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Author(s): Jeffrey A. Segal, Lee Epstein, Charles M. Cameron and Harold J. Spaeth

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Ideological Values and the Votes of U.S. Supreme Court Justices Revisited

Jeffrey A. Segal
State University of New York, Stony Brook
Lee Epstein
Washington University, St. Louis
Charles M. Cameron
Columbia University
Harold J. Spaeth
Michigan State University

Segal and Cover (1989) analyzed the content of newspaper editorials to devise measures of the ideological values of the justices of the U.S. Supreme Court. Because their measures came from sources independent of the judicial vote, scholars have widely adopted them. This note updates, backdates, and extends the Segal and Cover research by adding the two Bush appointees and the seven Roosevelt and four Truman nominees whose service extended beyond the start of the Vinson Court. While we find that the ideological values of the Eisenhower through Bush appointees correlate strongly with votes cast in economic and civil liberties cases, the results are less robust for justices appointed by Roosevelt and Truman.

A predominant, if not *the* predominant, view of U.S. Supreme Court decision making is the attitudinal model. It supposes that the ideological values of jurists provide the best predictors of their votes (see Segal and Spaeth 1993). Although this proposition has gained wide acceptance, testing it in a valid way presented the seemingly intractable problem of circularity: judicial attitudes were often measured through the very votes one sought to predict.

In a 1989 article, Segal and Cover set out to solve the circularity problem as it pertained to U.S. Supreme Court decision making. They did so by devising a set of measures—reflecting the justices' ideological positions—from sources independent of judicial votes. As we describe in this article, Segal and Cover gathered these measures from editorials (published before the Senate confirmed the nominee) in four newspapers. They then used the scores to demonstrate the aptness of the attitudinal model. Specifically, they found a correlation of .80 between judicial values

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(as measured by newspaper editorials) and votes in civil liberties cases for justices appointed between 1953 and 1988.

This note has two purposes. First, we update the Segal/Cover scores by adding the two Bush appointees (Souter and Thomas) and backdate them by including the seven Roosevelt (Black, Reed, Frankfurter, Douglas, Murphy, Jackson, and Rutledge) and the four Truman (Burton, Vinson, Clark, and Minton) nominees whose service extended beyond the start of the Vinson Court. In and of themselves, these tasks serve an important function. Despite the relative recency of their appearance, judicial specialists have widely adopted the Segal/Cover scores (e.g., Segal, Cameron, and Cover 1992; Mishler and Sheehan 1993; Sheehan, Mishler, and Songer, 1992; Kearney and Sheehan 1992), publishing their results in the *American Political Science Review*, the *Journal of Politics*, and other important disciplinary journals. Adding more justices will be of substantial interest to analysts who wish to study earlier eras in particular, as Harold J. Spaeth is in the process of back-dating his oft-used Supreme Court Judicial Database to include the Vinson Court.

Second, we update and expand the analytic portion of Segal and Cover's (1989) article. The update determines if the addition of justices substantially alters its results for civil liberties cases. So doing permits us to assess whether ideological values provide a predictor of voting behavior as powerful for early eras as for later periods. This is an important enterprise because the attitudinal model, which the Segal and Cover research purports to reinforce, has been only casually considered for pre-Warren Court eras (e.g., Pritchett 1954).¹ Here, by using proven surrogates for judicial values, we can consider the model in systematic terms. The expansion investigates another area of the Court's docket: economic regulation. We seek to discover whether the values of the justices (as measured by the editorials) correlate with economic votes as highly as they do with those cast in civil liberties cases. Since some scholars (Bowen 1992; Mishler and Sheehan 1993) have used the Segal/Cover scores to study issues other than civil liberties (including economic regulation), the expansion allows us to assess their efforts.

