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Introduction

These data are taken from the circulation records found in William J. Brennan’s papers, which are located at the Library of Congress’s Manuscript Division. In every case, Justice Brennan had his staff maintain a log of each circulation, including memorandum and opinion drafts. The log contains summary information for each case, including the docket number, the date the case was argued, the date the decision was announced, the person who was assigned the majority opinion and the date of that assignment, the conference vote according to Justice Brennan’s records, the dates on which the majority opinion drafts were circulated, and response of each justice. Copies of the circulation records can be found at http://home.gwu.edu/~wahlbeck/Personal_Homepage/Circulation_Records.html.

As one can see from the sample circulation record found in Appendix A, which is Justice Brennan’s record from O’Shea v. Littleton (1974), the administrative staff uses shorthand abbreviations to describe the content of the memorandum. For instance, the circulation record indicates that Justice William Douglas circulated a memo on November 29, 1973 stating “to ppa ds.” This means that Justice Douglas planned to circulate a dissenting opinion. As his memo put it, “I will in due course circulate a dissent in 72-953, Shea v. Littleton [sic].” Similarly, Potter Stewart’s response on November 28, 1973 was recorded as “agrees with spp.” This means that Justice Stewart agreed with the majority opinion, joining it, but that memo made a suggestion to the author (in this case the suggestion was that the author, Byron White, delete one part of the majority opinion). Harry Blackmun’s January 7, 1974 response was recorded as “to ppa kkr,” which indicates his intention to propose a concurring opinion. On January 9, 1974, Justice Blackmun circulated “kkr in p/,” an opinion that concurred in part. When we encountered shorthand that we could not interpret, we consulted the actual document.

Justice Brennan is not alone in maintaining a circulation record. We have found similar records in the papers of Justices Blackmun, Lewis Powell, William Rehnquist, and Earl Warren.

These data include 2,467 cases. Data from Justice Brennan’s circulation records served as the basis for Crafting Law on the Supreme Court: The Collegial Game (Cambridge University Press, 2000). We excluded 177 cases that were not orally argued, were not assigned as a signed opinion, and did not result in a signed opinion. We address data reliability in Appendix 1 of the book.

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Data

Case Information

Term (TERM)

This records the Supreme Court October Term in which the case was decided. This is a two-digit variable where, for example, 69 refers to the 1969 OT.

<table>
<thead>
<tr>
<th>Term</th>
<th>Frequency</th>
<th>Term</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969</td>
<td>116 (4.7%)</td>
<td>1978</td>
<td>137 (5.6%)</td>
</tr>
<tr>
<td>1970</td>
<td>131 (5.3%)</td>
<td>1979</td>
<td>143 (5.8%)</td>
</tr>
<tr>
<td>1971</td>
<td>151 (6.1%)</td>
<td>1980</td>
<td>132 (5.4%)</td>
</tr>
<tr>
<td>1972</td>
<td>157 (6.4%)</td>
<td>1981</td>
<td>151 (6.1%)</td>
</tr>
<tr>
<td>1973</td>
<td>148 (6.0%)</td>
<td>1982</td>
<td>157 (6.4%)</td>
</tr>
<tr>
<td>1974</td>
<td>144 (5.8%)</td>
<td>1983</td>
<td>160 (6.5%)</td>
</tr>
<tr>
<td>1975</td>
<td>151 (6.1%)</td>
<td>1984</td>
<td>151 (6.1%)</td>
</tr>
<tr>
<td>1976</td>
<td>145 (5.9%)</td>
<td>1985</td>
<td>155 (6.3%)</td>
</tr>
<tr>
<td>1977</td>
<td>138 (5.6%)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Docket (DOCKET)

This variable records the docket number of the case assigned by the Supreme Court. It is an alpha-numeric variable. In the 1969 OT and the 1970 OT, cases were assigned a docket number from 1 upward. Beginning in the 1971 OT, the Supreme Court added the term to the docket number. Consequently, for example, *Roe v. Wade* (1973) was assigned docket number 70-18. For cases on the Court’s original jurisdiction docket, the docket number includes the phrase “ORIG.” Cases on the Court’s miscellaneous docket include the letter “M” as part of the docket number.

Lawyers’ Edition Cite (LED)

This variable records the cite for the decision in the *Lawyers’ Edition of the United States Supreme Court Reports*. The data include the volume in which the decision is found, as well as the page number on which the decision begins. This is a numeric variable: the first two digits correspond to the volume and the last four digits report the page number.

Conference Vote
Justices’ Conference Votes (CJVOTE, BLVOTE, WDVOTE, JHVOTE, WBVOTE, PSVOTE, BWVOTE, TMVOTE, HBVOTE, LPVOTE, WRVOTE, JSVOTE, SOVOTE)
The conference vote was taken from William Brennan’s docket sheets in most cases, which is then summarized on the circulation record. Justice Brennan’s staff, however, updated the conference vote reported on the circulation record as justices changed positions. There is a variable for each justice’s conference vote. The first two letters of the variable name correspond to the justice’s name as follows:

<table>
<thead>
<tr>
<th>Variable</th>
<th>Justice Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>CJ</td>
<td>Warren E. Burger</td>
</tr>
<tr>
<td>TM</td>
<td>Thurgood Marshall</td>
</tr>
<tr>
<td>BL</td>
<td>Hugo L. Black</td>
</tr>
<tr>
<td>HB</td>
<td>Harry A. Blackmun</td>
</tr>
<tr>
<td>WD</td>
<td>William O. Douglas</td>
</tr>
<tr>
<td>LP</td>
<td>Lewis F. Powell</td>
</tr>
<tr>
<td>JH</td>
<td>John M. Harlan II</td>
</tr>
<tr>
<td>WR</td>
<td>William H. Rehnquist</td>
</tr>
<tr>
<td>WB</td>
<td>William J. Brennan, Jr.</td>
</tr>
<tr>
<td>JS</td>
<td>John Paul Stevens</td>
</tr>
<tr>
<td>PS</td>
<td>Potter Stewart</td>
</tr>
<tr>
<td>SO</td>
<td>Sandra Day O’Connor</td>
</tr>
<tr>
<td>BW</td>
<td>Byron R. White</td>
</tr>
</tbody>
</table>

