Place and Region in American Legal Culture: State Origins of Landmark Supreme Court Cases

Stanley D. Brunn, Fred M. Shelley,
Gerald R. Webster, and Wael M. Ahmed

Brown v. Board of Education, in which the United States Supreme Court ruled segregation in public education to be unconstitutional, was regarded by Supreme Court historian Bernard Schwartz as "the watershed case of this century."[1] Brown epitomizes the role of place and region in cases heard before the highest court.

In the early 1950s, cases from Kansas, Delaware, the District of Columbia, Virginia, and South Carolina reached the Supreme Court at around the same time. Chief Justice Earl Warren was committed to ending desegregation and he wanted a unanimous decision. Schwartz noted that Chief Justice Warren felt that the likelihood of winning a unanimous decision would differ from one state to another. He thought that integrating schools in Delaware, Kansas, and the District of Columbia would be no trouble. The South was another matter. As Justice Felix Frankfurter's notes tell us, Warren expressed a "lot of concern for South Carolina and Virginia."[2] Because integration in Kansas could be accomplished quickly and without controversy, Warren felt that with this case he could most likely achieve unanimous agreement. The Kansas case was chosen as the lead school desegregation case. Thus, the venue of one of this century's most important cases was selected on political and geographic grounds.

The Brown case addresses the focus of this study: that place, region, and political culture are important elements in cases heard by the Supreme Court. In this paper, we investigate these issues by examining the importance of place and region in the American legal system. What are the relationships between the state origins and types of cases? If there are distinctive regional and political cultural origins for different types of cases, then knowledge of these origins is important to understanding the development of legal principles in these respective areas of the law.

Background Literature and Conceptual Framework

Geography, Law, and Regional Political Culture

volved adjacent states, emerged from the cluster analysis—for example, Pennsylvania and New York, Arizona and Utah, Iowa and Wisconsin, and Delaware and Rhode Island. He notes that where "regionalism remains a potent influence there are clearly often relevant dimensions in the partitioning of actors."[23] Regionalism must be considered as being important along with other economic, demographic, political, and legal variables in explaining "distinctive subsets of the larger network of communication."[24] Furthermore, he notes that where "regionalism remains a potent influence there are clearly often relevant dimensions in the partitioning of actors."[25] Discriminant analysis yielded seven regions. The first and most prestigious includes New York, Pennsylvania, New Jersey, Massachusetts, and California. The second cluster of nine states includes eight in the Midwest plus Colorado. He also identifies a cluster of nine states that has a "distinct southern aspect," a New England cluster (four states), and a "hodge podge" of thirteen western and Plains states.

While the above studies do not focus directly on the place and region origins of landmark U.S. Supreme Court decisions, they illustrate the importance of leading, innovative, or pacesetter states in legislation and court decisions and the extent of regional communication among state supreme courts. Justices, legislators, state attorneys general, and private attorneys in states are among those integral to the cases emerging through state and federal courts that will eventually reach the Supreme Court. Because Supreme Court decisions take precedence over both state supreme court and lower federal court decisions, it is valuable to investigate if certain states or regions have had disproportionate influence in Supreme Court jurisprudence in recent years.

Article III, Section I of the U.S. Constitution states that "The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Over the past two centuries, Congress has "ordained and established" federal district and appellate courts, whose decisions may be appealed by disputants to the Supreme Court. The Supreme Court also adjudicates disputes between states, and it is empowered to hear cases involving federal laws whose effects cross state boundaries.

Only a small minority of legal disputes ever reach the Supreme Court. Each year, an average of 7,000 to 8,000 cases are appealed to the Supreme Court, but only about 100 are selected by the justices for full consideration.[26] The Court has complete freedom to determine which cases it will hear. The Brown example illustrates that geographic considerations may play a role in determining which possible cases will be heard. In this paper, we first define the term "landmark case" and examine the state origins of landmark Supreme Court decisions in order to address questions about place and region. After describing landmark cases across a broad spectrum of issues, we focus on decisions in three categories: apportionment and districting; abortion, sexual discrimination, and sexual harassment;

of law of torts.[11] They concluded that regionalism is weak, or that "state appellate courts are open to influence from other courts regardless of location."[12] Glick examined the diffusion of right-to-die legislation and identified New Jersey and Massachusetts as being innovators.[13]

Studies by Harris[14] and Caldeira[15] are directly related to our study as they examine the "prestige" or the most important supreme courts, the extent of intercourt communication, and the importance of state, legal culture, and regionalism. Analyses of "court communication," or the degree to which courts cite one another's decisions, consider "who cites whom" as a court of last precedence, what states lead and follow, and what regional clusters emerge from multivariate analyses. Harris conducted a detailed study of court relations for sixteen states every decade from 1870 to 1970 and found that state supreme courts tend to cite those courts in the states with which they have migratory ties.[16] During this century, the New York Court of Appeals declined in influence, as did Massachusetts, whereas the "luster" of the California state supreme court increased. Regionalism also became more important.

Caldeira considered judicial reputation by counting the number and the state-origins of state supreme courts' decisions cited as cases of last precedence in 1975.[17] California, New York, New Jersey, Pennsylvania, and Massachusetts were the five states most cited. At the rear were Rhode Island, Vermont, Hawaii, South Dakota, Wyoming, and the District of Columbia. Thus, large urban and industrial states were cited frequently, whereas agricultural and sparsely populated states had few citations. The variations in reputation were explained by a series of demographic, economic, political (ideology), and legal (caseload, professionalism) variables.

Caldeira also compared his rankings with Mott's and noted that improvements or increases were evident among the wealthier, larger, and more progressive states. Massachusetts, Illinois, and Missouri slipped while California, New Jersey, Pennsylvania, and Wisconsin increased. And he writes about the South, "Many of the new highfliers came from the southern states and the Sunbelt, but at the same time, courts of last resort in the very deep South suffered a considerable loss of prestige."[18] Caldeira attributed this decline to their poor record "in the field of black civil rights."[19] In a follow-up study, Caldeira recognized the importance of distance, migration, cultural linkages, state size, and region in explaining the intensities and patterns of intercourt communication. Geographical proximity is important in considering communication, even though "political scientists have for the most part ignored this often crucial facet of politics."[20] He further states that "one state supreme court's propensity to cite another declines proportionately the greater the distance between them."[21]

Caldeira's 1988 study, using 1975 data, looks at court "networks," that is, not only "who is citing whom," but also "structural equivalence" or "which sets of states adopt similar patterns of citations."[22] These are integral to his discussion of legal precedence, viz., what kinds of clusters of networks or patterns emerge. Various pairings, most of which in-

