

Supreme Court Decision-Making:
An Institutional Perspective

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Since the 1941 publication of C. Herman Pritchett's seminal work on the Roosevelt Court justices, students of the Supreme Court have focused almost exclusively on microlevel behavior at fixed points in time. The vast majority of studies exploring Court decision-making have revolved around the central orienting question, Why do justices vote the way they do? Although subject to certain limitations (see reviews by Gibson, 1983; Pritchett, 1968), the net result of these efforts has been the compilation of a wealth of systematic substantive and theoretical knowledge about the behavior of individual justices.

The purpose of this paper is to expand our research perspective by departing from the more conventional approaches. Rather than attempting to explain the behavior of its individual members, we will concentrate on understanding of the behavior of the Supreme Court as an institution. Without discounting the importance of probing the behavioral tendencies of its separate members, it is of equal significance to ask, Why does the Court vote the way it does? Certainly from the perspective of the nation's governmental and social systems, the decision of the Court is of greater practical consequence than the particular voting array of the justices who produced that result.

To address our central question, we are required to expand our methodological thinking to study the Supreme Court's behavior over time. It is only by imposing such a diachronic perspective that we are able to understand variations in Court decision-making and to explain why those variations have occurred. Consequently, it is the goal of this paper to develop a theoretically-based, parsimonious model capable of explaining and predicting Supreme Court behavior in an important area of judicial policy-making, the Court's resolution of criminal justice disputes from the 1946-1985 terms.

Supreme Court Decision-Making

After publication of Pritchett's works (1941, 1948), but with particular force in the early 1960s, scholars turned away from exclusive study of constitutional doctrine and began to address the perplexing subject of behavioral variation among individual judges. Pioneers in the

behavioral analysis of judicial phenomena (most notably Glendon Schubert, S. Sidney Ulmer, and Harold Spaeth) explored an array of potential answers to the question of why judges vote the way they do. Their theories, including social background (Ulmer, 1970, 1973) and attitude models (Schubert, 1962), and later extensions, such as role theory (Gibson, 1978), have formed the heart of microlevel analyses of judicial behavior. By probing the depths of the judicial mind, the unit of attention became the individual judge rather than the Court as an institution. Scholarship was directed at describing and explaining variation among a set of judges responding to a common set of case stimuli arising within a relatively short time period. The assumptions behind this research were that understanding the behavior of individual justices was important per se and that the behavior of the institution was a summation of individual behaviors of its members.

On the other hand, it is obviously true that the Supreme Court is more than a collection of individuals. As a political institution it is worthy of investigation in its own right (see Caldeira and McCrone, 1982; McLaughlan, 1980; Tate and Handberg, 1986). Seen in this light, scholars of the judicial process may, like their counterparts in the study of the presidency (see Ostrom and Job, 1986), the bureaucracy (Hammond and Miller, 1985), Congress (Cooper and Brady, 1981), and the electorate (Carmines and Stimson, 1987), profit from an exploration of the correlates of institutional decision-making. Such an approach, as adopted in other subfields, operates under the following assumption: just as individual behavior can be explained and predicted by various socio-political factors, so too institutional decision-making can be understood vis-a-vis a stable set of factors characterizing the particular institution over an extended period of time.

If we consider the Court as a political institution, whose decision-making is worthy of explanation, then we can begin to theorize about its behavior by asking, what makes a political institution behave the way it does? To answer this question we can profit by borrowing from the research literatures on individual judicial decision-making, political institutions, and group behavior.

The Supreme Court can be conceptualized as an institution with four important qualities. It is continuing in longevity, collegial in membership, political in orientation, and decision-making in functional purpose. As these characteristics vary over time, so too may the policies established by the Court. Consequently, we proceed on the theoretically-based notion that the Court's resolution of disputes can be explained in large measure by examining its history, membership, political environment, and decision-making priorities.

History. On occasion it is both convenient and appropriate to study the Supreme Court by examining discrete annual terms. It should not be forgotten, however, that the Court is a continuing institution. Although it is administratively necessary to divide the Court's activities into annual sessions, there is no reason to believe that with each October the justices discard the priorities and goals of the previous term and begin writing on a clean slate. With new justices joining the group on the average of one every two and one half years, the Court is a relatively stable institution, capable of carrying its agenda from one term to the next.

