INFORMATION TO USERS

This material was produced from a microfilm copy of the original document. While the most advanced technological means to photograph and reproduce this document have been used, the quality is heavily dependent upon the quality of the original submitted.

The following explanation of techniques is provided to help you understand markings or patterns which may appear on this reproduction.

1. The sign or “target” for pages apparently lacking from the document photographed is “Missing Page(s)”. If it was possible to obtain the missing page(s) or section, they are spliced into the film along with adjacent pages. This may have necessitated cutting thru an image and duplicating adjacent pages to insure you complete continuity.

2. When an image on the film is obliterated with a large round black mark, it is an indication that the photographer suspected that the copy may have moved during exposure and thus cause a blurred image. You will find a good image of the page in the adjacent frame.

3. When a map, drawing or chart, etc., was part of the material being photographed the photographer followed a definite method in “sectioning” the material. It is customary to begin photoing at the upper left hand corner of a large sheet and to continue photoing from left to right in equal sections with a small overlap. If necessary, sectioning is continued again — beginning below the first row and continuing on until complete.

4. The majority of users indicate that the textual content is of greatest value, however, a somewhat higher quality reproduction could be made from “photographs” if essential to the understanding of the dissertation. Silver prints of “photographs” may be ordered at additional charge by writing the Order Department, giving the catalog number, title, author and specific pages you wish reproduced.

5. PLEASE NOTE: Some pages may have indistinct print. Filmed as received.

Xerox University Microfilms
300 North Zeeb Road
Ann Arbor, Michigan 48105
FAIRBANKS, James David, 1946-
POLITICS, ECONOMICS AND THE PUBLIC
MORALITY: STATE REGULATION OF GAMBLING,
LIQUOR, DIVORCE AND BIRTH CONTROL.
The Ohio State University, Ph.D., 1975
Political Science, general

Xerox University Microfilms, Ann Arbor, Michigan 48106

© Copyright by
James David Fairbanks
1975

THIS DISSERTATION HAS BEEN MICROFILMED EXACTLY AS RECEIVED.
POLITICS, ECONOMICS AND THE PUBLIC MORALITY:
STATE REGULATION OF GAMBLING, LIQUOR,
DIVORCE AND BIRTH CONTROL

Dissertation

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By

James David Fairbanks, B.A., M.A.

* * * * *

The Ohio State University
1975

Reading Committee:
Professor Randall B. Ripley, Chm.
Professor Lawrence Herson
Professor Donald S. Van Meter

Approved By

Randall B. Ripley
Advisor
Department of Political Science
PREFACE

There has been considerable interest in recent years in exploring the relationships between economic development, political institutions, and public policy as they exist in the fifty states. The resulting literature has contributed to the development of theoretically potent policy models, of sophisticated methodologies of comparative analyses, and of improved understanding of the work of state government. Most of these policy analyses have attempted to account for policy variations within the service area of state government. Policy is operationalized as the amount of money spent in a particular service area and then correlations and regression analysis is used to identify the political and economic factors most closely related to state expenditure levels. The customary focus on spending policy is attributable in part to the ready availability of state budget data.

State governments do spend a considerable proportion of their time and energies in supplying services but they also engage in many regulatory activities that directly affect the lives of their citizens. A comprehensive analysis must consider these activities as well as state spending actions. The importance of examining regulatory policies is based on more than the value of comprehensiveness. Several theoretical studies suggest that distributive
policies and regulatory policies result from different kinds of processes and that the explanatory variables applicable for one set of policies may not be applicable to the other. To expand upon this work, as well as to increase understanding of the workings of state governments, measures of regulatory-type policies are needed to allow for the analysis of these policies in a manner comparable to those used in the analysis of levels of spending.

It is the proposal of this paper to investigate state regulatory activities in the areas of gambling, liquor, divorce, and birth control. These four policy areas can all be classified as public morality issues in that they center on questions of whose moral standards shall be observed rather than on questions of whose economic interests shall be served. Morality issues stir deeply held values and are of high salience to both the public and lawmakers. They are particularly appropriate to investigate at the state level since the regulation of public morality is one area in which state governments retain considerable discretion. States do not ban Sunday liquor sales or pari-mutuel betting to comply with federal guidelines but, presumably, to respond to within state pressures. The political factors which are claimed to affect the responsiveness of the political system should be most visible in the making of morality policy since public feelings on moral questions are deeply held and the state political system
is freer to respond to the preferences of its citizens on these questions than it is on questions of spending.

Much of the state policy research in the 1960's was organized around two competing policy models. One stressed the role of political institutions in accounting for differences in state politics while the other discounted the impact of political institutions and argued that policy was a function of the socio-economic environment. One purpose of this paper is to examine the impact that political institutions do make on state morality regulations by testing hypotheses derived from these models. Economic development, measured by indicators of urbanization, wealth, education and industrialization, would seem to be negatively related to efforts to regulate public morals if popularly held theories about the effect of economic development on moral values are correct. This study will examine the hypothesis that economic development is related to state efforts to regulate morals and then will investigate the impact that political institutions have on the relationship. This paper will also introduce another set of variables believed to exert a significant influence on the morality policies pursued by a state. These variables are indicators of the strength of religious groups within each state and the hypothesis will be tested that the stronger a religious group is in a state, the more likely it will be that that religion's moral code is reflected in state statutes. These hypotheses will be examined in a historical
context, through case studies of individual states, and by correlation coefficients so that the contextual insights provided by a qualitative analysis can be integrated into the more precise, summary findings of a quantitative analysis.

Chapter One defines what is meant by morality policy and defines what the basic questions underlying morality issues are. Chapter Two reviews the existing state policy literature and discusses its relevance to the analysis of morality policy. The conventional wisdom on the determinants of state moral regulations is examined in Chapter Three and a series of hypotheses formulated based both on this conventional wisdom and the more general policy work reviewed in Chapter Two. Chapters Four through Seven review the form morality policy takes in each of the four areas and presents case accounts of the political struggles that have developed in the specific states. In Chapter Eight, simple, partial, and multiple correlations are used to identify the major determinants in so far as they can be detected over all the states and these results compared with those of similar studies of economic policy. In Chapter Nine conclusions will be offered on the nature of the morality policy process based both on the descriptive analysis and the quantitative analysis.
ACKNOWLEDGMENTS

I have found the Political Science Department at The Ohio State University a stimulating place to work the past four years and I am happy to acknowledge the help I have received from both my fellow graduate students and the teachers of the department. I would specifically like to thank the members of my Dissertation Committee, Professor Randall B. Ripley, Professor Donald S. Van Meter, and Professor Lawrence Herson for the helpful comments and the encouragement they have given me during the course of this research.

The facilities of the Instruction and Research Computer Center at Ohio State were an invaluable aid in processing the data that were used in this study. John Landers spent a considerable amount of time showing me how to take advantage of the computer facilities and in so doing helped in speeding up the completion of this paper. The most arduous task involved in this type of research, typing the final draft, was done cheerfully and competently by Sandy Wood whom I am most grateful to for keeping last minute problems to a minimum.

My wife Ann warns me that the traditional thank you to one's spouse has come to be considered gauche but I must risk her

vi
displeasure by acknowledging that I never would have made the important deadlines without her help.

JDF
1975
VITA

January 2, 1946 . . . . Born - Youngstown, Ohio

1968. . . . . . . . . B.A., Greenville College, Greenville, Illinois

1969. . . . . . . . University Fellow, The Ohio State University, Columbus, Ohio

1969-1971 . . . . Instructor, Department of Government, Lamar University, Beaumont, Texas

1971-1973 . . . . Legislative Intern Fellow, Ohio Legislature, Columbus, Ohio

1973-1975 . . . . Teaching Associate, Department of Political Science, The Ohio State University, Columbus, Ohio

FIELDS OF STUDY

Major Field: American Government

Policy Implementation, Impact and Evaluation. Professors Randall B. Ripley and Donald S. Van Meter

Executive and Bureaucratic Politics. Professors Randall B. Ripley and Donald S. Van Meter

Legislative Behavior and Policy Making. Professor Aage Clausen

State and Local Politics. Professors Lawrence Herson and James Andrews

Minor Field: Comparative Government

Theory and Methodology. Professor Giacomo Sani

Latin American Politics. Professor Terry McCoy

Political Development. Professor Terry McCoy
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter I. INTRODUCTION: THE ISSUES INVOLVED IN LEGISLATING MORALS</td>
<td>1</td>
</tr>
<tr>
<td>The Significance of Morality Regulation</td>
<td>17</td>
</tr>
<tr>
<td>Summary</td>
<td>23</td>
</tr>
<tr>
<td>Chapter II. POLICY ANALYSIS IN THE STATES: METHODS AND FINDINGS OF RECENT STUDIES</td>
<td>26</td>
</tr>
<tr>
<td>History of Recent Policy Studies</td>
<td>27</td>
</tr>
<tr>
<td>Different Determinants Among Policy Types</td>
<td>46</td>
</tr>
<tr>
<td>Input-Output Linkages: Illuminating A Shadowy Area</td>
<td>59</td>
</tr>
<tr>
<td>Summary</td>
<td>70</td>
</tr>
<tr>
<td>Chapter III. MORALITY ISSUES IN STATE POLITICS</td>
<td>82</td>
</tr>
<tr>
<td>Saliency of Morality Policy</td>
<td>83</td>
</tr>
<tr>
<td>State Autonomy in the Regulation of Morals</td>
<td>89</td>
</tr>
<tr>
<td>Existing Explanations of Morality Controls</td>
<td>92</td>
</tr>
<tr>
<td>Regulating Morals: A Model</td>
<td>102</td>
</tr>
<tr>
<td>Conclusion</td>
<td>110</td>
</tr>
<tr>
<td>Chapter IV. LIQUOR POLICY: THE LEGACY OF THE LATE DEMON RUM</td>
<td>117</td>
</tr>
<tr>
<td>History of State Liquor Laws</td>
<td>118</td>
</tr>
<tr>
<td>Determinants of Liquor Regulations</td>
<td>125</td>
</tr>
</tbody>
</table>
V. GAMBLING POLICY: STATE PROMOTION OR PROHIBITION

History of State Gambling Laws. 164
Determinants of State Gambling Regulations. 170
New Jersey. 183
Tennessee. 185
Idaho. 192
Conclusion. 196

VI. DIVORCE POLICY: ECCLESIASTICAL LAW WITHOUT ECCLESIASTICAL COURTS

History of Divorce Laws. 205
Determinants of State Divorce Regulations. 210
Nevada. 221
South Carolina. 225
California. 228
Conclusion. 233

VII. BIRTH CONTROL POLICY: ANTHONY COMSTOCK DEFINES THE OBSCENE

History of State Contraceptive Laws. 240
Determinants of Restrictive Birth Control Laws. 248
Massachusetts. 258
New York. 262
North Carolina. 266
Conclusion. 269

VIII. A QUANTITATIVE ANALYSIS OF MORALITY POLICY

Multivariate Analyses. 290
Summary. 305

IX. MORALITY POLICIES AND POLITICS IN THE AMERICAN STATES: A CONCLUSION

SELECTED BIBLIOGRAPHY . 326
APPENDIX

A - DESCRIPTION AND SOURCE OF INDEPENDENT VARIABLES .............................................. 339

B - CORRELATIONAL MATRIX OF INDEPENDENT VARIABLES ............................................. 344
LIST OF TABLES

<table>
<thead>
<tr>
<th>TABLE</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Public Opinion and Morality Questions</td>
<td>84</td>
</tr>
<tr>
<td>2.</td>
<td>Liquor Regulations in the American States</td>
<td>120</td>
</tr>
<tr>
<td>3.</td>
<td>Vote on Repeal and 1960 Liquor Regulations</td>
<td>133</td>
</tr>
<tr>
<td>4.</td>
<td>The Percentage of Abstainers and the Percentage of Prohibition Supporters</td>
<td>136</td>
</tr>
<tr>
<td>5.</td>
<td>Gambling Regulations in the American States</td>
<td>171</td>
</tr>
<tr>
<td>6.</td>
<td>Support for Betting on Horses</td>
<td>183</td>
</tr>
<tr>
<td>7.</td>
<td>Support for State Lotteries</td>
<td>183</td>
</tr>
<tr>
<td>8.</td>
<td>State Divorce Regulations</td>
<td>211</td>
</tr>
<tr>
<td>9.</td>
<td>State Birth Control Legislation</td>
<td>244</td>
</tr>
<tr>
<td>10.</td>
<td>Support for Restricting the Availability of Birth Control Information</td>
<td>251</td>
</tr>
<tr>
<td>11.</td>
<td>Catholics Not Conforming to Church Teaching on Birth Control</td>
<td>251</td>
</tr>
<tr>
<td>12.</td>
<td>Items Making Up Morality Scales</td>
<td>281</td>
</tr>
<tr>
<td>13.</td>
<td>Morality Scale Scores for the States</td>
<td>283</td>
</tr>
<tr>
<td>14.</td>
<td>Simple Correlations Between Morality Measures and Assorted Religious-Cultural, Environmental, and Political Variables</td>
<td>286</td>
</tr>
<tr>
<td>15.</td>
<td>Intercorrelations Between Environmental and Religious Variables</td>
<td>291</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>16. Partial Correlations Between Religious Indicators and Morality Policy Measures While Controlling for Environmental Factors</td>
<td>293</td>
<td></td>
</tr>
<tr>
<td>17. Partial Correlations Between Environmental Indicators and Morality Policy Measures While Controlling for Religious Culture</td>
<td>293</td>
<td></td>
</tr>
<tr>
<td>18. Partial Correlations between Religion and Morality Policy Controlling for Mobility</td>
<td>294</td>
<td></td>
</tr>
<tr>
<td>19. Religion and Morality in States Having High, Medium, and Low Levels of Religious Culture</td>
<td>296</td>
<td></td>
</tr>
<tr>
<td>20. Environment and Morality Policy in States Having High, Medium, and Low Levels of Religious Culture</td>
<td>298</td>
<td></td>
</tr>
<tr>
<td>21. Partial Correlations between Morality Policy and Assorted Political Variables while Controlling for Religion and Environment</td>
<td>302</td>
<td></td>
</tr>
<tr>
<td>22. Partial Correlations between Morality Policy and Assorted Religious and Environmental Variables while Controlling for Political Variables</td>
<td>302</td>
<td></td>
</tr>
<tr>
<td>23. Coefficients of Multiple Determination between Sets of Religious, Environmental and Political Variables, and Morality Policy</td>
<td>304</td>
<td></td>
</tr>
</tbody>
</table>
LIST OF FIGURES

FIGURE                                                                                   Page

1. A Model for Analyzing Policy Outcomes in State Politics................................. 45
2. A Morality Policy Model......................... 102
3. Example of a Spurious Relationship.............................................................. 290
CHAPTER ONE

INTRODUCTION: ISSUES INVOLVED IN LEGISLATING MORALS

The study of politics has focused traditionally on the distribution of material goods, or the who gets what sort of question. The unequal distribution of economic goods and the resulting have-have not cleavages are understood to be the basis of political conflict in many of the classical works on politics. Federalist Paper Number Ten asserts that "the most common and durable source of factions has been the various and unequal distribution of property" and that the regulation of these factions "forms the principal task of modern legislation." When questions are raised of how "authoritative values" are allocated in a particular political system, answers usually take the form of an analysis of the distribution of economic goods. The policy literature of American politics research exemplifies this tendency. Whether the study is the multivariate analysis of state budget data over all fifty of the American states or a descriptive account of the policy making process within one system, concern generally is directed toward the distribution of material resources. There are works which recognize that governments do other things than spend money. Attempts have been made to formulate more comprehensive policy models but even
this work is dominated by a concern over the government's relation to the marketplace. Policies have been classified as distributive or redistributive, regulatory or self-regulatory but it is generally economic goods that are understood to be distributed and regulated.5

Economic conflict may be at the heart of much political conflict but not all of politics revolve around economic disputes. Governments exist not only to regulate economic interests but to maintain order within society and to protect the members of a society from attacks from both within and without that society. Policies designed to "protect and preserve the health, safety, morals, and welfare of the people [are] commonly referred to as the 'police power'" of the state.6 While many laws are enacted under the state's police powers, most of them are not the sorts of issues around which deep cleavages within the political community develop. In the area of criminal law, for instance, there is a consensus based on legal traditions which go back to the Ten Commandments and Hammurabi's Code as to the sorts of activities that should be labeled 'criminal.' There is generally less debate on public policies designed to protect one individual from being assaulted or robbed by another than there is over policies designed to in any way redistribute wealth. One reason political analysts have not paid much attention to the uses made of the state's police power is that their use often reflects settled issues; the elements of controversy and political struggle are missing.
Not all uses of a state's police powers are based on a broad consensus, of course. One class of policies which engender considerable controversy is those efforts to use the police power to protect and preserve public morals. In a broad sense all legislation is 'morality legislation' in that it reflects society's view of what the 'right' activities to permit are or the 'good' goals to pursue. Duster, in The Legislation of Morality, paraphrases the title of his book to mean the passing of laws in areas where people have strong feelings about what is right and wrong. This is too broad a definition of morality policy to be useful, however, for it fails to distinguish the sorts of legislation conventionally understood to be regulating morality from a much broader class of rules based on feelings of right and wrong which are not customarily viewed as an effort to legislate morals. Common examples of laws conventionally held to be of a moral nature include sumptuary laws which prohibit or strongly curtail the marketing of certain goods and services such as prohibition laws on liquor and gambling. Other examples are laws which limit the sorts of activities people may mutually agree to engage in or agree not to engage in such as those regulating sexual behavior and marriage. The types of offenses outlawed by this type of morality legislation have been described as "offenses that do not result in anyone's feeling that he has been injured so as to impell him to bring the offense to the attention of authorities" or as "behavior not injurious to others
but made criminal by statutes based on moral standards which dis-
approve of certain forms of behavior while ignoring others that
are comparable." These definitions suggest the two elements
which distinguish 'morality legislation,' as it is conventionally
used, from other types of law. The first is the absence of an
offended party as in the case when one person physically assaults
another or defrauds him. Because of the absence of an offended
party the activities prohibited by morality legislation are
often referred to as 'victimless crimes.'

The second element suggested by the definitions is that
morality legislation often is based on rather abstract notions
of right and wrong whose criteria tend to be ambiguous, selec-
tive, and highly subjective. There are laws which prohibit an
individual from gambling as well as laws prohibiting individuals
from riding motorcycles without protective helmets; both are
'victimless' but only the former would commonly be considered
as an effort to legislate morality. The reason is that in the
latter case the value or criteria of goodness is quite clear and
widely accepted: the protection of the physical safety of the
motorcycle rider. In comparison, the set of values upon which
society declares that gambling is wrong is not clear. Justifica-
tions for prohibiting gambling include such abstract concerns as
the harm gambling does to an individual's attitudes toward work,
his family obligations, and his personal responsibility. The line
is not always this distinct. Drug legislation is one type of
policy where some claim there is clear and objective criteria for prohibition such as the physical well-being of individuals while others argue that drug laws are based on a concern over general life styles, of attitudes toward work and social responsibilities. Abortion legislation is another area where there is considerable dispute over the underlying values involved. Here the dispute is whether abortion laws merely curtail the personal choice of the pregnant women on the basis of someone else's religious belief or whether they prevent the victimization of an innocent party, the unborn child.

More attention has been paid to the victimless nature of moral legislation than to the abstraction of its underlying values. The question most often raised in regard to efforts to legislate morals is whether society has the right to protect individuals from themselves. Most often quoted on this question is John Stuart Mills' thesis that "the only purpose for which power can be rightfully exercised over any member of a civilized community against his will is to prevent harm to others." Mills' views conflict with another tradition in political theory represented by Edmund Burke who argued that one of the obligations of the political community was to protect its members from their own evil impulses and that, indeed, this was one of the benefits of living in a civilized community. Mills and Burke would agree the state should act to stop those whose actions pose a direct threat to others in society but they disagree as to the state's
position on individual activities which pose a threat only to that individual.

While the question of the state's duty to protect men from themselves has been of considerable interest to political theorists, seldom is a specific proposal to 'legislate morality' debated solely on this theoretical point. Efforts to regulate the private morality of an individual are frequently justified on the grounds that the morality of any individual has an indirect effect on the morality of the whole community. One of the major participants in the recent English debate over the legalization of homosexuality, Lord Devlin, has argued that "society cannot ignore the morality of the individual anymore than it can his loyalty; it flourishes on both and without either it dies." Devlin's belief that "social harm ensues from failure to bring about adherence to a common 'morality'" enables him to claim that when a society insists "upon conformity to the moral commitments of its majority:" it is acting in perfect consistency with Mills' dictum. That 'private' morality can affect the welfare of society generally is recognized by social liberals as well as by conservatives. Bertrand Russell for example, argues that prohibitions against homosexuality can be justified if society requires a growing population to prosper. It is only because society at present does not require an expanding population that laws against homosexuality are an unwarranted intrusion on an individual's private life, according to Russell. The point at
which a practice becomes dangerous enough to the whole of society to justify prohibiting its practice by individual members of society is seldom clear. In principle, however, most political theorists agree that legal coercion "may be employed to protect individuals other than the actors from harm and to protect the society from mor(t)al injury." The view that coercion may also be legitimately employed to protect the individual from himself is less widely held.

While the principle that individual behavior may be restricted to protect society is widely accepted, it is a difficult principle to apply in specific cases because it does not specify how directly or how seriously society must be threatened to justify restrictions. As a result of this, debates over specific pieces of legislation are seldom structured along the theoretical positions outlined above. In a comparison of liquor and drug prohibitions in the United States, Kerr notes that advocates of liberalization "base their appeals on pragmatic and humane considerations rather than on philosophical principles, for apparently, there is no systematic body of political theory on which reasonable men can all agree pertaining to the general dilemma of maintaining necessary social conformities while preserving individual liberties." If the danger to others in society from a private act is clear and direct, the right of the individual gives way to the needs of society. In legislating morals, the danger of the prohibited act to society is not clear
and direct (by the definition given for moral legislation) but neither is a danger entirely missing, at least in the minds of the proponents of the legislation. Therefore the debate often centers on more specific issues such as the degree of danger to society posed by the act and the effectiveness of legal action to reduce the degree of danger.

The question of the effectiveness of moral legislation is at the center of most debates over morality policy. Schur suggests that "one feature which seems to characterize all crimes without victims is the unenforceability of the laws surrounding them." He contends that "such unenforceability stems directly from the lack of a complainant and the consequent difficulty in obtaining evidence" as well as the fact that these offenses have "low visibility" and, as such, are an "invitation to police corruption." Often the strongest attacks against efforts to regulate morals are not based on concern over individual rights or the question of the potential harm the prohibited act actually does pose to society but on the difficulty of enforcement. Kiester, in urging repeal of laws against drunkenness, gambling, prostitution and marijuana argues that "Americans must decide whether the police are to go on frittering away their energies in fruitless attempts to enforce morality, or to use their time and resources to keep out streets and homes safe."

Related to the question of enforceability is the issue of undesirable secondary consequences created by the morality policy
which may be seen as more serious than the problems the policy was enacted to correct. Morality policy is one of the few policy areas where considerable attention has been paid toward identifying the unanticipated and unattended consequences of policy actions. Kadish, for example, charges that one consequence of using the criminal law to enforce morals is to "reduce the criminal law's essential claim to legitimacy by inducing offensive and degrading police conduct, particularly against the poor and subcultural, and by generating cynicism and indifference to the criminal law." Schur's observation that the victimless nature of most moral legislation and the low salience of most prohibited acts serves as an open invitation to police corruption has already been noted. The charge is often made that efforts to legislate morals foster organized crime and produces more crime than it suppresses. Numerous studies of national prohibition have come to the conclusion that a major consequence of eighteenth amendment was the development of a national network of organized crime.

Others have noted that even if laws against victimless, private acts are not enforced, the law still may have consequences for those who engage in these acts. Schur claims that it is the laws which are "highly ineffective from the standpoint of sheer deterence" which are the greatest interest to the sociologist since they have a "pronounced impact on the social meaning read into various acts of behavior patterns, and through their role in
structuring total problem situations." Duster's *The Legislation of Morality* is a study of the way in which the formal laws regarding drug use determine the perception the community has of the drug user and the perception the drug user has of himself. Schur's study of the effect of criminalization of a deviant act on the individual deviant has as its thesis that the "relationship between policy and problem is reciprocal" and that "a specific play may cause new problems, or make existing one's worse."23

While the central issue to those opposing moral regulations is the difficulty of enforcement and the secondary effect of the criminalization of these acts, proponents see the issue in terms of the desirability of the primary goals of the regulations. The justification for banning most private acts is their social consequences. Most moral legislation is designed to protect or safeguard one of three areas of social activities: family life, economic life, or religious life. Laws regulating sex and marriage are defended on the grounds that they protect the family. The assumption is that such things as legal acceptance of sex outside of marriage, legal acceptance of 'unnatural sex acts' which do not have procreation as their aim, easy legal access to birth control and abortion services, and the easy dissolution of marriage through liberal divorce laws will weaken public commitment to marriage and family responsibilities. If the family unit is accepted as the basic unit holding society together, then any pressure which tends to weaken the family can be seen
as a direct threat to society itself. If traditional family life is asserted to be 'good' and society measured by the extent to which traditional family life is present, the proposition linking traditional family life to the well-being of society becomes a tautology. Duster, in his study of the legal treatment of drugs in America, makes the point that any proposal, if questioned far enough, will be found to rest on a simply assumption of right or wrong, or, better or worse. While this is true, the conventional areas of morality policy can be distinguished from other legislative issues in that assumptions about good and evil are close to the surface and relatively immune from empirical challenge. If it is 'right' for couples to marry and bare children then laws which encourage marriage and child bearing must also be 'right.' There is little room for rational discourse or compromise when policy positions are held as moral imperatives. Morality policy issues often become very emotional for this reason. Proponents of moral regulations who assert that their programs are right and antagonists who assert that they are wrong have few grounds upon which to reason together.

Another area of concern often reflected in morality legislation is the protection of certain work values. A major argument of those favoring prohibition or strict control of liquor is the effect that alcohol has on productivity, both individual and national. Many temperance leaders saw the problems of poverty, hunger, unemployment, and crimes being directly linked to the
abusive use of alcohol. The general assumption was that any activity which does not contribute to man's work capacity distracts from it. It was not a simply concern over the effects of chronic alcoholism on productivity. Rather it was a feeling that stems from the Protestant work ethic that a man's moral worth could be measured by his productivity. The pursuit of pleasure through liquor or idle games or idle entertainment, or, attempts to get by without honest labor through gambling or luck were immoral because they interfered with man's earthly purpose: to win his election through his good works. Weber argues that according to the Protestant ethic "waste of time is the first and in principle the deadliest of sins" for it limits man's ability to do what he was set on earth to do.25

The third type of justification for moral legislation is strictly religious. If the health and prosperity of a society is assumed to be dependent on Divine Providence then it is clearly in the interest of that society to acknowledge that dependence and do everything it can to encourage favorable treatment. Laws which require the observance of certain religious rites such as Sunday Blue laws prohibiting various types of business, social and recreational activities from taking place on the Sabbath, or, prohibitions against the profane use of God's name are examples of this effort. For those who believe that society as a whole is accountable to Divine Law, the doctrine of complete church-state separation cannot be accepted for the general
welfare of society demands the observance of certain religious laws. The assumption is that a community which does not accept the rule of the Divine law will ultimately suffer the same consequences as Sodom and Gomorrah.

