THE VINSON-WARREN SUPREME COURT JUDICIAL DATABASE

1946-1968 TERMS

DOCUMENTATION

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INTRODUCTION

This introduction assumes that the reader is familiar with the contents and use of the *Original United States Supreme Court Judicial Database*. If not, skip this section and turn to the general introduction on p. vii.

Three major differences distinguish this version of the database from The *Original United States Supreme Court Judicial Database*: 1) The inclusion of the conference votes of the Vinson and Warren Courts, 2) the application of the variables appearing in the original version of the database to the decisions of the Vinson Court, and 3) the omission of all variables from the Burger and Rehnquist Courts.

The most important of these differences is the addition of the conference votes of the Vinson and Warren Courts. Whereas the original database contained only the vote as reported in the Court's Reports, this database includes the conference votes for all the cases (except those arising under the Court's original jurisdiction on the Vinson Court) in which there was some support in the Court's discussion of the request that it accept the case for review. That is to say, this database excludes deadlisted petitions (those which no justice put on the list of cases to be discussed), plus those in which discussion caused no justice to support granting the petition. Absent any such support, there was no reason for the chief justice to call the roll. The petition was summarily dismissed without further ado.

In order to accommodate the conference votes (those involving the grant of the petition and the conference vote on the merits) the database contains eight vote variables which consist of one that specifies the type of vote the variable contains and a separate variable for each justice that contains his vote. Thus, VOTETYP1 will typically indicate whether the case arose on certiorari or appeal, while MAR1 though VIN1 display the vote that each participating justice cast. Associated with each of these variables is the date the vote was cast, the direction of the vote, and whether the petitioning party won. Inasmuch as direction does not pertain to votes to hear cases, no DIR variable pertains to the votes to grant or deny the petition. The

result is a database of almost 11,000 records, with each record accommodating 584 variables (not all of which, by any means, contain an entry).

Concomitant with the expansion of the database is a shift in its basic unit of analysis. The original database contained every case in which at least one justice wrote an opinion. Cases without opinions were excluded. This version includes every case in which the Court cast a vote following discussion of the case. Deadlisted cases and those lacking any support do not appear.

The shift in the unit of analysis does not simply add new citations, however. For example, cases arising under the Court's original jurisdiction contain opinions but generally lack conference votes. These are excluded from the expanded database but not from the original one.

Apart from cases arising on original jurisdiction, the focus of this database -- though not the unit of analysis -- remains the formally decided case; i.e., those attended by oral argument. These receive full-blown treatment in the sense that data for all the variables that the database contains have been entered for these cases. Not so for the informally decided back-of-the-book summary decisions, the vast majority of which deny the petitioner's request that the Court review the case.

In apportioning the votes of the justices into different vote variables, ease of analysis is accorded the orally argued decisions because each variable is dedicated to a particular type of vote with the exception of the informally decided Vinson Court cases. Thus, with the foregoing exception, VOTETYP1 (variable 62 in the Documentation) contains the preliminary vote for each case (assuming that such a vote was taken, which is not always the situation), typically the grant of certiorari or the vote noting probable jurisdiction; VOTETYP2 holds the conference vote on the merits; and VOTETYP3 the report vote. The final voting variable, the eighth one, displays the reported votes of the individual justices as I have identified them. Like all the other vote variables, this also is a dedicated variable. It is identified by an '8' following the abbreviation of each justice's name; e.g., MAR8, DOUG8, FRK8. This variable lacks an entry in informally decided cases - those in which DEC_TYPE = 3 (see variable 38) - in which no justice wrote an opinion.

Although it may appear that the justices' votes in the report vote variable (VOTETYP3) and those in the Spaeth variable (VOTE) are redundant, such is not the case. For a variety of reasons, specified subsequently, differences between the Spaeth vote (VOTE) and the report vote (RVOTE) occur.

As mentioned, the alignment of a particular vote with the same vote variable does not apply to the informally decided cases, those in which DEC_TYPE = 3 (a listing of the types of decision appears in variable 38 of the Documentation). These overwhelmingly concern denial of petitions for certiorari and the

noting of probable jurisdiction. Thus, certiorari votes may
occur in the second and third variables of these cases, as well
as the first. Votes of other types may appear in the second, the
fifth, or any other vote variable between the first and the
seventh. The order is purely chronological. Only in those
decided formally does the vote to grant certiorari or note
probable jurisdiction **always** locate in the VOTETYP1 variable, the
merits vote in VOTETYP2, and the report vote in VOTETYP3. If a
case lacks one or the other of these votes, the dedicated vari-
able is empty. Formally decided cases are defined here as
DEC_TYPEs 1, 4, 5, 6, and 7 (see variable 38).

    If a formally decided case contains multiple preliminary,
merits, or reports votes, the **final** one of each type will appear
in its assigned variable - VOTETYP1, 2, and 3, respectively. The
others will appear chronologically as VOTETYP4 through VOTETYP7.
Note, however, that preliminary or procedural votes other than
those listed as CERT or JURIS will always appear subsequent to
the VOTETYP3 variable, as will CERT or JURIS votes other than the
final one. Note also that not every formally decided case
(DEC_TYPE = 1, 4 [sometimes], 5, 6, or 7) necessarily has a
preliminary, merits, or report vote. Lacking such a vote the
relevant vote variable for any such citation will be blank.

    In other words, in the formally decided cases VOTETYP1 is
reserved for the justices' final vote to grant cert or note prob-
able jurisdiction, VOTETYP2 for their final conference vote on
the merits, and VOTETYP3 for the final report vote. Votes of any
type other than these three will chronologically appear in
VOTETYP variables 4-7, along with preliminary, merits, and report
votes other than the final one. To insure that these votes have
been ordered in the indicated fashion, the database contains a
variable that specifies the sequence of votes, SEQ1-SEQ7 (see
variables 63, 87, 113, 139, 165, 190, 215 in the Documentation),
which chronologically orders each discrete type of vote. Thus,
in *Wade v. Mayo*, 334 U.S. 672 (1948), a case in which the jus-
tices cast two cert votes, three merits votes, and a report vote,
the sequencing of the votes is as follows: VOTETYP1 = CERT, SEQ1
= 2; VOTETYP2 = MRTS, SEQ2 = 3; VOTETYP3 = REPT, SEQ3 = 1;
VOTETYP4 = CERT, SEQ4 = 1; VOTETYP5 = MRTS, SEQ5 = 1; VOTETYP6 =
MRTS, SEQ6 = 2. To repeat, this pattern does not obtain in the
informally decided cases (DEC_TYPE = 3). Votes in such cases
appear strictly chronologically without regard to their votetype.
Thus, VOTETYP1 may be a merits vote, VOTETYP3 cert, or VOTETYP2
the report vote, or one to dismiss or to consider an amicus
curiae petition.

    In the formally decided cases, types of votes other than
cert or probable jurisdiction, merits, and report always succeed
VOTETYP3 regardless of the date the vote was taken. Thus, for
example, votes to rehear, to permit the participation of amici,

to grant petitions for mandamus or habeas corpus, or to vacate will always locate in VOTETYP4-7 in the order of their occurrence. But in the informally decided cases, these votes may appear in any vote variable. Which vote variable depends entirely on the order in which they were cast.

Relatedly, the various vote variables (see variables 43, 64, 108, 134, 160, 186, 211, 236) of the informally decided cases (DEC_TYPE=3) do not follow the conventional format: the larger number followed by the smaller one; e.g. 90, 63, 54. Substantive directionality cannot be assigned these votes. Instead, I have placed the grant and reverse votes in the first column of these two-column variables, with the deny/affirm votes in the second column. Hence, if the Court denies cert by an 8 to 1 vote, the relevant vote variable -- typically PVOTE -- will read 18. If the justices grant cert or note probable jurisdiction by a 6 to 3 vote, this variable will read 63. Not infrequently, for example, the justices will cast a report vote even though they deny the petition for review. Such a vote will also display the grant-reverse/deny-affirm format. Thus, if the Court unanimously affirms the lower court decision this vote will read 09, whereas if they unanimously vacate the lower court decision, it will read 90.

Note also that frequently the number of votes appearing in PVOTE is very small, extending to 0 when every justice refuses to make a decision to grant or deny.

This database provides very little information about the informally decided cases other than the votes cast by the individual participating justices, the date of such action(s), the name of the case, the type of vote(s) cast, the vote(s), the sequence of vote types, ID number, and occasionally the docket number. Hence, though this database contains all cases in which the justices cast a conference vote, two reasons preclude inclusion of data compiled independently of the justices' docket books. First, in many cases such data are irrelevant; second, absent opinions, these data are indeterminable without consulting briefs and lower court records.

Although the database does not provide the docket number for informally decided cases, particularly certiorari denials, it may be referenced by name of case (variable 48) and variable 1 which contains its US citation.

The fact that a case is formally decided does not guarantee that the justices separately voted on each docket associated with the cite. If the justices cast no separate set of votes such dockets are identified with a '1' in the NOVOTE variable (see variable 6). Parenthetically, such no vote dockets may also display the same LITIGANTS as the docket(s) voted on. Thus, users interested in specific votes need not worry that they may overcount multiple docket citations. Although an entry will appear in NOVOTE only if DEC_TYPE = 1, 2, 4, 5, 6, or 7, note

that the lead record will occasionally show NOVOTE=1. Instead,
one or more of the other dockets will have received individual-
ized voting. Thus, if you are interested in conference voting it
will behoove you to exclude records in which ANALU = 0 if a '1'
appears in NOVOTE, and conversely, to include those records in
which ANALU = '1' if NOVOTE =0.

     The report vote (RVOTE) as compiled by my co-principal
investigator, Jan Palmer, occasionally differs from my specifica-
tion (VOTE). See variables 43, 134. Compatibly with conference
voting outcomes Jan uses an essentially affirm/accept - re-
verse/deny coding scheme. Sometimes it does not accord with the
subtleties of some of the nonmodal voting in which the justices
occasionally engage. Thus, Jan does not distinguish between
jurisdictional and meritorious dissents while I treat the former
as nonparticipations. Where I have expanded the vote to account
for differences resulting from different voting combinations
among the justices in a specific case (ANALU = '4'), RVOTE and
VOTE will necessarily differ in at least one of the records for
this docket number. Differences also occur where a justice
styles his vote concurring and dissenting in part. The presence
of such grounds for disagreement are identified as VOTEQ = 1 (see
variables 44, 65, 111, 137, 163) if it is not reasonably clear
which the vote is. Finally, cases where the justices agree on
the winner and loser, but disagree on the extent of relief to be
offered; e.g., a reversal rather than a remand; will typically
produce a discrepancy between RVOTE and VOTE. A '1' in DIRD
alerts the user to these cites (see variable 40).

     Instances of divergence between RVOTE and VOTE will not
affect the direction of the Court's decision, however. Every
record containing votes in the dedicated 3 (report) and 8
(Spaeth) variables will have a common entry (0, 1, or 2) in the
respective column that specifies direction (RDIR and DIR). See
variables 135 and 39. Note also that if DIRD = 1, both RDIR and
DIR conform to the respecification. Where MDIR and DIR change
because of the presence of a second issue for decision (i.e.,
ANALU = '2' or '5'), both will continue to have a common entry.
Observe, however, that the commonality between the direction of
the report vote does not extend to the merits vote (MVOTE). Not
uncommonly the justices change their votes after conference,
which changes sometimes produce a different case outcome; as a
result MDIR may differ from RDIR and DIR.

     The addition of variables specifying the opinion assigners
and assignees comprises a final substantive addition to the
expanded database. Although a set of computerized IF statements
identified assigners based on the report vote in the original
database, analysis of the conference vote on the merits indicated
considerable error because of changes in assigners not detectable
by reference to the final conference vote on the merits. Conse-
quently, Vinson Court assigners were identified through the

docket books; those on the Warren Court by reference to Warren's assignment sheets.

Users should acquire the most current version of the database itself from Michigan State University's judicial center website:

www.polisci.msu.edu/pljp

In this vein, we urgently request users to contact us about any real or apparent errors or omissions in the database. Many data are missing. Users may have information to fill these gaps. Though the reliability check indicated few coding errors, some undoubtedly remain. We would much appreciate being so informed. Other data entries may simply make no sense. Please call these to our attention also.

Jan and I may be contacted in the following ways:

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GENERAL INTRODUCTION

The 583 variables in this database concern six distinct aspects of the Court's decisions: 1) identification variables -- e.g., citations and docket numbers; 2) background variables -- e.g., how the Court took jurisdiction, origin and source of case, the reason the Court granted cert; 3) chronological variables -- e.g., date of decision, term of Court, natural court; 4) substantive variables -- e.g., legal provisions, issues, direction of decision; 5) outcome variables -- e.g., disposition of case, winning party, formal alteration of precedent, declaration of unconstitutionality; 6) voting and opinion variables -- e.g., how individual justices voted, their opinions and interagreements, the direction of their votes. It may be prudent to note that the order in which the variables are presented and discussed in the documentation does not accord with the order in which they appear in the machine readable database. Coder convenience dictates the latter; user convenience the former.

The 583 variables extend from the beginning of the Vinson Court (1946) to the end of the Warren Court (1969). Unlike previous versions, the vast majority of the variables have been converted to numeric, many of which are dummies. Users may determine the type of each variable by utilizing SPSS's variable view window. The structure of the database provides for a variable number of records per case.

Note especially that failure to select appropriate unit(s) of analysis and type(s) of decisions will likely generate data that are woefully inappropriate and/or grossly misleading. If you do nothing else, be sure that you understand how to use these two variables -- unit of analysis (ANALU) and type of decision (DEC_TYPE) (variables 5 and 38) -- before you undertake any analyses of any of the other variables.

Although students partially coded a few of the non-interpretative variables -- e.g., docket number (DOCKET), manner in which the Court determines to take jurisdiction (JUR), origin and source of case (ORIGIN and SOURCE), and the various dates relating to the Court's decision (ORAL, REORAL, DEC), the responsibility for the contents of each of the variables that comprises the database rests primarily with me and secondarily with my co-principal investigator, Jan Palmer.

Throughout the years since the database was begun, considerable time and effort has been devoted to "cleaning" -- to checking the accuracy of the data that had been entered into various variables. I did so not only to insure that the entries in various variables accorded with the codes and their decision rules, but also because data were entered intermittently for every variable rather than in one consecutive undertaking. This

procedure increased the probability of systematic error on the one hand, but on the other it allowed me to check the accuracy of what had previously been entered whenever I detected errors of either omission or commission. Needless to say, errors mani- fested themselves with aggravating -- and sometimes inexplicable -- frequency.

NOTE: I apologize that the sequence of the variables in the table of Contents does not match that of the database as revealed by SPSS' variable view. But though SPSS accommodates thousands of variables, whoever programmed SPSS' commands for adding variables arbitrarily decided that 580 was the maximum. Hence, one needs to find a way to merge the last few with the remainder. Theoretically, one could simply move the out-of-order variables one-by-one by cutting and pasting. However, SPSS reacts negatively to this practice via a variety of error messages probably because of the number of records per variable (10,971). Hence, in addition to resorting to adding bracket number(s) following each variable in the table of contents that pertain to the variable's location in SPSS' variable view screen in the database, I have supplemented the table of contents with the page(s) in the documentation with the number that SPSS' variable view screen specifies for each variable. This supplementation follows the Table of Contents.

Table of Contents

substantive variables

outcome variables

Supplement to the Table of Contents

NOTE: Throughout the database missing data result because a justice was not a member of the Court at the time the case was decided, chose not to participate in the case, or because the variable in question does not admit to specification under the values provided for that variable. In which cases, a blank space, a "0," a "9," or a <." will appear. The variable's type and the value codes for the variable will indicate which of these it is.

Variables 1, 2, 3
case citations (US, LED, SCT)

These three variables provide the citation to each case from the official *United States Reports* (US) and the two major unofficial Reporters, the *Lawyers' Edition* of the United States Reports (LED) and the *Supreme Court Reporter* (SCT). Only decisions of the Warren Court are cited to the *Supreme Court Reporter*. The volume number precedes the slash bar; the page number on which the case begins follows. When these citations appear in printed form, any zeros that precede any other cardinal number are dropped. Thus, the database LED citation, 086/0011, should be read as 86 L Ed 2d 11. Note that all LED citations are to the second series except for volumes 91-100 which are cited without "2d." These volumes cover the Vinson Court and the first three terms of the Warren Court (1953-1955).

Also note that approximately the first 4500 cases contain no entry for these variables. These are the DEC_TYPE=3, or back-of-the-book, cases. If a citation is wanted, consult variable 49 (CIT1), or the case name, variable 48, which provide this information. Instead of a slash bar (/), the volume is separated from the page number of the *U.S. Reports* by a '0.'

All US and LED citations were copied directly from the published volumes. SCT citations were derived from the conversion table to the *United States Reports* which is located in the front of the various volumes of the *Supreme Court Reporter*.

Not every record is cited to each source. The Lawyers' Edition, for example, does not contain *Olin Mathieson Chemical Corp. v. N.L.R.B.*, 352 U.S. 1020 (1957). On the other hand, the *United States Reports* do not contain those cases in which a justice dissents from the granting of an attorney's request for admission to the Bar of the United States Supreme Court. No Vinson Court decisions are cited to the *Supreme Court Reporter*.

Pagination does not invariably proceed chronologically throughout the volumes. Hence, do not assume that because a given citation has a higher page number than that of another case it was decided on the same or a later date as the other case. The only accurate way to sequence the cases chronologically is by

indexing or otherwise sequencing each case's date of decision
(DEC) variable (variable 21).

Variable 4
docket number (DOCKET)

This variable contains the docket number that the Supreme
Court has assigned the case. During the Vinson and Warren Courts
different cases coming to the Court in different terms could have
the same docket number.

During the Vinson and Warren Courts, all paid cases filed
pursuant to the Court's appellate jurisdiction were placed on the
Appellate Docket and numbered sequentially. The first filing in
each term began with the number "1." In forma pauperis petitions
were placed on the Miscellaneous Docket and numbered in the same
fashion as paid cases. The abbreviation "M" distinguishes them
from paid cases.

Apart from the vast majority of memorandum cases (DEC_TYPE
=3), a number of records in the database do not contain a docket
number; e.g., *Arkansas v. Texas*, 346 U.S. 368 (1953), and *Alabama
v. Texas*, 347 U.S. 272 (1954), and cases in which a justice dis-
sents from the grant of a lawyer's application for admission to
the Bar of the United States Supreme Court. In these cases, this
variable lacks an entry.

Also see docket identification number (variables 54, 55,
56).

Variable 54, 55, 56
docket identification numbers (ID, ID2ND, ID3RD)

In order to overcome the duplication of docket numbers from
one term to another, this variable was created. Such duplication
occurs because the Court did not distinguish the docket numbers
of one term from those of another. Early in the Burger Court it
began to do so. We created differentiation for the Vinson and
Warren Courts by using the first two columns of this variable to
identify the last two digits of the term in which the case was
decided. Except for two records, either a 1 or a 2 appears in
the third column to distinguish between the two dockets the Court
then employed (see variable 4). If 1, the case locates on the
Court's appellate docket; if 2, on the miscellaneous docket.
The remaining columns contain the right-justified docket number.
Thus, 4610102 identifies *Adamson v. California*, 332 U.S. 46
(1947), which is 102 on the appellate docket for the 1946 term.

The two cases which do not follow the foregoing format are
the last two citations to *Rosenberg v. United States*, 346 U.S.

322 and 346 U.S. 324. Neither of these cites was assigned a docket number. Hence, we have simply identified both as 5200000.

Unlike case citations and docket number (variables 1-4), every record in the database has an entry in the ID variable. Hence, for purposes of creating an index, ID is the most appropriate variable.

If a case was held over from a previous term or moved from the miscellaneous to the appellate docket the same format is used in ID2ND and ID3RD to identify the earlier docket number(s) of the case. Thus, *Champlin Refining Co. v. United States*, 329 U.S. 29, shows ID = 4610021, ID2ND = 4510075, and ID3RD = 4411269. These numbers were copied from the docket books themselves. Docket numbers beyond the third for the few cases with more than three do not appear in this variable. Those for the Vinson Court, however, are listed in the appendices to Jan Palmer's book, *The Vinson Court Era: The Supreme Court's Conference Votes* (New York: AMS Press, 1990).

Given the absence of docket numbers from all but a handful of DEC_TYPE=3 decisions, ID will prove useful to index the database. While a given record may have the same ID as another record, it will always be the same case. Duplication results because I have created separate records based on unit of analysis (see variable 5).

Variables 49-53
citation history (CIT1-CIT5)

Although the preceding variables order docket numbers from last to third most recent, it does not recount a case's citation history. The previous variables will not contain more than a single cite in any given term. This variable does when the case appears more than once up to a maximum of five separate citations in all. Citations were culled from the *United States Reports* and are typically listed from first to last. Note that the specific U.S. citation in the case citation variable (variable 1) has no fixed position in any particular CIT variable. It will usually occupy an intermediate CIT variable, with CIT1 containing the cite where the Court granted cert or noted probable jurisdiction and the final CIT the justices' denial of a request to rehear the case. The first three columns specify the volume of the *United States Reports*, the last four the right-justified page number. Thus, the citation history of *Brown v. Board of Education* reads as follows: CIT1 = 3440001, CIT2 = 3440141, CIT3 = 3450972, CIT4 = 3470483, CIT5 = 3480886.

The U.S. citation of memo decisions, most especially denials of cert, will only be found in CIT1.

Variable 48
the name of the case (LITIGANTS)

This variable contains the name of the case. To some extent the case title reads as it does in the Reports; often it is abbreviated, sometimes in a rather arbitrary fashion. Thus, we have largely omitted the phrases ‹Ex parte' and ‹In re.' Unduly lengthy titles are abbreviated more or less compatibly with the running heads that appear in the Reports.

variable 5
unit of analysis (ANALU)

Explanation of the use of this variable requires definition of what a "record" and a "case" are. A record is the computerized listing of the variables contained in a case. Each record is distinctive; that is to say, no two records in the database are identical in all respects. The entry in at least one variable will differ from that contained in another record. A "case," on the other hand, refers to a citation or a docket number. A case may theoretically have an unlimited number of records.
The ANALU variable provides the following options among units of analysis:
    ANALU = 0 : case citation
    ANALU = 1 : docket number
    ANALU = 2 : multiple issue case
    ANALU = 3 : cases containing multiple legal provisions
    ANALU = 4 : split vote case
    ANALU = 5 : case with multiple issues and multiple legal
                provisions
Most research uses either case citation or docket number.
In using case citation as the unit of analysis only the information contained in the first record for that citation is provided. Choosing docket number in a multiple record case will specify possible differences in the court in which the case originated (variable 11), the court whose decision the Supreme Court reviewed (variable 12), the parties to the case (variables 15 and 16), the "direction" of the Court's decision (variables 39, 109, 135, 161, 187, 212, 237), direction based on dissent (variable 40), the disposition the Court made of the case (variable 247), or an unusual disposition (variable 41). If any of these matters are of interest, docket number is the appropriate unit of analysis. To define a case as each separate docket number requires selection of ANALU=0 and ANALU=1.
Users whose interest lies in certain legal provisions (variable 35) or issues (variable 248) should go more or less

directly to these variables without concerning themselves with a unit of analysis as such. But again take care to choose the appropriate type of decision (variable 38).

The final option that the ANALU variable provides is the identification of cases that contain a split vote. This phrase refers to those cases with a common citation and docket number in which one or more of the justices voted with the majority on one issue or aspect of the case and dissented on another. Note that a "4" will appear in the ANALU variable only if the docket number, legal provision, and the issue are the same in the original record in the case (ANALU=0) as they are in the record(s) in which ANALU=4.

Use of any of the ANALU options other than 0, will cause the unit of analysis to be docket number, not case citation. In other words, if you wish to analyze only cases with multiple legal provisions, what the database will provide you are such cases by docket number, not just case citation. Thus, for example, if a cited case contains two docket numbers and three legal provisions, each of the two docket numbers will appear three times in order to account for the distinctive legal provisions that each docket number addresses. Hence, if a docket number concerns more than one legal provision, it will appear once for each such legal provision. Thus, a docket number with four legal provisions will appear four times, each of which -- in pertinent part -- will differ from the other three only in the content of the legal provision (LAW) variable (variable 35) and, in addition, by the appearance of a "3" in the second through the fourth of these records. The citation and docket number will be identical in all four of these records, as the following hypothetical example shows:

US	DOCKET	LAW	ANALU
366/0666	234	1A	
366/0666	234	5ADP	3
366/0666	234	RICO	3
366/0666	234	AFDC	3

Clearly then, to use the appearance of a 2, 3, 4, or 5 in the ANALU variable to count the number of case citations or docket numbers with multiple issues, multiple legal provisions, split votes, or a combination of multiple issue and legal provisions will produce a drastic overcount.

Also see the following variables: type of decision (38), multiple legal provisions (36), and number of records per unit of analysis (7).

The coding instructions for this variable follow:

If the citation has more than one docket number, enter a "1" in this variable (ANALU).

If the docket number of a case pertains to more than one

issue as defined by the issue variable, enter a "2."

If the docket number of a case concerns more than one legal provision as specified by the decision rules of the legal provisions at issue considered by the Court variable, enter a "3."

If the citation contains more than one docket number, and each separate docket number pertains to a legal provision and/or issue different from those of the other docket number(s) of the citation, enter a "1" rather than a "3," "2," or "5." (This rarely occurs.)

If the docket number concerns a split vote in the sense that one or more of the justices voted with the majority on one issue or aspect of the case and dissented on another, enter a "4." Identify split votes by the number of majorities which the summary of the case reports, or where the disposition is partial affirmation and partial reversal (e.g., a "5" or "6" in the disposition of case (variable 247), and one or more of the justices dissents only in part. If the split votes occur because of a legal provision or issue distinct from the one that appears in the original record for this citation, a "3" or "2" overrides a "4" and should appear in this variable. In other words, a "4" may appear in this variable only when the legal provision and the issue, as well as the docket number, are the same as they are in another record with the same citation.

