

# Contents

*List of Figures*      *vii*

*List of Tables*      *ix*

General Introduction      1

Technical Introduction      17

Linear Regression. Logistic Regression. Miscellaneous Points.

1. A Realistic Theory of Judicial Behavior      25

Three Concepts of Legal Realism. The Labor-Market Theory of Judicial Behavior. The Judicial Utility Function. The Legalist Countertheory of Judicial Behavior. Antirealism Personified: Judge Harry Edwards.

2. The Previous Empirical Literature      65

History. Ideology Measures. Previous Studies of Judicial Ideology. Other Influences. *Appendix: Empirical Studies of Judicial Behavior.*

3. The Supreme Court      101

Data. Ideological Voting by Justices. Changes in Justices' Ideology. Unanimous Decisions: The Role of Ideology. Non-unanimous Decisions: The Role of Ideology. Non-unanimous Decisions: Group Effects. *Appendix: The Corrected U.S. Supreme Court Database.*

4.	The Courts of Appeals	153
	Data. Explaining the Judges' Votes (1). Explaining the Judges' Votes (2). Group Influences in the Songer Data. Ideology, Conformity, and Panel Composition Effects in the Sunstein Data. <i>Appendix A: The Original and Corrected Songer Database. Appendix B: The Original and Expanded Sunstein Database. Appendix C: Measures of Ex Ante Ideology of Supreme Court Justices, 1937–2009.</i>	
5.	The District Courts and the Selection Effect	207
	District Court Decisions Derived from the Sunstein Database. Ideologi- cal Influence on District Judges. Reversals. Dismissals. Another Selection Effect. The Paradox of Discretion. Ideology in Sentencing.	
6.	Dissents and Dissent Aversion	255
	Costs and Benefits of Dissenting. The Effect of Panel Composition. A Formal Model of Deciding Whether to Dissent. Empirical Analysis. Effects of Senior Status and Age on Dissent Rates.	
7.	The Questioning of Lawyers at Oral Argument	305
	Empirical Analysis. Number of Questions or Number of Words? Explaining Variations in the Number of Questions and the Total Number of Words in Questions. Individual Justices.	
8.	The Auditioners	337
	Appointment and Promotion in the Federal Judiciary. Auditioning for the Supreme Court. Voting Behavior of Auditioners for the Supreme Court. Auditioning for the Courts of Appeals. Voting Behavior of Auditioners for the Courts of Appeals. <i>Appendix: Court of Appeals Judges in the Supreme Court Promotion Pool, 1930–2010.</i>	
	Conclusion: The Way Forward	385
	<i>Acknowledgments</i>	405
	<i>Index</i>	407