In actual debates over efforts to regulate morality, the rationale for the regulation may not clearly coincide with any one of these concerns but rather reflect elements of them all. The consumption of liquor, for instance, can be opposed not only for reducing the productivity of the nation but for disrupting its family life and violating its religious laws as well. The areas are clearly related: a person by not being economically productive may fail to meet his family responsibility and his religious obligations as a result. The emphasis given to the various concerns on which morality policy can be based may change over time. Blue laws, for example, may be adopted as a straightforward response to the Fourth Commandment but, as religious consensus breaks down in the community, such laws may be justified for encouraging a day of family togetherness or as a way of maintaining the competitiveness of certain types of stores. In some instances laws which once rested on an economic or social rationale may come to be defended primarily on theological grounds. The needs for a large population or the uncertainties of medical science may have been the original basis for prohibitions against birth control and abortion but as concern in these areas declined, birth control and abortion restrictions have to be
defended more and more on strictly religious grounds. If religion is defined broadly as the basic values by which men live, all morality policy reflect religious concerns for these policies tend to be closely tied to basic, unprovable assumptions about right and wrong.

It is important to look at the concerns on which efforts to legislate morality are based since the type of concern held will determine the type and intensity of the debate over the policy. A policy which restricts private behavior in order to achieve a social objective which is independent of the policy itself can be rationally evaluated as to its effectiveness. There may be considerable disagreement over the meaning of the evidence used to evaluate the effectiveness of the policy but there is some basis upon which to make an evaluation. With morality legislation, however, the objective of the policy cannot be clearly separated from the operationalization of the policy because the general objective of the policy is abstract (by definition) and offers no other clear indicator than the policy itself. If obedience to the Divine law is the objective of an anti-birth control law and if birth control is seen as contrary to the Divine law, there is no point in raising the question of whether or not the law is fulfilling its objective. Most morality policy is not as purely 'moral' as this example, of course. The prohibition of liquor is an example of a policy that attracted support for many different reasons. Much support for
prohibition was based on the belief that abstinence would cure many social problems and bring about economic prosperity. When these social problems persisted and prosperity ended, support for prohibition dropped. Those who supported prohibitions as a vehicle for reaching goals which could be independently measured supported prohibition only as long as it seemed to be moving toward these goals. Those who saw the issue as involving a moral principle were not moved by evidence showing that prohibition was failing to fulfill its social promises. The combination of concerns underlying any particular public policy at any particular time is difficult to gauge so a precise grading of policies along this concern dimension is not possible. However morality policy, by definition, does not tend to be the type of policy that can be independently evaluated. Morality policies tend to be valued as ends in themselves. And the commitment which policy backers have to a policy as an end in itself will logically determine the extent to which they are willing to consider independent evidence of the effects of the policy, and the extent to which they will be willing to accept compromises or alternative policies.

Understanding the issues involved in the disputes over legislating morals and their underlying concerns does not always insure an understanding of the depth of involvement and emotional intensity groups and individual actors may bring to the debate. While a piece of legislation or a legislative proposal may be
defended in terms of a clear moral principle, its real meaning to its supporters may be quite different than its formal justification would suggest. The symbolic importance of an act may be what is the real motivating factor. Gusfield in his analysis of the American temperance movement argues the temperance has been used as a symbol of cultural superiority throughout American history. Before the Civil War, according to Gusfield, the "temperance movement was dominated by the effort of the old order to maintain the status of the New England aristocracy through reform of the new advancing 'common man'."\(^{26}\) After the Civil War, abstinence had become "a patent sign of middle-class status, distinguishing the abstainer from the lower levels of the ne'er-do-wells, the unambitious and the irreligious."\(^{27}\) At the turn of the century, the issue of national prohibition reached its emotional peak when the set of native-American, rural, middle-class cultural values which abstinence had come to symbolize came under increasing attack from urban, immigrant groups. The impetus for national prohibition, according to Gusfield, was the concern of the native American middle class, who saw itself declining in status, to reassert itself and its system of values. Prohibition cannot be understood simply on the basis of conflicting assumptions about the rightness or wrongness of consuming alcohol. Prohibition was the symbol of a whole way of life and a set of cultural values which were experiencing attack on many fronts.
Schur, in his study of victimless crimes, repeats the common dictum that "when mores are adequate, laws are unnecessary; when the mores are inadequate, the laws are ineffective." He shares the view that in areas where norms are not adequate, efforts to regulate morality usually have a symbolic importance to supporters of the efforts far broader than the substantive issues involved. Schur argues that "unenforceable criminal law serves as an indicator of inconsistencies in a society's value system [which may] reveal conflicts of interest...and may serve to pinpoint significant loci of social change." Their interest to Schur is not the specific behavior that is being restricted but the value system the laws symbolize. Regulating certain areas of morality can be the way a group in society goes about trying to protect and promote its own way of life by having it legally sanctioned as the "right way."

Significance of Morality Regulation

The issues involved in efforts to legislate morality have always been of interest to political theorists. The basic issue involved in morality legislation is simply how far the state should go in intervening in the life of an individual, either for his own good or for the good of society. It is the often examined question of how much deviant behavior can a society afford to tolerate. Secondly, morality legislation reflects the basic value assumptions of the political society by showing the behavioral norms and institutional forms the state's power
is being used to promote. The concerns underlying policy proposals can be social or economic, individual or collective, religious or secular. The choices made regarding these proposals reflect the value system or systems present in the community. The third area of significance has to do with the symbolic importance of morality legislation, the extent to which policy proposals are used to advance the prestige of various social classes or religious or economic groups in society or represent conflicts among these groups. The extent of regulation in certain moral areas can be used to gauge the relative prestige of various groups within society.

Despite the significance of these issues, and the attention the issues themselves have attracted, the politics of moral legislation have generally been ignored. Much is written about whether or not morals should be legislated but little effort has been expanded in analyzing just how such legislation does come about. Perhaps the high emotion and strong feelings people have about morality issues partly account for the lack of serious attention they have been given. Paul Issac, in his study of prohibition politics in Tennessee, suggests that scholars who have tended to be overwhelmingly "wet" in their own preferences, have not considered to fight for prohibition worthy of serious attention but have viewed it as the foolish endeavors of a "weird collection of preachers, women, oddballs and charlatans." Gusfield also charges researchers with
ignoring efforts to reform morality because the goals of such reforms were not considered worthy ones within the academic community.\textsuperscript{31} The lack of attention received by morality policy may also be accounted for on the ground that because it is "not clearly related to economic or political aims of classes in the economy; it has been difficult to subsume under traditional views of political life."\textsuperscript{32} That researchers have not been sympathetic to the goals of morality legislation and that existing policy models do not have ready explanations to account for the adoption of moral regulations may account for the neglect of this type of policy in political analyses but it by no means justifies it.

The controversial nature of moral legislation and its distinction as a type of policy, or, at least, presumed distinction, may have been an obstacle to its serious study but these factors are also reasons why morality legislation should be given greater attention. Opinion surveys show that many morality issues have a high saliency to both the public and to political leaders just because they are controversial. Because of this high saliency, much more can be determined about demand structures and the response of political institutions to demands than in more routine policy areas. Because morality issues are viewed in moral terms, struggles are more clear-cut, change is less incremental. In much of the existing policy research, efforts have been made to test the representativeness of
political institutions. Representation is clearly a complex concept and difficult to gauge under the most ideal situation so merely examining policies of high saliency does not ensure that the representativeness of a political system can be determined. Nevertheless, to test hypotheses linking representation to various social, economic and political variables, policy areas need to be selected where there is a well defined public opinion to represent. Efforts to legislate morality usually constitute such an area.

The fact that most existing theories of policy-making are based on spending policy does not preclude the possibility of testing these theories on non-spending policy. Indeed, it is highly desirable to develop theories which are as comprehensive as possible. While morality legislation may have been bypassed in the past because it did not easily fit existing policy models, some effort should be made to see exactly how morality policy does differ, if in fact, it does. There is considerable criticism of existing policy studies for attempting to generalize too much about the policy process from one specific type of policy. The assumption in looking at a broader range of policies is that policy models can be adjusted to be more comprehensive, or at least, that policy differences can be made explicit in accounting for the reason why one model cannot account for all policy changes. The significance of the study of morality legislation, then, is not simply its importance in revealing the types of
values held in society but in its potential aid in the building of more comprehensive policy models which will further general understanding of the over-all policy process.

The politics of four areas of morality legislation will be examined in this study to determine how closely they do coincide with policy-making in other areas. The four to be examined are liquor control, gambling regulations, birth control, and divorce law. They are all areas which have high saliency and which have been the subject of controversy in American politics in the past twenty five years. They are important policy areas not only for the general issues they reflect but because they directly affect the lives of many citizens. They meet the definition of morality legislation constructed earlier in that they are designed to prevent people from doing what they want to do in activities which involve no victims. The only possible exception to this is in divorce law where one of the participants is often forced to act the part of a victim. Divorce law is being considered as a type of moral legislation in that in reality it often sets a series of obstacles, including the requirement that there be a 'victim,' in the way of couples who wish to dissolve their marriage. It prevents people from doing what they want to do on the grounds that divorce, in, and of itself, is wrong.

The second part of the definition of morality policies, that they are based on ambiguous or abstract objectives, is
also met in these four specific policy areas. The over-all objectives of many liquor and gambling laws, and divorce and birth control regulations are difficult to specify independently of the specific intent of the policies themselves. Their general justifications do reflect varying concerns: gambling and liquor controls are designed to help men be sober, productive, responsible workers, while birth control and divorce laws are concerned with protecting the family unit, but there is no way to test if these policies are actually alleviating conditions in these areas of concern. All four policy groups are religious in nature in that they reflect basic value assumptions about right and wrong which are embodied in the policies themselves.

Morality legislation will be investigated primarily in the state context since the federal system of American government leaves to the states major responsibility for exercising basic regulatory powers and police powers. With the exception of national prohibition, most of the involvement of the federal government in regulating morals has come from postal regulations limiting what could be sent through the mails, and from court rulings setting limits on what state authorities could do. The initiative for enacting sumptuary legislation including prohibition has come from the states. From the standpoint of theory building, this is an advantage in that it allows a comparative approach with hypothesis testing over fifty different political systems. There is already a large body of state policy literature
including relatively well developed policy models suggesting reasons for interstate variation in policies. Chapter Two will review this literature and the major hypotheses that have come out of it and will consider its applicability to the study of morality policy. The attempt will be made through this analysis of morality policy to compare and relate findings to the existing state policy literature whenever possible.

Summary

This chapter has indicated what the distinguishing characteristics of morality policy are and has outlined the basic issues that are involved in the question of 'legislated morals.' One argument of this chapter has been that while there are many discussions of the philosophical justifications for this type of policy and many accounts of the merits and demerits of particular policies, little attention has been given toward investigating where the political pressure to regulate morals actually comes from and under what conditions these pressures are likely to be most successful. Several reasons were offered to justify why such an analysis would be worthwhile. The primary reason is the potential such study has for expanding the comprehensiveness of existing models of the policy making process.
FOOTNOTES


3. This language was brought into the political scientist's vocabulary by David Easton's *The Political System* (New York: Alfred A. Knopf, 1953).

4. The American state policy literature is reviewed in Chapter Three.


13. ibid.


15. ibid.


18. ibid.


21. ibid.


23. ibid., p. v.


27. ibid.


29. ibid.


32. ibid.
The study of the determinants of public policy has become one of the major areas of interest in political science in the past twenty years. Studies of the policies pursued by the American states have proved especially popular since much of their policy data is readily comparable. The presence of the states within a common constitutional framework and their adherence to common cultural and economic patterns further enhances their attractiveness for comparable studies by holding to manageable levels the number of potentially significant variables. As a result of these studies, several basic models of policy-making have been developed using various combinations of social, economic, cultural and political factors as their explanatory variables. The usefulness of these models in accounting for interstate differences in morality policy is unclear since no effort has been made to systematically test the models with morality legislation. Existing policy studies have tended to rely on budget data as indicators of policy because of its ease of collection and its appropriateness for quantitative analysis. This chapter will review the major findings of the
existing state policy literature and discuss their relevance
to the study of morality policy.

History of Recent Policy Studies

The most frequently looked at variable examined in efforts
to explain public policy decisions are the political conditions
which underlie those decisions. One assumption shared by
students of politics throughout history has been that the poli­
tical arrangements a society adopts to govern itself affect the
distribution of political power within that society and the ends
to which that power is directed. Efforts to specify in a systema­
tic fashion the likely effects of different structural arrange­
ments go back as far as Aristotle. Popularly based crusades
as well as reforms with strong support from political scientists
frequently have urged altering some aspects of the governmental
framework or of laws regulating the political process on the
grounds that such reforms would result in 'better decisions'
being made. Much of the impetus for the early comparative state
policy work stemmed from reform theories which attributed unsat­
sfactory state policies to structural aspects of the state's
political system. Two political variables received particular
attention in the reform theories: the equity of apportionment
of state legislatures and the cohesion and competitiveness of
political parties.

The best known and most influential attempt to account for
policy differences on the basis of party competition is V.O. Key's
Key's analysis of Southern politics placed primary responsibility for what he judged to be the poor performance of state government in the South on the region's lack of party competition. Even within one party states, Key believed, performance varied with the degree to which factions within the dominant party were organized and competitive over time. His contention was that in states which had relatively stable factional groupings, politicians were forced to fight for support of marginal groups in society in the same way the votes of marginal groups were fought over in competitive party states. Because competition between permanent groupings, whether parties or factions, forced politicians to be more solicitous to marginal groups which held the balance of power in elections, Key hypothesized that government itself would be more responsive to the needs of these groups. In the absence of competition between organized groups, Key believed that elections tended to disintegrate into issue-less, free-for-alls where candidates ran flamboyant campaigns, making appeals most likely to arouse the momentary passions of the electorate. The long range economic interests of the lower classes were likely to be ignored because individual candidates, with no organized base to start from, had little incentive to direct campaigns at the poor who were the most difficult to mobilize politically when the rest of the electorate was also up for grabs.
Key does not explicitly link morality policies to a disorganized, free-for-all politics but his examples suggest that this linkage does exist. Key believed that politics essentially was (or should be) a have-have-not struggle and that when political alignments formed around other issues, the basic function of politics was subverted. In contrast to states with competitive parties where various economic interests gravitate toward the party best able to represent its interests, the politics of the one party South were not based on economic cleavages. Each election was a de novo affair where a candidate started off with his "friends and neighbors" and then sought to increase his support by making the types of appeals best guaranteed to attract the largest number of votes. Because of the fear of Southern whites toward Blacks, the appeals were often racist in nature but campaigns playing on fundamentalist attitudes toward liquor, gambling, and general 'big city sin' were also common. Morality issues were treated by Key as a symptom of a dysfunctional political system.

Another aspect of the Key argument is the matter of accountability once in office. Even when economic issues were raised in elections in the South, Key found that those who received the votes of the lower classes often 'sold-out' to the economic elites as soon as they assumed power. Since the candidate did not have any meaningful party affiliation, there was no way a
party could be held accountable for the candidate's actions or lack of actions. A further difficulty in establishing accountability was simply with the absence of party organization within government; it was difficult for the public to identify who was responsible for the policies adopted by government. In a two-party state, the party holding a majority within the legislature is presumed responsible for the actions of the legislature. In the legislative politics of the Southern states, responsibility could not be affixed in this manner because there was often no organized majority in the legislature. Key's assertions regarding the problem of accountability parallel those of the responsible party theorists. The assumptions underlying these arguments is that responsible parties will give more control over the direction of public policy to voters but providing them a more rational basis on which to vote. Presumably this means greater public control over all policies, including morality policy.

Duane Lockard, a student of Key, examined the relationship between party competition and organization and public policy in the New England states. Attempting to deal with some of the relationships Key had examined in a more systematic fashion, Lockard compared levels of expenditure in program areas designed to aid 'have-nots' and found evidence to support the hypothesis that political disorganization aids the 'haves' in obstructing programs of redistribution. Lockard recognized that the "wealth of the state conditions that extent to which it can be generous"
but found that variations in generosity were considerably greater than variations in wealth. Lockard compared the tax systems of the six New England states and found that the average percentage of taxes from business and inheritance combined to be "just twice as great in the three two-party states as in the three one-party states." Lockard also compared coverage of Workmen's compensation laws, minimum wage laws and anti-discrimination laws, and found that the competitive party states were the ones with the strongest legislation in these fields. His data were all consistent with the Key policy model showing have-not policies determined by political factors.

Operationalizing basic concepts is a problem in testing all models, including those dealing with state policy. Lockard's work contains a lengthy discussion of the problems of measuring party competition and organization. Most attempts to compare party systems are based on an examination of vote distributions between the two major parties in selected elections and/or the amount of time a party has actually controlled offices. Lockard argued that the degree of competition and degree of electoral success are not the only policy relevant variables of party systems. He suggested 'the internal structures of the parties within a state can have the most far-reaching implications for the kind of policy orientation of the state government.' Key's analysis of Southern politics was of course just this - an analysis of the internal structure of the various state Democratic parties.
In his survey of non-Southern states, Key re-emphasized the point that while it is "easy enough to differentiate states according to the character of the customary division between Republicans and Democrats," the determination of which states have the most viable party systems is a more difficult task. Just to accumulate data to describe the structure of leadership, party and factional, Key suggested, would be an enormous task. Lockard's answer to the problem in the New England study was a five-fold classification system. States with relatively strong parties could have strong, cohesive organizations with considerable policy impact or splintered, weak organizations with little policy impact. One party states might be dominated by a single economic interest or by a strong political boss who plays various economic interests off one another; have two major factions with moderate to minor legislative policy identifications or have a multifactional party structure where the haves use the disorganization of politics to achieve conservative ends.

To estimate the impact of political variables on state policy, according to Lockard, the political practices of the state must be thoroughly investigated. No single statistic provides a valid and reliable indicator.

Another of Key's students, John Fenton, suggested that one factor determining the effectiveness of political parties as policy instruments is the historical origins of the party system. In examining both the politics of the border states and the mid-western states, Fenton found that civil war divisions often
prevented the mobilization of voters along economic lines. While the states Fenton looked at had more or less competitive party systems, they were not always notably effective in serving lower class needs. In the border states, for example, much of the support for the usually dominant Democratic party stemmed from anti-Republican feelings which had persisted from the period of the Civil War and Reconstruction. Democrats could be reasonable successful electorally by making traditional party heritage appeals. There was no basis for a common party ideology and attempts to gain support by making policy appeals only tended to fragment the party. The Republican Party, the minority party in the border states, was also highly fragmented. Its major factions were mountain people who were conservative because of their isolation, the Negro, and urban business leaders. The Negro, until recently had "represented a manipulable vote and therefore provided a political bulwark for the business community against illiberal candidates". Thus, because of the historic origins of the parties in the border states, the interests of the "have-nots" were regularly ignored despite the fact that there was a fair level of party competition.

In the midwest Fenton again distinguished between states in which civil war era cleavages were still important (Ohio, Indiana, and Illinois) and those states where political cleavages were more clearly based on contemporary economic issues (Michigan, Wisconsin, and Minnesota). In states where the Republican and
Democratic parties contained large blocs of voters whose party affiliation was based on issues of the 1860's, politics tended to be 'job-oriented,' that is, the motivating factor was personal gain in the form of jobs, contracts, and other favors, and not ideological commitment. This was because a focus on issues would only exacerbate the differences between the southern, conservative wing of the Democratic Party and the urban, liberal wing. The usually dominant Republicans in these states had little to gain from injecting issues into campaigns since they benefitted from the historic loyalties to the Grand Old Party which had been passed down from the Civil War era. The Democrats out of necessity and the Republicans out of a lack of motivation to do otherwise competed against one another in these states over the control of government and the distribution of specific benefits which went with that control. Fenton's analysis of the job-oriented states was that even though they were often highly competitive, "the measureable responsiveness of the government to the wishes of the electorate is not much more visible than in one party states and is perhaps less pronounced than in one party bi-factional states."\textsuperscript{11}

It was only in those states where party cleavages reflected contemporary economic divisions (usually around the interests of labor and management) that party competition increased the representativeness of government. According to Fenton, Michigan, Minnesota, and Wisconsin all had issue-oriented politics where
political parties consisted of "competing groups of people whose participation in politics derives in the main from their desire to translate certain policy preferences into public policy." In these states, party alignments were not based upon the policy irrelevant question of the civil war but upon have—have-not conflicts stemming from the Populist crusade and New Deal proposals. As a result, parties in the 'issue-oriented' states made economic class appeals rather than the appeals of party traditions and personality made in 'job-oriented' states. In comparing welfare and education expenditures of the job oriented and issue oriented states, Fenton found that in "every instance, the states with issue-oriented parties are more responsive to the majority demands for a larger share of society's goods and opportunities." Like Key, Fenton mentions the high saliency of morality policy in some states but judges it as a symptom of a dysfunctional party system.

After the nature of the party system, the political variable drawing the greatest attention for its policy relevancy is the equity of apportionment of a state's legislative districts. Writing before the Baker v. Carr decision, the first of the one-man, one-vote, rulings, Key argued that malapportioned state legislators were one of the most important factors contributing to unrepresentative state government. Malapportioned legislatures, in fact, are one of the variables that can mediate the policy effects of party competition. The problem of divided rule
which supposedly blocked majorities from acting was often caused
by a system of legislative representation which practically
 guaranteed control of at least one house of the legislature to a
party no matter what its state-wide support. Republicans in the
two party New England states, for example, were almost impossible
to dislodge from power in the upper houses of the state legisla-
tures because seat were allotted on the basis of county jurisdic-
tions so that the sparsely populated, traditionally Republican
rural counties could elect a majority to the state senate even
though a majority of the state's voters were concentrated in a
few large urban counties. Since legislative majorities were so
unrepresentative of state-wide majorities, policy decisions
could not be expected to reflect the public will.

The most often cited consequence of malapportioned legis-
latures was that they gave rural conservative interests power
disproportionate to their actual strength in society and that
the rural forces used this power to block urban oriented legis-
lation. Part of the responsibility for the crisis of American
cities was placed upon the neglect of urban areas by state
governments. States had not responded to urban problems, it
was argued, because urban areas did not have fair representation
in state government. This hypothesized relationship between
policy and the equity of legislative apportionment is a fairly
straight forward one. It is that the policy produced by a state
legislature reflects the relative balance of interests within
the legislature. The extent that the legislature over or under represents different interests in the state will be reflected in the legislation passed by the legislature. If urban areas are systematically discriminated against in legislatures, legislative output will show evidence of this discrimination. While this argument itself is a simple one, verifying it poses some problems since it is not always clear what types of interests are being over or under represented. Several studies have been unable to find any evidence of identifiable urban and rural factions within state legislatures suggesting that this cleavage is little affected by apportionment schemes. Jacob used several indices of malapportionment "in a correlational analysis to test whether malapportionment has been associated with some of the ills complained of" and concluded that "malapportionment is not associated with them." Others have concluded, however, the reapportionment does bring about important changes by bringing more "city oriented policy preferences into the legislature [stimulating] a trend toward urban desired legislation.

Since morality policies are normally associated with rural populations, the conventional wisdom has been that the overrepresentation of rural interests increases the likelihood that the state will adopt restrictive morality laws. The assumption is that urban life creates a greater tolerance of divergent life styles and therefore less interest in controlling aspects of behavior which do not pose a threat to others. Bicker has
argued that the effects of increased urban representation in state legislatures should be more apparent in the exercise of a state's police powers than in its spending policies since the earmarking of funds give legislators little opportunity to quickly alter existing budget practices. Also, suburban and innercity populations would be expected to be more united in opposition to morality controls than they are on the question of redistributive policies. One study did specifically test the relationship between malapportionment and states using the monopoly control system of liquor regulation but no relationship was found.

Whatever the policy effects of an unrepresentative, malapportioned legislature were, they could be solved through a redrawing of legislative districts. In a series of decisions beginning with Baker versus Carr in 1962, the Supreme Court ordered such redistricting to take place and state legislatures now conform to the one-man, one-vote principle. Gerrymandering still take place to minimize or maximize the strengths of various voting blocs but the basic principle of legislative districts of numerically equal size has been established. Malapportioned districts as well as equitably drawn districts are creations of the legal system and can be manipulated at the will of the system. The basis of party competition, however, is not so clear. In Southern Politics, Key reviewed aspects of the legal framework which tended to support the continuation of one party domination.
such as the centralization of power at the state level which made it difficult for the minority party to establish any kind of a base in local areas where it had some support, and franchise restrictions aimed at those most likely to support an opposition party. Key recognized, however, that electoral competition was not simply a function of election laws and government structure. One party politics, Key wrote, "is reflective of a highly integrated community life with a powerful capacity to induce conformity... Issues have long been settled and the outcome embodied in a durable equilibrium of power and status within the community." Following this reasoning, Lockard argued that "it is diversity in part that creates the atmosphere for two-party competition and the absence of diversity facilitates one-partyism." Key recognized that little can be done to "construct more effective party systems within the states" because of environmental constraints but he had the hope that "emerging conditions will facilitate, if not automatically produce alterations of substantial importance in the state political system." If greater party competition did automatically result from changes in the environment, then the policy responses of the political system might be seen as simply reflecting the changes in the environment. Key did not accept this view, however. Political conflicts and hence political competition may increase as society becomes more complex but unless the competition is organized around basic economic
cleavage and unless parties maintain a degree of internal cohesion, representation of and increased responsiveness to the marginal groups in society will not inevitably follow. The developmental sequence implicit in Key's work is that changes in the environment which increase the variety of interests and the likelihood of competitive parties will result in an improvement of policy only if the parties are well disciplined and organized around economic questions.

There have been numerous attempts to identify the specific aspects of the environment most closely related to two party competition but conclusions have differed. Eulau compared the level of competition in Ohio's eighty-eight counties with their level of urbanization and concluded that "competitive party systems...seemed to be functionally related to metropolitan and urban ecological structures, while non-competitive...systems seem to be functionally related to small town and rural ecological structures." Examining the same relationship in Iowa, though using a different measure of party competition, Gold and Schmidhauser found that "contrary to the Eulau hypothesis, the Iowa data indicate that among the ninety-nine counties of that state there was not a simple positive association between the degree of urbanization and the intensity of party competition." Using the state as the unit of analysis, Golembiewski found a nationwide study a statistically significant relationship between party competition and several socio-economic measures including
urbanization, density, and median income. In a more recent study, Bonjean and Lineberry attempted to test the urbanization-party competition hypothesis in all United States counties. Their study's "striking and consistent finding is that no matter which indicator of urbanization is employed and even when state control is imposed, virtually no relation exists between the indicator and inter-party competition [measured as a percentage of the winning vote in the 1960 presidential election]." The different findings of these studies is usually attributed to the different party competition measures that are used, an observation each investigator makes before establishing still another competition measure. One conclusion that can be drawn from these studies is that even the task of operationalizing interparty competition is an extremely difficult one, a task Key had predicted would be easy compared to the job of differentiating party systems on the basis of their internal organizations. The question of the nature of the relationship between a state's party system and the state environment, particularly the complexity of the environment, has not yet been conclusively answered despite numerous attempts.