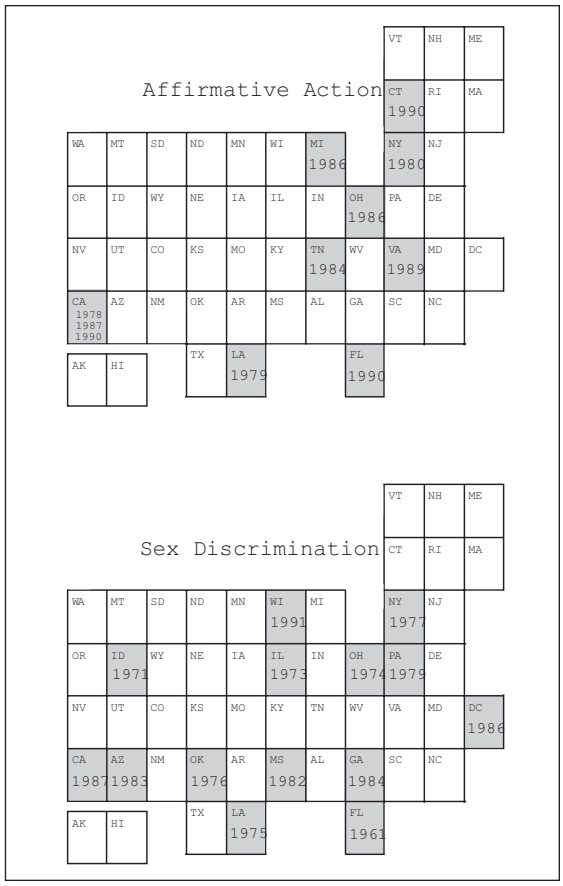
Justice Oliver Wendell Holmes' words, "exercise the kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend."[27] Goldstein and Stech mention that the cases selected not only set forth legal doctrines, but also signal to others what kinds of cases may be welcomed or discouraged.[28] Neubauer wrote that "Landmark decisions are particularly important tools that justices utilize to encourage the filing of certain types of cases."[29] He mentions that by agreeing to hear cases related to race, religion, legislative apportionment, and right to privacy, "the Court invites others."[30]

While some scholars disagree about the significance of a particular case, in general there is broad agreement among them as to what cases have had the greatest impact on American life and American jurisprudence. Some authors have grouped landmark cases into specific categories. Fellman[31] identified twenty-two and Bolmeier[32] identified twenty-three decisions on public school issues. Epstein and Kobylka examined major abortion and death penalty cases.[33] Israel et al. discussed 132 leading cases relating to the criminal justice process.[34]

Other authors consider a variety of the most important cases. Kay et al. identified what they consider 297 "landmark cases" between 1793 and 1985.[35] They listed cases chronologically in three categories: the constitutional powers of the branches of the federal government, division of power between the federal government and the states, and individual rights. Paddock lists 450 significant cases during the same time frame.[36] Epstein et al. identified 430 landmark cases in seventy-four categories.[37] While a few cases were from late last and early this century, most are from the past three decades. Because Epstein et al. list landmark decisions by category, we used this list. We selected thirteen categories to examine the states of origin of cases listed: abortion, affirmative action, cruel and unusual punishment, establishment of religion, free expression of religion, freedom of speech, freedom of press, legislative apportionment and redistricting, Miranda warnings, obscenity, race discrimination, search and seizure, and sex discrimination. Together, these 13 categories included 151 landmark cases.

State Origins of Landmark Cases

While Epstein et al. list cases and the year they were initiated, they do not list the state origin, so we used the Westlaw electronic database to determine that information. We sought to identify whether there were any patterns to the state origins of decisions listed in the above categories. We prepared a series of maps of each category (Figures 1-4). Four distinct patterns emerged. First, there were categories that had multiple state origins and different regions. The affirmative action and sex discrimination categories met this criterion; the former had eleven cases from nine different states, while the latter had fourteen different

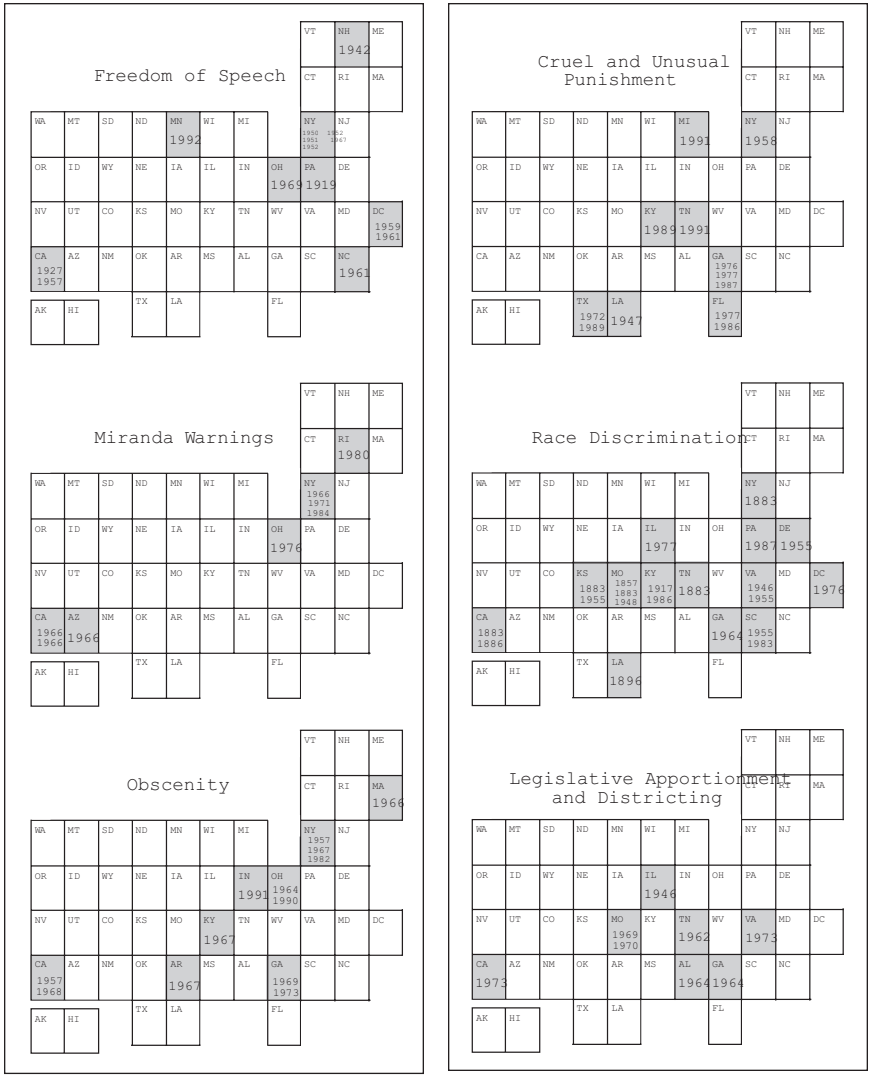


and environment. Finally, we summarize the place-region concepts in the legal landscape and posit topics meriting future legal and political geography inquiry.

