CASELOAD DYNAMICS AND THE NATURE OF CHANGE: THE CIVIL BUSINESS OF TRIAL COURTS IN FOUR ILLINOIS COUNTIES

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Using data from trial courts in four Illinois counties for the period 1870 to 1960, this article explores the utility of a model for explaining patterns and changes in caseload dynamics. The model sees patterns and changes in caseload dynamics as the result of three sets of factors: long-term local environmental trends; short-term fluctuations in local environmental conditions; and institutional contraints. It assumes that change is essentially a nonlinear and contingent process, these characteristics of change being the consequences of the sensitivity of caseload dynamics to the initial environmental conditions of a locale and the infrequent and varied socioeconomic transitions that different locales experience. Such transitions, the article argues, are the key to identifying the underlying similarities beneath the apparent diversity in caseload dynamics among different sites.

A key theoretical interest of sociolegal research is change in legal phenomena and its relationship changes in the broader socioeconomic environment. As a general proposition, the line of causation has been viewed as moving from change in the environment to change in legal phenomena; and change is often seen as a linear and progressive process. This article is an analysis of patterns and changes in the civil business of trial courts in four Illinois counties using data for the period 1870 to 1960. It focuses on the relationship between local environmental factors and institutional constraints on the one hand and caseload dynamics on the other.

The article explores the utility of a model for explaining patterns and changes in caseload dynamics that, in contrast, to other models, is built on the effects of *local* environmental factors along with the institutional constraints built into the structure of the court system itself. This model assumes that change is essentially nonlinear and contingent. It further assumes that the patterns of change are very sensitive to initial environmental conditions, which are in turn determined by the infrequent socioeconomic

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transitions experienced in different locales. Because of this dependence on unique, local conditions we should expect to find diversity in patterns of change in caseload dynamics among different sites. In fact, when viewed longitudinally and comparatively, the patterns of change in caseload dynamics may appear at first glance to be chaotic and random. Once the effects of those infrequent local socioeconomic transitions are taken into account, however, we are able to find order within the apparent disorder.

I. CASELOAD DYNAMICS AND THE NATURE OF CHANGE

Some earlier longitudinal studies of caseload dynamics relied, implicitly or explicitly, on a macro-level social development or modernization perspective. Such a view holds that caseload dynamics should predictably follow a linear or curvilinear pattern as a function of modernization. Sarat and Grossman (1975: 1209) summarized the basic idea: "According to this theory, variation in the process of mobilization (or adjudication) is a function of the level of complexity, differentiation, and scale of social structure. The argument is that as the complexity, differentiation, and scale of a society increase, reliance on the courts and other formal-public adjudicators also increases." From this perspective change is a predictable, necessary, and continuous process. It is evolutionary and teleological, and its form is gradual, linear (or perhaps curvilinear), and progressive.

Subsequent studies indicate that an alternative is needed that is more sensitive to micro-level local environmental conditions and changes (e.g., Daniels, 1984; Munger, 1986a; Stookey, 1986). An alternative model might see patterns and changes in caseload dynamics as the result of three sets of factors: long-term *local* environmental trends; short-term fluctuations in *local* environmental conditions; and institutional constraints (see Daniels, 1988: 856–60). A reasonable assumption is that the most important environmental factors and changes are those closest to the court in question—the local factors. There is great diversity in the environments in which courts operate and in the changes those local environments experience, and there is no compelling reason to presume that specific microevolutionary trends necessarily add up to the kinds of macroevolutionary trends seen by modernization. Nor is there any reason to assume that the broad, macro-level trends envisioned by modernization are faithfully repeated in each specific local environment (Daniels, 1984). Still, macro-level events have their effect on local environments, most importantly through infrequent or periodic shocks to the local environment caused by events like war and economic depression.

Long-term environmental factors are those related to secular changes in a locale over a number of years. These environmental factors may differ substantially across locales because they are

conditioned by characteristics unique to the locale itself (e.g., the presence or absence of natural resources or rich soil, or location near a navigable waterway, etc.). Infrequent but crucial socioeconomic transitions in a locale trigger a particular set of long-term factors and their effects on caseload dynamics. A number of scholars, most importantly Hurst (1964; also see Munger, 1986a), have emphasized the importance of periods of rapid transition in understanding the links between socioeconomic and legal change. These transitions are breaks that alter the long-run development of a locale and determine the nature of the local environment for the next phase of its history. They also determine which kinds of specific environmental factors are important for that phase of the locale's history (e.g., fluctuations in industrial prosperity rather than changes in agricultural prosperity). Any model of change and caseload dynamics must be sensitive to these infrequent but rapid transitions that set the initial conditions for what will happen in a locale for at least one phase of its history. We expect diversity among locales in the patterns and changes for caseload dynamics to arise for two reasons: first, not all locales will experience similar transitions; and second, to the extent that different locales experience similar transitions, it is unlikely that the transitions are experienced at exactly the same time.

A model of change and caseload dynamics must also be sensitive to the effects of short-term but high-impact environmental factors. Here we are not talking about those factors which bring about fundamental change in a locale's socioeconomic character. Instead, we mean shorter-term fluctuations in a locale's socioeconomic condition that take place against the background of longer-term secular patterns and that may disturb those long-term patterns. While short-lived events may interrupt longer-term secular trends, they will not alter those trends. Especially important in this regard are likely to be the short-term shocks to a local environment that come from macro events like wars and economic depressions. The effects of these short-lived events, however, will only make sense against the background of longer-term patterns. To visualize the effects of short-term factors we can think of a pendulum slowly swinging back and forth in a particular pattern. The pendulum is given a sudden push at a ninety-degree angle, disrupting its pattern of swing. As the effects of that perturbation die out, the pendulum will return to its previous pattern.

An important finding of longitudinal studies of caseload dynamics is that different types of cases do not exhibit the same trajectories over time. Because of the different issues, obligations, and relationships involved, environmental factors do not necessarily affect all types of cases in the same way or to the same degree (see Munger, 1986a; Stookey, 1986). Some types of cases, for instance, may be more influenced by long-term environmental factors emerging from a particular period of transition. Other types

of cases may be more susceptible to shorter-term environmental factors. This suggests that patterns for some types of cases may exhibit identifiable long-term trends while others may appear to be chaotic over time.

