

The Supreme Court and the Westward Movement: A Demographic Study

Benjamin C. Zuraw*

Ever since the first days of the Republic, America's population steadily has been moving west.¹ This westward migration has had important effects on America's political, economic, and social history.² To the present day, the cry "Go West, young man!"³ has left its indelible mark on American institutions. This study examines whether the United States Supreme Court has moved westward along with the American public. It is important to know whether the Court has kept pace with America's westward migration, for a correlation between the two migrations could influence the way scholars analyze decisions of our highest tribunal.⁴

The geographical locations of Supreme Court Justices at various times in their careers were compiled and analyzed (see Table 1). Figure 2 plots the population shift of the Court based on its mean birthplace as of each decennial census year. As can be seen, the results are quite erratic, with the mean birthplace shifting back and forth from the Atlantic Ocean to the mainland. One problem with this approach is its inclusion of several Justices who were born overseas.⁵ Figure 3, therefore, displays the adjusted

* B.A., Dartmouth College, 1980; J.D. candidate, Yale Law School, 1983. I am grateful to David Kirkland for invaluable assistance in technical aspects of this article. Any errors, however, are mine.

1. WORLD ALMANAC AND BOOK OF FACTS FOR 1982 at 199 (1981); see also Table 1 *infra*.

2. See Turner, *The Significance of the Frontier in American History*, REP. AM. HIST. A. 190 (1893).

3. Soule, *Terre Haute (Ind.) Express* (1851); cf. J. PARTON, *LIFE OF HORACE GREELEY* (1855). *Contra* W.O. DOUGLAS, *GO EAST, YOUNG MAN* (1974).

4. Decisions of a particular Court, for example, could be explained by the predominance on that Court of an eastern or frontier perspective. Indeed, a fuller theory of "Demographic Determinism" might be articulated.

5. Justice Brewer, for example, was born in Smyrna, Asia Minor (now part of Turkey) (lat. 38 25' N, long. 27 10' E), but moved to Leavenworth, Kansas (lat. 39 19' N, long. 95 55' W). Justice Frankfurter was born in Vienna,

mean birthplace of the Supreme Court, with all Justices born overseas removed from the data. This analysis yields results which are certainly more consistent than those of Figure 2; however, because a study based on birthplace neglects movements of people after their birth, it inadequately examines the mobile American society.⁶

Figure 1, instead of being based on the birthplaces of the Justices, as were Figures 2 and 3, displays the population shift of the Court as measured by the place of residence of each Justice at the time of his or her appointment to the Court. In this way, the study can take into account the large number of Justices who migrated to the West after being born on the eastern seaboard.⁷ Figure 1 displays both the mean appointment location of the Court and the geographical center of the United States population, and demonstrates that the Supreme Court's geographical shift has been surprisingly consistent with America's westward migration.

Until 1860, the Court moved steadily westward, although lagging slightly behind the American population. From 1860 to 1870, however, the Court's population center shifted dramatically from near White Sulphur Springs, West Virginia, to Portland, Indiana; from this decade through the 1920's, the Court's westward movement was slightly in front of that of the American people. Since the 1920's, the Court's westward migration has been more inconsistent, but still remarkably similar to America's steady westward shift. The 1982 Supreme Court's population center (near Stoutsville, Missouri) is quite close to the current United States population center (near De Soto, Missouri). Indeed, in a demographic sense, the Supreme Court has come home to the American people.

Austria (lat. 48 13' N, long. 16 22' E).

6. Cf. *Dunn v. Blumstein*, 405 U.S. 330 (1972) (fundamental right of interstate travel); *Shapiro v. Thompson*, 394 U.S. 618 (1969) (same).

7. For example, Justice Field was born in Haddam, Connecticut (lat. 41 28' N, long. 72 30' W), but left for the Marysville, California gold field (lat. 39 10' N, long. 121 34' W). Justice Rehnquist was born in Milwaukee, Wisconsin (lat. 43 03' N, long. 87 56' W), but headed for the sunnier climes of Phoenix, Arizona (lat. 33 30' N, long. 112 03' W).

