To the Graduate Council:

I am submitting herewith a thesis written by Larry L. Wingate entitled "Public Opinion, Judicial Review, and the Supreme Court." I recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in Political Science.

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We have read this thesis and recommend its acceptance:

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Accepted for the Council:

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PUBLIC OPINION, JUDICIAL REVIEW, AND THE SUPREME COURT

A Thesis

Presented for the

Master of Arts

Degree

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Larry L. Wingate

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DEDICATION

I dedicate this thesis to the loving memory of my mother, Mrs. Ada Ineda Wingate, who died on April 4, 1977. My accomplishment of the educational goal which this research partly fulfills may be directly attributed to her constant support and affectionate encouragement. She will be greatly missed but always remembered by those who knew and loved her.

ABSTRACT

The purpose of this study was to examine the nature of public opinion toward the exercise of judicial review by the United States Supreme Court. Public acceptance of judicial review was conceptualized as a measure of popular support for the Court as a political institution.

The study relied upon public opinion data gathered by scientific sampling methods. Subjects for the opinion survey were adult residents of the city of Knoxville, Tennessee in 1974. Statistical techniques used for analysis of the data included an F-test of means and discriminant function analysis.

The study showed that public support for judicial review was considerably lower than public law scholars have generally assumed. Less than one-third of the survey sample strongly supported judicial review. High knowledge about the Court was found to be the characteristic which most significantly distinguished strong from nonsupporters of judicial review.

Supporters were also more likely than non-supporters to feel the Court represented their views and that it did so better than either Congress or the President. They were more inclined to say the Court performs its job better than Congress and the President do theirs; more likely to define the major role of the Court as the protection of minority rights rather than the representation of majority views; and more likely to see the Court as having less control over daily life than Congress or the President.

In conclusion, public support for judicial review was found to be closely related to knowledge of Court structure and personnel as well as perceptions of the power and role of the Court. Demographic and political orientation variables as well as both diffuse and specific criteria of Court decision performance were not useful in distinguishing strong from nonsupporters of judicial review.

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INTRODUCTION

The role of the United States Supreme Court in the American political system has been a subject of continuing controversy in our political history. At the heart of the debate lies the Court's power of judicial review. Most broadly defined, judicial review refers to the power of courts to declare null and void a host of legislative, executive, or administrative decisions of government on constitutional grounds. Although any court—local, state, or federal—may exercise judicial review, the U.S. Supreme Court serves as the ultimate arbiter of constituional questions because it sits at the pinnacle of the American judicial system. Its role as guardian of the Constitution gives the Supreme Court tremendous political power. At least in theory, once a political conflict is joined in the form of a legal controversy, it is the Supreme Court, not Congress or the President, which has final authority.

While the political power of the Court is considerable, it is not unchecked. As a last resort, unpopular Court decisions may themselves be overridden through formal amendment of the Constitution. The Congress, through its control over the organization and jurisdiction of the federal judiciary, its power to set in motion the Constitutional amendment process, and its ability to arouse public opinion, possesses a variety of means for putting political pressure on the Court. The President may influence public opinion or withhold executive support

from the implementation of Court orders. To a considerable extent, however, the political opportunity of either Congress or the President to successfully thwart Court decisions depends upon the amount of popular support the Court enjoys.

Unlike members of Congress or the President, the justices of the Supreme Court are not popularly elected political representatives. They are, in effect, appointed for life terms and have no electorally defined bases of political support. The justices are further hampered by a judicial tradition that, with some notable exceptions, has discouraged them from political activities aimed at mobilizing public opinion on behalf of Court decisions.

This anomalous position of the Court as a co-equal but nonelected branch in a republican form of government poses a paradox for Court action: While the political strength of the Court rests upon judicial review, its ability to use the power effectively in the face of Congressional or Presidential opposition depends finally upon its legitimacy as a popular political institution.[1] Yet how much popular support can an institution so undemocratic in form hope to maintain without suffering a loss of political independence? And how can judicial review—which vests in the Court the power to oppose the will of the people's chosen representatives—itself be justifiable?

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[1]Stephen L. Wasby, The Supreme Court in the Federal Judicial System (New York: Holt, Rinehart and Winston, 1978), pp. 33-34.

While a number of constitutional law scholars have treated the historical, legal, and philosophical aspects of this problem,[2] there has been no systematic study of how the general public today sees the Court's power of judicial review. Survey analyses of public opinion toward the Court have assessed its popular support in terms of either generalized appraisals of Court performance or by the extent of public agreement with particular Court decisions.[3] None have considered the question of public acceptance for judicial review. It is this dimension of public opinion toward the Supreme Court which the present study addresses.

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[2]See, for example, Howard Dean, Judicial Review and Democracy (New York: Random House, 1966).

[3]For a brief review of the more extensive surveys, see Wasby, pp. 50-53.

CHAPTER I

STATEMENT OF THE PROBLEM

Justification

This paper presents an exploratory analysis of public opinion toward the Supreme Court's power of judicial review. The inquiry appears justifiable for several reasons: First, if the Court performs the major legitimating function usually assigned it in our system of government, then the question of its own legitimacy becomes particularly significant.[1] The exercise of judicial review constitutes a basic aspect of the Court's role and hence relates directly to any evaluation of its legitimacy.

Secondly, justification is provided by the increasing concern among public law scholars with the impact of Court decisions upon society. As an initial step toward the study of Court impact, more information is needed on what the general public knows and thinks about the Court.[2] Public opinion toward judicial review has heretofore been surmised rather than measured, however.

A final justification reflects the need to evaluate support for the Court apart from results-oriented criteria. Previous survey analysis research defined support by one of two categories: specific and diffuse support. Specific support refers to public agreement with Court positions

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[1]Glendon Schubert, Judicial Policy Making (Glenview, Illinois: Scott, Foresman and Company, 1974), p. 95.

[2]Arthur Selwyn Miller, "On the Need for 'Impact Analysis' of Supreme Court Decisions," 53 Georgetown Law Journal, 1965, pp. 365-401.

on major issues. Diffuse support comprises a more general measure of how well the Court is popularly perceived as doing its job.[3] Both categories rely upon result-oriented criteria and while performance evaluation surely represents one dimension of public opinion toward the Court, it may not tell the whole story. How the public perceives judicial review may comprise another dimension, one which operates independently of satisfaction with Court performance.

