

THE IMPACT OF JUDICIAL DECISIONS: NEW DIMENSIONS IN SUPREME COURT-CONGRESSIONAL RELATIONS, 1945-1968

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Modern academic interpretations of the status of the Supreme Court in the American political system have commonly accepted the notion that the Supreme Court is protected from political attack by an aura of reverence. The Court Packing Fight of 1937 was the seminal controversy which allegedly provided the basis for such an assumption.¹ Thus, this notion was basic to Cortez A. M. Ewing's view, in 1938, that ". . . the public has sacerdotalized the court."² Similarly, in 1939, Felix Frankfurter developed another variation, namely that:

. . . multitudes of Americans seriously believe that the nine Justices embody pure reason, that they are set apart from the concerns of the community, regardless of time, place, and circumstances, to become the interpreter of Sacred words with meaning fixed forever and ascertainable by a process of ineluctable reasoning.³

By the 1960's, the "reverence" for the Court idea became a basic explanatory concept in assessments of Congress' relationship to the Supreme Court. In 1961, Walter Murphy and Herman Pritchett contended that,

. . . Courts are protected by their magic; only rarely can a hand be laid on a judge without a public outcry of sacrilege.⁴

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1. For a reappraisal of the Court Packing controversy which challenges this assumption see J. SCHMIDHAUSER & L. BERG, *CONGRESS AND THE COURT: THE POST WAR ERA, 1945-1968* (scheduled for publication in 1971 by the Free Press of Macmillan Company) [hereinafter cited as *CONGRESS AND THE COURT*], especially Chapter VII.

2. C. EWING, *THE JUDGES OF THE SUPREME COURT, 1789-1937*, at 63 (1938).

3. F. FRANKFURTER, *LAW AND POLITICS* 108 (1939).

4. W. MURPHY & H. PRITCHETT, *COURTS, JUDGES, AND POLITICS: AN INTRODUCTION TO THE JUDICIAL PROCESS* 554-55 (1961).

This was reemphasized by Pritchett's comment apropos the Congressional attacks of 1957-1961 that,

Basically, the Court was protected by the respect which is so widely felt for the judicial institution in the United States.⁵

In a similar vein, Glendon Schubert stressed legal professionalism as a bulwark of the Court in Congressional reversal of statutory interpretation issues:

Many congressmen are lawyers; and the argument that proponents of an amendatory bill are showing disrespect for the highest court in the land is an effective one.⁶

In 1970, Thomas Halper wrote an article devoted primarily to an assessment of the nature of the policy or institutional responses available to the justices in the face of hostile reactions to Supreme Court decisions. Halper noted "signs of *recent* erosion" of the bases of Supreme Court support. He also conceded that Congressmen may be tempted "to appeal to (and thereby heighten) their constituents' irrationality." Nevertheless, Halper implicitly maintained a commitment to the concept of reverence for the Court—the erosion of support was, in his words, "recent". Like Schubert, Halper assumed that Congressmen who are members of the legal profession behave differently when dealing with the judiciary. He explicitly argued that:

Since 58.9% of the members of Congress have law degrees, and all are involved professionally in the workings of the government, we may assume that they are far better informed and more lawyer-like in their thinking than the general public. . . .⁷

Finally, Stephen Wasby's comprehensive appraisal of the variety of judicial impact studies concluded with a series of generalizations and hypotheses which in most respects perpetuated the theme of reverence for the Court. Wasby did, however, draw upon the preliminary findings of Murphy and Tanenhaus to qualify some of the basic assumptions of the "reverence for the Court" advocates with respect to public opinion. Wasby accepted the essentials of Schubert's generalization concerning

5. H. PRITCHETT, CONGRESS VERSUS THE SUPREME COURT, 1957-1961, at 119 (1961).

6. G. SCHUBERT, CONSTITUTIONAL POLITICS 257-58 (1960).

7. Halper, *Supreme Court Responses to Congressional Threats: Strategy and Tactics*, 19 DRAKE L. REV. 292, 320-23 (1970).

lawyers. In Wasby's hypothesis: "Lawyers are more likely to comply with Supreme Court decisions than are non-lawyers."⁸

To what extent is Congressional antagonism toward the Court "recent"? Has there been a truly significant change in Congressional attitudes in the last three or four decades? Were the bitter ideological attacks leveled against Fortas because of Congressional antagonism to the thrust of the Warren Court decisions uncharacteristic of Congressional-Court relations in the 20th Century? Has the shift from a pro-business, anti-regulatory position by the Roosevelt, Stone, Vinson and Warren Courts ultimately eroded significant and influential bases for support in American Society? Subsequent analysis of 147 House and Senate roll calls in the post-World War II era was undertaken to provide preliminary answers to these questions. The roll call and membership data provided by the Inter-University Consortium for Political Research, Ann Arbor, Michigan, was utilized.

This research report is an investigation of Congressional roll call behavior and interest group activity in response to Supreme Court decisions involving civil rights and liberties, and economic, labor and welfare issues. The report is designed to explore the nature and relative stability of those variables which may influence Congressmen when they vote on judiciary-oriented roll calls in the above mentioned issue categories. The conceptual frame of reference of Walter Burnham's emphasis upon time series analysis,⁹ and of contemporary investigations of the impact of judicial decisions,¹⁰ is basic to this study. A broader perspective for understanding the nature of Congressional-Court relations may be gained by utilization of an investigatory emphasis which embodies a convergence of interest group analysis and roll call behavioral studies in chronological sequence. This report is a followup of the original research reported in John R. Schmidhauser and Larry L. Berg, *Congress and the Supreme Court: The Post War Era, 1945-1968*.

A number of students of the Supreme Court have argued that a discernable distinction can be made between Congressional attitudes toward the Court regarding ordinary legislative reversals of statutory interpretations and extraordinary actions which, in substance, would

8. S. WASBY, *THE IMPACT OF THE UNITED STATES SUPREME COURT: SOME PERSPECTIVES* 261, 266 (1970).

9. W. BURNHAM, *CRITICAL ELECTIONS AND THE MAINSPRINGS OF AMERICAN POLITICS* x-xi (1970).

10. See, e.g., T. BECKER, *THE IMPACT OF SUPREME COURT DECISIONS: EMPIRICAL STUDIES* (1969); S. WASBY, *THE IMPACT OF THE UNITED STATES SUPREME COURT: SOME PERSPECTIVES* (1970).

weaken the Court as an institution. Summarizing conventional historical descriptions of legislative anti-decision and anti-Court attacks, Stuart Nagel argued that "relatively milder" Court-Curbing bills had a "substantially higher rate of success."¹¹ More specifically, Harry Stumpf concluded that:

The prestige or sacrosanctity argument in Congress is used and used with some effectiveness in protecting the judiciary against anti-Court legislative reaction. . . . However, in anti-decision action, especially in simple reversals, the argument that reversal advocates are showing disrespect for the Court is not only little used, but if used at all, is almost totally ineffective.¹²

Presumably, if Stumpf's hypothesis is correct, members of Congress may be expected to demonstrate higher levels of support for the Supreme Court when voting on roll calls involving direct institutional attacks on the Court than when the roll calls involve statutory reversals.

Another related hypothesis focuses attention directly upon the interest group behavior and tactics of business-oriented organizations. Thus, Arthur S. Miller has argued, building upon a seminal paper by Alan Westin, that Congress has developed a system of "appellate review" of administrative and judicial decisions which were viewed by business-oriented interest groups as detrimental.¹³

If, as Alan Westin suggested, direct institutional clashes between the corporate business community and the Supreme Court were averted because business interests developed resort to Congress to secure reversals of anti-business judicial statutory interpretations, then the incidence of direct institutional attacks upon the Supreme Court would bear an inverse correlation to the number of Congressional reversals of statutory interpretations by the Court. Since the members of the Conservative Coalition in Congress generally are oriented toward the interest groups representing the business community (*i.e.*, U.S. Chamber of Commerce, the National Association of Manufacturers and other groups including the American Bar Association operating through

11. S. NAGEL, *THE LEGAL PROCESS FROM A BEHAVIORAL PERSPECTIVE* 277 (1969).

12. Stumpf, *Congressional Response to Supreme Court Rulings: The Interaction of Law and Politics*, 14 J. PUB. L. 376, 394 (1955).

13. A. MILLER, *THE SUPREME COURT AND AMERICAN CAPITALISM* 108 (1968) [hereinafter cited as MILLER]; see also A. Westin, *Corporate Appeals to Congress from Supreme Court Rulings*, (unpublished paper presented to the 1962 Convention of the American Political Science Ass'n).

interest group "summit" conferences such as Greenbrier),¹⁴ do members of this Coalition attack the Court institutionally more frequently when statutory reversals decrease or vice versa? Furthermore, is there any significant difference in Congressional roll call behavior when civil rights and civil liberties issues are at stake in contrast to economic issues such as statutory reversal controversies involving business, labor, or welfare? Arthur Miller argues that there is a difference, contending that "Much less success has resulted in efforts by others to legislatively overrule the Supreme Court in civil-liberty and civil-rights decisions. . . ."¹⁵ One hundred and forty-seven House and Senate roll calls (all are categorized and described chronologically in the Appendix *infra*) were voted upon in the period 1945-1968 which comprised virtually every division relating to Congressional-Supreme Court relations in the post-World War II era. Utilizing the totality of roll calls, what do these divisions indicate?

I. DIRECT INSTITUTIONAL ATTACKS CONTRASTED TO REVERSAL OF STATUTORY INTERPRETATIONS BY CONGRESS

An examination of the voting behavior of Congressmen and Senators was made of the ten roll calls in the House of Representatives and the twenty-one roll calls in the Senate which were distinctly attacks on the Court as an institution during the period 1947-1968, the 80th through 90th Congresses. The 79th Congress was analyzed separately. These were compared with the roll calls which were not direct institutional attacks, but mere reversals by Congress of statutory interpretations made by the Supreme Court. To what extent did successful invocation of the Congressional power to reverse statutory reversals avert direct institutional attacks upon the Supreme Court?

