

UNITED STATES SUPREME COURT JUDICIAL DATABASE
1953-1998 TERMS

DOCUMENTATION

Harold J. Spaeth
principal investigator

Department of Political Science
Michigan State University
East Lansing, MI 48823

©Michigan State University, 1999
All rights reserved

DOCUMENTATION FOR THE
UNITED STATES SUPREME COURT JUDICIAL DATABASE
1953-1998 Terms

GENERAL INTRODUCTION

This is the 15th edition, or version, of the database, each accounting for an additional year's worth of data resulting from the inclusion of the most recently completed term of the Court. Over the years, additional variables have periodically been added, largely at the suggestion of users.

The primary disseminator of the database is now the website of the Michigan State University Program for Law and Judicial Politics. The version of the database on the website is the most current and is subject to "cleaning" as users bring inaccuracies or questionable coding to my attention. The address of the website from which an SPSS version of the database and this documentation may be acquired is:

www.ssc.msu.edu/~pls/pljp/

The 247 variables in this database, which begins with the first term of the Warren Court, continues through the Burger Court, and terminates with the last completed term of the Rehnquist Court, concern six distinct aspects of the Court's decisions: 1) identification variables - e.g., citations and docket numbers; 2) background variables - e.g., how the Court took jurisdiction, origin and source of case, the reason the Court granted cert; 3) chronological variables - e.g., date of decision, term of Court, natural court; 4) substantive variables - e.g., legal provisions, issues, direction of decision; 5) outcome variables - e.g., disposition of case, winning party, formal alteration of precedent, declaration of unconstitutionality; 6) voting and opinion variables - e.g., how the individual justices voted, their opinions and interagreements, the direction of their votes.

Unlike previous versions, the vast majority of the variables have been converted to numeric, many of which are dummies. Users may determine the type of each variable by clicking on the head of the variable's column.

In addition to the conversion of variables to numeric, variable

labels are provided along with a listing of the values that the variable possesses. The former may be accessed by simply positioning the cursor on the label at the head of each column, the latter by double clicking on these labels. Most users will find this information sufficient for their purposes. If not, the documentation below provides a fuller explanation. Note also, that the names of the variables and the values each contains may be sequentially printed out by resorting to the utilities drop down menu at the top of the SPSS screen and selecting "file info."

It is absolutely crucial that users fully inform themselves about the variables DEC_TYPE (pp. 53-55) and ANALU (pp. 2-5) before undertaking any analyses. Failure to do so will produce woefully inappropriate and grossly misleading results.

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

I wish to thank Professor Jeffrey Segal of the State University of New York at Stony Brook for his extremely valuable comments and suggestions on all phases and aspects of the database, and especially for his assistance in the creation of the SPSS commands used to create a number of the variables. I also thank Harriet Dhanak, the former programming and software specialist in the Department of Political Science at Michigan State University, for her expert guidance and assistance. Her successor, Lawrence Kestenbaum, continued and extended the stellar services on which I had become dependent. Professor Tim Hagle of the University of Iowa continues to inform me of errors and missing data that I have overlooked. My former graduate students, now bona fide professors - Sara C. Benesh and Wendy L. Martinek - have shepherded me through the more arcane byways of current versions of SPSS and other related statistical packages. Compilation of this database was supported by grants from the National Science Foundation, SES-8313773 and SES-8812935. Without its assistance, the database would not exist.

Table of Contents

NOTE: The sequence of the variables in the table of contents is the same as the file information provided by SPSS' "file info" option in its utilities menu.

The results of the reliability check and the commands used to create the computer generated variables that the database contains are available as appendices from the MSU website.

| variable (ACRONYM) | pages |
|---|-------|
| identification variables | |
| 1, 2, 3. case citations (US, LED, SCT) | 1 |
| 4. docket number (DOCKET) | 2 |
| 5. unit of analysis (ANALU) | 2 |
| 6. number of records per unit of analysis (REC) | 5 |
| background variables | |
| 7. manner in which the Court takes jurisdiction (JUR) | 8 |
| 8. administrative action preceding litigation (ADMIN) | 8 |
| 9. three-judge district court (J3) | 12 |
| 10. origin of case (ORIGIN) | 12 |
| 11. source of case (SOURCE) | 13 |
| 12. lower court disagreement (DISS) | 14 |
| 13. reason for granting cert (CERT) | 14 |
| 14, 15. parties (PARTY_1, PARTY_2) | 14 |
| 16. disposition of case by court | |

| | |
|---|-----|
| whose decision the Supreme Court reviewed (LODIS) | .25 |
| 17. direction of the lower court's decision (LCTDIR) | 26 |
| chronological variables | |
| 18. date of oral argument (ORAL). | 26 |
| 19. reargument date (REORAL). | 27 |
| 20. decision date (DEC) | 27 |
| 21. term of Court (TERM) | 27 |
| 22. chief justice (CHIEF) | 27 |
| 23. natural court (NATCT) | 27 |
| substantive variables | |
| 24. legal provisions considered by the Court (LAW). | .29 |
| 25. multiple legal provisions (LAWS). | 37 |
| 26, 27, 28. authority for decision (AUTH_DEC, AUTHDEC1, AUTHDEC2 | .38 |
| 29. issue (ISSUE). | .40 |
| 30. issue areas (VALUE) | 51 |
| 31. direction of decision (DIR) | 51 |
| 32. direction of decision based on dissent (DIRD). | .52 |
| outcome variables | |
| 33. type of decision (DEC_TYPE). | .53 |
| 34. multiple memorandum decisions | |

| | | |
|--|-----------|-----|
| (MULT_MEM) | | .55 |
| 35. disposition of case (DIS) | | 55 |
| 36. unusual disposition (DISQ) | | 56 |
| 37. winning party (WIN) | | 56 |
| 38. formal alteration of precedent (ALT_PREC) | | 57 |
| 39. declarations of unconstitutional- ity (UNCON) | | 57 |

voting and opinion variables

| | | |
|--|-----------|-----|
| 40. the vote in the case (VOTE) | | .58 |
| 41. vote not clearly specified (VOTEQ) | | .58 |
| 42-70. the votes, opinions, and interagree- ments of the individual justices (HAR to BRY) | | .59 |
| 71-99. the individual justice's votes (HARV to BRYV) | | 64 |
| 100-128. the individual justice's opinions (HARO to BRYO) | | 65 |
| 129-157, 158-186. the special opinions with which the individual justice's agreed (HARA1 to BRYA1, HARA2 to BRYA2) | | 65 |
| 187-215. direction of the individual justice's votes (HARDIR to BRYDIR) | | 65 |
| 216-244. majority and minority voting by justice (HARM to BRYM) | | 65 |
| 245. majority opinion assigner (MOA) | | .65 |
| 246. majority opinion writer (MOW) | | .66 |
| 247. minimum winning coalition (MWC) | | .66 |

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

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

The three variables in these fields provide the citation to each case from the official *United States Reports* (US) and the two major unofficial Reports, the *Lawyers' Edition* of the United States Reports (LED) and the *Supreme Court Reporter* (SCT). The volume number precedes the slash bar; the page number on which the case begins follows. When these citations appear in printed form, any zeros that precede any other cardinal number are dropped. Thus, the database LED citation, 086/0011, should be read as 86 L Ed 2d 11. Note that all LED citations are to the second series except for volumes 98, 99, and 100 which are cited without "2d." These three volumes cover the first three terms of the Warren Court (1953-1955). Note that the database does not distinguish between citations to volumes 98, 99, and 100 of the first series and volumes 98, 99, and 100 of the second series. The latter cover a portion of the 1987 term. This overlap should cause you no trouble unless you use LED citations to these volumes to create your own SPSS commands.

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

Citations to the *Lawyers' Edition* are current. Those to the other two Reporters are not.

Not every record is cited to each source. I do not find either *Olin Mathieson Chemical Corp. v. N.L.R.B.*, 352 U.S. 1020 (1957), or *United States v. Louisiana*, 409 U.S. 17 (1972), in the *Lawyers' Edition*. On the other hand, the *United States Reports* do not contain those cases in which a justice dissents from the granting of an attorney's request for admission to the Bar of the United States Supreme Court. E.g., *In the Matter of Admission of Leda M.C. Hartwell, William Evans Benton, and Michael T. Rose*, 71 L Ed 2d 641, 859, and 862 (1982), respectively. Relative to the Court's formally decided cases, this sort of memorandum decision is trivial. Because citations to the *Supreme Court Reporter* are derived from a conversion table, as mentioned above, cases not cited in the *United States Reports* will have no parallel SCT

citation, as will cases that the conversion table otherwise omits.

Pagination does not invariably proceed chronologically throughout the volumes. Hence, do not assume that because a given citation has a higher page number than that of another case it was decided on the same or a later date as the other case. The only accurate way to sequence the cases chronologically is by indexing or otherwise sequencing each case's date of decision (DEC) variable (variable 20).

Variable 4
docket number (DOCKET)

This variable contains the docket number that the Supreme Court has assigned to the case. During the Warren Court and the first two terms of the Burger Court, different cases coming to the Court in different terms could have the same docket number. The Court eliminated the possibility of such duplication by including the last two digits of the appropriate term before the assigned docket number. Since the 1971 Term, the Court has also operated with a single docket. Cases filed pursuant to the Court's appellate jurisdiction have a two-digit number corresponding to the term in which they were filed, followed by a hyphen and a number varying from one to four digits. Cases invoking the Court's original jurisdiction have a number followed by the abbreviation, "Orig."