The Questions

There are two basic sets of questions which this study attempts to address: The first set concerns how much public support actually exists for judicial review? That is, is there widespread acceptance as some scholars have assumed?[4] Or does there remain—as Charles S. Hyneman believed—"a significant social doubt" regarding the Court's power of judicial review?[5]

The second set of questions involves what constitutes the correlates of public support for judicial review? That is, do the supporters of judicial review differ in any significant, and perhaps explanatory, fashion from nonsupporters? Survey research findings on diffuse and specific support suggested that public opinion toward the Court divides

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[3]David Easton, A Systems Analysis of Political Life (New York: John Wiley and Sons, Inc., 1965).

[4]See, for example, Loren Beth, "The Supreme Court and the Future of Judicial Review," 76 Political Science Quarterly, 1961, p. 22.

[5]Charles S. Hyneman, The Supreme Court on Trial (New York: Atheneum, 1963), p. 92.

primarily along policy-issue lines.[6] Subjects who agreed most with the substance of Court decisions were supportive while those who agreed least were nonsupportive. Is popular reaction to judicial review similarly shaped by policy considerations? Or is judicial review support related more closely to some nonpolicy set of benefits or expectations about the Court?

Previous survey research sought to measure Court support while controlling for the effects of various sociodemographic and political factors. Although reported findings were not in complete agreement, a significant—if weak—relationship between either diffuse or specific support and the following variables was reported in at least one study: political party identification,[7] political efficacy,[8] political knowledge,[9] education level,[10] race,[11] and age.[12] Are these same variables useful in distinguishing between supporters and nonsupporters when Court support is measured as public acceptance for judicial review? If so, is the direction of the relationship the same or opposite?

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[6]Walter F. Murphy and Joseph Tanenhaus, "Public Opinion and the U.S. Supreme Court," in Grossman and Tenenhaus, eds. Frontiers of Judicial Research (New York: John Wiley and Sons, Inc., 1969), pp. 273-303.

[7]Kenneth M. Dolbeare and Philip E. Hammond, "The Political Party Basis of Attitudes toward the Supreme Court," 32 Public Opinion Quarterly, 1968, pp. 16-30.

[8]Jack Dennis, "Mass Support for the U.S. Supreme Court," (unpublished paper presented at the 30th. Annual Conference of the American Association for Public Opinion Research, 1975).

[9]Dolbeare and Hammond, pp. 16-30.

[10]Dolbeare and Hammond, pp. 16-30.

[11]Murphy and Tanenhaus, pp. 273-303.

[12]Dennis, "Mass Support for the U.S. Supreme Court."

Each of these questions will be dealt with in the subsequent discussion on findings. First, however, some assumptions and limitations relevant to my research will be identified.

Assumptions and Limitations

The value in describing how the public perceives any political institution rests fundamentally upon an assumption that popular support is in some manner related to the capacity of political institutions to perform effectively. This assumption has been broadly conceptualized in the idea that governmental institutions and society together constitute a political system. The systems approach posits an interdependent relationship between the outputs, or actions, of a governmental institution and societal inputs in the form of public demands for actions and expressions of support for the institution.[13]

Popular support, therefore, is seen as a key element in the successful operation of this exchange relationship. If support is low or lacking, then a governmental institution will have difficulty functioning effectively. The process by which public opinion is activated and communicated to institutional policy-makers is a highly complex one, however. Its investigation involves numerous factors which lie outside the scope of this research. The findings presented, therefore, are limited to a description of opinion-support for the Court and do not reach the question of how public opinion and Court policy interact.

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[13]David Easton, A Framework for Political Analysis (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1965), p. 112.

In the present study, support is defined in a way somewhat different from past research. Support is understood in terms of judicial review rather than performance evaluation. In so doing, the likelihood of only short-lived opinions being measured is presumably reduced, particularly given that the data set is limited to one survey. Since the Court makes decisions across a wide range of issue areas, the direction and focus of its policy changes likely lead to public opinion shifts regarding performance in its most recent set of decisions. Support for judicial review, however, suggests a more fundamental and more stable perception of the Court. Opposition to judicial review may represent no mere dissatisfaction with a particular Court decision but a denial that the Court has a major policy-making role to play, at least through the exercise of judicial review. While support for judicial review may in some degree reflect satisfaction with Court performance, it should be less subject to variation.

Findings for the study are presented at length in Chapter IV. Prior to their presentation and discussion, Chapter II briefly reviews related literature on Court support and Chapter III outlines the research methods and procedures used. The literature review that follows first examines some explanations of Court support common to nonquantitative Court studies. Next, a brief summary of quantitative research findings on Court support is provided.

CHAPTER II

RELATED LITERATURE

Nonquantitative Studies

Some scholars have assumed a high level of popular support for the Court because of its symbolic importance for the mass public. For this reason, Max Lerner believed that most Americans revere the Court.[1] Charles L. Black, Jr. saw the Court as the "ritual symbolization of a great idea . . .'a government of laws and not of men.'"[2] Alexander M. Bickel described it as "the symbol of nationhood, of continuity, of unity and common purpose."[3] Arthur S. Miller,[4] David B. Truman,[5] and Paul Mishkin[6] attributed the Court's high prestige to popular belief in the myth of judicial neutrality. According to this explanation, most Americans view the Supreme Court as a purely legal institution, untainted by political considerations.

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[1]Max Lerner, "Constitution and Court as Symbols," 46 Yale Law Journal, 1937, pp. 1290-1319.

[2]Charles L. Black, Jr., The People and the Court (New York: The Macmillan Company, 1960), p. 32.

[3]Alexander M. Bickel, The Least Dangerous Branch (Indianapolis: Bobbs-Merrill Company, Inc., 1962), p. 31.

[4]Arthur Selwyn Miller, "Some Pervasive Myths about the United States Supreme Court," 10 Saint Louis University Law Journal, 1965-66, p. 171.

[5]David B. Truman, The Governmental Process (New York: Alfred A. Knopf, Inc., 1951), p. 483.

[6]Paul Mishkin, "The Supreme Court, 1964 Term: Foreword: The High Court, the Great Writ, and the Due Process of Time and Law," 79 Harvard Law Review, 1965, pp. 62-70.

Other scholars have interpreted the public prestige of the Court in more problematical terms. Judge Learned Hand believed that the Court must exercise judicial restraint to maintain support. He argued that too active Court involvement with issues over which the public is strongly divided will seriously reduce popular support for the Court.[7] Alpheus Thomas Mason,[8] Robert G. McCloskey,[9] and Arthur A. North[10] voiced similar views. Each found that public awareness and disapproval of the Supreme Court's policy-making role increased during periods of high judicial activism.