In Table 1, the incidence of the two types is summarized by Congress. The results generally indicate that direct institutional attacks did not occur as often in Congresses which frequently reversed statutory interpretations. But this summary does not provide direct evidence to either support or contradict Westin's hypothesis. Roll calls, by the very fact that they have been invoked in the legislative process, generally represent divisions which were not susceptible of resolution by negotiation or bargaining. In both categories of issues, specific legislative disagreements sometimes proliferated a large number of roll

14. D. HALL, COOPERATIVE LOBBYING—THE POWER OF PRESSURE 32-34, 188-212 (1969) [hereinafter cited as HALL].

15. MILLER 108.

call divisions. In the 79th Congress, for example, five of the six statutory interpretation reversal roll calls involved variations on a single parliamentary theme, the Congressional attempt at substituting its interpretation for that of the Supreme Court regarding *Tidelands Oil*. Thus, the actual number of contested bills (indicated in parentheses) is considerably smaller in most Congresses than the roll call divisions which were called for by the protagonists of competing positions. The proliferation of roll call divisions is, at best, a crude indicator of intensity of conflict and, perhaps, parliamentary skill. Ultimately, it shall be necessary to utilize the total universe of legislative actions in each successive Congress in order to accurately test the validity of Westin's hypothesis. The diminishing number of economic roll call divisions generally apparent in the chronological order of Congresses from 1945 to 1968 may well reflect the growing success of the corporate business community in overturning statutory interpretations *without* provoking the numerous roll call divisions characteristic of the late 1940's and the 1950's. In 1966, for example, the 89th Congress, importuned by various interest groups including the American Bar Association, passed H.R. 11256, a bill relating to the priority of federal tax liens and levies. Although this bill overruled two Supreme Court decisions,¹⁶ it was approved as Public Law 89-719 without a roll call division in either the House or the Senate.¹⁷

To what extent do the differences in roll call behavior support Harry Stumpf's hypothesis, which posited higher levels of support for the Supreme Court when it was under direct attack as an institution? The data summarized in Tables 2, 3, 4, and 5 affirm Stumpf's hypothesis. In fact, a comparison of the average percentage of Democratic, Republican and Northern Democratic Representatives supporting the Court in the 80th through 90th Congress indicate stronger Court support in direct Court-curbing roll calls for every classification. But it is interesting to note that the differences are not great except for the Northern Democrats. 55.4% of all Democrats supported the Court against direct institutional attacks while 48.1% supported it against Congressional statutory reversals. 19.2% of the Republicans supported the Court against direct attacks and 13% supported it against statutory reversals. But 82.3% of the Northern Democrats supported the Court against

16. *United States v. Bull Const. Co.*, 355 U.S. 587 (1958); *United States v. White Beer Brewing Co.*, 350 U.S. 1010 (1956).

17. From the data gathered by Albert Melone for The American Bar Association and Public Policy, 1947-1968 (Preliminary draft of a doctoral dissertation, University of Iowa, 1971).

TABLE 1
 INCIDENCE OF CONGRESSIONAL ROLL CALLS AND BILLS
 ON (1) REVERSAL OF SUPREME COURT STATUTORY
 INTERPRETATIONS AND (2) DIRECT ATTACKS
 ON THE SUPREME COURT AS AN INSTITUTION
 BY CONGRESS: 1945-1968

| Congress | Type of Roll Call (Actual Number of Bills Contested in Parentheses) | Type of Roll Call (Actual Number of Bills Contested in Parentheses) |
|----------|---|---|
| | Statutory Reversals (by number) | Direct Institutional Attacks (by number) |
| 79th | 6 (2) | 1 (1) |
| 80th | 8 (2) | 0 |
| 81st | 20 (5) | 0 |
| 82nd | 12 (2) | 0 |
| 83rd | 15 (2) | 1 (1) |
| 84th | 9 (1) | 0 |
| 85th | 12 (4) | 5 (1) |
| 86th | 12 (3) | 3 (1) |
| 87th | 2 (2) | 0 |
| 88th | 3 (2) | 8 (2) |
| 89th | 3 (1) | 9 (3) |
| 90th | 9 (2) | 5 (1) |

direct institutional attacks while 65.3% supported it against Congressional statutory reversals. It is clear, therefore, that the distinction between types of anti-Court actions is far more meaningful to Northern Democrats in the House than it is to those Congressmen who may comprise the Conservative Coalition. The data for the Senators indicate a similar pattern. Support by every classification of Senator is stronger for the Supreme Court in divisions involving direct institutional attacks. But Senate Republicans gave stronger support in both issue

categories and Northern Democratic Senators did not make as sharp a distinction between the types of roll calls. Thus, 60% of all Democratic Senators supported the Court against direct institutional attacks in contrast to 55.4% against ordinary reversals. A higher percentage of Senate Republicans opposed institutional attacks (37.3%) than House Republicans (19.2%); 24.2% of the Republican Senators opposed reversals; 83% of the Senate Democrats supported the Court against direct attacks, virtually identical to House Democrats (82.3%), while they supported the Court on statutory reversals 72.3% compared to 65.3% by their House counterparts.

TABLE 2

AVERAGE PERCENTAGE OF DEMOCRAT, REPUBLICAN AND NORTHERN DEMOCRAT REPRESENTATIVES SUPPORTING THE COURT ON ROLL CALLS DIRECTLY ATTACKING THE COURT OR SEEKING TO CURB THE COURT, 80TH THROUGH 90TH CONGRESS

| | Party | | |
|------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (10 roll calls) | 55.4% | 19.2% | 82.3% |

TABLE 3

THE AVERAGE PERCENTAGE OF DEMOCRAT, REPUBLICAN, AND NORTHERN DEMOCRAT SENATORS SUPPORTING THE SUPREME COURT ON ROLL CALLS ON LEGISLATION TO CURB OR DIRECTLY ATTACK THE COURT, 80TH THROUGH 90TH CONGRESS

| | Party | | |
|------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (21 roll calls) | 60.0% | 37.3% | 83.0% |

TABLE 4

AVERAGE PERCENTAGE OF DEMOCRAT, REPUBLICAN AND
NORTHERN DEMOCRAT REPRESENTATIVES SUPPORTING
THE SUPREME COURT ON ROLL CALLS TO MODIFY
OR REVERSE SUPREME COURT DECISIONS,
80TH THROUGH 90TH CONGRESS

| | Party | | |
|---------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (35 roll calls) | 48.1% | 13.0% | 65.3% |

TABLE 5

AVERAGE PERCENTAGE OF DEMOCRAT, REPUBLICAN AND
NORTHERN DEMOCRAT SENATORS SUPPORTING THE
SUPREME COURT ON ROLL CALLS ATTEMPTING
TO MODIFY OR REVERSE SUPREME COURT
DECISIONS, 80TH THROUGH
90TH CONGRESS

| | Party | | |
|---------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (71 roll calls) | 55.4% | 24.2% | 72.3% |

What do the roll call data show with respect to Arthur Miller's distinction between statutory reversals involving economic issues (business, labor, and welfare) and those concerning civil rights and civil liberties? A comparison of these diverse issue categories generally contradicts Miller's assumption that Congressional support for the Court is higher when civil rights and civil liberties rather than economic issues are subjects for statutory reversal. The data from the House roll calls consistently support an opposite conclusion. The data for both chambers are summarized in Tables 6, 7, 8, and 9. In the House of Representatives, all Democrats supported the Court in statutory reversal roll calls involving economics more strongly than in the area of civil rights (53% to 42.4%). The House Republicans followed a similar

pattern (16.5% to 8.9%). Northern Democrats, interestingly enough, showed the widest variation (74.2% to 54.8%). The Senate Democrats as a whole indicated an identical voting pattern, indicating higher Court support on economic issues by 56.9% compared to a civil liberties support level of 50.6%. Conversely, the Senate Republicans did indicate a higher percentage of civil rights support rather than economic issue support but, significantly, neither category comprised majority Republican senatorial support for the Supreme Court (30.8% in civil rights and liberties compared to 22.1% on economic statutory reversal decisions). The Northern Democratic Senators also provided very marginal evidence for Miller's hypothesis by supporting the Supreme Court on civil rights and liberties issues 74.7% and on economic issues by 71.6%.

TABLE 6

AVERAGE PERCENTAGE OF DEMOCRATIC, REPUBLICAN AND NORTHERN DEMOCRATIC REPRESENTATIVES SUPPORTING THE SUPREME COURT ON ROLL CALLS TO MODIFY OR REVERSE SUPREME COURT DECISIONS IN THE AREAS OF ECONOMICS, LABOR, AND WELFARE, 80TH THROUGH 90TH CONGRESSES

| | Party | | |
|------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (19 roll calls) | 53.0% | 16.5% | 74.2% |

TABLE 7

AVERAGE PERCENTAGE OF DEMOCRATIC, REPUBLICAN AND NORTHERN DEMOCRATIC REPRESENTATIVES SUPPORTING THE SUPREME COURT ON ROLL CALLS TO MODIFY OR REVERSE SUPREME COURT DECISIONS IN THE AREA OF CIVIL LIBERTIES, 80TH THROUGH 90TH CONGRESSES

| | Party | | |
|------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (16 roll calls) | 42.4% | 8.9% | 54.8% |

TABLE 8

AVERAGE PERCENTAGE OF DEMOCRATIC, REPUBLICAN AND
NORTHERN DEMOCRATIC SENATORS SUPPORTING
THE SUPREME COURT ON ROLL CALLS TO MODIFY OR
REVERSE SUPREME COURT DECISIONS INVOLVING
ECONOMIC, WELFARE AND LABOR ISSUES
80TH THROUGH 90TH CONGRESSES

| | Party | | |
|---------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (54 roll calls) | 56.9% | 22.1% | 71.6% |

TABLE 9

AVERAGE PERCENTAGE OF DEMOCRATIC, REPUBLICAN AND
NORTHERN DEMOCRATIC SENATORS SUPPORTING THE
SUPREME COURT ON ROLL CALLS ATTEMPTING TO
MODIFY OR REVERSE SUPREME COURT DECISIONS
RELATING TO CIVIL LIBERTIES ISSUES,
80TH THROUGH 90TH CONGRESSES

| | Party | | |
|---------------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Average Percentage (17 roll calls) | 50.6% | 30.8% | 74.7% |

As was true in the preliminary investigation of roll call data conducted by John R. Schmidhauser and Larry L. Berg,¹⁸ this additional investigation indicates that Congressional voting patterns relating to Supreme Court support or opposition bear a close resemblance to the overall voting tendencies of House and Senate members. For example, Jewell and Patterson had summed up the research findings on party differences and party cohesion in 1966 as follows:

The few studies available indicate that the Democratic congressmen

18. See CONGRESS AND THE COURT, esp. Chapter VII.

who vote most consistently with the party have been those from Northern metropolitan districts, with a high proportion of foreign-born or (in more recent years) non-white population. Rural Republicans are likely to have a more loyal voting record than those who represent the kind of metropolitan distrust that usually votes Democratic.¹⁹

Basic to most scholarly evaluations of Congressional-Court relations has been the assumption that Congressmen view the Court as a hallowed institution. As was indicated above, if this assumption is valid, then the members of Congress presumably will treat judiciary-oriented issues different from non-judicial issues and will vote in a manner which reflects special attention to the Court as an institution. Neither the original data nor the additional data analyzed in this study of Congressional roll call behavior indicate this kind of marked departure from the "normal" partisan and regional patterns of voting. Indeed, a comparison of party cohesion indexes by table and by graphic figure etches more clearly the persistence of party differences leavened, of course, by the significant impact of the Conservative Coalition. Coalition voting on these judiciary-oriented roll calls generally weakened Democratic rather than Republican unity. Tables 10, 11, 12, and 13 and Figures 3, 4, 5, 6, 7, 8, 9, and 10 sum up the new data while Figures 1 and 2 are reproduced for comparative purposes.