Landmark Cases

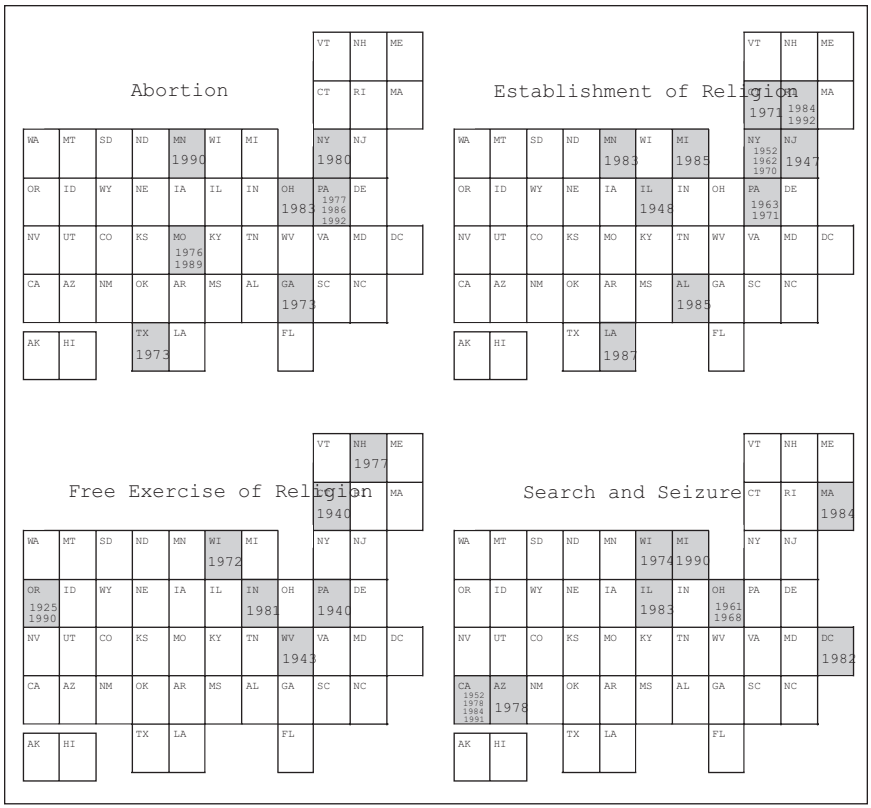
Defining Landmark Cases

In order to investigate these geographic considerations of Supreme Court cases, we identified those generally regarded by legal scholars as "significant" or "landmark" cases. Schwartz considers landmark cases as those "which have drastically affected both the country and the Court itself." Also, according to Schwartz, these are watershed cases, which in



and Pennsylvania. Epstein et al. identified eleven search and seizure landmark decisions; five were from the Northeast and Middle West and another four from California. None originated from the South.

Overall, nearly 40 percent of the 147 landmark cases in our thirteen categories came from only five of the states: New York with nineteen; California with seventeen; and Georgia, Pennsylvania, and Ohio with nine each. Another seven came from Missouri; five were from the District of



cases from thirteen states and the District of Columbia (Figure 1).

Second, there were categories associated primarily with the most populated states (Figure 2). Five of the thirteen obscenity cases came from New York and California, as did five of the eight Miranda warnings and seven of the fourteen freedom of speech cases. Third, there were categories dominated by cases that originated from the South (Figure 3). These were cruel and unusual punishment, legislative apportionment and districting, and race discrimination. Eleven of the twelve cruel and unusual punishment cases originated in the South. Four of seven landmark cases related to legislative apportionment cases came from the South, as did twelve of twenty-one race discrimination cases.

Finally, there were categories of landmark decisions from the Middle West and Northeast (Figure 4). These were abortion, free exercise of religion, the establishment of religion, and search and seizure. Of the ten abortion cases, five came from Pennsylvania and Missouri. There were eight cases related to the free exercise of religion and five came from the Northeast and Middle West. The fourteen cases on the establishment of religion included three from New York and two each from Rhode Island

