United States Supreme Court Judicial Database, 1953–1997 Terms

Harold J. Spaeth

UNITED STATES SUPREME COURT JUDICIAL DATABASE, 1953-1997 TERMS

(ICPSR 9422)

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Harold J. Spaeth
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SUMMARY: This data collection encompasses all aspects of United States Supreme Court decision-making from the beginning of the Warren Court in 1953 to the completion of the most recent term of the Rehnquist Court. In this collection, distinct aspects of the Court's decisions are covered by six types of variables: (1) identification variables including citations and docket numbers, (2) background variables offering information on how the Court took jurisdiction, origin and source of case, and the reason the Court granted cert, (3) chronological variables covering date of decision, Court term, and natural court, (4) substantive variables including legal provisions, issues, and direction of decision, (5) outcome variables supplying information on disposition of case, winning party, formal alteration of precedent, and declaration of unconstitutionality, and (6) voting and opinion variables pertaining to how individual justices voted, their opinions and interagreements, and the direction of their votes.

UNIVERSE: United States Supreme Court decisions from the beginning of the Warren Court in 1953 through the completion of the most recent term of the Rehnquist Court.

NOTE: (1) The data collection contains undocumented codes. (2) The codebook is provided as a Portable Document Format (PDF) file. The PDF file format was developed by Adobe Systems Incorporated and can be accessed using PDF reader software, such as the Adobe Acrobat Reader. Information on how to obtain a copy of the Acrobat Reader is provided through the ICPSR Website on the Internet.

EXTENT OF COLLECTION: 1 data file + machine-readable documentation (PDF) + SAS data definition statements + SPSS data definition statements

EXTENT OF PROCESSING: DDEF.ICPSR/ MDATA.PR/ REFORM.DOC/ UNDOCCHK.ICPSR

DATA FORMAT: Logical Record Length with SAS and SPSS data definition statements

File Structure: rectangular
Cases: 11,611
Variables: 247
Record Length: 662
Records Per Case: 1

RELATED PUBLICATIONS:

Segal, Jeffrey A., and Harold J. Spaeth. THE SUPREME COURT AND THE ATTITUDINAL MODEL. New York, NY: Cambridge University Press, 1993.

Spaeth, Harold J., and Jeffrey A. Segal. "Decisional Trends on the Warren and Burger Court: Results From the Supreme Court Data Base Project." JUDICATURE 72 (1989), 103-107.

Epstein, Lee, Jeffrey A. Segal, Harold J. Spaeth, and Thomas G. Walker. THE SUPREME COURT COMPENDIUM. Second edition. Washington, DC: Congressional Quarterly, 1997.

UNITED STATES SUPREME COURT JUDICIAL DATABASE

1953-1997 TERMS

DOCUMENTATION

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DOCUMENTATION FOR THE

UNITED STATES SUPREME COURT JUDICIAL DATABASE

1953-1997 Terms

GENERAL INTRODUCTION

For many years, students of Congress, elections, and public
opinion have had a wealth of readily accessible and standardized
data from which to draw. Until the compilation of this database,
judicial scholars, by contrast, have had no recourse but to pore
laboriously through the pages of the pertinent Reports and com-
pile their own data. Although such a tedious and time-consuming
activity may have its rewards, it detracts from the time avail-
able for thought, analysis, and writing. On the assumption that
the lack of archived data, which is suitable for multi-investi-
gator use, has impeded systematic judicial research, this data-
base has been created.

The variables in this database concern six distinct aspects
of the Court's decisions: 1) identification variables -- e.g.,
citations and docket numbers; 2) background variables -- e.g.,
how the Court took jurisdiction, origin and source of case, the
reason the Court granted cert; 3) chronological variables --
e.g., date of decision, term of Court, natural court; 4) sub-
stantive variables -- e.g., legal provisions, issues, direction
of decision; 5) outcome variables -- e.g., disposition of case,
winning party, formal alteration of precedent, declaration of
unconstitutionality; 6) voting and opinion variables -- e.g.,
how individual justices voted, their opinions and interagree-
ments, the direction of their votes.

The variables pertaining to a specific aspect of the Court's
decisions are discussed sequentially in the codebook. In your
analyses, you are not restricted to using variables of only a
single type. You may pick and choose as your interests dictate.

The variables are contained in a rectangular database that
extends from the beginning of the Warren Court (1953) to the
completion of the most recent term of the Rehnquist Court. The
database contains both numeric and alphanumeric fields (i.e.,
variables) and is available as an SPSS export file. The number
of columns that each variable occupies and whether it is a
numeric, character, or date varible is indicated following the
title of the variable and before it is described. The structure
of the database provides for a variable number of records per
case.

The utility of this alphanumeric structure, as opposed to
one that is purely numeric, is threefold: As a user, you may
comprehendingly scan any number of cases to identify such pat-
terns as they contain. Second, because the values for each of
the variables can be easily read, it becomes possible to identify

and correct errors easily. Although the data have been subject
to a reliability check and to extensive "cleaning," errors
undoubtedly remain. The alphanumeric format, with its mnemonic
content, therefore improves accuracy. Relatedly, this format
also allows users to recode the variables easily so that they may
tailor the database to their particular interests. Thus, for
example, if you disagree with my interpretation of the issue in a
case, or how a particular justice who "concurred in part and
dissented in part" voted, it is a simple matter to make the
change. Alternatively, I may have coded certain variables either
too specifically or too grossly for your purposes. Those that
you consider such will likely be the interpretive ones -- e.g.,
parties, the legal provisions that the Court considered, and the
issue in the case. Again, it is a simple matter for you to
refine or combine categories (the codes for a particular vari-
able) and thereby have the changes you desire. All that will
probably be required is the use of a set of SELECT IF commands.
Third, the structure provides users a choice of units of analysis
-- e.g., case citation, docket number, legal provision, or issue
-- by use of SELECT IF commands. Thus, if you wish to analyze
all orally argued cases (see the form of decision variable) by
docket number (see the unit of analysis variable, merely

         SELECT IF (DEC_TYPE EQ 1 OR DEC_TYPE EQ 4 OR DEC_TYPE
           EQ 5 OR DEC_TYPE EQ 6 OR DEC_TYPE EQ 7)
         SELECT IF (ANALU EQ ' ' OR ANALU EQ '1')

    Note especially that failure to select appropriate unit(s)
of analysis and type(s) of decisions will likely generate data
that are woefully inappropriate and grossly misleading. If you
do nothing else, be sure that you understand how to use these two
variables -- unit of analysis (ANALU) and type of decision
(DEC_TYPE) (variables 3 and 28) -- before you undertake any
analyses of any of the other variables.
    Throughout the documentation, I provide SPSS commands, such
as the foregoing, that will enable you to access, manipulate, and
tailor the database for your research purposes. Although these
commands are geared to SPSS, they should require no more than
incidental change, if that, to be used in SAS or other statisti-
cal packages.
    Although students partially coded a few of the non-interpre-
tative 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 respon-
sibility for what is contained in each of the variables that com-
prises the database rests solely with me.
    Throughout the years that the database has existed, consid-
erable time and effort has been devoted to "cleaning" -- to
checking the accuracy of the data that had been entered into
various variables. I did so not only to insure that the entries
in various variables accorded with the codes and their decision
rules, but also because data were entered intermittently for
every variable rather than in one consecutive undertaking. This

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

The results of the reliability check suggest, however, that the foregoing method of entering and cleaning data produces a high level of accuracy. These results are reported for the Warren and Burger Courts separately for each variable, along with an assessment of the differences that did emerge between the coder and the recoder. A random sample of 267 separate citations was drawn, 96 of which were from the Warren Court and 171 from the Burger Court. No Rehnquist Court citations were included in the reliability check because these data were still being collected, coded, and entered into the database at the time the reliability check was undertaken. The 267 randomly selected separate citations produced a grand total of 357 records, 141 for the 96 Warren Court citations and 216 for the 171 Burger Court citations. A graduate student did the recoding. He was familiar with the database, having used preliminary versions in his own research.

Reliability is reported in a separate section at the end of the discussion of each variable. Where non-categorical data were coded and accuracy is known objectively -- e.g., case citation, docket number, the author of an opinion, the court in which the case originated, date of decision -- reliability is measured by the extent to which the entries correspond exactly with what appears in the official Reports. Where a variable involves the exercise of judgment and the coding falls into one of a set of previously defined values -- e.g., the legal provisions considered by the Court, the issue that a case presents, the reason the Court granted cert -- reliability is measured by the extent to which the coders agreed. I have not used various statistical measures of association -- e.g., pi, lambda, phi, Pearson -- because each makes assumptions that are arbitrary to some extent. Instead, I provide simple percentages and a specification of the errors that precluded perfect agreement, along with any other information that will allow you to make your own judgment of the reliability of the variable with which you are concerned.

I also recoded the sampled cases independently and subsequently of the recoder in an attempt to determine if I had unconsciously applied the discretionary codes differently at one point during the several years of coding than I had at another. Although I found no appreciable indications of such conduct except for authority for decision (variable 23), my recoding did show substantial variance in certain variables whose entries required little, if any, exercise of discretion. The recoder's work also revealed my errors in most of these variables. As a result, these variables -- number of records per unit of analysis (variable 4), three-judge district court (variable 7), lower court disagreement (variable 10), and reason stated for granting

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chronological variables

substantive variables

outcome variables

voting and opinion variables

Variable 1
case citations (US, LED, SCT)
[three variables, eight columns each, character]

     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 pub-
lished 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 17). I.e.,
                    SORT CASES BY DEC
     The reliability check revealed no discrepancies in the
coding of the US variable for either the Warren or the Burger

Courts. In the LED variable, both coders made an identical entry for all the Burger Court records. Three Warren Court citations produced different entries because the title to the last three in a set of six cases began on the page subsequent to the page on which the first three began (100/1220 versus 100/1221). The coding instructions do not address the question of whether all the docket numbers of cases decided under a common set of opinions should cite the same page as the lead case or not. In the SCT variable, the reliability check showed the last two digits in one Warren Court citation to be in error, as well as the last digit in one Burger Court citation. Identity, therefore, is 99.0 and 99.4 percent, respectively. But if we count accuracy digit by digit instead of citation by citation, SCT agreement reaches 99.88 percent for the combined Courts.

Variable 2
docket number (DOCKET)
[seven columns, character]

     This variable contains the docket number that the Supreme Court has assigned 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."
     Unpaid petitions ("in forma pauperis" filings) begin with number "5001"; prepaid cases with the number "1." Thus, for the 1984 Term, for example, the first of the former became 84-5001; the first of the latter 84-1.
     Prior to the 1971 Term, all paid cases filed pursuant to the Court's appellate jurisdiction were placed on the Appellate Docket and numbered sequentially. The first filing in each term began with the number "1." In forma pauperis petitions filed before the 1971 Term were placed on the Miscellaneous Docket and numbered in the same fashion as paid cases. The abbreviation, "Misc" distinguished them from paid cases. 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 jus-

tice 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. There are 21 such records in the Warren Court and 28 in the Burger Court.

One Warren Court docket number was incorrectly entered. This occurred in a companion case. Apparently the companion case was duplicated by a programming command and through oversight the docket number was not changed from that of the lead case. Identity, therefore, obtained in 111 of the 112 Warren Court citations (99.1 percent). The Burger Court produced two errors among its 194 docket numbers, both of which incorrectly list the second digit of the year in which a pair of companion cases reached the Supreme Court (78 rather than 79). Identity of entry, therefore, equals 99.0 percent. Inasmuch as the typical docket number contains five digits, these interagreement percentages could be increased by a magnitude of five.

Variable 3
unit of analysis (ANALU)
one column, character

To explain how you may use this variable, we need to define 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. In other words, as between any two records in the database, the entries in at least one variable will differ (e.g., docket number), though all other entries may be the same. A "case," on the other hand, may theoretically have an unlimited number of records.

What typically, although not necessarily, distinguishes one case from another is its citation or its docket number. If two or more cases have the same page citation and docket number, what must necessarily distinguish them is a different vote. A difference in a variable other than "the vote in the case" variable does not create a different "case" even though the page citation and docket number are identical. Only a different "record" results. Note that this use of "case" and "record" applies not only to the ANALU variable but also to the description of all other variables in the database unless you are informed otherwise. In what follows, I use the word, "case," to mean either a distinctive citation or a distinctive docket number. Which it is will be clear from the context in which the word is used. More often than not, "case" takes on both meanings simultaneously. When the only distinction pertains to the unit of analysis, the word, "case", will not refer to it; instead, the word, "record," is used.

The ANALU variable allows you to choose a unit of analysis for your research. Five options are provided according to the following schedule:

```
     ANALU =   : 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 persons will want to use either case citation or docket
number for this purpose. If you wish to define a case by sepa-
rate citation, use only those records in which this variable (5)
has no entry. I. e.,
                  SELECT IF ANALU EQ ' '
With one exception, every selected record will have a separate
citation. One will not: 125 L Ed 2d 612 (1993) because a differ-
ent justice wrote the opinion of the Court in each of the two
dockets that appear under this citation. Do recognize that in
using case citation as your unit of analysis you will receive
only the information contained in the first record for that
citation with the exception of 125 L Ed 2d 612. This is fine
unless you wish to know the court in which the case originated
(variable 8), the court whose decision the Supreme Court reviewed
(variable 9), the parties to the case (variable 12), the "direc-
tion" of the Court's decision (variable 26), or the disposition
the Court made of the case (variable 30). If any of these
matters are of interest, you should use docket number as your
unit of analysis. If you do choose to define a case as each
separate docket number, regardless of whether or not it is
combined with other cases in a single citation, use all records
that contain either a blank or a 1 in this variable. I.e.,
          SELECT IF (ANALU EQ ' ' OR ANALU EQ '1')
     This procedure will provide you with a comprehensive set of
decisions for analysis of all types that the database contains.
You are most unlikely to want to include all types of decisions
in your analysis, however. These types are listed and described
in the type of decision variable (variable 28).
     Assume that you only want to analyze all orally argued cases
by docket number. The appropriate commands are:
          SELECT IF (ANALU EQ ' ' OR ANALU EQ '1')
          SELECT IF (DEC_TYPE=1 OR DEC_TYPE=5 OR DEC_TYPE=6
          OR DEC_TYPE=7)
Alternatively, if you wish to consider all docket numbers except
for memorandum cases, replace the second of the foregoing com-
mands with
          SELECT IF DEC_TYPE NE 3
     For those whose research focuses on cases containing multi-
ple issues (ISSUE, variable 24), issue areas (VALUE, variable
25), or multiple legal provisions (LAWS, variable 22), the unit
of analysis variable will identify your cases of interest. By
identifying all cases that contain a "3" in this variable, you
will compile all cases in which the Court considered more than a
single legal provision in reaching its decision. (The decision
rules governing the determination of whether a case concerns more

                                4

than a single legal provision are specified in variable 21.)
        SELECT IF ANALU EQ '3'
     Note, however, that use of the "3" will only provide you
with a citation to such cases; it will not identify all the
legal provisions that the Court considered in that case. It will
only identify the legal provision that the record containing a
"3" in the unit of analysis has. Nor will the selection of the
cases with multiple legal provisions tell you whether or not any
such cases contain multiple docket numbers. All that you will
obtain will be the citation of the cases with multiple legal pro-
visions. To determine whether or not the citation contains mul-
tiple docket numbers will require visual inspection of the
records for each case to see if each docket number for that ci-
tation is different. With a single exception -- 443 U.S. 376, 61
L Ed 2d 382 -- every record in which ANALU=3 will also contain a
"2" in the variable, LAWS, that indicates the presence of multi-
ple legal provisions. With the exception noted immediately
below, the legal provisions at issue in a case appear in the
order in which the majority opinion or the judgment of the Court
addresses them.
     Similarly, isolating those cases that contain a "2" in their
ANALU variable will provide you with a list of the citations of
those cases that contain more than a single issue, as "issue" is
defined in variable 24.
        SELECT IF ANALU EQ '2'
     Note that where a multi-issue case contains a threshold pro-
cedural issue conjoined with a substantive issue, the latter pre-
cedes the former. That is, the first record will specify the
substantive issue; the second, the procedural one. Substantive
issues are those in which ISSUE <701 or ISSUE >949 according to
the list appearing in variable 24. Procedural issues concern
those pertaining to the exercise of judicial power (issues 701-
899) and to considerations of federalism issues 900-949). I have
done this because scholars pay much more heed to the substantive
issue a case contains rather than to questions of a procedural
nature; e.g., whether the Supreme Court has jurisdiction to
review the case, or whether the petitioning party has standing to
sue. If, however, a multi-issue case contains two procedural or
two substantive issues, the one that the majority considers more
important appears first; i.e., in the record in which ANALU =
' '.
     Again, use of ANALU = '2' will not tell you what all of the
issues in each multiple issue case are; whether or not the case
contains multiple docket numbers; or whether the multiple issues
are conjoined with multiple legal provisions. To get this infor-
mation, use the SPSS commands specified in the variable, number
of records per unit of analysis (variable 4), below.
     Cases in which multiple legal provisions are conjoined with
multiple issues are identified by a "5" in the unit of analysis
variable. These are the cases that simultaneously contain multi-
ple legal provisions and multiple issues. Again, with the single
exception of 443 U.S. 76, 61 L Ed 2d 382, every record in which

ANALU=5 will also contain a "2" in variable 22, LAWS, that indicates the presence of multiple legal provisions.

Users whose interest lies in certain legal provisions or issues should go more or less directly to these variables without concerning themselves with a unit of analysis as such. I say more or less because you may not want to bother with any cases that were not orally argued or those that resulted in a tied vote. Assume that this is the situation and that you wish to identify all cases in which the Court construed a provision of the First Amendment as defined by the database. (See variable 21, legal provisions considered by the Court.)