MEASURES AND DATA SOURCES

The measures of the independent variables for our study (ideological values) are the same as those used by Segal and Cover (1989): newspaper editors' assessments of the justices' ideological values, ranging from -1 (unanimously conservative) to 0 (moderate) to +1 (unanimously liberal). Segal and Cover gathered their data from four newspapers, two with liberal stances (the *Washington Post* and the *New York Times*) and two with conservative ones (the *Los Angeles Times* and the *Chicago Tribune*). Using only four newspapers was sufficient for their purposes because, as table 1 depicts, Supreme Court nominations of the latter part of the twentieth

¹More systematic examinations of voting before the onset of the Warren Court exist (e.g., Handberg 1976). But those works (or, at the very least, those that find their grounding in the attitudinal school) rely on votes as measures of attitudes.

TABLE 1
NUMBER OF EDITORIALS PER JUSTICE

Justice	Number of Editorials	Number of Editorials per Paper	Justice	Number of Editorials	Number of Editorials per Paper
<i>Roosevelt–Truman Appointees</i>			<i>Eisenhower–Bush Appointees</i>		
Black	11	1.83	Warren	8	2.00
Reed	6	1.00	Harlan	5	2.00
Frankfurter	6	1.00	Brennan	3	.75
Douglas	6	1.00	Whittaker	2	.50
Murphy	4	.67	Stewart	4	1.00
Jackson	6	1.00	White	3	.75
Rutledge	4	.67	Goldberg	2	.50
Burton	5	.83	Fortas ^a	3	.75
Vinson	4	.67	Marshall	2	.50
Clark	4	.67	Burger	12	3.00
Minton	4	.67	Blackmun	7	1.75
			Powell	15	3.75
			Rehnquist ^b	15	3.75
			Stevens	4	1.00
			O'Connor	8	2.00
			Rehnquist ^c	19	4.75
			Scalia	19	4.75
			Kennedy	13	3.25
			Souter	20	5.00
			Thomas	47	11.75

Note: For Roosevelt–Truman appointees, six papers were used. For Eisenhower–Bush appointees, four papers were used.

^aIncludes Fortas's nomination to associate justice only. His nomination for the chief justiceship generated 38 editorials in four newspapers.

^bAs a Nixon nominee.

^cAs a Reagan nominee.

century generated ample reaction. But the relative paucity of editorials concerning judicial nominees before the Warren Court era (see table 1) prompted us to extend and diversify our reach by adding a liberal Midwestern paper (the *St. Louis Post-Dispatch*) and a conservative Northeastern one (the *Wall Street Journal*).

We also followed the Segal/Cover coding scheme, with some allowances made for the earlier time frame.² General mentions of a nominee's liberalism, progressivism, or identification with the Democratic party, Franklin Roosevelt, or the New Deal were coded as liberal. Identifications with conservatism or the Republican party were coded as conservative (none of the earlier nominees opposed Roosevelt or the New Deal). For more specific issues, we coded as liberal support for New Deal economic policies (as well as for the Court-packing plan [see Caldeira

²Despite these slight adaptations for time, reliability is not a major concern since Segal coded the articles.

1987]) and for the rights of individuals, except when the “individuals” in question were businesses fighting economic regulations. Like Segal and Cover, we identified as liberal support for equal protection, First Amendment freedoms, and procedural rights for the accused criminals. But such mentions were few and far between: Editorials tended to focus on the pressing problems of the day, most of which were economic in nature. In fact, the only citations to civil rights issues came in the *St. Louis Post-Dispatch*, which noted Clark’s opposition to civil rights (10 August 1949), and the *Chicago Tribune*, which mentioned the Ku Klux Klan’s support for Black (14 August 1937). The sole citations to First Amendment freedoms accompanied a discussion of Minton’s introduction of the “Press Gag Bill of 1938” (the *Los Angeles Times*, 16 September 1949) and Rutledge’s support for religious freedom (the *St. Louis Post-Dispatch*, 16 January 1943).

