

Information, Ignorance and Judicial Elections

June 26, 2012

It is obviously impossible for an electorate of any size, or even for different parts of such an electorate, to have any collective idea of those among the lawyers whom it wishes to act as judges (Kales 1917, 426).

Perhaps the most persistent argument against judicial elections has been the claim that voters lack the knowledge necessary to cast informed votes in these contests. Indeed, as the above quote illustrates, this argument has been made in print for nearly a century (e.g. Mansker and Devins 2011; Kales 1914). Despite its prevalence, scholars have brought little empirical evidence to bear on this claim. The absence of empirical evidence is important; beyond the ability to cast an informed vote at the polls, existing research suggests that increased political knowledge also affects one's institutional loyalty, increases the consistency of her opinions, increases the likelihood she will participate in politics, and raises the likelihood that, once active in politics, her actions will align with her interests (Gibson and Caldeira 2009a, 2009b; Yankelovich, Skelly and White, Inc. 1978; Delli Carpini and Keeter 1996).

Despite the prevalence of reformers' arguments and the normative importance of political knowledge for citizen competence in the U.S. political system, the question remains unresolved. This paper examines how types of judicial retention institutions affect individual-level differences in political knowledge. Arguing that judicial elections enrich the information environment in a state and therefore lower the costs of becoming knowledgeable, I test the hypothesis that voters in states that elect their judges exhibit higher degrees of knowledge about their state judiciary.

Analysis of a nationally representative survey indicates that judicial elections—of all types—are associated with increased political knowledge, though partisan elections are associated with higher levels of knowledge than retention or nonpartisan elections.

Citizen Knowledge of State Judiciaries

The existing literature presents two divergent views about the public's level of knowledge about the judiciary. Early literature on the topic concurs with Kales's claim that citizens are relatively uninformed. In one of the earliest studies of judicial elections, Klots (1955) sought to determine whether or not voters could name a recently-elected New York high court judge who had been endorsed by both major political parties; his research indicated that less than 1% of voters could name that judge. Moreover, less than 20% of voters in the study could remember the name of *any* judicial candidate for which they voted. Studying Texas voters, Johnson, Schaefer, and McKnight (1978) documented a similar inability of voters to remember the names of judicial candidates (see also McKnight, Schaefer, and Johnson 1978).

These results are not limited to New York and Texas; indeed, the results of a nationwide 1977 National Center for State Courts survey indicated that “[t]hree out of four [respondents] claim that they know either very little or nothing at all about state and local courts... The public is misinformed about many topics related to court jurisdiction, operation and procedure” (Yankelovich, Skelly and White, Inc. 1978, 6). Mahoney, Sarat, and Weller (1978), analyzing the same data, reach a similar conclusion: “[i]t is clear that the general public has little familiarity with, or knowledge of, the courts... [T]he overall results are plain: the public is, by and large, woefully ignorant of what most judges and lawyers would consider to be basic rules and concepts governing the operation of courts” (87).

Recent research paints a different picture. A series of studies of voters in the Pacific Northwest conducted by Lovrich Jr. and Sheldon (1983, 1984, 1989, 1994) indicates that many voters know basic information about judicial candidates. Sheldon and Lovrich Jr. (1999) finds that nearly half of general election voters can recognize the names of judicial candidates from a list that in-

cludes “bogus” names. Importantly, their respondents—asked the same knowledge questions as respondents to the 1977 National Center for State Courts survey—exhibited much higher levels of knowledge about their state judiciaries. Beyond name recognition, Baum (1987), studying Ohio voters, finds that voters bring candidate-specific knowledge that they learn during the campaign with them into the voting booth.¹

However, because the majority of these studies only examine the electorate in one state, their conclusions are necessarily limited. Single-shot, single-state studies of state supreme court elections hold selection and retention methods constant; they prohibit comparisons of the difference in political knowledge between elective and appointive systems and among types of elective systems.² Moreover, when national surveys—like the 1977 National Center for State Courts survey—have been commissioned, scholars have not used the responses to examine the effects of varying judicial selection mechanisms on public knowledge.

Additionally, one should be wary when comparing the results of these studies because they measure political knowledge in different ways. The studies of Texas voters (Johnson, Schaefer, and McKnight 1978; McKnight, Schaefer, and Johnson 1978) rely on open-ended questions to assess voter knowledge. As Lupia (2006) and Mondak (2001) have argued, open-ended (rather than closed-ended or multiple choice) questions are comparatively more taxing for survey respondents. These questions are often asked to assess whether or not a respondent can name a judge or a judicial candidate, but, outside of the survey, most respondents have little need to remember the names of judges. As Gibson and Caldeira (2009a) argue, “it is difficult to envisage an actual political scenario in which it would be necessary for citizens to be able to recall a judge’s name without any prompting” (433). Indeed, at the polls, voters are given the names of all judicial candidates and asked to select from the list; unless they are voting for a write-in candidate, voters need to *recognize*, rather than *recall* the names of judicial candidates.

Indeed, the divergent question formulations may account for the varied conclusions in the literature about the ignorance of the American citizenry as it relates to judicial elections. Sheldon and Lovrich’s studies of Oregon provide voters a list of names and ask them closed-ended, yes-or-

no questions asking the respondent which candidates are running for judge and which are not; they conclude that voters are fairly well informed. On the contrary, the Texas studies (e.g. Johnson, Schaefer, and McKnight 1978; McKnight, Schaefer, and Johnson 1978) which have determined that judicial voters are uninformed rely on open-ended questions.

Moreover, these studies assess different types of knowledge. The 1977 National Center for State Courts survey and many of Sheldon and Lovrich's studies assess voters' *diffuse knowledge* of the judiciary; rather than querying respondents about the identity of particular state judges or judicial candidates or probing respondents' knowledge of recent court decisions, the questionnaires in these studies ask voters about their knowledge of institutional features of the judiciary that remain stable over time. On the other hand, the Texas studies (and a different portion of Sheldon and Lovrich's survey instrument) examine respondents' *specific knowledge* about individual judges and judicial candidates. Both types of knowledge are important; an informed voter needs to know both specific information about the candidates in a race as well as diffuse information about what the position entails in order to cast an informed vote.

