Agenda Setting on the Vinson Court

Timothy M. Hagle
The University of Iowa

The paper that follows is one of a series of papers I wrote regarding agenda setting on the Vinson Court. As each paper was completed updates and corrections may have changed some of the specific numbers presented in earlier papers, but the general results did not change. The papers were eventually combined into a book titled, *Supreme Court Agenda Setting: The Vinson Court* (available on Amazon.com). The individual papers became chapters in the book and the updated numbers were used for that version.

Again, the paper that follows is the original version. Some numbers may have been updated for the version included as a chapter in the book version, but the changes were usually minor and did not affect the overall results.

Agenda Setting on the Vinson Court
Paper 5: Lower Court Reversals and Dissents as Factors

Timothy M. Hagle
The University of Iowa

Agenda Setting on the Vinson Court
Paper 5: Lower Court Reversals and Dissents as Factors

Abstract

Although thousands of petitions seeking review by the Supreme Court are filed each year, the justices only accept about 150 or fewer for plenary review, with perhaps a few hundred more disposed of summarily. Because of this low acceptance rate scholars have long thought that the justices must use some strategy or process to reduce their workload to manageable levels. Although the examination of agenda setting on the Supreme Court is of continuing interest to judicial scholars, previous studies have usually focused only on cert petitions, specific issues, particular terms, or sampling for their data collection. A more comprehensive examination of the cases filed before the Supreme Court will provide a clearer picture of how the justices set their agenda.

Drawing from an ongoing database project this study examines all cases filed before the Vinson Court (1946 to 1952 Terms). The specific question addressed in this paper is whether lower court reversals or disagreement increase the likelihood of a case being accepted for review by the Supreme Court. The results show that for cases coming from both state and federal courts the presence of a reversal or dissent below significantly increases the likelihood of the Supreme Court accepting the case for review. In addition, the effect is amplified when both factors are present.

Agenda Setting on the Vinson Court
Paper 5: Lower Court Reversals and Dissents as Factors

This is the fifth paper in a series examining agenda setting on the Vinson Court. The examinations are largely empirical, but with a general grounding in familiar aspects of behavioral judicial politics. Although part of a series, I would like each paper to stand on its own. Thus, some explanatory material will be repeated from one paper to the next to provide background or context.

The decisions on the merits of cases made by the justices of the United States Supreme Court may be the most important aspect of judicial policy making, but scholarly examination of other aspects of the judicial decision making process have contributed to our overall understanding of judicial behavior and politics. A few examples of such research includes examination of opinion writing of the Supreme Court justices (Maltzman, Spriggs, and Wahlbeck 2000), acclimation effects of new justices (Hagle 1993), the use of precedent on the Supreme Court (Segal and Spaeth 1999), and dealing with the lack of precedent in the federal courts of appeals (Klein 2002).

Of course, agenda setting and its attendant strategic considerations have also been the focus of many studies. *Marbury v. Madison* (1803) may have been the earliest and most famous example of strategic agenda setting or decision making by the Supreme Court. Despite a general view at the time that judges were not policy makers—at least not along the lines of executives and legislators (see, for example, Spaeth 1979, chapter 1)—histories of the Court have certainly recognized strategic aspects to the Court's

decision making (e.g., Rodell 1955). Walter Murphy's *Elements of Judicial Strategy* (1964) is one of the earliest and most important examinations of how strategic considerations may affect judicial decision making. Other scholars have expanded and refined Murphy's arguments (e.g., Epstein and Knight 1998). A related line of research focuses more specifically on the ideological preferences of judges (e.g., Segal and Spaeth 2002) and a book by Brenner and Whitmeyer (2009) compares various models of strategic judicial behavior.

One aspect of strategic judicial behavior lies in agenda setting, which means how the Supreme Court decides which cases it will take to decide on the merits. Although thousands of petitions seeking review by the Supreme Court are filed each year, the justices only accept about 150 or fewer for plenary review (i.e., full briefs submitted, oral arguments held, and opinions written), with maybe a few hundred more disposed of summarily (i.e., the Court simply affirms, reverses, or vacates in a very short per curiam opinion, sometimes as little as "Judgment affirmed."). Thus, scholars have long thought that the justices must use some strategy or process to reduce their workload to manageable levels (e.g., Hagle 1990).