For administrative purposes, the Court uses the letters, "A," "D," and "S," in place of the term year to identify applications ("A") for stays or bail, proceedings of disbarment or discipline of attorneys ("D"), and matters being held indefinitely for one reason or another ("S").

Several dozen records in the database do not contain a docket number; e.g., *Arkansas v. Texas*, 346 U.S. 368 (1953), and *Alabama v. Texas*, 347 U.S. 272 (1954), and cases in which a justice dissents from the grant of a lawyer's application for admission to the Bar of the United States Supreme Court. In these cases, this variable has no entry.

Variable 5
unit of analysis (ANALU)

Explanation of the use of this variable requires definition of what a "record" and a "case" are. A record is the computerized listing of the variables contained in a case. Each record is distinctive; that is to say, no two records in the database are identical in all respects. The entry in at least one variable will differ from that contained in another record. A "case," on the other hand, refers to a citation or a docket number. A

case may theoretically have an unlimited number of records.
The ANALU variable provides options among units of analysis:
ANALU = 0 : case citation
ANALU = 1 : docket number
ANALU = 2 : multiple issue case
ANALU = 3 : cases containing multiple legal provisions
ANALU = 4 : split vote case

ANALU = 5 : case with multiple issues and multiple legal provisions

Most research uses either case citation or docket number.

In using case citation as the unit of analysis only the information contained in the first record for that citation is provided. Choosing docket number in a multiple record case will specify possible differences in the court in which the case originated (variable 10), the court whose decision the Supreme Court reviewed (variable 11), the parties to the case (variables 14 and 15), the "direction" of the Court's decision (variable 31), direction based on dissent (variable 32), the disposition the Court made of the case (variable 35), or an unusual disposition (variable 36). If any of these matters are of interest, docket number is the appropriate unit of analysis. To define a case as each separate docket number requires selection of ANALU=0 and ANALU=1.

Users whose interest lies in certain legal provisions (variable 24) or issues (variable 29) should go more or less directly to these variables without concerning themselves with a unit of analysis as such. But again take care to choose the appropriate type of decision (variable 33).

The final option that the ANALU variable provides is the identification of cases that contain a split vote. This phrase refers to those cases with a common citation and docket number in which one or more of the justices voted with the majority on one issue or aspect of the case and dissented on another. An extreme example is *Wolman v. Walter*, 433 U.S. 229 (1977), in which no single voting alignment can capture how each of the justices voted toward the series of parochial aid programs that were at issue in this case. Note that a "4" will appear in the ANALU variable only if the docket number, legal provision, and the issue are the same in the original record in the case (ANALU=0) as they are in the record(s) in which ANALU=4.

Note that in two split vote cases not only did a justice vote with the majority on one issue and dissent on another, but that these two cases -- both decided during the 1990 term -- also contain two separate opinions of the Court, each written by a different justice: *Arizona v. Fulminante*, 113 L Ed 2d 302, and *Gentile v. State Bar of Nevada*, 115 L ed 2d 888. In both cases, the justice who wrote the opinion of the Court in the ANALU=4

record is Rehnquist. If you are interested in who writes the opinion of the Court, these two cases should be counted as containing two majority opinions.

Use of any of the ANALU options other than 0, will cause the unit of analysis to be docket number, not case citation. In other words, if you wish to analyze only cases with multiple legal provisions, what the database will provide you are such cases by docket number, not just case citation. Thus, for example, if a cited case contains two docket numbers and three legal provisions, each of the two docket numbers will appear three times in order to account for the distinctive legal provisions that each docket number addresses. Hence, if a docket number concerns more than one legal provision, it will appear once for each such legal provision. Thus, a docket number with four legal provisions will appear four times, each of which – in pertinent part – will differ from the other three only in the content of the legal provision (LAW) variable (variable 24) and, in addition, by the appearance of a "3" in the second through the fourth of these records. The citation and docket number will be identical in all four of these records, as the following hypothetical example shows:

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

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

Also see the following variables: type of decision (33), multiple legal provisions (25), and number of records per unit of analysis (4).

The coding instructions for this variable follow:

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

If the docket number of a case pertains to more than one issue as defined by the issue variable, enter a "2."

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

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

If the docket number concerns a split vote in the sense that one or more of the justices voted with the majority on one issue or aspect of the case and dissented on another, enter a "4." Identify split votes by the number of majorities which the summary of the case reports, or where the disposition is partial affirmation and partial reversal (e.g., a "5" or "6" in the disposition of case (variable 35), and one or more of the justices dissents only in part. If the split votes occur because of a legal provision or issue distinct from the one that appears in the original record for this citation, a "3" or "2" overrides a "4" and should appear in this variable. In other words, a "4" may appear in this variable only when the legal provision and the issue, as well as the docket number, are the same as they are in another record with the same citation.

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

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

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

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

Variable 6 **number of records per unit of analysis (REC)**

This variable specifies the number of records per unit of analysis for each citation whose docket number appears more than once. Thus, if a given docket number contains five legal provisions (indicated by a "3" in variable 5 for the second, third, fourth, and fifth appearances of the case's docket number), the number, "4," will appear in this variable in the first record that contains a "3" in the unit of analysis (ANALU) variable.

This variable also contains the number of docket numbers that pertain to a given citation. Thus, if a citation has three docket numbers, a "2" will appear in the record of this variable that contains the first "1" in the unit of analysis variable. The "2" in the REC variable indicates that this citation has three docket numbers (the original record, plus two additional records containing the second and third docket numbers, respectively).

Note that in the first record of every citation (which is also the first record of that docket number) this variable has no entry. Also note that the entry in the REC variable is meaningful only in relation to the presence of a "1," "2," "3," "4," or "5" in the unit of analysis variable. Thus, if a given record has a "3" in the ANALU variable and a "1" in the REC variable, the citation (the docket number) has two legal provisions from the codes specified for the legal provisions at issue considered by the Court variable. Further note that cases containing multiple legal provisions and multiple docket numbers should have separate entries in the REC variable. For example, if a citation contains two docket numbers, each of which contains three legal provisions, the unit of analysis variable (ANALU) will be empty in the first record, as will the REC variable. The second record will have a "1" in ANALU and also a "1" in REC to indicate a cite with two docket numbers. The third and fourth records, which correspond to the second legal provision for the two separate docket numbers, will contain a "3" in ANALU and a "2" in REC to signify that this case has three legal provisions. The fifth and sixth records will again contain a "3" in ANALU, but no entry in REC because the number of legal provisions – minus one – that each docket number contains has already been specified.

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

A technical explanation of the REC variable follows:

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

Note that the entry in the REC variable is meaningful only in relation to the presence of the appropriate code from the

ANALU variable. A "2" in the latter and a "1" in the former, for example, means that this case has two issues as defined and identified by the issue variable. Similarly, a "4" in the REC variable and a "1" in the ANALU variable means that this case has five docket numbers.

It bears repeating that the first record of every case citation will have no entry in the REC variable.

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

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

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

original record for this docket number. Thus, the number 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 | | | 21-174 | 2 | 501 |
| 396/0398 | 190 | 3 | 1 | 5ADP | 2 | 501 |
| 396/0398 | 190 | 5 | 1 | 26-4704 | 2 | 175 |

Here the ANALU=3 and the ANALU=5 records each treat separate legal provisions. To rectify the situation in cases containing records in which both a "3" and a "5" appear in the ANALU variable, focus instead on the multiple legal provisions (LAWS) variable (variable 25). Each record pertaining to a docket number that concerns a legal provision distinct from any other that a different record lists will show a "1" in the LAWS variable. To determine the number of distinct legal provisions that the Court considered, simply sum the number of times a "1" appears in the LAWS variable for a particular docket number that has more than a single record.

Because the REC variable is a single column variable, three cases – from the later Warren Court and one from the Rehnquist Court – that contain more than nine records cannot be accommodated. All have a double digit number of dockets: 389 U.S. 486 (12), 390 U.S. 747 (14), 394 U.S. 310 (15), and 502 U.S. 16 (17). A "9" has been entered in the REC variable of the second record of each of these cases, with the remainder entered in the third record.

Also see unit of analysis (variable 5) and multiple legal provisions (variable 25).

Variable 7
manner in which the Court takes jurisdiction (JUR)

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

Also see reason for granting certiorari (variable 13).

Variable 8

administrative action preceding litigation (ADMIN)

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

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

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

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

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

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

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

Excluded from entry in this variable are:

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

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

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

Agency or official action to enforce criminal law.

The hiring and firing of political appointees or the procedures whereby public officials are appointed to office.

Attorney general preclearance actions pertaining to voting.

Filing fees or nominating petitions required for access to the ballot.

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.

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 Commission-
 er
 EEOC = Equal Employment Opportunity Commission
 EPA = Environmental Protection Agency or Administrator
 FAA = Federal Aviation Agency or Administration
 FBI = Federal Bureau of Investigation or Director
 FBP = Federal Bureau of Prisons
 FCA = Farm Credit Administration
 FCC = Federal Communications Commission

 FCUA = Federal Credit Union Administration
 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

MSPB = Merit Systems Protection Board

MTC = Multistate Tax Commission

NASA = National Aeronautics and Space Administration

NAVY = Secretary or administrative unit of the U.S. Navy

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

PRRB = Provider Reimbursement Review Board

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 14 and 15).