Our dependent variables are the percentages of formally decided (including orally argued per curiams) civil liberties and economics cases from the start of the Vinson Court in 1946 through the end of the 1992 term in which the justices took a liberal position.³ We defined the civil liberties category as did Segal and Cover: it combines cases involving criminal procedure, civil rights, First Amendment, due process, attorneys, and privacy. Liberal civil liberties decisions are those that favor the criminally accused, the civil liberties/rights claimant, indigents, and Native Americans, and that are against the government in due process and privacy litigation.⁴ Economic cases are those involving labor unions, commercial business activity (plus litigation involving injured people or things), employee actions vis-à-vis employers, zoning regulations, and governmental regulation of corruption other than that involving campaign spending. Liberal economic decisions are pro-union votes against both individuals and the government, progovernment votes against challenges to its regulatory authority, and also procompetition, antibusiness, pro-liability, proinjured person, and probankrupt votes. We derived the data from the U.S. Supreme Court Judicial Database, using citation plus split votes as the unit of analysis.⁵

RESULTS

Table 2 presents the results of our updating and backdating of the Segal and Cover scores; it contains the values of the justices (as derived from the newspaper editorials) and the liberal percentages in civil liberties and economic cases. In general, the findings appear in line with broad-based impressions of the justices (see

³Note that we are using the same independent variables (ideological values) to examine two distinct dependent variables (the percentages of formally decided civil liberties *and* economic cases). We would prefer to have separate measures of civil liberties and economic values. But, unfortunately, that is not possible because editorials published before the onset of the Warren Court era centered on economic concerns, while those published after 1953 focused on civil liberties issues.

⁴There are two exceptions to Segal and Cover’s coding of liberalism: affirmative action cases (the rights claimant is conservative) and due process taking clause cases (the rights claimant is conservative).

⁵Data for the Vinson Court era were collected by Harold J. Spaeth. They are consistent with his data for later Court eras (contained in the U.S. Supreme Court Judicial Database).

TABLE 2
JUSTICES' VALUES AND VOTES

Justice	Appointing President	Ideological Value	Civil Liberties Vote	Economics Vote
Black	Roosevelt	.75	73.9	81.7
Reed	Roosevelt	.45	35.1	54.0
Frankfurter	Roosevelt	.33	53.8	39.9
Douglas	Roosevelt	.46	88.4	79.4
Murphy	Roosevelt	1.00	80.0	77.9
Jackson	Roosevelt	1.00	40.4	40.4
Rutledge	Roosevelt	1.00	77.2	80.0
Burton	Truman	-.44	38.9	50.0
Vinson	Truman	.50	36.7	50.2
Clark	Truman	.00	43.8	69.7
Minton	Truman	.44	36.8	59.5
Warren	Eisenhower	.50	78.5	79.8
Harlan	Eisenhower	.75	43.7	42.0
Brennan	Eisenhower	1.00	79.5	70.5
Whittaker	Eisenhower	.00	43.3	34.6
Stewart	Eisenhower	.50	51.3	47.7
White	Kennedy	.00	42.4	59.2
Goldberg	Kennedy	.50	88.9	65.4
Fortas	Johnson	1.00	81.0	67.4
Marshall	Johnson	1.00	81.4	65.9
Burger	Nixon	-.77	29.6	42.8
Blackmun	Nixon	-.77	52.3	55.0
Powell	Nixon	-.67	37.4	46.0
Rehnquist ^a	Nixon	-.91	19.8	42.0
Stevens	Ford	-.50	62.0	58.0
O'Connor	Reagan	-.17	34.1	43.2
Rehnquist ^b	Reagan	-.91	22.5	44.8
Scalia	Reagan	-1.00	30.2	44.5
Kennedy	Reagan	-.27	35.1	45.6
Souter	Bush	-.34	47.6	50.0
Thomas	Bush	-.68	28.3	41.3
Ginsburg ^c	Clinton	.36	—	—
Breyer ^c	Clinton	-.05	—	—

Sources: Values for Black through Minton and Souter, Thomas, and Ginsburg were collected by the authors; values for Warren through Kennedy were reported in Segal and Cover (1989, 560). *Civil Liberties Vote* and *Economics Vote* come from the U.S. Supreme Court Judicial Database. See also note 5.