In his book-length examination of Supreme Court agenda setting Perry (1991) notes that aspects of agenda setting have been of interest to judicial scholars at least since Schubert (1959). Perry also notes that a few years later Tanenhaus, Schick, Muraskin, and Rosen, (1963) formulated "cue theory" as a way of explaining how the justices were able to navigate the "sea of work that must be processed" (1991, 114). As Perry goes on to note, cue theory fell out of favor when later, more sophisticated,

studies failed to replicate the initial results (1991 116). Nevertheless, although a study by Ulmer, Hintze, and Kirklosky rejected two of the three cues Tanenhaus et al., found significant, a third—the federal government as a petitioning party—was significant and the authors concluded that cue theory retained some viability (1972, 642).

Regardless of how cue theory itself has developed, like these two early examinations of the Supreme Court's agenda setting many later studies focused on how the justices deal with the large number of petitions for writs of certiorari.[1] Caldeira and Wright (1988), for example, examined organized interests in agenda setting with respect to the cert petitions filed during the Court's 1982 Term. In a recent edition of his text on the Supreme Court, Baum (2013, 88) provides an example of recent work examining litigant status (Black and Boyd 2012). Thus, although the examination of agenda setting on the Supreme Court is of continuing interest to judicial scholars previous studies have usually focused only on cert petitions (Tanenhaus et al. 1963), specific issues (Caldeira and Wright 1988; Black and Boyd 2012), particular terms (Ulmer, Hintze, and Kirklosky 1972), or sampling for their data collection (Tanenhaus et al. 1963; Perry 1991). A more comprehensive examination of the cases filed before the Supreme Court will provide a

[1] Cases come before the Supreme Court via two basic methods: petitions for writs of certiorari and appeals. Because this study will not distinguish between "cert" petitions and appeals, I hesitate to wade too deeply into their differences. Briefly, however, cert petitions are discretionary, which means that the justices are free to grant or deny them as they see fit. No legal meaning is attached to a denial except that the Supreme Court chose not to hear the case. Technically, the Supreme Court must hear cases that come as appeals, but the justices may avoid review by indicating that a case was not properly presented as an appeal for one reason or another. The Court may then treat the appeal papers as a petition for a writ of certiorari and grant or deny the petition. See Perry (1991, Chapter 2) for more on the difference between cert petitions and appeals. Of course, changes to the law in 1988 (Public Law No: 100-352) removed several categories of the Supreme Court's mandatory jurisdiction in appeals.

clearer picture of how the justices set their agenda. To that end, this study will examine all cases on the Vinson Court's appellate docket.[2]

Reversals and Dissents in the Lower Courts

One possible signal or cue that justices may use in determining whether to accept a case for review is the existence of disagreement in the lower courts as a case makes its way to the Supreme Court. Such disagreement can take two basic forms: reversals as the case moves up the judicial ladder and dissents among the judges or justices of a particular lower court. Each type of disagreement might signal to the Supreme Court justices that the law is unclear and reasonable legal minds disagree on the issue. This, in turn, might prompt the Supreme Court justices to feel they should accept a case for review to settle the matter.

Although I anticipate cases with such disagreements to have a higher acceptance rate than those without, I recognize that a reasonable counter-argument exists. Specifically, one could argue that such disagreements suggest that the law is not settled sufficiently and that the justices may want to let the issues "percolate" or "ripen" a bit more in the lower courts. One can certainly point to instances where some speculated

[2] Until the Court changed its numbering system for filed cases there were essentially three dockets: appellate, miscellaneous, and original. The appellate docket contained what are usually referred to as the "paid" cases, the miscellaneous docket contained the "unpaid" cases (also known as paupers, *in forma pauperis,* or *ifp* cases), and the original docket contained those cases coming to the Court via its limited original jurisdiction. Given my concern about excluding cases on appeal from prior analyses one might reasonably wonder why I do not examine all cases on the Court's three dockets. The original jurisdiction cases can be excluded because they are so few and are of a fundamentally different character. It is well documented that the *ifp* cases on the Court's miscellaneous docket are treated differently, on average, than cases on the appellate docket (e.g., Perry 1991, Chapter 2; Baum 2013, 96-100). Nevertheless, the Court sometimes grants review to unpaid cases (and sometimes grants *in forma pauperis* status to cases on the appellate docket). See below for more on how these cases are treated for this study.

the Court's justices chose to not hear a case because the issue was not yet ripe for their review.[3] I believe, however, that such instances are small compared to those where the justices feel a need to clarify the law because of reversals and disagreements below.[4]

Data

Data for this study were drawn from an ongoing database project involving all cases on the Supreme Court's appellate docket since the 1946 Term. Data are complete for the Vinson Court (1946 through 1952 Terms) and provide a relatively stable period in which to examine the Court's docket.

