Midsouth Political Science Journal

Volume 10 ***1989*** ***Number 1***

MIDSOUTH POLITICAL SCIENCE JOURNAL

(formerly *Arkansas Political Science Journal)*

 Second-class postage paid at Conway, AR. Subscriptions and back issues are available from: Walter Nunn, Subscriptions Editor, Arkansas International Center, UALR, 2801 S. University, Little Rock, AR 72204 (501-569-3283). Manuscripts should be sent in quadruplicate to Donald E. Whistler, Editor *MSPSJ*, UCA BOX 4995U, Conway, AR 72032 (501-450-3412).

IN THIS ISSUE

Robert L. Savage and Diane D. Blair, in "Tales Of Two Gubernatorial Transitions: Underlying Scripts For Press Coverage Of Political Events," investigate how the mass media treat gubernatorial transitions, noting the importance of state executive transitions for regime stability, as well as for newsworthiness to the mass media. Savage and Blair test several hypotheses derived from the responsible party doctrine as applied to a gubernatorial transition involving partisan affiliation change versus a transition without partisan change. Examining four Arkansas newspapers under those conditions, the authors find that, with some qualifications, the responsible parties concept provides an underlying script for newspaper coverage of gubernatorial transitions.

In "Measuring Legislative Effectiveness In The Missouri General Assembly: A Longitudinal Study," Mark C. Ellickson and Donald E. Whistler assess the impact of a series of legislative, personal, district-related, and reputational characteristics on legislators' performance in the Missouri House over a period of twelve years spanning four decades. They examine the question of legislative effectiveness from a majority-minority party perspective. Few legislative power studies have addressed the interactive effects of majority-minority party status or other variables despite warnings to the contrary. Finally, the authors present a method for directly measuring effectiveness within a state legislature.

"Voting Rights Litigation And The Arkansas Judiciary: Getting What You Didn't Ask For" is a study by James D. Gingerich of a challenge by plaintiffs that certain Arkansas judicial voting districts violate the federal Voting Rights Act of 1965 by failing to provide maximum concentration of black voters in specified districts. After outlining the history of Arkansas' judicial selection methods and the outcome of similar litigation in other states, Gingerich discusses the differing nature of judicial versus legislative decision-making and the appropriateness of using concepts of representation derived from the legislative arena for judicial selection. He suggests that technical difficulties in drawing districts with a majority of black voters combined with sentiment favoring merit selection among some reformers could result in the unintended consequence of a merit judicial selection process in Arkansas.

Martin Wiseman touches upon the fundamental nature and organization of local government in his "County Government Reform Efforts In Mississippi." His research provides data indicative of rural citizens' attitudes regarding county government officials and activities. In addition, Wiseman analyzes attitudinal factors involved in restructuring county government based upon data from a recent referendum in 1,064 precincts.

The advantages of using opinion agreements to analyze judicial decision-making is the subject of C. Jeddy LeVar's note, "Opinion Agreement Analysis Of Supreme Court Justices." This technique is based upon who joins whose opinions rather than the use of judges' votes as the raw data. LeVar describes and then applies the opinion

agreement technique to three categories of guaranteed rights cases during the U.S. Supreme Court's 1981-86 terms. He finds the opinion agreement technique straightforward in determining blocs and that it complements scaling techniques. Moreover, LeVar reports the technique permits use of textual materials.

William M. Pearson and David S. Castle report data that has implications for the representativeness of bureaucracy and qualifications of its personnel. Their "Changing Demographics Of The State Executive Service" contains data from 1977 and 1988 questionnaires mailed to public executives in seven states. Pearson and Castle find that, despite progress, a nonrepresentative bureaucracy continues at the upper levels of hierarchy with middle-aged white males overrepresented.

Note: The authors are responsible for the contents of their manuscripts.

TALES OF TWO GUBERNATORIAL TRANSITIONS: UNDERLYING SCRIPTS FOR PRESS COVERAGE OF POLITICAL EVENTS

Robert L. Savage
Diane D. Blair
(University of Arkansas, Fayetteville)

The election of a new chief executive creates a number of needs, especially for information, for all other participants in the political system. Thus, the transition period, as the incumbent makes way for a successor, is a crucial instance of a *rhetorical situation*,

> a complex of persons, events, objects and relations presenting an actual or potential exigence which can be completely or partially removed of discourse, introduced into the situation, can so constrain human decision or action as to bring about the significant modification of the exigence (Bitzer, 1968:6).

Such discourse may be directly with the incoming chief executive for some key actors but for most others that discourse is mediated by channels of mass communication.

Given the crucial character of this frequently recurring rhetorical situation in the American political process, it is surprising that not only has little research attention been given to their rhetorical aspects, but executive transitions generally are not well studied.[1] Morever, nearly all of these research reports are singular case studies. This report attempts to redress these shortcomings by examining the press coverage of two gubernatorial transitions, albeit both in a single state, Arkansas. Certainly, two transitions in one state constitute a very limited sample as a basis for generalizations. Still, we hope to make a significant start toward such generalizations as the two transitions represent distinctly different types of rhetorical situations for incoming governors.

The first transition (Type I) followed the election in 1978 of Bill Clinton, a Democrat, to succeed David Pryor, also a Democrat. The second transition (Type II) followed Clinton's defeat in 1980 by a Republican challenger, Frank White. Thus, these two transitions separated by only two years in a single state allow an opportunity to study the two classic situations of a change in the incumbent only, as well as a change in both incumbent and partisan affiliation.[2]

Media Coverage of Gubernatorial Transitions

Transitions are inevitably characterized by a hectic tempo: policy goals must be enunciated, key cabinet selections announced, legislative strategies devised, budgets studied, inaugural festivities planned and publicized. All this activity occurs, however, in a situation where the mantle of power has been lifted from the outgoing governor and is descending upon the governor-elect, but the scepter of power has not yet been conferred. In this governing hiatus the most casual remarks of the governor-elect (and other key political actors) regarding programmatic preferences or administrative intentions *may be* seized upon as significant.

Is the rhetorical agenda of gubernatorial transition as reported by the media set by these key political actors, or is it established by media personnel? We cannot answer that question directly by looking to media content. However, we can address the question of whether or not there is an agenda for media coverage by examining that content for structure, an *underlying script*, that points to what is newsworthy.

Finn (1984; see also Dorsey, 1983) has pointed to the utility of this information-processing approach derived from research in cognitive psychology and artificial intelligence. However, he argues that news value is determined in large part by recognizing deviations from such scripts, defined as "stereotypical sequences of events." How are reporters to make such determinations if the sequence of events to be expected is characteristically ambiguous, as it is with a gubernatorial transition? Moreover, if a script can be determined for a given type of gubernatorial transition, can it be applied to other types of transitions?

Assuredly, journalists would recognize and no doubt devote much attention to certain gross deviations from the usual in gubernatorial transitions such as the appointment of a member of the opposition party to a key administrative post or the announcement of detailed plans for the inauguration within a few days after the election. But these are generally infrequent occurrences. The more common problem for media reporters and their gatekeepers is the determination of the relative news value of given transition events vis-a-vis other events, including other transition events. (That determination may well be hampered by the fact that many transition "events" are trial balloons floated by the incoming administration or even merely rumors disseminated by interested parties. Again, after all, the transition is very much a rhetorical situation.) Media decision makers are faced with the problems, then, of what *must be reported*, *may*

be reported, or *should be ignored* in covering the transition.[3] Since there is no journalistic handbook for covering such situations, media reporters must look elsewhere for guidance.

Social Science Literature on Transitions as a Guidepost

We do not intend to argue here that journalists regularly look to the social sciences for scripting their reporting efforts. At the same time, social scientists may uncover (and even propagate) the stereotypical sequences of events that come to be associated with public practice. To that extent, then, social science (and related) literature is worthy of examination for the present purpose.

The problem is that the literature on gubernatorial transitions so often varies in the basic assumptions about the purpose or goals of a transition period. These variations depend largely upon the perspective adopted as to who is to be benefitted or impacted upon by the transition. The National Governors Association, in a how-to handbook for new governors, for example, makes the following suggestion:

> If a Governor wants to be remembered at the end of his term for having accomplished certain things, then those things must be identified early in the term so that they can in fact be accomplished and so the Governor can be associated with their accomplishment. *(Governing the American States*, 1978: 144).

That is the gubernatorial perspective.

Norton Long (1972:84), from the perspective of other participants in a state's political system, describes the fundamental function of the governor-elect to be that of uncertainty absorption. Emphasizing the anxiety-laden nature of this period for a state's political actors, Long suggests the prime necessity of a clear gubernatorial definition of the new governing situation:

> Friends and foes alike demand that he define the situation so that the players may know the nature of the game being played. Even the adversary cooperation of the opposition requires that he set a target for them to shoot at. The press insists that he furnish a score card consisting of his musts so they can report the game.

Whereas both of the above formulations stress the systemic need of stability and continuity, Beyle and Wickman (1972) and Ahlberg and Moynihan (1972) have stressed instead the difficulty and importance of

impressing change upon an innovation-resistant governmental structure. As Beyle and Wickman (1972: 91-2) note:

> Incrementalism in personnel and policy change, budget constraints, entrenched habits of the old administration, and narrowly defined bureaucratic norms--all these factors contribute to what might be called systemic inertia . . . So while the very term transition denotes change, perhaps the greatest challenge to the incoming governor is one of inducing change.

There is another possible characterization, surprisingly absent from the political science literature to date, the perspective of the responsible political parties doctrine. It has frequently been noted that the great achievement of political parties has been that of operationalizing the idea of democracy into a peaceful equivalent of revolution. Through a vigorous contest between those in power defining their achievements, and the vehement criticism of those out of office wishing to get in, the issues are publicized, the public informed, the choices presented in manageable form to the electorate. Elections, according to this conception, represent a legitimate overthrow of government. Through party competition the power struggle inevitable within the political system is stabilized and institutionalized.

Employing this conception, the transition represents a reluctant but peaceful surrender by those who have lost power, a joyous but orderly takeover by those who have achieved it. Since all contestants are loyal to the system, those bested will provide sufficient cooperation to the "revolutionaries" as they assume their new tasks that the government itself will not collapse. Still, the parties remain political rivals, and thus the new government will be largely on its own in adjusting to the new situation of being the government instead of its critic.

Clearly, countless features of American political reality have always departed, in varying degrees over time and place, from the competitive, responsible doctrine. Still, this conception of the transfer of power is as apt as ever for rhetorical analysis of gubernatorial transitions since American politicians and journalists have traditionally envisioned this as the proper, if not always the actual, mode for social change in a democratic society. Indeed, the notion has been reiterated so often over the past two centuries in this nation as to acquire the stature of political myth. As such, the notion of responsible party government provides a subliminal foundation for evaluating political phenomena (see Ninno and Combs, 1980), or put differently, an underlying script that provides guidance for understanding the pertinence and appropriateness of unfolding events.

Assuredly, given the complex transactions among many actors during the transition period and the institutional needs of the mass media, e.g., meeting deadlines and staff availability, the actual presentations in the press may reflect other approaches to this recurring political phenomenon. Still, the responsible party doctrine provides the most comprehensive rationale of the transition process, and consequently, it is the richest source of hypotheses for testing.

For such testing we examine two recent gubernatorial transitions in Arkansas, the first of which involved an intra-party shift from Democrat to Democrat, the second and more recent involving a party turnover from Democrat to Republican. According to the responsible party ideal, these two types of transitions should display some distinctive differences. Since, as previously noted, transitions are essentially power vacuums in which rhetoric substitutes for actual governing authority, we test this mythic conception through analysis of what was communicated by and about the two governors-elect during their respective transitions.

Procedures: The Data and Their Analysis

The data were obtained by reviewing and coding all accounts of Clinton as governor-elect during the period November 6, 1978, through January 8, 1979, and all accounts of White as governor-elect during the period November 6, 1980, through January 13, 1981, in four Arkansas newspapers. Two of the newspapers are located in Little Rock and have statewide circulation. The other two are located in the northwest area of the state and are largely limited to a regional dissemination. Generally, the review used a code established by the authors before reading the newspaper items (see Table 2).[4]

Each author independently examined all items, encoding each category that appeared in a paragraph. No category was scored more than once per paragraph. Statements were also categorized as to source attribution: the governor-elect himself, other political leaders, editorial comment, and press background. Using the very conservative test, Scott's *pi*, intercoder reliabilities were 0.73 and 0.71 for the respective transitions, reasonable levels of agreement given the complexity of the code (see Holsti, 1969, 136-142).

Hypotheses

Using the responsible party doctrine, we offer a number of hypotheses which we believe will distinguish between the press coverage for a

Type I (One-Party) Transition and that for a Type II (Two-Party) Transition. First, a Type II Transition should be characterized by far greater emphasis on public policy. This, after all, is the presumed essential purpose of throwing out one government and replacing it with another. The people have grown dissatisfied with the performance of the "ins" and have been attracted by the criticisms and alterative proposals of the challenger. In a Type II Transition, therefore, one should expect much more extensive discussion of the programs that will be mounted by the newly-chosen chief executive in response to a new popular mandate.

Second, there should also be a greater emphasis on personnel choices in a Type II Transition. It is also part of the ritualized exchange of power in a democratic system that a new leader will bring with him or her an entirely new cast of characters to assist in achieving the new objectives. Even with the moderation that civil service has imposed on the old spoils system, high-level officials will be replaced. New members of the cabinet, new staff personnel, new agency heads must all be chosen as part of the changing of the guard.

Third, since new policies can only be enacted by the legislature, we hypothesize much more discussion of executive-legislative relations in a Type II Transition. Only through skillful leadership of and bargaining with the members of the legislature will the new executive be able to fulfill the programmatic promises of the campaign, and these relationships may be especially problematic if the partisan makeup of the legislature is different from the newly-elected governor.

Fourth, a Type II Transition should also dwell more extensively on relationships with other governmental officials and organizations than would a Type I Transition. The entire political system must respond to this new governor and his/her associates, and the amount of cooperation or recalcitrance encountered will heavily impact upon the ability of the new regime to effectuate administrative change.

Fifth, we also hypothesize a greater concern with political parties and party organization in a Type II Transition. This, of course, reflects another aspect of what the election has accomplished. There is a new set of victors and vanquished; new roles must be learned, new positions staked out through the press to the public. Those accustomed to criticizing must learn to defend; those accustomed to explaining and defending must begin to gather ammunition for what will now be their assault upon the establishment.

A sixth hypothesis is that a Type II Transition coverage will contain fewer references to purely personal considerations. While a certain

amount of biographical and behavioral information will be reported in any case, we expect much greater emphasis on such personalistic matters in a Type I Transition. In a Type I Transition, it is primarily the personal nature and style of the incumbents that is changing; in a Type II Transition, the voters presumably have mandated more fundamental changes in the very purpose of government.

A seventh hypothesis follows from the very underpinnings of the foregoing hypotheses. The differences between the two types of transitions flow from the presumed change in the character of the mandate passed by the voters to the Type II governor-elect. Since this is a more drastic change, we predict a stronger concern will be exhibited in a Type II Transition for ongoing popular support of the new regime.

Finally, flowing logically from all the above hypotheses, we expect much more press coverage for a Type II Transition. There is much more new information to be reported, speculated about, communicated to the actors in a political system and to the people who have set this new course of action in motion. Indeed, that a new party has captured the State House points to deviations from the past and marks subsequent events as all the more newsworthy.

Findings

In order to exhibit the corresponding relative treatments of the two transitions as economically as possible, we resort tc separate Q-factor analyses for the two transitions. As for each transition there are four attribution sources for each of four newspapers, a total of sixteen arrays of categorical treatment are available for each analysis. Using the eigenvalue-one criterion, only a single factor emerged in each instance, indicating a high degree of cohesion in descriptions across newspapers and across their sources of attribution. Table 1 presents the factor matrices (principal components) for both transitions.

The consistency of treatment of the Type II Transition is especially remarkable as the weakest correspondence to the basic underlying pattern still shows that the pattern explains about 64% of the variance in this case, White's own comments in Newspaper Alpha. This newspaper featured not only more direct quotes by the governor-elect generally but also extensive in-depth interviews that allowed him more freedom to expand upon topics than the forums available through the other newspapers.

In general, the greater consistency of treatment of the Type II Transition augurs well for our hypotheses since taken together they point to more

Table 1. Factor Loadings for Separate Q-Factor Analyses of the Categorical Treatments By the Press of the Clinton and White Transitions*

Newspaper	Source	Clinton's Transition	White's Transition
Alpha	Self (Clinton or White)	87	80
	Other political leaders	94	94
	Editorial comments	75	89
	Press background	87	85
Beta	Self	82	95
	Other political leaders	77	97
	Editorial comments	84	97
	Press background	83	90
Gamma	Self	77	94
	Other political leaders	65	94
	Editorial comment	72	92
	Press background	79	97
Delta	Self	88	94
	Other political leaders	54	94
	Editorial comment	84	92
	Press background	75	95
	Percent of total variance explained:	63.2	85.6

*Decimals are omitted from loading factors

constraints in treatment than for the Type I Transition. Still, tests for most of the specific hypotheses require closer examination of the particular categories. Factor-score arrays presented in Table 2 show the relative weights of categories in press treatments of the two transitions. The results tend to support the hypotheses generally, but not without some qualifications.

Indeed, in relative weight of coverage, the first hypothesis is disconfirmed. Coverage of public policy positions *in toto* was about the same for both transitions. The difference lies in the heavier emphasis placed upon fiscal considerations during Transition II. In fact, on the average, the four

Table 2. Factor-Score Arrays for Separate Q-Factor Analyses of the Categorical Treatments

Category	Clinton Transition		White Transition	
	Score	Rank	Score	Rank
Policy priorities	-0.6	11	-0.7	16
Programs: general	1.8	2	0.2	5
Programs: fiscal	2.9	1	3.5	1
Creation of positive feelings with public or its involvement in decisions	-0.7	13	-0.7	15
Perception of electoral mandate and public support	0.3	5	0.9	3
View of self: biographical	0.2	6	0.2	8
View of self: behavioral	1.1	3	-0.0	7
Relations with legislature	0.5	4	1.1	2
Relations with staff and cabinet	0.1	7	0.4	4
Relations with national government	-0.1	8	-0.5	11
Relations with local governments	-0.8	17	-0.8	18
Relations with other government organizations	-0.8	15	0.1	6
Relations with Democratic Party	-0.5	10	-0.7	17
Relations with Republican Party	-0.9	18	-0.6	13
Relations with interest groups	-0.7	14	-0.3	10
Transition and continuity	-0.3	9	-0.3	9
Inauguration	-0.6	12	-0.7	14
Miscellaneous	-0.8	16	-0.6	12

newspapers pointed to fiscal matters in nearly 25% of mentions devoted to transition coverage as opposed to just over 20% in Transition I. Moreover, the difference that does exist has no clear basis in the responsible party doctrine. White campaigned upon the basis of less government which

meant both fiscal constraints on, and less expansion of, programmatic activities of government. As a consequence, policy considerations in Transition II were much more likely to reflect fiscal concerns. Indeed, given their different philosophies of government action, transitions to Republican administrations may generally be divergent from transitions to Democratic administrations in this regard.