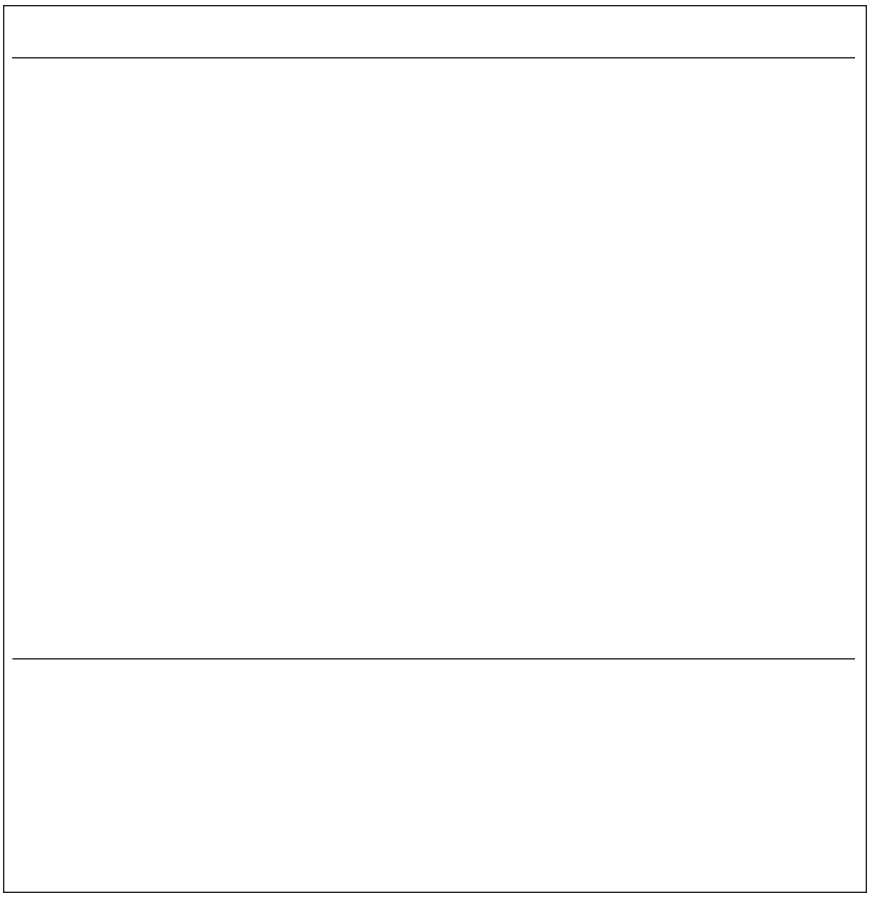
Major Categories of Landmark Cases

Apportionment and Districting

Twenty-three Supreme Court decisions pertaining to apportionment and districting were identified for analysis (Table 1). Our list of decisions was developed based upon evaluations of cases through reviews of the literature.[38] The list was further refined through cross-referencing our selections with those identified by legal sources such as Cornell University's "Historic Supreme Court Decisions" website.[39] We are confident our sample is sufficient to allow an evaluation of the temporal and spatial patterns of cases emanating from the Court. Several of these decisions were "landmark" in that they established new legal precedents (e.g., Baker, Allen, Bolden, Gingles, and Shaw); others did not break new legal ground, but refined or clarified the Court's earlier decisions in important ways (e.g., Lucas, Burns, Miller, Bush, and Hunt).

Prior to the 1960s, the federal judiciary generally declined to consider issues of apportionment and districting. The reticence of the judiciary to involve itself in the processes was articulated by Justice Felix Frankfurter in the Supreme Court's 1946 decision in Colegrove v. Green, which pertained to the ever-widening population disparities between House of Representative districts in Illinois. In a four to three plurality, the Court declined to declare this malapportionment unconstitutional. In the plurality opinion, Frankfurter wrote, "It is hostile to a democratic system to involve the judiciary in the politics of the people," and that "Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure State legislatures that will apportion properly, or to invoke the ample powers of Congress." However, the years following Colegrove underscored that legislatures and Congress were reluctant to apportion themselves equally. As stated by Lewis, "That Congress can effectively enforce equitable districting—the alternative suggested in Colegrove—is flatly negatived by history and political horse sense."[40]

The first landmark case to arise under the Warren Court was Gomillion v. Lightfoot in 1960, which revolved around the redrawing of Tuskegee, Alabama's municipal boundary in order to leave its African-American population outside the city limits, thus negating their ability to vote in city elections. It is notable that the Gomillion case was decided based upon the Fifteenth Amendment's prohibition against the denial of voting rights based on race, and not the Fourteenth Amendment's equal protection clause, so vital in subsequent decisions. The first vital apportionment case to employ the Fourteenth Amendment came two years later in the Court's Baker v. Carr decision, which utilized the equal protection clause to find fault with the malapportionment of the Tennessee legislature. Baker initiated the reapportionment revolution between congressional,



Columbia, Illinois, and Louisiana; and four each from Florida, Kentucky, Tennessee, and Virginia. In general, California, the populous Middle Atlantic states, and the South had the largest number of origins. Small and lightly populated states outside the South had few, and Alaska, Hawaii, Montana, Wyoming, Utah, Vermont, and Maine had none. This finding at the Supreme Court level is consistent with Caldeira's observation that the state supreme courts of heavily populated and industrial states tend to be the most prestigious and influential.

How consistent is this finding across various areas of the law? Although landmark cases illustrate what scholars consider the most important decisions rendered by the Supreme Court, we examined the patterns of larger numbers of cases in certain categories to observe if there were any significant regional patterns to state origins. For this purpose, we chose legislative apportionment and districting; abortion, sexual discrimination, and sexual harassment; and environment.

brief.[49] In short, Alabama's status as a Deep South state, its extreme level of malapportionment, its refusal to address the changes demanded in the Brown school desegregation decision, and its limited tact in arguing its case likely all contributed to its selection as the vehicle for the Court's definitive decision on the equal population mandate.

The passage of the VRA in 1965 altered the nature of the central legal issues in apportionment and districting cases. This was particularly the case after 1969 and the Court's decision in Allen that extended Section 5 preclearance to districting structures as well as voting laws in covered jurisdictions. After Allen, Supreme Court decisions pertaining to apportionment and districting regularly included race as a central issue. The Court's 1980 decision in Bolden further precipitated race-related cases. At issue was whether a discriminatory at-large system could be found to violate the VRA if it was implemented without the "intent" to discriminate. This decision prompted Congress to amend the VRA in 1982 to put greater weight on "results" than "intent," leading to the Court's landmark decision in Gingles (1986). The Gingles' three-prong test for identifying the constitutional necessity of delineating majority-minority districts was applied prior to 1991. But after the release of the 1990 census data, the Department of Justice applied it stringently in its Section 5 preclearance review.[50] Essentially, if it was technically possible to create a majority-minority district, the Department of Justice required such delineations.[51] This interpretation clearly led to the Shaw decision in 1993, and subsequent cases including Hays, Miller, Bush, and Hunt.[52]

Of the twenty-three cases listed in Table 1, seventeen (74 percent) pertained to apportionment or districting issues in the South (Figure 5A). It is notable that four of the first five of these southern cases were not directly concerned with issues of race—Gomillion being the clear exception. But it is also true that the region's "recalcitrance" with respect to civil rights issues lurked in the background. Thus, it is quite possible that race was an unstated secondary or tertiary issue increasing the Court's willingness, if not desire to consider cases from the region. Logically, electoral fairness for racial minorities could not be achieved without reducing the power of the region's rural interests, they being the beneficiaries of the existing extreme malapportionment.

In contrast to the pre-1965 cases, after the passage of the VRA all remaining southern cases included issues directly pertaining to race. The preponderance of cases coming from the South may well be the result of the fact that jurisdictions with long histories of discrimination against minorities, many of which are located in the South, must undergo preclearance by the Department of Justice before implementing districting and apportionment plans. The preclearance provision provides a clear basis for legal action based on alternative interpretations of the law. This is illustrated by the large number of cases in the 1990s that turned on whether jurisdictions were required to draw majority-minority districts.

state house, and state senate districts.[41]

It is also notable that race was ostensibly not the central issue in the Baker decision as well as most of the Court's pre-Voting Rights Act (VRA) apportionment/districting decisions, with Gomillion being the clear exception. Dixon, for example, notes the "elusive" legal precedent for applying the Fourteenth Amendment's equal protection clause in Baker v. Carr because it was "not a racial discrimination case."[42] While somewhat surprising at first glance given the South's penchant for being the origin of race-based districting litigation, it is important to recall that most southern African Americans were denied access to the voting booth prior to the passage of the VRA in 1965.[43] Rather than race, the motivating issue in most of the major apportionment and districting cases arising before the passage of the VRA in 1965 was the increasing imbalance of political power between rural, suburban, and urban areas.