The content of the conference vote is coded as follows

<table>
<thead>
<tr>
<th>Conference Vote Code</th>
<th>Conference Vote</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Affirm</td>
<td>7,850</td>
</tr>
<tr>
<td>2</td>
<td>Reverse</td>
<td>10,802</td>
</tr>
<tr>
<td>3</td>
<td>Pass</td>
<td>203</td>
</tr>
<tr>
<td>4</td>
<td>No Vote</td>
<td>160</td>
</tr>
<tr>
<td>5</td>
<td>Does Not Participate</td>
<td>698</td>
</tr>
<tr>
<td>6</td>
<td>Split (Affirm &amp; Reverse)</td>
<td>189</td>
</tr>
<tr>
<td>7</td>
<td>Dismiss as Improvidently Granted</td>
<td>244</td>
</tr>
<tr>
<td>8</td>
<td>Lean Affirm</td>
<td>39</td>
</tr>
<tr>
<td>9</td>
<td>Lean Reverse</td>
<td>25</td>
</tr>
<tr>
<td>11</td>
<td>Affirm Reason 1</td>
<td>174</td>
</tr>
<tr>
<td>12</td>
<td>Affirm Reason 2</td>
<td>16</td>
</tr>
<tr>
<td>13</td>
<td>Affirm Reason 3</td>
<td>9</td>
</tr>
<tr>
<td>14</td>
<td>Affirm Reason 4</td>
<td>1</td>
</tr>
<tr>
<td>21</td>
<td>Reverse Reason 2</td>
<td>11</td>
</tr>
<tr>
<td>22</td>
<td>Reverse Reason 1</td>
<td>193</td>
</tr>
<tr>
<td>23</td>
<td>Reverse Reason 3</td>
<td>9</td>
</tr>
<tr>
<td>24</td>
<td>Reverse Reason 4</td>
<td>3</td>
</tr>
<tr>
<td>33</td>
<td>Remand Reason 1</td>
<td>192</td>
</tr>
<tr>
<td>34</td>
<td>Remand Reason 2</td>
<td>16</td>
</tr>
<tr>
<td>35</td>
<td>Remand Reason 3</td>
<td>2</td>
</tr>
<tr>
<td>36</td>
<td>Remand Reason 4</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Vacate Reason 1</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-----------------</td>
<td>---</td>
</tr>
<tr>
<td>44</td>
<td></td>
<td>400</td>
</tr>
<tr>
<td>45</td>
<td>Vacate Reason 2</td>
<td>20</td>
</tr>
<tr>
<td>46</td>
<td>Vacate Reason 3</td>
<td>2</td>
</tr>
<tr>
<td>47</td>
<td>Vacate Reason 4</td>
<td>1</td>
</tr>
<tr>
<td>55</td>
<td>Dismiss Reason 1</td>
<td>309</td>
</tr>
<tr>
<td>56</td>
<td>Dismiss Reason 2</td>
<td>14</td>
</tr>
<tr>
<td>57</td>
<td>Dismiss Reason 3</td>
<td>2</td>
</tr>
<tr>
<td>66</td>
<td>Modify</td>
<td>68</td>
</tr>
<tr>
<td>88</td>
<td>Hold</td>
<td>3</td>
</tr>
<tr>
<td>95</td>
<td>Other Vote 5</td>
<td>1</td>
</tr>
<tr>
<td>96</td>
<td>Other Vote 4</td>
<td>1</td>
</tr>
<tr>
<td>97</td>
<td>Other Vote 3</td>
<td>9</td>
</tr>
<tr>
<td>98</td>
<td>Other Vote 2</td>
<td>80</td>
</tr>
<tr>
<td>99</td>
<td>Other Vote 1</td>
<td>372</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>All Votes</strong></td>
<td><strong>22,119</strong></td>
</tr>
</tbody>
</table>

A variable, COMMENT_VOTE, contains further information on the recorded vote if it varies from the standard affirm or reverse. At times, justices will note additional information on a vote. For example, in *Sanks v. Georgia* (1971), four justices cast votes to reverse on equal protection grounds and three justice voted to reverse on due process grounds, while one justice voted to affirm the lower court. Thus, the votes of Chief Justice Burger and Justices Harlan, Stewart, and White are coded 22 (due process grounds), and the votes of Justices Douglas, Brennan, and Marshall are coded 21 (equal protection grounds). The differentiation among votes to reverse the lower court is specified in the COMMENT_VOTE variable.

**Unanimous Conference Vote (UNANIMOUS)**

If every participating justice supported the same disposition at conference, *Unanimous* is coded 1; otherwise, it is coded zero. Of the 2,467 cases, 479 (19.4%) were unanimously decided at conference.

**Minimum Winning Conference Vote (MWC)**

If the conference vote was minimum winning, e.g., the margin at conference was 5-4, *MWC* is coded 1; otherwise, it is coded zero. Of the 2,467 cases, 590 (23.9%) were decided by a minimum winning majority vote.

**Conference Disposition (CONFDIS)**

This variable captures the disposition supported by the majority at conference. The variable’s coding parallels the justices’ conference vote with a few exceptions. First, we collapse the codes that correspond to a particular disposition (e.g., we treat as affirm those votes for affirm, lean affirm, or affirm for various reasons). Second, this variable can take negative values to reflect unique circumstances in the case: the docket sheets are missing a recorded vote (-4), the disposition of the case shifted from the original assignment to a subsequent assignment (-10),
or the assignor did not cast a vote at conference (i.e., negative value associated with the disposition supported in the draft opinion; say Justice Hugo Black did not cast a conference vote, but assigned the opinion to a justice who voted to affirm the lower court decision, it would be coded -1). If support for two dispositions was equal, this variable takes the value of 0.

**Opinion Assignment**

**Majority Opinion Assignee (ASSIGNEE1, ASSIGNEE2, ASSIGNEE3, ASSIGNEE4)**
These data were taken from opinion assignment sheets and subsequent memos regarding the assignment of the majority opinion. These variables indicate which justice was assigned the task of writing the majority opinion. After the first assignment, later assignments may be in the form of a memo reassigning an opinion to another justice. **ASSIGNEE1** represents the first assignment in a case, while **ASSIGNEE2** is the next assignment and so on. There were assignments in 2,441 cases (98.9%), a second assignment in 150 cases (6.1%), a third assignment in 8 cases (0.3%), and a fourth assignment in a single case (0.04%).

**Majority Opinion Assignor (ASSIGNOR1, ASSIGNOR2, ASSIGNOR3, ASSIGNOR4)**
These data were taken from opinion assignment sheets and subsequent memos regarding the assignment of the majority opinion. These variables indicate which justice made the assignment. Most assignments are made by the Chief Justice, but when the Chief Justice is not in the conference majority, the senior justice in that coalition makes the assignment. This is signified on the assignment sheet by placing the assigning justice’s initials after the assignment. **ASSIGNOR1** specifies the justice who made the first opinion assignment, while **ASSIGNOR2** made the second assignment, and so on.