Dawson and Robinson published a study in 1963 which calculated the rank order correlations between several measures of interparty competition and three environmental measures: per capita income, urbanization, and industrialization, for all of the states. Their findings supported those of Golembiewski that
"there is a relationship between these external conditions and the level of inter-party competition." Dawson and Robinson went on, however, to test what they interpreted to be the Key-Lockard hypothesis that "the greater the degree of inter-party competition within a political system, the more liberal the social welfare measures that system will adopt." Ranking the states on the basis of per capita expenditures in welfare-type areas and on the sources of tax revenues, Dawson and Robinson found that these rankings did correlate with the inter-party competition rankings thus supporting the basic hypothesis. But they also discovered an even stronger relationship between the policy rankings and the states' level of urbanization, income, and industrialization. By dividing the states into three groups based upon their wealth and computing the relationship between party competition and welfare policies in each group, the influence of wealth on policy could be held roughly constant. Dawson and Robinson found that when wealth was controlled for in this manner the impact of party competition on policy disappeared suggesting that "the correlations not controlling for wealth were more a reflection of per capita income and its relationship with inter-party competition than they were of inter-party competition." When party competition was controlled for in a similar manner, the relationship between the environmental factors and policy did not go away. These two findings led to the study's conclusion that "inter-party competition does not play as
influential a role in determining the nature and scope of welfare policies as earlier studies suggested. The level of public social welfare programs in the American states seems to be more a function of socio-economic factors, especially per capita income."^31

Two articles by Hofferbert in 1966 contained findings consistent with the Dawson Robinson work. In "The Relationship between Public Policy and Some Structural and Environmental Variables in the American States," Hofferbert refined Dawson and Robinson's policy measures and included tests for the effect of malapportionment. Structural characteristics and partisan variables "did not go very far toward explaining the kinds of policies produced in the states," according to Hofferbert, but there is "clear indication that there is a relationship between environment and policy."^32 In "Ecological Development and Policy Change in the American States," Hofferbert examined changes that took place in the relationship between policy and the environment between 1940 and 1963 and found that there is "a decreasing strength of connection between ecology and policy outputs in the states."^33 This findings suggested to him "evidence of an increase in the potential for choice in the deliberations of state policy makers."^34

Thomas Dye used simple, partial, and multiple correlation analysis to investigate the relationships between a wide range of environmental, policy, and political variables. He examined
fifty-four policy areas which he divided into the general categories of education, health and welfare, highways, taxation policies, and public regulation. While the strength of the relationship of these variables with the environment and system measures varied, Dye's conclusion was a general statement that economic development and not political system variables determined public policy outcomes. Dye was the most outspoken of the policy analysts in his assertions that differences in political structure and political processes do not have any significant impact on policy. His findings suggested to him that "the linkage between socio-economic inputs and policy outcomes is an unbroken one, and that characteristics of political systems do not independently influence policy outcomes."36

Dye's study was the most comprehensive of the policy studies to that time and his findings of an unbroken line between environment and policy directly challenged the Key model emphasizing the importance of political variables as an intervening variable between policy and environment. Dye did not limit his consideration to welfare policies but argued that his data suggested that all policies were determined by social-economic conditions. He specifically included several morality policies, divorce and gambling, and found them to be environmentally determined, along with all other policies. The basic difference between the Dye model and the Key model is shown in Figure I. The Key model is represented by linkages "a" and "b" which show political
IN PUTS | POLITICAL SYSTEM | OUTCOMES

Socioeconomic Development Variables

Characteristics of Political Systems

Policy Outcomes

e.g.,
urbanization
industrialization
income
education
e.g.,
constitutional framework
electoral system
party system
interest group structures
elite or power structures
political style (Rules of the Game)
e.g.,
welfare policies
highway policies
educational politics
tax policies
morality regulation

FIGURE 1 A MODEL FOR ANALYZING POLICY OUTCOME IN AMERICAN STATE POLITICS

variables having an independent effect on policy outcomes by mediating between the social-economic conditions and these outcomes. Linkage "c" is the Dye model suggesting that socioeconomic factors directly determine policy and that political variables do not independently affect the outcome.

That the social and economic environment of a political system has influence on its performance is a proposition that Key and Lockard would not deny. Their concern had been with the policy effects of certain types of political arrangements; not with the importance of these effects vis-a-vis other influences. As early as 1952, Solomon Fabricant had been able to account for seventy-two percent of the variation in state spending on the basis of per capita income, population density, and percent of population living in urban places. In articles in the National Tax Journal Fisher, Kurnow, Sacks and Harris, and Bahl and Saunders presented increasingly more powerful models to explain interstate variation in spending. Morss, in a critical review of these studies charged that some of the variables being used, such as federal aid, were theoretically meaningless. He suggested that if the goal was simply to find the variable having the highest correlation with state and local spending, the most logical candidate would be state and local tax collections.

**Different Determinants Among Policy Types**

Morss was not the only one to make the charge of gross empiricism against those who attempted to "explain" policy by putting
together a combination of variables capable of accounting for a few more percentage points of the inter-state variation of some policy measure than the last study. Jones, Lockard, Fenton and Chamberlayne, and Jacob and Lipsky all criticize the input-output studies for a lack of theory. Considerable attention has been paid toward improving upon the conceptual and theoretical elements of Dye's basic input-output model of public policy. Lowi suggested that different types of policies were associated with fundamentally different types of processes and that factors of importance in one area would not necessarily be important in the next. He hypothesized that pluralist politics a la Truman and Bently, interest groups hammering out mutually agreeable policies between them, was most closely associated with regulatory policies while 'logrolling' between non-conflicting interests was associated with distributive politics. The class conflicts that Key had been interested in were, according to Lowi, linked to redistributive politics. Salisbury expanded upon Lowi's three-fold classification of policies, by adding a fourth, self-regulatory policies, and constructed a theoretical framework which accounted for the differences in policy types by differences in the degree of fragmentation of the demand structure and the decision structure. Salisbury and Heinz demonstrated the utility of this approach through an analysis of agricultural programs which illustrated the tendency of distributive policies to emerge from systems characterized by fragmented demand structures and
fragmented decision structures. The authors admitted that they cannot offer specific indicators that can be used to test their hypothesis over a wide range of policy areas but argue that theoretical significance lies in aiming research in the direction of explaining the form that policy takes rather than accounting for variation in a specific type of policy. While this work is not directly applicable to the study of morality policy, it does suggest that the processes of a non-distributive type of program like morality legislation may be distinct and that explanations of spending cannot be assumed to account for morality regulations as well.

Froman was also interested in the form which policy took but he offered a different way of conceptualizing the differences. He urged the classification of policy as areal or segmental reflecting the degree to which a policy affected the whole community and the degree to which it continued over time. Froman's basic hypothesis was that the type of policy pursued would indicate the degree of integration within the community. He attempted to empirically test this relationship by correlating segmental policies with mayor-forms of government and areal policies with manager forms. His findings supported his thesis but the study's usefulness in directing other research was limited by Froman's inability to give criteria as to how his basic concepts could be reliably measured. Presumably morality policy would be 'areal' as it generally effects all and is continuous. According to Froman,
this would indicate a well-integrated community which is a conclusion consistent with the conventional wisdom on the type of environment most conducive to regulating morals.

Edelman also differentiated between the forms public policy could take. Edelman's focus was on the politics of symbolism, the symbolic acts of government designed to satisfy or reassure groups in lieu of substantive actions. Edelman's thesis was that symbolic benefits were most frequently bestowed on large, unintegrated demand groups while material benefits are given to more narrowly defined interests. He suggested that legislation generally was symbolic; what people actually get from government is decided by what administrators do, not what the law promises. Edelman's thesis is consistent with Gusfield's analysis of the temperance crusade reviewed in Chapter One. Gusfield argued that prohibition offered a symbolic reassurance to the threatened native-American, middle class, that there way of life was still to be highly valued. The actual effect of prohibition varied widely, determined partly by the extent to which enforcement was attempted.

The use of factor analysis to empirically identify the major dimensions of state policy was one way of developing more general policy categories than specific budget entries represented. Sharkansky and Hofferbert factor analyzed twenty-six variables representing "expenditures for major services and approximations of results from service operations." Their analysis revealed
two principal dimensions of policy: Welfare-Education measures and Highway-Natural Resources measures. A factor analysis of fifty-three political variables similarly revealed two major dimensions: a Professionalism-Local Reliance dimension and a Competition-Turnout dimension. In an earlier study, Hofferbert had found two socio-economic dimensions: Cultural Enrichment (or wealth) and Industrialization, dimensions which had remained stable in their composition from 1890 to 1960. An examination of the relationships between these different dimensions revealed that "the Welfare-Education dimension of state policy is significantly dependent upon the Competition-Turnout dimension of state politics and the Affluence dimension of the state economy. The Highways-Natural Resources dimension of policy appears most dependent upon the industrialization dimension."54

Robert Crew also offered a "factor analysis of state expenditures for eleven areas of public policy" which identified three basic dimensions "subject to more broadly theoretical treatment." Crew's dimensions were "rurality," spending associated with a rural environment such as highway expenditures; "collective orientations," and "maintenance of public order." He found that economic factors were more important in accounting for variation in the first dimension while political variables were more important in the second dimension and the third dimension. Crew's use of program expenditures as a percentage of total expenditures as his basic measure may account for the different dimensions though
there are similarities between the Welfare-Education and collective orientation dimensions and the Highway-Natural Resource and rural-ity dimensions, and the ways they are related to political and economic variables. The greatest contribution of these studies was their discovery of the multidimensionality of state economic development, politics, and public policy, which suggested the use of these terms in previous studies had been over-simplifications. The answer to the question of what variables, political or economic, best accounted for differences in policy appeared to be dependent on the policy area under examination.

The existence of policy dimensions responding to different types of influences had been hinted at before their presence was conclusively established by factor analysis. The relative strength of political and socio-economic factors varied from policy to policy in all previous studies including Dye's. Key's original observation about the effects of party competition were aimed at policies reflecting have - have-not controversies, not expenditures generally. Fenton, in a study using multiple correlations between three types of policy expenditures and competition, income, and urbanization, found that while income and urbanization were of greater relative importance in the welfare, education, and total spending categories, interparty competition was responsible for seventy-five percent of the total association between the three explanatory variables and Aid to Dependent Children.56 While Fenton's data and statistical
techniques were somewhat different than those used by Dawson and Robinson (Fenton, for example, used ADC payment per recipient while Dawson and Robinson used ADC payments per family), Fenton did get similar results in his other expenditure areas suggesting that AFDC payments might be shaped by a different sort of influence than the economic factors which seemed to determine spending in the other areas.

Arguing that the correlational analysis used in many policy studies could lead to unwarranted causal influences, Cnudde and McCrone calculated regression coefficients between inter-party competition and four social-welfare programs in the American states with controls for four socio-economic development factors. They found that "only for per pupil expenditure and old age assistance did the spurious model [that the relationship between political and policy outcomes is a spurious one] appear to be appropriate. In the areas of aid to dependent children and unemployment compensation...party competition did have an impact." Since these two areas responding to political factors were ones associated with have - have-not controversies, the findings tend to support the Key analysis. These findings caused the authors to conclude that the appropriate model to use in explaining state policy outcomes depends on the policies level of controversy. Because morality policy engenders a high level of controversy, the political variable model would seem the most appropriate to use though it cannot be assumed.
that have-not controversies are of the same nature as those shown in struggles over morality policy.

Another attempt to design a model especially for more controversial policy areas was Fry and Winters' "The politics of Redistribution."\(^{59}\) Instead of using the level of various program expenditures for their dependent variable, a measure of the "net redistributive impact of revenue and expenditures [based on] the ratio of expenditure benefits to revenue burdens for the three lowest income groups in each state" was used.\(^{60}\) This shift in focus, the authors claimed, represented a better measure of the have-have-not struggles which had interested Key. The use of multiple-partial correlations to assess the relative importance of political and socio-economic variations in determining inter-state variations in redistributive policies revealed that political variables were of considerably greater importance. The redistributive index was reformulated by Booms and Haldorson who then replicated the Fry-Winter study. Their results indicated a stronger role for socio-economic variables but still secondary in effect to the impact of the political variables.\(^{61}\) Additional support for the general Key argument linking the success of 'have-nots' to bring about some redistribution of wealth to the presence of certain political factors was presented in Deleon\(^{62}\) and Fry\(^{63}\). Contrary findings were presented by Sullivan who doubled the number of socio-economic variables used by Fry and Winters so they were equal in number to the number of political
variables. Sullivan argued that the question of political impact independent of economic impact could not be answered since "the two sets of variables are correlated at a level that approaches 'harmful multicolinearity'."64

Walker constructed another type of synthetic policy index based not on costs and benefits of programs but on "the most fundamental policy decision of all: whether to initiate a program in the first place."65 Each state was given an innovation score based "on the analysis of eighty-eight different programs which were enacted by at least twenty state legislatures prior to 1965."66 A state's innovation was measured by the percentage of time which elapsed between a program's first adoption and its adoption in that state. Walker examined the impact of seven political variables on innovation while controlling for four economic variables and found consistent strength in the relationship between the David and Eisenberg index of urban representation and innovation. Walker was not satisfied with simply finding demographic and political correlates to his policy innovation scores but attempted to account for the decisions of officials in the states to adopt innovations on the basis of diffusion theory. His thesis was that the "process of competition and emulation, or cue taking, is an important phenomena which determines in large part the pace and direction of social change in the American states."67 The normal pattern of diffusion, according to Walker, was for new programs to originate from
within a group of "pioneering states...linked together in a national system of emulation and competition" each of which having "a group of followers, usually within their own region of the country, that tend to adopt programs only after the pioneers have led the way."68 Thus, according to Walker, the willingness of a state to adopt a new program was not simply a function of its own economic and political system, but it also reflected regional norms and the actions taken by regional pacesetters. Gray also linked patterns of the adoption of innovations to diffusion theory though her basic model was considerably different than the one employed by Walker. Gray separated innovations by policy area and found that patterns differed "by issue area and by degree of federal involvement."69

Walker's focus on the tendency of states to adopt new programs as the dependent variable stands in contrast to the traditional measures of policy based on spending data. In his discussion of forms of policy, Salisbury had stated as a basic thesis that there existed a fundamental distinction between decisions which directly allocate tangible benefits and those which do not.70 Decisions to license pharmacists or nurses, innovations examined by Walker, have economic implications but they are not as dependent on a state's revenue base as are decisions relating to the level of school support to be given. Even adoption of new programs requiring a certain financial commitment for successful implementation are not constrained by
economics in the same sense that spending decisions are. As an example of this, Walker offers the case of Oklahoma who "emulated other states by creating a state civil rights commission but once the commission was established only $2500 was appropriated for its operation." This would be an example of Edelman's class of symbolic policies as opposed to those bestowing material benefits.

There have been few attempts to study the determinents of non-spending policy. Dye included a chapter in *Politics, Economics and the Public* on regulatory policy but, for the most part used economic data and indirect outcome measures to operationalize his regulatory policies. His findings were that regulatory policy is determined by the economic and social environment. Froman compared the length of state constitutions on the assumption that they were a measure of "the special privileges and advantages" given by the state to interest groups. Using Zeller's ratings of state interest group strength, Froman hypothesized that the stronger the lobbies in a state, the longer its constitution would be and the easier to amend. While Froman's data tended to confirm his hypothesis, the validity of using size of constitution as a policy measure was criticized by some. Regulatory policies are also considered in most general descriptions of state politics though not within an explicit framework. Chapter Three will review some of the conclusions more general treatments of state politics have come to about morality regulations.
The field of civil rights legislation is the regulatory area attracting the greatest amount of attention in the policy studies. McCrone and Cnudde devised a Guttman scale of civil rights legislation based on whether or not states had anti-discrimination laws in four major areas: private housing, education, employment and public accommodations.75 Simon and Blalock's causal model test was used to examine three possible sets of relationships the scale scores can have with percent Black (an environmental variable) and party competition (a political variable). The data best supports the model showing a developmental sequence from percent black to party competition to civil rights legislation lending support to the notion that party competition is an important intervening variable in the policy process. A contrary conclusion was reached by Dye who gave each state a score between zero and six based on the state's enactment of legislation in six different areas. Using multiple regression analysis, he concluded that economic development was the major determinant of civil rights legislation with voting turnout and competition having little independent impact."76 In the same study Dye measured "law and order" policy by policemen per population and found this policy to be most closely related to level of urbanization.77 Erikson investigated party control of government and enactment of civil rights legislation and found "that for non-southern states there is an appreciable relationship
between (1) the party that controls the state legislature and governorship and (2) the enactment of civil rights legislation." He offered his results as proof that at least in one area a political variable, Democratic party control, does have direct influence on a policy variable.  

One difficulty with the little work that has been done on regulatory policy is that it is difficult to place in the main body of state policy literature growing out of the opposing conclusions of Key and his students and Dawson and Robinson, and Dye. Except for Dye, the studies reviewed above relate only indirectly to the question of the independent impact of political variables in the policy process. Froman does not even control for socio-economic factors in his study while McCrone and Cnudde's indicator of environmental impact is limited to the size of the Black population. Erikson's use of party control, while it is a factor that has been lumped in the political variables category of other studies, it itself is of little theoretical import in the explanation of policy. Dye works within a framework comparable to the studies of economic policy but the validity of his measures of state regulation are suspect. Despite the importance of regulatory policy, both to the theoretical claims of Lowi, Salisbury, and Edelman, and to the overall work of state government, its research has lagged far behind research on spending policy.
Input-Output Linkages: Illuminating a Shadowy Area

Besides the over-emphasis on spending policy, another criticism that is often made of the comparative state policy work is the tendency to equate levels of income, urbanization, and industrialization with political inputs. These environmental factors "may lead to the articulation of demands and support and their communication to political authorities" but they are not inputs in the Eastonian sense. Political demands must ultimately come from people as must the response to these demands. The processes by which a high level of economic development is transformed into high levels of expenditures take place "remain in the shadows although it has been the traditional task of political scientists to illuminate them." To illuminate these shadows, efforts are needed to show the sorts of demand structures that exist in the states and their relationship to the environment as well as to the sorts of perceptions official decision-makers have of their political and socio-economic environments. Walker's use of diffusion theory in his analysis of innovations is a step in this direction. As programs become adopted in other states and gain recognition as a legitimate function of government, support grows among lobbyists and officials become more and more receptive. Walker suggests that officials, acting consistent with Simon's satisficing model, employ the following decision rule: "look for an analogy between the situation you are dealing with and some other situation, perhaps in some other state, where the problem has been successfully resolved."
Sharkansky has found clear evidence of this borrow from your neighbor phenomena is several analyses of regional spending patterns. Western states were found to be high spenders and northern and eastern states low spenders while southern expenditures per capita were not distinctive but high in expenditures per $1000 personal income. Economic influences on regional spending patterns and those influences not economic in nature were separated by an analysis of covariance. In thirty-four of forty-two public policies examined, region showed a "significant independent relationship with policy while controlling for economics." Sharkansky has also found that region "is more salient than economics with respect to some measures of turnout and competition, and region makes a significant contribution to the analysis of equitable legislative apportionment." Thus regional groupings reflect not only the social and economic similarities but various norms of political participation based on political attitudes formed during shared historical experiences as well as varying sets of policy expectations based upon common political cultures and the diffusion patterns through which inter-state communications take place. Several surveys of state policy makers reveal support for the contention that regional norms are given important consideration in making decisions. Sharkansky admits that regionalism in itself is not a satisfying explanation but the focus on region does provide valuable insights into the shadowy area between input and output in the policy equation by
by focusing on the perceptions of state officials and the influences to which they are responsive.

An even more important cue influencing spending patterns than regional norms is the past performance of the state. When previous expenditure is examined as an independent policy variable along with assorted economic and political variables, it is able to account for "the largest single portion of interstate variation in current spending." This reflects the "weight of habit, earlier accommodations, routine or the widely-accepted practices in the area of financial decisions." In a study of state participation in federal anti-poverty programs, Cowart finds additional support for the impact of past performance in finding that response to EOA programs was a product of 'previous participation in similar kinds of programs.' On the basis of personal interviews and inspections, Sharkansky reports that in "every state budget system examined...the paperwork done by officials in the agencies, central budget offices and the legislature enforces a concern with previous and current spending and the increment over these levels that is proposed for the coming year." By identifying specific cues used by policy makers, Sharkansky is able to offer explanations of policy based on something more than statistical correlations. He is able to account for the dependence of policy decisions on the basis of prior performance on the basis of the well established theories of incremental decision-making. Incrementalism, of course,
cannot account for the original patterns of policy within states, but it does help account for continuation of policy differences among states even as states grow more similar in terms of social, economic and political characteristics.

Anton's study of budget making in Illinois suggests that the actions of officials in regard to spending decisions are rooted in well established role orientations that prescribe certain types of behaviors for those holding various official positions regardless of the specific policy under consideration. Anton found the following pattern: agency officials request more funds, budget officers reduce requests, governors pursue balanced budgets at higher expenditure levels while legislators approve higher appropriations while arguing with the governor over revenue. This stylized behavior of officials is directed toward the symbolic goals of responsibility, economy and service reassuring "actors and their audiences that powerful figures are engaged in important activities in a significant governmental context." Sharp breaks with established policy are clearly not likely from a process characterized by this type of stylized behavior. In a nineteen state study of state budget making Sharkansky found further evidence for the contention that the role orientations of state officials greatly diminishes the chance of radically new spending commitments. In The Routines of Politics, Sharkansky summarized the types of constraints that tend to prevent any dramatic deviation on the part of state
government from past performance. Besides the routines of regional consultations, incremental budgeting, gubernatorial and legislative roll orientations, Sharkansky analysed the effect of the 'spending-service cliche,' that is, measuring program performance in terms of amount spent, and the effect of the high stability of party allegiance on the part of voters. These routines, once established, develop a momentum of their own which results in a conservative force that often persists whatever the changes taking place in the socio-economic or political environment. While some routines such as those based on the spending-service cliche are not relevant to non-spending policies, the general argument can be applied to morality type policies as well as to economic policy.96

Existing state and regional norms are unquestionably helpful in accounting for the sorts of decisions made by state governments but merely attributing these interstate or interregional policy differences not based on political or economic differences to the existence of different sets of norms is not very satisfying. The concept of political culture is sometimes introduced to provide an explanation for the existence of these different sets of political norms. The best known attempt to use culture to explain political differences within the United States is Elazar's American Federalism: A View From the States.97 Elazar's general definition of culture is the "particular pattern of orientation to political action in which each political system is imbedded."98
Elazar attempted to identify the culture of each state based on three criteria: 1) the set of perceptions of what politics is and what can be expected from government; 2) the kinds of people who become active in government and politics, and 3) the actual way in which the art of government is practiced by politicians and public officials in the light of their perceptions. Elazar posits the existence of three distinct cultures with the American states which he calls the Individualistic (emphasizing a laissez-faire politics), Moralistic (emphasizing the search for the good society), and the Traditional (emphasizing a class-based politics). The origins of these cultures is the various ethnic and religious groups who immigrated to America, congregated in the same settlements and moved westwards together. While Elazar does not systematically compare state culture to policy outputs, his general argument is that what actions a state does take is a function of its culture. It is somewhat difficult to apply Elazar's scheme to non-economic policies since his cultures are defined in terms of government's relation to the marketplace. People have other types of expectations about government than strictly economic ones, of course, so a slightly broader conceptualization of culture could be used in the analysis of non-economic measures such as morality policy.

Sharkansky makes an attempt to operationalize Elazar's concept of culture by assuming a linear continuum running from moralistic to traditional cultures and then ranking states on a
one to seven scale according to the culture or combination of cultures Elazar had identified in them. Sharkansky found an independent relationship between a state's culture score and assorted variables measuring aspects of participation, the state bureaucracy, and public policy. The significance of the findings is somewhat suspect, however, since Elazar originally made the cultural rankings on the basis of impressionistic observations of the types of people involved in politics and the way government is practiced, just the sorts of things Sharkansky measured with quantitative data. The way Elazar classified state culture makes it impossible to test for the effect of culture on anything since his conceptualization of culture includes what it produces. A strong relationship between political and policy measures and the cultural rankings indicates only that Elazar's summary descriptions of state politics and policies have a high level of validity. To test for the impact of culture, culture must be operationalized independent from what is being investigated.

One aspect of culture which is independent of political and policy factors and which can be measured relatively easily is religion. Hutcheson and Taylor use as an independent variable reflecting a state's culture the percentage of the population affiliated "with Protestant religious organizations which believe in the literal inspiration of the Bible." They suggest "that Fundamentalist Protestantism and the values espoused by fundamentalist denominations represent a sub-culture influential in
state politics." They cite the fundamentalist crusade against the teaching of evolution as but one example of this influence. Using partial correlations controlling for income, Hutcheson and Taylor find a strong relationship between fundamentalism and two policy measures used by Dye, teacher/pupil ratio and taxes as a percent of property values and seven different political indicators. While admitting the limited scope of their research, they suggest that their study does show that cultural variables may be just as important as economic ones and that the identification of specific cultural variables "increases the utility of comparative state policy studies' findings in the analysis of the internal actors and functions of state political systems." Ethnicity is another specific indicator of culture which research at the local level suggests may have some policy relevance.

The importance of 'culture' as an independent variable in policy studies will be determined by the ability to develop indicators that do provide a summary measurement of indentifiable belief or value systems. 'Fundamentalism' and 'ethnicity' are useful as cultural measures to the extent that they represent sets of group beliefs. The attractiveness of such measures is that they provide insight into what has been a missing link in most policy studies which is the actual preferences of the population. People make demands, not levels of economic development. Economic conditions do influence the beliefs people hold and the demands they make on their political system but the
relationship is not a perfect one. Hutcheson and Taylor's findings of a strong negative relationship between fundamentalism and taxes while controlling for income suggests that both rich and poor fundamentalists do not like to pay high taxes. Similarly, Banfield and Wilson's data suggest that ethnic groups holding to the 'private-regarding' ethos are going to oppose expenditures for amenities no matter what their income. To determine the responsiveness of a government to population demands and to measure the effect of economic and political variables on this level of responsiveness, the actual preferences of the population must be identified. The absence of, and the expense of obtaining, comparable survey data for all fifty states suggest that direct measures of the preferences of state populations will not be forthcoming quickly. Therefore, research in this area will have to proceed on the basis of indirect measures.