In the same way that an individual's actions can be predicted in part from his or her antecedent behavior, so too may a political institution's behavior be predicted from its past. In other words, what a group does at time t will influence its behavior at time $t + 1$. Such a perspective is common for students of the congressional and presidential budgetary process who have found that budgets are often constructed incrementally: knowledge of appropriations levels at year t provides a partial explanation for a budget at year $t + 1$.

Students of the judicial process, as well, have formalized such a view in the examination of individual judicial behavior. Consider the literature that suggests that justices possess rather stable, constrained belief structures, which provide a basis for explaining their behavior (see Schubert, 1965; Spaeth, 1979). Referred to as attitude theory, this explanation, in its most simple form, suggests that the best predictor of future behavior is past behavior. Certainly, the same notions can be applied to the Court as an institution: the decisions in a particular substantive area of the law in term $t - 1$ provides a good indicator of the Court's response to similar issues during term t .

Membership. Since group decisions are undeniably products of the behaviors of individuals, it would be naive to attempt the explanation or prediction of group outputs without taking into account group membership characteristics. Congressional roll call studies, for example, have frequently explained legislative outcomes by examining the members' religious affiliations, constituency characteristics, and political party memberships (see Rieselbach, 1964). Likewise, micro-level studies of Supreme Court justices have incorporated this approach into social background or personal attribute models of decision-making (see Tate, 1981; Ulmer, 1973). These explanations suggest that variables such as a justice's age, political party, religion, and occupational experiences explain a significant proportion of voting behavior.

Although the personal attribute model has received criticism, its core is intuitively viable-- individuals' past experiences and personal attributes affect their basic life outlook and decisional propensities. Perhaps the most empirically verified characteristic within the political context is party affiliation. Literature on the presidency, voting behavior, and the legislative process has confirmed that differences exist between Democrats and Republicans. Studies of the judicial process, while not unanimous in their conclusions, have produced evidence that political party affiliation can have a significant impact on a judge's behavior (Tate, 1981; Carp and Rowland, 1983). Democrats, be they citizens, elected officials, or even justices of the Supreme Court, tend to be more liberal on important political questions than their Republican counterparts.

Principles developed at the individual level can be readily transformed to apply to the institutional context. The Supreme Court is a decision-making body that resolves issues riddled with political significance. Thus, it is reasonable to hypothesize that if the majority of the justices are affiliated with the Democratic Party, the Court's decisions will be systematically different than if the institution is dominated by Republican majorities. This relationship is clearly seen in the legislative arena. As the partisan majority of the House or Senate changes so too does the nature of legislative outcomes approved by the institution. Although a case can be

made that the Supreme Court is less partisan than its legislative and executive counterparts, at its heart the Court remains a political institution and, thus, susceptible to political influences.

Political Environment. Because political groups operate within a political environment, they continually face political pressures. Therefore, knowledge of an institution's past actions and membership composition is insufficient to account fully for its behavior. The political context must be considered. Once again, studies in other subfields have incorporated such an approach into their models by scrutinizing the types of pressures likely to come to bear on political decision-making. In Homestyle, Fenno (1978) specifically details the role constituents play in congressional behavior, while studies of the presidency often trace the influence of public opinion on the executive branch. Explicit, too, in the study of interest groups is the assumption that organizations affect government outcomes by successfully applying pressure on a host of political institutions.

Although justices of the Supreme Court are not burdened by reelection concerns, they are susceptible to forces within the political environment. In a general sense, much of the political pressure exerted on the Court originates in the executive branch. As Baum (1985) has outlined, "Presidents have multifaceted relationships with the Supreme Court and these relationships provide several sources of political influence" (p. 134). First, the administration's political and legislative agenda has a substantial impact on the kinds of disputes that arise and are appealed up the judicial hierarchy. Second, as Baum and others have noted, the president appoints the Solicitor General of the United States, whose office not only argues cases and files amicus curiae briefs on behalf of the federal government but also determines which cases involving the United States will be appealed to the Supreme Court. The Solicitor General's role in monitoring the docket of the Court, coupled with the litigation success of his office has led one writer to deem him the Court's "nine and a half" member (Werdegar, 1967). Third, as the justices are well aware, the president "can aid the Court in obtaining implementation of its policies or refuse help" (Baum, 1985, p. 134). As a judicial body, the Supreme Court cannot necessarily implement or execute its own decisions; it can only provide guidelines. Without

