THE SIGNIFICANCE OF VOTING CUES IN STATE SUPREME COURT ELECTIONS

PHILIP L. DUBOIS*

Voters rarely take time to inform themselves about the candidates and issues in judicial elections. Uninformed, voters must rely upon some kind of voting cue, such as political party affiliation, incumbency, name familiarity, or the like, to help them cast their ballots in these low-salience elections. This article examines the effects these cues have in determining voter behavior in partisan and nonpartisan elections for state supreme court justices. The results show that party labels structure voter behavior along partisan lines. Without a party cue, however, voting decisions are relatively unstructured and, as examples show, often produce idiosyncratic results. The implications of these findings for the continuing debate over judicial selection are then explored.

I. INTRODUCTION

It is perhaps a reflection of their ambivalent attitudes toward the institution that Americans have devised five different methods for the selection of their judiciary (Escovitz, 1975). Uncertainty over whether the judicial function is primarily political or legal, and philosophical disagreement over whether state judges should be held accountable for their actions or should enjoy extensive independence, has resulted in a patchwork of judicial selection methods across and within the American states.

Since the turn of this century, popular partisan and nonpartisan elections have dominated state judicial selection. "The concept of an elected judiciary [first] emerged during the Jacksonian era as part of a larger movement aimed at democratizing the political process . . . , spearheaded by reformers who contended that the concept of an elitist judiciary . . . did not square with the ideology of a government under popular control" (Atkins, 1976: 152). This concern found early expression in the adoption of partisan judicial elections in some of the existing states, supplanting executive appointment and legislative election, and it became the original selection procedure of new states entering the Union. Several decades later, abuses associated with partisan judicial elections led Progressive reformers

* I would like to thank Professors David Adamany and Alexander J. Groth and Ms. Lisa Lewis Dubois for their helpful comments on an earlier draft of this paper.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

to push for the abandonment of partisan nominating conventions, adoption of the direct primary and, preferably, nonpartisan judicial primaries and elections.

At their zenith, partisan and nonpartisan judicial elections were used in over 70 percent of the American states. But since 1940, an increasing number of states have chosen to abandon popular selection in favor of a "merit plan" of judicial recruitment. The merit plan calls for the establishment of a judicial nominating commission composed of lawyers and lay persons to suggest a list of qualified nominees (usually three) to the governor. The governor makes the final selection but is limited in choice to the names submitted by the commission. After a short period of service on the bench (usually a year), the new judge stands uncontested before the voters solely on the question of whether he or she should be retained in office. A majority of affirmative votes secures the incumbent a full term in office, renewable by another retention election.

Because the merit selection movement was sparked primarily by widespread dissatisfaction with direct popular elections, it was aimed at those states utilizing partisan and nonpartisan elections. Today barely a majority of states still maintain popular judicial selection. More than a dozen states have adopted the merit plan for the selection of their highest appellate judges, and the pace of change appears to be accelerating (Escovitz, 1975).[1]

The criticisms of popular judicial elections and the claimed benefits of the merit plan are extensive and need not be reviewed here (see Dubois, 1978: Ch. 1). But the main target for most criticism is the behavior of the judicial electorate. The purpose of this paper is to present fresh data on this topic and to explore the implications of the findings for the reform of judicial selection methods.

II. THE PROBLEM WITH THE JUDICIAL ELECTORATE

The judicial electorate has been charged with being unwilling to or incapable of exercising its democratic responsibilities

---

[1] The importance of the merit plan of judicial selection extends far beyond the number of states in which it has found formal adoption. In many states utilizing elective selection, governors have been required by constitutional or statutory provisions to use a merit nominating commission in making appointments to fill judicial vacancies; in some states, governors have voluntarily established such commissions for making vacancy appointments (Lowe, 1971).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

in the selection of judges.[2] Illustratively, critics argue that public attention to judicial election contests is extremely low. Unlike the highly salient races for president, governor, and major legislative positions, judicial elections rarely feature the kinds of visible candidates, controversial issues, and spirited campaign activity which promote attention to the electoral process. As a result, the public is said not to be sufficiently interested in informing itself about the professional qualifications and policy stands of those seeking judicial office. Apathetic about choosing their judges, many voters fail to cast a ballot in judicial elections. Those who do vote must rely upon irrelevant voting cues provided by party identification, a recognizable name, a ballot label, or some other guide to voting. The result, say critics, is that candidates win places on the bench because they possess one or more of the aforementioned vote-gathering attributes, not necessarily qualifications for judicial office.

These charges have been buttressed by the results of public opinion surveys which confirm the low salience of judicial elections and the low level of specific information possessed by voters (Klots, 1955; Johnson *et al.*, 1978). Only a small minority of voters pay attention to judicial candidates and issues and, therefore, the level of voter knowledge is very low. But despite the slight attention paid by voters to judicial elections, it is not the case, as some have suggested, that the public does not want the responsibility of electing its judiciary. Surveys conducted in states utilizing elective judicial selection have confirmed popular support for that principle (Ladinsky and Silver, 1967; Jacob, 1966; Philip *et al.*, 1976).

Although voters want to select their judges, the formal restrictions placed upon judicial candidates and the informal norms of behavior governing the conduct of judicial election campaigns severely restrict the flow of information to citizens. Meaningful participation is made difficult. The American Bar Association's *Code of Judicial Conduct* limits the extent to which judicial candidates can discuss alternative viewpoints on the resolution of public policy issues likely to come before them as sitting judges. And informal norms of proper judicial campaign activity, strictly enforced by incumbent judges, opposing candidates, and the organized bar are powerful deterrents to the substantive discussion of legal philosophies, judicial decisions, and public policy issues (Ladinsky and Silver, 1967). These formal and informal rules governing the

[2] Most critics raise the same points and few offer supporting evidence. For a sample of these arguments, see Winters (1973).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

conduct of judicial campaigns act as barriers which confine campaign debate to the candidate's formal qualifications, judicial administration, and court reorganization—all issues which generally do not spark voter interest.

Under these conditions it would not be surprising to find that voters behave in the fashion claimed by critics. However, the critics have failed to supply systematic empirical corroboration for their assertions. More often than not, descriptions of judicial elections have consisted of unsystematic personal accounts of observers. When in those few instances empirical evidence drawn from the experience of particular state or local jurisdictions has been offered, the results too often have been extrapolated uncritically to characterize judicial elections generally. But students of the electoral process have found that neither the characteristics of elections nor the behavior of electorates is subject to easy generalization. Elections conducted under differing legal conditions and in differing political environments exhibit distinctively different qualities. Understanding the conditions and contexts of judicial elections is the object of the data analysis which follows.