Hypotheses 2, 3, and 4, regarding relations with other governmental actors, however, are all affirmed. Still, some cautionary remarks are called for. The stress upon legislative relations, despite the factor-analytic results, was actually not very different for the two transitions, averaging about 11.5% for Clinton and about 12.8% for White. The biennial pre-session budget hearings of the Arkansas Legislative Council, may however, be an important mitigating factor in lessening the impact of party change in transition coverage since much of that coverage is simply an outgrowth of press attention to the Council hearings. The incoming governor or his representatives are usually afforded ample opportunity to appear before the Council.

Hypotheses 2 and 4 are more strongly affirmed, particularly since personnel changes are involved in both areas. With regard to staff and cabinet this is very obviously the case. To amplify the factor-analytic results, the average percentages of mentions for staff and cabinet across the newspapers were 5.9 and 9.3 respectively. Personnel changes are also at issue with regard to other government organizations as many of these are boards and commissions for which the governor's control is limited largely to his appointment power which is a limited one indeed. These officials generally are appointed for specified terms that often overlap the governor's term of office. The press treatment in Transition II especially focused on personnel questions even in these agencies. The average coverage for the respective transitions were 1.5% and 7.1% respectively, a very substantial difference.

Surprisingly, then, there is only weak confirmation of the fifth hypothesis. Differences in coverage of political party relationships are not confirmed in the factor-analytic results and resorting to the relative coverage percentagewise (combining both Democratic and Republican Parties) shows only slight support for the hypothesis, 1.9 and 2.9 for the respective transitions.

The one aspect predicted under the party responsibility model to receive relatively greater coverage in the Type I Transition is that of personal qualities. Table 2 provides strong confirmation of this for both biographical and behavioral traits. This is even more apparent considering

the relative volume of treatment percentagewise: combining the two categories and averaging across the four newspapers results in 19.4% for Clinton compared to only 9.2% for White.

The only other hypothesis relating to relative treatment of categories is only lightly confirmed by the factor-analytic results. This would be rather damaging to the party responsibility model as an explanatory factor if the electoral mandate is accorded similar weight in both types of transition. Reexamination of the data, however, shows that one newspaper (Delta) emphasized this element in the Clinton transition much more than the other three newspapers. Disregarding Delta, then, and combining both categories relating to popular involvement produces average percentage scores of 5.4 and 12.0 respectively, much stronger support of the hypothesis.

Table 3. Volume of Treatment of Clinton (BC) and White (FW) Transitions Four Newspapers

Source	Newspaper							
	Alpha		Beta		Gamma		Delta	
	BC	FW	BC	FW	BC	FW	BC	FW
The Governor-Elect	194	608	97	416	52	196	120	337
Other political leaders	19	380	89	547	3	153	12	288
Editorial	90	137	163	407	34	42	116	289
Press background	356	1454	732	1445	99	710	172	1058
Composite Total	659	2579	1081	2815	188	1101	420	1972

The final hypothesis simply asserts that a change in political parties will result in a considerably larger volume of transition coverage than where there is only a change of persons. As shown in Table 3, this hypothesis receives the strongest degree of confirmation. Breaking out the volume for the two transitions in terms of both the four newspapers and the four attribution sources shows more paragraphs devoted to the White transition in every cell, resulting in very large differences in the composite

or total for all newspapers. The respective ratios for the four newspapers for the number of paragraphs devoted to the Type II Transition for each one devoted to the Type I Transition are: 3.9, 2.6, 5.9, and 4.7.

In general, then, seven of the eight hypotheses flowing from the application of the responsible party ideal to a comparative analysis of press coverage for two types of gubernatorial transition receive slight to very strong confirmation. In the discussion that follows an explanation is suggested as well as an exploration of the larger implications of the findings generally.

Discussion

Finding that the underlying script for press coverage of a gubernatorial transition involving a change in partisan control of the office appears to follow the responsible parties ideal does not mean that the political system itself is characterized by a party structure adhering to the responsible parties doctrine. Rather, it suggests that both political and media actors may more or less consciously fall back upon this mythic conception as a source of cues to guide them in what is a more stressful, perhaps even disorienting, situation than that occurring with a Type I Transition.

More than this, the finding suggests that the media, by falling back upon a standard model that points to a legitimate means of social change, acquire a paragovernmental role by assisting in the assurance of orderly continuity in the governmental system. That editorial commentary and press background categorizations of the transition are so similar to categorizations used by political actors further supports this contention. Assuredly, media people determine in part what statements by political actors are published. Still, where governor-elect White was allowed ample freedom to say what he wanted in Newspaper Beta, he varied from the overall pattern only by placing greater emphasis upon policy matters without fiscal considerations and by downplaying his relations with the state legislature (moving closer to the responsible party ideal on the one hand and further away on the other).

The major deviation from the responsible party conception was the lesser emphasis than expected upon public policy in the Type II Transition. However, we suspect that in reality a second factor intervened that may have produced greater policy emphasis in our case of Type I than would normally be expected and less in our Type II case than should be expected. Quite simply, the basic political philosophies, or more precisely, the orientations toward governmental action, of the two governors-

elect contrasted with the change induced by partisan switch in incumbency. The representative for a Type I Transition, Bill Clinton, is a dedicated activist, whereas Frank White had a much more limited conception of appropriate government activity.

These differences in philosophical premises affected only the relative coverage of policy in the two transitions and thus provide only a modest qualification of the role the responsible parties ideal as an underlying script in press coverage of gubernatorial transitions. Indeed, given that political parties as candidate-recruiting, campaign-waging, fund-raising, and policy-making organizations probably have less consequential presence in Arkansas than in any other state, the general applicability of the mythic ideal here is as rigorous a test as can be constructed.[5]

Clearly, dimensions other than partisan affiliation may shape the character of gubernatorial transitions. Some obvious possibilities include the insider-outsider distinction, ideological or coalitional cleavages, and personality conflicts. Thus, where a governor-elect has presented himself/herself as one outside the political establishment, personnel concerns might well take on greater importance even than in a Type II transition. Strong ideological conflict, whether in a Type I or Type II Transition would probably bring great emphasis to policy concerns. Coalitional conflict in a Type I Transition would likely heighten concerns for partisan relationships and perhaps for policy and personnel as well. Strong personality conflicts between incumbent and successor are probably less predictable given their idiosyncratic character. Whatever the nature of such conflicts, in all cases the volume of coverage is likely to be higher than for transitions of Type I where one old party hand passes the reins of government on to another partisan crony.

Press coverage of a transition, then, is a rhetorical situation of critical importance in a democratic polity whether the purpose of the transition is viewed as establishing order or continuity, building a governing majority, inducing policy change, and/or serving the political ambitions of the governor-elect. Such purposes, however, point more to the words and actions of political leaders in given contexts than to the recounting of the media. Journalists will no doubt be sensitive to whatever cleavages emerge among political leaders but will look to their underlying scripts for evaluating those conflicts. For transitions of chief executives, the responsible parties doctrine, a strong and enduring myth in American political life, is a very comfortable script for those in the journalistic enterprise.

Notes

[1]A review of literature on presidential transitions is to be found in Lee et al. (1979), the first thoroughly study of this phenomenon from a rhetorical perspective. For a bibliography of the literature on gubernatorial transitions, see Beyle (1985: 459-461). The first rhetorical study of gubernatorial transitions was Blair and Savage (1980); see also Blair (1985) and Savage and Blair (1985).

[2]Actually, the most "stable" instance of a transition in opposition to one involving a change in party ties would be a same-party transition in a strongly commpetitive two-party state, which Arkansas clearly is not. Still, if predictable differences in the two Arkansas transitions examined here do appear, then generalizations will be all the more warranted given the stronger test.

[3]As it happens, press releases from the governor-elect and his/her transition teams are often transmitted virtually verbatim, usually intermediately through the wire services, but by no means are all these releases disseminated by the media, either partially or totally. Interestingly, such reports are not always flagged as to their source; this practice, intentional or otherwise, deserves more examination from both an empirical and ethical standpoint.

[4]In large part this code followed the one devised by Lee, et al, (1979) in their study of the Carter presidential transition with certain additions made necessary by the obvious diffferences between a presidential and a governor.

[5]For extensive discussion of the relative weakness of political parties in contemporary Arkansas, see Blair (1988: 98-104).

References

Ahlberg, Clark D., and Daniel P. Moynihan. 1972. "Changing Governors - and Policies," pp. 95-104 in Thad L. Beyle and J. Olivers Williams (eds), *The American Governor in Behavioral Perspective*. New York: Harper and Row.

Beyle, Thad L. 1985. Ed., *Gubernatorial Transitions, The 1982 Election*. Durham, NC: Duke University Press.

Beyle, Thad L. and John E. Wickman. 1972. "Gubernatorial Transition in a One-Party Setting," pp. 86-92 in Thad L. Beyle and J. Oliver Williams (eds.), *The American Governor in Behavioral Perspective*. New York: Harper & Row.

Bitzer, Lloyd. 1968. "The Rhetorical Situation." *Philosophy and Rhetoric*, 1:1-14.

Blair, Diane D. 1985. "Two Transitions in Arkansas, 1978 and 1982," pp. 92-122 in Thad Beyle (ed), *What Guides Governors in Transition*. Durham, NC: Duke University Press.

Blair, Diane D. 1988. *Arkansas Politics and Government: Do the People Rule*? Lincoln, NE: University of Nebraska Press.

Blair, Diane Kincaid, and Robert L. Savage. 1980. "The Rhetorical Challenge of a Gubernatorial Transition: Constructing the Image of Statecraft." Presented at the Annual Conference of the International Communication Association, Acapulco, Mexico, May.

Dorsey, Gary. 1983. "An Information Processing Approach to News Value," in H. Seth Finn. *Social Science News Letter*, 68: 86-92.

Finn, Seth. 1984. "A Script Theory of News Value." Unpublished paper, Department of Radio, Television and Motion Pictures, University of North Carolina at Chapel Hill.

Governing the American States: A Handbook for New Governors. 1978. Washington, D.C.: National Governors Association.

Holsti, Ole R. 1969. *Content Analysis for the Social Sciences and Humanities*. Reading, MA: Addison-Wesley, 1969.

Lee, David, et al. 1979. "The Rhetorical Challenge of the Carter Transition: To Build a Governing Majority" pp. 473-489 in Dan Nimmo (ed). *Communication Yearbook 3*. New Brunswick, NJ: Transaction Books.

Long, Norton. 1972. "After the Voting is Over" pp. 76-86 in Thad L. Beyle and J. Oliver Williams (eds), *The American Governor in Behavioral Perspective*. New York: Harper and Row.

Nimmo, Dan and James E. Combs. 1980. *Subliminal Politics: Myths and Mythmakers in America*. Englwood Cliffs, NJ: Prentice-Hall.

Savage, Robert L. and Diane D. Blair. 1985. "Constructing and Reconstructing the Image of Statecraft: The Rhetorical Challenges of Bill Clinton's Two Gubernatorial Transitions," in Keith R. Sanders, et al., (eds). *Political Communication Yearbook 1984*. Carbondale: Southern Illinois University Press.

MEASURING LEGISLATIVE EFFECTIVENESS IN THE MISSOURI GENERAL ASSEMBLY: A LONGITUDINAL STUDY

Mark C. Ellickson
(Southwest Missouri State University)
Donald E. Whistler
(University of Central Arkansas)

Introduction

The responsibilities and duties of a state legislator are numerous. In addition to their policymaking efforts,legislators are expected to provide constituent service, preside over the bureaucracy, resolve conflict, educate the public, promote good government, and campaign for re-election to name a few (Rosenthal, 1974: 11-12; Jewell and Patterson, 1986: 9-13). However, if there is one activity that dominates a legislator's time and energy when they are in session, it is the sponsoring of legislation and promoting its enactment into law (Rosenthal, 1981: 255-256; Patterson, 1983: 165).

Recognizing that some representatives are more successful than others at navigating their bills through the legislative labyrinth, one would expect legislative output to reflect the policy prejudices and predilections of this successful elite. Consequently, identifying the determinants of legislative effectiveness[1] is an important antecedent to understanding and predicting state legislative output.[2]

In this paper we will assess the impact of a series of legislative, personal, district-related, and reputational characteristics on legislators' performance in the Missouri House over a period of twelve years spanning four decades.[3] The longitudinal format of this study is designed to avoid some of the pitfalls associated with cross-sectional designs which currently dominate this area of inquiry.

This paper will also examine the question of legislative effectiveness from a majority-minority party perspective. Few legislative power studies have addressed the interactive effects of majority-minority party status on other variables despite warnings to the contrary (Meyer, 1980: 581).

Finally, we will present a new method for directly measuring effectiveness within a state legislature. We believe this measure to be an important addition to previous efforts in this area of research.

Literature Review and Model Development

As legislators compete to successfully maneuver their bills through the legislative arena some are presumably advantaged by virtue of possessing certain attributes. For example, formal office (usually defined in terms of one's party position and/or committee position) is frequently cited as an important prerequisite of legislative influence (Best, 1971; Meyer, 1980; Hamm et al, 1983; Whistler and Ellickson, 1988). Formal position is believed to confer strategic access and control over important organizational resources which in turn are parlayed into legislative influence. Frantzich (1979: 417, 421), for instance, has noted that Congressional House leaders tend to introduce more bills and are more likely to see those bills passed than non-leaders.

Seniority is another characteristic often associated with legislative power. Long tenure is equated with extensive knowledge of the complex rules of the legislative process, with a "feel" for what will pass and what will fail, with deference from junior colleagues, and positions of leadership (Francis, 1962; Frantzich, 1979; Meyer, 1980; Squire, 1988).
Majority party status has also been linked to legislative effectiveness. Citing a greater responsibility for policy development and the inherent political advantages that accrue to the majority party under these conditions, several scholars have addressed the importance of this variable (Frantzich, 1979; Meyer, 1980; Hamm et al, 1983).

Some students of legislatures have concentrated on personal factors such as age (Jewell, 1969: 32), gender (Rosenthal, 1981: 30-31), race (Rosenthal, 1981: 30-31; Hamm et al, 1983), education and occupation (Meyer, 1980; Rosenthal, 1989: 75-76). In short, state legislators are typically educated middle-aged white males from prominent economic activities in a state and/or from law firms (Keefe and Ogul, 1985: 111-115).

Other legislative pundits have concerned themselves with the impact of district-related factors on legislative performance. Jewell and Patterson's (1966) study of state legislatures uncovered that influential legislators hailed from safe districts. At the federal level, Matthews (1960), Clapp (1963), and Fenno (1966, 1973) concluded that legislators from unsafe districts (i.e., highly competitive) were seldom considered influen-

tial and rarely achieved important committee positions or assignments.

A second factor, urban-rural district representation, has historically been a major source of legislative conflict (Francis, 1967). Until one man, one vote became a reality in the 1960's, most state legislatures were severely malapportioned permitting rural representatives to wield excessive power at the expense of their urban counterparts.[4] Rural power, however, has been slow to dissipate. Tickameyer (1983), for example, reported in her study of the 1977 North Carolina General Assembly that rural district legislators continued to exercise significantly greater influence than urban district representatives. Moreover, some southern states have sought to perpetuate rural control by placing rural conservative Democrats in key leadership roles (Saffell, 1987: 122).

The preceding list of variables by no means depletes the inventory of attributes associated with legislative effectiveness. They are, however, quite representative of the types of variables one finds in this genre of literature (Meyer, 1980). It is the conceptualization and operationalization of the dependent variable, legislative effectiveness, that is more problematic (Janda, 1972: 57; Burns, 1978: 18-19; Bass, 1981: 10, 169). A number of scholars have elected to use "perceived influence" (i.e., reputation) rather than "actual influence" as their measure of legislative effectiveness (Francis, 1962; Best, 1971; Meyer, 1980). Unfortunately, the "reputation for influence" approach contains the well-known flaw that potential for influence does not necessarily result in actual influence (Dahl, 1976: 28-30).

In this paper we will define legislative effectiveness as the ability to successfully maneuver one's legislation through the legislative process. This approach reflects Dahl's (1957) view of political influence as a relationship between political actors, i.e., "A has power over B to the extent that he can get something that B would not otherwise do" (p. 203). Clearly the process of enacting legislation forces members of a legislature to make hard decisions concerning which pieces of legislation to accept and which to reject.

Employment of legislators' bill-passage success rates as a measure of legislative effectiveness is not without risk. The use of amendments to alter a bill's content can result in legislation antagonistic to the author's original intent. Secondly, some legislators make a career out of blocking legislation rather than facilitating it. Hence, they are powerful not for what they produce, but for what they destroy. Despite these limitations, it is fair to argue that state legislatures have a primary policy-making role and the passage of one's legislation is an important manifestation of one's power

and influence in this particular body (Rosenthal, 1981: 255-256).

Finally, we have elected to incorporate "reputation for influence" as an intervening variable in our model of legislative effectiveness. As shown in Figure 1 below, legislative status, personal attributes, district-related factors, and reputation for influence are all treated as determinants of legislative effectiveness. Reputation for influence, as an intervening variable, is projected to have direct consequences for success in a legislative body as a result of one's legislative, personal, and district-related characteristics.

Research Design: Setting and Measurements

The data for this study were drawn from six regular sessions of the lower house of the Missouri General Assembly spanning four decades.[5] The 70th (1959-60) and 71st (1961-62) sessions reflected a relatively quiet era dominated by rural interests and as yet undisturbed by the civil rights and reapportionment decisions of the mid-1960's. On the other hand, the 74th (1967-68) and 78th (1975-76) assemblies represented time periods marked by intense social, economic, and political unrest. The final two sessions examined, the 83rd (1985-86) and 84th (1987-88), symbolized an era of growing professionalism and competency within the Assembly characteristic of many state legislatures of the 1980's (Rosenthal, 1989: 70-71).