Note: *Ideological Value* is derived from content analyses of newspaper editorials. It ranges from -1.00 (extremely conservative) to 1.00 (extremely liberal). *Civil Liberties Vote* and *Economics Vote* represent percent liberal votes in those issue areas during the 1946–1992 terms.

^aValues and Votes as a Nixon appointee.

^bValues and Votes as a Reagan appointee.

^cGinsburg and Breyer are listed for readers' interest only. They are not included in the vote analyses.

TABLE 3
CORRELATIONS BETWEEN VALUES AND VOTES

	Justices Appointed By					
	Roosevelt–Truman		Eisenhower–Bush		Roosevelt–Bush	
	Civil Liberties	Economics	Civil Liberties	Economics	Civil Liberties	Economics
<i>R</i>	.47	.31	.80	.61	.69	.56
<i>RMSE</i>	19.2	16.3	13.5	9.9	15.6	12.1

Note: The *RMSE* is the root mean squared error of the bivariate regression equation of *Civil Liberties* and *Economic Votes* with *Ideological Values*.

Baum 1989). Murphy and Rutledge, for example, had perfect liberal editorial scores, while Minton and Burton had the more conservative ones, among the pre-Eisenhower appointees.

Still, a few surprises do emerge. Given that scholars have ranked him as one of the most liberal justices of his generation, Douglas's score is more moderate than we might have expected.⁶ A simple explanation is that he ran the Securities and Exchange Commission so fairly that even the staid *Wall Street Journal* (but not the extremist *Chicago Tribune*⁷) spoke of him in moderate terms. Moreover, at least two editorials noted Douglas' strong support for the free enterprise system, with one quoting his view that “[o]ur main efforts must lie along the lines of making as certain as possible that opportunity for work exists and that honest business has opportunity to make honest and substantial profits” (the *Los Angeles Times*, 21 March 1939). Jackson's score, in contrast, is more liberal than anticipated. This is largely based on two editorial statements attributing to him strong New Deal loyalties; other than those, the newspapers ignored his nomination.

The Relationship between Votes and Values

The previous section describes the data. More important, of course, is our investigation of the relationship between values and votes. Table 3 presents the results of regressing economic and civil liberties votes on the ideological value scores. It depicts the simple correlations and the RMSEs⁸ for the pre-Warren Court nominees, the post-Warren period, and the combined set.⁹

⁶See Segal and Cover (1989, 560) for similar results concerning Goldberg.

⁷Its editorial of 22 March 1939, titled “Totalitarian Judges,” essentially called Douglas a Stalinist. Consider too its comment on Murphy from 6 January 1940: “The Court is to have another judge who will look upon the spread of communistic ideas and practices without dismay.”

⁸The RMSE is the root mean squared error of the bivariate regression equation predicting the justices' votes from their ideological values.

⁹For the reader's interest, table 2 also lists Justices Ginsburg's and Breyer's scores. We do not include them in the voting analyses since they joined the Court after the 1992 term.

Several interesting results appear. First and foremost is that our measure of the ideological values of the justices is a far less helpful predictor of the votes of the Roosevelt–Truman appointees than for their later counterparts. Their correlations for civil liberties ($r = .47$) are weak in comparison with the Eisenhower–Bush appointees ($r = .80$) and with the results reported by Segal and Cover ($r = .80$ for Eisenhower–Reagan appointees). And while the RMSE for economic issues indicates that predictions of votes in this area will be more precise than for those in civil liberties, the simple correlation ($r = .31$) is disappointing.

Figure 1, which graphs the residuals for both issue areas, tells the story in even more vivid terms.¹⁰ Beginning with civil liberties, we see that the ideological values severely underpredict Douglas's liberalism and overpredict Jackson's. The predicted percentage for Douglas is 54.2, compared with his actual support of 88.4; for Jackson those percentages are 65.8 (predicted) against 40.4 (actual). Obviously, then, these justices significantly depress our results. In fact, if we remove Douglas from the equation, the simple correlation jumps from .47 to .57; omission of both Douglas and Jackson yields an r of .72, a figure approaching Segal and Cover's result for the Eisenhower through Reagan nominees. Turning to economic votes, Jackson emerges as the largest residual, with our estimated percent of 68 overpredicting by 28 percentage points his actual support of 40.4. Once again, the omission of Jackson from the equation substantially improves our results: the simple correlation climbs to an acceptable .57 and the RMSE decreases to 13.4.

