

Princeton University/New York University
Department of Politics
Graduate Program
Spring 2016

Model Courts (Pol 589)
Tue 2.00-4.00
Rm 435, 19 West 4th Street

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INTRODUCTION

This seminar introduces the positive political theory of courts and law. It provides a unified framework for understanding the logical structure and evolution of law, the behavior of judges and litigants, the design and operation of judicial institutions including judicial hierarchies and collegial courts such as the U.S. Supreme Court, and the relationship between courts, administrative agencies, and legislatures. More than a survey of existing literatures, the course aims at providing a progressive way of thinking about law and courts, one that leads naturally to new theoretical and empirical research at the current frontiers of knowledge. The emphasis is on theory-building and theory-testing rather than empirical fact finding.

We do not anticipate offering this class in future years. Consequently, auditors are very welcome. However, students who have not completed some methods training (a semester of Game Theory and a semester of Statistics or the equivalent) should consult with the instructors before enrolling.

COURSE REQUIREMENTS

READINGS

The readings for this class are deliberately lean (several comprehensive reading lists for Judicial Politics are available on line). However, the assignments are often gnarly in one way or another and require dedication and thought. Use the following to guide your efforts:

- (**) What you must read if you hope to participate in or understand class
- (*) Useful/stimulating readings that would make class more meaningful
- (.) Supplemental readings that expand on issues touched on in class but aren't essential
- () If you are interested in this topic you really should read this, but perhaps not today.

PARTICIPATION

The class tries to teach you not only foundational material (including much that is not readily available from any single source) but a way of thinking about courts and law. You must attend class if you are to get it. Preparation requires struggling with the readings and coming to class with questions and comments.

WRITTEN ASSIGNMENTS

You have three options, Options A, B, and C.

Option A – Write 4 short reaction papers to the readings and associated lectures. These should be relatively short, about 4-5 pages. They are due *one week after the class in question*; turn them in electronically to both instructors, and give a paper copy to Cameron. These papers should not summarize the readings and lecture; rather, they should respond critically and cleverly to the material in the readings and lecture.

Option B – Write two mini-research papers, about 10-12 pages in length. Mini-research papers should sketch a formal model extending those presented in class, or lay out a rigorous method for empirically implementing the ideas presented in one or more weeks. The analysis need not be complete but should be presented in sufficient detail to allow an evaluation. Literature reviews are forbidden. If you choose this option, the first paper is due after Spring Break, the second at the end of the semester.

Option C – Write a maxi-research paper, about 25+ pages in length, applying ideas from the course to some topic you are genuinely serious about researching. We will supply feedback. You should consult before starting. Option C papers are due at the end of the semester.

AVAILABILITY OF READINGS

The readings are available via links below, or on NYUCLASSES if an on-line version is not readily available.

If you have not taken the first year classes in a law school, you might want to read: E.E. Levi, *An Introduction to Legal Reasoning*. However, the material in the book will make more sense after the second week of class.

SCHEDULE OF CLASSES & TOPICS

Week 1. Introduction. Overview of course. What is law and what are courts. Law in stateless societies. Varieties of institutional forms. Intellectual history of studying courts, alternative approaches. Essence of PPT approach. 1/26

Week 2. Case Space. Modeling courts and law in case space. Mathematical representation of doctrine and judicial actions. Preferences over dispositions, rules, and policies. Common values (team) vs. private values (political) approaches. Utility over dispositions vs. utility over law. Trees as an alternative approach. 2/2

Week 3. A Single Immortal Judge. A first cut at stare decisis. Litigants and the evolution of the law. Precedent as hysteresis. Path of the law models. Learning and litigant-based stopping. 2/9

Week 4. A Succession of Mortal Judges. Team models and cascades. A political repeated game model of stare decisis. Empirical studies of precedent on appellate courts and the U.S. Supreme Court. 2/16

Week 5. The Hierarchy of Justice 1/Team Perspectives. Overview of hierarchy. Team perspectives. Error correction and the optimal hierarchy theorem. 2/23