If the split vote pertains to distinctive issues or legal provisions, and if this distinction also occurs between or among separate docket numbers, this variable should contain a "1."

If the case pertains to more than one issue as defined by the issue variable and more than one legal provision as specified by the legal provisions at issue considered by the Court variable, enter a "5."

Any combination of "1," "2," "3," "4," or "5" may appear.

Note that each entry in this variable (1-5) relates to the original entry for that docket number. Hence, if in the second record, the legal provision and the issue both differ from the first record, enter a "5." If the third record has a different legal provision but the same issue as the second record, again enter a "5" because its legal provision and issue both differ from the first record. (See 379 U.S. 148 for an example.)

Also see the following variables: dockets with no vote (variable 6), type of decision (38), multiple legal provisions (36), and number of records per unit of analysis (7).

Variable 6
dockets with no vote (NOVOTE)

This database contains every citation in which the justices cast at least one vote. Quite frequently the Court combines

dockets together under one citation. The justices, however, do
not necessarily vote separately on each of the dockets so com-
bined. Rather than exclude the dockets not voted on, I have cre-
ated this NOVOTE variable. Not voted on dockets that are com-
bined in a single citation with other(s) that were voted on have
a '1' in this variable. I could have omitted the dockets not
voted on, but this would have rendered incomplete the formally
decided dockets. And experience shows that many users use docket
rather than citation as their unit of analysis. Note, however,
that the record in which NOVOTE=1 will necessarily vary from the
original record only in docket number (variable 4) and docket ID
number (variables 54-56).
     Note that NOVOTE does not apply to informally decided mult-
iple dockets disposed of under a single cert or other procedural
vote. It applies only to those dockets resolved after oral argu-
ment -- DEC_TYPEs 1, 4, 5, 6, and 7. (See variable 38). The
database only contains those informally decided cases subject to
at least one vote. Other informally decided non-voted on dockets
combined under the same citation in the Reports as the voted on
docket will not appear in the database.

                        Variable 7
          number of records per unit of analysis (REC)

     This variable specifies the number of records per unit of
analysis for each citation whose docket number appears more than
once. Thus, if a given docket number contains five legal provi-
sions (indicated by a "3" in variable 5 [the unit of analysis]
for the second, third, fourth, and fifth appearances of the
case's docket number), the number, "4," will appear in this
variable in the first record that contains a "3" in the unit of
analysis (ANALU, variable 5).
     This variable also contains the number of docket numbers
that pertain to a given citation. Thus, if a citation has three
docket numbers, a "2" will appear in the record of this variable
that contains the first "1" in the unit of analysis variable.
The "2" in the REC variable indicates that this citation has
three docket numbers (the original record, plus two additional
records containing the second and third docket numbers, respec-
tively).
     Note that in the first record of every citation (which is
also the first record of that docket number) this variable has no
entry unless the docket number of the first case is higher than
that of the second or any succeeding case. Also note that the
entry in the REC variable (7) is meaningful only in relation to
the presence of a "1," "2," "3," "4," or "5" in the unit of

                            7

analysis variable. Thus, if a given record has a "3" in the ANALU variable and a "1" in the REC variable, the citation (the docket number) has two legal provisions from the codes specified for the legal provisions at issue considered by the Court variable (variable 248). Further note that cases containing multiple legal provisions and multiple docket numbers should have separate entries in the REC variable. For example, if a citation contains two docket numbers, each of which contains three legal provisions, the unit of analysis variable (ANALU) will be empty in the first record, as will the REC variable. The second record will have a "1" in ANALU and also a "1" in REC to indicate a cite with two docket numbers. The third and fourth records, which correspond to the second legal provision for the two separate docket numbers, will contain a "3" in ANALU and a "2" in REC to signify that this case has three legal provisions. The fifth and sixth records will again contain a "3" in ANALU, but no entry in REC because the number of legal provisions -- minus one -- that each docket number contains has already been specified.

This variable basically acts as a check on coding accuracy. Users are not likely to use the REC variable except to know if any citations contain multiple docket numbers, multiple legal provisions, multiple issues, or split votes.

A technical explanation of the REC variable follows:

If a citation to a case has more than a single record either because it has more than a single docket number, is multi-issue, contains multiple legal provisions, was decided by a split vote, or has both multiple issues and legal provisions, this variable specifies the number of such additional records in the first record in which the unit of analysis variable (ANALU) indicates the reason for the multiple records. Thus, if a "2" appears in the REC variable of a case in which ANALU=1, it means that this particular case has three docket numbers: the original docket number, which as explained in the ANALU variable never contains an entry in the record in which it initially appears, and the two additional records that contain the second and third docket numbers, respectively. As a further example, consider a citation whose second record has a "1" in the REC variable. This record contains a "3" in its ANALU variable. This means that this case contains two legal provisions as defined and specified by the LAW variable. Inspection of the two records for this case will show that the entry for the LAW variable in the first of these two records differs from the entry for the LAW variable in the second of these two records.

Note that the entry in the REC variable is meaningful only in relation to the presence of the appropriate code from the ANALU variable. A "2" in the latter and a "1" in the former, for example, means that this case has two issues as defined and identified by the issue variable. Similarly, a "4" in the REC variable and a "1" in the ANALU variable means that this case

has five docket numbers.

It bears repeating that the first record of every case cita-
tion will have no entry in the REC variable unless its docket
number is higher than that of another docket number of that case.

Also note that a case may show some combination of the ANALU
codes in its various records, rather than a "1," "2," "3," "4,"
or "5" exclusively. For example, if a citation has two docket
numbers, each of which concerns three distinct legal provisions,
the ANALU and REC variables will both be empty in the first
record. The second record will contain a "1" in the REC variable
and also a "1" in the ANALU variable to signify that this case
has two docket numbers. The next record -- the third -- will
show a "3" in the REC variable and a "3" in ANALU to indicate
that this docket number concerns four separate legal provisions.
The fourth and fifth records, assuming that their docket number
is the same as that which appears on the third record, will show
a "3" in the ANALU variable while the REC variable has no entry.
It has no entry because the number of legal provisions that this
docket number addresses has already been specified. The sixth
record, parallel to the third one, will show a "3" in the REC
variable and a 3 in the ANALU variable to indicate that the
second docket number in this case also contains four distinct
legal provisions. The final two records, paralleling the fourth
and fifth ones, will have a "3" in their ANALU variable while
their REC variable has no entry. The visual representation of
this hypothetical example would appear as follows:

US	DOCKET	ANALU	REC
366/0666	234		
366/0666	567	1	1
366/0666	234	3	3
366/0666	234	3	
366/0666	234	3	
366/0666	567	3	3
366/0666	567	3	
366/0666	567	3	

Finally, note that if a "5" appears in the ANALU variable
signifying a case that has multiple legal provisions and multiple
issues, the number in the REC variable will correctly identify
only the number of legal provisions, minus one, that the docket
number addresses. It will not necessarily indicate accurately
the number of issues to which the docket number applies. All
that you may conclude about multiple issues is that the docket
number pertains to more than one. Greater precision does not
obtain because the "5" in the ANALU variable relates to the
original record for this docket number. Thus, the number speci-
fied in the REC variable of the second record, say "2," will
indicate that the docket number applies to three distinct legal

provisions, but that the second and third of these legal provisions may relate to a common issue which differs from that entered in the first record. Alternatively, the second and third records may not only contain legal provisions different from that entered in the first record, but they may also contain distinctive issues. Without visual inspection, you will not be able to determine whether this docket number has two or three issues. You will know, however, that this docket number does concern three legal provisions.

Most of the citations that show both a "3" and a "5" in their ANALU variable produce a situation akin to the following:

```
          US     DOCKET  ANALU REC   LAW     LAWS ISSUE
        396/0398   190                21-174   2   501
        396/0398   190     3    1   5ADP      2   501
        396/0398   190     5    1   26-4704   2   175
```

Here the ANALU=3 and the ANALU=5 records each treat separate legal provisions. To rectify the situation in cases containing records in which both a "3" and a "5" appear in the ANALU variable, focus instead on the multiple legal provisions (LAWS) variable (variable 36). Each record pertaining to a docket number that concerns a legal provision distinct from any other that a different record lists will show a "1" in the LAWS variable. To determine the number of distinct legal provisions that the Court considered, simply sum the number of times a "1" appears in the LAWS variable for a particular docket number that has more than a single record.

Because the REC variable is a single column variable, three cases from the later Warren Court that contain more than nine records cannot be accommodated. All have a double digited number of dockets: 389 U.S. 486 (12), 390 U.S. 747 (14), and 394 U.S. 310 (15). A "9" has been entered in the REC variable of the second record of each of these cases, with the remainder entered in the third record.

Also see unit of analysis (variable 5), dockets with no vote (variable 6), and multiple legal provisions (variable 36).

Variable 8
manner in which the Court takes jurisdiction (JUR)

This information is found in the *United States Reports* following the name of the case and before the docket number. SPSS lists the values for this variable.

The memorandum cases do not contain this datum. However, the name entered in the appropriate VOTETYP variable (see variables 62, 86, 112, 138, 164, 189, 214) will identify how the case

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arose.
    Also see reason for granting certiorari (variable 14).

<div align="center">

Variable 9
administrative action preceding litigation (ADMIN)
[four columns, character]

</div>

    This variable (ADMIN) pertains to administrative agency activity prior to the onset of litigation. Note that the activity may involve an administrative official as well as that of an agency. The general rule for an entry in this variable is whether administrative action occurred in the context of the case.

    Determination of whether such action occurred in the context of the case was made by reading the material which appears in the summary of the case (the material preceding the Court's opinion) and, if necessary, those portions of the prevailing opinion headed by a "I" and "II."

    An entry should appear in this variable if there is reference to action by a "board," "commission," "department," or "agency," or to "administrative" action; or if there is application of agency "rules," "guidelines," "regulations," or remedies"; or the use of agency "hearings" or "proceedings"; or the holding or issuing of a "permit," "license," or "certificate."

    Action by an agency official is considered to be administrative action except when such an official acts to enforce criminal law. However, action by a parole board or administrative action within a prison (e.g., transfer of prisoners without a hearing) is included as agency action. Investigations conducted by agency officials and noncriminal prosecutions are defined as agency action.

    If an agency or agency official "denies" a "request" that action be taken, such denials are considered agency action.

    The admissibility and dismissal of students from public educational institutions are considered administrative action.

    The delegation of licensing authority to a private body (e.g., a board of bar examiners) is considered administrative action.

    Excluded from entry in this variable are:

        A "challenge" to an unapplied agency rule, regulation, etc.

        A request for an injunction or a declaratory judgment against agency action which, though anticipated, has not yet occurred.

        A mere request for an agency to take action when there is no evidence that the agency did so.

        Agency or official action to enforce criminal law.

<div align="center">

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the hiring and firing of political appointees or the proce-
dures whereby public officials are appointed to office.
      Filing fees or nominating petitions required for access
to the ballot.
      Attorney general preclearance actions pertaining to
voting.
      Actions of courts martial.
      Land condemnation suits and quiet title actions insti-
tuted in a court.
      Federally funded private nonprofit organizations.

      When a state agency or official acts as an agent of a feder-
al agency, it is identified as federal agency action.
      Where the record is unclear as to the presence of such ac-
tion, a '?' will appear.
      Administrative action may be either state or federal. If
administrative action was taken by a state or a subdivision
thereof, the two-letter ZIP Code abbreviation of the state in
question will identify it. If administrative action results from
an agency created under an interstate compact, the letters,
'IC,' identify it.
      If two federal agencies are mentioned (e.g., INS and BIA),
the one whose action more directly bears on the dispute will
appear; otherwise the agency that acted more recently. If a
state and federal agency are mentioned, the federal agency will
appear.
      If agency action is federal, an abbreviation from the
following list is used. Note that this list includes agencies
not subject to Vinson or Warren Court decisions.

    AAFX = Army and Air Force Exchange Service
    AEC = Atomic Energy Commission
    AF   = Secretary or administrative unit or personnel of the
           U.S. Air Force
    AGRI = Department or Secretary of Agriculture
    APC = Alien Property Custodian
    ARMY = Secretary or administrative unit or personnel of the
              U.S. Army
    BIA = Board of Immigration Appeals
    BINA = Bureau of Indian Affairs
    BOP = Bureau of Prisons
    BPA = Bonneville Power Administration
    BRB = Benefits Review Board
    CAB = Civil Aeronautics Board
    CENS = Bureau of the Census
    CIA = Central Intelligence Agency
    CFTC = Commodity Futures Trading Commission
    COMM = Department or Secretary of Commerce
    COMP = Comptroller of Currency