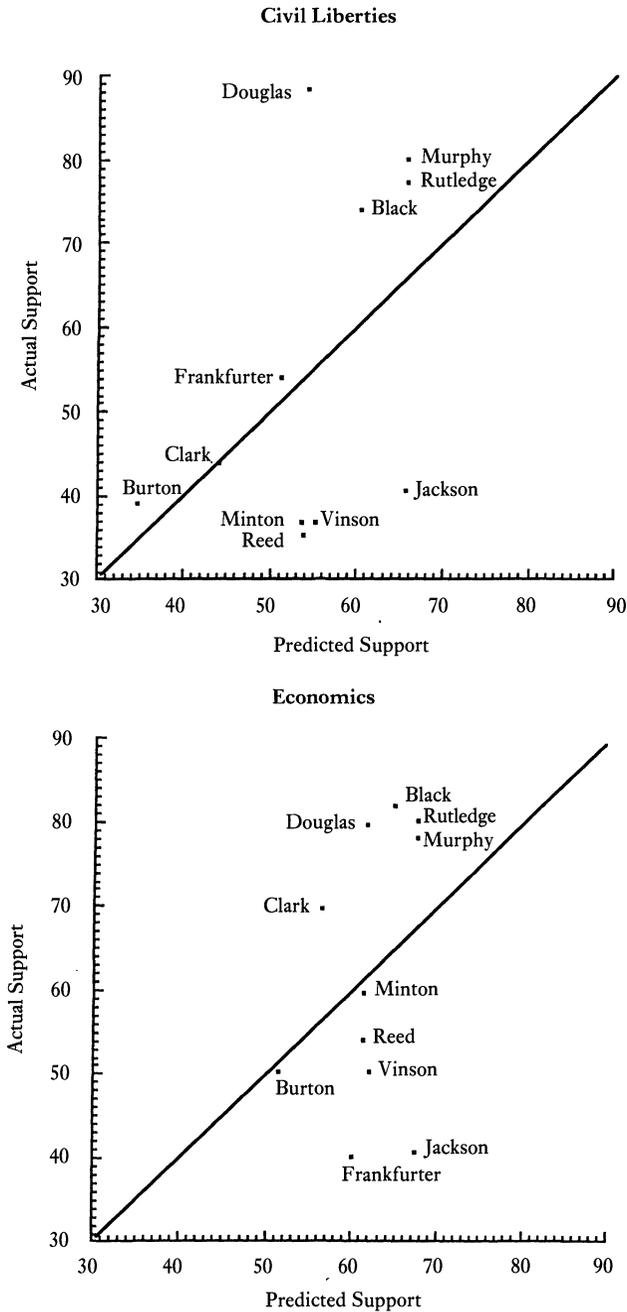
The removal of Douglas and Jackson, then, provides one possible solution to our comparatively poor results for the Roosevelt–Truman appointees, but it does not help to circumvent the larger problem. To put it succinctly, we can predict civil liberties and economic votes for the Roosevelt–Truman justices from their values but not with the precision of Segal and Cover's effort.

The second finding is that our attitudinal measure improves substantially for the Eisenhower–Bush appointees. For civil liberties cases, we obtained an r of .80 and a RMSE of 13.5 for justices appointed from Warren through Thomas. Thus, our addition of the Bush appointees (Souter and Thomas) did not depress the results reported by Segal and Cover ($r = .80$, RMSE = 13.4 for this period). Indeed, the predicted result for Souter in civil liberties (43.2) is quite close to his actual score of 47.6; for Thomas the results are within an acceptable range (a prediction of 34.8 against his actual support of 28.3). Interesting, too, is that ideological values predict economic voting—a class of cases unaddressed in the Segal and Cover research—with relative precision. The simple correlation for economics cases ($r = .61$) may be lower than for civil liberties, but the RMSE (9.9) suggests that our predictions have acceptable levels of accuracy. And, again, our inclusion of the Bush appointees did not damage the predictive capacity of the model: we were within one point for Souter and five for Thomas.