TABLE 10

RICE INDEX OF COHESION FOR DEMOCRATIC, REPUBLICAN AND
NORTHERN DEMOCRATIC REPRESENTATIVES ON ROLL CALLS
TO MODIFY OR REVERSE COURT DECISIONS IN THE
AREAS OF ECONOMICS, LABOR, AND WELFARE,
80TH THROUGH 90TH CONGRESSES

| | Party | | |
|-------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Rice Index (19 roll calls) | 17.4 | 65.1 | 48.0 |

19. M. JEWELL & S. PATTERSON, *THE LEGISLATIVE PROCESS IN THE UNITED STATES* 437 (1966).

TABLE 11

RICE INDEX OF COHESION FOR DEMOCRATIC, REPUBLICAN AND
NORTHERN DEMOCRATIC REPRESENTATIVES ON ROLL CALLS
TO MODIFY OR REVERSE COURT DECISIONS IN THE
AREA OF CIVIL LIBERTIES, 80TH
THROUGH 90TH CONGRESSES

| | Party | | |
|-------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Rice Index (16 roll calls) | 29.8 | 75.9 | 35.4 |

TABLE 12

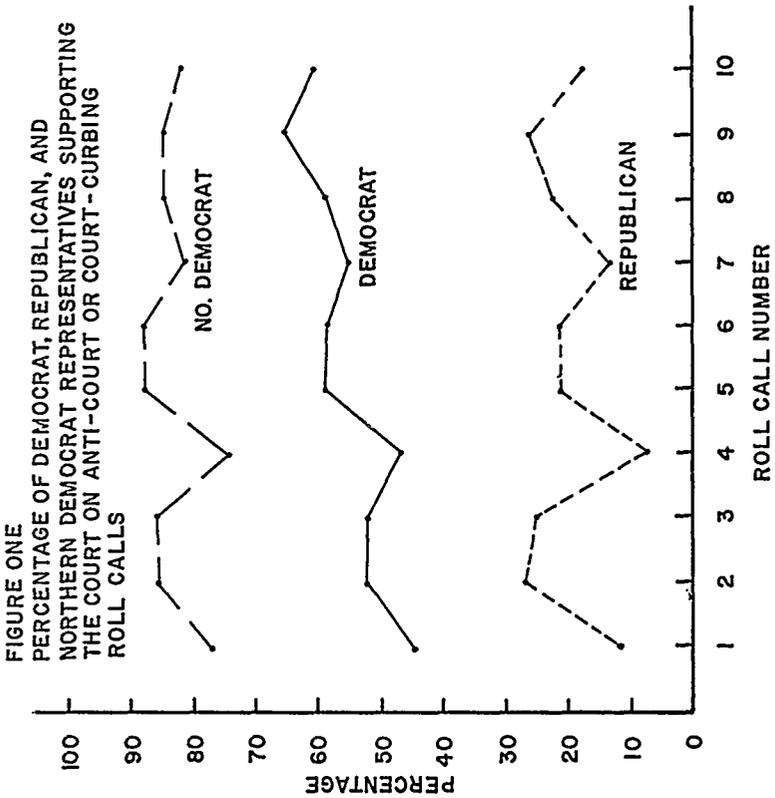
RICE INDEX OF COHESION FOR DEMOCRATIC, REPUBLICAN AND
NORTHERN DEMOCRATIC SENATORS ON ROLL CALLS MODIFYING
OR REVERSING SUPREME COURT DECISIONS RELATING TO
ECONOMIC, WELFARE OR LABOR ISSUES,
80TH THROUGH 90TH CONGRESSES

| | Party | | |
|-------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Rice Index (54 roll calls) | 31.3 | 61.2 | 48.7 |

TABLE 13

RICE INDEX OF COHESION FOR DEMOCRATIC, REPUBLICAN AND
NORTHERN DEMOCRATIC SENATORS ON ROLL CALLS MODIFYING
OR REVERSING SUPREME COURT DECISIONS RELATING
TO CIVIL LIBERTIES ISSUES, 80TH
THROUGH 90TH CONGRESSES

| | Party | | |
|-------------------------------|----------|------------|-------------------|
| | Democrat | Republican | Northern Democrat |
| Rice Index (17 roll calls) | 41.4 | 56.9 | 58.0 |



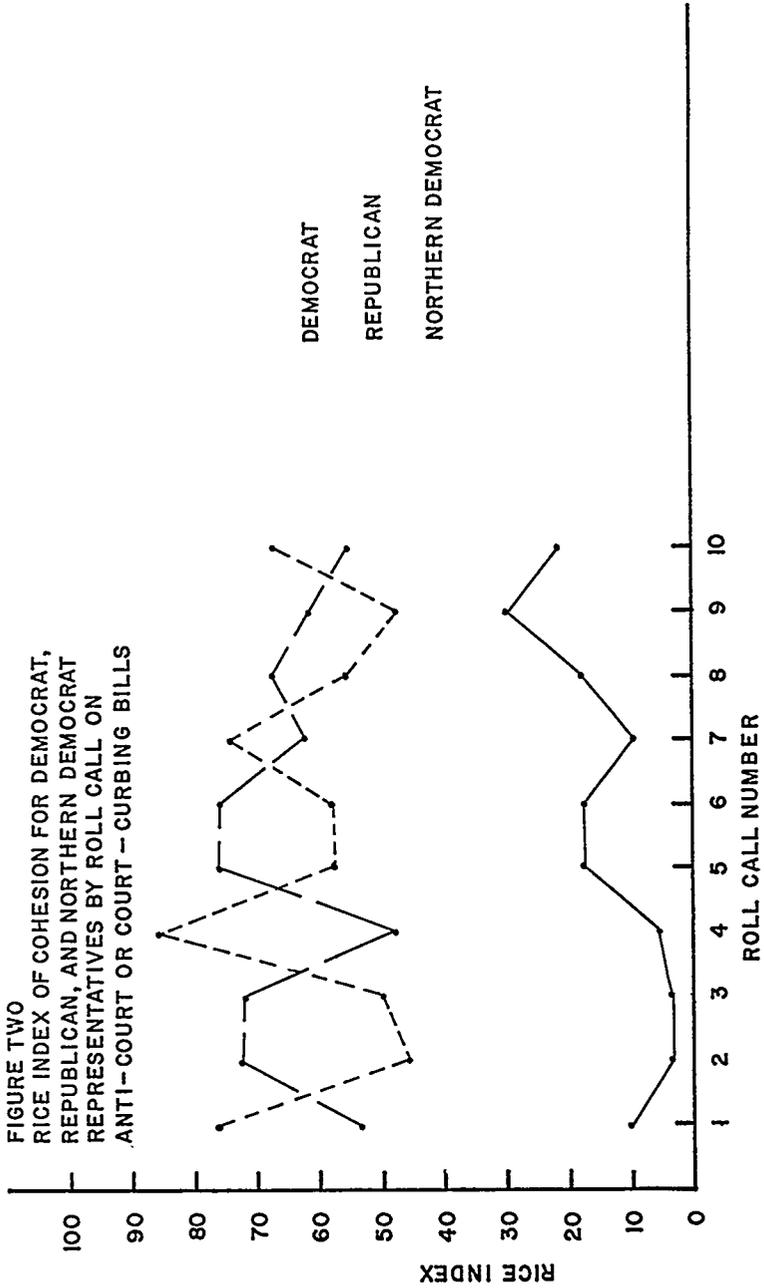


FIGURE THREE
PERCENTAGE OF DEMOCRAT, REPUBLICAN AND NORTHERN
DEMOCRAT REPRESENTATIVES SUPPORTING THE SUPREME
COURT ON ROLL CALLS TO MODIFY OR REVERSE SUPREME
COURT DECISIONS IN THE AREAS OF ECONOMICS, LABOR,
AND WELFARE.

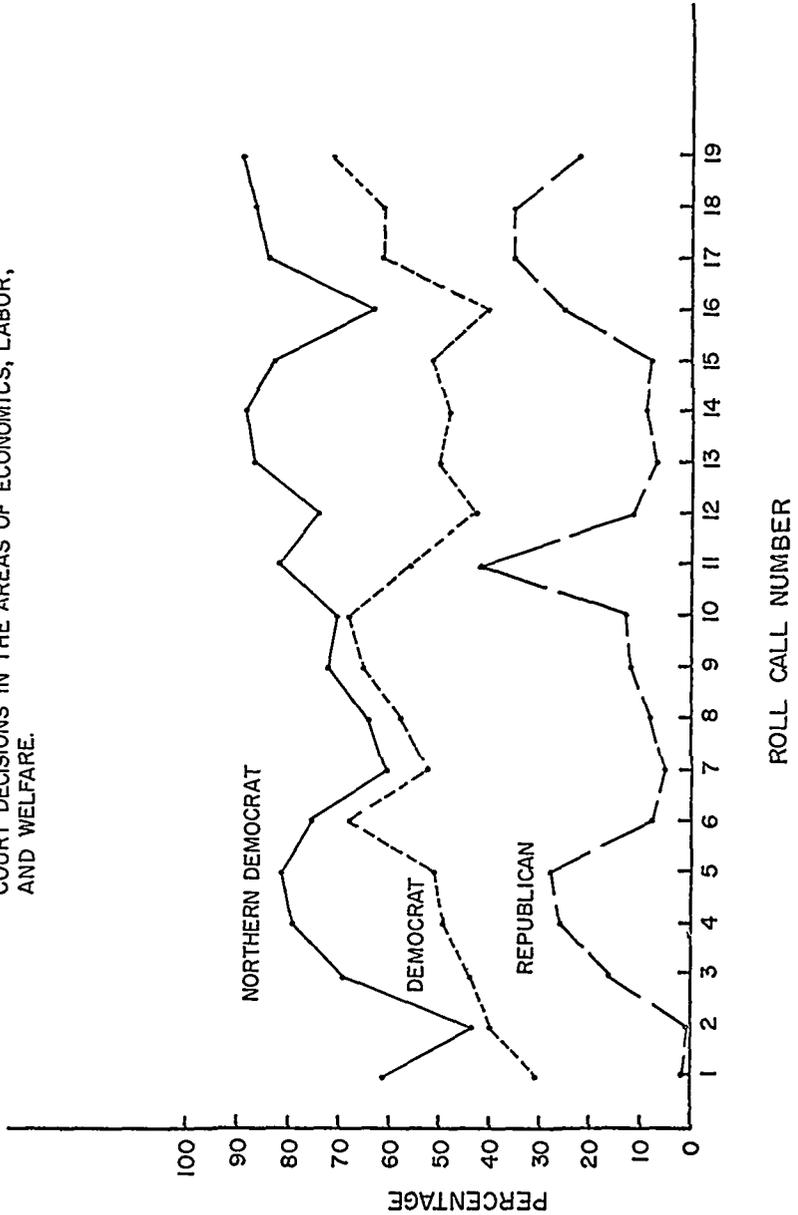


FIGURE FOUR
PERCENTAGE OF DEMOCRAT, REPUBLICAN, AND NORTHERN
DEMOCRAT REPRESENTATIVES SUPPORTING THE SUPREME
COURT ON ROLL CALLS TO MODIFY OR REVERSE SUPREME
COURT DECISIONS IN THE AREA OF CIVIL LIBERTIES