```
        SELECT IF (DEC_TYPE EQ 1 OR DEC_TYPE EQ 6 OR
         DEC_TYPE EQ 7)
        SELECT IF (LAW EQ '1A' OR LAW EQ '1ASN'
         OR LAW EQ '1AEX' OR LAW EQ '1AES' OR LAW EQ
         '1APT')
```

If you couple the foregoing commands with a LIST VARIABLES command that includes case citation and docket number

```
        LIST VARIABLES=US DOCKET LAW
```

you may find that certain citations and docket numbers appear more than once because, for example, a given case concerns both the free exercise and the establishment clauses (1AEX and 1AES). Because of the alphanumeric character of the coding, it is a simple matter to discard any multiple citations or docket numbers.

Assume instead that your interest lies in all First Amendment issues (variables 24 and 25), rather than legal provisions, as the database defines them. The appropriate commands would then be:

```
        SELECT IF (DEC_TYPE EQ 1 OR DEC_TYPE EQ 6 OR
         DEC_TYPE EQ 7)
        SELECT IF VALUE=3
```

Again, be alert that SPSS will output redundant records for a given case. This will happen because a given citation may concern a First Amendment issue and also have multiple docket numbers or more than one legal provision that the Court considered. Each docket number will have its own record, as will each legal provision that the Court considered. But these additional records of a given citation will not concern you because you only wish to know which decisions construed the First Amendment. Therefore, have SPSS output not only the case citation (US, LED, or SCT), but also docket number (DOCKET). Then delete the duplicates and input the edited output back into SPSS for any further analysis you may wish to conduct.

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 parochiaid 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 EQ ' ') as they
are in the record(s) in which ANALU EQ '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.

The conventional methods of counting cases are to use either
case citation (ANALU EQ ' ') or docket number (ANALU EQ ' ' OR
ANALU EQ '1'), or either of these in conjunction with split votes
(ANALU EQ ' ' OR ANALU EQ '4') or (ANALU EQ ' ' OR ANALU EQ '1'
OR ANALU EQ '4'). The other, unconventional, methods of counting
cases are provided as a convenience to those who wish to employ
them: cases containing multiple issues (ANALU EQ '2'), cases
containing multiple legal provisions (ANALU EQ '3'), and cases
containing both (ANALU EQ '5').

As indicated above, if you use any of these options, do
realize that your unit of analysis will otherwise be docket num-
ber, 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 num-
bers will appear three times in order to account for the distinc-
tive 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 (vari-
able 21) 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 provi-

sions will produce a drastic overcount.

Also see the following variables: type of decision (28), multiple legal provisions (22), 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 30), 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.)

On the Warren Court, nine discrepancies occurred between the original coding and the recoding. (References to these discrepancies are LED citations.) Note that these discrepancies pertain to the number of records rather than to differences in the entry in the ANALU variable. The recoder created 141 records from the 96 randomly selected Warren Court citations. Of the recoder's

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

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

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

Nine discrepancies also occur in the Burger Court records.
Out of a total of 216, 214 match. The database contains seven
duplicates absent from the recoder's database: 024/0470,
033/0154, 034/0342, 036/0941, 045/0012, 047/0154, 071/0580. The
recoder duplicated 2 records absent from the database: 041/0706,
083/0343.

Of the 214 common records, five disagree on the specific
entry in the ANALU variable: 065/0555, 5 vs. 3; 080/0622, 2 vs.
5; 088/0598, 5 vs. 2; and the two-docket number 092/0675, 5 vs.
3. These are debatable except 080/0622, which should be a 5.

Of the nine discrepancies, it is debatable whether 034/0342
should also specify LAW=1A, along with 21A; whether 041/0706
should identify two separate standing ISSUEs, 802 and 810;
whether 047/0154 contains two distinct sets of votes; whether
071/0580 should specify 931 and 626 as ISSUEs; and whether LAW
in 088/0598 should be HC for both issues, or HARM and an empty
variable.

Variable 4
number of records per unit of analysis (REC)
[one column, character]

    This variable (REC) 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 3 for the second,
third, fourth, and fifth appearances of the case's docket num-
ber), 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, respec-
tively).
    Note that in the first record of every citation (which is
also the first record of that docket number) this variable has no
entry. Also note that the entry in the REC variable is meaning-
ful 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 mul-
tiple 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.
    The purpose of this variable is to identify whether a given
citation pertains to any of the other units of analysis. You are
not likely to use the REC variable unless you wish to know if any
of your citations also contain multiple docket numbers, multiple
legal provisions, multiple issues, or split votes.
    Thus, if you are curious whether any of your cases have any
of the foregoing analytical features, simply use the following
commands:

```
SELECT IF US EQ '366/0666'
LIST VARIABLES=DOCKET ANALU REC
```

This will display the information below. If you also wish to
know the specific legal provisions and the issues to which the
citation pertains, merely add LAW (see variable 21) and ISSUE
(see variable 24) to the LIST VARIABLES command, as in the second
illustration below.

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 num-
bers, 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 iden-
tified by the issue variable. Similarly, a "4" in the REC
variable and a "1" in the ANALU variable means that this case
has five docket numbers.

It bears repeating that the first record of every case cita-
tion will have no entry in the REC variable. Hence, if you wish
to know how many docket numbers or split votes the Court's deci-
sions during a particular term encompassed, you will need to add
one to each entry in the REC variable that pertains to a "1" in
the ANALU variable (indicating a docket number) or a "4" in the
ANALU variable (indicating a split vote). It will be much
simpler, of course, for you to
        SELECT IF (ANALU EQ ' ' OR ANALU EQ '1')
        FREQUENCIES VARIABLES=DOCKET
or, alternatively,
        SELECT IF ANALU EQ '4'
        FREQUENCIES VARIABLES=DOCKET
Also note that a case may show some combination of the ANALU
codes in its various records, rather than a "1," "2," "3," "4,"
or "5" exclusively. For example, if a citation has two docket
numbers, each of which concerns three distinct legal provisions,
the ANALU and REC variables will both be empty in the first
record. The second record will contain a "1" in the REC variable

and also a "1" in the ANALU variable to signify that this case
has two docket numbers. The next record -- the third -- will
show a "3" in the REC variable and a "3" in ANALU to indicate
that this docket number concerns four separate legal provisions.
The fourth and fifth records, assuming that their docket number
is the same as that which appears on the third record, will show
a "3" in the ANALU variable while the REC variable has no entry.
It has no entry because the number of legal provisions that this
docket number addresses has already been specified. The sixth
record, parallel to the third one, will show a "3" in the REC
variable and a 3 in the ANALU variable to indicate that the
second docket number in this case also contains four distinct
legal provisions. The final two records, paralleling the fourth
and fifth ones, will have a "3" in their ANALU variable while
their REC variable has no entry. The visual representation of
this hypothetical example would appear as follows:

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

Finally, note that if a "5" appears in the ANALU variable
signifying a case that has multiple legal provisions and multiple
issues, the number in the REC variable will correctly identify
only the number of legal provisions, minus one, that the docket
number addresses. It will not necessarily indicate accurately
the number of issues to which the docket number applies. All
that you may conclude about multiple issues is that the docket
number pertains to more than one. Greater precision does not
obtain because the "5" in the ANALU variable relates to the
original record for this docket number. Thus, the number speci-
fied in the REC variable of the second record, say "2," will
indicate that the docket number applies to three distinct legal
provisions, but that the second and third of these legal provi-
sions 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 distinc-
tive 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 vari-
able, you may focus instead on the multiple legal provisions
(LAWS) variable (see variable 22). Each record pertaining to a
docket number that concerns a legal provision distinct from any
other that a different record lists will show a "2" in the LAWS
variable. To determine the number of distinct legal provisions
that the Court considered, simply sum the number of times a "2"
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 accommo-
dated. All have a double digited number of dockets: 389 U.S.
486 (12), 390 U.S. 747 (14), 394 U.S. 310 (15), and 116 L Ed 2d
293 (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.
     Among the 139 Warren Court records that the recoder genera-
ted, that also appear in the database, two that should have con-
tained a "1" in the REC variable inadvertently omitted it
(001/1544 and 002/0340). This error is trivial insofar as
002/0340 is concerned because the ANALU variable contains an
entry in the second record of this case. Of necessity, there-
fore, one record beyond the initial one must exist. Nonetheless,
both these discrepancies are errors. Variable identity, there-
fore, equals 98.6 percent. As for the Burger Court, among the
214 records common to the database and to the recoding, 047/0483
should show a "1" in the second record, and 083/0343 should show
a "2" in the second record. The latter difference should not be
considered an error because the *Lawyers' Edition*, from which the
original coding was done, lists only two, not three, docket
numbers. Variable identity, therefore, equals 99.5 percent.
     The entry in this variable for all records of both Courts
have been rechecked since the completion of the reliability
check. Also see unit of analysis (variable 3) and multiple legal
provisions (variable 22).

                        Variable 5
      manner in which the Court takes jurisdiction (JUR)
                  [one column, character]

     This information is found in the *United States Reports*
following the name of the case and before the docket number.
This datum is entered according to the following coding schedule:

                            13
```

```
A = appeal
B = bail
C = certification
  = certiorari
D = docketing fee
H = rehearing or restored to the calendar for reargument
I = injunction
M = mandamus
O = original
P = application for admission
R = reconsideration, or remand, or recall, or withdrawal of
    order or petition
S = stay
T = retax costs
W = miscellaneous extraordinary writ
Z = miscellaneous motion or order
```

Most cases arise on certiorari; the next most common are appeal
and original jurisdiction. Apart from the infrequent use of
certification, the other ways in which the Court exercises juris-
diction pertain almost exclusively to cases that the justices
summarily dispose of without oral argument or opinion; i.e.,
DEC_TYPE EQ 3 (see variable 28, type of decision).

One of the two Warren Court differences is debatable be-
cause, though the case arose on appeal, the Court granted certi-
orari (020/1343). The other case had no entry in this variable;
neither did it have an entry in variable 16 (reason stated for
granting cert). Both these variables cannot be entryless unless
the case is memorandum. The alert user would therefore have
known there is an error here. Nonetheless, an error. Identity,
therefore, equals 99.3 percent. By comparison, five Burger Court
records produced an error, all of which omitted entry of an "A."
An observant user might have caught the first four because the
reason for granting cert variable is also empty and these are not
memorandum decisions. Identity, therefore, only equals 97.7
percent.

Also see reason for granting certiorari (variable 11).

Variable 6
administrative action preceding litigation (ADMIN)
[four columns, character]

This variable (ADMIN) pertains to administrative agency
activity prior to the onset of litigation. Note that the activi-
ty 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

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summary of the case (the material preceding the Court's opinion) and, if necessary, those portions of the prevailing opinion headed by a "I" and "II."

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

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

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

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

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

Excluded from entry in this variable are:

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

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

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

Agency or official action to enforce criminal law.

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

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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
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
```

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OMB  = Office of Management and Budget
OPA  = Office of Price Administration, or Price Administrator
OPM  = Office of Personnel Management
OSHA = Occupational Safety and Health Administration
OSHC = Occupational Safety and Health Review Commission
OWCP = Office of Workers' Compensation Programs
PATO = Patent Office, or Commissioner of, or Board of Appeals
            of
PAY  = Pay Board (established under the Economic Stabilization
            Act of 1970)
PBGC = Pension Benefit Guaranty Corporation
PHS  = U.S. Public Health Service
PRC  = Postal Rate Commission
RNGB = Renegotiation Board
RRAB = Railroad Adjustment Board
RRRB = Railroad Retirement Board
SACB = Subversive Activities Control Board
SBA  = Small Business Administration
SEC  = Securities and Exchange Commission
SSA  = Social Security Administration or Commissioner
SSS  = Selective Service System
TREA = Department or Secretary of the Treasury
TVA  = Tennessee Valley Authority
USFS = United States Forest Service
USPC = United States Parole Commission
USPS = Postal Service and Post Office, or Postmaster General,
            or Postmaster
USSC = United States Sentencing Commission
VTAD = Veterans' Administration
WPB  = War Production Board
WSB  = Wage Stabilization Board
```

Note that the foregoing entries may also be found in the parties variable (variable 12).

Four of the six differences between the coding and the recoding of the Warren Court are debatable: whether or not administrative action occurred in 004/0494 and 005/0403; whether action "occurred in the context of the case" as the foregoing coding instructions require in 015/0582; and whether state administrative action in 020/1089 was criminal, in which case no entry should appear. Hence, only two clear errors resulted, and identity between coding and recoding is 98.9 percent.

By comparison, 21 differences occurred in the Burger Court sample. Eight are debatable: 033/0154 arguably is a criminal matter and as such should have no entry; 048/0684, 071/0580, 078/0241, and the two records for both 054/0775 and 064/0278 as plausibly lack as possess administrative action. Four differences resulted from failure to clean the code for an agency: CFTR should have read CFTC in the four records of 092/0675. And in the two records of 036/0771 the entry, VA, was drawn from information not in the opinions. The other seven differences are errors. Two occurred in minimally important memorandum cases

(see variable 28, type of decision). As a result, identity equals only 96.8 percent.

Variable 7
three-judge district court (J3)
[1 column, character]

This variable will contain an entry -- a "3" -- 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.

Although recoding showed complete accuracy in the Warren Court sample and only one error in the Burger Court, subsequent cleaning indicated that this variable had not been coded for certain portions of the database. Furthermore, through the first three terms of the Rehnquist Court, the modal category (no three-judge district court) exceeded 90 percent. Hence, all records were rechecked.

Variable 8
origin of case (ORIGIN)
[four columns, character]

The focus of this variable is the court in which the case originated, not the administrative agency (see variable 6). For this reason a number of cases show a state or federal appellate court as the one in which the case originated rather than a court of first instance (trial court). This variable has no entry in cases that originated in the United States Supreme Court.

Cases that arise on a petition of habeas corpus and those removed to the federal courts from a state court are defined as originating in the federal, rather than a state, court system.

The court of origin is identified by an abbreviated form of that used in the current edition of *A Uniform System of Citation* (Cambridge: Harvard Law Review Assn.)

<u>federal district courts</u>: The geographical locus, if any, appears as "C" (Central), "E" (Eastern), "M" (Middle), "N" (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.

<u>state courts</u>: 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 sup-
reme court. Two states, Oklahoma and Texas, have separate civil
and criminal supreme courts. No distinction is made between
them. The current edition of *State Court Organization* (Williams-
burg, VA: National Center for State Courts) is the source used
to identify a court as one of first instance, intermediate
appellate, or of last resort.

    <u>federal courts of appeal</u>: 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 indi-
cated by an "O" 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.

