

## **Circuit Court Experience and Consistency on the Supreme Court (1953–2013)**

**Alex Phillips**, author

Dr. Jerry Thomas, Political Science, faculty mentor

Alex Phillips recently graduated from UW Oshkosh with a degree in political science and his hometown is Pulaski, Wisconsin. After graduation, he began his first year studying law at the University of Wisconsin Law School. During his undergraduate career, he participated in research conducted by Dr. Druscilla Scribner concerning comparative constitutionalism and gender rights. His academic interests are in state economic policy and the U.S. court system.

Dr. Jerry Thomas is assistant professor of political science. He earned his Ph.D. from the University of Kentucky and his J.D. from Chicago-Kent College of Law. He teaches public law, with an emphasis in constitutional law, civil rights, and civil liberties. His research in public law focuses on the U.S. Courts of Appeals, particularly reviews of administrative decision making in federal agencies and First Amendment cases involving LGBTQ citizens.

### ***Abstract***

The modern trend of appointing judges from the U.S. Circuit Court of Appeals to the U.S. Supreme Court is undeniable. As a near prerequisite to attaining a seat on the bench, Justices from appellate courts have been appointed because of, among other factors, perceived ideological consistency. Presidents seek to extend their legacies far beyond their terms, and Senators seek to approve nominees with ideologies consistent with their parties' political interests. In either case, the expectation is ideological consistency. Ideological drift is a phenomenon well observed since the shift of Justice Blackmun, but studies have not attempted to measure circuit court experience and evaluate its relation to drift. The model here reasons that circuit court experience does relate to less ideological drift, but finds that Justices with circuit court experience actually drift more than Justices without this experience. These findings hold important implications for the judicial selection process.

### ***Presidents Prefer Nominees with Circuit Court Experience***

The 2012 U.S. Supreme Court decision to uphold the Patient Protection and Affordable Care Act threw many Court watchers for a loop. Chief Justice John Roberts sided with the liberal wing of the Court to uphold the Act's central provisions, namely the individual mandate provision that required citizens who are able to afford healthcare insurance to purchase it. President George W. Bush selected Chief Justice Roberts, a former judge on the U.S. Courts of Appeals for the D.C. Circuit, for his credentials and presumably for his record of voting conservatively. Political commentators, such as David Straus, predicted that Chief Justice Roberts would remain ideologically consistent throughout his likely "30-year" tenure (Straus 2005, 1). Of course, Roberts's swing in the Affordable Care Act case is not indicative of a wholesale reversal in ideology, but it raises questions about judicial selection and ideological drift.

Chief Justice Roberts is a former circuit court judge appointed to the Supreme Court. In fact, of the 24 Justices appointed since 1953, 16 of them have originated from the circuit courts. President Eisenhower informally started the practice in claiming that "he, 'would use an appeals court appointment as a stepping stone to the Supreme

Court” (Epstein et al. 2007). Presidents have come to use the circuit courts as a source of legitimized, qualified, and ideologically consistent judges. Often, these judges are capable of withstanding Senate hearings and fulfilling presidential legacies as Justices. Christine Nemacheck elaborates by stating that circuit court judges “have already passed the hurdle of Senate confirmation once and that the issues appeals court judges deal with proved a concrete basis for evaluating how these judges would perform on the Supreme Court” (Nemacheck 2007, 143). Court scholar David Yalof furthers this point, explaining, “Federal appellate opinions offer perhaps the best gauge available for predicting an individual’s future voting behavior on the Supreme Court” (Yalof 1999, 170). Presidents generally set their criteria for selecting Justices along three lines: Senate confirmation, shared ideology, and ideological consistency. They cannot be certain that circuit court judges will meet these criteria well, but as Nemacheck also states, presidents “might be more certain about these candidates than about candidates who have not served on the federal bench, and the courts of appeals in particular” (Nemacheck 2007, 143). Few scholars, however, have studied whether circuit court experience has paid dividends to presidents in terms of ideological consistency.

Much research has been done on the politics of the appointment process and judicial ideology, but little comparing the ideological drift (or consistency) of Supreme Court Justices who have circuit court experience with Justices who do not. Judicial consistency is an important concept in political science and legal research. Consistency and ideological drift represent a Justice’s propensity to shift in political ideology. Research that measures this kind of change is critical to presidents and senators selecting Justices because it gives them an ability to predict what a prospective Justice might be like on the Court.

