the twenty-eight years under study, with the period being divided for purposes of trend analysis into the decades of the sixties, seventies, and eighties.

The first series of questions will focus upon the number of studies which have been written on judicial politics:

- 1) What is the number of studies in the four major journals which have focused upon judicial politics, and what changes have occurred during the three decade period in the attention given to judicial politics?
- 2) How many judicial politics articles have been published in the respective journals, and are there significant differences among the journals in the publication of judicial studies?

The second set of questions will focus upon the authorship of the articles:

- 1) What scholars have been most prolific in publishing research on judicial politics in these four leading journals?
- 2) Has there been an increasing pattern of joint authorship of articles on the judicial process?

A third set of questions will focus upon methodological issues:

- 1) What percentage of the articles is quantitative, and what changes have occurred during the three decade period in the percentage of quantitative studies?
- 2) What have been the data sources for quantitative studies? What changes have occurred since 1960 in the types of data employed?
- 3) What statistical techniques have been utilized in quantitative studies of judicial politics? More specifically, to what extent have multivariate statistics, bloc analyses, and scalogram analyses been used? What patterns of change have occurred in the period under study in the use of these respective techniques?

The fourth set of questions deal with the subject matter being studied:

- 1) What courts have been studied, and what shifts have occurred during the three periods under study in the attention given to different courts?
- 2) To what extent have articles focused upon specific cases, and how has this changed during the three decades?
- 3) In systems analysis terminology, what have been the primary substantive foci of the studies? What changes have occurred during the three decades in the primary substantive concerns of the articles?
- 4) Examining empirical studies of judicial decision making in greater depth through the use of Goldman and Jahnige's "dynamic causal model of judicial decision making" (1985, p.167), which primary factors "causing" judicial behavior have emerged? How have these factors changed during the three periods under study?
- 5) To what extent have explicit, empirical theoretical frameworks been utilized, and what changes have occurred during the twenty-eight year period in the attention given to theoretical frameworks?
- 6) What specific areas of the law (e.g., criminal law, civil rights and liberties, etc.) have been studied? What changes have occurred since 1960 in this regard?

The fifth and final set of questions examine the extent to which these articles are utilized in judicial politics textbooks:

- 1) To what extent have the articles in the four political science journals been cited in leading, recent judicial politics textbooks?
- 2) Who are the authors cited most frequently in judicial politics textbooks, and how does citation frequency compare with the

frequency of publication by the most prolific scholars in the four leading journals?

The study will conclude with an overview of future research trends and possibilities.

DATA GATHERING AND CODING

The data for the study were developed by content analyzing four of the most prestigious journals in the discipline of political science: *American Journal of Political Science*, *American Political Science Review*, *Journal of Politics*, and *Western Political Quarterly*. These are the major, general journals of the discipline which have been published continuously for the period from 1960 to 1987. A total of 330 articles on judicial politics have been published in these journals during this period. To qualify for inclusion in this study, an article must have had as a central focus the activities associated with courts. This criterion was applied rather broadly, utilizing a system analysis approach. Among the most important decisions we made were to exclude studies on constitutions *per se*, to exclude studies on lawyers *per se*, to include doctrinal analyses, and to include studies which focused on both courts and one or more additional institutions. In difficult cases we utilized footnote material to determine if the author(s) placed the study in the context of the judicial politics literature. While a few articles were difficult to classify as to whether or not their central focus was on judicial politics, we think our list of articles is a reasonably accurate and complete one.

Reliability is a fundamental concern in all efforts at content analysis, and it is therefore important to be explicit about the coding procedures which were utilized in developing the variables for the study. The articles were read and coded at least twice. Several graduate students were involved in the project at different times,¹ although each article was read and coded by the senior author. The results of the independent coding processes were then compared, and any differences were carefully examined to determine the most appropriate codes. Most of the variables could be coded unambiguously, but some did require rather difficult, subjective judgments, which will be discussed below. It is important to acknowledge that some differences might occur if the study were to be replicated, but it seems unlikely that significant differences would occur in the overall patterns which are reported.

The variables we coded are identified in detail in the Appendix to this paper, which consists of the codebook for the study. The variables regarding the first two categories of frequency of articles on judicial politics and authorship were easily classified, for we simply had to identify the journal in which the article appeared, the year and decade in which the article was published, and the author(s) of the article. Classifying the article by type of research was also a straightforward task, for we were concerned with identifying articles that involved original research from articles that were either bibliographical essays, scholarly exchanges, or book review essays; throughout most of our analysis, we will focus upon the articles that involved original research, which constitute 296 of the 330 articles.

The variables which were concerned with methodological issues were more difficult to code and content analyze. The first concern was whether or not the article was quantitative in nature. A study was classified as quantitative if it had at least one table containing quantitative data gathered by the author(s). Exceptions to this general rule were made for doctrinal studies which merely reported numbers of certain types of cases as well as articles which reported only the results of earlier quantitative research. If a

labeled "other" is the second most common data source, with 44 percent of the articles using one or more "other" sources. The data sources in this category are highly varied, and we have not attempted to classify them; our impression, however, is that the most frequent source would be survey research data. None of the other categories we identified have been used with exceptional frequency, although a somewhat surprising 21 percent of the quantitative studies have utilized social background data. While these studies have had limited success in explaining judicial behavior, numerous interesting questions are associated with social background data, and the data are relatively easy to gather. Direct contact with judges to gain data is relatively rare; only eight studies (four percent) report the use of mailed questionnaires to judges, only eleven studies (six percent) indicated the use of data based on personal interviews with judges, and just four quantitative studies (two percent) reported the use of judges' personal materials like memos and docket books. A final point regarding the use of various data sources is that there are no dramatic patterns of variation across time.

A trend analysis of the number of different data sources utilized in studies does show some dramatic differences. It is apparent from Table 7 that quantitative studies increasingly are combining more sources of data to explain judicial phenomena. While 64 percent of the quantitative studies utilized only one data source in the sixties, this percentage fell to 52 percent in the seventies and to only 43 percent in the eighties. In comparing the seventies and the eighties, it can be seen that the major difference is the much more frequent use of four or more data sources in the eighties.

This analysis of the sources of data leads directly to the next line of inquiry, the use of statistical techniques. Looking first at the utilization of multivariate statistics, the data in Table 8 reveal the dramatic increase in the use of multivariate analysis. While only 27 percent of the quantitative studies employed multivariate statistics in the sixties, 45 percent of the quantitative articles in the seventies utilized them, and by the eighties a clear majority of the quantitative studies – 61 percent – were employing multivariate techniques. Dramatically different patterns are seen in regard to bloc voting analysis and scalogram analysis. These techniques have been popular ones during the period under study, with thirty-two studies (17 percent) using scalogram analysis and nineteen articles (10 percent) employing bloc analysis. The frequency of their use has declined dramatically from the sixties to the eighties, however. Bloc voting analysis was utilized in eighteen percent of the quantitative studies in the sixties but in only seven percent of the articles in the eighties. Scalogram analysis appeared in twenty-seven percent of the quantitative publications of the sixties but in only nine percent of the studies in the eighties. It should be noted that despite their drop in popularity, both techniques continue to be utilized in the eighties.

These patterns are undoubtedly explained by the growing statistical sophistication of judicial process scholars. Bloc voting and scalogram analysis involve relatively simple statistical manipulations, and these techniques attracted considerable attention in the sixties by judicial scholars. As the limitations and weaknesses of these techniques became widely discussed (e.g., Murphy and Tanenhaus, 1972), they became less frequently utilized. Conversely, as the discipline of political science has become increasingly aware of the power of multivariate statistical techniques like factor analysis and various forms of multiple regression analysis, judicial politics scholars have increasingly used them.

SUBJECT MATTER STUDIED

We will now shift our attention from methodological concerns to more substantive concerns. What courts have been studied by judicial politics scholars? To what extent have case studies been undertaken? To what extent have the various aspects of the judicial system been analyzed? In regard to the study of judicial decision making, how extensively have the various aspects of this process been examined? To what degree have judicial scholars utilized explicit, empirical theoretical frameworks in their articles? And finally, what has been the focus of this literature in terms of the specific subject matter of the law?

To what extent have various courts been studied by judicial process scholars? Table 9 helps us to answer this inquiry. The one set of statistics that stands out most starkly involves the number of studies that have focused exclusively on the United States Supreme Court, for 162 articles representing 55 percent of the original scholarship has had the Court as its primary focus, and this has not varied significantly across the three decades despite warnings about our fixation on the Marble Palace. Turning our attention now to the other courts, it can be seen that every category of court has been studied, although we identified only one study which had a primary focus on state intermediate appellate courts. No outstanding trends are readily discernible in regard to the study of lower American courts, although state courts were studied relatively infrequently in the sixties but have been given increasing attention in the seventies and eighties. It is also somewhat surprising to observe that in the eighties only two studies have focused exclusively on the federal circuit courts and only three studies have dealt with the federal district courts. Lacking much attention is the study of non-American courts, for only nine studies have been published and four of those were in the sixties. Thus, an extraordinarily uneven focus exists in the literature in regard to courts being studied. Scholarly attention has been focused primarily on the Supreme Court; and while lower federal courts, state courts, and non-American courts certainly have not been completely neglected, it does seem safe to suggest that the growth in our knowledge of these other courts has been hampered by the heavy emphasis on the Supreme Court.

The next question to be examined is whether case studies have been a prominent feature of the judicial politics literature. As Table 10 reveals, in-depth analysis of a single court case or closely related set of cases has not been frequent, for only 26 articles (nine percent) can be classified as case studies. A distinctive trend can also be observed, for over one-half of the case studies were published in the sixties. The case studies have been of two types, doctrinal analysis and impact studies, with the doctrinal studies more predominant in the sixties and the impact studies in the seventies and eighties.

To what extent have the various aspects of the judicial process been studied by judicial politics scholars? To answer this question we utilized the systems analysis categories employed by Goldman and Jahnige: regime rules, authorities, input, conversion, output, and impact and feedback. In addition, we introduced a category labeled doctrinal analysis because of the significant number of these studies which did not fit neatly into any of the systems analysis categories. Table 11 contains the data relevant to this inquiry. It is absolutely clear from the row totals that judicial politics scholars have focused attention primarily on the conversion process, for 132 articles (42 percent) have studied judicial decision making. No other category comes close

to this one in frequency. The second most common type of study is doctrinal analysis with 71 articles, representing 22 percent of the studies. All of the other system analysis categories added together do not come close to equaling the number of studies in conversion, but there is substantial variation among these other categories. Impact/feedback studies, articles on judicial authorities, and judicial input studies have been undertaken with some frequency; 30 articles (nine percent) were classified as impact/feedback, 28 studies (eight percent) dealt with the general subject of authorities, and 23 publications (seven percent) focused upon inputs to the judicial system. The areas of regime rules and output each had only five articles.