An important corollary to the proposition that the effects of long-term and short-term environmental change on caseloads are specific to each kind of case is the conclusion that these effects are also specific to each local environment. Cases arise from specific social organizational and institutional antecedents that can vary from locale to locale. Changes in society, which themselves may be experienced either widely or quite locally, affect the social relations of the local environment, producing a pattern of litigation intimately tied to the social organization of the environment in which the cases arise. Thus, such effects will not only vary with the type of case but will also reflect the differences between local environments.

Finally, in contrast to the modernization perspective, institutional constraints also affect caseload dynamics, meaning that there is not automatic flexibility in response to environmental factors. The most important constraints are the most obvious ones: the structural, jurisdictional, and procedural constraints that define any particular level of courts. Such factors can limit the range or the possibility of potential response to the environment. They may even blunt the effects of some environmental factors and changes.

The effects of such institutional constraints are extremely important because they make change in caseload dynamics contingent. The work of courts is not necessarily a mirror of the court's environment. Within a given set of constraints identifiable patterns in caseload dynamics will emerge. The influence of these constraints can be so strong that different sets of constraints operating within the same environment will produce different patterns in caseload (i.e., different levels of trial courts within a given county, each with countywide jurisdiction, may have quite different patterns and changes in caseloads). In other words, institutional constraints make for a division of labor among levels of courts.

We can test the influence of local environments and institutional constraints by examining two broad categories of civil cases—contract and property. These two types of cases should be influenced differently by environmental factors, and should be sensitive to specific factors and transitions reflecting local contexts (see Munger, 1986a). Contract matters should be more sensitive to short-term factors related to change in socioeconomic conditions since they deal with the ability to meet financial obligations (Stookey, 1986; Daniels, 1981; McIntosh, 1980–81; Freidman and Percival, 1976a). When times are bad, such matters should increase as a greater number of people are unable to meet their obli-

gations (Stookey, 1986). The courts are likely to be called on increasingly to enforce those obligations and protect vested interests. Correspondingly, fewer of these cases should appear in better times. Over an extended period of time, then, the pattern for this type of case should be characterized by fluctuations (perhaps wide ones) tracking local economic conditions with no necessary long-term directional trend.

Property matters should be more sensitive to long-term factors, although shorter-term fluctuations in local conditions may still have some affect. Specifically, property matters should decline over time as (and to the extent) a locale becomes more settled and stabilized (Friedman and Percival, 1976a: Daniels, 1981). Any shorter-term fluctuations in property matters would take place against the background of this long-term trend.

Using these two types of case as a substantive base and assuming two levels of trial courts within each of four counties, with each court having countywide but somewhat different subject-matter jurisdiction, three sets of null hypotheses can be posed as comparisons that hold the respective sets of factors (environmental and institutional) constant:

1. If institutional constraints (e.g., court procedures, jurisdictional requirements, differences in court personnel, etc.) are unimportant to caseload dynamics, then we should expect within a given jurisdiction (thereby holding local environment constant) a specific type of case to account for similar proportions of the docket and the proportions to follow similar trajectories over time in each level of trial court.
2. If local environment is unimportant to caseload dynamics, then we should expect for a given level of trial court (thereby holding institutional constraints constant) a particular type of case to be litigated at similar rates and the rates to follow similar trajectories over time in each of the four countries.
3. If different types of cases are affected in the same way by long-term and short-term change in the local environment, then we should expect for a given level of trial court in a given county (thereby holding both local environment and institutional constraints constant) both contract and property cases to be litigated at similar rates and the rates to follow similar trajectories over time.

II. THE DATA

A. The Counties

Data from two levels of trial courts in four Illinois counties for the period 1870 to 1960 are used to evaluate these hypotheses. Of the four counties, two are primarily rural (Bond and Menard) and the other two are more urban (Peoria and Sangamon). All are in

the central part of the state; no claim is made that these counties somehow represent other midwestern areas.

Bond and Menard were and still are predominantly rural and agricultural counties of small to medium-sized farms; Menard is the more prosperous of the two. Though primarily agricultural, both counties also have had some coal mining and manufacturing. Manufacturing has been more important in less agriculturally prosperous Bond. Both Peoria and Sangamon were and are larger counties of mixed economies with a medium-sized city that became an important regional industrial and commercial center (Peoria and Springfield, respectively). Each of these two counties went through a period of rapid transition just before the turn of the century as their populations and population densities began a long-term, linear increase and as their respective economies shifted away from a primary dependence on agriculture. Each county also developed a dominant industry at the turn of the century—distilling in Peoria and coal mining in Sangamon.

B. The Courts

The 1870–1960 time period roughly approximates the life of the trial court system laid out in the 1870 Illinois constitution and offers a long-standing, stable court structure for analysis.[1] Each of the four counties had a three-tiered trial court system during these years: circuit, county, and justice of the peace. The data used here cover the circuit (the highest level of trial court) and the county court (the intermediate trial court). Sufficient data for the justice of the peace courts (the lowest level) are not available to include them in the analysis.[2] The trial court data were collected from indices, court dockets, court records, fee books, and case files housed in the respective county courthouses.[3] Data were collected for every civil *filing* for every fifth year between 1870 and 1960 (1870, 18975, . . ., 1960), with the exception of the first year for the county courts. Because this court actually began hearing cases at various times during 1872, data were collected for both 1872 and 1873 and then averaged.

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[1] The 1870 constitution was in effect until 1970, but in 1962 the judicial article, art. 6, was amended. The amendment, which went into effect on January 1, 1964, completely restructured the multilevel system of trial courts into a single, unified trial court system (see Underwood, 1971).

[2] For a brief overview of the justice of the peace courts see Daniels (1985: 391).

[3] All source materials used are kept by the circuit clerks in the respective county courthouses in Greenville (Bond), Petersburg (Menard), Peoria (Peoria), and Springfield (Sangamon).

III. EVALUATING THE HYPOTHESES

A. Institutional Constraints

The first of the three null hypotheses is evaluated by comparing different levels of trial courts with a given county, thereby holding local environmental factors constant. Different levels of trial courts operate within quite different sets of institutional constraints. Because of these differences we should expect different levels of trial courts sharing a given local environment to experience different patterns in caseload dynamics.

