

THE SUPREME COURT JUSTICE-CENTERED JUDICIAL DATABASES:

THE WARREN, BURGER, AND REHNQUIST COURTS

(1953-2000 TERMS)

DOCUMENTATION

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## INTRODUCTION

This database differs from the others on the website. Its unit of analysis is the individual justice rather than the case. As a result, each case will typically contain a minimum of nine records, one for each justice then on the Court.

The data herein derive from the data in the Warren, Burger, and Rehnquist Court portions of “Allcourt,” the *Original United States Supreme Court Judicial Database*, a case-centered database. These data were “flipped” to transform the database into a justice-centered one. This process enables this database to specify the various aspects of the case in which justices dissenting and concurring deviate from the majority. In a case-centered database, the only deviation that dissenting and concurring justices manifest are their votes, opinions, and interagreements with other justices who behave similarly. Justice-centering a database allows for the specification of the ways the justices individually may deviate from the behavior of the majority or plurality; e.g., in the case disposition, law(s), issue(s), authority for decision, ideological direction, declarations of unconstitutionality, and alterations of precedent that a specific justice decrees. In other words, this database largely ignores the Court’s action and instead focuses on the behavior of the participating justices as individuals.

This documentation follows the order in which the variables appear in the database. Because of the large number of codes contained in several of the variables, a common list covering the Court's decisions since the beginning of the Vinson Court in 1946 has been compiled and entered into this documentation. Hence, not every entry in the administrative agency, parties, law, and issue variables appears in this database because a number of them are time bound.

The type, label, and – where feasible – the values of each variable are displayed in SPSS. This documentation will provide value labels for all variables in the database.

The etiology of this database originated with the oft-repeated assertion of Professor Jim Gibson of the need for an alternate unit of analysis. Professors Sara Benesh and Chris Zorn then devised a scheme for so transforming the data contained in the original Supreme Court Judicial Database. Benesh and Spaeth then applied to the NSF for a collaborative grant that would enable them to flip the Rehnquist Court data, as well as that of the preceding two Courts – Warren and Burger. Without its support, this database would not exist, and the future emergence of the others would not occur. The grants in question are SBR-9911054 and SES-9910535. In other words, this database took the Spaeth databases, organized using case as the unit of analysis, as below:

### *Organization of the Spaeth Databases*

CASE	JUSTICE 1	JUSTICE 2	JUSTICE 3	JUSTICE 4	JUSTICE 5	JUSTICE 6	JUSTICE 7	JUSTICE 8	JUSTICE 9
1	1	1	1	2	1	2	1	1	2
2	2	1	1	1	2	2	1	1	1

and “flipped” the data so that they use the justice as the unit of analysis, as below:



### *Organization of This Database*

JUSTICE	CASE 1	CASE 2
1	1	2
2	1	1
3	1	1
4	2	1
5	1	2
6	2	2
7	1	1
8	1	1
9	2	1

We make this change via SPSS or STATA and detail instructions for doing so in Benesh and Zorn, 1999).

However, much more was involved in the construction of this database than transforming the basic unit of analysis from case to justice. The new focus required that court-centered variables over which the individual justices have control had to be recoded to take into account the behavior of each justice. Thus, although the majority construed a certain law to arrive at its decision, this need not be the case for any dissenting or specially concurring justice. All variables that allow for such individual specification were recoded: In addition to the legal provision at issue, these are issue, authority or basis for the justice's vote, disposition of the case, direction of vote, unconstitutionality, and formal alteration of precedent.

If you find that the explanation of the variables in this database is unsatisfactory, you may find them more fully stated in the documentation of the *Original United States Supreme Court Judicial Database* (“Allcourt”) that is also available on the MSU Law and Judicial Politics website: [www.polisci.msu.edu/pljp](http://www.polisci.msu.edu/pljp).

Pay especial heed to the instructions governing the use of the units of analysis that this justice centered database contains (ANALU – variable 6) and type of decision (DEC\_TYPE – variable 28). Failure to do so will generate data woefully inappropriate or grossly misleading. More information on the proper use of the database with respect to analu and dec\_type can be found in an essay posted on the Michigan State University Law and Judicial Politics website (referenced above) by Sara C. Benesh entitled “Becoming an Intelligent User of the Spaeth Databases.”

For user convenience, wherever possible the variables are numeric rather than string, the majority of which are dummies.

To determine reliability, one-fourth of the 1125 changes that the switch from case- to justice-centered in the 1986-1996 terms produced were recoded (281). These numbers exclude the change in case disposition that a dissent necessarily produces.

All but eight were correctly specified (97.2 percent). Five of these eight resulted because of failure

to insert a second legal provision, issue, or authority for decision on which the deviating justice relied. The other three neglected to mark the dummy variable for a justice who addressed more than a single legal provision. A seven percent sample of the 2700 hundred-odd citations in which none of the dissenting or concurring justices deviated from the others except in their disposition of the case (200) indicated that four justices could be considered to deviate in either legal provision or issue. But absent clarity in such behavior, we made no change in the justice's behavior.

A second reliability check was done to include all the flipped cases that involved more than change in the disposition of a dissenter's vote. We weighted the sample heavily toward cases in which multiple changes occurred. From 576 such records, we selected 91, for a sample of 15.6 percent. We checked the 15 variables in these 91 records where change could occur. We found a total of 80 errors in 18 variables (out of a total of 95 variables, not all of which were checked; some were computer generated, while others had been the subject of reliability checks in the case-centered database from which the data were flipped; e.g., case citations, docket number, parties, origin and source of case, etc.) in these 91 records. Only the disposition variable (DIS) produced more than five errors (24). All of them occurred in one highly complex case. Thirty-two of the remaining errors locate in the group of 15 deviation variables, most of which are dummies, in which we failed to enter the relevant deviation(s). Consequently, 17 of these 32 errors were errors of omission, as were five others. The 18 variables in which error occurred contain 1638 cells (18 variables X 91 records). Divided by a total of 80 errors, accuracy reaches 95.1 percent. If we omit the 22 errors of omission, accuracy is 96.5, and if we exclude the systematic DIS errors in record 145 L Ed 2d 522, accuracy climbs to 96.6 percent. Needless to say, the errors encountered above were corrected.

For the Burger Court, we again weighted the sample heavily toward cases in which multiple changes occurred. From 696 such records, we again sampled 15.1 percent, 109 records. We found 26 total errors, less than in the Rehnquist Court, presumably because the Burger Court was coded after the Rehnquist Court was flipped. These 26 total errors located in eight variables. Unlike the Rehnquist Court, nine of these errors resulted from the insertion of an incorrect JID (justice identification number). All but two of these were numbers not used for the Rehnquist Court justices. The eight variables from 109 records produced 872 cells for an accuracy of 97.0 percent. The errors uncovered were, of course, corrected.

We urgently request users to contact [spaeth@msu.edu](mailto:spaeth@msu.edu) or [sbenesh@uwm.edu](mailto:sbenesh@uwm.edu) about any real or apparent errors or omissions in the database. 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. Contact may be had through the following addresses:

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# Justice-Specific Variables

## The Identification Variables

The following are identification variables which vary by justice. Each justice has been assigned a specific identification number and those are discussed here. In addition, because the justices treat different numbers of laws and issues and therefore have different numbers of records per case, both ANALU and REC are coded at the individual level in this database. All other identification variables (US, LED, DOCKET, ORIGIN, etc) are measured at case level and are discussed in that section of the documentation devoted to variables that vary only by case (and not by justice).