III. VOTING IN STATE JUDICIAL ELECTIONS: THE PARTISAN DIVISION OF THE VOTE

If voters in judicial elections do not base their voting decisions primarily upon an assessment of the candidates and the issues, then on what bases are these decisions made? For most individuals party identification is the major organizing device of political life (Campbell *et al.*, 1960: Ch. 6). It is, therefore, the logical place to begin an analysis of the patterns of electoral behavior in state judicial elections.

Psychological attachment and loyalty to political party is well-recognized as the most powerful and enduring determinant of individual voting behavior (Converse, 1966). But party identification is not the sole element in the voter's electoral calculus. Issues and candidate appeal from time to time can pull the voter away from party attachment. Nevertheless, party allegiance is remarkably stable and resistant to change, forming the base from which voting decisions are made in each new election.

The impact of short-term factors varies with the particular candidates and issues. Scholars have given most attention to the influence of short-term factors in presidential elections where candidate appeal and national issues become especially salient for voters (Kessel, 1972; Nie *et al.*, 1976; Pomper, 1975;

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

Margolis, 1977). However, the importance of party identification for voting in elections below the presidential level, where voters are less aware of candidates and the issue positions taken by them, also has been recognized. Cowart feels that "the relationship between basic partisan loyalties and voting is stronger in state political contests than in presidential contests, since the higher saliency levels usually accompanying presidential contests yield greater opportunities for particular issues to stimulate partisan defections" (Cowart, 1973: 835). A small but consistent body of literature supports this proposition, demonstrating that in sub-presidential balloting, such as for United States Senator, member of Congress, and governor, voters rely most heavily upon party identification in casting their ballots (Cowart, 1973; Miller and Levitin, 1976: 39-42). Recent research suggests that party loyalties may be reinforced or attenuated by the presence of an incumbent seeking re-election (Cowart, 1973; Abramowitz, 1975; Cover, 1977; Kostroski, 1973) as voters respond to a familiar name on the ballot. But the predisposition of voters to cast their ballots along lines consistent with party allegiance dominates electoral decision making at the sub-presidential level.

Similar reasoning can be applied to understand the behavior of electorates in judicial elections. The issues and the candidate personalities involved in a judicial campaign are of such low salience for the voter that there exists no powerful short-term stimulus that would move the voter to temporarily abandon a long-standing partisan allegiance. Of course, the extent to which state judicial electorates divide along partisan lines depends on whether voters are aware of the party affiliations of the candidates. In states utilizing the partisan model, the ballot itself contains this information and during the campaign party organizations work hard to disseminate this information to their followers in the electorate. In states utilizing the nonpartisan judicial ballot, it is possible for voters to become aware of the partisan affiliation of the opposing candidates where the political parties have a formal, legal role in making nominations for the nonpartisan general election contest. In Michigan, for example, judicial candidates compete in nonpartisan races after nomination by statewide party conventions. In Ohio, judicial candidates compete on a nonpartisan ballot after nomination in partisan primaries; the same system was used in Arizona until 1974, when a merit selection plan was adopted.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

In addition to the formally partisan nominating processes, the general election campaigns in these states are (or were) often conducted with strong partisan overtones.[3] But with the low visibility and attention attached to state supreme court contests generally, it is not likely that the party cue in those states which use the system of partisan nomination but nonpartisan election (hereinafter referred to as "mixed" states) is as strong as it is in those partisan states where party is clearly labeled on the ballot. However, party is likely to be of greater importance in the decisions of voters in states which use the "mixed" partisan nomination/nonpartisan election system than in those states which utilize nonpartisan nomination *and* nonpartisan election of high court justices. There are usually no pre-election campaigns in the latter where the candidates can be identified by party; indeed, such identification is usually prohibited by state constitutional provisions or state statutes. And candidates are further restrained, either by legal provisions or by the informal norms of proper nonpartisan campaign behavior, from claiming or receiving the direct or indirect support or endorsement of an organized political party.[4] Moreover, because the parties exert no formal control over the nominating process, it is by no means certain that judicial election races will be contested between candidates of opposing party affiliations or involve individuals who have more than just a nominal attachment to one party or the other. Unable to call upon the party label on the ballot or to make a connection between candidates and partisan affiliations, the voters in states utilizing nonpartisan nomination and election of state judges will be forced to rely upon available non-party voting cues.

IV. METHODOLOGY

The extent of partisan voting in judicial elections could be estimated at the aggregate level by comparing the proportion of

---

[3] This is most accurate for judicial elections in Michigan and Ohio. The partisanship of Michigan's judicial contests is renowned (Schubert, 1959; Ulmer, 1962). In Ohio, party workers stationed at the polls on election day distribute lists of the party's candidates, including those for the judiciary, to the voters. In Arizona, the role of the political parties in the general election campaigns was apparently more restrained than in Ohio or Michigan (Lee, 1973).

[4] The nonpartisan ballot and various legal restrictions do not necessarily eliminate all campaign activity by political parties on behalf of judicial candidates. In Minnesota, for example, the Farmer-Labor Party's role in endorsing particular candidates for the supreme court and for district judgeships is well documented (Moos, 1941). Moreover, even where legal provisions more completely restrict partisan political activity, the parties or functionally equivalent political groups may still operate *sub rosa* in a formally nonpartisan political campaign. Studies of local nonpartisan elections have confirmed the existence of such activity in some jurisdictions (Adrian, 1952; Mayo, 1964).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

the statewide vote for candidates for judicial office to the proportion gathered by candidates for the top partisan offices who share the same party label or affiliation. But "statewide election statistics may obscure significant variations in patterns of partisan support" (Barber, 1971: 778). A more incisive approach is to examine the voting behavior of the judicial electorate by counties. In this study, the Democratic percentage of the two-party vote was calculated in each county in each nonsouthern state[5] for the contested races for state supreme court and for governor held from 1948 to 1974.[6] These percentages were then subjected to a simple correlational analysis.[7] High positive correlations would indicate that the electorate in each county divided their votes between the candidates for justice by party much as they divided their votes between the opposing partisan candidates for governor. Low positive or negative correlations would show that the voter divisions by county were not strictly along partisan lines and that non-party factors formed the basis for the electorate's division.

In the partisan states, ballot labels indicated the party affiliations of gubernatorial and supreme court candidates. In the "mixed" states, convention nominations (in Michigan) and party primary ballots (in Arizona and Ohio) openly identified the opposing partisans in the judicial election contests. In the nonpartisan states, the party affiliations of opposing judicial candidates were determined from standard biographical sources, questionnaires submitted to state legislative research bureaus and supreme court historians, and inquiries to major metropolitan newspaper libraries and public officials.