The expectation that public opinion may, in turn, affect Court policy was conceptualized by Alexander Bickel. He described the Court opinion-policy relationship as a "continuing colloquy" that "reaches deeply into the places where public opinion is formed."[11] Both Carl Brent Swisher[12] and Martin M. Shapiro[13] agreed, stating that the capacity of the Court to function effectively depends upon its ability to maintain popular support.

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[7]Judge Learned Hand, The Bill of Rights (New York: Atheneum, 1972).

[8]Alpheus Thomas Mason, "Myth and Reality in Supreme Court Decisions," 48 Virginia Law Review, 1962, p. 1403.

[9]Robert G. McCloskey, The American Supreme Court (Chicago: The University of Chicago Press, 1960), p. 183.

[10]Arthur A. North, The Supreme Court: Judicial Process and Judicial Politics (New York: Appleton-Century-Crofts, 1966), p. 192.

[11]Bickel, p. 240.

[12]Carl Brent Swisher, The Supreme Court in Modern Role (New York: New York University Press, 1965), p. 174.

[13]Martin M. Shapiro, Law and Politics in the Supreme Court (New York: The Free Press of Glencoe, 1964), p. 30.

Public acceptance for judicial review was considered high by Charles Black[14] and Arthur North[15] despite public disagreement with particular Court decisions. Loren Beth asserted that widespread acceptance has rendered judicial review democratic regardless of its antimajoritarian basis.[16] Charles S. Hyneman, on the other hand, argued that not only historically but today, as well, there exists "a significant social doubt that power to overrule acts of Congress was conferred on the courts by the Constitution."[17]

Quantitative Research

Although systematic opinion research on popular support for the Supreme Court has relied upon different data and methods of analysis, reported findings have concurred on a number of points: Analyses of the cognitive content of opinion have consistently shown a low level of public information about the Court and a widespread lack of public visibility for its major decisions. In terms of opinion-evaluation, research has indicated there exists a much higher level of diffuse than specific support for the Court. Paradoxically, persons supportive of the Court in a diffuse sense often disapproved of specific Court decisions,

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[14]Black, p. 209.

[15]North, p. 6.

[16]Loren Beth, "The Supreme Court and the Future of Judicial Review," 76 Political Science Quarterly, 1961, p. 22.

[17]Charles S. Hyneman, The Supreme Court on Trial (New York: Atheneum, 1963), p. 92.

while those who agreed strongly with Court decisions were seldom found to express an unfavorable overall evaluation. Explanations of these variations in popular support for the Court have been numerous, but none have considered acceptance for judicial review.

For instance, Dolbeare and Hammond emphasized the structuring effect of party identification. Using data gathered from a statewide Wisconsin sample in 1966, they found that Democrats showed greater approval for the Court than Republicans. They also reported that persons of higher social status and with greater knowledge of the Court were most likely to be critical of the Court's performance.[18]

Kessel's analysis of data gathered in 1965 from a Seattle, Washington sample also reported higher support among Democrats than Republicans or independents. Additionally, Kessel reported a significant and positive association with Court support for three other independent variables: support for procedural rights, agreement with controversial decision, and favorable prior communication about the Court. His analysis of selected demographic variables yielded no significant associations.[19]

Like Kessel, Murphy and Tanenhaus found that persons who agreed with the Court on major policy-issues also evaluated it favorably as an institution. Unlike Dolbeare and Hammond, their analysis of data gathered

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[18]Kenneth M. Dolbeare and Philip E. Hammond, "The Political Party Basis of Attitudes toward the Supreme Court," 32 Public Opinion Quarterly, 1968, pp. 16-30; also see Dolbeare, "The Public Views the Supreme Court," in Jacob, Herbert, ed. Law, Politics, and the Federal Courts (Boston: Little, Brown and Company, 1967), pp. 194-212.

[19]John H. Kessel, "The Supreme Court and the American People," in Jahnige, Thomas P., and Goldman, Sheldon, eds. The Federal Judicial System (Hinsdale, Illinois: Dryden Press, 1968), pp. 77-91.

in a 1966 national survey showed no significant association between party identification or political knowledge and support for the Court's performance. Among the demographic variables examined, only race and region were found significant. Blacks were more supportive while Southern whites were more critical of the Court.[20]

Relying upon data from a statewide survey of Wisconsin residents in 1974, Dennis also concluded that public evaluation of the Court in general reflected popular reaction to specific Court decisions. In descending order of importance, significant but weaker associations were also found for general political efficacy, negative reference group gratification, age, and political party identification. Diffuse support was not associated significantly with ideology, income, sex, race, and education variables.[21]

Other research on Court support was more limited in focus. Hirsch and Donohew found that, nationally, blacks evaluated Court performance more favorably than whites.[22] An earlier study by Brink and Harris reported that strong support for the Court existed uniformly among both

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[20]Walter F. Murphy and Joseph Tanenhaus, "Public Opinion and the U.S. Supreme Court," in Grossman, Joel, and Tanenhaus, Joseph, eds. Frontiers of Judicial Research (New York: John Wiley and Sons, Inc., 1969), pp. 273-303; also see Murphy and Tanenhaus, "Public Opinion and the Supreme Court: The Goldwater Campaign," 32 Public Opinion Quarterly, 1968, pp. 31-50.

[21]Jack Dennis, "Mass Support for the U.S. Supreme Court" (unpublished paper presented at the 30th. Annual Conference of the American Association for Public Opinion Research, 1975).

[22]Herbert Hirsch and Lewis Donohew, "A Note on Negro-White Differences in Attitudes Toward the Supreme Court," 49 Social Science Quarterly, 1968, pp. 557-562.

blacks and whites outside of the South.[23] Engstrom and Giles found that ninth-grade students who both valued procedural fairness and perceived courts as always operating within the fairness norm scored significantly higher on diffuse support.[24]

Working with data drawn from a 1968 sample of adult Missouri residents Casey investigated the extent to which the mass public sees the Court as symbol rather than policy-maker. He concluded that while the better educated, higher social status, and more politicized members of society may be most aware and most critical of particular Court decisions, they are also most likely to invoke an image of the Court closely associated with either external symbols such as the Constitution, the rule of law, and freedom or its own court-like and ceremonial symbols. For this reason, Casey suggested that if the Court's popular legitimacy depends primarily upon its symbolic importance, then diffuse support will be less impaired by periods of high judicial activism and increased public awareness of Court decisions than Judge Hand and other scholars assumed.[25]

Almost all of these studies applied result-oriented criteria in evaluating public opinion toward the Court. And none of them examined how the public perceives and evaluates the basic instrument of the Court's

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[23]William Brink and Louis Harris, The Negro Revolution in America (New York: Simon and Schuster, 1964), pp. 131 and 143.