**Majority Opinion Assignment Date (ASSIGNDATE1, ASSIGNDATE2, ASSIGNDATE3, ASSIGNDATE4)**
These data were taken from opinion assignment sheets and subsequent memos regarding the assignment of the majority opinion. These variables indicate the date on which the assignment was made. The data were originally recorded as the number of days since January 1, 1960. For example, October 20, 1969 is captured by the number 3580. In Stata, we have encoded these variables with a format that displays this as Year, Month, and Day (e.g., YYYYMMDD).

**Dissenting Opinion Authors (DISSENT1, DISSENT2, DISSENT3, DISSENT4)**
These data were taken from Justice Brennan’s circulation record. The variables indicate which justices wrote a dissenting opinion. The format of the value matches the prefix of the justices’ conference votes (e.g., CJ refers to Warren Burger).

**Majority Opinion Circulations**

**Opinion Draft (CIRC1-CIRC12)**
These data are from Justice Brennan’s Circulation Records where the draft number and date of circulation is reported. The draft number printed on the opinion is not always sequential, but...
may skip draft numbers that were not circulated to the Conference. Thus, the number of the circulation may not correspond to the draft number printed on the opinion. The date on which the first circulation was circulated, though, would be recorded in CIRC1. The second circulated draft would be recorded in CIRC2 (and so on). The data format is the same as we reported for the assignment date (ASSIGNDATE1).

**Memos and Separate Opinions**

**Justices’ Circulations**

(CJACT1-CJACT12, BLACT1-BLACT12, WDACT1-WDACT12, JHACT1-JHACT12, WBACT1-WBACT12, PSACT1-PSACT12, BWACT1-BWACT12, TMACT1-TMACT12, HBACT1-HBACT12, LPACT1-LPACT12, WRACT1-WRACT12, JSACT1-JSACT12, SOACT1-SOACT12)