### Variable 1 justice identification number (JID)

Each of the justices has been assigned a distinctive number (which also appears in the values listed in SPSS). Those numbers are as follows:

Justice	Justice Identification Number
Marshall	1
Brennan	2
White	3
Blackmun	4
Powell	5
Rehnquist	6
Stevens	7
O'Connor	8
Scalia	9
Kennedy	10
Souter	11
Thomas	12
Ginsburg	13
Breyer	14
Whittaker	15
Stewart	16
Warren	17
Goldberg	18
Fortas	19
Frankfurter	20
Burger	21
Douglas	22
Black	23
Harlan	24
Clark	25

Burton	26
Minton	27
Reed	28
Jackson	29

**Variable 2**  
**unit of analysis (ANALU)**

Although the basic unit of analysis of this database is the individual justice rather than the case, the options available in the case-centered databases also apply here.

We start, however, with the distinction between “record” and “case.” A record is the computerized listing of the variables contained in a Supreme Court 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.

Because the basic unit of analysis is the individual justice’s behavior in a given case, each case will contain a minimum of nine records, assuming all the justices participate. Hence, while it is possible some users may only want to know the justices’ behavior in a particular citation or docket, most will focus on specific justices using the identification number of the relevant justice (see variable 1). If this be the situation, one may choose only the cases in which the subject justice participated (analu=0), the docket numbers (analu=1), multiple issues (analu=2), multiple legal provisions (analu=3), split vote case (analu=4), or cases or dockets with multiple issues and legal provisions (analu=5).

Do recognize that analu 1-5 will all have the same case citation (variables 1 and 2) as analu=0. Hence, be wary of an overcount when using analu other than =0. Additionally, while a deviation may occur in one record, the deviation variables are only noted in analu=0, again, to avoid overcounts. (See variables 4-18.) One should consult the documentation to the other Spaeth databases or Benesh’s essay on using the databases if this is confusing. (Both are available at [www.polisci.msu.edu/pljp](http://www.polisci.msu.edu/pljp).)

**Variable 3**  
**number of records per unit of analysis (REC)**

REC 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.

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 citation 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	0	0
366/0666	567	1	1
366/0666	234	3	3
366/0666	234	3	0
366/0666	234	3	0
366/0666	567	3	3
366/0666	567	3	0
366/0666	567	3	0

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 specified 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	0	0	21-174	1	501
396/0398	190	3	1	5ADP	1	501
396/0398	190	5	1	26-4704	1	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\_DUM) variable (variable 8). 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.

### The Deviation Variables

**This set of variables identifies and specifies the deviations of the individual justices from their colleagues with respect to the legal provision at bar in the case, the issue on which the case turns, and the basis on which the justice rests his or her vote. All of the count variables for deviation (e.g., LAW\_DEV, ISS\_DEV, and AUTH\_DEV) are measured as case level, not docket level, variables and so appear only in the first record of each relevant justice (analu=0). Therefore, the entry in these variables does not necessarily appear in the record in which the deviation occurs. In order that the user be able to know not only whether there was a deviation but how many, this entry reflects the number of legal provisions, issues, or authorities for decision about which the noted justice disagrees. These are coded as one deviation if the justice addresses a different law, issue, or authority than the majority or addresses one less law, issue, or authority than the majority or adds one more law, issue, or authority for decision for consideration. It is coded two if they add**

two laws, issues, or authorities, drop two laws, issues or authorities, or change one law, issue or authority for decision and add or drop another. A change is always counted as one deviation; e.g., the majority considered 14AD but this justice considered 5AD – this is considered one deviation rather than two (one for dropping 14AD, one for adding 5AD). In effect, this is considered a swap and, as such, is counted as one deviation.

**Variable 4**  
**law deviation (LAW\_DEV)**

This variable specifies the extent to which the subject justice differed from the majority with regard to the legal issue(s) addressed by the majority. The range is none to three (no justice exceeded three). The deviation(s) may have been additions (see variables 15-16) or deletions (see variables 17-18). The specific legal provisions that were added or deleted are identified in variables 15-16 and 17-18.

**Variable 5**  
**issue deviation (ISS\_DEV)**

This variable parallels the preceding, differing only in that it indicates a justice disagreed with the majority's perception of the issue that the case concerned (see variable 11). If a justice dropped an issue, variables 21-22 identify it. If said justice added an issue, its code number will be found in variables 19-20.

**Variable 6**  
**deviation over authority for the Court's decision (AUTH\_DEV)**

This variable parallels the two preceding ones by focusing on the third major respect in which justices deviate from the position of the plurality or majority, as the case may be. If the subject justice differed by dropping an AUTHDEC, variables 17-18 so specify. If AUTHDEC was added, variables 15-16 will indicate which it is.

Also see variables 23-29, a set of dummy variables for each basis for decision available to the justices, measured at the justice-level.

**Variables 7 – 18**  
**laws, issues, and authority for decision added or dropped by distinctively behaving justices**  
**(ADDLAW1, ADDLAW2, DROPLAW1, DROPLAW2, ADDISS1, ADDISS2, DROISS1,**  
**DROISS2, ADDAUTH1, ADDAUTH2, DRPAUTH1, DRPAUTH2)**

These variables note the actual change in law, issue, or authority for decision made by the relevant justice. All changes are considered as deviations from the majority's opinion. Hence, if one of the deviation variables as discussed above contains anything other than zero, one of these variables will contain some entry. These variables track the first two additional laws, issues, or authorities for decision, or the first two laws, issues, or authorities not considered by a particular justice. Note, that there are a couple of instances in which the justice drops or adds more than two laws. In that

case, we only specify the first change although we note, in the deviation variables, how many changes there are. The interested researcher can thus still determine how many changes and, by looking at the relevant variable for that case (LAW, ISSUE, or AUTHDEC), the nature of those additional changes.

ADDLAW1, ADDLAW2 indicate the additional (or new or different) legal provisions relied upon by the justice. The codes for this variable are the same as those in the LAW variable and so the researcher can consult the documentation for variable 19 (LAW) to ascertain which new legal provisions were considered by any given justice. Do note that if one of these fields is blank, that means that the justice considered a new law that is not one that Spaeth specifies. Only if it contains a zero can one assume that there were no laws added by a particular justice.

DROPLAW1, DROPLAW2 specify those legal provisions relied upon by the majority that are not considered to be relevant for the particular justice. Again, the codes for this variable follow those specified in variable 19 (LAW). Do note that if one of these fields is blank, that means there was a law dropped but it is not one that Spaeth specified. If this field contains a 0, then there was no law dropped by that justice.

ADDISS1, ADDISS2 note the issues additionally (or in place of the majority) considered by the individual justice. These are coding in the same way as the ISSUE variable (variable 30) and so users should consult that part of the documentation to decipher those codes.

DROPISS1, DROPISS2 are indicators of the issues which the individual justice did not take into consideration in deciding the case. Again, coding for these variables is the same as that for variable 30 (ISSUE).

ADDAUTH1, ADDAUTH2 are variables coding the additional (or new or different) authorities for decision on which the individual justice relies. The values for this variable are located in variables 21-22 (AUTHDEC1, AUTHDEC2) and the same coding applies here.

DRPAUTH1, DRPAUTH2 code those authorities for decision relied upon by the majority which an individual justice deems inopposite to the case. Again, the coding here is found in the variables AUTHDEC1 and AUTHDEC2 (variables 21-22).

### **Variables Defining the Case for the Specific Justice**

**These variables define the case for the specific justice; that is, they note the issue, legal provision, authority for decision, declaration of unconstitutionality, alteration of precedent, and voting behavior of the particular justice. No information in these variables is Court-specific; e.g., all entries in these variables are coded according to the individual justices' behavior. Hence, in order to ascertain on which issue the majority relied, one would either need to consult the Spaeth case-centered databases, or – more directly – inspect the set of records for a given case to determine which issues are cited by the deviant justices and which are not. Those that are not cited by a deviant justice can be considered to be the issue/law/authority on which the Court's majority relied.**



**Variable 19**  
**legal provisions considered by the justices (LAW)**

This variable contains the legal provision considered by each individual justice. If a justice was a part of the majority coalition and joined the majority opinion, his or her legal provision is the same as the legal provision considered by the Court. If a justice specially concurred or dissented, then his or her separate opinion is coded for the legal provision on which the justice relies.