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CPSC = Consumer Product Safety Commission
CRC  = Civil Rights Commission
CSC  = Civil Service Commission, U.S.
CUCO = Customs Service or Commissioner of Customs
DBCR = Defense Base Closure and REalignment Commission
DEA  = Drug Enforcement Agency
DOD  = Department or Secretary of Defense (identify components
       -- Army, Navy, Air Force -- separately, unless more
       than one is present, in which case use DOD)
DOE  = Department or Secretary of Energy
DOI  = Department or Secretary of the Interior
DOJ  = Department of Justice or Attorney General
DOS  = Department or Secretary of State
DOT  = Department or Secretary of Transportation
EDUC = Department or Secretary of Education
EECC = U.S. Employees' Compensation Commission, or Commission-
       er
EEOC = Equal Employment Opportunity Commission
EPA  = Environmental Protection Agency or Administrator
FAA  = Federal Aviation Agency or Administration
FBI  = Federal Bureau of Investigation or Director
FBP  = Federal Bureau of Prisons
FCA  = Farm Credit Administration
FCC  = Federal Communications Commission
FDA  = Food and Drug Administration
FDIC = Federal Deposit Insurance Corporation
FEA  = Federal Energy Administration
FEC  = Federal Election Commission
FERC = Federal Energy Regulatory Commission
FHA  = Federal Housing Administration
FHLB = Federal Home Loan Bank Board
FLRA = Federal Labor Relations Authority
FMBD = Federal Maritime Board
FMC  = Federal Maritime Commission
FMHA = Farmers Home Administration
FPB  = Federal Parole Board
FPC  = Federal Power Commission
FRA  = Federal Railroad Administration
FRB  = Federal Reserve Board of Governors
FRS  = Federal Reserve System
FSLI = Federal Savings and Loan Insurance Corporation
FTC  = Federal Trade Commission
FWA  = Federal Works Administration, or Administrator
GAO  = General Accounting Office
GENL = Comptroller General
GSA  = General Services Administration
HEW  = Department or Secretary of Health, Education and
       Welfare
HHS  = Department or Secretary of Health and Human Services
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HUD  = Department or Secretary of Housing and Urban
       Development
IC   = administrative agency established under an interstate
       compact (except for the MTC)
ICC  = Interstate Commerce Commission
INCC = Indian Claims Commission
INS  = Immigration and Naturalization Service, or Director of,
       or District Director of
IRS  = Internal Revenue Service, Collector, Commissioner, or
       District Director of
ISOO = Information Security Oversight Office
LABR = Department or Secretary of Labor
LRB  = Loyalty Review Board
LSC  = Legal Services corporation
MSPB = Merit Systems Protection Board
MTC  = Multistate Tax Commission
NAVY = Secretary or administrative unit of the U.S. Navy
NCUA = National Credit Union Administration
NEA  = National Endowment for the Arts
NEC  = National Enforcement Commission
NHTS = National Highway Traffic Safety Administration
NLRB = National Labor Relations Board, or regional office or
       officer
NMB  = National Mediation Board
NRAB = National Railroad Adjustment Board
NRC  = Nuclear Regulatory Commission
NSA  = National Security Agency
OEO  = Office of Economic Opportunity
OMB  = Office of Management and Budget
OPA  = Office of Price Administration, or Price Administrator
OPM  = Office of Personnel Management
OSHA = Occupational Safety and Health Administration
OSHC = Occupational Safety and Health Review Commission
OWCP = Office of Workers' Compensation Programs
PATO = Patent Office, or Commissioner of, or Board of Appeals
       of
PAY  = Pay Board (established under the Economic Stabilization
       Act of 1970)
PBGC = Pension Benefit Guaranty Corporation
PHS  = U.S. Public Health Service
PRC  = Postal Rate Commission
RNGB = Renegotiation Board
RRAB = Railroad Adjustment Board
RRRB = Railroad Retirement Board
SACB = Subversive Activities Control Board
SBA  = Small Business Administration
SEC  = Securities and Exchange Commission
SSA  = Social Security Administration or Commissioner
SSS  = Selective Service System
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     TREA = Department or Secretary of the Treasury
     TVA  = Tennessee Valley Authority
     USFS = United States Forest Service
     USPC = United States Parole Commission
     USPS = Postal Service and Post Office, or Postmaster General,
            or Postmaster
     USSC = United States Sentencing Commission
     VTAD = Veterans' Administration
     WPB  = War Production Board
     WSB  = Wage Stabilization Board
```

Note that the foregoing entries may also be found in the parties
variables (variables 15 and 16).

Variable 10
three-judge district court (J3)

     This variable will contain an entry (=1) only if the case
was heard by a three-judge federal district court.

Variable 11
origin of case (ORIGIN)

     The focus of this variable is the court in which the case
originated, not the administrative agency (see variable 9). For
this reason a number of cases show a state or federal appellate
court as the one in which the case originated rather than a court
of first instance (trial court). This variable has no entry in
cases that originated in the United States Supreme Court.
     Cases that arise on a petition of habeas corpus and those
removed to the federal courts from a state court are defined as
originating in the federal, rather than a state, court system.
     The court of origin is identified by an abbreviated form of
that used in the current edition of *A Uniform System of Citation*
(Cambridge: Harvard Law Review Assn.)
     <u>federal district courts</u>: The geographical locus, if any,
appears as "C" (Central), "E" (Eastern), "M" (Middle), "N" (Nor-
thern), "S" (Southern), or "W" (Western). This is followed by
"D" to denominate the tribunal as a federal district court. If
the state contains only one federal district court, the "D" ap-
pears in the first column of this variable, otherwise in the
second column. The two-letter Postal Service ZIP Code abbrevia-
tion of the state in question completes the identification of
the district courts. E.g., NDIL, CDCA, DMA, DDC.
     <u>state courts</u>: The state's ZIP Code abbreviation appears in
the first two columns, followed by one of the following: "TR" to

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indicate a trial court of the state in question, "AP" to indicate
an appellate court, and empty cells to indicate the state's sup-
reme court.  Two states, Oklahoma and Texas, have separate civil
and criminal supreme courts.  No distinction is made between
them.  The current edition of *State Court Organization* (Williams-
burg, VA:  National Center for State Courts) is the source used
to identify a court as one of first instance, intermediate
appellate, or of last resort.
    federal courts of appeal:  The number of the Circuit (1-11)
or DC is followed by the letter "C."  E.g., 1C, 8C, 11C, DCC.
    Other federal courts are identified as follows:
        CCPA = Court of Customs and Patent Appeals
        CTCL = Court of Claims, Court of Federal Claims
        CTMA = Court of Military Appeals, renamed as Court of
        Appeals for the Armed forces
        CTVA = Court of Veterans Appeals
        CTMR = Court of Military Review
        CUST = Customs Court
        FEDC = Court of Appeals for the Federal Circuit
        TAX  = Tax Court
        TECA = Temporary Emergency Court of Appeals
    This variable lacks an entry if the case only involved
proceedings in the Supreme Court itself (e.g., application for
admission to the Supreme Court's bar).
    A petition for a writ of habeas corpus begins in the federal
district court, not the state trial court.
    Cases removed to a federal court originate there.
    Also see source of case (variable 12).



                        Variable 12
                   **source of case (SOURCE)**


    This variable identifies the court whose decision the
Supreme Court reviewed.  Forum identification is the same as for
the preceding variable.  If the case originated in the same court
whose decision the Supreme Court reviewed, the entry in the
ORIGIN variable (variable 11) should be the same as here.  This
variable lacks an entry if the case involved no proceedings other
than in the Supreme Court itself.
     Also see origin of case (variable 11).



                        Variable 13
               **lower court disagreement (DISS)**


    A entry in this variable indicates that one or more of the
members of the court whose decision the Supreme Court reviewed

dissented from its judgment.  If the Supreme Court's decision does not specify, a reference to a dissent in the court below by a member of the Supreme Court who wrote a separate opinion suffices for an entry in this variable.

If a case arose on habeas corpus, a dissent will be indicated if either the last federal court or the last state court to review the case contained one.  E.g., *Townsend v. Sain*, 9 Led 2d 770 (1963).  A dissent will also be indicated if the highest court with jurisdiction to hear the case declines to do so by a divided vote.  E.g., *Simpson v. Florida*, 29 L ed 2d 549 (1971).

Except for informally decided (memorandum) cases (see variable 38), the presence of such disagreement is limited to a statement to this effect somewhere in the majority opinion. I.e., "divided," "dissented," "disagreed," "split."  A reference, without more, to the "majority" or "plurality" does not necessarily evidence dissent.  The other judges may have concurred.  Inasmuch as none of the memorandum cases contain a majority opinion, a '1' will appear in this variable if any opinion in such a case indicates that a lower court dissent did occur.

Note that the focus of this variable tends to be a statement that a dissent occurred rather than the fact of such an occurrence.  Future NSF grant proposals may analyze the opinions of the lower court; as a result, the fact of a lower court dissent will be the criterion for an entry rather than a statement to this effect in the Supreme Court's controlling opinion. Presumably, the fact of a dissent is not always mentioned in the majority opinion.  It may be irrelevant.  See, for example, McNally v. United States, 97 L ed 2d 292 (1987), and *United States v. Gray and McNally*, 790 F.2d 1290 (1986).


## Variable 14
### reason for granting certiorari (CERT)

This variable provides the reason, if any, that the Court gives for granting the petition for certiorari.  If the case did not arise under certiorari, this variable will be empty even though the Court provides a reason why it agreed to review the case.  The Court, however, rarely provides a reason for taking jurisdiction (variable 8) by writs other than certiorari.

The focus in this variable is on the reason the majority gives for granting cert.

Accordingly, this variable will have no entry if it did arise on cert but is an informally decided back-of-the-book (memorandum) decision (see variable 38) or was decided by a tied vote (again see variable 38).

SPSS specifies the codes for this variable.

Also see variable 8, manner in which the Court takes

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jurisdiction.


Variables 15-15
**parties (PARTY_1, PARTY_2)**


These two variables identify the parties to the case.
PARTY_1 refers to the party who petitioned the Supreme Court to
review the case.  This party is variously known as the petitioner
or the appellant.  PARTY_2 is conventionally labeled the respon-
dent, defendant, or appellee.  The specific codes that appear
below were created inductively, with PARTY_1 as well as PARTY_2
characterized as the Court's opinion identifies them.

In describing the parties in the cases before it, the jus-
tices employ terminology which places them in the context of the
litigation in which they are involved.  Accordingly, an employer
who happens to be a manufacturer will be identified as the former
if its role in the litigation is that of an employer and as the
latter if its role is that of a business.  Because the justices
describe litigants in this fashion, a fairly limited vocabulary
characterizes them.  Note that the list of parties also includes
the list of administrative agencies and officials contained in
variable, administrative action preceding litigation (variable
9).

Also note that the Court's characterization of the parties
applies whether the petitioner and respondent are actually single
entities or whether many other persons or legal entities have
associated themselves with the lawsuit.  That is, the presence of
the phrase, et al, following the name of a party does not pre-
clude the Court from characterizing that party as though it were
a single entity.  Thus, each docket number will show a single
PARTY_1 and a single PARTY_2, regardless of how many legal
entities were actually involved.

Although use of more than a single descriptor would have en-
hanced the accuracy with which the database identifies some
parties, I agreed to a decision rule that precluded use of more
than one of the codes for a given party.

The decision rules governing the identification of parties
follow.

Identify parties by the labels given them in the opinion or
judgment of the Court except where the Reports titles a party as
the "United States" or as a named state.  Textual identification
of parties is typically provided prior to Part I of the Court's
opinion.  You may wish to consult the official syllabus -- the
summary -- which appears on the title page of the case as well.

In describing the parties, the Court employs terminology
which places them in the context of the specific lawsuit in which
they are involved.  E.g., "employer" rather than "business" in a


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suit by an employee;  as a "minority," "female," or "minority female" employee rather than "employee" in a suit alleging discrimination by an employer.

Where a choice of identifications exists choose that which provides information not provided by the legal provision or the issue (see variables 35 and 248).  E.g., identify a federal taxpayer or an attorney accused of a crime as TAXP or ATTY rather than AC, particularly if neither the LAW nor the ISSUE variable identifies the case as a tax matter or one involving an attorney.

Identify the parties by reference to the following list and by the list of federal agencies provided in the ADMIN variable (9).  Pay particular attention to the related descriptors which are enclosed in parentheses at the end of many of the entries in the following list.

Enter a ? in the first column of the appropriate variable if the Reports do not identify the character of the pertinent party.

In the list of parties appended below, the states and territories of the United States are identified by the 2-letter ZIP abbreviation used by the U.S. Postal Service.  IC has been added to this list to identify an interstate compact.

Federal agencies are identified by the specific abbreviation used in the ADMIN variable (variable 9).

In criminal and habeas corpus cases, the name of the state which is involved in the prosecution (or the US in a federal criminal prosecution or habeas corpus against a federal official) is used rather than the office of the person who prosecutes or has custody of the accused or convicted person.

LIST OF PARTIES
? = party not identified in the Reports


governmental context
[related entries are enclosed in parentheses]

AG = attorney general of the United States, or his office

__ BD ED = specified state board or department of education
          (__SCHDIST)

__ CITY = city, town, township, village, or borough government or
          governmental unit (__ NONMUN, __ COUNTY)

__ COMN = state commission, board, committee, or authority (__
          DEPT)

__ COUNT = county government or county governmental unit, except
           school district

__ COURT = court or judicial district (__ JUDGE, __ S CT)

\_\_ DEPT = state department or agency (\_\_ COMN)

\_\_ GOEE = governmental employee or job applicant, unless employee
is a GOFEE (female), GOMEE (minority), or GOMFEE (mino-
rity female)

\_\_ GOFEE = female governmental employee or job applicant

\_\_ GOMEE = minority governmental employee or job applicant

\_\_ GOMFE = minority female governmental employee or job
applicant

GOVT COR = federal government corporation not listed among
agencies in variable 10

\_\_ GREE = retired or former governmental employee (VETERAN)

HSE REPS = U.S. House of Representatives (LEGIS, SENATE, SENATOR)

IC = interstate compact

\_\_ JUDGE  = judge (\_\_ COURT)

\_\_ LEGIS = state legislature, house, or committee (HSE REPS,
SENATE, SENATOR)

\_\_ NONMU = local governmental unit other than a  county, city,
town, township, village, or borough
(\_\_ CITY, \_\_ COUNTY)

\_\_ OF = governmental official, or an official of an agency
established under an interstate compact.  The first two
columns identify the pertinent state, the United States,
or an interstate compact.

\_\_ S CT = state or U.S. supreme court

\_\_SCHDIS = local school district or board of education (\_\_ BD ED)

SENATE = U.S. Senate (HSE REPS)

SENATOR = U.S. senator

SOVEREIG = foreign nation or instrumentality

\_\_ TAXP = state or local governmental taxpayer, or executor of
the estate of

___ U = state college or university

US = United States


nongovernmental context
[related entries are enclosed in parentheses]

AC   = person accused, indicted, or suspected of crime (ARRESTEE,
         CC, D, PRISONER, PROBATION, WITNESS)

AD   = advertising business or agency

AGENT = agent, fiduciary, trustee, or executor (MGMT)

AIR MFR = airplane manufacturer, or manufacturer of parts of
             airplanes

AIRLINE  = airline (BOAT, BUS, RR, SHIP, TRUCK)

ALCOHOL = distributor, importer, or exporter of alcoholic
            beverages (BAR, BREWERY, DISTRIBUT, WHOLESALE)

ALIEN = alien, person subject to a denaturalization proceeding,
          or one whose citizenship is revoked

AMA = American Medical Association (HEAL, HOSPITAL, PHYSICIAN)

AMTRAK = National Railroad Passenger Corp.

ARCADE = amusement establishment, or recreational facility

ARRESTEE = arrested person, or pretrial detainee (AC, CC, D,
             PRISONER, PROBATION)

ATTY = attorney, or person acting as such;  includes bar appli-
         cant or law student, or law firm

AUTHOR = author, copyright holder (INVENTOR)

BANK = bank, savings and loan, credit union, investment company
         (CREDITOR)

BANKRUPT = bankrupt person or business, including trustee in
             bankruptcy, or business in reorganization (DEBTOR)

BAR = establishment serving liquor by the glass, or package
        liquor store (ALCOHOL, RESTRANT)

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BOAT = water transportation, stevedore (AIRLINE, BUS, RR, SHIP-
        PER, TRUCK)

BOOK = bookstore, newsstand, printer, bindery, purveyor or dis-
        tributor of books or magazines (FILM, NETWORK, NEWS,
        PUBLISHER)

BREWERY = brewery, distillery (ALCOHOL, BAR)

BROKER = broker, stock exchange, investment or securities firm
        (STOCK)

BUILDER = construction industry (KOR)

BUS = bus or motorized passenger transportation vehicle

BUSINESS  = business, corporation  (AD, AIRLINE, AIR MFR,
            ALCOHOL, ARCADE, BANK, BAR, BOAT, BOOK, BREWERY, BRO-
            KER, BUILDER, BUS, CABLE TV, CAR DEAL, CHEM CO, COAL
            CO, DISTRIBUT, DRUG MFR, ELEC CO, FARMER, FOOD,
            FRACHISOR, FRANCHISE, HEAL, HOSPITAL, INSURE, KOR,
            MAGAZINE, MEDICAL, MFR, MGMT, MINE, MOTOR CO, NET-
            WORK, NEWS, NONPROFIT, NUCLEAR, OIL CO, PARKING,
            PHONE, PI, PIPELINE, PRO, PU, PUBLISHER, RADIO,
            REALTOR, RESTRANT, RR, SHIPPER, STORE, THEATER,
            TIMBER CO, TRUCK, TV, WHOLESALE)

BUYER = buyer, purchaser (CONSUMER)

CABLE TV = cable TV (TV, NETWORK)

CAR DEAL = car dealer

CC   = person convicted of crime (AC, ARRESTEE, D, POOR D, PRISO-
        NER, PROBATION)

CHATTEL = tangible property, other than real estate, including
        contraband (FILM, O)

CHEM CO = chemical company

CHILD = child, children, including adopted or illegitimate (FA-
        THER, JUV, MOTHER, PARENT)

CHURCH = religious organization, institution, or person (ELEE)

CLUB = private club or facility

COAL CO = coal company or coal mine operator

COMPUTER = computer business or manufacturer, hardware or soft
          ware

CONSUMER = consumer, consumer organization (BUYER)

CREDITOR = creditor, including institution appearing as such;
           e.g., a finance company (BANK)

CRIM INS = person allegedly criminally insane or mentally
           incompetent to stand trial (ICMP)

D = defendant (AC, CC, POOR D, PRISONER, PROBATION)

DEBTOR = debtor, excluding bankrupt person or business
         (BANKRUPT)

DEVELOPE = real estate developer (O, REALTOR, SHOP CTR)

DISABLED = disabled person or disability benefit claimant
           (HANDICAPD, MED CLAIM, PATIENT)

DISTRIBU = distributor (BOOK, WHOLESALE)

DRAFTEE = person subject to selective service, including
          conscientious objector (MILITARY)

DRUG MFR = drug manufacturer

DRUGGIST = druggist, pharmacist, pharmacy

EE = employee, or job applicant, including beneficiaries of
     (FEE, MEE, MFEE, __ GOEE, __ GOFEE, __ GOMEE, __ GOMFEE
      __ GREE)

EE TRUST = employer-employee trust agreement, employee health and
           welfare fund, or multi-employer pension plan

ELEC CO = electric equipment manufacturer

ELEC PU = electric or hydroelectric power utility, power co-
          operative, or gas and electric company (NUCLEAR, OIL
          CO, PU)

ELEE = eleemosynary institution or person (CHURCH, PI, NONPROFIT)

ENV = environmental organization

ER = employer.  If employer's relations with employees are
     governed by the nature of the employer's business (e.g.,
     RR, BOAT), rather than labor law generally, the more
     specific designation is used in place of ER.

FARMER = farmer, farm worker, or farm organization  (FOOD, TIMBER
        CO)

FATHER = father (CHILD, MOTHER, PARENT)

FEE  = female employee or job applicant (MFEE, __ GOFEE, __
       GOMFEE)

FEMALE = female (FEE, MALE, MOTHER, WIFE)

FILM = movie, play, pictorial representation, theatrical produc-
       tion, actor, or exhibitor or distributor of (BOOK, CABLE
       TV, NEWS, NETWORK, RADIO, THEATER, TV)

FISH = fisherman or fishing company

FOOD = food, meat packing, or processing company, stockyard
       (FARMER)

FOREIGN = foreign (non-American) nongovernmental entity
          (SOVEREIGN)

FRACHISO = franchiser

FRANCHIS = franchisee

GAY = homosexual person or organization (PROT, RAMIPROT)

GUARANTO = person who guarantees another's obligations

HANDICAP = handicapped individual, or organization of devoted
           to (DISABLED, MED CLAIM, PATIENT)

HEAL = health organization or person, nursing home, medical
       clinic or laboratory, chiropractor (HOSPITAL, MEDICAL,
       PHYSICIAN)

HEIR = heir, or beneficiary, or person so claiming to be (O)

HOSPITAL = hospital, medical center (HEAL)

HUSBAND = husband, or ex-husband (SPOUSE, WIFE)

ICMP = involuntarily committed mental patient (CRIM INSA,

RETARDED)

INDIAN  = Indian, including Indian tribe or nation

INSURE = insurance company, or surety

INVENTOR = inventor, patent assigner, trademark owner or holder
           (AUTHOR)

INVESTOR = investor (STOCK)

IP = injured person or legal entity, nonphysically and non-em-
     ployment related (PIP).  If unclear whether the injury is
     physical or not, the broader category, IP, is used rather
     than PIP.

JUV = juvenile (CHILD)

KOR = government contractor (BUILDER)

LICENSEE = holder of a license or permit, or applicant therefor
           (except to practice law. Cf. ATTY)

MAGAZINE = magazine (NEWS)

MALE = male

MED CLAI = medical or Medicaid claimant (DISABLED, HANDICAPD,
           PATIENT)

MEDICAL = medical supply or manufacturing co. (DRUG MFR, HEAL)

MEE = racial or ethnic minority employee or job applicant
      (__GOMEE, __GOMFEE, MFEE)

MFEE = minority female employee or job applicant (__GOMEE,
       __GOMFEE, MEE)

MFR  = manufacturer (BUILDER, CHEM CO, COAL CO, DRUG MFR, ELEC
       CO, MEDICAL, MINE, MOTOR CO, OIL CO)

MGMT = management, executive officer, or director, of business
       entity (AGENT)

MILITARY = military personnel, or dependent of, including
           reservist (DRAFTEE, VETERAN)

MINE = mining company or miner, excluding coal, oil, or pipeline
       company (COAL CO, OIL CO, PIPELINE)

MOTHER = mother (CHILD, FATHER, PARENT)

MOTOR CO = auto manufacturer

NEWS = newspaper, newsletter, journal of opinion, news service
        (BOOK, FILM, MAGAZINE, NETWORK, PUBLISHER, REPORTER)

NETWORK = radio and television network, except CABLE TV (RADIO,
          TV)

NONPROFI = nonprofit organization or business (CHURCH, ELEE,
            ENV, PI, POL, PRO)

NONRES = nonresident (RESIDENT)

NUCLEAR = nuclear power plant or facility

O = owner, landlord, or claimant to ownership, fee interest, or
    possession of land as well as chattels (CHATTEL, DEVELOPER,
    REALTOR, SHOP CTR, TENANT)

OFFEREE = shareholders to whom a tender offer is made

OFFERER = tender offer

OIL CO = oil company, or natural gas producer (ELEC PU, PIPELINE,
         PU)

OLD = elderly person, or organization dedicated to the elderly

OUT OF S = out of state noncriminal defendant (NONRES)

PAC = political action committee

PARENT = parent or parents (CHILD, FATHER, MOTHER)

PARKING = parking lot or service

PATIENT = patient of a health professional

PHONE = telephone, telecommunications, or telegraph company

PHYSICIA = physician, MD or DO, dentist, or medical society
            (HEAL)

PI = public interest organization (ELEE, ENV, NONPROFIT)

PIP  = physically injured person, including wrongful death, who

is not an employee (IP)

PIPELINE = pipe line company (OIL CO)

PKG = package, luggage, container

POL = political candidate, activist, committee, party, party member, organization, or elected official (HSE REPS, SEN-ATE, SENATOR, VOTER)

POOR = indigent, needy, welfare recipient (MED CLAIM, POOR D, UNEMPLOYD)

POOR D = indigent defendant

PP = private person

PRISONER = prisoner, inmate of penal institution (CC)

PRO = professional organization, business, or person (ATTY, DRUGGIST, HEAL, PHYSICIAN)

PROBATIO = probationer, or parolee

PROT = protester, demonstrator, picketer or pamphleteer (non-employment related), or non-indigent loiterer (GAY, RAMIPROT)

PU = public utility (ELEC PU, NUCLEAR, OIL CO)

PUBLISHE = publisher, publishing company (BOOK)

RADIO = radio station (NETWORK)

RAMI = racial or ethnic minority

RAMIPROT = person or organization protesting racial or ethnic segregation or discrimination (GAY, PROT)

RAMISTU = racial or ethnic minority student or applicant for admission to an educational institution (STUDENT)

REALTOR = realtor (DEVELOPER, O)

REPORTER = journalist, columnist, member of the news media

RESIDENT = resident (NONRES)

RESTRANT = restaurant, food vendor (BAR)

RETARDED = retarded person, or mental incompetent (ICMP, CRIM
          INSA)

RETIREE = retired or former employee (__ GREE, VETERAN)

RR = railroad (AIR, BOAT, BUS, SHIPPER, TRUCK)

SCHOOL = private school, college, or university (CHURCH, STUDENT)

SELLER = seller or vendor

SHIPPER = shipper, including importer and exporter (AIR, BOAT,
          BUS, RR, TRUCK)

SHOP CTR = shopping center (O, STORE)

SPOUSE = spouse, or former spouse (HUSBAND, WIFE)

STOCK = stockholder, shareholder, or bondholder (INVESTOR,
        OFFEREE, OFFERER)

STORE = retail business or outlet (CAR DEAL, DISTRIB, SHOP CTR,
        WHOLESALE)

STUDENT = student, or applicant for admission to an educational
          institution (RAMISTU)

TAXP = taxpayer or executor of taxpayer's estate, federal only
       (__ TAXP)

TENANT = tenant or lessee (O)

THEATER = theater, studio

TIMBER C = forest products, lumber, or logging company (FARMER)

TOURIST = person traveling or wishing to travel abroad, or over-
          seas travel agent

TRUCK = trucking company, or motor carrier (AIR, BOAT, BUS, RR,
        SHIPPER)

TV = television station (CABLE TV, NETWORK)

UMEM = union member (EE, UNION)

UNEMPLOY = unemployed person or unemployment compensation
           applicant or claimant

UNION = union, labor organization, or official of (EE, EE TRUST, UMEM)

VETERAN  = veteran (MILITARY)

VOTER = voter, prospective voter, elector, or a nonelective official seeking reapportionment or redistricting of legislative districts (POL)

WHOLESAL = wholesale trade (ALCOHOL, DISTRIB, STORE)

WIFE = wife, or ex-wife (HUSBAND, SPOUSE)

WITNESS = witness, or person under subpoena (AC, ARRESTEE)

Also see administrative action preceding litigation (variable 18).


Variable 17
**disposition of case by court whose decision
the Supreme Court reviewed (LODIS)**

This variable specifies the treatment the court whose decision the Supreme Court reviewed accorded the decision of the court it reviewed;  e.g., whether the lower court -- typically a federal court of appeals or a state supreme court -- affirmed, reversed, remanded, etc. the decision of the court it (the federal court of appeals or the state supreme court) reviewed.

If the case is not a memorandum decision (see variable 57, type of decision), LODIS will not contain an entry if the decision the Supreme Court is reviewing is that of a trial court or if the case arose under the Supreme Court's original jurisdiction (see the JUR variable, variable 8).  Memorandum cases will usually not contain an entry in this variable because the Court does not provide this information.

SPSS lists the codes for this variable.

The decision rules for entering this information follow:

Adhere to the language used in  the "holding" in the summary of the case on the title page or prior to Part I of the Court's opinion.  Exceptions to the literal language are the following:

Where the court whose decision the Supreme Court is reviewing refuses to enforce or enjoins the decision of the court, tribunal, or agency which it reviewed, treat this as = 2.

Where the court whose decision the Supreme Court is review-
ing enforces the decision of the court, tribunal, or agency
which it reviewed, treat this as = 1.

Where the court whose decision the Supreme Court is review-
ing sets aside the decision of the court, tribunal, or
agency which it reviewed, treat this as = 7;  if the deci-
sion is set aside and remanded, treat it as = 4.

Except for the letter codes, the others also apply to the
disposition the Supreme Court gives the court whose decision it
reviews (disposition of case variable, variable 247).  The above
letter codes do not apply to dispositions of the Supreme Court.

Except for DEC_TYPE = 3 cases (see variable 38, type of
decision), if the LODIS variable is empty, it means that the case
arose under the Supreme Court's original jurisdiction or that the
decision the Supreme Court is reviewing is that of the trial
court, tribunal, or agency itself -- in which case the Supreme
Court's disposition is specified in the DIS variable, variable
247.

Also see disposition of case (variable 247) and direction of
the lower court's decision (variable 18).


## Variable 18
## direction of the lower court's decision (LCTDIR)

This variable specifies whether the decision of the court
whose decision the Supreme Court reviewed was itself liberal or
conservative as these terms are defined in the direction of
decision variable, variables 39, 109, 135, 161, 187, 212, 237.

LCTDIR permits determination of whether the Supreme Court's
disposition of the case (see variable 247) upheld or overturned a
liberal or a conservative lower court decision.

Also see disposition of case by court whose decision the
Supreme Court reviewed (variable 17), direction of decision
(variables 39, 109, 135, 161, 187, 212, 237), disposition of case
(variable 247), and winning party (42, 110, 136, 162, 188, 213,
238).


## Variable 19
## date of oral argument (ORAL)

The year, month, and day the case was orally argued appear
in this variable.  Only formally decided cases and those decided
by an equally divided vote are orally argued.  For other types of

decisions (see variable 38, type of decision) ORAL is empty.
On a few occasions, oral argument extended over two days.
In these cases, only the first date is specified.
Also see reagument date (variable 20) and decision date
(variable 21).


## Variable 20
### reargument date (REORAL)

On those infrequent occasions when the Court orders that a
case be reargued (less than two percent of the time), the date of
such argument is specified here following the same year, month,
day sequence used in the preceding variable.
Also see date of oral argument (variable 19) and decision
date (variable 21).


## Variable 21
### decision date (DEC)

This variable contains the year, month, and day that the
Court announced its decision in the case.  Unlike the two preced-
ing variables, every case must contain a date of decision.
Also see date of oral argument (variable 19) and reargument
date (variable 20).


## Variable 22
### term of Court (TERM)

This variable identifies the various terms of the Vinson and
Warren Courts.  The database begins with the 1946 term and ends
with the 1968 term.  Each term is identified by the year in which
it began.
Also see chief justice (variable 23) and natural court
(variable 24).


## Variable 23
### chief justice (CHIEF)

This variable identifies the chief justice for each case.
SPSS provides the codes.
Also see term of the Court (variable 22) and natural Court
(variable 24).

Variable 24
**natural court (NATCT)**


Although most judicial research is chronologically organized
by the term of the Court (variable 22) or by chief justice (vari-
able 23), many scholars use natural courts as their analytical
frame of reference.  To accommodate them, this variable was
created.

A natural court is a period during which no personnel change
occurs.  Scholars have subdivided them into strong and weak natu-
ral courts, but no convention exists as to the dates on which
they begin and end.  Options include 1) date of confirmation, 2)
date of seating, 3) cases decided after seating, and 4) cases
**argued** and decided after seating.  See Edward V. Heck, "Justice
Brennan and the Heyday of Warren Court Liberalism," 20 *Santa
Clara Law Review* 841 (1980) 842-843 and "Changing Voting Patterns
in the Burger Court: The Impact of Personnel Change," 17 *San
Diego Law Review* 1021 (1980) 1038;  Harold J. Spaeth and Michael
F. Altfeld, "Measuring Power on the Supreme Court: An Alternative
to the Power Index," 26 *Jurimetrics Journal* 48 (1985) 55.  A
strong court is delineated by the addition of a new justice or
the departure of an incumbent.  A weak court, by comparison, is
any group of nine justices even if lengthy vacancies occurred.

I have divided the Vinson and Warren Courts into strong
natural courts, each of which begins when the Reports first spe-
cify that the new justice is present but not necessarily partici-
pating in the reported case.  Similarly, a natural court ends on
the date when the Reports state that an incumbent justice has
died, retired, or resigned.  In the description and listing of
the natural courts below, I parenthetically designate the strong
natural courts that constitute a weak natural court for those of
you who prefer that focus.  The courts are numbered consecutively
by chief justice as the code at the left-hand margin indicates.


VINSON COURT

| NATCT | duration | personnel change |
|---|---|---|
| VIN1 | 1946-48 terms | Vinson on, Murphy and Rutledge off |
| VIN2 | 1949-52 terms | Clark and Minton on, Vinson off |


WARREN COURT

| NATCT | duration | personnel change |
|---|---|---|
| WAR1 | 1953 term | Warren on, Jackson off |
| WAR2 | 1954 term, pre-Harlan | (weak court) |
| WAR3 | 1954 to early 1956 term | Harlan on, Minton off |


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```
WAR4   early to middle of 1956 term   Brennan on, Reed off
WAR5   most of 1956 term to early   Whittaker on, Burton off
           1958 term
a
WAR6   early 1958 term to middle of   Stewart on, Whittaker off
           1961 term
WAR7   rest of 1961 term
b
        White on, Frankfurter off
WAR8   1962-1964 terms   Goldberg on, Goldberg off
WAR9   1965-1966 terms   Fortas on, Clark off
WAR10   1967 to middle of 1968 term   Marshall on, Fortas off
WAR11   rest of 1968 term   (weak court) Warren off
```

[a]includes six records prior to Whittaker's seating
[b]includes eight records prior to White's seating

Also see term of the Court (variable 22) and chief justice (variable 23).


## Variables 25-27
### date of opinion assignment (AUTDATE1,AUTDATE2,AUTDATE3)

These variables show the dates, in chronological order, on which the opinion assigner(s) made the assignment.  These dates are taken from the chief justices' assignment books. In a few cases the docket books fail to specify a date.

Also see opinion assigner and opinion assignee (variables 57-58 and 59-61).


## Variables 28-34
### dates votes occurred (VOTEDAT1-VOTEDAT7)

These variables specify the date on which the justices cast their votes in the case.  The eighth vote is excluded from this variable because that vote is my rendering of the vote as indicated by the Court's Reports (see variables 1-3).  The date of the report vote appears in variable 21 (decision date).  For all formally decided cases VOTEDAT3, which pertains to the report vote, should be the same as the date in the decision date variable (variable 21).

Dates appear in these variables corresponding to the associated vote (VOTETYP) (see variables 62, 86, 112, 138, 164, 189, 214).  If no associated VOTETYP exists, this variable lacks an entry.


## Variable 35
### legal provisions considered by the Court (LAW)

This variable identifies the constitutional provision(s), statute(s), or court rule(s) that the Court considered in the case.

The basic criterion to determine the legal provision(s) that a case concerns is a reference to it in at least one of the numbered holdings in the summary of the *United States Reports*. This summary, which the *Lawyers' Edition* of the U.S. Reports labels "Syllabus By Reporter Of Decisions," appears in the official Reports immediately after the date of decision and before the main opinion in the case. Where this summary lacks numbered holdings, it is treated as though it has but one number.

I use this summary to determine the legal provisions at issue because it is a reasonably objective and reliable indicator. The scourge of analysts in this regard has been their inability to agree on just what legal provisions the Court addressed in a given case. Although one may argue that my criterion is excessively formalistic; that it is too gross; or conversely, too refined; no other feasible criterion matches it for objectivity and reliability.

I have supplemented this criterion with a set of subordinate decision rules. If the summary has no numbered headings, treat it as though it has but one number. If more than one numbered heading pertains to a single constitutional provision, statute, or court rule, treat such legal provision as though it appeared in but one numbered heading. If separate numerical headings pertain to different sections of a statute under a given title in the *United States Code* which would not be governed by conventional use of "et seq.," treat them as separate legal provisions. (Note that this occurs very rarely.) If a numbered heading refers to more than a single constitutional provision, statute, and/or court rule, treat them as separate legal provisions. (This not uncommonly occurs.)

Observe that where a state or local government allegedly abridges a provision of the Bill or Rights that has been made binding on the states because it has been "incorporated" into the due process clause of the Fourteenth Amendment, identification is to the specific guarantee rather than to the Fourteenth Amendment.

The legal basis for decision need not be formally stated. For example, a reference in the summary to the appointment of counsel under the Constitution or to the self-incrimination clause warrants entry of the appropriate code. (E.g., *United States v. Knox*, 396 U.S. 77; *Lassiter v. Department of Social Services*, 452 U.S. 18).

Also note that occasionally an unnumbered holding may pertain to more than one legal basis for decision. In such cases, the additional basis or bases are specified as though they

are numbered holdings, or as though they are a holding without numbers.

By no means does every record have an entry in the LAW variable.  Only constitutional provisions, federal statutes, and court rules are entered here.  This variable will be empty in cases that concern the Supreme Court's supervisory authority over the lower federal courts;  those where the Supreme Court's decision does not rest on a constitutional provision, federal statute, or court rule; provisions of the common law;  decrees;  and nonstatutory cases arising under the Court's original jurisdiction.

The order in which the LAW entries appear in the records of a specific docket number bears no necessary relationship to their importance to the resolution of the case.  Such a judgment entails too much subjectivity.  Instead, the order of the LAW entries generally follows the sequence in which they appear in the summary.  As a general rule, jurisdictional considerations precede a discussion of the substantive legal provisions that the case concerns.  Indeed, the legal heart of a case may be the last of several legal provisions that the Court considered, or otherwise interspersed among a number that are only peripheral to the Court's decision.

Beyond the foregoing, observe that an entry should appear in this variable only when the summary indicates that the majority opinion **discusses** the legal provision at issue.  The mere fact that the Court **exercises** a certain power (e.g., its original jurisdiction, as in *Arkansas v. Tennessee*, 397 U.S. 91), or makes reference in its majority opinion -- rather than in the summary -- that a certain constitutional provision, statute, or frequently used common law rule applies (e.g., the "equal footing" principle which pertains to the admission of new states under Article IV, section 3, clause 2 of the Constitution, as *Utah v. United States*, 403 U.S. 9, illustrates) provides no warrant for any entry.

