*Lawyers and the U.S. Supreme Court: The Washington Community and Legal Elites**

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The past several decades have witnessed tremendous growth in the number of professional representatives in the Washington community. Despite a wealth of research that testifies to the importance of these experts in the legislative and executive branches, we know comparatively little regarding sophisticated representation in the judicial context. Is there an identifiable group of specialized representatives in the U.S. Supreme Court? Under the rubric of network theory, I examine the bar of the Court and the patterns of association within it. With survey data from lawyers who participated in Supreme Court litigation during the 1986 term, I develop a predictive model that suggests that the lawyers in the Court are a discrete collection of representatives, strongly anchored in Washington, DC. While many are connected through legal education, geography, and generational affinity, the core of that group—former law clerks to the justices, alumni of the Solicitor General's Office, and the lawyers of the leading law firms in Washington—are the prominent experts within that network.

Introduction

"Lawyers," suggested Alexis de Tocqueville, "are called upon to play the leading part in the political society" (1969, 264). To the astute observer of early American life, lawyers constituted an elite class, a discrete community within the young republic. As an intellectual and social group, their role was strongly felt in the Supreme Court, where leading advocates such as Daniel Webster and Francis Scott Key battled over constitutional issues and commanded the attention of the Washington community during the early nineteenth century (White 1988, 201–91). During this era, the Supreme Court bar served as one of the primary filters between the national government and its citizens. In contemporary national politics, lawyers still serve as some of the main mediators in the policy process in Washington (Berry 1989, 91–92; Nelson et al. 1987; Schlozman and Tierney 1986, 98–100). Scholars, however, have been slow to analyze the lawyers who litigate in the U.S. Supreme Court and their role as intermediaries (but see Casper 1972; McGuire 1993).

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I argue that examining the networks of association that exist within the modern bar of the Supreme Court is important for our understanding of how interests are represented in the federal government. Specifically, I ask the following question: Do our generalizations about the increased dominance of specialized representation in the federal government hold true for the Supreme Court, or is the Court insulated from such political vicissitudes? I posit that many of the patterns of professionalization that we observe among representatives in the legislative and executive settings are also prevalent in the judicial context. Examining the attorneys who practice before the U.S. Supreme Court, I conclude that, within recent decades, an elite group of lawyers has emerged—centered in Washington and specializing in Supreme Court practice—whose social bonds are cohesive and well defined. Thus, our notions regarding the evolution of professionalism in advocacy in policymaking can be extended to the study of the federal judiciary.

Using survey data from a sample of lawyers active on the Court's docket during the 1986 term, I develop a predictive model of the social bonds of the Supreme Court's bar. Briefly, the results indicate that selected attributes of the bar—visible and direct experience with the Court, in particular—and shared characteristics among the lawyers—similar work experience and geographic proximity, for instance—define the boundaries of this network. In the following sections, I trace the ebb and flow of the historical bar of the Court, examine and test the theory that undergirds the analysis, and speculate on the ramifications of the professionalization among the Supreme Court's counsel.

The Bar and the Washington Community

In the early 1800s, there was an insular, integrated group of lawyers who handled the great majority of the Court's cases. Indeed, "the Supreme Court bar was a small, selective group, with the same attorneys appearing in Washington with regularity" (White 1988, 202). To a degree, this selectivity was driven by geography, given the difficulties imposed by travel to the capital. As a consequence, the Court's lawyers hailed primarily from the regions most proximate to the District of Columbia. A good many of these practitioners were Washington insiders, with close ties to legislators and executive branch officials as well as to the justices on the Court (see, e.g., Krislov 1965, 53; Warren 1926, 1939; White 1988, 274–75).[1] Industrialization, however, brought improved methods of trans-

[1]Edward S. Delaplaine (1937), for instance, describes the cordial relationship—both professional and personal—between the Georgetown lawyer, Francis Scott Key, and Chief Justice John Marshall (406–07).

portation. Subsequent years marked the steady decline of the integrated bar (see Frank 1966, 93; Warren 1939). Records from the early volumes of the *United States Reports,* for example, show that the proportion of Washington lawyers admitted to practice before the Supreme Court dropped steadily from roughly 10% in the early 1800s to only 3% by the start of the Civil War.[2]

The lawyers within the federal city did not remain ancillary to the politics of the Court, however. Within several decades, Washington began to evince a new and considerable accumulation of representatives, many of whom were lawyers. Interest group scholars point out that between 1940 and 1960 the number of organized groups in the capital increased dramatically, spiraling upward in subsequent years (Berry 1989, 16–43; Schlozman and Tierney 1986, 75–78; Walker 1983). Do similar patterns of growth emerge among those representatives who practice before the U.S. Supreme Court? Consider private representation as an example. Beginning at the same time period, the data in Figure 1 represent the geographic distribution of the bar of the Supreme Court for the three cities that consistently are home to the largest concentration of Supreme Court practitioners. Each line reflects the proportion of cases on the Court's docket that involved law firms from Chicago, New York, and Washington.

Notwithstanding secular fluctuations, there are clear trends in the data.[3] Consonant with the increase in pressure groups during this time, Washington's proportion of the active Supreme Court bar began a clear and consistent growth—a tenfold increase in only 25 years. This trend is made all the more vivid when juxtaposed against the relative shares of the Chicago and New York firms. Although it is true that the law firms in these cities also appear on the docket with greater frequency, their shares are modest by comparison. For instance, Chicago and New York have a combined share of the national bar that is twice the capital's percentage (Curran et al. 1985), yet in 1985 the percentage of petitions brought by Washington law firms was more than double Chicago and New York's total proportion of cases in the Court.