Baker did not fully define the role of the federal judiciary or establish a standard for "equal population" between legislative districts. These issues were more directly tackled in 1964 when the Court released its ruling in Reynolds v. Sims, a case pertaining to the malapportionment of the Alabama state legislature. Notably, the Court had no less than fifteen cases including those from New York, Maryland, Virginia, Delaware, Colorado, Michigan, Washington, Oklahoma, Illinois, Idaho, Connecticut, Florida, Ohio, and Iowa to choose among.[44] Why was the Alabama litigation selected? Dixon provides a number of potential clues as to the Court's thinking:

> Past population disparities in Alabama were egregious; urban-suburban interests by common knowledge had not received effective representation; the reputed "backwardness" of the state on the national scene was easily related to population malapportionment and the Southern rural vote. By contrast such states as New York and California commonly had been accorded the accolade of being exceptionally progressive .... A possible "new Alabama" result may well have undergirded the Court's thinking in Reynolds. But a "new New York" or a "new California" theme would have had a strange ring.[45]

The Court's decision to focus on the Alabama case may also have been an outgrowth of Alabama's response to earlier Court decisions. Dixon states that "the case came up from a federal judiciary impatient with Southern recalcitrance on school desegregation ...."[46] Additionally, a brief was before the Court on behalf of the state that in tone "verged on a plea to raise again the Confederate flag over Montgomery."[47] This particular brief on the state's behalf vigorously argued the Court should return to a position of "non-justifiability, and leave the political thicket alone."[48] Suggesting that the author of the Reynolds decision, Chief Justice Warren, was irritated with the state's arguments (or lack thereof), Dixon writes that the decision may have been "an impatient response" to the

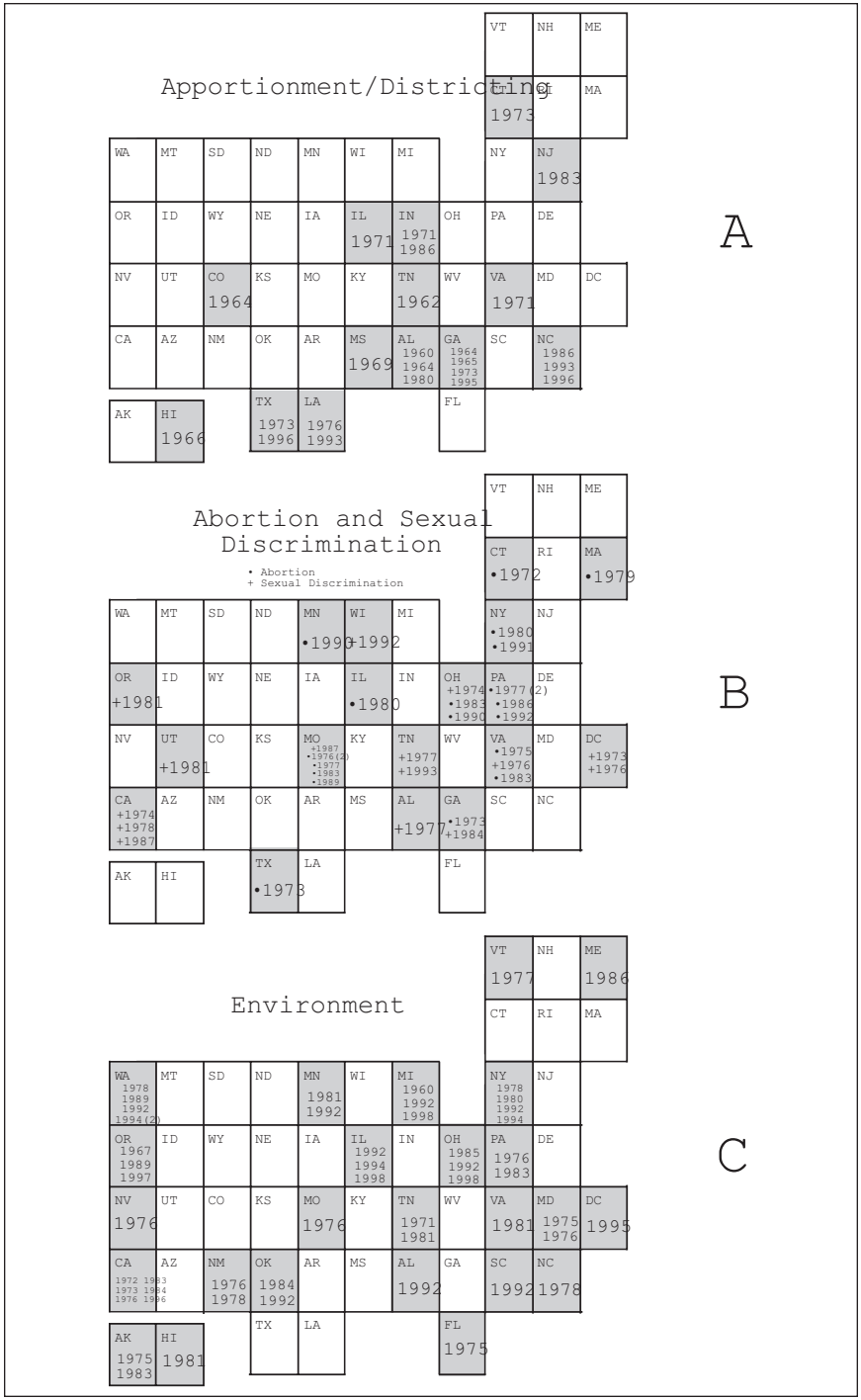
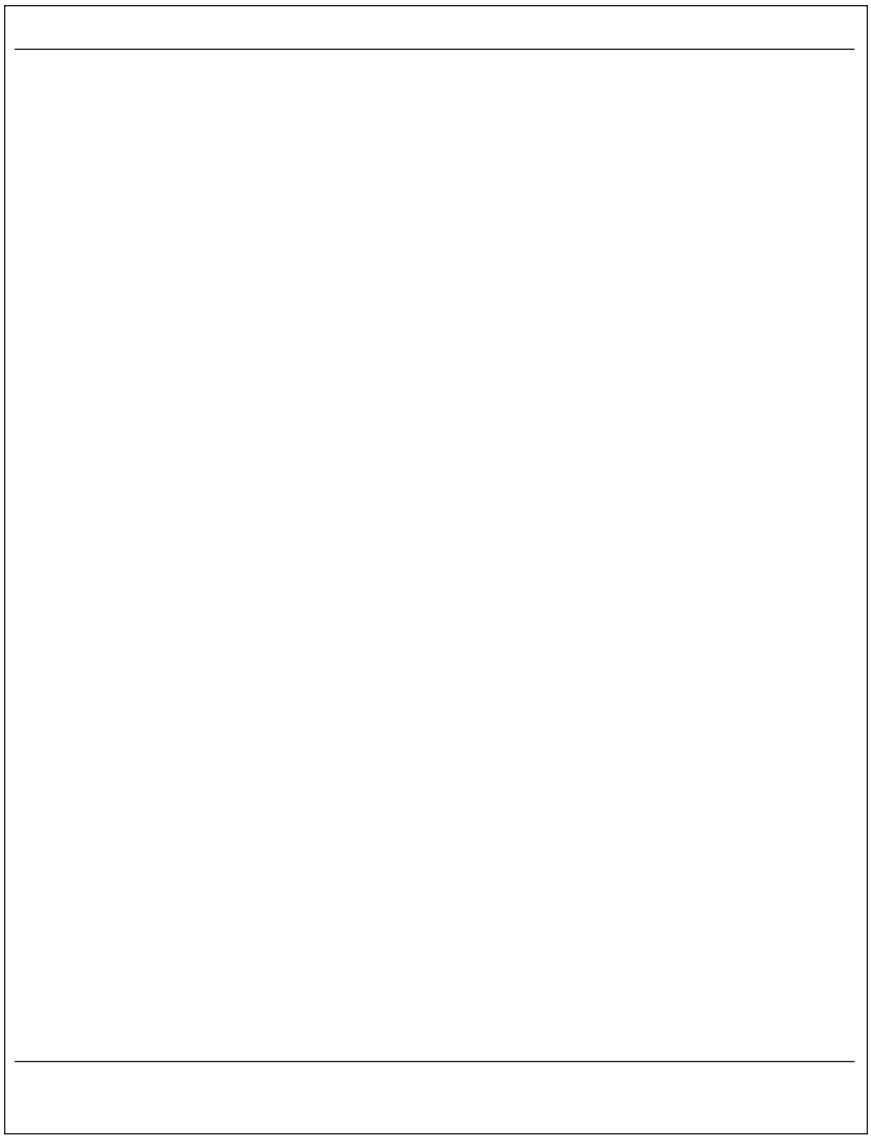