There are three exceptions to this "discussion" requirement, the first of which dismisses the writ of certiorari as "improvidently granted" -- either in so many words (e.g., *Johnson v. United States*, 401 U.S. 846) or dismisses it on this basis implicitly (e.g., *Baldonado v. California*, 366 U.S. 417).  In such cases, the code, WIG, should appear.  More often than not, these cases have no summary.  Note that the phrase is a term of art: 1) it overrides any substantive provision that the summary may mention (e.g., *Conway v. California Adult Authority*, 396 U.S. 107);  2) it does not apply where the Supreme Court takes jurisdiction on appeal (see variable 8).

In the second exception the Court, without discussion, remands a case to a lower court for consideration in light of an earlier decision.  The summary of the earlier case is then con-

sulted and the instant case coded with the entry that appeared there (e.g., *Wheaton v. California*, 386 U.S. 267).  If a discussion in the summary precedes the remand, this variable should be governed by that discussion as well as the basis for decision in the case that the lower court is instructed to consider.  Usually these bases will be identical (e.g., *Maxwell v. Bishop*, 398 U.S. 262).

The third exception to the "discussion" criterion involves the legality of administrative agency action without specific reference to the statute under which the agency acted.  Inasmuch as administrative agencies may only act pursuant to statute, the majority opinion was consulted to determine the statute in question (e.g., *National Labor Relations Board v. United Insurance Co. of America*, 390 U.S. 254).  The same situation may characterize the statute under which a court exercises jurisdiction (e.g., the Court of Claims in *United States v. King*, 395 U.S. 1).

An exclusively numerical entry identifies a provision of the original Constitution;  a number followed by the letter "A" identifies an amendment to the Constitution;  an exclusively alphabetic entry indicates either a commonly litigated statute or a court rule;  while a one- or two-digit number followed by a hyphen and further followed by 1-4 additional digits indicates an infrequently litigated statute.  The initial set of numbers identifies the title of the *United States Code* in which the statute appears, while the second set of numbers identifies the section of the title where the statute begins.  Note that occasionally the abbreviation, "Appx," precedes the section number.  This abbreviation is disregarded and only the section number is entered unless no section number appears, in which case the statute appears as, for example, 18-APPX.

Occasionally, a statute is cited only to the session laws (*Statutes at Large*).  In these situations, the volume precedes and the page succeeds the letter, "S."  E.g., '1S329' in *County of Oneida v. Oneida Indian Nation*, 470 U.S. 226).  A treaty is identified by the word, "TREATY," and a statute of a territory of the U.S., which statute is not contained in either the *U.S. Code* or the *Statutes at Large*, by the word, "TERRITY."

Because of the relative frequency with which certain non-positive-law rules and doctrines form bases for the Court's holdings, these are identified in this variable along with constitutional provisions, statutes, court rules, and treaties.

As indicated, this variable should usually be empty if the numbered holding(s) indicates that the Court's decision rests on its supervisory authority over the federal judiciary, the common law, or diversity jurisdiction.  (See variables 37, 261, 262, authority for decision.)

The format used to identify provisions of the original Constitution is as follows:

```
1st column = Article of the Constitution
2d column  = section number of the Article
3d column  = 2d digit of the section number if the section's
             number has two digits, otherwise the 3d column
             specifies the paragraph of the section, if any
4th column = paragraph of the section, if any

The list of the provisions at issue follows:

11   = delegation of powers
121  = composition of the House of Representatives
123  = apportionment of Representatives
141  = elections clause
151  = congressional qualifications
161  = speech or debate clause
162  = civil appointments
171  = origination clause
172  = separation of powers
181  = spending, general welfare, or uniformity clause
183  = interstate commerce clause
184  = bankruptcy clause
187  = postal power
188  = patent and copyright clause
1811 = war power
1814 = governance of the armed forces
1815 = call-up of militia
1816 = organizing the militia
1817 = governance of the District of Columbia and lands
       purchased from the states
1818 = necessary and proper clause
192  = suspension of the writ of habeas corpus
193  = bill of attainder or ex post facto law
194  = direct tax
196  = preference to ports
197  = appropriations clause
110  = state bill of attainder or ex post facto law
1101 = contract clause
1102 = export-import clause
1103 = compact clause
21   = executive power
218  = oath provision
22   = commander-in-chief
221  = presidential pardoning power
222  = appointments clause
311  = judicial power
312  = good behavior and compensation clause of federal
       judges
32   = extent of judicial power
```

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321  = case or controversy requirement (includes non-
         statutory "standing to sue" even though no reference
         to the case or controversy requirement appears)
322  = original jurisdiction (only if the propriety of its
         exercise is discussed.  The mere fact that a case
         arises hereunder [see variable 9] does not warrant
         entry)
323  = vicinage requirement
33   = treason clause
41   = full faith and credit clause
421  = privileges and immunities clause
422  = extradition clause
432  = property clause
44   = guarantee clause
62   = supremacy clause
63   = oath provision
```

Constitutional amendments are identified by the number of the amendment followed by the letter "A." Where a given amendment provides more than a single guarantee, the 4th column (and the 3d, if the amendment contains a single digit) will be used to provide specific identification according to the following schedule:

```
1A   = speech, press, and assembly
1ASN = association
1AEX = free exercise of religion
1AES = establishment of religion
1APT = petition clause
4A   = Fourth Amendment
5ADJ = double jeopardy
5ADP = due process
5AGJ = grand jury
5AMI = Miranda warnings
5ASI = self-incrimination
5ATK = takings clause
5A=P = equal protection
6ACF = right to confront and cross-examine, compulsory
         process
6ACO = right to counsel
6AJU = right to trial by jury
6ASP = speedy trial
6A   = other Sixth Amendment provisions
7A   = Seventh Amendment
8AEB = prohibition of excessive bail
8AEF = prohibition of exessive fines
8A   = cruel and unusual punishment
9A   = Ninth Amendment
10A  = Tenth Amendment
```

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11A  = Eleventh Amendment
12A  = Twelfth Amendment
13A  = Thirteenth Amendment (both sections 1 and 2)
14A1 = privileges and immunities clause
14A2 = reduction in representation clause
14AC = citizenship clause
14AD = due process
14A= = equal protection
14A5 = enforcement clause
15A  = Fifteenth Amendment
15A2 = enforcement clause
16A  = Sixteenth Amendment
17A  = Seventeenth Amendment
21A  = Twenty-First Amendment
24A  = Twenty-Fourth Amendment
```

Note that where a state or local government allegedly abridges a provision of the Bill of Rights that has been made binding on the states because it has been incorporated into the due process clause of the Fourteenth Amendment, identification is to the specific guarantee rather than to 14AD.

Frequently litigated statutes are identified by an exclusively alphabetic abbreviation except for the Civil Rights Act of 1964 which contains the number of the Title at issue in the fourth column of this variable; e.g., CRA7; and the Reconstruction Civil Rights Acts which contain their section number; i.e., 1981, 1982, 1983, 1985, 1986.

In general, amendments to the following statutes are also identified by the statutory abbreviations specified below.

```
ADA  = Americans with Disabilities Act, as amended
ADEA = Age Discrimination in Employment
AFDC = Aid to Families with Dependent Children provisions of
       the Social Security Act, plus amendments
AIR  = Clean Air, plus amendments
APA  = Administrative Procedure, or Administrative Orders
       Review
ATOM = Atomic Energy
BANK = Bankruptcy Code, Bankruptcy Act or Rules, or Bank
       ruptcy Reform Act of 1978
CAID = Medicaid provisions of the Social Security Act
CARE = Medicare provisions of the Social Security Act
CLAY = Clayton
CRA____  = Reconstruction Civil Rights Acts (42 USC 1971,
            1978, 1981, 1982, 1983, 1985, 1986)
CRA_ = Civil Rights Act of 1964, plus title number, as
       amended, except for the public accommodations
       provision which appears as CRAACOM
CRA1957 = Civil Rights Act of 1957
```

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CRA1991 = Civil Rights Act of 1991
DC   = statutory provisions of the District of Columbia
EAJA = Equal Access to Justice
EDAM = Education Amendments of 1972
ERIS = Employee Retirement Income Security, as amended
ESEA = Elementary and Secondary Education
FALSE = Federal False Claims
FCA  = Communication Act of 1934, as amended
FECA = Federal Employees' Compensation
FEE  = Civil Rights Attorney's Fees Awards
FELA = Federal Employers' Liability, as amended
FELC = Federal Election Campaign
FERP = Family Educational rights and Privacy (Bnuckley
       Amendment)
FFDC = Federal Food, Drug, and Cosmetic, and related
       statutes
FIFR = Federal Insecticide, Fungicide, and Rodenticide
FLSA = Fair Labor Standards
FOIA = Freedom of Information, Sunshine, or Privacy Act
FPA  = Federal Power
FTC  = Federal Trade Commission
FWPC = Federal Water Pollution Control (Clean Water), plus
       amendments
GUN  = Omnibus Crime Control and Safe Streets, National
       Firearms, Organized Crime Control, Comprehensive
       Crime Control, or Gun Control Acts, as amended,
       except for RICO (q.v.) portion
HAND = Education of the Handicapped, or Education for All
       Handicapped Children Acts
HC   = 28 USC 2241-2255 (habeas corpus), as amended
HOUS = Fair Housing
ICA  = Interstate Commerce, as amended
INA  = Immigration and Naturalization, Immigration, or
       Nationality Acts, as amended
IRC  = Internal Revenue Code
ISA  = Internal Security
JENK = Jencks
JONE = Jones
LHWC = Longshoremen and Harbor Workers' Compensation
LMRA = Labor-Management Relations
LMRD = Labor-Management Reporting and Disclosure
MCA  = Motor Carrier
MILL = Miller
NEPA = National Environmental Policy
NGPA = Natural Gas, or Natural Gas Policy Acts
NLRA = National Labor Relations, as amended
NOLA = Norris-LaGuardia
OSHA = Occupational Safety and Health
PURP = Public Utility Regulatory Policy
```

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REHA = Rehabilitation
RICO = Racketeer Influenced and Corrupt Organizations
RLA  = Railway Labor
RP   = Robinson-Patman
SEA  = Securities Act of 1933, the Securities and Exchange
         Act of 1934, or the Williams Act
SEL  = Selective Service, Military Selective Service, or
         Universal Military Service and Training Acts
SHER = Sherman
SLA  = Submerged Lands
SMIT = Smith, Subversive Activities Control, Communist
         Control, or other similar federal legislation except
         the Internal Security Act (qv.)
SSA  = Social Security, including Social Security Disability
         Benefits Reform Act, but excluding Medicare, Medi-
         caid, Supplemental Security Income, and Aid to Fami-
         lies with Dependent Children
SSI  = Supplemental Security Income
TIL  = Truth in Lending
TORT = Federal Tort Claims
TUCK = Tucker
TWE  = Trading with the Enemy Act, as amended
UCMJ = Universal Code of Military Justice, or Articles of
         War
VRA  = Voting Rights Act of 1965, plus amendments
```

Decisions involving court rules are identified alphabetical-
ly according to the following schedule:

```
CIVP = Federal Rules of Civil Procedure, including Appellate
         Procedure
CRMP = Federal Rules of Criminal Procedure
FRE  = Federal Rules of Evidence
SCTR = Supreme Court Rules
```

Bases other than the Constitution or federal statutes are
identified as follows:

```
ABST = Abstention Doctrine
BACK = retroactive application of a constitutional right
EXCL_ = exclusionary rule (admissibility of evidence
          allegedly in violation of the Fourth Amendment [4],
          the right to counsel [6], or the Miranda warnings
          [5])
HARM = harmless error
RJ   = res judicata
STOP = estoppel
WIG  = writ improvidently granted (either in so many words,
          or with an indication that the reason for originally
```

granting the writ was mistakenly believed to be
present -- e.g., 366 U.S. 417)

International treaties and conventions, which rarely serve
as the basis for the Court's decision, are identified as TREATY,
an interstate compact as IC, an executive order as EO, and a
statute of a territory of the U.S., which is not in the *U.S. Code*
or the *Statutes at Large*, as TERRITY.

Excluded as a numbered holding is one which states that a
constitutional provision, amendment, or statute was not applied
or considered in reaching the decision, or is "speculative" or
"premature."

If a numbered holding pertains to the exercise of judicial
power without reference to a statutory provision or to Article
III, no separate record is created to identify this feature of
the case. Instead, a '3' will appear in the authority for deci-
sion variable to indicate the judicial power aspect of the legal
basis for the Court's decision (variables 37, 261, 262).

A case which challenges the constitutionality of a federal
statute, court or common law rule will usually contain at least
two legal bases for decision: the constitutional provision as
well as the challenged statute or rule.

Where a heading concerns the review of agency action under a
statute, but the statute is not identified, it is ascertained
from the opinion (e.g., *National Labor Relations Board v. United
Insurance Co. of America*, 390 U.S. 254). So also where the deci-
sion turns on the statutory jurisdiction of a federal court, and
the holding does not specify it (e.g., *United States v. King*, 395
U.S. 1).

Also see multiple legal provisions (variable 36) and author-
ity for decision (variables 37, 261, 262).

Variable 36
multiple legal provisions (LAWS)

This variable indicates whether any given legal provision is
the only one considered by the Court, or whether other(s) are
also involved. A '1' in this variable indicates the presence of
multiple legal provisions.

The '1' appears in this variable in each record of such
cases where there is a legal provision different from that of
another record in the case. The only exception is a case where a
single legal provision applies to more than one issue (see vari-
able 248).

Also see legal provisions considered by the Court (variable
35) and unit of analysis (variable 5).

Variables 37, 261, 262
authority for decision (AUTH_DEC, AUTHDEC1, AUTHDEC2)

These variables specify the bases on which the Supreme Court rested its decision with regard to each legal provision that the Court considered in the case (see variable 35).

Because one of the foregoing may be combined with another; e.g., the interpretation of the substantive provisions of a federal statute and the Supreme Court's exercise of its supervisory power over the lower federal courts; two separate single-column variables are used (AUTHDEC1 and AUTHDEC2). In the foregoing example, the first variable will contain a '4,' the second a '3.' In a case involving congressional acquiescence to longstanding administrative construction of a statute, these variables should appear as '5' and '4.' If two bases are identified, and if one is more heavily emphasized, it should appear in the first of the two variables.

AUTHDEC1 will have an entry in every record that is not a memorandum case (see variable 38), type of decision). Indeed, most memorandum cases will not have an entry in either AUTHDEC variable. If the Court has summarily denied or dismissed the petition or appeal in such a case (DIS=8) (see variable 247, disposition of case), the AUTHDEC variables lack entries.

Considerable congruence should obtain between the entry in the AUTHDEC variables and the code that appears in the LAW variable (variable 35). Thus, if a constitutional provision appears in the LAW variable, a '1' or a '2' will typically appear in either AUTHDEC1 or AUTHDEC2. Similarly, if LAW displays a statute, either AUTHDEC1 or AUTHDEC2 will likely show a '4.'

A common exception is where the Court determines the constitutionality of a federal statute, or where judge-made rules are applied to determine liability under various federal statutes, including civil rights acts (e.g., *Pulliam v. Allen*, 466 U.S. 522), or the propriety of the federal courts' use of state statutes of limitations to adjudicate federal statutory claims (e.g., *Burnett v. Grattan*, 468 U.S. 42).

The decision rules governing each of the AUTHDEC codes are as follows:

Re 1: Did the majority determine the constitutionality of some action taken by some unit or official of the federal government, including an interstate compact? If so, enter a '1.'
        Enter a '1' if 321 appears in the LAW variable.
        Enter a '1' if IC appears in the LAW variable.

Re 2: Did the majority determine the constitutionality of some action taken by some unit or official of a state or local

government? If so, enter a '2.'

     Re 3: If the rules governing codes '1-2,' '4-7' are answered
negatively or do not apply, enter a '3.' A '3,' then, serves as
the residual code for these variables.
          Enter a '3' if WIG appears in the LAW variable.
          Non-statutorily based Judicial Power topics (700-899)
     in the ISSUE variable generally warrant a '3.'
          Most cases arising under the Court's original juris-
     diction should receive a '3.'
          All cases containing a '4' in the type of decision
     variable = 3.
          Enter a '3' in cases in which the Court denied or
     dismissed the petition for review (indicated by an '8' in
     the disposition of case, variable 247) or where the decision
      of a lower court is affirmed by a tie vote (indicated by a
      '5' in the DEC_TYPE variable, variable 38).

     Re 4: Did the majority interpret a federal statute, treaty,
or court rule? If so, enter a '4.'
          Enter a '4' rather than a '3' if the Court interprets
     a federal statute governing the powers or jurisdiction of a
     federal court. In other words, a statutory basis for a
     court's exercise of power or jurisdiction does not require
     that a '3' supplement a '4'; the latter alone suffices.
          Enter a '4' rather than a '2' where the Court con-
     strues a state law as incompatible with a federal law.
          Do not enter only a '4' where an administrative agency
     or official acts "pursuant to" a statute. All agency action
     is purportedly done pursuant to legislative authorization of
     one sort or another. A '4' may be coupled to a '5' (see
     below) only if the Court interprets the statute to determine
     if administrative action is proper.
          In workers' compensation litigation involving statuto-
     ry interpretation and, in addition, a discussion of jury
     determination and/or the sufficiency of the evidence, enter
     either a '4' and a '3' or a '3' and a '4.' If no statute is
     identified in the syllabus, only enter a '3.'

     Re 5: Did the majority treat federal administrative action
in arriving at its decision? If so, enter a '5.'
          Enter a '5' and a '4,' but not a '5' alone, where an
     administrative official interprets a federal statute.
          The final instruction under Re 4 applies to the use of
     '5.'
          Enter a '5' if the issue = 721.

     Re 6: Did the majority say in approximately so many words
that under its diversity jurisdiction it is interpreting state

44

law? If so, enter a '6.'

Re 7: Did the majority indicate that it used a judge-made "doctrine" or "rule?" If so, enter a '7.' Where such is used in conjunction with a federal law or enacted rule, a '7' and '4' should appear in the two variables of this record.

Enter a '7' if the Court without more merely specifies the disposition the Court has made of the case (see variable 247) and cites one or more of its own previously decided cases; but enter a '3' if the citation is qualified by the word, "see."

Enter a '7' if the case concerns admiralty or maritime law.

Enter a '7' if the case concerns the retroactive application of a constitutional provision or a previous decision of the Court.

Enter a '7' if the case concerns an exclusionary rule, the harmless error rule (though not the statute), the abstention doctrine, comity, res judicata, or collateral estoppel. Note that some of these, especially comity issues (701-709), likely warrant an entry in both AUTHDEC variables: a '7' as well as a '3.'

Enter a '7' if the case concerns a "rule" or "doctrine" that is not specified as related to or connected with a constitutional or statutory provision (e.g., 376 U.S. 398).

Also see legal provisions considered by the Court (variable 35).

Variable 248
issue (ISSUE)

This variable identifies the context in which the legal basis for decision (variable 35) appears. The First Amendment, due process, and equal protection, for example, separately apply to a substantial number of distinguishable issues as the codebook entries indicate. Thus, the equal protection clause may pertain to sex discrimination in one case, school desegregation in another, and affirmative action in yet a third -- to say nothing of the employability of aliens, denial of welfare benefits, legislative districting and apportionment, the access of political parties and candidates to the ballot, durational residency requirements, the status of juveniles, of Indians, and the imposition of costs and filing fees on indigents in the criminal justice system.

Although criteria for the identification of issues are hard to articulate, the focus here is on the subject matter of the

controversy rather than its legal basis. I have attempted to identify issues on the basis of the Court's own statements as to what the case is about. The objective is to categorize the case from a public policy standpoint, a perspective that the legal basis for decision (variable 35) commonly disregards.

Unlike the LAW variable where the number of legal provisions at issue has no preordained upper bound, an issue should not apply to more than a single legal provision. A second issue should apply only when a preference for one rather than the other cannot readily be made. Of the many thousand records in the database, only a few have a legal basis for decision that applies to a second issue.

I have identified some 260 issues, each of which has an identifying number, that have been organized into thirteen major groupings: criminal procedure, civil rights, First Amendment, due process, privacy, attorneys, unions, economic activity, judicial power, federalism, interstate relations, federal taxation, and miscellaneous. These comprise the codes for a separate variable, issue area, that is described immediately following this one.

The scope of these categories is as follows: criminal procedure encompasses the rights of persons accused of crime, except for the due process rights of prisoners (issue 504). Civil rights includes non-First Amendment freedom cases which pertain to classifications based on race (including American Indians), age, indigency, voting, residency, military or handicapped status, gender, and alienage. Purists may wish to treat the military issues (361-363) and Indian cases (293-294) as economic activity, while others may wish to include the privacy category as a subset of civil rights. First Amendment encompasses the scope of this constitutional provision, but do note that not every case in the First Amendment group directly involves the interpretation and application of a provision of the First Amendment. Some, for example, may only construe a precedent, or the reviewability of a claim based on the First Amendment, of the scope of an administrative rule or regulation that impacts the exercise of First Amendment freedoms. In other words, not every record that displays a First Amendment issue will correspondingly display a provision of the First Amendment in its legal provision variable (variable 35).

Due process is limited to non-criminal guarantees and, like First Amendment issues, need not show '5ADP' or '14AD' in its LAW variable. Some of you may wish to include state court assertion of jurisdiction over nonresident defendants and the takings clause (issues 506-507) as part of judicial power and economic activity, respectively, rather than due process. As mentioned, the three issues comprising privacy (531, 533, 537) may be treated as a subset of civil rights. Because of their peculiar role in the judicial process, a separate attorney category has

been created (issues 542, 544, 546, 548). You may wish to
include these issues with economic activity, however. Unions
encompass those issues involving labor union activity. You may
wish to redefine this category for yourself or combine it, in
whole or in part, with economic activity. Economic activity is
largely commercial and business related; it includes tort
actions (issues 616-618) and employee actions vis-a-vis employers
(issues 614-615, 621). Issues 650 and 652 are only tangential to
the other issues located in economic activity. Judicial power
concerns the exercise of the judiciary's own power. To the
extent that a number of these issues concern federal-state court
relationships (i.e., 701-708, 712, 754, 755), you may wish to
include them in the federalism category. Federalism pertains to
conflicts between the federal government and the states, except
for those between the federal and state courts. Interstate
relations contain two types of disputes which occur between
states. Federal taxation concerns the Internal Revenue Code and
related statutes. Miscellaneous contains two groups of cases
that do not fit into any other category.

     If interest lies in a particular issue area that has a
specific legal or constitutional component, comprehensive cover-
age may be insured by listing not only the issue(s) that bear
thereon, but also the appropriate code(s) from variable 44 (legal
provisions considered by the Court). Thus, if the right to
counsel is your focus, issues 030 and 381-382 will fall within
your compass, as will code "6ACO" from the LAW variable. Also
recognize that the parties variables (variables 15-16) may also
help locate the cases of interest.

     The specific codes follow.