¹⁰Predicted support is based on $\hat{y} = a + bX$. For civil liberties the equation is: $\hat{y} = 44.25 + 21.54$ (ideological value score). For economics, it is: $\hat{y} = 56.50 + 11.16$ (ideological value score).

FIGURE 1

ACTUAL VERSUS PREDICTED SUPPORT: ROOSEVELT-TRUMAN APPOINTEES



Combining the pre- and post-Warren Court justices also yields satisfactory results. The correlation is higher for civil liberties votes ($r = .69$) than for economic ones ($r = .56$), but the regression predictions are more precise for the economics (RMSE = 12.1) than for civil liberties (RMSE = 15.6). The higher correlation in civil liberties cases is probably due to greater variance in those votes than in the ones cast in economic cases. Figure 1 supports this interpretation, as does Segal and Cover's (1989, 561–62) analysis of residuals for the Eisenhower–Reagan appointees.

Ruth Bader Ginsburg and Stephen G. Breyer: Some Predictions

Because the vote data end with the 1992 term, the analyses in this article excluded the first Clinton appointees, Justices Ginsburg and Breyer. Based on the satisfactory performance of our attitudinal measure (at least for the Eisenhower–Bush appointees), however, we have little hesitation in using it to characterize their place on the current Court and to generate some predictions of their votes.

Beginning with Ginsburg, our examination of the preconfirmation editorials written about her yields a score of .36 (see table 2). Given that the mean value score of the Court she joined was $-.58$ (with a standard deviation of .31), our measure easily places her as the institution's most liberal member; her ascension to the Court raised the average by .10 points, to $-.48$. Still, it is worth noting that this figure is a far cry from the heyday of the liberal Warren Court era (the 1968 term) when the mean of our attitudinal measure reached as high as .66 (standard deviation of .33). This is hardly a surprise, for virtually all members of the current (1993 term) Court are—based on the scores depicted in table 2—more conservative than the justices who sat during the 1968 term.¹¹

What is more, in all likelihood Ginsburg will be no doctrinaire liberal. To generate predictions of her votes, we multiplied her score of .36 by the coefficients of the attitudinal measure produced for the Eisenhower–Bush appointees (for both civil liberties and economic votes) and added the constant.¹² The results indicate that she will cast about 61% of her civil liberties votes and 57% of her economic votes in a liberal direction. Of course, this suggests that she will be ideologically distinct from her colleagues, whose actual (and predicted) support of civil liberties is in the 30% range.¹³ But, based on our estimates, Ginsburg would have been a relatively moderate, if not conservative, jurist had she served during the 1968 term when the Court supported civil liberties claims in more than 75% of its cases. This change in context is something analysts might keep in mind as they explore Ginsburg's voting behavior in the years to come.

¹¹The two exceptions are Ginsburg and Breyer. Her score of .36 is higher than White's .00. His score of $-.05$ is more liberal than Blackmun's of $-.77$.

¹²The equation for civil liberties votes was: $\hat{y} = 51.59 + 24.68(.36) = 60.5$; for economic votes it was: $\hat{y} = 53.21 + 10.59(.36) = 57.0$.

¹³The mean support for civil liberties for the seven justices (excluding Ginsburg and Breyer) on the current Court is 37.1%; the mean support predicted by our attitudinal score is the same, 37.1%.

Turning to Breyer, we can see, in table 2, that his value score of $-.05$ puts him slightly closer to the center of the current Court than Ginsburg. Indeed, our predictions for Breyer's civil liberties (50.4%¹⁴) and economics (53.2%¹⁵) votes suggest that he will sit to the left of O'Connor and to the right of Ginsburg on the ideological spectra. To put it another way, his presence will, in all likelihood, help to solidify the more moderate wing of the Court rather than to add strength to the diminished liberal bloc.