such authority the Court often depends on the executive branch to give its decision legitimacy through action. Fourth, it is no secret that many presidents have enjoyed special relationships with sitting justices. Although no direct evidence of presidential opinion tampering exists, it is well known that Richard Nixon had the ear of Warren Burger, Franklin Roosevelt of James Byrnes, and Lyndon Johnson of Abe Fortas. Fifth, the president has his greatest influence in shaping the Court via the appointment power. As Baum has noted, "At any given time the direction of the Court is determined largely by the presidents who appointed its members" (Baum, 1985, p. 134). Finally, the president, having been elected within the previous four years, carries a popular mandate and reflects the preferences of the people. Consequently, the influence of the chief executive is far reaching. How the president exercises this influence has an obvious impact on the Court.

Decision-Making Priorities. The issues facing any decision-making group help shape the contours of that institution. The justices, although dependent on others to bring cases to the Supreme Court, are not completely passive or reactive: they have their own policy preferences. These preferences are reflected not only in the decisions rendered, but also in how the Court allocates its decision-making resources. Each year litigants bring thousands of disputes, presenting a wide array of legal questions, to Washington for final resolution. From among these petitions the justices must select the fewer than 200 that merit plenary treatment. The issues that are chosen for attention reflect the justices' preferred agenda.

What outcomes emanate from the Court will largely reflect these priorities. The justices can often effectively ignore an issue by refusing to allocate decision-making resources to its resolution. On the other hand, an issue area that frequently receives favorable certiorari treatment clearly involves questions that the justices wish to answer authoritatively. The proportion of scarce slots on Supreme Court's plenary docket that are given to a particular area of legal policy, then, provides some indication of how the Court will treat that subject matter.

These four factors combine to form our simple additive model of the Court's decision-making process. To summarize, this model represents Court decisions as a function of the

institution's recent history, its current membership, its political environment, and its decision-making priorities. While we continue to view the model as a general description of Court decision-making processes, the empirical evaluation to follow focuses more narrowly on decisions in criminal rights disputes.¹

Evaluating the Model

Because we believe our model to carry some modest predictive ability in addition to its explanatory value, we employ a two-tiered evaluation strategy that considers the model's forecasting performance along with the usual criteria of parameter estimation. For this evaluation we use a measure of Court decision-making behavior consisting of the proportion of criminal rights decisions favoring the interests of the accused for each year of the Vinson, Warren and Burger Courts (1946-1985 terms). Data for the 1946 through 1968 terms were drawn from Schubert (1965) while parallel data for the remaining 17 terms were collected by the authors.² This measure varies considerably, ranging from a low of .15 in 1983 to a high of .89 in 1967. The mean value for all terms is .47 and the standard deviation is .18.

The four independent variables comprising our model are operationalized in a similarly straightforward fashion. We represent the Court's institutional history by simply lagging the dependent variable one year. Thus, if the Court supported the criminal rights position in .45 of its cases during term t , this value carries over to term $t+1$ as an indicator of the Court's incrementalism. We operationalize the Court's membership attributes with a dummy variable indicating the political party affiliation of the majority of the justices for each term. Because the party of the sitting president can be indicative of public opinion on policy issues and because it is through the executive branch that much political influence is exerted on the Court, we gauge political environment in a similar fashion with a dummy variable reflecting the party of the president. Both dummy variables are coded to represent the Democratic Party--usually considered more supportive of criminal rights--as a 1 and 0 otherwise. Finally, we operationalize decision-making priorities by determining the proportion of the plenary docket

that the Court allocated to criminal justice issues. This figure expresses the priority the Court places on the criminal justice policy area. Furthermore, since the Court has a tendency to accept for review cases it intends to reverse and because most criminal appeals are filed by the accused, we have reason to hypothesize that the proportion of the calendar devoted to criminal cases will be positively associated with the dependent variable.

Estimation Results

For estimation purposes our simple additive model can be expressed in the following linear autoregressive form:

$$Y_t = b_0 + b_1 Y_{t-1} + b_2 X_1 + b_3 X_2 + b_4 X_3 + e \quad [1]$$

In this formulation Y refers to the previously described measure of criminal rights decisions observed at successive terms t and t-1; X₁ and X₂ are dichotomies coded 1 when Democrats control the Court and the presidency, respectively; X₃ stands for the proportion of the plenary docket devoted to criminal cases; and e is an error term specified under standard assumptions. Parameters b₁ through b₄ are expected to be positively signed in accordance with the hypothesized effects of the model components.