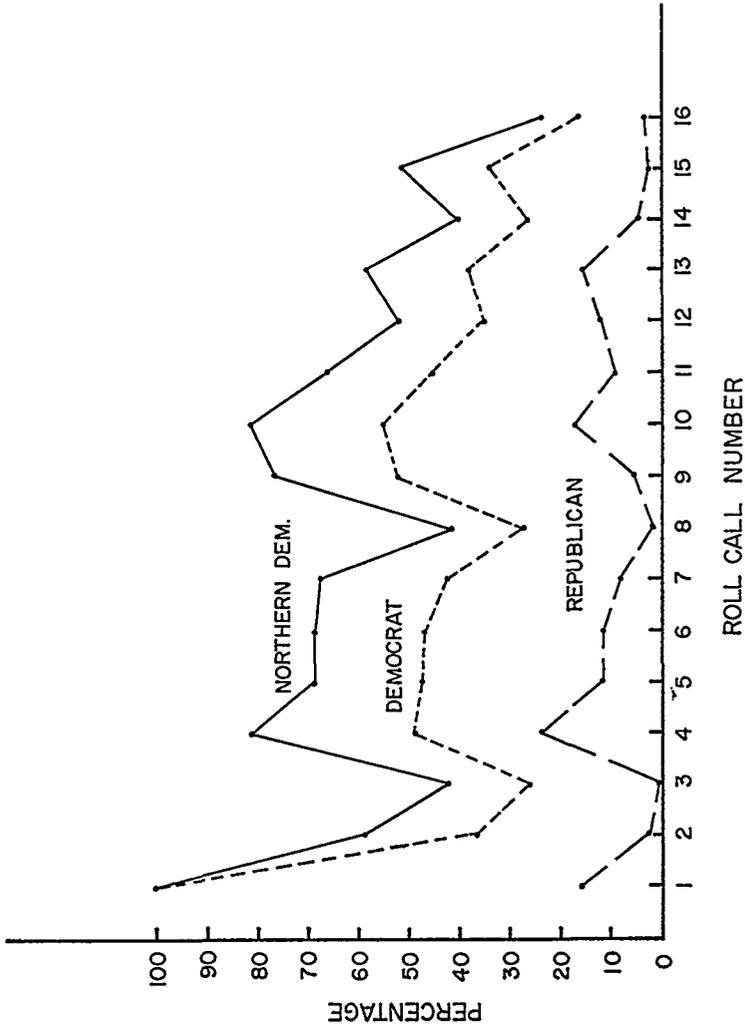


FIGURE FIVE
RICE INDEX OF COHESION FOR DEMOCRAT, REPUBLICAN
AND NORTHERN DEMOCRAT REPRESENTATIVES ON ROLL
CALLS TO REVERSE OR MODIFY SUPREME COURT DECISIONS
IN THE AREAS OF ECONOMICS, LABOR AND

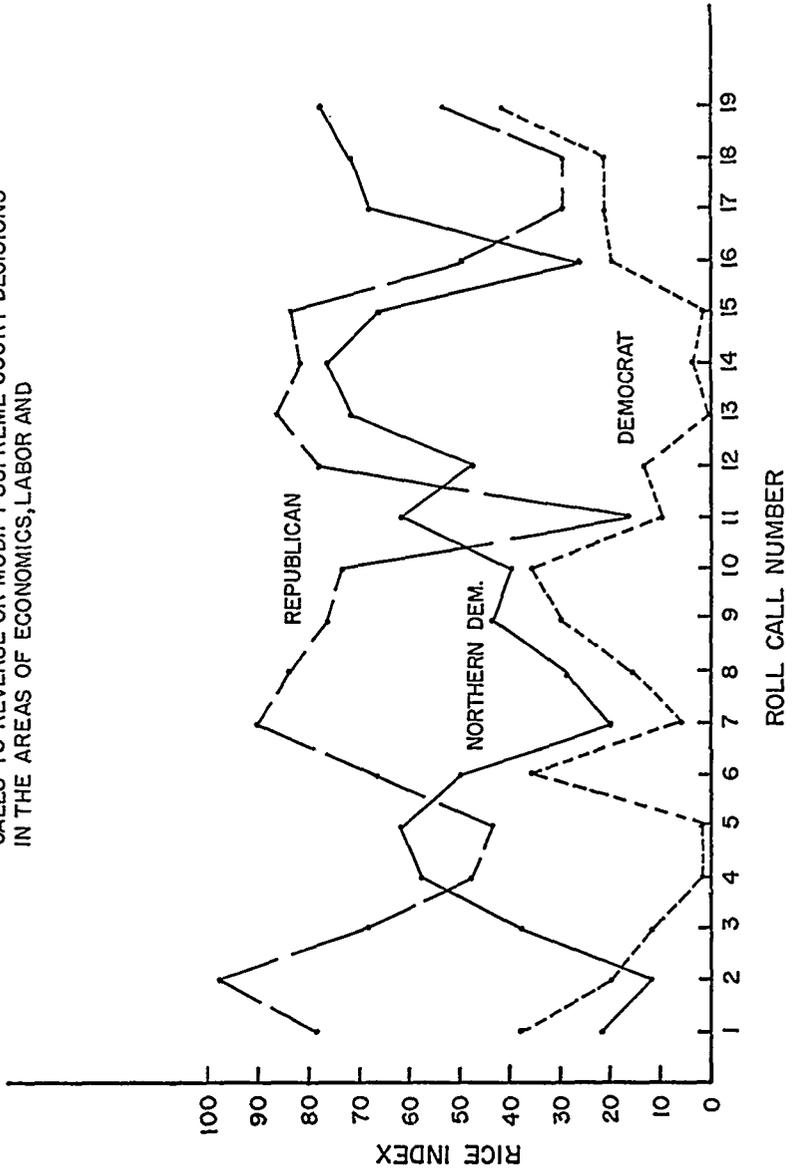
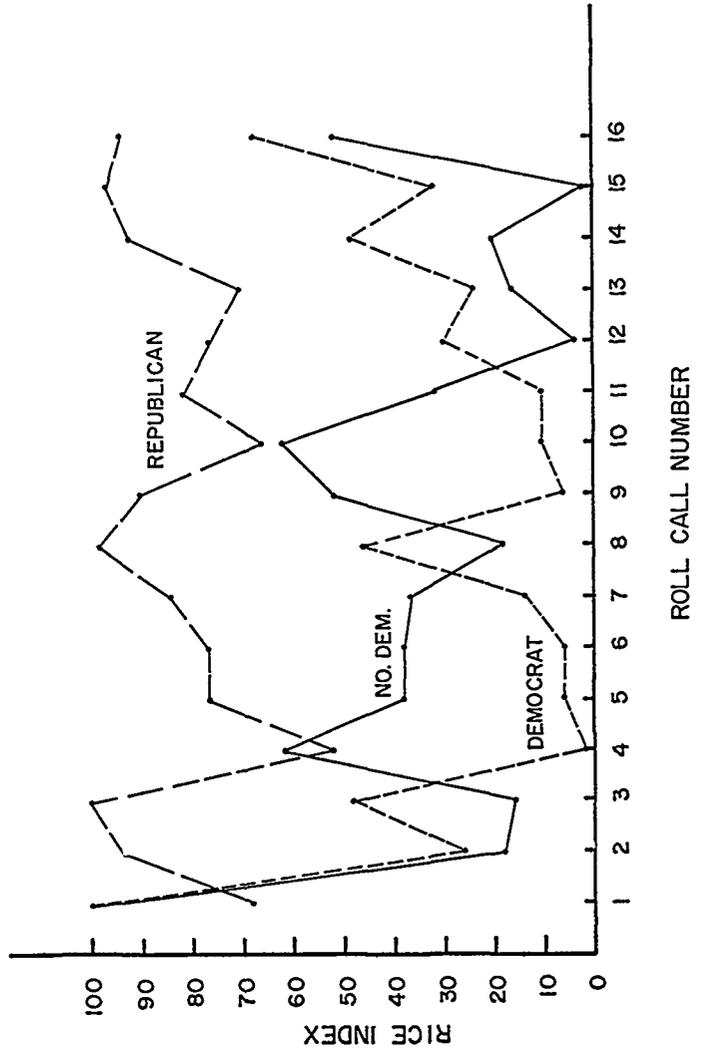


FIGURE SIX
RICE INDEX OF COHESION FOR DEMOCRAT, REPUBLICAN
AND NORTHERN DEMOCRAT REPRESENTATIVES ON ROLL
CALLS TO MODIFY OR REVERSE SUPREME COURT
DECISIONS IN THE AREA OF CIVIL LIBERTIES



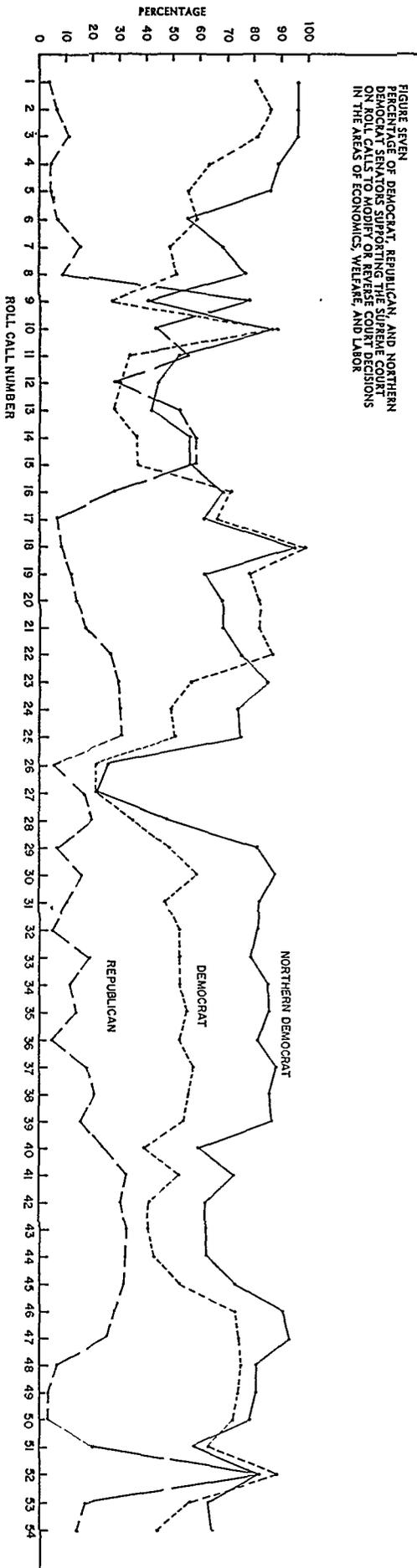


FIGURE SEVEN
 PERCENTAGE OF DEMOCRAT, REPUBLICAN, AND NORTHERN
 DEMOCRAT SENATORS SUPPORTING THE SUPREME COURT
 ON ROLL CALLS TO MODIFY OR REVERSE COURT DECISIONS
 IN THE AREAS OF ECONOMICS, WELFARE, AND LABOR