Variable 9
three-judge district court (J3)

This variable will contain an entry only if the case was heard by a three-judge federal district court. Recent congressional legislation has reduced the kinds of lawsuits that must be heard by such a court. As a result, the frequency of entries in this variable is less for the Burger Court than for the Warren Court, and all but nonexistent for the Rehnquist Court.

Variable 10
origin of case (ORIGIN)

The focus of this variable is the court in which the case originated, not the administrative agency (see variable 8). 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.

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. 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:

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

This variable has no entry if the case arose under the Supreme Court's original jurisdiction (which is typically indicated by a "9" in the JUR variable), and in other proceedings with which no other court was involved (e.g., application for admission to the Supreme Court's bar).

A petition for a writ of habeas corpus begins in the federal district court, not the state trial court.

Cases removed to a federal court originate there.

Also see source of case (variable 11).

Variable 11

source of case (SOURCE)

This variable identifies the court whose decision the Supreme Court reviewed. Forum identification is the same as for the preceding variable. If the case originated in the same court whose decision the Supreme Court reviewed, the entry in the ORIGIN variable (variable 10) should be the same as here. This variable has no entry if the case arose under the Supreme Court's original jurisdiction.

Also see origin of case (variable 10).

Variable 12

lower court disagreement (DISS)

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

Except for memorandum cases (see variable 33), the presence of such disagreement is limited to a statement to this effect somewhere in the majority opinion. I.e., "divided," "dissented," "disagreed," "split." A reference, without more, to the "majority" or "plurality" does not necessarily evidence dissent. The other judges may have concurred.

Note that the focus of this variable is a statement that a dissent occurred rather than the fact of such an occurrence. Presumably, the fact of a dissent is not always mentioned in the majority opinion. It may be irrelevant. See, for example, *McNally v. United States*, 97 L ed 2d 292 (1987), and *United States v. Gray and McNally*, 790 F.2d 1290 (1986).

Variable 13
reason for granting certiorari (CERT)

This variable provides the reason, if any, that the Court gives for granting the petition for certiorari. If the case did not arise on certiorari, this variable will have no entry even though the Court provides a reason why it agreed to review the case. The Court, however, rarely provides a reason for taking jurisdiction (variable 7) by writs other than certiorari.

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 a memorandum decision (see variable 34) or was decided by a tied vote (again see variable 34).

SPSS specifies the codes for this variable.

Also see variable 7, manner in which the Court takes jurisdiction.

Variables 14, 15
parties (PARTY_1, PARTY_2)

These two variables identify the parties to the case.

PARTY_1 refers to the party who petitioned the Supreme Court to review the case. This party is variously known as the petitioner or the appellant. PARTY_2 is conventionally labeled the respondent or the 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 administrative action preceding litigation (variable 8).

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.

Either PARTY_1 or PARTY_2, or both, may be blank if the record pertains to more than one memorandum decision (see variable 33). This happens because these combined cases contain a multiplicity of petitioning and/or responding parties who cannot be identified by a common descriptor. An entry for the parties appears, however, if this variable is itself without an entry, signifying a single case.

The decision rules governing the identification of parties follow.

Identify parties by the labels given them in the opinion or judgment of the Court except where the Reports title a party as the "United States" or as a named state. Textual identification of parties is typically provided prior to Part "I" of the Court's opinion. The official syllabus – the summary – which appears on the title page of the case may be consulted as well. In describing the parties, the Court employs terminology which places them in the context of the specific lawsuit in which they are involved. E.g., "employer" rather than "business" in a suit by an employee; as a "minority," "female," or "minority female" employee rather than "employee" in a suit alleging discrimination by an employer.

Where a choice of identifications exists choose that which provides information not provided by the legal provision or the

issue (see variables 24 and 29). E.g., identify a federal taxpayer or an attorney accused of a crime as TAXP or ATTY rather than AC, particularly if neither the LAW nor the ISSUE variable identifies the case as a tax matter or one involving an attorney.

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

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

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

Federal agencies are identified by the specific abbreviation used in the ADMIN variable (variable 8).

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

LIST OF PARTIES

? = party not identified in the Reports

governmental context

[related entries are enclosed in parentheses]

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

__ BD ED = specified state board or department of education

__ 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), GOMEET (minority), or GOMFEE (mino-

rity 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 6

__ 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 those of 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

SENATE = U.S. Senate (HSE REPS)

SENATOR = U.S. senator

SOVEREIG = foreign nation or instrumentality

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

__ U = state college or university

US = United States

nongovernmental context
[related entries are enclosed in parentheses]

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

AD = advertising business or agency

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

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

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

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

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

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

AMTRAK = National Railroad Passenger Corp.

ARCADE = amusement establishment, or recreational facility

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

ATTY = attorney, or person acting as such; includes bar 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, BRO-
KER, BUILDER, BUS, CABLE TV, CAR DEAL, CHEM CO, COAL
CO, DISTRIBUT, DRUG MFR, ELEC CO, FARMER, FOOD,
FRACHISOR, FRANCHISE, HEAL, HOSPITAL, INSURE, KOR,
MAGAZINE, MEDICAL, MFR, MGMT, MINE, MOTOR CO, NETWORK,
NEWS, NONPROFIT, NUCLEAR, OIL CO, PARKING, PHONE, PI,
PIPELINE, PRO, PU, PUBLISHER, RADIO, REALTOR, RESTRANT,
RR, SHIPPER, STORE, THEATER, TIMBER CO, TRUCK, TV,
WHOLESALE)

BUYER = buyer, purchaser (CONSUMER)

CABLE TV = cable TV (TV, NETWORK)

CAR DEAL = car dealer

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

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

CHEM CO = chemical company

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

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

CLUB = private club or facility

COAL CO = coal company or coal mine operator

COMPUTER = computer business or manufacturer, hardware or soft
ware

CONSUMER = consumer, consumer organization (BUYER)

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

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

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

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

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

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

DISTRIBU = distributor (BOOK, WHOLESALE)

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

DRUG MFR = drug manufacturer

DRUGGIST = druggist, pharmacist, pharmacy

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

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

ELEC CO = electric equipment manufacturer

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

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

ENV = environmental organization

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

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

CO)

FATHER = father (CHILD, MOTHER, PARENT)

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

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

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

FISH = fisherman or fishing company

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

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

FRACHISO = franchiser

FRANCHIS = franchisee

GAY = homosexual person or organization (PROT, RAMIPROT)

GUARANTO = person who guarantees another's obligations

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

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

HEIR = heir, or beneficiary, or person so claiming to be

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 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, DISTRIBUTION, STORE)

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

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

Also see administrative action preceding litigation (variable 8).

Variable 16

disposition of case 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 33, type of decision), LODIS will not contain an entry if the decision the Supreme Court is reviewing is that of a trial court or if the case arose under the Supreme Court's original jurisdiction (see the JUR variable, variable 7). Memorandum cases will usually not contain an entry in this variable because the Court does not provide this information.

SPSS lists the codes for this variable.

The decision rules for entering this information follow:

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

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

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

Where the court whose decision the Supreme Court is reviewing sets aside the decision of the court, tribunal, or agency which it reviewed, treat this as = 7; if the deci-

sion is set aside and remanded, treat it as = 4.

Except for the letter codes, the others also apply to the disposition the Supreme Court gives the court whose decision it reviews (disposition of case variable, variable 34). The above letter codes do not apply to dispositions of the Supreme Court.

Except for DEC_TYPE = 3 cases (see variable 32, type of decision), if the LODIS variable has no entry, it means that the case arose under the Supreme Court's original jurisdiction or that the decision the Supreme Court is reviewing is that of the trial court, tribunal, or agency itself – in which case the Supreme Court's disposition is specified in the DIS variable, variable 34.

Also see disposition of case (variable 35) and direction of the lower court's decision (variable 17).

Variable 17

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 31.

LCTDIR permits determination of whether the Supreme Court's disposition of the case (see variable 35) upheld or overturned a liberal or a conservative lower court decision.

Also see disposition of case by court whose decision the Supreme Court reviewed (variable 16), direction of decision (variable 31), disposition of case (variable 35), and winning party (variable 37).

Variable 18

date of oral argument (ORAL)

The day, month, and year 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 33) ORAL has no entry.

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

Also see reargument date (variable 19) and decision date (variable 20).

Variable 19

reargument date (REORAL)

On those infrequent occasions when the Court orders that a

case be reargued (less than two percent of the time), the date of such argument is specified here following the same year, month, day sequence used in the preceding variable.

Also see date of oral argument (variable 18) and decision date (variable 20).

Variable 20
decision date (DEC)

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

Also see date of oral argument (variable 18) and reargument date (variable 19).

Variable 21
term of Court (TERM)

This variable identifies the various terms of the Warren, Burger, and Rehnquist Courts. The database begins with the 1953 term and extends through the end of the Court's most recently completed term. Each term is identified by the year in which it began.

Also see chief justice (variable 22) and natural court (variable 23).

Variable 22
chief justice (CHIEF)

This variable identifies the chief justice for each case. SPSS provides the codes.

Also see term of the Court (variable 21) and natural Court (variable 23).

Variable 23
natural court (NATCT)

Although most judicial research is chronologically organized by the term of the Court (variable 21) or by chief justice (variable 22), many scholars use "natural courts" as their analytical frame of reference. To accommodate them, this variable was created.

A natural court is a period during which no personnel change occurs. Scholars have subdivided them into "strong" and "weak" 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* 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.