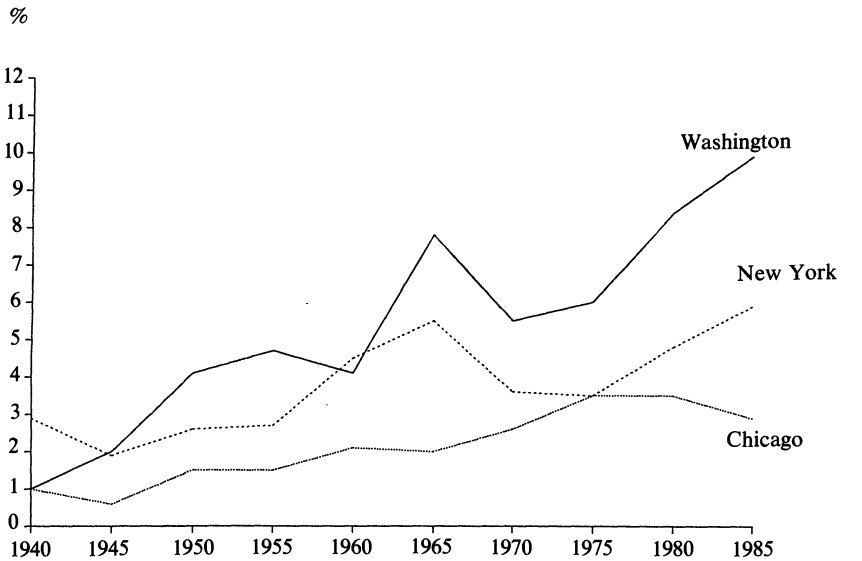
The surge in Washington representatives during the last two decades is especially significant, given that it occurs on top of an expanding docket: since the 1970s, not only have more cases been brought to the Supreme Court but more of them have been brought by Washington counsel.[4] Indeed, it would appear that, over the last several decades, those

[2]Data collected by author.

[3]These data are based on systematic random samples of nonfederal government petitions filed in the Supreme Court, taken at five-year intervals from *United States Law Week.*

[4]For figures on the Court's caseload, see Baum (1989, 105).

Figure 1. Geographic Distribution of Supreme Court Bar, 1940–85



who need representation before the Supreme Court are as apt to seek advocates located in the District of Columbia as are those who need representation before other branches of the federal government.

The Washington community is, of course, replete with lawyers who seek to influence the governmental process across a wide array of policy areas (Nelson et al. 1987), but systematic examination of the legal community as it pertains to the Supreme Court remains modest. The evidence that exists suggests that there is a fair amount of cohesion within the bar of the Court. That is, some members of the bar of the Court are unified, united both professionally and socially. During the Warren Court, a good many civil liberties lawyers shared professional ties (Casper 1972). Similarly, Sorauf's (1976) study of cases involving religion illustrated the centrality of Leo Pfeffer of the American Jewish Congress as the primary litigator whose "personal network . . . constituted the major informational network among attorneys working for separationist interests in church-state cases" (161). Likewise, Epstein (1985) documents how conservative interests maintain stable, cohesive sets of expert practitioners to handle appellate litigation. More recently, legal observers have noted that a small circle of private practitioners in Washington have formed the core of a discrete "Supreme Court bar" (Greenya 1987). Examples such as these are suggestive, I think, of a much broader system of interper-

sonal association. In order to examine such a system, it is essential to bring systematic evidence to bear upon a persuasive theory of legal networks.

Social Bonds in the Supreme Court

Examining the social network of the Court's representatives requires first that we ask, What is the "bar of the U.S. Supreme Court"? The most inclusive definition would be all those attorneys who have been admitted to practice in the High Court. The clerk of the Court, however, does not purge the rolls of the bar; therefore, the total active number of Supreme Court lawyers is unknown (Stern, Gressman, and Shapiro 1986, 731). Even among the recently admitted practitioners, the degree of current involvement is difficult to gauge. Because of the aura that surrounds the Court, many lawyers now seek admission as a mark of professional status.[5] Thus, a substantial number of counsel tend not to appear on the Court's docket. In order for the bar of the Court to be a meaningful concept, lawyers must have some occasion to participate in the Court's litigation. One might examine the lawyers who participate at the merits stage, that is, those who argue cases and file accompanying briefs. Yet this definition excludes the substantial proportion of the Court's bar who are active on the Court's docket at the agenda stage. To be active at the stage of case selection, while admittedly less visible than arguing before the justices, is still a significant measure of involvement in litigation before the Court.

To ensure some degree of active participation before the Court, I conducted a mail survey on a sample of lawyers who represented both petitioners and respondents in the 1986 term of the Court.[6] Seeking a sample reflective of the attorneys active on the Court's paid docket, I drew a systematic random sample of nearly 700 nonfederal government

[5]Prior to 1970, lawyers who sought admission to the Court's bar were required to appear before the Court in person. In 1970, under the leadership of Chief Justice Burger, the Court changed its rules to allow application and admission by mail. Although the newly admitted may still take their oath before the Court, without question, the mail application is now the more popular option; indeed, thousands of lawyers are admitted through the mail each year (Stern, Gressman, and Shapiro 1986, 731–32).

[6]I make no pretense of this approach being the only means of conceiving of the Court's bar. Naturally, there are plausible alternatives. The important question is whether this approach is likely to produce a representative sample of the lawyers who are active throughout the Court's decision making. Given that the sample includes petitioners and respondents, both successful and unsuccessful—that is, lawyers active at the petition stage, some of whom continue on to the merits stage—I am confident that the data reflect generally the types of counsel who participate in cases before the Court.

lawyers, and the survey produced a response rate of roughly 48%.[7] Different types of lawyers responded in virtually the same proportions in which I sampled them. In order to tap the question of social bonds among representatives, each lawyer was asked to nominate up to five fellow litigators whom he or she considered to be especially distinctive as Supreme Court practitioners, and some 124 respondents named at least one notable advocate. Taken together, these notables constituted a group of 143 lawyers.[8]

This approach proceeds in the spirit of other studies that focus on the patterns of institutional networks (see Caldeira 1985; Caldeira, Clark, and Patterson n.d.; Caldeira and Patterson 1987). It is instructive, however, to consider what differentiates this analysis from existing studies of political networks. In the legislative setting, Caldeira and his colleagues (1987, n.d.) have examined the social bonds among representatives in the Iowa legislature. For a number of reasons—legislators work in close physical proximity in the chamber; members represent similar districts, geographically, demographically, and so on—their findings regarding the close ties between legislators have great intuitive appeal. Likewise, state supreme courts, engaged in the consistent resolution of parallel appellate disputes, are likely to be disposed to follow closely and draw from the work of their institutional peers (Caldeira 1985). In short,

[7]Other scholars have utilized a single term of the Court as a cross-section from which to generalize (see, e.g., Caldeira and Wright 1988), and we have no reason to suspect that such an approach invokes sample bias. Specifically with regard to this sample, there were 688 potential respondents, of which 327 returned a questionnaire. This group was of considerable variety, including private practitioners, state and local government attorneys, corporate counsel, and interest group litigators. One group of counsel that was not included was the set of expert lawyers who litigate in the Court on behalf of the federal government (for a discussion, see Caplan 1987; Segal and Reedy 1988). The reader should note that, while I did not sample the Solicitor General's Office, I do consider him and his staff as potential members of the community of the bar. There are, of course, good theoretical reasons for sampling this group. Statistical results drawn from a relatively small group, however—usually less than 20—would no doubt have been subject to serious question.