Week 6. Hierarchy of Justice 2/More Team Perspectives. Experimentation and optimal stopping. Learning in a judicial hierarchy. 3/1

Week 7. Hierarchy of Justice 3/Principal-Agent Perspectives 1. Tournaments. Strategic auditing for error correction. Strategic auditing for policy correction. 3/8

Spring Break 3/15

Week 8. Hierarchy of Justice 4: More P-A Perspectives. The Rule of Four. Whistle-blowing. En banc review. 3/22

Week 9. Collegial Courts 1: Bargaining. Intellectual antecedents. Rejecting the MVT. Majority median approach. 3/29

Week 10. Collegial Courts 2: More Bargaining, Opinion Assignment, Case Selection. Sequential bargaining approach. Common law adjudication. A team approach: civil law apex courts. 4/5

Week 11. Collegial Courts 3: Peer Effects Historical antecedents. Peer effects in non-median models. Dissent-based approach. Information-based approach. Empirical studies. 4/12

Week 12. Collegial Courts 4: Judgment Aggregation Historical antecedents. A new social choice problem. Application to courts. 4/19

Week 13. Statutory Interpretation & the Administrative State. What is statutory interpretation?. The canonical SOP model. Delegation games. The D.C. Circuit Game. An incomplete contracting approach. 4/26

Week 14. Judicial Review How judicial review is different from statutory interpretation. Public opinion approach. Information approach. 5/3

Note: Due to time, space, and mental limitations we do *not* plan to cover the following worthy topics: selection of judges, judicial federalism, court-curbing and judicial independence, courts and constitutional design, civil law systems in detail, and courts and economic growth.

SYLLABUS & READINGS

1. INTRODUCTION

- a. What is law and what are courts? Law in stateless societies.

Bronislaw Malinowski, *Crime and Custom in Savage Society* (1926), Entire is good but esp. Chapter VIII & IX pp. 39-49. (.) <https://archive.org/details/crimecustominsav00mali>

James Bryce, "Primitive Iceland," in *Studies in History and Jurisprudence* Volume 1 (1901), pp. _-_. (.) http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=2003&chapter=138292&layout=html&Itemid=27

Kaushak Basu, *Prelude to Political Economy*, Chapter 1 ()

Stephen Morris, George Mailath, & Andrew Postlewaite, "Laws and Authority," manuscript (2001) (.) <http://www.princeton.edu/~smorris/pdfs/laws&authority.pdf>

b. Emergence and Varieties of Institutional Forms

Kornhauser, Lewis. 1999. "Judicial Organization and Administration," *Encyclopedia of Law and Economics*. (.) <http://encyclo.findlaw.com/7100book.pdf>

Martin Shapiro, *Courts: A Comparative and Political Analysis*, Ch. 1 ()

John P. Dawson, *The Oracles of the Law* (1968) pp.? ()

c. Why Courts Matter

d. Theorizing Courts

i. Attitudinalism and Neo-Realism

Epstein, Lee, William Landes, and Richard Posner. 2012. *The Behavior of Federal Judges*, Chapter 1 "A Realistic Theory of Judicial Behavior," (pp. 25-64) (.)

Cameron, Charles and Lewis Kornhauser, "Rational Choice Attitudinalism? A Review of Epstein, Landes, and Posner," *European Journal of Law and Economics* (2015). (*)

https://www.researchgate.net/publication/281572231_Rational_choice_attitudinalism or <https://www.princeton.edu/~ccameron/papers.html>

2. CASE SPACE

a. Basics

Kornhauser, Lewis A. 1992. "[Modeling Collegial Courts II. Legal Doctrine](#)," *Journal of Law, Economics, and Organization* 8(3): 441-470. (*) Difficult reading so allow time.

