American Political Institutions: Congress, the Executive, and the Courts

Justin Grimmer

Assistant Professor
Department of Political Science
Stanford University

May 19th 2011
What is Political Power?

Power is contingent:
1) Depends on the rules (institutions)
2) The preferences of actors

President:
- Executive orders in gray area
- Conditions when going public is effective

Bureaucrats:
- Powerful when Congress/President conflicting/ambiguous power

Party Leaders:
- Closed rules
- Vote buying
- To obtain actions they want
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Separation of Powers Games

When is the Supreme Court Powerful?

One answer: Contingent on Congressional preferences
- Supreme court filled with policy motivated actors
- But are strategic:
  - Recognize actions have consequences
  - Anticipate how Congress/President will respond to statutory decisions
- Power: greatest when Congress unwilling (unable to act) in response
- Power: actors with institutional power within Congress who are unwilling to act

Controversial contention (Segal 1997):
- Jurisprudence: supreme court decisions are about law
- Attitudinalists: supreme court voting is sincere
- Separation of power(ists): decisions conditional on how others act
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Grove City College vs Bell

- Title IX: You can’t discriminate based on gender if you accept federal funds.
- Grove City College: Independent Christian School.
- Avoided federal funds to retain autonomy but allowed students to use educational grants, which triggers Title IX.
- Department of Education (Bell) asked for school to sign assurance.
- Grove City College: No.
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1) Student grants triggered Title IX
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   ← Majority opposed this
3) But applied only to financial aid

Congress revises law three years later: but why did it take so long for revision?

General problem of statutory interpretation
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The Separation of Power Game (Fig 2a from Segal revised)

1) Court Makes ruling
2) Committee (chair) decides whether to make a proposal to floor
3) Legislature votes on committee proposal

What Supreme Court Does, Conditional on arrangement of actors

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Segal (1997):
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  - Costless legislation
  - Reasonable model of legislation
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→ justices are sincere voters
Normative Question?

We have three models of decision making
- Legal
- Attitudinal
- Separation of Powers (strategic)
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- Legal
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How should justices decide cases?