Information on the cases in the database was drawn from several sources including the *United States Law Week*, various reporters for the state and federal courts, LEXIS, and other online sources. Every case that received an appellate docket number during the 1946-1952 Terms is included in the database. This results in 5,905 cases. Included in this number are 156 cases originally filed before the 1946 Term (the first term of the Vinson Court). The review decision for 95 of these 156 cases was made prior to the 1946 Term and those cases are not included in the dataset for this study. At the end of the Vinson Court 121 cases eventually received a 1953 Term (the first term of the

[3] Although the Court granted review to it, the Court's decision to not resolve the substantive issues in *DeFunis v. Odegaard* (1974) is often seen as an example where the justices wanted to let the affirmative action issue percolate a bit more in the lower courts before they weighed in.

[4] Along similar lines, it is well known that the Court is more likely to grant review to resolve a conflict among the federal circuit courts (Perry 1991, 246-252), which is effectively a form of disagreement (though not one examined here).

Warren Court) or later docket number.[5] The review decisions for 72 of these 121 cases were made after the 1952 Term but are included in the dataset given that those cases were initially filed during the Vinson Court. Also, included in the dataset are 67 cases that originally appeared on the Court's miscellaneous docket and were moved to the appellate docket.[6] Not included in the dataset are 64 cases that were dismissed on the motion of the petitioner prior to the review decision, 18 cases that were dismissed by a Supreme Court rule (e.g., late filing, failure to pay fees), and one case where no review decision could be found.[7] This results in a dataset of 5,727 cases.

Results

I begin by examining cases with one or more reversals versus those without.[8] The first thing to note is that there are many instances where the first court to hear the case

---

[5] Prior to the 1971 Term cases held over to the next term, before or after a review decision, were renumbered at the start of each term and there was no two-digit term indicator. For example, *Brown v. Board of Education* was initially filed during the Court's 1951 Term and given the docket number 436. It was held over to the 1952 Term with the new docket number 8, and again for the 1953 Term with the docket number 1.

[6] Through the Vinson and Warren Courts, cases originating on the miscellaneous docket (sometimes referred to as the "pauper's docket") that were granted review were usually moved to the appellate docket (sometimes referred to as the "paid docket") and given a new docket number. The United States Supreme Court Judicial Database, Harold J. Spaeth principal investigator, lists 26 cases with a miscellaneous docket number (with an "M" in the DOCKET field, meaning they were not transferred to the appellate docket) during the 1946-1952 Terms. Of these, 17 were granted review (with eight of those disposed of in a short per curiam), but are not included here. On the other hand, this dataset includes 19 cases initially filed on the appellate docket for which the Court granted *in forma pauperis* status to one of the parties (only one of which was granted review). (This is an older version of the Supreme Court Database before it was moved online, which, as of this writing, can be viewed at http://scdb.wustl.edu.)

[7] Without going into great detail, it appears that the case in question was withdrawn shortly after filing and refiled a month later with a new docket number. The latter case, *Deena Products Co. v. National Labor Relations Board* (1952) is included in the database and was denied review.

[8] Depending on the judicial path the case took to reach the Supreme Court it was possible for it to have more than one reversal in the lower courts. For purposes of this examination I do not distinguish between cases with only one reversal and those with more than one.

is the only one to do so before the case is filed before the Supreme Court. Many cases filed before the Supreme Court come from either state or federal trial courts where there would be no opportunity for a reversal. In addition, there are certain types of issues that begin in a state or federal appellate court and then are appealed directly to the Supreme Court. At the state level a common example concerns attorney discipline cases which typically begin in the state's highest court. At the federal level there are many cases that begin in one of the federal courts of appeal and then proceed to the Supreme Court.[9] Removing cases where there is no opportunity for a reversal to occur results in a dataset of 1,282 state cases and 3,290 federal cases, for a total of 4,572 cases.