Jeffrey Lax, "The New Judicial Politics of Legal Doctrine," *Annual Review of Political Science* Vol 131-57. (.) <http://www.annualreviews.org/doi/abs/10.1146/annurev.polisci.042108.134842?journalCode=polisci>

b. Utility Functions for Case Space

Cameron and Kornhauser, "The Case Space Approach to Modeling Courts and Law: A Primer" (**)
Working paper, Princeton, 2015.

c. Suggestive Empirical Evidence

Elliot Ash and Bentley MacLeod, "Intrinsic Motivation in Public Service: Theory and Evidence from State Supreme Courts," NBER Working Paper 20664 (2014)

<http://www.nber.org/papers/w20664> (.)

d. An Alternative Representation of Legal Doctrine

John Kastlelec, "The Statistical Analysis of Legal Rules and Decisions with Classification Trees," *Journal of Empirical Legal Studies* 7(2):202-30 (2010) ()
<http://www.princeton.edu/~jkastell/trees.html>

3. A SINGLE IMMORTAL JUDGE

a. Introduction to stare decisis

Lewis Kornhauser, "Stare Decisis" *New Palgrave Dictionary of Law & Economic* (**)

b. Dynamics II: Precedent as Hysteresis

Introduction to Inventory Theory

<http://www.me.utexas.edu/~jensen%20/ORMM/supplements/units/inventory/inventory.pdf>

Lawrence Blume and Daniel Rubinfeld, "The Dynamics of the Legal Process," *Journal of Legal Studies* XI: 405-419 (1982) (*) <http://www.jstor.org/stable/724210>

Bueno de Mesquita, Ethan and Stephenson, Matthew (2002). "Informative Precedent and Intrajudicial Communication," *American Political Science Review*, 96(4) 755-766 (.)

c. Dynamics III: Learning

Scott Baker & C. Mazzeti, "A Theory of Rational Jurisprudence," *Journal of Political Economy* 120(3): 513-551. (2012) (**)

<http://www.jstor.org/stable/pdfplus/10.1086/666655.pdf?acceptTC=true>

Giri Parameswaran, "Ruling Narrowly and Broadly: Learning, Experimentation, and Law Creation" () <http://www.haverford.edu/economics/faculty/gparames//Papers/Parameswaran-RulingNarrowly.pdf>

4. A SUCCESSION OF MORTAL JUDGES

a. Team Model: Precedential Cascades

Talley, Eric. 1999. "Precedential Cascades: An Appraisal," *Southern California Law Review* 73: 87-137. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=160277 ()

b. A Quasi-Team Model (with heresthetics)

Nicola Gennaioli and Andrei Shleifer. 2007. "The Evolution of Common Law." *Journal of Political Economy* 115: 43-68. (*)

http://scholar.harvard.edu/files/shleifer/files/evolution_jpe_final.pdf

c. A Political Repeated Game Model of Stare Decisis in Case Space

Cameron and Kornhauser, "Stare Decisis as an Ideological Log-roll," working paper. (**)

Niblett, Anthony. 2013. "Tracking Inconsistent Judicial Behavior," *International Review of Law and Economics* 34:9-20. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1434451

d. A (Political) Overlapping Generations Model (sort of)

Rasmusen, Eric. 1994. "[Judicial Legitimacy as a Repeated Game](#)," *Journal of Law, Economics, and Organization* 10(1): 63-83.(.)

e. Some Empirics about the US Supreme Court

Jeffrey Segal and Harold Spaeth, "The Influence of Stare Decisis on the Votes of U.S. Supreme Court Justices" 40 *AJPS* 971-1003 (1996) ()

Hansford, Thomas, and Spriggs, James. *The Politics of Precedent on the U.S. Supreme Court*. Princeton: Princeton University Press, 2008. () Selections. An article?