    Two errors appear in the Warren Court sample. Both speci-
fied the correct jurisdiction but the wrong court therein. Accu-
racy, therefore, equals 98.6 percent. A single discrepancy and
three errors appear in the Burger Court sample. In 043/0530,
whether ORIGIN=NHTR or NH is unclear. The case was filed in a
NHTR and then transferred to the NH. Whether NHTR took any ac-
tion is unspecified. One of the three errors occurred because of
lack of cleaning, while the other two are omitted entries in
memorandum decisions. Identity, therefore, also equals 98.6
percent for the Burger Court.

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

    Also see source of case (variable 9).

Variable 9
source of case (SOURCE)
[four columns, character]

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 8) should be the same as here. This
variable has no entry if the case arose under the Supreme Court's
original jurisdiction.
The Warren Court sample produced one typographical error for
an identity of 99.3 percent. The Burger Court produced four, one
of which was one of the two memorandum decisions that had an
error in its ORIGIN variable. Identity, therefore, equals 98.1
percent.
Also see origin of case (variable 8).

Variable 10
lower court disagreement (DISS)
[one column, character]

A "D" in this variable indicates that one or more of the
members of the court whose decision the Supreme Court reviewed
dissented from its judgment. Through the end of the first three
terms of the Rehnquist Court, slightly less than twenty percent
of the Court's decisions indicate the present of a dissent in the
court whose decision the Supreme Court considered.
If a case arose on habeas corpus, a dissent will be indi-
cated 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 28), 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 "majori-
ty" 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, *Mc-
Nally v. United States*, 97 L ed 2d 292 (1987), and *United States
v. Gray and McNally*, 790 F.2d 1290 (1986).
Five of the 96 sampled Warren Court citations contained an
error, one of which occurred because reference to a lower court

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dissent appeared only in the case summary, not the text of the
majority opinion. The Burger Court sample also produced five
errors. The low accuracy (94.8 and 97.1 percent, respectively)
attained for this noninterpretive variable probably results
because this information may appear anywhere in the introductory
portions of the majority opinion. Moreover, it may only require
a single word to describe: i.e., "divided," "split." On the
basis of the relative lack of accuracy, all citations in both
Courts were systematically rechecked.

<div align="center">

Variable 11
reason for granting certiorari (CERT)
[one column, character]

</div>

   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 5) 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 28) or was
decided by a tied vote (again see variable 28).
   The codes that may appear in this variable are the follow-
ing:

     = no petition for cert or cert not granted
   A = conflict between or among circuits or other federal
       court
   B = "confusion" or "uncertainty" in federal courts
   C = "confusion" or "uncertainty" in state courts
   D = B + C
   E = to resolve "important" or "significant" or "substantial"
       question(s), or related language
   F = to resolve or decide question(s) presented
   G = A + E
   H = "apparent" or "alleged" or "suggested" or "arguable"
       conflict, or related language
   I = conflict between or among A and state court(s)
   J = conflict among state courts
   X = no reason given
   * = unusual reason, not covered by those above, which you
       will usually find stated in the early part of the
       Court's opinion -- prior to "I" or "II."

If, for example, you deem the foregoing list too refined and are only interested in whether the Court granted cert because of asserted conflict below, you could create your own variable -- conflict -- by

```
        IF (CERT='A' OR CERT='G' OR CERT='H' OR CERT='I' OR
         CERT='J') CONFLICT=1
        IF (CERT='B' OR CERT='C' OR CERT='D' OR CERT='E' OR
         CERT='F' OR CERT='X' OR CERT='*') CONFLICT=0
        VALUE LABELS CONFLICT 1 'CONFLICT' 0 'NO CONFLICT'
```

You would be well advised, however, to check those cases that I have scored with an asterisk to be sure that your definition of conflict does not apply to any of these "unusual reason" cases.

Four of the six Warren Court discrepancies are errors. In the other two (LED=005/0403 and 006/0246), either an "*" may appear for both, or an "F" and an "A," respectively. Nine of the 19 Burger Court discrepancies are errors. The other ten are de-batable. In the two records of LED=040/0703, 045/0374, and 066/0762, the majority opinion does not unequivocally state that the specified entry is the reason cert was granted; hence, an "X" is acceptable. In four other cases, the majority opinion gives a different reason later after stating its original reason (LED=045/0012, 052/0136, 057/0957, 081/0134). In LED=086/0168, either an "E" or an "F" is acceptable; and in LED=053/0423, either an "X" or "F."

Because of the relatively low accuracy -- 97.2 and 95.8 percent for the respective Courts -- all database records were rechecked for this variable.

Also see variable 5, manner in which the Court takes jurisdiction.

Variable 12
parties (PARTY_1, PARTY_2)
[two variables, eight columns each, character]

These two variables identify the parties to the case. PARTY_1 refers to the party who petitioned the Supreme Court to review the case. This party is variously known as the petitioner or the appellant. PARTY_2 is conventionally labeled the respon-dent or the appellee. The specific codes that appear below were created inductively, with PARTY_1 as well as PARTY_2 character-ized as the Court's opinion identifies them. Thus, if you wish to know how many times the National Railroad Passenger Corpora-tion appeared as the petitioning party and how frequently it surfaced as respondent in orally arged cases, simply

```
        SELECT IF (DEC_TYPE=1 OR DEC_TYPE=5 OR DEC_TYPE=6 OR
         DEC_TYPE=7)
        SELECT IF (PARTY_1 EQ 'AMTRAK' OR PARTY_2 EQ 'AMTRAK')
        FREQUENCIES VARIABLES=PARTY_1 PARTY_2
```

In describing the parties in the cases before it, the jus-tices employ terminology which places them in the context of the litigation in which they are involved. Accordingly, an employer

who happens to be a manufacturer will be identified as the former
if its role in the litigation is that of an employer and as the
latter if its role is that of a business. Because the justices
describe litigants in this fashion, a fairly limited vocabulary
characterizes them. Note that the list of parties also includes
the list of administrative agencies and officials contained in
administrative action preceding litigation (variable 6).

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

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

Either PARTY_1 or PARTY_2, or both, may be blank if the
record pertains to more than one memorandum decision (see vari-
able 29). 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 the MULTMEMO variable (variable 29) 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. You may wish to consult the official syllabus -- the
summary -- which appears on the title page of the case as well.

In describing the parties, the Court employs terminology
which places them in the context of the specific lawsuit in which
they are involved. E.g., "employer" rather than "business" in a
suit by an employee; as a "minority," "female," or "minority
female" employee rather than "employee" in a suit alleging dis-
crimination 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 21 and 24). E.g., identify a federal tax-
payer 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 en-
closed 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 6).

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), GOMEE (minority), or GOMFEE (minority female)

__ GOFEE = female governmental employee or job applicant

__ GOMEE = minority governmental employee or job applicant

__ GOMFE = minority female governmental employee or job applicant

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

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

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

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

AMTRAK = National Railroad Passenger Corp.

ARCADE = amusement establishment, or recreational facility

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

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

AUTHOR = author, copyright holder (INVENTOR)

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

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

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

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

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

BREWERY = brewery, distillery (ALCOHOL, BAR)

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

BUILDER = construction industry (KOR)

BUS = bus or motorized passenger transportation vehicle

BUSINESS = business, corporation (AD, AIRLINE, AIR MFR,
        ALCOHOL, ARCADE, BANK, BAR, BOAT, BOOK, BREWERY, BRO-
        KER, BUILDER, BUS, CABLE TV, CAR DEAL, CHEM CO, COAL
        CO, DISTRIBUT, DRUG MFR, ELEC CO, FARMER, FOOD,
        FRACHISOR, FRANCHISE, HEAL, HOSPITAL, INSURE, KOR,
        MAGAZINE, MEDICAL, MFR, MGMT, MINE, MOTOR CO, 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)

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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-em-
      ployment related (PIP). If unclear whether the injury is
      physical or not, the broader category, IP, is used rather
      than PIP.

JUV = juvenile (CHILD)

KOR = government contractor (BUILDER)

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

MAGAZINE = magazine (NEWS)

MALE = male

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

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

MEE = racial or ethnic minority employee or job applicant

(__GOMEE, __GOMFEE, MFEE)

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

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

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

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

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

MOTHER = mother (CHILD, FATHER, PARENT)

MOTOR CO = auto manufacturer

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

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

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

NONRES = nonresident (RESIDENT)

NUCLEAR = nuclear power plant or facility

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

OFFEREE = shareholders to whom a tender offer is made

OFFERER = tender offer

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

OLD = elderly person, or organization dedicated to the elderly

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

PAC = political action committee

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

PARKING = parking lot or service

PATIENT = patient of a health professional

PHONE = telephone or telegraph company

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

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

PIP = physically injured person, including wrongful death, who
       is not an employee (IP)

PIPELINE = pipe line company (OIL CO)

PKG = package, luggage, container

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

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

POOR D = indigent defendant

PP = private person

PRISONER = prisoner, inmate of penal institution (CC)

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

PROBATIO = probationer, or parolee

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

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

PUBLISHE = publisher, publishing company (BOOK)

RADIO = radio station (NETWORK)

RAMI = racial or ethnic minority

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

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

REALTOR = realtor (DEVELOPER, O)

REPORTER = journalist, columnist, member of the news media

RESIDENT = resident (NONRES)

RESTRANT = restaurant, food vendor (BAR)

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

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

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

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

SELLER = seller or vendor

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

SHOP CTR = shopping center (O, STORE)

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

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

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

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

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

TENANT = tenant or lessee (O)

THEATER = theater, studio

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

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

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

TV = television station (CABLE TV, NETWORK)

UMEM = union member (EE, UNION)

UNEMPLOY = unemployed person or unemployment compensation
           applicant or claimant

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

VETERAN = veteran (MILITARY)

VOTER = voter, prospective voter, elector, or a nonelective offi-
        cial seeking reapportionment or redistricting of legisla
        tive districts (POL)

WHOLESAL = wholesale trade (ALCOHOL, DISTRIB, STORE)

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

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

     Interagreement between the coding and recoding is substan-
tially less than complete in the parties variables for several
reasons. First, the descriptors are undefined. Second, the
difference between a given descriptor and others to which it is
cross-referenced is one of degree rather than kind. Third,
majority opinions not infrequently dually characterize parties.
Nonetheless, the decision rule limits coding to singular charac-
terization of parties. Finally, the Reports will commonly label
a governmental party by his or her name and office, and thereaf-
ter substitute the name of the government for that of the offi-
cial. One or more of these conditions apply to all but one of
the Warren Court's nine PARTY_1 and seven PARTY_2 discrepancies.
The only exceptions were the entry of the less accurate CC rather
than POOR D in 009/0811, and the clearly erroneous US in place of
LA as the respondent in 010/0663. Accuracy may therefore be
specified as 99.3 percent for both Warren Court parties. Al-
though the Burger Court sample generated several times as many
discrepancies as the Warren Court, the same factors account for
them. Of the 29 differences in petitioning party, cross-referen-
cing accounts for nine (030/0191, 032/0138, 039/0501, 045/0684,
046/0030, 051/0571, 053/0306, 073/0928, 092/0199), (the foregoing
and succeeding citations are to LED) dual characterization in
another ten (031/0165, 034/0307, 040/0189 [the options selected
here were HUSBAND and MALE; the party actually was a widower],
040/0694, 055/0082, 062/0676, 069/0856, 070/0509, 081/0301,
083/0343), and six involved government/governmental official
distinctions (035/0282, 043/0032, 043/0214, 064/0278, and the two
records in 083/0720). Two errors involved a coding change from
RAMI to RAMISTU and from UNION to EE TRUST; a third resulted

because the codebook listed two acronyms for the Department of
Transportation: DOT and TRAN; and 078/0241 should be MS GOEE
rather than MS GOMEE. Counting only the last four as lacking
identity, interagreement equals 98.1 percent. The 37 PARTY_2
differences produce a similar result: seven cross-referenced, 18
dually characterized, and six government/governmental official
distinctions. Errors occurred in 034/0296 (DC, not US), the two
records of 036/0771 (VA BD ED, not the typographical error: VA DB
ED), 046/0030 (US, not CA), 071/0859 (US S CT, not merely S CT),
and 077/1407 (PP, not ?). Interagreement thus reaches 97.2
percent.
        Also see administrative action preceding litigation (vari-
able 6).

                        Variable 13
    disposition of case by court whose decision the Supreme Court
                     reviewed (LODIS)
                   [one column, character]

        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 28,
type of decision), LODIS will not contain an entry if the decisi-
on 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 5). Memorandum cases will
usually not contain an entry in this variable because the Court
does not provide this information.
        The codes employed are the following:

        0 = stay, petition, or motion granted
        1 = affirmed
        2 = reversed
        3 = reversed and remanded
        4 = vacated (or set aside) and remanded
        5 = affirmed in part and reversed (or vacated) in part
        6 = affirmed in part and reversed (or vacated) in part and
            remanded
        7 = vacated
        8 = petition denied or appeal dismissed
        M = modify
        R = remand
        * = unusual disposition.

        The decision rules for entering this information follow:

        Adhere to the language used in the "holding" in the summary

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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 review-ing refuses to enforce or enjoins the decision of the court, tribunal, or agency which it reviewed, treat this as = 2.

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

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

Except for the letter codes, the others also apply to the disposition the Supreme Court gives the court whose decision it reviews (disposition of case variable, variable 30). The above letter codes do not apply to dispositions of the Supreme Court.
Except for DEC_TYPE = 3 cases (see variable 28, 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 30.
The 21 Warren Court discrepancies locate in only ten sepa-rate citations. Eight discrepancies in three citations are equally accurate: between "R" and "4" in 002/0292, between "2" and "5" in 015/0284, and between "1" and "8" in 016/0314. In the four records of 020/0672, the majority opinion says "2," while a footnote says "4." The nine other differences may be counted as errors: the two records of 003/0450 and 023/0332 in which over-sights left the variable empty; the "4" and "7" in the two records of 003/1312; the "2" and "3" in 009/0279; the "4" and "7" in 012/0129; and the error resulting from the lack of cleaning that occurred in the two records in 009/0561: the original version of the codebook specified entering the lower court's decision even if it were the trial court, which was the situation in this case. Agreement, therefore, equals 93.6 percent.
In the Burger Court sample, half the 28 discrepancies are debatable: 025/0246 can be either "8" or "R." 026/0764 mentions "1" and "8" at different places in the majority opinion; so also does 031/0110 ("1" and "8"), the two records of 042/0465 ("2" and "3"), 052/0136 ("2" and "5"), the two records of 080/0622 ("2" and "3"), and 090/0428 ("1" and "5"). The two records of 031/0551 lack clarity between "1" and "8," as does 043/0530 between blank and "1," 060/0698 between "*" and "R," and 077/0938 between blank and "1."
The other 14 discrepancies are (* = DEC_TYPE=3): 032/0612

("0" and "1"), 034/0296 * (blank and "2"), 036/0941 ("2" and
"3"), 045/0109 (blank and "1"), 045/0684 * (blank and "1"),
048/0626 ("2" and "R"), the two records in 058/0007 (blank and
"8" because of a coding change), 063/0325 * (blank and "2"),
065/0597 ("1" and "2"), 066/0234 * (blank and "1"), 070/0225 *
(blank and "2"), 074/0643 * (blank and "8"), and 078/0241 *
(blank and "1"). Agreement, therefore, equals 93.5 percent.
     The plethora of memorandum decisions in the discrepancies of
the Burger Court likely results from the fact that these cases
contain only concurring and/or dissenting opinions. Unlike a
majority opinion, which places dispositional information in a
standard section, such data may be found anywhere or nowhere in a
separate opinion.
     Also see disposition of case (variable 30) and direction of
the lower court's decision (variable 14).