The analysis of the partisan division of the vote was performed in every judicial election in which the candidates were found to have differing party affiliations. Thus, every contested race in the partisan and mixed states was analyzed. In the

[5] In the larger study for which these data originally were collected, the eleven southern states of the Confederacy were excluded because of the unique characteristics of the politics and population of that region. The reasons which supported their exclusion from the larger study are not entirely applicable to this analysis. But most of the southern states which utilize judicial elections (and nearly all do) feature the partisan variety; hence, it is to be expected that the partisan ballot structures the judicial voting behavior of southern voters in the same way it does the behavior of voters in nonsouthern states.

[6] In many instances election returns by county were available in published state manuals or election pamphlets. In other cases election returns were secured directly from the office in each state with the responsibility for conducting statewide elections, usually that of the secretary of state.

[7] The correlation statistic used here was Pearson's product-moment correlation coefficient (Blalock, 1960: 378).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

nonpartisan states, all contested races involving identifiable opposing partisans were included, as were those in which one candidate's partisan background could be ascertained but the opponent's could not.[8] This latter category was included on the assumption that voters need only perceive one candidate's partisan affiliation in order to be stirred to vote along partisan lines. Where one candidate has a name familiar to voters and, at the same time, one closely identified with partisan politics, the voters may be provided with a voting cue which will structure their responses along partisan lines. The candidate with the recognizable "party name" will attract the votes of members of his or her own party and simultaneously warn away opposition party voters.

Whenever possible, the state supreme court election was correlated with a concurrent gubernatorial race. In those states utilizing four-year gubernatorial terms, the supreme court race occurring between gubernatorial races was paired in the correlational analysis with the election for governor occurring two years previously.[9] Due to the stability and consistency of partisan identification in the electorate and the predominance of partisan voting in gubernatorial elections, this technique for correlating the partisan division of the vote by county for noncurrent gubernatorial and judicial races should provide a reliable estimate of the overall level of partisan voting in judicial elections.

The correlations of the partisan division of the vote in supreme court races might be affected by the nature of the gubernatorial balloting. Generally, partisan voting patterns in each state are quite stable from year to year. Particularly salient issues or attractive candidates, however, might disrupt the usual partisan division in any given year. Population shifts or slight changes in the partisan loyalties of the electorate over time, moreover, might influence the normal voting divisions. As a check upon the possible instability of the gubernatorial

---

[8] Of the elections held in the nonpartisan states, over half were uncontested and thus excluded from the correlation analysis. Among the contested races, about 60 percent involved elections in which the partisan affiliation of one or both of the candidates could be determined, excluding those races featuring individuals sharing the same party affiliation. Accordingly, only from one-fourth to one-third of all of the nonpartisan elections, whether contested or not, were included in the correlational analysis of the partisan division of the vote.

[9] In Michigan (until 1963) and Wisconsin, judicial elections held in the spring also had to be paired with nonconcurrent gubernatorial races. Off-season judicial races held in odd-numbered years were paired with the November election immediately preceding the spring contest. Judicial elections held in the spring of even-numbered years were correlated with the November elections held later in the same years.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

vote, the correlations among temporally contiguous gubernatorial races in each state were examined, along with a parallel matrix of intercorrelations among the temporally contiguous contested supreme court races (see Table 2).[10]

V. FINDINGS

Table 1 presents the results of the correlation analysis of the partisan division of the vote by county for governor and supreme court justice. Two major patterns stand out. First, voters in the partisan states are more likely to cast their votes along party lines than voters in the mixed and nonpartisan states. In states utilizing the partisan ballot, voters who cast their ballots for the Democratic gubernatorial candidate are likely also to vote for the Democratic judicial candidate; Republican candidates for justice and governor draw similarly from the same base of partisan support in the electorate. The overall mean correlation for all nine states is .84. The correlations are particularly high in West Virginia, Indiana (.92 in each), and Pennsylvania (.91).

As Table 1 also shows, it is much more difficult for voters in states utilizing the nonpartisan judicial ballot to cast their votes along party lines. Indeed, this was precisely the intent of Progressive reformers in their drive for the adoption of nonpartisan ballots. Even in the mixed states, where the nomination process is partisan and voters have an early opportunity to learn the party affiliations of the respective candidates, the nonpartisan ballot still makes it difficult for the average voter to cast a ballot consistent with partisan preference. In the three mixed states, the mean correlations are considerably lower than those observed for the partisan states, averaging .44

[10] "Temporally contiguous" elections refers to those elections held adjacent in time. An important caveat to the intercorrelation analysis in Table 2 is that only those contiguous gubernatoral elections which were paired with contested judicial races in the correlational analysis were included in the calculation of intercorrelations. In the nonpartisan states, where contested judicial races did not necessarily occur, the gubernatorial and judicial races intercorrelated may not have been held in successive biennial or quadrennial election years. Additionally, where more than one judicial race in a given year was available for intercorrelation with those in another year (as typically occurred in states using partisan or mixed systems), the "most partisan" judicial election, based upon the results of the correlation analysis of the partisan division of the vote, was selected for intercorrelation.

The customary warnings about the use of aggregate voting statistics to make inferences about individual voting behavior are applicable here (Robinson, 1950; Ranney, 1962). In addition, because some of the voters who cast ballots in the governor's race failed to make a choice in the judicial race, the county-by-county percentages used in the correlational analysis were not drawn from precisely the same base of data (Dubois, 1978: Ch. 2). Caution in the use of these data must be exercised, therefore.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

Table 1. Correlations Between Partisan Division of the Vote, By County, For Supreme Court Justice and Governor, By State and Judicial Election System, 1948-1974

State	Mean Correlation[a]	Range High	Range Low	Standard Deviation[b]
PARTISAN STATES				
West Virginia	.92 (N=20)	.98	.78	.068
Indiana (1948-70)	.92 (N=21)	.99	.74	.071
Pennsylvania	.91 (N=10)	.98	.86	.036
New York	.89 (N=12)	.99	.70	.076
Iowa (1948-62)	.88 (N=23)	.95	.82	.040
Colorado (1948-66)	.80 (N=20)	.92	.64	.058
Kansas (1948-58)	.79 (N=18)	.90	.64	.078
Utah (1948-50)	.78 (N=2)	.80	.76	*
New Mexico	.67 (N=13)	.97	.39	.192
MIXED STATES				
Ohio	.47 (N=36)	.81	−.42	.210
Arizona	.44 (N=10)	.77	−.02	.275
Michigan	.40 (N=29)	.73	−.23	.305
NONPARTISAN STATES				
Montana	.37 (N=15)	.74	−.42	.302
Minnesota	.34 (N=5)	.65	−.01	.284
Nevada	.32 (N=4)	.66	.03	.314
Utah (1952-74)	.32 (N=4)	.42	.18	.106
Washington[c]	.18 (N=8)	.66	−.30	.322
Wisconsin	.18 (N=12)	.46	.03	.128
Wyoming	.15 (N=7)	.60	−.49	.332
North Dakota	.07 (N=3)	.18	−.05	*
Idaho[c]	.03 (N=4)	.10	−.06	.069

[a] The entries in this column represent the mean correlation of the partisan division of the vote for all elections included in the correlation analysis in each state. For example, in West Virginia the mean correlation of the vote between governor and supreme court justice in twenty elections was .92. In the remaining columns it can be seen that these correlations ranged from a high of .98 to a low of .78, with a standard deviation among the twenty correlations of .068.

