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Matthew E. K. Hall

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## The Nature of Supreme Court Power

Few institutions in the world are credited with initiating and confounding political change on the scale of the United States Supreme Court. The Court is uniquely positioned to enhance or inhibit political reform, enshrine or dismantle social inequalities, and expand or suppress individual rights. Yet despite claims of victory from judicial activists and complaints of undemocratic lawmaking from the Court's critics, numerous studies of the Court assert that it wields little real power. This book examines the nature of Supreme Court power by identifying conditions under which the Court is successful at altering the behavior of state and private actors. Employing a series of longitudinal studies that use quantitative measures of behavior outcomes across a wide range of issue areas, Matthew E. K. Hall develops and supports a new theory of Supreme Court power. Hall finds that the Court tends to exercise power successfully when lower courts can directly implement its rulings; however, when the Court must rely on non-court actors to implement its decisions, its success depends on the popularity of those decisions. Overall, this theory depicts the Court as a powerful institution, capable of exerting significant influence over social change.

Matthew E. K. Hall is assistant professor of Political Science and Law at Saint Louis University. He earned his Ph.D. in political science, with distinction, from Yale University. His work has appeared in *American Politics Review*, the *Journal of Empirical Legal Studies*, and the *Journal of Law and Policy*.

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*This book is dedicated to those who revere the courts as guardians of our personal freedoms and to those who revile the courts as saboteurs of democratic self-government. May the struggle to balance personal liberties and majority rule persist forever, for only this constant tension ensures that both will long endure.*

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## Preface

When I was a sophomore in college, my friend and mentor Professor Laura Beth Nielsen assigned me to read Gerald Rosenberg's *The Hollow Hope* as part of a seminar on legal studies. Professor Rosenberg's compelling and controversial book piqued my interest in the role of courts in our society. Time, reflection, and my continued study of law and politics have only sharpened my interest in his project and my objections to his thesis. In many ways, this book is my term paper for that seminar, now eight years overdue.

I have been aided in this project by the helpful contributions of numerous scholars, including professors Paul Brace, Daniel Butler, Bradley Canon, Alan Gerber, Jerry Goldman, Mark Graber, Thomas Keck, Andrew Martin, Kenneth Scheve, Stephen Skowronek, and Peter Swenson, as well as my graduate school colleagues Stephen Engel, Judkins Mathews, Joshua Pheterson, Joseph Sempolinski, and the members of the Yale Graduate Student Colloquium on American Politics. I am indebted to each of them for their thoughtful suggestions and critiques.

I was fortunate to be directed through this process by an exceptional group of diverse scholars: professors Bruce Ackerman, Donald Green, Gregory Huber, and David Mayhew. These men have shaped my approach to the world around me – the questions I ask and the way that I answer them. I am grateful for their many invaluable insights, and it is my fervent hope that this manuscript reflects their influence on me.

Finally, I am thankful to my friends and family, without whose love and support I would never have been able to complete this work.