                          Variable 14
        direction of the lower court's decision (LCTDIR)
                  [one column, character]

     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 26.
     LCTDIR will allow you to determine whether the Supreme
Court's disposition of the case (see variable 30) upheld or over-
turned a liberal or a conservative lower court decision. Thus,
it was well established during the Warren and Burger Courts that
the justices overturned most of the cases they accepted for
review. What was less well established was whether these over-
turned cases were themselves liberal or conservative. (Cf. Harold
J. Spaeth, "Burger Court review of state court civil liberties
decisions," 68 Judicature 285-291 (1985)). That is to say, to
what extent did the Supreme Court affirm or reverse liberal or
conservative decisions from lower court X? The answer to such a
question tells us much about how the Court manages its docket and
the treatment it accords the lower courts.
     Thus, for example, if you wish to know how the Court ideo-
logically reacted to the cases coming from the Ninth Circuit that
it reviewed during the period of the Burger Court, the following
commands will provide you with this information:
          SELECT IF CHIEF=2
          SELECT IF (ANALU EQ ' ' OR ANALU '1' OR ANALU EQ '4')
          SELECT IF (DEC_TYPE EQ 1 OR DEC_TYPE EQ 5 OR
           DEC_TYPE EQ 6 DEC_TYPE EQ 7)
          SELECT IF SOURCE EQ '9C'
          CROSSTABS TABLES=LCTDIR BY WIN
The resulting table will contain the number of docketed cases
liberally and conservatively decided by the Ninth Circuit in
which the Burger Court heard oral argument and how many of each
type the justices affirmed or reversed.

This variable was not subject to a reliability check because it was computer generated. The commands whereby this variable was created may be found in the Appendix.

Also see disposition of case by court whose decision the Supreme Court reviewed (variable 13), direction of decision (variable 26), disposition of case (variable 30), and winning party (variable 32).

Variable 15
date of oral argument (ORAL)
[eight columns, character]

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 28, type of decision) ORAL has no entry.

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

Two inconsistencies appeared in the Warren Court sample. The day was incorrect in one record and the whole date in the other. The latter was a non-orally argued decree in which the date of decision was mistakenly entered as the date of oral argument. In the Burger Court sample, three errors occurred: the month in one record and the day in two others. Identity equals 98.6 percent for both Courts. If digits are the focus, identity increases by a factor of six.

Also see reagument date (variable 16) and decision date (variable 17).

Variable 16
reargument date (REORAL)
[eight columns, character]

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. The reliability check showed 100 percent agreement.

Also see date of oral argument (variable 15) and decision date (variable 17).

Variable 17
decision date (DEC)
[eight columns, character]

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.

The single error that occurred in the Warren Court sample

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was the same as the one in the ORAL variable (variable 15). The
Burger Court produced one discrepancy in a memorandum decision.
Cert was denied on one date and the dissenting opinion, the only
reason the case is in the database, was filed a week later.
        Also see date of oral argument (variable 15) and reargument
date (variable 16).

                          Variable 18
                     term of Court (TERM)
                    [two columns, numeric]

        This variable allows you to limit your research and analysis
to 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 last two digits of the year in which it began.
Thus, if you wish to focus on the last term of the Warren Court,
1968, merely
            SELECT IF TERM=68
or if your focus is the last five terms of the Burger Court,
1981-1985,
            SELECT IF (TERM GT 80 AND TERM LT 86)
        This variable was not subjected to a reliability check
because it was computer created. The commands employed may be
found in the Appendix.
        Also see chief justice (variable 19) and natural court
(variable 20).

                          Variable 19
                     chief justice (CHIEF)
                    [one column, numeric]

        For those of you who wish to consider only one of the Courts
contained in this database, this variable provides you with that
option. The command, SELECT IF CHIEF=1, restricts your analysis
to the Warren Court; SELECT IF CHIEF=2 limits it to the Burger
Court; and SELECT IF CHIEF=3 provides you with all records from
the beginning to the last complete term of the Rehnquist Court
that I have entered into the database.
        This variable was not subject to a reliability check because
it was computer created. The commands employed may be found in
the Appendix.
        Also see term of the Court (variable 18) and natural Court
(variable 20).

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Variable 20
natural court (NATCT)
[five columns, character]

　　　Although most judicial research is chronologically organized
by the term of the Court (variable 18) or by chief justice (va-
riable 19), many scholars use "natural courts" as their analyti-
cal 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
<u>argued</u> and decided after seating. See Edward V. Heck, "Justice
Brennan and the Heyday of Warren Court Liberalism," 20 *Santa
Clara Law Review* 841 (1980) 842-843 and "Changing Voting Patterns
in the Burger Court: The Impact of Personnel Change," 17 *San
Diego Law Review* 1021 (1980) 1038; Harold J. Spaeth and Michael
F. Altfeld, "Measuring Power on the Supreme Court: An Alternative
to the Power Index," 26 *Jurimetrics Journal* 48 (1985) 55. A
strong court is delineated by the addition of a new justice or
the departure of an incumbent. A weak court, by comparison, is
any group of nine justices even if lengthy vacancies occurred.
Thus, as is shown below, the first thirty months of the Burger
Court comprise three strong natural courts, but only one weak
one: the eight justices who sat during the 1969 term, the addi-
tion 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

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

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

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

     [c]This 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

     [d]includes one record after Brennan's retirement
     [e]includes two records prior to Souter's seating
     [f]includes eleven records prior to Thomas's seating

    This variable was not subject to a reliability check. The SPSS commands that created it may be found in the Appendix.
    Also see term of the Court (variable 18) and chief justice (variable 19).

Variable 21
legal provisions considered by the Court (LAW)
[seven columns, character]

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

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

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

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

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

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

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

numbers.

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

The order in which the LAW entries appear in the records of a specific docket number is independent of their importance to the resolution of the case. The order of the LAW entries follows the sequence in which they appear in the summary. As a general rule, jurisdictional considerations precede a discussion of the substantive legal provisions that the case concerns. Indeed, the legal heart of a case may be the last of several legal provisions that the Court considered, or otherwise interspersed among a number that are only peripheral to the Court's decision.

Beyond the foregoing, observe that an entry should appear in this variable only when the summary indicates that the majority opinion <u>discusses</u> the legal provision at issue. The mere fact that the Court <u>exercises</u> 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 5).

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 variable 23, 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
```

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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 amend-
ment 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 sche-
dule:

```
1A    = speech, press, and assembly
1ASN = association
1AEX = free exercise of religion
1AES = establishment of religion
1APT = petition clause
4A    = Fourth Amendment
5ADJ = double jeopardy
5ADP = due process
5AGJ = grand jury
5AMI = Miranda warnings
5ASI = self-incrimination
5ATK = takings clause
5A=P = equal protection
6ACF = right to confront and cross-examine, compulsory
        process
6ACO = right to counsel
6AJU = right to trial by jury
6ASP = speedy trial
6A    = other Sixth Amendment provisions
7A    = Seventh Amendment
8AEB = prohibition of excessive bail
8AEF = prohibition of exessive fines
8A    = cruel and unusual punishment
9A    = Ninth Amendment
10A  = Tenth Amendment
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 ab-
ridges a provision of the Bill of Rights that has been made bind-
ing 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 exclu-
sively 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 Reconstruc-
tion Civil Rights Acts which contain their section number; i.e.,
1981, 1982, 1983, 1985, 1986.

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

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

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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, including Social Security Disability
       Benefits Reform Act, but excluding Medicare, Medi-
       caid, Supplemental Security Income, and Aid to Fami-
       lies with Dependent Children
SSI  = Supplemental Security Income
TIL  = Truth in Lending
TORT = Federal Tort Claims
TUCK = Tucker
TWE  = Trading with the Enemy Act, as amended
```

```
        UCMJ = Universal Code of Military Justice
        VRA  = Voting Rights Act of 1965, plus amendments
```

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

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

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

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

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

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

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

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

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

sion turns on the statutory jurisdiction of a federal court, and the holding does not specify it (e.g., *United States v. King*, 395 U.S. 1).

Needless to say, the LAW variable may be combined with any number of others to provide such information as what sorts of legal provisions involve what sorts of parties (see variable 12); e.g.,

```
SELECT IF (LAW EQ '5A=P' OR LAW EQ '14A=')
SELECT IF (PARTY_1 EQ 'SPOUSE' OR PARTY_1
 EQ 'WIFE' OR PARTY_1 EQ 'HUSBAND')
SELECT IF (PARTY_2 EQ 'SPOUSE' OR PARTY_2
 EQ 'WIFE' OR PARTY_2 EQ 'HUSBAND')
```

or issues (see variable 24),

```
SELECT IF (LAW EQ '1AEX' OR LAW EQ '1AES)
SELECT IF ISSUE EQ 455
```

or voting outcome (see variable 35),

```
SELECT IF LAW EQ 'RICO'
SELECT IF (VOTE EQ 54 OR VOTE EQ 43)
```

or a certain kind of behavior by particular justices (see the votes, opinions, and interagreements of the individual justices, variable 37)