DISCUSSION OF RESULTS

Our willingness to generate predictions of Ginsburg's and Breyer's votes stems largely from the ability of the value measures to account for the votes of the Eisenhower–Bush appointees. To put it another way, we agree with sentiment expressed by Segal and Cover (1989, 562) in the conclusion of their article: their findings “provided exceptional support for the attitudinal model . . . For the first time support is from measures of values independent of the votes of justices.” But what are we to make of the results for the Roosevelt–Truman appointees? Since they are less than robust, should we conclude that the attitudinal model's predictive power is limited to the post-1953 period? For those who believe that the Warren Court virtually created, or at least perfected, ideological decision making (e.g., Bork 1990, chap. 3), such a conclusion would be comforting, indeed.

Yet for two reasons it may be a premature conclusion. First, we cannot ignore the possibility of measurement error. It is perhaps the case that ideological values do provide a better predictor of the vote than our results indicate but that our measures for the Roosevelt–Truman appointees were imperfect, at least compared with those used for later justices. Two factors support this. For one, recall that the paucity of editorials on pre-Warren justices forced us to consult two more newspapers than did Segal and Cover. Table 1 confirms the fact that the number of comments increased over time: the average pre-Warren appointee garnered .91 editorials per paper; that figure was 2.2 for post-1953 justices, excluding Thomas, who generated an unusual amount of commentary. Little doubt can exist that the greater the number of data sources, the more precise the measurement gauge. For another, we should not forget the lack of concern that editorial writers of the 1930s and 1940s showed for civil liberties issues, in particular. As noted, our scores for the pre-Warren justices are based on precious few civil liberties mentions compared with economic ones. Again, that we found only a small number of citations to rights, liberties, and justice issues is hardly surprising in light of the pervasive concerns of the day. Yet, it does help to account for the large RMSE yielded in civil liberties cases, with Douglas the most prominent exemplar.

Second, the results for the Roosevelt–Truman justices, albeit far from dramatic, are not without importance. Using one variable (here, the values of justices) to

¹⁴The equation for his civil liberties votes was: $\hat{y} = 51.59 + 24.68(-.05) = 50.36$.

¹⁵The equation for his economic votes was: $\hat{y} = 53.21 + 10.59(-.05) = 53.16$.

predict a lifetime of voting behavior in two expansive issue areas (civil liberties and economics) and obtaining correlations in the .40 range is not easy to dismiss. To be sure, the results leave room for the entry of other explanations for the vote—explanations that may center on the change in case mix occurring during the Roosevelt Court years (see Pacelle 1991) or the demise of consensual norms just a few years later (see Walker, Epstein, and Dixon 1988), to name just two.¹⁶ More broadly, this was a dramatic period in the Court's history, one during which observers and the justices themselves wondered what sort of role it would come to play (see Jackson 1941; McCloskey 1960). But the fact that other explanations might exist does not necessarily belie the importance of ideological values in the judicial decision-making calculus. This is especially persuasive since our predictions for seven of the nine Truman–Roosevelt appointees were well in line with the postulates of the attitudinal model.

CONCLUSION

Previous systematic research on the attitudinal model, using independent measures of the justices' values, has been limited to the terms from 1953 through 1988 and to civil liberties votes at that (e.g., Segal and Cover 1989). Our research seeks to fill this gap by considering votes in economic cases and justices of earlier periods. The results are somewhat mixed. On the one hand, the votes cast in economic cases by post-Eisenhower appointees can be explained by a relatively straightforward measure of their attitudes, one that is independent of those votes. Indeed, the results for economic issues are as good as those for civil liberties. On the other hand, the disparity we found between the pre- and post-Warren Court appointees deserves underscoring. When future researchers apply the attitudinal model to the voting behavior of pre-Warren justices—as they undoubtedly will—it seems advisable that they either supplement ideological evaluations with other potential determinants of the vote, or redefine their ideological variables to reflect as precisely as possible the issues that their Court addressed.