Table 1 presents data by county on the respective proportions of the dockets made up by each of the two types of cases—contract and property—between 1870 and 1960. The data are presented by year with the percentages in the two courts (circuit and county) for each type of case adjacent to each other to allow easy comparison.[4] Using this table I will discuss three general ideas in rejecting the first null hypothesis.

First, the docket proportions made by each of these two types of cases were more likely to be dissimilar than similar when comparing the courts within a county for a given time period. There are some years for each county when the percentages are similar—within +/− 5 percent; these years are marked in boldface on the table. But in no county were the proportions similar in more than six of nineteen years (this occurred for contract matters in Sangamon). In contrast, for every county there is a +/−10 percent difference or greater for each types of case in at least seven of nineteen years. In general, then, it seems that the respective docket proportions for each of the two types of cases were more likely to be dissimilar than similar when comparing levels of trial courts.

Second, underlying the dissimilarities was a very real division of labor between the two levels of trial courts in terms of what the courts actually did. Although there are some county variations, the circuit courts generally had higher proportions of contract and property matters than did the county courts. The county courts handled larger proportions of other types of cases than the circuit courts. For instance, these courts handled virtually all the juvenile matters and a host of social service-related matters (e.g., civil commitments).

Of the case types included in the table, the division is most evident with regard to property cases. In contrast to the circuit court dockets, property matters were never an important part of the county court docket in any county. Rarely did these cases make

[4] Because my interest here is in comparing what different courts do, rather than in what litigants do and the relationship of what litigants do to socioeconomic factors, I am using proportions. Later in the discussion, when I turn to the effects of environmental factors, I will use rates of litigation per 1,000 population.

Table 1. Proportion of Circuit and County Court Dockets Represented by Contract and Property Cases, Four Illinois Counties. 1870–1960

Year	Contract		Property		Number of Cases	
	Circuit	County	Circuit	County	Circuit	County
			Bond County			
1870[a]	24.1	81.6	24.1	7.9	108	38
1875	22.5	47.1	19.8	0	111	17
1880	30.1	18.2	21.9	0	73	33
1885	21.3	60.0	51.1	0	94	15
1890	**15.7**	**17.6**	48.6	0	70	17
1895	21.6	15.4	39.8	7.7	88	26
1900	**5.5**	**4.0**	56.2	0	73	25
1905	**9.7**	**9.5**	38.7	0	62	21
1910	**13.8**	**12.1**	29.9	0	87	33
1915	28.4	4.5	35.2	2.3	88	44
1920	13.6	0	20.3	0	59	39
1925	35.2	8.6	25.0	2.9	88	35
1930	27.1	12.5	26.2	2.5	107	40
1935	27.1	2.9	25.0	2.9	140	34
1940	25.7	0	17.1	0	70	29
1945	13.0	6.7	18.5	0	54	30
1950	**9.1**	**9.1**	**7.3**	**3.0**	55	33
1955	6.1	13.9	10.6	2.8	66	36
1960	21.3	37.5	8.5	0	47	96
			Menard County			
1870[a]	**45.3**	**40.7**	25.0	0	192	81
1875	40.6	35.5	21.9	6.9	160	29
1880	25.3	18.2	34.2	27.3	79	22
1885	33.3	5.8	24.4	0	78	52
1890	41.9	1.9	16.2	0	74	61
1895	52.0	27.1	15.7	3.4	127	59
1900	26.5	4.8	32.4	0	68	42
1905	23.7	12.1	20.3	0	59	33
1910	28.8	6.9	13.8	0	80	29
1915	30.4	11.1	26.1	0	69	27
1920	30.3	2.8	31.3	0	99	36
1925	**37.5**	**35.3**	27.7	0	112	34
1930	52.2	7.9	17.8	5.3	90	38
1935	44.2	30.8	24.2	7.7	95	39
1940	26.1	0	20.5	0	88	24
1945	21.1	0	19.7	0	76	13
1950	39.5	0	10.5	0	38	31
1955	39.1	17.3	20.3	0	64	75
1960	22.2	12.4	15.6	1.5	45	65

[a] First year for county court is actually 1872 and 1873 average.

Table 1. Continued

Year	Contract		Property		Number of Cases	
	Circuit	County	Circuit	County	Circuit	County
	Peoria County					
1870[a]	50.7	72.0	**8.1**	**4.3**	614	161
1875	45.6	89.1	14.3	4.7	537	64
1880	46.9	20.9	16.3	1.8	422	110
1885	44.9	17.4	14.8	7.2	701	167
1890	53.4	17.2	19.2	1.0	646	308
1895	46.0	30.1	20.7	2.9	807	379
1900	24.5	16.6	28.8	0.3	507	308
1905	**23.9**	**24.1**	13.4	1.0	523	290
1910	27.1	21.1	10.7	1.0	582	350
1915	30.4	24.3	12.3	1.0	726	770
1920	**12.4**	**14.4**	8.6	1.0	829	658
1925	22.5	33.0	**5.3**	**1.1**	1,001	730
1930	**26.5**	**30.1**	19.9	1.0	1,100	751
1935	13.9	25.6	15.5	1.0	997	500
1940	11.2	21.2	**5.4**	**0.4**	1,021	755
1945	3.9	13.8	**2.6**	**0.4**	1,395	542
1950	19.7	10.9	**4.6**	**0.1**	1,248	811
1955	**17.9**	**19.0**	**3.9**	**0**	1,288	1,005
1960	22.5	15.2	9.4	0.01	1,401	1,042
	Sangamon County					
1870[a]	59.3	67.3	15.0	3.0	688	101
1875	**29.7**	**33.9**	19.5	5.4	688	56
1880	**26.5**	**21.6**	19.7	5.7	676	88
1885	**32.1**	**34.7**	14.6	1.8	527	167
1890	34.8	10.8	9.4	1.4	574	139
1895	25.9	6.2	18.9	4.6	671	194
1900	23.9	16.0	17.4	1.1	568	376
1905	15.8	25.2	10.0	1.0	657	198
1910	**19.4**	**21.7**	16.3	0.4	944	244
1915	26.7	20.7	16.9	1.0	1,117	484
1920	**13.5**	**9.2**	15.9	0.3	955	326
1925	31.5	7.2	18.5	1.0	1,206	430
1930	21.9	48.1	15.3	1.0	1,247	393
1935	25.6	17.1	21.5	1.0	1,080	393
1940	25.5	14.1	8.2	0.2	961	361
1945	**7.8**	**6.3**	**3.5**	**0**	1,092	332
1950	22.4	13.9	6.0	0.5	996	439
1955	32.2	8.9	**4.9**	**1.4**	1,293	652
1960	55.6	9.4	**2.8**	**0**	1,900	794

[a] First year for county court is actually 1872 and 1873 average.