```
SELECT IF LAW EQ 'ABST'
SELECT IF (FRK EQ '2' OR FRK EQ '21' OR FRK EQ '22')
```

Of the ten Warren Court discrepancies, four are non-orally argued DEC_TYPE=2 cases (see variable 28, type of decision) that have an abbreviated summary without numerical headings (002/0001, 004/0001, 012/1041, 019/0546). In each of these cases, the variable either had no entry or contained a statutory listing (002/0001, 004/0001, and 019/0546) or a constitutional provision (012/1041). Either alternative appears equally correct. In three DEC_TYPE=1 cases, the chosen alternatives also appear to be equally plausible: 6ACO vs. 14AD in 099/0135, and 62 vs. 5A=P in the two records of 016/0828. The other three discrepancies constitute error: 5AMI vs. 5ASI in 020/0381, 1A vs. 1ASN in 003/0462, and 1817 vs. 172 in 002/0282. The first of these could have been typographical. Identity, therefore, may be considered to be 97.9 percent.

By comparison, none of the eleven discrepancies in the Burger Court sample rises to the level of an error. In 028/0196 and 034/0651, the choice was between ABST and a blank. The summaries mention "abstention," but not the abstention doctrine. 037/0993 requires reference to cited decisions to determine the proper entry. The choice in 040/0694 falls between LHWC and nothing. In 045/0109, SLA is mentioned in the opinion, but not the summary. The choice is between this entry or none. In 046/0030, CRMP appears only because of a reference to an opinion in chambers. Alternatively, the variable should contain no entry. In 058/0202, NLRA or a blank variable is equally plausible; while in 083/0998 and 084/0073, an equally acceptable choice may be made between TREATY or an empty variable. In the two records of 088/0598, HC HC versus blank HARM is equally plausible.

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Also see multiple legal provisions (variable 22) and author-
ity for decision (variable 23).

Variable 22
multiple legal provisions (LAWS)
[two columns, character]

This variable will enable you to determine whether any given
legal provision is the only one considered by the Court, or whe-
ther other(s) are also involved. A "2" in this variable indi-
cates the presence of multiple legal provisions.
The "2" appears in this variable in each record of such
cases where there is a legal provision different from that of
another record in the case. The only exception is a case where a
single legal provision applies to more than one issue (see vari-
able 24). Hence, if you wish to use a particular legal provision
as your unit of analysis and you wish to use it only in cases
where it is (or alternatively) is not conjoined with another
legal provision, simply use commands that 1) either include or
exclude (as you choose) those records containing the legal
provision(s) you wish to analyze which either have or do not have
a "2" in the LAWS variable, and 2) exclude all records in which
ANALU=2 (see variable 3). Thus,
        SELECT IF LAW EQ 'AFDC'
        SELECT IF LAWS = ' '
        SELECT IF (ANALU EQ ' ' OR ANALU EQ '1')
will provide you with all docket numbers in which Aid for Fami-
lies with Dependent Children is the only legal provision at is-
sue.
Appropriate alterations in the foregoing commands will enab-
le you to include in your data set the equal protection provision
in the following citation (or to exclude it if you are only con-
cerned with citations in which equal protection is the only legal
provision that the Court considered).

LED	ANALU	LAW	ISSUE	LAWS
061/0382		5A=P	311	2
"	1	"	311	2
"	2	"	283	
"	2	"	283	
"	3	AFDC	311	2
"	3	"	311	2
"	5	"	283	*
"	5	"	283	*

This citation contains two legal provisions: 5A=P and AFDC.
It also has two docket numbers as the "1" in the ANALU variable
of the second record indicates. The citation also pertains to
two issues, 311 and 283. The "2" appearing in the LAWS variable
for the two docket numbers in which LAW = 5A=P and the two in
which LAW = AFDC identifies the citation as containing more than

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a single legal provision, while the two records in which ANALU=5 indicate that both the LAW and the ISSUE differ from that in the first two records of the case.

    Also note that every record in the database in which ANALU =3 or =5 contains a "2" in the LAWS variable. The only exception is the case exemplified above, 61 L Ed 2d 382 (443 U.S. 76), and 22 L Ed 2d 344 (394 U.S. 369). This supplementation of LAWS=2 with an asterisk insures that every record in which ANALU=3 or ANALU=5 contains a non-zero entry in LAWS.

    No differences in the coding of either Court occurred.

    Also see legal provisions considered by the Court (variable 21) and unit of analysis (variable 3).

Variable 23
authority for decision (AUTHDEC1, AUTHDEC2)
[two single-column variables, character]

    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 21). These bases and their associated codes are as follows:
    1 = judicial review -- national level
    2 = judicial review -- state level
    3 = supervisory power over the lower federal courts, includ-
        ing the Supreme Court's determination of its own
        non-statutorily mandated authority
    4 = interpretation of a federal statute, treaty, or court
        rule
    5 = interpretation of a federal executive order, or an ad-
        ministrative regulation or rule
    6 = interpretation of a state law while exercising diversity
        jurisdiction
    7 = federal common law

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

    AUTHDEC1 will have an entry in every record that is not a memorandum case (see variable 28, 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 30, disposition of case), the AUTHDEC variables lack an entry except

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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 21). 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 con-
stitutionality of a federal statute, or where judge-made rules
are applied to determine liability under various federal sta-
tutes, 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).
     These variables will be useful for a variety of purposes.
For example: To identify all the cases in which the Court ex-
ercised judicial review at either the federal or state level:
          SELECT IF (AUTHDEC1 EQ '1' OR AUTHDEC1 EQ '2'
           OR AUTHDEC2 EQ '1' OR AUTHDEC2 EQ '2')
To identify all cases in which the Court applied common law:
          SELECT IF (AUTHDEC1 EQ '7' OR AUTHDEC2 EQ '7')
Or more specifically, to identify all the cases in which the
Court construed a particular provision of the First Amendment in
a case involving action by a state or local government:
          SELECT IF (AUTHDEC1 EQ '2' OR AUTHDEC2 EQ '2')
          SELECT IF (LAW EQ '1A' OR LAW EQ '1ASN' OR LAW EQ
           '1AEX' OR LAW EQ '1AES' OR LAW EQ '1APT')
To identify the statutes that the Court subjects to administra-
tive review:
          SELECT IF (AUTHDEC1 EQ '5' OR AUTHDEC1 EQ '4' OR
           AUTHDEC2 EQ '4' OR AUTHDEC2 EQ '5')
     Beyond the foregoing examples, these two variables may be
easily combined with the votes and opinions of various justices,
"liberal" and "conservative" decisions (see direction of deci-
sion, variable 26) on various issues (see variable 24) involving
various parties (see variable 12) that originated in certain
courts (see the origin of case, variable 8 and/or the source of
case, variable 9) in which the Court granted cert to resolve a
conflict in the lower courts (see the reason for granting cert,
variable 11) or which involved administrative action (see vari-
able 6).
     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 govern-
ment, including an interstate compact? If so, enter a "1."
          Enter a "1" if 321 appears in the LAW variable.
          Enter a "1" if IC appears in the LAW variable.

     Re 2: Did the majority determine the constitutionality of

some action taken by some unit or official of a state or local government? If so, enter a "2."

Re 3: If the rules governing codes "1-2," "4-7" are answered negatively or do not apply, enter a "3." A "3," then, serves as the residual code for these variables.
Enter a "3" if WIG appears in the LAW variable.
Non-statutorily based Judicial Power topics (700-899) in the ISSUE variable generally warrant a "3."
Most cases arising under the Court's original juris-diction should receive a "3."
All cases containing a "4" in the type of decision variable = 3.
Enter a "3" in cases in which the Court denied or dismissed the petition for review (indicated by an "8" in the disposition of case, variable 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 28).

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

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

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

The reliability coding of AUTHDEC treated the variable as a single two-column variable, rather than two separate variables. The variable was divided after the reliability coding was performed in order to facilitate the use of this variable for SPSS analyses. In the Warren Court sample, 107 perfect matches occurred in the 139 records common to both sets (77.0 percent). Of the 32 discrepancies, 12 merely reversed a 2-digit sequence, and all but one of these involved "45"; the other one, "75." If these 12 are considered to match, discrepancies reduce to 20 and agreement becomes 85.6 percent.

In 14 instances, one coder entered a single digit, while the other one entered two -- one of which was the same as the single digit entered by the other coder. The total number of the codes that appeared uniquely is as follows: "5" six times, "3" four times, "4" three times, and "7" one time. If these be considered matches, agreement increases to 95.7 percent.

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

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

In the Burger Court sample, 181 perfect matches occurred in

the 214 records common to both samples (84.6 percent). Unlike
the Warren Court, there were no two-digit reversals.

In 23 instances, one coder entered a single digit, while the
other coder entered two -- one of which was the same as the
single digit entered by the other coder. The uniquely appearing
digit was: "5" twelve times, "4" five times, "3" three times, "7"
two times, and "1" one time. (One "4" and the single "1" arose
in 085/0764, a case with dual legal provisions, in which one
coder entered "14" twice, while the other entered a "1" in one
record and a "4" in the other). If these 23 records be con-
sidered matches, agreement increases to 95.3 percent.

In the remaining ten records, a choice between "73" and "74"
in 043/0214 is equally accurate. The differences in 037/0993,
058/0202, and 084/0073 result because one coder made a LAW entry
in the legal provision at issue variable while the other -- just
as reasonably -- failed to do so. In 057/0957 and 064/0559, a
choice between "7" and "43" in the former and "7" versus "1" in
the latter are equally good. The other four records arguably
produce error: 046/0030, "4" vs. blank in a memorandum decision;
the two records of 047/0483, "4" vs. "73"; and 048/0626, "43"
vs. "5." Agreement, therefore, may be considered to be as high
as 98.1 percent.

Also see legal provisions considered by the Court (variable
21).

Variable 24
issue (ISSUE)
[three columns, numeric]

This variable identifies the context in which the legal
basis for decision (variable 21) 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 ano-
ther, and affirmative action in yet a third -- to say nothing of
the employability of aliens, denial of welfare benefits, legisla-
tive districting and apportionment, the access of political par-
ties and candidates to the ballot, durational residency require-
ments, 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 21) commonly disregards.

Unlike the LAW variable where the number of legal provisions
at issue has no preordained upper bound, an issue should not
apply to more than a single legal provision. A second issue

should apply only when a preference for one rather than the other cannot readily be made. Of the many thousand records in the database, only about three percent have a legal basis for decision that applies to a second issue. Through the first three terms of the Rehnquist Court, no case had more than two.

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 21).

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.

To help you redefine issues in either a more specific or more general direction, related issues that are distinctively coded that you may wish to consider in your analysis have been parenthetically specified. Needless to say, in combining and segregating issues you are not limited to those that I consider related.

If your interest lies in a particular issue area that has a specific legal or constitutional component, you may insure comprehensive coverage by listing not only the issue(s) that bear thereon, but also the appropriate code(s) from variable 21 (legal provisions considered by the Court). Thus, if the right to counsel is your focus, issues 030 and 381-382 will fall within your compass, as will code "6ACO" from the LAW variable. Also recognize that the parties variable (variable 12) may also help you locate the cases in which you may be interested. Thus,

      SELECT IF (ISSUE EQ 030 OR ISSUE EQ 381 OR ISSUE EQ
       382)
      SELECT IF LAW EQ '6ACO'

If, for example, you wish to investigate discrimination against women, you may cast your net beyond the relevant issues (283-284) and also consider those cases in which FEMALE and its related descriptors appear as either PARTY_1 or PARTY_2. Of course, many of the cases so identified will apply to one or the other of the gender discrimination issues; others will not. But those that do not carry either of the numbers pertaining to sex discrimination (283-284) may nonetheless meet your definition of discrimination against women.

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

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    165 false statements (cf. 177)
    166 financial (other than in 168 or 173)
    167 firearms
    168 fraud
    169 gambling
    171 Hobbs Act; i.e., 18 USC 1951, not 28 USC 2341, the
        Administrative Orders Review Act, which is also "common-
        ly known as the Hobbs Act."  96 L ed 2d 222, at 239.
    172 immigration (cf. 371-376)
    173 internal revenue (cf. 960, 970, 975, 979)
    174 Mann Act
    175 narcotics
    176 obstruction of justice
    177 perjury (other than as pertains to 165)
    178 Travel Act
    179 war crimes
    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)
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Civil Rights

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210 voting: does not extend to reapportionment and districting,
    which is 250, or to litigation under the Voting Rights Act,
    which is 211, or to durational residency requirements, which
    is 341.  Entries are limited to cases raising constitutional
    questions regarding the right to vote; typically, but not
    exclusively, under the 15th or 14th Amendments.
211 Voting Rights Act of 1965, plus amendments
212 ballot access (of candidates and political parties)
220 desegregation (other than as pertains to 221-223)
221 desegregation, schools
222 employment discrimination: on basis of race, age, or working
    conditions.  Not alienage, which is 272, or gender, which is
    284.
223 affirmative action
230 sit-in demonstrations (protests against racial discrimination
    in places of public accommodation): to be sharply disting-
    uished from protests not involving racial discrimination.
    The latter are coded as 451.
250 reapportionment: other than plans governed by the Voting
    Rights Act
261 debtors' rights (other than as pertains to 381-388):
    replevin, garnishment, etc.  Typically involve notice and/or
    hearing requirements or the takings clause.
271 deportation (cf. 371-376)
272 employability of aliens (cf. 371-376)
283 sex discrimination: excluding employment discrimination
    which is 284
284 sex discrimination in employment (cf. 283, 222)
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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 require-
    ments
441 conscientious objectors (cf. 361-362): to military service
444 campaign spending (cf. 650): financing electoral costs other
    than as regulated by the Taft-Hartley Act. Typically
    involves the Federal Election Campaign Act.
451 protest demonstrations (other than as pertains to 230):
    demonstrations and other forms of protest based on First
    Amendment guarantees other than the free exercise or estab-
    lishment clauses
455 free exercise of religion
461 establishment of religion (other than as pertains to 462)
462 parochiaid: government aid to religious schools, or religious
    requirements in public schools
471 obscenity, state (cf. 706): including the regulation of
    sexually explicit material under the 21st Amendment
472 obscenity, federal

Due Process

501 due process, miscellaneous (cf. 431-434): 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 gran-
      ting the writ was mistakenly believed to be present
  752 dismissed for want of a substantial or properly
      presented federal question
  753 dismissed for want of jurisdiction (cf. 853)
  754 adequate non-federal grounds for decision
  755 remand to determine basis of state court decision (cf.
      858)
  759 miscellaneous
___ standing to sue
  801 adversary parties
  802 direct injury
  803 legal injury
  804 personal injury
  805 justiciable question
  806 live dispute
  807 parens patriae standing
  808 statutory standing
  809 private or implied cause of action
  810 taxpayer's suit
  811 miscellaneous
___ judicial administration (jurisdiction of the federal courts
or of the Supreme Court) (cf. 753)
  851 jurisdiction or authority of federal district courts
  852 jurisdiction or authority of federal courts of appeals
  853 Supreme Court jurisdiction or authority on appeal from
      federal district courts or courts of appeals (cf. 753)
  854 Supreme Court jurisdiction or authority on appeal from
      highest state court
  855 jurisdiction or authority of the Court of Claims
  856 Supreme Court's original jurisdiction
  857 review of non-final order; i.e., allegation that the
      decision below is not a final judgment or decree, or
      that it is an interlocutory judgment (cf. 753)
  858 change in state law (cf. 755)
  859 federal question (cf. 752)
  860 ancillary or pendent jurisdiction
  861 extraordinary relief
  862 certification (cf. 864)
  863 resolution of circuit conflict, or conflict between or
      among other courts
  864 objection to reason for denial of certiorari (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 com-
    merce clauses, or the 21st Amendment. Distinguishable from
    910 and 911 because of a constitutional basis for decision.
```
    930 commodities
    931 intergovernmental tax immunity
    932 marital property, including obligation of child support
    933 natural resources (cf. 638)
    934 pollution, air or water (cf. 638)
    935 public utilities (cf. 681-688)
    936 state tax (cf. 626)
    939 miscellaneous
```
949 miscellaneous federalism (cf. 294, 701-708, 712, 754-755,
    854, 858, 860)

Interstate Relations

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

Federal Taxation

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

Miscellaneous

980 legislative veto
989 miscellaneous

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

099/0135 * 30 vs. 502 (this discrepancy is a function of the
    difference in LAW)
099/0210 (two records) 120 vs. 173
100/0060 * 614 vs. 852
100/0692   21 vs. 434 (discrepancy resulted because of the addi-
    tion of new codes during the original coding)
001/0119 * 101 vs. 107
001/1394 * 960 vs. 970
002/0355 0 vs. 684 (it is necessary to refer to cases cited in
    the opinion to determine the issue)
003/0462 (two records) * 960 vs. 970
010/0084 (four records) 222 vs. 939
012/0129 * 583 vs. 584
013/0605 * 684 vs. 685
017/0078 * 120 vs. 717 (DEC_TYPE=3 in which the dissenting opin-
    ion focuses on the Federal Rules of both Civil and Criminal
    Procedure)
020/0672 (four records) * 361 vs. 451
020/1089 * 21 vs. 23
020/1106 110 vs. 120 (typo)
021/0546 * 575 vs. 588

    Twenty-one of the 36 differences in the Burger Court are
also debatable in the sense that either choice is equally accu-
rate. If these are considered identical, agreement reaches 93.1
percent. If only separate citations are counted, 27 differences
occur, of which 14 are debatable, and agreement becomes 92.4 per-
cent. If the four records whose issue could only be identified
by going behind the summary and opinions of the cited case are
also excluded, agreement reaches 94.9 percent. The list of dif-
ferences follows. An asterisk indicates that either option ap-
pears to be equally good.

030/0812 (four records) * 110 vs. 112 (DEC_TYPE=3)
032/0138 * 116 vs. 863 (DEC_TYPE=3)
033/0484 * 502 vs. 504
035/0282 388 vs. 504 (lack of cleaning, 504 replaced 388)
036/0771 (two records) 0 vs. 221 (news reports identified the
    issue)
039/0501 * 14 vs. 116
040/0496 960 vs. 970
040/0703 741 vs. 910

042/0465 (two records) 575 vs. 578
042/0477 501 vs. 502 (new code added, lack of cleaning)
045/0109 900 vs. 920 (results because of difference in LAW)
046/0030 21 vs. 120 (results from reference to opinion in
    chambers, which is DEC_TYPE=3)
053/0423 * 717 vs. 867
055/0082 960 vs. 970
058/0007 (two records) * 753 vs. 853
058/0202 582 vs. 588
058/0674 0 vs. 652 (requires reading cited case)
065/0555 * 391 vs. 542
066/0234 * 507 vs. 851 (DEC_TYPE=3)
070/0404 * 576 vs. 910 (DEC_TYPE=3)
071/0419 563 vs. 587 (new code added, lack of cleaning)
078/0241 * 615 vs. 865 (DEC_TYPE=3)
078/0443 * 910 vs. 911
081/0301 * 681 vs. 721
083/0206 * 191 vs. 863 (DEC_TYPE=3)
084/0777 0 vs. 70 (determined by going behind record)
092/0675 (four records) * 721/899 vs. 869

    Also see issue areas (variable 25).

Variable 25
issue areas (VALUE)
[two columns, numeric]

    This variable simply separates the issues identified in the
preceding variable into the discrete issue areas that the ISSUE
variable contains, according to the schedule below. If you wish
to restrict your inquiry to one or more of the following sets of
issues, you may find this variable a convenience.

    criminal procedure (issues 10-199)   VALUE=1
    civil rights (issues 210-399)   VALUE=2
    First Amendment (issues 401-472)   VALUE=3
    due process (issues 501-507)   VALUE=4
    privacy (issues 531-537)   VALUE=5
    attorneys (issues 542-548)   VALUE=6
    unions (issues 553-559)   VALUE=7
    economic activity (issues 601-699)   VALUE=8
    judicial power (issues 701-899)   VALUE=9
    federalism (issues 900-949)   VALUE=10
    interstate relations (issues 950-959) VALUE=11
    federal taxation (issues 960-979)   VALUE=12
    miscellaneous (issues 0, 980-989)   VALUE=13

    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). Hence, if you wish to know the frequency with which

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the Court addressed the various issue areas in their orally
argued cases during a given set of terms or for a natural court,
you will obtain a reasonably accurate count by
          SELECT IF (DEC_TYPE=1 OR DEC_TYPE=6 OR DEC_TYPE=7)
          SELECT IF ANALU=' '
inasmuch as analysts generally give priority to substance over
process.
     Also see issue (variable 24). This variable was not subject
to a reliablity check because it was computer generated. The
commands used are specified in the appendix.

Variable 26
direction of decision (DIR)
[one column, numeric]

     In order to determine whether the Court supports or opposes
the issue to which the case pertains, "direction" needs to be
assigned. Scholars are usually not satisfied only to know
whether a case concerns civil rights. They also wish to know
whether the Court upheld or rejected the civil rights claim.
This variable addresses that concern. Specification of direction
comports with conventional usage for the most part except for the
interstate relations and the miscellaneous issues. An "O" 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 informa-
tion precludes a determination of how the Court resolved the
issue in the case, each issue in each case will either indicate
the Court's support (=1) or its opposition (=2) to the specific
issue involved.
     Thus, to determine the proportion of orally argued cases in
which the Court held a search or seizure to be constitutionally
unreasonable, use the following commands:
          SELECT IF (DEC_TYPE EQ 1 OR DEC_TYPE EQ 6 OR DEC_TYPE
           EQ 7)
          SELECT IF (ISSUE EQ 016 OR ISSUE EQ 017)
          CROSSTABS TABLES=ISSUE BY DIR
     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).

    Hence, users who wish to determine the raw proportion of
"liberal" or "conservative" decisions over a period of time
should be alert to the foregoing situation. Such users should
either include -- or alternatively, exclude -- records in which
ANALU=2 or ANALU=5 (see variable 3, unit of analysis) in their
count of the cases.

    To insure complete accuracy, you ought not exclude 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. How you wish to count such cases is a matter of judgment.

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

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

      1 = pro-person accused or convicted of crime, or denied a
           jury trial
        pro-civil liberties or civil rights claimant
        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 is to have
direction assigned for each issue in accordance with the above
schedule.
     The reliability check showed two errors in the Warren Court
(agreement = 98.6 percent) and one error in the Burger Court
(agreement = 99.5 percent). Failure to enter a "0" in a case in
which the issue = 0 (098/0423). This is a trivial error because
if ISSUE=0, directionality perforce equals 0. In 100/0692, the
variable was left blank when it should have contained a "1." In

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063/0325, which is a memorandum decision, DIR=2, not 1.

Also see direction of decision based on dissent (variable 27), issue (variable 24), and direction of the individual justices' votes (variable 38).

Variable 27
direction of decision based on dissent (DIRD)
[one column, character]

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 26) 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 an asterisk. The person accused of crime actually won the case, but won less of a victory than the dissent would have provided. Hence, if you are counting the direction of a certain subset of cases, or if you are describing the direction of a particular case, be sure to note whether an asterisk appears in this variable. If so, the real direction of the Court's decision is opposite the "1" or the "2" that appears in the direction of decision variable.

Although most of the records in which DIRD=* specify a "2" in the direction of decision variable (DIR), occasionally the dissenters are more conservative than a conservative majority. This produces a "1" in the preceding variable. *Wyman v. Rothstein*, 398 U.S. 275 (1970), illustrates. The majority vacated and remanded for further proceedings a decision that provided welfare recipients with temporary relief. The dissenters -- Justices Black and Burger -- also voted to vacate and remand, but with directions to dismiss rather than for further proceedings. Hence, the dissenters were more conservative (less supportive of the welfare recipients) than the majority and direction of decision consequently equals "1."

Alternatively, you may consider the dispositional differences in these cases unduly refined for your purposes. The fact that the dissenters provided more relief for one or the other of

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the parties than the majority did does not alter the correspon-
ding fact that the party whom the majority supported won a victo-
ry. Consequently, one may appropriately view the difference
between the majority and the dissent as one of degree and simply
score the decision as one that unanimously supports the direc-
tion indicated by the majority's decision. If you choose this
course, simply rescore the direction of records in which DIRD=*
with the alternative indicator: i.e., if "2," then "1." If "1,"
then "2."
```
          DO IF DIRD EQ '*'
          RECODE DIR (2=1) (1=2)
          END IF
```
The reliability check produced no differences in either
Court's sample.
Also see direction of decision (variable 26).

Variable 28
type of decision (DEC_TYPE)
[one column, numeric]

Choice of a unit of analysis (see variable 3) does not end
with a selection of citation, docket number, or one of the other
options that ANALU provides. You will also want to choose among
the types of decisions that the Supreme Court renders. Seven
such types may be distinguished:

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 segreg-
ated from the other types of decisions by their location in the
back of the various volumes of the *United States Reports* beginn-
ing 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 lab-
el, "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 de-cided cases (DEC_TYPE=1). It differs from type 1 only in that no individual justice's name appears as author of the Court's opi-nion. 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. Unless you are interested only in the authors of the opinions of the Court, you should include DEC_TYPE=7 in your analysis of the Court's formally decided cases.

   The database contains all 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 per-centage 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 deci-sions 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 of the Reports, regardless of type.

Until now, empirical research has focused on DEC_TYPE=1, DEC_TYPE=6, and DEC_TYPE=7 decisions. Relatively little, if any, attention has been paid decrees (DEC_TYPE=4) and cases decided by an equally divided vote (DEC_TYPE=5). The database, however, does contain all decisions of both these types. If you decide to include non-orally argued per curiam decisions (DEC_TYPE=2), recognize that you will not be including the universe thereof, but only those that contain a separate opinion (i.e., a concurring or a dissenting opinion) as well as those which the Court saw fit to summarize.

Accordingly, you will probably want to restrict your data file to but a subset of the types of decisions that the database contains. Use SELECT IF (DEC_TYPE=1 OR DEC_TYPE=7) if you wish only cases with a signed majority or plurality opinion. Use SELECT IF (DEC_TYPE=1 OR DEC_TYPE=6 OR DEC_TYPE=7) if you want all orally argued cases except those decided by a tied vote. If you wish to include the latter, add SELECT IF DEC_TYPE=5 to the preceding 'select if' command.

You should omit any restriction on the cases to be selected from the DEC_TYPE variable only if you wish to analyze all of the opinions, bar none, of a given justice or set of justices. The database does contain every opinion that every justice wrote since the beginning of the Warren Court. But in compiling your data file for the purpose of analyzing all of a justice's opin- ions, you will likely want to include DEC_TYPE among others in your 'list variables=' command so that you may distinguish among the types of decisions in which your justice wrote.

Complete agreement prevailed between all Burger Court rec- ords and all but one of those from the Warren Court. The error resulted because of failure to enter this datum in LED= 006/0246.

Also see unit of analysis (variable 3) and multiple memorandum decisions (variable 29).

Variable 29
multiple memorandum decisions (MULT_MEM)
[two columns, character]

In order 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 be- tween the page of the cited case and the first succeeding non- DEC_TYPE=3 case. Those of you who have a dBASE file of the data base may find the docket numbers and dates of decision of such cases in the notes variable of your file.

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.

This variable was not subject to reliability coding because the recoder would have had to check numerous cases other than those that were randomly selected.

Also see type of decision (variable 28).

Variable 30
disposition of case (DIS)
[one column, character]

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 35) and whether the individual justices voted with the majority or in dissent (variable 39).

This variable may be used to determine how the Court treats the decisions of the courts whose cases it has accepted for review (see variable 9). It can also indicate the frequency with which certain parties prevail or lose in the Supreme Court (see variables 12, 32). Thus, for example, you may determine the frequency with which a particular petitioning party or a governmental entity received a favorable, or unfavorable, disposition from the Supreme Court.

The codes used are the following:

      0 = stay, petition, or motion granted (if a stay, an "S"
          should appear in variable 5)
      1 = affirmed
      2 = reversed
      3 = reversed and remanded
      4 = vacated (or set aside) and remanded
      5 = affirmed in part and reversed (or vacated) in part
      6 = affirmed in part and reversed (or vacated) in part and
          remanded
      7 = vacated
      8 = petition denied or appeal dismissed
      9 = certification to a lower court
        = a case arising under some aspect of the Supreme Court's
          original jurisdiction, in which situation there is no
          lower court decision to review

Dispositions "0" - "8" are identical to those in the variable (LODIS) that specifies how the court whose decision the Supreme Court reviewed disposed of the case (variable 13).

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 31 (unusual disposition).

The four coding differences in the Warren Court sample occurred between "3" and "5" in 002/1097, and between "3" and "4" in 015/0026, 022/0535, and 023/0332. The substantive difference between these choices ranges from trivial to nonexistent. Nonetheless, they are errors, and agreement equals only 97.2 percent.

The Burger Court sample had only two discrepancies, both of which are errors. In 048/0775, a noncode entry appeared (an asterisk) to indicate "objections overruled." A typographical error occurred in 071/0234 ("1" versus "2"), which is evidenced by a common entry in the second record of this case. Agreement equals 98.6 percent.

Also see unusual disposition (variable 31) and winning party (variable 32).

Variable 31
unusual disposition (DISQ)
[one column, charactder]

An asterisk 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.

Inasmuch as the entry in the disposition variable controls the entry here, coding discrepancies become trivial when both coders entered the same datum in the DIS variable. This happened in the seven Warren Court records in which only one coder entered an asterisk in DISQ and in one of the two such Burger Court records. The disposition in the other Burger Court case -- reversed in part -- produced different dispositions: "2" versus "5." Hence, an error.

Also see disposition of case (variable 30) and winning party (variable 32).

Variable 32
winning party (WIN)
[one column, character]

A "W" 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 30 and 31) to determine the prevailing party. Thus, if you wish to know how many times the National Labor Relations Board won when it was party to a Supreme Court decision,