An examination of trends over the three decade period does not reveal any dramatic patterns of change. The study of judicial conversion, for example, has been characterized by some fluctuation because of a growth of such studies in the seventies, but the percentage of these studies is virtually the same in the eighties as it was in the sixties. Two patterns of change, while not dramatic, are worthy of note. One is that doctrinal studies did show a steep decline from the sixties when they constituted 32 percent of the articles to the seventies when they comprised only 17 percent of the studies. This is explained to a large degree by the elimination of annual Supreme Court reviews by the *American Political Science Review* and the *Western Political Quarterly*. Doctrinal studies have remained at the same level in the eighties as in the seventies. Thus, while doctrinal analyses no longer play the prominent role they once did in the judicial politics literature, they remain an important part of the body of scholarship; the behavioral movement has not resulted in the elimination of traditional constitutional law analysis from the political science journals. A second pattern of change worth noting is the modest increase in studies on judicial impact and feedback; these articles constituted only six and seven percent of the published studies in the sixties and seventies, respectively, but they have comprised 15 percent of the articles in the eighties. The timing of this development is somewhat surprising given the focus on impact research at the beginning of the seventies (see, e.g., Becker and Feeley, 1973, and Wasby, 1970), but it does support Johnson and Canon's (1984) assertion that the call to action for this type of research was not heeded in the seventies.

Because conversion studies have been so popular in the judicial politics literature, it seems both appropriate and necessary to analyze these studies in greater detail. More specifically, we now turn to an examination of the attention given to various factors influencing judicial decision making. The factors under consideration are those identified in Goldman and Jahnige's "dynamic causal model of judicial conversion" (1985, p.167): social background, political values and attitudes, small group influences, judicial role conceptions, fact patterns, and environmental influences. Table 12 shows the attention given to these various elements. Looking initially at the row totals, judicial politics scholars have given a considerable amount of attention to each of these factors, for at least twenty studies have focused on each factor. The most commonly studied factor, not surprisingly, is political values and attitudes, with 53 articles representing 38 percent of the articles on judicial conversion. Some interesting trends can be observed in the decade of the eighties. Four of the categories – social backgrounds, political values and attitudes, fact patterns, and environmental factors – have each been studied at a significantly greater rate in the eighties than in the seventies or sixties. These increases are reflected to a large degree in the tendency of scholars in the eighties to utilize multivariate techniques to study more than one element in the decision making process. Somewhat surprisingly, however, the focus on

small group interactions and judicial role conceptions has declined in the eighties. It is not clear to us whether these declines signal a disenchantment of scholars with the promise of these approaches or whether these patterns are short term aberrations.

We move now to a consideration of the extent to which judicial politics scholars have utilized empirical theoretical frameworks in their research. Given the reliability and validity problems associated with this variable which was discussed in the earlier methodological section, substantial caution has to be exercised in the analysis of our data in Table 13. Some distinctive patterns can be seen in the table, however.

Exactly one-fourth of the original studies published during the three decade period were coded as identifying an explicit theoretical framework. A definite change occurred in the utilization of empirical theories between the sixties and seventies, for the number of studies grew from only 13 in the sixties (13 percent) to 30 articles in the seventies (30 percent). This change probably reflects the self-consciousness about theory testing and development associated with the rise of the behavioral movement. Interestingly, our data reveal no change between the seventies and eighties. It is difficult to speculate on the reasons for the consistency between the seventies and eighties, for we expected to see a further growth in the number of theoretically based studies in the eighties. Several possibilities exist. It is certainly possible that our measurement criteria may not have been sufficient; judicial politics scholars may have come to consider theory development to be so natural and normal that they do not feel the need to mention explicitly that they are engaging in theory testing. Alternatively, a disenchantment, or at least a lack of enthusiasm, with the prospects of theory development may explain the result.

Our final concern deals with the specific subject matter of the law which has been studied in the judicial politics articles. The data in Table 14 show a very uneven distribution, for judicial politics scholars have overwhelmingly focused their attention on civil rights and liberties. Thirty percent of the studies have examined just American civil rights and liberties cases, while another 27 percent of the studies have examined civil rights and liberties along with one or more additional subject areas. All other categories are small by comparison, for no other subject has been studied in as many as ten percent of the studies; twenty-one studies (seven percent) have focused on general criminal law, thirteen articles (four percent) have analyzed economic cases, only four articles have examined the domestic law of non-American systems, just three studies have emphasized American administrative law, and a mere two articles have dealt with international law. Thus, a distinctive bias in favor of American civil rights and liberties characterizes the judicial politics literature, and there is no evidence in the data on judicial studies in the eighties to suggest this is being corrected.

USE OF THE JUDICIAL POLITICS LITERATURE IN THE TEXTBOOKS

As we were engaged in the project, we began to wonder about the extent to which this wealth of scholarly knowledge gets passed along to students through textbooks. We thus decided to undertake an analysis of undergraduate judicial politics textbooks to see what light could be shed on this question. We began with a sizeable list of textbooks; but we decided to utilize two criteria in selecting the textbooks to be evaluated, and only two met these criteria:

- 1) they had to be published in 1988, to allow maximum opportunity for the use of the 1960-1987 articles we have examined; and
- 2.) they had to be general judicial process texts rather than focusing on the Supreme Court or the federal courts.

Thus, the two textbooks we found which met both criteria were Henry Glick's *Courts, Politics, and Justices* (1988) and Henry Stumpf's *American Judicial Politics* (1988). Each textbook was carefully examined for footnotes and bibliographical references, and every article cited was recorded on a 3 x 5 index card. From this data base we have been able to do a preliminary exploration of the use in judicial politics textbooks of judicial articles in the four major journals.

The first question we examined was the extent to which articles from these four major journals are cited in the two textbooks. Because these are arguably the leading journals in the field of political science, we assumed articles from these journals would be cited frequently. The data in Table 15 reveal a rather different pattern. We found a total of 417 articles cited in the Glick and Stumpf books, and only 67 of those articles (16 percent) were from the leading political science journals. The results certainly raise doubts about the importance of these journals as sources for undergraduate textbooks on the judicial process.

A second question to be addressed in this section is which scholars have been cited most frequently in the judicial politics textbooks. When we initially began this undertaking, we assumed that there would be a strong correlation between the ranking of the leading scholars in the four major journals and the ranking of scholars most cited in the texts. Analysis of the previous question does not lead one to predict a strong correlation, however. Table 16 shows a rank ordering of judicial politics scholars based upon the total number of articles cited in both textbooks. Given the results of Table 15 showing relatively few citations of the four major journals, the correspondence between the ranking of scholars in Tables 3 and 16 is perhaps surprisingly high. Ten persons are listed in both rankings: Atkins, Baum, Brenner, Canon, Goldman, Grossman, Sarat, Schubert, Slotnick, and Ulmer. Furthermore, Cook, Glick, and Shapiro have all published at least one article in the political science journals. Only three scholars listed in Table 16 have never published in one of the four political science journals: Richard Abel, Marc Galanter, and Mark Tushnet.

Great caution needs to be exercised in reaching any conclusions from this quick analysis of the use of journal articles in undergraduate textbooks. The data we have collected seem to suggest that while these journals are utilized to some extent, the use is certainly not extensive. The scholars who are the primary contributors to these leading journals are, however, the scholars who tend to be cited most frequently in the judicial politics textbooks.

CONCLUSIONS

In concluding this analysis of judicial politics research in the four major journals from 1960 to 1987, it is appropriate to offer some generalizations regarding the findings and to suggest some avenues for future research. Overall, the field of judicial politics appears to be vigorous, occupying an important place in the political science discipline. Research in the field has changed dramatically during the period from 1960 to 1987, but by far the most significant changes occurred between the sixties and seventies in response to the behavioral revolution which gripped the discipline; the decades of the seventies and eighties have seen basic continuity in the field.

A variety of distinctive patterns characterize the field today. Multiple authorship, while still not the norm, may well become the typical pattern in the near future. Studies are overwhelmingly quantitative in nature, and most studies use more than one source of data and utilize multivariate statistical techniques. In terms of subject matter studied, the United States Supreme Court is the primary focus of a majority of studies; case studies are relatively rare; judicial conversion is studied more than any other feature of the judicial process, although this focus does not constitute a majority of the studies; all aspects of the judicial decision making process are being investigated, although the factor most often examined is judges' political values and attitudes; empirical theoretical frameworks are explicitly tested in about one-third of the studies; and civil rights and liberties is the subject area of the law which is most commonly studied.

Just as the data show dominant patterns of research in the field, they also suggest areas of research which need additional attention. The heavy emphasis on the U.S. Supreme Court which has been lamented by many analysts of the literature remains a concern. Only two articles in the eighties have focused upon the federal circuit courts, and only three studies have been primarily concerned with the federal district courts. State courts have by no means been completely neglected in the eighties; but a strong case can be made that our state trial courts have not been sufficiently studied, for they are not only the level where the largest number of cases occur but also the most directly accessible to scholars. Finally, the paucity of articles on non-American courts is striking, for only two such studies have been published in the eighties; cross-national judicial research is thus an area much in need of scholarly attention.

Conversion studies have long dominated the study of judicial politics, and this pattern will undoubtedly continue, especially with the development of the new Supreme Court data base which is nearing completion. In the study of judicial conversion, the factors of judicial role conceptions and small group interactions have been studied the least in the eighties. It is hoped, however, that scholars will increase the attention to other aspects of the judicial process. Only three articles in the eighties were coded under the systems analysis categories of regime rules and judicial output. While the systems categories of authorities, inputs, and impact/feedback had substantially more articles, none of these approached conversion in frequency of articles. It is especially surprising that more attention has not been given to impact and feedback studies, for political scientists should have a unique and important contribution to make in assessing the effects of judicial decisions; such studies can contribute not only to the scholarly literature but also possibly to the knowledge judges need in making decisions. Finally, one cannot help but notice the heavy implicit bias in the literature toward acceptance of the status quo. It is surprising and disappointing, for example, that the provocative ideas of the Critical Legal Studies Movement have not appeared to generate research in these political science journals.

Two concluding sets of observations can be made regarding the use of theoretical frameworks and the subject matter of the law studied. It is difficult to be optimistic about the development of theory in the field of judicial politics. Based upon our admittedly crude assessment, the field is not any more theory conscious in the eighties than it was in the seventies, and it was difficult for us to observe impressive theoretical developments in any of the areas of judicial politics. If the field is to mature, far greater emphasis needs to be given to theoretical concerns. Finally, the heavy focus on civil rights and liberties needs to be modified. In their studies of Supreme Court

economics decisions, Ducat and Dudley (1986, 1987) have shown the fascinating results which can occur in studying areas of the law other than civil rights and liberties. Numerous other areas remain to be explored.

In conclusion, we hope this study will be of some use to scholars in the field. Many of the findings may simply confirm what scholars have intuitively guessed about this literature, but some of the results may be a bit surprising. Even if none of the results are unexpected, it is hoped that this analysis will help students of the judicial process to gain a more empirically based understanding of the literature, to find points of reference for their research and teaching, and to determine new avenues of research.

Note. This study was originally reported in a paper prepared for delivery at the 1988 Meeting of the Southern Political Science Association, November 3-5, Atlanta, GA. In addition to the materials that appear here, the authors have developed a codebook that they used for the study. That is available upon request from the authors.

¹ Special thanks go to Lisa Handley, Kathy Pittack Lazar, Mike Mitchell, Judy Nelson, Regina Walz, and Derrick Hackett.

² Most of the remaining tables will be based upon only the original articles for the reasons we have just identified.

