



**Kyla Stepp, J.D.**

---

Propositional Inventory, U.S. Supreme Court, 2011  
Wayne State University, Ph.D. Student.

Kyla's J.D. is from Georgetown, 2004.  
*All Rights Reserved.*  
For use; please contact [kylastepp @ wayne.edu](mailto:kylastepp@wayne.edu)

---

## **Models of Supreme Court Decision Making**

How do Supreme Court justices decide how to vote on the cases in front of them? Is there a dominant theory that helps explain the actions of justices, or do multiple considerations come into play? In this paper, I broadly examine the three models put forth by scholars explaining how and why the Supreme Court decides cases the way it does: (1) the legal model, (2) the attitudinal model, and (3) the rational choice model. I examine findings and arguments by the proponents of each model, as well as the disputes that have arisen between such proponents. I also discuss the limitations of each, focusing especially on the attitudinal and rational choice models, which have had a great deal of scholarly research in recent years surrounding them. In addition, the role of public opinion as an influence on the Court throws a wrench into all three models and must be included in any discussion of the Court's decision making process.

### **Legal Model**

The legal model is the original explanatory theory of judicial decision making, and continues to dominate among lawyers and the legal community. The legal model holds that case outcomes are primarily determined by legal doctrine, including precedent, plain meaning, and the framers' intent. Even though Supreme Court justices are not legally bound by precedent, or *stare decisis*, many legal scholars and judges alike tout the importance of precedent as a decision making mechanism in order to ensure the stability and legitimacy of the process and long-standing legal doctrine. The legal education of every lawyer, and hence, every judge, stresses the role of precedent in legal reasoning. Legal scholars often assume that justices will therefore gravitate toward the legal model, and an argument can be made that they do, for the most part.

However, at least at the Supreme Court level, most political scientists disagree and find that other influences have a much greater impact than legal doctrine on decision making. This issue has been widely debated in political science in recent decades.

The legal model still has many strong proponents, including the prominent legal theorist and scholar Ronald Dworkin. He asserts that *stare decisis* plays a vital role in judicial decision making and argues that judges ignore their own personal beliefs in order to follow existing law and adhere to legal history (Dworkin 1988). In addition, when discussing the issue of decision making, Supreme Court justices and lower court judges almost always speak out in favor of the legal model and the important role of precedent. In fact, adherence to precedent is the primary justification provided by justices for the decisions they reach (Segal and Spaeth 1996).

The legal model has been attacked in recent decades, most commonly by the political science community, as outdated and naïve. Caldeira, for example, can think of “no political scientists who would take plain meaning, intent of the framers, and precedent as good explanations of what the justices do in making decisions” (1994, 485). The legal model is a “silly formalism” that “no one who has taken introduction to American government or read *Marbury v. Madison* or witnessed the fights over nominations to the Court during the Reagan and Bush years is going to ascribe to” (1994, 485). However, prior to the mid-1990s, the attacks on the legal model had been lacking systematic empirical evidence showing that legal factors do not play a significant part in Supreme Court decision making. The creation of the attitudinal model, described more fully below, was the first and biggest blow to the legal model.

The main proponents of the attitudinal model, Jeffrey Segal and Harold Spaeth, have made several attempts to demonstrate the insufficiency of the legal model as an explanation for Supreme Court decision making. Their first attempt was in 1996 when they looked at the impact of precedent on the votes of Supreme Court justices. The methodology to complete this task is difficult, because simply determining whether precedent applies to a particular case does not answer whether that precedent influenced the justices at all. Further, decisions upholding precedent are not necessarily useful for purposes of analysis, because for precedent to actually impact a decision, it must result in a decision that otherwise would not have occurred. In other

words, the justices must feel constrained by the precedent even though they would otherwise disagree with the decision. Therefore, Segal and Spaeth looked at cases where the justices' preferred outcomes were different than the precedent involved would allow, and evaluated the ultimate votes of those justices in those cases. They found that justices' votes conformed to their own revealed preferences 90.8% of the time, so that a justice only decided against his or her own preference in favor of upholding precedent 9.2% of the time. Further, only two of the justices studied displayed any adherence to precedent at all, moderates Stewart and Powell (Segal and Spaeth 1996).