[b] The designation * indicates N≤3; standard deviations in such instances have been omitted as unreliable.

[c] In the states of Idaho and Washington, a candidate who collects a majority of the votes cast in the primary election is either declared elected (Idaho) or entitled to run unopposed in the general election (Washington). The correlation analysis was performed only upon the contested judicial elections held concurrently with the November elections. Oregon, which uses the same arrangement as that in Washington, has not been included in this analysis, since only one such contested race has been held in the postwar general elections.

overall. The mean correlations for the nine nonpartisan states are lower still, with an overall mean of .25. The nonpartisan state with the highest mean correlation for the partisan division of the vote, Montana, registers a mere .37. The other nonpartisan states trail behind; in North Dakota (.07) and Idaho (.03), the partisan divisions of the vote for governor are virtually no help in understanding the divisions of the states' electorates in judicial races.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

The second major pattern in Table 1 is that the range of correlations in the partisan states is generally quite small, while there is much more variation in the extent of party voting in the mixed and nonpartisan states. This is revealed both by the range of correlations reported in each state and the standard deviations of these correlations.[11] In the nonpartisan and mixed states the highest correlations approach those observed consistently in the partisan states, while the lowest correlations fall very low. In fact, in nine of the twelve mixed and nonpartisan states, the correlations have on occasion fallen to negative levels.

To check the stability of these relationships, the intercorrelations of the contiguous gubernatorial and the contiguous contested judicial races were analyzed. These data, presented in Table 2, show that the relationship between the type of judicial election system and the extent of partisan voting by the judicial electorate is not a spurious one owing to excessive instability in the gubernatorial vote among the mixed and nonpartisan states. Table 2 presents, as the number of elections permit, the means and standard deviations separately for the gubernatorial and the judicial intercorrelations.

The gubernatorial intercorrelations reveal that there is a high degree of stability from one election to the next in the partisan patterns of the vote. This is the case in virtually every state, independent of the type of judicial election system. The judicial intercorrelations show a different pattern. These figures reveal that only among the partisan states is there a high degree of stability in the partisan division of the judicial vote from one election to the next. Although the differences are not great, the mean judicial intercorrelations consistently exceed the mean gubernatorial intercorrelations in states utilizing the partisan judicial ballot. Likewise, the standard deviations of the intercorrelations are consistently less in these states for the judicial than for the gubernatorial races. This pattern conforms with the idea that in gubernatorial races, short-term influences—candidates and issues—can disturb the otherwise stable partisan alignment of the vote. In judicial contests, by contrast, where personalities and issues are less salient, voters are more likely to cast their ballots along more predictable party lines.

---

[11] For these data, a high standard deviation indicates that the correlations of the party division of the vote for governor and justice in a state are, on the average, more variable than in a state in which the standard deviation of the correlations are low (Blalock, 1960: 80-81).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

In the mixed and nonpartisan states, with the exception of Nevada, the judicial intercorrelations in Table 2 are generally much lower than the gubernatorial intercorrelations. The standard deviations also show that the judicial intercorrelations are more variable than those in the gubernatorial races. Thus, the party division of the vote in judicial races appears to be less stable from year to year.

Table 2. Mean Judicial and Mean Gubernatorial Intercorrelations,[a] Partisan Division of theVote, By County, 1948-1974

State	Judicial Contests		Gubernatorial Contests[b]	
	Mean	Std. Dev.[c]	Mean	Std. Dev.[c]
PARTISAN STATES				
West Virginia	.95	.045	.90	.061
Indiana (1948-70)	.93	.019	.81	.095
Pennsylvania	.92	.029	.88	.048
New York	.92	.060	.79	.188
Iowa (1948-62)	.91	.024	.83	.051
Utah (1948-50)	.87	*	.61	*
Kansas (1948-58)	.84	.037	.72	.060
Colorado (1948-66)	.83	.087	.76	.101
New Mexico	.68	.150	.53	.158
MIXED STATES				
Arizona	.58	.195	.90	.068
Ohio	.50	.169	.85	.026
Michigan	.33	.256	.93	.050
NONPARTISAN STATES				
Nevada	.73	*	.57	*
Montana	.21	.281	.80	.083
Wisconsin	.17	.187	.85	.054
North Dakota	.13	*	.89	*
Utah (1952-74)	.07	*	.68	*
Washington	.02	.395	.75	.115
Idaho	−.07	*	.63	*
Minnesota	−.10	.331	.76	.124
Wyoming	−.11	.425	.77	.093

[a] Intercorrelations are of temporally contiguous contested races, e.g., 1948-1950, 1950-52, 1952-54, etc. See note 10 accompanying text.

[b] Includes only gubernatorial races held in years with contested supreme court races included in correlation analysis.

[c] The designation * indicates $N \leq 3$; standard deviations in such instances have been omitted as unreliable.

These results are consistent with election theory and previous empirical studies of electoral behavior. Voters in low salience elections rely upon available voting cues, and in partisan judicial elections the party label is the most meaningful guide to voting. The electorate's behavior is structured along partisan lines. Moreover, the judicial race is not the only contest on the ballot being decided by partisan voting. Most of the other races on the ballot, including those for the major statewide executive offices and federal and state legislative posts, are primarily

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

partisan events. Indeed, although more deliberate voter assessment of candidates and issues characterizes presidential, gubernatorial, and perhaps U.S. senatorial voting, most voters ultimately vote in ways consistent with their long-term partisan attachments.

At first glance it would appear that the nonpartisan judicial ballot achieved precisely what its supporters desired; it removed political party from consideration by voters. Progressive reformers reasoned that the elimination of party from the ballot and partisanship from the campaign would promote a more sober evaluation by voters of the individual qualifications and issue positions of those seeking office. But given the low salience of judicial elections, it is unlikely that voters seek out and assimilate what little information exists about contending candidates. Most voters must rely upon other information which they receive during the campaign or in the ballot booth. Perhaps the most central cues available to guide nonpartisan judicial voting are incumbency and name familiarity. Incumbency itself can result in name recognition, but these two factors deserve separate treatment as determinants of electoral behavior in nonpartisan judicial contests.