I have divided the Warren, Burger, and Rehnquist Courts into strong natural courts, each of which begins when the Reports first specify that the new justice is 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 at the left-hand margin indicates.

| WARREN COURT | | |
|--------------|---|---------------------------|
| NATCT | duration | personnel change |
| WAR1 | 1953 term | Warren on, Jackson off |
| WAR2 | 1954 term, pre-Harlan | (weak court) |
| WAR3 | 1954 to early 1956 term | Harlan on, Minton off |
| WAR4 | early to middle of 1956 term | Brennan on, Reed off |
| WAR5 | most of 1956 term to early 1958 term ^a | Whittaker on, Burton off |
| WAR6 | early 1958 term to middle of 1961 term | Stewart on, Whittaker off |
| WAR7 | rest of 1961 term ^b | White on, Frankfurter off |
| WAR8 | 1962-1964 terms | Goldberg on, Goldberg off |
| WAR9 | 1965-1966 terms | Fortas on, Clark off |
| WAR10 | 1967 to middle of 1968 term | Marshall on, Fortas off |
| WAR11 | rest of 1968 term | (weak court) Warren off |

^aincludes six records prior to Whittaker's seating

^bincludes eight records prior to White's seating

| BURGER COURT | | |
|--------------|---|---|
| NATCT | duration | personnel change |
| 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 ^c | (weak court) |
| BURG6 | mid 1976-1980 terms | Stevens on, Stewart off |
| BURG7 | 1981-1985 terms | O'Connor on, Burger off |

^cThis court contains only twenty records

| REHNQUIST COURT | | |
|-----------------|-------------------------------|--------------------------------------|
| NATCT | duration | personnel change |
| 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 ^d |
| REHN4 | 1990 term | Souter on ^e |
| REHN5 | 1991-1992 terms | Marshall off, Thomas on ^f |
| REHN6 | 1993 term | White off, Ginsburg on |
| REHN7 | 1994 term- | Blackmun off, Breyer on |

^dincludes one record after Brennan's retirement

^eincludes two records prior to Souter's seating

^fincludes eleven records prior to Thomas's seating

Also see term of the Court (variable 21) and chief justice (variable 22).

Variable 24

legal provisions considered by the Court (LAW)

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

The basic criterion to determine the legal provision(s) that a case concerns is a reference to it in at least one of the numbered holdings in the summary of the *United States Reports*. This summary, which the *Lawyers' Edition* of the U.S. Reports labels "Syllabus By Reporter Of Decisions," appears in the official

Reports immediately after the date of decision and before the main opinion in the case. Where this summary lacks numbered holdings, it is treated as though it has but one number.

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

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

Observe that where a state or local government allegedly abridges a provision of the Bill 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 the Fourteenth Amendment.

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

Also note that occasionally an unnumbered holding may pertain to more than one legal basis for decision. In such cases, the additional basis or bases are specified as though they are numbered holdings, or as though they are a holding without numbers.

By no means does every record have an entry in the LAW variable. Only constitutional provisions, federal statutes, and court rules are entered here. This variable will have no entry 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.

In cases where the Court considers multiple legal provisions no attempt is made to order their appearance. Where the constitutionality of a federal law is challenged, to give either the constitutional provision or the statute primacy would be arbitrary. To the extent that any order characterizes these LAW entries, it likely is the sequence in which they appear in the summary.

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

There are three exceptions to this "discussion" requirement, the first of which dismisses the writ of certiorari as "improvidently granted" -- either in so many words (e.g., *Johnson v. United States*, 401 U.S. 846) or dismisses it on this basis implicitly (e.g., *Baldonado v. California*, 366 U.S. 417). In such cases, the code, WIG, should appear. More often than not, these cases have no summary. Note that the phrase is a term of art: 1) it overrides any substantive provision that the summary may mention (e.g., *Conway v. California Adult Authority*, 396 U.S. 107); 2) it does not apply where the Supreme Court takes jurisdiction on appeal (see variable 7).

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

The third exception to the "discussion" criterion involves the legality of administrative agency action without specific reference to the statute under which the agency acted. Inasmuch as administrative agencies may only act pursuant to statute, the majority opinion was consulted to determine the statute in question (e.g., *National Labor Relations Board v. United Insurance*

Co. of America, 390 U.S. 254). The same situation may characterize the statute under which a court exercises jurisdiction (e.g., the Court of Claims in *United States v. King*, 395 U.S. 1).

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

In a handful of Rehnquist Court decisions, five digits succeed the section number. Only the first four appear.

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

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

As indicated, this variable should usually lack an entry 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 26-28, authority for decision.)

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

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

Provisions at issue in at least one decision of the Warren, Burger, or Rehnquist Courts are the following:

11 = delegation of powers
 121 = composition of the House of Representatives
 123 = apportionment of Representatives
 151 = congressional qualifications
 161 = speech or debate clause
 171 = origination clause
 172 = separation of powers
 181 = spending, general welfare, or uniformity clause
 183 = interstate commerce clause
 184 = bankruptcy clause
 187 = postal power
 188 = patent and copyright clause
 1811 = war power
 1814 = governance of the armed forces
 1815 = call-up of militia
 1816 = organizing the militia
 1817 = governance of the District of Columbia and lands
 purchased from the states
 1818 = necessary and proper clause
 192 = suspension of the writ of habeas corpus
 193 = bill of attainder or ex post facto law
 194 = direct tax
 195 = export clause
 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 variable 5] does not warrant
 entry)
 323 = vicinage requirement
 33 = treason clause
 41 = full faith and credit clause
 421 = privileges and immunities clause

422 = extradition clause
432 = property clause
44 = guarantee clause
62 = supremacy clause
63 = oath provision

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

1A = speech, press, and assembly
1ASN = association
1AEX = free exercise of religion
1AES = establishment of religion
1APT = petition clause
4A = Fourth Amendment
5ADJ = double jeopardy
5ADP = due process
5AGJ = grand jury
5AMI = Miranda warnings
5ASI = self-incrimination
5ATK = takings clause
5A=P = equal protection
6ACF = right to confront and cross-examine, compulsory process
6ACO = right to counsel
6AJU = right to trial by jury
6ASP = speedy trial
6A = other Sixth Amendment provisions
7A = Seventh Amendment
8AEB = prohibition of excessive bail
8AEF = prohibition of 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 that where a state or local government allegedly abridges a provision of the Bill of Rights that has been made binding on the states because it has been incorporated into the due process clause of the Fourteenth Amendment, identification is to the specific guarantee rather than to 14AD.

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

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

ADA = Americans with Disabilities Act, as amended
ADEA = Age Discrimination in Employment
AFDC = Aid to Families with Dependent Children provisions of the Social Security Act, plus amendments
AIR = Clean Air, plus amendments
APA = Administrative Procedure, or Administrative Orders Review
ATOM = Atomic Energy
BANK = Bankruptcy Code, Bankruptcy Act or Rules, or 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, except for RICO (q.v.) portion
 HAND = Education of the Handicapped, or Education for All Handicapped Children Acts, as amended
 HC = 28 USC 2241-2255 (habeas corpus)
 HOUS = Fair Housing
 ICA = Interstate Commerce, as amended
 INA = Immigration and Naturalization, Immigration, Nationality, or Illegal Immigration Reform and Immigrant Responsibility 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, as amended, 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
VRA = Voting Rights Act of 1965, plus amendments

Decisions involving court rules are identified alphabetically according to the following schedule:

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

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

ABST = Abstention Doctrine
BACK = retroactive application of a constitutional right
EXCL_ = exclusionary rule (admissibility of evidence allegedly in violation of the Fourth Amendment [4], the right to counsel [6], or the Miranda warnings [5])
HARM = harmless error
RJ = res judicata
STOP = estoppel
WIG = writ improvidently granted (either in so many words, or with an indication that the reason for originally granting the writ was mistakenly believed to be present -- e.g., 366 U.S. 417)

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

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.

Where a heading concerns the review of agency action under a statute, but the statute is not identified, it is ascertained from the opinion (e.g., *National Labor Relations Board v. United Insurance Co. of America*, 390 U.S. 254). So also where the 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).

Also see multiple legal provisions (variable 25) and authority for decision (variables 26-28).

Variable 25
multiple legal provisions (LAWS)

This variable indicates whether any given legal provision is the only one considered by the Court, or whether other(s) are also involved.

An entry appears in this variable in each record of such cases where there is a legal provision different from that of another record in the case. The only exception is a case where a single legal provision applies to more than one issue (see variable 29).

Also see legal provisions considered by the Court (variable 24) and unit of analysis (variable 5).

Variables 26-28
authority for decision (AUTH_DEC, AUTHDEC1, AUTHDEC2)

These variables specify the bases on which the Supreme Court rested its decision with regard to each legal provision that the Court considered in the case (see variable 24).

Because one of these bases commonly occurs conjoined with another; e.g., the interpretation of the substantive provisions of a federal statute and the Supreme Court's exercise of its supervisory power over the lower federal courts; two separate single-column variables (AUTHDEC1 and AUTHDEC2) follow the combined variable (AUTH_DEC). The coding is the same in all three and is specified in SPSS. In the foregoing example, the

first variable will contain a "4," the second a "3." In a case involving congressional acquiescence to longstanding administrative construction of a statute, these variables should appear as "5" and "4." If two bases are identified, and if one is more heavily emphasized, it should appear in the first of the two variables.