```
        TEMPORARY
        SELECT IF PARTY_1 EQ 'NLRB'
        CROSSTABS TABLES=PARTY_1 BY WIN
        TEMPORARY
        SELECT IF PARTY_2 EQ 'NLRB'
        CROSSTABS TABLES=PARTY_2 BY WIN
```

Note that in cases containing multiple docket numbers, not every petitioning party will necessarily receive the same disposition. Hence, if you are focusing on the outcome of the Court's decisions, you probably ought to use docket number as your unit of analysis (see variable 3) rather than case citation.

Two of the three errors in the Warren Court sample appear to have been an oversight because of the brevity of the per curiam decisions: 002/0355 and 002/1367. The other case is 003/1058. Identity, therefore, equals 97.9 percent.

Only one of the two Burger Court differences amounts to an error, albeit a careless one. Inasmuch as DIS=2 in 048/0039, the probability is high that WIN must contain a "W." In the other case, 025/0246, the Court's disposition was "denied and remanded." Hence, one may debate the propriety of a "W" in the WIN variable.

Variable 33
formal alteration of precedent (ALT_PREC)
[one column, character]

An "O" 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 an "O" in this variable.
        If the language in the majority opinion states that a prece-

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dent of the Supreme Court has been formally altered, but not
"overruled," this variable will contain an asterisk; e.g.,
"disapproved," "no longer good law." Note that formal alteration
does not apply to cases in which the Court "distinguishes" a
precedent. Such language in no way changes the scope of the
precedent contained in the case that has been distinguished.

Do not assume that each record indicates the formal alter-
ation of a separate precedent. A given citation may have several
docket numbers, each of which is governed by a single opinion in
which only one precedent was altered. Conversely, an opinion in
a citation with a single docket number may formally alter a whole
series of Supreme Court precedents. To determine the number of
formally altered precedents, you should carefully read the
prevailing opinion in each citation that has an entry in this
variable.

No differences emerged in the coding of either Court.

Variable 34
declarations of unconstitutionality (UNCON)
[one column, character]

An entry in this variable indicates that the Court either
declared unconstitutional an act of Congress; a state or terri-
torial statute, regulation, or constitutional provision; or a
municipal or other local ordinance.

The coding for this variable is the following:

U = act of congress declared unconstitutional

S = state or territorial statute, regulation, or constitu-
        tional provision declared unconstitutional

M = municipal or other local ordinance declared
        unconstitutional

A "U" should usually appear in the record that lists the law
declared unconstitutional. A "U", "S", or "M" 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.,
<u>Grisham v. Hagan</u>, 361 U.S. 278, 4 L Ed 2d 279, and <u>McElroy v.
Guagliardo</u>, 361 U.S. 281, 4 L Ed 2d 282 (1960).

The summary frequently, though not invariably, will indi-
cate 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 or-
dinance, unconstitutionality does not result unless the Court's
opinion so states.

Declarations of unconstitutionality occur more frequently
than formal alterations of precedent. Of 9976 records covering
the 1953-1989 terms, 162 indicate that an act of congress was
declared unconstitutional, along with 432 state laws, and 50

municipal ordinances. As with variable 33, do not assume that
each of these records pertains to a separate statutory or consti-
tutional provision. The Court will not uncommonly declare a par-
ticular statute void on several bases, or a number of dockets may
pertain to the same voided law. If you wish to know precisely
how many laws the Court declared unconstitutional, you should
consult the Reports for each citation having an entry in this
variable.

No coding differences occurred in either Court's sample.

Variable 35
the vote in the case (VOTE)
[two columns, numeric]

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 30) and not to the
justices' vote on any particular issue in the case (see variable
24). 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 at-
torney 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 variable 37, 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.

To determine the number of fornally decided full opinion
unanimous decisions during the Burger Court,
        SELECT IF CHIEF=2
        SELECT IF DEC_TYPE=1
        SELECT IF ANALU EQ ' '
        SELECT IF (VOTE=90 OR VOTE=80 OR VOTE=70 OR VOTE=60)
Conversely, to determine the comparable number of nonunanimous
decisions, simply replace the equal sign in the last of the
foregoing commands with NE.

The reliability check showed four Warren Court discrepan-
cies. Two occurred in memorandum decisions and resulted because
these decisions do not always make clear the difference between
"2" and "7" votes. (017/0078, 80 vs. 81; and 018/0458, 60 vs.
63). The discrepancy in 013/0527, 63 vs. 72, is not an error
because variable 36 (vote not clearly specified) contains an
entry in both data sets. An error, however, clearly occurred in

011/0757, 90 vs. 53. This case is a very lengthy decree. De-crees are almost always unanimous. I failed to notice the short dissent and the specification of non-participation at the end of the decree. Agreement, therefore, reaches 99.3 percent.

The following discrepancies occurred in the Burger Court sample. 024/0470 (70 vs. 71) is somewhat debatable. 046/0030 (81 vs. 72) is sloppy; the votes of the justices show two "2's" indicating dissents. 047/0154 (62 vs. 53) is not an error be-cause the case is double listed as a split vote -- i.e., ANALU=4. 057/0957 (90 vs. 72) and 066/0762 (61 vs. 52) are also not errors because variable 36 (vote not clearly specified) contains an ap-propriate entry. 058/0674 (81 vs. 72) is a careless error even though the case is a memorandum decision.

Therefore, two, or arguably, three errors, with agreement at either 99.1 or 98.6 percent.

Also see vote not clearly specified (variable 36) and the votes, opinions, and interagreements of the individual justices (variable 37).

Variable 36
vote not clearly specified (VOTEQ)
[one column, character]

In the vast majority of cases, the individual justices clearly indicate whether or not they agree with the disposition (see variable 30) 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 dis-position) or dissented from the disposition made by the majority. But in the rare case where a justice does not clearly indicate which it is, an asterisk will appear in this variable.

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

In the Burger Court, the two discrepancies concerned 057/0957 and 066/0762 in both of which the justices in question were "concurring and dissenting in part." Hence, no errors.

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

Variable 37
the votes, opinions, and interagreements of the individual justices
[29 variables (one per justice), four columns, character; plus 116 one-column character variables (four for each of 29 justices]

This portion of the database contains five separate vari-
ables for each of the individual justices who have served on the
Warren, Burger, and Rehnquist Courts. The first of these five
variables contains the individual justice's vote, the opinion, if
any, that the justice wrote in the case, and the name of any
other justices with whose dissenting or concurring opinion the
subject justice agreed. The second variable only contains the
justice's vote; the third, the opinion that the justice wrote;
the fourth, a dissenting or concurring opinion of another justice
signed by the subject justice; and the fifth, a second dissenting
or concurring opinion with which the subject justice agreed.

These justices and their name abbreviations 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

As explained above, the first of these five variables
contains four columns, while the last four constitute a breakout
of the datum contained in each of the four separate columns of
the justice's variable. For example, assume that the entries in
DOUG for a given record reveal the following data: 21BT. Vari-
able 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 on p. 84, he also agreed with a dissenting opinion that Black wrote, as well as one written by Warren.

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

To repeat, column 1 of the 4-column variable specifies the particular justice's vote. The variable containing the justice's abbreviation that ends in V, e.g., DOUGV, also contains this information. The second column of the 4-column variable indicates the justice's opinion, as does DOUGO. The third and fourth columns indicate any other justice(s)' opinion(s) with which the subject justice agreed, as do variables DOUGA1 and DOUGA2.

A justice may engage in one of eight types of voting behavior. He or she may join the majority (=1); dissent (=2); cast a regular concurrence (=3), in which the justice agrees with the Court's opinion as well as its disposition (see variable 30). To cast such a vote the justice must either write a concurring opinion or agree with a justice who does. If the justice fails to do either of the foregoing, he simply agrees with the majority, in which his vote is scored as a "1." A justice may cast a special concurrence (=4), which agrees with the Court's disposition of the case but not with its opinion. A justice may not participate in the decision (=5) even though a member of the Court. Such action is technically termed a recusal. A justice may write a judgment of the Court (=6). This, technically, is an opinion rather than a vote. Hence, if a "6" appears in the first column of a justice's variable, the second column must contain a "1," which signifies that said justice wrote an opinion. Judgments of the Court occur when less than a majority of the participating justices agree on the language that an opinion of the Court -- i.e., the majority opinion -- should contain. No majority opinion results; only a judgment of the Court. The remaining two behaviors in which a member of the Court may engage are considered the equivalent of nonparticipation: a dissent from a denial or a dismissal of certiorari, or a dissent from the summary affirmation of an appeal (=7), and a jurisdictional dissent (=8) in which the justice disagrees with the Court's assertion of jurisdiction but does not address the merits of the controversy. If the justice also addresses the merits and would dispose of the case differently from the majority, his vote becomes a regular dissent (=2). Technically, a "7" vote, as well as an "8" vote, are both jurisdictional dissents. But because the justices distinguish them, I also do so.

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 disposi-
                         tion)

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```
                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 written by some other justice. A special opinion is an opinion other than the opinion or judgment of the Court. I have assigned a letter to each of the justices who have sat thus far on the Warren, Burger, or Rehnquist Courts according to the following schedule:

```
            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 happened a grand total of
ten times during the 1953-1988 terms -- an asterisk appears in
the third column of said justice's variable. In four of these
ten instances, a justice joined three opinions; in the other
six, 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 evi-
denced 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
analysis applied to *Harlow v. Fitzgerald* 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, indicat-
ing 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 nonpartic-
ipating 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 ac-
tions clear. Therefore, decision rules must be formulated.
Furthermore, notwithstanding resort to the decision rules presen-
ted below, a judgment -- not necessarily bright line -- needs be

made as to how the justices voted and whether or not an opinion was written.

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

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

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

2) A justice authors no opinion unless he or she specifies a reason for his or her vote. A bare citation to a previously decided case or a simple statement that the author concurs or dissents because of agreement with a lower court's opinion 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 as 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 treat-
ment to be accorded a vote "concurring in part and dissenting in
part." The former typically manifests itself when a justice
joins the opinion of the Court "except for . . ." Because such
exceptions typically tend to approach de minimis status, I treat
them as regular concurrences. For example, Chief Justice Burger
concurred in the opinion of the Court in *New York Gaslight Club,
Inc. v. Carey*, except for "footnote 6 thereof." 447 U.S. 54, at
71. Similarly, Blackmun's agreement with the Court in *Pruneyard
Shopping Center v. Robins*, except for "that sentence thereof
. . ." 447 U.S. 74, at 88. Where the Reports identify a justice
as concurring " or "concurring in part," said justice is treated
as a member of the majority opinion coalition (i.e., as = 3),
rather than 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 36 (vote not clearly specified). A vote
concurring and dissenting in part is listed as a special concur-
rence if the justice(s) doing so does not disagree with the
majority's disposition of the case. This may occur when: 1) the
justice concurring and dissenting in part voices disagreement
with some or all of the majority's reasoning; 2) when said jus-
tice disapproves of the majority's deciding or refusing to decide
additional issues involved in the case; or 3) when in a case in
which dissent has been voiced, the justice(s) concurring and
dissenting in part votes to dispose of the case in a manner more
closely approximating that of the majority than that of the dis-
senter(s).