[24]Richard L. Engstrom and Micheal W. Giles, "Expectations and Images," 6 Law and Society Review, 1972, pp. 631-636.

[25]Gregory Casey, "The Supreme Court and Myth," 8 Law and Society Review, 1974, pp. 385-419.

policy-making role, its power of judicial review. However, the variables reported from previous research to be significantly associated with public evaluation of Court performance suggested a starting point for examining judicial review support. What relationship, if any, exists between public acceptance for judicial review and political party identification, political knowledge, and agreement with Court decisions? The effects of these and other variables upon judicial review support will be discussed in Chapters IV and V. Chapter III explains the data base, instrumentation, and analytical design of my research.

CHAPTER III

METHOD AND PROCEDURE

Subjects

The subjects for this research were randomly selected from among the adult residents of Knoxville, Tennessee in 1974. The following procedure was used: The fifty-one voting wards of the city were first stratified by income. Then, thirteen wards were selected to assure a proportionate reflection of various income levels, racial composition, and geographical representativeness. Proceeding from assigned points in each of the thirteen wards, student interviewers were told to obtain one interview from every sixth residence until four interviews were accomplished. Where no one was at home, a call-back was made. If an interview was refused or the call-back unsuccessful, the interviewers proceeded to the seventh, then the fifth, then the eighth house, and so on until successful. Where possible, two males and two females were interviewed in each group of four respondents.

Items included in the survey questionnaire were both tested on University of Tennessee students and pretested on members of the target population. Questions were designed to provide a multi-dimensional measure of public opinion toward the Court. A major advantage for the data obtained is that it was specifically generated to provide information on the Court and was not drawn from a few Court-related questions tacked onto a survey intended for broader purposes. The sample size of 301

respondents provided a sufficient number of cases to justify the use of sophisticated statistical techniques.

Instruments

As a first step toward analyzing the structure of popular opinion support for judicial review, a valid operational measure of public acceptance for judicial review was needed. Validity refers to the problem of measuring what is intended. In this regard, a basic problem to be overcome was the generally low level of public information on the Court. It was not possible simply to inquire whether respondents approved or disapproved of judicial review. Many subjects might have then responded in the absence of any real understanding of what judicial review means. To insure that the intended aspect of opinion-support for the Court was in fact being measured, therefore, subjects were asked the following three questions:

1. Do you think the Supreme Court should have the authority to strike down laws passed by Congress?
2. Do you think the Supreme Court should have the authority to strike down laws passed by state legislatures?
3. Do you think the Supreme Court should have the authority to strike down laws passed by city councils.[1]

On the basis of their responses to the above three questions, respondents were scaled to create a combined variable of judicial review

[1]The possibility remains, however, that "to strike down" may have sounded so harsh to some subjects that their responses were biased against the Court.

support. The combined variable was then recoded to produce the following three categories of opinion-support:

1. Strong acceptance—This category included all those respondents who answered "yes" to each of the three questions.
2. Mixed acceptance—This category included all those respondents who answered "yes" to only one or two of the three questions.[2]
3. Nonacceptance—This category included all those respondents who answered "no" to each of the three questions.

No-opinion responses were treated as missing data and deleted from the analysis. Only responses from the 270 subjects who answered all three questions were included in the combined measure of judicial review support.

By this process, it was possible to separate respondents who consistently supported the Court's exercise of judicial review at all levels of government from those respondents who consistently opposed its exercise or who varied their support according to the level of Court action. The research design was unable to consider the factors of salience and intensity, however. One could not ascertain the salience of the judicial review issue for any of the respondents prior to the administration of the survey. Nor was it possible to establish the intensity of support or nonsupport for judicial review from the data available.

Problems created by the format in which data appears or by the omission of relevant questions cannot be corrected after the fact,

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[2]This category is admittedly ill-defined. Conceptually, it likely reflects a complex set of attitudes toward the Court and judicial review.

however, and are an unavoidable feature of secondary analysis. In most respects, however, the survey instrument used was a well-designed one which generated a range of information useful for investigating possible correlates of judicial review support. The demographic variables available for analysis included sex, race, age, education and income level. Political orientation variables available were party identification, ideological preference for next Supreme Court appointee, direction of vote and degree of participation in the 1972 Presidential election. It was possible to create policy-issue variables in each of the following areas: police interrogation, school desegregation; busing, school prayer, reapportionment, obscenity, and capital punishment.

Additionally, variables were created from items included to measure public perceptions and expectations of the Court itself. Many of these items were combined to form the following three indices: knowledge of Court structure and personnel, awareness of major Court decisions, and sense of political efficacy toward the Court. Other Court related variables included evaluations of the Court's role, performance, adherence to procedural fairness, and symbolic significance.

Statistical Analysis

The statistical techniques applied to the data were F-test of significance and discriminant function analysis. A purpose of the research design was to evaluate differences in the effects of independent variables upon the three levels of support for judicial review. For each of the independent variables, differences between means for all three support levels were compared and tested for significance.

Use of the F-test, therefore, offered a means by which the differentiating effects of the independent variables could be determined. Without some means for controlling their interdependent effects, however, the relative importance of each variable in differentiating between levels of support could not be established. Discriminant function analysis provided a suitable method which did not require the assumption of greater than nominal level data. It also served to indicate the degree to which cases could be accurately assigned to support categories from knowledge of the independent variables alone. Findings from both the F-test of significance and discriminant function analysis are presented in the chapter which follows.

CHAPTER IV

FINDINGS

Opinion Distribution and Levels of Support

Table 1 below shows the distribution of popular support for the exercise of judicial review by level of government at which the Court may act within our political system. The findings indicate that public opinion toward judicial review was about equally divided between support and nonsupport. A slight majority of the respondents favored judicial review by the Court of city council decisions; opinion was evenly split with regard to state legislative acts; and somewhat less than a majority supported judicial review of acts of Congress.