AUTHDEC1 will have an entry in every record that is not a memorandum case (see variable 33, type of decision). Most memorandum cases, by contrast, will not have an entry in either AUTHDEC variable. If the Court has summarily denied or dismissed the petition or appeal in such a case (DIS=8) (see variable 35, disposition of case), the AUTHDEC variables lack an entry except for three unusual cases: two at 409 U.S. 905, and 466 U.S. 977. All other DEC_TYPE=3 cases that show DIS=8 have no AUTHDEC entry.

Considerable congruence should obtain between the entry in the AUTHDEC variables and the code that appears in the LAW variable (variable 24). Thus, if a constitutional provision appears in the LAW variable, a "1" or a "2" will typically appear in either AUTHDEC1 or AUTHDEC2. Similarly, if LAW displays a statute, either AUTHDEC1 or AUTHDEC2 will likely show a "4."

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

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

Re 1: Did the majority determine the constitutionality of some action taken by some unit or official of the federal government, including an interstate compact? If so, enter a "1."

Enter a "1" if 321 appears in the LAW variable.

Enter a "1" if IC appears in the LAW variable.

Re 2: Did the majority determine the constitutionality of some action taken by some unit or official of a state or local government? If so, enter a "2."

Re 3: If the rules governing codes "1-2," "4-7" are answered negatively or do not apply, enter a "3." A "3," then, serves as the residual code for these variables.

Enter a "3" if WIG appears in the LAW variable.

Non-statutorily based Judicial Power topics (700-899) in the ISSUE variable generally warrant a "3."

Most cases arising under the Court's original jurisdiction should receive a "3."

All cases containing a "4" in the type of decision variable = 3.

Enter a "3" in cases in which the Court denied or dismissed the petition for review (indicated by an "8" in the disposition of case, variable 30) or where the decision of a lower court is affirmed by a tie vote (indicated by a "5" in the DEC_TYPE variable, variable 33).

Re 4: Did the majority interpret a federal statute, treaty, or court rule? If so, enter a "4."

Enter a "4" rather than a "3" if the Court interprets a federal statute governing the powers or jurisdiction of a federal court. In other words, a statutory basis for a court's exercise of power or jurisdiction does not require that a "3" supplement a "4"; the latter alone suffices.

Enter a "4" rather than a "2" where the Court construes a state law as incompatible with a federal law.

Do not enter only a "4" where an administrative agency or official acts "pursuant to" a statute. All agency action is purportedly done pursuant to legislative authorization of one sort or another. A "4" may be coupled to a "5" (see below) only if the Court interprets the statute to determine if administrative action is proper.

In workers' compensation litigation involving statutory interpretation and, in addition, a discussion of jury determination and/or the sufficiency of the evidence, enter either a "4" and a "3" or a "3" and a "4." If no statute is identified in the syllabus, only enter a "3."

Re 5: Did the majority treat federal administrative action in arriving at its decision? If so, enter a "5."

Enter a "5" and a "4," but not a "5" alone, where an administrative official interprets a federal statute.

The final instruction under Re 4 applies to the use of "5."

Enter a "5" if the issue = 721.

Re 6: Did the majority say in approximately so many words that under its diversity jurisdiction it is interpreting state law? If so, enter a "6."

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

Enter a "7" if the Court without more merely specifies the disposition the Court has made of the case (see variable 30) and cites one or more of its own previously decided cases; but enter a "3" if the citation is qualified by the

word, "see."

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

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

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

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

Also see legal provisions considered by the Court (variable 24).

Variable 29
issue (ISSUE)

This variable identifies the context in which the legal basis for decision (variable 24) 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 justice system.

Although criteria for the identification of issues are hard to articulate, the focus here is on the subject matter of the controversy rather than its legal basis. I have attempted to identify issues on the basis of the Court's own statements as to what the case is about. The objective is to categorize the case from a public policy standpoint, a perspective that the legal basis for decision (variable 24) 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 deci-

sion that applies to a second issue.

I have identified 265 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 a separate variable, issue area, that is described immediately following this one.

The scope of these categories is as follows: criminal procedure encompasses the rights of persons accused of crime, except for the due process rights of prisoners (issue 504). Civil rights includes non-First Amendment freedom cases which pertain to classifications based on race (including American Indians), age, indigency, voting, residency, military or handicapped status, gender, and alienage. Purists may wish to treat the military issues (361-363) and Indian cases (293-294) as economic activity, while others may wish to include the privacy category as a subset of civil rights. First Amendment encompasses the scope of this constitutional provision, but do note that not every case in the First Amendment group directly involves the interpretation and application of a provision of the First Amendment. Some, for example, may only construe a precedent, or the reviewability of a claim based on the First Amendment, or 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 24).

Due process is limited to non-criminal guarantees and, like First Amendment issues, need not show "5ADP" or "14AD" in its LAW variable. Some of you may wish to include state court assertion of jurisdiction over nonresident defendants and the takings clause (issues 506-507) as part of judicial power and economic activity, respectively, rather than due process. As mentioned, the three issues comprising privacy (531, 533, 537) may be treated as a subset of civil rights. Because of their peculiar role in the judicial process, a separate attorney category has been created (issues 542, 544, 546, 548). You may wish to include these issues with economic activity, however. Unions encompass those issues involving labor union activity. You may wish to redefine this category for yourself or combine it, in whole or in part, with economic activity. Economic activity is largely commercial and business related; it includes tort actions (issues 616-618) and employee actions vis-a-vis employers (issues 614-615, 621). Issues 650 and 652 are only tangential to the other issues located in economic activity. Judicial power concerns the exercise of the judiciary's own power. To the extent that a number of these issues concern federal-state court relationships (i.e., 701-708, 712, 754, 755), you may wish to

include them in the federalism category. Federalism pertains to conflicts between the federal government and the states, except for those between the federal and state courts. Interstate relations contain two types of disputes which occur between states. Federal taxation concerns the Internal Revenue Code and related statutes. Miscellaneous contains two groups of cases that do not fit into any other category.

If interest lies in a particular issue 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 24 (legal provisions considered by the Court). Thus, if the right to counsel is the focus, issues 030 and 381-382 will fall within its scope, as will code "6ACO" from the LAW variable. Also recognize that the parties variables (variables 14-15) may also help locate the cases of interest.

The specific codes follow.

0 issue not able to be identified

Criminal Procedure

- 010 involuntary confession
- 013 habeas corpus (cf. 704): whether the writ should issue rather than the fact that collateral review occurred. Note that this need not be a criminal case
- 014 plea bargaining: the constitutionality of and/or the circumstances of its exercise
- 015 retroactivity (of newly announced constitutional rights)
- 016 search and seizure (other than as pertains to 017 and 018)
- 017 search and seizure, vehicles
- 018 search and seizure, Crime Control Act
- 020 contempt of court
- 021 self-incrimination (other than as pertains to 022 and 023)
- 022 Miranda warnings
- 023 self-incrimination, immunity from prosecution
- 030 right to counsel (cf. 381-382)
- 040 cruel and unusual punishment, death penalty (cf. 106)
- 041 cruel and unusual punishment, non-death penalty
- 050 line-up (admissibility into evidence of identification obtained after accused was taken into custody, or after indictment or information)
- 060 discovery and inspection (in the context of criminal litigation only, otherwise 537)
- 070 double jeopardy
- 100 extra-legal jury influences, miscellaneous: no question regarding the right to a jury trial or to a speedy trial (these belong in 190 and 191, respectively); the focus,

- rather, is on the fairness to the accused when jurors are exposed to the influences specified
- 101 prejudicial statements or evidence
 - 102 contact with jurors outside courtroom
 - 103 jury instructions
 - 104 voir dire
 - 105 prison garb or appearance
 - 106 jurors and death penalty (cf. 040)
 - 107 pretrial publicity
- 110 confrontation (right to confront accuser, call and cross-examine witnesses)
- subconstitutional fair procedure: nonsubstantive rules and procedures pertaining to the administration of justice that do not rise to the level of a constitutional matter. This is the residual category insofar as criminal procedure is concerned. Note that this issue need not necessarily pertain to a criminal action. If the case involves an indigent, consider 381-386.
- 111 confession of error
 - 112 conspiracy (cf. 163)
 - 113 entrapment
 - 114 exhaustion of remedies
 - 115 fugitive from justice
 - 116 presentation or admissibility of evidence
 - 117 stay of execution
 - 118 timeliness, including statutes of limitation
 - 119 miscellaneous
- 120 Federal Rules of Criminal Procedure, including application of the Federal Rules of Evidence in criminal proceedings.
- statutory construction of criminal laws: these codes, by definition exclude the constitutionality of these laws
- 161 assault
 - 162 bank robbery
 - 163 conspiracy (cf. 112)
 - 164 escape from custody
 - 165 false statements (cf. 177)
 - 166 financial (other than in 168 or 173)
 - 167 firearms
 - 168 fraud
 - 169 gambling
 - 171 Hobbs Act; i.e., 18 USC 1951, not 28 USC 2341, the Administrative Orders Review Act, which is also "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
- 180 sentencing guidelines
- 181 miscellaneous
- 190 jury trial (right to, as distinct from 100-107)
- 191 speedy trial
- 199 miscellaneous criminal procedure (cf. 504, 702)