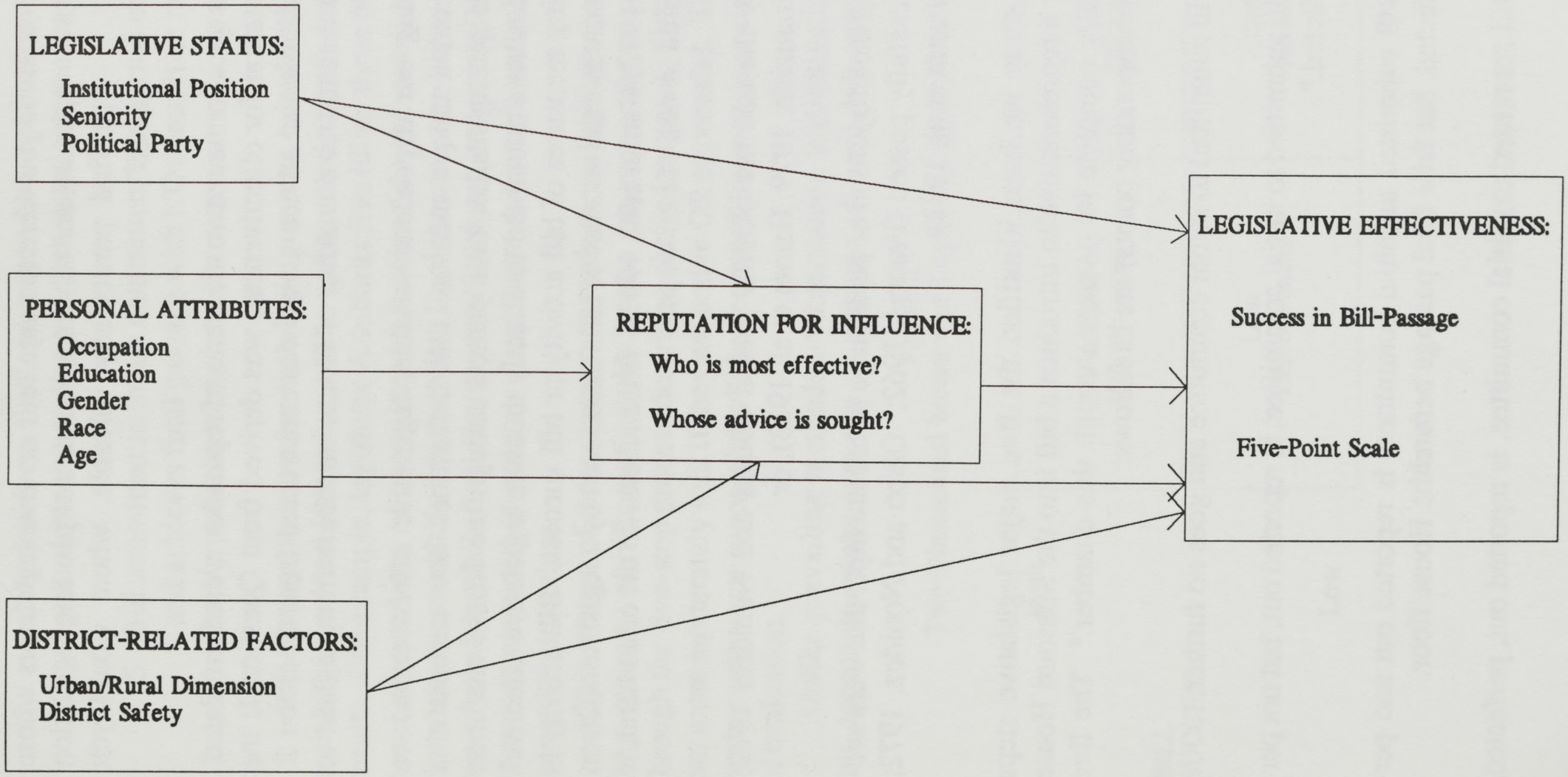
In every session the Democrats are the majority party in the House (and Senate), however, in the 78th, 83rd, and 84th sessions, the governorship is controlled by the Republicans. The diversity of these legislative sessions allows us to test our hypotheses under a variety of social, economic, and political conditions. It is this aspect that makes longitudinal studies so advantageous.

In Figure 1, the three boxes on the far left represent the various categories of exogenous variables associated with legislative effectiveness. The specific measures of the legislative, personal, and district-related attributes are described in Appendix A. Our single endogenous variable, reputation for influence, was obtained by way of a mailed questionnaire.[6] The questionnaire, completed by 89 out of 163 House members (54.6%) contained the following two questions:

> Question 1: "If you were to name four or five legislators who are most effective at getting bills passed, whom would you name?"

Figure 1

Model of Legislative Effectiveness



Question 2: "If you were to name four or five legislators whose opinions and advice on matters of pending legislation you find particularly valuable, whom would you name?"

From this questionnaire two measures of reputation were formulated. The first, reputation for effectiveness, was derived from Question 1; the second, reputation as an advice-giver, was constructed from Question 2. Each measure resulted in a ranking of House members from highest to lowest.[7]

Concerning our dependent variable, legislative effectiveness, we have constructed a unique measure that determines how successful a legislator is at getting his/her bills passed through the House chamber. Previous studies have attempted to directly measure legislative effectiveness by utilizing measures of bill activity or bill success. Bill activity is typically measured as the number of bills introduced by a legislator (Olson and Nonidez, 1972; Hamm et al, 1983). Bill success, on the other hand, is usually measured in one of two ways:

(a) by the number of bills passed (Olson and Nonidez, 1972; Frantzich, 1979; Hamm et al, 1983), or

(b) by the proportion or percentage of bill attempts that were successfully passed (Francis, 1962; Olson and Nonidez, 1972; Hamm et al, 1983).

In this study we have identified the five major legislative steps necessary for a representative to introduce a bill into the Missouri House and successfully complete its passage through this chamber.[8] The five stages (and corresponding points) are as follows:

1. Bill submitted to initial committee and goes no further.

2. Bill submitted to initial committee, is reported out, but not perfected.[9]

3. Bill submitted to initial committee, is reported out and perfected, but fails final passage before the House floor.

4. Bill submitted to initial committee, is reported out, perfected,

and achieves final passage, but encounters committee amendment(s) and/or substitute(s) along the way.

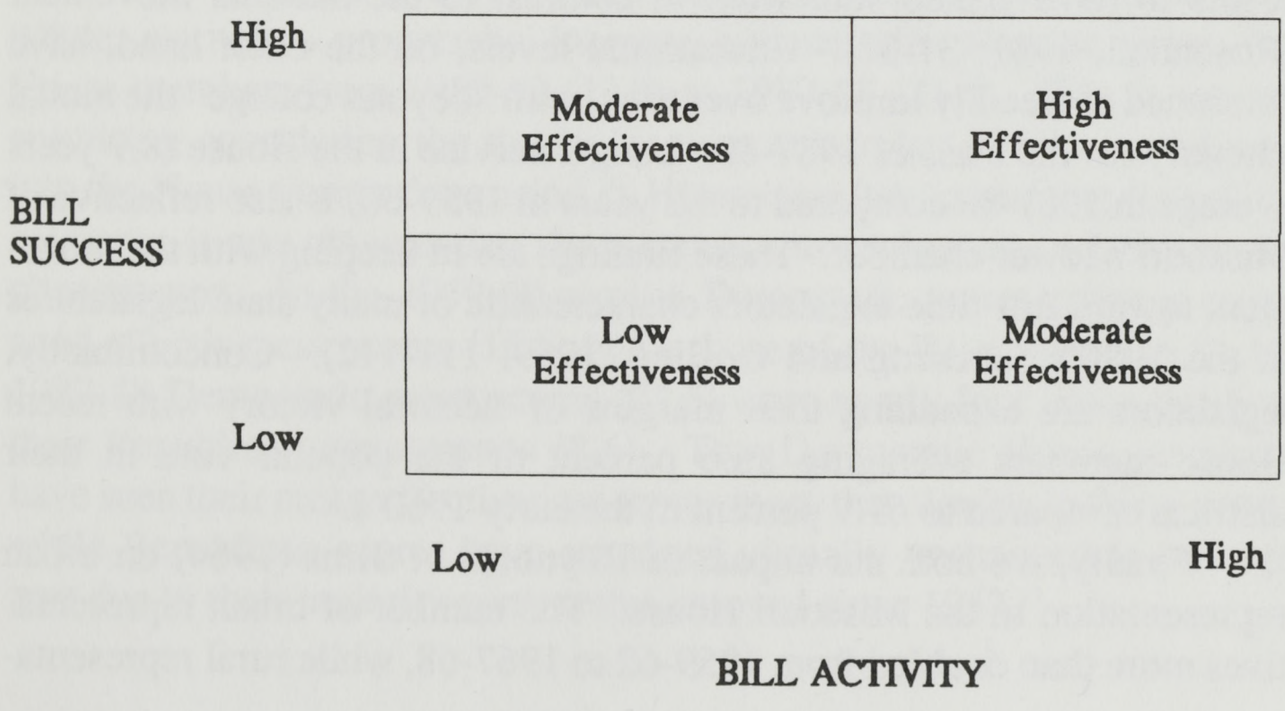
5. Bill submitted to initial committee, is reported out, perfected, and achieves final passage with NO committee amendment(s) and/or substitute(s) along the way.

Bill-passage success for each legislator was calculated by "scoring" each bill submitted (according to the index noted above) and totaling the results. For example, legislator A submits five bills: three of the bills are never reported out of committee or receive "do not pass" recommendations which essentially kill the bills (1 point each), one bill is reported out, is perfected, but fails final House vote (3 points), and one bill becomes law after it is amended (4 points). Legislator A then, is accorded 10 points using this procedure.

This system of measurement rewards those legislators who submit a large quantity of bills (active) AND who are successful at pushing them through the five-step process described above (success). Other legislators can score moderately well if they are active OR successful. Those who are neither active nor successful will be accorded low scores under this system of evaluation.

Unlike prevailing methods of determining legislative effectiveness, this approach emphasizes the importance of **both** bill activity and bill

Figure 2
Two-Dimensional Measure of Legislative Effectiveness



success in a single measure. Moreover, bill success is conceptualized as a process consisting of five distinct steps, not just one. We believe this two-dimensional approach to be an improvement over current one-dimensional schemes.

Description of Missouri House on Independent and Dependent Variables

The personal, legislative, and district-related characteristics of Missouri House members (both aggregate and by political party) are displayed in Table 1 (see tables at end of article).

Beginning with the aggregate totals and viewing our results longitudinally, we note that male domination of the Missouri House has slowly eroded over thirty years. Whereas males had once accounted for over 99 percent of the House membership, by 1987 their numbers had declined to approximately 80 percent of the membership. These percentage changes over time are quite comparable to those reported in other states (Rosenthal, 1981: 30; Nechemias, 1987: 125; Dresang and Gosling, 1989: 111). Black representation increased from 2.6 percent (1959-60) to 6.3 percent (1987-88) reaching a peak of 7.5 percent during the 1975-76 session. These figures compare favorably with the 5.4 percent black state legislator average (1980) across the nation (Rosenthal, 1981: 30; Dresang and Gosling, 1989: 111).

Age-wise House members are typically in their mid-forties to early-fifties (median values). A trend toward younger legislators, however, seems to have abated somewhat in contrast to the national movement (Rosenthal, 1981: 31-32). Educational levels, on the other hand, have continued to steadily improve over time, with "beyond college" the modal category for the class of 1987-88. Longer service in the House (8.9 years average in 1987-88 compared to 5.2 years in 1959-60) is also reflective of Missouri's lower chamber. These findings are in keeping with the movement toward full-time legislators characteristic of many state legislatures in the 1980's (Dresang and Gosling, 1989: 111-112). Concomitantly, legislators are expanding their margins of electoral victory with recent House members averaging 86.6 percent of the popular vote in their districts compared to 69.9 percent in the early 1960's.

Finally, we note the impact of **Reynolds** v. **Sims** (1964) on urban representation in the Missouri House. The number of urban representatives more than doubled from 1959-62 to 1967-68, while rural representa-

tion dropped dramatically from 70 percent to 30 percent. Today urban representatives continue to enjoy a 2 to 1 margin in membership over their rural colleagues in the House.

Examination of Democratic and Republican representatives on these various attributes indicated that legislators of both parties had some similarities as well as differences. Republicans held slightly more prestigious occupations than Democrats; they tended to be better educated and older; and they faced stronger competition in the general election campaigns. Democrats, in contrast, were more likely to have longer tenure in the legislature; to be female or black (there were no black Republican legislators in the six sessions examined); and to represent urban interests.

Turning to the dependent variable, our hypotheses concerning the attributes affecting legislative effectiveness assume that there are significant variations, subject to explanation, among members of the Missouri House. The data in Table 2 indicate that there are indeed substantial variations within and across each of the six sessions. For example, in the 70th, 71st, and 74th General Assemblies, it was not unusual for 40 to 50 percent of House bills introduced to achieve final passage (within the House) and for 25 to 30 percent of those bills to do so without amendments and/or committee substitutes. During the 78th, 83rd, and 84th session only 25 percent or so of the House bills passed successfully through that chamber and only 10 percent did so without amendments/substitutes. This reduction in bill passage has been offset by the increasing number of bills being disposed of very early in the legislative process.

In Table 3 we have displayed the means, ranges, and standard deviations of individual legislator sponsored bills as measured on the Five-Point Legislative Effectiveness Scale. Viewing the House as a whole, we note a progressive increase in mean effectiveness scores for House members from 1959-60 (13.7) to 1987-88 (25.4). This is not too surprising considering the steady increase in number of bills introduced into the House during this period.[10] However, after controlling for political party, it was obvious that the increase was exclusively a Democratic phenomenon. In the 1959-60 session Democratic representatives averaged effectiveness scores (15.6) twice those of the Republicans (8.8), by 1987-88 Democratic mean scores (33.5) were nearly four times those of their Republican counterparts (8.6). That Democratic House members have seen their mean effectiveness scores more than double in thirty years, while Republican scores have remained virtually unchanged is in large part due to their majority party status enjoyed since 1952.[11]

Expectations and Findings

In this section we assess the impact of four categories of explanatory variables on legislative effectiveness in the Missouri House. We also examine the impact of legislative, personal, and district-related factors on our two measures of reputation for influence. The analysis incorporates both longitudinal and majority-minority party comparisons.

Figure 1 predicts that certain legislative, personal, and district-related characteristics will enhance a legislator's prospect of successfully steering his/her bills through the House. Specifically, we expect legislative effectiveness to be associated with middle-aged, better educated white male legislators with prestigious occupations; with legislators who hold positions of party leadership and seniority, as well as, "reputations" for effectiveness and influence in the legislature; with representatives who hail from electorally safe districts; and with Democrats.

Moreover, rural legislators are projected to be more effective than urban legislators in the first three sessions (70th, 71st, and 74th), while the reverse is anticipated for the latter three sessions (78th, 83rd and 84th).

Examination of Table 4 (aggregate only) indicates strong support for our hypotheses when using legislative status variables (institutional position, seniority, and political party) and the two measures of "reputation;" moderate support when testing for educational level, age, and occupational prestige; and limited support when examining district-related factors (urban/rural districts, district safety) and gender/race differences.

In general then, our aggregate findings suggest the profile of a successful and effective legislator (Missouri House) to be that of a relatively young, well-educated and respected senior Democrat with a leadership position and prestigious occupation outside the legislature (most notably, the practice of law). Because institutional position and seniority are significantly related in four of the six sessions analyzed, it is possible that our findings with respect to seniority are spurious, i.e., a tendency for seniors to also be leaders.[12] However, after controlling for leadership, the more senior non-leaders were still significantly more effective than junior non-leaders.[13]

To a lesser degree, the results implied that an effective legislator is also one who is white, male, and a representative from a safe urban district.

Curiously, our results indicated that younger representatives were consistently more effective, regardless of party, than older members. Apparently, in the Missouri House you must make a name for yourself early in your career, otherwise the window of opportunity is substantially

narrowed. Although this finding contradicts conventional wisdom, it is in keeping with the rise of professional, competitive state legislatures discussed earlier.

While the above profile tends to hold true for Democratic members longitudinally, Republican avenues to legislative effectiveness are considerably more limited and inconsistent over time (see Table 4). For example, in the 1959-60, 1967-68, 1985-86, and 1987-88 sessions, there were virtually no statistically significant relationships between any of the explanatory variables and Republican legislative effectiveness. With regard to the remaining two sessions (1961-62 and 1975-76), only age (young), education (high), and urbanism (urban) were consistently identified as meaningful paths to influence. Interestingly, not even institutional position could guarantee legislative influence for Republican members.

For both parties, urban legislators and those from safe districts were apt to be slightly more successful at getting their legislation passed than rural representations and those from unsafe districts. Longitudinally, the findings were inconsistent and the eta coefficients generally quite weak. Gender and sex also exhibited weak explanatory powers for both parties.

Finally, Democratic members with "reputations" for effectiveness and advice enjoyed a significantly higher level of success than Democratic members lacking these traits. Neither measure was related to Republican success in the Missouri House.

Figure 1 also anticipates that the legislative, personal, and district-related attributes will affect a legislator's reputation for influence in a manner similar to that for legislative effectiveness.[14] The aggregate results in Table 5 indicated that reputations for effectiveness and advice-giving were primarily attributed to Democratic leaders. Few Republicans were identified as effective in passing legislation and as advice-givers. Those that were tended to be well-educated, young representatives from safe urban districts with prestigious outside occupations. For Democrats, measures of reputation were essentially a function of leadership position.

Conclusion

> Be the matters small or great, frivolous or grave, which busy it, its aim is to have laws always a-making (Wilson, 1956: 193).

Woodrow Wilson was one of the first political scientists to recognize the policy-making appeal inherent within legislatures. The lure of passing

legislation has not abated since Wilson's century-old observation and, if anything, has burgeoned. Since the legislative process rewards those who are successful, i.e., policy outputs, it is important to identify the attributes associated with this effective subgroup.

In this paper we have attempted to identify important determinants of legislative effectiveness. Employing a unique two-dimensional approach to measure legislative effectiveness, our longitudinal results indicated that legislative status variables and "reputations" for influence best predicted levels of effectiveness (see Figure 1). Institutional position, in particular, was consistently associated with high levels of success.

Personal factors, such as age, educational level, and occupational prestige were also singled out as useful explanatory variables. There was some evidence suggesting the importance of district-related characteristics on legislative effectiveness, but the findings were scattered and inconsistent over time. Expectations with regard to race and gender, however, were not borne out in the analysis. Blacks and females in the Missouri House generally fared no worse (or better) than whites and males in the legislative arena.

Undoubtedly the most important finding was that separate analyses of Democratic (majority party) and Republican (minority party) representatives yielded substantially different models of legislative effectiveness. Whereas Democratic members could count on institutional position, seniority, educational level, occupational prestige, age, and reputation as proven guides to legislative success, Republicans had no clear paths to follow. Moreover, the longitudinally results suggested that the few avenues once opened to Republicans (i.e., young, well-educated urban Republican leaders) are now closed.