The incumbent judge probably is not known to the electorate for his activities on the bench. Unlike legislators and other public officials, judges have few opportunities to have their names in the news, and they make little effort to keep their names before constituents between elections. But just prior to and during campaigns, incumbents seek such visibility, and their supporters capitalize on the fact of incumbency. Campaign committees prominently publicize the candidates' qualifications and experience as "sitting" judges. In some states, ballot labels make voter identification of incumbents an easy task. Party line voting is, of course, discouraged by the nonpartisan ballot. But voters who cast their ballots for the candidate they recognize as the incumbent further reduce the correlations between the party division of the vote for governor and for supreme court justice.

Candidates for state supreme court also may draw voters if they possess familiar names. Previously unknown candidates will have a difficult time getting their names before the judicial electorate without massive publicity efforts. But candidates who have served in public office or who have been frequent contenders for public office, particularly at the statewide level, will be immediately recognized by some, perhaps many, voters. Even candidates who have previously served in high appointive

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

office with public visibility will benefit from name familiarity and recognition by the voters. Finally, one can find occasional candidates who share the surname of a well-known political figure in the state even if unrelated by family or political affiliation. When candidates possess high name familiarity and also are strongly associated with a political party, voters may act upon this cue and respond in a surprisingly partisan fashion despite the nonpartisan ballot.

Beyond incumbency and name recognition, voters can call upon other voting cues in nonpartisan settings. The surnames of candidates provide ethnic or religious cues meaningful to some voters (Nagel, 1973). In those states where ballot labels indicate the occupation or residence of candidates, additional voting indicators are available (Byrne and Pueschel, 1974). Even in the absence of a ballot label, some voters may recognize and be attracted to candidates whose political or judicial careers extend into their city, county, or region (Key, 1949). Finally, the vote can be based on such irrelevant considerations as the sex of candidates, the use of a nickname on the ballot, or even the relative ballot position of competing candidates (Byrne and Pueschel, 1974; Bain and Hecock, 1957). Under conditions of low voter information about candidates and issues, and in the absence of cues for discriminating among competing candidates found in party affiliation, name familiarity, ethnic identification, ballot labels, or geography, voters may resort to random criteria for expressing their voting preference, such as flipping a coin or pulling any lever.

The precise effects of each of the possible non-party cues which inspire voter choice have not been researched for judicial elections. It would indeed be a Herculean task to attempt such an analysis. But a partial assessment of the consequences of removing the party label from the judicial ballot and the role of the major non-party voting cues (such as incumbency and name familiarity) can be made by considering some actual examples of disruptions in the normal partisan voting divisions which accompany nonpartisan judicial elections. Of course, not all cues present in an election will be used by all voters. We can surmise that some voters, faced with a lack of direction, will withhold their vote in judicial contests. Others are drawn to the polls to participate in the selection of other elected officials and ignore the judicial race. In any case, the overall level of voter participation in judicial elections suffers under the nonpartisan ballot because voters are robbed of meaningful guides to voting (Dubois, 1978: Ch. 2).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

One measure of the impact of the nonpartisan ballot on participation is the amount of "roll-off," i.e., the proportion of voters participating in the race at the top of the ballot who fail to cast votes in the judicial contest. In the states utilizing partisan judicial elections, the mean amount of roll-off in contested races is slightly less than seven percent, ranging from a low of approximately one percent in Utah to slightly over 11 percent in Kansas. In states with nonpartisan general election ballots, however, roll-off in contested races averaged over 21 percent across 12 states, ranging from about 11 percent in Wyoming to over 34 percent in Michigan (figures not shown in Table).[12]

VI. EXAMPLES FROM THE MIXED STATES

The impact of the nonpartisan ballot upon the behavior of the judicial electorates can be appreciated by a description of representative elections conducted in those states which utilize nonpartisan general election ballots, but which feature partisanship in the formal nomination processes and in the conduct of the general election campaigns. The results demonstrate that even in these mixed states, where the stimuli for partisan voting are strong, the nonpartisan ballot nevertheless forces voters to rely upon non-party voting guides and often results in idiosyncratic patterns of voting.

The disrupting effects of name identification and incumbency are clearly demonstrated in Ohio's judicial elections.[13] The name Matthias has appeared on the supreme court ballot in Ohio virtually every six years since 1914. Edward S. Matthias, a Republican, was first elected to the supreme court in that year and was subsequently re-elected six times until his death in 1953. He was succeeded by his son, John M. Matthias, also a Republican who won initial election in 1954 and was re-elected three times before resigning in 1970. The correlations for the partisan division of the vote for elections in which a Matthias was involved are among the most consistently low reported for Ohio. Since Matthias is a name traditionally associated not only with the state supreme court but also with

---

[12] Many other factors are known to influence the ability of voters to complete their ballots. Voter fatigue is known to take its greatest toll among less educated voters who are more likely to be confused by a long ballot. Institutional arrangements, such as the place on the ballot and specific judicial election ballots also might affect the amount of roll-off (Walker, 1966; Dubois, 1979). But given the steady increase in roll-off from states using the partisan judicial ballots to those using nonpartisan balloting, the importance of the absence of the party cue upon voter participation in judicial contests cannot be dismissed.

[13] On Ohio judicial elections, see Barber (1971).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

Republican politics, some voters probably cast their ballots along lines consistent with their partisan preference. Other voters were more influenced by the long term incumbency of the candidate and the familiarity of the family name *vis-à-vis* those of opposing candidates.

Aside from the effect of incumbency and name recognition upon voting patterns in Ohio, names strongly associated with the partisan politics of the state have evoked partisan responses from the voters in nonpartisan judicial races. The names Taft, Brown, Herbert, and O'Neill are closely linked with the Republican Party in Ohio. Many judicial races involving candidates bearing these names have sparked partisan divisions in the electorate, even when the candidates involved have not been closely related to the family for which the partisan reputation was originally earned. Similarly, Democrat Frank D. Celebrezze won election to the Ohio Supreme Court in 1972 in the most partisan race studied ($r = .81$). Undoubtedly, many voters responded to the surname that Celebrezze shares with Anthony D. Celebrezze, the well-known Democratic former mayor of Cleveland from 1952 to 1962, later appointed by President Kennedy as Secretary of Health, Education, and Welfare, and subsequently elevated to the federal appeals bench by President Lyndon Johnson.