Civil Rights

- 210 voting: does not extend to reapportionment and districting, which is 250, or to litigation under the Voting Rights Act, which is 211, or to durational residency requirements, which is 341. Entries are limited to cases raising constitutional questions regarding the right to vote; typically, but not exclusively, under the 15th or 14th Amendments.
- 211 Voting Rights Act of 1965, plus amendments
- 212 ballot access (of candidates and political parties)
- 220 desegregation (other than as pertains to 221-223)
- 221 desegregation, schools
- 222 employment discrimination: on basis of race, age, or working conditions. Not alienage, which is 272, or gender, which is 284.
- 223 affirmative action
- 230 sit-in demonstrations (protests against racial discrimination in places of public accommodation): to be sharply 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
 - ___ military (cf. 441, 705)
 - 361 draftee, or person subject to induction
 - 362 active duty
 - 363 veteran
 - ___ immigration and naturalization (cf. 172, 271-272)
 - 371 permanent residence
 - 372 citizenship
 - 373 loss of citizenship, denaturalization
 - 374 access to public education
 - 375 welfare benefits
 - 376 miscellaneous
 - ___ indigents (cf. 311-312): procedural protections for indigents because of their indigency. Typically in matters pertaining to criminal justice.
 - 381 appointment of counsel (cf. 030)
 - 382 inadequate representation by counsel (cf. 030)
 - 383 payment of fine
 - 384 costs or filing fees
 - 385 U.S. Supreme Court docketing fee
 - 386 transcript
 - 387 assistance of psychiatrist
 - 388 miscellaneous
- 391 liability, civil rights acts (cf. 616-617): tort actions involving liability that are based on a civil rights act
- 399 miscellaneous civil rights (cf. 701)

First Amendment

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

Due Process

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

Privacy

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

Attorneys

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

Court

Unions

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

Economic Activity

- 601 antitrust (except in the context of 605 and 555)
- 605 mergers
- 611 bankruptcy (except in the context of 975)
- 614 sufficiency of evidence: typically in the context of a jury's determination of compensation for injury or death
- 615 election of remedies: legal remedies available to injured persons or things
- 616 liability, governmental: tort actions against government or governmental officials other than actions brought under a civil rights action. These locate in 391.
- 617 liability, nongovernmental: other than as in 614, 615, 618
- 618 liability, punitive damages
- 621 Employee Retirement Income Security Act (cf. 587)
- 626 state tax (those challenged on the basis of the supremacy clause and the 21st Amendment may also locate in 931 or 936)
- 631 state regulation of business (cf. 910, 911)
- 636 securities, federal regulation of
- 638 natural resources - environmental protection (cf. 933, 934)
- 650 corruption, governmental or governmental regulation of other

- than as in 444
- 652 zoning: constitutionality of such ordinances
- 653 arbitration (other than as pertains to labor-management or employer-employee relations (cf. 553)
- 656 federal consumer protection: typically under the Truth in Lending; Food, Drug and Cosmetic; and Consumer Protection Credit Acts
- ___ patents and copyrights
 - 661 patent
 - 662 copyright
 - 663 trademark
 - 664 patentability of computer processes
- ___ federal transportation regulation
 - 671 railroad
 - 672 boat
 - 673 truck, or motor carrier
 - 674 pipeline (cf. 685)
 - 675 airline
- ___ federal public utilities regulation (cf. 935)
 - 681 electric power
 - 682 nuclear power
 - 683 oil producer
 - 684 gas producer
 - 685 gas pipeline (cf. 674)
 - 686 radio and television (cf. 687)
 - 687 cable television (cf. 686)
 - 688 telephone company
- 699 miscellaneous economic regulation

Judicial Power

- ___ comity, criminal and First Amendment (cf. 712): propriety of federal court deference to ongoing state judicial or state or federal quasi-judicial proceedings, the abstention doctrine, exhaustion of state provided remedies
 - 701 civil rights
 - 702 criminal procedure
 - 703 First Amendment
 - 704 habeas corpus
 - 705 military
 - 706 obscenity
 - 707 privacy
 - 708 miscellaneous
- 712 comity, civil procedure (cf. 701-708): propriety of federal court deference to ongoing state judicial or state or federal quasi-judicial proceedings, the abstention doctrine, exhaustion of state provided remedies
- 715 assessment of costs or damages: as part of a court order

- 717 Federal Rules of Civil Procedure, including application of the Federal Rules of Evidence and the Federal Rules of Appellate Procedure in civil litigation
- 721 judicial review of administrative agency's or administrative official's actions and procedures
- 731 mootness (cf. 806)
- 741 venue
- no merits: use only if the syllabus or the summary holding specifies one of the following bases
 - 751 writ improvidently granted: either in so many words, or with an indication that the reason for originally 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
- standing to sue
 - 801 adversary parties
 - 802 direct injury
 - 803 legal injury
 - 804 personal injury
 - 805 justiciable question
 - 806 live dispute
 - 807 parens patriae standing
 - 808 statutory standing
 - 809 private or implied cause of action
 - 810 taxpayer's suit
 - 811 miscellaneous
- judicial administration (jurisdiction of the federal courts or of the Supreme Court) (cf. 753)
 - 851 jurisdiction or authority of federal district courts
 - 852 jurisdiction or authority of federal courts of appeals
 - 853 Supreme Court jurisdiction or authority on appeal from federal district courts or courts of appeals (cf. 753)
 - 854 Supreme Court jurisdiction or authority on appeal from highest state court
 - 855 jurisdiction or authority of the Court of Claims
 - 856 Supreme Court's original jurisdiction
 - 857 review of non-final order; i.e., allegation that the decision below is not a final judgment or decree, or that it is an interlocutory judgment (cf. 753)
 - 858 change in state law (cf. 755)
 - 859 federal question (cf. 752)
 - 860 ancillary or pendent jurisdiction
 - 861 extraordinary relief
 - 862 certification (cf. 864)

- 863 resolution of circuit conflict, or conflict between or among other courts
- 864 objection to reason for denial of certiorari (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 jurisdiction
- 899 miscellaneous judicial power

Federalism

- 900 federal-state ownership dispute (cf. 920)
- 910 federal pre-emption of state court jurisdiction: almost always found in the context of labor union activity. Does not involve constitutional interpretation. Rests rather on a primary jurisdiction rationale.
- 911 federal pre-emption of state regulation (cf. 631): rarely involves union activity. Does not involve constitutional interpretation.
- 920 Submerged Lands Act (cf. 900)
- national supremacy: in the context of federal-state conflicts involving the general welfare, supremacy, or interstate 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
- 949 miscellaneous federalism (cf. 294, 701-708, 712, 754-755, 854, 858, 860)

Interstate Relations

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

Federal Taxation

- 960 federal taxation (except as pertains to 970 and 975): typically under provisions of the Internal Revenue Code
- 970 federal taxation of gifts, personal, and professional expenses

975 priority of federal fiscal claims: over those of the states
or private entities
979 miscellaneous federal taxation (cf. 931)

Miscellaneous

980 legislative veto
989 miscellaneous

Also see issue areas (variable 30).

Variable 30
issue areas (VALUE)

This variable simply separates the issues identified in the preceding variable into the discrete issue areas that the ISSUE variable contains, according to the SPSS schedule.

Note that if a case contains multiple issues that transcend a single value, the substantive value (1-8, 11-13) will appear in the first record of the case, succeeded by the procedural value (9 or 10).

Also see issue (variable 29).

Variable 31
direction of decision (DIR)

In order to determine whether the Court supports or opposes the issue to which the case pertains, "direction" needs to be assigned. Specification of direction comports with conventional usage for the most part except for the interstate relations and the miscellaneous issues. A "0" has been entered in the DIR variable of 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 conservative outcome.

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

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

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

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

in the context of issues pertaining to criminal procedure, civil rights, First Amendment, due process, privacy, and attorneys

1 = pro-person accused or convicted of crime, or denied a jury trial
pro-civil liberties or civil rights claimant
pro-indigent
pro-Indian
pro-affirmative action
pro-neutrality in religion cases
pro-female in abortion
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

2 = reverse of above

in the context of issues pertaining to unions and economic activity

1 = pro-union except in union antitrust (issue = 555)
where 1 = pro-competition
anti-business
anti-employer
pro-competition
pro-liability
pro-injured person
pro-indigent
pro-small business vis-a-vis large business
pro-debtor

pro-bankrupt
pro-Indian
pro-environmental protection
pro-economic underdog
pro-consumer
pro-accountability in governmental corruption
anti-union member or employee vis-a-vis union
anti-union in union antitrust
pro-trial in arbitration

2 = reverse of above

in the context of issues pertaining to judicial power

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

2 = reverse of above

in the context of issues pertaining to federalism

1 = pro-federal power
anti-state

2 = reverse of above

in the context of issues pertaining to federal taxation

1 = pro-United States

2 = pro-taxpayer

in interstate relations and miscellaneous issues

0 for all such cases

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

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

Also see direction of decision based on dissent (variable 32), issue (variable 29), and direction of the individual justices' votes (variables).

Variable 32

direction of decision based on dissent (DIRD)

Once in a great while, approximately .5 percent of the time, the majority as well as the dissenting opinion in a case will both support or, conversely, oppose the issue to which the case pertains. Thus, for example, the majority and the dissent may both assert that the rights of a person accused of crime have been violated. The only difference between them is that the majority votes to reverse the accused's conviction and remand the case for a new trial, while the dissent holds that the accused's conviction should be reversed, period. In such cases, the entry in the preceding variable should be determined relative to whether the majority or the dissent more substantially supported the issue to which the case pertains, and an asterisk should appear in this variable. Thus, in the foregoing example, the direction of decision variable (variable 31) should contain a "2" because the majority provided the person accused of crime with less relief than does the dissent, and direction based on dissent should show a "1." The person accused of crime actually won the case, but won less of a victory than the dissent would have provided.

Also see direction of decision (variable 31).