Table 1. Distribution of popular support for Supreme Court exercise of judicial review by level of government, 1974

Do you think the Supreme Court should have the authority to strike down laws passed by:	Yes (%)	No (%)
U.S. Congress	44.9	55.1
State Legislatures	50.0	50.0
City Councils	53.9	46.1

Table 2 summarizes results obtained from scaling the responses to all three of the judicial review questions. By this procedure, a combined variable showing levels of support for judicial review was created. "Strong Supporters" were defined as those respondents who supported the Court's exercise of judicial review at all levels of government.

Conversely, "Nonsupporters" were those who opposed the Court's power at all three levels. Respondents who regarded judicial review as appropriate for just one or two levels but not all three were classified as "Mixed Supporters." As may be seen from Table 2, a full 70 percent of those subjects who answered all three questions opposed judicial review for at least one level. "Nonsupporters" outnumbered "Strong Supporters." It was not possible, however, to determine the relative intensity of their positions.

Table 2. Levels of judicial review support, 1974

Level of Support	Number (N) of Respondents	Percentage (%) of Respondents
Nonsupport	84	81.1
Mixed support	107	39.6
Strong support	79	29.3
Total	270	100.0

Correlates of Support for Judicial Review

Tables 3 through 8 show the differentiating effects of various independent varables on judicial review support. For each level of support, the mean of the independent variable is given. Significant differences in means between support levels—with significance established by an F-test—are noted in the last column. The minimum level of significance considered acceptable was 0.01 although significance at the 0.05 level is noted.

Table 3 reveals that level of support for judicial review is positively related to the level of respondent knowledge Court structure

Table 3. Means of court knowledge variables by level of judicial review support, 1974

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
Knowledge of Court Structure & Personnel (Interval Range: 0 to 6)	1.33	1.65	2.73	14.87	.001
Major Decision Awareness (1 to 3)	2.60	2.52	2.81	6.53	.01

Table 4. Means of demographic variables by level of judicial review support, 1974

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
Sex (M = 1; F = 0)	0.36	0.52	0.66	7.75	.001
Race (W = 1; B = 0)	0.93	0.86	0.87	1.10	Not Sig.
Age (0 to 2)	1.17	1.14	1.09	1.67	Not Sig.
Education (0 to 2)	0.86	0.79	1.14	5.04	.01
Income (0 to 2)	0.81	0.97	1.07	1.87	Not Sig.

Table 5. Means of political orientation variables by level of judicial review support, 1974

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
Ideological Preference for next Supreme Court Appointee (Con = 2; MoR = 1; Lib = 0)	1.19	0.99	0.96	2.41	Not Sig.
Party Identification (D = 0; I = 1; R = 2; AIP = 3)	0.99	0.90	0.87	0.40	Not Sig.
Voted in 1972 Presidential Election? (Voted = 1; Not Voted = 0)	0.65	0.67	0.75	0.91	Not Sig.
Worked for a Party or a Candidate in 1972? (Worked = 1; Not Worked = 0)	0.10	0.14	0.05	2.00	Not Sig.
1972 Presidential Vote (McGovern = 0; Nixon = 1; other = 2	0.79	0.74	0.63	0.95	Not Sig.

Table 6. Means of policy-issue variables by level of judicial review support, 1974

Variable Name	Means: Non-support	Means: Mixed Support	Means: Strong Support	F Ratio	Sig. Level
Supreme Court is Against Religion (Agree = 0; Disagree = 1)	0.64	0.67	0.89	7.29	.001
Supreme Court Helps Preserve Law & Order in America Today (A = 0; D = 1)	0.33	0.27	0.18	2.42	Not Sig.
Police Should Have More Freedom Interrogating Suspects (A = 1; D = 0)	0.76	0.56	0.52	5.87	.01
School Desegregation is Desirable (A = 0; D = 1)	0.44	0.40	0.26	3.15	.05
School Prayer and Bible Reading Should be Allowed (A = 1; D = 0)	0.94	0.89	0.85	1.93	Not Sig.
Legislative Districts Should be Equal in Population (A = 0; D = 1)	0.23	0.13	0.08	3.92	.05

Table 6 (continued)

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
Local Communities Should be Allowed to Determine What is Considered Obscene (A = 0; D = 1)	0.24	0.31	0.33	0.86	Not Sig.
School Busing Should be used to Achieve Racial Balance (A = 0; D = 1)	0.82	0.75	0.66	2.90	Not Sig.
Capital Punishment Should be More Widely used to Combat Crime (A = 1; D = 0)	0.76	0.71	0.61	2.33	Not Sig.

Table 7. Means of political efficacy variables by level of judicial review support, 1974

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
Supreme Court does not Care much about the Average Citizen (Agree = 0; Disagree = 1)	0.45	0.52	0.72	6.26	.01
Average Citizen does not have any say about what Supreme Court does (A = 0; D = 1)	0.14	0.19	0.23	1.03	Not Sig.
Supreme Court does not Represent the Views of People like Myself (A = 0; D = 1)	0.28	0.41	0.63	10.96	.001
Ordinary People are Unable to Change the Supreme Court (A = 0; D = 1)	0.14	0.16	0.17	0.19	Not Sig.
Most People don't Really Care what the Supreme Court Does (A = 0; D = 1)	0.42	0.38	0.39	0.21	Not Sig.

Table 8. Means of court evaluation variables (Role, performance, and comparative institutional standing) by level of judicial review support, 1974

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
How Well does the Supreme Court do its job? (Very Well = 1; Fairly Well = 2; Not Very Well = 3; Poorly = 4)	2.18	2.12	1.86	2.41	Not Sig.
Has the Supreme Court done something you like? (Yes = 1; No = 0)	0.24	0.36	0.53	7.84	.001
Supreme Court should have more or less Authority Less = 0; Same = 1; More = 2)	0.79	1.01	1.08	4.88	.01
Supreme Court often Exceeds its Authority (Agree = 0; Disagree = 1)	0.49	0.49	0.73	7.23	.001
Which Branch best Represents your Views? (Court = 0; Congress or Presidency = 1)	0.95	0.87	0.74	8.33	.001
Which Branch does its Job Best? (Court = 0; Congress or Presidency = 1)	0.73	0.73	0.51	6.81	.01

Table 8 (continued)