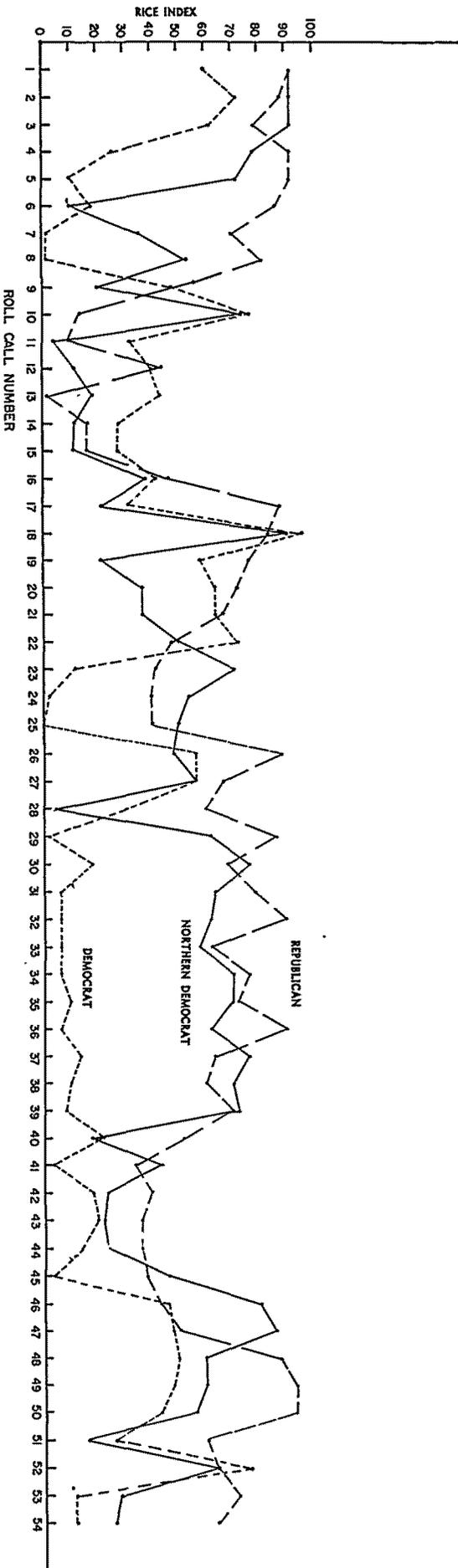


FIGURE EIGHT
 COESION FOR DEMOCRAT, REPUBLICAN AND NORTHERN
 DEMOCRAT SENATORS ON ROLL CALLS TO MODIFY OR REVERSE SUPREME
 COURT DECISIONS IN THE AREAS OF ECONOMICS, LABOR, AND WELFARE

FIGURE NINE
PERCENTAGE OF DEMOCRAT, REPUBLICAN AND NORTHERN
DEMOCRAT, SENATORS SUPPORTING THE SUPREME COURT
ON ROLL CALLS TO MODIFY OR REVERSE COURT
DECISIONS IN THE AREA OF CIVIL LIBERTIES

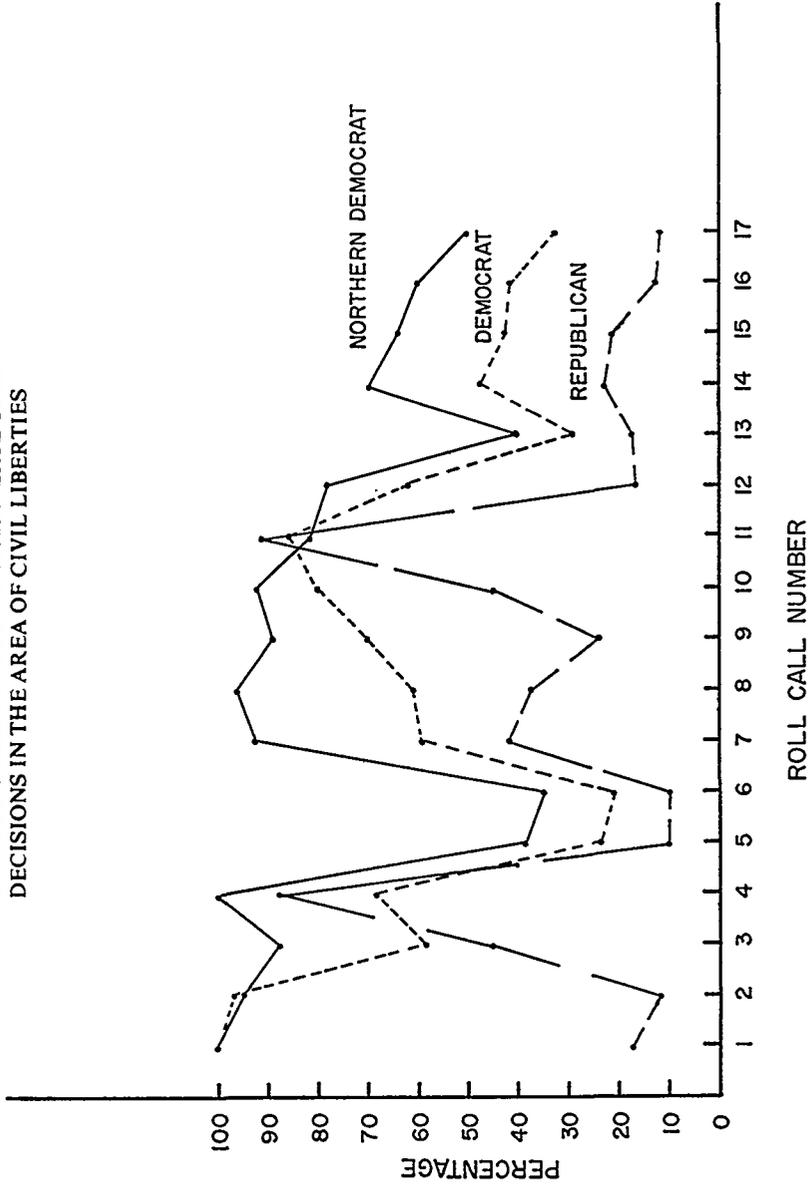
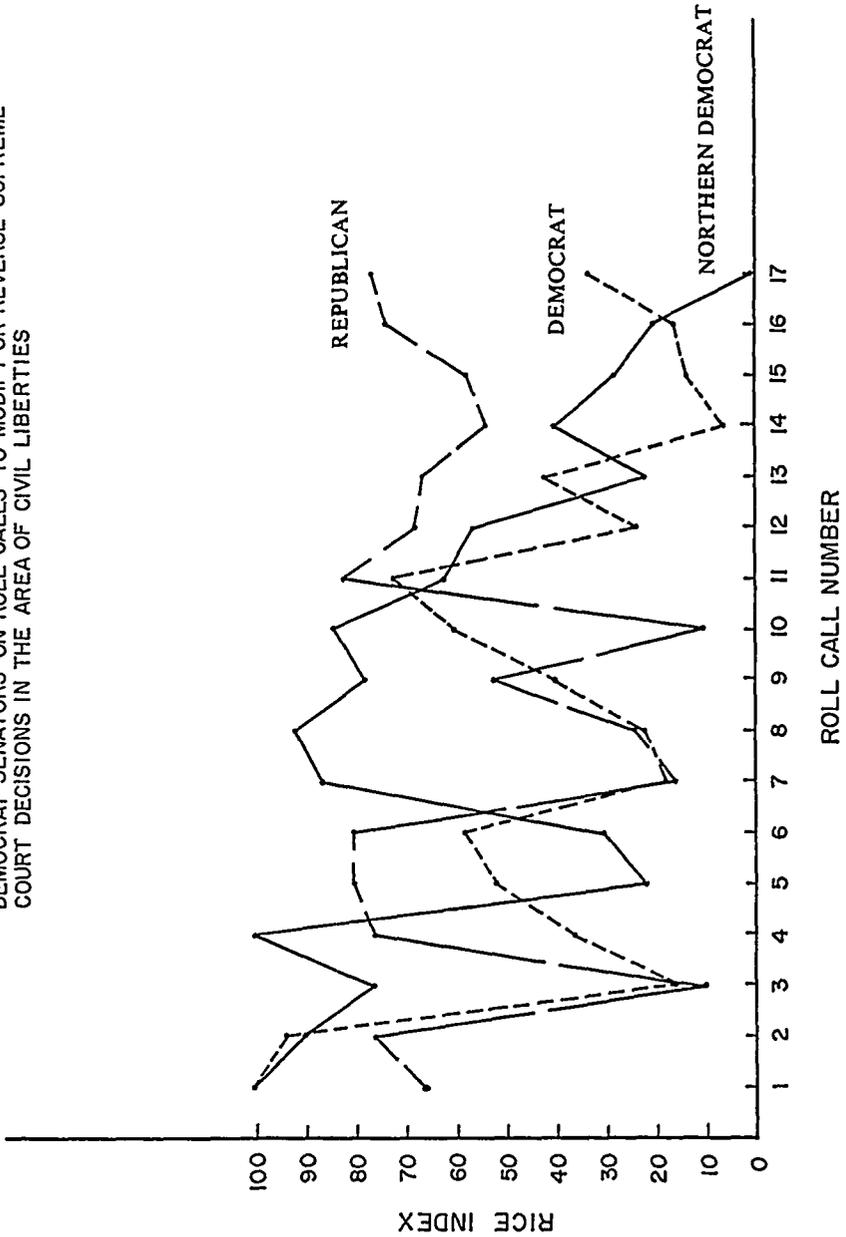


FIGURE TEN
RICE INDEX OF COHESION FOR DEMOCRAT, REPUBLICAN, AND NORTHERN
DEMOCRAT SENATORS ON ROLL CALLS TO MODIFY OR REVERSE SUPREME
COURT DECISIONS IN THE AREA OF CIVIL LIBERTIES



II. LAWYER-CONGRESSMEN AND COURT SUPPORT

Some political scientists accorded a particularly reverential role to lawyer-legislators apparently on the assumption that the professional socialization of lawyers in some way contributed to early development of such an institutional attitude. An initial investigation of the hypothesis was made utilizing all the judiciary-oriented roll calls voted upon in the Senate, 2nd Session, 79th Congress. Four separate votes, all involving reversal of statutory interpretation issues comprised the total. The percentage of lawyer-legislators and non-lawyer legislators supporting or opposing the Supreme Court is summarized for each consecutive roll call in Table 14. The percentages were derived through utilization of the Nucros program for multivariate cross-classification developed by Professor Kenneth Janda of Northwestern University and adapted for the Political Research Laboratory, University of Iowa, by Merle Wood.²⁰

TABLE 14
 SENATORIAL LAWYER AND NON-LAWYER SUPPORT FOR THE
 SUPREME COURT, 2ND SESSION, 79TH CONGRESS
 BY PERCENTAGE

| (Roll Call No. 3) | | |
|-------------------|--------|------------|
| | Lawyer | Non-Lawyer |
| Pro-Court | 27% | 36% |
| Anti-Court | 71% | 60% |
| (Roll Call No. 4) | | |
| | Lawyer | Non-Lawyer |
| Pro-Court | 43% | 46% |
| Anti-Court | 57% | 54% |
| (Roll Call No. 5) | | |
| | Lawyer | Non-Lawyer |
| Pro-Court | 39% | 39% |
| Anti-Court | 61% | 61% |
| (Roll Call No. 6) | | |
| | Lawyer | Non-Lawyer |
| Pro-Court | 44% | 39% |
| Anti-Court | 52% | 61% |

20. K. JANDA, DATA PROCESSING 153-168, esp. 161-67 (1969). For the statistical tables see CONGRESS AND THE COURT.

The results not only fail to support the lawyers' 'reverence' hypothesis, in fact, in only one roll call is the percentage of lawyer-legislators supporting the Court higher (by a slight margin) than that of the non-lawyer legislators. In two roll calls the reverse is true, while in the third the percentages are identical.