Legal provisions are constitutional provisions, statutes, or court rules.

*Legal Provisions Considered by the Majority of the Court*

The basic criterion to determine those that the majority on the Court considered – as distinct from a specific justice – is a reference to it in at least one of the numbered holdings in the summary of the *United States Reports*. (Note: This treatment of the coding is taken from the documentation accompanying the original Supreme Court databases.) 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.

We 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 this criterion is excessively formalistic; that it is too gross; or conversely, too refined; no other feasible criterion matches it for objectivity and reliability.

We 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 coded 6ACO and 5ASI respectively).

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 that 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. 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 (e.g., has a specific meaning to those ‘in the know’) and so the following should be noted: 1) A designation of WIG overrides any substantive provision that the summary may mention (e.g., *Conway v. California Adult Authority*, 396 U.S. 107); and 2) Writs cannot be improvidently granted when the Supreme Court takes jurisdiction on appeal (see variable 64 - JURA\_DUM).

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 consulted and the instant case coded with the entry that appeared there. 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. The same situation may characterize the statute under which a court exercises jurisdiction.

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, “TERRITORY.”

Because of the relative frequency with which certain non-positive-law rules (e.g., the exclusionary rule) and doctrines form bases for the Court's holdings, these are identified in this variable along with constitutional provisions, statutes, court rules, and treaties. However, many “doctrines” are not coded for here (e.g., “original intent”) due to the fact that these are largely, in the opinion of these coders, merely rhetorical and not meaningfully applied as rules. This assertion is evidenced by the complete lack of their inclusion in these syllabi.

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 15 and 16, authority for decision.)

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

*Provisions of the Constitution in LAW*

1 <sup>st</sup> Column	Article of the Constitution (1-7)
2 <sup>nd</sup> Column	Section number of the Article (First digit of the numbers 1-10)
3 <sup>rd</sup> Column	Second digit of section number if the section’s number has two digits; otherwise the paragraph of the section if any
4 <sup>th</sup> Column	Paragraph of the section, if any

Hence, the following defines the various provisions at issue.

*Provisions at Issue from the Constitution*

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
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
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 variables 15, 16] 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.

*The Constitutional Amendments and their Guarantees*

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
5ADJ	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 excessive fines
8A	Cruel and unusual punishment
9A	Ninth Amendment
10A	Tenth Amendment
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 again 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.

*Statutory Abbreviations*

ADA	Americans with Disabilities Act, as amended (also see HAND)
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, Acts
ATOM	Atomic Energy
BANK	Bankruptcy Code, Bankruptcy Act or Rules, or Bankruptcy 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
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
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 (also see ADA)
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

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, Medicaid, Supplemental Security Income, and Aid to Families 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 alphabetically according to the following schedule:

*Court Rules as LAW*

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:

*Other Bases for LAW*

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)
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To repeat the odd cases, 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 decision variable to indicate the judicial power aspect of the legal basis for the Court's decision.

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.

As mentioned earlier, where a heading concerns the review of agency action under a statute, but the statute is not identified, it is ascertained from the opinion. So also where the decision 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).

#### *Legal Provisions Considered by the Justices*

Determination of whether a justice not part of the majority opinion coalition addresses different legal provisions rests on the contents of the *Lawyers' Edition* summary of said justice's opinion. Little disagreement was encountered in coding the contents of justices' special opinions. If, for example, the majority had based its opinion on the due process clause and the dissenting justice on equal protection, the summary will specify this difference.

#### **Variable 20 multiple legal provisions (LAWS\_DUM)**

This variable indicates whether any given legal provision is the only one considered by a justice, or whether other(s) are also involved. A ‘1’ in this variable indicates the presence of multiple legal provisions. Hence, justices in the majority may have laws\_dum=1 when the majority considers more than one law. Other justices (concurrers and dissenters) have laws\_dum=1 only when they consider greater than one legal provision as seen in the Lawyer's Edition summary.

The ‘1’ appears in this variable in each record of such a justice where there is a legal provision different from that of another of the justice's records in the case.

**Variables 21, 22**  
**authority for decision (AUTHDEC1, AUTHDEC2)**

These variables specify the bases on which the individual justices rested their decisions with regard to each legal provision that the Court considered in the case (see variable 19). Those non-writing members of the majority coalition will have the same authority for decision as the Court as a whole. All other writing justices will be coded according to the authority upon which they rely. SPSS lists the values for this variable, which are as follows:

*Authority for Decision*

1	Judicial review – national level
2	Judicial review – state level
3	Supervisory power over the federal courts, including the Supreme Court’s determination of its own non-statutorily mandated authority
4	Interpretation of a federal statute, treaty, or court rule
5	Interpretation of a federal executive order, or an administrative regulation or rule
6	Interpretation of a state law while exercising diversity jurisdiction
7	Federal common law

One of them 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. 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 before the other.

AUTHDEC1 will have an entry in every record that is not a memorandum case (see variable 60, type of decision).

Considerable congruence should obtain between the entry in the AUTHDEC variables and the code that appears in the LAW variable (variable 19). Thus, if a constitutional provision appears in the LAW variable, a ‘1’ or a ‘2’ will typically appear. Similarly, if LAW displays a statute, a ‘4’ should appear. 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).

AUTHDEC1 and AUTHDEC2 have been broken into their seven components, each appearing as a separate dummy (variables 23-29). These dummies are coded as present if either authdec1 or authdec2 is equal to the particular value. Hence, if a justice based his or her decision on two of them, rather than just one, both will appear among the seven dummies, although not in any order of importance.

**Variables 23-29  
the dummied components of the justices’ authority for decision  
(FJR\_DUM, SJR\_DUM, SUP\_DUM, STAT\_DUM, ADMIN\_DUM, DIV\_DUM,  
CL\_DUM)**

The seven bases on which the individual justices may ground their vote (see variables 21 and 22, AUTHDEC1 and AUTHDEC2) in a given case are broken out as separate dummies. Note that though no priority order is given the bases of any justice’s vote in a given case, if said justice relies on two of these bases, both will be flagged. These were created by computer command similar to the following:

if (authdec1=1) fjr\_dum=1.  
if (authdec2=1) fjr\_dum=1.  
etc.

All other values were coded to zero.

### **Variable 30 issue (ISSUE)**

This variable identifies the context in which the legal basis for decision (variable 19) 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. This variable, as all others in this section, is coded from the perspective of the individual justice. Those non-writing members of the majority will have the same issue as the Court as a whole; all other justices who wrote either a concurrence or a dissent are coded as to the issue they see the case raising. Sometimes, the separate opinions and the Court majority agree as to the issue; sometimes they do not.

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. We have attempted to identify issues on the basis of the justices' 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 19) 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 about three percent have a legal basis for decision that applies to a second issue.

We have identified more than 260 numerical issues which 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 variable 31 (VALUE).

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 19).

**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 616-619) 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; boundary disputes and property disputes.

**Federal taxation** concerns the Internal Revenue Code and related statutes.

**Miscellaneous** contains two groups of cases that do not fit into any other category; legislative veto and general miscellaneous.

If interest lies in a particular issue area that has a specific legal or constitutional component, comprehensive coverage may be insured by listing not only the issue(s) that bear thereon, but also the appropriate code(s) from variable 19 (legal provisions considered by the justice). 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 43-44) may

help locate other cases of interest.