[8]The item was worded as follows: "Are there any lawyers who have appeared before the Supreme Court whom you consider to be particularly experienced or skilled in Supreme Court practice? If yes, please list up to five of these lawyers and the cities in which they practice law." Recent studies of professional representatives have relied upon comparable methodology as a means of characterizing influential representation in other contexts (see, e.g., Nelson et al. 1988). More specific data for the notables were then obtained from the Martindale-Hubbell national lawyer directory, *United States Reports, Briefs and Records of the U.S. Supreme Court,* and a list of former clerks to the justices, provided by the Office of the Clerk of the Supreme Court. Backgrounds and experiences of the respondents are taken from several survey items.

there are strong expectations that networks exist in such contexts. This is an important consideration, given that a traditional issue network is characterized by regular and consistent interaction. In the case of the lawyers who litigate before the Court, however, we cannot afford such an optimistic predisposition. Indeed, given that scores of attorneys annually enter the ranks of the bar (Stern, Gressman, and Shapiro 1986, 731) and since the Court's docket has burgeoned in the last several decades, there is no doubt that a great heterogeneity of counsel, numbering in the thousands, has been active (generally in only the most modest degrees) in litigation before the Court.

Our set of actors, then, differs from a traditional issue network. Here, we do not examine a handful of state supreme courts or a hundred or so legislators who regularly interact; rather we are dealing with a vast and more amorphous collection of political actors. To be sure, networks can assume amorphous proportions (see Berry 1989, 184–87), but few lawyers are engaged in litigation before the Court on a regular and consistent basis; even prominent practitioners may handle only one or two cases a term (see Rehnquist 1987, 282). Accordingly, in the case of the representatives before the Court, we must adjust our perspective: What evidence of a social network exists within a group of individuals for whom the ties of a social network should be fragile, at best? Bearing this distinction in mind, we can review existing scholarship on the nature of interpersonal choice and develop some appropriate expectations regarding how it might manifest itself among the lawyers in the Supreme Court.

Theory of a Network of Lawyers

Much of the systematic examination of social relationships falls upon the shoulders of network analysis (Knoke 1990; Knoke and Kuklinski 1982; Laumann 1973), and indeed its application to the study of politics is well known. Applying network theory specifically to the political actors in the District of Columbia, for instance, scholars have provided a clear picture of the system of Washington representation (Heinz et al. 1990) and the role of Washington lawyers within that system (Nelson et al. 1987). With regard to the legal community at large, the network of relationships within the legal profession is surveyed most intensively by Heinz and Laumann (1982), whose study of lawyers in Chicago reveals a coherent social structure to the bar.

In examining the Supreme Court's bar, I employ two distinct theoretical approaches—a *shared social characteristics model* and a *personal professional attribute model.* The first reflects perhaps the most consistent theme in the literature on social networks, that is, the idea that the

greater the degree of shared backgrounds, attitudes, and norms, the greater the likelihood that interpersonal relationships will form (Laumann 1973, 5). Given that shared social characteristics explain a good deal of sociometric structure (see, e.g., Berscheid 1985, 455–57), our characterization of the social ties among the Supreme Court's lawyers should account for the role of those characteristics that these representatives have in common. The second model, also a tradition prominent within the field of social networks, assumes that interpersonal association can be explained as a function of the attributes that individuals possess. Groups, including the Supreme Court's bar, will likely have individuals who are more prominent than others, who command notice among their brethren—individuals whose backgrounds, positions, and professional experiences rank them among the elite (see Gibb 1969, 211–12). Leaders, therefore, can be identified by the traits that they possess, and scholars have demonstrated, over and over again, that the earmarks of leadership provide a compelling account of politics. The precedents of the more professional and prestigious state supreme courts, for instance, are relied upon most often by other state courts (Caldeira 1985). In the legislative context, prominent members are more likely to garner political friendship (Caldeira and Patterson 1987) as well as institutional respect (Caldeira, Clark, and Patterson n.d.). Thus, interpersonal attraction—what draws one to another—can be explained by the qualities possessed by certain members within a group. Both the personal professional attribute and the shared social characteristics models have direct relevance for our analysis. How can these two competing models be brought to bear upon our understanding of the representatives within the Court?

To shed light on the contours of the social hierarchy of the bar, I construct a multivariate equation, one that incorporates predictors from both models. In the analysis, the dependent variable is a dichotomy—whether each of the survey respondents ($N = 124$) named each of the notable Supreme Court lawyers ($N = 143$). This necessitates creating 143 different observations for each of the 124 respondents. For each respondent, these observations are created by asking, "Did Respondent *i* name Lawyer 1, Lawyer 2, Lawyer 3, . . . , Lawyer 143?" When this procedure is repeated for all 124 respondents, the resulting data matrix consists of 17,732 (or 124×143) observations. Each observation contains data on the respondent's relationship to the notable lawyer (i.e., shared social characteristics) as well as data on the notable lawyer (i.e., personal professional attributes). Under the rubric of these two models, let us consider more specifically some of the possible determinants of sociometric choice within the Supreme Court's bar.

Shared Social Characteristics

Geography. Cases come to the Supreme Court from across the United States; consequently, considerable geographic diversity exists in the distribution of the bar. Of course, a number of institutional litigants—corporations, interest groups, and state governments, for example—tend to be concentrated disproportionately in a handful of cities. Within these cities, the Supreme Court's practitioners are likely to associate with one another, either professionally or socially. At the very least, practicing attorneys within the same city probably have a general awareness of the work of their fellow litigators (Carlin 1967; Heinz and Laumann 1982). Thus, simply because of spatial proximity to one another, the links between lawyers are cemented. This relationship between physical distance and social distance is well known (Berscheid 1985, 445–46) and has considerable implications for politics. Seatmates within the legislature evince a strong disposition to associate with each other (Caldeira and Patterson 1987). Similarly, state supreme courts take their cues from high courts in neighboring states (Caldeira 1985). In this case, I posit that Supreme Court practitioners will nominate those peers with whom they share a common geography. This variable is coded as one if the respondent and the notable lawyer practice law in the same city; zero otherwise.