One additional point is worth noting before proceeding. In many cases the higher court will issue a decision affirming the lower court in part and reversing in part. Whether such cases were coded as a reversal depended on the issue appealed to the Supreme Court. For example, in criminal cases the lower court might affirm on some counts and reverse on others. The defendant who appealed would do so on the basis of the parts of the lower court opinion affirmed rather than those reversed. Such cases would not be coded as having a reversal for purposes of this examination.

TABLE 1 ABOUT HERE

Table 1 shows the number of cases accepted or denied review based on whether there were reversals in the lower courts. Of the 4,572 cases where a reversal was possible, 1,257 had a reversal and 3,315 did not. Overall, 775 of the 4,572 cases were

[9] Many such cases come from one of several federal agencies with quasi-judicial powers (e.g., National Labor Relations Board, Securities Exchange Commission). Because the federal agencies are not courts, the Courts of Appeals are considered the first and only court to hear such cases before they are appealed to the Supreme Court.

accepted for review. That produces an overall acceptance rate for these cases of 17.0%, or nearly a one in six chance. For cases with reversals the percentage is a bit higher at 23.1% (290 accepted of 1,257 cases). On the other hand, cases with no reversals had a lower acceptance percentage at 14.6% (485 of 3,315 cases), or about a one in seven chance. Using a difference of means test (see Wonnacott and Wonnacott 1972, 178), this difference is significant at $p < .001$. Thus, a case with a reversal in the lower courts has a better chance of being accepted for review than one that does not.

Earlier papers in this series have noted differences in how the Supreme Court handles cases coming from the state courts versus those coming from the federal courts. Thus, it is worthwhile to separately examine state and federal cases.

TABLE 2 ABOUT HERE

Table 2 separately presents the results for cases coming to the Supreme Court through state and federal court systems.

For state cases (Table 2A) we see that 240 of 1,282 cases were granted review for an acceptance rate of 18.7%. Breaking these cases into those with and without reversals we see that 28.5% of the cases with reversals were accepted (75 of 263), while only 16.2% of those without reversals were accepted (165 of 1,019). This difference is significant at $p < .001$.

There are a much larger number of federal cases (Table 2B), but the overall acceptance rate of 16.2% (535 of 3,290 cases) is relatively close to that of the state cases. Of the cases with reversals the acceptance rate is 21.6% (215 of 994 cases), while for

those without reversals the acceptance rate is 13.9% (320 of 2,296 cases). As with the state cases, the difference is significant at $p < .001$.

Although I do not present it in a separate table, it is also interesting to compare the difference in the acceptance rate for state versus federal cases with reversals. Comparing the first row in Table 2A with the first row in Table 2B we see that state cases with reversals have a higher acceptance rate than federal cases with reversals (28.5% compared to 21.6%). This difference is significant at $p < .05$.

These results show that for both state and federal cases, and their combined totals, cases with a lower court reversal are more likely to be accepted for review than those without one. Moreover, the likelihood of acceptances for state cases with a reversal is much higher than federal cases with a reversal.

The second type of lower court disagreement occurs when one or more judges or justices in the lower courts dissent. Here again, we must begin by eliminating cases in which no dissent is possible. At the state court level this would eliminate all trial courts. At the federal level the issue is a little more complicated as federal district courts can have three-judge panels, and the federal Court of Claims hears cases in panels. Taking these factors into consideration leaves 1,367 state cases and 4,002 federal cases, for a total of 5,369 cases with the possibility of a dissent.

TABLE 3 ABOUT HERE

In Table 3 we see a very large difference in the acceptance rates between cases with and without a lower court dissent. Of the 902 cases without a dissent, 339 were accepted for review (37.6%). In sharp contrast, only 735 of the 4,467 cases without a

dissent were accepted (16.5%). Not surprisingly, this differences is significant at $p < .001$.

TABLE 4 ABOUT HERE

As with reversals, it is worthwhile to separate the state and federal cases with dissents and Table 4 presents those results. Table 4A shows the results for state cases with dissents. Here the Supreme Court accepted 76 of 234 cases for an acceptance rate of 32.5%. The acceptance rate for state cases without dissents is half that at 16.2% (183 of 1,133 cases). Table 4B shows the results for federal cases with and without dissents. As with the state cases, federal cases with dissents have a relatively high acceptance rate of 39.4% (263 of 668 cases) which is over twice the rate for those without dissents (16.6%, 552 of 3,334 cases). The difference is significant at $p < .001$.