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up as much as 5 percent of the county court docket, and in more than half the years in each county property matters made up 1 percent or less of the docket. Property matters were a more important part of the circuit docket, especially in the two rural counties. Chiefly because of the dollar ceilings on the county court's jurisdiction and, perhaps more important, the circuit court's exclusive chancery jurisdiction, which gave it sole responsibility for all matters dealing with the ownership of real property.[5]

Third, because of this division of judicial labor, the respective trajectories over time for the two types of cases varied by court level. Thus, the specific effects of local environmental changes on caseload dynamics in each county were dependent on the level of court. What happened, for instance, to property matters in the circuit gives no indication for what happened in the county court with respect to these matters. The differences were greater for property matters for which the jurisdictional differences between the levels of courts were more profound. The differences were less pronounced for contract matters, but they were evident nonetheless.

Contrary to the first null hypothesis, institutional constraints were quite important for caseload dynamics in these four counties. For neither of the two types of cases were the proportions similar in the two levels of courts, nor were the individual trajectories for the respective case types the same in the two levels of courts. Of course, to fully demonstrate the importance of institutional constraints, the analysis would need to extend beyond trial courts to appellate courts, but that is beyond the scope of this article.

B. Local Environments

We test the second null hypothesis, that local environments have no effect, by comparing levels of litigation in the four counties. We hold institutional constraints and type of case constant by comparing litigation rates of contract and property cases in similar trial courts in each county. The respective socioeconomic characteristics of and changes in the four counties varied over the 1870–1960 period. Even though two of the counties were predominantly rural and agricultural and the other two became predominantly urban and industrial, there were still important differences within the two sets of counties. Menard was a wealthier, more prosperous agricultural county than Bond, and as a result Bond relied somewhat more on other industries. Peoria's local economy was oriented more toward manufacturing than Sangamon's (Peoria had become one of the top distilling centers in the country by

[5] With regard to contract matters the important difference was the dollar ceiling on county court jurisdiction. The circuit court's exclusive chancery jurisdiction did give it sole responsibility for all equitable remedies in these matters (e.g., specific performance), but few appeared on the circuit dockets.

1900), while Sangamon's economy was oriented more toward coal mining. If the environmental differences among the counties were unimportant for caseload dynamics, then we should expect to find essentially similar patterns for each of the two types of cases across counties for any given level of trial court. At the least, the similarity should appear within each set of counties.

To discuss the importance of local environments, we use data from the four circuit courts. Figures 1 and 2 present data for the four circuit courts on contract and property matters, respectively. Each figure shows the litigation rate (number of filings per 1,000 population) for its case type. This allows us to easily compare among counties while holding institutional constraints and case type constant. Even though the graphs cover the entire 1870–1960 period, the discussion concentrates on the forty-five years between 1870 and 1915, which included periods of rapid transition. While periods of rapid transition seldom occur, they are crucial break points in the locale's history and development. A locale may emerge from such a period altered socioeconomically; thus there should be concomitant change in the nature of court business in the long run as some types of matters become less important and others more important.

1. Contract Litigation. Figure 1 shows that the four circuit courts had dramatically different patterns for contract matters, reflecting their differing local environments and the nature of individual transitions. Yet, there is still an important similarity within this set of different patterns, and local transitions are the key to the similarity. The transitions were the driving force behind patterns and changes for contract matters. Starting with the two more urbanized counties, Peoria and Sangamon, we can see this clearly.

During the 1870–1915 period, Peoria was quickly changing from a predominantly agricultural area to a mixed economy with substantial urbanization and industrialization. There were sharp increases in the number of manufacturing units during this takeoff, followed by equally sharp decreases after the turn of the century.[6] These changes appear to have had a strong impact on the litigation rate for contract matters in the circuit court. The rate was high during the years of rapid industrial takeoff in Peoria, and

[6] There were 334 manufacturing units in Peoria in 1870, 402 in 1880, 622 in 1890, and 1,025 in 1900; but the number dropped to 295 by 1910. A similar pattern is evident for the percentage of population employed in manufacturing—sharp increase until 1890, followed by a long, steady decline until 1920. Perhaps most indicative of this rapid takeoff, peak, and then subsequent decrease in industrial development is the pattern followed by the value added by manufacturing (an indicator of production and industrial prosperity which, as *all* dollar figures used in this article, is expressed in 1967 dollars). It skyrocketed between 1880 and 1890, from just under $20 million to almost $160 million. After 1890, value added by manufacturing began a long, steady decline to a level of $29.5 million in 1920.