Cnudde makes use of Survey Research Center data and state-wide election results in the 1964 presidential race to test Key's hypothesis that issue voting is more likely to occur in elections where parties are well organized and competitive. While Cnudde used no measures of state policy, he was assuming that the effect that the level of state-wide party competition and cohesion had on translating policy preferences into voting behavior at the national level would also hold true for questions of state policy and state elections. His method was to correlate the 1964 Democratic presidential vote in one party, modified one party, and
two party states with support for federal aid to education and medicine and government ownership of utilities. The findings indicated "that party competition increases the effectiveness of the translation of opinion on public policy into voting preferences" though where parties are more competitive, issue voting declines suggesting that competitive parties often overlap in making middle of the road appeals. Cnudde was not investigating the policy results of issue voting but simply the effect of party competition on issue voting.

Using "estimates of state public opinion developed by the use of a computer simulation methodology and strength of interest group membership," Weber and Shaffer (1972:683) tested a series of hypotheses based on the thesis that "preferences independently determined policy outputs [and that] environmental and political system variables...only effect policy outputs through their influence upon preferences." Their dependent variables are dichotomous measures of policy in the areas of right to work laws, teacher unionization, and firearms control, and trichotomous variables in the area of public accommodations and parochial school aid. The study's hypotheses were generally supported though much variance was left unexplained.

Other published studies have also made use of state-wide estimates of public opinion. Sutton uses as a dependent variable 'congruence scores' developed by Frank Munger indicating the degree of agreement between state policy outputs (indicated by the presence
or absence of certain types of legislation) and the estimated policy preferences in these policy areas for each of the fifty states. He finds that "no state is consistently representative or completely non-representative" but that on any particular policy, "considerable variation in state responsiveness could be discerned." Congruence or representativeness in some issue areas seemed dependent upon socio-economic factors whereas other issues were more dependent upon politics and political activities. Sutton attempts no theoretical generalizations but "given the differential efficiency of the explanatory variables" in different policy areas, he urges the building of theories that are sensitive to these differences.

Civic book definitions of representative government often suggest that representative forms of government are those responsive to the demands of majorities. On many policy questions, majorities do not even have a preference, and in other areas, majorities may exist but the intensity of their preferences may be quite shallow and their effort to make their preferences known quite weak. The true level of support needed to provoke government action is difficult to predict for these reasons. Hopkins attempted to empirically derive the threshold of opinion support necessary for policy enactment in nine different areas. She finds considerable variation in the level of thresholds among policy areas and suggests this is related to the decisional costs
faced by the public officials in each area. The death penalty, which had the lowest threshold,
is one in which low costs might be expected because of the lower power levels of those with the most immediate interests and diversified interests of others who might oppose the death penalty. At the opposite end of the spectrum, the highest threshold exists in the field of gun permits, an area with very intense group activity and presumably substantial costs to the decision-maker."112

Hopkins also compares the level of support among different policies having varying levels of political involvement but found the differences to be inconclusive.

Summary

The way in which Hopkins' work and other recent research approaches the question of the representativeness of state governments reflects the considerable progress that has been made in state policy studies in the last twenty-five years. This review of the policy literature has outlined the basic models that have guided research and has reviewed the advances made in the conceptualization of policy and the illumination of the human activities, the attitudes and perceptions of voters and officials, that exist within the political and economic environment of the political system. In the area of conceptualization, a general problem in the state studies has been the heavy reliance on spending policy in efforts to construct general policy models. There is considerable evidence that different types of policies respond to different influences and that a model that adequately accounts for interstate variations for a specific spending policy
cannot be assumed to explain all other forms of policy as well. Recent studies have shown that policy can be operationalized in ways other than dollar figures. Walker uses the time at which programs were instituted, McCrone and Cnudde devised a Guttman scale of civil rights legislation, Weber and Shaffer simply measure policy as a dichotomous or trichotomous variable reflecting whether or not legislation has been enacted. The recent state policy studies suggest that non-economic policies, of which morality policy is one type, can be subject to the same types of tests as economic policy.

The second area of concern is the theory or lack of theory linking the input measures to the policy outputs. Those believing in the environmental determination of policy gave little attention to the types of groups involved in policy disputes and the nature of the legislative struggles that take place, though, as Jacob and Lipsky indicated, these are the areas with which political science is most competent to deal. The use of diffusion theory, incremental decision making and cultural patterns have illuminated the 'shadows' between inputs and outputs somewhat. Weber and Shaffer, Sutton, and Hopkins have made progress in incorporating public preferences and demands into policy models by concentrating on salient policies involving either or sorts of choices rather than less visible issues involving the level of funding of existing programs. The more visible and clear-cut the policy, the more
visible the process leading to it will be because the attitudes and actions of those involved in the process will be more visible. Morality policy questions tend to be of this highly visible either or type of policy well suited to hypothesis testing designed to fill-in some of the void between inputs and outputs.
FOOTNOTES

CHAPTER TWO


4. Ibid., p. 331.

5. Ibid., p. 338.


73


13. *ibid.*, p. 64.


15. See, for example, David Derge, "Metropolitan and Outstate Alignments in Illinois and Missouri Legislative Delegations," *American Political Science Review* 52 (December, 1958) pp. 1051-1065. Urban areas include both suburban and inner city populations and at least on some issues, the desires of these two populations are quite different. Some policies designed to aid central city populations are opposed by conservative coalitions of suburban and rural legislators. In those states where the results of reapportionment were most apparent in suburban areas, there was little reason to expect increased legislative responsiveness to inner city demands.


29. ibid., p. 270.

30. ibid., p. 288.

31. ibid., p. 289.


34. ibid., p. 481.


43. "State and Local Policy Analysis."

44. "State Party Systems."

45. "Literature Dealing with the Relationships."

46. "Outputs, Structure, and Power."


49. ibid., p. 40.


58. ibid.


60. ibid., p. 508.


66. ibid., p. 882.

67. ibid., p. 890.

68. ibid., p. 893.


72. pp. 222-223.


74. For example, see Jacob and Lipsky, "Outputs, Structure, and Power," p. 518.


77. ibid.


84. Sharkansky, "Regional Patterns," p. 971.


94. ibid., p. 47.
98. ibid., p. 83.
99. ibid., p. 94.
102. ibid., pp. 418-419.
103. ibid., p. 419.
106. ibid., p. 177.
108. ibid., p. 699.
110. ibid., p. 476.


112. ibid., p. 174.
CHAPTER THREE
MORALITY ISSUES IN STATE POLITICS

The explicit policy studies have tended to ignore morality regulations in their analyses but more general studies of state politics often contain some discussion of this area of state activity. One question sometimes considered is that of the significance of morality issues in the overall set of state responsibilities. There is no one dimension along which the relative importance of state activities can be compared. State government textbooks have traditionally presented the major responsibilities of the state as education, transportation and welfare. The conventional wisdom in the field is that the concerns of state political systems are generally "characterized more as services and less as regulators of behavior."¹ Any measure of the states' use of manpower and fiscal resources supports this position that the overwhelming concern of state government is that of providing certain basic services. Yet scholars of state politics also recognize that to get a "comprehensive picture of the patterns of policy in the states, matters such as civil rights legislation, public utilities regulation, labor law, and divorce statutes cannot be ignored."² One recent state government textbook observed that "consideration of these

82
[regulatory] programs, and assessments of the factors governing their operation, is now a major concern of state politics research.\(^3\)

**Salience of Morality Policy**

Morality regulations do not rank in importance with state service activities when viewed in terms of money and manpower used, but, viewed in terms of potential for political controversy, morality issues do deserve a high ranking. One reason questions of regulating public morality are so potentially controversial is that they reflect deeply held religious convictions of right and wrong. The religious basis of morality policy was discussed in Chapter One and the proposition offered that when public policy questions are seen in terms of defending or promoting The Truth, the heat of the political debate increases. Lockard, in his study of New England politics, found that "where the law and public morals become interrelated...the religious divisions of the New England states pose grave political problems" because of the conflicting sets of values held by the Catholic and Protestant communities.\(^4\) For Catholics, proposals such as the liberalization of birth control laws are seen as attacks on basic church doctrin and their reactions to such proposals can be intense. Just as central to the beliefs of many fundamentalist protestant groups is the conviction that the consumption of alcohol breaks down the moral fiber of society. In his study of pressure groups, Key noted that any policy proposal which affects a high
priority church position runs the risk of exacerbating deep
cleavages in society.\textsuperscript{5}

The interest aroused by questions of regulating public
morality is shown in public opinion polls. The low number of
'no opinion' responses to the following Gallup questions asked
during the last twenty years suggest the salience of these issues
to the general public. The level of controversy suggested by
these questions varies from region to region so that the break-
down of national opinion is not a true indicator of the degree of
support one of these policies is likely to have in any given
state. The issue of state-run lotteries is a hotly contested
one in the Midwest (46-42\%) and the West (47-44\%), for example,
while gaining overwhelming support in the East (67-25\%) and

\begin{table}
\centering
\caption{PUBLIC OPINION AND MORALITY QUESTIONS}
\begin{tabular}{lrrr}
\hline
& Favor & Oppose & No Opinion \\
\hline
State Run Lotteries (1964) & 48\% & 41\% & 11\% \\
Prohibition of sale of Liquor (1959) & 25\% & 70\% & 5\% \\
Legal Distribution of Birth Control Information (1962) & 72\% & 21\% & 7\% \\
Acceptance of Nevada Divorces (1954) & 48\% & 40\% & 12\% \\
\hline
\end{tabular}
\end{table}

overwhelming rejection in the South (29-57%). Prohibition is solidly rejected nationally but in the South, over twenty five years after national repeal, opinion was still evenly divided: forty-six percent of the South wanting a ban on all liquor sales contrasted with forty-seven percent opposing such a ban. The regional differences in these surveys suggest that the types of issues that come-up in some areas as near consensus issues may in other parts of the country be questions over which the public is sharply divided. The main point made by these surveys, however, is that whatever the breakdown of support and opposition to morality policies, there are few no opinion responses. Morality questions are policy questions that the public knows and cares about.

A high public awareness is not the only factor contributing to the importance of public morality type issues in state politics. Any attempt to curtail certain types of activities for moral reasons will have economic consequences because curtailling an activity entails curtailing the profits of those who provide the activity. The existence of the liquor industry and race track operation depends upon state licensing so their very livelihood is threatened by proposals to ban liquor or prohibit race track betting. As a result, the spokesmen for such interests are highly visable in state legislative chambers. A survey of legislators listing the areas in which lobbyists had the greatest interest showed liquor regulation ranked fourth
and gambling fifth. In the same survey, legislators ranked liquor issues second in terms of interest group conflict (after labor relations) and gambling fifth. First-hand observers of state politics have come to similar conclusions about the activities of economic interests affected by morality regulations. Lockard found race track operators to have the dominant lobbies in several New England states while Key found the liquor industry to be one of the heaviest spenders in Southern politics. In the border states, Fenton observed that horseracing and liquor interests stepped into the vacuum created by the absence of strong party organizations and provided the backbone of financial support in the funding of campaigns. While the economic stakes are not as great in divorce and birth control legislation, economic considerations do enter into consideration. Measham's study of the birth control services of county health departments in North Carolina found that the only organized opposition to the adoption of birth control programs came from county medical associations who feared "socialized medicine." The New York Bar Association was in the forefront of the movement to liberalize that state's divorce laws, a reform which would keep more divorce business from going to attorneys in other states.

As a result of the high visibility of public morality-type questions and the interest of organized lobbies in them, these questions have a high level of visibility in the legislature itself. A national sample of state legislators ranked liquor
and gambling fourteenth and fifteenth as the most important issues to come before their legislature the past session.¹³ When issue areas were ranked on the basis of controversy in the legislature, liquor legislation was first while the usually emphasized areas of health, education and highways ranked relatively low in controversy.¹⁴ Legislators ranked morality-type issues as being high in factional conflict, regional conflict and pressure group conflict; the only type of conflict not characteristic of these questions was partisan conflict.¹⁵ In fact, when legislators were asked which issues were likely to cause dissent within their parties, they ranked liquor first and gambling seventh.¹⁶ Another indicator of the controversial nature of public morality-type legislation is the low level of success this type of proposal has in passing the legislature once it is brought up for a vote. In twenty major issue areas, of those bill brought up for a floor vote liquor bills had the fourth worse rate of passage.¹⁷

Case accounts of the politics of individual states offer further evidence, though of a more fragmentary nature, of the place of morality-type legislation in state politics. A study of Oklahoma politics argued that prohibition was the dominant issue in that state for over half a century and that candidates were regularly elected or defeated solely on their liquor stand.¹⁸ Liquor control similarly was found to be the major issue in Kansas¹⁹ and of only slightly less importance in Nebraska.²⁰ A
study of Iowa politics in recent years emphasizes the role of the liquor issue and credits Harold Hughes' upset victory for governor in 1962 to his support of liquor by the drink.21 The most significant public question in New Mexico in recent years, "judging from the coverage of the two Albuquerque newspapers," concerns the liquor fair trade laws.22 Another observer noted with surprise that liquor control is even a substantial issue in the "ruthless, come easy, go easy West."23 Findings that concern over regulating morality is present in the South are to be expected. A study of local option referenda in Alabama, for instance, found campaigns "well-staffed and hard-fought."24 Gunther characterized the South as being fundamentalist not only about God and whiskey but about card-playing, dancing and cigarettes and even Sunday sales of Coca-Cola.25

It is Catholic theology and natural law doctrine more than fundamentalist beliefs which serve as the basis for morality legislation in the New England states.26 While morality politics is conventionally assumed to be associated with a conservative, rural, oriented political culture, the greatest disputes over birth control and divorce laws have taken place in the liberal, densely-populated states of the Northeast where Catholic populations are concentrated. Lockard, in his New England study, concluded that on measures which involve moral values, "there is no denying the influence of the [Catholic] church."27 Books and articles which review state regulations regarding sex and
marriage are nearly unanimous in blaming the Catholic Church for being responsible for these regulations. The types of morality issues that emerge and the groups involved may differ from state to state but most accounts of state politics take some recognition of the role that the question of regulating public morals plays in state politics.

**State Autonomy in the Regulation of Morals**

Disputes over morality policies play a large role in state politics because regulating morals is one of the few policy areas that remain essentially a state concern. Except for occasional judicial rulings, morality policy is an area where state controls have not been pre-empted by federal decision-making. States do not prohibit Sunday liquor sales or the advertising of contraceptives to comply with federal guidelines. States are relatively free to do what they please within broad constitutional guidelines. States may ban liquor sales entirely (though none now do) or actively promote its sale. Divorce proceedings can be made quick and easy or long and difficult. Gambling can be licensed and promoted in all forms or prohibited in all forms. Until the Griswold decision overturning Connecticut's law, state birth control policies ranged from a complete ban on the use of birth control devices to the active promotion and distribution of them through state sponsored clinics. Prohibition was the one major effort to regulate morality nationally but the twenty-first amendment soon gave back to the states for resolution
that issue which "had divided sentiments and inflamed passions for half a century before and defied a national solution."  

The inflamed passions which characterized the liquor trade are present in many of the disputes over regulating morality and it is the unequal distribution of these passions among the states that keep the states predominant in this area.

Because passions over morality type issues are unequally distributed throughout the land and because these issues constitute as area where states maintain considerable autonomy, morality policy is a category of state action where it is reasonable to look at state responsiveness to public opinion. Evidence of the salience of morality issues to the mass public has already been presented. Activities like gambling and drinking do bring in tax revenue, and even divorce and birth control policies have indirect economic consequences for the state, but these questions are not nearly as affected by state resources or concern over taxes or the possible weakening of other equally desirable programs, as are spending decisions. One study used national survey data and then calculated synthetic public opinion scores for each state based on a comparison of characteristics of the respondents to the national survey with the inhabitants of each state in order to test state responsiveness on selected policy questions. The highest congruence between public opinion and state action of any of the policy areas examined was in the area of gambling and liquor regulations. The explanation offered for
this high congruence was that when "opinions about public issues are tied to basic socio-cultural values, citizen preferences are stable and intense and more easily identified and acted upon by lawmakers." This is in contrast to spending programs where public preferences are less clear and where studies have shown more and more state dependence on federal aid. Strouse and Jones found that in 1968 the partial correlation between state welfare spending and federal aid while controlling for socio-economic and political variables was .82. High correlations between other program areas and federal aid were found as well leading the authors to the conclusion that "federal political controls are pre-empting state political controls" and that "the ability of state political systems to cause much variation in expenditure policy is quite limited," at least in "highway, welfare, and - increasingly - educational expenditures." Another study examining the determinents of change in spending among the states compared the influence of four environmental variables with that of federal aid and concluded that "change in per capita federal grants to states is the only factor which significantly affects changes in state and local per capita spending." All state decisions are somewhat contaminated by extra-state influences but there is no apparent national influence over state morality policy comparable to the impact federal aid has over state budgeting.
Existing Explanations of Morality Controls

While states appear to have considerable discretion in handling morality questions, what evidence there is of the factors determining state actions in this area is mixed. Dye attempted to identify the determinants of gambling and divorce regulations but he did not actually compare state law in these areas: his focus was more on the outcome of state laws. Gambling policy, for example, was operationalized by him as state revenue derived from gambling operations while divorce policy was measured as divorces granted per unit of population. Dye admits these are really measures of public participation but argues that "public demands...to engage in these behaviors and public attempts to regulate them are really opposite sides of the same coin and cannot be logically separated." Dye's hypothesis was that economic development makes public opinion more tolerant resulting in more liberal divorce and gambling laws. Simple correlation coefficients with various indicators of economic development revealed, however, that it was not any easier to obtain a divorce in highly industrialized, urban states. Dye commented that "there is reasons to believe the variations [in divorce rates] are affected by state law...but differences in divorce law appear unrelated to urbanism or education." The simple correlation coefficients between gambling revenue and levels of urbanization, industrialization and income were all in the .3 range. On the basis of these correlations, Dye concluded that
economic development led to an increase in the extent to which states will allow gambling as a form of recreation and rely on it for public revenue.36

Sutton calculated the congruence between state policy in six non-fiscal areas and estimates of state public opinion and then correlated the level of congruence with various economic and political variables. Among the areas examined were divorce laws and liquor and gambling laws. None of the political variables tested (measures of competition, participation, "attentiveness," and malapportionment) appeared related to the level of congruence between policy and public opinion. Congruence in the liquor-gambling area was most strongly associated with industrialization (-.32) while divorce congruence was highest where educational levels were high (.32). Sutton's conclusion was that for "liquor and gambling laws and divorce laws the explanatory factors are socio-economic; for such policy areas an extension of theories emphasizing the complexity associated with increasing industrialization and urbanization and the complexity and diversity of public views seem important."37

Aside from these two studies, little attention has been paid to regulatory policy over public morals in the comparative analyses of state policy. The Francis survey of state legislators revealed the relative saliency of morality type issues from state to state but offered no explanations as to why some states were more inclined to take action in this area than
One study of malapportionment attempted to test if over-represented rural districts led to increased efforts at liquor control measured by state monopoly of liquor sales. No relationship was found though a clear relationship would have been surprising since monopoly control systems are but one of many ways states have of regulating the liquor trade. Walker includes Alcoholic Beverage Control programs among the eighty-eight programs used to construct the innovation scores for the states but he does not present any data on its particular diffusion pattern. Few generalizations about the making of morality policy can be made based on the existing comparative literature.

Case studies and regional analyses have paid greater attention to efforts to regulate public morality though the extent to which their findings about the determinants of policy are true generally is not known. A conventional type of explanation of the differing amounts of attention paid to moral issues among the states is based upon the state's religious make-up. Chapter One presented the religious basis of many morality policies and suggested that a distinguishing characteristic of morality politics was the tendency to defend positions simply on the conviction that they are "right." Differences in theology give rise to differing convictions over the types of attempts to regulate human behavior that are right so that the religious make-up of a state would seem to offer an important clue as to
what public concerns will be in that state. Gunther, in his panorama of the American states, accounts for several regional differences on the basis of religion. He links prohibitionist sentiment in the South to the fact that it is the region "par-excellence of militant protestantism...the 'Bible belt,' the 'infant damnation belt,' and the total immersion belt," replete with "Gaelic fundamentalism, Bible marathons, revivalists and a fierce hostility to other creeds."41 In other areas of the country as well, concern over the sale of liquor is concentrated in memberships of conservative evangelical and fundamentalist churches. A study of votes on prohibition referenda found a high correlation between dry sentiment and fundamentalism as measured by a psychological test of fundamentalist attitudes as well as by membership in fundamentalist churches.42 Catholic populations, on the other hand, have been found to have little interest in promoting strict liquor control.43

Protestant-Catholic differences are important in areas other than liquor control. On public policy toward lotteries and gambling, the two major religious bodies clearly divide with Protestants taking the position that gambling is an evil which "not only demoralizes character but visits its losses mainly upon the poor" while the Catholic position is one of condemnation only if gambling is carried to excess.44 The question of permitting bingo or other games of chance for charitable purposes
is one in which positions sharply differ. Most Roman Catholic churches sanction bingo playing for charity and many use it to raise funds while most Protestant churches and Jewish congregations disapprove. One Gallup poll showed fifty-eight percent of all Catholics supporting charitable lotteries compared to only twenty-one percent support by protestants.45

The position of Catholics and Protestants is reversed in the area of laws governing procreation and marriage with Catholics here favoring strict regulations and protestants exhibiting greater tolerance. In his studies of parties and pressure groups, Key noted that "legislation bearing on the dissemination of information about birth control stirs up the sharpest controversy between Catholic and Protestant."46 Lockard's study of New England politics shows heated conflict between Catholics and Protestants in this area also. Lockard felt that "the fact that so many of New England immigrants were Catholics" was of "greater long run significance than ethnic factors per se" because religious values were so much more deeply rooted.47 Gunther also noted in his survey of New England politics the long standing power of the region's huge Catholic population in restricting the use and availability of birth control devices.48 The Catholic Church has always condemned contraception on the grounds that the "conjugal act is destined primarily by nature for the begetting of children" and that "those who deliberately frustrate its natural effect and purpose, sin against nature and commit
a deed which is shameful and intrinsically visous."49 The overwhelming weight of Protestant opinion, at least recently, favors artificial birth control on the grounds that "fertility and conception should not be left up to accident but should be well planned, thereby contributing to the moral, spiritual, and physical health of all concerned."50 For other marriage and procreation laws, divisions between Catholics and Protestants are not so sharply drawn. Catholics take strong positions against the liberalization of divorce laws and abortion laws but Protestant opinion is more divided on these issues with the more conservative protestant denominations often taking as strong a stand as the Catholics. In areas such as censorship there appears little difference between the two groups. Gunther remarks that the notoriety Boston achieved from banning books and entertainment resulted from it being the one "field in which both Catholics and Puritans agree and have identical objectives."51

A factor closely associated with religious affiliation in influencing moral attitudes is place of residence. Residents of farms and small towns are usually pictured as having more conservative social attitudes than do inhabitants of large cities. The major studies of state politics have all noted urban-rural conflicts in the area of gambling and liquor laws. Key, in his survey of state politics, suggested that the homogenous nature of small town life was a powerful inducement to conformity to social norms.52 In contrast, urban life with its
ever changing set of problems, greater impersonalization, and more heterogeneous population mix, brings about more tolerant attitudes toward individual behavior. The 'dynamic forces of urbanism' is often the explanation given to account for liberalizing trends in gambling and liquor regulations. One of these forces may be the increased cost of government in heavily urbanized areas which may generate pressure to legalize and then tax heretofore prohibited activities in order to increase state revenue.

Interest in regulating morality is not always limited to the country-side, however. Those questions on which the Catholic Church takes a strong stand often find nearly as much support within cities, where Catholics tend to be concentrated, than in sparsely populate areas. A 1963 Gallup poll showed only eleven percent of Protestants favoring state prohibitions against the distribution of contraceptive devices while thrity-nine percent of the Catholics supported these prohibitions. The Gallup results do not give a religious breakdown of support while controlling for place of residence but an earlier survey had shown slightly more support for legalizing the distribution of information on birth control in towns of under 2500 (72% - 28%) than in those over 2500 (71% - 29%). The first programs to provide birth control services through state or county health clinics came not from highly urbanized states but from rural (and Protestant) Southern states: North Carolina in 1937, South Carolina in 1939, and Alabama in 1940.
For issues on which the Catholic Church does not take a position, there is evidence supporting the conventional views relating support for moral regulations to non-urbanized environments. A 1964 poll showed that sixty-one percent of the country's farmers opposed lotteries "run by the state government to help pay the cost of government" while opposition in cities over 500,000 was only twenty-eight percent. A 1954 poll on prohibition showed urban residents overwhelmingly wet (77% - 20%) while in rural areas and on farms sentiment was still dry (49% - 47%). Even in Kentucky, where the liquor industry constitutes a major economic interest, the rural areas have strong dry tendencies. Twenty years after the repeal of Prohibition, two-thirds of Kentucky's counties remained dry by local option. Existing evidence suggests that in regulating gambling and liquor, support does come mainly from smaller towns but it is not clear whether this reflects more the independent effect of the stable, homogeneous nature of rural life, or the concentration of fundamentalist protestants in these areas. On the question of birth control and divorce, the impact of the Catholic Church appears to be greater than that of community size.

Much attention has been given in state policy studies to the effect political variables have on the translation of public demands into public policy. No effort has been made to explain moral regulation in terms of political variables though the suggestion has been made that concern over the regulation of
public morality often accompanies under-developed political institutions. Key's finding in the Southern states was that propositions regulating morality, especially in the area of liquor control, divided along the basic factional alignments of the South: "the old Populist battle of the poor, white farmer in the hills against the plantation regions."60 For example, in Mississippi, Key's analysis found that "the line dividing the delta and the hills is more than economic. The mores, morals, and ways of life of the two groups differ... The preachers of the hills fight Demon Rum and their followers vote for prohibition, while the sinful delta votes for liquor."61 In South Carolina, the antipathy between poor hill farmers and those in the richer lowland surrounding Charleston was kept alive by the "persistent condemnation of that city as the symbol of all sin."62 At the height of the Populist movement in the South, prohibition was considered a legitimate social reform. The liquor traffic was "equated with rural and progressive suspicions of the trusts and 'special interests' and, when reform pressures mounted "prohibition offered an easy outlet."63 The progressive urge of the Populist crusade did not disappear in the South but "was transformed... The impulse for 'good government' and public services...somehow turned into a drive for moral righteousness and conformity."64 Key's theory of party competition suggests why 'moral righteousness' rather than improved public services became a major issue in Southern politics. According to Key, the promotion of a sustained
economic program to benefit have-not segments of society requires a system in which parties need the votes of the have-nots to win and are well enough organized once in power to overcome the opposition of upper class economic groups and implement their programs. The race issue had prevented the development of a competitive party system in the South, however, so the reform impulse was absorbed in moral crusades which posed little threat to economic elites. The emotional issues of drink and gambling promised greater pay-offs for lower costs in the disorganized, every-man-for-himself style of Southern politics than did serious attempts to improve the quality of education or health care.