Although not presented in a table, comparing the acceptance rates of state versus federal cases with dissents (the first row from Tables 4A and 4B) we see that contrary to the cases with reversals, federal cases have a higher acceptance rate. This difference is significant at $p < .02$.

The final point to consider is whether there is a compound effect for cases with both reversals and dissents. In other words, do cases with both reversals and dissents in the lower courts have a higher acceptance rate than cases with one or the other, or neither. Table 5 presents these results.[10]

TABLE 5 ABOUT HERE

[10] Without going into the details, the total number of cases indicated in Tables 5 through 7 varies due to the different criteria required to produce cases where either a reversal or dissent, or both, is possible.

Table 5A shows the results of comparing cases with both a reversal and a dissent against those that have either a reversal or a dissent. Table 5B shows the results for comparing cases with both a reversal and a dissent with those that have neither. The top row for both tables is the same. Specifically, there were 300 cases with both a reversal and a dissent and 106 of those were accepted for review (35.3%).

In Table 5A we see that there were 1,396 cases that had either a reversal or a dissent and of those only 335 were granted review (24.0%). This difference compared to the cases having both a reversal and a dissent is significant at $p < .001$. The comparison of the both versus neither cases in Table 5B also shows a great disparity in the acceptance rates. Here, the acceptances rates for the cases with both a reversal and a dissent is over three times the rate for neither, which is only 11.6% (334 of 2,876 cases). Again, this difference is significant at $p < .001$.

Proceeding as before, Tables 6 and 7 show the comparisons of Table 5 by examining state and federal cases separately.

TABLE 6 ABOUT HERE

Looking first at the state cases, we see the pattern from Table 5 repeated in part. The part repeated is the difference between cases with both a reversal and dissent versus those with neither as shown in Table 6B. Here the acceptance rate for cases with both a reversal and a dissent is 33.8% (27 of 80 cases), but the rate for those with neither is only 14.0% (124 of 883 cases). As before, the differences is significant at $p < .001$.

The part of the pattern not repeated occurs in the comparison of the cases having both a reversal and a dissent with those having only one or the other (Table 6A). Here

we again see the acceptance rate for cases having both a reversal and a dissent is 33.8%, but the rate for cases with only one or the other is only a few percentage points lower at 27.9% (89 of 319 cases). Needless to say, this difference is not significant.

TABLE 7 ABOUT HERE

Turning to the federal cases in Table 7, the pattern seen in Table 5 for cases with both a reversal and a dissent is repeated when those cases are compared against cases with one or the other (Table 7A) and those with neither (Table 7B). The acceptance rate for cases with both a reversal and a dissent is 35.9% (79 of 220 cases). This is well over the 22.8% acceptance rate for those with one or the other (246 of 1,077 cases). It is also over three times the 10.5% acceptance rate for cases with neither (210 of 1,993 cases). Both differences are significant at $p < .001$.

Discussion

Working through the various comparisons in Tables 1 through 7 shows that the existence of some form of disagreement in the lower courts, reversals or dissents, is associated with an increased probability that a case will be accepted for review by the Supreme Court. The increase is robust in that it occurs for both reversals and dissents, as well as for state and federal cases.

When comparing the acceptance rates for state versus federal cases we see a difference between cases with reversals versus those with dissents. For cases with reversals, state cases have a higher acceptance rate than federal cases (28.5% versus 21.6%). Given the findings of prior papers in the series we might have expected federal

cases to have a higher acceptance rate. Nevertheless, the difference is significant at $p < .05$ (two-tailed test because of the unexpected direction). In cases with dissents, however, the expected pattern appears. In those cases the acceptance rate for federal cases is higher than that for state cases (39.4% versus 32.5%). This difference is also significant at $p < .02$.

That both reversals and dissents as indicators of lower court disagreement prove to be associated with higher acceptance rates leads to the question of whether there is a cumulative difference when the two factors are both present. Tables 5 through 7 examined this possibility by comparing cases with both factors versus cases that had only one factor or neither. With one exception, the results consistently show increased acceptance rates for cases with both factors. The differences reach high levels of statistical significance with the exception of state cases when comparing cases with both factors versus cases with only one.

Aside from the statistical significance of the results, it is worth considering the actual differences in the acceptance rates when these factors are present. For the cases with reversals, that factor is associated with an increased acceptance rate of about 8% in federal cases and a bit over 12% in state cases. Put another way, the presence of a reversal in the lower courts is associated with an increased chance a federal case will be accepted by 55.4% (moving from 13.9% to 21.6%). For state cases the increase is an even larger 76.0% (moving from 16.2% to 28.5%).

