

POLITICS/HOW THE PUBLIC VIEWS THE COURTS

The Reagan administration faced a very different situation. Its social agenda was a direct response to liberal Supreme Court precedents, dating from the Warren Court (with the exception of *Roe v. Wade*, which came from the Burger Court). The Reagan administration established the Office of Legal Policy, which clearly told us what they were doing. One has to acknowledge the administration's frankness. Nothing was done behind anyone's back....

When you make 372 lifetime appointments to the federal bench (excluding the specialized courts) -- which Ronald Reagan did -- and you're systematic about it, you have quite an impact. There were some instances when the Reagan people couldn't get what they wanted because they had to deal with the Senate. The most spectacular example, of course, occurred with the Supreme Court in 1987. The Reagan people wanted an intellectual leader for

the conservative wing; this was Robert Bork. Instead, they had to settle for Anthony Kennedy, a generally reliable vote, but not an intellectual leader. They thought that with Bork, Scalia, and Rehnquist they would have an unbeatable combination, one that would shape conservative jurisprudence into the next century.

PP: What about people whom Bush has already put on the federal bench? Are they like the Reagan nominees?

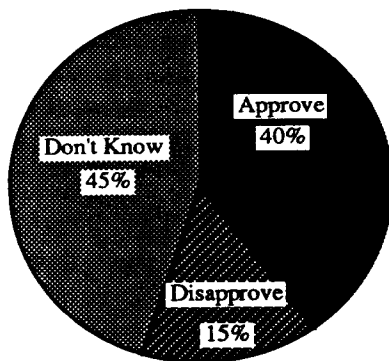
SG: I had thought that the Bush administration would try to become more "respectable" — in the sense of nominating people more in the mold of the old legal establishment. But this hasn't happened. This administration, I sense, has been more concerned with protecting itself from attack from the dominant right wing of the Republican party. Apart from David Souter, the 65 people Bush has named to the federal bench thus far seem to be for the most part in the mold of the Reagan nominees.

Sheldon Goldman is professor of political science at the University of Massachusetts, Amherst, and a leading expert on the politics of court nominations

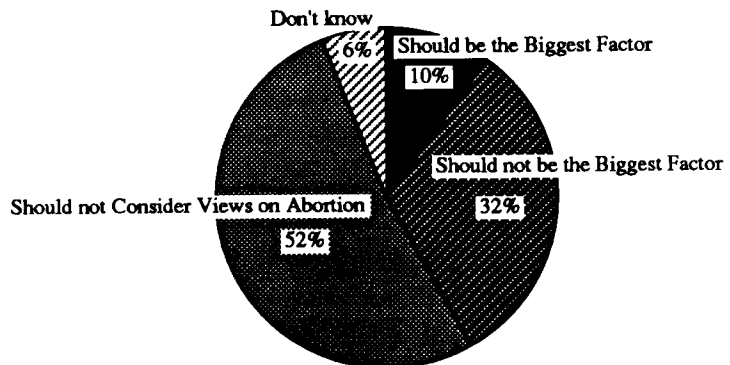
HOW THE PUBLIC VIEWS THE COURTS

THE PUBLIC'S FIRST REACTION: YES TO SOUTER

Question: Do you approve or disapprove of Souter's nomination to the Supreme Court?