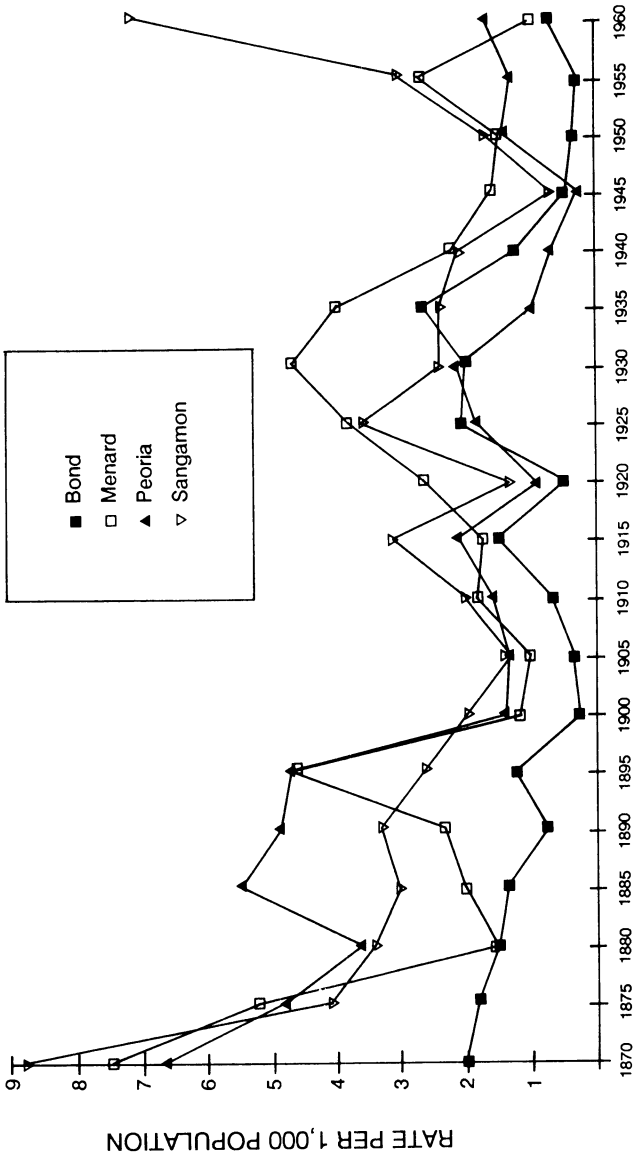

Figure 1. Rate of litigation for contract matters in circuit courts, 1870–1960

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the rate began to decline after 1895 when that takeoff peaked. The years to 1890 in Peoria were, we may assume, a period of intense commercial activity and of great instability. As a result, there may have been more opportunity and need for people to enter into contractual relations and more reliance on the circuit court to help enforce those obligations in the face of great instability. Consequently, the rate of litigation for contract matters remained high between 1870 and the 1890s. As the intensity of change in the local environment weakened after the 1890s, and along with it the intensity of new commercial activity, the rate of contract litigation declined (see Fig. 1).[7]

The pattern in Sangamon circuit court for contract matters was different from that in Peoria (see Fig. 1). After an initial decrease during the 1870s, the rate of litigation for contract matters seems to have tracked the county's changes in industrial development. These differences between the two circuit courts on contract matters are tied to differences in the transitions the two counties experienced. Sangamon did not experience as dramatic a transition as Peoria did, and agriculture remained *relatively* more important and more prosperous in Sangamon.[8] For instance, while the number of manufacturing units in Sangamon increased during this period, the number never reached the levels that existed in Peoria.[9] As in Peoria, the percentage of population employed in

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[7] Although the importance of agriculture was waning in Peoria (the number of farms per 1,000 population declined from its high of 53 in 1880 to 24 in 1915), events in this sector still had some influence on contract matters. The level of agricultural prosperity, as indicated by average farm value (in 1967 dollars), did have some influence against the stronger affects of rapid industrialization. The years 1870–80 were not especially prosperous, as farm value stayed relatively stable (and the rate for contract matters declined). The years 1880–90 were prosperous as farm value increased (and the rate from contract increased). From 1890 to 1900, farm value leveled off again, but the rate for contract matters dropped dramatically during this decade, which was also a decade with a significant decline in industrial prosperity. A sharp increase in farm value between 1900 and 1910 coincided with a leveling off in the rate for contract matters.

[8] Sangamon remained more agricultural than Peoria with a consistently higher number of farms/1,000 population, and its farms were consistently more valuable on average. As in Peoria, however, fluctuations in agricultural prosperity did have an affect on the rate for contract matters in the circuit court. When times were more prosperous for this sector of the local economy, the rate for contract matters moved upward, and when times were less prosperous the rate moved downward. For instance, average farm value declined slightly in the 1870s and the rate for contract matters declined. From 1880 to 1890, farm value increased and the rate for contract matters leveled off, increasingly only slightly. And during the 1890s agricultural prosperity slowed as the increase in farm value ended and the rate for contract matters also declined.

[9] The number in Sangamon peaked at 448 units in 1890, and declined thereafter. In Peoria, there were 622 units in 1890 and the number of units peaked at 1,025 in 1900. More telling is the difference between the counties in value added by manufacturing. In Sangamon, it increased only slightly and gradually after 1870, never exceeding $15 million. In contrast, as noted earlier, value added peaked at almost $160 million in Peoria (see note 6).

manufacturing increased until the 1890s and then began to decline; but again, the percentage in Sangamon never reached the levels found in Peoria.

While the patterns for rates of litigation in contract matters in these two counties differed, there is still an important similarity within the difference. It has to do with the nature of the respective transitions for the two counties with regard to industrialization. The transitions were the driving force behind patterns and changes in contract litigation rates in the circuit courts, with agricultural prosperity playing a secondary role. The differences in the nature of the two transitions account for the differences in contract litigation rates, with the generally higher magnitudes and more dramatic peaks and valleys coming in more industrialized Peoria. Equally important with regard to the effects of these transitions were the dominant industries in each county (distilling in Peoria and coal mining in Sangamon).

By 1900 Peoria had become one of the top distilling counties in the nation, and other parts of the local economy were dependent on distilling. Much of the grain, particularly corn, grown in the area was used by the distilleries. Additionally, much of the tonnage from Peoria's not insubstantial coal mining industry was used by local manufacturers, especially the distilleries (see Tingley, 1980: 6, 30). The higher rate for contract matters in Peoria may be a result of its more intensive transition, and the more dramatic peaks and valleys may be a consequence of the interconnections among important segments of a local economy dominated by one industry. For instance, these interconnections may be the reason for the very sharp drop in the contract rate after the 1890s in Peoria.

Coal mining was more important than manufacturing in Sangamon. The years after 1880 marked the beginning of the rapid development of coal mining in that county. While there was coal mining in Peoria, in Sangamon the mines were larger, more productive, and employed a larger percentage of the population.[10] Most of the mines in Sangamon were shipping rather than local mines, sending their coal by rail to customers outside the county. In Peoria, nearly all of the mines were local mines. Perhaps because Sangamon's dominant industry was not one so closely interdependent with other major sectors of the local economy, its impact on the rate of contract litigation may not have been as great.[11]

In both the urban counties, then, it appears that the rapid,

[10] In 1870, 84,500 tons of coal were mined in Sangamon; by 1890, it had reached 894,705 tons. After 1890, tonnage rapidly increased until 1920 when it reached 6.8 million tons. During the same period, Peoria's tonnage never exceeded 1.25 million tons.