As indicated before, presidents presumably reason that nominees with federal court experience are more predictable than nominees without this experience. Scholars and commentators suggest that consistency is the intention of appointing those judges to the Court, but few have examined the issue directly.

Are Justices appointed from the circuit courts less likely to drift ideologically than Justices without circuit court experience? Given the scholarly work and literature in the field, I hypothesize that Justices with circuit court experience drift less than Justices without. After detailing previous findings on ideological drift, I plan to pit ideological consistency data against circuit court experience and two other control variables. If presidents and senators emphasize judicial consistency when choosing Justices, examining the relationship might shed light on this strategy.

### ***Literature Review***

For much of the U.S. Supreme Court’s history, few Justices with circuit court experience were appointed to the bench. Congress did not create the modern Court of Appeals until 1891 and its jurisdiction was limited to interstate conflicts and maritime cases (Judiciary Act of 1891). Judicial experience is not a Constitutional requirement for presidential appointments to the bench. As noted by Susan Smelcer, “Presidents appeared to emphasize characteristics other than judicial experience in choosing nominees. Appointees were selected, in part, because they were perceived as capable of maintaining public respect for the Court in an increasingly hostile political environment and, in many cases, had demonstrated personal loyalty to the President” (Smelcer 2009, 18). This sentiment was observable as late as President Lyndon Johnson’s nominations. Circuit court experience as a near necessity for appointment to the U.S. Supreme Court did not gain traction until the 1980s. Since 1953, two-thirds of the nominated and confirmed Justices came from the U.S. Courts of Appeals, while one-third did not have any federal court experience. In contrast to the previous era (1881–1952) only

26 percent of the Justices appointed had circuit court experience (Smelcer 2009). The modern trend of drawing Justices from the Circuit Court system is apparent. The aim of the following is to discuss ideological drift generally as well as in connection to circuit court experience.

### **Judicial Drift**

Irrespective of Justices' prior judging experience, scholars disagree whether Justices are ideologically stable in their decisions or whether they drift. When presidents nominate candidates to the Court, they "can be reasonably certain that their appointees will behave in line with expectations" (Epstein et al. 2007, 1486). Predictability and consistency are the marks of a good nomination. Presidential administrations end, but Justices often serve as many as 30 years. Ideologically stable Justices show a clearly vetted choice and help to serve the president's legacy positively. However, some Justices have moved drastically left or right. President Eisenhower famously said of his Court nominations, "I made two mistakes, and both of them are sitting on the Supreme Court" (Smelcer 2009, 1). Chief Justice Warren and Justice Brennan departed from Eisenhower's conservative leanings and championed several civil rights era Court rulings.

Conversely, the conventional position is that Justices, for the most part, vote predictably. In reference to Chief Justice John Roberts, David Straus argues that an "unpredictable Supreme Court is a myth" (Straus 2005, 1). Specifically, he states:

Judge Roberts is an exceptionally able lawyer—as good as they come—and it is quite possible that the Senate will confirm him. But whatever his views are now, the Senate, and the American people, should count on his being the same person throughout the 30 or so years he is likely to spend on the court if he is confirmed. The idea that judges change their basic philosophical views once they are on the bench is a myth. (Straus 2005, 1)

Straus gives the conventional interpretation of judicial consistency, but other scholars suggest that ideological drift is expected and happening: "Contrary to the received wisdom, virtually every Justice serving since the 1930s has moved to the left or right or, in some cases, has switched directions several times" (Epstein et al. 2007, 1486). Epstein et al. use their statistical models and ideological scores (which I also use in my model) to track judicial movement. Their models successfully predict shifts that qualitative scholars have suggested over decades. Justice Blackmun is often noted in qualitative scholarship for his shift in judicial ideology to the liberal wing (Epstein et al. 2007, 1486). Epstein et al. quantitatively support this claim and predict, with their model, that Justice Blackmun would move progressively liberally throughout his term.

Blackmun began his tenure as a conservative Justice (supporting approximately 35 percent of civil rights claims). After the first five years, Epstein et al. found that Justice Blackmun progressively supported more civil rights claims throughout his tenure, reaching over 70 percent in his final term.