Education. Common bonds are equally significant for mapping the contours of a social network, and one of the most frequent ties that elites share is educational background (Mills 1970). Scholars of the legal profession report that the prestige ranking of an attorney's law school is a powerful determinant of the subsequent direction of the graduate's professional career (Carlin 1962; Heinz and Laumann 1982). If the Court's counsel attend the same law schools, it is a safe bet that such a bond will perpetuate and manifest itself in varying degrees throughout their careers. Among the notable Supreme Court lawyers, there is a good deal of homogeneity in their legal training. In fact, some 50% of the lawyers nominated were graduates of only a handful of distinguished institutions—Harvard, Yale, Chicago, Columbia, and California at Berkeley. Similarly, the survey respondents report these institutions among their most frequently attended. Lawyers with distinguished legal training, all things being equal, are likely to be among the group of lawyers who practice before the justices. It is a plausible assertion, therefore, that Supreme Court counsel will nominate their classmates. Educational institutions—particularly the elite—have a great sense of institutional history; indeed, students maintain close ties to their schools long after receiving their degrees, and graduates of law schools are especially cogni-

zant of their distinguished classmates. To consider the possibility that respondents name their former classmates, this variable is coded one if the respondent and the notable lawyer attended the same law school and were admitted to the bar within three years of one another; zero otherwise.

Legal experience. The interpersonal network among lawyers may also be shaped by their levels of professional experience. Generational similarities are likely to be conducive to establishing bonds: young Supreme Court practitioners should identify with newer advocates; more seasoned appellate counsel should name other veteran lawyers as leaders of the bar. Contrasting the relative degrees of legal experience between lawyers—how long one has practiced law in relation to another—provides us not only with an indicator of professional proximity but also with a more broad comparison of approaches and perspectives on the legal profession and its relationship to the development of the law. The simple passage of time effects substantive change in the law, legal education, and practice. Necessarily, the choices that the Court's lawyers make regarding their peers should reflect this, as lawyers select others with comparable "world views." This variable is equal to the absolute value of the difference between the year in which the respondent was admitted to the bar and the year in which the notable lawyer was admitted to the bar. The smaller this difference, the more similar the lawyers are, generationally speaking; the larger the difference, the more dissimilar.

Supreme Court clerkships. A good many appellate practitioners share the conspicuous attribute of membership in the elite circle of lawyers who have served as clerks to justices on the Court. As much as any group of lawyers, clerks become enmeshed in the politics of the Supreme Court very early in their careers. Establishing a close working relationship with the justices tethers these lawyers to the Court as well as to one another. These relationships are apt to be maintained subsequent to their tenure as clerks, given that former clerks are among the lawyers who most frequently cultivate a Supreme Court practice (Kerlow 1990). This variable measures the degree to which fellow clerks who practice before the Court name each other as distinctive litigators. It assumes a value of one if the respondent and the notable lawyer served as clerks to a Supreme Court justice within two years of one another; zero otherwise.

Professional propinquity. Few considerations are more important to the nature of social structures than social interactions (Aiken and Mott 1970; Laumann, Siegel, and Hodge 1970), and such interactions might well occur between lawyers who work in comparable positions in the legal profession. It is well known, for example, that occupations figure

prominently in delineating social strata (Laumann 1966), and the legal profession is particularly conducive to the analysis of contacts among colleagues. In their study of the Chicago bar, Heinz and Laumann (1982) demonstrate that interaction among lawyers is structured largely by professional propinquity. They conclude that attorneys who perform office-related work are socially proximate to lawyers who engage in similar representation. Likewise, the lawyers whose positions require litigation are prone to interact with other litigators. As with many professions, lawyers encounter their peers in a variety of work-related settings. Professional meetings, as well as mutual memberships in legal and political organizations, for example, serve to facilitate interpersonal association. As a means of gauging the extent to which professional propinquity produces interpersonal choice, I created a variable that equals one if the respondent and the notable lawyer work in similar professional settings; zero otherwise.[9]

Supreme Court interactions. Quite apart from professional similarities, social connections may spring from the most obvious occasion for lawyers' interactions: contact that occurs when counsel appear together or in opposition to one another in cases before the Court. Given the alliances that develop between representatives who serve comparable interests, regularized contact between appellate litigators should scarcely be surprising (see Salisbury et al. 1987). Unfortunately, such association is difficult to discern from the survey instrument. One plausible surrogate for interpersonal contact in the Court is to compare the amount of experience that lawyers have had litigating there. Asking whether litigators name other practitioners with similar track records of experience before the justices enables us to estimate—if only crudely—the likelihood that their caseloads overlap. Even if the strong ties created by overlapping litigation are not measured effectively in the model, weak ties probably still exist between lawyers (see Granovetter 1973). That is, frequent participants in Supreme Court litigation are likely to be tied to the same groups of people. This variable, therefore, equals the absolute value of the difference between the number of cases the respondent indicated that he or she had argued before the Supreme Court and the number of cases argued by the notable lawyer over a sample of six years, the 1977–82 terms of the Supreme Court.[10]

[9]The possible categories were private practice, the federal government, state and local government, corporate house counsel, organized interest group, law school, and legal aid or public defender.

[10]Data on the frequency of participation by lawyers during this six-year period were collected by the author from the *United States Reports*.

Personal Professional Attributes

What kinds of attributes are the determinants of interpersonal choice among Supreme Court counsel? If we examine the practitioners who were named most often, we uncover some important clues. Those most frequently nominated by their peers demonstrate a high degree of professional continuity. Consider the following: among the 10 most frequently named counsel, four are alumni of the Solicitor General's Office; six served as clerks to Supreme Court justices; seven practice law in large firms, six of those in Washington; in sum, Washington is home to eight of them; six of them, either now or in the past, have been on the faculties of elite law schools; four have litigated on behalf of major interest groups; none of them works as a public defender or corporate in-house counsel; not one litigates on behalf of state and local government.[11] These attributes provide some possible keys to illuminating the social web of the Supreme Court's bar.