The specific codes follow. In all areas, 0 signifies that the issue was not able to be identified. Additionally, all codes in boldface are major issues with those indented and in regular type are subsets of a larger issue.

*Issues Relating to Criminal Procedure*

<b>010</b>	involuntary confession
<b>013</b>	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
<b>014</b>	plea bargaining: the constitutionality of and/or the circumstances of its exercise
<b>015</b>	retroactivity (of newly announced constitutional rights)
<b>016</b>	search and seizure (other than as pertains to 017 and 018)
<b>017</b>	search and seizure, vehicles
<b>018</b>	search and seizure, Crime Control Act
<b>020</b>	contempt of court
<b>021</b>	self-incrimination (other than as pertains to 022 and 023)
<b>022</b>	Miranda warnings
<b>023</b>	self-incrimination, immunity from prosecution
<b>030</b>	right to counsel (cf. 381-382)
<b>040</b>	cruel and unusual punishment, death penalty (cf. 106)
<b>041</b>	cruel and unusual punishment, non-death penalty
<b>050</b>	line-up (admissibility into evidence of identification obtained after accused was taken into custody, or after indictment or information)
<b>060</b>	discovery and inspection (in the context of criminal litigation only, otherwise 537)
<b>070</b>	double jeopardy
<b>100</b>	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
<b>110</b>	confrontation (right to confront accuser, call and cross-examine witnesses)
___ <b>subconstitutional fair procedure</b> : 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
<b>120</b>	Federal Rules of Criminal Procedure, including application of the Federal Rules of Evidence in criminal proceedings.
<b>___ statutory construction of criminal laws:</b> 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 “commonly 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
<b>190</b>	jury trial (right to, as distinct from 100-107)
<b>191</b>	speedy trial
<b>199</b>	miscellaneous criminal procedure (cf. 504, 702)

*Issues Relating to Civil Rights*

<b>210</b>	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
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	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 distinguished 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
<b>___ military</b> (cf. 441, 705)	
361	draftee, or person subject to induction
362	active duty
363	veteran
<b>___ immigration and naturalization</b> (cf. 172, 271-272)	
371	permanent residence
372	citizenship
373	loss of citizenship, denaturalization
374	access to public education
375	welfare benefits
376	miscellaneous
<b>___ indigents</b> (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)

*Issues Relating to the 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 requirements
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 establishment 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

*Issues Relating to 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

*Issues Relating to 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

*Issues Relating to 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

*Issues Relating to 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)
<b>___ labor-management disputes</b> (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

*Issue Relating to 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
<b>___ patents and copyrights</b>	
661	patent
662	copyright
663	trademark
664	patentability of computer processes
<b>___ federal transportation regulation</b>	
671	railroad
672	boat
673	truck, or motor carrier
674	pipeline (cf. 685)
675	airline
<b>___ federal public utilities regulation (cf. 935)</b>	
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
<b>699</b>	miscellaneous economic regulation

*Issues Relating to Judicial Power*

<b>___ comity, criminal and First Amendment</b> (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
<b>712</b>	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, exhaustion of state provided remedies
<b>715</b>	assessment of costs or damages: as part of a court order
<b>717</b>	Federal Rules of Civil Procedure, including application of the Federal Rules of Evidence and the Federal Rules of Appellate Procedure in civil litigation
<b>721</b>	judicial review of administrative agency's or administrative official's actions and procedures
<b>731</b>	mootness (cf. 806)
<b>741</b>	venue
<b>___ no merits:</b> 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 granting 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
<b>___ standing to sue</b>	
801	adversary parties
802	direct injury
803	legal injury

804	personal injury
805	justiciable question
806	live dispute (cf. 731)
807	parens patriae standing
808	statutory standing
809	private or implied cause of action
810	taxpayer's suit
811	miscellaneous
<b>___ judicial administration</b> (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 appeal jurisdiction
<b>899</b>	miscellaneous judicial power

*Issues Relating to Federalism*

<b>900</b>	federal-state ownership dispute (cf. 920)
<b>910</b>	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.
<b>911</b>	federal pre-emption of state regulation (cf. 631): rarely involves union activity. Does not involve constitutional interpretation.
<b>920</b>	Submerged Lands Act (cf. 900)

___ <b>national supremacy:</b> in the context of federal-state conflicts involving the general welfare, supremacy, or interstate commerce 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
<b>949</b>	miscellaneous federalism (cf. 294, 701-708, 712, 754-755, 854, 858, 860)

*Issues Relating to Interstate Relations*

<b>950</b>	boundary dispute between states
<b>951</b>	non-real property dispute between states
<b>959</b>	miscellaneous interstate relations conflict

*Issues Relating to Federal Taxation*

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

*Miscellaneous Issues*

<b>980</b>	legislative veto
<b>989</b>	miscellaneous

**Variable 31  
issue areas (VALUE)**

This variable simply separates the issues identified in variable 30 (ISSUE) that a given justice addresses into the broad issue area to which a particular issue pertains. These broad issue areas are as follows.

*Issue Areas Coded for the VALUE Variable*

1	Criminal procedure (issues 10-199)
2	Civil rights (issues 210-399)
3	First Amendment (issues 401-472)
4	Due process (issues 501-507)

5	Privacy (issues 531-537)
6	Attorneys (issues 542-548)
7	Unions (issues 553-559)
8	Economic activity (issues 601-699)
9	Judicial power (issues 701-899)
10	Federalism (issues 900-949)
11	Interstate relations (issues 950-959)
12	Federal taxation (issues 960-979)
13	Miscellaneous (issues 0, 980-989)

These variables were generated in SPSS using the following syntax:

```
if (issue lt 10) value=13.
if (issue ge 10) and (issue lt 200) value=1.
if (issue ge 200) and (issue lt 400) value=2.
etc.
```

#### **Variables 32-44**

**the dummied issue areas in which the justices' votes locate  
(CRIM\_DUM, CIVRTS\_DUM, FIRSTA\_DUM, DP\_DUM, PRIV\_DUM, ATTY\_DUM,  
UNION\_DUM, ECON\_DUM, JUDP\_DUM, FED\_DUM, ISR\_DUM, TAX\_DUM,  
MISC\_DUM)**

The issue areas into which each participating justice's vote falls are specified in these thirteen dummy variables. A given justice could consider two issues and hence have two dummied issue areas coded as present. These dummy variables are generated using the following command:

```
if (value=1) crim_dum=1.
if (value=2) civrts_dum=1.
etc.
```

All other values are coded as zero.

### **The Outcome Variables for the Individual Justice**

**The following variables code the outcomes specific to the individual justice, including three variables of particular interest to researchers: declarations of unconstitutionality for federal and state laws and the alteration of precedent. These variables have never been available before and hence compose a major contribution to our knowledge about judicial behavior. It is not only the Court that wishes to overturn precedent or behave in an activist manner; the individual justices do so in their separate opinions as well. Also in this section is information on the votes of the individual justices including their disposition of the case, the ideological direction, whether or not they were in the majority, whether or not they wrote separately, and with whom they agreed. We specify the coding of each in turn.**

**Variables 45, 46**  
**declarations of unconstitutionality (FUNCON, SUNCON)**

An entry in these variables indicates that a justice declared unconstitutional either an act of Congress (FUNCON), or a state or territorial statute, regulation, or constitutional provision or a municipal or other local ordinance (SUNCON). Non-writing members of the majority have an entry in one of these two whenever the majority opinion espouses such a treatment.

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 justice 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).