The circulation record entry is coded by content. Here, we have retained as much information as possible. We categorized each of the following content types into 14 groups: Join majority (J), Join Part of Majority (JP), Join Majority and ___ (J&), Suggestion (S), Threat (T), Agree with Suggestion (2S), Wait for Another Opinion (A), Intend to Write an Opinion (W), Circulate Concurrence (CC), Concur at Foot of Opinion (CF), Join Concurrence (JC), Circulate Dissent (CD), Dissent at Foot of Opinion (DF), and Join Dissent (JD). A Stata DO file is available online to automate this grouping, and users are encouraged to modify that file to recategorize the actions if necessary.

```
000   Wrote majority opinion (only in data if other replies appear due to circumstances like a reassignment of the opinion)
001   Concur ‘CC’
002   Dissent ‘CD’
003   Concur in part / Dissent in part ‘CC’
004   Memo (Memorandum) ‘CD’
005   Agrees and makes suggestion ‘S’
006   Concur in Judgment / Concur in Result ‘CC’
007   Dissent from Judgment of Court ‘CD’
008   Separate opinion ‘CC’
012   To write concur ‘W’
013   To write dissent ‘W’
014   Await concur ‘A’
015   Await dissent ‘A’
016   Will write – ? type or ? certainty (to write)/to circulate/may write a few words ‘W’
017   Agree subject to ___ [Justice's Opinion] ‘T’
018   Agree tentatively / agree ? / may join / agree with reservations / expects to join / could
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3 We treat the categories as mutually exclusive. If the circulation record or document has multiple actions, we prioritized the actions along this hierarchical order: (1) concur/separate opinion; (2) threat; (3) suggest; (4) wait; (5) join majority; (6) will write. For example, if a justice joined the majority (or joined the majority in part) and said another action was forthcoming (e.g., to write, to dissent), we coded it as a join (if a justice does something else the join will be trumped).
join / agrees reluctantly / will probably join / close to joining / has no objections / is prepared to join ‘J’

019 Case should be dismissed (Would DIG)

020 Agrees with other justice’s suggestion or memo or separate opinion or proposal or proposed questions ‘2S’

021 Just suggestion (memo with suggestion) ‘S’

022 Withdraw dissent (and may also say agree) ‘J’

023 Withdraw concur (and may also say agree) ‘J’

024 Agrees, but may (will) write/join but will probably write ‘J’

025 Agree, but hold for another docket number ‘J’

026 Joins part [of majority] but other disposition (e.g. would affirm) ‘JP’

027 Withdraw from other justice’s dissent

028 Withdraws from other justice’s concur

029 Will await other’s writing/to await other’s reaction/to await further development/to await other's views (note: these basically apply to waiting for particular memos or separate opinions)/wait to see what justice __ has to say ‘A’

030 Agrees with part __, but not part ___ / join all but part --- ‘JP’

031 Concur in judgment & joins part ___ ‘JP’

032 Would set for reargument

033 Withdraw agree

034 Suggestion to: [opinion writer's initials] re footnote, line, paragraph, etc./made suggestions but does not say whether he agrees (or is undecided) ‘S’

035 Disagree with opinion [not majority opinion]

036 Does not agree [with majority] made suggestion ‘S ??????’

037 Withdraw separate opinion (may also say agree) ‘J’

038 “Prefers” ____ ‘S’

039 May/Will probably join justice’s concur/concur in judgment (to join justice’s concur or concur in judgment)

040 Join part of opinion (agree in part) ‘JP’

041 Agree and concur ‘CC’ ‘J&’

042 Agree, but separate opinion ‘CC’ ‘J&’

043 Circulate per curiam

044 Made suggestion to concurence

045 If you dissent, I'll join

046 Withdraw dissent

047 Join part [of majority] & dissent ‘CD’

048 May/Will probably join justice’s concur/concur in judgment (to join justice’s concur or concur in judgment)

049 Suggestion on Dissent

050 Will join part of majority opinion & write/join part __ and to write separately on part __ ‘JP’

051 Will join majority but await other case circulation ‘A’

052 Agree, but will write concurrence ‘J’

053 Will write concurrence in result/judgment ‘W’

054 Will write concur in part/dissent in part ‘W’

055 To rewrite opinion [non-majority opinion]
057  to write separate opinion/will write separately ‘W’
058  Will not write separate opinion (will not write) ‘J’
059  To write further (to do more work; to revise dissent, concur, memo, and the like (but
not majority opinion))/intends to make changes to separate opinion ‘W’
060  Can’t join majority (can’t agree)--same as NOT/if justice wants to reverse or vacate and
majority is for affirm, then code as 60 (and vice versa) ‘T’
061  Tentatively join dissent
062  Not ready to commit/undecided/need more time ‘A’
063  Will write concurrence in result/judgment ‘W’
064  Join majority & (join concurring opinion or join concur/dissent opinion) ‘J&’
065  Has reservations ‘S’
066  Agree with part of majority (join) and will dissent in part ‘J’
067  Join dissent and will write ‘W’ ‘JD’
068  Would like more writing ‘A’
069  Agree generally (substantially agrees; in basic agreement; agree essentially) ‘J’
070  To write separate opinion and not join majority ‘W’
071  Await dissent and may (will) write ‘W’
072  May join another justice’s dissent (join ?)
073  Join in judgment ‘J’
074  Suggestion/ to: [opinion writer’s initials] re footnote, line, paragraph, etc./made
suggestions but does not say whether he agrees (or is undecided) ‘S’
076  Agree with part of majority (join) and will dissent in part ‘J’
077  Agrees with another justice’s Concur
078  Will join dissent or write
079  Agree with memo written by opinion writer ‘J’
080  Withdraw concurrence and join dissent
081  Wants to defer decision
082  Agree with another justice’s dissent
083  Agree with part of majority and will await dissent ‘A’
084  Withdraw dissent and join another justice’s separate opinion
085  Does not agree with memo written for court (can't join memo written for court) ‘T’
086  Does not agree with part of majority ‘T’
087  Agree with suggestions and may write concurrence ‘S’
089  Withdraw dissent and join another dissent ‘JD’
090  Agree and may write concurrence/joined & will probably write concur ‘J’
091  Concur in judgment (join judgment) and may concur ‘J’
092  agree (or agree in part) and will await another justice’s opinion ‘A’
093  withdraw agree and concur in result ‘C’
094  agrees with another justice’s Concur
095  disagree with another justice’s memo or suggestions or proposal (not majority opinion
auth)
096  may join, but wait for more writing/may go along pending further writing ‘A’
097  join part of opinion but undecided on other part ‘A’
098  may write dissent (to write dissent?)/considering a dissent/expects to write dissent/will
probably write dissent
may concur in judgment (result) /will probably concur in judgment
may/will concur unless change in opinion is made ‘T’
agree but may write concurring opinion ‘J’
to reconsider
not satisfied ‘S’
will await other’s reaction/to await further development/to await other’s writing)/
await other’s views (applies basically to waiting for particular separate opinions) ‘A’
memorandum to another justice or justice’s (not majority opinion author)
does not agree, will (may) write ‘T’
ask for delay
to wait for more writing (to await next draft)/will wait to see what else is
written--basically apply to majority opinion drafts and generic wait for further writing ‘A’
can’t agree and will await dissent ‘T’
may concur/will probably concur
joins part _ & joins another justice’s concurring opinion ‘JC’
join part of majority & agree with another justice’s dissent ‘J’ ‘JD’
unable to review opinion
memorandum to opinion author/letter to opinion author ‘S’
concur in part _ & join judgment of Court/ concur in part and concur in judgment (result)
of court ‘C’
to be away for X days
dissent sent only from Brennan to one justice
join part _ & join judgment of court/join part ___ and concur in judgment ‘J’
agree generally with memo by opinion author/ could go along with memo written by
opinion author/in initial agreement with memo by opinion author ‘J’
withdraw agree and join another justice’s concur in judgment/result ‘JC’
ok to accommodate another justice’s suggestion or memo or separate opinion
join judgment of court and write separate opinion (or join justice and write)/join
judgment and may write/join judgment and will probably write ‘J’
