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978-0-521-88897-4 - Decision Making by the Modern Supreme Court

Richard L. Pacelle, Brett W. Curry and Bryan W. Marshall

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Decision Making by the Modern Supreme Court

There are three general models of Supreme Court decision making: the legal model, the attitudinal model, and the strategic model. But each is somewhat incomplete. This book advances an integrated model of Supreme Court decision making that incorporates variables from each of the three models. In examining the modern Supreme Court, since *Brown v. Board of Education*, the book argues that decisions are a function of the sincere preferences of the justices, the nature of precedent, and the development of the particular issue, as well as separation of powers and the potential constraints posed by the president and Congress. To test this model, the authors examine all full signed civil liberties and economic decisions in the 1953–2000 period. *Decision Making by the Modern Supreme Court* argues and the results confirm that judicial decision making is more nuanced than the attitudinal or legal models have argued in the past.

Richard L. Pacelle, Jr., is Professor and Chair of the Department of Political Science at Georgia Southern University. His work is concerned with public law generally and the U.S. Supreme Court and separation of powers more specifically. He is the author of three previous books, *The Transformation of the Supreme Court's Agenda: From the New Deal to the Reagan Administration*; *The Supreme Court in American Politics: The Least Dangerous Branch of Government?* (winner of a 2002 Choice Outstanding Titles Award); and *Between Law and Politics: The Solicitor General and the Structuring of Race, Gender and Reproductive Rights Policy*, as well as a number of journal articles and chapters in edited volumes.

Brett W. Curry is Associate Professor of Political Science and Associate Director of the Justice Studies Program at Georgia Southern University. His areas of specialization include public law and separation of powers. His research has appeared in the *Journal of Politics*, *Law and Society Review*, *Politics and Policy*, *Presidential Studies Quarterly*, *American Politics Research*, and *Political Research Quarterly*.

Bryan W. Marshall is Associate Professor of Political Science at Miami University, Ohio. His areas of specialization include Congress, congressional-executive relations, separation of powers, and quantitative methods. Professor Marshall's book *Rules for War* (2005) looks at the effects of legislative rules on policy making. Professor Marshall also served as APSA's Steiger Congressional Fellow (2008–09), working for House Majority Whip, the Honorable Jim Clyburn.

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To Wayne – RLP

To Trent and Fiona – BWC

To Candace, Autumn, Evan, and Dylan – BWM

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Acknowledgments

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Rich is pleased that he was smart enough to choose two great co-authors. He hopes that now that the book is finished the three of them can go back to being friends. Or at least speak to each other again. He is grateful for all those professors and mentors who went out of their way for him. Richard Curry (no relation to Brett as far as we know), Howard Reiter, Kent Newmyer, Fred Kort, George Cole, and Elliot Slotnick all played important roles in his development, as did the professors at Rutgers School of Law who systematically disabused him of the notion he wanted to be a lawyer. If not for each of them, someone else would be writing this book with Brett and Bryan.

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public law area. He is also a brilliant teacher. As good a researcher and teacher as he is, he is an even better person.

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Rich dedicates his share of this book to a real American hero, his brother Wayne: My mother made a great choice when she picked him as her favorite child. Wayne and I were born in the two years when Willie Mays was MVP of the National League (look it up if you want to know how old we are). My father repeatedly said that he would kill Mays if he ever had another great season. When he was just 5 or 6, I was my brother's hero. Now he is mine. I made the wiser, more informed choice.

Wayne got a five-figure advance for his recent book. I told him my advance for this book was also five figures. What I may have neglected to tell him was that two of those figures were behind a decimal place. Wayne's book predictably became an Oprah's Book Club Choice. I sent her a copy of the manuscript for this book, hoping for a similar designation. I have not heard back from her yet.