When Epstein et al. use the scores, they identify ideological drift, but offer no definitive, observable explanations for what compelled the drift. However, they give a host of variables that might contribute to judicial drift. Particularly, they suggest that drift may be Justices responding to and conforming with public opinion (Epstein et al. 2007, 1520). I plan to use a rough representation of this concept as a control within my own model.

### **Federal Experience and Ideological Congruence to the President**

Matthew Hitt of Ohio State University studied how the amount of information available to presidents about potential Justices (judicial experience and executive experience) affects how ideologically congruent presidents and Justices are. Hitt argued that the more information presidents have on nominees' professional and executive experience, the more ideologically congruent they would be with the president. Senators, according to Hitt, might also constrain choices for the president if they are from the opposite party. In explaining the appointment of Justice Souter, Hitt states, "Bush [Sr.] selected a more moderate (and minimally experienced, it should be noted) nominee to raise the probability of confirmation. If the president must moderate his choice in the face of a hostile Senate, it follows that the eventual nominee will be further away from the president's ideal point, and nearer to the Court's median" (Hitt 2013, 799). The president's ideal point is rooted in data from the administration's public positions on particular cases to determine how the president would vote on a case.

Hitt's findings demonstrate that the more information a president has about a Justice's federal experience (in the executive and the judicial branch) the more congruent those Justices are with the president. Hitt explains that "by selecting nominees with more relevant experience, presidents experience greater success with their appointment" (Hitt 2013, 799). Hitt finds that senatorial constraint and divided government fail to reach statistically significant levels. Although constraint and divided government may fail in Hitt's model of congruence, it is likely useful for measuring ideological consistency here.

Hitt differentiates from this study because he combines federal executive experience and federal judicial experience into a single variable. Additionally, Hitt's research uses the first 10 terms of a Justice's career and does not study how all Justices perform throughout their careers. Hitt argues that the Justices have acclimated to the Court after 10 terms and the appointment process no longer influences them (Hitt 2013, 798). His inclusion of divided government as a possible influence on Justice-president congruence, however, is useful in studying long-term ideological drift. I use this variable in the present model.

### ***Measuring Movement***

Since 1953, Congress and the president have appointed 24 Justices, 16 of whom have been appointed from circuit courts. As the literature suggests, selecting circuit court Justices has several advantages for the president, broadly categorized into three concepts. First, appellate judges pass more easily through the nomination process because of the legitimacy associated with the federal court system. Second, a history of judicial decision making strongly indicates judges' ideologies to the president and Congress. Third, using knowledge of the judge's ideology across his or her history of appellate opinions, presidents select nominees they believe will be consistent in their rulings on the Court (Epstein et al. 2007; Nemacheck 2007; Yalof 1999).

The third concept is a presidential strategy largely unexplored by existing literature. If presidents are choosing Justices from the circuit courts in part because they believe those Justices will be the most consistent, are Justices selected from the circuit court system really more ideologically consistent than their non-circuit court counterparts? The relevant literature suggests that drift is occurring and measurable. Given these disparities, I hypothesize that circuit court experience will predict less ideological movement.

### **Appellate Court Experience and More Limited Drift**

Given the background information on presidential and Senate motivations for appointing circuit judges and the research on ideological drift, it can reasonably be suggested that circuit court experience may result in less ideological drift. Simply, if X is present (circuit court experience), then there should be less variation of Y (ideological drift) in contrast to when X is not present. If the hypothesis is supported, the presidential and congressional strategy for judicial selection is also supported. If the hypothesis is unsupported by the data, the results are still relevant to judicial selection; they may suggest that choosing Justices on the basis of their appellate court experience might relate to more limited drift.

In answering whether circuit court experience influences ideological drift, a model measuring these concepts against each other must be offered. Conceptualizing the model pits drift against circuit court experience, but there are more variables to consider. However, much of the research defining and assigning ideological scores to Justices has already been done. Martin and Quinn have measured the ideology of Justices for each year since 1937. Their data are essential to this research, but some work was done to create the actual variables. Not only are circuit court experience and drift added, but the research literature provides control variables.