0 issue not able to be identified

                      Criminal Procedure

010 involuntary confession
013 habeas corpus (cf. 704): whether the writ should issue rather
    than the fact that collateral review occurred. Note that
    this need not be a criminal case
014 plea bargaining: the constitutionality of and/or the
    circumstances of its exercise
015 retroactivity (of newly announced constitutional rights)
016 search and seizure (other than as pertains to 017 and 018)
017 search and seizure, vehicles
018 search and seizure, Crime Control Act
020 contempt of court
021 self-incrimination (other than as pertains to 022 and 023)
022 Miranda warnings
023 self-incrimination, immunity from prosecution
030 right to counsel (cf. 381-382)

                            47

040 cruel and unusual punishment, death penalty (cf. 106)
041 cruel and unusual punishment, non-death penalty
050 line-up (admissibility into evidence of identification obtained after accused was taken into custody, or after indictment or information)
060 discovery and inspection (in the context of criminal litigation only, otherwise 537)
070 double jeopardy
100 extra-legal jury influences, miscellaneous: no question regarding the right to a jury trial or to a speedy trial (these belong in 190 and 191, respectively); the focus, rather, is on the fairness to the accused when jurors are exposed to the influences specified
  101 prejudicial statements or evidence
  102 contact with jurors outside courtroom
  103 jury instructions
  104 voir dire
  105 prison garb or appearance
  106 jurors and death penalty (cf. 040)
  107 pretrial publicity
110 confrontation (right to confront accuser, call and cross-examine witnesses)
___ subconstitutional fair procedure: nonsubstantive rules and procedures pertaining to the administration of justice that do not rise to the level of a constitutional matter. This is the residual category insofar as criminal procedure is concerned. Note that this issue need not necessarily pertain to a criminal action. If the case involves an indigent, consider 381-386.
  111 confession of error
  112 conspiracy (cf. 163)
  113 entrapment
  114 exhaustion of remedies
  115 fugitive from justice
  116 presentation or admissibility of evidence
  117 stay of execution
  118 timeliness, including statutes of limitation
  119 miscellaneous
120 Federal Rules of Criminal Procedure, including application of the Federal Rules of Evidence in criminal proceedings.
___ statutory construction of criminal laws: these codes, by definition exclude the constitutionality of these laws
  161 assault
  162 bank robbery
  163 conspiracy (cf. 112)
  164 escape from custody
  165 false statements (cf. 177)
  166 financial (other than in 168 or 173)
  167 firearms

168 fraud
        169 gambling
        171 Hobbs Act; i.e., 18 USC 1951, not 28 USC 2341, the
            Administrative Orders Review Act, which is also "common-
            ly known as the Hobbs Act." 96 L ed 2d 222, at 239.
        172 immigration (cf. 371-376)
        173 internal revenue (cf. 960, 970, 975, 979)
        174 Mann Act
        175 narcotics
        176 obstruction of justice
        177 perjury (other than as pertains to 165)
        178 Travel Act
        179 war crimes
        181 miscellaneous
190 jury trial (right to, as distinct from 100-107)
191 speedy trial
199 miscellaneous criminal procedure (cf. 504, 702)

Civil Rights

210 voting: does not extend to reapportionment and districting,
    which is 250, or to litigation under the Voting Rights Act,
    which is 211, or to durational residency requirements, which
    is 341. Entries are limited to cases raising constitutional
    questions regarding the right to vote; typically, but not
    exclusively, under the 15th or 14th Amendments.
211 Voting Rights Act of 1965, plus amendments
212 ballot access (of candidates and political parties)
220 desegregation (other than as pertains to 221-223)
221 desegregation, schools
222 employment discrimination: on basis of race, age, or working
    conditions. Not alienage, which is 272, or gender, which is
    284.
223 affirmative action
230 sit-in demonstrations (protests against racial discrimination
    in places of public accommodation): to be sharply disting-
    uished from protests not involving racial discrimination.
    The latter are coded as 451.
250 reapportionment: other than plans governed by the Voting
    Rights Act
261 debtors' rights (other than as pertains to 381-388):
    replevin, garnishment, etc. Typically involve notice and/or
    hearing requirements or the takings clause.
271 deportation (cf. 371-376)
272 employability of aliens (cf. 371-376)
283 sex discrimination: excluding employment discrimination
    which is 284
284 sex discrimination in employment (cf. 283, 222)
293 Indians (other than as pertains to 294)

294 Indians, state jurisdiction over
301 juveniles (cf. 321)
311 poverty law, constitutional: typically equal protection
    challenges over welfare benefits, including pension and
    medical benefits
312 poverty law, statutory: welfare benefits, typically under
    some Social Security Act provision. Excludes 321 and 331.
321 illegitimates, rights of (cf. 301): typically inheritance
    and survivor's benefits, and paternity suits
331 handicapped, rights of: under Rehabilitation Act and related
    statutes
341 residency requirements: durational, plus discrimination
    against nonresidents
___ military (cf. 441, 705)
    361 draftee, or person subject to induction
    362 active duty
    363 veteran
___ immigration and naturalization (cf. 172, 271-272)
    371 permanent residence
    372 citizenship
    373 loss of citizenship, denaturalization
    374 access to public education
    375 welfare benefits
    376 miscellaneous
___ indigents (cf. 311-312): procedural protections for indigents
    because of their indigency. Typically in matters pertaining
    to criminal justice.
    381 appointment of counsel (cf. 030)
    382 inadequate representation by counsel (cf. 030)
    383 payment of fine
    384 costs or filing fees
    385 U.S. Supreme Court docketing fee
    386 transcript
    387 assistance of psychiatrist
    388 miscellaneous
391 liability, civil rights acts (cf. 616-617): tort actions
    involving liability that are based on a civil rights act
399 miscellaneous civil rights (cf. 701)

First Amendment

401 First Amendment, miscellaneous (cf. 703): the residual
    category for all First Amendment litigation other than the
    free exercise or establishment clauses
411 commercial speech, excluding attorneys which is 544
415 libel, defamation: defamation of public officials and public
    and private persons
416 libel, privacy: true and false light invasions of privacy
421 legislative investigations: concerning "internal security"

only
422 federal internal security legislation: Smith, Internal
    Security, and related federal statutes, regulations, and
    orders
430 loyalty oath or non-Communist affidavit (other than in
    431-434)
431 loyalty oath, bar applicants (cf. 546, 548)
432 loyalty oath, government employees
433 loyalty oath, political party
434 loyalty oath, teachers
435 security risks: denial of benefits or dismissal of employees
    for reasons other than failure to meet loyalty oath require-
    ments
441 conscientious objectors (cf. 361-362): to military service
444 campaign spending (cf. 650): financing electoral costs other
    than as regulated by the Taft-Hartley Act. Typically
    involves the Federal Election Campaign Act.
451 protest demonstrations (other than as pertains to 230):
    demonstrations and other forms of protest based on First
    Amendment guarantees other than the free exercise or estab-
    lishment clauses
455 free exercise of religion
461 establishment of religion (other than as pertains to 462)
462 parochiaid: government aid to religious schools, or religious
    requirements in public schools
471 obscenity, state (cf. 706): including the regulation of
    sexually explicit material under the 21st Amendment
472 obscenity, federal

Due Process

501 due process, miscellaneous (cf. 431-434, 618): the residual
    code for cases that do not locate in 502-507
502 due process, hearing or notice (other than as pertains to 503
    or 504)
503 due process, hearing, government employees
504 due process, prisoners' rights
505 due process, impartial decision maker
506 due process, jurisdiction (jurisdiction over non-resident
    litigants)
507 due process, takings clause, or other non-constitutional
    governmental taking of property

Privacy

531 privacy (cf. 416, 707)
533 abortion: including contraceptives
534 right to die
537 Freedom of Information Act and related federal statutes or

regulations

Attorneys

542 attorneys' fees
544 commercial speech, attorneys (cf. 411)
546 admission to a state or federal bar, disbarment, and attorney
    discipline (cf. 431)
548 admission to, or disbarment from, Bar of the U.S. Supreme
    Court

Unions

553 arbitration (in the context of labor-management or employer-
    employee relations) (cf. 653)
555 union antitrust: legality of anticompetitive union activity
557 union or closed shop: includes agency shop litigation
559 Fair Labor Standards Act
561 Occupational Safety and Health Act
563 union-union member dispute (except as pertains to 557)
___ labor-management disputes (other than those above)
      575 bargaining
      576 employee discharge
      577 distribution of union literature
      578 representative election
      579 antistrike injunction
      581 jurisdictional dispute
      582 right to organize
      583 picketing
      584 secondary activity
      585 no-strike clause
      586 union representatives
      587 union trust funds (cf. 621)
      588 working conditions
      589 miscellaneous dispute
599 miscellaneous union

Economic Activity

601 antitrust (except in the context of 605 and 555)
605 mergers
611 bankruptcy (except in the context of 975)
614 sufficiency of evidence: typically in the context of a jury's
    determination of compensation for injury or death
615 election of remedies: legal remedies available to injured
    persons or things
616 liability, governmental: tort actions against government or
    governmental officials other than actions brought under a
    civil rights action. These locate in 391.

617 liability, nongovernmental: other than as in 614, 615, 618
618 liability, punitive damages
621 Employee Retirement Income Security Act (cf. 587)
626 state tax (those challenged on the basis of the supremacy
    clause and the 21st Amendment may also locate in 931 or 936)
631 state regulation of business (cf. 910, 911)
636 securities, federal regulation of
638 natural resources - environmental protection (cf. 933, 934)
650 corruption, governmental or governmental regulation of other
    than as in 444
652 zoning: constitutionality of such ordinances
653 arbitration (other than as pertains to labor-management or
    employer-employee relations (cf. 553)
656 federal consumer protection: typically under the Truth in
    Lending; Food, Drug and Cosmetic; and Consumer Protection
    Credit Acts
___ patents and copyrights
    661 patent
    662 copyright
    663 trademark
    664 patentability of computer processes
___ federal transportation regulation
    671 railroad
    672 boat
    673 truck, or motor carrier
    674 pipeline (cf. 685)
    675 airline
___ federal public utilities regulation (cf. 935)
    681 electric power
    682 nuclear power
    683 oil producer
    684 gas producer
    685 gas pipeline (cf. 674)
    686 radio and television (cf. 687)
    687 cable television (cf. 686)
    688 telephone company
699 miscellaneous economic regulation

Judicial Power

___ comity, criminal and First Amendment (cf. 712): propriety of
    federal court deference to ongoing state judicial or state or
    federal quasi-judicial proceedings, the abstention doctrine,
    exhaustion of state provided remedies
    701 civil rights
    702 criminal procedure
    703 First Amendment
    704 habeas corpus
    705 military

706 obscenity
    707 privacy
    708 miscellaneous
712 comity, civil procedure (cf. 701-708): propriety of federal
    court deference to ongoing state judicial or state or federal
    quasi-judicial proceedings, the abstention doctrine, exhaus-
    tion of state provided remedies
715 assessment of costs or damages: as part of a court order
717 Federal Rules of Civil Procedure, including application of
    the Federal Rules of Evidence and the Federal Rules of
    Appellate Procedure in civil litigation
721 judicial review of administrative agency's or administrative
    official's actions and procedures
731 mootness (cf. 806)
741 venue
___ no merits: use only if the syllabus or the summary holding
    specifies one of the following bases
    751 writ improvidently granted: either in so many words, or
        with an indication that the reason for originally gran-
        ting the writ was mistakenly believed to be present
    752 dismissed for want of a substantial or properly
        presented federal question
    753 dismissed for want of jurisdiction (cf. 853)
    754 adequate non-federal grounds for decision
    755 remand to determine basis of state court decision (cf.
        858)
    759 miscellaneous
___ standing to sue
    801 adversary parties
    802 direct injury
    803 legal injury
    804 personal injury
    805 justiciable question
    806 live dispute
    807 parens patriae standing
    808 statutory standing
    809 private or implied cause of action
    810 taxpayer's suit
    811 miscellaneous
___ judicial administration (jurisdiction of the federal courts
    or of the Supreme Court) (cf. 753)
    851 jurisdiction or authority of federal district courts
    852 jurisdiction or authority of federal courts of appeals
    853 Supreme Court jurisdiction or authority on appeal from
        federal district courts or courts of appeals (cf. 753)
    854 Supreme Court jurisdiction or authority on appeal from
        highest state court
    855 jurisdiction or authority of the Court of Claims
    856 Supreme Court's original jurisdiction

857 review of non-final order; i.e., allegation that the
    decision below is not a final judgment or decree, or
    that it is an interlocutory judgment (cf. 753)
858 change in state law (cf. 755)
859 federal question (cf. 752)
860 ancillary or pendent jurisdiction
861 extraordinary relief
862 certification (cf. 864)
863 resolution of circuit conflict, or conflict between or
    among other courts
864 objection to reason for denial of certiorari or appeal
   (cf. 862)
865 collateral estoppel or res judicata
866 interpleader
867 untimely filing
868 Act of State doctrine
869 miscellaneous
870 Supreme Court's certiorari or appellate jurisdiction
899 miscellaneous judicial power

Federalism

900 federal-state ownership dispute (cf. 920)
910 federal pre-emption of state court jurisdiction: almost
    always found in the context of labor union activity. Does
    not involve constitutional interpretation. Rests rather on a
    primary jurisdiction rationale.
911 federal pre-emption of state regulation (cf. 631): rarely
    involves union activity. Does not involve constitutional
    interpretation.
920 Submerged Lands Act (cf. 900)
___ national supremacy: in the context of federal-state conflicts
    involving the general welfare, supremacy, or interstate com-
    merce clauses, or the 21st Amendment. Distinguishable from
    910 and 911 because of a constitutional basis for decision.
    930 commodities
    931 intergovernmental tax immunity
    932 marital property, including obligation of child support
    933 natural resources (cf. 638)
    934 pollution, air or water (cf. 638)
    935 public utilities (cf. 681-688)
    936 state tax (cf. 626)
    939 miscellaneous
949 miscellaneous federalism (cf. 294, 701-708, 712, 754-755,
    854, 858, 860)

Interstate Relations

950 boundary dispute between states
951 non-real property dispute between states
959 miscellaneous interstate relations conflict

Federal Taxation

960 federal taxation (except as pertains to 970 and 975):
    typically under provisions of the Internal Revenue Code
970 federal taxation of gifts, personal, and professional
    expenses
975 priority of federal fiscal claims: over those of the states
    or private entities
979 miscellaneous federal taxation (cf. 931)

Miscellaneous

980 legislative veto
989 miscellaneous
    Also see issue areas (variable 263).

Variable 263
issue areas (VALUE)

This variable simply separates the issues identified in the
preceding variable into the discrete issue areas that the issue
variable contains, according to the SPSS schedule.
    Note that if a case contains multiple issues that transcend
a single value, the substantive value (1-8, 11-13) will typically
appear in the first record of the case, succeeded by the proce-
dural value (9 or 10).
    Also see issue (variable 248).

Variables 39, 109, 135, 161, 187, 212, 237
direction of decision (DIR, MDIR, RDIR, DIR4, DIR5, DIR6, DIR7)

In order to determine whether the Court supports or opposes
the issue to which the case pertains, "direction" needs to be
assigned. Scholars are usually not satisfied only to know
whether a case concerns civil rights. They also wish to know
whether the Court upheld or rejected the civil rights claim.
These variables address that concern. Specification of direction
comports with conventional usage for the most part except for the
interstate relations and the miscellaneous issues. A 0 has been
entered in the respective DIR variables of these cases either
because the issue does not lend itself to a pro or con descrip-
tion (e.g., a boundary dispute between two states), or because no

convention exists as to which is the pro side and which is the con side (e.g., issue 980, the legislative veto). Except for these cases and those in which a tied vote or lack of information precludes a determination of how the Court resolved the issue in the case, each issue in each case will either indicate a liberal or a conservative outcome.

Direction is rarely specified in any informally decided cases (DEC_TYPE = 3, see variable 38) either because the vote in such cases is a preliminary one and as such not amenable to direction (see variables 80-86) or because of a lack of information identifying the issue in the case (see variable 248). In formally decided cases, a 0 may appear in one of the other of the DIR variables. Such an entry does not indicate a change in the direction of the Court's decision, but rather the absence of a merits vote or a report vote independent of that in another case docketed under the same citation as the docket with RDIR=0. E.g., *Colgate-Palmolive Co. v. Cook Chemical Co.*, docket 43, 383 U.S. 1, in which the justices cast no report vote separate from that cast in the other two cases decided under this same citation. Only if the DIR vote equals 0 -- as distinct from any of the others (i.e., MDIR, RDIR, DIR4, DIR5, DIR6, DIR7) -- is a zero meaningful. As explained above, a zero in DIR means that the record pertains to an issue for which society bestows no liberal or conservative direction; e.g., the legislative veto. Direction differs from one vote to another in a given docket only if between or among given DIR votes some =1 while others =2.

The multiplicity of DIR variables results because direction attaches to each of the votes in the database with the exception of preliminary votes; e.g., to grant or deny cert or a writ of appeal, participation of parties amicus curiae, petition for rehearing. Direction cannot readily be ascribed to these votes as they can to those addressing the merits of a controversy (see vote type, variables 62, 86, 112, 138, 164, 189, 214).

The DIR variable governs the formal vote in the case based on the issue to which the specific record in the case pertains. Recall that some dockets display multiple issues, with those beyond the first identified by ANALU=2 (see variable 5). Each such issue need not be resolved in the same direction as the others. Thus, for example, a federalism issue may be decided conservatively (pro-state) while its economic regulatory component produces a liberal (anti-business) outcome.

MDIR governs the direction of the case's final conference vote on the merits; RDIR the final report vote based on a more restrictive set of codes than those I employ to code this vote. (See variables 43, 134, the vote in the case, for the reasons for a redundant report vote). Do note that RDIR and DIR in a given record will always display the same code -- either a 0, 1, or 2 -- only if the justices cast such a vote in the docketed case,

not merely in other dockets appearing under a common citation.
Accordingly, if ANALU for a given record contains a 2, 4, or 5,
RDIR may differ from DIR because the additional issue (ANALU=2 or
5) produces a conservative rather than a liberal vote, or vice-
versa. Or because of a split vote, less than a majority of the
participating justices support the outcome in the first record
(ANALU=' ') for this citation.

DIR4-DIR7 specify the direction of any merits or report
votes that the case contains other than the final one.

It bears emphasizing that the DIR entry is determined by
reference to the ISSUE variable that the record identifies. It
is entirely possible for a citation to relate to a second issue
whose direction is opposite that of the original issue. For
example,

LED	ANALU	LAW	ISSUE	DIR
040/0607		4A	16	2
040/0607	2	4A	638	1

Here, the Court decided that the Fourth Amendment (ISSUE=16) was
not violated by a health inspector's warrantless entry onto the
property of a business to inspect smoke pollution (ISSUE=638).

To insure complete accuracy, consider including records in
which ANALU=4, indicating citations with a split vote. In a few
instances, e.g., *Wolman v. Walter*, 433 U.S. 29 (1977), some
records for a citation may show DIR=1, while others display
DIR=2. Counting such cases is a matter of judgment. In order to
determine whether the Court supported or opposed the issue to
which a given case pertains, the following scheme is employed.

in the context of issues pertaining to criminal proced-
ure, civil rights, First Amendment, due process, priva-
cy, and attorneys

1 = pro-person accused or convicted of crime, or denied a
        jury trial
    pro-civil liberties or civil rights claimant, especially
        those exercising less protected civil rights (e.g.,
    homosexuality)
    pro-indigent
    pro-Indian
    pro-affirmative action
    pro-neutrality in religion cases
    pro-female in abortion
    pro-accountability in campaign spending
    pro-underdog
    anti-government in the context of due process, except
        for takings clause cases where a pro-government, anti-

owner vote is considered liberal except in criminal
         forfeiture cases
       violation of due process in exerecising jurisdiction
   over nonresidents
       pro-attorney
       pro-disclosure in 537 issues except for employment and
         student records

2 = reverse of above

in the context of issues pertaining to unions and
economic activity

1 = pro-union except in union antitrust (issue = 555)
         where 1 = pro-competition
       anti-business
       anti-employer
       pro-competition
       pro-liability
       pro-injured person
       pro-indigent
       pro-small business vis-a-vis large business
       pro-debtor
       pro-bankrupt
       pro-Indian
       pro-environmental protection
       pro-economic underdog
       pro-consumer
       pro-accountability in governmental corruption
       anti-union member or employee vis-a-vis union
       anti-union in union antitrust
       pro-trial in arbitration

2 = reverse of above

in the context of issues pertaining to judicial power

1 = pro-exercise of judicial power
       pro-judicial "activism"
       pro-judicial review of administrative action

2 = reverse of above

in the context of issues pertaining to federalism

1 = pro-federal power
       anti-state

2 = reverse of above

in the context of issues pertaining to federal taxation

1 = pro-United States

2 = pro-taxpayer

in interstate relations and miscellaneous issues

    0 for all such cases

This variable will also contain a 0 where one state sues another under the original jurisdiction of the Supreme Court and where parties or issue cannot be determined because of a tied vote or lack of information.

Each issue in cases containing multiple issues is to have direction assigned for each issue in accordance with the above schedule.

Also see direction of decision based on dissent (variable 40), issue (variable 248), and direction of the individual justices' votes (variables 344-363, 524-563).

Variable 40
direction of decision based on dissent (DIRD)

Once in a great while, the majority as well as the dissenting opinion in a case will both support or, conversely, oppose the issue to which the case pertains. Thus, for example, the majority and the dissent may both assert that the rights of a person accused of crime have been violated. The only difference between them is that the majority votes to reverse the accused's conviction and remand the case for a new trial, while the dissent holds that the accused's conviction should be reversed, period. In such cases, the entry in the preceding variable should be determined relative to whether the majority or the dissent more substantially supported the issue to which the case pertains, and an entry should appear in this variable. Thus, in the foregoing example, the direction of decision variable (variables 39, 109, 135, 161, 187, 212, 237) should contain a 2 because the majority provided the person accused of crime with less relief than does the dissent, and direction based on dissent should show a 1. The person accused of crime actually won the case, but won less of a victory than the dissent would have provided.

DIRD variables governing the other votes that the database includes are superfluous because the votes in these other variables either lack supporting opinions -- i.e., merits votes -- or are entered strictly in accord with the disposition the individ-

ual justice makes of the controversy; e.g., affirm, reverse, modify.

The appearance of a 1 in the DIRD variable will undoubtedly signal a discrepancy between the final vote as I have designated it and the alternative coding of this vote that the database also provides: the RVOTE (see the vote in the case, variables 43, 134). As for the merits vote, the docket books supply only the justices' votes. Direction, therefore, literally derives from these votes and not from more or less incremental differences in the relief that one justice would provide as compared to that afforded by another justice.

Also see direction of decision (variables 39, 109, 135, 161, 187, 212, 237).

Variable 38
type of decision (DEC_TYPE)

Choice of a unit of analysis (see variable 5) does not end with a selection of citation, docket number, or one of the other options that ANALU provides. Users must also choose among the types of decisions that the Supreme Court renders. SPSS identifies these.

DEC_TYPE=1: Cases in which the Court hears oral argument and which it decides by a signed opinion. These are the Court's so-called formally decided full opinion cases.

DEC_TYPE=2: Cases decided with an opinion but without hearing oral argument; i.e., per curiam.

DEC_TYPE=3: Memorandum cases. These are summary decisions that deal with petitions for certiorari and appeals, requests of individuals and organizations to participate as amicus curiae, and various other motions, orders, and writs. These are segregated from the other types of decisions by their location in the back of the various volumes of the *United States Reports* beginning at page 801 or 901 or later. A majority of the records in the database comprise this type of case. As mentioned, memorandum decisions contain little information apart from the votes cast by the justices.

DEC_TYPE=4: Decrees. This infrequent type of decision usually arises under the Court's original jurisdiction and involves state boundary disputes. The justices will typically appoint a special master to take testimony and render a report, the bulk of which generally becomes the Court's decision. The presence of the label, "decree," distinguishes this type of decision from the

others. All such cases decided by the Vinson and Warren Courts
did arise under original jurisdiction; hence, this version of
the database contains no decrees.

DEC_TYPE=5: Cases decided by an equally divided vote. When a
justice fails to participate in a case or when the Court has a
vacancy, the participating justices may cast a tie vote. In such
cases, the Reports merely state that "the judgment is affirmed by
an equally divided vote" and the name of any nonparticipating
justice(s). Their effect is to uphold the decision of the court
whose decision the Supreme Court reviewed. Use of the justices'
docket books rather than the Reports has enabled us to include
how each of the participating justices voted in these cases (see
variables 88-107). Those this database contains were all handed
down by the Warren Court.

DEC_TYPE=6: This decision type is a variant of the formally
decided cases (DEC_TYPE=1). It differs from type 1 only in that
no individual justice's name appears as author of the Court's
opinion. This is not to say that no justice was assigned to
write the Court's opinion in these cases, but rather that the
Court's opinion lacks a named author. The chief justice's
assignment sheets show an opinion assignment in many of these
cases (see variables 59-61). Nonetheless, these unsigned, orally
argued cases are labeled as decided "per curiam." The difference
between this type and DEC_TYPE=2 is the occurrence of oral
argument in the former but not the latter. In both types the
opinion of the Court is unsigned -- i.e., per curiam.

DEC_TYPE=7: Judgments of the Court. This decision type is also
a variant of the formally decided cases. It differs from type 1
in that less than a majority of the participating justices agree
with the opinion produced by the justice assigned to write the
Court's opinion. Unless you are interested only in the authors
of the opinions of the Court, you should include DEC_TYPE=7 in
your analysis of the Court's formally decided cases.

    The database contains all citations in which at least one
docket was subject to at least one vote as documented by the
justices' docket books. Consequently, the database contains all
types 1, 4, 5, 6 and 7 except those arising under the Court's
original jurisdiction.
    The database includes only a small percentage of the back-
of-the-book memorandum cases (DEC_TYPE=3): those in which the
justices cast at least one recorded docket book vote. This
proportion, though small, is many times greater than that found
in the original database, which lists only those in which one or
more of the justices wrote an opinion. Very rarely does even a
single justice write an opinion in such a case.

The database also contains only a fraction of the non-orally argued per curiam decisions that appear in the front of the book (DEC_TYPE=2). The Reports for the last four terms of the Warren Court (1965-1968) (volumes 382-395 of the *United States Reports* list large numbers of brief, non-orally argued per curiam decisions in the main part of each volume. These cases differ from the memorandum decisions in the back of each volume (DEC_TYPE=3) only by the presence of the phrase, "per curiam." This phrase has no practical import, except that a summary affirmance has precedential value at least for the lower federal courts. As a result, the database only includes those DEC_TYPE=2 cases, decided between the 1965 and 1972 terms, for which the docket books contain at least one recorded vote.

Restriction on the types of cases to be selected from the DEC_TYPE variable may properly be disregarded only if you wish to analyze all of the preliminary, merits, or report votes of a given justice or set of justices. The database does contain every conference vote that every justice who served on the Vinson and Warren Court cast. But compilation of a data file for the purpose of analyzing all of a justice's votes will nonetheless likely warrant the inclusion of DEC_TYPE so that distinctions may be made among the types of votes the justice cast.

Also see unit of analysis (variable 5).

Variable 247
disposition of case (DIS)

The treatment the Supreme Court accorded the court whose decision it reviewed is contained in this variable; e.g., affirmed, vacated, reversed and remanded, etc. The entry in this variable governs the vote in the case (variables 43, 134) and whether the individual justices voted with the majority or in dissent (variables 565-584).

SPSS specifies the codes used. They are substantially the same as those in LODIS (variable 17).

The information relevant to this variable may be found near the end of the summary that begins on the title page of each case, or preferably at the very end of the opinion of the Court.

As in the LODIS variable, the code pertaining to the specific language used by the Court is entered. If incongruence between the Court's language and the above codes occurs, consult variable 41 (unusual disposition).

Also see unusual disposition (variable 41) and winning parties (variables 42, 110, 136, 162, 188, 213, 238).

Variable 41
unusual disposition (DISQ)

A '1' appears in this variable (DISQ) to signify that the
Court made an unusual disposition of the cited case which does
not match the coding scheme of the preceding variable. The
disposition which appears closest to the unusual one made by the
Court should be selected for inclusion in the preceding variable.
Also see disposition of case (variable 247) and winning par-
ties (variables 42, 110, 136, 162, 188, 213, 238).