This relatively high degree of partisan voting might be construed as the unusual ability of Ohio's political parties to successfully promote the partisan affiliations of their respective judicial nominees. But it can be shown that such is not the case. Voters in Ohio's judicial elections appear to have responded to name familiarity first and to party second. This is best shown when the association of party and name have been juxtaposed from their typical or expected link. For example, a number of Democratic candidates named Brown have attempted to win election to the Ohio Supreme Court. This would induce some Republican voters to "cross over" to vote for the candidate whose name they associate with their party and some Democratic voters to "cross over" to avoid voting for the candidate they think is a Republican. A dramatic instance of this kind of name confusion was demonstrated in the 1970 race between Democrat Allen Brown and J.J.P. Corrigan, a Republican appointee of Governor John Rhodes. In this race, a Democratic candidate with a surname associated with Republicanism faced a Republican candidate possessing a Democratic name in Ohio politics. The correlation between this judicial race and the concurrent gubernatorial contest was $-.42$,

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

suggesting that many Democrats voted for Corrigan and many Republicans for Brown, resulting in a moderately partisan vote in the wrong direction.

Partisan judicial races where candidates with well-known backgrounds in party politics or names closely associated with either party sought election to the state supreme court also appeared in Arizona's mixed system used prior to 1974. Notable is the 1964 contest between Republican Edward W. Scruggs and Democrat Ernest W. McFarland which, despite the nonpartisan ballot, sparked a strongly partisan division in the electorate ($r = .77$). McFarland was a political landmark in Arizona politics during the 1940's and 1950's, serving first two terms as U.S. senator and then two terms as governor. McFarland made an additional unsuccessful attempt in 1958 to unseat Barry Goldwater from his U.S. Senate seat. In 1964, when McFarland ran for and won his place on the Arizona Supreme Court, Republican and Democratic voters alike were able to cast votes consistent with their partisan preferences; few voters could have been unaware of McFarland's tie to the Democratic Party (Rice, 1961).

As in Ohio, name confusion has occasionally affected Arizona's judicial elections. In 1960, Jesse A. Udall, a Republican, won election to the state supreme court, the only Republican elected in the postwar years until 1968. Appointed in June, 1960, by Governor Paul Fannin, Udall managed to keep his seat in the Democratically-dominated state because he shared the Udall name, one associated historically with a pioneer Mormon family and with Democratic politics in the state. The confusion of the voters in electing a Republican Udall is suggested by the slightly negative correlation for the partisan division of the vote (−.02). And it is consistent with the strong negative intercorrelation of the 1960 judicial race with one held in 1952 in which a Democratic Udall (Levi S.) was elected to the court (−.61).[14]

A final example, drawn from Michigan's experience with nonpartisan judicial races, demonstrates the impact of idiosyncratic voting behavior often associated with this ballot form. Name confusion was a major factor in the 1959 race when two candidates with identical last names were among the five-person field, competing for two positions on the state's high court. The Republican Party nominated William H. Baldwin and Maurice F. Cole, the latter a circuit court commissioner from

[14] The 1952 contest in which Democrat Levi S. Udall was elected was moderately partisan, with a correlation for the partisan division of the vote of .59.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

Oakland County. Also on the ballot were the two Democratic incumbents seeking re-election plus one Kenneth P. Cole, an attorney and nominee of the Prohibition Party. Third-party candidates previously had made supreme court bids in Michigan, but with very limited success. Despite the labeling of the candidates by occupation on the ballot, the Prohibition candidate, Kenneth Cole, gathered 199,123 votes compared to Maurice Cole's total of 209,155. The Prohibition Cole captured over 30 percent of the votes cast for the three non-Democratic candidates. An inspection of the county returns reveals that the Prohibition Party nominee led Maurice Cole in 62 of the state's 83 counties and competed closely in virtually all of the remainder. Only a winning margin in Oakland county of some 11,000 votes preserved a plurality for the Republican Cole.

This is an extreme and not very common example. But it illustrates the dramatic effect which name identification and/or confusion can have upon the voting responses of the electorate faced with a nonpartisan ballot. It also confirms for judicial elections the tendency, originally uncovered by V.O. Key, Jr., for voters to give disproportionate support to candidates who are their "friends and neighbors" in elections where there is no regularized system of two-party competition or a stable structure of factional non-party competition (Key, 1949: 37-41). In the final tally, the Republican Cole secured a statewide plurality over the Prohibition Party candidate by a vote margin achieved among voters who were "friends and neighbors" in his home county.

These general observations on voting patterns in the mixed partisan/nonpartisan states due to name identification and incumbency also can be seen in the nine states utilizing nonpartisan nomination and nonpartisan election of supreme court justices. In these states political parties have no formal role in nominating candidates or campaigning on their behalf. In fact, in most nonpartisan states, candidates are prohibited from being identified by partisan affiliation and in some the parties are formally restrained by law from offering campaign endorsement to judicial candidates. Regardless of whether the parties are legally limited in the formal role they can play in judicial campaigns, however, in some states they do appear to engage in informal, *sub rosa*, activity on behalf of candidates. Studies on the extent of party activity in nonpartisan judicial elections

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

are not available, but in all likelihood the parties are not as visible to the electorate as when they have formal legal responsibility for choosing nominees to run on the nonpartisan general election ballot.[15] Thus it is unlikely that voters are able to ascertain the partisan affiliations of opposing candidates in most nonpartisan judicial elections. Indeed, since political parties play no formal part in recruiting candidates for judicial office, there may not even be judicial candidates of different political persuasions on the ballot. But even when opposing partisans do contest a judicial race, voters are unlikely to be aware of their identities.

VII. IMPLICATIONS FOR RESEARCH AND REFORM

Both the supporters and opponents of judicial elections can find support for their positions in these results. For opponents of popular judicial selection, the results will confirm their worst suspicions that voters have no rational basis for casting ballots in these low-salience races and often have to adopt idiosyncratic criteria in making their choices. And even where voters have their decisions structured by party labels, no necessary relationship need exist between the judicial qualifications of those who seek seats on state supreme courts and the partisan labels they wear. Proponents of popular judicial selection might respond that party labels provide no less guidance about judicial qualifications and abilities than they do about the qualifications and abilities of candidates for non-judicial offices. Party labels do not assist very well with regard to such information in most elections, but we do not abandon the elective process for the selection of other public officials. Further, though comparative studies have not yet been performed, the level of voter knowledge about the qualifications of candidates seeking judgeships does not appear substantially lower than voter awareness concerning competing candidates for most sub-presidential offices (Stokes and Miller, 1962; Freedman,

---

[15] No studies have considered the extent of surreptitious party activity in state judicial elections. There is some evidence that even where party organizations attempt to endorse judicial candidates or to carry on active campaigns, their efforts may be eschewed by the candidates. For example, in Minnesota incumbents discovered that the most successful election strategy was to campaign as incumbents and join other incumbents of both parties seeking re-election. The Farmer-Labor Party, which endorsed liberal incumbents seeking reelection, was unable to persuade judges from campaigning with conservative incumbents. Malcolm Moos was led to conclude that this "incumbent strategy" was so successful that "the effects . . . of partisan endorsement for candidates for election to the supreme court . . . have . . . been negligible" (Moos, 1941: 71-72).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

1974; Johnson *et al.*, 1978; Ladinsky and Silver, 1967; Adamany and Dubois, 1976).