The years of Democratic dominance (a 2 to 1 margin since 1952) in the House have clearly taken their toll on Republican efforts to establish independent power bases. Today, Republicans who wish to wield power in the Missouri House must first seek out Democratic allies and those relationships are unstable at best. In short, those who are legislatively effective in the Missouri House represent a non-random subgroup of legislators.

Notes

[1]The terms legislative effectiveness, legislative influence, and legislative power are used interchangeably throughout the study.

[2]For an interesting analysis of the distribution of power in the U.S. House of Representatives, see Frantzich (1979).

[3]1959-1960; 1961-1962; 1967-1968; 1975-1976; 1985-1986; and 1987-1988.

[4]Leuthold and Carter (1981) note that in 1960 "the Missouri House of Representatives was one of the five least equitably apportioned lower chambers in the nation..." (181).

[5]The speaker and those legislators serving less than 100 percent of their terms were excluded from analysis in each of the six sessions examined.

[6]The questionnaire was completed for the 84th session (1987-88) only.

[7]See also, Whistler and Dunn, 1983; Whistler and Ellickson, 1988, for use of this questionnaire in the Arkansas General Assembly.

[8]In measuring legislative effectiveness it was felt that a legislator's "sphere of influence" was limited primarily to the chamber he/she resided in. Consequently, in this study "bill passage" refers to a bill clearing the house chamber and not necessarily to one passed into law.

[9]If a bill is reported favorably out of committee or a substitute is recommended, it is placed on the "perfection calendar" and when its turn comes up for consideration it is debated on the floor of the orginating house. If a substitute is recommended by the committee or if committee amendments are attached to the bill, they are first presented, debated and voted upon. Further amendments can then be proposed by other members with their changes designated as House or Senate amendments to differentiate from the committee amendments. When all amendments have been considered, a motion is made to declare the bill perfected. Perfection is usually voted on a voice vote but on the request of five members, a roll call shall be taken. If a majority of members vote to perfect, the bill is reprinted in its original or amended form.

[10]In 1970 the voters of Missouri adopted a constitutional amendment establishing annual sessions of the legislature. Prior to this the Missouri legislature met once every two years.

[11]The speaker appoints all members, including Republicans, to committees. Thus, he can minimize Republican influence and effectiveness by assigning the most capable Republicans to the least significant committees.

[12]The r values between the dichotomous seniority and institutional position variables for the 1967-68, 1975-76, 1985-86, and 1987-88 sessions were: .26, .35, .28, and .27, respectively, all significant at the .001 level.

[13]The eta values for the 1967-68, 1975-76, 1985-86, and 1987-88 sessions examining legislative effectiveness and seniority while controlling for institutional position were: .29, .21, .30, and .28, respectively, all significant at the .001 level except for 1975-76 (.05 level).

[14]We expected both measures of reputation to be related. The r value between these two measures was .54, significant at the .001 level.

Authors' Note: Our appreciation is extended to Pamela McWherter and Joan Twiton of Southwest Missouri State University for research assistance on this project.

Table 1

Personal, Legislative, and District-Related Attributes of Missouri House Members

	1959-1960			1961-1962		
	Aggregate	Demo	Rep	Aggregate	Demo	Rep
House Membership	154	109	45	155	98	57
(%)		(70.8)	(29.2)		(63.2)	(36.8)
Gender						
Male	149	104	45	154	97	57
%	(96.8)	(95.4)		(99.4)	(99.0)	
Female	5	5	0	1	1	0
%	(3.2)	(4.6)		(.6)	(1.0)	
Race						
White	150	105	45	151	94	57
%	(97.4)	(96.3)		(97.4)	(95.9)	
Black	4	4	0	4	4	0
%	(2.6)	(3.7)		(2.6)	(4.1)	
Age (median)	51.0	50.5	53.5	51.0	48.5	55.0
Education (modal category)	High School	High School	High School	High School	High School	High School
Occupational Prestige (mean scores)	75.3	74.9	76.2	75.5	75.4	75.9
Seniority (mean years)	5.2	5.1	5.4	5.4	5.5	5.4
District						
Rural (%)	(70.1)	(64.2)	(84.4)	(69.0)	(60.2)	(84.2)
Urban (%)	(29.9)	(35.8)	(15.6)	(31.0)	(39.8)	(15.8)
Percentage of District Vote by Winning House Member (mean %)	(76.1)	(76.6)	(75.0)	(69.9)	(72.2)	(65.8)

Table 1

Personal, Legislative, and District-Related Attributes of Missouri House Members

	1967-1968			1975-1976		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
House Membership	162	105	57	161	113	48
(%)		(64.8)	(35.2)		(70.2)	(29.8)
Gender						
Male	155	100	55	150	105	45
%	(95.7)	(95.2)	(96.5)	(93.2)	(92.9)	(93.8)
Female	7	5	2	11	8	3
%	(4.3)	(4.8)	(3.5)	(6.8)	(7.1)	(6.3)
Race						
White	150	93	57	149	101	48
%	(92.6)	(88.6)		(92.5)	(89.4)	
Black	12	12	0	12	12	0
%	(7.4)	(11.4)		(7.5)	(10.6)	
Age (median)	46.0	44.0	49.0	45.0	44.5	47.0
Education (modal category)	High School	High School	Beyond College	College	High School	High School
Occupational Prestige (mean scores)	76.1	75.5	77.4	53.4	52.7	54.8
Seniority (mean years)	4.5	5.0	3.4	6.6	6.7	6.6
District						
Rural (%)	(30.9)	(24.8)	(42.1)	(36.0)	(33.6)	(41.7)
Urban (%)	(69.1)	(75.2)	(57.9)	(64.0)	(66.4)	(58.3)
Percentage of District Vote by Winning House Member (mean %)	(70.9)	(73.4)	(66.2)	(77.1)	(79.6)	(71.3)

Table 1

Personal, Legislative, and District-Related Attributes of Missouri House Members

	1985-1986			1987-1988		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
House Membership	161	105	56	160	108	52
(%)		(65.2)	(34.8)		(67.5)	(32.5)
Gender						
Male	136	88	48	131	86	45
%	(84.5)	(83.8)	(85.7)	(81.9)	(79.6)	(86.5)
Female	25	17	8	29	22	7
%	(15.5)	(16.2)	(14.3)	(18.1)	(20.4)	(13.5)
Race						
White	151	95	56	150	98	52
%	(93.8)	(90.5)		(93.8)	(90.7)	
Black	10	10	0	10	10	0
%	(6.2)	(9.5)		(6.3)	(9.3)	
Age (median)	48.5	47.0	52.0	49.0	47.0	54.0
Education (modal category)	College	College	Beyond College	Beyond College	College	Beyond College
Occupational Prestige (mean scores)	51.1	50.0	53.0	51.5	50.1	54.0
Seniority (mean years)	8.3	8.9	7.1	8.9	9.4	7.9
District						
Rural (%)	(36.0)	(35.2)	(37.5)	(35.0)	(36.1)	(32.7)
Urban (%)	(64.0)	(64.8)	(62.5)	(65.0)	(63.9)	(67.3)
Percentage of District Vote by Winning House Member (mean %)	(86.6)	(89.1)	(81.9)	(81.8)	(83.5)	(78.3)

Table 2

DISTRIBUTION OF BILLS[a] ON FIVE-POINT SCALE IN THE MISSOURI HOUSE

FIVE POINT SCALE	70th G.A. 1959 - 1960 %		71st G.A. 1961 - 1962 %		74th G.A. 1967 - 1968 %	
1	37	(215)	42	(317)	40	(354)
2	7	(38)	7	(54)	18	(154)
3	5	(30)	5	(38)	2	(14)
4	16	(90)	15	(112)	18	(156)
5	35	(203)	31	(237)	23	(199)
	100%	N=576	100%	N=758	101%	N=877

Table 2 (cont.)

FIVE POINT SCALE	70th G.A. 1975 - 1976 %		83rd G.A. 1985 - 1986 %		84th G.A. 1987 - 1988 %	
1	61	(1116)	54	(903)	56	(1034)
2	19	(339)	15	(244)	13	(231)
3	2	(28)	4	(70)	3	(58)
4	9	(155)	14	(238)	16	(303)
5	10	(186)	13	(224)	12	(216)
	101%	N=1824	100%	N=1679	101%	N=1842

[a]Includes single-author, coauthored, and first-authored (where three or more authors) bills only.

Table 3

Mean Values, Ranges, and Standard Deviations of Individual Legislator Sponsored Bills on Five-Point Scale in the Missouri House

	1959-1960			1961-1962		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
Mean	13.7	15.6	8.8	15.9	20.7	7.6
Range		0-182	0-136		0-112	0-47
SD	26.7	28.5	21.2	20.0	22.8	9.3

	1967-1968			1975-1976		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
Mean	15.5	19.8	7.5	20.8	25.2	10.5
Range		0-98	0-35		0-144	0-58
SD	17.1	19.3	7.2	23.9	26.6	10.5

	1985-1986			1987-1988		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
Mean	24.2	32.0	9.6	25.4	33.5	8.6
Range		0-271	0-72		0-296	0-67
SD	28.8	32.3	10.5	31.1	34.2	11.3

Table 4

The Influence of Legislative, Personal, District-Related and Reputational Attributes on Legislative Effectiveness in the Missouri House [a,b]

	1959-1960			1961-1962		
	Aggregate	Demo	Rep	Aggregate	Demo	Rep
Institutional Position	.47**	.57**	.03	.43**	.42**	.47*
Seniority	.11	.16	.06	.15	.17	.19
Political Party	.12	--	--	.32**	--	--
Race	.06	.08	--	.10	.15	--
Gender	.04	.06	--	.00	--	--
Educational Level	.30**	.40**	.01	.31**	.31*	.26*
Age	.26*	.32*	.16	.52**	.51**	.43*
Occupational Prestige	.23*	.28*	.09	.32**	.31**	.28
Urban/Rural	.01	.02	.05	.29**	.19	.47**
District Safety	.07	.18	.26	.09	.10	.05

Table 4 (continued)

	1967-1968			1975-1976		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
Institutional Position	.31**	.31**	.30*	.46**	.51**	.02
Seniority	.31**	.32**	.11	.21*	.29*	.21
Political Party	.35**	--	--	.28**	--	--
Race	.06	.14	--	.02	.08	--
Gender	.10	.14	.04	.07	.10	.03
Educational Level	.14	.21*	.11	.23*	.26*	.32*
Age	.24*	.24**	.19	.10	.10	.38*
Occupational Prestige	.18	.25*	.19	.35**	.45**	.16
Urban/Rural	.08	.01	.17	.13	.09	.29*
District Safety	.20*	.14	.19	.14	.15	.22

Table 4 (continued)

	1985-1986			1987-1988		
	Aggregate	**Demo**	**Rep**	**Aggregate**	**Demo**	**Rep**
Institutional Position	.28**	.28*	.04	.30**	.31**	.02
Seniority	.24*	.27*	.18	.22*	.25*	.19
Political Party	.37**	--	--	.38**	--	--
Race	.07	.16	--	.08	.17	--
Gender	.06	.07	.04	.00	.06	.12
Educational Level	.17*	.28*	.17	.06	.11	.05
Age	.24*	.25*	.05	.14	.15	.08
Occupational Prestige	.13	.23	.17	.08	.07	.04
Urban/Rural	.12	.15	.02	.14	.21*	.01
District Safety	.10	.25*	.07	.03	.13	.17
Reputation-Effectiveness	--	--	--	.49**	.44**	--
Reputation-Advice-Giver	--	--	--	.33**	.39**	.10

[a]The coefficients in this table are eta coefficients. Eta is a measure of association where the dependent variable is interval level and the independent variable is nominal level.

[b]The groups with significantly larger means on the dependent variable, i.e., legislative effectiveness are, respectively: the leaders, senior members, Democrats, advanced degrees, younger members, high occupation prestige, urban districts, safe districts, and those members with reputations for effectiveness or advice-giving.

*P < .05

**P < .001

Table 5

The Influence of Legislative, Personal, and District-Related Attributes on Reputations for Effectiveness and Advice-Giving in the Missouri House, 1987-88[a]

	Reputation for Effectiveness			Reputation as Advice-Giver		
	Aggregate	Demo	Rep	Aggregate	Demo	Rep
Institutional Position	.44**	.49**	.12	.30**	.44**	.03
Seniority	.12	.15	.07	.12	.12	.12
Political Party	.25**	--	--	.02	--	--
Race	.09	.15	--	.10	.15	--
Gender	.05	.09	.05	.08	.07	.11
Educational Level	.05	.08	.12	.11	.06	.17
Age	.07	.07	.13	.09	.12	.13
Occupational Prestige	.09	.06	.17	.06	.06	.17
Urban/Rural	.06	.06	.20	.00	.03	.05
District Safety	.04	.09	.17	.06	.03	.13

[a]The coefficients in this table are eta coefficients.

**P < .001

Appendix A

1. Leadership positions in the Missouri House include the speaker, speaker pro tempore, majority and minority leaders, assistant majority and minority leaders, majority and minority whips, majority and minority caucus chairmen, and the chairs of twelve standing committees.

2. The demographics of age, race, sex, occupation, education, as well as, seniority, were culled from the bibliographic write-ups and photographs in the 1959-60, 1961-62, 1967-68, 1975-76, 1985-86, and 1987-88 *Official Manuals* (Jefferson City: Van Hoffman Press, Inc.)

   a. *Educational Level*

      beyond college
      college degree
      some college
      high school diploma
      less than high school diploma

   b. *Occupational Prestige*

      1. For the 1959-60, 1961-62, and 1967-68 sessions we used Robert Hodge's 1963 ranking of occupations. (See Robert W. Hodge, "Occupational Prestige in the United States, 1925-1963." *American Journal of Sociology* 70 (Nov. 1964): 286-302.)

      2. For the 1975-76, 1985-86, and 1987-1988 sessions we assigned a prestige score from the 1980 census occupational ranking to each legislator's occupation. (See Gillian Stevens and Elizabeth Hoisington, "Occupational Prestige and the 1980 U. S. Labor Force." *Social Science Research* 16 (March 1987): 74-105.)

c. *Age*

Young: 24-39 years old

Middle-aged: 40-55 years old

Old: beyond 56 years old

d. *Seniority*

Junior Members - one term or less

Senior Members - two terms or more

3. Urban/rural was calculated in the following manner: Legislative districts whose boundaries encompassed less than one county (e.g., all districts in the St. Louis and Kansas City areas) were identified as urban, while legislative districts encompassing one or more counties were identified as rural.
4. Legislative district competitiveness was determined by the following formula:

$$\frac{X}{X+Y}$$

where X = winning candidate's vote total and Y = losing candidate's vote total.

Unsafe districts were designated as those in which the winning candidate garnered 55% *or less* of the total votes cast. Safe districts were those in which the winning candidate collected over 55% of the total votes cast.

References

Bass, B. M. 1981. *Stogdill's Handbook of Leadership*. New York: The Free Press.

Best, J. J. 1971. "Influence in the Washington House of Representatives." *Midwest Journal of Political Science*, 15: 547-562.

Burns, J. M. 1978. *Leadership*. New York: Harper and Row.

Clapp, C. L. 1963. *The Congressman*. Washington, D.C.: The Brookings Institution.

Dahl, R. A. 1957. "The Concept of Power." *Behavior Science* 2 (July, 1957).

Dahl, R. A. 1976. *Modern Political Analysis*. Englewood Cliffs, N.J.: Prentice-Hall.

Dresang, D. L., & Gosling, J. J. 1989. *Politics, Policy, and Management in the American States*. New York: Longman.

Fenno, R. F., Jr. 1966. *The Power of the Pursue: Appropriations Politics in Congress*. Boston: Little, Brown and Company.

Fenno, R. F., Jr. 1973. "The Internal Distribution of Influence: The House." In David Truman, ed., *The Congress and America's Future*. (63-90). Englewood Cliffs, N.J.: Prentice-Hall.

Francis, W. L. 1962. "Influence and Interaction in a State Legislative Body." *American Political Science Review*. 56: 953-961.

Francis, W. L. 1967. *Legislative Issues in the Fifty States: A Comparative Analysis*. Chicago: Rand McNally.

Frantzich, S. 1979. "Who Makes Our Laws? The Legislative Effectiveness of Members of the U. S. Congress."*Legislative Studies Quarterly*, 4: 409-428.

Hamm, K. E., Harmel, R., & Thompson, R. 1983. "Ethnic and Partisan Minorities in Two Southern State Legislatures." *Legislative Studies Quarterly*, 8: 177-189.

Janda, K. F. 1972. "Towards the Explication of the Concept of Leadership in Terms of the Concept of Power." In Glenn Paige, ed., *Political Leadership: Readings For An Emerging Field* (45-68). New York: The Free Press.

Jewell, M. E. 1969. *The State Legislature, Politics and Practice*. New York: Random House.

Jewell, M. E., & Patterson, S. C. 1966. *The Legislative Process in the United States*. (4th ed.) New York: Random House.

Keefe, W. J., & Ogul, M. S. 1985. *The American Legislative Process: Congress and the States*. Englewood Cliffs, N. J.: Prentice-Hall.

Leuthold, D. A., & Carter, J. 1981. "Missouri" In Leroy Hardy, Alan Heslop, and Stuart Anderson, eds., *Reapportionment Politics* (181-185). Beverly Hills: Sage.

Matthews, D. R. 1960. *U. S. Senators and Their World*. Chapel Hill: University of North Carolina Press.

Meyer, K. 1980. "Legislative Influence: Toward Theory Development Through Causal Analysis." *Legislative Studies Quarterly*, 5: 563-585.

Nechemias, C. 1987. "Changes in the Election of Women To U.S. State Legislative Seats." *Legislative Studies Quarterly*, 7: 125-142.

Olson, D. M., & Nonidez, C. T. 1972. "Measures of Legislative Performance in the U. S. House of Representatives." *Midwest Journal of Political Science*, 16: 269-277.

Patterson, S. C. 1983. "Legislators and Legislatures in the American States." In Virginia Gray, Herbert Jacob, and Kenneth Vines, eds., *Politics in the American States* (135-179). Boston: Little, Brown and Company.

Reynolds v. Sims, 84 S. Ct. 1362 (1964).

Rosenthal, A. 1974. *Legislative Performance in the States*. New York: The Free Press.

Rosenthal, A. 1981. *Legislative Life*. New York: Harper and Row.

Rosenthal, A. 1989. "The Legislative Institution: Transformed and at Risk." In Carl Van Horn, ed., *The State of the States* (69-101). Washington, D. C.: CQ Press.

Saffell, D. C. 1987. *State and Local Government*. New York: Random House.

Squire, P. 1988. "Member Career Opportunities and the Internal Organization of Legislatures." *Journal of Politics*, 50: 726-744.

