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0521785081 - The Supreme Court in the American Legal System

Jeffrey A. Segal, Harold J. Spaeth and Sara C. Benesh

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The Supreme Court in the American Legal System

This book examines the American legal system, including a comprehensive treatment of the U.S. Supreme Court. Despite this treatment, the *in* of the title deserves emphasis, for the authors extensively examine lower courts, providing separate chapters on state courts, the U.S. District Courts, and the U.S. Courts of Appeals. The book analyzes these courts from a legal/extralegal framework, drawing different conclusions about the relative influence of each based on institutional structures and empirical evidence. The book is also tied together through its attention to the relationship between lower courts and the Supreme Court. Additionally, Election 2000 litigation provides a common substantive topic linking many of the chapters. Finally, it provides extended coverage of the legal process, with separate chapters on civil procedure, evidence, and criminal procedure.

Although this volume contains original research, such research is presented at a level that does not require methodological sophistication. Furthermore, all data used for the authors' original research, and all commands to run the analyses, are provided on the book's Web site.

Jeffrey A. Segal is Distinguished Professor of Political Science at the State University of New York at Stony Brook. He received his Ph.D. in 1983 from Michigan State University. He is the coauthor of six books, including, most recently, *The Supreme Court and the Attitudinal Model Revisited* (Cambridge University Press, 2002), with Harold J. Spaeth. He is also the author of *Majority Rule or Minority Will* (Cambridge University Press, 1999), with Harold J. Spaeth, which won the C. Herman Pritchett Award for best book in law and courts. Segal has also published dozens of scholarly articles, including "Predicting Supreme Court Cases Probabilistically: The Search and Seizure Cases, 1962–1981," which won the Wadsworth Award for a book or article ten or more years old that has made a lasting impression on the field of law and courts.

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To my coauthor, mentor, and friend, Harold J. Spaeth

–SB

To Lois Kass Kleinberg and the ever-loving memory of

Cindy Kass April

–JS

For my grandchildren, Sean Thomas and Samantha Rose Kelly

–HS

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Preface

In planning work subsequent to *The Supreme Court and the Attitudinal Model* (1993), we determined that the best course would be to update it initially with a focus on game theory and multivariate analyses appropriate for a professional and graduate student readership. The result was *The Supreme Court and the Attitudinal Model Revisited*, which Cambridge University Press published in 2002. The next step, we decided, was to write a separate (but related) volume, less methodologically oriented, more broadly focused, and thus more suitable for undergraduate classes and a more general, less professional audience. Thus, *The Supreme Court in the American Legal System*.

The spotlight of *The Supreme Court and the Attitudinal Model Revisited* obviously remained on the Supreme Court, to the nearly complete exclusion of other courts. Moreover, as those familiar with the book well know, the book focused extensively on the Supreme Court's decision on the merits, carefully comparing, theoretically and empirically, legal, attitudinal, and rational choice models. Alternatively, although *The Supreme Court in the American Legal System* also centers on the Supreme Court, the *in* of the title deserves emphasis. In this volume, we extensively examine the lower courts, providing separate chapters on state courts, the U.S. District Courts, and the U.S. Courts of Appeals. Needless to say, we pay special attention to the relationship between these courts and the Supreme Court. We also pay extended attention to the legal process, with separate chapters on civil procedure, evidence, and criminal procedure.

Although we continue to provide original research, we present such research at a level that does not require methodological sophistication. Usually we present our results without multivariate analyses, but only when alternative analyses demonstrate the reliability of the bivariate results. In one instance, that is impossible: We require multivariate regression analysis to test hypotheses about judges' sentencing decisions, but the results are presented in a readily understandable manner. Furthermore, we provide all data used for our

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Preface

original research, and all commands to run the analyses, on the book's Web site: <http://www.cambridge.org/9780521780384>.

The data for this book were gathered from a series of grants separately provided to each of us by the National Science Foundation (NSF). Without the NSF's support neither this book nor its two predecessors could have been written. Needless to say, we are deeply grateful and indebted to the NSF for its support.

State University of New York at Stony Brook provided Segal with sabbatical leave toward the end of this project, during which time he was a visiting scholar at the Hauser Global Law School program at New York University School of Law. He thanks both institutions for their support.

We thank Professor Bradley Canon for comments on Chapter 14. We also thank Scott Graves and Chad Westerland for expert research assistance and Armin Gharagozlou for superb editorial assistance. Susan Thornton expertly imbued the manuscript with the grammatical, syntactical, and stylistic niceties that our prose so often lacks. Helen Wheeler, our production editor, efficiently shepherded the transformation of the manuscript from typescript to book.