[11] While coal productivity consistently increased until 1920, the pattern for rates in contract matters in Fig. 1 is one of decrease from 1890 to 1905, increase to 1915, and decrease again. This pattern appears to owe more to patterns in the manufacturing sector than to patterns in the coal mining sector.

early stages of development were responsible for increasing the rate of contract litigation in their circuit courts. These were prosperous years of intense commercial activity and great instability, and so we might presume there was more opportunity and need for people to enter into contractual relations. In the face of the instability and concomitant uncertainty, there may have also been a greater need to rely on the circuit court to enforce those obligations. Once this rapid, early stage reached its peak, the rate of contract litigation declined and began tracking local economic conditions, increasing in the good times and decreasing with the bad (contrary to what the literature would led us to expect).

The patterns in Figure 1 for contract matters in the two rural counties—Bond and Menard—differed from those in the two urban counties, and they also differed from each other. But like the two urban counties, the socioeconomic changes experienced during these years in Bond and Menard lay behind the patterns in rates for contract litigation in the respective circuit courts. Bond was a significantly less prosperous agricultural county than Menard during the 1870–1915 period, and so it became relatively more industrialized than Menard.[12]

Figure 1 shows that the rate of contract litigation in Bond circuit court followed a downward trend after 1870 that lasted, with one break in 1895, to 1900. In Bond, there was an early spurt of industrial production between 1870 and 1880, with value added by manufacturing jumping from $300,000 to $2.6 million (in 1967 dollars). Unlike the two urban counties, however, the mini-transition in Bond did not coincide with an increase in the rate of contract litigation. It was not enough to offset the effects of a continuing decline in Bond's agricultural sector. Additionally, value added by manufacturing dropped dramatically by 1890 to $150,000, and only slowly began to increase after 1890. It eventually rose to $900,000 by 1920, far below its 1880 level. Reflecting the general decline in local economic conditions, the rate of contract litigation declined until 1900, and then began to increase slowly after the turn of the century as farm value and value added by manufacturing also began to slowly rise.

The pattern for contract in Menard was one of dramatic fluctuation, even more so than the urban counties. The early drop in

[12] Although it had more farms/1,000 population than Menard, Bond's farms were smaller and the discrepancy increased with time. Its farms were also more likely to have been operated by their owner than by tenants, a discrepancy that also increased with time. Taken together, these characteristics suggest a relatively less intensive and less profitable agricultural sector in Bond than in Menard (see Tingley, 1980: 43). This is further evidenced by the differences in farm value. Between 1870 and 1910, farm value peaked at $16,876 in Bond in 1910 (1967 dollars). Average farm value in Menard peaked in 1910 at $63,734. As a consequence of this less prosperous agricultural sector, Bond had more manufacturing units than Menard and a greater percentage of its population employed in manufacturing.

the rate for contract matters coincided with a slight decline in farm value and a sharper decline in value added by manufacturing. The years after 1880, when there was a sharp increase in contract matters, were an important time of transition within agriculture for Menard rather than a shift away from agriculture, as well as being a time for the development of an intensive but short-lived coal mining industry.[13] During these years, agriculture emerged in Menard as the key commercial industry. These years marked the beginning of a period of consolidation in land ownership; a period of increased farm tenancy; and a period of sharply increasing agricultural prosperity in which average farm value jumped between 1880 and 1890, increased slowly over the next decade, and then jumped again between 1900 and 1910.[14]

The rate of litigation for contract matters in Menard increased dramatically during the years (after 1880) in which the nature of agriculture began changing and as the local coal mining industry quickly developed (and then faded away). After the change in agriculture had been established and the coal mining industry was well underway, the rate for contract matters dropped and then began roughly tracking agricultural prosperity. When property increased, so did the rate for contract matters; and when prosperity decreased, so did the rate for these matters.

There is one important similarity shared by these four counties, despite the differences in local environment, with regard to contract matters. Transitions, when they occurred, tended to drive up the litigation rate, and after the transition peaked, the rate for contract matters began roughly tracking local economic conditions. Where a major transition did not occur, as in Bond County, the rate simply tracked local conditions. Contrary to what the literature might lead us to expect, the rate for contract matters increased in good times and decreased when prosperity waned.

2. Property Litigation. Figure 2 presents data on the litigation rates for property matters in the four circuit courts, and for the period 1870–1915 it shows quite divergent patterns. Within this diversity, however, a rough similarity again emerged among three of the counties. The patterns for property matters were the reverse of those for contract matters. The rate for property matters roughly tracked levels of agricultural prosperity, with the rate increasing in bad times and decreasing in good. The exception to

[13] The coal mining industry in Menard developed quickly after 1880. There was apparently little or no coal mined in 1870. By 1882, tonnage reached 96,000 and by 1890 it jumped to 255,000. Tonnage reached 397,000 in 1900, and peaked at 448,000 in 1905. In contrast, coal production in Bond peaked at 163,000 tons in 1900. After 1905, Menard's coal production steadily declined.

[14] The increasing rate of tenancy is a further indication of prosperity within an agricultural sector strong enough to support tenant farming for a profit on larger tracts of land (see Tingley, 1980: 43).

this rough pattern was Peoria, the most urbanized and industrialized of the four counties.

The pattern is perhaps clearest in the most agricultural of the counties—Menard. After the transition in Menard's agricultural sector, the fluctuations in the litigation rate for property matters tracked changes in agricultural prosperity as indicated by average farm value (again in 1967 dollars). The rate of property litigation in the Menard circuit court declined from 1870 to 1890. Farm value stayed relatived stable (with a very slight decrease) in the 1870s. During the late 1880s, the beginning of the period of agricultural transition in Menard, farm value increased sharply, and the decline in property matters continued. From 1890 to 1900, farm value leveled off as agricultural prosperity cooled, and the rate of litigation for property matters increased. From 1900 to 1910, farm value increased again, and the rate for property matters decreased; farm value dropped sharply after 1910, and the rate for property matters increased as sharply. In effect, the litigation rate for property matters in Menard circuit court seemed to have behaved as the literature leads us to expect the rate of litigation for contract matters to behave: increasing when prosperity waned and decreasing when economic conditions improved.