Tickamyer, A. R. 1983. "Rural-Urban Influences on Legislative Power and Decision Making." *Rural Sociology*, 48: 133-147.

Whistler, D. E., & Dunn, C. D. 1983. "Institutional Representation as Institutional Accountability in the Arkansas General Assembly." *Arkansas Political Science Journal*, 4: 40-55.

Whistler, D. E., & Ellickson, M. C. 1988. "Measuring Influence in a Sothern State Legislature." *Southeastern Political Review*, 16: 155-178.

Wilson, W. 1956. *Congressional Government*. New York: World Publishing.

VOTING RIGHTS LITIGATION AND THE ARKANSAS JUDICIARY: GETTING WHAT YOU DIDN'T ASK FOR

James D. Gingerich
(Director, Administrative Office of the Courts,
Supreme Court of Arkansas)

Introduction

Many authors and researchers have commented about the role of courts, both federal and state, as public policy makers (Dahl, 1958; Grossman and Wells, 1966 and 1980; Shubert, 1974; Horowitz, 1977; Jacob, 1983). Others have studied the process of implementing judicial decisions and their effect upon public policy and other political institutions (Wasby, 1970; Baum, 1976, 1977, and 1985; Tarr, 1977; Johnson and Canon, 1984). Public policy analysts have shown that the long-recognized uncertainties in public policy-making frequently result in unintended consequences (Lindblom, 1968). Such unintended results are even more likely in the judicial decision-making setting, given the questioned authority and ability of courts to make policy, the lack of sufficient enforcement mechanisms, and the diverse nature of the implementing populations (Johnson and Canon, 1984).

In Arkansas, a prime example of unintended consequences of judicial decision-making could result from the clash over the state's method of selecting members of the judiciary. On July 27, 1989, Arkansas joined eight other states whose methods of selecting judges is being challenged as violating the federal Voting Rights Act. In each state minority voters allege that the method of selecting judges (either partisan or non-partisan elections) dilutes their ability to select judges of their choice. The remedy most often sought by plaintiffs is a re-drawing of district lines in such a way as to maximize the concentration of black voters in each district. An unanticipated result, however, may be to lend support to the judicial reform movement active in many states - including Arkansas - resulting in a change from an elective system for judges to some form of merit selection.

The purpose of this article is to outline Arkansas' history of selecting judges, describe the nature of the litigation and its outcome in other states,

and assess the possible consequences for Arkansas' method of judicial selection.

Arkansas' History of Judicial Selection

The history of judicial selection in Arkansas is very similar to that of the country as a whole. Various methods have been considered, adopted, and then abandoned, dependent upon the political philosophy of the time.

In the formative years of government both under the Articles of Confederation and the early years of the U.S. Constitution, two methods of state judicial selection were favored - election by the legislature or appointment by the Governor with confirmation by the legislature (Dubois, 1980). Until 1845, all new states entering the Union adopted one or the other of these methods. Arkansas has utilized both. Under the original Constitution of 1836, both trial and appellate judges were selected by a majority vote of both houses of the General Assembly (Ark. Const. of 1836, Art. IV, Sect. 7). County judges were selected by a majority vote of the justices of the peace of each county, who were themselves selected by the voters in each township (Ark. Const. of 1836, Art. VI, Sect. 10, 15). In 1848, the Constitution was amended to provide for direct election of circuit and county judges, with appellate judges remaining subject to election by the legislature (Ratified Nov. 24, 1848). Under the Civil War Constitution, voters continued to elect county and circuit judges, but judges of the Supreme Court were appointed by the Governor with confirmation by the Senate (Ark. Const. of 1861, Art. VI, Sect. 7, 8, 12, 16). With the adoption of the 1864 Constitution, all judges were selected by direct election (Ark. Const. of 1864, Art. VII, Sect. 7, 8, 12, 18); however, this was short-lived as the Constitution of 1868 provided for gubernatorial appointment of the Chief Justice and all inferior court judges and direct election of the four associate justices of the Supreme Court (Ark. Const. of 1868, Art. VII, Sects. 3, 5).

This general trend of a greater utilization of elections and more direct participation in selection by voters was representative of what was occurring on the national level. The advent of "Jacksonian democracy" included a call to the end of an "elitist judiciary" and a return of the power of selection to the people. Mississippi became the first state to provide for a completely elected judiciary in 1832. From the admission of Iowa in 1846 to the admission of Arizona in 1912, every state provided for an elected judiciary (Dubois, 1980).

Arkansas' present constitution, adopted in 1874, provides for direct election of all its judges (Ark. Const. of 1874, Art. 7, Sects. 6, 13, 29, 38). As of January 1, 1990, there are seven Supreme Court justices who run in statewide elections for an eight year term, six Court of Appeals judges who run in one of six districts for an eight year term, thirty-four circuit judges and twenty-seven circuit/chancery judges who run in one of twenty-four districts for a four year term, and thirty-three chancery judges who run in one of twenty-four districts for a six year term. All trial and appellate judges run in partisan elections. Voters of the state also elect judges to 124 municipal courts, 75 county courts, 13 courts of common pleas, 93 city courts, and 5 police courts.

Nationwide, over one-third of the states provide for partisan or nonpartisan election of their trial and/or appellate judges, one-third provide for selection by the Missouri plan or a modified Missouri plan, and the remaining opt for some form of gubernatorial appointment or legislative election (National Center for State Courts, 1988). (See Tables 1 and 2.)

The Voting Rights Act of 1965

The Voting Rights Act was enacted in 1965 as one of a series of pieces of civil rights legislation designed to remedy a history of racial discrimination in state elections (42 U.S.C., Sec. 1973). The Act was amended in 1975 and 1982 to extend the provisions to other minority groups and the disabled. The main provision of the act is found in Section 2 which provides:

> (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any state or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973(f)2 of this title, as provided in subsection (b) of this section.
>
> (b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the state or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the state or political subdivision is one circumstance which may be considered: Provided, that nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

The essence of a claim under the act is that a certain election law or practice combines with social or historical conditions to cause an inequality in the opportunities of minority voters to elect candidates of their choice. A showing of an intent by the state or its officers to discriminate is not a necessary component of a successful claim. If the plaintiffs can show that the effect of a law or election system is to dilute the voting strength of the minority group, a remedy may be available. Most of the claims which have been asserted have involved systems which utilized multi-member districts and at- large voting schemes. The U.S. Supreme Court has suggested that in these cases plaintiffs must meet three basic tests. First, the minority group must demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single member district. If the group is so small that no district could be formed in which the minority voters could potentially elect their candidate, then the multi-member structure is not detrimental. Second, the minority group must be able to show that it is politically cohesive. Third, the minority must be able to demonstrate that the white majority votes sufficiently as a block to enable it, in the absence of special circumstances, usually to defeat the minority preferred candidate (*Thornburg v. Gingles*, 478 U.S. 30 [1986]).

The Act has been used in hundreds of lawsuits nationwide to challenge state and local election systems. Most of the early challenges involved local city council and school board elections and other minor positions. Later, statewide positions were also challenged. Until 1985, all of the cases involved challenges to legislative or executive positions. That year in Mississippi, a lawsuit was filed contesting the method used to select county judges in three Mississippi counties, and all circuit and chancery judges in the state elected from multi-member districts. In 1987, the U.S. District Court for the Southern District of Mississippi held that judicial elections are no different than any other type of elections for the purpose of the application of the Voting Rights Act (*Martin v. Allain*, 658 F. Supp. 1183 [S.D. Miss. 1987]).

Are Judicial Elections Different?

The argument that judicial elections are somehow different from other elections and thus exempt from the application of the Voting Rights Act is centered around three major points. The first is based upon the language of the act itself. Subsection (b) of section 2 provides that a minority group must have a lesser opportunity to elect "representatives" of its choice. Are judges "representatives" of voters in the same way as

mayors or legislators? In several cases it has been argued that Congress' use of the word "representative" indicated an intent to distinguish judicial positions. In *Mallory vs. Eyrich* (839 F. 2d 275 [6th Cir. 1988]), the court stated:

> There is a conceptual difference between the role of legislatures and executives and the role of judges. Both legislatures and executives are intended under the Constitution of the United States and the Constitution of Ohio to be "representative." The power to legislate and the power to administer should only be performed in accordance with the wishes of the populous. At stated times, the actions of legislators and the executives are reviewed and franchised members of society make a new selection. . . . Legislators and judges simply perform different functions. . .
> To refer to a "partisan legislator" may be a mark of approval; to refer to a "partisan judge" is a mark of condemnation and one which removes him completely from the role of an unbiased arbiter of societal conflicts.

Other courts have noted the distinction which the U.S. Constitution makes in the treatment of the legislative and executive branch on the one hand, and the judicial branch on the other. In fact, the writings of Alexander Hamilton in the ***Federalist***, No. 78, have been quoted by more than one court for the proposition that judges were intended to be treated differently.

> If it be said that the legislative body are themselves the constitutional judges of their own powers and that the construction they put upon them is conclusive upon the other departments, it may be answered that this cannot be the natural presumption where it is not to be collected from any particular provisions in the Constitution. It is not, otherwise, to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents. It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts.

The second argument relates to the management and administration of judicial systems. Judicial districts in most states were not created based upon the population of a particular area as are legislative districts. Most often it is the number of cases filed in a particular area which drives the need for a new judge or a new judicial district. The current assessment method utilized by the Arkansas Judicial Council for recommending new judgeships or judicial districts includes such factors as the number of cases filed, the number of cases disposed of, the size of the circuit, the number of

courthouses, the number of lawyers in the circuit, and the size of the support staff available in each county. The population of the circuit is not utilized at all. Thus, the "one man, one vote" principles which are existent in legislative district cases are not applicable in judicial cases.

Finally, the nature and philosophy of judicial elections is vastly different from other kinds of elections. The Code of Judicial Conduct places strict limits on the methods of financing and conducting judicial campaigns. Canon 7B (1)(c) of the Code provides that a judge or a candidate for a judgeship should not make any pledges or promises as to conduct in office or announce his views on any disputed legal or political issue. These limitations make almost impossible the ability of voters to choose a judge to "represent" them since the judge is always prohibited from sharing with voters his or her positions on any issues. This is, no doubt, one of the reasons that all of the evidence indicates that judicial elections produce the lowest amount of knowledge by voters about the candidates and the lowest voter turnout of any other type of election (Dubois, 1979).

The Code of Judicial Conduct also limits the ability of judicial candidates to publicize even generic information about themselves in that campaign contributions may never be solicited by the individual candidate and the candidate's committee may only accept contributions within 180 days of the election. These provisions have both the intent and effect of limiting the amount of money spent in a judicial election. A recent study showed that the average amount spent in an Arkansas judicial election between 1976 and 1988 was $14,826, well below the average amount spent in legislative or executive races (Gingerich, 1989).

Despite all of these arguments, federal trial or appellate courts in Mississippi, Louisiana, Illinois, and Ohio have ruled that judicial elections are not distinct and are subject to the provisions of the Voting Rights Act. The issue is currently pending in federal courts in Texas, Alabama, Florida, Georgia, and Arkansas.

The Arkansas Case

The Arkansas lawsuit, *Hunt v. Arkansas* (PB-C-89-406), was filed on July 27, 1989 in the Pine Bluff Division of the U.S. District Court for the Eastern District of Arkansas. Plaintiffs include several black attorneys, a black civic leader, and the Christian Ministerial Alliance. Defendants include the Governor, other constitutional officers of the state, and the chairmen of the Arkansas House and Senate Judiciary Committees.

Plaintiffs originally challenged the systems utilized for the election of all of the state's appellate and general jurisdiction judges. The complaint was subsequently amended to contest only the general jurisdiction judges who reside in one of seven districts in central and eastern Arkansas. Presently, Arkansas has 24 judicial circuits from which are elected 97 circuit and chancery judges (see Figure 1 at end). The seven circuits under attack range in size from one county to six counties. Two of the circuits are served by only one judge, and one circuit has as many as 16 judges. In those circuits with more than one judge, plaintiffs allege that the circuit-wide, staggered-term, numbered-place elections dilute minority voting strength. In addition, they allege that the boundary lines for the circuits were drawn in such a way as to fragment the concentration of black voters.

Two specific remedies are sought. Either the current district lines should be re-drawn to create majority-black, single-member districts or an alternative voting system should be employed. Specifically, plaintiffs ask the court to order the use of "limited or cumulative voting." Limited voting allows each voter to vote for only one or two of the positions which would all be contested at the same time. Cumulative voting would give to each voter several votes which he or she could cast for one candidate or allocate between two or more candidates. Both types of voting enhance the vote of minority citizens, assuming they support the same candidate or candidates.

The defendants filed their initial response to the lawsuit on October 10, 1989. They seek dismissal of the lawsuit on the basis that judicial elections are not intended to be covered by the Voting Rights Act. In the event that the court finds that such elections are covered, they also make several alternative arguments. They allege that the plaintiffs have failed to prove one of the pre-conditions for a Voting Rights Act lawsuit - that the "minority group is large and geographically compact to constitute a majority in a single member district." Defendants introduced population data which shows that black citizens constitute a majority in only 3 Arkansas counties and argue, therefor, that no districts can be created which have a majority black population. A trial date has been set for June, 1991.

The Problem With Implementation: How To Get What You Didn't Ask For

If plaintiffs are successful in showing that the Arkansas judicial election system violates the Voting Rights Act, what is the likely result?

What remedies might the court consider in response? The experiences of other states which have completed litigation do not provide much guidance.

North Carolina and Mississippi both settled their litigation out of court and, thus, did not create a need for any court- mandated remedy. In North Carolina, the General Assembly created nine majority black judicial voting districts and eliminated staggered term elections, which proved acceptable to the plaintiffs. In Mississippi, single-member, sub-election districts were created from the previous multi-member districts and post requirements (designated seats) in some multi-member districts were eliminated. In addition, no sub-district residency requirement was adopted, so that candidates are able to run from any sub-district within the original district.

In Louisiana, the Governor appointed a 31-member task force on judicial selection to devise a remedy to the litigation. The task force made several recommendations to the Louisiana legislature, including the scraping of the election system in favor of merit selection and the creation of sub-election districts. The legislature opted for the creation of sub-election districts within the existing judicial districts, some of which are predominantly black. Once elected from the sub-district, the judge will serve the entire district. The existing judicial posts or positions were maintained, each being assigned to a specific sub-district. Candidates must reside within the judicial district but not within the particular sub-district. The legislature also referred proposed constitutional changes to the voters, including the creation of senior status judges and a merit system plan for the gubernatorial appointment of interim judicial vacancies. In response to a second Louisiana lawsuit contesting Supreme Court districts, the legislature split one of the districts to allow for the creation of one black majority district (Haydel, 1989).

One of two voting rights lawsuits has been decided in Texas with the court finding a violation of the act, but no remedies have as yet been considered by the court. A recommendation has been made to the Texas legislature that elections in appellate races be discarded and a merit system substituted. No action, however, has been taken (Cooke, 1989).

There is, therefore, no consistent implementation of any particular remedy. The most prevalent remedy seems to be the division of large districts into sub-districts for the purpose of election or the complete redrawing of district boundaries. There are at least two possible problems with the use of this remedy in Arkansas. First, Arkansas is one of only

three states in the Union which maintains separate trial courts of law and equity. There are currently an equal number of districts in the state but an unequal number of circuit (law) and chancery (equity) judges within each district. Current districts cannot, therefore, merely be divided into sub-districts. If the current number of judges is maintained, separate circuit and chancery sub-districts would have to be created. Depending upon the number of counties within the circuit, such divisions could create an administrative nightmare.

Second, there are simply not a sufficient number of areas within the state with both a substantial black population and a substantial caseload to allow for the creation of a black-majority district. Only three counties in the state have a black-majority population: Phillips, Lee, and Chicot. The total 1988-89 circuit caseload in each of these counties was 752, 231, and 422 respectively, and the chancery caseload was 708, 235, and 243 respectively. The average caseload for an Arkansas judge in 1988-89 was over 1,400 cases. In order to create a district with sufficient caseload, counties with greater white population have to be added, which then dilutes the black vote.

Limited and cumulative voting have been sought as a possible remedy, but no state has implemented such a remedy. Such voting systems have been voluntarily adopted by some local governments and have been used as a remedy in some local government voting rights cases. Because of the substantial change that they bring to a state's election system and the administrative problem of using one type of voting for one election and traditional voting for another election, it is unlikely that a federal court would, at least in the first instance, adopt such a remedy.

The final remedy which has been considered and/or adopted in other states is a move from an elective system to a merit plan system. This is usually not an option which is favored by black plaintiffs since it is perceived as further decreasing the possibility of black voters having the ability to directly choose a black judge. One plaintiff's lawyer has said "there is something rather sinister about taking away the power to vote for judges at the very time litigation under the Voting Rights Act promises that minority citizens will finally have their fair share of that power" (McDuff, 1989). Some have even suggested that such a move itself violates the Voting Rights Act. Nonetheless, because of the political and administrative problems inherent in the alternative remedies and the existence of a whole contingent of reformers who favor the imposition of a merit selection system under any circumstances, it may become the most likely result.

Since the advent of the Missouri Plan, there has been an incessant debate over the advantages and disadvantages of elective and appointed systems (Watson and Downing, 1969; Jacob, 1968; Carson, 1972; Rosenberg, 1966; Dubois, 1980). Arkansas recently considered the issue when in 1985, the House of Delegates of the Arkansas Bar Association adopted a resolution calling for a constitutional amendment to abolish elections for Arkansas appellate judges. The resolutions were introduced in a somewhat altered form in both the House and Senate of the 1989 General Assembly, but neither was adopted. The debate will, no doubt, continue as the Arkansas Bar Association has appointed a Judicial Article Task Force to propose to the bar and the 1991 session of the General Assembly a new judicial article for the Arkansas Constitution which will include provisions concerning the method for selecting all judges. The combination of this vocal lobby in favor of merit selection and barriers to the implementation of other remedies may very well result in the unintended consequence of the abandonment of judicial elections.

It would indeed be "the irony of ironies" if a group of black lawyers is able to utilize a federal statute to achieve in a few short months a result which they do not particularly want, and which a crowd of judicial reformers has sought but been unable to achieve during fifty years of battling. And then there is the final irony - once again it is possible that a major state public policy decision will be made not in the traditional arena of the state capitol but rather in a federal court.