It does not follow, of course, that the level of voter awareness and intelligence in judicial campaigns cannot be improved. There have been calls for the more extensive use of professional bar polls and bar association ratings of judges and prospective judges (see Johnson *et al.*, 1978), the pre-election distribution to voters of materials describing the qualifications of candidates for the bench (Beechen, 1974), and the easing of the formal and informal codes of proper judicial campaign conduct so as to allow judicial candidates to present their general political philosophies and to debate their views on judicial policy questions (Grossman, 1972). More recently it has been proposed that the legal profession screen candidates who desire to run for elective judicial office (Curtiss, 1976; Kaminsky, 1977). Presumably, under such a plan, whoever won on election day would be at least minimally qualified for the bench.

But maximizing the overall quality of the judiciary is not the sole aim of a system of judicial selection and retention. The popular election of judges in America has also sought to create or preserve the accountability of judges to the populace. Appellate judicial service may well require the possession and demonstration of special skills and unusual analytical abilities, but the issue of whether the overall quality of the bench is compromised by popular elections may be outweighed if elections do secure the popular accountability of judges. The party label, although not directly of utility in selecting the "most qualified" candidate, may nevertheless perform a critical function by structuring voter choices along partisan lines, providing one believes that political parties serve as the instruments by which the electorate maintains control over and hence the accountability of state judicial actors.

Research investigating the relationship between social background and patterns of judicial behavior has shown that political party is the most powerful factor accounting for differences in the decision-making orientations of state supreme court justices (Nagel, 1961; Bowen, 1965; Nagel, 1974). Case studies on patterns of judicial behavior in state supreme courts also suggest that the extent to which partisanship is important in judicial decision-making varies with the partisanship of the nomination and election system (Schubert, 1959; Ulmer, 1962; Adamany, 1969; Feeley, 1969; Feeley, 1971; Fair, 1967; Beiser and Silberman, 1971; Beatty, 1970). There is a growing literature, therefore, which links the judicial election constituency to the

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

behavior of judges selected under the partisan system (Dubois, 1978: Ch. 5-7). At present, the results of previous analyses provide only inferential support for this linkage. But if the inferences gleaned from the case studies can be more firmly established in future research, party identification may emerge as the chief mechanism by which voters can influence the course of judicial policy-making.[16]

To accept this position, one would have to determine whether voters casting ballots along party lines in judicial elections are voting "blindly" or "irrationally," as the critics suggest, or in fact are able to use the party label as a meaningful guide to express their general preferences on the resolution of public policy issues. The latter position, most ably expounded by V.O. Key and more recently by Gerald Pomper, notes the high correlation between partisan affiliation, issue preferences, and electoral choice, and sees in partisan voting the means by which the citizenry can maintain control over the course of public affairs (Key, 1966; Pomper, 1968; Pomper, 1975). To accept this position, one also would have to concede the principle of judicial accountability as a central goal of a judicial selection system, a concession proponents of the merit plan seem unwilling to make. Indeed, one suspects that it is the conflict between the values of judicial accountability on the one hand and judicial independence on the other that is at the heart of the debate.[17] No amount of empirical evidence can be marshalled to reconcile this normative clash or establish the rightful pre-eminence of one value over the other.

REFERENCES

ABRAMOWITZ, Alan I. (1975) "Name Familiarity, Reputation, and the Incumbency Effect in a Congressional Election," 28 *Western Political Quarterly* 668.

ADAMANY, David (1969) "The Party Variable in Judges' Voting: Conceptual Notes and a Case Study," 63 *American Political Science Review* 57.

ADAMANY, David and Philip DUBOIS (1976) "Electing State Judges," 1976 *Wisconsin Law Review* 731.

---

[16] See Dubois (1978): Chapters 6 and 7.

[17] Whether the arguments supporting popular elections as instruments for maintaining the accountability of state appellate judges apply with equal force to those judges who sit at the trial level is a question which has not been fully debated. Some commentators have argued that the essential differences between the functions performed by trial and appellate judges might justify different selection methods for the judges sitting at different levels. Indeed, many states use one method of judicial selection for their trial judges and yet another for the selection of appellate judges. But no consistent pattern characterizes the American states and no broad agreement has yet been reached as to which selection method is best suited for the selection of judges at any level (Barber, 1972: 184-186; Dubois, 1978: 55-57; Watson and Downing, 1969: 254-257).

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

ADRIAN, Charles R. (1952) "Some General Characteristics of Nonpartisan Elections," 46 *American Political Science Review* 766.

ATKINS, Burton (1976) "Judicial Elections: What the Evidence Shows," 50 *The Florida Bar Journal* 152.

BAIN, Henry M. and Donald S. HECOCK (1957) *Ballot Position and Voter's Choice: The Arrangement of Names on the Ballot and Its Effect on the Voter.* Westport, Conn: Greenwood Press.

BARBER, Kathleen (1971) "Ohio Judicial Elections—Nonpartisan Premises With Partisan Results," 32 *Ohio State Law Journal* 762.

———— (1972) "Selection of Ohio Appellate Judges: A Case Study in Invisible Politics," in J. Gargan and J. Coke (eds.), *Political Behavior and Public Issues in Ohio.* Kent, Ohio: Kent State University Press.

BEATTY, Jerry K. (1970) "Decision-Making on the Iowa Supreme Court, 1965-1969," 19 *Drake Law Review* 342.

BEECHEN, Paul D. (1974) "Can Judicial Elections Express the People's Choice," 57 *Judicature* 242.

BEISER, Edward N. and Jonathan SILBERMAN, (1971) "The Political Party Variable: Workmen's Compensation in the New York Court of Appeals," 3 *Polity* 521.

BLALOCK, Hubert (1960) *Social Statistics.* New York: McGraw-Hill.

BOWEN, Don (1965) "The Explanation of Judicial Voting Behavior From Sociological Characteristics of Judges," Ph.D. dissertation, Department of Political Science, Yale University.

BYRNE, Gary C. and J. Kristian PUESCHEL (1974) "But Who Should I Vote for For County Coroner?" 36 *Journal of Politics* 778.

CAMPBELL, Angus, Philip E. CONVERSE, Warren E. MILLER, and Donald R. STOKES, (1960) *The American Voter.* New York: John Wiley.