Figure 5. State Origins of Three Major Categories of Supreme Court Decisions.



In total, only nine of the twenty-three cases did not centrally or largely pertain to issues of race. These include Baker, Westberry, Reynolds, Lucas, Fortson, Burns, Gaffney, Karcher, and Bandemer. While the first four emanated from the South, after the passage of the VRA the remaining cases all emerged from the North or West. Overall, only six decisions emanated from either western or northern states. These six cases included two in Indiana, and one each in Hawaii, Colorado, Connecticut, and New Jersey. Notably, race was a central issue in only one of these cases—the 1971 Whitcomb v. Chavis decision in Indiana.

political pressure from President Richard Nixon, who frequently criticized its members and other judges for excessive judicial activism. In light of this criticism, the justices may have preferred to address cases whose legal issues appeared on the surface to be relatively uncontroversial. The four northern cases dealt explicitly with women's rights, whereas the Texas and Georgia cases did not.[56] The Texas case involved a law that made abortion a crime except to save the life of the mother. The phrase "save the life of the mother" was regarded as vague, and thus part of the legal challenge to the Texas abortion law was on the grounds of vagueness. The Georgia law was more explicit. It allowed legal abortion under a variety of circumstances, but women seeking abortion were required to seek and obtain approval from a state-appointed panel of physicians. Plaintiffs argued that it was more difficult for poor women to obtain medical help and to get approval from the panel, and thus the case hinged on equal protection grounds.

Although Roe and Doe both came from the South, only two of the twenty landmark abortion cases did so (Figure 5B). Most of the others were concentrated in the Middle Atlantic states and the Middle West. Five originated in Missouri, four in Pennsylvania, and two each in New York and Ohio. Thus, the original declaration that women had the right to abortion came from cases in the South, whose population tends to take more conservative positions on moral and cultural issues. On the other hand, later cases which modified, interpreted, and in some cases restricted the exercise of this right came from outside the South. The large majority of such cases came from relatively large, cosmopolitan states that contain fairly large Roman Catholic populations—in other words, from states in which abortion has over the years been an especially politicized issue since Roe v. Wade was first handed down.

The fourteen sexual discrimination and sexual harassment cases came from ten states (Figure 5B). Six of the fourteen came from four southern states. The only other noteworthy concentration is California, with three cases. Why there were more sexual discrimination than abortion cases in the South may be attributed to the ease women have in filing discrimination and harassment suits against employers or working environments. No sexual discrimination cases came from the Northeast and only two came from the Middle West, areas prominent for abortion cases. However, both abortion and sexual discrimination cases were dominated by cases with urban origins. Perhaps urban areas are better environments in which to file cases than small towns and rural areas or justices are more willing to consider cases from urban than rural areas.

Environment Cases

The geographic pattern of environmental cases over the past three decades differs strikingly from that of cases involving legislative appor-

In the aggregate, the South is clearly the major origin of apportionment and districting Supreme Court decisions. Most of the early non-race related and the overwhelming majority of the post-VRA race related decisions emerged from the region. The states with the largest number of decisions are Georgia with four, and Alabama and North Carolina with three each. Two decisions each emerged from Texas, Louisiana, and Indiana, with the latter being the only non-South state with more than one decision. The concentration of post-VRA cases is of little surprise given the concentration of African Americans in the South, the region's historical predilection for racial discrimination, and the high proportion of the region's states which are classified as "covered" under Section 5 of the VRA. But the basis for the pre-VRA, non-race related cases is likely multifaceted given the prior discussion of Reynolds. Arguably, the Court did view a "new" South as a goal, one only achievable if the dominance of traditional rural interests were lessened in the region. This goal may have been a principal basis for the Court's decision to enter the "political thicket."