Segal and Spaeth's study was widely discussed by other scholars and often disputed by proponents of the legal model. Brisbin (1996) applauded their efforts at examining precedent as an explanatory variable, but found flaws with their conceptual decisions and conclusions, thereby declaring the legal model to still be alive. Similarly, Songer and Lindquist (1996) questioned parts of Segal and Spaeth's methodology and reanalyzed the data using their own, improved measures. A simple change in coding conventions made a substantial difference in the results; for example, the proportion of votes attributed to personal preferences dropped from 90% to 70%. They concluded that at least in some categories of cases, precedent has a substantial influence on the decisions made by justices.

Spaeth and Segal (1999) revisited this debate in a comprehensive book, *Majority Rule or Minority Will: Adherence to Precedence on the U.S. Supreme Court*. They analyzed 2,425 votes cast in 1,206 progeny of 341 cases extending from 1793 through 1990, spanning almost the entire history of the Supreme Court. They found that justices did not feel constrained by *stare decisis* and did not heed precedent unless they agreed with it. Justices overwhelmingly voted their preferences, and when given the opportunity because of an ideological shift on the Court, more often than not they would vote to overturn precedent when it did not fit with their personal beliefs. Spaeth and Segal tend to reiterate their view that the legal model has no explanatory value in Supreme Court decision making over and over in all of their subsequent works.

### **Attitudinal Model**

The attitudinal model was first set forth in comprehensive form by Rohde and Spaeth in 1976. They asserted that Supreme Court justices have preferences regarding policy questions faced by the Court, and that they vote solely in line with those preferences. The Court is given great freedom to “base their decisions solely upon personal policy preferences for a number of reasons: (1) the lack of electoral accountability, (2) the lack of ambition for higher office, and (3) the fact that the Supreme Court is the court of last resort” (Rohde and Spaeth 1976, 72). The evidence in support of this formulation consisted of the attitudes and values taken from the votes cast by the justices.

In 1989, Segal and Cover published the seminal work on the attitudinal model, *Ideological Values and the Votes of U.S. Supreme Court Justices*. This study was the first to use independent measures of the attitudes of justices. In what widely became known as the “Segal/Cover scores”, they conducted content analysis of newspaper editorials published in select newspapers from the time of a justice’s nomination by the president until the confirmation vote by the Senate. The editorials were coded as liberal, moderate, conservative, or not applicable, and a formula was applied to reach a final ideological score for each justice. The scores accurately portrayed common knowledge regarding each justice’s political leanings. The authors’ dependent variable was the votes of justices in all decided civil liberties cases, beginning with justices appointed during the Warren Court. The results showed strong support for the attitudinal model as applied to civil liberties cases – the correlation between the ideological values of the justices and the votes they cast was .80 (Segal and Cover 1989).

Segal and Spaeth, along with Epstein and Cameron, revisited this study in 1995 and updated it, using the Segal/Cover scores to include the two recent Bush appointees, and backdated it to include several appointees prior to the Warren Court (those appointed by Roosevelt and Truman). They also included economic cases in addition to civil liberties cases for the entire time period studied. They found a much weaker correlation between ideological values and voting for justices appointed by Roosevelt and Truman (.47) than for the later appointees. However, they also found that the correlations for all appointees from Eisenhower forward, including the two most

recent Bush appointees, were very strong for both civil liberties and economic cases. Thus, they concluded that ideology is the best indicator for how a justice will vote on these matters, especially for post-Eisenhower appointees.

Segal and Spaeth also co-authored a book in 1993 that is considered one of the most important works in judicial politics in the last 30 years – *The Supreme Court and the Attitudinal Model*. They presented systematic evidence on various processes within the Court, including staffing, gatekeeping, decisions on the merits, and distribution of opinion assignments. By focusing on so many institutional features of the Court, the authors were able to show how ideology plays a substantial role from the very beginning of the process through the decision itself. They presented strong evidence of the importance of ideology to decision making in each of these areas, thereby setting forth a more comprehensive analysis of, and support for, the attitudinal model than had been attempted before. They provided a blunt view of judicial decision making that does not allow for the possibility of legal or other outside factors to play any role. Consequently, they discounted the legal model as naïve and unprovable due to its inability to be subjected to systematic empirical evaluation.