Jeffrey Lax and Kelly Rader, "Legal Constraints on Supreme Court Decision Making: Do Jurisprudential Regimes Exist?" *Journal of Politics*, Vol. 71(2): April 2010. ()
<http://www.columbia.edu/~jrl2124/regimes.pdf>

5. THE HIERARCHY OF JUSTICE 1: TEAM PERSPECTIVES

a. Overviews of the Judicial Hierarchy

John Kastellec, "The Judicial Hierarchy: A Review Essay," Princeton working paper 2016. (**)

Kornhauser, Lewis. 1999. "Supreme Courts and Appeals," *Encyclopedia of Law and Economics*. (.)
<http://encyclo.findlaw.com/7200book.pdf> ()

b. Introduction to Judicial Teams

Kornhauser, Lewis. 1995. "Adjudication by a Resource-Constrained Team: Hierarchy and Precedent in a Judicial System," 68 *Southern California Law Review* 1605 (1995) (.)

David Klein. 2002. *Making Law on the U.S. Courts of Appeals*. New York: Cambridge University Press. Chapters 3 & 6. ()

c. Optimal Hierarchy and Error Correction (the 3 Tier Theorem)

Cameron, Charles M., and Kornhauser, Lewis A. 2006. "Appeals Mechanisms, Litigant Selection, and the Structure of Judicial Hierarchies," pp. 173-205 in Rogers, Flemming, and Bond (eds) *Institutional Games and the US Supreme Court*. (**)

<http://www.vanderbilt.edu/econ/faculty/Wooders/APET/Pet2004/Papers/Appeals%20mechanisms.pdf>

6. HIERARACHY OF JUSTICE: MORE TEAM PERSPECTIVES

a. Experimentation & Optimal Stopping

Tom Clark and Jonathan Kastellec, "The Supreme Court and Percolation in the Lower Courts," *Journal of Politics* 75(1):150-168 (2013) (*)

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1663959

b. Beim Learning Model

Mathias Dewatripont and Jean Tirole, 1999. "Advocates," *Journal of Political Economy*, vol. 107, n. 1, p. 1-39. (.) <http://www.nyu.edu/econ/user/bisina/advocates.pdf>

Deborah Beim, "Learning in the Judicial Hierarchy," working paper, Yale University (variant of "Advocates") (*) <http://deborahbeim.commons.yale.edu/files/BeimMP1.pdf>

7. THE HIERARCHY OF JUSTICE 3: PRINCIPAL-AGENT PERSPECTIVES

a. Introduction to PA Models of the Judicial Hierarchy

Cameron and Kornhauser, "The Hierarchy of Justice: Principals and Agents" Princeton manuscript 2014

b. Tournaments

Cameron, "New Avenues for Modeling Judicial Politics" page 31-35. (1993) (**)

<http://www.princeton.edu/~ccameron/NewAvenues.pdf>

McNollgast, "Politics and the Courts: A Positive Theory of Judicial Doctrine and the Rule of Law," *S. Calif Law Review* 68:1631-1683 (1995) (.)

c. Strategic auditing for error correction

Cameron, Charles M., Jeffrey A. Segal, and Donald Songer, "Strategic Auditing in a Political Hierarchy: An Informational Model of the Supreme Court's Certiorari Decisions," *American Political Science Review* 94(1):104-116.(2000) (**) <http://www.jstor.org/stable/2586383>
Eric Talley & Matt Spitzer, "Judicial Auditing," *Journal of Legal Studies* 29(2): 49-683 (2000). (.) <http://www.jstor.org/stable/10.1086/468088>

d. Strategic auditing for policy

Clif Carrubba & Tom Clark, "Rule Creation in a Political Hierarchy," *American Political Science Review* 106(3): 622-643 (2012) (.) <http://userwww.service.emory.edu/~tclark7/lawcreation.pdf>