### **Three Variables Predicting Ideological Drift**

The question here is whether circuit court experience indicates a more ideologically consistent Justice. The dependent variable, ideological drift, measures how much Justices deviate each year from their first year on the Court. To operationalize and measure Justices' ideological drift, I use the aforementioned Martin-Quinn scores for each Justice from 1953 to 2013. In the Martin-Quinn scores, Justices are given an ideology number for each year of their service. The numbers are on a 12-point scale, from -6 (most liberal) to +6 (most conservative). For instance, Justice Scalia scored 3.326 in 2012. How Martin-Quinn arrives at the values is complicated. Martin-Quinn uses data from the Supreme Court Database to determine the policy preferences of each Justice. Using a Markov chain Monte Carlo algorithm to determine the ideal mean points for each Justice, the algorithm considers a range of inputs from case data. The Martin-Quinn scores have assigned each Justice a score for each year since 1937 (Martin and Quinn 2013).

Since the research question in the present study is concerned with Justices' prior experiences as judges on the U.S. Courts of Appeals, the primary explanatory variable is circuit court experience. Using Justices' biographical data located on [www.oyez.org](http://www.oyez.org), I coded this variable 1 if Justices had circuit court experience, and 0 if otherwise.

Based on the findings by Epstein et al. and Hitt, I include two control variables in the model: divided government (Hitt 2013) and House control (Epstein et al. 2007). The divided government variable asks whether the president's party affiliation and the majority party in the Senate are different. As mentioned before, Hitt suggests that when a divided government is present, presidents are constrained in their choices and must nominate Justices more in line with the Senate's concerns. Hitt contends that this might alter the ideological variability between the Justice and the president. Given that presidents use three criteria for choosing Justices (ideology, confirmation, and consistency), and that a divided government constrains one criterion (ideology), I surmise that presidents might rely more on ideological consistency when there is divided government. For divided government, values are coded 1 if yes and 0 if otherwise.

Since other scholars have suggested that drift may be explained as Justices responding to (following) public opinion (Epstein et al. 2007), I include a rough

measure of public opinion in the model. The idea here is that if the public mood is conservative, this will manifest in the House of Representatives being controlled by Republicans. If public opinion leans in the liberal direction, the controlling party in the House of Representatives will be Democrats. As a rough indicator of public opinion over time, I examine whether the House of Representatives (in each year of this study) is controlled by either Democrats or Republicans to establish the national mood as liberal or conservative. House control (public opinion) is coded 0 for Democratic control and 1 for Republican control.

### **Modeling Judicial Drift**

The primary source of data is the Martin-Quinn database of ideological scores. The posterior mean (what Martin-Quinn characterize as the ideal measure) points from Martin and Quinn are used to construct the dependent variable ideological drift (Martin and Quinn 2013). All other independent variables were coded using publicly available data from the Office of the Clerk of the House of Representatives and the U.S. Senate websites. The years of study are from 1953 to 2013. An appropriate starting point for the study is 1953 because it was the year that marked the trend of appointing Justices from the circuit courts. Beginning with President Eisenhower publicly stating that he would use the circuit courts as a source of Justices, two-thirds of appointed Justices have come from the circuit courts.

The quantitative method is most appropriate for measuring judicial drift in this instance because it is able to pool the candidates in association with each other. The unit of analysis, however, is not Justices themselves, but the Justices' particular drift during a particular year. The Martin-Quinn dataset provides the mean point score for each Justice in each year of service, but does not calculate a drift variable. To capture ideological drift, I use the Martin-Quinn scores to create the variable. Justice ideology is on a 12-point scale, a continuous variable with numerous values ranging from -6 to +6. I compare a Justice's ideology score from the first year of service ( $Y_1$ ) with each Justice's ideology score in subsequent years ( $Y_{1+T}$ ). I then take the absolute value of this comparison to show movement in positive terms. Hence, ideological drift for each Justice for each year of service ( $Y$ ) is  $|Y_1 - Y_{1+T}|$ .

Since the dependent variable is a continuous variable, I can express ideological drift in an OLS regression model equation,  $Y = a + b_1X_1 + b_2X_2 + b_3X_3 + e$ , where  $Y$  is ideological drift and  $a$  is the constant. The primary explanatory variable (circuit court experience) is  $b_1X_1$ . The control variables are divided government ( $b_2X_2$ ) and house control ( $b_3X_3$ ), and  $e$  is the error term.