There are, of course numerous other variables which might affect policy making in the morality area. Not infrequently, businesses develop a financial stake in a certain type of regulation and give strong support to them for purely economic reasons. The best example of this is the ardent support given prohibition by bootleggers in the South. Counties most eager to adopt state-wide prohibition are often those where the illicit liquor trade is the strongest. Beer distributors and package store owners join with religious groups to maintain prohibitions on the sale of liquor by the drink. New Mexico's liquor fair trade laws were supported by liquor wholesalers and retailers because they guaranteed profits though they had originally been backed by temperance forces who saw them as a way of reducing
the use of alcohol. Enforcement of Blue laws is more the concern of Downtown merchants who want to fight the competition posed by discount houses who are open on Sunday than it is a concern of church groups in some places. Racing interests have opposed legalization of any other form of gambling than pari-mutual betting in order to maintain a gambling monopoly. Organized crime purportedly supports strict gambling laws for the same reason. To soften rural opposition to gambling, the state's share of track money in several states is earmarked for county fairs which turns rural representatives into gambling's strongest supporters. Economic self-interest does become a factor in many morality policy disputes, but it often manifests itself in unexpected ways. This makes it difficult to control for in systematic ways in the testing of policy-making models.

Regulating Morals: A Model

Despite the number of unexpected and uncontrollable influences which frequently intervene in the policy process, the existing literature suggests that some factors can be systematically linked to certain types of moral controls. The key components of the policy process for moral regulations suggested by the literature are shown in the following model. The independent

![Figure 2: A Morality Policy Model](image-url)
determinants of moral regulations are classified as aspects of religious culture and as aspects of economic development. Demands for policy must come from someone and existing studies suggest that religious groups are usually in the forefront of efforts to safeguard community morals. Ideas of what is right and wrong have religious origins and are often spelled out in church doctrines. Religious culture here is used to mean the values, beliefs, and practices characteristic of the major religious traditions within the United States. It will be operationalized by the number of members of denominations representing these traditions in each state. The formal membership of an institution is an imperfect measure of the extent to which the formal doctrine of the institution is popularly held but such rough indicators must of necessity be used in aggregate data analyses. Opposition to morality regulations, or, the absence of efforts to control morals, is often linked to pressures associated with economic changes that bring about greater attention to economic questions but which lessen public interest in establishing social conformities.

Policy models have been criticized for conceptualizing measures of economic and social conditions as policy 'inputs.' In this model, the assumption is made that the independent variables - religious culture and level of economic development - are indirect indicators of public preferences and thus can legitimately be considered as "inputs." Relying solely on
statewide ecological data to infer citizen attitudes and actions would be highly questionable but coupling aggregate measures with qualitative analyses of the policy process permits their interpretation with some confidence. Survey results already have been presented which show that urban and rural populations as well as Catholic and Protestant populations hold differing views on morality questions. The following four chapters will illustrate the political relevance of these differing views.

The process suggested by the model is that the religious culture a person is socialized into and the type of environment he lives in will influence the attitudes he holds on morality policy and that the 'demands and supports' he gives the political system will reflect these attitudes. The form these demands take is not specified though the case studies in the next four chapters will provide examples of specific kinds of inputs.

The 'output' end of the model also poses conceptual problems. In most of the recent state policy work, policy is defined as the amount of money a state spends within a particular functional category on the assumption that money spent is an indicator of state commitment to that governmental function. It is not clear what meaning should be attached to state budget entries, however, Sharkansky correlated spending data with measures of policy 'outcomes' such as the percentage of students in a state passing the selective service examination and found that spending was a poor predictor of performance.70 This lack of a strong correlation
between policy outputs and outcomes suggests that when policy is defined simply in terms of what the legislature does, the important question of how a policy actually affects society cannot be answered. Ripley, et al. suggest that policy should be viewed as consisting of three components: policy statements or what governments say they will do; policy actions or what governments actually do; and policy results or the consequences which occur in the environment. These distinctions are relevant to the analysis of morality policy in areas like liquor and gambling, and divorce and birth control, in that statements, actions, and results may give quite different pictures as to what a state's policies "really" are. All three components are important but it is vital to make explicit which component is being analyzed at any given time.

The notion of policy in this paper will be used in its most narrow sense of what is written in the formal law. The difficulty of collecting data and space limitations are two reasons for using this narrow conceptualization of policy but there are also positive advantages to its use. First, a substantial part of the existing literature has focused on legislative enactments rather than on the implementation or results of policy so that maintaining a similar focus in this study will permit greater comparison with the findings and conclusions of previous state policy work. Secondly, formal legislative enactments are clearly an attribute of the state political system while enforcement and outcome measures are more attributes of
local jurisdictions. Since part of this paper is a cross sectional state analysis, it is important to focus on variables that can be meaningfully measured at the state level. Thirdly, morality legislation enactments are important in themselves in that they indicate whose beliefs about morality have been formally recognized by the state. Even if a law is not enforced, it places a certain social stigma on those who violate it.\textsuperscript{72}

In the following four chapters the types of laws states have enacted in the policy areas of divorce, birth control, gambling and liquor will be reviewed. States which attempt to severely limit or prohibit entirely certain types of behavior judged to be immoral will be called strict regulators while states not having such laws will be termed liberal regulators. Guttman scales are used in Chapter Eight to provide quantitative measures of the restrictiveness of state laws in each of the four areas. The historical evolvement of morality laws will be considered in the qualitative analysis but the quantitative measure will be limited to one time period, 1960.

The hypotheses below follow the linkages of the model and reflect the conventional wisdom as to what the main determinants of morality policy are.

1. States with large fundamentalist protestant populations will be strict regulators of liquor and gambling.

2. States with large Catholic populations will be strict regulators of divorce and birth control.
These first two hypotheses simply suggest that the fundamentalist protestant and Catholic religious traditions hold different value frameworks of personal morality and that these frameworks will be reflected in the public policies of a state somewhat proportional to the strength of the two religious traditions within the state. Because the value frameworks of personal morality associated with the two religious traditions under study here have their origins in well-established doctrinal points and religious practices, their impact on public policy should be independent from more contemporary pressures on morality policy such as those stemming from the economic environment. Therefore, the relationships suggested in the first two hypotheses are expected to persist when controlling for other variables. The two religious traditions are not mutually exclusive when measured by the number of Catholic and protestant church members in each state, since either category seldom exceeds fifty percent of the total state population. But the number of a religion's adherents within a state, when coupled with the adherents' level of group identity and the state's religious history, usually results in one of the religious cultures being dominant over the other.

A second factor affecting the restrictiveness of state morality legislation is the state's level of economic development. Economic development is not a very precise concept but it is often used to refer to a broad range of social and economic phenomena which distinguish societies with agriculturally based economies from
those with industrial bases. Theories of social change as well as empirical studies suggest that:

3. States having a high level of economic development will be liberal regulators on questions of personal morality.

This proposition would not be read to imply that states with low levels of economic development will necessarily be strict regulators, however. Rural life may be conducive to demands for moral conformity but it does not embody a particular ideology from which specific rules of behavior can be deduced. Changes in the socio-economic environment may bring about pressures to liberalize restrictive laws but the absence of such changes does not of itself lead to the enactment of prohibitions on drinking or bans on birth control. The effect that economic development has on morality policy would seem to be strictly a negative one. States enact morality regulations, according to the model being suggested here, not because of environmental pressures but from demands rooted in the state's religious culture.

The role of political variables is indicated by the middle component of the model. Key's analysis of Southern politics suggested that the greatest attention will be given to public morality questions in states which do not have well-developed political party systems. Emphasis on regulating morals was seen by Key as a symptom of a malfunctioning system. If this view is correct:

4. States having competitive and cohesive party systems will be liberal regulators on questions of personal morality.
In Key's view, disorganized politics actually gave rise to morality politics whereas responsible party systems did not waste time on regulating morals but kept attention concentrated on economic issues. Other hypotheses have grown out of the Key work which suggest a different type of relationship between morality policy and competitive parties. Some argue that competitive parties increase the general responsiveness of the political system to popular preferences and predict that the congruence between political demands and political actions will increase as political parties become more competitive and more cohesive, no matter what the policy area is. In this view, party competition is not seen as having an independent effect on morality regulation but is expected to strengthen the relationship between public attitudes on moral issues (indicated here by religion and urbanization) and actual policy. Another alternative hypothesis, based on some of the early analyses of spending policy, is simply that political factors do not affect policy patterns at all, or, at least not in ways detectable by analyses of aggregate data.

Other political phenomena can be incorporated into the 'political variables' category besides measures of the party system. Sharkansky and Hofferbert found measures of professionalism and state-local centralization to be more useful than competition measures in accounting for some policy differences. A highly professional state government presumably would not be very receptive to emotional demands to legislate against sin and so
the effect would be similar to the one outlined in the original version of hypothesis five: professionalism as well as competition will decrease the likelihood of morality legislation.

Sharkansky broadened even more the concept of political phenomena in another spending policy study to include as political variables previous expenditures, federal aid and tax effort. The historical treatment given different types of moral behavior can be reviewed in each state but it is not clear what morality party influences analogous to federal aid and tax effort would be. They might include model state laws, regional norms, and court rulings. No effort will be made to systematically test for these elements though their impact will be considered in the descriptive analyses of morality policies in Chapters Four through Seven.

Conclusion

Previous observations of morality politics in the American states have been reviewed in this chapter and used, along with the more general policy literature discussed in Chapter Two, to put together a morality policy model. This model and its accompanying hypotheses provide a framework under which specific areas of morality regulations can be studied. In each of the following four chapters, one area of morality policy will be examined within this framework. Various forms of morality policy in each of these areas will be reviewed and then several cases of recent attempts to maintain or change the policy of a particular
state presented. The purpose of these case studies is to help test the hypotheses by judging whether descriptive accounts of the policy process are theory confirming or theory infirming. Special attention will be paid to the role that political institutions and political decision makers play because of the contradictory findings in other studies of the kind and size of impact they have.

In Chapter Eight, the components of the model will be more rigorously operationalized and the hypothesized relationships tested through a quantitative analysis of data from all fifty states. Not only will this enable the model's hypotheses to be tested directly, but it will provide the opportunity for explicitly comparing morality policy with the spending policies normally looked at in such studies.
FOOTNOTES

CHAPTER THREE


7. Ibid.


10. John H. Fenton, Politics in the Border States (New Orleans: The Hauser Press, 1957) p. 120.


14. Ibid., p. 43.


17. *ibid.*, p. 54.


28. The literature on the legislation of morals which was cited in Chapter One all supports this claim.


32. *ibid.*, p. 207.


35. ibid., p. 223.

36. ibid.


38. Legislative Issues, p. 11.


41. Gunther, Inside USA, p. 724.

42. Farris, "Prohibition as a Political Issue," p. 42.


44. ibid., p. 44.


46. Key, Politics, Parties and Pressure Groups, p. 119.

47. New England Politics, p. 308.


50. ibid., p. 60.

51. Gunther, Inside USA, p. 532.


55. ibid., p. 41.


57. Gallup, Gallup Poll, pp. 1876-1877.

58. ibid., p. 1296.

59. Gunther, Inside USA, p. 701.

60. Southern Politics, p. 302.

61. ibid., p. 233.

62. ibid., p. 137.


64. ibid., p. 19.


66. Gunther, Inside USA, pp. 700, 799.


72. See Chapter One for a fuller discussion of this point.

74. This was the major conclusion of Dye's Politics, Economics and the Public.


CHAPTER FOUR

LIQUOR POLICY: THE LEGACY OF THE LATE DEMON RUM

Few issues in the history of American politics have inflamed passions and dominated the political process over a sustained period of time to the extent that the issue of liquor control has. Some nineteenth century reformers believed the institution of the saloon to be as immoral as the institution of chattel slavery and fought the saloon as fiercely as abolitionists fought slavery. Pressure for the total elimination of the liquor trade reached its zenith in the second decade of the twentieth century and culminated in the ratification of the eighteenth amendment. Enforcement difficulties, changing social norms, and economic pressures led to repeal of national prohibition in 1933 but repeal in no way signaled an end to governmental efforts to regulate individual drinking habits. Harrison and Laine observe that "the determination of the American people to tax liquor and impose restrictions on its sale as a substitute for ineffectually attempting to outlaw its manufacture and sale came with surprising swiftness." One year after the ratification of the twenty-first amendment, twenty-two states were still dry under statewide prohibition while large areas in other states were dry through local option. In the forty years since national
repeal, there has been a liberalizing trend in state regulations though opposition to liberalization has kept liquor control an explosive issue in a number of states.

History of State Liquor Laws

States began experimenting with various forms of prohibition in the early nineteenth century. Indiana in 1816 prohibited the sale of liquor on Sunday. Maine passed the first local option law in 1829 and banned liquor on a statewide basis in 1847. Massachusetts in 1838 passed a law prohibiting the sale of less than fifteen gallons of spiritous liquors to be delivered and carried away at any one time. The Temperance movement suffered a setback during the Civil War as governments turned to liquor taxes to raise money for the war effort but the latter third of the nineteenth century witnessed renewed agitation for stricter liquor laws. By the time national prohibition went into effect, 63.3 percent of the population was already living under state prohibition.3

Some of the impetus for national control came from Supreme Court decisions such as Leisy v. Hardin (1890) and Rhodes v. Iowa (1898) which limited a state's right to regulate liquor coming into the state through interstate commerce. Congress eventually passed the Webb-Kenyon Act in 1917 divesting intoxicating liquors of their interstate character but by this time the crusade for national prohibition was underway. Webb-Kenyon retains a relevance to any contemporary analysis of state liquor laws because
its attempt to diversify liquors of their interstate character served as the model for Section Two of the twenty-first Amendment which guarantees the right of a state to control the liquor trade within its borders. In *Finch v. McKittrick* (1939) Justice Brandeis ruled that under the twenty-first amendment, "the right of the state to prohibit or regulate the importation of intoxicating liquors is not limited by the commerce clause." The twenty-first amendment, according to one analysis, lifts the state to a "new, surprising and extraordinary position of power in the federal system." While a state's power to regulate morals in most areas is justified as falling under the state's police powers, state control over liquor is specifically guaranteed in the Constitution.

Some of the ways the states have gone about regulating the sale of liquor are shown in Table 2. Only one state, Mississippi, maintained statewide prohibition into the 1960's, and it voted for repeal in 1966 after the governor, who was caught in a liquor raid, threatened to "dry up the state like the Sahara Desert" if repeal was not passed. Mississippi received further incentive to repeal prohibition when court decisions called into question the state's practice of levying a special tax against materials that were illegal to sell, commonly referred to as the bootleg tax. Twelve other states maintained statewide bans on liquor by the drink in 1960 while many other placed restrictions on the days or hours of sale, the type of
<table>
<thead>
<tr>
<th></th>
<th>No Liquor By Drink</th>
<th>No Outdoor Advertising</th>
<th>Liq. Store Sales Only</th>
<th>Mandatory Mark-ups</th>
<th>No Sunday Package Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Arizona</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>California</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Florida</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Georgia</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Idaho</td>
<td></td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Illinois</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Iowa</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Kansas</td>
<td></td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Kentucky</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Maryland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Massachusetts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Michigan</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Minnesota</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Mississippi</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Missouri</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td></td>
<td>No Liquor By Drink</td>
<td>No Outdoor Advertising</td>
<td>Liq. Store Sales Only</td>
<td>Mandatory Mark-ups</td>
<td>No Sunday Package Sales</td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------------------</td>
<td>------------------------</td>
<td>-----------------------</td>
<td>--------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Montana</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>NEbraska</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>New Jersey</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>North Dakota</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>South Dakota</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Texas</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Utah</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vermont</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wisconsin</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

advertising permitted, the type of outlet that could sell liquor, and the price that could be charged. The Licensed Beverage Industry complained that even though national prohibition had been repudiated, the states still "accepted the basic tenets of the Classic[Temperance] Movement Philosophy...that alcohol was potentially a specific, unique and massive evil and that the realization of the evil depended on availability" and that the only way to control the potential evils of liquor was to control its availability.

The model legislation sponsored after Repeal by the National Municipal League urged the adoption of state run monopolies to control liquor distribution and reduce abuse by taking the private profit motive out of retail sales. Seventeen states adopted the monopoly system of control including such large industrial states as Michigan, Ohio, and Pennsylvania. The presence of monopoly systems in one study was hypothesized to be associated with rural control of malapportioned legislatures though critics pointed out that there was no real reason to assume that malapportioned legislatures preferred state monopoly systems. That fifteen of the seventeen monopoly systems were enacted within three years after Prohibition suggests that some simply saw state stores as a quick way of re-establishing a system of retail distribution. If the monopoly system was originally seen as a way of restricting use by taking away the profit motive, the revenue demands of state government have come to serve as a substitute
profit motive, encouraging states to promote sales in order to increase income to the state treasury. Earnings and mark-ups in state liquor stores as well as general liquor taxes in license states do reflect a sentiment in favor of taxing vice, but they also reflect the financial pressures on the state so high taxes or high mark-ups in themselves are not a good indicator of a state's temperance leanings.

Besides controlling the abusive use of alcohol, the Municipal League's model legislation sought to relegate liquor control to its "proper place" in the political system so that it would not overshadow all other issues. The League's recommendation was to rely on administrative rules rather than detailed legislation in regulating liquor sales and to discourage continuous local option elections. Over half the states did establish independent commissions or boards to set regulations and oversee the administration of the liquor control system. This practice suggests a possibility that has been overlooked in the attempts in past studies to gauge the impact of political system variables on the types of policies followed. Liquor regulations show that it is possible for a policy to contain provisions designed specifically to protect the policy area from political influences. A political variable which needs to be examined when looking for political impacts on policy is the extent to which the policy is designed to be open or closed to such impact. Of the thirteen states still prohibiting liquor by the drink in
1960, ten were found in the twenty-one states where liquor control is under the direction of an elected official rather than a non-political board or commission. There are various ways this association might be explained but one possibility is that the emotional issue of liquor by the drink has been more likely to retain its salience in those states where the liquor system is highly sensitive to political pressures.

One device which the Municipal League feared led to the increased politicalization of liquor issues, at least if used in excess, is the local option election which permits a subdivision within the state to vote on whether it wishes to be wet or dry. State laws regarding local option differ widely; some provide for referenda only through legislative action though most states permit elections to be called on the basis of petition drives. Ten states do not have any provision for local option. Local option usually involves giving drays the right to enact local prohibition though many states have expanded their laws to permit cities and towns within dry counties to go wet through local option. While local option elections have been of considerable annoyance to the liquor interests, their use is more a reflection of a legislature's desire not to have to deal with control questions on a statewide basis than it is of an intent to reduce the level of consumption. Of those states having no local option procedures,
one half pursue generally restrictive liquor policies at the state level while the other half pursue relatively non-restrictive policies.12

**Determinants of Liquor Regulations**

There are various interpretations of the nature of the struggle over liquor control and various sets of explanatory variables though neither the different interpretations or explanatory variables are mutually exclusive. The broadest framework of analysis relates changing attitudes toward liquor control with basic changes occurring in American society. Abstinence is associated with rural and small town life styles which were dominant in the nineteenth century but which gave way to urban life styles in the twentieth century. Partly this view reflects the conventional view on regulating morals generally; that as a society becomes more heterogeneous, it will become more tolerant and less concerned with regulating peoples personal affairs. There is a more positive side to this argument as it applies to liquor, however, and it is that alcohol serves a beneficial function in a modern, complex society. Bacon argues that "complexity results in a need for greater integrative functioning; lessening of tension, uncertainty, suspicion is necessary for this function; alcohol has been found useful in its accomplishment."13 This thesis argues that the change of American from a rural, homogeneous, agricultural society to an urban, industrial
one brought about conditions that were not only inhospitable to the prohibition of liquor but positively receptive to liquor's use.

While the social changes which accompanied the urbanization and industrialization of America undoubtedly did bring about pressures for relaxing drinking codes, they cannot account for the original imposition of such codes. There is nothing inherent in an agricultural society that requires that drinking be curtailed and, in fact, there was little effort to restrain drinking habits in the United States in its first twenty-five years of the nation's history. While urbanization and industrialization are identified as forces opposed to strict liquor laws, ruralism does not become in and of itself a cause of strict liquor control. The rationale for strict liquor laws and pressure for their passage must originate somewhere else and the preponderance of evidence suggests that both the rationale and muscle of temperance reform was centered in certain protestant churches.

There were several dimensions to the religious influence on liquor laws. The most general religious influence comes from the nation's Puritan heritage with its tradition of theocratic dominance. While the Constitution proclaims a separation of church and state, the heritage of the early theocratic communities gave birth to a political tradition which led to "excessive regulation of man's personal affairs."14 This tendency resides in a somewhat contradictory tenet of Puritan thought regarding
the basic depravity of man. One historical analysis notes that "it is a peculiar paradox that Puritanic America, so bent upon minute regulation of the individual's daily life, is also the last stronghold of the view that all government is an evil, necessary at times, but an evil nevertheless." Man could not be saved through positive state programs because government was a human institution and itself depraved. The power of the state could be applied in a negative fashion, however, to protect people from their own sinful impulses. Laws could prevent individuals from engaging in immoral activities though they were seen as incapable of changing for the better the naturally sinful state of man.

The actual interest shown by the churches in liquor control is not really a direct offspring of Puritan theology, however. In the early days of the Republic, the churches played little part in the temperance movement. It was not until the second quarter of the nineteenth century that the protestant churches took up the temperance banner and launched a crusade against the liquor trade. The key question is why did the churches suddenly take up the temperance banner in the nineteenth century and why did they demand total abstinence and prohibition rather than regulation. The most persuasive answer to the question is found in James Timberlake's *Prohibition and the Progressive Movement* in which Timberlake argues that it was the giant evangelical revivals of the nineteenth century which prompted American
protestants to become deeply involved with the liquor issue. The focus of the revivals was to save souls through individual conversion. The emphasis of the revivals was not on the acceptance of certain creeds but in changed behavior, "a new piety and asceticism...that expressed itself in abstention from such worldly pleasures as drink." Evidence of a true conversion required a demonstration of changed behavior and abstinence was the most convenient behavioral criteria of 'real change.' In time, abstinence came to be viewed not only as a sign of personal piety but as a habit which, even if it had to be enforced by law, would facilitate man's efforts to find salvation. As an enemy of spirituality and deflier of the body, intemperance was viewed by the evangelical protestants as separating man from God and preventing him from obtaining salvation.

The concern over saving men's souls was not the only factor motivating American protestants. Issac observes that "there was no exact correlation between fundamentalist protestantism and prohibition; theological liberals strongly influenced by the social gospel and infused with the desire to reform society were among the most outspoken advocates of legal prohibition." In the West, especially during the progressive and populist reform movements, prohibition was accepted by many liberal churchmen as a legitimate social reform along with child labor, women's suffrage and social security. After national prohibition new theories emerged regarding the causes of social and economic
deprivation so that support for strict liquor laws no longer reflected the type of social concern present in the liquor controversies around the turn of the century. Some remnants of this early position remain visible among liberal protestants, however. An issue for many years in New York State was the eighteen year old drinking laws which were consistently opposed by mainline churches, both in New York and neighboring states, on the grounds that it led youth into trouble.

Since the repeal of national prohibition, the strongest support for prohibition has come from the more conservative protestant groups. Voting studies of liquor referenda and public opinion surveys have established a relationship between liquor attitudes and fundamentalist religious beliefs. Farris studied voting patterns on prohibition referenda in Alabama and found prohibition sentiment related to two indicators of fundamentalism: membership in fundamentalist churches and the Hamilton test of fundamentalism which ascertains the extent to which the respondent believes in the literal interpretation of the Scriptures. While belief in the literal reading of the Bible is the defining characteristic of fundamentalism, there is no aspect of fundamentalist theology which mandates an anti-liquor stand. Rather than stemming from an explicit theological base, the position of fundamentalist churches on liquor stems from their need to have a clear issue to demonstrate their separation from the secular world, the same sort of need which made liquor
control a protestant issue in the first place. The fundamentalist outlook is to dichotomize the world between good and evil and the consumption of alcohol is a convenient and highly visible indicator of this division.

Liquor control has been a long standing source of friction between Catholics and protestants. V.O. Key noted that "the prohibition movement and subsequent efforts to restrain the liquor industry by such methods as restrictions on advertising have been primarily Protestant movements" and that Catholics have never seen prohibition as "an effective means of handling liquor problems." Some of this difference is cultural rather than religious as Catholics came from different national backgrounds than protestants, immigrated to America as industrial workers and settled in the large cities. But, some of the basis for the differing views on drink are explicitly religious. Catholic tradition is ritualistic emphasizing proper belief, liturgy, and participation in the sacraments rather than traumatic conversions. The Catholic Church "starts with the conception of the good but damaged natural man; the Protestant with an idea of man utterly corrupted by the Fall." The two views significantly affect what is seen as man's proper relationship to his world. In Niebuhr's terms, the Catholic position is one of Christ above Culture, of man holding dual citizenship in the city of man and the city of God. The evangelical Protestant has, however, tended to adopt a Christ
against Culture position, of man who must reject the ways of
the world if he is to be reconciled to God. 23 Those Protestant
denominations which most resemble Catholicism in their emphasis
on liturgy, confession, creed and sacraments such as the Protest-
ant Episcopal and Lutheran churches - are far more lenient on
matters of private morality such as drinking than are those
denominations which require a dramatic rejection of worldly
pleasures as proof of a change heart.

Church efforts to influence liquor policies have usually
come through umbrella organizations such as the Anti-Saloon
League, the Women's Christian Temperance Union or ad hoc
temperance groups. The tactics used by the Anti Saloon League
in mobilizing the power of the churches is fully described in
Odegard's Pressure Politics. 24 The League's base of power was
the same for state or national politics. The political efforts
of the League used "the individual congregation as the basic
organizational unit, and the individual minister acted as a sort
of precinct whip under the direction of professional organizers
tied together under a highly centralized authority." 25 The
power of temperance groups gradually declined after national
prohibition though various organizations remain active, especially
in those states which retained modified prohibition. In the
1960's, the United Dry Forces of Kansas were using the same
tactics the League had made famous in the drive for national
prohibition. Individual legislators were asked to commit
themselves against liquor by the drink and if any legislator waivered the United Dry Forces "could deliver 500 letters and telegrams on [his] desk with two days notice."26 As the major protestant denominations, the Methodists, Baptists and Presbyterians, began to withdraw their active support from temperance reform, the temperance groups lost the basis of their power. The smaller evangelical denominations were more difficult to mobilize and their resource smaller than those of the major denominations.