One tentative explanation for the conspicuous lack of lawyer-Congressional support for the Court may be provided by a more incisive investigation of the social and political role of the lawyers' professional associations.

The total environment in which members of the Supreme Court interact with members of Congress encompasses a variety of relationships which provide links between the two institutions. Thus, lawyers, officials of legal professional organizations, and law school faculty members comprise the "attentive constituents" of the judiciaries in a manner not totally dissimilar to that of V.O. Key's middlemen of politics.²¹ During the many decades of institutional maturation and change which have influenced the legal profession in America, many fundamental developments were taking place. The fierce antagonism which was often directed against lawyers during the first four decades of the 19th century gradually was replaced by conditions much more advantageous to lawyers as professionals, to the development of legal professional associations, and to the enhanced influence of corporate law firms. The frontal attacks upon lawyers typified by William Sampson's "Anniversary Discourse" of 1824, were, during the evolution of the 19th century, superseded by a gradual strengthening of the position of lawyers and the common law and by the development and growth of lawyers' associations.²² Out of this period of transition has emerged strong private political institutions whose total impact upon the federal judicial system is still not fully understood. Indeed, the relative paucity of information concerning the interest group and private political roles of legal professional groups serves to substantiate Frank Sorauf's contention that "the large and powerful groups now languish as an unexplored area of political science."²³

21. See Boynton, Patterson & Hedlund, *The Missing Links in Legislative Politics: Attentive Constituents*, 31 J. POL. 700-701, 709-715 (1969).

22. Compare, for example, Sampson's negative "Discourse" of 1824 with Joseph Story's inaugural discourse of 1829 and the proliferation of affirmative commentaries which were presented in the 1830's, '40's and '50's in *THE LEGAL MIND IN AMERICA* 119-134, 176 *et seq.* (P. Miller ed. 1962).

23. Quoted in Dayton McKean's *Forward* to HALL at vii.

By 1970, the American Bar Association has emerged from nearly a century of development as the single most influential of the lawyer associations in the nation. By the 1960's, the ABA was recognized as a significant intermediary in interest group negotiations and efforts. As such the ABA has participated regularly in the "summit" conferences of the two most influential coalitions of business oriented interest groups—the Greenbrier Conferences and the meetings of the Conference of National Organizations.²⁴

A preliminary investigation of the American Bar Association's lobbying activities before Congressional committees suggests that economic and ideological objectives may be more significant objectives than development of attitudes of reverence for the Supreme Court among lawyer-Congressmen. To provide some measure of the diversity of the ABA's legislative interests, the following summary of cooperative lobbying efforts was compiled. The American Bar Association supported a constitutional amendment designed to overrule *Baker v. Carr* in 1965.²⁵

ABA COOPERATED WITH:

U.S. Chamber of Commerce
 National Association of
 Manufacturers
 National Association of
 Real Estate Boards
 U.S. Junior Chamber of
 Commerce
 American Farm Bureau
 Federation
 National Cotton Council of
 America
 National Farmers Union
 National Livestock Feeders
 Association
 National Council of Farmer
 Cooperatives
 Liberty Lobby
 Citizens Committee for Balanced
 Legislative Representation

ABA WAS OPPOSED BY:

American Civil Liberties Union
 American Veterans Committee
 AFL-CIO
 International Ladies Garments
 Workers Union
 Americans for Democratic Action
 Alliance for Social, Economic
 and Political Progress
 American Ethical Union
 American Jewish Congress

24. *Id.* 32-34, 188-212. Chapter V in CONGRESS AND THE COURT explores some of the relationships of this national lawyers' association to the federal judiciary, in particular the role played by the American Bar Association as an intermediary in Presidential-Supreme Court relations and in Congressional relations with the federal judiciary.

25. *Hearings on S.J. Res. 2 Before the Senate Judiciary Comm.*, 89th Cong., 2d Sess. (1965).

In 1962, the ABA opposed Senate Joint Resolution 159 which sought to overrule statutory interpretations of aspects of the Fair Trade Act.²⁶

| ABA COOPERATED WITH: | ABA WAS OPPOSED BY: |
|--|---|
| AFL-CIO | American Association of Small Business |
| Democratic Administration | Chemical and Research Manufacturers Association |
| Food Town Ethical Pharmacies, Inc. | Corning Glass Works Co. |
| National Association of Consumer Organizations, Inc. | Daneville Wholesale Association |
| National Consumer League | Evyvan Perfumes |
| National Association of Retired Persons | Hamilton Watch Co. |
| National Retail Furniture Association | Hastings Manufacturing Co. |
| Independent Oil Men's Association of New England | Green Shoe Manufacturing Co. |
| National Oil Jobbers Conference | Longines—Wittnauer Watch Co. |
| National Retired Teachers Association | McKesson and Robbins, Inc. |
| | National Association of Retail Druggists |
| | National Small Business Association |
| | National Retail Hardware Association |
| | National Wholesale Druggist Association |
| | National Wholesale Jewelers' Association |
| | Meiers Wine Cellars, Inc. |
| | Lincoln Metal Products Corp. |
| | Retail Gasoline Dealers' Association |
| | Retail Jewelers of America |
| | P. H. Hanes Knitting Co. |
| | Standard Knitting Mills, Inc. |
| | Troy Industries, Inc. |
| | Quality Brands Associates of America, Inc. |
| | Union Underwear Co. |

²⁶ See *United States v. Parke, Davis & Co.*, 362 U.S. 29 (1960); *United States v. McKesson*, 351 U.S. 305 (1955); *Hearings on S.J. Res. 159 Before the House Ways and Means Comm.*, 87th Cong., 2d Sess. (1962).

In another instance, the ABA opposed the Kennedy Administration's effort to obtain authorization for the Department of Justice to make demands for evidence in civil anti-trust investigations. Here the Justice Department wanted a change in the law to circumvent *U.S. v. Proctor and Gamble*.²⁷

ABA COOPERATED WITH:

American Mining Congress
 Association of the Bar of
 the City of New York
 National Coal Association
 National Association of
 Manufacturers
 Manufacturing Chemist
 Association

ABA WAS OPPOSED BY:

Justice Department of the
 Kennedy Administration

These samples of ABA lobbying efforts are not sufficient to establish a consistent ideological or economic pattern, but they were included to illustrate the diversity of interests of the most influential of the legal professional associations. These diverse interests included both Court opposition as well as Court support in a variety of statutory reversal controversies. At this very preliminary stage of the investigation, it is difficult to posit an hypothesis that the socialization of lawyers in associations such as the American Bar Association is likely to engender consistent support for the Court in statutory reversal conflicts in the Congress.

III. CONCLUSION

The assumptions which have comprised the conventional wisdom concerning the fundamentals of Court-Congressional relations are still given wide currency as the following commentator in the *Christian Science Monitor* indicated:

. . . Most lawmakers appear to expect that, as before, an undefined sense of congressional tolerance will provide the bridge. . .
 . . . even when Congress has given vent to the noisiest complaints about the court by the constituents back home, the lawmakers have kept an attitude of near reverence for the court's standing as the ultimate constitutional arbiter. . . .²⁸

27. 356 U.S. 677 (1958). See also *Hearings on S. 167 Before the Senate Judiciary Comm.*, 87th Cong., 1st Sess. (1961).

28. *Congress v. the Court*, *Christian Science Monitor*, July 18, 1960, § 2, at 9.

The evidence suggests a more careful evaluation lest an overdependence upon an alleged Congressional attitude of "reverence" for the Court compound the difficulty by masking the significance of the Court's modern opposition.

The investigation of Court oriented voting divisions in the period 1945-1968 indicates that partisan and ideological considerations play a far greater role in Congressional behavior toward the Court than protagonists of the "reverence" theme have recognized. The persistence and relative growth of Conservative Coalition antagonism toward the Supreme Court should be evaluated more thoroughly. Since 1969, the presence of a President who has often associated himself with the Conservative Coalition on issues involving crime, procedural due process and judicial nominations has compounded the seriousness of the Supreme Court's position.