In cases where determination of whether a vote concurring
and dissenting in part is the former or the latter is not beyond
cavil, an asterisk will appear in the VOTEQ variable of the af-
fected 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. These columns and
variables, then, enable the interagreement matrix of each case
decided by the Court to be mapped. Each justice has been as-
signed a letter of the alphabet, as designated in the listing
above, to indicate his or her agreement with the justice in whose
variable or columns the designated abbreviation appears.

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

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

The utility of the justices' 4-column and their four paral-
lel 1-column variables enables users to identify the types of
votes and opinions the individual justices wrote, which justices
agreed with them, and the justices with whom they agreed. Thus,
if you wish to know the distribution of Justice Powell's votes
during the 1980 term

        SELECT IF TERM=80
        SELECT IF (ANALU = ' ' OR ANALU = '1')
        FREQUENCIES VARIABLES=POWV

will provide you with the number of times Powell engaged in the
eight different types of voting behavior the database identifies.
The second of the three previous commands is included on the
assumption that you would not multiply count as more than one
vote a case containing multiple issues or legal provisions.

If, instead, you wish to obtain citations to the opinions
Powell wrote during the 1980 term and the type of opinion he
wrote, enter the following commands in place of the third one in
the preceding set.

        SELECT IF (POWO EQ '1' OR POWO EQ '2')
        LIST VARIABLES=US LED POW

will provide you with the list of cases.

Or if you want to know how frequently Powell agreed with
Burger's and Rehnquist's special opinions during the Burger
Court, simply

        SELECT IF CHIEF=2
        SELECT IF (ANALU = ' ' OR ANALU = '1')
        SELECT IF (POWA1 EQ 'K' OR POWA1 EQ 'H')
        SELECT IF (POWA2 EQ 'K' OR POWA2 EQ 'H')
        FREQUENCIES VARIABLES=POWA1 POWA2

To find the frequency with which Burger and Rehnquist recipro-
cated, insert the following commands in place of the final three
above:

        SELECT IF BURGA1 EQ 'J'
        SELECT IF BURGA2 EQ 'J'

```
        SELECT IF REHNA1 EQ 'J'
        SELECT IF REHNA2 EQ 'J'
        FREQUENCIES VARIABLES=BURGA1 BURGA2 REHNA1 REHNA2
```
     By including a LIST VARIABLES command to the US or LED
citations you could use the list that SPSS outputs as the input
to a set of SELECT IF commands followed by
```
        LIST VARIABLES=US LED POW BURG REHN
```
which would identify each vote and special opinion that Powell,
Burger, and Rehnquist cast and wrote in association with one of
the other two justices.
     Much research may link the individual justice's vote, opin-
ion, and interagreement variables with those pertaining to
issues, legal provisions, and any others of interest. Thus, for
example, it is a simple matter to identify the civil rights cases
in which Justice Whittaker wrote an opinion and the kind of
opinion it was:
```
        SELECT IF (WHITO EQ 1 OR WHITO EQ 2)
        SELECT IF VALUE=2
        LIST VARIABLES=US WHIT ISSUE
```
or how Justice Frankfurter voted in Eighth Amendment cases in
which he participated:
```
        SELECT IF (LAW EQ '8A' OR LAW EQ '8AEB')
        SELECT IF (FRKV NE '5' AND FRKV NE ' ')
        LIST VARIABLES=US DOCKET FRK
```
     The foregoing examples adumbrate the different utility of
the justices' 4-column variable as compared with the parallel set
of 1-column variables. Once you have selected the type of
voting, opinion, or interagreement behavior by using the appro-
priate 1-column variable or variables, you may then have SPSS
list the relevant justice's 4-column variable and thereby obtain
a complete map of the justice's vote, opinion, and interagrements
for that particular record or case.
     This variable also works if one is interested in the be-
havior of justices under conditions of issue complexity. Assume,
for example, that you wish to know how Justice Douglas behaved in
terms of opinion writing when confronted with a miscellaneous
First Amendment issue (ISSUE=401) that also raised significant
federalism issues (VALUE=10). The appropriate commands are:
```
        SELECT IF (DOUGO EQ '1' OR DOUGO EQ '2')
        SELECT IF (ISSUE=401 OR VALUE=10)
        SELECT IF ANALU EQ '2'
        LIST VARIABLES=LED
```
Note the use of OR in the second command. We cannot use AND
because any given record has only one ISSUE and VALUE variable.
Hence, we must use OR. This will identify either an ISSUE=401 or
VALUE=10, but not both. Hence, we instruct SPSS to output the
LED citations so that we may then input them to obtain the list
of variables that will enable us to identify the cases in which
Douglas wrote an opinion under the specified condition of issue
complexity. Note that I request the LED citation rather than
that of the US. The reason for this is because more records have
an LED cite than a US cite (see case citations, variable 1).

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Citation to the US Reports also runs at least three years behind
the LED citations. And though this does not concern Douglas who
left the Court in 1975, to be on the safe side consider reques-
ting both.

    SPSS outputs five citations, which are used in the following
set of input commands:

        SELECT IF LED EQ '022/0344' OR LED EQ '028/0278' OR LED
          EQ '028/0284' OR LED EQ '031/0620' OR LED EQ
          '040/0315')
        SELECT IF (ANALU EQ ' ' OR ANALU EQ '2')
        LIST VARIABLES=LED ANALU ISSUE DEC_TYPE DOUG

SPSS now outputs the five citations, indicating that the federal-
ism issues were joined with ISSUE=555, 638, 638, 626, and 661,
respectively; that each case was a signed opinion decision
(DEC_TYPE=1); and that Douglas wrote a dissent with which no one
else agreed in the first, fourth, and fifth cases, and wrote the
opinion of the Court in the other two. Therefore, the specified
condition did not obtain.

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

    The 28 total discrepancies that the Warren Court reliability
check produced may be apportioned as follows:

    a) Two involve interagreements (099/0453 and 010/0652). The
former occurred because Clark's code was changed in midstream
from "I" to "U." In cleaning, this change was overlooked. In
the latter, Stewart is identified as joining himself rather than
Douglas ("D" rather than the correct "C.") Identity, therefore,
in the 108 Warren Court interagreements equals 98.1 percent.

    b) Three cases in which the vote was not clearly specified
(variable 36). The vote of one justice in each varied from that

of the other coder: the two records of 001/0207 and 013/0527. Inasmuch as these discrepancies were formally noted in variable 36 of both data sets, they should not be viewed as errors here.

c) Four discrepancies in two memorandum decisions (017/0078 and 018/0458) between vote=2 and vote=7. Which they should be is very debatable.

d) Thirteen discrepancies in four records in which the only difference is between the two types of concurrences (vote=3 vs. vote=4): the two records in 002/1135, 022/0535, and 023/0656.

e) Six discrepancies that are truly errors: "31" vs. "1" in 004/0001; "1" vs. "41" in 010/1045; and "22" vs. "1," "2" vs. "1," "22" vs. "1," and "5" vs. "1" in 011/0757, which is also the case that produced the error in variable 35 (the vote in the case).

If only a), d), and e) are counted as errors, n=21, out of a total of 1337 entries (108 interagreements and 1229 votes). Agreement, therefore equals 98.4 percent.

If only a) and e) are counted as errors, n=8, out of a total of 1337 entries. Agreement, therefore, equals 99.4 percent.

If errors are broken down by type of entry, they are as follows:

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

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

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

The 38 total discrepancies that appeared in the Burger Court reliability check divide as follows:

a) Six interagreements: 027/0792 occurs because the only reference to Harlan's agreement with Stewart's concurrence is found in an earlier decision. The two records of 071/0234 are typographical between "J" and "K." "K" wrote no opinion to join. The two records of 078/0443 produce a careless error. The entry should read "I" rather than "IJ." Finally, 089/0707 should read "E" rather than "F." "F" cannot join himself.

b) Five discrepancies in three cases in which the vote was not clearly specified (variable 36): 057/0957, 066/0762, and 088/0763. Because of the asterisk in variable 36, these do not constitute errors.

c) Thirteen discrepancies in six memorandum decisions: 037/1020, 046/0270, 058/0674, the two records of 064/0278, and 080/0165. Two of these are debatable "3" vs. "4" concurrences. 037/1020 and 058/0674 contain three opinion errors.

d) One additional "3" vs. "4" concurrence (073/0690).

e) Eight other discrepancies: 024/0470 is a somewhat debatable "21" vs. "81." 028/0601 has a pair of "7's" that should be "8's." These probably resulted because of a midstream coding change. There was no code "8" originally. The two records of

031/0551 contain a debatable "1" vs. "4." 047/0154 is "21" vs. "41," but is no error because variable 3 (unit of analysis) identi- fies the case as split vote (i.e., ANALU=4). The two records in 064/0278 show Stevens with a blank rather than a "1."

     If only the five incorrect entries in a), the eleven in c), the one in d), and the five in e) are counted as errors, n=22, out of a total of 2464 entries. Agreement, therefore, equals 99.1 percent.

     If errors are broken down by type of entry, they are as follows:

     Five interagreements are wrong out of a total of 226: 97.8 percent agreement.

     Four opinions ("21"-"81," "21"-"2," "1"-"22," "21"-"22") out of a total of 386: 99.0 percent agreement.

     Thirteen votes (eight "7" vs. "8," two "3" vs. "4," one "2" vs. "8," two blank vs. "1") out of a total of 1852: 99.3 percent agreement.

                        Variable 38
            direction of the individual justices' votes
                   [one column, numeric]

     This variable, like the preceding one, creates a separate variable for each of the justice's who have sat on the Warren, Burger, and Rehnquist Courts. Each justice's variable is identi- fied by the same 3- or 4-letter abbreviation used in the preced- ing 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 tells you whether the justice's vote was liberal or conservative. Thus, if all you wish to know is how the justices voted in civil rights cases, simply
          SELECT IF VALUE=2
          CROSSTABS TABLES=HARV TO BRYV BY VALUE
The resulting tables will tell you the frequency with which each justice was part of the majority, specially concurred, dissented, etc. in the universe of civil rights cases. But these voting data tell you nothing about how liberal or conservative the justices' voting was. To secure this information, alter the last of the preceding commands as follows:
          CROSSTABS TABLES=HARDIR TO BRYDIR BY VALUE
Recall from variable 26 that not every issue is identified as either liberal or conservative. Those pertaining to interstate relations and miscellaneous (VALUE=11 and VALUE=13) (see variable 25), as well as those records in which no ISSUE is specified are without direction.

     This variable was not subject to a reliability check because it was computer generated. The commands used to create it may be found in the Appendix.

     Also see the votes, opinions, and interagreements of the

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individual justices (variable 37), and direction of decision (variable 26).

Variable 39
majority and minority voting by justice (HARM to BRYM)
[one-column, numeric]

Analysts commonly want to know the frequency with which given justices vote with the majority and/or the minority overall or in certain sets of circumstances. This variable provides that information. You may obtain these data by merely adding the letter "M" at the end of each justice's abbreviated name. Majority and minority voting can be instructively coupled with most variables -- background, chronological, substantive, and outcome.

This variable was computer generated; hence no reliability check. The commands used to create it may be found in the Appendix.

Variable 40
majority opinion assigner and majority opinion writer
(MOA and MOW)
[four columns each, character]

These variables identify the author of the opinion or judgment of the Court, as the case may be, and the name of the justice who assigned the opinion to the author. The former is a matter of record; the latter is derived 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 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 through the Consortium. Warren Court assigners are identified by direct reference to the justices' docket books.

In using MOA, be sure that you restrict DEC_TYPE to orally argued signed opinions; i.e., =1. You may also want to restrict ANALU to citations only (i.e., =' '), rather than dockets (i.e., =' ' and ='1') to avoid grossly overcounting the assignment made by various justices.

The variables may be used separately or together. Thus, for example, to determine how many times Warren assigned opinions to various justices,

        SELECT IF MOA = 'WAR'

```
          SELECT IF ANALU = ' '
          FREQUENCIES VARIABLES = MOW
```
     MOA and MOW may be employed especially usefully with such
variables as TERM, NATCT, ISSUE, or VALUE (variables 18, 20, 24,
and 25) to determine who assigned how many opinions to whom in --
for example -- a particular term, natural court, issue, or issue
area. Furthermore, these variables also allow for determining
the frequency with which an available justice was chosen as an
author by an assigning justice. For example, to determine how
frequently each justice was a member of the majority coalition
when a particular justice assigned the opinion, simply
```
          SELECT IF ANALU = ' '
          CROSSTABS TABLES = HARM TO BRYM BY MOA BY CHIEF
```
     This variable was not subject to a reliability check because
it was computer generated. The commands whereby this variable
was created may be found in the Appendix.

APPENDIX

This appendix lists the commands that were used to create the
variables in the database that were computer generated.

Variable 14
direction of the lower court's decision

```
/*DEFINE L CT DECISION
if (win eq ' ' and dir=1) lctdir=1
if (win eq ' ' and dir=2) lctdir=2
if (win eq 'W' and dir=1) lctdir=2
if (win eq 'W' and dir=2) lctdir=1
if (win eq ' ' and dir=1 and dird='*')lctdir=2
if (win eq ' ' and dir=2 and dird='*')lctdir=1
if (win eq 'W' and dir=1 and dird='*')lctdir=1
if (win eq 'W' and dir=2 and dird='*')lctdir=2


VALUE LABELS LCTDIR 2 'CONSERVATIVE' 1 'LIBERAL'
```


Variable 18
term of Court


```
/*CREATE TERM VARIABLES
IF (LED GE '098/0003' AND LED LT '099/0003') AND CHIEF=1 TERM=53
IF (LED GE '099/0003' AND LED LT '100/0003') AND CHIEF=1 TERM=54
IF (LED GE '100/0003') AND CHIEF=1 TERM=55
IF (LED GE '001/0001' AND LED LT '002/0001') OR US='352/1020'
 TERM=56
IF (LED GE '002/0001' AND LED LT '003/0001') TERM=57
IF (LED GE '003/0001' AND LED LT '004/0001') TERM=58
IF (LED GE '004/0001' AND LED LT '005/0001') TERM=59
IF (LED GE '005/0001' AND LED LT '006/0001') TERM=60
IF (LED GE '007/0001' AND LED LT '009/0001') TERM=61
IF (LED GE '009/0001' AND LED LT '011/0001') TERM=62
IF (LED GE '011/0001' AND LED LT '013/0001') TERM=63
IF (LED GE '013/0001' AND LED LT '015/0002') TERM=64
IF (LED GE '015/0002' AND LED LT '017/0017') TERM=65
IF (LED GE '017/0017' AND LED LT '019/0001') TERM=66
IF (LED GE '019/0001' AND LED LT '021/0002') TERM=67
IF (LED GE '021/0002' AND LED LT '024/0013') TERM=68
IF (LED GE '024/0013' AND LED LT '027/0004') TERM=69
IF (LED GE '027/0004' AND LED LT '030/0001') TERM=70
IF (LED GE '030/0001' AND LED LT '034/0001') TERM=71
IF (LED GE '034/0001' AND LED LT '038/0001') OR US='409/0017'
 TERM=72
IF (LED GE '038/0001' AND LED LT '042/0001') TERM=73
IF (LED GE '042/0001' AND LED LT '046/0001') TERM=74
IF (LED GE '046/0001' AND LED LT '050/0001') TERM=75
```

```
IF (LED GE '050/0001' AND LED LT '054/0001') TERM=76
IF (LED GE '054/0001' AND LED LT '058/0001') TERM=77
IF (LED GE '058/0001' AND LED LT '062/0001') TERM=78
IF (LED GE '062/0001' AND LED LT '066/0001') TERM=79
IF (LED GE '066/0001' AND LED LT '070/0001') TERM=80
IF (LED GE '070/0001' AND LED LT '074/0001') TERM=81
IF (LED GE '074/0001' AND LED LT '078/0001') TERM=82
IF (LED GE '078/0001' AND LED LT '083/0022') TERM=83
IF (LED GE '083/0022' AND LED LT '088/0001') TERM=84
IF (LED GE '088/0001' AND LED LT '093/0016') TERM=85
IF (LED GE '093/0016' AND LED LT '098/0001') TERM=86
IF (US GE '484/0001' AND US LT '488/0001') TERM=87
IF (LED GE '102/0001' AND LED LT '107/0001') TERM=88
IF (LED GE '107/0001' AND LED LT '112/0001') TERM=89
IF (LED GE '112/0001' AND LED LT '116/0001') TERM=90
IF (LED GE '116/0001' AND LED LT '121/0001') TERM=91
IF (LED GE '121/0001' AND LED LT '126/0001') TERM=92
IF (LED GE '126/0001' AND LED LT '130/0001') TERM=93
IF (LED GE '130/0001' AND LED LT '133/0001') TERM=94
IF (LED GE '133/0001' AND LED LT '136/0001') TERM=95
IF (LED GE '136/0001' AND LED LT '139/0001') TERM=96
IF (LED GE '139/0001' AND LED LT '142/0001') TERM=97
```