Variable 33

type of decision (DEC_TYPE)

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

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

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

DEC_TYPE=3: Memorandum cases. These are summary decisions that deal with petitions for certiorari and appeals, requests of individuals and organizations to participate as amicus curiae, and various other motions, orders, and writs. These are segregated from the other types of decisions by their location in the back of the various volumes of the *United States Reports* beginning at page 801 or 901 or later.

DEC_TYPE=4: Decrees. This infrequent type of decision usually

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

DEC_TYPE=5: Cases decided by an equally divided vote. When a justice fails to participate in a case or when the Court has a vacancy, the participating justices may cast a tie vote. In such cases, the Reports merely state that "the judgment is affirmed by an equally divided vote" and the name of any nonparticipating justice(s). Their effect is to uphold the decision of the court whose decision the Supreme Court reviewed.

DEC_TYPE=6: This decision type is a variant of the formally decided cases (DEC_TYPE=1). It differs from type 1 only in that no individual justice's name appears as author of the Court's opinion. Instead, these unsigned orally argued cases are labeled as decided "per curiam." 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.

DEC_TYPE=7: Judgments of the Court. This decision type is also a variant of the formally decided cases. It differs from type 1 in that less than a majority of the participating justices agree with the opinion produced by the justice assigned to write the Court's opinion. Except for those interested only in the authors of the opinions of the Court, DEC_TYPE=7 should be included in analyses of the Court's formally decided cases.

The database contains all decisions of types 1, 4, 5, 6 and 7. Because of their profusion and the very limited information that the Reports provide, the database contains only those back-of-the-book memorandum cases (DEC_TYPE=3) in which one or more of the justices wrote an opinion. Most such cases contain no opinion; hence, the database contains only a very small percentage of these cases.

The database also does not contain all of the non-orally argued per curiam decisions that appear in the front of the book (DEC_TYPE=2). The Reports for the last four terms of the Warren Court (1965-1968) (volumes 382-395 of the *United States Reports* and volumes 15-23 of the *Lawyers' Edition*) and the first four terms of the Burger Court (1969-1972) (volumes 395-409 of the *United States Reports* and volumes 24-34 of the *Lawyers' Edition*) list large numbers of brief, non-orally argued per curiam decisions in the main part of each volume. These cases differ from

the memorandum decisions in the back of each volume (DEC_TYPE=3) only by the presence of the phrase, "per curiam." This phrase has no practical import, except that a summary affirmance has precedential value, at least for the lower federal courts.

As a result, the database only includes those DEC_TYPE=2 cases, decided between the 1965 and 1972 terms, for which the Court has provided a summary, as well as those without a summary, in which one or more of the justices wrote an opinion. The Court, however, stopped its practice of including memorandum cases (DEC_TYPE=3) in the front of the Reports early in the 1972 term. Hence, beginning with volume 410 of the *United States Reports* the database includes all cases that appear in the front portion of the Reports, regardless of type.

Also see unit of analysis (variable 5) and multiple memorandum decisions (variable 34).

Variable 34
multiple memorandum decisions (MULT_MEM)

To avoid loading the database with an inordinate number of memorandum decisions (DEC_TYPE=3), this variable will identify the number of additional such cases that pertain to the same issue and which were decided by the same voting and opinion alignment as the cited case. These multiple decisions, which may range from one to several dozen, most often involve dissents to the imposition of the death penalty and dissents on the merits to the majority's refusal to decide obscenity cases.

These additional cases appear on pages in the Reports between the page of the cited case and the first succeeding non-DEC_TYPE=3 case.

Nine Warren Court DEC_TYPE=2 cases, differing from DEC_TYPE=3 only by their position in the front – rather than in the back – of the *United States Reports* have an entry in this variable: 374 U.S. 97, 374 U.S. 498, 378 U.S. 547, 378 U.S. 550, 378 U.S. 553, 378 U.S. 556, 382 U.S. 4, 386 U.S. 267, and 392 U.S. 300. All other entries in this variable are to DEC_TYPE=3 cases.

Also see type of decision (variable 33).

Variable 35
disposition of case (DIS)

The treatment the Supreme Court accorded the court whose decision it reviewed is contained in this variable; e.g., affirmed, vacated, reversed and remanded, etc. The entry in this variable governs the vote in the case (variable 40) and whether the individual justices voted with the majority or in dissent (variables 216-244).

SPSS specifies the codes used. They are the same as those

in (LODIS): how the court whose decision the Supreme Court reviewed disposed of the case (variable 16).

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

As in the LODIS variable, the code pertaining to the specific language used by the Court is entered. If incongruence between the Court's language and the above codes occurs, consult variable 36 (unusual disposition).

Also see unusual disposition (variable 36) and winning party (variable 37).

Variable 36
unusual disposition (DISQ)

A "1" appears in this variable (DISQ) to signify that the Court made an unusual disposition of the cited case which does not match the coding scheme of the preceding variable. The disposition which appears closest to the unusual one made by the Court should be selected for inclusion in the preceding variable. Approximately 2.5 percent of the records show an unusual disposition.

Also see disposition of case (variable 35) and winning party (variable 37).

Variable 37
winning party (WIN)

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 (see the two preceding variables) is anything other than "affirmed," "denied," or "dismissed." Exceptions, however, occasionally occur. Hence, it is more accurate to use this variable rather than the disposition variables (variables 35 and 36) 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 5) rather than case citation.

Variable 38

formal alteration of precedent (ALT_PREC)

A "1" will appear in this variable if the majority opinion says in so many words that the decision in this case "overruled" one or more of the Court's own precedents. Occasionally, in the absence of language in the prevailing opinion, the dissent will state clearly and persuasively that precedents have been formally altered: e.g., the two landmark reapportionment cases: *Baker v. Carr*, 369 U.S. 186 (1962), and *Gray v. Sanders*, 372 U.S. 368 (1963). Once in a great while the majority opinion will state – again in so many words – that an earlier decision overruled one of the Court's own precedents, even though that earlier decision nowhere says so. E.g, *Patterson v. McLean Credit Union*, 485 U.S. 617 (1988), in which the majority said that *Braden v. 30th Judicial Circuit of Kentucky*, 410 U.S. 484, 35 L Ed 2d 443 (1973) overruled a 1949 decision. On the basis of this later language, the earlier decision will contain a "1" in this variable. Formal alteration also extends to language in the majority opinion that states that a precedent of the Supreme Court has been "disapproved," or is "no longer good law."

Note, however, that formal alteration does not apply to cases in which the Court "distinguishes" a precedent. Such language in no way changes the scope of the precedent contained in the case that has been distinguished.

Do not assume that each record of a given 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.

Variable 39

declarations of unconstitutionality (UNCON)

An entry in this variable indicates that the Court either declared unconstitutional an act of Congress; a state or territorial statute, regulation, or constitutional provision; or a municipal or other local ordinance. SPSS specifies the coding for this variable.

An entry should appear in the record that lists the law declared unconstitutional. An entry should also appear in the record containing the constitutional provision that served as the basis for the declaration of unconstitutionality. None will appear when the Court merely cites a previous decision that has

already been used to void the provision at issue; e.g., *Grisham v. Hagan*, 361 U.S. 278, 4 L Ed 2d 279, and *McElroy v. Guagliardo*, 361 U.S. 281, 4 L Ed 2d 282 (1960).

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

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

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

Variable 40
the vote in the case (VOTE)

This variable specifies the vote in the case. Although a quorum requires the participation of six justices for a decision on the merits, as few as three suffice for the Court to take jurisdiction of a case (when only seven justices participate). Hence, the entries in this variable may range from 90 to 30.

The vote that appears in this variable pertains to the number of justices who agree with the disposition made by the majority (see disposition of case, variable 35) and not to the justices' vote on any particular issue in the case (see variable 29). 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.

Jurisdictional dissents and dissents from the denial of certiorari (see the discussion of these votes in variables , the votes, opinions, and interagreements of the individual justices) are counted as though the justice so voting did not participate in the case. Only dissents on the merits are specified in this variable.

Also see vote not clearly specified (variable 41) and the votes, opinions, and interagreements of the individual justices (variables 42-70).

Variable 41
vote not clearly specified (VOTEQ)

In the vast majority of cases, the individual justices clearly indicate whether or not they agree with the disposition (see variable 35) made by the majority. In approximately one percent of the records clarity is lacking, as when a justice concurs in part and dissents in part. A justice will typically use this or equivalent language to indicate agreement with the reasoning in a portion of the majority opinion while disagreeing with the majority's disposition of the case, or vice-versa. A close reading of the justice's opinion usually indicates whether he or she has concurred (i.e., agreed with the majority's disposition) or dissented from the disposition made by the majority. But in the rare case where a justice does not clearly indicate which it is, this variable will contain an entry.

Also see the vote in the case (variable 35).

Variables 42-70

the votes, opinions, and interagreements of the individual justices (HAR TO BRY)

This portion of the database contains a separate variable for each of the justices who have served on the Warren, Burger, and Rehnquist Courts. The first column of this variable contains the individual justice's vote; the second column, the opinion, if any, that the justice wrote in the case; and the third and fourth columns, the letter that signifies the name of the justices with whose dissenting or concurring opinion the subject justice agreed.