Table 1. METHODS OF SELECTING STATE JUDGES

APPELLATE JUDGES

Partisan Election	Nonpartisan Election	Merit Plan	Gubernatorial Selection	Governor Appoints/ Retention Election	Modified Merit Plan	Partisan Election/ Retention Election	Legislative Election or Appt.
Alabama	Georgia	Alaska	Maine	California	Delaware	Illinois	Rhode Island
Arkansas	Idaho	Arizona	New Hampshire		Hawaii	Pennsylvania	Virginia
Mississippi	Kentucky	Colorado	New Jersey		Massachusetts		South Carolina
New Mexico	Louisiana	Florida			New York		Connecticut
Tennessee	Michigan	Indiana			Vermont		
Texas	Minnesota	Iowa					
West Virginia	Montana	Kansas					
	Nevada	Maryland					
	No. Carolina	Missouri					
	North Dakota	Nebraska					
	Ohio	Oklahoma					
	Oregon	South Dakota					
	Washington	Utah					
	Wisconsin	Wyoming					

Table 2. METHODS OF SELECTING STATE JUDGES

TRIAL JUDGES

Partisan Election	Nonpartisan Election	Merit Plan	Gubernatorial Selection	Partisan Election/ Retention Election	Legislative Election or Appt.	Merit Plan/ No Retention Election	Nonpartisan Election/ Retention Election
Alabama	Florida	Alaska	Maine	Illinois	South Carolina	Connecticut	California
Arizona	Georgia	Arizona	New Hampshire	Indiana	Virginia	Delaware	
Arkansas	Idaho	Colorado	New Jersey	Pennsylvania		Hawaii	
Kansas	Kentucky	Iowa	Rhode Island			Massachusetts	
Mississippi	Louisiana	Kansas				Vermont	
Missouri	Michigan	Maryland					
New Mexico	Minnesota	Missouri					
New York	Montana	Nebraska					
North Carolina	Nevada	Utah					
Tennessee	North Dakota	Wyoming					
Texas	Ohio						
West Virginia	Oklahoma						
	Oregon						
	South Dakota						
	Washington						
	Wisconsin						

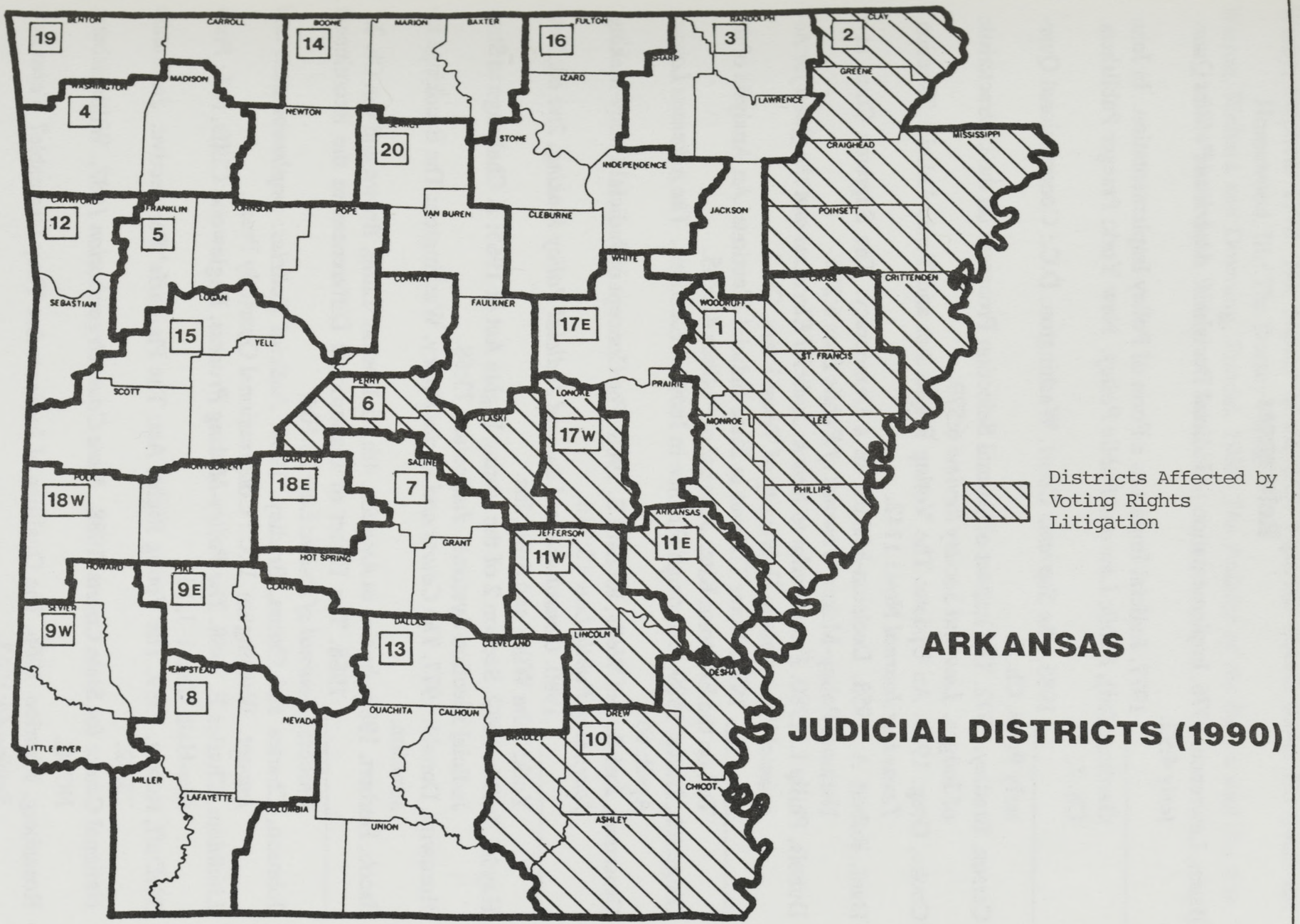

19
BENTON
CARROLL
14
BOONE
MARION
BAXTER
16
FULTON
3
RANDOLPH
2
CLAY
GREENE
WASHINGTON
MADISON
4
NEWTON
20
STONE
IZARD
SHARP
LAWRENCE
CRAIGHEAD
MISSISSIPPI
INDEPENDENCE
JACKSON
POINSETT
CRAWFORD
FRANKLIN
JOHNSON
POPE
VAN BUREN
CLEBURNE
12
5
WHITE
CROSS
CRITTENDEN
SEBASTIAN
LOGAN
CONWAY
FAULKNER
17E
WOODRUFF
1
15
YELL
ST. FRANCIS
SCOTT
PERRY
6
LONOKE
PRAIRIE
PULASKI
17W
MONROE
LEE
MONTGOMERY
GARLAND
SALINE
7
POLK
18W
18E
PHILLIPS
ARKANSAS
JEFFERSON
11E
GRANT
11W
HOT SPRING
HOWARD
PIKE
9E
CLARK
SEVIER
9W
DALLAS
13
CLEVELAND
LINCOLN
DESHA
HEMPSTEAD
8
NEVADA
OUACHITA
CALHOUN
DREW
10
BRADLEY
LITTLE RIVER
MILLER
LAFAYETTE
COLUMBIA
UNION
CHICOT
ASHLEY
Districts Affected by Voting Rights Litigation
ARKANSAS
JUDICIAL DISTRICTS (1990)

FIGURE 1

References

Baum, Lawrence. 1976. Implementation of Judicial Decisions. *American Politics Quarterly* 4:92.

_____. 1977. Judicial Impact as a Form of Policy Implementation. In John Gardiner (ed), *Public Law and Public Policy*. New York: Praeger Publishers. Ch. 7.

_____. 1985. *The Supreme Court*. Washington, D.C.: Congressional Quarterly Press. Ch. 6.

Carson, Bradley. 1972. The Impact of Formal Selection Processes on the Characteristic of Judges. *Law and Society Review* 6:579.

Cooke, Greg. 1989. An Update: The Voting Rights Act and Texas Judicial Selection. *Texas Bar Journal* Nov.: 1142.

Dahl, Robert A. 1958. Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker. *Journal of Public Law* 6:286.

Dubois, Philip L. 1980. *From Ballot to Bench: Judicial Elections and the Quest for Accountability*. Austin: University of Texas Press. Ch. 1.

_____. 1979. Voter Turnout in State Judicial Elections: An Analysis of the Tail on the Electoral Kite. *Journal of Politics* 41:865.

Gingerich, James. 1989. Campaign Finance in Judicial Elections. *The Arkansas Lawyer* April: 66.

Grossman, Joel B. and Wells, Richard S. 1966. The Concept of Judicial Policy-Making. *Journal of Public Law* 15:286.

_____. 1980. *Constitutional Law and Judicial Policy Making*, 2nd ed. New York: John Wiley and Sons, Inc.

Haydel, Judith. 1989. Section 2 of the Voting Rights Act of 1965: A Challenge to State Judicial Election Systems. *Judicature* 73:68.

Horowitz, Donald. 1977. *The Courts and Social Policy*. Washington: The Brookings Institution.

Jacob, Herbert. 1983. *Justice in America*. 4th ed. Boston: Little, Brown and Co. Ch. 2.

_____. 1968. The Effect of Institutional Differences in the Recruitment Process. *Journal of Public Law* 13:104.

Johnson, Charles and Canon, Bradley. 1984. *Judicial Policies: Implementation and Impact*. Washington, D.C.: Congressional Quarterly Press.

Lindblom, Charles E. 1968. *The Policy-Making Process*. Englewood Cliffs, N.J.: Prentice-Hall. Chs. 1-3, 13.

McDuff, Robert. 1989. The Voting Rights Act: The Plaintiffs' Perspective. *Judicature* 73:82.

National Center for State Courts. 1988. *State Court Organization 1987*. Williamsburg: NCSC.

Rosenberg, Maurice. 1966. The Qualities of Justices: Are They Strainable? *Texas Law Review* 44:1063.

Schubert, Glendon. 1974. *Judicial Policy Making*. Glenview Ill.: Scott, Foresman and Co.

Tarr, G. Alan. 1977. *Judicial Impact and State Supreme Courts*. Lexington, Mass.: Lexington Books.

Wasby, Stephen. 1970. *The Impact of the U.S. Supreme Court: Some Perspectives.* Homewood, Ill.: The Dorsey Press.

Watson, Richard and Downing, Rondal. 1969. *The Politics of the Bench and the Bar.* New York: John Wiley and Sons, Inc.

COUNTY GOVERNMENT REFORM EFFORTS IN MISSISSIPPI

Martin Wiseman
(Stennis Institute of Government,
Mississippi State University)

Introduction

County government reform has become the subject of great interest today in Mississippi. Recent incidents of illegalities and irregularities in the conduct of county government have brought forth calls for reform from various sectors and these reform demands have been met by equally enthusiastic opposition to any action which might alter the current relationship that rural citizens have with county officials who represent them.

Opposition by county officials and a large segment of the rural electorate quickly evaporates any notion that reform will be easy. Reform efforts generally create controversy because the affected constituents believe their fundamental rights to be governed as they choose will be abridged.

Those with vested interests seek to preserve the status quo, typically perceived by reformists to be an outdated system of county government. Reformists, on the other hand, consistently miss the mark by advocating theoretical models or approaches to improve county management with little attention to whether the reform will improve services to the citizens of the county. Acceptance of reform depends largely upon whether local officials and citizens are convinced that pre-reform, traditional types and levels of service will be at least maintained if not improved.

The traditional form of county government advocated as the best to provide countywide service in Mississippi is called the "Unit System." The Unit System is a form of government characterized by centralized policymaking and management of governmental services and functions provided by an elected board of county officials called supervisors. Budgeting, personnel administration, public works, and other county services and functions are provided without regard to demarcation of electoral districts of elected county officials.

This paper argues that reform policies, regardless of their obvious payoffs, will not be successful in a rural setting without careful attention to the socio-political environment. Administrative and structural models

which work in one setting may not easily transfer to another.

Although the focus of this article is on county government reform in Mississippi, the substantive content goes beyond the narrow interest in reform in this rural state. It takes into account generic structural problems that exist and the problems created by efforts to accomplish reform in a rural conservative environment. Basic theories about the relationship between socio-political cultures and local governmental operations are reviewed, and the sources of resistance to change in Mississippi are identified and explored to better understand the circumstances that have brought county government reform to the top of the state's political agenda. Also, it analyzes county officials' and constituents' reactions to the demand for change which will revise existing county government structure.

Theoretical Foundations: The Role of Socio-Political Linkages in Rural and Local Government

In a classical sense the debate over reform of county government in Mississippi has been characterized by the desires of rural citizens and the county officials who represent them to preserve a traditional form of rural democracy on the one hand and the efforts of those who advocate change in the form of consolidated and centralized management on the other. This is true with regard to the general notion of reform itself as well as to the mechanics by which specific reforms are achieved.

Indeed, elements of Jeffersonian and Jacksonian democracy can be seen in this modern day controversy. The Jeffersonian affinity for the rural life as an antidote to the concentration and corruption of power in the hands of the moneyed aristocracy led him to laud the virtues of a basic and understandable local government (Schlesinger, 1953). Jackson revived and broadened the focus of Jeffersonian ideals by including many who had previously been afforded little opportunity to meaningfully exercise citizenship (Schlesinger, 1953). The Jeffersonian and Jacksonian advocacy of limitations of the powers of big government and wide participation of citizens led to the conclusion that the best vehicle for self-government is local government (Blau, 1954). These same sentiments have been expressed by citizens of rural Mississippi counties in the face of various reform proposals which they see as threatening to the constituent/official relationship to which they have long been accustomed. This relationship is based on the feeling of rural citizens that they have a proven means of holding their representatives (county supervisors) accountable for their responsiveness or lack thereof. Accountability, in this sense, is assured

because those who hold office wish to continue in office. Those who wish to govern make decisions they believe to be in accord with voter preferences (Prewitt, 1970). Such a process of accountability contributes to an explanation of the active resistance by county supervisors to any change which might alter the traditional constituent official relationship.

Reform efforts in such an environment must deal with the need for governmental structures to be in congruence with local socio-economic values and experiences (Reagan, 1968). This emphasis on the linkages of social factors to structural aspects of local government may be manifested in leader's perceptions (Hansen, 1978). Thus, citizen participation is a major factor linking citizen preferences to public policy (Verba and Nie, 1972). David Morgan (1973) further elaborated this relationship in stating that in grass-roots suburbia, local officials ordinarily reflect the general social and economic background of those they represent. He further suggests that people who share residence in the same suburban sociopolitical area may indeed share uniform values. Bonds of kinship and friendship within rural communities are strengthened by community attachment (Kasarda and Janowitz,1974). Cultural traditions produced by such attachments impact political institutions and associations. Furthermore, these attachments become so strong that citizens in rural areas want to preserve the status quo (Redfield, 1955). Thus, rural communities possess homogeneity, conditions in which activities and states of mind are much alike (Redfield, 1955). Each generation carries forward these conditions of homogeneity from the preceding one. Thus, change occurs slowly (Redfield, 1955).

The nature of this unique political environment becomes even more interesting when a distinction is made between municipalities and counties. While both are considered to be similar in that they are both local governmental units, the reality is that they each play a different role and they go about their work in different ways. Counties govern territory without regard to the numbers of people within their boundaries. They are a means to administer state and federal programs at the local level and they are a vehicle for representation for rural citizens. Municipalities, on the other hand, come into being as a result of citizens gathering together in the same locale and acting on the need and the capability of providing themselves with an array of corporate services. This distinction is important in any philosophical discussion of counties and municipalities as comparable local government entities. Municipalities are demand driven in the services they provide. They owe this to the fact that their coming into being was a result of a perceived need of citizens to provide them-

selves with basic amenities such as police and fire protection, sanitation, and education which would have been largely unaffordable otherwise.

County governments, particularly those in predominantly rural areas, came into existence as territorial mechanisms to enable rural citizens a means of transacting business with the state government. Demands for more and better services have increased at the county level, but they are usually for services that would enhance rural life, such as better farm to market roads, rural water systems, and rural emergency services. These needs cause rural citizens to place a greater emphasis on the established constituent/official relationship as a mechanism of representation. The characteristics of such an arrangement have been summarized quite effectively in *The Forgotten Governments* by Marando and Thomas (1977).

> Although many counties are sufficiently populated to be classed as urban or semi-urban, a majority of them are primarily rural or small town in composition and retain patterns of government that were created by an agrarian society. Counties provide civic links between rural citizens and the outside world. County government continues to reflect no little acceptance of the idea of performance by laymen or amateurs rather than by experts or professionals, unless politicians [can] be classed as professionals (Grant and Nixon, 1968 in Marando and Thomas, 1977, p. 1).

According to Marando and Thomas (1977) we have established fragmented authorities in various units and levels of government which have resulted in policy solutions devised as much to disperse governmental authority and protect the integrity of theway the system operates as to solve public problems. Thus, in the case of the research documented here, it may be maintained that rural citizens perceive reform efforts more in terms of threats to the system than as opportunities for better service delivery. The fact that these perceived threats have come from outside of the socio-political environment in which county government generally operates serves to consolidate sentiments of rural county citizens against any change.

Impediments to Reform

Value of Tradition

Since 1890, by tradition later reaffirmed legislatively, the five-member county boards of supervisors have assumed virtually autonomous authority over road and bridge operations of their respective districts,

called "beats," in Mississippi. This prevents a countywide approach to infrastructure planning, construction and maintenance, and to other county services. This five-way fragmentation of the management of county infrastructure results in a lessening of a countywide perspective in addressing county affairs. Equipment to be used in a particular beat is purchased solely at the desire of the supervisor elected by citizens within that specific beat. Personnel are hired, fired, and remunerated at the wage level of each respective supervisor by beat. Material and consumable are purchased, stored, and dispensed separately in each of the five beats based purely upon the desires of the beat's supervisor and the budgetary capacity of the beat. In short, five small governmental entities, all performing the same functions, exist and operate autonomously within the legal and geographic confines of a single county.

Ballot Box Service

Boards of supervisors have not operated as unified countywide policymaking bodies; rather, their members have become individual executives as well as policy makers. Not only are county supervisors the legislative representatives of their respective constituencies in county government, they also personally perform the work of the county in each beat. This role is perceived by incumbent supervisors as central to their success at the ballot box. Therefore, a premium is placed on the supervisor's ability to keep individual citizens of his beat satisfied rather than to foster the well being of the entire county. Any system of reform which changes this equation meets with immediate skepticism on the part of supervisors. The notion that such a system might be mandated by the legislature intensifies measurably the resistance to reform. Only reform that is subjected to the individual's exercise of preference at the ballot box in each county has any prospect of approval. Only this method of introducing change is consistent with the tradition that has sustained the operation of the beat system.