Variable 19
chief justice

```
/*DEFINE CHIEF JUSTICE
IF (US GE '346/0325' AND US LE '395/0950') CHIEF=1
IF (LED GE '024/0013' AND LED LE '092/0789') OR US EQ '409/0017'
 CHIEF=2
IF US GE '479/0001' OR LED GT '102/0001') CHIEF=3
VALUE LABELS CHIEF 1 'WARREN COURT' 2 'BURGER COURT' 3 'REHNQUIST
 COURT'
```

Variable 20
natural court

```
/*CREATE NATCT VARIABLES
STRING NATCT(A5)
IF (US GE '346/0325' AND US LT '348/0001') NATCT='WAR1'
IF ((US GE '348/0001'AND US LT '348/0426') OR (US GE '348/0880'
 AND US LT  '348/0978')) NATCT='WAR2'
IF ((US GE '348/0426' AND US LT '348/0880') OR (US GE '348/0978'
 AND US LT '352/0001') OR (US GE '352/0808' AND US LT '352/0874'))
 NATCT='WAR3'
IF ((US GE '352/0001' AND US LT '352/0808') OR (US GE '352/0874'
 AND US LT '352/1020')) NATCT='WAR4'
IF (US GE '352/1020' AND US LT '358/0049') NATCT='WAR5'
IF (US GE '358/0049' AND US LT '369/0355' OR US EQ '369/0811'
 OR US EQ '369/0815') NATCT='WAR6'
```

```
IF ((US GE '369/0355' AND US LT '369/0811') OR (US GE '369/0842'
 AND US LT '371/0018')) NATCT='WAR7'
IF (US GE '371/0018' AND US LT '382/0001') NATCT='WAR8'
IF (US GE '382/0001' AND US LT '389/0001') NATCT='WAR9'
IF (US GE '389/0001' AND US LT '395/0001') NATCT='WAR10'
IF (US GE '395/0001' AND US LE '395/0950') NATCT='WAR11'
IF ((US GE '396/0013' AND US LT '398/0323') OR (US GE '398/0906'
 AND US LT '398/0960')) NATCT='BURG1'
IF ((US GE '398/0323' AND US LT '398/0906') OR (US GE '398/0960'
 AND US LT '404/0001')) NATCT='BURG2'
IF ((US GE '404/0001' AND US LT '404/0403') OR (US GE '404/0807'
 AND US LT '404/1008')) NATCT='BURG3'
IF ((US GE '404/0403' AND US LT '404/0807') OR (US GE '404/1008'
 AND US LE '423/0028') OR (US GE '423/0810' AND US LT '423/0963'))
 NATCT='BURG4'
IF ((US GT '423/0028' AND US LT '423/0161') OR (US GE '423/0963'
 AND US LT '423/1063')) NATCT='BURG5'
IF ((US GE '423/0161' AND US LT '423/0810') OR (US GE '423/1063'
 AND US LT '454/0001')) NATCT='BURG6'
IF (US GE '454/0001' AND US LE '478/1050' OR LED EQ '071/0641'
 OR LED EQ '071/0859' OR LED EQ '071/0862' OR LED EQ '077/1360'
 OR LED EQ '085/0294' OR LED EQ '092/0764') NATCT='BURG7'
IF (CHIEF EQ 3 AND LED GE '093/0016' AND LED LT '098/0001')
 NATCT='REHN1'
IF (CHIEF EQ 3 AND LED GE '098/0001' AND LED LT '098/0877')
 NATCT='REHN2'
IF (CHIEF EQ 3 AND LED GE '098/0877' AND LED LT '112/0001')
 NATCT='REHN3'
IF (CHIEF EQ 3 AND LED GE '112/0001' AND LED LT '116/0001')
 NATCT='REHN4'
IF (CHIEF EQ 3 AND LED GE '116/0001' AND LED LT '126/0001')
 NATCT='REHN5'
IF (CHIEF EQ 3 AND LED GE '126/0001' AND LED LT '130/0001')
 NATCT='REHN6'
IF (CHIEF EQ 3 AND LED GE '130/0001') NATCT='REHN7'
```

Variable 23
authority for decision

```
/*CREATE AUTHORITY FOR DECISION:AUTHDEC1  AUTHDEC2
STRING AUTHDEC1 AUTHDEC2 (A1)
COMPUTE AUTHDEC1=SUBSTR(AUTH_DEC,1,1)
COMPUTE AUTHDEC2=SUBSTR(AUTH_DEC,2,1)
```

Variable 25
issue areas

```
/* DEFINE VALUES
IF ISSUE LT 10 VALUE=13
IF ISSUE GE 10 AND ISSUE LT 200 VALUE=1
```

```
IF ISSUE GE 200 AND ISSUE LT 400 VALUE=2
IF ISSUE GE 400 AND ISSUE LT 500 VALUE=3
IF ISSUE GE 500 AND ISSUE LT 530 VALUE=4
IF ISSUE GE 531 AND ISSUE LT 540 VALUE=5
IF ISSUE GE 540 AND ISSUE LT 550 VALUE=6
IF ISSUE GE 550 AND ISSUE LT 600 VALUE=7
IF ISSUE GE 600 AND ISSUE LT 700 VALUE=8
IF ISSUE GE 700 AND ISSUE LT 900 VALUE=9
IF ISSUE GE 900 AND ISSUE LT 950 VALUE=10
IF ISSUE GE 950 AND ISSUE LT 960 VALUE=11
IF ISSUE GE 960 AND ISSUE LT 980 VALUE=12
IF ISSUE GE 980 AND ISSUE LT 990 VALUE=13
VALUE LABELS VALUE 1 'CRIMPRO' 2 'CIVRIGHTS' 3 'FIRSTA' 4 'DP'
 5 'PRIVACY' 6 'ATTORNEYS' 7 'UNIONS' 8 'ECON' 9 'JUDPOW' 10 'FED'
 11 'INTERSTATE REL' 12 'FED TAX' 13 'MISC'
```

Variable 26
direction of decision

Users who wish to redefine the direction of any issue, as issue is
defined in Variable 24, may use the following commands to do so:

```
DO IF ISSUE = xxx
RECODE DIR, HARDIR TO BRYDIR (1=2) (2=1)
END IF
```

Variables 37 and 38
the votes, opinions, and interagreements of the individual justices
and
direction of the individual justices' votes

```
/* DEFINE 'VOTE' 'OPINION' 'AGREE1' 'AGREE2' 'DIRECT'
string    harv . . . bryv
          haro . . . bryo
          hara1 . . . brya1
          hara2 . . . brya2 (a1)
compute   hardir =9
compute   blkdir =9
compute   dougdir=9
compute   stwtdir=9
compute   mardir =9
compute   brndir =9
compute   bwdir  =9
compute   wardir =9
compute   clkdir =9
compute   frkdir =9
compute   whitdir=9
compute   burtdir=9
compute   reeddir=9
compute   fortdir=9
```

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```
compute    golddir=9
compute    mintdir=9
compute    jackdir=9
compute    burgdir=9
compute    blkmdir=9
compute    powdir =9
compute    rehndir=9
compute    stevdir=9
compute    ocondir=9
compute    scaldir=9
compute    kendir =9
compute    soutdir=9
compute    thomdir=9
compute    gindir =9
compute    brydir =9
do repeat orig=har to bry/
          vote=harv to bryv/
          opinion=haro to bryo/
          agree1=hara1 to brya1/
          agree2=hara2 to brya2/
          direct=hardir to brydir
compute vote=substr(orig,1,1)
compute opinion=substr(orig,2,1)
compute agree1=substr(orig,3,1)
compute agree2=substr(orig,4,1)
if (VOTE ='2' and dir= 1) direct=2
if (VOTE ='2' and dir= 2) direct=1
if ((VOTE='1' or VOTE='3' or VOTE= '4' or VOTE='6')
     and (dir =1))direct= 1
if ((VOTE='1' or VOTE='3' or VOTE= '4' or VOTE='6')
     and (dir =2))direct= 2
end repeat
MISSING VALUES HARDIR TO BRYDIR (9)
```

Variable 39
majority and minority voting by justice

```
*COMMENT ---M VARIABLES = VOTED WITH MAJORITY
STRING HARM BLKM DOUGM STWTM MARM BRNM BWM WARM CLKM FRKM WHITM
BURTM REEDM FORTM GOLDM MINTM JACKM BURGM BLKMM POWM REHNM STEVM
OCONM SCALM KENM SOUTM THOMM GINM BRYM(A)
        DO REPEAT A=HARV TO BRYV/
               B=HARM TO BRYM
COMPUTE B=A
END REPEAT
RECODE HARM TO BRYM ('2' '7' '8' ='2') ('1' '3' '4' '6'='1')
 ('5'=' ')
MISSING VALUES HARM TO BRYM (' ')
VALUE LABELS HARM TO BRYM '2' 'MINORITY' '1' 'MAJORITY'
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                          Variable 40
        majority opinion assigner and majority opinion writer

STRING MOA (A4)
IF WARM='1' MOA='WAR'
IF BURGM='1' MOA='BURG'
IF CHIEF=3 AND REHNM='1' MOA= 'REHN'
IF CHIEF NE 3 AND WARM NE '1' AND BURGM NE '1' AND
 BLKM='1' MOA='BLACK'
IF CHIEF=1 AND WARM NE '1' AND BLKM NE '1' AND REEDM='1'
 MOA='REED'
IF CHIEF=1 AND WARM NE '1' AND BLKM NE '1' AND REEDM NE '1' AND
 FRKM = '1' MOA='FRK'
IF CHIEF NE 3 AND WARM NE '1' AND BURGM NE '1' AND BLKM NE '1'
 AND REEDM NE '1' AND FRKM NE '1' AND DOUGM='1' MOA='DOUG'
IF CHIEF =1 AND WARM NE '1' AND BLKM NE '1'
 AND REEDM NE '1' AND FRKM NE '1' AND DOUGM NE'1' AND BURTM='1'
 MOA='BURT'
IF CHIEF =1 AND WARM NE '1' AND BLKM NE '1'
 AND REEDM NE '1' AND FRKM NE '1' AND DOUGM NE'1' AND BURTM NE '1'
 AND CLKM='1' MOA='CLK'
IF CHIEF =1 AND WARM NE '1'  AND BLKM NE '1'
 AND REEDM NE '1' AND FRKM NE '1' AND DOUGM NE'1' AND BURTM NE '1'
 AND CLKM NE '1' AND HARM='1' MOA='HAR'
IF CHIEF =1 AND WARM NE '1' AND BLKM NE '1'
 AND REEDM NE '1' AND FRKM NE '1' AND DOUGM NE'1' AND BURTM NE '1'
 AND CLKM NE '1' AND HARM NE '1' AND BRNM='1' MOA='BRN'
IF CHIEF =2 AND BURGM NE '1' AND BLKM NE '1' AND DOUGM NE '1'
 AND HARM='1' MOA='HAR'
IF CHIEF =2 AND BURGM NE '1' AND BLKM NE '1' AND DOUGM NE '1'
 AND HARM NE '1' AND BRNM='1' MOA='BRN'
IF CHIEF =2 AND BURGM NE '1' AND BLKM NE '1' AND DOUGM NE '1'
 AND HARM NE '1' AND BRNM NE '1' AND STWTM='1' MOA='STWT'
IF CHIEF =2 AND BURGM NE '1' AND BLKM NE '1' AND DOUGM NE '1'
 AND HARM NE '1' AND BRNM NE '1' AND STWTM NE'1' AND BWM='1'
 MOA='BW'
IF LED='072/0707' MOA='MAR'
IF LED='073/0767' MOA='BLKM'
IF CHIEF=3 AND REHNM NE '1' AND BRNM='1' MOA='BREN'
IF CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM='1' MOA='BW'
IF CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM NE '1' AND
 MARM='1' MOA='MAR'
IF CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM NE '1' AND
 MARM NE'1' AND BLKMM='1' MOA='BLKM'
IF (CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM NE '1' AND
 MARM NE'1' AND BLKMM NE '1' AND STEVM='1') MOA='STEV'
IF (CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM NE '1' AND
 MARM NE'1' AND BLKMM NE '1' AND STEVM NE '1' AND OCONM='1')
 MOA='OCON'
IF (CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM NE '1' AND
 MARM NE'1' AND BLKMM NE '1' AND STEVM NE '1' AND OCONM NE '1' AND
 SCALM='1') MOA='SCAL'
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IF (CHIEF=3 AND REHNM NE '1' AND BRNM NE '1' AND BWM NE '1' AND
 MARM NE'1' AND BLKMM NE '1' AND STEVM NE '1' AND OCONM NE '1' AND
 SCALM NE '1' AND KENM='1') MOA='KEN'
VARIABLE LABEL MOA 'MAJORITY OPINION ASSIGNER'
STRING MOW (A4)
VARIABLE LABEL MOW 'MAJORITY OPINION WRITER'
IF HAR ='11' OR HAR='61' MOW = 'HAR'
IF BLK ='11' OR BLK='61' MOW = 'BLK'
IF DOUG='11' OR DOUG='61' OR DOUG='11F' MOW = 'DOUG'
IF STWT='11' OR STWT='61' MOW = 'STWT'
IF MAR ='11' OR MAR='61' MOW = 'MAR'
IF BRN ='11' OR BRN='61' OR BRN='11*' MOW = 'BRN'
IF BW ='11' OR BW='61'  MOW = 'BW'
IF WAR ='11' OR WAR='61' MOW = 'WAR'
IF CLK ='11' OR CLK='61' MOW = 'CLK'
IF FRK ='11' OR FRK='61' MOW = 'FRK'
IF WHIT='11' OR WHIT='61' MOW = 'WHIT'
IF BURT='11' OR BURT='61' MOW = 'BURT'
IF REED='11' OR REED='61' MOW = 'REED'
IF FORT='11' OR FORT='61' MOW = 'FORT'
IF GOLD='11' OR GOLD='61' MOW = 'GOLD'
IF MINT='11' OR MINT='61' MOW = 'MINT'
IF JACK='11' OR JACK='61' MOW = 'JACK'
IF BURG='11' OR BURG='61' MOW = 'BURG'
IF BLKM='11' OR BLKM='61' OR BLKM='11*' OR BLKM='12' MOW = 'BLKM'
IF POW ='11' OR POW='61'  MOW = 'POW'
IF LED='090/0299' MOW='POW'
IF REHN='11' OR REHN='61' MOW = 'REHN'
IF STEV='11' OR STEV='61' MOW = 'STEV'
IF OCON='11' OR OCON='61' OR OCON='12' MOW = 'OCON'
IF SCAL='11' OR SCAL='61' MOW = 'SCAL'
IF KEN='11' OR KEN='61' OR KEN='12'  MOW = 'KEN'
IF SOUT='11' OR SOUT='61' MOW = 'SOUT'
IF THOM='11' OR THOM='61' MOW = 'THOM'
IF GIN='11' OR GIN='61' MOW = 'GIN'
IF BRY='11' OR BRY='61' MOW = 'BRY'
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