8. HIERARCHY OF JUSTICE 3, MORE PA

a. The Rule of Four

Lax, Jeffrey. 2003. "Certiorari and Compliance in the Judicial Hierarchy: Discretion, Reputation, and the Rule of Four," *Journal of Theoretical Politics* 15(1): 61-86. (*) [http://www.columbia.edu/~jrl2124/Certiorari%20and%20Compliance%20\(Lax,%20JTP\).pdf](http://www.columbia.edu/~jrl2124/Certiorari%20and%20Compliance%20(Lax,%20JTP).pdf)

b. Whistle-blowing

Deborah Beim, Alex Hirsch, & Jonathan Kastellec, "Whistle Blowing and Compliance in the Judicial Hierarchy" *AJPS* 2014 (**)
http://www.princeton.edu/~jkastell/whistleblowing_and_compliance.html
Frank Cross and Emerson Tiller, "Judicial Partisanship and Obedience to Legal Doctrine: Whistle-blowing on the Courts of Appeals," *Yale Law Journal*, 107(7) (1998) (.)

c. En Banc Review

Tom Clark, "A Principal-Agent Theory of En Banc Review," *Journal of Law, Economics & Organization* 25(1):55-79 (2009) (.) <http://jleo.oxfordjournals.org/content/25/1/55.full.pdf>

Deborah Beim, Alex Hirsch, & Jonathan Kastellec, "Signaling and Counter-Signaling in the Judicial Hierarchy: An Empirical Analysis of En Banc Review" *AJPS* forthcoming
http://www.princeton.edu/~jkastell/review_paper.html (.)

9. COLLEGIAL COURTS 1: BARGAINING

a. Intellectual Antecedents

Murphy, Walter. 1964. *Elements of Judicial Strategy*. University of Chicago Press (.)
Segal, Jeffrey, and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press: New York. Chapters 1, 2, 3 (skip the Separation of Powers section for now), Chapter 7 (pp. 288-311) and Chapter 8 (again skip the Separation of Powers section). (.)
Epstein & Knight *The Choices Justices Make*. (.)
Hammond, Thomas H., Chris W. Bonneau, and Reginald S. Sheehan. 2005. *Strategic Behavior And Policy Choice On The U.S. Supreme Court*. Palo Alto, CA: Stanford University Press (.)

b. Using Scaling to Test and Reject the MVT/Stylized Facts for Theorists
Clark & Lauderdale, "Who Controls Opinion Content? Testing Theories of Authorship Using Case-Specific Preference Estimates for the U.S. Supreme Court," working paper (2013) (.)
<http://userwww.service.emory.edu/~tclark7/CaseSpecificPreferences.pdf>

c. Majority Median Approach
Clif Carrubba, Barry Friedman, Andrew Martin, Georg Van Berg, "Who Controls the Content of Supreme Court Opinions," *American Journal of Political Science* 56:40-412. (2012). (*)
<http://people.duke.edu/~gsv5/2012AJPS.pdf>
Cameron and Kornhauser, "MCC3" (*)

10. COLLEGIAL COURTS 2: MORE BARGAINING

a. Sequential Bargaining Approach
Cameron & Kornhauser, "Bargaining on Appellate Courts" working paper, Princeton 2013 (**)
Lax, Jeffrey R. and Cameron, Charles M. 2007. "Bargaining and Opinion Assignment on the U.S. Supreme Court." *Journal of Law, Economics, and Organization* 23-2: 276-302. ()
http://www.columbia.edu/~jrl2124/Bargaining_final.pdf

b. Common Law Collegial Adjudication: The Median Voter Theorem in Case Space
Jeffrey R. Lax, "Constructing Legal Rules on Appellate Courts," *American Political Science Review* 101(3):591-604 (2007) (**)
http://www.columbia.edu/~jrl2124/Constructing_Rules_final.pdf

c. Team Approaches to Collegial Courts (Civil Law Apex Courts)
Mattias Iaryczower and Matthew Shum, "The Value of Information :Get It Right, Get It Tight"
American Economic Review 102(1): 202-237 (2012) (.) Requires some understanding of the strategic Condorcet Jury Theorem
<https://dl.dropboxusercontent.com/u/954402/getitright.pdf>