Particularly noteworthy is the dominance of actors who are part of the Washington community. The prominent role of Washington representatives before the federal government is well documented, standing in stark contrast to the influence of their counterparts from other regions of the country (see, e.g., Berry 1989; Schlozman and Tierney 1986). The attributes that are incorporated into the predictive model, therefore, need to be considered in a similar context. Consequently, the professional personal attributes that I outline below are distinguished along those lines, that is, between those who are in and those who are out of the Washington community.

Attributes of the Washington Community

The District of Columbia is the center of governmental power in the United States. Consequently, a host of political actors are constantly drawn to the banks of the Potomac River. The Supreme Court is a prominent national policymaker and of course attracts its fair share of political sophisticates. Among the bar's notables, Washington stands out as the most prominent city of practice. A third of the elite, in fact, practices in the capital. The city with the next largest share of expert counsel, New York, has only half that proportion. If we turn our attention to the notables who are in private practice, the centrality of Washington is even more glaring; nearly 50% of the private counsel who were named as

[11] Among these lawyers are Laurence Tribe of the Harvard Law School; former Solicitors General Archibald Cox, Erwin Griswold, and Rex Lee; Laurence Gold, chief counsel to the AFL-CIO; and Washington legal luminaries William T. Coleman, Jr., and E. Barrett Prettyman, Jr.

expert Supreme Court counsel work in Washington. As is the case with most other Washington representatives, those who are seen as the primary agents of political influence in the Court work in close proximity to the Court itself (see Nelson et al. 1987; Schlozman and Tierney 1986; Walker 1983; see also Goulden 1972). We would expect the litigators who are tied to the Washington community, therefore, to be elevated in the bar's social hierarchy.

Law firm practitioners. One group of representatives within the Washington community are those who practice in the law firms in the capital. The Washington lawyers occupy a special place in the system of representation before the federal government (see, e.g., Berry 1989, 25–27, 91–92), and they are particularly advantaged in policymaking that involves litigation (Nelson et al. 1988). Consequently, one might suspect that prominent appellate litigators in the firms in Washington who have Supreme Court practices would garner attention from lawyers and clients alike (see Greenya 1987; Hayes 1989). This attribute variable is coded as one if the notable works in a law firm in Washington; zero otherwise.

Supreme Court clerks. A fair number of practitioners have direct knowledge of the process of litigating in the Court by virtue of having served as clerks to the justices. There can be little doubt that these lawyers are highly valued assets to the large law firms, as evidenced by the willingness of many Washington firms to offer lucrative signing bonuses —some as high as $35,000—to former clerks (Kerlow 1990). Indeed, the vast majority of former clerks practice law in the Washington firms (Grogan 1991), and many join firms that emphasize appellate and Supreme Court litigation (see Wermiel 1989). Such lawyers will surely be steeped in both the political and legal cultures of the capital and consequently more prone to earn the professional admiration of their peers. If the notable was formerly a clerk to a justice on the Supreme Court, this variable is coded as one; zero otherwise.

Alumni of the Solicitor General's Office. Service in the Office of the Solicitor General imparts an insight on the Supreme Court available only to a precious few. Not surprisingly, many former associates of that office exploit their expertise when entering private practice (Hayes 1989, 65; see also Caplan 1987). Viewed from this perspective, these lawyers, like former clerks, appear to be following a more general pattern established by those lawyers who acquire expertise in the federal government and later capitalize upon it. "Frequently Washington lawyers enter private practice after gaining valuable experience working for a congressional committee or an administrative agency. Thus, they become part of the

in-and-out pattern of using a government job to later command handsome fees from those that have a problem with the government" (Berry 1989, 92). Given their expertise, these insiders should be prime candidates for prominent positions among the litigators who appear before the Court. This variable is coded as one if the notable had, at some point in his or her career, worked in the Office of the Solicitor General; zero otherwise.[12]

Solicitor General's Office. Leaving aside the prominence of counsel formerly connected to the federal government, the reader should note that the reputation carried by the Office of the Solicitor General is largely institutional in nature.[13] It is clear from the survey results that lawyers hold the office itself in very high esteem, yet they are hard-pressed to name individual members whom they consider to be distinctive practitioners in the Court. This is certainly not to suggest that the lawyers who make up the Office of the Solicitor General are not among the brightest legal minds who practice before the Court—quite the contrary. Most lawyers, however, simply do not know who those practitioners are.[14] Apparently, it is only after they leave the office and turn to the professional spotlight of private practice that they gain special notoriety. To account for this difference, the model of interpersonal association among the Court's bar tests the effects of current membership in the Solicitor General's Office. If the notable worked in the Office of the Solicitor General at the time of the survey, this variable equals one; zero otherwise.

Interest group counsel. Finally among the list of practitioners in Washington are those who represent organized interests before the justices. The participation of interest groups in litigation before the Court is quite extensive and by no means restricted to groups in the capital (O'Connor and Epstein 1982). Regardless of where they work, a great many of the lawyers who serve organized interests have periodic contact with both the justices and other appellate practitioners. Still, being in the capital heaps additional benefits upon these advocates. The interest

[12]The reader should note that initial estimates evidenced strong intercorrelation between the Washington law firm practitioner variable and the measure for alumni of the Solicitor General's Office. To overcome this problem, I subsequently recoded the variable for private practitioners to include only those lawyers in Washington firms who had not served in the Office of Solicitor General.

[13]The influence of the solicitor general is, of course, well documented (see, e.g., Caldeira and Wright 1988; Caplan 1987; Provine 1980; Segal and Reedy 1988), and it is not necessary to justify either the solicitor general's successes or his reputation.

[14]When asked to name distinctive litigators, many respondents would offer vague references to the office (e.g., "Lawyers in the Solicitor General's office—don't know them by name").

groups that have increasingly located themselves in Washington are particularly well poised to participate in national policymaking (Walker 1983), and the counsel to those groups necessarily are accorded a keen perspective on the activities of the Supreme Court. All things being equal, the combination of their professional positions and their geographic location should elevate these lawyers in the social hierarchy. Thus, the model includes a predictor that equals one if the notable works for an organized interest group in Washington; zero otherwise.

Attributes of the Non-Washington Community

For those outside the capital, leadership within the bar of the Supreme Court is not expected to manifest itself in any significant way. Of course, affinity probably follows after some litigators, but, as I have argued, most should fail to accumulate interpersonal attraction. Which of these practitioners are likely to be part of the network of representation and which are not?