agree tentatively (?) with memo written by opinion author
concurs with suggestions ‘C’
agree tentatively (?) but would like case reargued ‘J’
concurring part _ and concurs in judgment in part ‘C’
agrees with another justice’s concur in part and dissent in part ‘JC’ ‘JD’
concur in opinion and withdraw concur in judgment ‘C’
agree generally but wait for dissent ‘A’
dissent, but not writing
concur in result and separate opinion ‘C’
may withdraw concur
withdraw from another justice’s concur in judgment (and may say join majority) ‘j’
footnote ok
may join another justice’s DIG
dissent at foot of opinion ‘DF’
concur at foot of opinion ‘CF’
withdraw agree and concur in judgment ‘C’
concur in judgment (result) at foot of opinion ‘CF’
agree in part __ and concur in part __ (or concur) ‘C’
agree but want signed opinion
undecided but inclined to dissent ‘A’
agree in part and may dissent in part ‘J’
will withdraw part __ of dissent
may join majority or write/ may join but will probably write/will probably join but may write ‘J’
can’t agree and may write concur in judgment ‘T’
opinion writer does not agree with another justice’s suggestion
will concur in judgment if . . ./ will concur if ... ‘T’
join another justice’s concur in judgment and may/write ‘JC’
wants part __ of majority opinion deleted ‘S’
agrees with option 1 of majority opinion writer’s memo
agrees with option 2 of majority opinion writer’s memo
agree and will write concur in judgment ‘J’
does not want case reargued
will await other justice’s writing and will write ‘A’
Circulate Order
to withhold vote until the opinion in another case is written
await dissent and may join ‘A’
inclined to agree but await dissent/await dissent and may join/expect to join but await dissent ‘A’
join judgment of court and file concurring opinion ‘C’
concur in part _ & join judgment of Court/ concur in part and concur in judgment (result) of court ‘C’
to write dissent and wait for another justice’s dissent ‘A’
join judgment of court and may join another justice’s concur in judgment ‘J’
would reach merits of case & . . . (e.g. reverse lower court) ‘S’
join another justice’s concurring opinion and write concur ‘C’
undecided but may write ‘A’
join judgment of court and may write concur ‘J’
to await opinion being written in another case ‘A’
withdraw concur and join another justice’s concur in judgment (or join another justice’s concur) ‘JC’
join part __ and agree with another justice’s concur ‘J’
join part __ and makes suggestion ‘S’
concur and dissent at foot of opinion ‘CF’
agree generally and agree with another justice’s memo (or separate opinion or suggestions) ‘J’
withdraw concur in judgment and agree (or join)/withdraw concur in part and concur in judgment and instead agree ‘J’
would vacate for mootness/dismiss as moot
if majority does ___ then I will dissent ‘T’
prefer __ but will join if vote is needed ‘S’
agree in part (generally agree) but will/may write (will probably join and may write)/in
general agreement but plans to write ‘J’
would vacate (and may say remand)
join judgment and will write concur in part and dissent in part ‘J’
dissent and may join another dissent
await concur and may write ‘A’
can't participate if case is reargued
withdraw concur and join judgment of court and join part __ ‘J’
acquiesce unless someone writes ‘J’
acquiesce/will go along ‘J’
withdraw concur in judgment and join another justice’s separate opinion
withdraw dissent and agree ‘J’
agree with option three of majority opinion writer's memo
agrees with suggestion, but will write concurrence in part and concur in judgment if
ignored ‘T’
agree but also agree with another justice’s memo (or suggestion or separate opinion) ‘J’
agree and join another justice’s concur ‘JC’
dissent in part and concur in judgment/dissent in part and concur in judgment in
part/concur in part and in judgment and dissent in part ‘C’
did not join ‘T’
join judgment of court and agree with another justice’s concurring opinion ‘J’
agree and will write separate opinion ‘J’
dissent and join another justice’s dissent ‘JD’
join part of memo written for court ‘T’
join another justice’s concur and will concur ‘JC’
justice adds note in body of opinion
would affirm lower court (at end/foot of opinion) ‘DF’
adds note at end of opinion (and agrees) ‘CF’
circulated vote lineup for front of opinion
will circulate memorandum (will write memo)
in majority without a memo in circ file ‘J’
join justice’s dissent without a memo in circ. file ‘JD’
Chief Justice asks justice to write per curiam
would reverse lower court (at end/foot of opinion) ‘DF’
would vacate and reverse (at end/foot of opinion)/would vacate and remand (at end of
opinion) ‘DF’
join concur/dissent without memo in circ. file ‘JD’
concur in judgment without a memo in circ. file ‘C’
am writing and would like case held
dissent without a memo in circ. file
join another justice’s dissent and add note at end of dissent ‘DF’ ‘JD’
withdraw dissent in part/concur in part and join another justice’s concur in part/dissent
in part ‘JC’
withdraw concur in part/dissent in part and join majority ‘J’
withdraw from another justice’s concur in part/dissent in part and join majority ‘J’
agree with the part of opinion written by justice for the opinion writing team

justice asks opinion writer to add that he does not concur with footnote at end of footnote ‘DF’

may join and made suggestions ‘S’

join justice’s concur in judgment without a memo in circ. file

will not dissent (and may say agree)/won’t dissent and join ‘J’

agree with some of justice’s dissent and make suggestions to dissent ‘JD’ ‘SD’

wait for justice’s memo ‘A’

accepts Brennan’s dissent assignment and will write dissent
do a “116” without a memo ‘C’

concur in part/dissent in part without a memo ‘C’
may join ‘J’
wants case discussed at conference

memo to chief clarifying position

wrote per curiam but also wrote dissent ‘D’
dissent but will be silent (so they joined the majority opinion) /graveyard join/graveyard dissent ‘J’

withdraw join and join another justice’s “116” ‘JC’

adhere to conference vote

withdraw dissent and circulate another dissent

withdraw concur and circulate dissent

Withdraw Concurrence & Join justice’s Concur ‘JC’

agree with memo written by opinion author, but also agrees with part of another justice’s memo

joins opinion, but still agrees with other justice’s concerns (memo or suggestions or dissent or concurrence) ‘J’
can’t agree with part __, will dissent ‘T’
to defer vote

agree with judgment but need more time/agree with judgment and will give further thought ‘A’

await dissent but will probably join majority ‘A’
does not agree, may join dissent (reserve right to join dissent) ‘4’ ‘JD’
to write dissent (sent only to one or two justices, one of whom is Brennan) (these may be accepting dissent assignment)

concur in judgment and join another justice’s concur in judgment ‘C’ ‘JC’

will probably join to avoid further writing

join part __ of majority and join another justice’s dissent ‘JD’

expects to join and made suggestions/is prepared to join but has suggestions/agree tentatively with suggestions ‘S’

agree and will not write concur ‘J’
to await other’s writing and will write concur ‘A’
suggestions on dissent from Brennan(sent only to author of dissent) ‘SD’

agree with outcome, but not with opinion as written/agree with result but not content/agree with outcome but not rationale ‘S’

await concur in part dissent in part ‘A’
having second thoughts ‘S’

memo addressed to only one justice (not opinion author)/ letter to justice ___/ letter to another justice regarding changes to non-majority opinion/letter to more than one justice --BUT THESE MEMOS WENT TO WHOLE CONFERENCE

agreeable to whatever majority chooses ‘J’

will write and may join maj

with 2 dockets, concur in one and concur in judgment in the other ‘C’

concur in judgment (concur; concur in part concur in judgment) sent to only one justice (or a couple of them) from Brennan

may join another justice’s concur (or concur in judgment) and may write

generally agrees and makes suggestion ‘S’

if you please another justice then I can’t join ‘T’

can’t join and will await dissent ‘T’

withdraw concur and does not say agree (e.g. because justice was already on another concur too)

agrees generally but await further writing ‘A’

to await further writing and to write/to await further writing and may add few words/to await further writing and may write ‘A’