Before turning to our estimation results two technical issues deserve brief attention. First, because our observations are collected in time serial fashion, we face the usual threat of autocorrelated disturbances which is further complicated by the presence of a lagged dependent variable. In this case, Durbin's h is the conventional test for first-order autoregressive errors while correlograms of the autocorrelation and partial autocorrelation functions can expose alternative error structures. Neither procedure produced evidence of autocorrelation when applied to preliminary OLS estimates. Second, R², the usual measure of fit for regression models has been shown to be ill-behaved and difficult to interpret for estimating equations containing lagged values of the dependent variable (Schrodt and Ward, 1981). For this reason we place greater reliance on the root mean square error (RMSE) to measure goodness of fit in the unstandardized metric of the dependent variable. The RMSE is also commonly employed as

a measure of forecasting error and therefore is used to good advantage in both parts of our empirical assessment.

In the absence of autocorrelated disturbances we applied standard OLS procedures to equation [1] and retrieved the following estimates:

$$Y_t = -.042 + .273Y_{t-1} + .182X_1 + .154X_2 + .862X_3 \quad [2]$$

(0.4) (2.2) (3.9) (3.8) (2.4)

The values in parentheses are t-ratios indicating that all four elements of our model achieve magnitudes well in excess of their standard errors, and all are in the hypothesized direction. The model F-ratio is 14.5, the RMSE is .12, and R^2 is .63, all very encouraging.³ Also encouraging is an intercept that is very close to zero and that fails even to exceed the value of its own standard error. Because our model is stochastic and therefore does not account for all of the variation in the Court's decisions, we know that other contributory factors exist, some having a negative effect and others positive. The absence of an intercept term means that these other forces in combination approach zero, leaving the Court with no long term residual propensity to support criminal defendants. Thus, our model does a good job in specifying those explanatory factors that systematically operate in resolving criminal appeals.

Another perspective on the model's performance is obtained from Figure 1 which plots the Court's actual support for criminal defendants alongside the predicted support scores calculated from our model. As the figure suggests, all but two of the fitted values fall within plus or minus two standard errors of the observed supports score. These two outlying cases occur during the 1949 and 1967 terms. Our model predicted that the Court would support the liberal (pro defendant) position in 57 percent of the cases in 1949. The actual value was 20. For the 1967 term, the Court supported the criminal defendant in 89 percent of the cases. The model predicted that the figure would be 61 percent. Both of these outlying terms represent years when the Court acted in a particularly extreme fashion. The 20 percent support figure in 1949 was a radical departure from previous years and was the lowest level of support for criminal defendants from 1946 through 1981. On the other hand, the 89 percent support level in 1967,

also a rather abrupt change from the previously exhibited norm, was by far the highest support level of the entire period under analysis.

(Figure 1 about here)

Given the overall performance of the model, we were concerned about the two outlier terms. After considering several alternatives, we discovered a commonality between the two: Justice Tom Clark. In 1949, Clark, a conservative Democrat, replaced a liberal Democrat, Frank Murphy. When Clark retired in 1967, his vacancy was filled by liberal Democrat Thurgood Marshall. Our model assumes that Democrats exert a liberal influence on the Court. It does not take into account the nuances of Democratic Party affiliation. Consequently, when a conservative Democrat replaces or is replaced by a member of his party who more accurately reflects its mainstream, the model's predictive ability is reduced. Ideally, we would devise a more perfect measure of ideology (since party is in part acting as a surrogate for that amorphous concept). Yet, such a measure inevitably would be post hoc and neutralize our model as a forecasting device.

Although Clark's ideology apparently causes two outlying cases, the model does an excellent job of rebounding. Figure 1 not only vividly illustrates the disturbance associated with Clark's joining and leaving the Court, but it also demonstrates that the model immediately compensates for his presence and later his absence. The fact that it quickly stabilizes after two major shocks is additional evidence of the model's validity.

Prediction Results

In addition to its explanatory power, we believe the model may also have some potential value as a forecasting device. We will demonstrate this forecasting ability in two ways, first through an ex post forecasting exercise that predicts into a "future" already known with certainty, and then with an ex ante forecast into a future we do not yet know. Because an ex post forecast generates predictions that can be checked against actual observations it is particularly useful for evaluating the accuracy of a forecasting model. An ex ante forecast, on the other hand, produces values that are conditional on one or more hypothetical combinations

of predictor variables projected into the unknown future. This type of forecast is thus more helpful for judging a model's plausibility and consistency under a wide range of possible future scenarios.