A similar pattern is evident in Bond where again the changes in the litigation rate for property matters tracked agricultural prosperity. After 1880, the rate jumped dramatically in Bond circuit court and stayed higher than the rate in Menard throughout the remainder of these early years (until 1915), even though the shapes of the lines for these two counties in Figure 2 were rather similar between 1890 and 1915. Bond had a significantly less prosperous agricultural sector than Menard and the two urban counties. Not only was the average farm value substantially lower (by 1910 nearly four times lower than next lowest county, Peoria), but from 1870 to 1890 the already-low farm value in Bond declined slightly. While the other three counties experienced occasional, significant increases in farm value during these early years, Bond did not, and the rate for property cases increased and stayed relatively high. The most important decade for Bond with regard to property matters was the 1880s when the litigation rate for property jumped significantly. This was also a very important decade for the other three counties. In each of them farm value increased substantially; in Bond it actually decreased slightly. Bond's farm value increased only marginally after the turn of the century, and only then was there a drop in the litigation rate for property.

The long-term trend in Bond for property matters after 1900 is one of general decline, except during the Great Depression, and this decline appears to be as much a reflection of the decreasing importance of agriculture in the twentieth century, along with the increasing importance of manufacturing, as it is a matter of agricultural prosperity. The long-term decreasing pattern in property

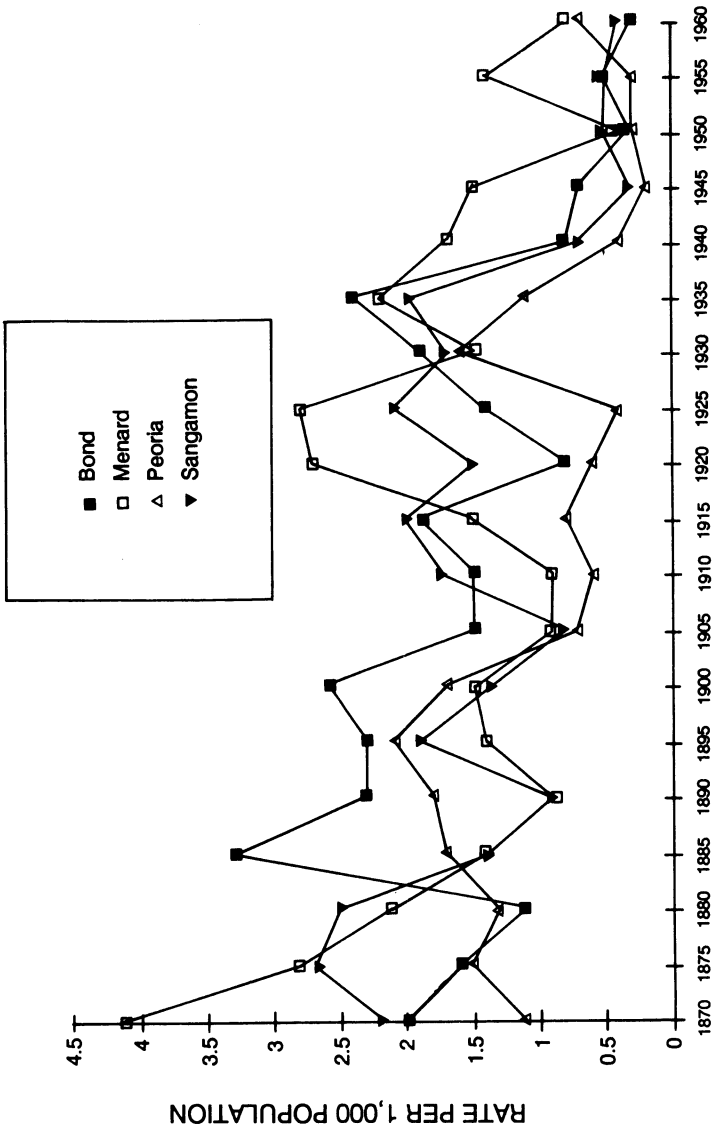

Figure 2. Rate of litigation for property matters in circuit courts, 1870–1960

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matters coincides with the long-term increase in value added by manufacturing. There was no similar increase in Menard, where value added stayed relatively low and stable until the 1940s; even after that it never approached the levels found in Bond.

The rates of litigation for property matters were generally lower in the urban counties than in the rural counties, reflecting the decreasing importance of agriculture in these counties. In Sangamon, where agriculture remained more important than in Peoria, the litigation rate for property matters in the circuit court roughly tracked agricultural prosperity. Farm value decreased slightly during the 1870s, and the rate of property litigation increased. Farm value increased substantially during the 1890s, and the rate of property litigation dropped sharply. The increase in farm value leveled off during the next decade (and actually decreased slightly), and the rate increased again. Farm value increased once more after the turn of the century, and the rate decreased again.

In Peoria, the most urbanized and industrialized of the four counties, the pattern for property matters was quite unlike those in the other counties. The general trend in property litigation rates from 1870 to 1895 in Peoria was one of steady increase. This contrasts sharply with the more pronounced fluctuations in Menard and Sangamon, and with the distinctive pattern in Bond; but these were also years of rapid transition in Peoria. Once the transition reached its peak in the 1890s, the rate of litigation for property dropped sharply. Thereafter, the rate remained low and followed a long-term trend of gentle decline except during the 1930s. After the depression-era increase in the rate ended, the rate returned to its long-term pattern.

Contrary to the second null hypothesis, local environments were quite important for patterns and changes in caseload dynamics in these four circuit courts. For neither type of case—contract or property—were the specific patterns the same when the counties were compared. The effects of local environmental conditions and changes set each type of case on its own unique trajectory over time.