expects to join but waiting for opinion in another case ‘A’

will join another justice’s dissent if changes are made ‘SD’

withdraw concur in part dissent in part and agree ‘J’

agree with another justice’s “116”

may join dissent or may write ‘JD’

in substantial agreement but wait for opinion in another case ‘A’

withdraw from another justice’s concur and join another justice’s dissent ‘JD’

withdraw agree and will write

agrees in part ___ and makes suggestion ‘S’

will join if change is made and will write concurring opinion ‘T’

inclined to agree but await dissent/expects to join but await dissent ‘A’

memo sent by Brennan to opinion author only (may deal with changes)/could join if. . . (may go to other justice’s too, but not whole conf)

can’t join part ___ and to await further writing ‘T’

to await dissent sent by Brennan to one other justice

will write dissent sent by Brennan to one or more justices

justice sent draft of concur only to Brennan/draft of concur in judgment in part/dissent in part

will join ‘J’

memo from Brennan to opinion author and another justice

join judgment and may join ‘J’

does not agree but will not write

changed vote

dissent author sent letter regarding changes in dissent sent to opinion author

agree with another justice’s concur in part dissent in part but wait for next majority draft ‘A’

finds justice’s dissent persuasive
memo with suggestions and may write ‘S’
may join but for now will wait ‘A’
would be willing to vote to vacate and remand
inclined to join concurring op, but await other's views ‘A’
.memo/letter regarding another justice’s suggestions to majority opinion
another justice sent memo to Brennan saying he agrees they should await development
Brennan sent something to another justice about a dissent
prefers another justice’s memo (not opinion author) but also prefers reargument
will wait until opinion author responds to another justice’s suggestions ‘A’
would restrict reargument to one issue
would focus on more than one issue on reargument
expects to join judgment, will probably write separate opinion, and wait for another justice’s dissent ‘A’
withdraw agree and concur only in judgment
Brennan joined part of majority opinion and sent it only to opinion author
expects to write concur in part dissent in part/may write concur in part dissent in part
sent only to Brennan as opinion author---need more time
will probably write separate opinion
withdraw concur in judgment and agree ‘J’
will write concur in judgment or may join another justice’s dissent ‘JD’
Chief Justice asks Brennan if Brennan will write a dissent
Brennan wrote one (or two) other justice’s that he will await for majority opinion before doing a dissent/shouldn't we wait for majority opinion before decided to write dissent
Brennan wrote another justice (not opinion author) that he is inclined to join the majority
Brennan asked another justice if he will write
another justice wrote to Brennan and said that he will join judgment and will wait to see what happens
Brennan received note saying that another justice will join majority opinion if a change is made (Brennan is majority author)
Brennan asks a justice to write a dissent (only goes to that justice and maybe one other)
will join dissent ‘JD’
Brennan wrote another justice (or justice’s about comments on his dissent)
join another justice’s dissent and may write ‘JD’
another justice sent draft of dissent only to Brennan (and maybe to one other justice)
another justice sent Brennan suggestion on Brennan's dissent ‘SD’
another justice said revision in Brennan's dissent is ok
another justice wrote Brennan saying that he will write dissent
withdraw agree and join judgment
expects to join, except for part ___ ‘T’
note from Brennan to majority opinion author thanking her/him for changes
justice sends opinion author note about another justice’s suggestions (goes to conference)
withdraw dissent and does not say what justice will do
no objections to proposed letter/inquiry
a justice writes Brennan and says he will write dissent unless opinion author convinces him to contrary
Brennan sent draft of dissent to only one justice
Brennan sent another justice a note saying that he would like to withdraw from the other justice’s dissent
join parts__ and may join part __/joins part __ and is hopeful will join part __ ‘A’
will write concur in part and concur in judgment
will try to write p.c. to DIG
memo to Chief Justice about reassignment
DIG: regarding rule of four issue
could join if not reargued, is inclined to go along with whatever majority author does ‘J’
join and not reargue ‘J’
Chief Justice reassigns case/Chief Justice assigns case
another justice sent Brennan, who was majority opinion author, suggestions/another justice had trouble(concerns) with Brennan’s majority op/comments on modifications to majority op
Brennan sent concur in part/dissent in part to one justice
will join all but part ___ if . . . ‘T’
Brennan's majority opinion assignment memo (either to justice writing or to Chief Justice)
Brennan writes that change in majority opinion is ok (sent to author and perhaps to others)
justice writes Brennan that changes in majority opinion are ok/still with him/will go along/ (Brennan is majority author)
changed vote, joined another justice’s dissent, and may write ‘JD’
Brennan wrote another justice that he is inclined not to dissent and to join maj.
another justice writes Brennan, saying that he agrees with him
has some difficulty and may write ‘S’
a justice sent a memo only to Brennan (to wjb only)
a justice commented on Brennan's concurrence/
Brennan sent a memo to only one justice (not majority opinion author)/ sent memo to a couple of justices (not author)
may join but await concurrence ‘A’
can’t agree and will probably write concur ‘4’
is inclined to join parts ___ but has reservations about part ___ ‘S’
would like to join but has difficulties (concerns) ‘S’
may join but inclined to concur in judgment
Brennan sent a memo to a justice saying he is inclined to join another justice's concur in judgment
a justice wrote to Brennan saying that he can't do dissent and will probably join majority withdraw concur in judgment and join another justice’s concur in judgment/withdraw concur in part and concur in judgment and join another justice’s concur in part and concur in judgment ‘JC’
Chief Justice asks Brennan if Brennan will write a dissent
371 a justice writes to Brennan (and perhaps a few others) saying he'll probably join the majority
372 Brennan writes one (or two) justices suggesting they don't write dissent until majority opinion is circulated
373 a justice writes to Brennan agreeing to defer dissent until majority opinion has circulated
374 does not plan to make any changes to concur in part dissent in part
375 circulates dissent but says he will probably withdraw it after another justice circulates his dissent
376 letter regarding assignment – will assign to justice x if it is my decision (from Brennan to conf)/Brennan asks if he should reassign case and it goes to conference
377 Brennan writes opinion author asking for him to hold off announcement until another case circulation
378 will concur in judgment or dissent
379 am closer to Justice X and will wait for other justice's writing ‘A’
380 withdraw agree and join concur in part dissent in part ‘JC’
381 does not think case should be assigned to him
382 agree with another justice’s dissent and will write ‘JD’
383 memo to Brennan from Chief Justice, Brennan should reassign case
384 memo from Brennan to Chief Justice – Should I reassign?
385 opinion for court circulated only to Brennan
386 Brennan tells concur author that he is still with her
387 Brennan sent comments on concur in judgment only to one justice
388 another justice wrote Brennan that he will make change to concur in judgment
389 Brennan wrote a justice and said he will probably not dissent
390 await concur and may join another justice’s concur ‘A’
391 join parts __ and will write concur in part and dissent in part
392 a justice proposed changes to his own concur in part dissent in part and they were went to Brennan (and maybe another justice)
393 a justice sent comments on Brennan's concur in part dissent in part
394 adheres to concur in judgment and won't join
395 join part __, concur in judgment and will otherwise dissent ‘C’
396 join part __, but not part __, and may concur in judgment (or concur ) if not accommodated/join part, but rest troubles me, and I may concur ‘T’