Measuring Judicial Knowledge

To assess the correlates of variation in citizen knowledge of state judiciaries, I analyze a 2009 national survey commissioned by the National Center for State Courts and intended to assess voters' knowledge of the judiciary. The survey was conducted between February 17 and March 9, 2009.³ The sample included 1,200 adults. Both landline and cell phones were included in the sample.

The survey queried respondents about their diffuse knowledge of state judiciaries. While both specific and diffuse knowledge is necessary for voters to cast informed ballots, I analyze on respondents' diffuse knowledge for two reasons. First, the traditional type of specific knowledge questions (asking respondents to name judicial candidates) does not readily apply to states that do not employ judicial elections; since the goal of the study is to examine differences between elective and appointive states, specific knowledge questions are not the best option. Second, the

correct answers to specific knowledge questions vary by state; given the desirability of a national sample, asking specific knowledge questions that are closed-ended is not feasible. The survey queried respondents about four fundamental features of their state judiciaries: the presence of a state constitution, the power of judicial review, the state's judicial selection mechanism, and whether or not the judiciary is a branch of the state government.⁴

Following Lupia's (2006) and Mondak's (2001) critiques of open-ended questions, all but one of the items in the knowledge scale are closed-ended, multiple choice questions of the type shown to provide reliable and valid measures of political knowledge. The dependent variable in the analysis is the number of correct answers (0, 1, 2, 3, or 4) a respondent had to the series of questions. Since there are a small, finite, and ordered set of possible values for the dependent variable, an ordered probit regression model was estimated.⁵

Judicial Elections and the Information Environment

Figure 1 Goes Here

The states use a variety of methods to select and retain their judges. Some states rely on contestable, partisan elections to select and retain their judges; in these states, judges campaign as members of a political party, and their party label appears next to their name on the ballot. In other states, judicial elections still may feature multiple candidates; however, judges' party identifications are absent from the ballot. These are nonpartisan elections.⁶ Still other states rely on judicial elections only to retain their judges; in these elections, however, neither multiple candidates nor judges' party identifications are listed on the ballot. In these retention elections, judges' names appear on the ballot, and voters indicate whether or not the judge should remain in office. Finally, another set of states uses appointive methods to both select and retain judges (American Judicature Society 2011).⁷ Figure 1 shows the distribution of the methods used to retain court of last resort jurists nationwide.

Why should we expect that these institutions affect political knowledge? As existing literature on political knowledge (Delli Carpini and Keeter 1996; Jerit, Barabas, & Bolsen 2006) has

documented, a determinant of political knowledge is the richness and availability of information available to voters before they cast their ballot. Scholars have termed this quantity the information environment. As more information becomes increasingly available to citizens, the costs of becoming informed are lessened (Downs 1957). As a result, individuals who live in areas with richer information environments should be, on average, more knowledgeable.

An array of literature on electoral politics generally indicates that the electoral process is a mechanism through which the richness of the information environment is enhanced. McCann and Lawson's (2006) study of information effects in presidential campaigns indicates that the electoral process provides information to citizens, particularly those of low socioeconomic status. In the United States, research on campaign effects in U.S. presidential elections has shown that television advertisements, produced as part of the electoral process, are a particularly effective source of information for voters (Alvarez 1997), and Geer (2006) documents that negative advertisements are more informative than positive advertisements. Other studies show that, during well-publicized electoral contests, citizens become more informed; when electoral contests are not well-publicized, citizens tend to know less (Chaffee and Wilson 1977; Jerit et al. 2006). For example, studying gubernatorial contests, Partin (2001) finds that variations in political knowledge are explained by the intensity of campaigns; as campaigns become more intense, citizens know more about the candidates. The same finding holds in elections without candidates; studying ballot propositions in California, Nicholson (2003) finds that political knowledge varies based upon a number of factors including campaign spending and media coverage. Likewise, the limited existing research on campaign effects in judicial elections has, with respect to specific knowledge, echoed these findings. Baum (1989) and Rock and Baum (2010) document that, as the amount of information available in a judicial contest increases, voters are better able to name one of the candidates running for office.

In short, the literature suggests that, for an array of different types of elections, the electoral process—through increased publicity, the presence of campaign advertisements, and other means—enriches the information environment. This should also apply to judicial elections. As innumerable sources have documented, judicial elections in the last thirty years have changed

from “quiet, dignified affairs” (Caufield 2007, 36) into highly salient electoral contests. The fact that these “new-style” judicial contests are “nastier, noisier, and costlier” than before suggests that, whatever their consequences for the public’s perception of the judiciary, the high salience of many of these electoral contests provide voters with increased opportunities to learn about the judiciary. (Schotland 1985, 76; Hojnacki and Baum 1992). Indeed, according to a 2010 report by the Brennan Center for Justice, the Justice at Stake Campaign, and the National Institute for Money in State Politics, approximately 220,000 campaign advertisements were aired between 2000 and 2009; whereas only 22% of contested state supreme court elections featured television advertisements in 2000, 85% of the contested races in 2007 and 2008 featured campaign advertisements. Indeed, nearly 60,000 advertisements were aired in the 2008 election cycle alone, and many of these advertisements were negative advertisements (Sample et al. 2010). Beyond campaign advertisements, judicial elections invite additional media coverage through newspaper articles and television news spots about the campaign as well as editorial board endorsements of candidates. Additionally, judicial candidates create campaign websites that inform voters about themselves and the court to which they seek to serve, and third-party groups, such as the League of Women Voters, produce voter guides that seek to inform voters about the judicial branch and the individuals who wish to serve as judges.