C. Type of Case

The third null hypothesis—that local environments affect different types of cases in the same way—can be evaluated by comparing trends in contract and property litigation rates. Both environmental and institutional effects are controlled by examining rates of litigation for these two types of cases within a specific circuit court. To reject the null hypothesis we must find that the effects of the same environmental changes on contract and property rates differ. At the same time, distinguishing long-term and short-term patterns of environmental change may reveal a more com-

plex picture. While, as shown earlier, local environmental change generally affects caseloads in different ways when comparing sites, the long-term patterns of litigation for particular kinds of cases in different counties may reveal some underlying similarities. Notwithstanding the divergence of short-term fluctuations in different counties, long-term trends may be similar reflecting the similarity of function of contract or property relations in different local environments.

Thus, examining the different effects of long-term factors (sometimes set into motion by a local transition) and short-term factors (short-lived events which may cause fluctuations in longer-term patterns) in local environments provides a way of identifying the similarities within the diversity outlined in the previous section—of finding the order hiding within apparent disorder. Using Figures 1 and 2, we can do this for one set of institutional constraints (the circuit courts). The key to uncovering the similarities are the periods of transition that set the initial conditions for a locale for a given phase of its history. The previous section showed that transitions can also have their own short-term effects on caseload dynamics. It also showed that the nature of the transition determined what specific short-term factors were important, and what types of cases were more sensitive to long-term or short-term factors.

Property matters steadily declined after a locale experienced a transition that moved its economy away from agriculture and as other environmental factors became more important. The transitions in Peoria and Sangamon before that turn of the century were from predominantly agricultural economies to mixed economies. Although less fundamental, Bond's economy also moved away from agriculture in the twentieth century. As a consequence, Figure 2 shows that the litigation rates for property matters in these circuit courts decreased after the turn of the century.[15] The major break in the generally downward trend in the rates of litigation for property matters in the three counties came during the depression years of the 1930s—an example of a short-lived, high impact macro-level event disturbing but not changing a longer-term trend. In contrast to these three counties, there was no comparable long-term decrease in the rate of litigation for property matters in Menard circuit court. Instead, there was an oscillating pattern that tracked economic conditions and whose amplitude narrowed

[15] In the two urban counties, the respective long-term declines in the rates for property litigation roughly mirrored the steady, long-term decline in farms/1,000 population in these counties and the increases in value added by manufacturing after 1920. The general decline in property matters was less marked in Sangamon until 1940 compared to Peoria. Sangamon, however, remained more agricultural than Peoria and more agriculturally prosperous. The sharp drop in the rate for property matters in Sangamon circuit court after 1940 came at the same time as the sharpest increase in value added by manufacturing.

with time. Unlike the other three counties, Menard did not shift away from agriculture, and its agricultural sector remained prosperous.

Contract matters, in contrast, do not appear to have followed an identifiable long-term trend for the ninety-year period. Instead, these matters tended to fluctuate with short-term factors, generally increasing with economic prosperity and decreasing when conditions worsened. Because of the sensitivity of caseload dynamics to initial local conditions (which are determined by individual transitions), the specific short-term factors that were important varied from one locale to another depending on the nature of the local environment. Consequently, even though the rates tended to increase with good times and decrease with bad times, the individual patterns in Figure 1 are not identical. The order hiding within disorder emerges when we look at the individual environmental factors for each county (e.g., value added by manufacturing and industrial prosperity in Peoria or average farm value and agricultural prosperity in Menard).

We thus must reject the third null hypothesis that the two types of cases will follow the same trajectory over time in a given county's circuit court. Each type of case followed its own trajectory, each responding differently to long-term and short-term environmental factors.

IV. CONCLUSION

As Kagan *et al.* (1977: 122) concluded in their study of state supreme courts, the relationship between change in legal institutions and what they do, on the one hand, and, change in the larger socioeconomic environment in which they exist, on the other, is indeed complex. One of their most important theoretical findings was that simple theories just do not hold up in this area. My purpose has been to unravel these complex relationships using some simple measures for data from the trial courts of four Illinois counties. Given the nature of my data and analysis, I cannot offer bold theoretical generalizations. Instead, the findings more modestly provide theoretical building blocks which reflect some of the complexities of those relationships.

The findings from my four counties suggest that the impact of change on caseload dynamics was both contingent and discontinuous. Both of these characteristics of change were the consequences of the sensitivity of caseload dynamics to the initial environmental conditions of a locale. These conditions, in turn, were determined by the infrequent and varied socioeconomic transitions that different locales experienced. These transitions are the key to identifying the underlying similarities beneath the apparent diversity in caseload dynamics.

In these four counties, the patterns in caseload dynamics were

primarily, though not exclusively, the result of local environmental factors rather than the manifestation of grand, macroevolutionary trends. More specifically, caseload dynamics involving property and contract matters in these counties were the result of the interactions of property and contract relations with three sets of factors: long-term environmental trends, short-term fluctuations in local economic conditions, and the institutional constraints within which the courts operated. The driving force for the respective patterns and changes in caseload dynamics was provided by local socioeconomic factors, and within each locale caseload dynamics responded to both long-term trends and short-term fluctuations. But long-term trends and short-term factors did not affect both types of cases in the same way or to the same degree. Institutional constraints acted as intervening factors that mediated or channeled the effects of the local environmental factors, meaning that there was not total and automatic flexibility in response to environmental factors and changes. The constraints were strong enough that different levels of trial courts sharing the same environment had different patterns and changes in caseload dynamics.

Metaphorically, in examining patterns and changes in caseload dynamics in state courts generally, it seems that we are describing and explaining the growth of a large, thick bush with a number of branches rather than explaining a simple developmental ladder (see Gould, 1982). Different levels of state courts—from trial courts to supreme courts—can be seen as different main branches on this bush. Because each level of court operates within different sets of constraints and because of the effects of local environments, we should not expect these main branches to grow at the same rate or in the same direction. Additionally, each main branch will have smaller branches and offshoots representing courts sharing certain types of environmental characteristics or sharing some key constraint. These smaller branches, in turn, may have their own offshoots and twigs each responding to differing variations of environmental factors and institutional constraints. To the extent that courts share roughly similar sets of constraints and environmental characteristics, we might expect some degree of similarity in caseload dynamics; but again, these would only be rough similarities akin to the clustering of twigs near the end of a branch. The contours of this bush and the shape of its branches will be better understood only as we examine more locales and begin comparing different levels of courts.