### **Results and Analysis**

Pitting circuit court experience ( $b_1X_1$ ) against ideological drift ( $|Y_1 - Y_{1+T}|$ ) in a basic linear regression reveals a statistically significant relationship. With a Sig. value of .022, the threshold for statistical significance is met with it being below .05. Observing the B coefficient shows the amount of drift between Justices with circuit court experience and those without to be similar. The value for our  $Y$  in the B coefficient is .211. This indicates that for every positive increase in the  $Y$  value, the amount of drift increases .211. Because circuit court experience is a dichotomous variable, there is only one change in value from 0 to 1. On a 12-point scale (established by Martin-Quinn for ideology), this suggests that Justices appointed from the circuit courts actually drift slightly more than those appointed from other professions.

**Table 1.** Prior judicial experience influencing high court decision making.

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
Constant	.688	.088		7.826	.000
divgovt	.111	.083	.062	1.344	.180
pubopinion	.399	.095	.200	4.206	.000
Circuit court experience	.211	.092	.107	2.304	.022

Moving to the control variables, divided government and political mood (public opinion) of the public (as represented by House control) have mixed results. Divided government at the time of appointment of the Justice is statistically insignificant to their ideological drift with its Sig. value exceeding .05. The controlling party of the House of Representatives, however, is statistically significant and to a greater degree than circuit court experience. With a Sig. value of .000 and a B coefficient of .399, House control affects judicial drift more than any other variable. The variable is dichotomous between 0 being Democrat controlled and 1 being Republican controlled. The B coefficient shows that when Republicans control the House, Justices drift .399 more on a 12-point scale than when the House is controlled by Democrats. Examining the context surrounding this research might further explain these findings.

### Contradicting Data in Context

In measuring ideological drift against circuit court experience, it was expected that Justices with appellate experience would drift less than those without experience. Yet, the model predicts that Justices with circuit court experience will actually drift slightly more (0.22 more on a 12-point scale). However, this outcome is still significant in its implications. The data seem to question the contention that circuit court judges make for more consistent Justices on the Court than Justices from outside the federal bench.

Presidents and senators might need to consider alternative strategies to control drift on the Court, depending on which way the Justices are drifting. The circuit courts will continue to be a source of Justices to the Court, but whether the circuit courts are a source of ideologically consistent Justices is in question. Other characteristics may need to be examined before appointing Justices to the bench. This is difficult, however, as the true sources of drift have not been thoroughly researched or suggested by the current body of literature. The only relevant suggestion here is that a circuit court background is not predictive of less drift.

Moreover, a divided government at the time of judicial appointment does not predict more ideologically consistent Justices in this model. This discovery is in line with Hitt's findings, which also revealed that a divided government is statistically insignificant. The variable as a concept was unlikely to work from initial formation. Although the Senate and president have a common interest in ideological consistency on the Court, it is unlikely that the two entities in opposition would produce more consistent appointments because of fewer choices. The president and Senate only take a few months to select a Justice, while the individual they are selecting serves for as many as 30 years. However, this is not to suggest that the branches of government do not play a role in judicial drift.

In accounting for political mood of the public as Epstein et al. suggest, the model uses a rough interpretation of that variable. I used the controlling party in the House as

a rough gauge of public opinion. This is an approach of necessity given that there are no consistent and reliable public polls that reach back as far as 1953. It is interesting that the model suggests that House control might be significant. It shows that when the Republican Party controls the House, Justices tend to drift nearly half a point more on the 12-point scale. Further research on the relationship between drift and political mood of the country would further improve our understanding of judicial drift.

### ***Conclusion: Limitations and Future Research***

Ward Farnsworth, in his critique of the Martin-Quinn paper, makes a case for approaching models such as these with caution. Farnsworth explains that the methods behind Epstein et al.'s work are "black box"-like and confusing to even the most advanced academic (Farnsworth 2007). Farnsworth explains:

The difficulty arises because the authors want to do more than make this contribution; they want to give advice. . . . For despite the hedge words I mentioned a moment ago, it would be easy to take away from their article a conclusion that it is generally hard to predict what any Justice will think and do ten or fifteen years after appointment. (Farnsworth 2007, 1902)

The work of Epstein et al., like the work here, relies unequivocally on the use of Martin-Quinn scores. If scholars are to make use of the Martin-Quinn scores, they may need to be wary of making predictions.