11. COLLEGIAL COURTS 3: PEER EFFECTS

a. Historical Antecedents
Richard Revesz, 1997. "[Environmental Regulation, Ideology, and the D.C. Circuit](#)," *Virginia Law Review* 83(8): 1717-1772. ()

b. Peer effects in non-median models of collegial courts
Review "MCC3" and "Sequential Bargaining" (), noting how changing non-median members changes policy outputs

c. Dissent Aversion Approach
Fischman, "Decision-making Under a Norm of Consensus," SSRN paper (**)
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=912299

d. Deliberation (information) based Approach

Eric Talley & Matt Spitzer, "Left, Right, and Center: Strategic Information Acquisition and Diversity in Judicial Panels," Working paper (2011) (.)
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1832765

e. Empirical Studies

Josh Fischman, "Interpreting Circuit Court Voting Patterns." Forthcoming *JLEO* (2013) (*)
<http://jleo.oxfordjournals.org/content/early/2013/01/16/jleo.ews042.short>

John Kastellec, "Racial Diversity and Judicial on Appellate Courts," *American Journal of Political Science* pp. 1-17 (2012) (*)

http://www.princeton.edu/~jkastell/AA_Panel_Effects/kastellec_racial_diversity_final.pdf

Farhang, Sean, and Wawro, Gregory, "Institutional Dynamics on the U.S. Courts of Appeals: Minority Representation Under Panel Decision Making," *Journal of Law, Economics and Organization* 20(2): 299-330. (2004) ()

<http://jleo.oxfordjournals.org/content/20/2/299.full.pdf>

Christina Boyd, Lee Epstein, and Andrew Martin. 2008. "Untangling the Effects of Sex on Judging," () <http://epstein.law.northwestern.edu/research/genderjudging.html>

Cass Sunstein, *Are Judges Political? An Empirical Analysis of the Federal Judiciary*, Brookings, 2006.

12. COLLEIAL COURTS 4: JUDGMENT AGGREGATION

a. Historical Antecedents

Kornhauser & Sager, "Unpacking the Court," *Yale Law Journal* 96(1): 82-117 (1986) (last half-dozen pages) <http://www.jstor.org/stable/796436>

b. Overview of a New Social Choice Problem

Christian List, "Judgment Aggregation: A Short Introduction" manuscript (2008)
<http://personal.lse.ac.uk/list/pdf-files/ja-intro.pdf>

c. Applications to Courts

Dimitri Landa and Jeffrey Lax, Dimitri Landa and Jeffrey Lax, "Legal Doctrine on Collegial Courts", *Journal of Politics*, Vol. 71(3): July 2009 (**)

<http://journals.cambridge.org/action/displayFulltext?type=1&fid=5962240&jid=JOP&volumeId=71&issueId=03&aid=5962232>

13. STATUTORY INTERPRETATION

a. Background: What is statutory interpretation?

Levi, Introduction to Judicial Reasoning, chapter on Mann Act

Dog in park/leash

Stephenson, review article

b. The Canonical SOP Model (the Ferejohn-Shipan Model)

John Ferejohn and Charles Shipan. 1990. "Congressional Influence on Bureaucracy," *JLEO* 6 (Special Issue):1-20 (*)

c. The DC Circuit Game

Cameron, "The D.C. Circuit Game: Regulatory Policy Making with Strategic Agencies and Litigants," Princeton working paper 2016. ()

d. Statutes as “Incomplete Contracts” with Delegation to Agencies and Courts

A reading on incomplete contracts?

A reading on delegation?

Landes & Posner?

14. JUDICIAL REVIEW

a. Overview of judicial review

Tom Clark, “The Politics of Judicial Review,” *Oxford Handbook of the Law and the Judiciary*
<http://www.tomclarkphd.com/publications/OHJudicialReview.pdf>

b. How is judicial review different from statutory interpretation?