Constituency Opposition to Change

The attitude of the voting public in Mississippi may be characterized as resistant. Constituents who are most vocally opposed to reform are largely residents of rural areas heavilydependent on the ability of the supervisor in their beat to attend to their individual needs and to fulfill their supervisorial responsibilities. As long as roads are easily passable,

bridges are easily crossable, solid waste does not become an eyesore, and quick response to some specific problem can be gained from a call to the supervisor, county government is perceived as being responsive and these rural voters are fairly satisfied. So, where services seem to be provided satisfactorily, voters are reluctant to "rock the boat." However, when the personal relationship between a supervisor and his constituency is removed, this perception of satisfactory service provision and the feelings of satisfaction begins to breakdown. This indicates some level of dissatisfaction with the overall system on the part of the citizenry. This fact was born out in research conducted in the spring of 1986 in a study of 427 residents, primarily from rural unincorporated communities, located in four counties in Mississippi from the Tennessee line in the north of the state to the Louisiana line in the south. approximately 54 percent of the respondents surveyed were black; 46 percent were white. Questionnaires were administered on a non-random basis to residents contained on rosters of rural community organizations (Wiseman, 1986). Questions were asked about rural citizens' perceptions of local governments and local government officials. Table 1 summarizes some of the results.

These results reveal a measure of citizen ambivalence toward largely rural communities and county government. Items 1, 2, and 3 indicate the intensity of the desire of rural citizens, as a community, to have officials aware of their needs and to be influential in county government operations. Community identity becomes even more apparent by the responses (items 4 and 5) which illustrate that rural citizens' expectations of county government performance reflect community self interest without great regard for other areas of the county. Item 6 indicates a community-based awareness of the value of local government officials that is apparent among the respondents. However, the responses reveal a more personalized dissatisfaction with local government officials as individual policy makers or policy implementors (items 7 through 10). Of pivotal importance is the fact that 50 percent of the respondents are willing to consider consolidation of county services. But, it is not clear what the motivation is for this position. It is reasonable for this position to be taken if the rural communities believe they could realize public service improvements as a result of consolidation.

It is of additional interest to note that analysis revealed no significant differences between black rural community residents and white rural community residents in their feelings toward their communities and the officials who represent them (Wiseman, 1986).

Table 1. Attitudes of Rural Citizens Toward Local Communities and Local Government Officials

	Agree	Disagree	No Opinion
1. Important for officials to know what community thinks	96.7%	1.0%	2.4%
2. Elect Supervisor to help the community	97.4%	1.0%	2.1%
3. It is importnat to meet with officials as a community	90.4%	2.6%	7.0%
4. Community not as important as whole county	30.1%	57.1%	12.8%
5. All communities are alike	22.3%	60.3%	7.3%
6. Elected officials are helpful to this community	64.8%	19.7%	15.4%
7. Officials don't care what I think	50.0%	34.2%	15.8%
8. Officials don't represent the people's interest	48.0%	37.0%	14.1%
9. My supervisor never does what I want	45.5%	40.4%	14.1%
10. The only time we see elected officials is when they are looking for votes	62.4%	27.9%	9.4%
11. Would favor consolidation for better services	50.0%	17.9%	32.1%

The ambivalence of citizens to local officials and their responsiveness to them as a community provides a platform for reform if the proper stimulus were provided and if such reforms could be viewed by rural citizens as congruent with their ideas regarding the proper constituent/official relationship.

Impetus for Reform

Mandated State Level Reform

In January of 1984, newly elected State Auditor Ray Mabus took office vowing that "business as usual at the county level would hereafter be a risky proposition." Mabus ran against the traditional line of succession to the office of State Auditor and, as Auditor, disrupted the traditional cordial relationship that had existed between the Department of Audit and county governments in Mississippi.

In county after county, Mabus investigated instances of financial irregularity and reported them in dramatic fashion via the news media. In addition to cases that reflected outright criminal activity, many cases revealed a mere lack of efficiency in county government financial operations. These revelations produced charges that county government in Mississippi was outdated, lacked appropriate checks and balances, and was wasteful in its efforts to provide local government services. The new State Auditor claimed to have produced proof for what many interested in county government reform had suspected all along--that county government in Mississippi was fraught with structural and managerial problems. Mabus maintained that solutions to these problems were to be found in the structural reform of county government from the "beat system" to the "unit system." To strengthen his reform thesis and to engender public support for change, the fortuitous events of federal indictments swept across several counties.

"Operation Pretense"

In an endeavor known as "Operation Pretense" the Federal Bureau of Investigation (FBI) committed manpower and resources to determine the extent to which county officials operating under the beast system had used the system for personal gain. Posing as equipment dealers from a fictitious heavy equipment company, FBI officials documented over a four-year period widespread illegalities in the purchase of equipment by county officials. A number of indictments, guilty pleas, and convictions resulted from this operation. Of those indicted, 57 were county supervisors, three were equipment dealers, and one was a foreman on a county supervisor's staff. Charges ranged from mail fraud to bribery to extortion to collusion. Public concern generated during Mabus' tenure as State Auditor peaked in the spring of 1988 during his first year as governor. Demand for reform is

prevalent in the state, and it has permeated state government politics. Mabus' victory as the Democratic Governor of Mississippi demonstrated that the magnitude of the reform trust. County government reform remained a key agenda item of the governor. The result of the reform initiative was the passage of the County Government Reform Act (CGRA) of 1988.

Key Statewide Interest Groups

Mississippi Economic Council (MEC), has been one of the key parties at interest for government reform in the state. For more than two decades it has advocated a change from the beat system to the county unit system. The consequence of the FBI investigation has served, for some, as an illustration of how the long held MEC position, in retrospect, appears to have been visionary. As a reform-minded organization, the MEC has advocated a concrete set of government changes designed to introduce sophisticated management practices to county governments. It took an active role in advocating the passage of the County Government Reform Act of 1988.

The County Supervisors

County supervisors have viewed reform initiatives from both a self-interest and self-protective posture. Their posture reflects their feelings that they have been viewed as "scapegoat" for the governor's political ambitions and that county governments have been made victims of federal and state intervention into local affairs. These tow approaches of county supervisors are instrumental. They can and were used to obscure the real issue of the inadequacy of governmental structure and managerial capacity. The need to reform and restructure county government operations was seen by many county supervisors as a way of severing the close ties between supervisors and their constituents.

Citizen Constituents

Have local constituencies accepted the need for reform? Recent election results, including the statewide, county-by-county referendum on the county unit system in November, 1988, leave this question partially answered. In local elections some indicted county supervisors either won reelection or lost very narrowly. In other counties, supervisors who had

voluntarily advocated adoption of the unit system were beaten rather soundly. There were, however, any instances where pro-reform candidates won. What is clear is that local citizens are concerned about the current status of their rural communities and the extent to which they are able to determine that status. They desire continued service at least at current levels and hopefully at higher levels. Many are fearful of losing the "closeness" of government characterized by George Blair in his "grass-roots" government (Blair, 1986).

Citizen reluctance to change the "status quo" may be a signal to county supervisors that they should take comfort in their reluctance. If the rural citizenry has displayed previously trust in the parochial "beat system", they also have begun to develop a significant level of distrust because of the actions of those officials who have placed the "beat system" of government in jeopardy.

What are the possible solutions? Solutions to this complex web of individual feelings about governance, public services, and government structures lie in the simultaneous process of restructuring county government and of creating a perception and an understanding on the part of constituents that adequate or improved efficiency in service delivery will result from an alternative structure. This requires that the administrative mechanisms be changed while the public continues to receive satisfactory public services. Can this be done?

Referendum On County Government Reform Act of 1988:

A Litmus Test

In August, 1988 the Mississippi Legislature met in special session for the sole purpose of addressing county government reform. At the end of the week long session the legislature passed and Governor Ray Mabus signed the County Government Reform Act of 1988. This act specified that each county must vote on the change in form of government from the traditional "beat system" to the "unit system" in the general election of November, 1988.

While a number of strong provisions proposed during the session fell victim to heavy opposition from the Mississippi Association of Supervisors, the County Government Reform Act of 1988 as placed before the people represented a significant litmus test of voter's desire for reform of county government.

In the county-by-county referendum the voters of 47 of the state's 82 counties supported conversion from the "beat system" to the "unit system." The composite vote statewide in favor of the "unit system" was 62%; 38% voted to remain under the "beat system." On the surface, this would appear to bode well for the future of reform of county government. Further analysis, however, tends to confirm the embedded resistance to reform of rural citizens who feel most affected by county government.

Precinct-Based Analysis of Referendum

A sample of 38 counties was drawn from the 82 counties statewide. These counties represent all areas of the state geographically and include a range from the most populated to the least populated. Included in these counties were 1064 voting precincts. County precinct maps were used to establish precinct location. Precincts were placed in two general categories each with a sub-category facilitating further analysis. These categories are defined as follows:

Rural	Precincts lying entirely outside of any incorporated municipality of 1,000 or more people (Note: These precincts may contain with them some very small rural villages as defined in the "Rural Village" sub-category).
Rural Village	Precincts containing a very small incorporated municipality which provides only a limited range of municipal services (Population of less than 1,000).
Municipal	Precincts lying entirely within an incorporated municipality of 1,000 or more people.
Municipal/Rural	Precincts adjacent to or overlapping a larger incorporated municipality (1,000 in population) which may contain a portion of the municipality.

Table 2 summarizes the placements of precincts into these categories and related sub-categories.

Table 2. Number and Percentage of Precents by Category and Sub-Category

	Number	%
RURAL	604	56.7
Rural - Open	508	47.7
Rural Village	96	9.0
MUNICIPAL	460	43.3
Municipal	395	37.1
Municipal/Rural	65	6.1
TOTALS	1064	100.0

Categorized precincts were further examined to determined whether they voted for or against conversion to the "Unit System." Using this process, the data clearly revealed that the assumptions made earlier in the study concerning rural resistance to change were verified. Table 3 illustrates these findings.

Table 3. Cross Tabulation of Precinct Category by Vote For or Aganist the Unit System

	For	%	Against	%	Total
Rural	213	34.3	391	88.2	604
Municipal	408	65.7	52	11.8	460
	621	100.0	443	100.0	1064

Phi = .54 X^2 significant at .001

Table 3 reveals that of the 604 precincts in the "Rural" category, 391 had a majority vote against conversion to the allegedly more progressive "unit system." Of the 460 "municipal" precincts, (shown in table 3), 408, a majority, voted in favor of the "unit system." Further, of the 443 precincts

voting against the "unit system" 88.2% were rural while conversely, 65.7% of the 621 precincts voting in favor of conversion to the "unit system" were municipal. The Phi coefficient of .54 is evidence of a strong association between the two cross-tabulated variables and X^2 reveals a significance at the .001 level.

Since the "unit system" was, for years and more so during the pre-referendum campaign, labeled as "progressive" by its proponents, including Governor Mabus, these findings may be interpreted as steadfast resistance to this particular change by rural residents in Mississippi.

Two explanations are offered for this interpretation. First, municipalities are part of the counties in which they are located, and municipal residents pay property taxes to the county as well as to the municipality, but traditionally these residents expected and received few, if any, direct services from the county. Thus, they are compelled to demand from counties the efficiency promised by county government reform, and they do so without regard to the impact on service delivery. Second, non-municipal residents hold fast to the desire to elect all county officials, and they expect these officials to be directly accountable to them for service delivery. Non-municipal voters found it unacceptable that supervisors in counties voting for the "unit system" would be removed from the day-to-day delivery of services and that their responsibilities would be placed in the hands of an appointed county executive. Non-municipal voters were obviously not persuaded by "unit system" proponents' claims of greater

Table 4. Vote For or Against the Unit System By Precinct Sub-Categories

	For Unit System	% For	Against Unit System	% Against	Total
Rural Village	37	44.6	59	75.6	96
Municipal/Rural	46	55.4	19	24.4	65
	83	100.0	78	100.0	161

Phi = .32 X^2 significant at .001

efficiency and accountability for that form of government. Thus, it appears that the local government unit perceived by the voters to be the primary service deliverer was the key element in determining voter behavior on the question of county government reform.

This fact may be underscored by an examination of the two sub-categories in Table 4.

Lacking resources to provide a normal range of municipal services, rural villages must depend on counties for their provision. Thus, it is not surprising that 59 of 96 "rural village" precincts opposed the "unit system" or that of the 78 precincts which were against the "unit system" in these sub-categories 75.6% of them were in the "rural village" category. Those precincts adjacent to or partially overlapping larger municipalities having full service delivery capabilities exhibited majority support for conversion to the "unit system." An acceptably high level of association between these two variables is demonstrated by a Phi coefficient of .32. Phi findings are significant (X^2) at the .001 level. This is further evidence of rural voter resistance to arguments supporting purported "progressive" change and support for traditional means of service delivery.

Conclusion

These findings, while not altogether unexpected, must be of concern to those who would advocate counties as a vehicle for reform in a rural state. This is particularly distressing given that counties are the units of local government whose jurisdiction cover the entire territory of a state. An immediate question which comes to mind relates to the degree of thoroughness in which the "unit system" will actually be implemented by those members of boards of supervisors who felt that change was forced upon them. Of a more general nature, what should be the strategies of those wishing to pursue efficiency and effectiveness in county government to make counties key elements in rural development efforts?

It is possible that answers may be found in a "model counties" approach and in a generalized capacity-building efforts. The former approach involves targeting willing "unit system" counties for implementation of a comprehensive array of more modern management functions. The latter approach entails attempting to gain broad acceptance by counties, whether in the "beat system" or "unit system," of various management innovations in hopes that success in this regard will reduce fear of change. In rural states, like Mississippi, a means must be found for counties not to have reform thrust upon them but to initiate reform in their own terms.

References

Blair, George S., 1986. *Government at the Grass-Roots*. Pacific Palisades, California: Palisades Publishing.

Blau, Joseph L., 1954. *Social Theories of Jacksonian Democracy*. New York: The Liberal Arts Press.

Grant, Daniel R. and H. C. Nixon, 1968. *State and Local Governments in America* Boston: Allyn and Bacon, Inc.

Hansen, Susan B., 1978. "Linkage Models, Issues, and Community Politics." *American Politics Quarterly*. 6: 3-28.

Kasarda, John D. and Morris Janowitz, 1974. "Community Attachment in Mass Society." *American Sociological Review*. 39: 328-39.

Marando, Vincent L. and Robert D. Thomas, 1977. *The Forgotten Governments: County Commissioners as Policy Makers*. Gainesville: University Presses of Florida.

Morgan, David R., 1973. "Political Linkage and Public Policy: Attudinal Congruence Between Citizens and Officials." *The Western Political Quarterly*. 26: 209-23.

Prewitt, Kenneth, 1970. "Political Ambitions, Volunteerism, and Electoral Accountability." *The American Political Science Review*. 64: 5-17.

Reagan, Michael, 1968. "Policy Issues: The Interaction of Substance and Process." *Polity*. 1: 35-51.

Redfield, Robert, 1955. *The Little Community: Viewpoints for the Study of a Human Whole*. Chicago: The University of Chicago Press.

Schlesinger, Arthur M., 1953. *The Age of Jackson*. Boston: Little, Brown and Company.

Verba, R. and N. H. Nie, 1972. *Participation in America: Political Democracy and Social Equality*. New York: Harper and Row.

Wiseman, Martin, 1986. *The Characteristics of Linkage Between Rural Communities and Public Policy and the Effects of Racial Differences*. Unpublished Doctoral Dissertation, Mississippi State University.

OPINION AGREEMENT ANALYSIS OF SUPREME COURT JUSTICES: A METHODOLOGICAL NOTE

C. Jeddy LeVar
(Henderson State University)

The purpose of this paper is to explain the uses of opinion agreement analysis in studying appellate courts and provide examples of those uses with U.S. Supreme Court justices. This method is a relatively new approach, whose potential for expanding our knowledge about judicial behavior is just beginning to be tapped.

Opinion agreement analysis differs from the traditional voting bloc analysis and Guttman scaling. Opinion agreement analysis is based on who joins whose opinions, while voting bloc analysis and scaling use the judges' votes as the raw data. Voting bloc analysis is used to identify the extent to which judges vote together. Scaling has been useful in identifying the degree to which judges support such values as civil liberties, economic liberalism, and federalism (Heck, Schubert). Voting bloc analysis and scaling thus complement each other. Bloc analysis identifies who votes with whom, while scaling is widely used to suggest that the voting bloc's exist because of shared attitudes or ideology (Schubert 1974; LeVar 1977).

Using scaling to support the theory that judges' votes reflect their attitudes, though, is a circular argument. Since scaling is based on votes, the argument turns out to be one in which votes are used to explain votes!

Opinion agreement offers one solution to the problem. Opinion agreement is a simple indicator of how much judges go along with each others' ideas. Since it measures the extent to which judges think alike, it may provide an independent explanation of voting agreement.

The thrust of this paper will be to show how opinion agreement can be used to:

1. Identify attitude blocs and compare them to voting blocs;
2. rank the justices based on the extent to which their attitudes are in the mainstream of court's thought;
3. determine who in the bloc is the driving force, i.e., whose opinions most unify the bloc or in other words who is the most influential member of the bloc; and

4. rank the justices in terms of their overall influence on each other in civil liberties cases.

The literature on opinion agreement analysis is limited and focuses on using the technique to explain influence or "leadership" on courts. The first published article embodying it traced the lines of influence or "leadership" among the justices of the U.S. Supreme Court (LeVar 1977). In that study of the Nixon Court, the author used both traditional voting bloc and the new opinion agreement analyses. Voting blocs in the issue areas of civil liberties, economic regulation, judicial activism, and nationalism were identified. Then, using opinion agreement, Brennan was found to be the leader of the nationalist, activist, liberal economic regulation, and liberal civil liberties blocs. Rehnquist was reported to be the leader of the conservative civil liberties bloc. Blackmun was the leader of the states-rights bloc. Powell turned out to be the leader of two blocs: conservative economic regulation bloc and the judicial self-restraint bloc. Burger turned out to be relatively uninfluential as a bloc leader (LeVar 1977).

Perry (1982) used weighted indicators of deference in his study of Burger's overall influence from 1976-79. His standards were (1) full deference (when one justice joins another's opinion exclusively and does not author one himself), (2) substantial deference (when a justice writes a joint concurrence with the court or joins a justice's opinion but also the opinion of another justice), and(3) partial deference (joining parts of an opinion or joining concurrences with reservations). As with LeVar, Perry found Burger's influence relatively low. However, he did argue that Burger exercised "proxy influence" to a significant extent through Rehnquist.

Spaeth and Altfeld (1985) studied influence on the Supreme Court from 1969-80, using opinion agreement analysis. They found that seniority had little affect on justices' influence. They concluded that influence was limited largely to justices who have similar ideologies. On a more personal level, in the early Burger Court years Brennan and Douglas were said to have been influenced by twice as many colleagues as they influenced. Powell was said to have done more influencing than any of his ideological associates.