Table 1: A Trend Analysis of the Number of Judicial Politics Articles and Total Articles Appearing in Four Major Political Science Journals, 1960-1987

Articles	Decades			Totals
	Sixties	Seventies	Eighties	
Judicial Process Articles	110 (6.8%)	117 (6.5%)	103 (7.0%)	330 (6.7%)
Total Articles	1628	1811	1472	4911

Table 2: A Comparison of Four Major Political Science Journals in Terms of the Publishing of Judicial Politics Articles, 1960-1987

Articles	Journals			
	Am. J. of Pol. Sci.	Am. Pol. Sci. Rev.	J. of Pol.	Western Pol. Q.
Judicial Politics Articles	56 (6.0%)	58 (4.3%)	108 (9.1%)	108 (7.5%)
Total Articles	937	1337	1192	1447

Table 3: Scholars Who Have Authored or Co-Authored Three or More Original Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Scholar	Number of Articles	Ranking
S. Sidney Ullmer	16	1
Paul C. Bartholomew	14	2
Harold Spaeth	9	3
Wallace Mendelson	8	4
Saul Brenner	7	5
Glendon Schubert	6	6
Burton Atkins	5	7
Michael Giles	5	7
Sheldon Goldman	5	7
Joel Grossman	5	7
Kenneth Vines	5	7
Lawrence Baum	4	12
Craig Ducat	4	12
J. Woodford Howard	4	12
Austin Sarat	4	12
Jeffrey Segal	4	12
Charles Sheldon	4	12
Elliot Slotnick	4	12
Donald Songer	4	12
Thomas Walker	4	12
Frank Way	4	12
Theodore Becker	3	22
Gregory Caldeira	3	22
Bradley Canon	3	22
Robert Carp	3	22
David Fellman	3	22
Victor Eugene Flango	3	22
James Gibson	3	22
Justin Green	3	22
Edward Heck	3	22
Gary Jacobsohn	3	22
Walter Murphy	3	22
Stuart Nagel	3	22
Gregory Rathjen	3	22
David Rohde	3	22
John Schmidhauser	3	22

Table 4: Patterns of Single and Joint Authorship of Original Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Number of Authors	Decades			
	Sixties	Seventies	Eighties	Totals
One	92 (92%)	78 (78%)	63 (66%)	233 (79%)
Two	7 (7%)	16 (16%)	27 (28%)	50 (17%)
Three	1 (1%)	5 (5%)	5 (5%)	11 (4%)
Four or More		1 (1%)	1 (1%)	2 (1%)
Totals	100 (100%)	100 (100%)	96 (100%)	296 (100%)

Table 5: Patterns of Quantitative and Non-Quantitative Original Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Quantitative Articles	Decades			
	Sixties	Seventies	Eighties	Totals
Yes	44 (44%)	73 (73%)	74 (77%)	191 (64%)
No	56 (56%)	27 (27%)	22 (23%)	105 (36%)
Totals	100 (100%)	100 (100%)	96 (100%)	296 (100%)

Table 6: Data Sources Utilized in Quantitative Studies of Judicial Politics in Four Major Political Science Journals, 1960-1987

Data Sources	Decades			
	Sixties	Seventies	Eighties	Totals
Judges' Decisions	31 (70%)	51 (70%)	50 (68%)	132 (69%)
Other Court Materials	0	9 (12%)	10 (14%)	19 (10%)
Social Background Data	8 (18%)	20 (27%)	12 (16%)	40 (21%)
Mailed Questionnaires to Judges	3 (7%)	2 (3%)	3 (4%)	8 (4%)
Personal Interviews of Judges	0	6 (8%)	5 (7%)	11 (6%)
Judges' Written Notes, Memos, Docket Books	0	2 (3%)	2 (3%)	4 (2%)
Demographic Data	4 (9%)	8 (11%)	7 (9%)	19 (10%)
Other	18 (41%)	28 (38%)	38 (51%)	84 (44%)
Total Number Quantitative Studies	44	73	74	191

* The column numbers do not add to the total number of studies in the respective decades because many studies used more than one data source.

Table 7: Total Number of Data Sources Utilized in Quantitative Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Number of Data Sources	Decades			
	Sixties	Seventies	Eighties	Totals
One	28 (64%)	38 (52%)	32 (43%)	98 (51%)
Two	9 (20%)	19 (26%)	20 (27%)	48 (25%)
Three	7 (16%)	8 (11%)	7 (10%)	22 (12%)
Four or More	0	8 (11%)	15 (20%)	23 (12%)
Totals	44 (100%)	73 (100%)	74 (100%)	191(100%)

Table 8: The Use of Multivariate Statistical Techniques, Bloc Voting Analysis, and Scalogram Analysis in Quantitative Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Statistical Techniques	Decades			
	Sixties	Seventies	Eighties	Totals
Multivariate Analysis	12 (27%)	33 (45%)	45 (61%)	90 (47%)
Bloc Voting Analysis	8 (18%)	6 (8%)	5 (7%)	19 (10%)
Scalogram Analysis	12 (27%)	13 (18%)	7 (9%)	32 (17%)
Total Number of Quant. Studies	44	73	74	191

* The summations of the column numbers differ from the column totals because some quantitative studies did not use any of these techniques while other studies used more than one.

Table 9: Courts Studied in Original Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Courts Studied	Decade			
	Sixties	Seventies	Eighties	Totals
U.S. Sup. Court Only	59 (59%)	51 (51%)	52 (54%)	162 (55%)
Federal Circuit Courts Only	2 (2%)	7 (7%)	2 (2%)	11 (4%)
Federal District Courts Only	2 (2%)	4 (4%)	3 (3%)	9 (3%)
More Than One Level of Fed. Court	4 (4%)	7 (7%)	7 (7%)	18 (6%)
State Supreme Court(s) Only	5 (5%)	8 (8%)	6 (6%)	19 (6%)
State Interm. Appellate Courts Only	0	1 (1%)	0	1 (1%)
State Trial Courts Only	1 (1%)	11 (11%)	8 (8%)	20 (7%)
More Than One Level of State Courts	2 (2%)	1 (1%)	5 (5%)	8 (3%)
Both Federal and State Courts	6 (6%)	0	6 (6%)	12 (4%)
Non-American Courts Only	4 (4%)	3 (3%)	2 (2%)	9 (3%)
American and Non-Am. Cts	2 (2%)	0	0	2 (1%)
International Courts	1 (1%)	1 (1%)	0	2 (1%)
No Specific Court Studied	12 (12%)	6 (6%)	5 (5%)	23 (8%)
Totals	100 (100%)	100 (100%)	96 (100%)	296 (100%)

Table 10: Case Studies Undertaken in Original Articles on Judicial Politics in Four Major Journals, 1960-1987

Case Study	Decade			
	Sixties	Seventies	Eighties	Totals
Yes	14 (14%)	5 (5%)	7 (7%)	26 (9%)
No	86 (86%)	95 (95%)	93 (93%)	270 (91%)
Totals	100 (100%)	100 (100%)	96 (100%)	296 (100%)

Table 11: Primary Substantive Focus in Systems Terminology of All Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Primary Substantive Focus	Decade			
	Sixties	Seventies	Eighties	Totals
Regime Rules	2 (2%)	1 (1%)	2 (2%)	5 (2%)
Authorities	4 (4%)	11 (9%)	13 (12%)	28 (8%)
Input	5 (4%)	7 (6%)	11 (11%)	23 (7%)
Conversion	42 (38%)	57 (49%)	40 (39%)	139 (42%)
Output	2 (2%)	2 (2%)	1 (1%)	5 (2%)
Impact/Feedback	7 (6%)	8 (7%)	15 (15%)	30 (9%)
Doctrinal Analysis	35 (32%)	20 (17%)	16 (16%)	71 (22%)
Others	13 (12%)	11 (9%)	5 (5%)	29 (9%)
Totals	110 (100%)	117 (100%)	103 (101%)	330 (101%)

Table 12: Elements of Goldman and Jahnige's "Dynamic Causal Model" of Judicial Decision Making Which Have Been Studied in Original Articles on Judicial Conversion in Four Leading Political Science Journals, 1960-1987

Elements of the Dynamic Causal Model	Decade			
	Sixties	Seventies	Eighties	Totals
Social Background	8 (19%)	11 (19%)	11 (28%)	30 (22%)
Political Values and Attitudes	16 (38%)	19 (33%)	18 (45%)	53 (38%)
Small Group Interactions	4 (9%)	15 (26%)	8 (20%)	27 (19%)
Role Conceptions	6 (14%)	9 (16%)	5 (12%)	20 (14%)
Fact Patterns	4 (9%)	9 (16%)	12 (30%)	25 (18%)
Environmental Factors	4 (9%)	8 (14%)	9 (22%)	21 (15%)
Total Number of Conversion Studies	42	57	40	139

* The numbers in the columns do not add to the column totals because some studies examined more than one element while some articles did not analyze any of the elements.

Table 13: Empirical Theoretical Frameworks Utilized in Original Articles on Judicial Politics in the Four Major Political Science Journals, 1960-1987

Empirical Theoretical Frameworks	Decades			
	Sixties	Seventies	Eighties	Totals
Yes	13 (13%)	30 (30%)	30 (31%)	73 (25%)
No	87 (87%)	70 (70%)	66 (69%)	223 (75%)
Totals	100 (100%)	100 (100%)	96 (100%)	296 (100%)

Table 14: Specific Subject Areas of the Law in Original Articles on Judicial Politics in Four Major Political Science Journals, 1960-1987

Subject Area of the Law	Decade			
	Sixties	Seventies	Eighties	Totals
General Crim. Law	2 (2%)	13 (13%)	6 (6%)	21 (7%)
Civil Rights and Liberties	34 (34%)	28 (28%)	28 (29%)	90 (30%)
Economics	6 (6%)	2 (2%)	5 (5%)	13 (4%)
Administrative Law	1 (1%)	1 (1%)	1 (1%)	3 (1%)
Two or More Subject Areas of American Law Including Civil Liberties	26 (26%)	33 (33%)	23 (23%)	81 (27%)
International Law	1 (1%)	1 (1%)	0	2 (1%)
Domestic Law of Non-American Systems	2 (2%)	0	2 (2%)	4 (2%)
Others	6 (6%)	1 (1%)	9 (10%)	16 (6%)
Not Applicable	22 (22%)	21 (21%)	23 (24%)	66 (22%)
Totals	100 (100%)	100 (100%)	96 (100%)	296 (100%)

Table 15: Judicial Politics Articles from the Four Major Political Science Journals Cited in the 1988 Judicial Politics Textbooks by Henry Glick and Harry Stumpf

Articles from the Four Major Political Science Journals	Articles from all Other Journals	Total Articles Cited
67 (16%)	350 (84%)	417(100%)

Table 16: A Rank-Ordering of Judicial Politics Scholars Based Upon the Total Number of Their Articles Cited in the 1988 Judicial Politics Textbooks by Henry Glick and Harry Stumpf

Scholar	Total No. of Articles	Articles Cited By Glick	Articles Cited By Stumpf	Rank Order
Henry Glick	7	5	4	1
Sheldon Goldman	7	7	4	1
Joel Grossman	7	3	4	1
Lawrence Baum	5	5	2	4
Saul Brenner	5	5	0	4
Marc Galanter	5	2	4	4
Austin Sarat	5	3	3	4
Glendon Schubert	5	0	5	4
Elliot Slotnick	5	0	5	4
S. Sidney Ulmer	5	5	1	4
Richard Abel	4	1	4	11
Burton Atkins	4	3	1	11
Bradley Canon	4	3	3	11
Beverly Blair Cook	4	4	0	11
Martin Shapiro	4	0	4	11
Mark Tushnet	4	0	4	11

The total number of articles may be less than the sum of articles by Glick and Stumpf because they have cited the same article.