Segal and Spaeth's (1993) work set off a firestorm of scholarly research, debate and criticism. Some of that debate centered on a revival of the legal model, while much of it centered on yet another new model – the rational choice model (which I will discuss shortly). In response to criticism from the proponents of these other models and the flurry of new articles and books that came out in the decade after their book, Segal and Spaeth published *The Supreme Court and the Attitudinal Model Revisited* in 2002. Far from relinquishing any ground on their stance that judicial attitudes are the sole indicator of Supreme Court decision making, they stood fully behind their thesis and presented arguments against all those who criticized it. They began by looking at several recent cases, especially *Bush v. Gore*, that offered support for their assertions. They included further evidence against the legal model that was not present in the first book, as well as substantial evidence and theoretical arguments against the rational choice model, which did not exist in its current form at the time of the first book. The authors did make an attempt to reconcile the alternative approaches with their work, but made very few

minor concessions and concluded by reasserting their support for the attitudinal model as the best and most explanatory model.

Some of the criticism of the attitudinal model stems from perceived limitations on it. For example, Unah and Hancock (2006) found that the attitudinal model is highly sensitive to case salience and is a strong explanatory vehicle for high salience cases only. Other scholars have disputed the claim that the legal model is completely dead, and purport that it has an impact, albeit a complicated and difficult to prove one. Many legal practitioners believe that the attitudinal model (called “legal realism” within legal academy) is incomplete when it does not take into account legal factors. George and Epstein (1992) found support for the legal model, as well as the attitudinal model, and believe the two models to be codependent. They examined court cases involving the death penalty from 1972 until 1988 and evaluated the ability of each model to account for decisional outcomes. Their results showed that both models had a strong ability to account for the outcomes in death penalty cases. However, they found that each model was skewed in some way: the legal model overpredicted liberal outcomes and the attitudinal model overpredicted conservative ones. Therefore, they offered an integrated model of decision making that included a wide range of legal and attitudinal factors.

Epstein, Hoekstra, Segal, and Spaeth (1998) examined, and partially disintegrated, one of the underlying assumptions of both the attitudinal model and the rational choice model – the stability assumption. Scholars have been nearly unanimous in their belief that Supreme Court justices show consistent voting behavior over the course of their careers on the Court, with one or two exceptions. This assumption is used as a basis for all preference-based theories of judicial decision making. However, the stability assumption had not been rigorously tested; a problem the authors sought to remedy. They examined the behavioral patterns of the 16 justices who sat on the Court for 10 or more terms from 1937 through 1993. They found that while some justices did not change their preferences over time, some did change in linear and non-linear ways, and that the overall pattern of preferences was much more complicated than commonly believed. The implications of these findings go straight to the heart of research on the attitudinal model and its underlying assumptions. If ideological values of a justice can

change, does he or she continue to vote according to his or her preferences alone? The authors left open this question for future study.

### **Rational Model**

The third model of Supreme Court decision making is actually an expansion and modification of the attitudinal model. It holds that justices do indeed vote in a way to maximize their preferences, but that does not always mean a simple vote with the preferred side. Instead, justices act strategically to ensure that their policy goals are met. They understand that the fate of policies depends on the preferences of other actors, such as Congress, the president and their fellow justices. This theory of strategic decision making was first laid out by Murphy (1964), although he offered no empirical evidence of it. The attitudinal model came into dominance shortly thereafter, and the strategic decision making thesis was virtually ignored until the 1990s.

The first comprehensive empirical analysis of, and substantive formation of, the rational choice model was completed by Epstein and Knight (1998) in *The Choices Justices Make*. They argued that the attitudinal model was not incorrect, just incomplete. The framework they developed rests on three main ideas: “justices’ actions are directed toward the attainment of goals; justices are strategic; and institutions structure justices interactions” (Epstein and Knight 1998, 10-11). Those actions include voting and joining opinions in accordance with their policy positions, but also the entire decisional process, from accepting cases, conference discussion, initial votes, opinion assignment, and draft opinions up to the final decision to sign an opinion. The authors found each of these processes fraught with evidence of strategic actions and interactions on the part of the justices. Further, the justices often feel constrained by outside forces, such as Congress, who can overturn their rulings, and the president, who can change the makeup of the Court with new appointments and who can speak out against the Court, possibly affecting its legitimacy in the eyes of the public. The authors concluded that for the most part, justices act in such a way that promotes their policy preferences beyond simply voting in accordance with their values.