Law firm practitioners. One type of representative that should be the subject of only infrequent sociometric choice is the lawyer who practices in the firm outside of the District of Columbia. Obviously, there are skilled appellate practitioners in large firms across the country. Still, those lawyers would presumably have only episodic involvement with litigation before the Court specifically and be less imbued with the politics of the capital community generally. This means that these lawyers have but limited opportunity to earn distinction among their brethren in the bar; after all, if their appearances before the Court were more numerous and consistent, they probably would be working in Washington (see Greenya 1987; Hayes 1989). If a notable works in a law firm in any city except Washington, this predictor is coded as one; zero otherwise.

State and local government counsel. Lawyers who represent state and local governments generally have poor reputations as litigators before the Court (see, e.g., Perry 1991, 127),[15] and they receive comparatively fewer nominations as leaders of the Court's bar in the survey data. Their reputations are apparently deserved; due in part to the dismal performances of many state representatives, the National Association of Attorneys General, as well as the State and Local Legal Center, have established programs to better prepare state counsel for Supreme Court practice (Lempert 1982). To consider the potential role of these litigators in the network of Supreme Court lawyers, I coded this variable as one if

[15]Of course, not all states are wholly ineffective; in fact, there is a good deal of variation in the quality of states' litigators in the Court (Epstein and O'Connor 1988).

the notable works in state, county, or municipal government; otherwise it is coded as zero.

Legal aid or public defense counsel. The prestige ranking for the attorneys who perform public defense is among the lowest in the legal profession; it does not, therefore, attract the most talented members of the bar (Heinz and Laumann 1982). Not surprisingly, these practitioners have not developed reputations for excellence in Supreme Court advocacy (but see Lawrence 1991). Indeed, like state and local government counsel, they too have been targeted for improvement in the quality of their representation in the Court. In Washington, the Public Citizen Litigation Group offers assistance to the unseasoned public defenders who find themselves litigating in the Supreme Court. Accordingly, it is not anticipated that these lawyers would be the frequent source of sociometric choice. This predictor is coded as one if the named notable works for an agency, group, or organization whose primary purpose is to provide counsel to the indigent (e.g., Legal Services, city or state public defender's office); zero otherwise.

Corporate house counsel. Serving as in-house counsel to a corporate interest is a position of enormous professional prestige; it is, however, a post that rarely demands direct involvement in Supreme Court litigation (see Heinz and Laumann 1982). It is scarcely surprising that, among the notable corporate lawyers, not one practices in Washington: ordinarily, corporate counsel select, not perform, appellate representation (Abel 1989; Galanter and Palay 1991). In a good many cases, however, they elect to litigate themselves, and tales of missteps by corporate counsel are legion (Mauro 1988). Like many of those from outside the Washington community, these lawyers are not expected to be central actors among the representatives in the Supreme Court. To test this assumption, this estimator is coded one if the notable is employed solely by and immediately responsible to a corporation (as opposed to a law firm); zero otherwise.

Law professors. Among the few likely leaders of the bar of the Court are law professors, many of whom have established reputations for excellence in litigating before the justices. There are a number of distinguished members of the legal professoriate who are nominated for influential status: Alan Dershowitz, Eugene Gressman, and Laurence Tribe are among the law professors named as the Court's expert litigators. Accustomed to addressing the broad implications of judicial policy, academics are adept at discussing how political, social, and economic issues are intertwined with the law, a quality central to effective advocacy in the Court

(see, e.g., Prettyman 1984). If the notable is a full-time law professor at an accredited U.S. law school, this variable equals one; zero otherwise.

Interest group counsel. Similarly, counsel to organized interests—specifically those whose offices are not in Washington, such as Julius Chambers of the NAACP Legal Defense Fund and Burt Neuborne of the American Civil Liberties Union—are among the list of notable Supreme Court practitioners. Notwithstanding their proximity to Washington, interest group counsel such as these have justifiably superior reputations in the Court (see, e.g., Epstein 1985; Kluger 1975; Provine 1980; Sorauf 1976). The model, therefore, includes a variable that equals one if the notable works for an organized interest group in any city except Washington; zero otherwise.

These personal professional attributes, taken by themselves, provide some preliminary clues as to the social network of the Supreme Court's bar. Such attributes, however, should not be considered to the exclusion of the practical experience of appearing before the Court. What can the litigating experiences of these lawyers tell us about the ties between representatives in the Court? Obviously, simply having served as a clerk to a Supreme Court justice, by itself, does not qualify one as an expert on the Supreme Court. Similarly, a lawyer who works in a Washington firm will not automatically be elevated to the status of a notable. A notable Supreme Court lawyer, by definition, must have had some occasion to practice in the Court. It is a reasonable assertion that litigating before the justices increases the chances of being named as a leading Supreme Court lawyer. Indeed, expertise is a resource from which professional prestige often springs (Davis and Moore 1970, 127–28). All else being equal, therefore, the lawyers with more Supreme Court cases to their credit should be natural candidates for the list of notables.

To account for the role of litigation experience in the Supreme Court, I have gathered data on the number of arguments made in the Court by each of the notables over a six-year period, 1977–82.[16] (Arguments are by no means the only basis for evaluating experience in the Court. Alternatively, one might substitute the number of cases at the petition stage or some measure of success at either the petition or merits stage. Appearing before the justices is, however, a highly visible form of participation, and these data are easily obtained from *United States Reports*.) By interacting each notable's attribute with the number of arguments he or she made, we have a predictor of interpersonal choice that estimates the

[16]Of course, there is a time lag between this period and the implementation of the survey; if anything, however, the lag *underestimates* the influence of experience as a determinant of sociometric choice.

influence of litigating expertise specifically in the context of professional experience. I expect that increases in the number of arguments made will increase the likelihood of being chosen as a leader of the bar; given what scholars and other observers have concluded regarding the various kinds of litigators who appear in the Court, however, I do not anticipate that such experience will be uniform in its effects. The most general hypothesis is that the experienced lawyers associated with the Washington community will be seen as the leading instruments of representation in the Court; litigators who are not part of the Washington establishment will elicit less professional admiration. Specifically, I hypothesize that the impact of experience will be greatest for those whose attributes are most closely tied to the community of Washington representatives—former clerks of the justices, alumni of Solicitor General's Office, counsel to organized interests based in the capital, private practitioners in the Washington firms; I also posit that experience in the Court will be less dramatic for the Washington outsiders—public defenders, law professors, corporate lawyers, counsel to state and local government, and the private practitioners and interest group counsel whose offices are outside the District of Columbia. Current members of the Solicitor General's Office are a special case. Although they clearly are part of the Washington community, their institutional affiliation overshadows their personal reputations. Thus, I expect their influence to be positive but marginal. Overall, regardless of whether a lawyer is a part of the Washington community, his or her experience in the Court should increase the chances of being named as a leader of the bar. Statistically speaking, all of the personal professional attributes should be positive. Those attributes connected with the Washington community should attain standard levels of significance; those attributes not associated with the Washington community should not.