Abortion, Sexual Discrimination, and Sexual Harassment Decisions

In a pioneering treatise on women's issues and the judiciary, Erickson and Simon examine Supreme Court cases related to abortion, sexual discrimination, and sexual harassment from 1972-92 (Table 2).[53] Their purpose is to examine how current social science research methods can be used by scholars and practitioners in legal research. We examine the state origins of these cases in two categories—abortion and sexual discrimination. The latter includes cases related to employment, denial of credit, jury duty, or alimony.[54]

Erickson and Simon's analysis includes twenty-two cases that deal with abortion rights. The right to legal abortion has been an issue of great moral and political controversy for more than a quarter of a century, since the Court struck down most state laws prohibiting legal abortions in Roe v. Wade in 1973. Roe came from Texas and its companion case, Doe v. Bolton, came from Georgia. The remaining cases, for the most part, modified the Court's initial ruling in Roe.

During the late 1960s and early 1970s, numerous cases concerning the legality of abortion were decided in lower courts and in state supreme courts throughout the U.S.[55] In 1970 and 1971 alone, six of these cases were appealed to the Supreme Court, including cases from Connecticut, New Jersey, Pennsylvania, and Wisconsin as well as the Roe and Doe cases. In part, because the lower court rulings on abortion were inconsistent and confusing, the Court decided to tackle the abortion issue directly in 1971.

Why did the justices choose the cases from Texas and Georgia rather than the others? During the early 1970s, the Court was under considerable

Table 3. Significant Environment Cases

Name	Year and State
Huron Portland Cement v. Detroit	1960/Michigan
U.S. v. Rands	1967/Oregon
Citizens to Preserve Overton Park v. Volpe	1971/Tennessee
Sierra Club v. Morton	1972/California
U.S. v. SCRAP	1973/none
Alyeska Pipeline Service v. Wilderness Society	1975/Alaska
Train v. Natural Resources Defense Council (NRDC)	1975/Florida
U.S. v. Park	1975/Maryland
EPA v. California	1976/California
Cappaert v. U.S.	1976/New York
Hughes v. Alexandria Scrap Corp.	1976/Maryland
Kleppe v. New Mexico	1976/New Mexico
Kleppe v. Sierra Club	1976/none
Union Electric Co. v. EPA	1976/Missouri
Du Pont v. Train	1977/none
Vermont Yankee v. NRDC	1977/Vermont
Duke Power v. Carolina Environmental Study Group	1978/North Carolina
Penn Central v. New York	1978/New York
Ray v. Atlantic Richfield	1978/Washington
U.S. v. New Mexico	1978/New Mexico
EPA v. National Crushed Stone Assn.	1980/none
Industrial Union Dept. ATL-CIO v. American Petroleum Inst.	1980/none
Strycker's Bay Neighborhood v. Karlen	1980/New York
American Textile Manufacturers Institute v. Donovan	1981/none
Hodel v. Virginia Surface Mining and Reclamation Assn.	1981/Virginia
Minnesota v. Clover Leaf Company	1981/Minnesota
Milwaukee v. Illinois	1981/none
TVA v. Hill	1981/Tennessee
Weinberger v. Catholic Action of Hawaii	1981/Hawaii
Baltimore Gas and Electric v. NRDC	1983/none
Ruckelshaus v. Sierra Club	1983/none
Pacific Gas & Electric v. State Energy Resources Conservation & Dev. Comm.	1983/California
Metropolitan Edison v. People Against Nuclear Power	1983/Pennsylvania
American Chemical Manufacturers Assn. v. NRDC	1984/none
Secretary of Interior v. California	1984/California
Silkwood v. Kerr-McGee	1984/Oklahoma
Chevron v. NDRC	1985/none
Ohio v. Kovacs	1985/Ohio
Maine v. Taylor	1986/Maine
City of Philadelphia v. New Jersey	1989/New Jersey
Marsh v. Oregon Natural Resource Council	1989/Oregon
Robertson v. Methow Valley Citizens Council	1989/Washington
Arkansas v. Oklahoma	1992/Oklahoma
Chemical Waste Management, Inc. v. Hunt	1992/Alabama
DOE v. Ohio	1992/Ohio
Fort Gratiot Landfill v. Michigan Dept. of Natural Resources	1992/Michigan
Gade v. National Solid Waste Management Assn.	1992/Illinois
Lujan v. Defenders of Wildlife	1992/Minnesota
Lucas v. South Carolina Coastal Council	1992/South Carolina
New York v. U.S.	1992/New York
Robertson v. Seattle Audubon Society	1992/Washington
C & A Carborne, Inc. v. Town of Clarkstown	1994/New York
City of Chicago v. Environmental Defense Fund	1994/Illinois
Key Tronic Corp. v. U.S.	1994/Washington
PUD No.1 v. Washington Dept. of Ecology	1994/Washington
Babbitt v. Sweet Home Chapter	1995/D.C.
Meghrig v. KRF Western, Inc.	1996/California
Bennett v. Spear	1997/Oregon
Ohio Forestry Assn, Inc. v. Sierra Club	1998/Ohio
Steel Co. v. Citizens for Better Environment	1998/Illinois
U.S. v. Bestfoods	1998/Michigan

Sources: R.W. Findlay and D.A. Farber, Environmental Law; Cases and Materials (St. Paul: West, 1985, 2nd ed.); Z.J.B. Plater, R.H. Abrams, and W. Goldfarb, Environmental Law and Policy: Nature, Law, and Society (St. Paul: West, 1992); and for the most recent cases, visit http://www.usscplus.com.

tionment and that of abortion and sexual discrimination (Figure 5C). Because environmental cases were not identified as a specific category by Epstein et al., a slightly different procedure was used to identify significant environmental cases for analysis.[57] Casebooks by Findlay and Farber, and Plater et al., both of which are frequently used in environmental law courses at law schools, were consulted.[58] Both casebooks quote the complete opinions or major portions of important cases in order to illustrate the development and meaning of significant principles of American environmental law. Forty-two cases decided between 1960 and 1990 were quoted extensively in one or both casebooks. Because these books were published before the mid-1990s, an additional nineteen cases from 1992-98 were identified from a U.S. Supreme Court website at http://www.usscplus.com. This procedure yielded a total of sixty-one significant cases that dealt with issues of environmental law (Table 3).

All of the apportionment, abortion, and sexual discrimination cases originated with allegations of specific legal violations in specific places, and thus each can be identified with a particular place and state of origin. In contrast, not all of the environmental cases have significant geographical origins. Rather, several involved challenges to federal regulations that were applicable nationwide, and these cases did not evolve from specific incidents or allegations. For example, Ruckelshaus v. Sierra Club challenged federal sulfur dioxide emission standards that were regarded by officials of the Sierra Club as providing inadequate environmental protection. Environmental Protection Agency v. National Crushed Stone Association was initiated by plaintiffs who regarded national standards for limiting water pollution as too stringent. Overall, eleven of the sixty-one cases lacked geographical specificity.

