



John Andrew Frey: Policy Making in State Supreme Courts

Charles Lopeman

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Lopeman examines the impact advocacy of intentional judicial activism by a justice of a state supreme court can have on establishing the court as a policy maker. He examines the attitudinal model and the judicial role model of decision making and concludes that, while the attitudinal model might describe the decision-making process in the U.S. Supreme Court, the judicial role model better describes decision making in state supreme courts. This judicial role model allows the activist to transform a court into a policy maker.

The traditions, recent history, and biographies of recent justices of the Indiana, West Virginia, and Ohio courts are examined to establish a significant relationship between the presence of an activist advocate justice and active policy making by the courts. These courts' decisions in cases with policy making potential are contrasted with decisions in similar cases of three state supreme courts that did not have an advocate justice. Lopeman argues that the presence of an activist advocate explains a court's transformation to active policy making, and that other apparent explanations are insufficient. He emphasizes that the motives of an activist advocate are likely to determine the permanence of policy making in the court. This volume is an important resource for political scientists, legal scholars, and other researchers involved with judicial decision making, state politics, and state constitutional law.

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