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Editor's Note: Professor John Brigham of the University of Massachusetts, Amherst, has passed along the following journal entries written by one of his undergraduate students during her internship last year with the U.S. Supreme Court. We do not publish these remarks for their gossip value, which is probably zero. Rather, these unedited remarks represent the work of an intelligent observer whose values and aspirations typify those we must attend to in our teaching. We also believe that this student's perspective can reveal new things. Joyce O'Connor experiences the Court not only as legal interpreter or policymaker but also as an institution. She values its physical dimensions, its light and space and angles, and she values how its population looks. She cares about the personal virtues and

shortcomings of its inhabitants. She wants the Court, from its static stone symbols to the constantly changing friendships that working in the Court encourages, to embody a sense of proportion, beauty, and coherence. The Court is such a place for Ms. O'Connor precisely because the Court is a political and a legal institution. Queries: Do these remarks represent a naive and sentimental view of the Court that we should counter in our teaching? Conversely, do our classroom efforts to describe and explain the Court's political and legal "work product" miss something central about the Court's political significance? Either way, you may wish to put a copy of Ms. O'Connor's journal on reserve, or include it in your next photocopied package of student readings. She does not retain copyrights.

SELECTIONS FROM NOTES KEPT ON AN INTERNSHIP AT THE U.S. SUPREME COURT, FALL 1988.

Joyce O'Connor
Political Science Department
University of Massachusetts-Amherst

8/25/1988

All of the marble and the brass and the high ceilings leave me almost dizzy. The people are very nice too, the support staff, elevator operators, police etc., they are all very, very friendly. The people I work directly with, the Judicial Fellow, Vincent Johnson, my fellow intern, Steve, a recent graduate of Yale, and Noel Augustyn, the Administrative Assistant, all seem quite impressive, heavy hitters. Conversations, planned and unplanned, are an education in themselves. We are having lunch tomorrow with the former Administrative Assistant, Dr. Mark Cannon. I keep having to pinch myself to realize again that I am here and am constantly trying to convince myself that I deserve to be here.

9/6/1988

I have a bit of excitement of my own going on right now, my second day. On the way to work, I got on the wrong bus and got off in order to change busses. While waiting, I sat down on a curb. A man sat down next to me and struck up a conversation. He went on about being new in town and how we had something in common. I never told him where I work or anything but he proceeded to tell me that he had come to D.C. in order to bring about justice. He was going to sneak into the courtroom on the first Monday in October and blow all the justices away. He went on and on about it.

That day I went and told the police office because the guy seemed so determined. He was really scary, mostly because he knew what he was talking about regarding the opening of the term and the names of certain justices. Well, it turns out he's been wanted for a while and after giving my report, the FBI had his picture on my desk in about 24 hours. So, they've

been looking for him and now they've arrested him. I guess he started in Arizona, moved to Texas, then Florida, and then to D.C. He's being arraigned today and I have to testify at his trial. It was written up in the NY Times and Washington papers. It's pretty weird.

10/5/1988

Today there was a big case, the Mistretta case about mandatory sentencing and the Commission that had been established to set up the guidelines and restrictions for sentencing. It was an exciting case, with a full courtroom and the wings, where we sit, were packed with employees. It's a case that will have big impact. Solicitor General Fried argued the government's position. He wore long coat tails, and his manner was almost like that of a distinguished butler from the old days. His voice was so carefully cultured, he sounded like he had an English accent. He's a tall, skinny guy who appeared very comfortable in front of the justices, and they were comfortable with him. They joked back and forth a few times and the courtroom echoed with laughter. At some points he reminded me of the guy from Transylvania, like a cultured dracula or something. He looks almost goulash.

The atmosphere inside the courtroom really makes me shiver. It's not only that it's formal, it's also because you know that history is in the making. You know that people are going to be reading and studying the results of the arguments that you are witnessing at that very minute. You know that the joke that Justice Scalia is making will be recorded or commented on at some later date. The velvet curtains and stuff that separate where we sit from the courtroom almost frame what is going on inside. I feel like I'm looking in a window at the nineteenth century or the 1930's and some of the cases from that time that I've read about. Not much in the courtroom has changed and the clothes that the Solicitor General wore just made the picture complete.

I still can't get over how different everyone around here looks these days that court is in session. The policemen are all polished in formal uniforms and they wear their hats and brass. All the Marshal's guys do too.

10/6/1988

Half a floor above the library there is a gym, some call it "the highest court in the land." When Justice O'Connor came to the court she hired an instructor from the YWCA to hold exercise class there for women employees. The class meets every day except for Thursday, and on that day some of the women run along the mall together, down to the Lincoln Memorial. It's a great way to start the day. There are usually about eight of us, sometimes more, some days less. Justice O'Connor is a constant. She knows all the moves before the instructor does them, and she keeps us hopping. If the instructor is late, she gets us all on the nautilus machines in the other room so we won't waste time.

Each year the class has a different t shirt printed. I want to write down some of the logos that they've had over the past few years. I have this year's which has a long, naked, graceful arm on the back, holding a flower, and it says THE RIGHT TO BARE ARMS. On the front it says SUPREME COURT 1988. Some of the ones from past years say: EXERCISE YOUR CONSTITUTION, AFFIRMATIVE ACTION, and LIGHTENING THE SCALES OF JUSTICE. They're funny. It's kind of the girl's answer to the boy's club feeling around here.

10/13/1988

Running this morning was fun. Diane, Justice Stevens' law clerk came with us. We were talking about a bunch of things but part of what she had to say that was interesting was that her hours aren't as bad as most other clerks. She thinks that Stevens does a lot more of his own work than the others do. She said she generally works only one day on the weekend, and usually only until 8:00 at night. She said he's the only justice who does his own first drafts. That saves them a lot of time doing research and chasing down inappropriate arguments. Justice Stevens was also the only justice to have only two clerks, and for a long time his clerks pushed him to hire a third. Most others have four. She added that he's afraid of it becoming too office like, and not enough like the clerks were just there to help out. She seems to really like him.

10/19/1988

Today was the first day of the movie series at lunch time. The Curator's office is holding some lunch time get togethers for employees to view tapes that they have. Each is on a different justice. Today's was an interview with Justice Brennan. It was a one on one that lasted a little under an hour. What a guy. Besides that what he says I generally, with my limited understandings, agree with, but he's just amazing. One of the questions that he was asked was about his personal conflicts regarding issues that he has decided on, that conflict with his religious beliefs. He's a devout Catholic, son of Irish immigrants, relative to many who died in the fights against the British in Northern Ireland over their religious beliefs. He's very thoughtful and warm and I felt, honest. He said he's trying to live his personal life, incorporating his duties under oath as an interpreter of the Constitution, and his own beliefs that come from his upbringing and religious faith. In some ways he answered, or helped clarify, the things I was writing about last week regarding church and the court. His answers to the connection, or lack of connection, I thought were ideal. They're just the way you'd want it.

It was funny that the only people at the film were women, some librarians and some secretaries. It felt like being at a ladies luncheon, the room was all set up and everyone sat quietly. Strange. Many of these people, I would say all, but that's too conclusive, put the justices on pedestals, worship them. They are a bit awestruck. I'm not excluding myself, only pointing it out because you might think that the people who have been here for a while would begin to take them in stride a little more, I don't know, or at least get used to them enough so they wouldn't be enthralled by a videotape of them.

On the film today, I noticed that the anchor was shot from an angle that made the interviewer, this is from the front, look dwarfed by the building in the background. It's the angle that we usually see of the court when it's in pictures or on TV. It's a strange angle. It makes the building look much taller and more imposing than it really looks if you stand on the front steps and look up. It dawned on me that it's just like the guy who I saw standing on the black box that day while he was being filmed outside the court. At the time my assumption was that the guy was really short or something, and they were giving him a boost. But now I've got it. It's editorializing. Put the anchor on a box, then the camera shoots from an angle that makes the court huge, taller than life size and more imposing. That's

what it looks like on film, without anyone seeing the box. That was the effect the guy was looking for atop his case...very interesting.

10/21/1988

There are four identical courtyards on the first-floor. They were designed to bring light into the otherwise dark interior. The columns in the courtyards all have a tortoise at the bottom and a hare at the top. These represent that the law moves about quickly, like the hare, but slowly and deliberately, like the tortoise. Then to color the beautiful white open courtyards, there are huge flower pots filled with bright red and yellow flowers. There are black iron tables and chairs as nice as the greatest cafes in Germany. They were new additions under Chief Justice Burger.

He was the first to open the courtyards to the clerks and then to secretaries, etc. He brought his own geraniums from home because there wasn't a gardening service here yet. Now there is and his plants have been replaced but the addition is credited to him still. They really are beautiful courtyards. They allow light into the halls and the East and West conference rooms. It was in the courtyard off of the West conference room that after Steve and I had debated whether or not to introduce ourselves to Justice Kennedy, who was there eating with his clerks, that Steve tripped with his tray while he was staring over at the Justice anticipating the greeting, after we had finally summoned our courage. After falling over, six foot seven inch Steve decided to bow out. I said hello anyway. I'll never forget that picture of Steve, trying so hard, with that look of anticipation, and then boom, with his lunch tray and all.

I was in the library today and Justice Stevens and his friends, I guess, walked in. He's a good looking guy, and whoever the people were, they were enjoying him. They say he's fun. One of his clerks brought in a pumpkin and had it on her desk. He laughed and said it was the smallest pumpkin he'd ever seen. The next day he brought in Groucho glasses and put them on the pumpkin. He said it needed a boost.

We used that pumpkin, glasses and all, as the centerpiece for our gym class picture for Justice O'Connor. We made her a card with a picture of the class, all wearing masks or weird hats, and Diane, the instructor, is taking it to her in the hospital-tomorrow. I guess she's doing o.k. She really is an incredible woman. She hadn't told anyone, only sent a memo around to the other justices saying she was being operated on. She was in class the day before surgery. She really is amazing.

10/28/1988

Jim Donovan had lunch with us today. He's head of Data Systems at the Court. What a great guy. He's one of the friendliest to me around here. Maybe it's because he's an Irishman, white haired, red faced and smiley. We have some things in common. Anyway, I thought lunch conversation would be a bit boring, me being virtually illiterate when it comes to computers. But it was actually really neat. Besides that his personal stories were fun, I saw his job in a different light, in an interconnected way to what goes on here. He and his people are largely responsible for the rate of productivity.