This information—television advertisements, newspaper endorsements, and voter guides—is specific to the electoral process; judges seeking reappointment from the governor or legislature need not spend funds to air television advertisements, and third-party groups have no reason to work to inform voters about the judiciary in states where the voters have no direct say in the composition of the judiciary. In short, judicial elections should enhance the information environment because they create incentives for prospective judges, the media, and third-party groups to inform voters; in states where judges do not need to receive the support of voters in order to retain their seat on the bench, these relatively easy-to-obtain sources of information do not exist. Thus, judicial elections, like elections to fill executive and legislative offices, enrich the information environment; if states with judicial elections have richer information environments, that states which use judicial

elections should be associated with higher levels of public knowledge about the judiciary.

While the presence of low-cost information should make citizens in states which utilize judicial elections more knowledgeable, on balance, than their counterparts in states which do not use judicial elections, not all judicial elections are the same. Studies suggest that variation in the presence of party labels and other candidates on the ballot affect both voter behavior in these elections as well as judges' behavior when they are on the bench (Bonneau and Hall 2009; Calderone, Canes-Wrone and Clark 2009; Aspin and Hall 2011). While some previous work on state supreme courts (e.g. Brace and Boyea 2008) treats all three types of judicial elections as one category, I parse the effects of each type of retention institution: states that do not use elections, partisan election states, nonpartisan elections, and retention elections according to the classification system published by the American Judicature Society (2011).⁸ Moreover, to account for the fact that, in the electoral cycle nearest the administration of the survey, states differed in the number of court of last resort contests on the ballot, the empirical analysis includes a count of the number of elections on the ballot in 2008. Additional electoral contests should lead to even richer information environments as more candidates are endorsed and more campaign advertisements are aired; I expect that citizen knowledge should increase with the number of contests on the ballot in the most recent election.

Alternative Explanations

In order to eliminate the possibility that any observed relationship between judicial retention mechanisms and political knowledge is not spurious, the statistical model must include other possible explanations that may have a theoretical connection with both judicial retention mechanisms and citizen knowledge (Fox 2008). Here, the robust literature on political knowledge provides clear guidance. Indeed, while Delli Carpini and Keeter (1996) find that variation in the information environment provides a powerful explanation of variation in observed levels of political knowledge, their research, and others like it, indicates that respondent-level characteristics, particularly demographics and personal interest, are important predictors of political knowledge (Lovrich Jr. and

Sheldon 1983; Spence, Lachlan, & Burke 2011; Lizotte 2009; Jerit, Barabas, & Bolsen 2006). Since, as Figure 1 shows, judicial retention methods are somewhat regional in their distribution, nonrandom geographic spatial dispersion of these characteristics among regions (and, by extension, retention methods) could bias the estimated effects of the retention methods on political knowledge. In order to obtain unbiased estimates of the effects of retention mechanisms on political knowledge, we need to simultaneously consider these other explanations.

First, formal education plays a central role in explaining variation in levels of political knowledge (Delli Carpini and Keeter 1996; Jerit, Barabas, and Bolson 2006; Dolan 2011). Jerit, Barabas, and Bolsen (2006) write that “education [is] the strongest and most consistent predictor of political knowledge” (266). As formal education increases, citizens are both more likely to know information (of the type tested here) which would be taught in a high school civics class and are able to use their formal education to gather and understand other information about political processes. In other words, a respondent’s level of political knowledge should increase with his level of formal education. In one of the few studies to examine the effects of socioeconomic characteristics on citizens’ knowledge of the judiciary, Lovrich Jr. and Sheldon (1983) find support for this hypothesis; individuals with more education know more about their state courts. In the empirical analysis, education is measured on a four-point scale indicating if the respondent had not completed high school, had completed high school but had not completed college, had completed a four-year degree, or had gone to graduate school.

Outside of formal education, scholars have noted persistent and substantively meaningful knowledge gaps between men and women, whites and nonwhites, and individuals of high and low socioeconomic status (Delli Carpini and Keeter 1996; Lovrich Jr. and Sheldon 1983; Spence, Lachlan, & Burke 2011; Gronlund and Milner 2006; Hwang and Jeong 2009; Stolle and Gidengil 2010; Jerit 2009; Dow 2009; Lizotte 2009; Jerit, Barabas, & Bolsen 2006; Dolan 2011; Mondak and Anderson 2004). In their comprehensive study, Delli Carpini and Keeter (1996, 179) find robust effects for these “usual suspects” and summarize their findings:

The size of the knowledge gaps vary from item to item, but the overall pattern is

compelling: men are more informed than women; whites are more informed than blacks; those with higher incomes are more informed than those with lower incomes; and older citizens are more informed than younger ones (156-7.)

All of these demographic characteristics are included in the model. The model includes dichotomous indicators for female and minority respondents as well as the respondent's age. To estimate the effect of income, I use the survey's four-point scale indicating whether the respondent makes less than \$25,000, \$25,001-\$50,000, \$50,001-\$75,000, or more than \$75,000.

Beyond demographic characteristics, studies (Delli Carpini and Keeter 1996; Jerit, Barabas, & Bolsen 2006; Jerit 2009) suggest that heightened citizen engagement also increases political knowledge. Given differences in political engagement by region (particularly in the South) and the regional distribution of selection methods, differences in citizen engagement need to be included in the model, as well (Campbell et al. 1960; Rosenstone and Hansen 1993).

First, prior experience with the judiciary provides a unique opportunity for individuals to learn about the institution; individuals who have prior experience with the judiciary may have gathered information from their experience which made them more knowledgeable about the judiciary. To assess this possibility, the model includes an indicator variable to distinguish those respondents who have had direct experience, contact, or involvement with a court case which brought them into a courthouse, including being called in for jury duty.

Second, studies indicate that media consumption has important effects on political knowledge (Jerit, Barabas, & Bolsen 2006). Here, I expect that individuals who actively seek out information about state politics should be more likely to know more about the subject with which they have expressed an interest. Put differently, individuals who follow state politics should be expected to know more about the workings of government. Here, I employ a four-point scale of attention to "news about [state] in general." I expect that, as respondents report more attention to state politics, their knowledge should increase.