In furtherance of the rational choice model, Hammond, Bonneau, and Sheehan (2006) presented an integrated model containing both the attitudinal and rational choice

models. They took issue with several of the underlying assumptions of the attitudinal model, as well as the lack of empirical evidence for the attitudinal model on Court processes and stages other than the final vote. In fact, they pointed to a dearth of reliable and valid evidence to support either of the models adequately. They examined each stage of the Court's decision making process and generated a formal model of decision making that distinguished between strategic and sincere decisions at each stage. The authors purported to provide the first comprehensive, rigorous, and systematic model of Supreme Court decision making. Their findings were consistent with their integrated model, as both sincere attitudes and strategic behavior were found to affect decision making at each stage of the process. However, the evidence strongly supported the existence of rational, strategic justices and the strong impact of institutional factors on decision making, more so than the effect of sincere attitudes on decision making.

Attacks on the rational choice model have come mainly from the persistent proponents of the attitudinal model, Segal and Spaeth. Segal (1997) conducted a study comparing the attitudinal model to the rational choice model by examining the votes of Supreme Court justices in cases decided between 1947 and 1992. In his view, the rational choice model has much in common with the attitudinal model, but it starts to diverge when the rational choice model holds that justices do not vote their sincere preferences, but vote in a way as to not be overturned by Congress, even if that requires voting against their true preferences. He asserted that the institutional structures of the Court – lifetime appointments, justices not politically accountable, court of last resort, etc. – allow the Court's members to vote their sincere preferences without any strategic concerns. He criticized the empirical support of the rational choice model as problematic, and disputed the reliability and validity in the measurement of preferences that was found in such studies.

At the time Segal (1997) wrote this article, the research conducted by Spiller and Gely (1992) was the most prominent and promising study supporting the rational choice model. Spiller and Gely (1992) found that changes in the ideology of relevant congressmen influenced cases involving the National Labor Relations Act to the same extent that changes in ideology of Supreme Court justices did. Thus, they concluded



that the Supreme Court's decision making is significantly influenced by congressional preferences. Segal (1997) disputed some of the methods used by Spiller and Gely (1992) and re-worked several of their lines of research in addition to conducting his own independent research to determine whether their conclusions could be generalized to other areas of law outside of labor relations. He found some evidence of strategic behavior on the part of the justices, but the majority of the evidence supported the concept that justices overwhelmingly voted their sincere values and attitudes. He thus reiterated his view that the attitudinal model is the unambiguous "winner" between the two as an indicator of judicial decision making.

Bergara, Richman, and Spiller (2003) were dissatisfied with the apparently contradictory results found in the studies conducted by Spiller and Gely (1992) and Segal (1997). According to the authors, the attitudinal model and the rational choice model are not that different. However, where the attitudinal model, and Segal, posits that judicial decisions are unfiltered reflections of sincere attitudes and ideology unaffected by any other considerations, the rational choice model, and its proponents, view judges as forward-looking political actors who consider the potential reactions of their policy competitors. The authors developed an econometric model to estimate the determinants of Supreme Court decisions based on the model devised by Spiller and Gely (1992). They adapted the model to analyze Segal's (1997) data in order to reconcile the competing findings and viewpoints. They reported several findings consistent with the attitudinal model – justices' ideologies substantially influence their final decisions. They also found that the Court is often politically restrained, especially by Congress; although the extent to which the Court feels constrained varies over time. Lastly, they found that when the Court was constrained, it responded by acting strategically. They concluded that justices do indeed act strategically, at least some of the time, which is enough to reject the attitudinal model. They further discounted Segal's findings as the result of certain biases in his model.

As mentioned above, Segal and Spaeth (2002) included their theories and evidence running counter to the rational choice model in their revised book in support of the attitudinal model. They argued that justices do not need to act strategically because it is rarely the case that both chambers of Congress and the president will all be unified

against the Court. In addition, justices have leeway in framing the issue and the decision in their opinions, making them less likely to be overturned. They also took issue with some of the methodology used by rational choice scholars. By making small changes, for example, including justices' preferences in the model when other researchers had left them out, the resulting impact of institutional constraints on outcomes was not significant. They concluded that, at all stages of the decision making process, "only the attitudinal model's explanation [of Court decisions] is well supported by systematic empirical evidence" (Segal and Spaeth 2002, 351).