I guess the closest to catastrophe that Jim has come was that in the beginning there was a bug in the system that they missed. Some of the chambers' opinions began appearing in the roughest drafts, in other chambers. He said he caught lots of flack because the justices are very proud and

protective of their opinions and they don't want anyone to see them until they're perfect. The only other major event was when there was a total blackout on all of Capitol Hill. Of course it wasn't his fault, the whole place went black in the middle of the day, and opinions and memos were lost. Black Wednesday.

10/31/1988

The Price Waterhouse case was special. These attorneys were the best that I've seen so far. And, talk about history in the making—Price Waterhouse was wise in that they had a woman arguing for them, she was smart as anything. She was very plain, maybe a strategic move, I don't know. But she was good. I came to the argument with a mind set that they weren't going to be able to convince me that they hadn't been in the wrong. But she made a very clear, direct, concise, and persuasive argument.

The attorney for Ann Hopkins was good too. They fielded questions well, and no justice threw them off. It was in some ways a feeling of victory, watching them defeat the biting questions of the justices who sometimes really seem like the enemy. When Scalia prepares to ask a question he doesn't just adjust himself in his chair to get closer to the microphone like the others, he looks like a vulcher, zooming in for the kill. He strains way forward, pinches his eyebrows, and poses the question, like "...do you want us to believe..." He's always condescending and always sounds so harsh.

11/1/1988

Today I ate lunch in Justice Marshall's chambers with Jon. He was looking over one of the stay of execution petitions and one of J. Brennan's clerks came in. When she took whatever it was that she had come for, and left, he explained to me the little coalition that the Brennan-Marshall chambers had built. Since they're both against the death penalty in every case, they always come to the same conclusions on the stay pleas. They share the work between chambers, then, breaking up dissents, trying to find ways that they may persuade three other justices to join them. Without Powell, or even Burger, they've had more and more of a difficult time finding five. Jon said it makes him wonder who the next president will be.

11/2/1988

Even the people who try and play it cool are having trouble today. This morning the drug cases were argued. The first, and the weaker of the two, was argued by Attorney General Thornburgh himself. He really didn't do a great job. He was relaxed and everything and his style was good, but he didn't seem to know the facts. He kept non-answering. He didn't panic, the way some of them do, but there were big holes in his argument. He started off strong and then seemed to putt, putt, putt to a stop. Solicitor General Fried argued the second case and seemed to try and fill in a lot of holes that Thornburgh had left from the previous argument. Meese was in the front row the whole time. He spoke on behalf of a new admittee to the bar of the Court, and then stayed to watch his successor. He has lost a lot of weight from the days he was in the paper so much. He actually looks pretty good.

Even the justices were chatty with each other today. Perhaps they were a bit excited themselves. Stevens and Scalia, although probably diametrically opposed to one another, seem to get along great on the bench.

Diane, Justice Stevens' clerk, said it's probably because they're both brilliant and enjoy talking. They were like little kids whispering and having a grand old time. And Justices Brennan and Marshall had their little asides as well. Justice Marshall does a terrible job of keeping his mouth away from the Mic when he's whispering. Sometimes you can really hear him, probably more than he'd like. And his voice is so distinct, so gruff, so guttural. I wonder if he had the same voice as a younger guy or if it's partly because of his age. What a character.

11/15/1988

Today was a neat day. We're getting busy in the office. The Chief is giving our Gettysburg speech on Saturday. We got his final draft today and it has a lot of our stuff in it. Pretty exciting. He thinks we do good work. I feel like an expert on the spoken Rehnquist and feel credible in judging his speeches, and besides personal bias, I think it's one of the best.

I gave blood at the Red Cross drive that was held in the West Conference room today. It was weird to see that room all equipped with beds and cookies and nurses. It was also strange to lie in there and look at that beautiful ceiling for over a half an hour. The ceilings really are beautiful. The most exciting thing sometimes is to get that strange view of this place. The Supreme Court of the United States and there I am, lying in the conference room giving blood.

As I had just started bleeding, they halted all activity and were going to evacuate the room. There was a bomb threat. The red emergency phones that are on all the important desks in the building were ringing, that means trouble. And there I was, attached to a table, not very mobile. Most of the workers cleared out, and my nurse stayed with me as the dogs and the cops sniffed out the room. It was kind of funny, lying there, explosives and all. It really made me laugh. No bomb though. I wanted to hang on to that blood just a little while longer in case I needed it myself in a few minutes. But they took it anyway, and the Court's still standing.

11/17/1988

One of the clerks was telling me today about the latest wars that they're having amongst themselves. It seems that they do a lot of arguing, all day sometimes, over their computer screens, "message pending" flashes on the screen and it's impossible to ignore. First of all it may be something very important, like a stay petition that needs to be taken care of immediately, and it's at least someone trying to get through to you, not answering would be the equivalent of letting your phone ring off the hook. No wonder they're sometimes here eighteen hour days. Anyway, this argument started over the Chief's latest memo. It begins; RE: Holiday Party and Court Closing, and then it continues..."The justices will host the traditional Court Christmas Party..." I guess the problems are over "traditional Court Christmas Party." Some don't think there should be a party celebrating a clearly Christian holiday in a building that's supposed to stand by the separation between church and state. A holiday party, fine, but not a Christmas party.

Some of the clerks are really offended. Some, including Rehnquist's clerks, are saying come on everyone, lighten up, it's just a party. I guess that's been the Chief's reaction so far. A group of them got together and approached him and he said he couldn't understand why anyone was offended, he'd had a Jewish clerk once who didn't mind. So, at this point the

party was going to be dealt with. Then this news, every year after Thanksgiving, a giant Christmas tree is placed in the Great Hall, and wreaths are placed around the busts of the Chief Justices in the hall. A tape recorder plays ringing out the sounds of silent night. That was too much. But the worst part is that the Chief keeps blowing everyone off. So there are wars.

12/7/1988

Maybe it's because it's the last real week or something, but things are getting hum drum. The cases aren't as fun, even though I try to make them so. The justices aren't as big a deal to walk past, the activity is more predictable and I'm ready for something new. Maybe it's my way of breaking away. Toni House seems too busy to stop, and I'll have plenty of time during the next week to sum things up with Noel. I'm getting jumpy. What am I taking away from here? What have I learned?

12/12/1988

Justice White's chambers have stuff from the Kennedy days all over the place. It was neat to hear him talk about the kind of relationship he had with the Kennedys and how he came to know John. They were two similar type young guys who travelled in the same circles. You can see why Kennedy would've liked a guy like Justice White so much. The pictures of them together are amazing, two, or three (some with Bobby) young, handsome, athletic looking guys. They would inspire people as much by what their looks conveyed as anything they might say. White talked about him with a touch of nostalgia, but never mentioned anything about what a tragedy it was, or how things would've been different if Kennedy were still alive. There was none of that. He talked about his football days and the days in the war. He talked about Yale and the Colorado river.

While we're sitting there the phone rang and he grouchyly answered it. He talked for a minute and then hung up. He said, "That was the Chief, wanted to know if I thought we should remove something from the docket. I told him I never thought we should've granted it in the first place." Then he went back to whatever it was he was talking about. He was a lot nicer than Scalia, I thought. He seemed concerned, and at least acted as if he cared where we were from and what we were doing and what we thought about things.

12/17/1988

The Christmas Party was amazing. The Great Hall looked beautiful, the holly around the busts made them stand out better than usual, and there were many comments that they should be surrounded all year. Justice Blackmun was a strong advocate of that. The tree was pretty, the fountains in the middle were well done, and everyone seemed in a very festive mood. They had a string brass quartet and lots of food and drink. The Chief was decked out with a holly corsage and all. We had great changes to visit with the justices and some of their wives. Justice O'Connor's husband was all ready in Arizona. I got to introduce my brother to Justice O'Connor which made me really happy. They talked for a little while and he really liked her. She was so nice, saying she was sorry to see part of the O'Connor clan leaving the Court. She is a wonderfully warm and beautiful woman.

Then we talked for a while with Justice Kennedy and his wife. He was so pleasant, and his wife was really, really talkative. The justices do pretty well in this kind of setting and I was impressed. It must not have been easy for the Kennedys, or any of the justices families, to move to a new city, and try to start a normal life. The Kennedys were heading back to California for Christmas with their family. Then we talked with a very hard of hearing Justice Blackmun and his very hard of hearing wife. Vincent was taking pictures of us the whole time, and I thought a picture with Blackmun would be just what my Right to Life mother would want in her stocking, ha. Then we talked with the Chief for the first time directly, and Justice White some more, and to Scalia, and Powell and Burger. It was pretty cool.

12/23/1988

Wednesday I went in to turn in my evaluation, clean out my desk, go out with Vincent and Steve, and say good-bye. Vincent took us out to a really nice place on the hill for lunch and then we walked around a little, looking at the decorations in the Capitol and the Library of Congress. He was really nice, complimentary of my work, and willing to help in the future if he could. It was weird saying good-bye to Steve, we've encountered a lot side by side in the last four months, and it was sad leaving him. He'd given me a traditional Polish Christmas bread that his mom sent, and a present from the Dominican Republic. Then he picked me up, all six foot seven of him, and twirled me around.

Editor's Note

This issue of the Newsletter contains an interesting view of our field prepared by Hensley and Rhoads. In addition, the statistics reported by Section Chair Karen O'Connor on submission and acceptance rates from major Political Science journals provides an answer to questions which many of us have had for years. In the next issue of the Newsletter we will publish the observations of the Section Chair regarding three fundamental questions about the current state of scholarship. If anyone else has thoughts or observations on the "state of the discipline" or related matters, please share them with the rest of us. The Newsletter would be happy to include these in future issues.

This Newsletter is much the longest that I have been involved with, and it was not my intention to expand it this much. However, the presence of both the Hensley and Rhoads piece, and the "journal" of the Supreme Court intern contributed to a rather lengthy set of materials. I hope that this is not so oppressive that you find the Newsletter less useful.

As you might notice from the masthead, there is a new Articles Editor for the Newsletter. From my perspective, Elliot Slotnick is an ideal choice to perform this function given his visibility in the discipline, his congenial nature, and judgment. There were several other members of our section who expressed an interest in this "job," and I regret we could only use one set of talents. I look forward to having Elliot perform the tasks which are quite crucial to the success of the Newsletter. Please contact him if you have ideas or items – articles, ideas, comments and the like – which you would like to have included in the Newsletter.

w.p.m.

ANNOUNCEMENTS

Section Nominating Committee

Chair: Sue Davis
University of Delaware
Newark, Delaware
(301) 451-2355

Members: Melinda Gann Hall, University of North Texas
Jim Magee, University of Delaware
Phil Cooper, SUNY Albany
Harry Stumpf, University of New Mexico

Please send nomination for Chair-elect, and three members of the Executive Committee to Sue Davis. Self nominations are encouraged.

Graduate Student Award Committee

Chair: Elliot Slotnick
Ohio State University
Columbus, Ohio 43210

Members: Jeff Segal, SUNY Stony Brook
Susan Olson, University of Utah

Papers authored by graduate students from the 1988 APSA meeting through the 1989 Law & Society Ass'n meeting are eligible. Please send 4 copies of each paper to the chair.

Journal Acceptance Rates

At the last Executive Committee meeting, considerable concern was voiced about the acceptance rates of judicial manuscripts by professional journals. In the fall, I sent a letter to each of the editors of the *APSR*, *AJPS*, *JOP*, *WPQ*, *APQ*, *SSQ* and *Polity* inquiring about these rates. Below are excerpts from those responses.