Taken together, the shared characteristics and attribute models constitute the explanatory framework within which I examine the social network among representatives in the Court. Because the dichotomous dependent variable does not conform well to least-squares solutions, I estimate the model using logistic regression (Aldrich and Nelson 1984).

Analysis

Armed with the predictors from both the shared social characteristics and the personal professional attribute models, I analyze the nature of sociometric choice among representatives in the Supreme Court, and the results of the logistic regression are presented in Table 1. The fit, while modest, is consistent with the theoretical expectations, and the model's overall performance is striking: 13 of the 16 estimators have coefficients

Table 1. Logit Model of Community in the Supreme Court Bar

	Coefficient	*t*-ratio	Probability
Intercept	−4.77	−31.57	< .001
Shared social characteristics:			
Geography	1.55	8.31	< .001
Education	1.88	4.95	< .001
Legal experience	−.02	−3.12	< .01
Supreme Court clerkships	.13	.11	n.s.
Professional propinquity	.66	4.40	< .001
Supreme Court interaction	−.10	−2.56	< .01
Personal professional attributes:			
Washington community:			
Law firm practitioner	.36	3.08	< .01
Supreme Court clerk	.12	4.02	< .001
Alumnus of Solicitor General's Office	.13	3.32	< .001
Solicitor General's Office	−.01	−.20	n.s.
Interest group counsel	.31	5.02	< .001
Non-Washington Community:			
Law firm practitioner	−.01	−.14	n.s.
State and local government counsel	.12	.86	n.s.
Legal aid or public defender	.64	1.36	n.s.
Corporate house counsel	−.03	−.12	n.s.
Law professor	.46	7.67	< .001
Interest group counsel	.66	2.63	< .01

N = 17,732.
−2 log-likelihood ratio = 231.73 ($p < .0001$).
Pseudo R-squared = .14.

in the expected direction, and, with a scant few exceptions, the magnitude of their predictive power is precisely as anticipated. Specifically, the parameter estimates for the shared social characteristics variables all have the expected sign, and only one does not attain a high degree of statistical significance. I anticipated that all of the attribute coefficients would be positive, and in fact all but three were. As expected, virtually all of those associated with the Washington community were statistically significant, while those estimates for the lawyers detached from the District of Columbia generally were not. On balance, the results point to the strong independent effects of both the characteristics that lawyers share and the attributes of the notables as the determinants of the social structure of the Supreme Court's bar.

Turning first to the confluence of characteristics among lawyers, we see that interpersonal choice among litigators is, in part, the direct result

of similarities between lawyers. Supreme Court counsel who practice in close proximity to one another hold their local brethren in high professional esteem ($t = 8.31, p < .001$). In urban centers, a variety of appellate litigators are likely to be found—counsel to state governments and organized interests, as well as private practitioners in large law firms, to name a few. Despite the heterogeneity of their professional backgrounds, these lawyers are familiar with each other's work in the Court. Not only that, they readily express their admiration for the talents of their local contemporaries.

The common ties between the Court's counsel also provide an effective account of the bonds within the bar. Much of that structure is formed relatively early in the lives of these lawyers: a good many litigators who become appellate practitioners are bound together by their alma maters, and the strong alliances that develop in law school extend subsequently into professional practice ($t = 4.95$, $p < .001$). Indeed, the collective memory of these practitioners testifies to the importance of old school ties. Former clerks to the justices, however, demonstrate only a modest propensity to nominate each other. In light of the predictive power of other common characteristics, why might this be? Given that the great majority of Supreme Court clerks are products of only a handful of elite law schools (see, e.g., Grogan 1991), the failure of this variable to reach a significant predictive level is perhaps less surprising. We might conjecture that law school attachments preempt any significant association that might take place among clerks. Moreover, the clerks apparently do not socialize as much as we might think; after all, the individual chambers of the justices operate fairly independently of one another with little interaction between them (see O'Brien 1990, 156–59; but see Perry 1991).

Generational differences also demonstrate a pronounced influence on interpersonal choice among the Supreme Court's lawyers. The longer each litigator practices law, the more likely he or she is to associate with those who have walked a similar path, those of the same era. Dissimilarities in the length of time that lawyers practice, conversely, decreases the likelihood of nomination ($t = -3.12, p < .01$). The seasons of age, therefore, limit the bonds among Supreme Court counsel: old hands within the bar feel closest to other veterans; likewise, the young practitioners within the profession have the strongest ties to other junior counsel.

Although the model lacks indicators of direct interactions, several explanatory variables, taken together, enable us to piece together some general sense of the collegiality that might exist within the Supreme Court bar. Whether those likely interactions are specific to litigation in the Court or take place outside the context of practicing before the justices, such collegial contacts help define the boundaries of the Court's bar.

Professional propinquity provides much of the fuel that drives these social alliances. Lawyers who work in state government no doubt come into contact with other counsel to states; litigators for organized interests are prone to associate with one another; lawyers from large law firms are likewise bound together; and so on ($t = 4.40$, $p < .001$). Practitioners who share similar patterns of participation in the Court, all things being equal, also have a greater likelihood of working together or opposing one another. As their paths of Supreme Court practice diverge, so too do their social ties ($t = -2.56$, $p < .01$). Active litigators who appear before the Court with regularity are closer to other repeat players than they are to the counsel with only a single case to their credit.