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

**Do not assume that each of a justice's records pertains to a separate statutory or constitutional provision. A justice will not uncommonly declare a particular statute void on several bases, or a number of dockets may pertain to the same voided law.**

**Variable 47**  
**formal alteration of precedent (ALTER\_DU)**

A '1' will appear in this variable if a justice says in so many words that his or her vote or opinion in this case "overruled" or advocates the overruling of one or more of the Court's own precedents. Occasionally, in the absence of language in the prevailing opinion, a dissenter 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). Those non-writing members of the majority, in such cases, are noted as having overruled a precedent. Those writing special opinions usually make it clear if they think a precedent should be overruled, and so, whenever they do so, an alteration of precedent is noted in the record in which the relevant issue/legal provision appear. Such behavior is not altogether uncommon.

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, those supporting the Court's opinion in the earlier decision will contain a '1' in this variable. Formal alteration also extends to language that states that a precedent of the Supreme Court should be "disapproved," or "is no longer good law."

Note, however, that formal alteration does not apply to cases in which precedents are "distinguished." Such language in no way changes the scope of the precedent that has been distinguished.

Again, do not assume that each record of a justice in a case indicates the formal alteration 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, carefully read the prevailing opinion in each citation that has an entry in this variable.

**Variables 48-52**  
**the report votes of the individual justices**  
**(FOUR\_VT, REP\_VT, OP, AGREE\_1, AGREE\_2)**

These variables focus on the individual justices' report votes on the issue the individual justice addressed. 1) The first of these five variables – FOUR\_VT – holds the individual justice's report vote, the opinion if any that that justice wrote in the case, and a letter representing the name of any other justice(s) with whose dissenting or concurring opinion the subject justice agreed. 2) The second variable – REP\_VT – only contains the justice's vote, either in favor of the majority, dissenting, or concurring in some way; 3) the third – OP – whether the justice wrote an opinion (either alone or jointly) or not; 4) the fourth – AGREE\_1 – which justice, if any, wrote a separate opinion with which a given justice agrees; and 5) the fifth – AGREE\_2 – the second justice, if any, with whom the subject justice agreed on a separate opinion.

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 variable. For example, assume that the entries for a record in which Brennan participated reveal the following data: 21EG. Variable REP\_VT (for Brennan) will contain a '2'; OP (for Brennan's opinion) a '1'; AGREE\_1 (the justice identification number of the justice who wrote a dissent or concurrence with which Brennan agreed) a '1' (for Marshall, coded 'E' in the original Spaeth databases); and AGREE\_2 (the justice identification number for the second justice with whose dissent or concurrence Brennan also agreed) a '3' (for White, coded 'G' in the original Spaeth databases.) Accordingly, in this case, Brennan dissented and wrote an opinion; he also agreed with a dissenting opinion that Marshall wrote, as well as one written by White. 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 Justice White, 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 'G' signifying White. SPSS is simply not equipped to pick out a 'G', or any other single-column symbol anywhere in a multi-column variable. Hence, FOUR\_VT is broken out to include the completely numeric variables of REP\_VT, OP, AGREE\_1, and AGREE\_2 for user convenience.

A justice may engage in one of eight types of voting behavior insofar as his four-column variable (FOUR\_VT) and REP\_VT entries are concerned.

*Report Vote Values*

1	voted with majority
2	dissent
3	regular concurrence (agreement with the Court's opinion as well as its disposition)
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 OP 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 (=0).

The third and fourth columns of each justice's four-column variable and that of his AGREE\_1 and AGREE\_2 variables identifies the justice with whom a given justice agrees on a special opinion written by that justice. A special opinion is an opinion other than the opinion or judgment of the Court. The original Spaeth databases assigned a letter to each of the justices who sat on the Court according to the following schedule, which remains coded into FOUR\_VT:

*Spaeth Alpha Codes for the Justices*

A	Harlan
B	Black
C	Douglas
D	Stewart
E	Marshall
F	Brennan
G	White
H	Burger
I	Blackmun
J	Powell
K	Rehnquist
L	Souter
M	Stevens
N	O'Connor
O	Scalia
P	Fortas
Q	Goldberg
R	Minton
S	Jackson
T	Warren
U	Clark
V	Frankfurter
W	Whittaker
X	Burton
Y	Reed
Z	Kennedy
a	Thomas
b	Ginsburg

c	Breyer
---	--------

AGREE\_1 and AGREE\_2 have been recoded from these alpha codes to the justice identification numbers, given in Variable 1 (JUSTID).

### Notes on the Coding of These Variables

First, 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 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 nonparticipating justice(s) in such cases. In this database, any justices definitely either not on the Court at the time of the decision or for some other reason did not participate in a given decision are excluded.

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 actions clear. Therefore, decision rules must be formulated. Furthermore, notwithstanding resort to the decision rules presented below, a judgment – not necessarily bright line – needs be made as to how the justices voted and whether or not an opinion was written.

### Notes on OP

For the purpose of determining which option a justice chose as to the writing of the opinion, the following decision rules apply (and so apply both to FOUR\_VT and OP):

- 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 suffices 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 manifestly 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 illustrate: “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 (and in their OP variables). Joint authorship, however, does not include per curiam opinions. Hence, a jointly authored opinion can only be a dissent or a concurrence.

### Notes on REP\_VT

Two problems afflict efforts to specify the voting behavior portion of FOUR\_VT (and the entry in REP\_VT): 1) whether the vote is a regular or a special concurrence, and 2) the treatment 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, we 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 is also addressed later in connection with variable 88 (vote not clearly specified). A vote concurring and dissenting in part is listed as a special concurrence 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 justice 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, a ‘1’ will appear in the VOTEQ\_DU variable of the affected justice 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 (OP) variable – regardless of whether a ‘2’ (dissent) or ‘4’ (special concurrence) appears in the first column of his or her FOUR\_VT variable (or REP\_VT variable).

## Notes on AGREE\_1 and AGREE\_2

The third and fourth columns of each justice's FOUR\_VT variable are used to identify the concurring and dissenting opinions with which the subject justice agreed, as are the parallel AGREE\_1 and AGREE\_2 single-column variables for each justice (variables 51-52). 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 in FOUR\_VT, and a numerical justice identification number, as designated in the listings 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 a number in that justice's AGREE\_1 or AGREE\_2 variables indicates that said justice agreed with a dissenting or concurring opinion written by the justice whose letter or number appears. If a second letter appears in the fourth column of a justice's variable, and an entry appears in the AGREE\_2 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. As mentioned earlier, an @ in the third column of the joining justice's 4-column variable (FOUR\_VT) specifies these situations. An @ in these same places also identifies the instances when a justice wrote two opinions in a single case. Whether the @ justice wrote two opinions or joined the opinions of three other justices is clear from the behavior of the other justices.

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 FOUR\_VT variable or in the sole entry in his or her REP\_VT variable. If the justice agrees with the opinion or judgment of the Court, a '1' will appear in the first column.

### **Variable 53 direction of the individual justices' votes (VT\_DIR)**

This variable specifies whether the subject justice voted liberally (=1) or conservatively (=0), or indeterminately (=.) which notes the inability to characterize issues for which ideological direction does not make substantive sense, as well the casting of a jurisdictional dissent. See variable 91 for an extensive discussion of the determination of a "liberal" or "conservative" directionality based on the winning party in the case. The same coding scheme applies here. Do note that there are times that both a majority vote and a dissenting vote are cast in a liberal or a conservative direction; this simply means that one or the other was deemed to be "too liberal" or "too conservative" for the others to join. In these cases, variable 92 (DIRD\_DUM) will also contain an entry.

### **Variable 54 justice's disposition of the case (DIS)**

The treatment the individual justice accorded the court whose decision it reviewed is contained in this variable; e.g., affirmed, vacated, reversed and remanded, etc. The user should note that these designations are based on the justices' language in his or her opinion and will not necessarily comport with his or her behavior. Also, not all cases affirmed in part and reversed in part by those

justices with whom a given justice agrees will appear with a split disposition for that particular justice as he or she may reverse on a specific record (for a given issue) and affirm on another and hence have two separate dispositions rather than the single nebulous DIS=5 or DIS=6.