APPENDIX: IDENTIFICATION
OF ROLL CALLS SELECTED FOR ANALYSIS

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|---|-------------------------|-----------------------------------|
| 1 | 1 | 79th | House | 1st | H. J. Res. 60. Proposed amendment to treaty-making powers (Bricker) | Pro = nay Anti = yea | House Journal p. 73 (5/9/45). |
| 2 | 2 | 79th | House | 1st | H. Res. 248. To provide appeal to S. Ct. from Court of Claims | Pro = yea Anti = nay | House Journal p. 152 (7/31/45). |
| 3 | 2 | 79th | Senate | 2nd | Motion to take up H.R. 225 re Tidelands Oil | Pro = nay Anti = yea | C.R., v. 92, part 8, p. 9425. |
| 4 | 2 | 79th | Senate | 2nd | Barkley motion to nullify effort to consider H.R. 225 | Pro = yea Anti = nay | C.R., v. 92, part 8, p. 9632. |
| 5 | 2 | 79th | Senate | 2nd | Motion to exclude California Tidelands from H.R. 225 | Pro = yea Anti = nay | C.R., v. 92, part 8, pp. 9633-34. |
| 6 | 2 | 79th | Senate | 2nd | Vote on Final Passage H.R. 225 Tidelands Oil | Pro = nay Anti = yea | C.R., v. 92, part 8, pp. 9641-42. |
| 7 | 2 | 79th | House | 2nd | Question: Whether to Override President Truman's veto of H.R. 225-Tidelands Oil | Pro = nay Anti = yea | C.R., v. 92, part 8, p. 10745. |
| 8 | 2 | 80th | House | 1st | H.R. 2157—Portal to Portal Pay—to limit Court's jurisdiction | Pro = nay Anti = yea | C.R., v. 93, part 2, p. 1573. |
| 9 | 2 | 80th | House | 1st | H.R. 221 Motion to recommit S. 110, a bill limiting 2 S. Ct. decisions | Pro = nay Anti = yea | C.R., v. 94, part 4, pp. 5647-48. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|--|-------------------------|---------------------------------------|
| 10 | 2 | 80th | Senate | 1st | Substitute amendment to a bill (H.R. 2157) to modify Court's Portal-to Portal interpretations. | Pro = yea Anti = nay | C.R., v. 93, part 2, p. 2366. |
| 11 | 2 | 80th | Senate | 1st | Holland motion to modify provisions relating to Welsh-Haley and Bacon-Davis Acts | Pro = yea Anti = nay | C.R., v. 93, part 2, p. 2367. |
| 12 | 2 | 80th | Senate | 1st | Additional modification of Portal-to-Portal | Pro = yea Anti = nay | C.R., v. 93, part 2, p. 2367. |
| 13 | 2 | 80th | Senate | 1st | Eliminate statute of limitations re Portal-to-Portal | Pro = yea Anti = nay | C.R., v. 93, part 2, p. 2368. |
| 14 | 2 | 80th | Senate | 1st | Final Passage H.R. 2157, Portal-to-Portal | Pro = nay Anti = yea | C.R., v. 93, part 2, p. 2375. |
| 15 | 2 | 80th | Senate | 1st | Final Passage S.110, nullify Court veto decisions | Pro = nay Anti = yea | C.R., v. 93, part 6, p. 7215. |
| 16 | 2 | 81st | House | 1st | Vote on amendments to Natural Gas Act, H.R. 1758 | Pro = nay Anti = yea | C.R., v. 95, part 8, p. 10783. |
| 17 | 2 | 81st | House | 1st | Motion to recommit H.R. 1758, a bill to nullify a Court interpretation | Pro = yea Anti = nay | C.R., v. 95, part 8, pp. 10869-10870. |
| 18 | 2 | 81st | House | 1st | Vote on Final Passage of anti-Court Bill H.R. 1758 | Pro = nay Anti = yea | C.R., v. 95, part 8, p. 10871. |
| 19 | 2 | 81st | House | 1st | Motion to recommit Conference Report on S. 1008 | Pro = yea Anti = nay | C.R., v. 95, part 11, p. 14616. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | | Major Source |
|------------------|-------------------|----------|---------|---------|--|------------------------|--------|-------------------------------------|
| | | | | | | Pro = | Anti = | |
| 20 | 2 | 81st | House | 1st | Vote on Conference Report on S. 1008 re basing point interpretations | Pro = | Anti = | C.R., v. 95, part 11, pp. 14616-17. |
| 21 | 2 | 81st | Senate | 1st | An amendment to anti-Court Holland Amendment | Pro = | Anti = | C.R., v. 95, part 9, p. 12519. |
| 22 | 2 | 81st | Senate | 1st | Holland anti-Court motion | Pro = | Anti = | C.R., v. 95, part 9, p. 12520. |
| 23 | 2 | 81st | Senate | 1st | Douglas motion to delay anti-Court basing point vote, S. 1008 | Pro = | Anti = | C.R., v. 95, part 11, p. 14842. |
| 24 | 3 | 81st | Senate | 1st | Morse Motion to recommit Sherman Minton's nomination | Pro = | Anti = | C.Q. Congress & Nation pp. 104-05a. |
| 25 | 3 | 81st | Senate | 1st | Nomination of Sherman Minton as Associate Justice | Pro = | Anti = | C.Q. Congress & Nation pp. 104-05a. |
| 26 | 2 | 81st | Senate | 2nd | S. 75 Amendment to committee amendment to clarify S.Ct. decision regarding Colorado River water uses | Pro = | Anti = | Senate Journal p. 118 (2/21/50). |
| 27 | 2 | 81st | Senate | 2nd | Motion to recommit S. 1498, Natural Gas | Pro = | Anti = | C.R., v. 96, part 4, p. 4298. |
| 28 | 2 | 81st | Senate | 2nd | Amendment exempting small producers, S. 1498 | Pro = | Anti = | C.R., v. 96, part 4, p. 4301. |
| 29 | 2 | 81st | Senate | 2nd | Amendment relating to FPC's power, S. 1498 | Pro = | Anti = | C.R., v. 96, part 4, p. 4303. |
| 30 | 2 | 81st | Senate | 2nd | Additional Amendment relating to FPC, S. 1498 | Pro = | Anti = | C.R., v. 96, part 4, p. 4304. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|--|-------------------------|-----------------------------------|
| 31 | 2 | 81st | Senate | 2nd | On final Passage with Kerr Amendment S. 1498 | Pro = nay Anti = yea | C.R., v. 96, part 4, p. 4304. |
| 32 | 2 | 81st | Senate | 2nd | Motion to reconsider Conference Report on S. 1008 | Pro = nay Anti = yea | C.R., v. 96, part 4, p. 4969. |
| 33 | 2 | 81st | Senate | 2nd | Motion to accept Conference Report, Basing Point S. 1008 | Pro = nay Anti = yea | C.R., v. 96, part 6, pp. 7976-77. |
| 34 | 2 | 81st | House | 2nd | Motion to reopen Conference action on S. 1008 | Pro = nay Anti = yea | C.R., v. 96, part 2, p. 2515. |
| 35 | 2 | 81st | House | 2nd | Motion to table House version of S. 1008 | Pro = nay Anti = yea | C.R., v. 96, part 2, pp. 2515-16. |
| 36 | 2 | 81st | House | 2nd | Motion to recommit Conference Report S. 1008 | Pro = yea Anti = nay | C.R., v. 96, part 3, p. 3332. |
| 37 | 2 | 81st | House | 2nd | Motion for vote on final passage | Pro = nay Anti = yea | C.R., v. 96, part 4, pp. 4567-68. |
| 38 | 2 | 82nd | Senate | 2nd | S.J. Res. 20 McFarland motion | Pro = yea Anti = nay | Senate Journal p. 124 (2/27/52). |
| 39 | 2 | 82nd | Senate | 2nd | to recess re Tidelands Oil Knowland motion to table McFarland motion | Pro = nay Anti = yea | C.R., v. 98, part 2, p. 1726. |
| 40 | 2 | 82nd | Senate | 2nd | S. J. Res. 20 McKeller motion to reconsider Knowland motion | Pro = yea Anti = nay | C.R., v. 98, part 2, p. 1726. |
| 41 | 2 | 82nd | Senate | 2nd | 2nd consideration of Knowland motion S.J. Res. 20 | Pro = nay Anti = yea | C.R., v. 98, part 2, p. 1726. |
| 42 | 2 | 82nd | Senate | 2nd | McFarland motion to proceed with S.J. Res. 20 | Pro = yea Anti = nay | C.R., v. 98, part 2, p. 1727. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | | Major Source |
|------------------|-------------------|----------|---------|---------|---|------------------------|------------|-----------------------------------|
| | | | | | | Pro | Anti | |
| 43 | 2 | 82nd | Senate | 2nd | Holland motion to table Hill amendment allotting mineral lease income to Federal aid to education | Pro = nay | Anti = yea | C.R., v. 98, part 3, p. 3346. |
| 44 | 2 | 82nd | Senate | 2nd | Knowland motion to accept Holland jurisdictional amendment S.J. Res. 20 | Pro = nay | Anti = yea | C.R., v. 98, part 3, p. 3367. |
| 45 | 2 | 82nd | Senate | 2nd | Knowland motion for final vote S.J. Res. 20 | Pro = nay | Anti = yea | C.R., v. 98, part 3, p. 3370. |
| 46 | 2 | 82nd | Senate | 2nd | H.R. 5767 Douglas amendment supporting Court's statutory interpretation | Pro = yea | Anti = nay | Senate Journal p. 562 (7/2/52). |
| 47 | 2 | 82nd | Senate | 2nd | H.R. 5767 Final Passage, nullified 1951, Court ruling | Pro = nay | Anti = yea | Senate Journal p. 562 (7/2/52). |
| 48 | 2 | 82nd | Senate | 2nd | S. 1084 Amendment to Natural Gas Act | Pro = yea | Anti = nay | Senate Journal p. 624 (7/5/52). |
| 49 | 2 | 82nd | House | 2nd | S.J. Res. 20 Conference Report | Pro = nay | Anti = yea | C.R., v. 98, part 4, pp. 5251-52. |
| 50 | 2 | 83rd | House | 1st | H.R. 4198 Tidelands Oil Bill. Celler motion to recommit | Pro = yea | Anti = nay | C.R., v. 99, part 2, p. 2637. |
| 51 | 2 | 83rd | House | 1st | H.R. 4198 Final Passage | Pro = nay | Anti = nay | C.R., v. 99, part 2, p. 2638. |
| 52 | 2 | 83rd | House | 1st | Vote on House acceptance of Senate version of Tidelands Oil bill | Pro = nay | Anti = yea | C.R., v. 99, part 4, p. 4898. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|---|-------------------------|-----------------------------------|
| 53 | 2 | 83rd | Senate | 1st | S.J. Res. 13 Motion to set aside Tidelands Oil legislation | Pro = yea Anti = nay | C.R., v. 99, part 3, p. 4488. |
| 54 | 2 | 83rd | Senate | 1st | Vote to kill Anderson motion to substitute federal for state ownership | Pro = nay Anti = yea | C.R., v. 99, part 3, pp. 3956-57. |
| 55 | 2 | 83rd | Senate | 1st | Douglas amendment to limit state control of Tidelands | Pro = nay Anti = yea | C.R., v. 99, part 3, p. 4114. |
| 56 | 2 | 83rd | Senate | 1st | Monroney amendment limiting state jurisdiction of Tidelands Oil | Pro = yea Anti = nay | Senate Journal p. 250 (4/30/53). |
| 57 | 2 | 83rd | Senate | 1st | Douglas amendment modifying definition of "coast line" | Pro = yea Anti = nay | Senate Journal p. 255 (4/30/53). |
| 58 | 2 | 83rd | Senate | 1st | Lehman amendment devoting all submergred oil revenues to educational purposes | Pro = yea Anti = nay | Senate Journal p. 265 (5/5/53). |
| 59 | 2 | 83rd | Senate | 1st | Kefauver amendment to create oil revenue allocating federal commission | Pro = yea Anti = nay | C.R., v. 99, part 4, p. 4473. |
| 60 | 2 | 83rd | Senate | 1st | Nealy amendment for earmarking federal Tidelands revenue | Pro = yea Anti = nay | C.R., v. 99, part 4, p. 4483. |