The reason for the change in position of the major protestant churches reflect several factors including reaction against the problems brought on by national prohibition and the changing conditions which were effecting society generally. The major churches, especially the Methodists who had been at the forefront of the temperance crusade, had been highly evangelistic and pietistic in the nineteenth century but by the mid twentieth century were taking a less hostile view of the world. As church members became more affluent they identified more with society and saw less reason to demonstrate their separateness from society. It has been the lower class, fundamentalist churches which have retained the view that Christians need be separate from the world and demonstrate that separation through such actions as abstinence. What appears to have happened in the major denominations is that not only did higher levels of education and affluence in society bring about pressures for
liberalization in opposition to church demands but that these same forces brought about changes within the church which affected the way in which the church saw its relation to the rest of society.

The major protestant denominations may no longer take an active interest in most liquor control issues but their strength in an area may be a good indicator of past influence which is still reflected in liquor policies. There is evidence to suggest that liquor regulations are relatively stable over time and that existing policies are as reflective of past forces as they are of existing influences. Of the eight states that had statewide prohibition in 1912, six prohibited the sale of liquor by the drink in 1960. Table 3 shows the relationship between the vote of a state on repeal and the restrictiveness of its liquor laws in 1960. The states which passed the twenty-first amendment by a better than two to one majority were

<table>
<thead>
<tr>
<th>Margin of Support&lt;sup&gt;a&lt;/sup&gt; for Repeal</th>
<th>Restrictiveness of&lt;sup&gt;b&lt;/sup&gt; State Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 to 1 or better</td>
<td>14</td>
</tr>
<tr>
<td>Repeal margin</td>
<td>Restrictive</td>
</tr>
<tr>
<td>Repeal margin less than 2 to 1</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Non-restrictive</td>
</tr>
<tr>
<td></td>
<td>(Phi = .57)</td>
</tr>
</tbody>
</table>

<sup>a</sup>Brewers Almanac (Washington: United States Brewers Association, 1973) p. 112.

<sup>b</sup>Based on Guttman scales developed in Chapter Eight of this paper. States scoring 3-5 on the scale were classified as restrictive while states scoring 0-2 were classified as non restrictive.
considerably more likely to have less restrictive laws in 1960 than those states were repeal was favored by a smaller margin or defeated. Past policies and pressures exert an influence on present liquor legislation just as past spending decisions influence a state's present budget allocations. No policy can be understood out of its historical context.

The most familiar explanation of the changes that have been made in liquor laws since Prohibition is that changes in the social and economic environment have brought about changes in public opinion regarding the use and regulation of alcoholic beverages. Table 4 indicates the level of support for prohibition and personal drinking habits of Americans over a thirty year period. Gallup's figures indicate that while support for prohibition did decline twelve percent between 1936 and 1966, there was a period during the War when prohibitionist sentiment increased slightly. The Gallup poll also shows that the percent of abstainers was just about the same in 1966 as in 1936 though there had been a significant increase in the number of non-drinkers in the 1950's. These figures suggest that there is not a simple linear relationship between increasing education, income and urbanization and liberal attitudes toward alcohol. Gusfield argues that rapid changes in these areas may cause groups who feel threatened by such changes to seek symbolic reassurances of their status through legislation. His thesis is that the drive for national prohibition was a product of the
growing urbanization and industrialization of American society in that it represented an effort by rural, native Americans to maintain a recognition of their traditional values in the face of these changes.\textsuperscript{28} Using Gusfield's framework the growth of industrialization resulting from World War II may be linked to the increased support for temperance in the 1940's and 1950's though clearly it did not provoke as spectacular or as successful a rural America backlash as occurred in the World War One era. At the state level, there is some evidence that the drays did try to regain the offensive in this time period. Unsuccessful efforts to reinstate state-wide prohibition were voted on in referenda in Nebraska (1944) and Arkansas (1950) while another prohibition bill was almost passed by the Georgia legislature.\textsuperscript{29} Data showing the percentage of the country dry under local option indicate the percent of the population living in dry areas of the country, indicates that the country did became slightly more dry in the early 1950's through local option elections. The citizens of thirteen states, all but three of them in the South, voted through local option to increase prohibition between 1951 and 1955.\textsuperscript{30} The reversal of the direction of liquor sentiment on liquor control, which roughly coincided with a record period of growth within the protestant churches, was a temporary phenomena but it does suggest that public sentiment regarding liquor control is not simply a function of the socio-economic environment.
TABLE 4: THE PERCENTAGE OF ABSTAINERS AND THE PERCENTAGE OF PROHIBITION SUPPORTERS

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent Favoring Return of prohibition</th>
<th>Percent personally abstaining from use of alcohol</th>
</tr>
</thead>
<tbody>
<tr>
<td>1936</td>
<td>33%</td>
<td>33%</td>
</tr>
<tr>
<td>1939</td>
<td>33%</td>
<td>33%</td>
</tr>
<tr>
<td>1942</td>
<td>36%</td>
<td>33%</td>
</tr>
<tr>
<td>1944</td>
<td>37%</td>
<td>33%</td>
</tr>
<tr>
<td>1946</td>
<td>31%</td>
<td>33%</td>
</tr>
<tr>
<td>1949</td>
<td>33%</td>
<td>42%</td>
</tr>
<tr>
<td>1951</td>
<td>33%</td>
<td>41%</td>
</tr>
<tr>
<td>1954</td>
<td>33%</td>
<td>42%</td>
</tr>
<tr>
<td>1957</td>
<td>26%</td>
<td>42%</td>
</tr>
<tr>
<td>1959</td>
<td>25%</td>
<td>45%</td>
</tr>
<tr>
<td>1966</td>
<td>21%</td>
<td>33%</td>
</tr>
</tbody>
</table>


Most of the organized opposition to strict liquor laws stem from an economic motivation. The United States Brewers Association, the Wine Institute and the Distilled Spirits Institute as well as individual brewers and distillers maintain a powerful presence in most state legislatures. In a survey of the strength of lobbyists, legislators in seven states said the liquor interests were the most powerful. The liquor industry, because it is subject to discretionary state government control, has a high stake in state politics and maintains a careful watch to protect its interests. The liquor interests are not always united in opposition to control legislation, however. Liquor dealers have at times supported mandatory mark-ups because they guaranteed profits; brewers and...
package store owners often oppose liquor by the drink for fear it will cut into their profits, and bootleggers have traditionally been among the most ardent backers of outright prohibition.

Others with an economic stake in liquor regulations are restaurant and hotel owners. A common argument for repeal of liquor by the drink and Sunday sales is that these prohibitions cost the state money in terms of tourist and convention business. The battle to repeal liquor by the drink prohibitions in Tennessee, for example, were led by a "host of civic leaders who argued that the restrictions on liquor were depressing the state's economy, particularly business catering to tourists and conventions."33 Similarly repeal in Kansas was credited to "a group of responsible businessmen [who] knew liquor by the drink would be economically good for the state."34 There is some irony in the efforts businessmen have made in liberalizing liquor laws for the economic good of the community since there was once much business support for prohibition on the grounds that it would improve the economy by improving productivity.

Following are brief studies of the evolvement of liquor policies in three states, Washington, Oklahoma and Maryland. They illustrate the various ways in which religious, environmental changes, and political factors have intertwined to produce distinct systems of liquor control. Washington's laws, once restrictive, now represent a moderate control system. Oklahoma historically has had a very strict control system while the tradition in Maryland has been one of minimal constraints.
Washington

Washington is generally considered a progressive state and Washington liquor policies have their roots in that state's progressive heritage. Clark writes that "from the time of its organization, Washington territory was receptive to the sentiments of American reform." Washington's reformist tendencies are in part a product of the state's religious heritage. Methodist missionaries to the Indians exercised considerable political influence in the first half of the nineteenth century. Moved by a "glowing romantic faith in the perfectability of man and the quick triumph of God's Kingdom on earth," the missionaries and the English settlers which followed them were responsible for the enactment of a prohibition law in 1844 but this law along with all others was abrogated when a new constitution was drawn up the following year. The Civil War overshadowed the liquor question in the 1860's but after the slavery issue had been settled, prohibition along with women's suffrage again became burning reform issues. Both prohibition and suffrage were defeated in referenda in 1878 though prohibition had considerably more support than suffrage. Through the first decade of the twentieth century, a continual battle waged in the courts and legislature between the temperance forces and the liquor interests but no conclusive decisions were reached. In 1909, the local governments were given local option powers to ban the sale of liquor and about one third of the state immediately went
dry. Local option was considered by moderates to be "thoroughly respectable" as a solution since, like other progressive reforms of the period, it was based squarely on the principle of popular sovereignty. In 1912, the initiative and the referendum, reforms strongly supported by temperance groups, were adopted in Washington. The Anti-Saloon League collected enough petitions to have state-wide prohibition on sales put on the ballot in 1914. The prohibition drive was coordinated by the Anti-Saloon League but its success depended on its ability to mobilize the major churches of the state. The Presbyterians of the Northwest United States raised $150,000 for the prohibition fight and Methodists sent 700 ministers into the field as campaign speakers. Of those voting in the 1914 general election, 94.6 percent voted on the prohibition measure, passing it by a vote margin of 52 to 48 percent. Later, initiative measures to exempt hotels and to permit brewers to sell directly to consumers were defeated by margins of five to one and two to one respectively. Sensing a change in public opinion, the legislature rushed through a 'bone-dry' law on use as well as sale in 1917, a law which the state Anti-Saloon League president had opposed in private as too radical. A referendum on the law was held in 1918 which showed two to one support for 'bone-dry' prohibition. When the eighteenth amendment was proposed, no Washington congressman opposed the measure and the state legislature voted for ratification without opposition in January, 1919.
While a greater attempt at enforcement was made in Washington than in many states, disillusionment with national prohibition, perhaps because of the attempts at strict enforcement, became as intense in Washington as in many states with wetter heritages. In 1932 an initiative measure was placed on the ballot which would repeal all of the state's liquor laws except sales to minors.

Arguments for prohibition repeal were voiced largely in economic terms: that repeal "would reduce taxes, provide jobs and payrolls, restore agricultural markets and generally contribute to prosperity." The settling of the question through the initiative allowed politicians to avoid coming down on one side of the issue or the other, a strategy many politicians and especially Republicans were trying to follow in the early 1930's. Clark suggested that the repeal proposal stood among initiative measures with a "sort of classic purity coming at a time when the issue of prohibition was almost certain to shatter the integrity of the two party system, the initiative removed the issue from partisan politics and allowed the more properly partisan economic issues to carry their own weight." The results of the initiative were sixty-two to thirty-eight percent for repeal. As in 1914, there was a rural-urban pattern in the vote though not a strong one. Many rural counties voted wet while the drys maintained majorities in several urban counties. Urbanization, at least as defined by the census bureau, was not responsible for the changes in voter's behavior in the
1914-1932 period since urbanization increased just three percent, from fifty-three to fifty-six percent in this time while wet sentiment had doubled. More likely, the reversal of opinion reflected disillusionment with the 'utopia is just around the corner' idealism of the war era, disillusionment brought about by increasing lawlessness and economic depression.

National prohibition, of course, remained in effect after Washington repealed its state laws but immediately after the election, "most counties took the opportunity to cut expenses by dismissing their 'dry squads'" and city police lost all interest in enforcement. Once Congress had proposed the twenty-first amendment, Washington moved quickly to hold elections for a state ratification convention which the wets went on to win by a better than two to one margin. The high salience of repeal is indicated by the turnout which was twelve percent above what it had been for the 1932 presidential election.

After the ratification vote cast by the state convention in August, 1933, liquor was openly sold in most areas without any effort at control. A Seattle newspaper columnist reported 300 'parlors' selling hard liquor and predicted the state was in for "fifteen months of liquor wildcatting." On the day the twenty-first amendment became official, December 5, 1934, the governor called a special session of the legislature to consider liquor control legislation. A "vast lobby of brewers, distillers, and vendors had gathered in Olympia to enrich and prolong any
discussion of liquor laws."43 After an 'extended interim of chaos,' the legislature passed and the governor signed a bill providing for a state monopoly on package sales, a license system for beer and wine, and the prohibition of liquor by the drink of all hard liquor. The system was modeled after the system then in effect in British Colombia. The willingness of the legislature to adopt this relatively strict system of control was in part a reaction against the obvious abuses of complete freedom which occurred following repeal in 1933. The liquor interests and restaurant and hotel associations tried to amend the bill through the initiative but the proposals died for lack of support. The lack of success to change the law through the initiative process presumably reflects that the new system had wide support in the state even though, as Gunther complained in Inside the U.S.A, the "complex system of liquor regulations, or semiprohibition, caused anguish to the unwary traveler."44

Large migration into the state after World War Two upset the balance of opinion which supported the 1934 control laws. Changing attitudes were reflected in the growing numbers of private bottle clubs which were formed in the 1940's to circumvent the ban on liquor by the drink. In 1948 the hotel association was able to get a liquor by the drink proposal on the ballot. The proposal was relatively conservative permitting liquor by the drink only where full meals were sold, limiting where such establishments could be located, allowing women to be served
only if they were seated at tables, and earmarking revenues from the new licenses for medical research. The initiative passed but with under fifty-three percent of the vote. An analysis of the vote shows clearly that the winning margin came from the workers who had flooded the state since 1940 to find employment in the state's mushrooming aircraft, aluminum, and plutonium industries, and that the natives, if left by themselves, would have defeated the proposal. Clark notes with irony that:

> The initiative, once more, had allowed the state to respond rapidly to social change - more rapidly, perhaps, than the prohibitionist fathers of the initiative would have desired, for in 1948 their own weapon was again used against them.

Poor strategy by the temperance groups as well as the large influx of urban wets contributed to the 1948 change in policy. The Washington Temperance Association, still with strong support in the protestant churches, felt general public opinion would be one the upswing in favor of stricter liquor control after the Second World War as had happened after World War One so the group submitted its own initiative proposal, one which would have classified beer and wine with all other alcoholic beverages and restricted their sale to the state run package stores. The temperance people were so committed to this proposal, they failed to file opposition arguments to appear on the ballot with the liquor by the drink proposal. They campaigned energetically to ban beer and wine sales by the drink assuming their efforts would bring out a large dry vote
which would defeat the hotel association's liquor by the drink proposal. It is conceivable, given the closeness of the vote, that the dry forces might have defeated liquor by the drink had they committed their resources to this end rather than trying to expand the prohibition on liquor sales.

Despite the victory of the wets in 1948, Washington remains a state where liquor is strictly controlled. The State Liquor Board enforces a complex set of regulations which require all restaurants where liquor are sold to have rooms that are screened from the street and even rules against one patron moving his drink to someone else's table. An initiative to expand liquor by the drink sales to taverns was defeated in 1960, opposed not only by temperance groups but by restaurant interests anxious to keep their monopoly on sales by the drink. The repeal of the state's blue law led to approval of Sunday sales in 1965. Within the legislature, recent battles have centered on the level of taxation of liquor. Of the seventeen monopoly states, Washington has the highest total markup and taxes on sales.\(^{47}\)

The evolution of liquor control policy in Washington reflects an interplay between the two major forces suggested in the policy model. From the early nineteenth century to the Depression, protestant groups were highly active and often successful in prohibiting the consumption of liquor. The large migration into the state during World War Two, the states growing industrialization, and national competition in the hotel and tourist trade, have
made the environment of the state less hospitable to the demands of temperance leaders though in the 1960s, the anti-liquor forces, now organized as the Alcoholic Problems Association, could still block proposals to liberalize closing hours and lowering taxes by quickly mobilizing "the ministers and church groups to rain telegrams and letters on legislators in a rather fearsome fashion." The ability of the drys to use their power to push policies not enjoying public support is severely limited by the frequent use made of the initiative and referendum in Washington politics. The major turns in liquor control policy have all come about through initiative elections. The often studied indicators of party competition or legislative apportionment could not be expected to have much policy relevance for policies determined by direct popular vote. The initiative is itself a "political factor" so the Washington experience does suggest that political system variables are important, even though the important variable turns out to be a factor given little attention in existing policy models.

Oklahoma

On April 7, 1959, Oklahoma's constitutional ban on the sale of liquor was repealed in a state-wide referendum by a vote of 396,845 to 314,380. Only Mississippi maintained a total ban on liquor sales longer than Oklahoma. Attempts to repeal state-wide prohibition in Oklahoma by referenda had been made in 1936, 1940 and 1948 but had all be beat though by increasingly smaller
majorities. The reason for the reversal of opinion on prohibi­tion in 1959 offered most frequently in the press was the leadership role played by Democratic Governor J. Howard Edmondson who was elected governor in 1958 on a platform calling for a new referendum on the liquor question. Edmondson made repeal the first order of business of his administration and was able to get legislative approval of a referendum a month after his inaugural. The repeal movement was given considerable impetus by an intensive state-wide crackdown on bootleggers ordered by the governor before the election. Prior to the Edmondson administration, liquor was readily available in the large cities. The crackdown on bootleggers reportedly was an effort by the governor to make wets thirsty enough to vote wet. Past dry victories had been attributed to the higher turnout rates and better organizational efforts of the drys. The conventional wisdom of prohibition cynics in Oklahoma was that liquor policy up until 1959 represented a compromise between drys and wets whereby the "drys got their law and the wets got their liquor." The dry tradition was as strong in Oklahoma as it was in any state of the union. In 1834, the federal government outlawed the sale of liquor throughout the Oklahoma Indian territory. The large Indiana population has been an important influence on Oklahoma's liquor laws throughout the state's history. When Oklahoma was admitted to the Union in 1907, prohibition was considered a legitimate part of the progressive movement and
state after state, especially in the South and West were adopting restrictive liquor laws. Reflecting both the national impulse for reform and their own special fear of drinking among Indians, Oklahomans voted in 1907 to include a statewide prohibition against liquor in their Constitution making Oklahoma the first and only state ever to enter the Union completely dry. The Oklahoma congressional delegation voted unanimously for the proposal of the eighteenth amendment and the state was one of nine states not to call a convention to consider repeal. The Anti-Saloon League, which billed itself as the 'church in action' and the Women's Christian Temperance Union were both well organized and well supported, especially in the smaller towns and rural areas. A 1957 National Council of Churches survey showed that over one quarter of the state's population belonged to fundamentalist protestant churches. Catholics constituted only seven percent of the population while only four percent of Oklahomans came from immigrant families. While by the late 1950's most national politicians stayed far away from the prohibition question, Oklahoma's senior senator, Robert Kerr, was an ardent dry, reportedly contributing $10,000 to the efforts to block repeal in 1959. All of the conditions conducive to temperance support were present in Oklahoma. Its twenty-five year hold-out against legalized drinking is a specific illustration of the impact that a state's tradition in liquor regulation, its religious population, its level of urbanization and
political skill of temperance organizations play in upholding strict liquor laws.

The vote to repeal the total ban on liquor sales reflects more than one governor's decision to force voters to choose between all out enforcement and repeal. Franklin lists three general factors: "the dynamic forces of urbanism, the influence of the national trend toward legalized liquor and a more liberal attitude within the churches" as bringing about repeal but he emphasizes that they represented a gradual process rather than a sudden, new impact. The influence of these forces was evident in many different ways in the 1959 election. The Oklahoma Hotel Association was a strong backer of repeal claiming that prohibition was costing the state millions of dollars in tourist and convention trade. Business Week reported that repeal leaders included that state's top business and civic leaders who felt that efforts to attract new industry to the state were hampered by Oklahoma's dry image. One of the main arguments of the major repeal group, the Oklahoma League for Legal Control was that "it was better for the state to collect revenue from the liquor traffic than have the boots [i.e., bootleggers] get it." Governor Edmondson promised a "new era in taxation" and predicted that repeal would not bring about a rise in consumption but only an increase in state revenue. While most of the major Protestant denominations formally opposed repeal and sponsored a well financed campaign against
it, one analyst felt that the drys had just "lost their pep" by 1959, due both to a weakening of conviction within the churches and a sense of futility over the prospect of keeping a workable system of total prohibition. Leading Protestant leaders attacked Edmondson's bill as "legalizing the master tranquilizer" and urged the state to "stand by the side of the Lord" but wets enlisted Episcopal, Catholic and Jewish leaders to help argue that drinking was a question of personal morality with which the state should not interfere.

Some early analyses of the 1959 referendum suggested that the vote signalled a dramatic reversal in Oklahoma's history of liquor control. Not only had the state voted to remove the liquor ban from the state's constitution by over 80,000 votes but it had also turned down a county local option proposal which would have permitted individual counties to remain dry. Actually the two to one defeat of local option was not a dry defeat since it had been opposed by dry leaders on the grounds that it might tempt those with weak temperance conviction to give up the battle for state prohibition. Once the legislature met to consider a state control system, the limited scope of the wet victory became more apparent. Business Week complained that "the legislature [was] dominated by rural and prohibitionist representatives and in drawing up the regulations, it did its best to hobble the state's unborn liquor business." Other analyses suggested, however, that it was not so much an
unrepresentative legislature thwarting the expressed will of the people as it was a legislature accurately reading what type of change the public did in fact want. The system enacted permitted the sale of liquor through exclusive liquor stores and provided strict controls over advertising, location of stores, and pricing policies. On the criteria used to compare the restrictiveness of liquor laws developed for this paper, the Oklahoma control system falls in the most restrictive of the six categories. There remains strong temperance sentiment in Oklahoma and temperance groups maintain watch to see that laws are strictly enforced. In 1972, Oklahoma liquor rules again received national attention when state officials began boarding Amtrak trains and arresting those in the lounge car for serving liquor by the drink in violation of Oklahoma law. Amtrak was able to get a temporary injunction against Oklahoma officials from interfering with liquor sales on trains but in 1974 in National Railroad Passenger Corporation v. Harris, the Tenth Circuit Court of Appeals ruled against Amtrak on the grounds that Oklahoma's control over liquor within its boundaries was guaranteed by the twenty-first amendment.

The national norms regarding liquor control have changed greatly over the past fifty years and even though Oklahoma formally rejected total prohibition in 1959, temperance sentiment remains strong in the state and state policies are still high
restrictive vis-a-vis national norms and control practices in other states.

Maryland

Maryland is a state where "wets" have always held considerable influence, a fact reflected in the state's relatively liberal liquor control laws. During Prohibition, the governor of Maryland announced at a 1922 Governors Conference called by President Harding to study the problem of enforcement that the people of Maryland viewed "the Volstead law as an unnecessary and drastic infringement on their state and personal rights," and that as governor he "would have nothing to do with the enforcement ballyhoo." This nullification stand was to outrage Drys in other parts of the country but made the governor, Albert C. Ritchie, extremely popular in Maryland where he was elected to a record four terms from 1920 to 1935. The Maryland House of Delegates passed a tentative 3.5 percent beer bill with an "operative date pegged on a hoped for decision by the Supreme Court declaring 'concurrent action' in Dry legislation by the states [to mean] each state could establish alcoholic content for beverages made and sold within its boundaries." This was a vain hope however as the Supreme Court in 1920 upheld the one-half percent limit specified in the Volstead Act as binding in all states. Throughout the Prohibition era, the journalist making the most caustic criticisms of the Noble Experiment was the widely read and influential H. L. Mencken of the Baltimore
Sun. When the state convention to consider the twenty-first amendment was elected in 1933, the Repeal forces won by a margin of four to one.

Maryland's distaste for enforcing a standard of temperance on all its citizens is consistent with its over all tradition in handling morality questions. The founder of the Maryland colony, the first Lord Baltimore, George Calvert, was a Catholic and wished to establish Maryland as a heaven for Catholics and other persecuted religious groups. Unlike Puritan New England and Anglican Virginia, in Maryland church and civic functions were kept completely separate.67 Maryland's Act Concerning Religion or the 'Toleration Act,' passed in 1649, gave Maryland the claim of being the first civil regime in America to recognize freedom of conscience. Baltimore was one of the most sophisticated and cosmopolitan cities in the early days of the Republic and became the favorite location for conventions. Saloon abuses, especially those created with political corruption, created some prohibition sentiment in the 1840's and 1850's. A newly formed political group, "Friends of the Main Liquor Law," elected ten delegates to the General Assembly on a prohibition platform but in Maryland the dry forces came to be associated with the No Nothing Party and its attacks on Catholics and immigrants. There appears to have been little agitation for prohibition in Maryland in the second half of the nineteenth century but, after U.S. entry into the First World War,
Governor Emerson Hawington "threw wet Maryland into an uproar when he announced his support for the Prohibition movement." Despite the state's general antipathy to prohibition, Maryland in January 1918, "went contrary to her traditions [when] in the excitement of the World War" the legislature approved the eighteenth amendment. The legislature's lack of commitment to Prohibition was shown by its unwillingness to enact a state Volstead law to provide for concurrent enforcement of Prohibition and its later support of Governor Ritchie's charge that prohibition was "destructive of the rights of the people" and that the whole question should go back to the states.

Maryland's initial support of the eighteenth amendment was not due entirely to war hysteria. In his study of the border states, Fenton points out that Maryland politics is clearly factionalized between Baltimore whose population is liberal, Catholic and wet, and the Eastern Shore which is rural, conservative and Protestant with its roots in the ante bellum South. Shortly before the legislature approved Prohibition, the city of Baltimore had voted wet in a local option election. Andrews notes that in the 1916-1918 period, there was a "sharp difference in the attitude of Baltimore City and the rest of the counties." In 1910, thirty-one percent of the state's population was dry by local option, a percentage that increased to forty-nine percent by 1919. H. L. Mencken may have represented the attitudes of Baltimore but he was not a
spokesman for the rural areas of the state. Except for the approval of the prohibition amendment, little effort has been made to curb drinking habits on a statewide basis. In his denunciation of national prohibition, Governor Ritchie argued that prior to Prohibition, Maryland was "effectively solving the temperance question by local option [so that] when the people of a community wanted prohibition, they actually got it." Community control continued to be the basis of Maryland policy after Prohibition. Local option was reinstated after Prohibition in a control system which also gave localities control over the issuance of local licenses and their suspension as well as other broad regulatory powers. In 1960, two percent of the population of the state was still living in areas completely dry by local option. Even where there are statewide laws, some recognition is made of the different attitudes regarding liquor. For example, there are laws particularly applicable to Baltimore that allow longer liquor store hours than are permitted under general state law. The lack of strict state laws in Maryland is in part a function of the state's heritage of religious toleration and cosmopolitanism but also reflects the sharp cleavage in the state between urban and rural forces, a cleavage which encourages a system of local control. Since seventy-eight percent of the state's population now lives in either the Baltimore or Washington metropolitan areas, dry forces have had little influence in state politics in recent
years. When liquor does become an issue in Maryland politics, it is at the local level in the more rural regions of the state.