Variables 42, 110, 136, 162, 188, 213, 238
winning party (WIN, MWIN, RWIN, WIN4, WIN5, WIN6, WIN7)

A '1' in any of these variables indicates that the petition-
ing party -- i.e., the plaintiff or the appellant -- emerged vic-
torious from the specific vote to which the particular ‹win' var-
iable applies. The victory the Supreme Court provided the peti-
tioning party may not have been total and complete (e.g., by va-
cating and remanding the matter rather than an unequivocal rever-
sal), but the disposition is nonetheless a favorable one. Gener-
ally speaking, a favorable disposition (see the two preceding
variables) is anything other than "affirmed," "denied," or
"dismissed." Exceptions, however, occasionally occur. Hence, it
is more accurate to use this variable rather than the disposition
variable (variable 247) to determine the prevailing party. Note,
moreover, that the disposition variable applies only to the vote
as I have recorded it (VOTE), whereas a ‹win' variable attaches
to each of the votes the justices take except those of a prelimi-
nary character.
Note that in cases containing multiple docket numbers, not
every petitioning party will necessarily receive the same dis-
position. Hence, in focusing on the outcome of the Court's
decisions, docket number seems preferable as the unit of analysis
(see variable 5) rather than case citation.
Note further that in any given record that contains a report
vote, RWIN and WIN will always display the same code, either a
'1' or a blank.

Variable 45
salient cases (SALIENCE)

A '1' will appear in this variable if the 3d edition of the
Congressional Quarterly's *Guide to the U.S. Supreme Court* lists
the case as a major decision; a '2' if the 1st edition of *The
Supreme Court Compendium* (edited by Lee Epstein, et al, Washing-
ton DC, 1994, pp. 81-94) lists the case, and a '3' if both the

preceding sources list the case.

Variable 46
formal alteration of precedent (ALT_PREC)

A '1' will appear in this variable if the majority opinion
effectively says that the decision in this case "overruled" one
or more of the Court's own precedents. Occasionally, in the
absence of language in the prevailing opinion, the dissent will
state clearly and persuasively that precedents have been formally
altered: e.g., the two landmark reapportionment cases: *Baker v.
Carr*, 369 U.S. 186 (1962), and *Gray v. Sanders*, 372 U.S. 368
(1963). Once in a great while the majority opinion will state --
again in so many words -- that an earlier decision overruled one
of the Court's own precedents, even though that earlier decision
nowhere says so. E.g, *Patterson v. McLean Credit Union*, 99 L Ed
2d 879 (1988), in which the majority said that *Braden v. 30th
Judicial Circuit of Kentucky*, 410 U.S. 484, 35 L Ed 2d 443 (1973)
overruled a 1949 decision. On the basis of this later language,
the earlier decision will contain a '1' in this variable. Formal
alteration also extends to language in the majority opinion that
states that a precedent of the Supreme Court has been "disap-
proved," or "is no longer good law."
Note, however, that formal alteration does not apply to
cases in which the Court "distinguishes" a precedent. Such
language in no way changes the scope of the precedent contained
in the case that has been distinguished.
Do not assume that each record indicates the formal alter-
ation of a separate precedent. A given citation may have several
docket numbers, each of which is governed by a single opinion in
which only one precedent was altered. Conversely, an opinion in
a citation with a single docket number may formally alter a whole
series of Supreme Court precedents. To determine the number of
formally altered precedents, you should carefully read the pre-
vailing opinion in each citation that has an entry in this vari-
able.

Variable 47
declarations of unconstitutionality (UNCON)

An entry in this variable indicates that the Court either
declared unconstitutional an act of Congress; a state or
territorial statute, regulation, or constitutional provision; or
a municipal or other local ordinance.
An entry should appear in the record that lists the law
declared unconstitutional. An entry should also appear in the

record containing the constitutional or statutory provision that served as the basis for the declaration of unconstitutionality. None will appear when the Court merely cites a previous decision that has already been used to void the provision at issue; e.g., *Grisham v. Hagan*, 361 U.S. 278, and *McElroy v. Guagliardo*, 361 U.S. 281 (1960).

The summary frequently, though not invariably, will indicate such action in its statement of the Court's holdings. Hence, where such action may have occurred, it may be necessary to read carefully the opinion of the Court to determine whether an entry should be made in this variable.

Where federal law pre-empts a state statute or a local ordinance, unconstitutionality does not result unless the Court's opinion so states.

As with the preceding variable, do not assume that each of these records pertains to a separate statutory or constitutional provision. The Court will not uncommonly declare a particular statute void on several bases, or a number of dockets may pertain to the same voided law.

Variables 57, 58
opinion assignment (ASSIGNR1, ASSIGNR2)

These variables contain the name of the justice who assigned the Court's opinion. The second of these variables is empty if only one assignment was made. The same justice's name may appear in both variables if he made more than a single assignment in the case. This occasionally occurs. The assignment made by ASSIGNR1 always occurred prior to that made by ASSIGNR2. In a handful of cases the Court made three assignments -- too few to warrant a separate variable. These cases may be identified by refeence to those having a third assignee (see variables 74-76).
acy.

Determination of who made the assignment was had by reference to the assignment sheets of the chief justices. This information is much more accurate than inferring the assigner on the basis of the senior justice among those voting with the majority at the relevant vote on the merits. Not uncommonly, a justice in the minority may have made the assignment because of voting switches that occurred subsequent to the final vote on the merits. Or the chief justice may delegate responsibility to the senior associate as Warren did in October 1953, the first month of his chief justiceship. Alternatively, a justice may have reserved judgment at the merits vote or otherwise failed to declare a position. His subsequent participation may result in his making the assignment.

Also see opinion assignee (variables 59-61).

Variables 59-61
opinion assignee (AUT1ST, AUT2ND, AUT3RD)

These variables list the name of the justice who was as-
signed the opinion of the Court. Multiple assignments are not
uncommon. The original assignee may lose his majority; he may
decline the task after the fact; or the opinion may be announced
per curiam even though an assignment was made.
Where more than one assignment occurred, or where the same
justice was twice assigned a case, the assignees are listed in
chronological order. In no case did the Court make more than
three assignments.

Also see opinion assigner (variables 57-58) and date of
opinion assignment (variables 25-27).

The remaining variables cover the range of judicial voting
behavior. The database considers voting from a number of differ-
ent standpoints and perspectives as these variables indicate.
Because voting is key to most uses to which the database will be
put, users should become thorousghly familiar with these data and
their interrelationships.

Variables 43, 134
the vote in the case (VOTE, RVOTE)

These variables specify the vote in the case as determined
by reference to the Court's published reports. Cases in which
the type of decision is DEC_TYPE 3 (see variable 38) produce no
entry in this variable unless one of the justices has written an
opinion. With this exception, these variables display the so-
called report vote of the case.
Note also that VOTE may frequently differ from RVOTE even
though both pertain to the report vote. Several reasons account
for this. First, voting conventions differ among scholars. In
compiling the VOTE, I count justices who filed a jurisdictional
dissent as not participating in the decision. In the RVOTE
variable, however, jurisdictional dissents are treated the same
as dissents on the merits. The net result is that the VOTE
variable will occasionally show fewer dissenters than the RVOTE
variable. Second, RVOTE is calculated on the basis of a rather
rigorously limited set of codes. Among the limitations are the
lack of a code pertaining to a vote ‹concurring in part and
dissenting in part,' as well as one that addresses partial
concurrences or partial dissents. See, for example, *Bernhardt v.
Polygraphic Co.*, 350 U.S. 198. Third, some cases contain a split

vote (ANALU=4, see variable 5) in the sense that a different group of justices may agree on one aspect of a case, and a different set on another. RVOTE does not capture such subtle differences; VOTE combined with ANALU=4 does. Fourth, the fact that a vote is labeled a concurrence or a dissent does not necessarily make it so; e.g., Douglas's vote *in McGrath v. Kristenson*, 340 U.S. 162. RVOTE treats each unequivocally labeled vote as the Reports specify it. VOTE involves my exercise of discretion.   Finally, some discrepancies result where it is unclear whether a given vote is a concurrence or a dissent. Such cases will typically display an a '1' in variables 44, 137 (vote not clearly specified: VOTEQ and/or RVOTEQ). This may result, for example, where one or more of the justices provides greater relief to the winning litigant than the others do. In such cases, a '1' in the DIRD variable, direction based on dissent, variable 40, will explain the discrepancy.

The decision rules governing entries in the VOTE variable may be found in variables 239-246, 249-260, 264-343, the report vote, the opinions, and the interagreements of the individual justices; the list of RVOTE entries appears in variables 66-85, 88-107, 114-133, 140-159, 166-185, 191-210, 216-235 the coded preliminary, merits, and report votes of the individual justices.

The foregoing bases for discrepancies could, of course, have been obviated by formulating a set of arbitrary decision rules. Rather than do so, users are alerted to differences in specification so that they may choose for themselves.

The vote that appears in this variable pertains to the number of justices who agree with the disposition made by the majority (see disposition of case, variable 247) and not to the justices' vote on any particular issue in the case (see variable 248) except where the unit of analysis (ANALU) = 4. Thus, for example, in *Bates v. Arizona State Bar*, 433 U.S. 350 (1977), the vote in the case was 5 to 4, even though all participants agreed that the disciplinary rule prohibiting attorney advertising did not violate the Sherman Act. Unlike the majority, the dissenters disagreed that the rule violated the First Amendment.

To reiterate, only dissents on the merits are specified in the VOTE variable. Jurisdictional dissents as well as dissents from the denial of certiorari (see the discussion of these votes in variables 239-246, 249-260, 264-343, the report votes, opinions, and interagreements of the individual justices) are counted as though the justice so voting did not participate in the case. Non-meritorious dissents, however, are counted in RVOTE.

Also see vote not clearly specified (variables 44, 65, 111, 137, 163) and the report votes, opinions, and interagreements of the individual justices (variables 239-246, 249-260, 264-343).

Variable 564
minimum winning coalitions (MWC)

This variable contains a '1' if the final report vote in the case was decided by a margin of one vote. (Tied votes are not included because they contain no majority or plurality opinion and, as such, only automatically affirm the decision of the lower court without explanation.) Minimum winning coalitions are those decided 5-4 and 4-3, or by a 5-3 or 4-2 vote that reverses the decision of the lower court.

Variables 62, 112, 138, 164, 189, 214
vote type (VOTETYP1-VOTETYP7)

The name of the specific vote the justices cast appears in these variables. The names are generally spelled out except for certiorari (CERT), note probable jurisdiction (JURS), merits (MRTS), and report (REPT). In analyses limited to formally decided cases, the name entered in VOTETYP2 and VOTETYP3 are effectively invariant: MRTS and REPT, respectively, as indicated in the description of the individual justice's vote variables. Any name -- or none at all -- may appear in any of these variables if the case was summarily decided by the Vinson Court. All Warren Court cases, however, show their votes in dedicated variables as indicated below.

Apart from summarily decided Vinson Court cases, VOTETYP1 will always contain the **final** cert vote or, in a case arising on a writ of appeal, the **final** vote noting probable jurisdiction. VOTETYP2 and VOTETYP3 will always be the **final** merits and report votes, respectively. If the justices did not cast one or the other of these votes, the pertinent VOTETYP contains no entry. All entries in VOTETYP4 through VOTETYP7 are nonfinal votes of various types. A vote of any name may appear in any of these variables for any given case, whether formally or informally decided. The various nonfinal votes appear in VOTETYP4-VOTETYP7 in chronological order.

Also see dates votes occurred (variables 28-34) and sequence of vote types (variables 63, 87, 113, 139, 165, 190, 215).

Variables 63, 87, 113, 139, 165, 190, 215
sequence of vote types (SEQ1-SEQ7)

As explained immediately above(see vote type), the vote variables in the database are of three types: preliminary, merits, and report. Excluding the informally decided cases, the

first vote type variable contains the last preliminary vote pre-
ceding the last merits vote cast in the case. The second vari-
able holds the final merits vote cast preceding the final report
vote, and the third variable holds the final report vote. If the
justices did not cast one or the other of these types of votes in
a particular case, that votetype variable has no entry. Prelimi-
nary, merits, and report votes other than as specified are **non-
final** and locate in variables subsequent to the third and prece-
dent to the eighth. In many cases the justices do cast more than
one cert or merits votes. Rarely more than a single report vote,
however. In order to ascertain the number of such votes of a
given VOTETYP the case has, this sequence of vote type variables
was created. Thus, if three cert votes were cast in a given case
prior to the final merits vote, VOTETYP1 = CERT and SEQ1 = 3. If
these are the only multiple votes, VOTETYP4 and VOTETYP5 will
also read CERT, with SEQ4 = 1 and SEQ5 = 2.

     Apart from the dedicated VOTE variables, VOTETYP4 through
VOTETYP7 appear in chronological order. Thus, if a case has
three 'dismiss' votes and no other multiples, they will be listed
in chronological order in VOTETYP4, VOTETYP5, and VOTETYP6, with
SEQ4=1, SEQ5=2, and SEQ6=3. The final 'dismiss' will not appear
as VOTETYP1 in any formally decided case because it is neither a
cert nor a note probable jurisdiction vote.

     Note that this variable does not govern the Spaeth vote,
those contained in the eighth vote variable (see variable 43).
The unit of analysis variable (variable 5) and the number of
records per unit of analysis (variable 7) provide the Spaeth data
that parallel this variable.

     Also see vote type (variables 62, 86, 112, 138, 164, 189,
215) and dates votes occurred (variables 28-34).

          Variables 64, 108, 160, 186, 211, 236
**preliminary, merits, and votes other than the Spaeth report vote
          (PVOTE, MVOTE, VOTE4, VOTE5, VOTE6, VOTE7)**

     The results of votes other than the final report vote are
found in these variables. Except for summary back-of-the-book
decisions of the Vinson Court; i.e., DEC_TYPE=3, these votes are
systemically allocated. PVOTE will always contain the final cert
vote or the vote noting probable jurisdiction that antedates the
final merits vote (MVOTE). Thus, if a case has three cert votes
two of which antedate the first of two merits votes, the PVOTE
will be the third cert vote. Similarly, the MVOTE always con-

tains the last conference vote on the merits preceding the final report vote that the justices cast in the case governed by the citation. In the foregoing example, the second merits vote. Other votes will invariably appear in chronological order in VOTE4, VOTE5, VOTE6, and VOTE7. Thus, in the example the first PVOTE would appear in VOTE4, the second in VOTE5, and the first merits vote in VOTE6. If this case also contained an amicus or other preliminary vote other than cert or noting probable juris- diction, it would appear in chronological order after VOTE3 and not after VOTE7. Assume that it occurred after the third cert vote and before the second merits vote. It would appear as VOTE7.

This unvarying pattern does not apply to DEC_TYPE=3 Vinson Court decisions (see variable 38). Strict chronological sequenc- ing governs their order notwithstanding that a merits or report vote may have been cast in the course of reaching a decision; e.g., *Comr. v. Philadelphia Transport Co.*, 338 U.S. 883, which has a cert, two merits, and a report vote.

This variable accommodates seven different votes when the RVOTE described in variables 43 and 134 are also considered. The justices voted more than seven times in five of the docketed cases. Consequently, the database does not contain all their votes. The record for *United States v. United Mine Workers*, 330 U.S. 258, ID = 4610759 omits half of the fourteen votes: the first of two cert votes, and all six of the QUEST (question) votes, five of which were cast on the same day, January 20, 1947. These were all preliminary votes concerning aspects of the con- tempt citations that were at issue in this case. *Carpenters v. United States*, 330 U.S. 395, ID = 4610006, omits three of the seven merits votes among the nine cast. All three are either the second or third of the issues the justices addressed (see se- quence of vote types, variables 87-93). *Ludecke v. Watkins*, 335 U.S. 160, ID = 4710723, excludes the first of the two CERT votes cast early in the Court's decisional process. *Eisler v. United States*, 338 U.S. 189, ID = 4810255, excludes the first cert vote and a preliminary vote to EXTEND the case. *Rosenberg v. United States*, 346 U.S. 273, ID = 5210687, omits the three QUEST votes which, at least in part, concerned the vacating of a stay which itself was the subject of two votes, both of which the database contains.

The specific vote that may appear in the PVOTE variable or in any VOTE variable of an informally decided case may range from 90 to 10 if the action requested has been granted or 01 to 09 if the action was denied. Of course, no justice need necessarily cast a substantive vote in which case the relevant VOTE variable = 0. Because a vote in which all justices withheld their votes = 0, and because SPSS will also show a 0 in any vote variable for which no vote was taken at all, it may be wise to cue on the

associated VOTETYP or SEQ variable (see variables 63, 87, 113, 139, 165, 190, 215) to get an accurate count of how many votes of any given type the Court cast.

Not uncommonly only a couple of the justices participate in preliminary votes. Formally decided cases, however, require a quorum -- six justices. Other than in preliminary votes of whatever name, the larger vote always appears first, followed by the dissenting votes, if any. If none, a zero is entered. By relating the vote to the direction of decision (see variables 39, 109, 135, 161, 187, 212, 237), one can ascertain whether the case was conservatively or liberally decided. Direction, however, does not apply to preliminary votes. These indicate only the grant or denial of the specified action. Determination of which course the justices took is most directly obtained by cuing on the column containing the larger number. If the first column, the Court acceded to the requested action; if the second, it did not. If the participating justices unanimously denied the request, the first column will be empty. In numerical variables, such as this, SPSS produces no entry if a 0 has been entered in all but the last column.

See also vote type (variables 62, 86, 112, 138, 164, 189, 214) and sequence of vote types (variables 63, 87, 113, 139, 165, 190, 215).

Variables 44, 65, 111, 137, 163
vote not clearly specified
(VOTEQ, PVOTEQ, MVOTEQ, RVOTEQ, VOTEQ4)

In the vast majority of cases, the individual justices clearly indicate whether or not they agree with the disposition (see variable 247) made by the majority. In less than one percent of the records clarity is lacking, as when a justice concurs in part and dissents in part. A justice will typically use this or equivalent language to indicate agreement with the reasoning in a portion of the majority opinion while disagreeing with the majority's disposition of the case, or vice-versa. With regard to the final report vote a close reading of the justice's opinion usually indicates whether he has concurred (i.e., agreed with the majority's disposition) or dissented from the disposition made by the majority. Opinions, of course, rarely accompany votes other than the report vote. Hence, in the rare case where a justice does not clearly indicate his vote, a '1' will appear in the relevant variable.

This datum is not provided for the fifth, sixth, and seventh VOTETYPs of any record.

Also see the vote in the case (variables 43, 134), and the preliminary, merits, and votes other than the Spaeth report vote

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(variables 64, 108,160, 186, 211, 236).

Variables 239-246, 249-260, 264-343
**the report votes, opinions, and interagreements
of the individual justices
(MAR8 to VIN8, MAR8V to VIN8V, MAR8O to VIN8O, MAR8A1 to VIN8A1,
MAR8A2 to VIN8A2)**

This portion of the database focuses on the individual justices and their opinion and interagreement behavior. Five separate variables have been created for each of the 20 justices who have served on the Vinson and Warren Courts. The first of these five variables -- MAR8 to VIN8 -- holds the individual justice's vote, the opinion if any that that justice wrote in the case, and the abbreviated code for the name of any other justice(s) with whose dissenting or concurring opinion the subject justice agreed. The second variable -- MAR8V to VIN8V -- only contains the justice's vote; the third -- MAR8O to VIN8O -- the that the justice wrote an opinion; the fourth -- MAR8A1 to VIN8A1 -- a dissenting or concurring opinion of another justice signed by the subject justice; and the fifth -- MAR8A2 to VIN8A2 -- a second dissenting or concurring opinion with which the subject justice agreed.