LeVar (1988) combined quantitative and textual analysis to study overall leadership on the Supreme Court during the Burger-O'Conner years. The study was limited to civil liberties cases. Powell was identified as the justice who had the most influence in written opinions. He exercised this leadership primarily in discrimination type of cases. When

functioning as a leader in this type of cases, Powell defended traditional practices (such as paying women less retirement benefits than men and limiting male intrusion into nursing school) and states rights. He also took a restraintist approach to the exercise of judicial power, using rationality analysis rather than strict scrutiny and requiring the exhaustion of administrative remedies before judicial appeal.

Methodology

In this analysis of opinion agreement among Supreme Court justices, decisions from October 1981 through June 1986 will be used. During this five year period there were no personnel changes on the Court, which makes the analysis cleaner.

Some writers prefer to confine their analysis to unassigned opinions, when they are studying influence or "leadership" within the court. They argue that including assigned opinions introduces an element of pressure in that some may join assigned opinions to maintain coalitions (see Spaeth and Altfeld). The results one gets, of course, are affected by the method used. For example, if only unassigned opinions were used here Powell would displace Burger as the overall leader.

I opt to include all opinions--assigned and unassigned--for two reasons: (1) coalitions may be maintained by voting with the majority while writing concurrences, thus minimizing any pressure to join an opinion, and (2) leaving out assigned opinions systematically eliminates instances when a justice is exercising influence to build his largest number of followers. Thus, omitting the assigned opinions could mask the Chief Justice's influence, even though at times he assigns himself some of the easier opinions.

I also include opinions in unanimous as well as nonunanimous decisions. Nonunanimous decisions are usually the basis for Guttman scaling, since unanimous votes reveal nothing about how judges differ. In opinion agreement analysis, though, the situation is different: In many unanimous decisions separate opinions are written, thus revealing how judges differ.

The study will be limited to three types of civil liberties cases: first amendment, police treatment (search & seizure and interrogation), and discrimination. These three issue areas are representative of the three kinds of rights guaranteed in the Constitution: (1) substantive (first amendment), (2) procedural (police treatment), and (3) equality (discrimination).

There were no major problems in classifying cases into the three areas. When more than one area was involved in a case, the case was put into the category used by the majority as the principal basis for its decision. There were a few judgment calls, but not enough to change the resulting patterns.

A one sentence statement that a justice concurred with or dissented from a vote or opinion was not treated as an opinion. "I agree or disagree with the Court's opinion" is not a call for support, and if joined by a colleague produces a situation in which it is impossible to tell who influenced whom.

Percentages will be used to measure the extent to which justices join each others' opinions. Opinion agreement scores will be defined as the percent of times a justice agrees with a colleague when the colleague writes opinions.

Attitude Blocs

As already indicated, the use of opinion agreement scores to identify attitude blocs is conceptually different from the process of identifying voting blocs. Voting blocs are based on how justices vote. Attitude blocs, on the other hand, are based on opinion agreement and directly measure shared attitudes. Thus, when an attitude bloc exists, that is direct evidence that the members of the bloc share similar attitudes. This interpretation is buttressed by the freedom justices have to write separate opinions and choose to join or not join each others' opinions.

Determining attitude blocs is a bit more complicated than identifying voting blocs. When several justices vote together frequently, that alone will be sufficient to call them a voting bloc. Opinion agreement, though, has two dimensions. For example, when Brennan wrote opinions, Burger joined only three percent of them; however, when Burger wrote opinions, Brennan joined thirty percent of them. Before an attitude bloc may be said to exist, both dimensions of the interagreement must be taken into consideration.

Sprague's criterion has been used to identify voting blocs. Sprague's criterion allows justices to be considered a voting bloc when their interagreement scores exceed half the distance between 100 percent and the average court cohesion. Because so many separate opinions were written which were not joined by any colleague and because our analysis here has to be two dimensional, Sprague's criterion proved to be too demanding.

In this paper an attitude bloc will be said to exist when the agreement scores on both dimensions exceed one-third the distance between 100

percent and the average opinion agreement score of the Court. The formula is: (100-av. agreement score)/3 + av. agreement score = criterion for inclusion in a bloc.

During the period in this study, the average opinion agreement score of the Court was 29.6 percent. In order for an attitude bloc to exist, justices would have to agree with each other at least 53.1 percent of the time, regardless of who wrote the opinions. Using that criterion, two attitude blocs emerged: (1) Brennan and Marshall and (2) Rehnquist and Burger. When Brennan wrote opinions, Marshall joined them 82 percent of the time, and when Marshall wrote opinions Brennan joined them 59 percent of the time. When Rehnquist wrote opinions, Burger joined them 65 percent of the time, and when Burger wrote opinions, Rehnquist joined them 64 percent of the time. All of the opinion agreement scores are listed in Table 1.

Table 1. Opinion Agreement Scores of Supreme Court Justices

Joiners	Writers								
	Bre	Mar	Bla	Ste	Pow	Whi	Oco	Reh	Bur
Brennan	--	59	39	34	23	23	17	15	30
Marshall	82	--	39	30	15	21	19	15	28
Blackmun	39	34	--	24	29	26	29	28	47
Stevens	35	34	23	--	23	24	25	26	32
Powell	24	11	7	16	--	33	29	48	60
White	17	18	13	16	23	--	21	44	57
O'Connor	14	11	15	17	46	39	--	56	64
Rehnquist	2	7	5	15	52	46	40	--	64
Burger	3	11	5	16	48	47	39	65	--
n =	66	44	39	76	52	66	52	54	47

Average Court Cohesion -- 29.6
Standard for Inclusion in Attitude Bloc -- 53.1

At this point it might be asked how a voting bloc would differ from an attitude bloc, using the same cases. When Sprague's criterion was used to identify voting blocs using the same cases, two voting blocs emerged: Brennan-Marshall and Burger-Rehnquist-O'Connor, with Powell as a fringe member.

The traditional voting bloc analysis correctly ties together the voting similarity; however, it misses the subtle attitude differences measured by opinion agreement analysis since justices may vote together but have different reasons for doing so. When used together, the two techniques complement each other. In this case it may be said that the Brennan-Marshall bloc is highly cohesive in both voting and attitude dimensions. On the other hand, the Burger-Rehnquist-O'Connor-Powell (fringe) voting bloc consists of justices with more disparate attitudes, since only Burger and Rehnquist are included in the attitude bloc.

The challenge which next arises is to determine whether these two attitude blocs are liberal or conservative. The usual approach to determine the substance of judges' attitudes is to rely on Guttman scaling. However, as already mentioned, that would involve using votes to determine the attitudes, which in turn are used to explain the votes!

The way out of this circular reasoning is to utilize traditional textual analysis of opinions. From reading their opinions it became clear that the Brennan-Marshall bloc shared a liberal attitude, while the Burger-Rehnquist bloc shared a conservative attitude. (A liberal attitude was defined as one which supported the expansion of individual rights, while a conservative attitude was deemed to be one which opposed the expansion of such rights.)

Bloc Leaders

After identifying the attitude blocs, opinion agreement scores can be used to determine which member of each of the blocs is the driving force, or in other words who is influencing whom, holding the bloc together. One technique for doing this is to look at the average support score of each bloc member. (The average support score of a justice is the average percent of times other bloc members join that justice's opinions.) In this study each bloc contains only two members, so no average needs to be figured. The support scores can be taken directly from Table 1.

The support scores for the bloc members are:

Brennan	82
Marshall	59
Rehnquist	65
Burger	64

Brennan turned out to be the more influential member of his bloc. There was no clear dominant member of the Rehnquist-Burger bloc.

Overall Influence

When judges are ranked on the basis of the average support scores they get from all other members of the court, the result is a rough indication of the extent to which judges influence each other in their written opinions. Table 2 reveals how the judges were ranked in this study.

Table 2. Overall Influence in Written Opinions

Justices' Rankings	Average Support Score
Burger	48
Rehnquist	37
Powell	32
White	32
O'Connor	27
Brennan	27
Marshall	23
Stevens	21
Blackmun	18

Mainstream Attitudes

There is yet another way to interpret the ranking of justices on the basis of their support scores as in Table 2. The rankings give rough estimates of the extent to which the justices' attitudes are in the mainstream of the court.

Justices with the higher rankings, such as Burger and Rehnquist, seem to be more in the court's mainstream of thought. Justices with the lower rankings, such as Stevens and Blackmun, would appear to be more out of that mainstream.

Conclusion

Aside from illustrating the diverse uses of opinion agreement analysis in conjunction with textual analysis, one implication of this study is

that Burger's influence on the Court either increased in the later years of his term or was undetected by the earlier studies which used only unassigned opinions (see LeVar, 1988; and Spaeth and Altfeld).

The principal methodological conclusions are:

1. Opinion agreement analysis has the promise of being very useful in testing theories about judicial attitudes and behavior. Since it directly measures shared attitudes, it avoids the circularity trap when scaling to demonstrate the relationship between judicial attitudes and voting.
2. Opinion agreement analysis enables one to quantify influence. The usual approach to studying influence on the Supreme Court has been to interpret subjectively notes, memoranda, interview responses, journals, etc. (see Ulmer; Woodward and Armstrong). Without denigrating the subjective approach, opinion agreement analysis adds a quantitative element to the literature on judicial influence and leadership.
3. Determining which justices are in the mainstream of the Court's thought adds a new dimension to our understanding of the Supreme Court. Such a determination cannot be made cleanly with voting data--it requires some quantification of shared attitudes. Opinion agreement analysis provides such quantificaiton.
4. The procedure is not, however, without problems. For one, the test suggested by Sprague to determine voting blocs seems too restrictive to be used in determining attitude blocs. A subjective adjustment to the Sprague criterion was adopted. Another problem is whether to use all opinions or just the unassigned ones. Yet, the simplicity of the methodology and its direct tapping of attitudes provides much promise.

References

Heck, Edward V. 1988. "Civil Liberties Voting Patterns in the Burger Court, 1975-78." *Western Political Quarterly*, 34): 193-202.

LeVar, C. Jeddy. 1977. "The Nixon Court: A Study of Leadership." *Western Political Quarterly*, 30: 484-492.

LeVar, C. Jeddy. 1988. "Leadership on the U.S. Supreme Court: The Burger-O'Connor Years." Paper presented at the annual meeting of the Southwestern Political Science Association, March 23-26, 1988.

Perry, R. Christopher. 1982. "Patterns of Intellectual Deference: Personal and Proxy Influence of Chief Justice Burger, 1976-79." Paper delivered at the annual meeting of the Arkansas Political Science Association, February 26-27, 1982.

Schubert, Glendon. 1974. *The Judicial Mind Revisited: Psychometric Analysis of Supreme Court Ideology*. New York: Oxford University Press.

Spaeth, Harold J. and Altfeld, Michael F. 1985. "Influence Relationships Within the Suprme Court." *Western Political Quarterly*, 38: 70-83.

Ulmer, S. Sidney. 1971. "Earl Warren and the Brown Decision," *The Journal of Politics* 33 (August) 689-702.

Woodward, Bob and Armstrong, Scott. 1979. *The Brethren*. New York: Simon and Schuster, 1979.

CHANGING DEMOGRAPHICS OF THE STATE EXECUTIVE SERVICE: A RESEARCH NOTE*

William M. Pearson
David S. Castle
(Lamar University)

Demographic data on public employees address two prominent public administration issues: the representativeness of bureaucracy and the qualifications of its personnel. A "representative bureaucracy" reflects the social characteristics of the population and is measured by the access of social groups to government jobs. The relationship between representative bureaucracy and democracy is well established in the public administration literature. A common assertion is that representative bureaucracy reflects attitudes, values, and policy preferences of society, thereby promoting administrative responsiveness to public needs (Meier 1987, 180). Others argue that public confidence increases in political institutions as they become more representative of the population they serve, and the perception of bureaucracy as open to major social groups, particularly women and ethnic minorities, has a necessary symbolic, legitimizing, and stabilizing effect on political systems (Krislov 1974, 64; Krislov and Rosenbloom 1981, 71). A highly qualified, competent, and professional workforce is an equally laudable societal value. It is gauged by the educational attainments and relevant experience of public servants. This study, reporting the demographic composition of the executive service in selected states, has implications for both of these salient concerns.

The data for this study were collected in 1977 and 1988 by mailed questionnaires designed to study state executives' political activities. In order to promote comparability of the two data sets, they were collected by similar methods. In 1977 questionnaires were mailed to state executives in seven states—Alabama, Connecticut, Georgia, Kentucky, Louisiana, Oklahoma, West Virginia. These states, identified as having the "most restrictive" Hatch Acts (Committee on Political Activity of Government Personnel 1967, 62-72), were selected because a circumscribed environment is expected to produce the strongest objection to Hatch Acts, the greatest political activity if restrictions are relaxed, and the most "extreme

*Support for this study was provided through a Lamar University - Beaumont Organized Reasearch grant.

case" scenario of the consequences of Hatch Act repeal. In 1988 questionnaires were mailed to state executives of eight states (those surveyed in 1977, plus Texas).

Mailing lists for both surveys were compiled from state directories of agencies and officials (Pearson 1978, 237; Pearson and Castle 1990, 15). From these documents "executives" were identified by the following or equivalent job titles: assistant agency director, division or bureau director, assistant division or bureau director, program coordinator, and assistant program coordinator. Positions in only the following agencies were considered: health, education, welfare, highways, transportation, personnel, employment security, and public safety. State directories yielded the names and addresses of 1,250 executives in 1977; from these a random sample of 1,000 was selected to receive questionnaires, and 78.3 percent responded. Directories produced the names of 1,485 executives in 1988; a random sample of 1,000 was selected, and 75.8 percent returned questionnaires.

Although these data were collected for studying state executives' political activities, they are used in this note for a secondary purpose. We focus on them to draw tentative inferences about the demographic composition of the state executive service, recognizing that these data may not reflect the political, social, and economic characteristics of all states.

Table 1 addresses the representativeness issue by comparing aggregate demographic features of 1988 state executives and 1980 state populations. This exercise demonstrates the under-representation of females, ethnic minorities, youth (25-29 year olds), and persons over 59. In other words, these groups occupy a smaller proportion of executive positions than their percent of the population. Males, whites, and middle-aged persons (40-59) are over-represented among state executives, producing a higher percent of executives than their proportion of the population.

Examination of longitudinal changes in executive demographics reveals some progress toward a representative executive service, although advances may be slower than expected given the preferred status of women and ethnic minorities under civil rights laws and affirmative action goals. For example, the percent of females in executive positions increased substantially from 1977 to 1988 (12.5 to 21.5 percent), but the proportion of nonwhites increased very little (2.7 to 4.6 percent), and the percent of those under 40 years of age declined. Disproportionate representation of demographic groups among executives, particularly women and ethnic minorities, means representative bureaucracy at the upper hierarchical levels remains an elusive ideal.

Other factors in Table 1, education and years of service, relate to the quality of the executive service. The proportion of executives with graduate degrees or graduate study (credit beyond a baccalaureate degree) increased from 59.9 percent in 1977 to 65.2 percent in 1988. Also the percent of veteran executives (10 or more years of public service) has increased since 1977, while newcomers (nine or fewer years) decreased from 22.2 to 9.7 percent. Increasing education and service longevity indicate executives are better trained than previously. Perhaps these qualities denote an element of growing professionalism in state bureaucracies (Mosher 1982, 115).

These findings suggest the social composition of the state executive service is undergoing change. It is considerably more open to women than in 1977, slightly more accessible to nonwhites than previously, and therefore increasingly representative. The fact that executives are better educated and possess more job experience than in 1977 means the quality of the workforce is improving. These trends, particularly if they are being emulated in other states, enhance the caliber of state government and justify an optimistic view of state bureaucracy's role in it.

Table 1. Demographics of State Executives, 1977 and 1988, and Population Characteristics of Selected States, in Percent

	1977 Executives	1988 Executives	1980 Population
Sex			
Male	87.5	78.5	48.3
Female	12.5	21.5	51.7
Total	100.0	100.0	100.0
N	783	609	
Race			
White	97.3	95.4	82.8
Nonwhite	2.7	4.6	17.2
Total	100.0	100.0	100.0
N	782	609	
Age			
25-29	2.7	0.5	14.6
30-39	22.1	15.3	23.6
40-49	33.1	42.1	17.3
50-59	32.0	33.5	17.6
60 or older	10.1	8.6	26.9
Total	100.0	100.0	100.0
N	779	603	
Education			
Less than college degree	18.5	12.6	____
College degree	21.6	22.2	____
Post-graduate study	59.9	65.2	____
Total	100.0	100.0	____
N	779	612	____
Years of Service			
9 or less	22.2	9.7	____
10-19	33.5	39.0	____
20-29	29.8	34.5	____
30 or more	14.5	16.8	____
Total	100.0	100.0	____
N	773	608	

"Selected states" include Alabama, Connecticut, Georgia, Kentucky, Louisiana, Oklahoma, and West Virginia. Texas data are not reported because the state was not a part of the 1977 survey.

"Post-graduate" study includes executives with graduate degrees and those who have undertaken graduate study.

Population data are averages for the states in the study and are calculated from the 1980 Census of Population, *General Population Characteristics* (1982).

References

1980 Census of Population, *General Population Characteristics*. 1982. Vol. 1, Chapter B, Part 2, pp. 12 and 22; Part 8, pp. 12 and 22; Part 12, pp. 14 and 28; Part 19, pp. 13 and 23; Part 20, pp. 12 and 20; Part 38, pp. 12 and 22; Part 50, pp. 11 and 19. U.S. Department of Commerce, Bureau of the Census. Washington: U.S. Government Printing Office.

Commission on Political Activity of Government Personnel. 1967. Commission Report: Research. Washington: U.S. Government Printing Office.

Krislov, Samuel. 1974. *Representative Bureaucracy*. Englewood Cliffs, New Jersey: Prentice Hall.

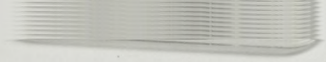
Krislov, Samuel and David H. Rosenbloom. 1981. *Representative Bureaucracy and the American Political System*. New York: Praeger.

Meier, Kenneth J. 1987. *Politics and the Bureaucracy*. 2nd ed. Monterey, California: Brooks/Cole.

Mosher, Frederick C. 1982. *Democracy and the Public Service*. 2nd ed. New York: Oxford University Press.

Pearson, William M. 1978. "The Effect of State Hatch Acts on State Executives' Political Activities," *Southern Review of Public Administration*, 2: 221-238.

Pearson, William M. and David S. Castle. 1990. "Political Activity Among State Executives: The Effect of Hatch Act Repeal." Presented at the annual meeting of the Southwestern Social Science Association, Fort Worth, Texas.



ARK PLI SCI JOURNAL VOl 10, #1

Midsouth Political Science Journal

Volume 10