Variable Name	Means			F Ratio	Sig. Level
	Non-support	Mixed Support	Strong Support		
Which Branch has most Control over our Lives? (Court = 0; Congress or Presidency = 1)	0.77	0.74	0.86	1.76	Not Sig.
Supreme Court spends too much Time Deciding Cases Involving Minorities (Agree = 0; Disagree = 1)	0.30	0.40	0.52	3.35	.05
What is the most Important Job of the Supreme Court? (Represent Majority = 1; Protect Minority = 0)	0.69	0.48	0.46	5.20	.01
Supreme Court is Fair and Impartial (Agree = 0; Disagree = 1)	0.44	0.39	0.32	1.29	Not Sig.
Which Branch should have the Final say as to the Meaning of the Constitution (Court = 0; Congress or Presidency = 1)	0.61	0.60	0.28	12.60	.001

and personnel. Interestingly, both "Non- and Strong Supporters" were more aware of recent major Court decisions than those who support was "Mixed." The greatest awareness was shown by "Strong Supporters," however, and as with Court knowledge the difference was significant.

Table 4 presents findings on selected demographic variables. Only one—sex was highly useful in differentiating "Strong" from "Nonsupporters:" Men were significantly more supportive of judicial review than were women. "Strong Supporters" were highest in both income and education level. Only education, however, attained the minimum significance level. Neither race nor age proved useful.

As may be seen from Table 5, none of the political orientation variables proved significant. Only one—ideological preference for the next Supreme Court appointee—even approached the minimum level of significance: "Nonsupporters" of judicial review were more inclined to prefer the appointment of a conservative candidate than a liberal or middle-of-the-road one. Party identification was not a useful variable for differentiating between support levels.

Two of the variables of Table 6 represent respondent perceptions of the Court's policy impact in the areas of religion and law and order: Both "Non- and Mixed Supporters" were significantly more likely to believe the Court is against religion than were "Strong Supporters." As the level of support increased, so did the expectation that the Court helps preserve law and order in America today. The differentiating effect of this variable fell short of the minimum significance level, however.

The remaining seven variables of Table 6 represent respondent opinions in a variety of issue areas where the Court has taken some action. Of these, only one had significant differentiating effects: "Nonsupporters" of judicial review were significantly more inclined than either "Mixed or Strong Supporters" to believe the police should have more freedom interrogating suspects. Additionally, "Strong Supporters" differed from "Nonsupporters"—but not at the minimum significance level—on each of the following issues: they were more likely to believe legislative districts should be equal in population; to find school desegregation desirable; to agree that school busing should be used to achieve racial balance; to feel that capital punishment should be more widely used to combat crime; and they were less likely to agree that school prayer and Bible reading should be allowed.

Table 7 contains five variables which were combined during discriminant function analysis to form an index of political efficacy. When considered apart, only two of them were found to significantly differentiate between support levels. "Strong Supporters" were significantly more likely than both "Non- and Mixed Supporters" to think the Supreme Court cares much about the average citizen. They are significantly less likely to consider the Court unpresentative of their views.

In Table 8, findings for variables representing respondent evaluations of the Court's role, performance, and comparative institutional standing are reported. While most of these variables had significant differentiating effects, four did not: Respondent opinions

on both which branch has the most control over our lives and whether the Court is fair and impartial were of no value in distinguishing support levels. As the level of support increased, respondents were more likely to favorably evaluate the Court's overall performance and less likely to believe the Court spends too much time deciding cases involving minorities. Both of these relationships fell short of the minimum significance level, however.

All of the remaining variables included in Table 8 were significant. "Strong Supporters" of judicial review were significantly more likely than "Nonsupporters" to say the Court has done something they liked; represents their views better than Congress or the President; does its job better than the other two branches; and should have final say as to the meaning of the Constitution. They were less likely than "Nonsupporters" to say the Court's power should be reduced and to believe the Court often exceeds its power. "Strong Supporters" tended to view the most important job of the Court as protecting the rights of minorities regardless of what the majority of Americans think. "Nonsupporters," on the other hand, were more inclined to define the Court's major role as representing the views of the majority.

Prediction of Support Levels

The next stage of analysis was directed toward ascertaining which of the independent variables served best to differentiate "Strong" from "Nonsupporters" of judicial review. To this purpose, discriminant function analysis provided an appropriate method for assessing the

independent ability of each variable to discriminate support levels. The use of discriminant function analysis, which deletes cases with missing values listwise, caused a reduction in the number of cases available for analysis. For this reason, the number of independent variables finally used was limited to those which a preliminary check revealed as most significant. Some further data reduction was achieved by scaling responses to the set of political efficacy questions to create a single variable. As a result of these steps, the number of independent variables was reduced from thirty-seven to seventeen and one hundred and twenty cases were made available for discriminant function analysis.

Of the seventeen variables entered into the final analysis, only fourteen met the entry criterion. Table 9 (page 35) lists these fourteen variables in the order of their ability to independently discriminate between judicial review support levels. The larger its F-ratio or the smaller its Rao's V, the greater the variable's discriminatory power. Change in Rao's V provides a significance measure of each variable's contribution to the combined discriminatory power of all the independent variables. The total amount of discriminatory power present in the fourteen variables selected is indicated by the Wilk's lambda: the smaller the lambda, the greater power to discriminate.

As may be seen in Table 9, the variable representing respondent knowledge of Court structure and personnel was clearly the most useful for discriminating support levels. The fairly low Wilk's lambda of

Table 9. Discriminant analysis summary, 1974

Variable Entered[a]	F to Enter or Remove	Wilk's Lambda	Rao's V	Sig. of Change
Court Knowledge	12.14596	0.82807	24.29193	0.000
Which Branch does Job Best	4.22313	0.77187	34.24644	0.007
Leg. Districts should be Equal	3.79161	0.72412	43.52411	0.010
Which Branch has most Control	3.16536	0.68602	52.14471	0.013
Most Important Job of Court	2.88078	0.65274	58.64102	0.039
Which Branch best Represents	2.88338	0.62078	65.58942	0.031
Political Efficacy	2.46274	0.59440	72.31396	0.035
Who Voted for in 1972	2.08309	0.57271	77.46196	0.076
Age	2.00713	0.55237	83.21706	0.056
Worked for Candidate or Party	1.39202	0.53849	87.47591	0.119
Major Decision Awareness	1.65625	0.52232	92.09412	0.099
Court is Fair and Impartial	1.30472	0.50977	96.09372	0.135
Helps Preserve Law & Order	1.65735	0.49417	101.82677	0.057
Race	1.25415	0.48253	106.17384	0.114

[a]The following variables were entered into the analysis but failed to meet the entry criterion: ideological preference for next Court appointee; which branch should have final say as to meaning of Constitution; and voted/not voted in 1972 Presidential election.