These justices and their name abbreviations follow. The "8" at the end of each justice's abbreviation indicates that these votes always appear in the eighth and final voting variable in the database. As we shall see in the presentation of the next variable, the same abbreviations apply to the justices' other vote variables.

```
        Marshall    = MAR8
        Fortas      = FORT8
        Goldberg    = GOLD8
        White       = BW8
        Stewart     = STWT8
        Whittaker   = WHIT8
        Brennan     = BRN8
        Harlan      = HAR8
        Minton      = MINT8
        Clark       = CLK8
        Burton      = BURT8
        Rutledge    = RUT8
        Jackson     = JACK8
        Douglas     = DOUG8
        Murphy      = MUR8
        Frankfurter = FRK8
        Reed        = REED8
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Black          = BLK8
Warren         = WAR8
Vinson         = VIN8
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Note the omission of Justices Roberts and Stone from the list above. They did participate in a few preliminary and merits votes in cases decided by the Vinson Court even though they never served on it; e.g., *Alma Motor v. Timken-Detroit Axle*, 329 U.S. 129; *Freeman v. Hewit*, 329 U.S. 249. Chief Justice Vinson similarly participated in the early non-report votes of several Warren Court decisions.

As explained above, the first of these five variables has four columns, while the last four constitute a breakout of the datum contained in each of the four separate columns of the justice's original '8' variable. For example, assume that the entries in DOUG8 for a given record reveal the following data: 21BT. Variable DOUG8V (for Douglas' vote) will contain a '2'; DOUG8O (for Douglas' opinion) a '1'; DOUG8A1 (for the abbreviated name of the justice who wrote a dissent or concurrence with which Douglas agreed) a 'B'; and DOUG8A2 (for the abbreviated name of a second justice with whose dissent or concurrence Douglas also agreed) a 'T'. Accordingly, in this case, Douglas dissented and wrote an opinion; he also agreed with a dissenting opinion that Black wrote, as well as one written by Warren.

The reason for splitting the four-column justice variables into four separate components will be explained below.

To repeat, column 1 of the 4-column variable specifies the particular justice's vote. The variable containing the justice's abbreviation that ends in V -- e.g., DOUG8V -- also contains this information. The second column of the 4-column variable indicates the justice's opinion, as does DOUG8O. The third and fourth columns indicate any other justice(s)' opinion(s) with which the subject justice agreed, as do variables DOUG8A1 and DOUG8A2.

A justice may engage in one of eight types of voting behavior insofar as his four-column variable and the first of his one-column breakout variables (the one that attaches a 'V' to the end of the above set of abbreviated names) are concerned. He may join the majority (=1); dissent (=2); cast a regular concurrence (=3), in which the justice agrees with the Court's opinion as well as its disposition (see variable 247). To cast such a vote the justice must either write a concurring opinion or agree with a justice who does. If the justice fails to do either of the foregoing, he simply agrees with the majority, in which his vote is scored as a '1.' A justice may cast a special concurrence (=4), which agrees with the Court's disposition of the case but not with its opinion. A justice may not participate in the decision (=5) even though a member of the Court. Such action is

technically termed a recusal. A justice may write a judgment of
the Court (=6). This, technically, is an opinion rather than a
vote. Hence, if a '6' appears in the first column of a justice's
variable, the second column must contain a '1,' which signifies
that said justice wrote an opinion. Judgments of the Court occur
when less than a majority of the participating justices agree on
the language that an opinion of the Court -- i.e., the majority
opinion -- should contain. No majority opinion results; only a
judgment of the Court. The remaining two behaviors in which a
member of the Court may engage are considered the equivalent of
nonparticipation: a dissent from a denial or a dismissal of
certiorari, or a dissent from the summary affirmation of an
appeal (=7), and a jurisdictional dissent (=8) in which the
justice disagrees with the Court's assertion of jurisdiction but
does not address the merits of the controversy. If the justice
also addresses the merits and would dispose of the case differ-
ently from the majority, his vote becomes a regular dissent (=2).
Technically, a '7' vote, as well as an '8' vote, are both juris-
dictional dissents.   But because the justices distinguish them,
I also do so.
     The summary listing of the voting behaviors in the first
column of the four-column variable and in the 'V' variable fol-
lows :

          1st column: 1 = voted with majority
                       2 = dissent
                       3 = regular concurrence (agreement with the
                           Court's opinion as well as its disposi-
                           tion)
                       4 = special concurrence (agreement with the
                           Court's disposition but not its opinion)
                       5 = nonparticipation
                       6 = judgment of the Court
                       7 = dissent from a denial or dismissal of
                           certiorari (literally and only such a
                           dissent), or dissent from summary
                           affirmation of an appeal
                       8 = jurisdictional dissent (disagreement with
                           the Court's assertion of jurisdiction
                           without addressing the merits, or without
                           providing the parties oral argument)

     The second column of each justice's four-column variable and
that of his 'O' variable specifies whether the justice wrote an
opinion (=1), wrote an opinion jointly with (an)other justice
(=2), or did not write an opinion at all (=).
Thus,
          2d column: 1 = justice wrote an opinion
                       2 = justice co-authored an opinion

= justice wrote no opinion

    The third and fourth columns of each justice's four-column
variable and that of his "A1" and "A2" variables indicate whether
the justice agreed with a special opinion written by some other
justice. A special opinion is an opinion other than the opinion
or judgment of the Court. I have assigned a letter to each of
the justices who sat on the Vinson and Warren Courts according to
the following schedule:

                Harlan   = A
                Black   = B
                Douglas   = C
                Stewart   = D
                Marshall   = E
                Brennan   = F
                White   = G
                Fortas   = P
                Goldberg   = Q
                Minton   = R
                Jackson   = S
                Warren   = T
                Clark   = U
                Frankfurter = V
                Whittaker   = W
                Burton   = X
                Reed   = Y
                Vinson   = x
                Rutledge   = y
                Murphy   = z

This sequencing is not equally interspersed because the original
database includes the Burger and Rehnquist Courts and I deem it
unwise to vary a justices' alphabetic symbol depending on which
Court he sat. Parenthetically note that the variable abbrevia-
tion of each justice also remains constant across all Courts and
both databases.
    If a justice agreed with the opinion of two different
justices, the letter signifying the second justice appears in the
fourth column of the agreeing justice's variable. If said
justice agreed with more than two justices, or wrote more than
one opinion in a single case an asterisk appears in the third
column of said justice's variable.
    Note that a justice cannot agree with another justice's
special opinion unless said justice shows a '2,' '3,' '4,' '7,'
or '8' in the first column of his or her variable. If the
justice agrees with the opinion or judgment of the Court, a '1'
will appear in the first column. And if a '5' or a blank ap-
pears, indicating nonparticipation or nonmembership on the Court

at the time the vote was cast, the justice by definition could not have agreed with anyone else's opinion.

Also note that if no entry appears in the first column of a justice's variable, of necessity the other three columns must also be empty. No entry in the variable means that the justice to whom that variable belongs was not a member of the Court when that case was decided, or that a particular justice may have been a member of the Court at that time but the case was decided by a tie vote. The Reports only publish the name(s) of the nonpartic- ipating justice(s) in such cases, but these votes do appear in the justices' docket books and, hence, in the relevant MVOTE variable (see variable 108).

Determination of how a given justice voted and whether or not he or she wrote an opinion is by no means a simple matter of culling the Reports. The justices do not always make their ac- tions clear. Therefore, decision rules must be formulated. Fur- thermore, notwithstanding resort to the decision rules presen- ted below, a judgment -- not necessarily bright line -- needs be made as to how the justices voted and whether or not an opinion was written.

With regard to special opinion writing, a justice has three options: 1) author an opinion, 2) author an opinion jointly with other justices, or 3) write no opinion. If a justice writes no opinion, the second of the four columns in the variable is left blank; if a justice solely authors an opinion, a '1' appears. If a joint opinion is written, a '2' appears.

For the purpose of determining which option a justice chose, the following decision rules apply:

1) Where a justice specifies that the opinion applies to an additional case or cases, the opinion is counted as so many separate ones. Thus, the opinions of Brennan and Marshall in *Mobile v. Bolden*, 446 U.S. 55, also apply to *Williams v. Brown*, 446 U.S. 236. Hence, each of these opinions is counted as though it were two separate opinions.

2) A justice authors no opinion unless he or she specifies a reason for his or her vote. A bare citation to a previously decided case or a simple statement that the author concurs or dissents because of agreement with a lower court's opinion suf- fices as an opinion.

3) When a justice joins the substance of another justice's opinion, without any personal expression of views, that justice is listed as joining the other's opinion and not as an author. Thus, in *United States v. Havens*, 446 U.S. 620, Justices Stewart and Stevens are listed as joining Brennan's dissenting opinion notwithstanding that the pertinent language reads: "Mr. Justice Brennan, joined by Mr. Justice Marshall and joined in Part I by Mr. Justice Stewart and Mr. Justice Stevens, dissenting." 446 U.S. at 629. The opinion contains two parts of roughly equal

length. Failure to list the latter pair as joiners would have
required that they appear as dissenting without opinion, a mani-
festly inaccurate result. Similarly, Justice White's language in
Parratt v. Taylor, 451 U.S. 527, at 545: "I join the opinion of
the Court but with the reservations stated by my Brother Blackmun
in his concurring opinion," is not listed as an opinion by White.
He rather appears as joining Blackmun's concurrence. Conversely,
where a justice, in his own words only partially agrees with the
substance of one or more opinions authored by others, he or she
is listed as an author. Two examples of Justice Stewart illus-
trate: "Mr. Justice Stewart dissents for the reasons expressed
in Part I of the dissenting opinion of Mr. Justice Powell."
(*Dougherty County Board of Education v. White*, 439 U.S. 32, at
47) "Mr. Justice Stewart concurs in the judgment, agreeing with
all but Part II of the opinion of the Court, and with Part I of
the concurring opinion of Mr. Justice Stevens." (*Jenkins v.
Anderson*, 447 U.S. 231, at 241)

    4) When two or more justices jointly author an opinion, a
"2" will appear in the second column of each of those justice's
4-column variables. Joint authorship, however, does not include
per curiam opinions. Hence, a jointly authored opinion can only
be a dissent or a concurrence.

    Two problems afflict efforts to specify votes: 1) whether
the vote is a regular or a special concurrence, and 2) the treat-
ment to be accorded a vote "concurring in part and dissenting in
part." The former typically manifests itself when a justice
joins the opinion of the Court "except for . . ." Because such
exceptions typically tend to approach de minimis status, I treat
them as regular concurrences. For example, Chief Justice Burger
concurred in the opinion of the Court in *New York Gaslight Club,
Inc. v. Carey*, except for "footnote 6 thereof." 447 U.S. 54, at
71. Similarly, Blackmun's agreement with the Court in *Pruneyard
Shopping Center v. Robins*, except for "that sentence thereof
. . ." 447 U.S. 74, at 88. Where the Reports identify a justice
as concurring or "concurring in part," said justice is treated as
a member of the majority opinion coalition (i.e., as = 3), rather
than as merely concurring in the result (i.e., as = 4).

    Whereas the preceding problem pertains to determining which
type of concurrence a vote is, the problem with votes concurring
and dissenting in part is whether they are special concurrences
(= 4) or dissents (= 2). This matter was addressed previously in
connection with variable 48 (vote not clearly specified). A vote
concurring and dissenting in part is listed as a special concur-
rence if the justice(s) doing so does not disagree with the
majority's disposition of the case. This may occur when: 1) the
justice concurring and dissenting in part voices disagreement
with some or all of the majority's reasoning; 2) when said jus-
tice disapproves of the majority's deciding or refusing to decide

additional issues involved in the case; or 3) when in a case in which dissent has been voiced, the justice(s) concurring and dissenting in part votes to dispose of the case in a manner more closely approximating that of the majority than that of the dissenter(s).

In cases where determination of whether a vote concurring and dissenting in part is the former or the latter is not beyond cavil, an asterisk will appear in the VOTEQ variable of the affected case to allow users of the database to make an independent judgment, if they are so minded. Note, however, that listing such votes as dissents (= 2) or special concurrences (= 4) has no effect on whether or not an opinion is written. A '1' (sole author) or '2' (co-author) will appear in the second column of the pertinent justice's variable -- as well as in that justice's single column opinion (O) variable -- regardless of whether a '2' (dissent) or '4' (special concurrence) appears in the first column of his or her variable.

The third and fourth columns of each justice's variable are used to identify the concurring and dissenting opinions with which the subject justice agreed, as are the parallel A1 and A2 single-column variables for each justice (variables 304-343). These columns and variables, then, enable the interagreement matrix of each case decided by the Court to be mapped. Each justice has been assigned a letter of the alphabet, as designated in the listing above, to indicate his or her agreement with the justice in whose variable or columns the designated abbreviation appears.

Accordingly, the appearance of a letter in the third column of any justice's 4-column variable or in that justice's A1 or A2 variables indicates that said justice agreed with a dissenting or concurring opinion written by the justice whose letter appears. If a second letter appears in the fourth column of a justice's variable, or in the A2 variable, that means that said justice agreed with the opinion of two different justices. A second join does not occur very frequently.

Still less frequent are cases in which a justice joins three other justices' opinions. Of the thousands of cases decided between the 1953 and 1985 Terms of the Court, in only four instances did a justice do so. An asterisk in the third column of the joining justice's 4-column and in the A1 variables specifies these situations. An asterisk in these same places also identifies the six instances when a justice wrote two opinions in a single case. Whether the asterisked justice wrote two opinions or joined the opinions of three other justices is clear from the behavior of the other justices.

It is necessary to break the 4-column variables down into their singular components because of the way SPSS searches through a data file. If we relied on the 4-column variable to identify the cases in which Justice Marshall agreed with a

dissenting or concurring opinion of Chief Justice Warren, we would have to specify all of the combinations of codes that could appear **in all four variables** when Marshall's third or fourth column contained a 'T' signifying Warren. SPSS is simply not equipped to pick out a 'T' anywhere in a multi-column variable. Thus, we would need to compile an exhaustive set of SELECT IF commands: '21T ' '2 T ' '31T '
'3 T ', etc.

     This is not to say that the 4-column variable has utility only for mapping purposes. We could have produced the same result if we had substituted FRK for FRKO in the set of commands concerning Frankfurter presented above. We could have done so because a '5' and a ' ' in the first column are succeeded only by three blank columns. But if we had sought to list all of Frank-furter's dissenting opinions for some set of conditions, the FRK variable would accurately report all the instances of '21' or '22', but it would have omitted all records containing a non-blank in columns 3 or 4; i.e., those in which Frankfurter not only wrote a dissenting opinion, but also joined a dissent writ-ten by another participating justice.

Variables 66-85, 88-107, 114-133, 140-159, 166-185, 191-210, 216-235
the coded preliminary, merits, and report votes of the individual justices
(MAR1 TO VIN1, MAR2 TO VIN2 . . . MAR7 TO VIN7)

     This variable includes the coded votes of each justice in the initial seven variables that the database provides. The eighth such variable contains the 'Spaeth' vote, the subject of the preceding variable.
     The twenty justices who served on the Vinson and Warren Courts are identified by the preceding variable's abbreviation of each of their names followed by the numbers from 1 to 7.
     The coding employed in these variables consists essentially of two dichomotized sets of votes, one set representing various types of grants and reversals, the other representing denials and affirmations. I combine the symbols for grants and reversals together because grants locate in the preliminary vote variables, reversals in the merits and reports variables. The same is true of denials and affirmations. Denials predominate in preliminary voting, affirmations in merits and reports voting. As previously explained, preliminary votes are those appearing anywhere in VOTETYP1, VOTETYP4-VOTETYP7 (see variables 62, 138, 164, 189, 214) that are not labeled MRTS or REPT. Most preliminary votes will appear in a VOTETYP variable as CERT or JURS. As the

various vote variables described above indicate, the first vote variable -- MAR1-VIN1 -- always displays the final preliminary vote cast in a case if the case has been formally decided or is DEC_TYPE=2. Back-of-the-book summary decisions of the Vinson Court, DEC_TYPE=3, may display preliminary votes in any of their seven numbered vote variables.

A similar pattern governs merits and report votes. The final merits vote in all formally decided and DEC_TYPE=2 cases will always appear in the second vote variable: MAR2-VIN2. Similarly, the final report vote will always appear in the third vote variable: MAR3-VIN3. Merits and report votes other than the final one will appear in vote variables 4-7, chronologically sequenced along with nonfinal preliminary votes. As mentioned, this chronological pattern does not apply to the back-of-the-book summary decisions of the Vinson Court. Their votes are arrayed in strict chronological order without regard to the type of vote they are.

The codes that apply to these variables are listed below. Note that upper and lower case letters have opposite meanings. Do not confuse them. They are case specific. Note also that in a preliminary vote the following codes lend themselves to both preliminary and merits/report votes. In the former they trans-late as grant or deny; in the latter as reverse or affirm.

      grant/reverse: a, b, C, E, G, J, K, M, N, P, R, s, T, T1, U,
                         V, Y, Z, @, #

      deny/affirm: A, B, D, e, F, I, m, S, v, w, y

      no decision/participation: H, O, p, Q, W, X, ?, no, blank
                              columns

The specific meaning of the upper case symbols derives from Jan Palmer's book, *The Vinson Court Era: The Supreme Court's Confer-ence Votes* (New York: AMS Press, 1990), p. 160:

A=affirm, B=no, C=change, D=deny or refuse, E=to call for a response brief, F=remove from docket, G=grant, H=hold, I=moot, J=modify or partial, K=hear, L=limit, M=remand, N=note probable jurisdiction, O=reserve judgment, P=post pone, Q=question mark, R=reverse, S=dismiss, T=discharge rule, T1=transfer under provisions Title 28 of the U.S. Code, U=reargue, V=vacate, W=stay, X=pass, Y=yes, Z=without prejudice, @=not final, #=issue rule, 3=join 3, 4=join 4.

I added the lower case entries in order to provide for a more precise indication of direction in the merits and report votes. Note that not uncommonly both columns of a justice's vote vari-able will contain an entry. Thus, AQ, GR, VM. Where the second entry is a Q, O, or ? one may assume the original entry is less

firm than that of those who do not display any of them.

Votes identified as preliminary (see variable 62 - vote type) most commonly display the justices' votes as G or D (grant or deny) when the vote concerns a petition for certiorari. Votes pertaining to a writ of appeals most commonly emerge as N or A (note probable jurisdiction or affirm). Other preliminary votes -- most any other than those identified as merits or report -- span the gamut of the foregoing list.

This variable exists for the convenience of those users who wish to distinguish among the entries specified above. Other users, however, will prefer the dichotomization of these variables into one common symbol denoting grant/reverse (=1) and an alternate one indicating deny/affirm (=2). This has been done. The next variable describes this option.

Variables 384-523
the dichotomized preliminary, merits, and report votes
(MAR1R TO VIN1R, MAR2R TO VIN2R . . . MAR7R TO VIN7R)

This variable recodes the variables listed in the preceding variable into three exhaustive subsets: grant/reverse, deny/affirm, not participating. I employ the following coding:

                grant/reverse   = 1
                deny/affirm   = 2
                nonparticipation = .

This recoding applies to all vote variables except the eighth (and final) one, the 'Spaeth' vote. Hence, each of the twenty justices who sat on the Vinson and Warren Courts will exhibit an entry in each of the 1-7 vote variables that this variable comprises, a total of 140 variables. An entry appears in every one of these variables for every justice because nonparticipation includes not only nonparticipations while a member of the Court, but also those resulting from nonmembership. Failure to distinguish nonparticipation from nonmembership results because the docket books do not do so. Hence, a '.' can mean either.

One might wonder why I include this variable and its predecessor in the database. Why not simply provide the recoded votes according to the foregoing tripartite scheme and be done with it? The reason, quite simply, is that this tripartite division may conceal significant voting differences. In my opinion, too much social science analysis begins and ends at a macro level. I have no objection to global conclusions if they result additively -- from the meticulous compilation of microanalytic investigations. Thus, my tripartite scheme may be mixing votes that are better distinguished, at least initially. I.e., should a vote noting probable jurisdiction (N) be treated the same as 'postpone' (P)

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or ⟨to call for a response brief' (E)? Does ⟨grant' (G) equal ⟨hear' (K)? Is a denial (D) the same as a dismissal (S) or a removal from the docket (F)? We may assume that the answer to each of these questions is yes, but we do not know this as a matter of empirical fact. Hence, I give you, the user, the option to proceed microanalytically or macroanalytically, cautioning you that the safer and more prudent course is the former.

Apart from -- and more basic than -- the foregoing, it may appear that the joinder of grant and reverse together under one symbol (1) mixes analytically distinct actions. My justification for so doing is that both typically promise further action and almost always redound to the benefit of the petitioning party. Furthermore, ⟨grant' typically appears only in preliminary votes, rarely in merits or report votes. I certainly assume that users will consciously treat preliminary voting as distinct from merits and report voting. Not that analysts may not compare them -- e.g., the frequency with which specific justices vote to grant cert or note probable jurisdiction and vote to reverse on the merits -- but that they will do so conscious of the differences that ensue.

I apologize for the complexity of the labels given each of the justice's vote variables here. I wish to keep these abbreviations as close to those of the two foregoing variables as possible -- the report votes, opinions, and interagreements of the individual justices and the coded preliminary, merits, and report votes of the individual justices -- while simultaneously maintaining a systematic distinction from those of the preceding variable. Accordingly, to each justice's variable abbreviation an 'R' (denoting recoded) is suffixed: HAR1R, DOUG2R, FRK4R, STWT4R, etc.

Variables 364-383
majority and minority voting by justice (MAR8M to VIN8M)

Analysts commonly want to know the frequency with which given justices vote with the majority and/or the minority overall or in certain sets of circumstances. This variable provides that information.

Variables 565-584
majority and minority conference voting by justice (MARMRTS-VINMRTS)

This set of variables specifies whether the participating justices voted with the majority or not at the final merits (conference) vote. It parallels the data of the preceding variable except that it was compiled from data assembled by Jan Palmer.

Variables 344-363, 524-543, 544-563
direction of the individual justices' votes
(MAR8DIR to VIN8DIR, MAR2DIR to VIN2DIR, MAR3DIR to VIN3DIR)

These variables, like the preceding pair, create a separate variable for each of the twenty justices who sat on the Vinson and Warren Courts. Each justice's variable is identified by the same 2- to 4-letter abbreviation used in the other vote vari- ables, but here the abbreviation is followed by the letters "DIR."

Whereas the pertinent portion of the preceding variables specified how a justice voted in a given case, this variable classifies whether the justice's vote was liberal or conserva- tive.

Recall that not every issue is identified as either liberal or conservative. Those pertaining to interstate relations and miscellaneous (VALUE=11 and VALUE=13) (see variable 263), as well as those records in which no ISSUE is specified, are without direction.

Because direction can also be assigned to the merits vote and the report vote as coded by Jan Palmer, I have added them to the database. As explained in variables 39, 109, 135, 161, 187, 212, 237, direction of decision, the direction of a justice's DIR vote will always be identical to his RDIR vote (MAR3DIR . . .VIN3DIR) when ANALU=' ' or ANALU='1'. If ANALU pertains to a multiple issue or split vote record (ANALU ='2', '4', or '5'), the direction of a justice's vote may differ between the Spaeth and Palmer coding. But when the unit of analysis is citation, docket number, or legal provision (ANALU=3), no differences occur. What constitutes conservative and liberal direction is specified in variables 39, 109, 135, 161, 187, 212, 237.

Also see the report votes, opinions, and interagreements of the individual justices (variables 239-246, 249-260, 264-343) and direction of decision (variables 39, 109, 135, 161, 187, 212, 237).

APPENDIX I: THE RELIABILITY CHECK

     The results of the reliability check are reported for the
Vinson and Warren Courts separately for each variable, along with
an assessment of the differences that did emerge between the
coder and the recoder. A random sample of separate citations was
drawn, 96 of which were from the Warren Court and the same per-
centage (2.7%) from the decisions reported in the front portions
of the volumes covering the Vinson Court (N = 82). The randomly
selected separate citations produced a grand total of 436 rec-
ords, 141 for the 96 Warren Court citations and 295 for the 82
Vinson Court citations.   A graduate student did the recoding.
He was familiar with the database, having used preliminary ver-
sions in his own research.
     Where non-categorical data were coded and accuracy is known
objectively -- e.g., case citation, docket number, the author of
an opinion, the court in which the case originated, date of
decision -- reliability is measured by the extent to which the
entries correspond exactly with what appears in the official
Reports. Where a variable involves the exercise of judgment and
the coding falls into one of a set of previously defined values -
- e.g., the legal provisions considered by the Court, the issue
that a case presents, the reason the Court granted cert --
reliability is measured by the extent to which the coders agreed.
I have not used various statistical measures of association --
e.g., pi, lambda, phi, Pearson -- because each makes assumptions
that are arbitrary to some extent. Instead, I provide simple
percentages and a specification of the errors that precluded
perfect agreement, along with any other information that will
allow you to make your own judgment of the reliability of the
variable with which you are concerned.
     I also recoded the sampled cases from the Warren Court inde-
pendently and subsequently of the recoder in an attempt to deter-
mine if I had unconsciously applied the discretionary codes dif-
ferently at one point during the several years these data were
coded than I had at another.   The Vinson Court data, by con-
trast, were coded within a few months. Although I found no
appreciable indications of such systematic error except for auth-
ority for decision (variables 37, 261, 262), my recoding did show
substantial variance in certain variables whose entries required
little, if any, exercise of discretion. The recoder's work also
revealed my errors in most of these variables. As a result,
these variables -- number of records per unit of analysis (vari-
able 7), three-judge district court (variable 10), lower court
disagreement (variable 13), and reason stated for granting
certiorari (variable 14) -- have all been rechecked for all cases
in the Warren and Burger Courts.

VARIABLES 1, 2, 3 — citations to the Court's reports

    The reliability check revealed no discrepancies in the coding of the US variable. In the LED variable, three Warren Court citations produced different entries because the title to the last three in a set of six cases began on the page subsequent to the page on which the first three began (100/1220 versus 100/1221). The coding instructions do not address the question of whether all the docket numbers of cases decided under a common set of opinions should cite the same page as the lead case or not. In the SCT variable, the reliability check showed the last two digits in one Warren Court citation to be in error. Warren Court identity, therefore, is 99.0 and 99.4 percent, respectively. For the Vinson Court, 100 percent. But if we count accuracy digit by digit instead of citation by citation, SCT agreement reaches 99.88 percent.

VARIABLE 4 — docket number

    One Warren Court docket number was incorrectly entered. This occurred in a companion case. Apparently the companion case was duplicated by a programming command and through oversight the docket number was not changed from that of the lead case. Identity, therefore, resulted in 111 of the 112 Warren Court dockets(99.1 percent).

VARIABLES 5, 6, 7 — docket identification numbers

    This variable was not subject to a reliability check because its entries were made by machine.

VARIABLES 8, 9, 10, 11, 12 — citation history

    No reliability check was done on this variable because of its nondiscretionary character and because complete data is not available on every case.

VARIABLE 13 — the name of the case

    Because of the nonstandard contents of this variable, no reliability check was done.

VARIABLE 14 — unit of analysis

    On the Warren Court, nine discrepancies occurred between the original coding and the recoding. (References to these discrepancies are LED citations.) Note that these discrepancies pertain to the number of records rather than to differences in the entry in the ANALU variable. The recoder created 141 records from the