Westward Movement

T A B L E 1

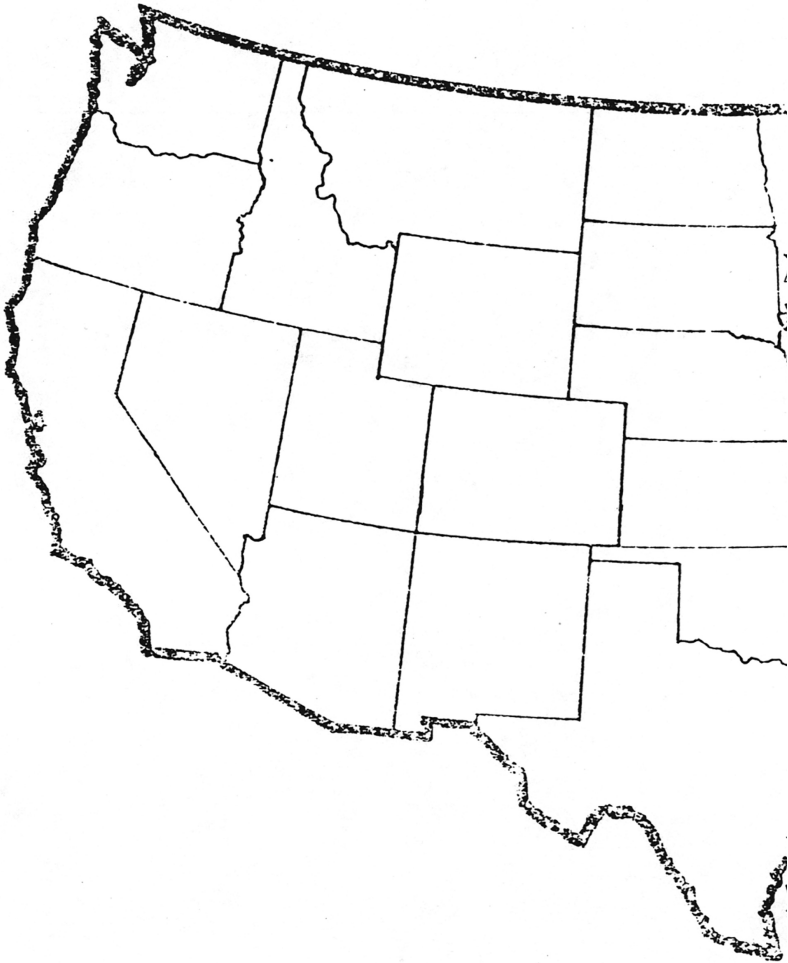
Arithmetic Mean Location of
American Population and Supreme Court, 1790-1982

Year	American Population [§]		Birthplace		Adjusted Birthplace [¶]		At Time of Appointment	
	N Lat.	W Long.	N Lat.	W Long.	N Lat.	W Long.	N Lat.	W Long.
1790	39 16'	76 11'	43 18'	50 42'	38 14'	75 18'	38 12'	75 50'
1800	39 16'	76 56'	41 17'	64 1'	38 38'	75 34'	39 27'	75 23'
1810	39 11'	77 37'	38 11'	76 8'	38 11'	76 8'	38 17'	77 20'
1820	39 5'	78 33'	38 16'	76 13'	38 16'	76 13'	38 22'	77 25'
1830	38 57'	79 16'	39 30'	75 3'	39 30'	75 3'	38 58'	77 40'
1840	39 2'	80 18'	39 6'	75 53'	39 6'	75 53'	38 22'	79 38'
1850	38 59'	81 19'	39 10'	76 59'	39 10'	76 59'	38 32'	79 56'
1860	39 0'	82 48'	38 40'	77 26'	38 40'	77 26'	37 46'	80 4'
1870	39 12'	83 35'	41 12'	75 19'	41 12'	75 19'	40 37'	85 17'
1880	39 4'	84 39'	40 34'	77 25'	40 34'	77 25'	40 32'	85 21'
1890	39 11'	85 32'	40 15'	64 8'	40 29'	75 33'	39 32'	86 18'
1900	39 9'	85 48'	39 43'	65 53'	39 52'	77 31'	39 23'	87 47'
1910	39 10'	86 32'	38 32'	81 8'	38 32'	81 8'	37 49'	88 46'
1920	39 10'	86 43'	38 57'	81 29'	38 57'	81 29'	39 17'	87 12'
1930	39 3'	87 8'	41 50'	72 40'	40 34'	81 37'	40 30'	85 36'
1940	38 56'	87 22'	40 50'	71 15'	39 55'	82 12'	39 41'	84 13'
1950	38 48'	88 22'	39 39'	74 2'	38 35'	85 21'	39 0'	88 4'
1960	38 35'	89 12'	39 30'	80 14'	38 25'	92 19'	38 49'	91 58'
1970	38 27'	89 42'	40 27'	88 4'	40 27'	88 4'	41 4'	89 29'
1980	38 8'	90 34'	40 52'	86 8'	40 52'	86 8'	40 15'	88 56'
1982	-- --	-- --	39 53'	89 12'	39 53'	89 12'	39 38'	92 0'

* CONGRESSIONAL QUARTERLY, GUIDE TO THE SUPREME COURT 793-866 (1979).