The remaining fifty cases had specific geographical origins. These can be divided into three major categories. The first group includes cases involving wilderness preservation, endangered species, and natural resources management. Not surprisingly, many cases in this category originated in the West. Examples include Sierra Club v. Morton, which dealt with a proposal by the Disney Corporation to develop a pristine natural area near Yosemite National Park in California; Marsh v. Oregon Natural Resource Council, which was about a proposal to construct a dam in Oregon, and Alyeska Pipeline v. Wilderness Society, which was concerned with the environmental effects of the Alaska Pipeline.

The second and even larger category of cases included those dealing with direct impacts of environmental management on day-to-day human activity. These included environmental problems such as air and water pollution, open space preservation, and hazardous waste disposal. These cases generally arose in cities or densely populated areas, with a majority in the Northeast. These included Metropolitan Edison v. People Against Nuclear Energy, which was concerned with the Three Mile Island nuclear power plant in Pennsylvania; Huron Portland Cement v. Detroit,

Our analysis into the importance of place and region in the American legal landscape reinforces the importance of "prestige" and innovative states— so labeled by political scientists—and regionalism as important elements in U.S. legal culture. Our findings suggest a number of studies we believe merit further inquiry by geographers and legal scholars, perhaps working in tandem. Here, we suggest six.

First is further investigation into the patterns of deciding whether the Supreme Court hears specific cases. As we have seen, the justices' knowledge of and reaction to local circumstances played a critical role in their decisions to select Kansas and Alabama cases to address the critical issue of school integration and malapportionment, respectively. To what extent does this reading of the American legal and cultural landscape hold true for other types of cases? To what extent did the justices take into account place origins in deciding whether to hear some of the past half century's other most significant and controversial decisions, for example Miranda on the rights of the accused, Roe v. Wade on abortion, and Furman on the death penalty? Along these lines, a geographical study of influence patterns, or what Caldeira (1985) has called "court communication," within the Supreme Court and between the Supreme Court and lower federal courts or state supreme courts would be most useful.

Second, following Caldeira's state and legal networking research, there is a need to examine state court citations for specific types of cases.[60] For example, do New York and California cite each other for most cases or only for certain categories? Or "who cites whom" when there are cases pending on euthanasia, capital punishment, minority contract awards, hate crimes, and church/state issues? Are regional networks and citations used for only certain types of cases and beyond that extraregional citations?

Third, it would be instructive to examine the role and influence of special interest and lobby groups in the legal process. For example, the National Association for the Advancement of Colored People (NAACP) has long taken an active role in using the legal process to advance the cause of civil rights.[61] The NAACP has initiated hundreds of lawsuits against racial discrimination in schools, elections, employment, and many other spheres of life. What motivated such organizations to pursue cases in some places and not others? By the 1960s, hundreds of cities and counties maintained segregated schools in violation of Brown. Why did the NAACP and other lobbying organizations focus on the cities that they did, and not others whose levels of discrimination may have been equally significant?

Fourth, another avenue of productive investigation studies the extent to which geographical considerations have underlain the selection of Supreme Court justices and lower court judges. Prior to the Civil War, Supreme Court justices were generally chosen as representatives of specific lower court circuits.[62] Although this practice was abandoned after the Civil War, U.S. presidents have continued to pay attention to geog-

which was about the discharge of effluents into Lake Erie; Union Electric Company v. Environmental Protection Agency which dealt with air pollution in St. Louis; and United States v. Bestfoods, which involved a corporation's contamination of a township in Michigan.

A third category dealt with lawsuits between states or between jurisdictions. According to the Constitution, the federal judiciary is empowered to hear disputes between states. In several cases, states filed lawsuits against each other when environmental policies or actions in one jurisdiction negatively impacted others. In City of Philadelphia v. New Jersey, for example, the City of Philadelphia challenged a New Jersey law prohibiting the importation of toxic chemicals into the Garden State. In Milwaukee v. Illinois, officials in the city of Milwaukee, Wisconsin, charged Illinois interests with allowing excessive pollution of Lake Michigan. Kleppe v. Sierra Club involved a proposal to construct coal slurry pipelines from the northern Plains to the Mississippi River Valley.

Summary and Future Directions

Our historical and geographical analysis of state origins builds on the previous work of political scientists Walker and Caldeira, who examined state innovations, court communications and networking, and regionalism in the American legal landscape.[59] Our study illustrated that place and region are two important concepts that play significant roles in the state origins of major Supreme Court cases. This role is twofold. Over the past half century, landmark decisions by the Court have been dominated by cases in certain categories emanating from specific regions. For example, most cruel and unusual punishment, legislative apportionment, and race discrimination cases came from the South. Search and seizure, abortion, and freedom of religion cases came from the Northeast, and environment cases came either from the urban Northeast or the rural West. Other types of cases, including obscenity, freedom of speech, and Miranda warnings, came from the largest states, especially California and New York.

Not only are categories of cases dominated by particular regions, but geographical considerations have often played a role in the selection of particularly important cases. Frequently, the Court chooses a single case from a group of related cases on the same issue. Brown, from Kansas, was chosen as the lead case on school integration rather than similar cases in Virginia, Delaware, South Carolina, and the District of Columbia. Similarly, the justices chose Alabama from among fifteen alternatives in addressing the constitutionality of malapportionment. Analysis of the historical record shows that the justices were keenly aware of the geographical origins of these and other major cases, and that they took case origins into account in order to maximize the impacts of their decisions on American jurisprudence.

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raphy in identifying Supreme Court nominees. In 1970, President Nixon complained that he was unable to find a Southern justice who could be confirmed by the Senate after two nominees, Clement Haynsworth and G. Harrold Carswell, were turned down.[63]

Fifth, it would be interesting to compare the states and regions of landmark cases in the nineteenth century to discern if there were distinct patterns to cases related to religion, civil rights of indigenous peoples and immigrants, privacy, and protection. Also it merits testing whether the regional political cultures associated with the South, Northeast, Middle West, and West persisted into the twentieth century or assumed new configurations.

Finally, it would be valuable to examine the impact of decisions by judges on state budgets and state policies. To what extent have executive and judicial officials in different states interpreted Supreme Court mandates differently? For example, Brown ordered local school districts to desegregate "with all deliberate speed." How was this ambiguous phrase interpreted in different regions, political cultures, and why? Research into these questions will go a long way in helping scholars understand the role of place and region in the American legal system.

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Notes

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