American Political Science Review

time frame: 1987-88
 number ms. submitted - 18
 number accepted - 2
 acceptance rate - 11.1%
 (The rate of acceptance for American Politics articles - 14.6%)
 judicial submissions as % of total submissions - 5%

by subject area:	submitted	accepted
Supreme Court	5	2
federal courts	5	0
State courts	2	0
const'l law	6	0

American Journal of Political Science

time frame: 1988
 number ms. submitted - 6
 number accepted - 1
 rejected - 4
 under consid - 1
 acceptance rate - 16.6%
 acceptance rate for all submissions - 12.6%

Journal Of Politics

time frame: 1988
 acceptance rate - 8.3%
 rejection rate - 83.3%
 rev & resub - 8.3%

acceptance by field:	
American Politics -	23.7%
Political Theory -	13.2
Judicial -	8.3
Comparative Politics -	8.3
International Relations -	10.0

Western Political Quarterly

time frame: 9/86-10/88
 number ms. submitted - 43
 number accepted - 9
 number rejected - 23
 rev & resub - 5
 still in proc - 6
 acceptance rate - 20.9%

American Politics Quarterly

acceptance rate - 20%

Social Science Quarterly

acceptance rate - 16%

Because we ended up with an additional panel at the APSA Convention this fall, *one panel at the 1989 meeting will be devoted exclusively to research by graduate students.* If you have a student who would like to present a paper on a panel like this, please contact me immediately. This might encouraged students to come to the meeting and it might increase the number of papers eligible for the Graduate Student paper award.

Submit to:
 Karen O'Connor
 Dept of Political Science
 Emory University
 Atlanta, GA 30322
 404/727-6572

Submitted by Karen O'Connor,
 Section Chair

SUPREME COURT ORAL ARGUMENT: The Continuing Saga

The Supreme Court quietly tested the use of TV cameras in its courtroom Nov. 21, following a request from 12 news organizations.

Three justices - Chief Justice William Rehnquist and Justices Byron White and Anthony Kennedy - participated in the informal demonstration. All nine justices were invited to attend the test, which was conducted when the court was not in session.

Timothy Dyk, a Washington, D.C., attorney who represented the news organizations, conducted the test. Its purpose was to counter objections that TV cameras and lights would upset court decorum.

"[Mr.] Dyk declined to characterize the justices' reactions and said it was not clear what, if anything, would happen next," the "Washington Post" reported. "It seemed unlikely that the brief demonstration would lead to the filming of oral arguments any time soon, but it might encourage the use of cameras during ceremonial occasions or perhaps for one or two major arguments each term."

In response to the justices' concerns about the editing and frequency of Supreme Court coverage, Mr. Dyk told them that C-SPAN has made a commitment to telecast all oral arguments without interruption, the "Post" reported.

Broadcast news organizations probably would telecast excerpts of about 12 to 15 oral arguments annually, Mr. Dyk estimated.

The demonstration involved two cameras and relied on the courtroom's usual lighting and sound system.

One camera, installed in an alcove of the court chamber, focused on the justices' bench. The other, smaller camera stood in front of the bench and focused on the podium from which attorneys deliver their arguments. *C-SPAN Update*, December 5, 1988

Syllabi Clearinghouse

The ABA Commission on College and University Nonprofessional Legal Studies has established a new Undergraduate Legal Studies Syllabi Clearinghouse. Syllabi are available on a range of law-related topics, including Courts, Judicial & Legal Process. Faculty are encouraged to submit copies of syllabi for their introductory and advanced courses. To submit or order syllabi, or to obtain further information, contact:

Jean Pedersen
American Bar Association-PED
750 North Lake Shore Dr.
Chicago, IL 60611
312/988-5736

PROFESSIONAL MEETINGS/ CALLS FOR PAPERS
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SOUTHERN POLITICAL SCIENCE ASSOCIATION (1989)

The Southern Political Science Association annual meeting for 1989 will be November 2-4 in Memphis, Tennessee. Proposals for panels and papers should be sent, by March 31, to:

Professor Lee Epstein
Dept of Political Science
Southern Methodist University
Dallas, TX 75275
(214-692-2524).

1989 Interim Meeting of the Research Committee on Comparative Judicial Studies of the International Political Science Association

The 1989 Interim Meeting of the Research Committee on Comparative Judicial Studies will be hosted by Professor Torbjorn Vallinder and the Department of Political Science at the University of Lund, Lund, Sweden. Lund is located in southern Sweden, near Malmo, just to the east across the water from Copenhagen (Kobenhavn), Denmark, which will probably be the best destination for international air travellers. The region around Lund is beautiful and historically rich. Lund is a convention city with plentiful hotels, but it is also possible that housing can be made available in University facilities.

Dates for the meeting are 21-23 August, 1989. Professor Vallinder has planned an exciting reception for participants on the 1989 program.

The INTERNATIONAL LINCOLN ASSOCIATION is a new organization for those interested in the leadership model that Abraham Lincoln provides for democratic societies. The organization is interdisciplinary and encourages a variety of approaches in research and teaching. It publishes a quarterly newsletter and yearly annals. Annual meetings and a variety of workshops and conferences are held. For membership and further information please contact:

Dr. Wallace H. Best
International Lincoln Association
24775 Fern Valley Road (Box L)
Idyllwild, CA 92349
(714) 659-9609.

DATA COLUMN

In the interest of collegial exchange of ideas, the Newsletter presents a series of commentaries that draw attention to specific unfilled data needs of consequence to the sub-field. The Newsletter welcomes comments or responses to these essays, as well as ideas for future discourse. Our current contribution comes from Susan E. Lawrence, Assistant Professor, Rutgers University.

APPEALING: WHO AND WHY?

Susan E. Lawrence

Since the Legal Realists' invitation to look beyond "the law" to explain judicial decision-making, we have learned a great deal about the variables that influence judicial choice. In this decade, we have begun to view legal mobilization as a form of political participation (Zemans 1983). The ability of the individual to call upon the courts lends an element of self-governance to the adjudicatory policy-making process.¹

To understand the role of the courts in governing, we need to look not only at what influences judges in deciding the cases before them, but we also need to examine the factors that influence what cases they are asked to decide. Given the passive stance of the judiciary, Kingdon's observation that, "The patterns of public policy, after all, are determined not only by such final decisions as votes in legislatures, or initiatives and vetoes by presidents, but also by the fact that some subjects and proposals emerge in the first place and others are never seriously considered," is even more applicable to the adjudicatory policy process (1984:2). Paralleling our interest as political scientists in who votes, who influences policy-makers, and who specifies alternatives, we need to examine who litigates and why.

The Wisconsin Civil Litigation Research Project has provided us with extensive data on the escalation of disputes and the use of civil trial courts

(see Trubek, Grossman, Felstiner, Kritzer, and Sarat 1983). The popular conception that we are an increasingly litigious society promises to lead to continuing interest in who litigates and why (see Galanter 1983 and sources cited). Rather than provide a bibliographic review of our data and literature on trial court use, I would like to suggest that we also need to be concerned with the factors that influence litigants' decisions and abilities to appeal, particularly to the High Court.

The U.S. Supreme Court is probably the most thoroughly researched legal institution in the world. Despite the purple curtain, we have a wealth of information on the decisional processes within the Court, both regarding case selection and on-the-merits decision-making. The newly available United States Supreme Court Judicial Data Base will allow us to expand our studies of the Justices' decision-making (1988). The coding of a series of party variables provides us with the opportunity to examine who is participating in the Court's plenary decision-making and who wins at that stage.² While we have a rich literature on how and why the Justices select cases from their docket for review and on the variables associated with review grants, we know relatively little about how and why litigants make the decision to appeal to the Supreme Court and about the variables associated with the decision to appeal. Consequently, we are ill-equipped to assess the relationship between "in-puts," or demands, and "out-puts" or decisions. Nor are we able to identify systematically the probable incongruities between the "felt needs of the population" (Black 1973) and the actual demands placed before the Court which result from various factors that act to create uneven access. If we are to view legal mobilization as a form of political participation, then certainly we must be concerned with the scope of access to our legal institutions. While this is an issue that deserves attention at all levels of the judicial system, here I will focus on some of the questions we should address in adding it to our Supreme Court and Courts of Appeals research agendas.

Despite swollen appellate dockets, we know that, in percentage terms, few cases are appealed. For example, Howard found that in the late 1960s, litigants requested Court of Appeals review of only about 30 percent of the U.S. District Courts' decisions and they requested Supreme Court review of only about 20 percent of the Courts of Appeals' decisions (1981: 39-40, 63-66). More importantly, not all types of cases were appealed from the Courts of Appeals to the Supreme Court in equal proportion. Howard reports that fifty percent of the circuit courts' tax fraud decisions were appealed while only twenty-three percent of their civil rights decisions and seven percent of their suffrage decisions became part of the pool of cases from which the Justices must select their plenary docket.³ As Howard notes, we have not examined the litigant motivations that account for these varying rates of appeal (1981:39). Perhaps, the variation in rates of appeal by-subject can be explained, in part, by the socio-economic status of the preponderance of litigants with a particular type of legal claim. It seems probable that the cost of litigation is a deterrent for many litigants who wish to appeal their lower court defeats. On the other hand, financial factors may serve to encourage some types of appeals. It is often suggested that it is cheaper to pursue legal policy change through the courts than through legislatures. Stays of mandate pending appellate review may provide financial incentives to appeal in some kinds of cases. Other appeals may be filed as part of a strategic attempt to negotiate a post-decision settlement that is cheaper than the lower court's verdict. Socio-

economic factors effect both litigants' ability and motivation to appeal, but the relationships may be more complex than they appear at first blush.

While it is tempting to think of litigation as direct citizen participation in governmental decision-making, numerous studies of the attorney-client relationship in trial court settings alert us to the importance of attorneys as gate-keepers and the possible distortion of client demands as they are reshaped into justiciable controversies (see Blumberg 1967, Dante, et al. 1980, Handler 1978, Heinz 1983, Hostieka 1979, Kritzer 1984, Olson 1984, Macaulay 1979, Merry and Silbey 1984, Rosenthal 1974, Sarat and Felstiner 1988). In studies of attorneys involved in appellate litigation, client wishes have not emerged as a dominant factor in the decision to appeal. Rathjen reports that the perception of probable success is the most important factor in both the entrepreneurial and social welfarist lawyers' decision to appeal to the Courts of Appeals and to the Supreme Court (1978). Attorneys' perceptions of the likely response of the Court given contemporary doctrinal trends may explain some of the variation in rates of appeal by subject revealed in Howard's data. Casper found that various types of lawyers, differentiated on the basis of whether they felt they were representing a client, a group interest, or democratic values, predominated in different areas of civil liberties and civil rights litigation before the Warren Court and had different motivations for appealing to the Supreme Court (1972:191-192). We would also expect that different kinds of litigants – individuals, corporations, government units, to name a few categories – would have different sets of motivations for appealing. We need to examine further the nature of the interaction between attorney and client in the decision to appeal, giving particular attention to variations in client status and lawyer type, perhaps using Casper's typology.