**Conclusion**

The fight for national prohibition involved the greatest exercise of religious political power ever seen in the nation's history and national prohibition serves as the clearest example of a public policy brought about by religious forces. Through the Anti-Saloon League, the "emotional power of the Protestant evangelical churches was disciplined for militant secular action" in both state and national politics. There is little difficulty in establishing a linkage between liquor control and conservative protestantism. Major questions of state liquor control since the end of prohibition have seen similar patterns of church activity emerge from state to state. Conservative protestants group together to fight doggedly an effort to increase the availability of liquor. Over thirty years after national prohibition, the "Baptist backlash" as it was termed in Souther Carolina was still successfully blocking efforts to repeal modified systems of prohibition existing at the state level. There are, or were, other factors contributing to the enactment of strict liquor laws. Gusfield analyzed the temperance crusade as a drive for cultural recognition while Timberlake (1963) looked at prohibition's relationship to the Progressive Movement but neither denied the central role played by the churches in organizing and applying political pressure.
The analysis in this chapter has suggested some specific ways in which the various environmental forces have given rise to opposition to strict liquor control laws. Hotel and restaurant owners and others having a stake in the convention and tourist trade have frequently led fights for liberalization arguing that laws such as liquor by the drink and Sunday sale restrictions put the state at an economic disadvantage vis-a-vis other states. The Washington repeal vote on liquor by the drink was attributable to the increased industrialization of the state and the types of workers that industrialization attracted. At a different level, the drop in support for strict control can be linked to the "rise of a corporate economy of large scale organizations and of a new middle class of salaried white collar workers" in which "the ability to get along with others" has replaced the old middle class virtues.79

Numerous political factors appear to have impact on state liquor policies. In Oklahoma the leadership of a governor was a major key to repeal, in Washington the initiative and referendum played a major role in determining liquor policies, and in Maryland, local option has given minority drays some control at the local level. The often studied variable of legislative apportionment appeared to affect liquor policy decisions in some states. Examples include the liberalizing of Sunday sales in Nebraska and the approval of liquor by the drink in Tennessee which were credited to the increased urban representation in
the state's respective legislatures. The other standard political factor, party competition, appears to be of little significance, probably reflecting the fact that wet-dry cleavages almost always cut across parties. The Francis survey of legislators showed that liquor policy was the policy area where intra-party conflict was highest. Because of the dissension within parties over liquor policy, the proposition that party competition increases public control over policy in the liquor area seems incorrect.
FOOTNOTES

CHAPTER FOUR


2. ibid.


4. ibid., p. 571.

5. ibid.


11. The ten states are: Indiana, North Dakota, Nevada, Arizona, California, Wyoming, South Carolina, Iowa, Oklahoma, and Utah.

12. The restrictiveness of state laws are measured by the Guttman scales that are discussed in Chapter Eight. The states without local option which had restrictive regulations are: South Carolina, Iowa, Oklahoma, Utah and North Dakota. The states with less restrictive regulations were Nevada, Arizona, California, Indiana, and Wyoming.


15. ibid., p. 117.


17. ibid., p. 51.

18. ibid., p. 50.


27. The six states are Georgia, Kansas, Mississippi, North Carolina, Oklahoma and Tennessee. The two states which had prohibition in 1912 but did not prohibit liquor by the drink in 1960 were Alabama and North Dakota.


31. Wayne L. Francis, Legislative Issues in the Fifty States: A Comparative Analysis (Chicago: Rand McNally and Company 1967) p. 42. The seven states where liquor lobbies were named as the most powerful lobbies were Maryland, Minnesota, New Mexico, South Dakota, Wisconsin, Arizona and Tennessee.


34. Parkinson, Winning Your Campaign, p. 49.

35. Clark, The Dry Years, p. 28.

36. ibid., p. 16.

37. ibid., p. 109.

38. ibid., p. 138.

39. ibid., p. 229.

40. ibid., p. 230.

41. ibid., p. 239.

42. ibid.

43. ibid., p. 240.


45. Clark, The Dry Years, p. 249.

46. ibid.


50. ibid., p. 20.


52. ibid., p. 880.


58. ibid., p. 22.

59. ibid.


62. The criteria used for measuring the restrictiveness of a state's liquor laws is explained in Chapter Eight.
63. Professor Ann Lousin of the John Marshall Law School brought this case to the author's attention in private correspondence.


68. White, Governors of Maryland, p. 253.


70. ibid.


73. ibid., p. 647.

74. Summary of State Laws and Regulations Relating to Distilled Spirits, p. 44.

75. Clark, The Dry Years, p. 82.


77. Gusfield, Symbolic Crusade.


81. Francis, Legislative Issues, p. 43.
CHAPTER FIVE

GAMBLING POLICY: STATE PROMOTION OR PROHIBITION

The issues involved in the regulation of gambling are quite similar to those which come up in the question of liquor control. The major difference between the two is that gambling restrictions never became the type of national issue which prohibition became. The pro-gambling position traditionally has been that gambling is a harmless and natural amusement and that efforts to prohibit by legislative fiat man's natural gambling impulse are unenforceable and lead to disrespect for the law and support for organized crime. The anti-gambling position is that gambling encourages man to rely on chance rather than his own industry, that it results in the exploitation of the poor, and that it inevitably leads to corruption. While the right of states to restrict gambling is not guaranteed by constitutional amendment as is their right to control liquor, the Supreme Court has ruled in Marvin versus Trout (1905) that "it is well settled that the police power of the state may be exerted to preserve and protect public morals...[and] gambling is injurious to the morals and welfare of the people, and it is not only within the scope of the state's police power to suppress gambling in all its forms, but it is its duty to do so."1 States vary considerably in

163
fulfilling their 'duty' to suppress gambling though all states but Nevada have prohibitions on commercial gambling other than pari-mutuel wagering on races. A recent development in state gambling policy is the revival of state sponsored gambling in the form of lotteries and off-track betting parlors.

**History of State Gambling Laws**

Except in the New England colonies where Puritan influence was strong, most forms of gambling were accepted in the American colonies and were a particularly popular diversion among the upper classes. English law, in fact, discriminated among social classes setting severe restrictions on the type of wagering the lower classes could engage in but permitting the aristocracy to engage in any type of gambling they wished. The Pennsylvania Quakers attempted to prohibit the use of cards and dice as 'evil sports' in 1705 but the Queen of England "voided this enactment as an unreasonable restraint on her subjects innocent diversions." The English tradition "embodied an attitude of tolerance modified by some ambivalence towards all gambling; the only gambling crimes [under Anglo-Saxon common law] are swindling or creating a public nuisance [though] gambling contracts are not enforceable." The Virginia Company was financed by a special lottery granted by King James I in 1612 and all thirteen of the American colonies operated lotteries to raise revenue at one time or another. The Continental Congress established a national
lottery designed to raise ten million dollars for the fight against England but cancelled the project after revenues fell far short of expectations.\textsuperscript{6}

After American independence had been established gambling continued to be not only tolerated but actively promoted by both state and national governments. Weinstein and Deitch record that:

As America expanded rapidly, more large-scale public projects were required, and the nature of lottery operations shifted from small local offerings to state or nationwide promotions. The largest lotteries were for public works projects such as bridges, roads and canals, especially in the Southern states, which lagged behind the North in developing tax systems and commercial banks... Lotteries also were used by government for public welfare projects not previously considered to be in the public realm, such as hospitals and orphans. From 1790 to the Civil War, lottery licenses were issued to about 50 colleges, 300 lower schools, and 200 churches, and some lotteries were still being authorized for use by individuals or private societies.\textsuperscript{7}

The increasing use of lotteries led to many abuses and by the 1830's the control of gambling had become a major issue in many states. One abuse receiving particular criticism was the development of the 'policy game', forerunner of today's numbers game, where those who could not afford to buy a lottery ticketed would bet a few cents on a particular number being drawn in a lottery. These games "enticed the poor to risk their pennies and encouraged the fixing of drawings" and provided no support for the supposed beneficiaries of the lottery.\textsuperscript{8} States first tried to tighten regulations and licensing systems but
abuses continued and pressure for outright abolition of lotteries increased. By 1840, twelve states including most of the North-east prohibited lotteries entirely and by the Civil War all the states except Delaware, Kentucky and Missouri had enacted prohibitions against lotteries. Louisiana instituted a state lottery in 1869 but opposition to it in other states resulted in federal legislation prohibiting the sending of lottery materials through the mail and the lottery was discontinued in 1894. At the turn of the century no state operated or licensed lotteries and thirty-six state constitutions had specific prohibitions against lotteries.9

The regulation of betting on horses in the nineteenth century follows the same pattern of almost no restrictions to total prohibitions. Betting on horse racing had existed since colonial times but did not become nationally popular until after the Civil War. In the first half of the nineteenth century betting was done at the personal level but after the Civil War racing became much more commercialized and track bookmakers began taking bets at fixed odds. Professional gamblers bought into racing tracks and stables and there were often charges that "jockeys were bribed and favorites held back so professional gamblers could cheat the racing public."10 Racing's links with professional gamblers and charges of cheating lead to attempts to make gambling on races legal in the 1880's, attempts which by the First World War had led to prohibitions against horse race betting in all but four states.11
The legislative climate began to change in favor of less restrictive gambling regulations in the late 1920's as financial pressures on the states increased. Eleven states as well as the national government considered bills to establish lotteries in the 1930's though none passed. Considerable more successful were efforts to reinstitute horse racing as "the license, admission, pari-mutuel, and net income tax receipts from racing in Florida, Illinois, Kentucky and Maryland did not escape notice by other states searching for new tax sources." One hundred and ninety bills were introduced in forty-two states during the depression to permit race track wagering and in half the states where bills were introduced they were approved. To safeguard against past abuses, powerful state racing commissions were created to ensure the honest operation of the tracks. By 1970, thirty states permitted pari-mutuel on-track wagering on horse racing while seven states also permitted betting on dog-racing. In Illinois in 1935 and 1941 and in Maryland in 1932 bills were introduced and passed by the legislature to allow off-track betting as well as track betting but the governors in both states vetoed these bills. New York City officials have been backing attempts to provide off-track as well as on-track betting in 1950 as a means of easing the city's financial troubles. After twenty years of debate, the New York legislature passed legislation creating an off-track betting commission in 1970. New York also joined with other states in

A wide variety of gambling questions other than those dealing with racing and state sponsored lotteries have also come up in the states. Thirteen states appear to ban every type of gambling including nickel and dime bets among friends but the question of private betting seldom engenders legislative controversy, probably because no effort is made at enforcement. A more controversial issue has been state policy toward charity gambling, particularly bingo and raffles. A news magazine reported in 1955 that bingo was a "major political issue from coast to coast" and that "elections were beginning to turn on the issue." The demotion of a New York City police inspector after he held a series of raids on church bingo games in Brooklyn received national attention. Church bingo, though technically illegal in most states, had been winked at by law agencies in most areas but the increasing publicity give to the difference between policy
and practice forced the issue to a head in many states. By 1960, a dozen states - Alaska, Connecticut, Maine, Maryland, Minnesota, Nevada, New Hampshire, New Jersey, New York, Rhode Island, and Vermont - had legalized and regulated bingo playing.\textsuperscript{16}

Only one state, Nevada, permits casino and slot machine gambling though the issue has been seriously considered in several states. Some states have permitted casinos to operate openly over long periods of time in resort areas such as Hot Springs, Arkansas, Miami, Florida, and Galvaston, Texas, though such operations were in clear violation of state law. In 1958, the Metropolitan Council of Dade County began a system of casino licensing in Miami but backed down after protests by Governor LeRoy Collins.\textsuperscript{17} Casino gambling in Hot Springs was given legislative approval in the Arkansas legislature but vetoed by Governor Winthrop Rockefeller.\textsuperscript{18} In California an initiative measure to legalize casinos qualified for the ballot in 1950 but was soundly defeated as were more modified proposals in Massachusetts, Arizona and Montana.\textsuperscript{19} Slot machines have been legalized for short periods of time in several states besides Nevada. Florida permitted them in the mid 1930's, Idaho in the late 1940's, and four counties in Maryland had slot machines through local option in the 1950's.\textsuperscript{20}

Because pari-mutuel betting on racing events has been the most persistent and universal gambling question facing the states since 1930's, it is the most convenient area on which to
compare state legislation. Table 5 shows how the states varied in 1960 on restricting betting on racing events. The renewal of state run gambling in the form of lotteries and off-track betting in the 1960's and 1970's suggests that gambling questions in the future may not involve the regulating issues involved in racing so much as questions of direct government sponsorship of gambling events. New proposals for liberalizing gambling laws such as a state run numbers game, sports betting, and renewed efforts for casino gambling have appeared with increasing frequency in recent years. It is not clear how far states will go in adopting these new schemes though it is clear that there is occurring in the 1970's the type of basic change in the direction of gambling policy of the sort that occurred in the 1930's and the 1890's.

Determinants of State Gambling Regulations

The preceding historical survey of state gambling regulations suggests what some of the factors influencing gambling control laws are. Much of the history of gambling regulation reflects a tension between a concern over corruption and other crimes which stem from legalized gambling and an attraction toward gambling as a state revenue source. The relative weight that will be given these two considerations is in part a function of changes taking place in the environment though it is not clear if the impact of environmental changes will manifest themselves in a systematic way. Dye found a Pearson correlation coefficient
<table>
<thead>
<tr>
<th>State</th>
<th>No Gambling^a</th>
<th>No Horse^b Racing</th>
<th>No Harness^b Racing</th>
<th>No Races^b After 200</th>
<th>No Dog^c Racing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Arizona</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Idaho</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Iowa</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Kansas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Minnesota</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montana</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>No Gambling&lt;sup&gt;a&lt;/sup&gt;</td>
<td>No Horse&lt;sup&gt;b&lt;/sup&gt; Racing</td>
<td>No Harness&lt;sup&gt;b&lt;/sup&gt; Racing</td>
<td>No Races&lt;sup&gt;b&lt;/sup&gt; After 200</td>
<td>No Dog&lt;sup&gt;c&lt;/sup&gt; Racing</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------------------</td>
<td>------------------------------</td>
<td>------------------------------</td>
<td>-------------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>New Hampshire</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>North Dakota</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Ohio</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vermont</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wyoming</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>


<sup>c</sup>U.S., Department of Commerce, Bureau of the Census, Detail of State Tax Collections in 1960 (November 8, 1960).
of .38 between state gambling revenue and industrialization and concluded that economic development led to a greater public acceptance of gambling and more liberal gambling laws. This positive relationship between gambling revenue and industrialization could also be explained in terms of the greater revenue needs of more industrial societies. But a closer examination of some of the forces which have historically influenced gambling policy decisions suggest that not all the pressures associated with economic development are supportive of even more liberal laws. The wave of restrictive laws against lotteries before the Civil War and the prohibitions on racing at the end of the nineteenth century can be linked to the changing nature of these gambling operations. In the early 1800's "lotteries became big business...[and the] business became highly competitive...[with] frauds at every level of operation." The development of a national economy, the rapid growth of cities, demands for capital, were all factors which led to the over-commercialization of lotteries and their subsequent abuses. A community lottery to raise money for a school building in the 1780's had much less potential for abuse than the situation which existed in Philadelphia in 1832 where 200 shops sold tickets for 420 different lotteries. The outlawing of horse race betting at the turn of the century similarly reflected a reaction against gambling scandals which had come with the spread of commercially promoted tracks. Year round tracks in urban areas
run by professional gamblers competing with one another for public patronage created a considerably more serious set of problems that harness racing at the county fair had. For both lotteries and horse racing, economic trends in the country generally were reflected in the economic development of the gambling industry and the way the development of the industry occurred brought about demands for the industry's abolition. In the United States, the industrial revolution did not bring about demands for the liberalization of gambling laws but demands for the prohibition of gambling.

The role that the church played in early efforts to prohibit gambling is unclear. In colonial times, the Puritans and Quakers opposed gambling as a "vain assumption of the Lord's authority [since] the 'lot according to the Bible, was an appeal to God." There is little evidence of organized Church lobbying for gambling prohibitions in the first fifty years of the nation's existence, however, and in this period 200 licenses to conduct lotteries were issued to churches, most of which were protestant. One study has concluded that "the churches were not leaders in the anti-lottery movement at this time, and it was only after they became aware of the shift in public opinion that they began to raise questions of morality." Toward the end of the nineteenth century, most protestant churches had adopted an anti-gambling position though their opposition never became as fervent as their opposition to alcohol. The basis of Protestant
opposition to gambling included the same set of values that opposition was based upon: the Calvanist tradition with its emphasis on industry and productivity and the new revivalism calling for piety and asceticism. Opposition to gambling, like opposition to drinking, was also compatible to the goals of more liberal churches which saw the church mission in terms of social reforms rather than personal salvation.

There probably has been greater unanimity among protestants in recent years on the issue of gambling than there has been on any other social issue. State chapters of the National Council of Churches as well as the most conservative denominations have regularly opposed the reintroduction of the lottery and the legalization of other forms of gambling. Conservative denominations have stressed the immorality of gambling while more liberal churches object to the regressive nature of gambling schemes as revenue producers. State protestant councils are regularly cited is the press as the major organized opposition to efforts to extend any form of legalized gambling. The 1700 member church Protestant Council of New York led the opposition to off-track betting calling it "an essentially immoral, degrading, perilous and opportunistic scheme." Protestants on nearly all gambling questions have take the position that gambling "not only demoralizes character but visits its losses mainly upon the poor." The following Statement of Principle of the New
York Council of Churches is characteristic of the position of most Protestant bodies:

We oppose gambling in any form under any auspices. Gambling is like a creeping paralysis in our society. The alleged good which comes from money-raising activities based on petty gambling cannot possibly counteract the evil done to society as a whole. Therefore, we oppose legislation to extend, and support legislation to curtail present gambling opportunities.  

Catholics have also voiced concern over the effects of gambling though the Catholic Church per se has been less willing to take official stands than have protestant bodies. A bill to establish a lottery in Massachusetts in the early 1950's was expected to pass until William Cardinal O'Connell "blasted the lottery as 'out and out gambling machine' and 'a source of corruption'." Thirty-eight votes changed over night and the proposal was defeated. Richard Cardinal Cushing similarly killed a 1958 Massachusetts lottery proposal by warning that it was "explosive with latent corruption." The views of some Catholic theologians toward gambling are indistinguishable from the view of conservative protestants. One argues that the "prohibition of betting by the state is amply justified, for nothing will weaken the stamina of a people more quickly and surely than the desire to get something for nothing... "Betting usually denotes a base desire to evade the law of God: 'In the sweat of thy brow thou shalt eat thy bread'." Traditionally, however, Catholics have been "the religious group least opposed to gambling, with their official position being
one of acceptance if moderation is practiced and fraud not involved.  

The gambling issue on which Catholic and Protestant differences contrast most sharply is the legalization of bingo. Roman Catholics sanction charitable bingo and many of their churches rely on it for their own revenues. A 1938 Gallup poll showed fifty eight percent of the Catholic population approving of church bingo but only twenty-one percent of the Protestant population. Bingo in most states is technically illegal under lottery prohibitions but is openly played in churches and service organizations in violation of the law. In some states the legal status of bingo is not clear. A court decision in Ohio declared bingo illegal under the state constitutional ban on lotteries but declared that prosecution could not take place under Ohio's gambling laws since they provided penalties only for lotteries for profit. Whether or not the legalization of bingo becomes an issue depends on the efforts made to enforce anti-gambling statutes against church and charitable groups. A series of bingo raids in New York in the mid 1950's led to a statewide referendum on the issue. The New York State Council of Churches objected to making "legal for a preferred group what is illegal for everyone else to do" and organized committees in each county to "conduct forums and engage in debates on the dangers of legalizing bingo." New York Catholics backed legalization and saw the referendum pass by a two to one margin.
By 1960, twelve states had provided for legal bingo but in most states the existence of charitable games of chance is not so much determined by formal state policy as by the attitudes and actions of local law enforcement officials. 38

On gambling issues other than bingo, conflicts are not likely to be so explicitly religious in nature. Gambling questions are often considered within the context of organized crime. It has already been indicated that much of the early pressure for restrictive laws came from those concerned with the corruption seemingly inherent in gambling operations. Some of the potential abuse in gambling operations has been reduced by advances in gambling technology such as the electronic totalizer which led to the development of pari-mutuel betting systems in the 1930's where betters wagered against one another rather than a track bookmaker. The integrity of lotteries was similarly improved with the introduction of strict computer controls. 39 Considerable pressure is exerted today by groups who see the legalization of gambling as a way of fighting organized crime and reducing corruption. The Joint Legislative Commission on Crime in 1970 urged the New York legislature to "Permit communities to set up their own numbers or policy games along the lines of the small bet operators flourishing in most cities." 40 Repeal of gambling laws is also backed on the grounds that police would be given more time to investigate more serious offenses. Opinion is divided, however, and other law enforcement
officials continue to hold to the position that legalization of gambling simply opens the door further to organized crime.\textsuperscript{41}

The most powerful pressure for increased legalized gambling comes from city and state political leaders searching for painless ways of increasing government revenue. The legalization of horse racing in the 1920's and 1930's and the establishment of lotteries in the 1960's and 1970's were primarily due to budget pressures and the attempts of politicians to respond to these pressures without raising taxes. The New Hampshire lottery was adopted as a result of the refusal of the legislature to approve either a sales or income tax which had pushed property taxes to an oppressive level.\textsuperscript{42} The major lobbying for legalized gambling has often come about from the legislature itself rather than from groups outside the legislature. There are few 'gambling interests' whose interests are directly benefitted by the initial liberalization of state gambling laws. The pattern generally has been that the gambling interests of one state will not want to see gambling opportunities expanded in other states. The backers of the bill to legalize pari-mutuel betting in Pennsylvania charged that the "opposition to racing [came] from the out-of-state racing lobby."\textsuperscript{43} Similarly, once one type of gambling operation has been legalized in a state, its operators will not want competition from additional legalization. Racing interests such as Kentucky's Jockey Club have made sure other forms of gambling remained illegal and even persuaded the legislature
to ban racing handbooks to help the Club maintain its gambling monopoly.44

The absence of standing lobbies pushing for the general legalization of gambling does not mean that gambling interests do not exert great pressures on state governments after gambling is legalized. Racing is the only form of commercial gambling allowed in most states and track operators maintain close touch with legislators to promote policies which will ensure their profits such as long racing seasons and high breakage fees. Lockard's study of New England lists racing lobbies as one of the major economic interests in state government. Besides providing tax revenue to the state and contributions to campaign coffers, racing interests cemented their power in the legislature by providing patronage jobs at their tracks for legislators to give constituents and even hired legislators themselves. Lockard reports a newspaper discovery that fourteen state legislators who had voted 'present' in the Rhode Island General Assembly one afternoon were actually off working at the races.45 Neuberger reported the same type of racing influence in the Oregon legislature in the early 1950's.46

Gambling proponents frequently make use of the earmarked tax to broaden support for gambling. Neuberger reports that the high profits allowed Portland's Greyhound race tracks came through a "cynical political deal struck with the state's dominant agricultural population" to earmark racing taxes for county
fairs.\textsuperscript{47} In Massachusetts gambling revenue goes to old age assistance so the "elimination of racing becomes a blow at grandmother."\textsuperscript{48} Of the twenty four states with pari-mutuel betting in 1960, thirteen of them earmarked portions of their racing taxes for popular programs such as veterans services in Illinois, conservation in California, highways in Florida, and education in Louisiana.\textsuperscript{49}

Another economic group that often engages in lobbying for the liberalization of gambling rules are the owners of resort hotels and other tourist interests who feel gambling facilities will bring new visitors into their areas. The drive for legal casino gambling in such states as Florida, Arkansas and New Jersey have all been led by tourist industry spokesmen. The position of the general business community toward gambling varies. The Wyoming Retail Merchants Associations was one of the backers of pari-mutuel betting in that state in order to "increase tourism and produce more revenue" but merchants in other states have opposed legal gambling for fear it would decrease public purchasing power. One study in the late 1930's showed retail trade falling of forty percent during the racing season.\textsuperscript{50}

The impact that political institutions have on gambling policy is not clear. Gambling like liquor is a policy area which is seldom debated along party lines. According to the Francis survey of state legislators, gambling was second only to liquor in the amount of intraparty conflict generated.\textsuperscript{51} Since many
states had constitutional prohibitions against gambling, the question of liberalization has often been answered in public referendum. Public opinion polls suggest, however, that there is greater public acceptance of gambling than is reflected in most state laws indicating, perhaps, that conservative legislators have blocked referendum votes from occurring, or, that minority sentiment has prevailed because of better turnout and organization at elections. Table 6 shows public support for horseracing by region while Table 7 traces the changing public opinion toward state-run lotteries. There may be some relationship between the increased interest in gambling generated revenue since the mid 1960's and reapportionment though the states which have made the most dramatic changes in gambling laws were not badly malapportioned prior to Baker versus Carr. Of the first eleven states to adopt lotteries, all but three had David - Eisenberg urban representation scores above the median and the three which did not - Maryland, Michigan, and New Jersey - were just below the median.52

The three states of Tennessee, Idaho and New Jersey will be examined in short case studies to illustrate the influence of the various economic, religious and political factors in determining state gambling policy. Tennessee and Idaho are both states which presently prohibit most forms of gambling but whose gambling histories are considerably different. New Jersey has relatively liberal gambling laws though some types of gambling still do not have popular approval.
TABLE 6: SUPPORT FOR BETTING ON HORSES

"Do you think betting on horses should be made legal in your state?"