### **Impact of Public Opinion**

Whether or not public opinion impacts the decisions made by the Supreme Court has been a hotly contested issue over the last few decades. The Court has traditionally been viewed as a countermajoritarian institution, meaning it thwarts the majority will of the people and their elected representatives when it overturns a legislative act. In fact, "almost all constitutional scholars and democratic theorists agree that the Supreme Court is, either in process or in substance, a countermajoritarian institution" (Marshall 1989, 4). Although the Court is countermajoritarian in form, it does not necessarily ignore the opinions of the majority of the people. Dahl (1957) was one of the first scholars to argue that the Court is less countermajoritarian in practice than assumed. He found that the policy outputs of the Court were more likely to conform to the policy preferences of the majority in the long run. He concluded that American politics and policymaking is dominated by relatively stable and enduring national electoral coalitions, and that the Court supports the major policies of the coalitions.

Other scholars have supported Dahl's (1957) hypothesis that the Court's reputation as a countermajoritarian institution has been greatly exaggerated. Barnum (1985) found that the so-called "activist" Court generally had the support of the majority, or the support was trending in a positive direction, when it ruled to protect minority rights, but that Courts appeared reluctant to rule for such minority rights when majority opinion was still strongly opposed. Therefore, even during its most "active" time as a countermajoritarian institution, the Court most often ruled in line with public opinion.

Marshall (1989) conducted an ambitious, comprehensive study of public opinion and the Court, examining 146 situations from the mid-1930s to 1986 where all or part of a Supreme Court decision could be matched with a specific nationwide public poll item. His most relevant finding was that in 63% of these decisions the Court agreed with the polls, making the Court “roughly as consistent with public opinion as other U.S. decision makers” (Marshall 1989, 79). He confirmed Dahl’s (1957) view of the Court as just one part of a dominant national coalition. However, Marshall (1989) did have a problem sorting out the casual directions of public opinion and Court decisions, an issue that subjected him to some criticism from other scholars.

Dahl (1957) reasoned that the Court would be reluctant to overturn majoritarian policies because of the president’s power of appointment. The Court responds to public opinion because of this power of presidents to “tip the balance on a normally divided Court” (Dahl 1957, 284). This “indirect” impact of public opinion on judicial decision making is now widely accepted by Court scholars. More troublesome is the issue of whether public opinion “directly” impacts the Court apart from changes in membership. Mishler and Sheehan (1992, 1996) pointed out two ways that the Court could be directly impacted by public opinion: justices are aware that the Court is a political institution whose authority depends on public deference and respect (the “political adjustment hypothesis”), or judicial values and preferences can change over time, either in response to fundamental changes in public opinion, or as a result of the underlying social forces that caused the change in public opinion (the “attitude change hypothesis” or “conversion hypothesis”).

Why would justices be attentive to public opinion? Justices must consider the possibility that Congress or the president will overturn their decisions, or that they will be improperly enforced. Institution-minded justices want to maintain the legitimacy of the Court and therefore want to avoid the public embarrassment of defeat and the accompanying weakening of the Court. They may adjust their decisions slightly toward a compromise in order to avoid active political opposition by paying attention to public opinion (McGuire and Stimson 2004). In this way, the rational choice model is supported by the thesis that public opinion does directly impact decision making, as the justices are necessarily acting strategically.

Mishler and Sheehan (1993) are strong proponents of the direct impact of public opinion on Court decision making. In their initial study on the topic, they examined Supreme Court decisions made during the period 1956-1989. They used Stimson's (1992) "public mood" index to measure the ideological currents of the public. They found that trends in Supreme Court decisions and the liberalism of the public mood corresponded closely, with shifts in the public mood slightly ahead of associated changes in the Court's liberalism. They also found a reciprocal relationship between public mood and the Court's ideological tenor; each factor influenced the other to a certain extent. They concluded that the impact of public opinion is partially indirect, when it is mediated through its impact on the changing membership of the Court, but is also partially direct, independent of membership change. Prior to 1981, when the Court's ideology begins to substantially diverge from public mood, the Court should be seen as an institution sensitive to majority opinion and changes in public mood, albeit after a five-year lag.