SPSS specifies the values of this variable. They are as follows:

*Disposition of Cases*

0	Stay, petition, motion granted
1	Affirmed
2	Reversed
3	Reversed and remanded
4	Vacated and remanded
5	Affirmed in part and reversed or vacated in part
6	Affirmed in part, reversed in part, and remanded
7	Vacated
8	Petition denied or appeal dismissed
9	Certification to a lower court

**Variable 55**

**whether the justice affirmed or reversed the decision of the court it reviewed (DIS\_DUM)**

This variable is a dummy which provides the bifurcated disposition the justices made of the lower court decision that they reviewed. DIS\_DUM is coded 1 for affirm (DIS=1 or DIS=8), 0 for reverse (all other dispositions). Any justice having a disposition of 5 or 6 (affirming and reversing in part) will be coded as reversing the lower court decision as they reverse at least in part in each of those instances; their DIS\_DUM = 0, therefore. This variable is computer generated.

**Variable 56**

**majority and minority voting by justice (MAJ\_MIN)**

This variable is a dummy indicating whether the subject justice voted with the majority (=1) or minority (=0) of the Court for a given case. Obviously, those dissenting would be coded 0, while those joining the majority or concurring (as per the REP\_VT variable, variable 49) will be in the majority.

## Case-Specific Variables

### The Identification Variables

**This set of 21 variables identifies the background characteristics of the cases the justices decided. These variables are common to all the participating justices. Hence, no variation will be found from one justice to another.**

**Variables 57, 58**  
**case citations (US, LED)**

All the US and Led citations were copied directly from the published volumes. US citations cease with the end of volume 522 because of the time and effort to enter them. Those wishing to obtain them can enter the Lawyers' Edition cite into an appropriate website (e.g., LEXIS-NEXIS) and quickly obtain it.

**Variable 59**  
**docket number (DOCKET)**

This information is also obtained directory from the published volumes. Each number is preceded by the last two digits of the term in which the case arose.

**Variable 60**  
**type of decision (DEC\_TYPE)**

Choice of a unit of analysis (see variable 2) 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, as follows.

DEC_TYPE	EXPLANATION
1	Cases in which the Court hears oral argument and which it decides by a signed opinion. These are the Court's so-called <b>formally decided full opinion cases</b> .
2	Cases decided with an opinion, but without oral argument; e.g., <b>per curiam</b> .
3	<b>Memorandum cases.</b> 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 <i>United States Reports</i> beginning at page 801 or 901 or later. The database contains only the small fraction in which at least one justice wrote an opinion.
4	<b>Decrees.</b> 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.
5	Cases decided by an <b>equally divided vote</b> . 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.
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. Nonetheless, these unsigned, <b>orally argued cases are labeled as decided “per curiam.”</b> The difference between this type and DEC_TYPE=2 is the presence of oral argument in the former but not the latter. In both types the opinion of the Court is unsigned -- i.e., per curiam.
7	<b>Judgments of the Court.</b> 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, DEC_TYPE=7 should be included in any analysis of the Court's formally decided cases.

It is immediately evident that much violence would be done to one’s analysis if one did not decide which of these seven decision types to include in one’s analysis. The following research situations could be associated with the following decision types:

RESEARCH QUESTION	DECISION TYPE
Who writes the Court’s majority opinions?	1 and possibly 7
Which states win more often in general?	1, 2, 3, 4, 5, 6, and 7
Is the Court more liberal than before?	1, 2, 4, 6, 7
How often does the Chief assign the majority opinion?	1, 7
What role do oral arguments have in decision making?	1, 5, 6, 7
What precedents has the Court set in libel?	1, 2, 6, 7

Of course, people may disagree over whether to include per curiams or judgments in a given research project. The researcher should always report the decision he or she makes in this regard, however, so that others may evaluate the cases on which analysis is based. Most cases in the database are DEC\_TYPE = 1, but results could be skewed, depending on the research question, if other types are erroneously included. Note also that for DEC\_TYPER 2 and 3, not all cases are included. DEC\_TYPE = 2 cases are only included if a summary is reported in the U.S. Reports or one of the justices issues a separate opinion. DEC\_TYPE = 3 cases are only included if one of the justices wrote a separate opinion, which does not often occur. Consequently, the database contains all DEC\_TYPER 1, 4, 5, 6 and 7 except those arising under the Court’s original jurisdiction (because many have no opinion and are merely decrees).

**Variable 61**  
**multiple memorandum decisions (MULT\_MEM)**

Because the Reports occasionally contain a number of summary decisions (in the back of the book) decided during the same term with a common issue, and in which the same justice(s) wrote opinions, this variable specifies the number of such cases. Examples include numerous Burger Court obscenity decisions and Rehnquist Court death penalty cases.

**Variable 62**  
**manner in which the Court takes jurisdiction (JUR)**

This variable delineates the manner in which the Court takes jurisdiction; in other words, it codes the justification the Court gives for its ability to hear the case. This information is found in the United States Reports following the name of the case and before the docket number. This datum is entered according to the following coding schedule:

*Manner in Which the Court Takes Jurisdiction*

1	Certiorari
2	Appeal
3	Bail
4	Certification
5	Docketng Fee
6	Rehearing or Restored to the Calendar for Reargument
7	Injunction
8	Mandamus
9	Original
10	Application for Admission
11	Reconsideration, or Rmand, or Rcall, or Wthdrawal of Order or Petition
12	Stay
13	Retax Costs
14	Miscellaneous Extraordinary Writ
15	Miscellaneous Motion or Order

Most cases arise on certiorari; the next most common are appeals and original jurisdiction cases. Apart from the infrequent use of certification, the other ways in which the Court exercises jurisdiction pertain almost exclusively to cases that the justices summarily dispose of without oral argument or opinion; i.e., DEC\_TYPE=3 cases (variable 60).

**Variables 63-65**  
**certiorari, appeal, and original jurisdiction dummies**  
**(JURC\_DUM, JURA\_DUM, JURO\_DUM)**

Because the vast majority of cases brought to the Supreme Court come via a writ of certiorari,

appeal, or on original jurisdiction, these three dummies identify those traveling each route for ease in using the database. These dummies are computer-generated.

**Variable 66**  
**administrative action preceding litigation (ADMIN)**

The activity in question 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.

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 non-criminal 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.
- The hiring and firing of political appointees or the procedures 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 instituted in a court.
- Federally funded private nonprofit organizations.

When a state agency or official acts as an agent of a federal agency, it is identified as federal agency

action.

Where the record is unclear as to the presence of such action, 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.

*Federal Administrative Agencies*

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
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 Commissioner
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
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
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 76 and 77).

**Variable 67**  
**administrative action dummy (ADMIN\_DUM)**

For those interested simply in whether or not administrative agency action occurred in the context of a case, this variable specifies its presence or absence. It is a computer-generated dummy using an extensive SPSS syntax file which is available upon request.

**Variable 68**  
**three-judge district court (J3\_DUM)**

This variable, a dummy, contains an entry only if the case was heard by a three-judge district court. This is coded from the majority's opinion and will only be present where Congress specifies that such a court is the court of first impression for violations of specific laws (e.g., the Voting Rights Act).

**Variable 69**  
**origin of case (ORIGIN)**

The focus of this variable is the court in which the case originated, not the administrative agency (see variable 66). 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.)

**Federal District Courts**

The geographical locus, if any, appears as "C" (Central), "E" (Eastern), "M" (Middle), "N" (Northern), "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" appears in the first column of this variable, otherwise in the second column. The two-letter Postal Service ZIP Code abbreviation of the state in question completes the identification of the district courts. E.g., NDIL, CDCA, DMA, DDC. Special district courts include the district courts for Guam (DGU), Puerto Rico (DPR), and the Canal Zone (DCZ).