A final indicator of citizen engagement is the extent to which an individual has an opinion about politics in her state; more engaged individuals should be more likely to have an opinion about the job performance of an elected official, and, as a result, they should exhibit heightened

levels of political knowledge. To assess this possibility, I use a dichotomous indicator variable to indicate respondents who provided an opinion (a simple “approve” or “disapprove”) about their current governor’s job performance. This question was asked at the beginning of the survey before specific questions about state government and politics primed individual respondents to think carefully about their state government; this measure simply assesses which respondents were able to formulate an opinion about their governor quickly and before they had spent time thinking about government and politics.⁹ I expect that those citizens who declined to provide an opinion on the current governor’s job performance (15% of the sample) should be less knowledgeable.

Results

Table 1 Goes Here

We begin our look at the determinants of political knowledge with a closer examination of the distribution of the dependent variable. Table 1 presents the percentage of respondents in each retention method who answered each of the individual questions correctly, as well as the mean number of correct answers for each retention method. Overall, the distribution of the dependent variable indicates neither extreme ignorance nor overwhelming knowledge characterizes the American citizenry; rather, the typical respondent answered one or two questions correctly. The mean for the dependent variable across all survey respondents was 1.80. A difference-of-means test indicates that the difference between the average number of correct responses for respondents in states that utilize nonpartisan or partisan elections and those in states that do not use judicial elections is statistically significant ($p < .05$, one-tailed test). A similar test comparing respondents in retention election states with individuals living in states that do not use judicial elections does not allow us to reject the hypothesis that the two means are the same.

Looking at individual survey items, the survey results indicate that more than half of respondents were aware that their state had its own constitution, and slightly over half of survey respondents (51%) knew whether or not their judges stand for election. Respondents had more

difficulty with the other two questions they were asked; only about two-fifths of the respondents could name the judicial branch as one of the three branches of state government, and about the same percentage of respondents could confirm that the judicial branch has the power of judicial review.

Of course, one should hesitate to ascribe much value to the summary statistics presented in Table 1, as the broader literature on political knowledge discussed above provides compelling reasons to suggest that, without first accounting for the effects of demographic characteristics and respondent-level political influence, one cannot be sure that any conclusions drawn from Table 1 are accurate. To parse these other effects from the effects of judicial retention method, Table 2 presents the results of an ordered probit model which includes all of the possible explanations of the variance in respondents' levels of political knowledge discussed above.

Table 2 Goes Here

While Table 2 clearly shows that a variety of factors, including judicial retention mechanisms, are useful explanations of political knowledge, the coefficients presented in the table do not provide readily interpretable estimates of the substantive effects of each explanation on a respondent's predicted level of political knowledge. Like a logit or probit model used when a dependent variable is dichotomous, substantive interpretation of an ordered probit model is done with predicted probabilities. For a given set of values of the independent variables, the ordered probit model provides a set of predicted probabilities (which, summed together, equal 1). In other words, the model can estimate the probability that, given a selection method, a set of demographic characteristics, and information about an individual's level of political engagement, that respondent would get zero, one, two, three, or all four questions correct.

The fact that the model provides five different predicted probabilities for each set of covariates makes summarizing the substantive effects of the model's estimates difficult. Here, rather than trying to summarize the model's predictions for all five possible outcomes, I group the lower two outcomes (the probability that a respondent gets zero or one correct answer) and the upper two

outcomes (the probability that three or four answers are correct). I term these two quantities “low knowledge” and “high knowledge,” respectively. In this section, unless specified otherwise, the predictions I discuss are for a white male, living in a partisan election state, who has completed high school and who earns at least \$75,000 a year. The measures of political engagement are kept at their modal values.

Overall, the model results support both the theory outlined above and the conventional wisdom about the determinants of political knowledge. While the model fails to provide any evidence that either age or income has a statistically significant effect on citizen’s knowledge of state courts, the results show that other demographic factors have substantively large effects on political knowledge. Keeping with results of previous research (Delli Carpini and Keeter 1996; Stolle and Gidengil 2010; Dow 2009; Lizotte 2009), the model results indicate that minorities and women are, on average, are less informed about their state judiciaries than white or male respondents. Indeed, the model predicts that the probability that a woman gets most of the questions correct on the survey is 10% less than if a male had answered the survey (27% likely for a male; 17% likely for a female). Similarly, the model estimates that a minority respondent’s probability of getting most questions on the survey incorrect is 13% higher than a white respondent’s (50% for a minority respondent; 17% probability for a white respondent).

Also notable is the strong effect of education; the coefficient on education is positive, statistically significant, and substantively meaningful. Indeed, the magnitude of the coefficient for the respondent’s level of education is larger than the estimate for any other explanation of political knowledge. This result indicates that increased levels of education have a strong positive relationship with political knowledge; as levels of education increase, the respondent’s expected level of knowledge increases, as well. The model estimates that, if our respondent had only a high school education, he would have a 62% chance of answering zero or one question correctly on the survey. If that respondent had completed high school, the likelihood that he could only answer one question correctly drops to 48%, and it further drops to 22% if the respondent has attended some graduate school. In other words, the likelihood that a respondent exhibits low levels of knowledge

drops by forty percentage points if he moves from the lowest possible level of education to the highest possible level of education.

The model also indicates that, beyond demographic characteristics, variation in levels of political engagement also affects political knowledge. All three measures of political engagement are statistically significant and positively signed. This indicates that, as citizens have firsthand experience with courts, have an opinion about the governor's job performance, or pay closer attention to state politics, they should display increasing knowledge about the judicial branch in their state. The model indicates that having prior experience with a court increases the probability that one exhibits high levels of political knowledge by about 5%, and the model estimates that individuals who had opinions about the governor's job performance are about 9% more likely to get most of the questions on the survey correct. The effects of media consumption are also substantively large. Respondents with the lowest levels of media consumption have approximately a 50% chance of exhibiting low levels of knowledge; however, respondents with the highest levels of media consumption, however, have a less than 30% chance of one or fewer questions correctly.