| 61 | 2 | 83rd | Senate | 1st | Langer amendment providing that Tidelands revenue be used to reduce the national debt | Pro = yea Anti = nay | Senate Journal p. 270 (5/5/53). |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|--|-------------------------|--|
| 62 | 2 | 83rd | Senate | 1st | Final vote to accept committee amendments of S.J. Res. 13 | Pro = nay Anti = yea | C.R., v. 99, part 5, p. 4488. |
| 63 | 2 | 83rd | Senate | 2nd | H.R. 976 Morse motion to recommit | Pro = yea Anti = nay | Senate Journal p. 190 (3/15/54). |
| 64 | 1 | 83rd | Senate | 2nd | S.J. Res. 44 Amendment relating to jurisdiction and composition of the Supreme Court | Pro = yea Anti = nay | Senate Journal p. 295 (5/11/54). |
| 65 | 2 | 83rd | House | 2nd | H.R. 8649 Willis amendment requiring court order re use of certain evidence | Pro = yea Anti = nay | House Journal p. 51 (4/8/54). |
| 66 | 2 | 84th | House | 1st | Motion to accept rule H. Res. 317 on Natural Gas bill H.R. 6645 | Pro = nay Anti = yea | C.Q., v. 13, p. 933. |
| 67 | 2 | 84th | House | 1st | Motion to recommit H.R. 6645, Natural Gas amendments | Pro = yea Anti = nay | C.R., v. 101, part 9, pp. 11929-11930. |
| 68 | 2 | 84th | House | 1st | Final Passage H.R. 6645 | Pro = nay Anti = yea | C.R., v. 101, part 9, p. 11930. |
| 69 | 3 | 84th | Senate | 1st | Nomination of John Marshall Harlan as Associate Justice | Pro = yea Anti = nay | ICPR p. 4 |
| 70 | 2 | 84th | Senate | 2nd | S. 1853, motion to recommit Natural Gas Act amendments, anti-regulatory | Pro = yea Anti = nay | C.R., v. 102, part 2, pp. 2063-64. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|--|-------------------------|----------------------------------|
| 71 | 2 | 84th | Senate | 2nd | Pastors amendment to protect consumers | Pro = yea Anti = nay | C.R., v. 102, part 2, p. 2067. |
| 72 | 2 | 84th | Senate | 2nd | Potter amendment adding new consumer protection criteria | Pro = yea Anti = nay | C.R., v. 102, part 2, p. 2069. |
| 73 | 2 | 84th | Senate | 2nd | Humphrey amendment to prohibit escalation clauses in gas purchases | Pro = yea Anti = nay | C.R., v. 102, part 2, p. 2070. |
| 74 | 2 | 84th | Senate | 2nd | Douglas substitute limiting impact on small producers | Pro = yea Anti = nay | C.R., v. 102, part 2, p. 2079. |
| 75 | 2 | 84th | Senate | 2nd | Final Passage H.R. 6645 | Pro = nay | C.R., v. 102, part 2, p. 2096. |
| 76 | 2 | 85th | Senate | 1st | Natural Gas Amendments | Anti = yea | Senate Journal p. 529 (8/26/57). |
| 77 | 2 | 85th | Senate | 1st | Dirksen Amendment to S. 2377 limiting Jencks decision | Pro = nay Anti = yea | Senate Journal p. 529 (8/26/57). |
| | | | | | Dirksen Amendment to S. 2377 further modifying Jencks ruling | Pro = nay Anti = yea | Senate Journal p. 529 (8/26/57). |
| 78 | 2 | 85th | Senate | 2nd | H.R. 11477 anti-Mallory amendment | Pro = yea Anti = nay | C.Q. v. 14, p. 458 (8/19/58). |
| 79 | 2 | 85th | Senate | 2nd | Ervin amendment re powers of trial judge | Pro = nay Anti = yea | C.Q. v. 14, p. 459 (8/19/58). |
| 80 | 2 | 85th | Senate | 2nd | Morse amendment strengthening Mallory rule | Pro = yea Anti = nay | C.Q. v. 14, p. 459 (8/19/58). |
| 81 | 2 | 85th | Senate | 2nd | H.R. 11477 Final Passage modifying Mallory rule | Pro = nay Anti = yea | C.Q. v. 14, p. 459 (8/19/58). |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | | Major Source |
|------------------|-------------------|----------|---------|---------|--|------------------------|------------|---------------------------------|
| | | | | | | Pro | Anti | |
| 82 | 1 | 85th | Senate | 2nd | H.R. 6789 Motion to table modified Jenner Amendment to limit S.Ct. Jurisdiction | Pro = yea | Anti = nay | C.Q., v. 14, p. 459 (8/20/58). |
| 83 | 1 | 85th | Senate | 2nd | Motion to table McClellan amendment to substitute H.R. 3 anti-Court bill | Pro = yea | Anti = nay | C.Q., v. 14, p. 460 (8/20/58). |
| 84 | 2 | 85th | Senate | 2nd | S. 654 Motion to table motion to reject anti-Court legislation re state control of subversives | Pro = nay | Anti = yea | C.Q., v. 14, p. 460, (8/21/58). |
| 85 | 2 | 85th | Senate | 2nd | Motion to recommit S. 654 | Pro = yea | Anti = nay | C.Q., v. 14, p. 460, (8/21/58). |
| 86 | 2 | 85th | House | 2nd | H.R. 11477 modifying Mallory rule | Pro = nay | Anti = yea | C.Q., v. 14, p. 396, (7/2/58). |
| 87 | 2 | 85th | House | 2nd | Amendment to S. 1411 extending internal security program | Pro = nay | Anti = yea | C.Q., v. 14, p. 398, (7/10/58). |
| 88 | 1 | 85th | House | 2nd | Adoption of rule H. Res. 597 on H.R. 3 anti-Court bill | Pro = nay | Anti = yea | C.Q., v. 14, p. 400, (7/15/58). |
| 89 | 2 | 85th | House | 2nd | H.R. 977 amendment to reverse Nelson decision | Pro = nay | Anti = yea | C.Q., v. 14, p. 400, (7/17/58). |
| 90 | 1 | 85th | House | 2nd | Motion to recommit H.R. 3 | Pro = yea | Anti = nay | C.Q., v. 14, p. 400, (7/17/58). |
| 91 | 1 | 85th | House | 2nd | H.R. 3 Final Passage | Pro = nay | Anti = yea | C.Q., v. 1, p. 400, (7/17/58). |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|--|-------------------------|---------------------------------|
| 92 | 2 | 85th | House | 2nd | S. 3974 Labor-Mang. Reporting and Disclosure Act | Pro = yea Anti = nay | C.Q., v. 14, p. 408, (8/18/58). |
| 93 | 1 | 86th | House | 1st | H.R. 3 vote on rule H. Res 288 would reverse Nelson et al. decisions | Pro = nay Anti = yea | C.Q., v. 15, p. 372, (6/22/59). |
| 94 | 1 | 86th | House | 1st | Lindsay motion to recommit H.R. 3 | Pro = yea Anti = nay | C.Q., v. 15, p. 372, (6/24/59). |
| 95 | 1 | 86th | House | 1st | H.R. 3 Final Passage | Pro = nay Anti = yea | C.Q., v. 15, p. 372, (6/24/59). |
| 96 | 2 | 86th | House | 1st | Motion to recommit H.R. 4957, anti-Mallory rule bill | Pro = yea Anti = nay | House Journal p. 109, (7/7/59). |
| 97 | 2 | 86th | House | 1st | H.R. 4957 Final Passage | Pro = nay Anti = yea | C.Q., v. 15, p. 376, (7/7/59). |
| 98 | 2 | 86th | Senate | 1st | S. 1555 McClellan amendment re NLRB statutory interpretations | Pro = nay Anti = yea | C.Q., v. 15, p. 405, (4/23/59). |
| 99 | 2 | 86th | Senate | 1st | Prouty amendment to portion of S. 1555 | Pro = nay Anti = yea | C.Q., v. 15, p. 405, (4/24/59). |
| 100 | 3 | 86th | Senate | 1st | Nomination of Potter Stewart as Associate Justice | Pro = yea Anti = nay | C.Q., v. 15, p. 410, (5/5/59). |
| 101 | 2 | 86th | Senate | 1st | S. 2524 Kerr motion to table Gore study proposal re state taxes | Pro = nay Anti = yea | C.Q., v. 15, p. 435, (8/19/59). |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|---|-------------------------|----------------------------------|
| 102 | 2 | 86th | Senate | 1st | Dirksen motion to enable Senate to reconsider Kerr tabling motion | Pro = nay Anti = yea | C.Q., v. 15, p. 435, (8/19/59). |
| 103 | 2 | 86th | Senate | 1st | Reconsideration of Kerr motion | Pro = nay Anti = yea | C.Q., v. 15, p. 435, (8/19/59). |
| 104 | 2 | 86th | Senate | 2nd | S. 3483 Reversal of S.Ct. decisions relating to athletic antitrust issues | Pro = nay Anti = yea | C.Q., v. 16, p. 509, (6/28/60). |
| 105 | 2 | 86th | Senate | 2nd | S. 3483 Carroll motion to recommit | Pro = yea Anti = nay | C.Q., v. 16, p. 509, (6/28/60). |
| 106 | 2 | 87th | House | 1st | Lindsay motion to recommit H.R. 7053 D.C. Mallory reversal bill | Pro = yea Anti = nay | C.Q., v. 17, p. 528, (6/12/61). |
| 107 | 2 | 87th | House | 1st | H.R. 187 to limit judicial review in certain deportation and exclusion matters | Pro = nay Anti = yea | C.Q., v. 17, p. 534, (7/10/61). |
| 108 | 2 | 88th | House | 1st | Mathias motion to recommit H.R. 7525, D.C. Crime Bill nullifying Mallory and Durham rules | Pro = yea Anti = nay | House Journal p. 124 (1963). |
| 109 | 1 | 88th | House | 2nd | Brown motion for rule for H.R. 11926 Limiting Court's reapportionment powers | Pro = nay Anti = yea | C.Q., v. 22, p. 1952, (8/19/64). |
| 110 | 1 | 88th | House | 2nd | H.R. 11926 Final Passage | Pro = nay Anti = yea | C.R., v. 110, part 15, p. 20300. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|--|-------------------------|-------------------------------------|
| 111 | 1 | 88th | Senate | 2nd | H.R. 7152 limitations on Federal Courts in Civil Rights Bill (Thurmond) | Pro = nay Anti = yea | ICPR p. 14 |
| 112 | 1 | 88th | Senate | 2nd | Allot amendment to Salary Bill (H.R. 11049) reducing S.Ct. pay raise | Pro = nay Anti = yea | C.Q., v. 22, p. 1475 (7/2/64). |
| 113 | 1 | 88th | Senate | 2nd | Dirksen motion to close debate on apportionment amendment to Foreign Oil Act of 1969 | Pro = nay Anti = yea | C.R., v. 110, part 17, p. 21896. |
| 114 | 1 | 88th | Senate | 2nd | Aiken motion to table Dirksen amendment | Pro = yea Anti = nay | C.R., v. 110, part 17, p. 21900. |
| 115 | 1 | 88th | Senate | 2nd | Javits amendment on apportionment | Pro = yea Anti = nay | C.R., v. 110, part 17, p. 2095. |
| 116 | 1 | 88th | Senate | 2nd | Thurmond amendment substituting H. Res. 11926 for Dirksen amendment | Pro = nay Anti = yea | C.R., v. 110, part 17, p. 22104. |
| 117 | 2 | 88th | Senate | 2nd | Mansfield substitute for Dirksen apportionment amendment | Pro = yea Anti = nay | C.R., v. 110, part 17, p. 22758. |
| 118 | 2 | 88th | Senate | 2nd | Motion to table Mansfield amendment | Pro = nay Anti = yea | C.R., v. 110, part 17, p. 22762. |
| 119 | 1 | 89th | Senate | 1st | Javits amendment to substitute amendment allowing departure from strict population apportionment | Pro = nay Anti = yea | C.R., v. 111, part 14, p. 19322. |

| Roll Call Number | Type of Roll Call | Congress | Chamber | Session | Description | Pro or Anti Court Vote | Major Source |
|------------------|-------------------|----------|---------|---------|---|-------------------------|----------------------------------|
| 120 | 1 | 89th | Senate | 1st | Final Passage of modified Dirksen amendment | Pro = nay Anti = yea | C.R., v. 111, part 14, p. 19355. |
| 121 | 1 | 89th | Senate | 1st | Final Passage of S.J. Res. 66 as amended by Dirksen amendment | Pro = nay Anti = yea | C.R., v. 111, part 14, p. 19373. |