§ WORLD ALMANAC AND BOOK OF FACTS FOR 1982 at 199 (1981).

¶ Justices born outside the United States were removed from computation.



F

Mean Residences of Supreme Cou
and United States Po

Westward Movement

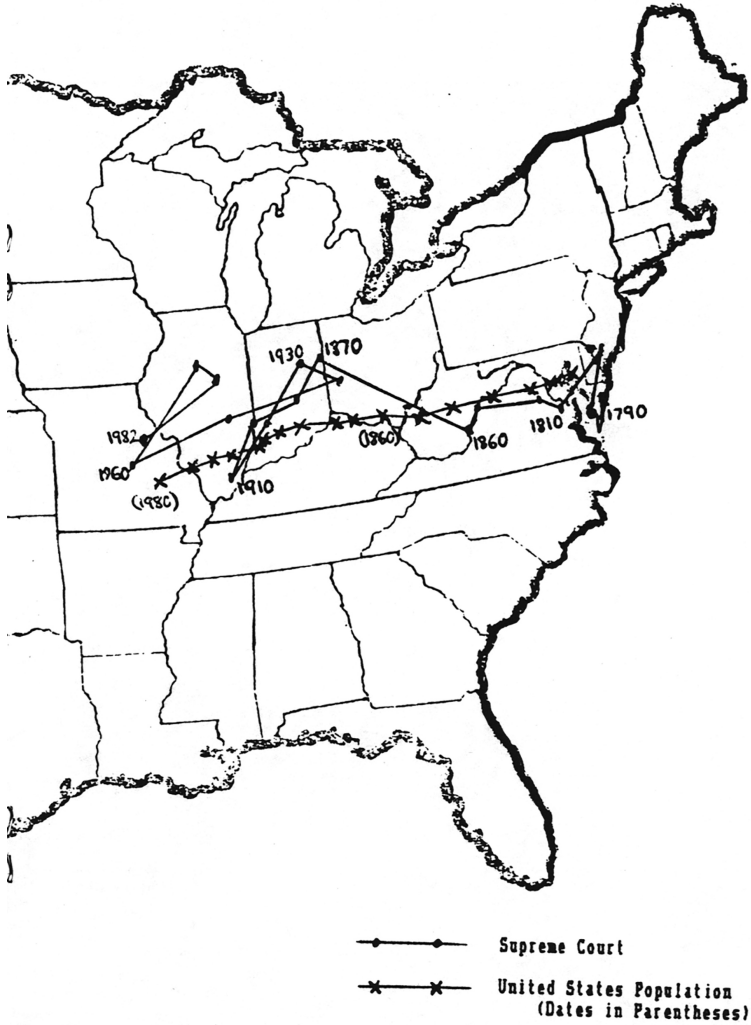
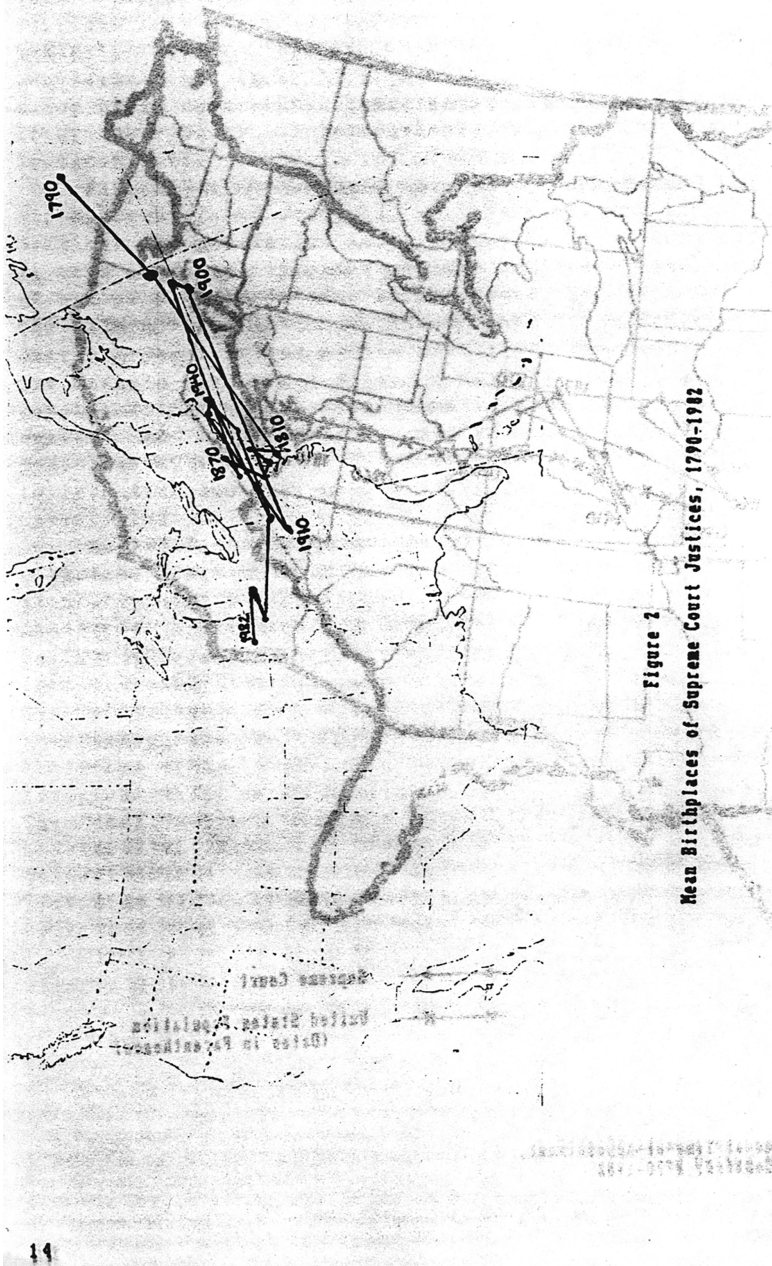