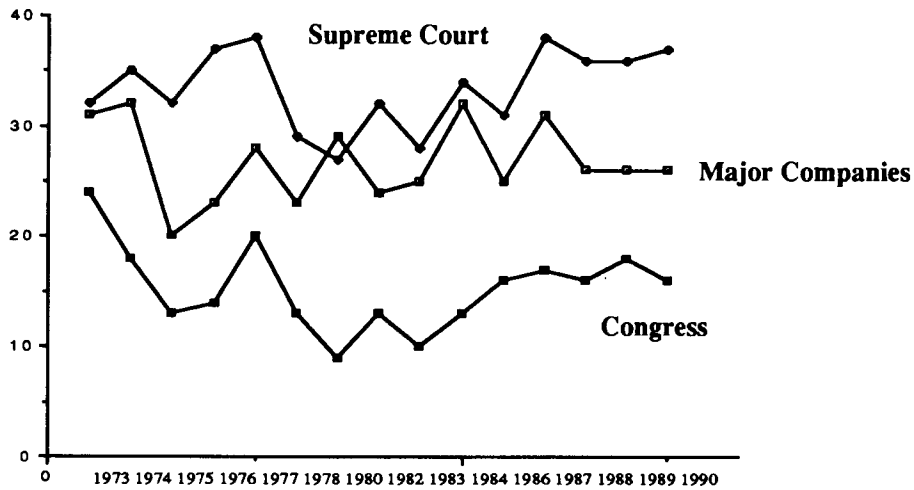
Question: As you may know the Senate confirms presidential nominees to the US Supreme Court. Should the Senate consider or not consider a nominee's views on the abortion issue in deciding whether the nominee should serve on the Supreme Court? [If should consider] Should it be the biggest factor or not in deciding whether the nominee serves on the Court?"



Note: Survey by ABC News/Washington Post, July 24, 1990

THE SUPREME COURT: ITS STANDING STRONG COMPARED TO OTHER INSTITUTIONS

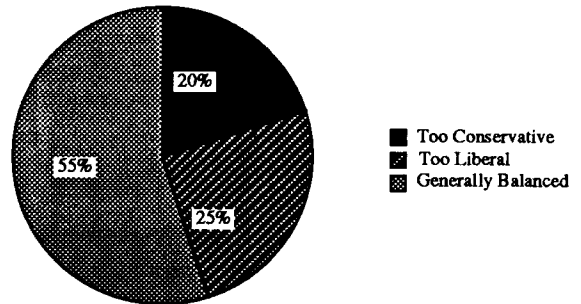
QUESTION: I am going to name some institutions in this country. As far as the people running these institutions are concerned, would you say you have a great deal of confidence, only some confidence, or hardly any confidence at all in them?



Note: Surveys by the National Opinion Research Center, General Social Surveys, February - April of each year.

BALANCED JUDGMENT

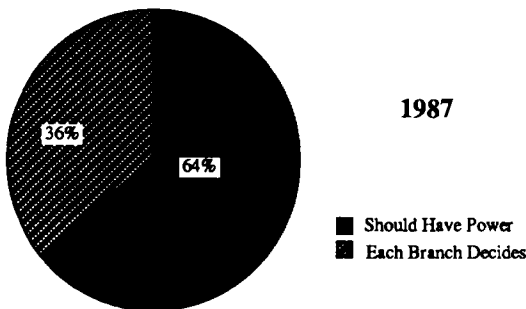
Question: Do you think the Supreme Court currently tends to be too conservative or too liberal in its decisions or is it generally balanced in its decisions?



Note: Survey by ABC News/Washington Post, September 17-23, 1987.

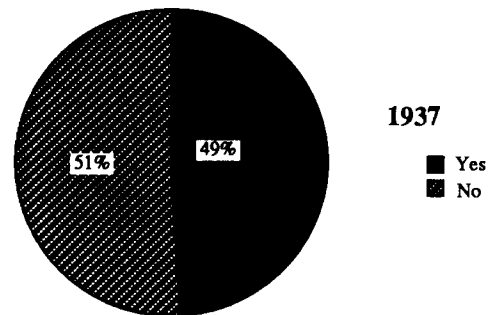
RESPECT FOR ITS PLACE UNDER SEPARATION OF POWERS

Question: Should the Supreme Court have the power to decide that the President or Congress has violated the Constitution and order the violations stopped, or should each branch decide for itself whether its actions are constitutional?



Note: Survey by CBS News/New York Times, May 11-14, 1987.

Question: Are you in favor of President Roosevelt's proposal to reorganize the Supreme Court? [At issue here was the so-called "court-packing plan."]



Note: Survey by the Gallup Organization, April 1-6, 1937. Just 6 months earlier, reflecting his immense popularity, FDR had won re-election with 60.8% of the vote. It was "yes" to Roosevelt, but still "no" to weakening the Court's independence.