Most importantly, the model results indicate that, even after holding constant a respondent's education level, socioeconomic status, and level of political engagement, the type of judicial retention mechanism used in their state affects their observed level of political knowledge. The results presented in Table 2 indicate that individuals in states that utilize judicial elections are more knowledgeable about their state courts than respondents in states that utilize appointive methods of retention (the baseline category in Table 2). Indeed, the model results indicate that respondents in partisan election states are the most informed about their judiciaries, followed by respondents in nonpartisan election and retention election states. Reestimating the model with other judicial retention methods as the baseline category indicates that, though the difference in the knowledge "bump" between nonpartisan and retention elections is not statistically significant, all of the other differences among the four types of selection methods are statistically significant. In other words, these results suggest that *any type* of election—regardless of whether or not multiple candidates are allowed on the ballot—is associated with an increase in political knowledge, but partisan elections

are associated with the largest increase in citizen knowledge.

Figure 2 Goes Here

To best understand the effects of judicial retention mechanisms on political knowledge, Figure 2 presents a series of bar graphs. The four panels in Figure 2 correspond to the four different levels of education; as a result, Figure 2 illustrates both the substantive effects of education and retention mechanisms on the probability that a respondent answers most of the questions correctly. All four panels clearly show that the estimated levels of political knowledge are higher in elective states are higher than those in states that do not use judicial elections. Moreover, while partisan elections always clearly outperform both nonpartisan and retention elections, there is no noticeable difference in the predicted probabilities for nonpartisan and retention elections; their effects on political knowledge are the same.

The model also indicates that, beyond the use of an electoral institution, recent experience with elections provides an additional increase in observed political knowledge. The coefficient for the number of races on the ballot in 2008 is positive and statistically significant. This indicates that, as the number of races on the ballot in 2008 increases, the expected level of political knowledge rises, as well. Each additional electoral contest lowers the chance that the respondent will be in the “low knowledge” category by about 2%.

Conclusion

Writing in 1914, Kales argued that “election does not in the least promise to eliminate the fundamental difficulty of the political ignorance of the electorate” (4). In an attempt to assess this claim, this article analyzed the results of a nationally representative survey to determine whether or not judicial elections are associated with higher degrees of political knowledge. The results indicate that Kales may have overstated his case; all three types of judicial elections are associated with a substantively meaningful increase in political knowledge which compared to appointive states, though partisan elections are associated with the largest increase in knowledge. Indeed,

these results provide further evidence that, in Tarr's (2009) words, "there seems to be a convergence among the systems of judicial elections" (632).

At a macro level, these results support the claims of supporters of judicial elections; indeed, judicial elections seem to foster the type of citizen engagement with the political process that is a precursor to the type of accountability espoused by proponents of these institutions. While future work needs to move beyond broad questions about the judiciary as an institution and toward questions about individual judicial candidates (the type of specific knowledge required of voters at the polls), this research provides preliminary evidence that, in fact, judicial voters are more informed than opponents of judicial elections would like to claim.

Of course, the analysis of one single-shot survey is only a first step as scholars explore how judicial elections affect voter knowledge; much future research remains. Most prominently, future research needs to delve further into the information environments in states that utilize judicial elections to examine how electoral-specific communications vary in their ability to inform voters. For example, in the context of U.S. presidential elections, Geer (2006) has shown that negative advertisements provide more information to voters. While hundreds of advertisements are aired in each electoral cycle, we know little about the role these advertisements play in the process of informing voters. A further examination of the effects of different types of electioneering communications on the quality of the information environment will lead to a better understanding of the variations in voter knowledge nationwide.

References

- Alvarez, R. Michael. 1997. *Information and Elections*. Revised 1st edition ed. Ann Arbor: University of Michigan Press.
- American Judiciature Society. 2011. "Judicial Selection in the States: Initial Selection, Retention, and Term Length." http://judicialselection.us/uploads/documents/Selection_Retention_Term_1196092850316.pdf (December 7, 2011).
- Aspin, Larry. 2011. "The 2010 Judicial Retention Elections in Perspective: Continuity and Change from 1964 to 2010." *Judicature* 94:218–232.
- Baum, Lawrence. 1987. "Explaining the Vote in Judicial Elections: The 1984 Ohio Supreme Court Elections." *Western Political Quarterly* 40:361–371.
- Baum, Lawrence. 1989. "Voters' Information in Judicial Contests: The 1986 Contests for the Ohio Supreme Court." *Kentucky Law Journal* 77:645–670.
- Brace, Paul and Brent D. Boyea. 2008. "State Public Opinion, the Death Penalty, and the Practice of Electing Judges." *American Journal of Political Science* 52:360–372.
- Calderone, Richard P., Brandice Canes-Wrone and Tom S. Clark. 2009. "Partisan Labels and Democratic Accountability: An Analysis of State Supreme Court Abortion Decisions." *Journal of Politics* 71:560–573.
- Campbell, Angus, Philip E. Converse, Warren E. Miller and Donald E. Stokes. 1960. *The American Voter*. New York: Wiley.
- Caufield, Rachel P. 2007. *Running for Judge*. New York University Press chapter Campaigning for Judge: How the Tone and Tenor of Judicial Election Campaigns is Changing.
- Chaffee, Steven H. and Donna G. Wilson. 1977. "Media Rich, Media Poor: Two Studies of Diversity in Agenda Holding." *Journalism Quarterly* 54:466–76.