0.48253 indicates that considerable discriminating power was present among the independent variables used. Approximately 70 percent of this power was provided by only half of them.

A classification feature of discriminant function analysis provided an additional means for measuring the usefulness of the independent variables. On the basis of information in the independent variables alone, it was possible to predict the level of judicial review support for each respondent. Table 10 shows how successfully the predicted support group membership matched actual distribution. Overall, 64.17 percent of the 120 cases were correctly classified. Among "Strong Supporters" only, an even higher prediction success rate of 78.4 percent resulted.[1] A discussion of these results as well as other findings follow.

[1]Those cases excluded by this procedure may have over represented the less politically informed respondents.

Table 10. Results of support level predictions for judicial review, 1974

Actual Level	No. of Cases	Predicted Level of Support		
		Non-	Mixed	Strong
Nonsupport	34	23 67.6%	8 23.5%	3 8.8%
Mixed Support	49	15 30.6%	25 51.0%	9 18.4%
Strong Support	37	3 8.1%	5 13.5%	29 78.4%

Percent of cases correctly classified: 64.17%

CHAPTER V

DISCUSSION

Opinion Distribution and Levels of Support

The distribution of opinion responses to the three questions on judicial review indicated that popular support for the Court's exercise of review power is considerably less than some scholars have assumed. At least in the geographical area surveyed, there remains—as Hyneman expected—"a significant social doubt" concerning the power of the Court to overrule acts of Congress. This "significant social doubt" extends, as well, to the judicial review of acts passed by both state legislatures and city councils.[1]

It is with respect to the state and local levels that the general lack of strong support for judicial review is most interesting. For as Justice Oliver Wendell Holmes once observed, the Court's power of judicial review is, if anything, more crucial with regard to state laws than acts of Congress.[2] The need for a national arbiter of the Constitution is paramount if the federal arrangement is to function effectively. On this basis, Wasby argued that popular support for the principle of judicial review was likely greater when exercised at the state than national level.

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[1]Kenneth M. Dolbeare, "The Supreme Court and the States: From Abstract Doctrine to Local Behavioral Conformity," in Becker, Theodore L., and Feeley, Malcolm M., eds. The Impact of Supreme Court Decisions (New York: Oxford University Press, 1973), pp. 202-209.

[2]Oliver Wendell Holmes, in Collected Legal Papers (New York: Harcourt, Brace, and Howe, 1920), p. 295.

A slightly larger percentage of respondents did support judicial review at the state and local than at the national level. Even at these levels, however, the magnitude of support was too low to warrant an assumption that the Court's role as federal umpire "has been generally accepted."[3]

Unfortunately, one can only speculate as to the likely implications, if any, of these findings. The absence of widespread acceptance for judicial review suggests that it could be exploited as an issue to the disadvantage of the Court in a serious political conflict with Congress, the Presidency, or possibly even the states. Interpretation of the findings must allow, however, for the generally low level of public information about the Court. Many of the respondents who expressed disapproval may have been totally unaware of the nature and scope of the Court's review power prior to their participation in the survey. For those persons the issue of judicial review power was not a salient one and it seems unlikely that their opposition to its exercise was intensely felt. Future survey research on public opinion toward judicial review should be designed to answer these questions of salience and intensity.

In terms of the overall level of support, findings for the combined measure of judicial review acceptance showed that "Strong Supporters" were clearly a minority. Only 29.3 percent of those respondents who answered all three questions supported the Court's review power at every level of government. In contrast, support for the Court's performance, measured

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[3]Stephen L. Wasby, The Supreme Court in the Federal Judicial System (New York: Holt, Rinehart and Winston, 1978), p. 39.

measured diffusely, was much greater. Over 70 percent of the survey sample rated the Court's job performance as "very good" or "fairly good" while only 17 percent said "not very good" or "poor." In the absence of information on the salience to respondents of the judicial review issue, it is impossible to assess the relative meaningfulness of these two measures of public opinion toward the Court. It is apparent, however, that positive evaluation of Court performance in general does not necessarily indicate consistent support for judicial review.

Correlates of Support for Judicial Review

Further evidence for this assertion was provided by an F-test of the difference in diffuse support means at each level of support for judicial review. As Table 8 (pages 29 and 30) shows, the difference in means was not significant. Use of the F-test revealed that the structure of judicial review support contrasts with diffuse support in other respects too. For example, while previous research pointed to political party identification and agreement with Court policy on major issues as the variables most closely associated with diffuse support, neither one was as important in differentiating between levels of judicial review support. (See Tables 5 and 6, pages 25-27). On the other hand, political knowledge variables—which were reported as only slightly significant or not significant at all in studies of diffuse support—were highly significant in differentiating between levels of judicial review support. (See Table 3, page 23.)

Prediction of Support Levels

The results of discriminant function analysis also supported a conclusion that public opinion toward judicial review comprises a dimension of popular support for the Court distinct from diffuse support of Court performance. Table 9 (page 35) shows that none of the political orientation variables and only one of the policy-issue variables and only one of the policy-issue variables were significant at the 0.05 level of significance. Thus, support for judicial review does not appear as an opinion response cued by political party. Nor can it be described as policy specific. The question which remains is what, if anything, do the variables that were found to hold significant discriminatory power suggest about the nature of public opinion-support for judicial review.

One way of answering this question is to examine those variables for the characteristics they represent. The findings offer support for the conclusion that "Strong Supporters" are most likely to differ from "Non- and Mixed Supporters" of judicial review in the following ways: They know more about the structure and personnel of the Court. They have a stronger sense of political efficacy toward the Court and are more likely to believe it represents their own views better than Congress or the President. They define the most important job of the Court as the protection of minority rights and they are inclined to say the Court does its job better than the Congress and the President do theirs. They feel less threatened by the Court than by the Congress or Presidency, believing that among the three branches it is the Court

which has least control over their lives. Finally, they more strongly take the issue position that legislative districts should be equal.