96 randomly selected Warren Court citations. Of the recoder's 141 records, 139 are contained in the database. Hence, 139 of the 141 are common to both. The recoder duplicated two records that the database does not contain (001/0207 and 002/0282). He identified 001/0207 as a multi-issue case (ANALU=2) and the latter as having a second legal provision (ANALU=3). By contrast, the database contains seven duplicated records that the recoder did not include: 098/0168, 100/0692, 011/0004, and 015/0284. The last of these was duplicated four times with ANALU=2. It is a citation with four docket numbers. The other three records were duplicated with ANALU='5', '2', and '3,' respectively.

Of these nine discrepancies, 100/0692, 001/0207, and the four times duplicated 015/0284 may equally plausibly be either single or double issue cases; the same is true of 098/0168, which is double listed with ANALU='5'. Entering 002/0282 as three records, each with a different LAW, rather than as two records, is based on the text of the majority opinion rather than the official summary. On the basis of the summary, the case should have only two records -- one statutory and the other constitutional. But reading the majority opinion indicates that the case actually concerns three separate legal provisions -- one statutory and two constitutional. On the other hand, the coding instructions do state that determination of the legal provision(s) at issue should be based on the numbered headings in the summary, not the content of the majority opinion. Finally, 011/0004 is equally plausibly a single or a double LAW inasmuch as the summary for this non-orally argued case lacks numbered headings.

Of the 139 Warren Court records common to both the coder and the recoder, two discrepancies occur: 099/0210 is listed in one as ANALU=3 twice, while the other set lists ANALU=3 in one record and as ANALU=5 in the other. Either option is equally plausible. The second entry of 001/1544 omitted the '1' in the ANALU variable. A blank appeared instead. This is clearly an error.

Like the Warren Court, the Vinson Court also produced nine discrepancies. The recoder unwarrantedly added a '5' to 331 U.S. 532 and debatably added one to 331 U.S. 549 also. The original coding improperly contained an extra '5' in 332 U.S. 1. The original coding also excluded a second '3' in both dockets of 332 U.S. 261. This discrepancy is highly debatable. I included it as a result of the recoding. Although the reference in the opinion is very brief, it pertains to the incorporation of the Sixth Amendment's jury trial guarantee into the due process clause of the Fourteenth Amendment. The original coding improperly contained a second '3' in both dockets of 340 U.S. 450. No constitutional provision was at issue. In 343 U.S. 341, only the Articles of War were at issue, not congress's power to govern the

armed forces. Finally, due process should not appear as a LAW in 346 U.S. 249.

Of the 295 records 286 are identical (96.9 percent). Excluding the pair of jury trial discrepancies, agreement reaches 97.6 prcent.

VARIABLE 15 — dockets with no vote

Complete identity obtained in the records of the Vinson Court sample. Four dockets in three different Warren Court cites improprly contained an asterisk for a resulting identity of 97.4 percent.

Note should be made that the reliability of this variable is somewhat superfluous. If a record has no entry in any VOTE variable other than VOTE itself (see variable 43), the record necessarily qualifies for NOVOTE=1.

VARIABLE 16 — number of records per unit of analysis

Among the 139 Warren Court records that the recoder generated, that also appear in the database, two that should have contained a '1' in the REC variable inadvertently omitted it (001/1544 and 002/0340). This error is trivial insofar as 002/0340 is concerned because the ANALU variable contains an entry in the second record of this case. Of necessity, therefore, one record beyond the initial one must exist. Nonetheless, both these discrepancies are errors. Variable identity, therefore, equals 98.6 percent.

In the Vinson Court, when the ANALU corrections were made no discrepancies in the number of records occurred.

VARIABLE 17 -- manner in which the Court takes jurisdiction

One of the two Warren Court differences is debatable because, though the case arose on appeal, the Court granted certiorari (020/1343). The other case had no entry in this variable; neither did it have an entry in variable 14 (reason for granting cert). Both these variables cannot be empty unless the case is memorandum. The alert user would therefore have known there is an error here. Nonetheless, an error. Identity, therefore, equals 99.3 percent. No errors occurred in the Vinson Court sample.

VARIABLE 18 -- administrative action preceding litigation

Four of the six differences between the coding and the recoding of the Warren Court are debatable: whether or not administrative action occurred in 004/0494 and 005/0403; whether action "occurred in the context of the case" as the foregoing

coding instructions require in 015/0582; and whether state administrative action in 020/1089 was criminal, in which case no entry should appear. Hence, only two clear errors resulted, and identity between coding and recoding is 98.9 percent.

The Vinson Court sample produced two errors of omission, the first of which applied to three cases docketed under a single citation, 334 U.S. 742. The original coding failed to enter DOD. The other error occurred in 332 U.S. 234, which failed to identify the Comptroller General as an administrative actor. Arguably, his role was marginal to the dispute, but nonetheless an error. Identity, therefore, equals 99.6 percent.

VARIABLE 19 -- three-judge district court

Although recoding showed complete accuracy in the Warren Court sample, subsequent cleaning indicated that this variable had not been coded for certain portions of this Court's data. Hence, all records were rechecked. The Vinson Court produced no errors.

VARIABLE 20 -- origin of case

Two errors appear in the Warren Court sample. Both specified the correct jurisdiction but the wrong court therein. Accuracy, therefore, equals 98.6 percent. No errors occurred in the Vinson Court sample.

Also note that the *United States Reports* do not identify the court of origin, either in whole or in part, in 43 of the sampled records. In some of these cases, the *Lawyers' Edition* from which all cases were coded, provides this information. In the others, an assistant went to the records of the lower courts to ascertain the court in which the case originated. The recoder, however, was told to derive this information from the *United States Reports* exclusively. For purposes of the reliability check, I do not count as a discrepancy any record in which the recoding shows a "?" because the coding went behind the official Reports to locate the court of origin.

VARIABLE 21 -- source of case

The Warren Court sample produced one typographical error for an identity of 99.3 percent. The Vinson Court none.

VARIABLE 22 -- lower court disagreement

Five of the 96 sampled Warren Court citations contained an error, one of which occurred because reference to a lower court dissent appeared only in the case summary, not the text of the

majority opinion. errors. The low accuracy of 94.8 percent at-
tained for this noninterpretive variable probably results because
this information may appear anywhere in the introductory portions
of the majority opinion. Moreover, it may only require a single
word to describe: i.e., "divided," "split." On the basis of the
relative lack of accuracy, all Warren Court citations were sys-
tematically rechecked. Not so the Vinson Court whose sample con-
tained no discrepancies.

VARIABLE 23 -- reason for granting certiorari

     Four of the six Warren Court discrepancies are errors. In
the other two (LED=005/0403 and 006/0246), either an "*" may
appear for both, or an "F" and an "A," respectively.
     Because of the relatively low accuracy — 97.2 percent — all
Warren Court records were rechecked for this variable.
     Of the 115 Vinson Court dockets that arose on cert, 104 con-
tained a common entry (90.4 percent). But of the eleven discrep-
ancies, only one is clearly wrong. The conflict in 329 U.S. 379
is an alleged rather than an actual one. Even so, one finds this
distinction in a footnote rather than in the text. The inconsis-
tency in the five dockets of 330 U.S. 395 arguably results
because the coding options do not address importance plus "as-
serted" circuit conflict. The original coding, which I retained,
gave the nod to the conflict while the recoder emphasized the
case's importance. Two dockets differed between no reason given
and to resolve the question(s) presented: 331 U.S. 532 and 333
U.S. 178. Where, as here, the language of the opinion does not
precisely state that cert has been granted to resolve the ques-
tion presented, the choice between this option and no reason
becomes close. In 332 U.S. 46, either '6' or '12' are equally
acceptable, while in 334 U.S. 742, one can read the language
about importance as equally applicable either to the first or to
all three of the dockets. Arguably then, if we consider only the
first six discrepancies substantial, agreement reaches 94.8 per-
cent.

VARIABLES 24-25 — parties

     Interagreement between the coding and recoding is substan-
tially less than complete in the parties variables for several
reasons. First, the descriptors are undefined. Second, the
difference between a given descriptor and others to which it is
cross-referenced is one of degree rather than kind. Third,
majority opinions not infrequently dually characterize parties.
Nonetheless, the final decision rule limited coding to singular
characterization of parties. Finally, the Reports will commonly
label a governmental party by his or her name and office, and
thereafter substitute the name of the government for that of the

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official. One or more of these conditions apply to all but one
of the Warren Court's nine PARTY_1 and seven PARTY_2 discrepan-
cies. The only exceptions were the entry of the less accurate CC
rather than POOR D in 009/0811, and the clearly erroneous US in
place of LA as the respondent in 010/0663. Accuracy may there-
fore be specified as 99.3 percent for both Warren Court parties.

Among the 115 Vinson Court dockets, 17 less than perfect
matches result: nine in PARTY_1 and eight in PARTY_2. But only
five are clearly wrong: the original coder's specification of
the respective parties in the two dockets of 341 U.S. 384 as
STORE and BREWERY instead of BAR and ALCOHOL. And although
BREWERY and ALCOHOL are cross-referenced to one another, in this
case these entries were entered sloppily. The coder entered a
common party both dockets of 340 U.S. 450. Thus, we may consider
the parties' entries as equivalent in 98.3 percent of the rele-
vant Vinson Court records.

VARIABLE 26 — disposition of case by court whose decision the
              Supreme Court reviewed

The 21 Warren Court discrepancies locate in only ten sepa-
rate citations. Eight discrepancies in three citations are
equally accurate: between "10" and "4" in 002/0292, between "2"
and "5" in 015/0284, and between "1" and "8" in 016/0314. In the
four records of 020/0672, the majority opinion says "2," while a
footnote says "4." The nine other differences may be counted as
errors: the two records of 003/0450 and 023/0332 in which over-
sights left the variable empty; the "4" and "7" in the two
records of 003/1312; the "2" and "3" in 009/0279; the "4" and
"7" in 012/0129; and the error resulting from the lack of clean-
ing that occurred in the two records in 009/0561: the original
version of the codebook specified entering the lower court's
decision even if it were the trial court, which was the situation
in this case. Agreement, therefore, equals 93.6 percent.

Eight discrepancies appear among the Vinson Court sample.
The four dockets of 336 U.S. 577 should should show a 0 rather
than a 1. The recoder failed to spot the language in a footnote
of 339 U.S. 583, which was the only place indicating that the Tax
Court's decision was affirmed in part and reversed in part. The
text proper reads reversed only. The language in 340 U.S. 419
leaves the distinction between 2 and 7 murky. Even more so the
two dockets of 343 U.S. 451. Both 3 and 4 appear in the language
of the Court's opinion. Accordingly, culpable disagreement falls
to 3.5 percent.

VARIABLE 27 — direction of the lower court's decision

This variable was not subject to a reliability check because
it was computer generated.

VARIABLE 28 -- date or oral argument

     Two inconsistencies appeared in the Warren Court sample. The day was incorrect in one record and the whole date in the other. The latter was a non-orally argued decree in which the date of decision was mistakenly entered as the date of oral argument. Identity equals 98.6 percent. If digits are the focus, identity increases by a factor of six. Three errors occurred in the 82 Vinson Court cites for an agreement rate of 96.3 percent. The original coder entered entered the second rather than the first date of oral argument in one record. In the other two cases, he incorrectly specified the month. Again, if digits are the criterion, accuracy increases by a factor of six, reaching 99.2 percent.

VARIABLE 29 — reargement date

     The reliability check showed 100 percent agreement for both the Vinson and Warren Courts.

VARIABLE 30 — decision date

The single error that occurred in the Warren Court sample was the same as the one in the ORAL variable (variable 19). All the Vinson Court records read the same.

VARIABLE 31 -- term of the Court

     This variable was not subject to a reliability check because it was computer created.

VARIABLE 32 -- chief justice

     This variable was not subject to a reliability check because it was computer created.

VARIABLE 33 — natural court

     This variable was not subject to a reliability check becauze it was computer generated.

VARIABLES 34-36 -- dates of opinion assignment

     No errors occurred in either Court's sample.

VARIABLES 37-43 -- dates votes occurred

     The sample produced no discrepancies.

VARIABLES 44 -- legal provisions considered by the Court

     Of the ten Warren Court discrepancies, four are non-orally
argued DEC_TYPE=2 cases (see variable 38, type of decision) that
have an abbreviated summary without numerical headings (002/0001,
004/0001, 012/1041, 019/0546). In each of these cases, the var-
iable was either empty or contained a statutory listing (002/00-
01, 004/0001, and 019/0546) or a constitutional provision
(012/1041). Either alternative appears equally correct. In
three DEC_TYPE=1 cases, the chosen alternatives also appear to be
equally plausible: 6ACO vs. 14AD in 099/0135, and 62 vs. 5A=P in
the two records of 016/0828. The other three discrepancies
constitute error: 5AMI vs. 5ASI in 020/0381, 1A vs. 1ASN in
003/0462, and 1817 vs. 172 in 002/0282. The first of these could
have been typographical. Identity, therefore, may be considered
to be 97.9 percent.
     In the Vinson Court, the recoder incorrectly listed 5ADP as
the legal provision in 331 U.S. 532 instead of a parallel stat-
ute. The recoder did properly exclude 5A=P from among those at
issue in 332 U.S. 1. 6AJU is debatable in the two dockets of 332
U.S. 261. The original coder's entry of CLAY instead of RP as
the legal provision in 334 U.S. 37 is incorrect, notwithstanding
that Robinson-Patman is an amendment of the Clayton Act. The
coder also incorrectly listed 5ADP among the provisions of the
two dockets of 340 U.S. 450. Of these seven discrepancies, only
five should be considered errors. Hence, interagreement reaches
98.3 percent.

VARIABLE 45 -- multiple legal provisions

     No differences in the coding of either Court occurred.

VARIABLE 46 -- authority for decision

     The reliability coding of AUTHDEC treated the variable as a
single two-column variable, rather than two separate variables.
The variable was divided after the reliability coding was per-
formed in order to facilitate the use of this variable for SPSS
analyses. In the Warren Court sample, 107 perfect matches oc-
curred in the 139 records common to both sets (77.0 percent). Of
the 32 discrepancies, 12 merely reversed a 2-digit sequence, and
all but one of these involved 45; the other one, 75. If these
12 are considered to match, discrepancies reduce to 20 and agree-
ment becomes 85.6 percent.
     In 14 instances, one coder entered a single digit, while the
other one entered two -- one of which was the same as the single
digit entered by the other coder. The total number of the codes
that appeared uniquely is as follows: 5 six times, 3 four times,
4 three times, and 7 one time. If these be considered matches,

agreement increases to 95.7 percent.

    In six instances, there was no match at all, and all of
these occurred in records in which both coders entered a single
digit (citations are to LED): 010/1045, 3 vs. 7; the three
records of 020/1350, 3 vs. 7; 099/0210, 3 vs. 4; and 100/0953,
4 vs. 5. In 099/0210 and 020/1350 either choice appears equally
accurate. Hence, only two of these six nonmatches are clearly
incompatible. Agreement, therefore, may be considered to be as
high as 98.6 percent.

    Note that no discrepancies involve the two constitutional
codes: 1 and 2.

    In the Vinson Court sample, 51 was viewed as superior to the
original coding of 1 in 333 U.S. 178. In 333 U.S. 683 and 343
U.S. 414, 45 was reversed. In 336 U.S. 577, the difference
between 37 and 57 is problematic. In 338 U.S. 396, 13 seems
preferable to 1. In 340 U.S. 450, 4 replaces 1 because of the
correct exclusion of the constitutional provision from LAW. In
342 U.S. 570, 47 replaced 4 because the opinion rested in part on
a rule from which the majority refused to deviate. Of these
seven discrepancies, the 90 other entries matched pefectly (92.8
percent). Discounting the three distinctions that lack substance,
agreement reaches 95.9 percent.

VARIABLE 49 — ISSUE

    Fifteen of the 24 discrepancies in the Warren Court sample
are debatable in the sense that either choice is equally accu-
rate. If these are counted as identical, agreement reaches 93.6
percent. If only separate citations are counted, 16 differences
occur, of which eleven are debatable. From this perspective,
agreement is 94.8 percent. The list of differences follows. An
asterisk indicates that either option appears to be equally good
(citations are to LED).

099/0135 * 30 vs. 502 (this discrepancy is a function of the
   difference in LAW)
099/0210 (two records) 120 vs. 173
100/0060 * 614 vs. 852
100/0692   21 vs. 434 (discrepancy resulted because of the addi-
   tion of new codes during the original coding)
001/0119 * 101 vs. 107
001/1394 * 960 vs. 970
002/0355 0 vs. 684 (it is necessary to refer to cases cited in
   the opinion to determine the issue)
003/0462 (two records) * 960 vs. 970
010/0084 (four records) 222 vs. 939
012/0129 * 583 vs. 584
013/0605 * 684 vs. 685
017/0078 * 120 vs. 717 (DEC_TYPE=3 in which the dissenting opin-

ion focuses on the Federal Rules of both Civil and
    Criminal Procedure)
020/0672 (four records) * 361 vs. 451
020/1089 * 21 vs. 23
020/1106 110 vs. 120 (typo)
021/0546 * 575 vs. 588

    Seven of the fourteen Vinson Court differences are debatable
in the sense that either is equally accurate. Counting these as
identical, docket agreement reaches 95.3 percent. If these seven
differences are spread over the total number of records, identity
increases to 97.2 percent. The list of differences follows. An
asterisk indicates that either option is equally good (citations
are to LED).

091/0359 * 166 vs. 168
091/1474 * 507 vs. 900 (900 is probably better, but the underly
    ing issue is a taking; hence, either option acceptable)
091/1654 070 vs. 362 (active duty military should be considered a
    second issue in this case along with double jeopardy)
091/1877 181 vs. 853 (although miscellaneous statutory construc-
    tion appears appropriate as the issue associated with the
    Criminal Appeals Act, careful assessment indicates 853 as
    the more accurate issue)
092/0433 271 vs. 371 (the former is a typograhical error)
092/0783 111 vs. 179 (war crimes is better than confession of
    error inasmuch as the Court does not use the latter phrase
    in so many words; nonetheless a subtle error)
092/1614 (three records) * 851 vs. 857 (debatable; either okay)
093/0741 (two records) * 851 vs. 853 (851 probably better, al-
    though it is a very close question)
094/0691 * 199 vs. 362 (the latter better because it is more
    specific)
096/0318 (two records) * 614 vs. 617 (latter better even though
    the opinion makes reference to jury determination; a close
    call)
096/0576 721 vs. 851 (the latter better because no agency action
    occurred; the decision is based on the primary jurisdiction
    doctrine)
097/0003 (three records) * 221 vs. 759 (either okay; decision
    delayed so that *Bolling v. Sharpe* could be simultaneously
    considered with *Brown* et al.)
097/0727 537 vs. 717 (the latter is a formalistic entry)
097/1094 741 vs. 857 (the former is incorrect under the LAW the
    Court considered; the matter concerned the finality of
    state court action as a result of which the Supreme Court
    has jurisdiction)

VARIABLE 50 — issue areas

    This variable was not subject to a reliablity check because
it was computer generated.

VARIABLES 51-57 -- direction of decision

    The reliability check showed two errors in the Warren Court
DIR variable (agreement = 98.6 percent). Failure to enter a 0 in
a case in which the issue = 0 (098/0423). This is a trivial
error because if ISSUE=0, directionality perforce equals 0. In
100/0692, the variable was left blank when it should have con-
tained a 1. Only one error occurred in the other DIR variables,
in MDIR. Accordingly, agreement in MDIR equals 99.4 percent.
The Vinson Court sample produced no errors except for the MDIR
and the RDIR variables of 340 U.S. 179, which displayed a 0
rather than a 1 (agreement in each of these variables = 99.3
percent).

VARIABLE 58 — direction of decision based on dissent

    The reliability check produced no differences in either
Court.

VARIABLE 59 -- type of decision

    Complete agreement prevailed between all Warren Court rec-
ords with one exception. The error resulted because of failure
to enter this datum in LED=006/0246. No errors occurred in the
Vinson Court sample.

VARIABLE 60 -- disposition of the case

    The four coding differences in the Warren Court sample oc-
curred between "3" and "5" in 002/1097, and between "3" and "4"
in 015/0026, 022/0535, and 023/0332. The substantive difference
between these choices ranges from trivial to nonexistent. None-
theless, they are errors, and agreement equals only 97.2 percent.
    Three coding differences occurred in the Vinson Court
sample. The recoder entered a '2' rather than the correct '3' in
091/0209 and 091/0359. Careless reading caused the original
coder to produce the same mistake in 095/0582. The last word in
the opinion reads 'reversed,' but immediately preceding the
opinion reads 'reversed and remanded.' The latter controls the
former. Docket identity, therefore, reaches 98.0 percent.

VARIABLE 61 -- unusual disposition

    Inasmuch as the entry in the disposition variable controls

the entry here, coding discrepancies become trivial when both
coders entered the same datum in the DIS variable. This happened
in the seven Warren Court records in which only one coder entered
an asterisk in DISQ. The sole Vinson Court discrepancy involves
the same circumstance: the recoder entered an asterisk in
095/0534, but both entered a "3" in the disposition variable.

VARIABLES 62-68 -- winning parties

        Two of the three WIN errors in the Warren Court sample
appear to have been an oversight because of the brevity of the
per curiam decisions: 002/0355 and 002/1367. The other case is
003/1058. Identity, therefore, equals 97.9 percent. The Warren
Court sample also occasioned three MWIN errors and two RWIN
errors. All but one of these errors occurred in the two dockets
of 350 U.S. 348. Identity, therefore, is 98.1 percent in MWIN
and 98.7 percent in RWIN. The Vinson Court sample exhibited no
WIN errors. However, no W appeared in the RWIN variable of 345
U.S. 377. The resulting identity is 99.3 percent. No errors
occurred in the other WIN variables.

VARIABLE 69 — salience

        Complete accuracy in recording these data obtained.

VARIABLE 70 -- formal alteration of precedent

        No differences emerged in the coding of either Court.

VARIABLE 71 -- declarations of unconstitutionality

        No coding differences occurred in the Warren Court's sample,
but the four records of *Schwegmann Brothers v. Calvert* and
Seagram Distillers Corp., 341 U.S. 384, 95 L Ed 1035, should
exhibit an 'S.' The fact that the reputedly authoritative
Congressional Research Service also fails to list it (see Lee
Epstein, et al, *The Supreme Court Compendium* [Washington: Con-
gressional Quarterly, 1994, pp. 114-115]) does not excuse my
failure to do so. The language of the opinion is unequivocal:
'when a state compels retailers to follow a parallel price
[fixing] policy, it demands private conduct which the Sherman Act
forbids.' 341 U.S. 384, at 389. Identity, therefore, is 98.4
percent.

VARIABLES 72-73 — opinion assignment

        Complete identity prevailed in the sample of both Courts.

However, the chief justices' assignment sheets are neither com-
plete nor necessarily accurate. We expect to make occasional
changes in this variable as supplemental information is found in
the files of individual cases.

VARIABLES 74-76 — opinion assignee

       No coding differences occurred in either Court.

VARIABLES 77-78 -- the vote in the case

       The reliability check of VOTE showed four Warren Court
discrepancies. Two occurred in memorandum decisions and resulted
because these decisions do not always make clear the difference
between '2' and '7' votes. (017/0078, 80 vs. 81; and 018/0458, 60
vs. 63). The discrepancy in 013/0527, 63 vs. 72, is not an error
because variable 48 (vote not clearly specified) contains an
entry in both data sets. An error, however, clearly occurred in
011/0757, 90 vs. 53. This case is a very lengthy decree. De-
crees are almost always unanimous. I failed to notice the short
dissent and the specification of non-participation at the end of
the decree. Agreement, therefore, reaches 99.3 percent.
       Among the 295 Vinson Court records that were sampled, VOTE
was differently specified in five, three of which are errors
(99.0 percent agreement). In 334/0742, Douglas's dissent did not
apply to the second of the three dockets combined for decision.
The vote, therefore, should have been 90, not 81. In the two
First Amendment records of 343/0451, one can debate whether Black
dissented on this aspect of the case. His language is specula-
tive: 'To the extent, if any, that the Court holds the contrary,
I dissent.' 334 U.S. 451, at 466. Hence, a VOTE of either 71 or
62 may be considered correct. But in the two records pertaining
to due process, Black clearly concurred. Hence, VOTE=62 is
wrong.

VARIABLE 79 — minimum winning coalition

       This variable was computer generated.

VARIABLES 80-86 — vote type

       No errors were found in either Court's sample.

VARIABLES 87-93 -- sequence of vote types

       In the Vinson Court sample, in 333 U.S. 178 the votes in
SEQ4 and SEQ5 were transposed. Identity, therefore, approximates
99 percent. No errors occurred in the Warren Court sample.

VARIABLES 94-100 -- preliminary, merits, and votes other than the final Spaeth vote

In the Vinson Court sample, one PVOTE and one MVOTE were incorrectly specified. Accuracy for both variables is 99.3 percent. None of the other VOTE variables for either the Vinson or the Warren Court contained any errors.

VARIABLES 101-105 — vote not clearly specified

The two Warren Court discrepancies are merely that. The vote in both cases is the same, 90. The reason one coder entered an asterisk in this variable was due to his inability to distin-guish a regular from a special concurrence. Identity prevailed in the Vinson Court sample.

VARIABLES 106-125, 126-145, 146-165, 166-185, 186-205 — the report votes, opinions, and interagreements of the individ-ual justices

The 28 total discrepancies that the Warren Court reliability check produced may be apportioned as follows:
a) Two involve interagreements (099/0453 and 010/0652). The former occurred because Clark's code was changed in midstream from 'I' to 'U.' In cleaning, this change was overlooked. In the latter, Stewart is identified as joining himself rather than Douglas ('D' rather than the correct 'C.') Identity, therefore, in the 108 Warren Court interagreements equals 98.1 percent.
b) Three cases in which the vote was not clearly specified (variable 36). The vote of one justice in each varied from that of the other coder: the two records of 001/0207 and 013/0527. Inasmuch as these discrepancies were formally noted in variable 36 of both data sets, they should not be viewed as errors here.
c) Four discrepancies in two memorandum decisions (017/0078 and 018/0458) between vote=2 and vote=7. Which they should be is very debatable.
d) Thirteen discrepancies in four records in which the only difference is between the two types of concurrences (vote=3 vs. vote=4): the two records in 002/1135, 022/0535, and 023/0656.
e) Six discrepancies that are truly errors: '31' vs. '1' in 004/0001; '1' vs. '41' in 010/1045; and '22' vs. '1,' '2' vs. '1,' '22' vs. '1,' and '5' vs. '1' in 011/0757, which is also the case that produced the error in variable 35 (the vote in the case). If only a), d), and e) are counted as errors, N=21, out of a total of 1337 entries (108 interagreements and 1229 votes). Agreement, therefore equals 98.4 percent.
If only a) and e) are counted as errors, N=8, out of a total of 1337 entries. Agreement, therefore, equals 99.4 percent.
If errors are broken down by type of entry, they are as

follows:

    Two interagreements are wrong (a) out of a total of 108 interagreements: 98.1 percent identical.

    Four opinions are wrong ('31' vs. '1,' '1' vs. '41,' '22' vs. '1,' '22' vs. '1') [under e)] out of a total of 289 opinions: 98.6 percent agreement.

    Fifteen votes are different (thirteen '3' vs. '4,' one '2' vs. '1,' and one '5' vs. '1') [under d) and e)] out of a total of 1229 votes: 98.8 percent agreement.

    Six Vinson Court citations produced inconsistencies.

    Burton's entry in the two records of 332/0234 should be a '2,' not a '21.'

    Douglas's entry in the four records of docket 74 in 334/0742 should be a '1,' not a '21.'

    Rutledge should show a '41,' not a '31' in four records of 335/0525.

    In 338/0396, Frankfurter wrote 'I join the opinion [of the Court] in its general direction.' Does this mean a '31' or a '41?' No clear answer results.

    In the three records of 340/0179, Black's vote is better listed as '81' rather than '41,' although the matter is debatable.

    In the two due process records of 343/0451, Black's vote should appear as '31,' not '21.'

    Entries in only four of these citations should be counted as discrepant totaling 13 votes and six opinions. With nine vote entries for each of 295 records, voting identity attains 99.5 percent, opinion identity 99.2 percent (788 of 794). No interagreement errors occurred.

VARIABLES 206-225, 226-245, 246-265, 266-285, 286-305, 306-325, 326-345 — the coded preliminary, merits, and report votes of the
        individual justices

    No formal reliability check was conducted on the data contained in this variable, but we did do an informal record-by-record assessment. Except for the Spaeth vote, the primary sources of these data are the docket books of Warren, Marshall, Brennan, Burton, Douglas, Clark, and Reed. Secondary sources are the docket books of Murphy, Jackson, and Frankfurter and the conference lists of Warren, Marshall, Brennan, Rutledge, Burton, Douglas, and Clark. The tertiary sources include case files, cert and bench memos, and the conference notes of Warren, Marshall, Vinson, Reed, Douglas, Clark, Burton, and Rutledge. Each vote of each justice was coded three separate times by two different people. In addition, templates were used and logical programs written to prevent typographical errors of various kinds.

Spaeth's report vote data are taken from the *Lawyers' Edition* of the *United States Reports*. Discrepancies between Palmer's coding of the justices' report votes (MAR3-VIN3) and mine (MAR8-VIN8) were individually resolved on a case-by-case basis, as were any apparent incompatibilities in the various preliminary and merits votes. Given this process, we doubt that appreciable errors remain. Moreover, as new data sources become available they will be checked against the existing entries and corrections.

VARIABLES 346-365, 366-385, 386-405, 406-425, 426-445, 446-465, 466-485 — the dichotomized preliminary, merits, and report votes
        of the individual justices

    This variable was computer generated. Therefore, its reliability cannot be ascertained.

VARIABLES 486-505 — majority and dissenting voting by justice

    This variable was computer generated; hence no reliability check. It was compiled from the Spaeth report vote rather than that assembled by Jan Palmer. The differences between them are specified in variables 77-78, the vote in the case. The commands used to create majority and minority voting by justice may be found in Appendix II.

VARIABLES 506-525

    These variables were not subject to a reliability check because they were computer generated.

VARIABLES 526-545, 546-565, 566-585 -- direction of the individual justices' votes

    These variables were not subject to a reliability check because they were computer generated.
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