- Delli Carpini, Michael S. and Scott Keeter. 1996. *What Americans Know About Politics and Why it Matters*. Yale University Press.
- Dolan, Kathleen. 2011. "Do Women and Men Know Different Things? Measuring Gender Differences in Political Knowledge." *Journal of Politics* 73:97–107.
- Dow, Jay K. 2009. "Gender Differences in Political Knowledge: Distinguishing Characteristics-Based and Returns-Based Differences." *Political Behavior* 31:117–136.
- Downs, Anthony. 1957. *An Economic Theory of Democracy*. Harper.
- Fox, John. 2008. *Applied Regression Analysis and Generalized Linear Models*. 2nd ed. Sage.
- Geer, John G. 2006. *In Defense of Negativity: Attack Ads in Presidential Campaigns*. University of Chicago Press.
- Gibson, James L. and Gregory A. Caldeira. 2009a. *Citizens, Courts, and Confirmations: Positivity Theory and the Judgments of the American People*. Princeton University Press.
- Gibson, James L. and Gregory A. Caldeira. 2009b. "Knowing the Supreme Court? A Reconsideration of Public Ignorance of the High Court." *Journal of Politics* 71:429–441.
- Gronlund, Kimmo and Henry Milner. 2006. "The Determinants of Political Knowledge in Comparative Perspective." *Scandinavian Political Studies* 29:386–406.
- Hojnacki, Marie and Lawrence Baum. 1992. "'New-Style' Judicial Campaigns and the Voters: Economic Issues and Union Members in Ohio." *Western Political Quarterly* 45:921–948.
- Hwang, Yoori and Se Hoon Jeong. 2009. "Revisiting the Knowledge Gap Hypothesis: A Meta-Analysis of Thirty-Five Years of Research." *Journalism & Mass Communication Quarterly* 86:513–532.
- Jerit, Jennifer. 2009. "Understanding the Knowledge Gap: The Role of Experts and Journalists." *Journal of Politics* 71:442–456.

- Jerit, Jennifer, Jason Barabas and Toby Bolsen. 2006. "Citizens, Knowledge, and the Information Environment." *American Journal of Political Science* 50:266–282.
- Johnson, Charles A., Riger C. Schaefer and R. Neal McKnight. 1978. "The Salience of Judicial Candidates and Elections." *Social Science Quarterly* 59:371–378.
- Kales, Albert M. 1914. "Methods of Selecting and Retiring Judges in a Metropolitan District." *Annals of the American Academy of Political and Social Science* 52:1–12.
- Kales, Albert M. 1917. "Methods of Selecting Judges." *Central Law Journal* 85:425–430.
- Klots, Allen T. 1955. "The Selection of Judges and the Short Ballot." *Journal of the American Judicature Society* 38:134–140.
- Kritzer, Herbert M. 2011. "Competitiveness in State Supreme Court Elections, 1946-2009." *Journal of Empirical Legal Studies* 8.
- Lizotte, Mary-Kate and Andrew H. Sidman. 2009. "Explaining the Gender Gap in Political Knowledge." *Politics & Gender* 5:127–151.
- Lovrich, Jr., Nicholas P. and Charles H. Sheldon. 1983. "Voters in Contested, Nonpartisan Judicial Elections: A Responsible Electorate or a Problematic Public?" *Western Political Quarterly* 36:241–256.
- Lovrich, Jr., Nicholas P. and Charles H. Sheldon. 1984. "Voters in Judicial Elections: An Attentive Public or an Uninformed Electorate?" *Justice System Journal* 9:23–39.
- Lovrich, Jr., Nicholas P. and Charles H. Sheldon. 1994. "Is Voting for State Judges a Flight of Fancy or a Reflection of Policy and Value Preferences?" *Justice System Journal* 16:57–71.
- Lovrich, Jr., Nicholas P., John C. Pierce and Charles H. Sheldon. 1989. "Citizen Knowledge and Voting in Judicial Elections." *Judicature* 73:28–33.

- Mahoney, Barry, Auston Sarat and Steven Weller. 1978. *State Courts: A Blueprint for the Future*. National Center for State Courts chapter Courts and the Public: Some Further Reflections on Data from a National Survey, pp. 83–102.
- McKnight, R. Neal, Roger Shaefer and Charles A. Johnson. 1978. “Choosing Judges: Do the Voters Know What They’re Doing?” *Judicature* 62:94–99.
- Mondak, Jeffrey J. 2004. “The Knowledge Gap: A Reexamination of Gender-Based Differences in Political Knowledge.” *Journal of Politics* 66:492–512.
- Nelson, Michael J. 2011. “Uncontested and Unaccountable? Contestation Rates in Trial Court Elections.” *Judicature* .
- Nicholson, Stephen P. 2003. “The Political Environment and Ballot Proposition Awareness.” *American Journal of Political Science* 47:403–410.
- Partin, Randall W. 2001. “Campaign Intensity and Voter Information.” *American Politics Research* 29:115–140.
- Rock, Emily and Lawrence Baum. 2010. “The Impact of High-Visibility Contests for U.S. State Court Judgeships: Partisan Voting in Nonpartisan Elections.” *State Politics & Policy Quarterly* 10:368–396.
- Rosenstone, Steven J. and John Mark Hansen. 1993. *Mobilization, Participation, and Democracy in America*. Macmillian Publishing Company.
- Sample, James, Adam Skaggs, Johnathan Blitzer, Linda Casey and Charles Hall. 2010. *The New Politics of Judicial Elections 2000-2009: Decade of Change*. Brennan Center for Justice.
- Schotland, Roy A. 1985. “Elective Judges’ Campaign Financing: Are State Judges’ Robes the Emperor’s Clothes of American Democracy?” *Journal of Law and Politics* 2:57–167.
- Sheldon, Charles H. and Nicholas P. Lovrich, Jr. 1999. “Voter Knowledge, Behavior and Attitudes in Primary and General Judicial Elections.” *Judicature* 82:216–223.