These justices and their name abbreviations that identify which justice occupies which SPSS column are the following:

| | |
|-------------|--------|
| Harlan | = HAR |
| Black | = BLK |
| Douglas | = DOUG |
| Stewart | = STWT |
| Marshall | = MAR |
| Brennan | = BRN |
| White | = BW |
| Warren | = WAR |
| Clark | = CLK |
| Frankfurter | = FRK |
| Whittaker | = WHIT |
| Burton | = BURT |
| Reed | = REED |
| Fortas | = FORT |
| Goldberg | = GOLD |
| Minton | = MINT |
| Jackson | = JACK |
| Burger | = BURG |
| Blackmun | = BLKM |

| | |
|-----------|--------|
| Powell | = POW |
| Rehnquist | = REHN |
| Stevens | = STEV |
| O'Connor | = OCON |
| Scalia | = SCAL |
| Kennedy | = KEN |
| Souter | = SOUT |
| Thomas | = THOM |
| Ginsburg | = GIN |
| Breyer | = BRY |

The summary listing of the voting behaviors follows:

1st column: 1 = voted with majority or plurality
 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 variable specifies whether the justice wrote an opinion (=1), wrote an opinion jointly with (an)other justice (=2), or did not write an opinion at all (=).

Thus,

2d column: 1 = justice wrote an opinion
 2 = justice co-authored an opinion
 = justice wrote no opinion

The third and fourth columns of each justice's variable indicate whether the justice agreed with a special opinion – i.e., some sort of dissent or concurrence – written by some other justice. The letter signifying which of the justices the named justice agreed with is as follows:

| | |
|---------|-----|
| Harlan | = A |
| Black | = B |
| Douglas | = C |

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

If a justice agreed with the opinion of two different justices, the letter signifying the second justice appears in the fourth column of the agreeing justice's variable. If said justice agreed with more than two justices, or wrote more than one opinion in a single case, which rarely happened, an asterisk appears in the third column of said justice's variable. In four such instances, a justice joined three opinions; in six others, he wrote two opinions. Two of these exceptional situations occurred during the 1981 term in *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, and *Harlow v. Fitzgerald*, 457 U.S. 800. In the former case, Justice Blackmun, in addition to writing the Court's opinion (which is indicated by the "1" in the second column of his variable), also wrote a regular concurrence. This is evidenced by the "3" and the "I" appearing in the first and third columns of Marshall's, Brennan's, and O'Connor's variables. The "I" identifies Blackmun and indicates that these three justices joined a regular concurrence (=3) authored by Blackmun. The same pattern applies to *Harlow v. Fitzgerald* and indicates that Brennan also wrote a regular concurrence in addition to co-authoring a joint concurring opinion, which is identified by the "2" in his second column. The presence of an "F," denoting Brennan,

in the third columns of Marshall's and Blackmun's variables indicates that this must necessarily be the case.

Note that a justice cannot agree with another justice's special opinion unless said justice shows a "2," "3," "4," "7," or "8" in the first column of his or her variable. If the justice agrees with the opinion or judgment of the Court, a "1" will appear in the first column. And if a "5" appears, indicating nonparticipation, the justice by definition could not have agreed with anyone else's opinion.

Also note that if no entry appears in the first column of a justice's variable, of necessity the other three columns must also be empty. No entry in the variable means that the justice to whom that variable belongs was not a member of the Court when that case was decided, or that a particular justice may have been a member of the Court at that time but the case was decided by a tie vote. The Reports only publish the name(s) of the nonparticipating justice(s) in such cases.

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.

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

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

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

2) A justice authors no opinion unless he or she specifies a reason for his or her vote. A bare citation to a previously decided case or a simple statement that the author concurs or dissents because of agreement with a lower court's opinion 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 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. Joint authorship, however, does not include per curiam opinions. Hence, a jointly authored opinion can only be a dissent or a concurrence.

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

Whereas the preceding problem pertains to determining which type of concurrence a vote is, the problem with votes concurring and dissenting in part is whether they are special concurrences (= 4) or dissents (= 2). This matter was addressed previously in connection with variable 41 (vote not clearly specified). A vote concurring and dissenting in part is listed as a special concur-

rence if the justice(s) doing so does not disagree with the majority's disposition of the case. This may occur when: 1) the justice concurring and dissenting in part voices disagreement with some or all of the majority's reasoning; 2) when said 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, an entry will appear in the VOTEQ variable (41) of the affected case to allow users of the database to make an independent judgment, if they are so minded. Note, however, that listing such votes as dissents (= 2) or special concurrence (= 4) has no effect on whether or not an opinion is written. A "1" (sole author) or "2" (co-author) will appear in the second column of the pertinent justice's variable - as well as in that justice's single column opinion (o) variable - regardless of whether a "2" (dissent) or "4" (special concurrence) appears in the first column of his or her variable.

The third and fourth columns of each justice's variable are used to identify the concurring and dissenting opinions with which the subject justice agreed, as are the parallel A1 and A2 single-column variables for each justice (variables 136-160 and 161-189). These columns and variables, then, enable the inter-agreement matrix of each case decided by the Court to be mapped. Each justice has been assigned a letter of the alphabet, as designated in the listing above, to indicate his or her agreement with the justice in whose variable the designated abbreviation appears.

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

Still less frequent are cases in which a justice joins three other justices' opinions. An asterisk in the third column of the joining justice's 4-column and in the A1 variables specifies these situations. An asterisk in these same places also identifies the instances when a justice wrote two opinions in a single case. Whether the asterisked justice wrote two opinions or joined the opinions of three other justices is clear from the behavior of the other justices.

Variables 71-99
the individual justice's vote (HARV TO BRVY)

As explained above, the preceding variable contains four columns, the first of which indicates the justice's vote. This variable breaks out the contents of this column and places it here. For example, assume that the entries in DOUG for a given record reveal the following data: 21BT. Variable DOUGV (for Douglas' vote) will contain a '2'; DOUGO (for Douglas' opinion) a '1'; DOUGA1 (for the name of the justice who wrote a dissent or concurrence with which Douglas agreed) a 'B'; and DOUGA2 (for the name of a second justice with whose dissent or concurrence Douglas also agreed) a 'T'. Accordingly, in this case, Douglas dissented and wrote an opinion; compatibly with the abbreviations provided in the preceding variable, he also agreed with a dissenting opinion that Black wrote, as well as one written by Warren.

The reason for breaking the 4-column variable into its singular components is because of the way SPSS searches through a data file. If we relied on the 4-column variable to identify the cases in which Justice Marshall agreed with a dissenting or concurring opinion of Chief Justice Burger, 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 an "H" signifying Burger. SPSS is simply not equipped to pick out an "H" anywhere in a multi-column variable. Thus, in the example, we would need to compile an exhaustive set of SELECT IF commands: '21H ' '2 H ' '31H ' '3 H ', etc.

This set of variables uses the same name abbreviation for each of the justices as heads the variable for that justice's overall behavior, with a "v" added to its end.

SPSS specifies the voting options.

Variables 100-128
the individual justice's opinions (HARO TO BRYO)

This field indicates the opinion, if any, that the named justice wrote. The initial abbreviation of each justice's name continues to be used, followed here by an "o."

SPSS specifies the opinion options.

Variables 129-157, 158-186
**the special opinion(s) with which the individual justice agreed
(HARA1 TO BRYAI, HARA2 TO BRYA2)**

This pair of fields follows the format of the preceding two. It contains the letter abbreviation of the justice with whose special opinion the named justice agreed. Two agreements are

allowed for. The abbreviation of the named justice is followed by an "a1" for the initial join, an "a2" for the second one.

Variables 187-215

direction of the individual justices' votes (HARDIR to BRYDIR)

This variable, like the preceding one, creates a separate variable for each of the justices who have sat on the Warren, Burger, and Rehnquist Courts. Each justice's variable is identified by the same 3- or 4-letter abbreviation used in the preceding variable, but here the abbreviation is followed by the letters "DIR."

Whereas the pertinent portion of the preceding variable specified how a justice voted in a given case, this variable indicates whether the justice's vote was liberal or conservative. SPSS provides the coding options for each justice.

Also see the votes, opinions, and interagreements of the individual justices (variables 42-70, 71-99, 100-128, 129-157, 158-186), and direction of decision (variable 31).

Variable 216-244

majority and minority voting by justice (HARM to BRYM)

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

SPSS contains the coding of this variable.

Variable 245

majority opinion assigner (MOA)

This variable identifies the assigner of the opinion or judgment of the Court, as the case may be. These data are drawn from the membership in the final (report vote) coalition and from the rules governing opinion assignment: If the chief justice is a member of the majority vote coalition at the conference vote, he assigns the opinion; if not, the senior associate justice who is a member of the majority at the conference vote does so. According to the leading authorities on conference voting, Jan Palmer and Saul Brenner, considerable voting shifts occur between the final conference vote (where the assignment is made) and the vote that appears in the Reports. As a result, in approximately 16 percent of the cases, a person other than the one identified by the database actually assigned the opinion.

To overcome this discrepancy, users may consult the expanded version of the database, which is also available from the MSU judicial center website. Vinson and Warren Court assigners are

identified by direct reference to the justices' docket books.

The justices' are identified by abbreviations of their names.

Variable 246

majority opinion writer (MOW)

This variable identifies the author of the Court's opinion or judgment, as the case may be. The justices are identified by abbreviations of their names.

Variable 247

minimum winning coalition

This field discloses whether the case was decided by a margin of one vote. (Tied votes are not considered because they have no majority or plurality opinion and as such automatically affirm the lower court's decision without further ado.) Minimum winning coalitions are those decided by a 5-4 or a 4-3 vote, and by those that reverse the lower court's decision by a 5-3 or 4-2 vote.