In an interesting back-and-forth exchange, Norpoth and Segal (1994) and Mishler and Sheehan (1994) debated the latter's findings of direct influence of public opinion on the Court. Norpoth and Segal (1994) criticized the methodology used and reanalyzed the data using their own model. They found no evidence of a direct path of influence from public opinion to the Court's decision making process, but attributed any changes in judicial behavior to ideological shifts on the Court as a whole due to new appointments by the president, consistent with the indirect model of influence. Mishler and Sheehan (1994) responded by defending their methodology and findings, and offered further analysis to support their thesis that public opinion does have a direct influence on the Court.

Mishler and Sheehan (1996) later expanded their research to include individual-level analysis of the political adjustment and conversion hypotheses. They examined the responsiveness of individual justices to changes in public opinion from 1953-1992 in order to understand which justices are more responsive to public opinion than their counterparts. In order to prove the political adjustment hypothesis, it was enough to show that at least some justices occasionally altered their decisions based on their concern with protecting the Court's legitimacy in response to a shift in public opinion.

The conversion hypothesis simply holds that the policy preferences of some justices might change over time, whether they are conscious of the change or not, in response to either shifts in public mood or whatever underlying factors caused those shifts. Unfortunately, the authors were unable to differentiate empirically between the political adjustment and conversion hypotheses. Consistent with both hypotheses, they showed that long-term trends in public opinion have a direct influence on individual justices, just as they have an impact on aggregate Court decisions. Not all justices that were studied were affected; significant effects were shown for approximately one-half of the justices, and substantial effects were shown for one-third. The authors argued that the attitudinal model is therefore incomplete, and that it must be revised to take into account the impact of public opinion on the Court, as well as the fluid individual attitudes of justices.

Flemming and Wood (1997) also conducted an analysis of the impact of mass shifts in public opinion on individual justices. They found that public opinion does impact decisions by the majority of individual justices in most decision areas, with a relatively quick one-term lag. However, they also found that the magnitude of the response to public opinion was fairly marginal, a finding they considered to be consistent with the attitudinal model. In other words, justices still tended to vote their policy preferences, but those preferences were not always stable and could be shifted depending on similar shifts in public opinion.

Segal and Speath (2002), in their never-ending pursuit of the attitudinal model as the only explanation for Supreme Court decision making, also weighed in on the direct effect of public opinion. Their analysis revealed no evidence of any shifts in decision making based on shifts in public opinion. They reiterated that the justices' personal policy preferences remain the only significant influence on the Court and its decisions.

As a response to the ongoing debate over the direct influence of public opinion on the Court, McGuire and Stimson (2004) conducted their own independent and alternative analysis of the Court's relative liberalism in conjunction with shifts in mass public opinion. They found an even stronger influence than previously documented. The Court's policy outcomes were shown to be substantially impacted by public opinion, both directly and indirectly. They also analyzed the effect of attitudinal factors on the Court. After holding constant the significant effects of public opinion, they still found

justices to be highly motivated by their personal preferences, in support of the attitudinal model.

## **Conclusion**

The debate rages on over why exactly Supreme Court justices decide cases the way they do. Evidence has been collected and presented in support of all three models, however no consensus has been reached by scholars in the field. Most political scientists seem to agree that the legal model can no longer be considered the best explanatory model, but the proponents of the attitudinal model and the rational choice model have not yet appeared to sway a majority of scholars to their respective sides. The impact of public opinion on judicial decision making is another hot topic that has no definitive answer. It is clear that some influence occurs, at least indirectly, so that each model should take public opinion into account when attempting to fully explain decision making by the Supreme Court.