These findings imply a number of things about the nature of public opinion toward the Court. For one, they offer support for Casey's suggestion that while those persons who are most knowledgeable about the Court are frequently among the more severe critics of its decision, those same knowledgeables are supportive of the Court in other—perhaps more important—ways. Casey's study reported that high knowledge about the Court was associated with a greater sense of the symbolic importance of the Court.[4] The present study provides evidence that high knowledge is also associated with positive support for judicial review.

Secondly, they suggest possible sources of popular support for the Court apart from public satisfaction with its policy outputs. One of these is popular perception of the Court's relative control over everyday life. Some respondents supported the Court, at least in part, because they saw it as weaker and less of a potential threat than either Congress or the President. On the other hand, respondents for whom the power of the Court loomed largest were less likely to support judicial review. In some future research, it would be of interest to assess factors that may account for this variance in public perception of Court strength. On the basis of the present findings, it seems likely that one such factor is level of respondent knowledge about the Court.

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[4]Gregory Casey, "The Supreme Court and Myth," 8 Law and Society Review, 1974, pp. 385-419.

Those subjects who saw the Court as most powerful probably understood least the limitations and constraints upon its exercise of power.

Another possible source of support for the Court unrelated to specific policy decisions was suggested by the finding that respondents who consistently favored judicial review were also more likely to say the Court—not Congress or the President—does its job best. While further research on this question is needed, one factor that may be associated with popular perception of how well the Court performs relative to Congress or the President is popular mistrust of the elected branches of government.[5] One may speculate that respondents who said the Court does its job best took their position because they considered elected officials more corrupt and less trustworthy than the politically more insulated justices of the Supreme Court.[6] This speculation might help to account for the finding that reapportionment was the only policy-issue variable which significantly discriminated between levels of judicial review support: Respondents who took the view that legislative districts need not be equal in size thereby placed greater confidence in elected legislators—whether knowingly or not—than those who saw equality as a necessary requirement.

One final nonpolicy-specific source of support for the Court's power of judicial review involves popular expectation of what should be the Court's primary role. Interestingly, the respondents who saw the most

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[5]Peter K. Eisinger, et al., American Politics (Boston: Little, Brown and Company, 1978), p. 187.

[6]Some, if not most, of the political mistrust present may have reflected the impact of Watergate.

important job of the Court as the protection of minority rights tended to favor judicial review while those who defnined the Court's main task as representing the majority did not. This suggests that for some members of the public judicial review may appear as an obstacle to majority rule, or at least to the Court becoming more representative.

The findings also suggest, however, that popular support for judicial review is related, if indirectly, to public satisfaction with the Court's policy outputs. For at least some respondents, support for judicial review was closely associated with a sense that the Supreme Court represented their views and did so even more effectively than Congress or the President. Thus, while there exists evidence that judicial review support and agreement with Court decisions comprise somewhat distinct facets of public opinion toward the Court, interaction does occur. Future research on judicial review support might profitably investigate this question of interaction.

This discussion of findings has ranged considerably beyond supportable conclusions. Many interesting questions arose during the course of my research which unfortunately could not be explored within the limits of available data. I have sought to point out possible lines for future inquiry that, if followed, might or might not lend support to some of the foregoing speculations. All that remains for the present, however, is to briefly summarize what has been accomplished and to restate conclusions to those questions which the data could reach.

CHAPTER VI

SUMMARY AND CONCLUSIONS

This paper presented a survey analysis of public opinion-support for the United States Supreme Court. Unlike most previous efforts in this area, however, the present study defined public support for the Court in terms of popular opinion toward judicial review. The focus of the analysis, therefore, was upon the power of the Court itself, not particular policy outcomes from its uses.

Two basic sets of questions were addressed: The first involved how much support for judicial review exists? How many support the Court's exercise of review at the national, state, and local levels of government? How many consistently support judicial review at all levels? The second set concerned the nature of judicial review support. Who are the supporters? How do they differ from the nonsupporters? How does support for judicial review compare to diffuse support for Court performance?

Using opinion-data gathered from a 1974 random sample of adult residents in Knoxville, Tennessee, an operational measure of popular support for judicial review was developed and assessed for its relationship with relevant independent variables. Categories of independent variables used included Court knowledge, demographic, political orientation, policy-issue, political efficacy, and Court evaluation variables. The statistical techniques used were F-test of significance and discriminant function analysis. Particular emphasis

Analysis of the data revealed that support was not strong for the exercise of judicial review at any level of government. Supporters outnumbered nonsupporters only at the local level and even there they represented only a slight majority. By scaling responses to all three questions, a combined measure of support for judicial review was created. Findings from this showed that less than one-third of the survey sample consistently supported judicial review.

In answer to the first set of questions, therefore, findings supported the conclusion that popular support for judicial review was generally low. Popular support was found to be much lower than some public law scholars have assumed. It was impossible to assess the full significance of this conclusion, however, because the available data did not contain information as to the saliency of the judicial review question for respondents prior to the survey. Nor was information available on the intensity with which expressed positions on judicial review were held.

Results from T-test of significance and discriminant function analysis provided answers to the second set of questions. The nature of opinion support for judicial review was found to differ considerably from that of diffuse support. An F-test showed the two measures were not themselves significantly related. Additionally, judicial review support level was not significantly effected by political party identification or most of the policy-issue variables, both of which were reported in previous studies to be strongly related to diffuse support. Previous studies have also shown that diffuse support varied

negatively with high knowledge about the Court. However, present findings showed a positive relationship between Court knowledge and support for judicial review. It was concluded, therefore, that although persons knowledgeable about the Court may tend to be more critical of its decision outcomes, they tend to support the Court in a more fundamental and important way—they tend to support judicial review.

High knowledge about the Court was found to be the characteristic which most distinguished supporters from nonsupporters. Supporters were also more likely to feel the Court represented their views and that it did so even better than the Congress or the President. Supporters were more inclined to say that the Court does its job better than Congress and the President do theirs. They were more likely to see the main job of the Court as the protection of minority rights rather than the representation of majority wishes. Supporters also tended to say that the Court has less control over daily life than either Congress or the President. Finally, they were more inclined to assert that legislative districts should be equal.

While each of these findings addresses the question of how do supporters differ from nonsupporters of judicial review, they also give rise to new questions. They suggest that public opinion toward judicial review is related in turn to popular perceptions of the power and role of the Supreme Court and possibly even to public mistrust of elected officials. But what then accounts for variation in these aspects of public opinion? And how does popular satisfaction with Court decisions indirectly bear upon support for judicial review? These and other questions await future research.

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