- Spence, Patric R., Kenneth A. Lachlan and Jennifer A. Burke. 2011. "Differences in Crisis Knowledge Across Age, Race, and Socioeconomic Status During Hurricane Ike: A Field Test and Extension of the Knowledge Gap Hypothesis." *Communication Theory* 21:261–278.
- Stolle, Dietlind and Elizabeth Gidengil. 2010. "What do Women Really Know? A Gendered Analysis of Varieties of Political Knowledge." *Perspectives on Politics* 8:93–109.
- Traut, Carol Ann and Craig F. Emmert. 1998. "Expanding the Integrated Model of Judicial Decision Making: The California Justices and Capital Punishment." *Journal of Politics* 60:1166–1180.
- Yankelovich, Skelly and White, Inc. 1978. *State Courts: A Blueprint for the Future*. National Center for State Courts chapter Highlights of a National Survey of the General Public, Judges, Lawyers, and Community Leaders, pp. 5–69.

Notes

¹Additional evidence comes from studies of aggregate election returns. Bonneau and Hall (2009) conclude that “voters in state supreme court elections make fairly sophisticated candidate-based evaluations... Contrary to conventional wisdom, voters appear to be quite capable of making smart political choices” (133-4).

²Of course, within-state differences could also be leveraged for comparison. For example, Baum (1989) documents that Ohio voters were better able to recall the names of candidates in a highly-publicized Chief Justice race than the candidates in a less salient Associate Justice contest. Such results provide another type of empirical evidence to support the theory tested here: that high-profile elections are associated with increased voter knowledge.

³The timing of the survey merits discussion. Like previous studies (e.g. Baum 1989; Johnson, Schaefer, and McKnight 1978), this survey was conducted after the election. However, while most existing literature analyzes the results of exit surveys conducted immediately after voters left the polls, this survey went in the field three-and-a-half months after the most recent general election. The consequence of the survey’s timing is an increased possibility that citizens will forget what they learned during the campaign. If respondents’ forgetfulness is an issue, the effect of judicial elections would be attenuated, and an effect should be harder to find. Thus, timing the survey three months after the election serves to provide a conservative test of the theory.

⁴The questions are:

- As far as you know, does your state have its own constitution, or not?
- Can you name any of the three branches of state government? (What are their names?)
- As far as you know, are the judges on your state supreme court elected by the voters, or not?
- As far as you know, can your state supreme court declare an act of the state legislature unconstitutional, or not?

⁵Missing values were imputed using `mice` in R.

⁶Both partisan and nonpartisan elections are contestable elections; in other words, multiple candidates may appear on the ballot seeking the same office. Of course, not all contestable elections are contested, though Kritzer (2011) shows that contestation rates in state supreme court elections (the focus of this study) are quite high, and the proportion of unchallenged races has declined since the early 1980s. Retention elections, on the other hand, are uncontestable elections because only one candidate is allowed to appear on the ballot in each race.

⁷Selection and retention mechanisms are not always the same within a state; for example, judges in most merit selection systems are selected through a commission-based gubernatorial appointment process but retained through uncontestable retention elections (American Judicature Society 2011). This study focuses on retention mechanisms, rather than selection mechanisms in order to examine the effect of retention elections (which, of course, are only a retention mechanism). A focus on selection (rather than retention) mechanisms would classify merit selection systems as appointive systems, even though many of those states use judicial elections. Thus, as the goal of this study is to

examine the effects of judicial elections on public knowledge, a focus on retention mechanisms (rather than selection mechanisms) is the surest way to ensure that all states which use judicial elections are classified as such.

⁸This study focuses on elections to state courts of last resort, rather than elections to state trial courts or intermediate appellate courts. While, in some instances, selection methods differ by court (rather than by state), state supreme court elections are more highly publicized, on average, than lower court elections (Bonneau and Hall 2009; Nelson 2011). Thus, they should have the largest effect on the quality of the information environment in a state, and, by extension, citizen knowledge. Additionally, a handful of states are difficult to classify. Ohio and Michigan, for example, use partisan primaries but party labels do not appear on the ballot. Following the American Judicature Society's (2011) classification, I code these states as partisan elections; however, the substantive results of the model remain intact if these two states are coded as nonpartisan states. Second, Illinois and Pennsylvania use partisan elections to select judges and retention elections to retain their state supreme court jurists. These results are robust to coding these two states as partisan election states, though they are coded as retention election states in the analysis presented in the paper. Full model results are available from the author.

⁹Indeed, respondents were simply asked for the direction of their preference and not the intensity of their preference.

	Appointment	Partisan Elections	Nonpartisan Elections	Retention Elections
State has own Constitution	65.24	59.84	57.61	59.64
Judges are Elected	40.00	62.30	59.67	49.11
Court has Judicial Review	43.33	41.39	40.33	42.35
Judiciary is Branch of Gov't	40.48	36.07	39.09	39.76
Mean # Correct Answers	1.66	1.86	1.88	1.78
N	210	244	243	503

Table 1: Distribution of Dependent Variable, by Selection Method. Difference-of-means test indicates that the mean number of correct answers for partisan and nonpartisan election states are significantly different than the value for appointive states ($p < .05$, one-tailed test).

	Coefficient	Std. Error
<i>Judicial Retention Method:</i>		
Partisan Elections	0.28*	0.07
Nonpartisan Elections	0.14*	0.07
Retention Elections	0.14*	0.05
Number of 2008 Races	0.04*	0.01
<i>Demographics:</i>		
Age	0.00	0.00
Education	0.35*	0.02
Income	0.01	0.02
Female	-0.34*	0.04
Minority	-0.31*	0.04
<i>Engagement:</i>		
Prior Experience	0.14*	0.04
Media Consumption	0.20*	0.02
Have Opinion of Governor	0.30*	0.05
<i>Intercepts:</i>		
0 1	0.58*	0.12
1 2	1.57*	0.12
2 3	2.51*	0.12
3 4	3.47*	0.13
N	1200	
Residual Deviance	9340.454	

Table 2: Results of ordered probit model. The dependent variable is the number of correct answers on a four-question knowledge battery. * represents statistical significance, as measured by a one-tailed $p < .05$ test.