397 add line to order (per curiam)
398 join in judgment with suggestions ‘S’
399 can go along with __ but not ____ ‘T’
400 a justice wrote Brennan, will write dissent memorandum, but may go other way
401 a justice wrote Brennan congratulating him on his dissent (maybe cc to one other)
402 agree with proposed disposition of case
403 Brennan joins another justice’s dissent (but sent only to dissent author)
404 agree in part __ and undecided on part __ (reserve judgment on ___)/ agree with part __ but hesitations about part __ / I could join parts __ but reservations on part __ (cf. # 97 & 364 above) 'S'
405 letter from Chief Justice to Brennan, Brennan should reassign
one justice wrote the majority opinion author (neither is Brennan) and cc to Brennan will probably join judgment and write separately
Brennan says he probably won’t dissent but awaits next opinion draft/Brennan says that he may abandon dissent
Brennan sent comments on concur (or concur in judgment) only to concur author
if everyone joins majority, will not dissent, but await to see what another justice does ‘A’
agree with outcome, but not with opinion as written (or agree with result but not content) and may write concur ‘S’
changed vote and will write separately
Chief Justice asks if another justice will write dissent (he does not ask Brennan, but it is cc to Brennan)
join part __ and join judgment ‘J’
can’t join, and if changes are not made will write separately ‘T’
will await another justice’s dissent sent only to Brennan (and maybe another justice)
thanks
Brennan asks if someone will write concur in judgment (sent only to one or several justices)
will wait to write dissent until it appears that majority opinion author has a court
justice wrote Brennan that his vote was tentative & he should not write dissent (sent only to Brennan or dissent coalition)
a justice wrote Brennan, saying he plans to leave concur as is
another justice sent only to Brennan (majority author) a join memo
have problems similar to another justice and will await more writing ‘A’
I have problems with part __, if you don't change I will join another justice’s concur in judgment ‘T’
a justice agrees with another justice’s concur in judgment, but will join if no majority exists
withdraw agree and join another justice’s dissent ‘JD’
join part ___ (join all but part ___) and concur at foot of opinion ‘CF’
may join but await dissent ‘A’
Chief Justice says another justice agreed to write dissent
agree and concur without memo in file ‘C’
concur in part __ at foot of opinion and join another justice’s concur, all without a memo in the file ‘CF’
withdraw concur, join majority, and make suggestion ‘S’
Brennan joins another justice’s 116 and withdraws from majority (but it is sent only to that other justice)
am closer to another justice’s memo than to majority opinion
another justice’s joins Brennan's dissent, sent only to Brennan
equally divided court without a memo in the file agree, and could join another justice’s concur in judgment, but that would require separate writing ‘J’
join majority and also join the separate opinion (or statement) also written by majority opinion author
no memo in case with a per curiam opinion dismissing case
letter to majority opinion author saying that in response to latest majority opinion changes, the dissent will be changed (and it may detail changes)
join separate opinion written by majority opinion author (maj opinion author wrote majority opinion and separate op)
a justice writes: can't you and justice x “get together” and work out differences
if there are five votes for approach, I will provide sixth, and make memo into opinion
a justice made suggestions to another justice's dissent, and also remained joined, and a copy went to Brennan (but not the conference) ‘SD’
“instead of usual letter saying I'll circ a dissent I make three 'observations' about your opinion” ‘S’
completion of separate opinion awaits briefs in another case
persuaded by majority opinion and comments on it ‘S’
will revise dissent due to changes to majority opinion and will do so after the concurring opinion is written
suggestions on concur at foot of opinion ‘SC’
Brennan agreed with part __ but had reservations about part --- (sent only to opinion author and a couple other justices)
join part __ and await writing on part __ ‘A’
Brennan writes one (or two) justices saying that he will now join majority due to changes in it
has concerns and await further writing ‘S’
I will be happy to add your name to my dissent
should two dockets in this case have single or double header
if majority opinion remains as is, I will write separate opinion ‘T’
I you get five votes for p.c., I'll make sixth, or I'll make fifth if one of four justice’s who voted to grant cert join you (dig issue)
like most of opinion but parts give me enough problems that I won't join, and make suggestions ‘T’
a justice tells conference that changes were made to his dissent that were not marked in last revision
dissent from denial of cert
assignment problem and will wait to assign (from Chief Justice)
case should not be assigned, equally divided court
Chief Justice withdraws assignment and sets vote for reargument
Brennan writes another justice saying they don’t need separate statements saying the same thing, he will drop his if he can join the other justice’s
another justice writes Brennan (and couple others) saying he will join parts __ of majority, and he will also keep short concurring opinion
expects to join most, but has reservation, and will concur if majority opinion not modified ‘T’
Brennan asks another justice’s thoughts on possible vacate/remand
another justice writes Brennan – I am inclined to address merits since majority opinion did
vote to affirm
Brennan asks to assign case (goes to conf)
troubled, will at least concur in judgment ‘T’
a justice congratulates Brennan on his majority op
Brennan writes to another justice that he disagrees with dissent and may write separate opinion
Brennan wants to reach merits instead of dig (sent only to opinion author)
Brennan writes to opinion author – will wait for you to resolve uncertainties
a justice joined part of Brennan’s dissent and made suggestions ‘JD’ ‘SD’
join part ___ and join another justice’s concur in part/dissent in part ‘JD’
a justice wrote to Brennan – happy to make changes to my dissent so you will join
Brennan writes to another justice that change is fine, but he is not sure that he agrees with it
a justice writes Brennan, saying that another justice’s proposal is ok/no objections to another justice’s proposal
a justice made suggestions on another justice’s concur in part dissent in part ‘SC’ ‘SD’
Brennan asked if another justice had suggestions
Brennan says he will dissent on jurisdictional issue, and wants to know if another justice plans to dissent on merits
has problems and will concur in judgment as it now stands ‘T’
will wait for majority opinion before writing dissent ‘A’
agrees with other justice’s concerns (etc.) and can't join ‘T’
will write dissent unless majority author writes something I can join ‘T’
I added a footnote at the end of my “116” in response to your dissent
Brennan joins another justice’s concur (sent only to Brennan)
agree but note that I do not join footnote
let's print reapportionment map in color
I voted to (opposite majority) for the following reasons, but I'll read your majority opinion with interest
I don't object to waiting for dissent before making any changes to your majority opinion draft
a justice sent only Brennan a note that he will write concur in judgment
you misspelled party's name in header (sent to opinion author)
case was mooted and no memo in file
hold announcement of case until . . .
join judgment, hope to join all but part __, and made suggestions ‘S’
one option with your uncertainty (not to majority opinion author) is to have divided ct even with 9 justices (it has been done before)
will write separate opinion, join another justice’s “193” and join parts ___ of majority opinion and join result in part ___ ‘JC’
if you don't change last majority opinion draft, then I will change my dissent accordingly ‘T’
I wrote separate opinion because . . .
can't join part __, may join part __, and await further writing ‘T’
newspaper article attached
join concur in part and dissent in part and may write ‘JC’
agree with majority opinion author's order to reargue part of case