CONVERSE, Philip E. (1966) "The Concept of a Normal Vote," in A. Campbell *et al.*, *Elections and the Political Order.* New York: John Wiley.

COVER, Albert D. (1977) "One Good Term Deserves Another: The Advantage of Incumbency in Congressional Elections," 21 *American Journal of Political Science* 523.

COWART, Andrew T. (1973) "Electoral Choice in the American States: Incumbency Effects, Partisan Forces, and Divergent Partisan Majorities," 67 *American Political Science Review* 835.

CURTISS, W.D. (1976) "Screening Judicial Candidates for Election," 59 *Judicature* 320.

DUBOIS, Philip L. (1978) "Judicial Elections in the States: Patterns and Consequences," Ph.D. dissertation, Department of Political Science, University of Wisconsin.

——— (1979) "Voter Turnout in State Judicial Elections: An Analysis of the Tail on the Electoral Kite," *Journal of Politics* (forthcoming).

ESCOVITZ, Sari S. (1975) "Judicial Selection and Tenure," pamphlet published by the American Judicature Society.

FAIR, Daryl R. (1967) "An Experimental Application of Scalogram Analysis to State Supreme Court Decisions," 1967 *Wisconsin Law Review* 449.

FEELEY, Malcolm (1969) "A Comparative Analysis of State Supreme Court Behavior," Ph.D. dissertation, Department of Political Science, University of Minnesota.

——— (1971) "Another Look at the 'Party Variable' in Judicial Decision-Making: An Analysis of the Michigan Supreme Court," 4 *Polity* 91.

FREEDMAN, Stanley R. (1974) "The Saliency of Party and Candidate in Congressional Elections: A Comparison of 1958 and 1970," in Norman R. Luttbeg (ed.), *Public Opinion and Public Policy.* Homewood, Ill.: Dorsey Press.

GROSSMAN, Joel B. (1972) "A Political View of Judicial Ethics," 9 *San Diego Law Review* 803.

JACOB, Herbert (1966) "Judicial Insulation—Elections, Direct Participation and Public Attention to the Courts in Wisconsin," 1966 *Wisconsin Law Review* 801.

JOHNSON, Charles A., Roger C. SHAEFER, and R. Neal MCKNIGHT (1978) "Saliency of Judicial Candidates and Elections," 59 *Social Science Quarterly* 371.

KAMINSKY, Martin (1977) "A Proposal for Mandatory Preselection Screening for State Court Judges," 51 *St. Johns Law Review* 516.

KESSEL, John (1972) "Comment: The Issues in Issue Voting," 65 *American Political Science Review* 459.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press

KEY, V.O., Jr. (1949) *Southern Politics in State and Nation.* New York: A. A. Knopf.

——— (1966) *The Responsible Electorate.* Cambridge: Belknap Press of Harvard University Press.

KLOTS, Allen (1955) "The Selection of Judges and the Short Ballot," 38 *Journal of the American Judicature Society* 134.

KOSTROSKI, Warren L. (1973) "Party and Incumbency in Postwar Senate Elections: Trends, Patterns, and Models," 67 *American Political Science Review* 1213.

LADINSKY, Jack and Allen SILVER (1967) "Popular Democracy and Judicial Independence: Electorate and Elite Reactions to Two Wisconsin Supreme Court Elections," 1967 *Wisconsin Law Review* 128.

LEE, Stephen (1973) "Judicial Selection and Tenure in Arizona," 1973 *Law and the Social Order* 51.

LOWE, R. Stanley (1971) "Voluntary Merit Selection Plans" 55 *Judicature* 161.

MARGOLIS, Michael (1977) "From Confusion to Confusion: Issues and the American Voter (1956-1972)," 71 *American Political Science Review* 31.

MAYO, Charles (1964) "The 1961 Mayoralty Election in Los Angeles: The Political Party in a Nonpartisan Election," 17 *Western Political Quarterly* 325.

MILLER, Warren E. and Teresa LEVITIN (1976) *Leadership and Change: The New Politics and the American Electorate.* Cambridge, Mass: Winthrop Publishers, Inc.

MOOS, Malcolm (1941) "Judicial Elections and Partisan Endorsements of Judicial Candidates in Minnesota," 35 *American Political Science Review* 69.

NAGEL, Stuart (1961) "Political Party Affiliation and Judges' Decisions," 55 *American Political Science Review* 843.

——— (1973) *Comparing Elected and Appointed Judicial Systems.* Beverly Hills: Sage Professional Papers in American Politics.

——— (1974) "Multiple Correlation of Judicial Backgrounds and Decisions," 2 *Florida State University Law Review* 258.

NIE, Norman, Sidney VERBA and John R. PETROCIK (1976) *The Changing American Voter.* Cambridge: Harvard University Press.

PHILIP, Cynthia Owen, Paul NEJELSKI, and Aric PRESS (1976) *Where Do Judges Come From?* New York: Institute of Judicial Administration.

POMPER, Gerald (1968) *Elections in America: Control and Influence in Democratic Politics.* New York: Dodd, Mead and Co.

——— (1975) *Voters' Choice: Varieties of American Electoral Behavior.* New York: Dodd, Mead and Co.

RANNEY, Austin (1962) "The Utility and Limitations of Aggregate Data in the Study of Electoral Behavior," in Austin Ranney (ed.), *Essays on the Behavioral Study of Politics.* Urbana: University of Illinois Press.

RICE, Ross (1961) "Amazing Arizona: Politics in Transition," in Frank Jonas (ed.), *Western Politics.* Salt Lake City: University of Utah Press.

ROBINSON, W.S. (1950) "Ecological Correlations and the Behavior of Individuals," 15 *American Sociological Review* 351.

SCHUBERT, Glendon (1959) *Quantitative Analysis of Judicial Behavior.* Glencoe, Ill: The Free Press.

STOKES, Donald and Warren MILLER (1962) "Party Government and the Saliency of Congress," 26 *Public Opinion Quarterly* 531.

ULMER, Sidney (1962) "The Political Party Variable in the Michigan Supreme Court," 11 *Journal of Public Law* 352.

WALKER, Jack (1966) "Ballot Forms and Voter Fatigue: An Analysis of the Office Block and Party Column Ballots," 10 *Midwest Journal of Political Science* 448.

WATSON, Richard and Rondal DOWNING (1969) *The Politics of the Bench and the Bar: Judicial Selection Under the Missouri Nonpartisan Court Plan.* New York: John Wiley and Sons.

WINTERS, Glenn R. (1973) *Selected Readings: Judicial Selection and Tenure* (rev. ed.). Chicago: The American Judicature Society.

https://doi.org/10.2307/3053185 Published online by Cambridge University Press