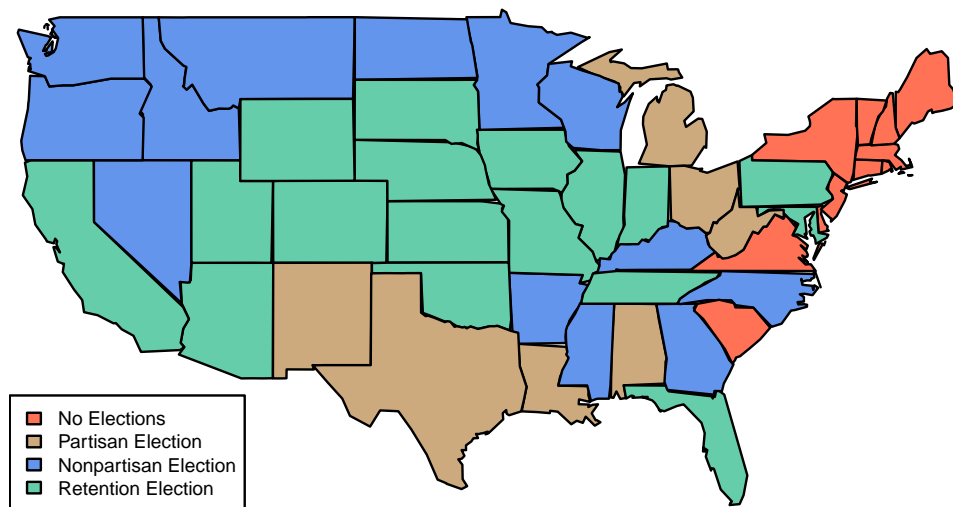


Figure 1: Distribution of initial retention methods for state courts of last resort. Data come from American Judicature Society (2011). Though not shown on this map, Alaska uses retention elections and Hawaii does not use any type of election.

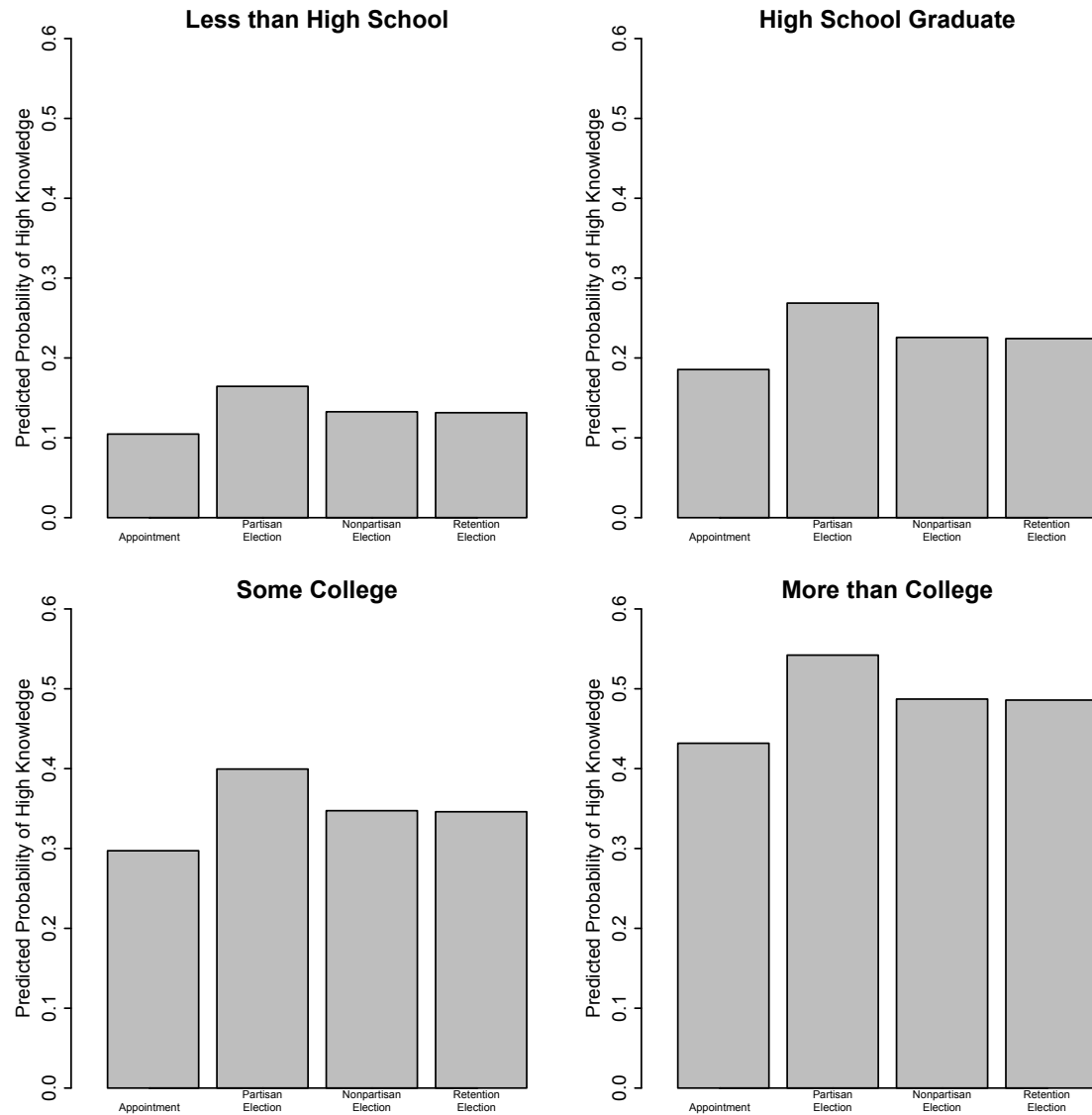


Figure 2: Predicted probability of answering three or four questions correctly, by education level. The predictions are for a white male, living in a partisan election state, who has completed high school and who earns at least \$75,000 a year. The measures of political engagement are kept at their modal values.