To construct an ex post forecast it is necessary to split the original series into two subsets, one for the reestimation of model parameters and the other to serve as a forecasting "future". We divided our series after the 1977 term, leaving the last eight years aside for evaluation purposes.⁴ When the model is reestimated without an intercept term over these first 31 observations we obtain forecasting coefficients that are very close to the estimates of [2] above:

$$Y_t = .268Y_{t-1} + .163X_1 + .159X_2 + .754X_3 \quad [3]$$

(2.1) (2.3) (3.4) (3.0)

As before, t-ratios displayed in parentheses show all the parameter estimates to be quite stable. The forecast values generated from equation [3] are listed in Table 1 alongside the actual criminal support scores and forecast errors. Both the RMSE and the simple correlation between predicted and observed values reveal a striking degree of accuracy for these ex post forecasts.

(Table 1 here)

The forecasts presented above were calculated rather straightforwardly from known values of the predictor variables; the ex ante forecasts to which we now turn lack even that small advantage. For this exercise we will employ a forecast period beginning in 1986 and running for five consecutive terms through 1990. Quite obviously, the key task in any ex ante forecast lies in obtaining values on predictor variables that have not yet occurred, or at least that have not yet been observed. Obtaining lagged values of the criminal support score is easy enough; we begin with the 1985 observed value lagged to 1986, and then each term's predicted score simply carries over to the following year to serve as a lagged value. The two indicator variables signify Democratic influence on the Court and the White House must be handled somewhat differently. In the first place, we make use of the fact that the 1986 and 1987 scores are already known to be 0 (Republican) on both variables. Of course, we do not know who will be elected President in 1988 nor can we be certain that the Court will remain predominantly Republican

for the remainder of the decade. Therefore, we hedge our bets by forecasting values for all four outcomes represented by the party combinations for both Court and presidency.

The final predictor--proportion of criminal cases--is measured as a continuous variable and therefore cannot be used to generate an exhaustive set of forecasts as with the two indicator variables. Still, we can follow an analogous procedure by selecting a few plausible values of this variable to serve as the basis for alternative forecasts. We will want to select values that capture the full observed range of this measure (.12-.34) in order to provide forecasts that cover the most likely contingencies. Accordingly, our forecasts cover four separate levels of criminal caseloads ranging from 10% to 40% of the plenary docket. Combined with the four possible outcomes of partisan control already mentioned above, this produces 16 distinct sets of conditions for the calculation of *ex ante* forecasts.

One final set of parameter estimates is needed to produce a forecasting model that takes account of all of the information available to us. The following equation is estimated without an intercept term (which we assume to be 0) over the full forty year time period:

$$Y_t = .250Y_{t-1} + .179X_1 + .152X_2 + .739X_3 \quad [4]$$

(2.3) (3.8) (3.9) (4.1)

The values in equation [4] were then used to produce the *ex ante* forecasts displayed in Table 2. We find these forecasts to be particularly revealing of the extent to which our variables

(Table 2 here)

may affect the Court's decisions in criminal cases. If Republicans retain control of both the White House and the majority of justices, and if the Court's criminal cases remain under 20% of the plenary docket, then we can expect parties claiming a violation of criminal due process rights to win only about 10-20% of the time. If a Democrat is elected to the presidency and if the Court remains Republican, then the support score can range as high as 30-40% by 1990; and if both branches are in Democratic hands the balance turns in favor of the criminal rights defendants, ranging from 53% to 63%. All these ranges increase by 10 to 20 points if criminal cases occupy 30-40% of the docket.

Conclusions

For the past forty years, students of the judicial process have concentrated on the voting behavior of individual justices. Although this focus has significantly increased our understanding of legal decision-making, it has introduced an unfortunate reluctance to study courts as institutions. In recent years, however, students of the legal system have begun to follow the lead of scholars in other political science subfields by devoting increased attention to the behavior of political institutions.