The effect is even greater for cases with dissents. For state cases, the presence of a dissent in the lower courts is associated with an increase in the chances of an acceptance

by just over 100% (moving from 16.2% to 32.5%). For federal cases the effect is slightly larger at 137.3% (moving from 16.6% to 39.4%).

Without doing the calculations, the associated increases are also dramatic when considering the combined effect of reversals and dissents (with the exception of the results in Table 6A). Given the increases for the individual factors the additional increase when they are both present is a bit surprising, but seems to suggest that an increased notion of disagreement in the lower courts increases the likelihood of a case being granted review by the Supreme Court.

Conclusion

The idea that the justices of the Supreme Court look for cues of one sort or another in selecting cases for review is not new. Neither is the belief that they are likely to take cases when there are disagreements among the judges and justices in the lower courts. Such disagreements can be manifested in the occurrence of reversals as a case works through the state or federal court systems to reach the Supreme Court. It can also be manifested in dissents among the lower court judges or justices. The presence of either factor may be a signal to the Supreme Court's justices that the law is unclear or unsettled in some way that is worth their attention. The results show a strong and robust relationship between the presence of these factors and higher acceptance rates. This in turn further informs our understanding of the agenda setting process during the Vinson Court years.

As a practical matter, there are several reasons why parties seek Supreme Court review of their cases. For some it is simply a matter of wanting to have the Court reverse an unfavorable lower court ruling. For others it may be a desire to change or test some area of the law. Litigants who wish for a change in the law often seek test cases that will present their position in the best light possible. Of course, before the Supreme Court can rule on an issue it must first agree to review a case presenting it. That means that litigants must also seek test cases that have the best chance possible of being accepted for review. This study has demonstrated that disagreement in the lower courts, manifested by either reversals or dissents, can dramatically improve a case's chances of being accepted by the Court.

References

Baum, Lawrence. 2013. *The Supreme Court*, 11th Edition. Washington, DC: CQ Press.

Black, Ryan C., and Christina L. Boyd. 2012. "U.S. Supreme Court Agenda Setting and the Role of Litigant Status." *Journal of Law, Economics & Organization*, (June 2012): 286-312.

Brenner, Saul, and Joseph M. Whitmeyer. 2009. *Strategy on the United States Supreme Court*. New York: Cambridge University Press.

Brown v. Board of Education, 347 US 483 (1954).

Caldeira, Gregory A., and John R. Wright. 1988. "Organized Interests and Agenda Setting in the U.S. Supreme Court." *American Political Science Review*, 82:1109-1127.

Deena Products Co. v. National Labor Relations Board, 344 US 827 (1952).

DeFunis v. Odegaard, 416 US 312 (1974).

Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington, DC: CQ Press.

Hagle, Timothy M. 1990. "So Many Cases, So Little Time: Judges as Decision Makers." In *American Politics in the Heartland*, ed. Douglas Madsen, Arthur H. Miller, and James A. Stimson. Dubuque, Iowa: Kendall/Hunt.

Hagle, Timothy M. 1993. "'Freshman Effects' for Supreme Court Justices." *American Journal of Political Science*, 37:1142-1157.

Klein, David E. 2002. *Making Law in the United States Courts of Appeals*. New York: Cambridge University Press.

Maltzman, Forrest, James F. Spriggs II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. New York: Cambridge University Press.

Marbury v. Madison, 5 US 137 (1803).

Murphy, Walter F. 1964. *Elements of Judicial Strategy*. Chicago: The University of Chicago Press.

Perry, H.W., Jr. 1991. *Deciding to Decide: Agenda Setting in the United States Supreme Court*. Cambridge, MA: Harvard University Press.

Rodell, Fred. 1955. *Nine Men: A Political History of the Supreme Court of the United States from 1790 to 1955*. New York: Random House.

Schubert, Glendon. 1959. "The Certiorari Game." In *Quantitative Analysis of Judicial Behavior*, ed. Glendon Schubert New York: Free Press.

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

Segal, Jeffrey A., and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press.

Spaeth, Harold J. 1979. *Supreme Court Policy Making*. San Francisco: W.H. Freeman.