## State Courts

The state's ZIP Code abbreviation appears in the first two columns, followed by one of the following: "TR" to indicate a trial court of the state in question, "AP" to indicate an appellate court, and empty cells to indicate the state's supreme court. The trial court for the District of Columbia is considered to be a state court for our purposes. 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* (Williamsburg, 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:

### *Other Federal Courts for ORIGIN*

CCPA	Court of Customs and Patent Appeals
CIT	Court of International Trade
CTCL	Court of Claims, Court of Federal Claims
CTMA	Court of Military Appeals, renamed as Court of Appeals for the Armed forces
CTMR	Court of Military Review
CTVA	Court of Veterans Appeals
CUST	Customs Court
FEDC	Court of Appeals for the Federal Circuit
TAX	Tax Court
TECA	Temporary Emergency Court of Appeals

Again, 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, and cases removed to a federal court originate there.

### **Variable 70 origin of case dummy (ORIGIN\_DUM)**

This variable indicates whether the case originated in a state or federal court without reference to the specific state or federal court. It is computer generated from an extensive SPSS syntax file, again, available upon request. The values taken by this variable are as follows:

### *Values for ORIGIN\_DUM*

Entry	Value
0	Not able to be determined
1	Federal Court

**Variable 71**  
**source of case (SOURCE)**

This variable identifies the court whose decision the Supreme Court reviewed. Forum identification is the same as for variable 69 (ORIGIN). If the case originated in the same court whose decision the Supreme Court reviewed, the entry in the ORIGIN variable (variable 69) should be the same as here. This variable lacks an entry if the case involved no proceedings other than in the Supreme Court itself.

**Variable 72**  
**source of case dummy (SOURCE\_DUM)**

Like the parallel origin dummy (variable 70), this variable indicates whether the source of the case is a state or federal court. Again, the SPSS syntax file used to create this dummy variable is available upon request. The values for this variable are as follows:

*Values for SOURCE\_DUM*

<b>Entry</b>	<b>Value</b>
0	Not able to be determined
1	Federal Court
2	State Court

**Variable 73**  
**lower court disagreement (DISS\_DUM)**

An 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. 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 60 DEC\_TYPE), the presence of such disagreement is limited to a statement to this effect somewhere in the majority opinion. I.e., "divided," "dissented," "disagreed," "split," or a statement in the record of the lower court that a judge dissented. 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 or the lower court record itself indicates that a lower court dissent did occur.

**Variable 74**  
**reason for granting certiorari (CERT)**

The focus in this variable is on the reason the majority gives for granting cert. Many majority opinions state, "The question presented is . . ." This is not a reason for granting cert; neither are its variations: e.g., "At issue in this case is . . ."

Accordingly, this variable will have no entry 1) if the case did not arise on writ of certiorari, or 2) if it did arise on cert but is an informally decided back-of-the-book (memorandum) decision (see variable 60) or was decided by a tied vote (again see variable 60).

SPSS specifies the values of this variable, and they are as follows.

*Reasons for Cert*

VALUE	REASON
0	No cert granted
1	Conflict between or among circuits or other federal court
2	Conflict between or among circuit or other federal court AND to resolve “important” or “significant” or “substantial” questions
3	Putative conflict
4	Conflict between or among circuits/fed and state courts
5	Conflict between or among state courts
6	“Confusion” or “uncertainty” in federal courts
7	“Confusion” or “uncertainty” in state courts
8	Federal and state court “confusion” or “uncertainty”
9	To resolve “important” or “significant” or “substantial” questions
10	To resolve or decide questions presented
11	No reason given
12	Reason other than 1-11

**Variable 75**  
**conflict as the reason for the grant of certiorari**

This is a dummy variable that indicates whether conflict between or among the lower courts is the reason the Court gives for granting certiorari. This variable is generated in SPSS using values of CERT (variable 74) of 1, 2, 3, 4, or 5.

**Variable 76-77**  
**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 respondent, 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 justices 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 the variable ADMIN (administrative action preceding litigation (variable 66)).

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 preclude 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.

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 66).

In criminal and habeas corpus cases, the name of the state 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*

(Related entries are enclosed in parentheses following the relevant party)

?	party not identified in the Reports
<b>Governmental Context</b>	
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), GOME E (minority), or GOMFEE (minority female)
__ GOFEE	female governmental employee or job applicant
__ GOME E	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
<b>Non-governmental Context</b>	
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 applicant 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)
BOAT	water transportation, stevedore (AIRLINE, BUS, RR, SHIPPER, TRUCK)
BOOK	bookstore, newsstand, printer, bindery, purveyor or distributor 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, BROKER, 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, NETWORK, NEWS, NONPROFIT, NUCLEAR, OIL CO, PARKING, PHONE, PI, PIPELINE, PRO, PU, PUBLISHER, RADIO, REALTOR, RESTRANT, RR, SHIPPER, STORE, THEATER, TIMBER CO, TRUCK, TV, WHOLESAL)
BUYER	buyer, purchaser (CONSUMER)
CABLE TV	cable TV (TV, NETWORK)
CAR DEAL	car dealer
CC	person convicted of crime (AC, ARRESTEE, D, POOR D, PRISONER, PROBATION)
CHATTEL	tangible property, other than real estate, including contraband (FILM, O)
CHEM CO	chemical company
CHILD	child, children, including adopted or illegitimate (FATHER, 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 software
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, WHOLESAL)
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, __ GOMEET, __ 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 production, 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-employment 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, SENATE, 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 overseas 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)
WHOLESALE	wholesale trade (ALCOHOL, DISTRIB, STORE)
WIFE	wife, or ex-wife (HUSBAND, SPOUSE)

WITNESS	witness, or person under subpoena (AC, ARRESTEE)
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**Variable 78**  
**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, variable 91.

**The Chronological Variables**

**The following six variables chronicle the timing of the various cases, including information on the date of oral argument, the date of decision, the presiding chief justice, and the term of the Court.**

**Variable 79**  
**date of oral argument**

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 60, DEC\_TYPE) ORAL is empty.

On a few occasions, oral argument extended over two days. In these cases, only the first date is specified.

The variable is formatted as an SPSS date variable.

**Variable 80**  
**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.

**Variable 81**  
**decision date (DEC)**

This variable contains the year, month, and day that the Court announced its decision in the case. Unlike the two preceding variables, every case must contain a date of decision.

**Variable 82**  
**chief justice (CHIEF)**

This variable specifies the chief justice in office when the case was decided. The database

identifies the chiefs according to the following schedule.

1	Warren
2	Burger
3	Rehnquist

**Variable 83**  
**term of Court (TERM)**

This variable identifies the various terms of the Court by the four-digit year in which the term began.

**Variable 84**  
**natural court (NATCT)**

A natural court is a period during which no personnel change occurs. Scholars have subdivided them into strong and weak natural 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. Thus, as is shown below, the first thirty months of the Burger Court comprise three strong natural courts, but only one weak one: the eight justices who sat during the 1969 term, the addition of Blackmun at the very end of the 1969 term, and the seven-member Court that sat from the retirements of Black and Harlan at the beginning of the 1971 term until the arrival of Powell and Rehnquist a few months later. These thirty months comprise a single weak natural court because only nine justices sat during this period, even though only six of the nine held membership from its beginning to its end.

We have divided the Warren, Burger, and Rehnquist Courts into strong natural courts, each of which begins when the Reports specify that the new justice I present but not necessarily participating 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 in the first column

The natural courts for all Spaeth databases are as follows.