## References

- Barnum, David G. 1985. "The Supreme Court and Public Opinion: Judicial Decision Making in the Post-New Deal Period." *Journal of Politics* 47: 652-665.
- Bergara, Mario, Barak Richman, and Pablo T. Spiller. 2003. "Modeling Supreme Court Strategic Decision Making: The Congressional Constraint." *Legislative Studies Quarterly* 28(2): 247-280.
- Brisbin Jr., Richard A. 1996. "Slaying the Dragon: Segal, Spaeth and the Function of Law in Supreme Court Decision Making." *American Journal of Political Science* 40(4): 1004-1017.
- Caldeira, Gregory A. 1994. "Review of *The Supreme Court and the Attitudinal Model*." *American Political Science Review* 88(2): 485-486.
- Dahl, Robert A. 1957. "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker." *Journal of Public Law* 6: 279-295.
- Dworkin, Ronald. 1988. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press.
- Epstein, Lee, Valerie Hoekstra, Jeffrey A. Segal, and Harold J. Spaeth. 1998. "Do Political Preferences Change? A Longitudinal Study of U.S. Supreme Court Justices." *The Journal of Politics* 60(3): 801-818.
- Epstein, Lee and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press.
- Flemming, Roy B. and B. Dan Wood. 1997. "The Public and the Supreme Court: Individual Justice Responsiveness to American Policy Moods." *American Journal of Political Science* 41(2): 468-498.
- George, Tracey E. and Lee Epstein. 1992. "On the Nature of Supreme Court Decision Making." *American Political Science Review* 86(2): 323-337.
- Hammond, Thomas H., Chris W. Bonneau, and Russell S. Sheehan. 2006. *Strategic Behavior and Policy Choice on the U.S. Supreme Court*. Stanford: Stanford University Press.
- Marshall, Thomas. 1989. *Public Opinion and the Supreme Court*. New York: Longman.
- McGuire, Kevin T. and James A. Stimson. 2004. "The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences." *The Journal of Politics* 66(4): 1018-1035.

- Mishler, William and Reginald S. Sheehan. 1993. "The Supreme Court as a Counter-majoritarian Institution? The Impact of Public Opinion on Supreme Court Decisions." *American Political Science Review* 87(1): 87-101.
- Mishler, William and Reginald S. Sheehan. 1994. "Popular Influence on Supreme Court Decisions: A Response to Helmut Norpoth and Jeffrey A. Segal." *American Political Science Review* 88(3): 716-724.
- Mishler, William and Reginald S. Sheehan. 1996. "Public Opinion, the Attitudinal Model, and Supreme Court Decision Making: A Micro-Analytic Perspective." *The Journal of Politics* 58(1): 169-200.
- Murphy, Walter F. 1964. *Elements of Judicial Strategy*. Chicago: University of Chicago Press.
- Norpoth, Helmut and Jeffrey A. Segal. 1994. "Popular Influence on Supreme Court Decisions: Comment." *American Political Science Review* 88(3): 711-716.
- Rohde, David and Harold J. Spaeth. 1976. *Supreme Court Decision Making*. San Francisco: W. H. Freeman.
- Segal, Jeffrey A. 1997. "Separation-of-Powers Games in the Positive Theory of Congress and Courts." *American Political Science Review* 91(1): 28-44.
- Segal, Jeffrey A. and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83(2): 557-564.
- Segal, Jeffrey A., Lee Epstein, Charles M. Cameron, and Harold J. Spaeth. 1995. "Ideological Values and the Votes of U.S. Supreme Court Justices Revisited." *The Journal of Politics* 57(3): 812-823.
- Segal, Jeffrey A. and Harold J. Spaeth. 1993. *The Supreme Court and the Attitudinal Model*. New York: Cambridge University Press.
- Segal, Jeffrey A. and Harold J. Spaeth. 1996. "The Influence of *Stare Decisis* on the Votes of United States Supreme Court Justices." *American Journal of Political Science* 40(4): 971-1003.
- Segal, Jeffrey A. and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.
- Songer, Donald R. and Stefanie A. Lindquist. 1996. "Not the Whole Story: The Impact of Justices' Values on Supreme Court Decision Making." *American Journal of Political Science* 40(4): 1049-1063.



Spaeth, Harold J. and Jeffrey A. Segal. 1999. *Majority Rule or Minority Will: Adherence to Precedence on the U.S. Supreme Court*. New York: Cambridge University Press.

Spiller, Pablo T. and Rafael Gely. 1992. "Congressional Control of Judicial Independence: The Determinants of U.S. Supreme Court Labor-Relations Decisions, 1949-1988." *Rand Journal of Economics* 23: 463-492.

Stimson, James A. 1992. *Public Opinion in America: Mode, Cycles, and Swings*. Boulder: Westview.

Unah, Isaac and Ange-Marie Hancock. 2006. "U.S. Supreme Court Decision Making, Case Saliency, and the Attitudinal Model." *Law & Policy* 28(3): 295-320.