Spaeth, Harold J. 1998. *Expanded United States Supreme Court Judicial Database, 1946-1968 Terms*. [Computer file]. 4th ICPSR version. East Lansing, MI: Michigan State University, Dept. of Political Science [producer]. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 1999.

Tanenhaus, Joseph, Marvin Schick, Matthew Muraskin, and Daniel Rosen. 1963. "The Supreme Court's Certiorari Jurisdiction: Cue Theory." In *Judicial Decision Making*, ed. Glendon Schubert. New York: Free Press.

Ulmer, S. Sidney, William Hintze, and Louise Kirklosky. 1972. "The Decision to Grant or Deny Certiorari: Further Consideration of Cue Theory." *Law and Society*, 6:637-643.

Wonnacott, Thomas H., and Ronald J. Wonnacott. 1972. *Introductory Statistics for Business and Economics*. New York: John Wiley & Sons.

Table 1

Acceptance Rates for Cases With and Without Reversals on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
Reversals	290	967	1257	23.1%*
No Reversals	485	2830	3315	14.6%
Column Total	775	3797	4572	17.0%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 2

Acceptance Rates for Cases With and Without Reversals on the Vinson Court's Appellate Docket—State and Federal

A. State Cases

	Accepted	Denied	Row Total	Acceptance Rate (%)
Reversals	75	188	263	28.5%*
No Reversals	165	854	1019	16.2%
Column Total	240	1042	1282	18.7%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

B. Federal Cases

	Accepted	Denied	Row Total	Acceptance Rate (%)
Reversals	215	779	994	21.6%*
No Reversals	320	1976	2296	13.9%
Column Total	535	2755	3290	16.3%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 3

Acceptance Rates for Cases With and Without Dissents on the Vinson Court's Appellate Docket

	Accepted	Denied	Row Total	Acceptance Rate (%)
Dissents	339	563	902	37.6%*
No Dissents	735	3732	4467	16.5%
Column Total	1074	4295	5369	20.0%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 4

Acceptance Rates for Cases With and Without Dissents on the Vinson Court's Appellate Docket—State and Federal

A. State Cases

	Accepted	Denied	Row Total	Acceptance Rate (%)
Dissents	76	158	234	32.5%*
No Dissents	183	950	1133	16.2%
Column Total	259	1108	1367	18.9%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

B. Federal Cases

	Accepted	Denied	Row Total	Acceptance Rate (%)
Dissents	263	405	668	39.4%*
No Dissents	552	2782	3334	16.6%
Column Total	815	3187	4002	20.4%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 5

Acceptance Rates for Cases With Both Reversals and Dissents on the Vinson Court's Appellate Docket

---

A. Both Reversals and Dissents Versus One or the Other

	Accepted	Denied	Row Total	Acceptance Rate (%)
Both	106	194	300	35.3%*
One or the Other	335	1061	1396	24.0%
Column Total	441	1255	1696	26.0%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

B. Both Reversals and Dissents Versus Neither

	Accepted	Denied	Row Total	Acceptance Rate (%)
Both	106	194	300	35.3%*
Neither	334	2542	2876	11.6%
Column Total	440	2736	3176	13.9%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 6

Acceptance Rates for State Cases With Both Reversals and Dissents on the Vinson Court's Appellate Docket

A. Both Reversals and Dissents Versus One or the Other

	Accepted	Denied	Row Total	Acceptance Rate (%)
Both	27	53	80	33.8%
One or the Other	89	230	319	27.9%
Column Total	116	283	399	29.1%

B. Both Reversals and Dissents Versus Neither

	Accepted	Denied	Row Total	Acceptance Rate (%)
Both	27	53	80	33.8%*
Neither	124	759	883	14.0%
Column Total	151	812	963	15.7%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

Table 7

Acceptance Rates for Federal Cases With Both Reversals and Dissents on the Vinson Court's Appellate Docket

A. Both Reversals and Dissents Versus One or the Other

	Accepted	Denied	Row Total	Acceptance Rate (%)
Both	79	141	220	35.9%*
One or the Other	246	831	1077	22.8%
Column Total	325	972	1297	25.1%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).

B. Both Reversals and Dissents Versus Neither

	Accepted	Denied	Row Total	Acceptance Rate (%)
Both	79	141	220	35.9%*
Neither	210	1783	1993	10.5%
Column Total	289	1924	2213	13.1%

* $p < .001$, 1-tail difference of means test (see Wonnacott and Wonnacott 1972, 178).