The shared social characteristics model paints a picture of a close-knit and collegial group of litigators. Taken together these various social alliances promote a fair degree of unity within the Court's bar. Of course, proximity between lawyers is only half of the story. The personal professional attribute model rounds out our account of the social network within the Court's bar.[17]

Among the list of attributes, those associated with the Washington community shed a great deal of light on the interpersonal relationships between appellate litigators. In every instance except one, the lawyers whose professional backgrounds place them in close contact with the Court are seen as the leaders of the bar. In particular, the former clerks who, having left the service of the justices, return to practice before them are held in particularly high esteem ($t = 4.02$, $p < .001$). Similarly, the experience of working in the Solicitor General's Office unquestionably redounds to the benefit of counsel who exploit their expertise in subsequent private practice ($t = 3.32$, $p < .001$). One should note, however, that lawyers who remain in the Justice Department to work on behalf of the United States do not build strong bonds with those outside the federal government, despite the frequency with which they appear before the Court. In fact, among the attributes of the lawyers in the Washington community, this is the only coefficient that fails to predict in the expected direction. Without diminishing their profound skills and advantages, we observe that the lawyers in this office are part of an institution, and, while in that institution, they are somewhat interchangeable.

[17]Recall that these attributes are interactive; that is, for each lawyer, the attribute is multiplied by the measure of experience in the Court. There are certainly alternative model specifications utilizing these variables. For instance, one might include the number of cases argued as a predictor along with dummy variables for each of the other attributes of practice. Alternatively, one might include both the interactive terms *and* the dummy attributes. Although I do not report these results here, I have run these models under both specifications, and neither produces as effective an empirical account as the equation in Table 1.

Not the least among the leaders are the litigators who work in the law firms of Washington. These attorneys, practicing in the shadow of the Supreme Court, are among the advocates most likely to be nominated for elite status ($t = 3.08$, $p < .01$). There can be little doubt that much of the private representation within Washington is increasingly specialized and that the legal profession's control over litigation confers upon its members a unique role in the national policy process (Nelson et al. 1988). Occupying a special place within the Supreme Court's bar, the experienced private practitioners in Washington are singled out again and again by their peers.

Organized interests are also in Washington in great abundance. Among those who engage in law reform through litigation, these counsel and their attendant expertise are the source of considerable interpersonal admiration ($t = 5.02$, $p < .001$). This is no small wonder, as many of the attorneys for Washington-based interest groups often appear in high-profile cases. Alan Morrison of the Public Citizen Litigation Group and Laurence Gold, counsel to the AFL-CIO, are exemplary in that respect. Such lawyers are the luminaries of the public interest bar, and accordingly they are held in very high regard by their fellow practitioners.

Overall, these data confirm that, when it comes to perceived effectiveness in the Supreme Court, firsthand knowledge of the Court is of singular importance. This knowledge assumes many forms, including the insider's perspective of the former clerks, the wealth of practical experience that is accumulated in the Solicitor General's Office, and the political seasoning that comes with interest representation. All of these features are circumscribed—literally and figuratively—by the capital beltway. Working inside the beltway magnifies the experience of the practitioners in Washington and makes them more visible. Indeed, the Washington insiders, the elite litigators in the capital community, command the leadership positions within the social structure of the Supreme Court's bar.

Beyond the Potomac River, far less social unity exists: only two of the six attributes of the lawyers outside Washington achieve standard levels of predictive significance; two others, law firm practitioners and corporate house counsel, do not have the expected positive sign. The lawyers whose reputations have been decidedly sullied by their Supreme Court practice—corporate counsel and attorneys in state and local government—receive no particular admiration from their colleagues. Despite their regular appearances before the justices, their experiences are apparently muted by lackluster performances. Consequently, they inspire no awe among the Supreme Court bar. Although there is some sign of prominence among public interest lawyers, legal aid attorneys and public de-

fenders achieve no significant status. Even among the veteran private practitioners who hail from across the map, there is no special place in the social hierarchy. To be sure, cities such as Chicago, Los Angeles, New York, and Philadelphia can boast their fair shares of seasoned appellate advocates, but they simply are not considered to be the movers and shakers in the Supreme Court.

The significant non-Washington notables—legal academicians ($t = 7.67, p < .001$) and interest group representatives ($t = 2.63, p < .01$)—are the exception, not the rule. This is not to suggest that their reputations are not deserved—quite the contrary. Prominent litigators such as Laurence Tribe of the Harvard Law School and Jack Greenberg of the NAACP Legal Defense Fund have earned their reputations through skilled appellate advocacy. Still, outside the context of the nation's capital, they illustrate that only one or two kinds of counsel are capable of capturing the attention of the lawyers who practice in the Supreme Court. In Washington, the appellate bar acquires expert status much more readily.

Conclusions

The Washington Community, James Sterling Young's compelling account of nineteenth-century political life in the capital, describes how "(m)embers of the different branches of government chose to situate themselves close by the respective centers of power with which they were affiliated, seeking their primary associations in extra-official life among their fellow branch members" (1966, 68). The modern bar of the Supreme Court brings renewed life to Young's observation. Indeed, there are patterns of association among today's judicial representatives—a social network of notable lawyers who practice before the Court, strongly anchored in Washington, DC.[18]

In particular, that network is defined by the shared characteristics of its members as well as the attributes of its leaders: these lawyers have a good many common ties and evince some modest signs of collegiality; many are law school classmates and later become colleagues within the Supreme Court bar; they appear to interact in Supreme Court litigation specifically, as well as in a broader professional context. It is in Washington that we find the wealth of experienced Supreme Court talent, those lawyers whose connections to the Court are the greatest. As with many elites, "they have a greater share than other people of the . . . experiences that are most highly valued" (Mills 1970, 278), experiences such as clerk-

[18]Recall that only 40% of the respondents could identify effective representatives before the Court. Given these results, this fact does not raise doubts about the existence of a network; indeed, it strengthens the assertion regarding its modest size and selectivity.

ships on the Court, tenure in the Solicitor General's Office, and practice in the Washington law firms, combined with active involvement in the Court's docket. These are the elites that constitute the core of the Supreme Court bar; within this group, they occupy the highest rungs of the social ladder.

Understanding how and by whom interests are represented in government is clearly an important task. The increased reliance upon Washington representatives in the Supreme Court and the existence of a discrete social network of lawyers tethered to the Washington community suggests that the growth in expert advocacy documented by interest group scholars has extended beyond the executive and legislative branches to the judiciary. Our theories of representation that focus on how intermediaries serve as linkages between government and its citizens, therefore, need to take account of the social alliances that exist among the legal, as well as the political, actors who shape the direction of the choices made by the federal government.

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