Although our findings may be mixed, we do not wish to discourage scholars from using these scores as surrogates (independent of the vote) for ideological values. To the contrary: our results—especially for the Eisenhower–Bush appointees—point to their strong predictive power, at least for aggregated votes in civil liberties and economic cases. Our research, however, does suggest the need for caution when using the scores to investigate earlier Court eras. Scholars should be sensitive to changes in the legal, political, and social environments (which generate

¹⁶It is also worth underscoring that we have incomplete voting records for those justices who began their service before the start of the 1946 term. If their voting behavior changed substantially during their careers, then the lack of comprehensive voting records could help to account for our results. Although there is some evidence to suggest that some justices' voting patterns remain stable over the course of their careers (see Epstein and Mershon 1996), this remains an open avenue for research.

the newspaper reactions on which the scores are based) and use appropriate diagnostic tools to tease out their potential effects.

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REFERENCES

- Baum, Lawrence. 1989. "Comparing the Policy Postures of Supreme Court Justices from Different Time Periods." *Western Political Quarterly* 42:509–521.
- Boik, Robert H. 1990. *The Tempting of America*. New York: Simon & Schuster.
- Bowen, Terry. 1992. "Ideology and Non-Traditional Policies: Energy, the Environment and Technology in the Supreme Court." Paper presented at the annual meeting of the Southern Political Science Association, Atlanta.
- Caldeira, Gregory A. 1987. "Public Opinion and the Supreme Court: FDR's Court-Packing Plan." *American Political Science Review* 81:1139–54.
- Epstein, Lee, and Carol Mershon. 1996. "Measuring Political Preferences." *American Journal of Political Science*. Forthcoming.
- Handberg, Roger. 1976. "Decision Making in a Natural Court: 1916–1921." *American Politics Quarterly* 4:357–78.
- Jackson, Robert H. 1941. *The Struggle for Judicial Supremacy*. New York: Vintage.
- Kearney, Richard C., and Reginald S. Sheehan. 1992. "Supreme Court Decision Making: The Impact of Court Composition on State and Local Government Litigation." *Journal of Politics* 54:1008–25.
- McCloskey, Robert G. 1960. *The American Supreme Court*. Chicago: University of Chicago Press.
- Mishler, William, and Reginald S. Sheehan. 1993. "The Supreme Court as a Countermajoritarian Institution?" *American Political Science Review* 87:87–101.
- Pacelle, Richard L., Jr. 1991. *The Transformation of the Supreme Court's Agenda*. Boulder: Westview.
- Pritchett, C. Herman. 1954. *Civil Liberties and the Vinson Court*. Chicago: University of Chicago Press.
- Segal, Jeffrey A., Charles M. Cameron, and Albert D. Cover. 1992. "A Spatial Model of Roll Call Voting: Senators, Constituents, Presidents, and Interest Groups in Supreme Court Confirmations." *American Journal of Political Science* 36:96–121.
- Segal, Jeffrey A., and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83:557–65.
- Segal, Jeffrey A., and Harold J. Spaeth. 1993. *The Supreme Court and the Attitudinal Model*. New York: Cambridge University Press.
- Sheehan, Reginald S., William Mishler, and Donald R. Songer. 1992. "Ideology, Status, and the Differential Success of Direct Parties before the Supreme Court." *American Political Science Review* 86:464–71.
- Walker, Thomas G., Lee Epstein, and William J. Dixon. 1988. "On the Mysterious Demise of Consensual Norms on the United States Supreme Court." *Journal of Politics* 50:361–89.

Jeffrey A. Segal is professor of political science, State University of New York, Stony Brook, Stony Brook, NY 11794-4392.

Lee Epstein is professor of political science, Washington University, St. Louis, MO 63130-4899.

Charles M. Cameron is associate professor of political science, Columbia University, New York, NY 10027.

Harold J. Spaeth is professor of political science, Michigan State University, East Lansing, MI 48824-1032.