In examining who appeals and why, we should give special attention to interest groups' decisions to litigate. Interest groups have become very important players in court dockets, sponsoring 20 percent of the Supreme Court's plenary docket in recent decades (O'Connor and Epstein 1983). Some of our current data on interest group litigation, along with additional investigations, should allow us to examine systematically why interest groups sponsor appeals and how they decide which clients to represent. Our detailed studies of specific groups and litigation campaigns provide us with hypotheses that could be tested more broadly (for example, Kluger 1975, Sorauf 1976, Vose 1959). While current research suggests that groups participate in litigation as part of a policy or organizational maintenance strategy (see Cortner 1968:1, Epstein 1985:147, O'Connor 1980:5, Gates and McIntosh 1988), one of the by-products of their participation is the representation of some litigants who are otherwise unable to obtain counsel, either for financial or political reasons. In examining who participates in appellate court decision-making, we need to consider who interest groups represent and how their strategies shape the pool of litigant demands before the courts.

Surprisingly, we know relatively little about how the most successful and frequent litigant before the High Court, the Solicitor General, decides which cases to appeal. His work before the Courts of Appeals has received even less attention (Scigliano 1971:161-196). Although the Solicitor General has traditionally been considered more a legal than a political officer (but see Caplan 1987 on the Reagan era), certainly his decision-making can be no more purged of value choices and influences than that of judges. Carp and Stidham have argued that, "there is an identifiable policy link between the popular

election of the president, the appointment of judges, and the substantive contents of the judges' decisions" (1985:130). Perhaps, there is a similar policy link between the popular election of the president, the appointment of the Solicitor General and his decisions on which cases to appeal, and the substantive content of the federal courts' decision agendas.⁴

In sum, I believe that our understanding of the role appellate courts play in governing would be increased by giving further attention to those factors that shape what demands are placed before them. More importantly, we would gain insight into how the citizenry uses the appellate courts and why. Our inquiry should seek to examine both what variables are associated with the decision to appeal and the nature of the decision-making process. Case records will provide an important data source for the former, but we will need to survey and interview litigants, and their attorneys, to learn more about how and why they made the decision to, or not to, appeal their cases. Obviously, a thorough examination of these issues will require massive new data collection efforts, but this should not dissuade us from beginning to tackle some of these issues on a more limited basis. We have learned a great deal about how judges decide; we need to know more about how we decide to ask them to decide.

Notes

¹ Zemans (1983) makes this argument much more fully.

² The planned U.S. Courts of Appeals Data Base will provide comparable data for our intermediate appellate courts (Songer, 1987). For data on U.S. District Court decisions, see Carp and Rowland (1983).

³ However, also reports that appeal rates varied among affirmed and reversed cases; among unanimous and split decisions; and among panel and en banc decisions (1981:68). The role of such case history variables in the decision to appeal should be further explored.

⁴ Puro has shown that the ideological direction of the Solicitor General's amicus briefs filed with the Supreme Court was stable from 1920 through 1968, but changed under the Nixon Administration (1981:224).

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PROGRAMS FOR UPCOMING PROFESSIONAL MEETINGS

PANELS FOR THE SOUTHWESTERN POLITICAL SCIENCE ASSOCIATION MEETING MARCH 28 - APRIL 1, 1989 LITTLE ROCK, ARKANSAS

Judge Reagan Is Still On The Bench: President Reagan's Influence On Federal Jurisprudence

- Chair: Robert A. Carp, Univ of Houston
- Papers: "The Links Between Platform-based Appointment Criteria and Trial Judges' Abortion Judgments"
Steve Alumbaugh, Univ of Kansas
- "Political Jurisprudence and Judicial Gatekeeping in the Federal District Courts"
Christopher Edmonds, Policy Dynamics, Inc., Denver, CO
- ✓ "The Legal Context of Presidential Effects on Federal District Judges: A Comparison of Published and Unpublished Decisions"
Bridget Jeffrey Todd, Univ of Kansas

Discussant: Ronald Stidham, Lamar Univ

Comparing Courts Across Space And Time

- Chair: C. Neal Tate, Univ North Texas
- Papers: "Judicial Review and Positive Rights in British/American Jurisprudence"
Barbara Hazlewood, Sul Ross State Univ
- "Interstate Variation in Civil Rights Litigation"
Charles Epp, Univ of Kansas

"Litigants and Litigation in England: The Structure
of Outcomes in an 'Apolitical' Judicial System"
Burt Atkins, Florida State Univ

"Generational Differences Among Indian Supreme Court Judges:
1950 to 1988"
George Gadbois, Univ of Kentucky

Discussants: Craig Emmert, Univ of Alabama
Nancy Maveety, Tulane Univ

*Are Equal Protection And Due Process Enough? The Supreme Court And Equal
Treatment Of Underdog Litigants*

Chair: C. Jeddy LeVar, Henderson State Univ

Papers: "Equality and the Supreme Court: Two Recent Cases"
Michael Tager, Queens College

"The Warren Court and the Rights of Native Americans:
Political Questions and Constitutional Rights"
Mary Beeman, Univ of Texas - Austin
Margaret Purser, City of Houston

"Press Coverage of the Supreme Court: A Cross-Media
Comparison"
Jim Dukes, Texas Tech Univ
Jerome O'Callaghan, Texas Tech Univ

Discussants: W. E. Benton, Texas A & M Univ
Nancy Maveety, Tulane Univ

Individual Jurisprudence: Starring Justices O'Connor, Kennedy, Powell And Jackson

Chair: Patricia A. Behlar, Pittsburg State Univ

Papers: "Justice O'Connor and the First Amendment"
Paula C. Arledge, Northeast Louisiana Univ
Edward V. Heck, San Diego State Univ

"The Emerging Jurisprudence of Anthony Kennedy"
Art English, Univ of Arkansas - Little Rock
John Carroll, Southeastern Mass. Univ

"Justice Powell's Swing Votes: Anomalous Behavior on
Centrist Jurisprudence?"
Janet Blasecki, Univ of Delaware

"Influences of Nuremburg and Extra-legal Activity on
the Jurisprudence of Justice Robert H. Jackson"
Jeffrey Hockett, Univ of Tulsa

Discussant: Rodney A. Grunes, Centenary College

Conceptualizing Political Jurisprudence: Terms And Tools

Chair: Mary Mattingly, Texas A & I Univ (Kingsville)

Papers: "Clashing Concepts of Gender Equality on the Supreme Court"
James Bolner, Louisiana State Univ

"A Conceptual Framework for the Study of Judicial Review"
Donald Jackson, Texas Christian Univ

"On Hermeneutics and Constitutional Theory"
Ronald Kahn, Oberlin College

"Comparative Analysis of the Evolution, Rules and
Usage of Amicus Curiae Briefs in the U.S. Supreme Court and
in State Courts of Last Resort,"
Lee Epstein, Southern Meth. Univ

Discussant: Judith Baer, Texas A & M Univ

Exogenous Influences On Public Perceptions Of Local Courts

Chair: C. K. Rowland, Univ of Kansas

Papers: ✓ "The Impact of Public Awareness On Small Claims
Courts' Caseloads"
Kenyon Bunch, Univ of North Texas
Richard Hardy, Univ of Missouri-Columbia

"Perceptions About Judicial Sentencing Towards
Explaining Public Support"
Tom N. McInnis, Univ of Missouri-Columbia

"The Defense Attorney's Craft in Nine Criminal Courts: Ties
to the Courthouse Community,"
Roy B. Flemming, Texas A&M Univ

"Administrative Reforms: Unintended for Representation
on Juries"
William Macauley, Oakland Univ

Discussant: Priscilla H. Machado, Univ of Vermont

Public Discourse on Law: The Role or The Citizen

Chair: Christine Harrington, New York Univ

- Papers: The Public's Property: Distinguishing Law From
 Attitude
 John Brigham, Univ of Mass-Amherst
- Public Support for the U.S. Supreme Court
 Jim Gibson, Univ of Houston
 Gregory A. Caldeira, Ohio State Univ
- Supreme Court Coverage and Consequences
 Stephanie Greco Larson, George Washington Univ
- The Rhetoric of Constitutional Reasoning and
 Public Debate
 Ira L. Strauber Grinnell College

Discussant: Joel B. Grossman, Univ of Wisconsin-Madison

The Criminal Justice System

Chair: Wesley Skogan, Northwestern Univ

- Papers: The Political Styles and Organizational
 Strategies of American Prosecutors
 Roy Flemming, Texas A&M Univ
- The Impact of Victims' Rights Reform on
 Criminal Justice Administration
 Liane Kosaki, Washington Univ. St. Louis
- Toward An Integrative Theory on Courtroom
 Decisionmaking: Observations on Bail
 Setting and Sentencing
 Elizabeth M. Snyder, Colorado State Univ
- Language of Excuse
 Mary Thornberry, Davidson College

Discussant: David Neubauer, Univ of New Orleans
 Alissa Pollitz Worden, Michigan State Univ

*Roundtable: Rational Choice and Judicial Research: Twenty-Five
Years After The Elements of Judicial Strategy*

Chair: Walter F. Murphy, Princeton Univ

Lawrence Baum, Ohio State Univ
 Paul Brace, New York Univ
 John B. Gates, Univ of California-Davis
 Melinda Gann Hall, Univ of North Texas
 Peter Ordeshook, California Institute of Technology

Politics of Judicial Selection

Chair: Marlene Arnold Nicholson, DePaul College of Law

Papers: Judicial Reform in Texas
 Anthony Champagne, Univ of Dallas

Judicial Reform in Pennsylvania
 Voorhees Dunn, Univ of South Alabama

Judicial Reform in Ohio
 John D. Felice, John C. Kilwein,
 & Elliot Slotnick, Ohio State Univ

Draining the Swamp: Judicial Reform in Louisiana
 Judith Haydel, McNeese State Univ
 Thomas Ferrell, Univ. of Southwestern Louisiana

Discussant: James Drennan, Univ of North Carolina

Supreme Court Decisionmaking

Chair Lettie Wenner, Northern Illinois Univ

Papers: Predicting Burger Court Self-Incrimination Decisions
 Jilda Aliotta, Miami Univ

A Description of the Burger Court's Unanimous
 Decision Making in Civil Liberties/Rights and
 Economic Activities

Karen E. Dean, Illinois College
 & Thomas Hensley, Kent State Univ

Voting Behavior in the Burger Court's
 Business Decisions

Timothy M. Hagle, Univ of Iowa
 & Harold Spaeth, Michigan State Univ

Selection of Cases in the Supreme Court:
 The Law of Obscenity
 Kevin T. McGuire, Ohio State Univ

Discussnat: Lawrence Baum, Ohio State Univ

Chief Justice William Rehnquist

Chair: Robert C. Wheeler

- Papers: The Lone Ranger As Leader: Chief Justice
 Rehnquist's First Two Years
 Sue Davis, Univ of Delaware
- The Off-Court Commentary of William H. Rehnquist
 Susan E. Grogan, St. Mary's College
- The Jurisprudence of William Rehnquist:
 The Relevance of Constitutional Theory
 Glenn A. Phelps, Northern Arizona Univ
- Discussant: Bradley Canon, Univ of Kentucky
 Richard L. Pacelle, Jr., Indiana Univ

Lower Federal Courts: Procedure and Policymaking

Chair: Elizabeth Mertz, U.S. Court of Appeals, 7th Cir.