due to revisions in majority opinion I have changed my concurring opinion, and if you make changes, then I can join parts ___ ‘T’

I will concur in part/dissent in part if change in majority opinion is not made ‘T’

agree with judgment, outline problems, and inclined to write separate opinion ‘T’

dissent author sends early version of dissent to majority opinion author (and conference) so he can respond to it/dissent author's reaction to opinion author's reply to dissent author's early circulation of draft dissent

will join if changes are made, otherwise will concur in judgment ‘T’

Two dockets, with justice in majority on one and dissenting in other

agree with memo written by opinion author and makes suggestion ‘S’

will write dissent at Chief Justice’s request, but I am not at rest and may not agree with the dissent

has problems, await dissent, and may write concur ‘S’

agree with another justice’s dissent and dissent at foot of opinion ‘JD’

would reverse

concur in result (judgment) at foot of opinion without memo in file ‘CF’

concur without memo in file. ‘C’

concur generally in majority Op. And join another justice’s concurring opinion ‘JC’

memo from Chief Justice, saying I have your opinion affirming Court of Appeals, but my record shows 9 reverse votes – I am flagging case

am not at rest on parts ___, makes suggestions ‘S’

Douglas questions Chief Justice's assignment in Roe/Douglas writes Chief Justice, if you reargue I will file statement describing travesty

Brennan asks another justice if they should join P.C.

case ready to come down

one justice tells opinion author that another justice has agreed to write a dissent (neither justice is Brennan)

a justice writes to Brennan only, appreciate suggestions on dissent, but prefer substitute language for one

Brennan writes a justice, saying you’ll note that I made the helpful change that you suggested to concur in judgment

agree if/ agree if change is made/ join if change is made/will join if suggestion is met ‘T’

join part ___ will join if change is made ‘T’

agrees if no one writes ‘T’

agrees based on ... if not will write ‘T’

will join if author gets 3 others

agrees with part, agree with other justice's suggestion, and will make suggestion

Brennan makes suggestion to majority op, goes only to opinion author

Brennan makes threat to majority op, goes only to opinion author

Brennan says he will probably join, sent only to opinion author

will wait, but will join majority op, sent only to opinion author

agree with another justice’s memorandum opinion (not majority Op. Author)

agree with memo opinion (not majority Op. Author) and want case reassigned

agree with memo opinion (not majority Op. author) and may write
agree with memo opinion (not author) but also agree with another justice’s dissent
agree with author’s response to a suggestion
make suggestion and agree with another justice’s suggestion
agree with part of may (join part ___) and agree with another justice’s suggestion
agree with memo opinion (not author) but also agree with another justice’s suggestion
can’t join part ___ and make suggestion
agree with another justice’s suggestion and will await other justice’s writing
agree with memo opinion (not author) and make suggestion
agree with part of may (join part ___) and agree with another justice’s suggestion
can’t join part ___ and make suggestion
agree with other justice’s suggestion and will await other justice’s writing
agree with memo opinion (not author) and make suggestion
agree with memo opinion (Op. Author)) and may write

MAJ agree (e.g., revisions ok when it pertains to majority opinion; joined; still agree ‘J’)
NOT Not Agree (60) ‘T’
OUT Out (only with date); took no part; recused self

Date of Justices’ Circulations (CJDATE1-CJDATE12, BLDATE1-BLDATE12,
WDDATE1-WDDATE12, JHDATE1-JHDATE12, WBDATE1-WDATE12,
PSDATE1-PSDATE12, BWDATE1-BDATE12, TMDATE1-TDATE12,
HBDATE1-HDATE12, LPDATE1-LDATE12, WRDATE1-WDATE12, JSDATE1-JSDATE12,
SODATE1-SDATE12)
The variable records the date on which the corresponding action was sent. If CJACT1 is a joinder of the majority, for example, CJDATE1 is the date on which the Chief Justice circulated the memo. As with the assignment dates, the data were originally recorded as the number of days since January 1, 1960. For example, October 20, 1969 is captured by the number 3580. In Stata, we have encoded these variables with a format that displays this as Year, Month, and Day (e.g., YYYYMMDD).

Categorization of Justices’ Actions (JOINMAJ, JOINPARTMAJ, JOINMAJAND, SUGGEST,
SECONDSUGGEST, THREAT, WAIT, WRITE, CIRCCONC, JOINCONC, CONCURFOOT,
CIRCDISSENT, JOINDISS, DISSENTFOOT)
As discussed under the JUSTICES’ CIRCULATIONS above, we placed actions into 14 distinct groups. We identify whether a justice employed a tactic in a case in these dichotomous variables (i.e., this is not a count of the number of memos that employ a tactic). The data include a variable for each justice with the variable name possessing the two-letter prefix corresponding to the justice’s initials (e.g., William Brennan is WB). For a list of the prefixes, see the discussion for the CONFERENCE VOTE variables.

<table>
<thead>
<tr>
<th>Action</th>
<th>Average Number per Case</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Join Majority</td>
<td>5.17</td>
<td>12,766</td>
</tr>
<tr>
<td>Join Part of Majority</td>
<td>.15</td>
<td>366</td>
</tr>
<tr>
<td>Join Majority and ___</td>
<td>.07</td>
<td>181</td>
</tr>
<tr>
<td>Suggestion</td>
<td>.18</td>
<td>448</td>
</tr>
<tr>
<td>Second Suggestion</td>
<td>.06</td>
<td>154</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>Threat</td>
<td>.15</td>
<td>372</td>
</tr>
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**Comment Fields**

**Comment_Vote**
This variable contains comments and notes pertaining to the conference votes in the case. We entered these notes as we coded the data. It has information on reasons given on the circulation record or the docket sheet for supporting a disposition. This variable also has information on where the conference vote was found (e.g., it was missing on the circulation record or Justice Brennan’s docket sheet was blank).

**Comment_Docket**
This variable contains comments and notes pertaining to the docket number. For instance, if two cases were consolidated on appeal, the second docket number would be recorded here. Again, these notes were entered as we recorded data, and do not necessarily capture all consolidated cases.

**Comment_Circ**
This variable contains comments and notes pertaining to the circulation of drafts and memos. For example, this field may indicate that the majority opinion author responded to a suggestion or other memo.

**Comment_Reargue**
This variable contains comments and notes pertaining to the scheduling of reargument. This is particularly important in the 1969 and 1970 Terms as the docket number would change in the subsequent Term.
Appendix A. Brennan's Circulation Records

No. 72-953, O'Shea v. Littleton

Argued: October 17, 1973  Announced: 4/5/74

Assigned: White, J.  Date: ..October 23, 1973

Vote: Affirm: TM, WJB & WOD
Reverse: WHR, LFP, HAB, BRW, PS & WEB

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Replies:

The Chief Justice

Date: 12/11/73

Mr. Justice Douglas:

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Appendix B. Docket Sheet

Michael O'Shea, as magistrate of the circuit court for Alexander County, Illinois, and Dorothy Spomer, as associate circuit judge for Alexander County, Illinois, petitioners

vs.

Ezell Littleton, et al.

1/3/73 Cert. filed.

Together with No. 72-955: Spomer v. Littleton

No. 72-1107: Beveling v. Littleton

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Rehnquist, J.
Powell, J.
Blackmun, J.
Marshall, J.
White, J.
Stewart, J.
Brennan, J.
Douglas, J.
Burger, Ch. J.
Appendix C. Opinion Assignment Sheet

OCTOBER TERM, A. D. 1973

October 23

Justice Rehnquist

72-1148 - Cupp v. Naughton

Powell

72-782 - Gateway Coal Co. v. UMW

Blackmun

72-822 - Renegotiation Bd. v. Pannercraft Clothing

Marshall

72-397 - Bonelli, Cattle Co. v. Arizona

White

72-888 - Zahn v. Int'l Paper Co.
72-953 - O'Shea v. Littleton
72-952 - Sporn v. Littleton

Stewart

72-777 - Cleveland Bd. of Education v. LaFleur (assigned by WOD)
72-1329 - Cohen v. Chesterfield Cty. Sch. Bd. (assigned by WOD)

Brennan

Douglas

Chief Justice

72-922 - Paushall v. Christie-Stewart, Inc. (HAB)

Per Curiam


(Collected from the Collections of the Minnesota Division, Library of Congress)