Natural Court	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
WAR4	early to middle of 1956 term	Brennan on, Reed off
WAR5	most of 1956 term to early 1958 term <sup>a</sup>	Whittaker on, Burton off
WAR6	early 1958 term to middle of 1961 term	Stewart on, Whittaker off
WAR7	rest of 1961 term <sup>b</sup>	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
BURG1	virtually all of 1969 term	Burger on
BURG2	end of 1969 term, 1970 term	Blackmun on (weak court)
BURG3	1971 term, pre-Powell and Rehnquist	Black and Harlan off (weak court)
BURG4	middle of 1971 term to early 1975 term	Powell and Rehnquist on, Douglas off
BURG5	early 1975 term, pre-Stevens <sup>c</sup>	(weak court)
BURG6	mid 1976-1980 terms	Stevens on, Stewart off
BURG7	1981-1985 terms	O'Connor on, Burger off
REHN1	1986 term	Scalia on, Powell off
REHN2	early 1987 term, pre-Kennedy	(weak court)
REHN3	middle of 1987 term – 1989 term	Kennedy on, Brennan off <sup>d</sup>
REHN4	1990 term	Souter on <sup>e</sup>
REHN5	1991-1992 terms	Marshall off, Thomas on <sup>f</sup>
REHN6	1993 term	White off, Ginsburg on
REHN7	1994 term – present	Blackmun off, Breyer on

<sup>a</sup> Includes six records prior to Whittaker's seating

<sup>b</sup> Includes eight records prior to White's seating

<sup>c</sup> This court contains only twenty records

<sup>d</sup> Includes one record after Brennan's retirement

<sup>e</sup> Includes two records prior to Souter's seating

<sup>f</sup> Includes eleven records prior to Thomas's seating

## The Outcome Variables

**These variables describe the outcome of the cases at the COURT level of analysis. In other words, these pertain to the outcome of the case as decided by the majority of the justices.**

### Variable 85

#### 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 60, DEC\_TYPE), 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 62). Memorandum cases will usually not contain an entry in this variable because the Court does not provide this information.

This variable is coded using the same values as those in DIS (variable 54).

**Variable 86**  
**whether the lower court affirmed or reversed the decision it reviewed (LODIS\_DU)**

This is a dummy variable indicating those cases which the lower court affirmed. This is a computer generated variable and is coded from the LODIS variable such that LODIS=1 or LODIS=8 begets a value of 1, and all other LODIS values beget a value of 0.

**Variable 87**  
**the vote in the case (VOTE)**

This variable specifies the vote in the case as determined by reference to the Court's published reports. It does not specify the vote or any specific justice, including one who specially concur or dissent. Voting conventions differ among scholars. In compiling the VOTE, we count justices who filed a jurisdictional dissent as not participating in the decision. The fact that a vote is labeled a concurrence or a dissent does not necessarily make it so; VOTE involves my exercise of discretion. Thus, it is sometimes facially unclear whether a given vote is a concurrence or a dissent.

The decision rules governing entries in the VOTE variable may be found below. The vote that appears in this variable pertains to the number of justices who agree with the disposition made by the majority (see justice's disposition of case, variable 54) and not to the justices' vote on any particular issue in the case (see variable 11) 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 the report votes, opinions, and interagreements of the individual justices [variables 49-52]) are counted as though the justice so voting did not participate in the case.

**Variable 88**  
**vote not clearly specified (VOTEQ\_DU)**

If the vote in the case (variable 87) is unclear, this variable will so indicate, taking a value of 1 when the vote is not clearly specified, 0 otherwise.

**Variable 89**

### **minimum winning coalition (MWC)**

This variable contains a '1' if the reported 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.

### **Variable 90**

#### **whether the disposition of the case is questionable or not (DISQ\_DUM)**

A '1' appears in this variable to signify that the Court made an unusual disposition of the cited case which does not match the coding scheme of the majority of the justices' dispositions, recorded in variable 54 (DIS).

### **Variable 91**

#### **direction of decision (DIR\_DUM)**

Specification of direction comports with conventional usage for the most part except for the interstate relations and the miscellaneous issues. The missing data symbol has been entered in the these cases either because the issue does not lend itself to a pro or con description (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 60) either because the vote in such cases is a preliminary one and as such not amenable to direction or because of a lack of information identifying the issue for the majority of the justices for the case (see variable 30).

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 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 2). 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.

In order to determine whether the majority of the Court supported or opposed the issue to which a given case pertains, the following scheme is employed.

#### *Values for Direction of Decision*

<b>Issues pertaining to criminal procedure, civil rights, First Amendment, due process, priva-</b>
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<b>cy, and attorneys</b>
<b>DIR_DUM =1 (Liberal) when the Court's decision is:</b>
pro-person accused or convicted of crime, or denied a jury trial
pro-civil liberties or civil right claimant, especially those supporting 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
pro-attorney
pro-disclosure in 537 issues except for employment and student records
<b>DIR_DUM = 0 (Conservative) for decisions reverse of the above</b>
<b>Issues pertaining to unions and economic activity</b>
<b>DIR_DUM =1 (Liberal) when the Court's decision is:</b>
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
<b>DIR_DUM = 0 (Conservative) for decisions reverse of the above</b>
<b>Issues pertaining to judicial power</b>
<b>DIR_DUM = 1 (Liberal) when the Court's decision is:</b>
pro-exercise of judicial power
pro-judicial "activism"
pro-judicial review of administrative action
<b>DIR_DUM = 0 (Conservative) for decisions reverse of the above</b>
<b>Issues pertaining to federalism</b>
<b>DIR_DUM = 1 (Liberal) when the Court's decision is:</b>
pro-federal power
anti-state
<b>DIR_DUM = 0 (Conservative) for decision reverse of the above</b>
<b>Issues pertaining to federal taxation</b>
<b>DIR_DUM = 1 (Liberal) when the Court's decision is:</b>
pro-United States
<b>DIR_DUM = 0 (Conservative) for decision reverse of the above (pro-taxpayer)</b>
<b>Issues pertaining to interstate relations and miscellaneous</b>
<b>DIR_DUM = . for all such cases</b>

This variable will also lack an entry 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 a direction assigned in accordance with the above schedule.

**Variable 92**  
**direction of decision based on dissent (DIRD\_DUM)**

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 a '0' should appear in this variable. Thus, in the foregoing example, the direction of decision variable should contain a 0 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. The dissent here, in effect, was MORE liberal than the majority.

**Variable 93**  
**winning party (WIN\_DUM)**

A '1' in this variable indicates that the petitioning party – i.e., the plaintiff or the appellant – emerged victorious.

The victory the Supreme Court provided the petitioning party may not have been total and complete (e.g., by vacating and remanding the matter rather than an unequivocal reversal), but the disposition is nonetheless a favorable one. Generally speaking, a favorable disposition is anything other than “affirmed,” “denied,” or “dismissed.” Exceptions, however, occasionally occur. Hence, it is more accurate to use this WIN\_DUM variable rather than the disposition variables (variables 54, 90) to determine the prevailing party.

Note that in cases containing multiple docket numbers, not every petitioning party will necessarily receive the same disposition. Hence, in focusing on the outcome of the Court's decisions, docket number seems preferable as the unit of analysis (see variable 2) rather than case citation.

**Variable 94**  
**majority opinion assigner (MOA)**

The JID (variable 1) of the justice who apparently assigned the Court's opinion is indicated here. Rehnquist has not made his assignment sheets available; hence we infer the assigner on the basis of

the senior justice in the majority opinion coalition for that Court. The other Chiefs have, and so we know by direct evidence who made the majority opinion assignment.

**Variable 95**  
**majority opinion writer (MOW)**

The JID (variable 1) of the justice whom the Reports indicate wrote the Court's opinion is provided here.