- Papers: Communication of Appellate Court Decisions:
 A Model for Understanding the Selection of
 Cases for Publication
 Burton M. Atkins, Florida State Univ
- The Impact of Community Values on the
 Policy-Making Behavior of Federal
 District Judges
 Robert C. Bradley, Illinois State Univ
- Lower Court Decision Making in Pornography Cases
 Robert L. Dudley, George Mason Univ
- Factors Underlying the Development of U.S.
 Magistrates' Diverse Roles Within the Federal
 District Courts
 Christopher E. Smith, Buchtel College *where is this?*
- Discussant: Beverly Cook, Univ. of Wisconsin-Milwaukee

U.S. Supreme Court Justices and Judicial Philosophy

Chair: Stephen A. Graham, Univ of Indianapolis

- Papers: X Justice Antonin Scalia and the Freshman Effect
 Joyce Baugh, Central Michigan Univ
- In Search of Justice Powell
 Janet Blasecki, Univ of Delaware

Utilizing Racketeering Statutes to Deter
Sexual Expression: Evolving Supreme Court
Viewpoints on The First Amendment
Kenneth P. Nuger, San Jose State Univ

Discussant: Albert P. Melone, Southern Illinois Univ-Carbondale
Patricia Pauly, Indiana Univ

State Courts: Selection and Decision Making

Chair: Herbert M. Kritzer, Univ of Wisconsin-Madison

Papers: State Judges and the Protection of Federal
Constitutional Rights
Craig Ducat, Michael Wyckoff Northern Illinois Univ,
& Victor E. Flango, National Center for State Courts

Turnout in Judicial Elections: Comparing the
States, Examining the Determinants
Jonathan Euchner, Univ of Kentucky

Judicial Politics in the Deep South:
Judicial Retention Methods and Dissent
Melinda Gann Hall, Univ of North Texas

Women Justices and the Outsider Role on
State Supreme Courts
Diane E. Wall, Mississippi State Univ &
David Allen, Colorado State Univ

Discussant: Craig Emmert, Univ of Alabama

Interest Groups and Politics of Litigation

Chair: Raymond Tatalovich, Loyola Univ of Chicago

Papers: The Aims of Interest Group Litigation
Patrick J. Bruer, Univ of North Carolina-Chapel Hill

A Systematic Evaluation of Interest Group
Efficacy in U.S. Federal Courts
Lee Epstein, Southern Methodist Univ &
C.K. Rowland, Univ of Kansas

Lucky Litigation? Abortion and Judicial Efficacy
Gerry Rosenberg, Univ of Chicago

Parties Before the Supreme Court: An Analysis of
Change Over Time
Reginald S. Sheehan & Donald R. Songer, Univ of
South Carolina

Discussant: Steven Puro, St Louis Univ

Roundtable: Perspectives on New Constitutional Theory

Chair: Ronald Kahn, Oberlin College

Lief Carter, Univ of Georgia
 Leslie Goldstein, Univ of Delaware
 Michael Perry, Northwestern Univ Law School
 Kim Scheppele, Univ of Michigan Law School

Judicial Theme Panel

Chair: Susan Gluck Mezey, Loyola Univ of Chicago

Paper: Elliot Slotnick, Ohio State Univ

Discussants: Charles Johnson, Texas A&M Univ
 Karen O'Connor, Emory Univ

**Preliminary Program for 1989
 American Political Science Association
 Law, Courts and Judicial Process**

Panel 5-1

Special Interests Before the United States Supreme Court

Chair: Steven Puro, St. Louis University

Papers: "Organized Interests Before the Supreme Court: The Decision
 to Participate"

Gregory A. Caldeira, Ohio State Univ
 John R. Wright, Univ of Iowa

"Friends of the Earth as Friends of the Court: Amici Curiae
 in Environmental Cases Decided by the U.S. Supreme Court"
 Susan Hedman, Univ of Maryland

"Federal Agencies Before the Supreme Court: A
 Longitudinal Analysis"
 Reginald S. Sheehan, Univ of South Carolina

Discussants: Ross E. Cheit, Brown Univ
 Lee Epstein, Southern Methodist Univ

Panel 5-2

State Appellate Court Decision-Making

Chair: Henry Glick, Florida State Univ

- Papers: "Factors Affecting State Supreme Court Decisions
Regarding the Constitutionality of State Laws: A
Multivariate Analysis"
Craig Emmert, Univ of Alabama
- "A Comparative Analysis of State Appellate Court
Decision Making"
Traci V. Reid, North Carolina State Univ
- "State High Court Decision Making in Pornography Cases"
Robert L. Dudley, George Mason Univ

Discussant: Bradley Canon, Univ of Kentucky

Panel 5-3

Alternative Dispute Resolution Mechanisms

Chair: Joel Grossman, Univ of Wisconsin

- Papers: "ADR Mechanisms in Massachusetts"
Mary Anne Borrelli, Wellesley College
- "Client and Agency Perceptions of Dispute Processes:
A Comparison of Land Use, Civil Rights, and
Consumer Protection Disputes"
Susan Hunter and Richard Brisbin, West Virginia Univ
- "Volunteer Mediators and Empowerment"
Ed Schwerin, Univ of Hawaii, Manoa

Discussant: Christine Harrington, New York Univ

Panel 5-4

Church, State and the Court

Chair: Paul Weber, Univ of Louisville

- Papers: "The 'Wall' Separating Church and State"
Timothy J. O'Neill, Southwestern Univ
- "Standing in the Pews: Public Actions and the
Conservative Agenda"
Nancy Maveety, Tulane Univ

"Jewish Groups and Church and State"
Gregg Ivers, Emory Univ

Discussants: D. Grier Stephenson, Jr., Franklin & Marshall College
Elliot Slotnick, Ohio State Univ

Panel 5-5

Roundtable - Political Justice in Post-Industrial America

Chairs: Theodore L. Becker, Auburn Univ
David J. Danielski, Stanford Univ

Participants: Deborah Barrow, Auburn Univ
Jonathan Casper, Northwestern Univ
Malcolm Feeley, Univ of California, Berkeley
Joel Grossman, Univ of Wisconsin
Christa Darla Slaton, Auburn Univ
Harry P. Stumpf, Univ of New Mexico
Bernadyne Weatherford, Glassboro State Univ

Panel 5-6

The Courts and Foreign Policy

Chair: Mark Gibney, Purdue Univ

Papers: "The Court and the Ghost of Curtiss-Wright"
David Gray Adler, Idaho State Univ

"The Court's Role in the Termination of Treaties"
Vicki Kraft, Lehman College

"The Courts and U. S. Foreign Policy: Checks and Balances?"
Larry Margolis, Univ of Texas - Arlington

"Adjudication by the Federal Courts and the Board
of Immigration Appeals in Refugee/Asylum Determinations"
Barbara Yarnold, Saginaw Valley State

Discussants: Richard L. Pacelle, Jr., Indiana Univ
Thomas Bergenthal, Emory Univ School of Law

Panel 5-7

Approaches to the Study of Law

Chair: Gerald Houseman, Indiana Univ - Fort Wayne

Papers: "Law and Language"
Lief Carter, Univ of Georgia

"Critical Legal Studies"
Rogers Smith, Yale Univ

"Law & Economics"
Gerald Houseman, Indiana Univ - Fort Wayne

Discussants: Ronald Kahn, Oberlin College
Michael W. McCann, Univ of Washington

Panel 5-8

Roundtable - Available Date Sets

Chair Harold Spaeth, Michigan State Univ

Participants: Harold Spaeth, Michigan State Univ
C. Neal Tate, Univ of North Texas
Karen Maschke, Oakland Univ
Donald Songer, Univ of South Carolina

Panel 5-9

Judicial Decision-Making

Chair: William McLauchlan, Purdue Univ

Papers: "Constitutional Decision-Making: The Obscenity Decisions
of the Warren and Burger Courts"
Timothy M. Hagle, Univ of Iowa

"Election Strategies and Judicial Decision-Making"
Melinda Gann Hall, Univ of North Texas

"Innovative Decision-Making in the District and Circuit Courts:
Equal Protection Policy"
Gary Jennings, St. Mary's College

"Policy Change on the U.S. Court of Appeals: Exploring
the Contribution of Legal and Democratic Subcultures"
Donald R. Songer and Susan Reid, Univ of South Carolina

Discussant: Jeffrey Segal, SUNY Stony Brook

Panel 5-10

Biopolicy and the Law

Chair: Sheila Jasanoff, Cornell Univ

Papers: "The New Politics of Biotechnology: A Comparative View"
Sheila Jasanoff, Cornell Univ

"Procreative Liberty and the Commodification of Reproduction"
John Robertson, Univ of Texas

**A Conversation Between a Judge and His Friend Concerning
Whether The Judge Should Sentence a Defendant
to Death**
Bruce Ledeqitz

**Politics and Progress in Implementing The Federal Judicial
Discipline Act**
Stephen B. Brubank

**Bureaucratic Efficiency vs. Bureaucratic Justice:
Administrative Law Judges in The Social
Security Administration**
Donna Price Cofer

**Court Administration in Colombia: An American Visitor's
Perspective**
Steven Flanders

**An Examination of Voting Behavior in the Louisiana
Supreme Court**
Melinda Gann Hall

**Acting Responsibly: Journalists and Judicial Performance
Surveys**
Norman A. Dolch & Norman W. Provizer

Introduction: The judicial power and the Constitution

**The Judicial Power: The Cement That Holds The Republic
Together**
Billups P. Percy

**The Place of Judicial Review in The American Tradition:
The Emergence of an Eclectic Power**
Elliot E. Slotnick

**Interpreting The Constitution: The Court's Proper
and Historic Function**
Jeffrey M. Shaman

**Interpreting The Constitution: The Case for Judicial
Restraint**
J. Clifford Wallace

The New Federalism: State Constitutions and State Courts
Shirley S. Abrahamson & Diane S. Gutmann

**State Supreme Courts, Judicial Federalism and the Other
Constitutions**
Peter J. Galie

Constitution and Society in Comparative Perspective
J. Woodford Howard, Jr.

The Federal Courts Since 1787: Stability and Change in
200 years
An edited transcript of the panel discussion at
the annual meeting of AJS in San Francisco,
August 8, 1987

The Impeachment Process: Modernizing an Archaic System
Howell T. Heflin

Query: Should Lawyers be More Critical of Courts?
Roger J. Miner

Gender and Judicial Selection: A Comparison of The Reagan
and Carter Administrations
Elaine Martin

Who Are The U.S. Magistrates?
Christopher E. Smith

Caseload Growth—Past and Future Trends
Thomas B. Marvell

An Examination of The Victim's Role at Sentencing:
Results of a Survey of Probation Administrators
Maureen McLeod

Congress as Court: The Role of The Judiciary in Protecting
Witnesses' Rights
Irving R. Kaufman

Supreme Court Confirmation Hearings: A View From the Senate
George Watson & John Stookey

Resolving Libel Cases Out of Court
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