Matt Spitzer and Pablo Spiller, “Judicial Choice of Legal Doctrines,” *JLEO* 8(1): 8-46 (1992)
(*http://www.jstor.org/stable/764886?seq=1#page_scan_tab_contents)

c. Public Opinion Model

Vanberg, Georg. (2001) “Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review.” *American Journal of Political Science*, Vol. 45, No. 3, 346-361.
<http://people.duke.edu/~gsv5/AJPS2001.pdf>

d. Information Models

Rogers, James R. 2001. “Information and Judicial Review: A Signaling Game of Legislative-Judicial Interaction,” *American Journal of Political Science* 45(1): 84-99.

Matt Stephenson & Justin Fox, “Judicial Review as a Response to Political Posturing,” *APSR* 2011.

e. Rational Legislative Deference Model

Tom Clark, “The Separation of Powers, Court Curbing and Judicial Legitimacy,” *American Journal of Political Science* 53(4): 971-989 (2009)
<http://www.tomclarkphd.com/publications/ClarkAJPS2009.pdf>

Other Material Cut in 2016 Version

//Week 9. *Scaling Courts: Toward Structural Estimation of Models of Collegial Courts* Historical antecedents. Scaling as structural estimation. Scaling dispositional votes. Using information beyond votes. Statistical models of doctrine.

1. BLIND JUSTICE

a. A Machine That Goes Of Itself

Priest-Klein

b. Dynamics I: Litigants and Evolution of the Law (Models of Blind Justice)

Robert Cooter & Lewis Kornhauser, "Does Litigation Improve the Law without the Help of Judges?"
9 J Legal Stud 139-163 (1980) (*)

1. SCALING COURTS: TOWARD STRUCTURAL ESTIMATION OF MODELS OF COLLEGIAL COURTS

a. Historical Antecedents

C. Herman Pritchett, *The Roosevelt Court* ()
The Judicial Mind

b. Scaling as Structural Estimation

Clinton, Jackman, Rivers, "The Statistical Analysis of Roll Call Data," please use the unpublished working paper version which is more provocative than the published APSR version, and includes judicial examples. Section 3 is key. (**)

http://politics.as.nyu.edu/docs/10/4756/jackman_nemp.pdf

c. Scaling Dispositional Votes

Martin, Andrew D., and Kevin M. Quinn. 2002. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953-1999." *Political Analysis* 10: 134-53. (*)

Tom Clark, "A Simple Structural Model of Judicial Scaling Using Dispositional Votes" (*)

Joshua Fischman, "Estimating Preferences of Circuit Judges: A Model of Consensus Voting," *Journal of Law and Economics* 54(4): 781-809 (2011) (.)

<http://www.jstor.org/stable/10.1086/661512>

Farnsworth, Ward. 2007. "The Use and Limits of Martin-Quinn Scores to Assess Supreme Court Justices, with Special Attention to the Problem of Ideological Drift." *Northwestern University Law Review* 101(4):1891-1904 ()

d. Using Information Beyond Votes: Citations & other

Tom S. Clark and Benjamin Lauderdale, 2010. "Locating Supreme Court Opinions in 'Doctrine Space,'" *American Journal of Political Science*. (*)

<http://userwww.service.emory.edu/~tclark7/doctrinespace.pdf>

Bailey, Michael. "Comparable Preference Estimates across Time and Institutions for the Court, Congress, and Presidency." *American Journal of Political Science*, Vol. 51, No. 3 (Jul., 2007), pp. 433-448 //or, Bailey & Maltzman// ()

e. Statistical Models of Doctrine

Jeffrey Segal, "Predicting Supreme Court Cases Probabilistically: The Search and Seizure Cases, 1962-1981," *APSR* 78: 891-900 (1984) (.)

<http://www.jstor.org/stable/1955796>

Kastellec, Jonathan, 2010. "The Statistical Analysis of Judicial Decisions and Legal Rules with Classification Trees," *Journal of Empirical Legal Studies*. (*)

<http://www.princeton.edu/~jkastell/trees.html>

Cameron & Kornhauser
Tokyo & New York City
January 11, 2016