### **Constrained Research**

Bearing Farnsworth's warning in mind, 24 Justices is a small sample size. Using 1953 as the starting year is appropriate, as it is generally referred to as the beginning of the modern Court, but it yields only 24 Justices. As a sample size, 24 is below the statistically recommended 30. However, with more than 400 observations for the entire sample size, some meaningful observations are possible and suggest themes in ideological consistency. Additionally, this research has controls for two other variables (House control and divided government), but there are many more that should be considered. Epstein et al. and other scholars suggest a host of other variables that might relate to ideological drift. Future research into judicial drift may attempt to broaden the scope of Court decision making while also controlling for more variables.

### **Future Use**

The work here has made an attempt to evaluate presidential strategies outcomes. The model suggests that circuit court judges may not make for more ideologically reliable Justices than their non-circuit court peers. Circuit court Justices, according to the model, drift slightly more (0.22 on a 12-point scale) than non-circuit court Justices. If the information is reliable, judicial drift on the Court is happening, and circuit court experience does not predict less drift. This is important because presidents have often predicted that the circuit court experience would provide for less drift. However, it is important to note that the model does not show which way the Justices are drifting. If a Justice appointed by a politically conservative president drifted more conservatively throughout the Justice's term, then the president would not be concerned that the Justice was a poor choice. If, however, a conservative president appointed a Justice who drifted more liberally (as in the case of Justice Blackmun) the president would likely be more concerned. Future research on the topic should investigate which way Justices drift according to the Martin-Quinn scores to better reveal the nature of drift in relation to federal court experience.

In either case, Straus's contention that "the idea that judges change their basic philosophical views once they are on the bench is a myth" is clearly in question even when these Justices have federal court experience (Straus 2005, 1). Depending on which way the Justices drift, presidents might do well to revisit their preferences for circuit court judges. The model shows that the difference in ideological drift between Justices with experience and Justices without is slight and that those Justices with experience are prone to drift more. This finding puts Justices nearly on par with each other in their propensity to drift, regardless of professional background. Given this understanding, the modern tradition of appointing circuit court judges to the Court because of, among other factors, their more predictive consistency is perhaps unfounded.

### **Bibliography**

- Bergara, Mario, Barak Richman, and Pablo Spiller. "Modeling Supreme Court Strategic Decision Making: The Congressional Constraint." *Legislative Studies Quarterly* 28, no. 2 (May 2003): 247–80.
- Circuit Court of Appeals Act. 26 Stat. 826 (1891).
- Epstein, Lee, Andrew D. Martin, Kevin M. Quinn, and Jeffery A. Segal. "Ideological Drift among Supreme Court Justices: Who, When, and How Important?" *Northwestern University Law Review* 101, no. 4 (2007): 1483–1541.
- Farnsworth, Ward. "The Use and Limits of Martin-Quinn Scores to Assess Supreme Court Justices, with Special Attention to the Problem of Ideological Drift." *Northwestern University Law Review* 101, no. 4 (2007): 1891–1903.
- George, Tracey E., and Lee Epstein. "On the Nature of Supreme Court Decision Making." *American Political Science Review* 86, no. 2 (1992): 323–37.
- Hitt, Matthew P. "Presidential Success in Supreme Court Appointments: Informational Effects and Institutional Constraints." *Presidential Studies Quarterly* 43, no. 4 (2013): 792–813.
- Martin, Andrew D., and Kevin M. Quinn. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953–1999." *Political Analysis* 10, no. 2 (2002): 134–53.
- . "Measures." Martin-Quinn Scores. Accessed December 1, 2013. <http://mqscores.berkeley.edu/measures.php>.
- Nemacheck, Christine L. *Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover through George W. Bush*. Charlottesville, VA: University of Virginia Press, 2007.
- Smelcer, Susan Navarro. *Supreme Court Justices: Demographic Characteristics, Professional Experience, and Legal Education, 1789–2009*. Congressional Research Service, September 9, 2009. <http://fpc.state.gov/documents/organization/132310.pdf>.
- Straus, David A. "It's Time to Deal with Reality: The Myth of the Unpredictable Supreme Court Justice Debunked." *Chicago Tribune*, August 7, 2005. [http://articles.chicagotribune.com/2005-08-07/news/0508070326\\_1\\_justices-antonin-scalia-supreme-court-roosevelt-appointees](http://articles.chicagotribune.com/2005-08-07/news/0508070326_1_justices-antonin-scalia-supreme-court-roosevelt-appointees).
- Yalof, David A. *Pursuit of Justices*. Chicago: University of Chicago Press, 1999.