The purpose of this paper has been to explore the correlates of institutional behavior in one area of Supreme Court decision-making. Our goal was to develop a parsimonious model that would help us both understand and predict patterns in Supreme Court actions over time. Toward that end, we constructed a straightforward, four variable model to help explain the Court's record in deciding criminal appeals. The model was based on the theoretical proposition that a political group's output is largely determined by its past behavior, its membership characteristics, its political environment, and its decision-making priorities. The model appears to be successful both in explaining a large portion of the variance in Court decisions and in predicting the Court's behavior. Furthermore, the results offer promise that the principles incorporated into the model may well be useful in improving our understanding of the Supreme Court's policies in noncriminal issue areas.

Our findings provide additional support for the position that examining the behavior of institutions over time can be a profitable method of studying political phenomena. Recent efforts to explore important institutional dimensions such as the Supreme Court's agenda (Pacelle, 1986; Tate and Handberg, 1986), caseload (McLauchlan, 1986), and public support (Caldeira, 1986) have already yielded intriguing outcomes. Future endeavors that deal with institutional change over time hold considerable promise for providing us a richer understanding of our government's Third Branch.

Notes

¹Our decision to use criminal cases to test our propositions was not based on any compelling theoretical reasons. Our notions of the factors that affect Court decisions are not issue specific and consequently could be applied to other issue areas as well. Criminal rights questions were selected because of data availability and the importance of these issues throughout the period examined.

²Schubert's data were obtained from the Inter-University Consortium for Political and Social Research. Neither the Consortium nor Schubert can be held accountable for our use and interpretation of these data. In selecting cases for the 1969-1985 terms we attempted to replicate Schubert's (1965) fair procedure (FP) subscale. A list of cases included for these terms is available from the authors.

³ R^2 can be misleading in the autoregressive case because it will take on different values in algebraically equivalent specifications, depending only on whether the raw value or first difference form of the dependent variable has the greater variance. In our example the two variances are extremely close as are the R^2 values (.63 as compared to .60 for the first difference formulation). Note that the RMSE is the same for both representations which is why we prefer it. For more on this curious phenomenon see Schrodtt and Ward (1981).

⁴The division at 1977-1978 was an arbitrary decision. We also examined ex post forecasts based on division each year from 1975 through 1980, all with results generally comparable to what we report.

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Table 1. Ex Post Forecast of Support for Criminal Defendants, 1978-1985

<u>Term</u>	<u>Actual Support</u>	<u>Forecast Value</u>	<u>Forecast Error</u>
1978	.41	.48	-.07
1979	.41	.47	-.06
1980	.30	.28	.02
1981	.19	.22	-.03
1982	.19	.22	-.03
1983	.15	.17	-.02
1984	.26	.21	.05
1985	.25	.27	-.02

RMSE = .04
 $r^2 = .90$

Table 2. Ex Ante Forecasts of Support for Criminal Defendants, 1986-1990^a

	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
<u>When the percentage of criminal cases on the plenary docket = 10, proportion of support =:</u>					
Republican Court/Republican President	.14	.10	.10	.10	.10
Republican Court/Democratic President			.25	.29	.30
Democratic Court/Republican President			.28	.32	.33
Democratic Court/Democratic President			.43	.51	.53
<u>When the percentage of criminal cases on the plenary docket = 20, proportion of support =:</u>					
Republican Court/Republican President	.21	.20	.20	.20	.20
Republican Court/Democratic President			.35	.39	.40
Democratic Court/Republican President			.38	.42	.43
Democratic Court/Democratic President			.53	.61	.63
<u>When the percentage of criminal cases on the plenary docket = 30, proportion of support =:</u>					
Republican Court/Republican President	.28	.29	.29	.29	.29
Republican Court/Democratic President			.44	.48	.49
Democratic Court/Republican President			.47	.52	.53
Democratic Court/Democratic President			.62	.71	.73
<u>When the percentage of criminal cases on the plenary docket = 40, proportion of support =:</u>					
Republican Court/Republican President	.36	.39	.39	.39	.39
Republican Court/Democratic President			.54	.58	.59
Democratic Court/Republican President			.57	.62	.63
Democratic Court/Democratic President			.72	.81	.83

^aFor the 1986 and 1987 terms the political party in control of the Court and the presidency is known and therefore only one forecast is made. For the 1986 term the actual proportion of support for criminal defendants from the previous term is known. For all other terms the previous year's degree of support is based on the forecasted level.

Figure 1. Observed and Predicted Values
of Supreme Court Support for Criminal Defendants