Figure 1

Supreme Court Justices at Time of Appointment,
Population Centers, 1790-1982



Westward Movement

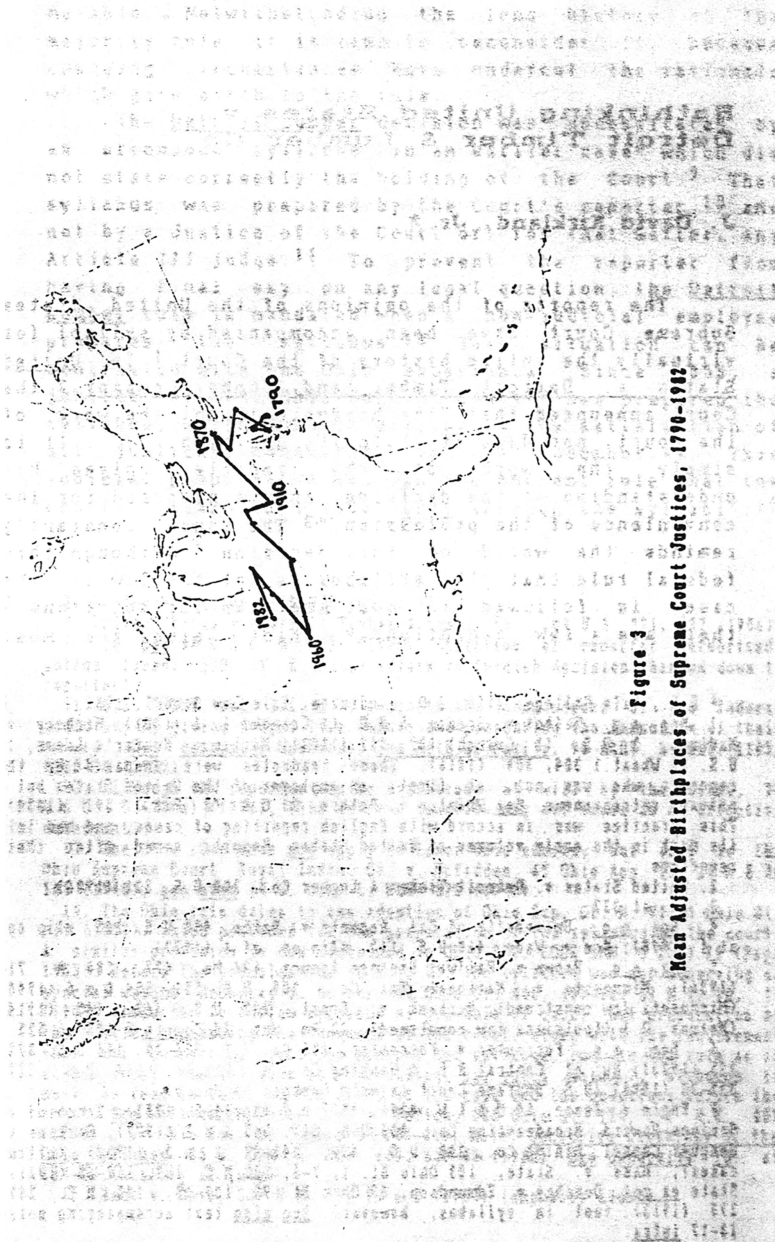


Figure 3
Mean Adjusted Birthplaces of Supreme Court Justices, 1790-1882