<table>
<thead>
<tr>
<th>Region</th>
<th>Yes</th>
<th>No</th>
<th>Region</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>61%</td>
<td>39%</td>
<td>West Central</td>
<td>59%</td>
<td>41%</td>
</tr>
<tr>
<td>New England</td>
<td>65%</td>
<td>35%</td>
<td>South</td>
<td>52%</td>
<td>48%</td>
</tr>
<tr>
<td>Mid-Atlantic</td>
<td>70%</td>
<td>30%</td>
<td>Mountain</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>East Central</td>
<td>55%</td>
<td>45%</td>
<td>Pacific</td>
<td>66%</td>
<td>34%</td>
</tr>
</tbody>
</table>


TABLE 7: SUPPORT FOR STATE LOTTERIES

"Would you favor lotteries in your state to help pay the cost of government?" (Wording of question varied slightly from poll to poll.)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1938</td>
<td>49%</td>
<td>51%</td>
<td></td>
<td>1941</td>
<td>45%</td>
<td>41%</td>
<td>1964</td>
<td>48%</td>
<td>41%</td>
</tr>
<tr>
<td>East</td>
<td>55%</td>
<td>45%</td>
<td></td>
<td>East</td>
<td>50%</td>
<td>38%</td>
<td>East</td>
<td>67%</td>
<td>25%</td>
</tr>
<tr>
<td>Midwest</td>
<td>42%</td>
<td>58%</td>
<td></td>
<td>Midwest</td>
<td>38%</td>
<td>48%</td>
<td>Midwest</td>
<td>46%</td>
<td>42%</td>
</tr>
<tr>
<td>South</td>
<td>37%</td>
<td>63%</td>
<td></td>
<td>South</td>
<td>31%</td>
<td>51%</td>
<td>South</td>
<td>29%</td>
<td>57%</td>
</tr>
<tr>
<td>West</td>
<td>51%</td>
<td>49%</td>
<td></td>
<td>West</td>
<td>43%</td>
<td>43%</td>
<td>West</td>
<td>47%</td>
<td>44%</td>
</tr>
</tbody>
</table>


New Jersey

Gambling legislation has been a perennial controversy in New Jersey politics since the 1930's. All forms of gambling were prohibited by a constitutional amendment which had been narrowly approved by popular vote in 1897. The amendment had been placed on the ballot by a legislature "pledged to effective reform" and came in response to "the evil influences that racing
interests exerted over the legislature."53 Strong agitation for repeal of the gambling prohibition was mounted during the Depression on the grounds that repeal would open up a new tax source. A constitutional amendment to allow pari-mutuel betting on horseracing was passed by the legislature in 1934 but, when brought up for a second vote in 1935 as required by the constitution was defeated. The defeat was credited to the influence of a protestant clergyman. Rev. Lester H. Clee, who served as Speaker of the General Assembly.54 The amendment was eventually passed in 1939. Since that time, New Jersey has become one of the top racing states in the nation in terms of the amount of money wagered at tracks and the income it produces for the state.55

Organized pressure for pari-mutuel betting in the 1930's came from the resort interests, particularly those around Atlantic City, and the Horse Racing Amendment Association of New Jersey which one legislator described as a "shadowy organization [that] no one seems to know what interests support it or who pays the bills."56 Opposing the legislation were an assortment of groups. The New Jersey Retail Merchants Association lobbied against the amendment on the grounds it would weaken public purchasing power. Protestant churches opposed legalized betting on the grounds that it was immoral. An organized letter writing campaign from the "State Federation of Men's Bible Classes" was especially effective in delaying consideration of the bill. Legislators also received a number of anonymous communications which cited
all the arguments against gambling. The "rumor around the State House" was that "these were written and mailed by a lobbyist paid by the Maryland racetrack interests" who benefitted greatly from New Jersey's ban on racing.57

Several lottery and slot machine bills were introduced in the legislature during the 1940's but made little headway. The next major gambling issue to emerge in New Jersey was the question of bingo. While bingo was technically a violation of state gambling law, police in most areas made little effort to prevent churches and veterans groups from using bingo for raising funds. A series of investigations into organized crime and political corruption in the early 1950's uncovered evidence that many 'charity games' were being run by professional gamblers. After a county prosecutor was indicted for non-feasance for failing to act against gambling when he knew of its existence, the New Jersey Attorney General met with county prosecutors to plan a statewide drive against all gambling including bingo.58 The drive severely hurt many Catholic Churches which depended on bingo revenue to meet their operating budgets. The legislature in 1952 had passed a bill providing for a referendum on bingo but it was vetoed by the governor. The New Jersey Council of Churches "strongly opposed...any form of public gambling" arguing that "any institution which is worthy of financial support should depend upon the free sacrificial gifts of persons committed to the cause, rather than on the take from gambling."59 Other
protestant groups including the Women's Christian Temperance Union also appeared before the legislature in opposition to the referendum. Legalization of bingo was a major issue in the next gubernatorial campaign and Democrat Robert Meyner's victory was credited to his stand for legalization. A bill setting up a referendum to allow the conduct of bingo and raffles in communities which authorized them in referenda was passed by the legislature and a referendum scheduled for the next fall election. Catholic leaders urged all Catholics to vote for bingo explaining that a "'yes' voted will not be a voted for immorality and that no moral reason need stop you from favoring the amendment." The State Council of Churches maintained that bingo was indeed immoral and urged all ministers to preach against gambling the Sunday before the election. Bingo was approved by a two to one margin and in 1954 the legislature quickly passed enabling legislation authorizing bingo and raffles under the control of a Legalized Games of Chance Control Commission.

In the 1960's and 1970's New Jersey has again been confronted with major questions of gambling policy. Voters easily approved plans for a statewide lottery in 1969 despite opposition from the state's protestant churches. Rather than pursue the rather conservative promotional schemes of the New Hampshire and New York lotteries, New Jersey officials introduced a new faster game with cheaper tickets and more frequent drawings. The program "met with instance success" and soon became the model
for other lottery states. There was some legislative support in the early 1970's for legalizing casino gambling but this was strongly opposed by Republican Governor William Cahill. Governor Byrne, Cahill's Democratic successor, did support casino gambling for Atlantic City and in 1974 the legislature passed a bill providing for a statewide referendum on casino gambling. Byrne threatened to withdraw his support when the legislature provided for casino gambling on local option for the whole state rather than just Atlantic City but eventually gave the proposal his lukewarm support. A great deal of money was spent promoting casino gambling by real estate and tourist industry interest with investments in Atlantic City and "state officials from the governor on down anticipate[d] that the amendment would be approved overwhelmingly." The voters decidedly defeated the casino proposal, however, in what was described as "one of the most bitterly contested [elections] in New Jersey history." The opposition - 'Casinos - No Dice' - was organized by two state legislators and although outspent twenty to one mounted an effective campaign through the churches and middleclass neighborhoods. Political analysts said "rejection signified the overwhelming political strength of New Jersey suburban communities where the biggest opposition to casinos was detected." Casino leaders blamed their defeat on "an emotional issue-organized crime" and voter reaction to corruption charges due to Watergate.
New Jersey gambling policy has been one of the most permissive gambling policies in the nation. The high Catholic population (37%) and the state's high level of urbanization (89%) are factors customarily associated with an acceptance of gambling. The protestant churches have actively fought most proposals to liberalize gambling law but they have only been on the winning side in highly controversial questions like casino gambling where there are many other considerations beside questions of morality.

Tennessee

Once Tennessee was one of the leading horse racing states in the nation. Tennessee provides "ideal conditions for breeding horses with stamina and speed" so it was "only natural that the early settlers recognized the potential of... Tennessee when they brought their blooded stock from Virginia and the Carolinas where racing thoroughbreds had flourished before the Revolutionary War." By 1840, Tennessee and Kentucky had replaced Virginia as the "leading breeding and racing centers of the United States." The first tracks in Tennessee were relatively primitive with betting largely a man to man affair. In the early South gambling was considered "one of the pursuits of a gentlemen" and not "incompatible with the ideals of Christian behavior." After the Civil War racing became much more commercialized and Tennessee found itself attracting large numbers of professional gamblers. Gambling was no longer the leisurely pursuit of gentlemen but a
source of violence and corruption among the lower classes. In the 1890's Memphis had become known as a "wide-open city" with a "disposition to lawlessness" where "crime czars amassed fortunes from gambling and prostitution." While the trend toward restrictive racing legislation began nationally in the 1880's, Tennessee did not act to abolish horse race wagering until 1907. The move to abolish legal gambling in Tennessee had the active support of the Protestant churches but it was more a part of the General Progressive reform movement than a religious crusade. E. H. Crump began his political career in Memphis as a reform mayor pledged to end corruption by closing down every gambling establishment in Memphis. By 1914 only Kentucky, Louisiana, Maryland and Nevada still permitted wagering on races. As a result of the prohibition on betting on horses, the breeding farms industry was almost eliminated making Kentucky the dominant horse state.

As a result of the financial pressures from the depression, several attempts were made to restore horse racing to create a new source of revenue. None of these proposals were passed, however, as "the majority of the legislators felt that the public was opposed to any type of legalized gambling, and that tax revenue received could not offset that social and economic losses that would result from legalized wagering at the tracks." This has continued to be the position of the legislature into the 1970's even though the agitation for legalized betting on races has
steadily increased. The arguments for legalized gambling are largely economic: that gambling provides a high yield source of tax revenue that is particularly attractive because it is a tax on a luxury and not a necessity; that it will stimulate tourism and bring in out-of-state visitors, that it will restimulate the breeding industry, and that it would direct to the state gambling money that now goes out of state or to organized crime. The support for legalized gambling has centered in Shelby County (Memphis) in recent years, partly reflecting the concern of local officials and businessmen over the presence of a dog racing track in West Memphis, Arkansas, which draws seventy-five percent of its business from Tennessee. The concern of Arkansas racing interests is, of course, to continue the flow of Tennessee dollars into Arkansas by preventing the repeal of Tennessee's racing ban.

Many opposition arguments in Tennessee are also couched in economic terms. The tax burdens of betting are said to fall on the poor making the tax regressive in nature and creating greater demand for social-welfare services. Some merchants complain that gambling cuts back sales while employers have complained that "employees infected with 'racing fever' tend to be inefficient." The most visible opposition has centered in the churches, however. The Memphis Ministers Association passed a resolution opposing legalized horse race betting on the grounds that "gambling tends to develop a disposition on the part of
the gambler to live by the wheel of chance" and that "in keeping with Scripture admonition...the very principle of gambling is immoral since it leads to unearned increment whereby one individual takes from another by chance, that which rightfully belongs to another, and that which the other individual does not wish to lose." The church influence is strong since Tennessee is "unquestionably one of the chief strongholds not only of Protestantism but of Fundamentalism in the United States." The Great Revival of the early 1800's was very influential in Tennessee and many churches have continued in its revivalistic tradition. Tennessee's fundamentalist heritage and the continuing strength of fundamentalists in the mid twentieth century were reflected not only in the state's gambling laws but in its ban on liquor by the drink and its anti-evolution law as well.

Though church opposition to gambling seems as strong in Memphis as in the rest of the state, legislative votes on gambling questions tend to fall along the rural-urban divisions within the state. Liquor by the drink was permitted for the first time as a result of reapportionment in the mid 1960's and there was some evidence the legislature's opposition to gambling proposals was also weakening. Several bills to legalize pari-mutuel betting were introduced in 1969 and extensively lobbied for by a group of business leaders but were killed in committee by a fifty-five to twenty-three vote. In 1971 another pari-mutuel bill was introduced and passed in the House but defeated
eleven to eighteen in the Senate. The governor had indicated he would have vetoed the bill if it had cleared the Assembly. Since reapportionment the legislature has appeared to be more willing to consider gambling reforms though the power of the churches remain strong and it is not clear if and when the legislature will actually approve legalization. The initial prohibition against gambling in Tennessee came about through the Progressive reform movement and was aimed at political corruption but gambling has now become the primary concern of the churches who have come to see 'the very principle of gambling as immoral.'

Idaho

Gambling has been a major issue in Idaho politics since its statehood which would not be expected given the demographic make-up of the state. Like many Western states, Idaho has a relatively low level of industrialization and urbanization which suggest that there would be minimal pressure for liberalizing gambling laws. But Idaho also shares with several Western states an economic history centered around the mining industry and gambling is a traditional part of mining life. Gold discoveries in the 1860's brought thousands of fortune hunters into the state whose values were not at all offended by the notion of getting rich through a little luck, either in the minefields or at the poker tables. A historian of Idaho reports that gambling was done openly and under license in Boise in the 1870's and that "licensed gamblers moved in polite society and were very
popular." He also notes the absence of churches in Idaho in the late nineteenth century and suggests that it was difficult to keep a congregation going due to the boom or bust nature of mining. As Idaho became more settled and the occupational backgrounds of residents more diversified, the abuses which often followed open gambling - corruption and lawlessness - were increasingly recognized and in 1890 the Idaho constitution was amended to prohibit all forms of lotteries. The prohibition was justified on the need to eliminate corruption and lawlessness and not on explicitly religious grounds.

Nevada, another mining state, legalized casino gambling in 1931 and illustrated the revenue potential which commercial gambling offered. Feeling the economic pressures of rapid wartime growth, Idaho in 1945 made a limited step in the direction of legalized commercial gambling by authorizing the use of slot machines in private clubs, first on a statewide basis and then according to local option. Montana, another mining state, also agreed to permit slot machines and punchboards, and a few years later Colorado considered but defeated a proposal to legalize slot machines there as well. The willingness of these states to experiment with forms of gambling not accepted in most parts of the country suggests that the influence of the mining camp had left its impact on the state's culture. The willingness of Idaho and other Western states to experiment with commercial gambling is also related to the fact that the gambling tax many
other states were turning to in the 1930's and 1940's, pari-mutuel betting, was not particularly promising as a revenue producer in a sparsely settled state like Idaho. The revenue potential of pari-mutuel betting is greatest in "densely populated states and in states having a high percentage of urban population [where] a large number of racing days may be scheduled." In 1950, the population of Idaho was 588,637 and the population of its largest city, Boise, was only 34,393. The environment was not conducive to commercial racing in Idaho so other forms of gambling were more willingly considered as alternative sources of revenue. These alternatives were not as easy to control as the racing industry and, with the exception of Nevada, the states which experimented with commercial gambling have eventually rejected it. The Idaho legislature in 1953 passed legislation rescinding the local option law on slot machines but even before that "the crime and corruption [had] created such a revulsion that nearly all of the large cities repealed their permissive laws...inspite of the substantial revenue received by the state and municipalities." Latter in 1953, the Idaho Supreme Court ruled that slot machines were a form of lottery and thus prohibited under the constitution.

Twice after repeal of the permissive slot machine policy, commercial gambling again became a major issue in statewide elections. In 1958 four years after the ban on slot machines, state senator A. M. Derr won the Democratic gubernatorial
nominated on a platform pledge of establishing full-scale casino
gambling on a local option basis. The New York Times reported
that the fall campaign was "pitched almost exclusively to the
gambling issue" with the Republican platform opposing gambling
while Democrats were deeply divided. Republican Governor
Smylie was returned to office by 4000 votes on the gambling issue
even though there had been a "Democratic trend evident in Idaho
during the primary campaigning."\(^8\)\(^7\) Gambling was again an issue
in 1962 when James K. Smith won the Democratic gubernatorial
nomination in a six-man primary race on the basis of his support
for legalized gambling. The issue again divided the Democratic
Party and other Democratic candidates stayed away from Smith
so his pro-gambling views would not hurt them. The party was
further divided when former President Truman made a campaign
appearance in Idaho and denounced gambling in a campaign speech
after which nominee Smith refused to meet with Truman.\(^8\)\(^8\)

In Idaho there has been a willingness to experiment with
legalized gambling but the state's difficulty in insuring the
integrity of slot machine operations resulted in the repeal of
the permissive policy. Thus in 1960 while Idaho did have a
relatively large Protestant population - 38.8% - and was still
largely rural - 52.5% - the lack of legalized gambling cannot
be claimed to be mainly due to these factors. The Protestants
including the Mormons who make up almost twenty-five percent
of the state's population did oppose legalized gambling but the
reason the slot machine rule was repealed was the difficulty in insuring honest pay-offs rather than the moral arguments of religious groups. The continued support given pro-gambling candidates suggests that while it is in the minority, gambling sentiment in Idaho remains strong. Idaho has not established the most common form of legal gambling, pari-mutuel betting, because its sparse population would have a difficult time supporting commercial race tracks.

Conclusion

Gambling policy involves a variety of issues and reflects numerous types of concerns. There are purely moral judgements involved - does getting something for nothing weaken character or violate the law of God that 'in the sweat of they brow thou shalt eat' - but these moral questions are usually not the dominant issues discussed in debates over gambling. While gambling control is conventionally thought of as an attempt to legislate morals, state consideration of gambling legislation seems to center more on the legislation's social and economic consequences. A major fear which has prevented the spread of commercial gambling is that legalizing casinos and slot machines will inevitably lead to control by organized crime. There is also considerable opposition to relying too heavily on gambling revenues to finance state government on the grounds that gambling taxes are regressive. Some non-racing states are non-racing because they do not have the population to support commercial tracks.
Church groups are active in opposition to gambling legislation but the importance of their opposition is usually not as noticeable as it is in disputes over liquor control. There is no strong national gambling lobby comparable to the various liquor trade associations though the gambling interests within a state are often very powerful. The same types of arguments are used to promote freer gambling laws as are used to support less restrictive liquor laws. Hotel and resort interests have been highly visible in both policy areas arguing that liberalization would attract more tourists. They also argue that the state will benefit directly from increased tax revenues, money that otherwise would go into the coffers of organized crime.

The Lockard survey of the New England states suggests that a more important question to raise than what impact do political institutions have on gambling policy is what impact does gambling policy have on political institutions. He charges that "Rhode Island's racetracks are the ultimate source of much of the corruption in the state" and suggests one reason Connecticut's leaders have failed to approve pari-mutuel betting in that state is the realization of what "race-track interests have done to the political morality of other states." No specific evidence was presented in the case studies of gambling corrupting the political process though much of the opposition to legalized gambling was based on the fear that it was an invitation to political corruption. The conviction of former Illinois Governor
Otto Kerner for accepting bribes in exchange for favorable racing
dates is perhaps one example of the type of corruption gambling
opponents fear. Lockard did believe that a well-organized legisla-
ture was less subject to this type of corruption than one in
which little cohesive existed but he did warn that policies could
influence the performance of legislatures as well as be influenced
by them.
FOOTNOTES

CHAPTER FIVE


2. ibid., p. 98.


6. ibid.


8. ibid., p. 10.

9. ibid., p. 12.


11. ibid., p. 13.

12. ibid., p. 15.

13. ibid., p. 16.


36. Loder v. Canton 65 (Ohio) OLA 517.


42. Weinstein and Deitch, Impact of Legalized Gambling, p. 15.


44. John Gunther, Inside USA (New York: Harper, 1951) p. 200,


47. ibid., p. 104.


50. Jennings, Legalized Racing, p. 46.


52. Paul T. David and Ralph Eisenberg, Devaluation of the Urban and Suburban Vote (Charlottesville: University of Virginia, Bureau of Public Administration, 1961) p. 15.


57. *ibid*.


66. *ibid*.


69. *ibid.*, p. 11.


72. *ibid.*, p. 162.


75. *ibid.*, p. 46.

76. *ibid.*, p. 52.


81. ibid., p. 57.


84. Jennings, Legalized Racing, p. 33.

85. Drazazga, Wheels of Fortune, p. 211.


CHAPTER SIX
DIVORCE POLICY: ECCLESIASTICAL LAW
WITHOUT ECCLESIASTICAL COURTS

Legal obstacles to the termination of a marriage relationship are deeply rooted in the history of Western Christian civilization. The early Christian Church recognized marriage as a sacrament and as such necessarily indissoluble. In England divorce was under the jurisdiction of ecclesiastical courts and canon law until 1858. Though ecclesiastical courts and canon law were rejected in the American colonies, they greatly influenced the development of American divorce policy. A frequent charge against state divorce codes has been that they reflect values of a previous age and do not recognize the realities of present society. Another controversy has centered around the question of migratory divorce and states that pursue 'quick and easy' divorce policies. Thus, legislative battles over divorce laws have reflected both demands for liberalization to reflect current attitudes toward divorce as well as demands to tighten up divorce procedures to prevent states or localities from exploiting the divorce trade.
History of Divorce Laws

The first issue faced by American colonists was whether marriage and divorce fell under the jurisdiction of the civil courts or the church. Colonial policy generally reflected the relative strength in the area of Puritans and other dissenters who viewed marriage as a civil responsibility and Anglicans who believed in the English practice of giving ecclesiastical courts jurisdiction over the marriage relationship. After the Revolutionary War, the regulation of marriage and divorce was turned over to civil authorities in all the states. In most states the 'abeyance theory' was followed which was that "the whole body of English ecclesiastical law had been taken over as part of the common law and was held in abeyance until [American] courts were given jurisdiction to administer it."3 Two types of divorce were possible under English law - the mensa et thoro divorce (or separation from bed and board divorce) which was really a legal separation and absolute divorce which could only be granted by special act of parliament. The early practice in the United States was to follow this tradition of only granting bed and board separation through the courts while reserving to the legislature the exclusive privilege of granting absolute divorce. Several New England states had established grounds for absolute judicial divorce before the revolution and this practice became increasingly popular in the North after Independence though the states of the South were much slower to entrust divorce to the courts.4
The problem of migratory divorce closely followed the establishment of differing sets of statutory grounds for divorce. Pennsylvania's divorce law was liberalized in 1815 when desertion for two years and 'indignities to the wife's person' were recognized as grounds for divorce. By 1840, Pennsylvania had become a 'divorce haven' for residents of New York. Later "the flow of divorce seeks began to move westward" as Ohio, Indiana and Illinois acquired "the reputation of being reasonably hospitable to migrants in search of freedom."5 During this period "American moralists - both professional and amateur - addressed themselves frequently to the question of divorce" representing a struggle between "the forces of rationalism and dogmatism."6 There were few defenders of the corrupting practice of legislative divorce and among most religious spokesmen there was recognition that absolute divorce should be permissible under some circumstances so most debates centered on the question of what were proper grounds for divorce. Indiana in 1824 authorized courts to grant divorces for any cause they deemed proper but most states relied on the grounds for separation from bed and board divorces of the ecclesiastical courts.

Before the Civil War the "general tide of events had been toward humanitarian reform" but after the War "the trend was in the opposite direction toward self-righteous conservatism."7 Divorce reform became increasingly associated with free love advocates and political radicals. There were national scandals
stemming from the abuse of liberal divorce laws in states like Indiana. These factors as well as sharp increases in the divorce rate gave rise to a reaction against liberal divorce. The New England Divorce Reform League under the direction of former Yale President Theodore Woolsey was organized to force states to regulate divorce more stringently. Connecticut repealed general misconduct as a grounds for divorce in 1878, and Maine abolished its omnibus clause in 1883 while other states tightened up their residence requirements. The New England group later expanded its efforts to national reform as the National League for the Protection of the Family. Churches, protestant and Catholic, backed the league, and in some states anti-divorce drives were largely clerical efforts but, like the 19th century drives against gambling and liquor, stricter divorce legislation had the support of many social reformers who were concerned over the commercialization of the divorce trade and the inequity of many divorce settlements.

At the turn of the century there was considerable sentiment for a strict uniform divorce code which would eliminate the problems associated with migratory divorce. This proposal was backed by the leading progressives of the day including Theodore Roosevelt. A national conference of Commissioners on Uniform State Laws proposed model legislation in 1906 but concluded in 1928 that it was "useless to attempt to submit any draft of law which would name the causes for divorce." Periodic efforts have also been made to enact federal divorce legislation since the 1880's including
a series of efforts to adopt a constitutional amendment between 1913 and 1947 sponsored by, among others, Rep. Volstead of Prohibition fame.\(^9\) The inability of the states to agree on what the policy of a national or uniform law would be has permitted the continuation of fifty separate state laws which are "in general a hodgepodge of differing details, representing an accumulation of revisions and additions, plus a considerable amount of case law."\(^10\)

While some states continued to manipulate residency requirements to attract the divorce trade, there were few statutory changes in state divorce policy between the early 1900's and the 1960's. The federal courts were drawn into the question of divorce policy on the issue of the legality of migratory divorce. Generally the position of the court has been that under "the full faith and credit clause of Article IV, Section I, of the Constitution, divorce decrees issue by a court of one state are to be honored in all other states" provided that the jurisdiction of the decree-awarding state is not successfully challenged in another state.\(^11\) In *Sherrer v. Sherrer* (1948) the Supreme Court introduced the concept of 'divisible divorce' which upholds the validity of support and maintenance orders obtained in the home state of the wife either before or after the husband has obtained an absolute divorce decree in another state.\(^12\)

A continual source of complaint against state policy has been the requirement of establishing the guilt of one party for marital breakdown through adversary court proceedings. The adversary nature
of divorce proceedings stemmed from the bed and board divorces of ecclesiastical courts which were designed to relieve a spouse of the responsibilities of the marriage relationship (i.e., providing bed and board) without actually dissolving the marriage. The application of this principle to absolute divorce in the civil courts led to frequent charges that it encouraged fraud, collusion and hypocrisy. Under the adversary procedure, a couple which wished to separate would have to find an offense with which one partner could 'charge' the other. By the 1960's, over 90% of divorce proceedings were uncontested suggesting most couples seeking divorces had agreed to the divorce and were only acting as adversaries to comply with legal requirements. Professionals in family law led efforts to end the hypocritical patterns of divorce laws and by the late 1960's there was growing support for the concept of 'no-fault' divorce. The National Conference of Commissioners on Uniform State Laws and the American Bar Association each sponsored model no-fault legislation in the early 1970's and a number of states have now enacted provisions whereby couples may dissolve their marriage for "irreconcilable differences."

While the analysis of this paper is focused on legislative enactments, it must be noted that much of the nation's divorce law is court made so that statutory language is only a very rough indicator of the actual restrictiveness of divorce policy. A grounds for divorce of cruelty in one state may mean something quite different from the meaning given it in another state, for example. The
major differences in statutory law centers around the number of
grounds for which a divorce can be obtained, the length of time it
takes to complete divorce proceedings, and the amount of time
required in residency before proceedings can be commenced. Table 8
compares state law in these areas in 1960. The easy divorce states
catering to the migratory divorce trade were generally distinguished
more by their short waiting periods than by a larger than average
number of grounds for divorce. With the adoption of 'irreconcilable
differences' as a grounds for divorce, the absolute number of grounds
recognized becomes an irrelevant indicator of the restrictiveness
of state law. The use of residency requirements as an indicator of
divorce policy may also be becoming invalid since the liberalization
of divorce in former strict control states has greatly reduced the
number of migratory divorces.

Determinants of State Divorce Regulations

The pressures for divorce law liberalization in the United
States have been traced back in several studies to the "shift from
rural to urban life, increased industrialization, the growing
independence of women [and] social changes in family patterns."13
One theory argues that there was little demand for divorce in pre-
industrial society because it existed within the framework of the
extended family. Family life had a public character when families
were large and loose and had few expectations and made few demands.
But as changes in the economic system occurred, the extended family
gave way to the nuclear family as the basic social unit. This
<table>
<thead>
<tr>
<th>State</th>
<th>Residence Of 2 Years Or More</th>
<th>Less Than 7 Grounds For Divorce</th>
<th>Less Than 8 Grounds For Divorce</th>
<th>Residence Of 1 Year Or More</th>
<th>Residence of 6 Months Or More</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Arkansas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td></td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Florida</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Indiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Iowa</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Kansas</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Louisiana</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Maine</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Massachusetts</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Michigan</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Minnesota</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Mississippi</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Montana</td>
<td></td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Nebraska</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Nevada</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Residence of 2 Years Or More</td>
<td>Less Than 7 Grounds For Divorce</td>
<td>Less Than 8 Grounds For Divorce</td>
<td>Residence of 1 Year Or More</td>
<td>Residence of 6 Months Or More</td>
<td></td>
</tr>
<tr>
<td>------------------------------</td>
<td>--------------------------------</td>
<td>--------------------------------</td>
<td>-----------------------------</td>
<td>-------------------------------</td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Ohio</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Vermont</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

resulted in an elevation of the conjugal relationship to a new level of importance but as families became more exalted, "their intimacy [could] become suffocating, their demands and their expectation too high."\textsuperscript{14}

Other theories have linked higher demands for divorce to more specific social and economic indicators. If marriage is viewed as being basically an economic relationship, a society's reliance on marriage would seem to decrease as affluence increased. On an individual level, the relationship between income and divorce may reflect not only a couple's ability to exist economically independent from the marriage relationship but their ability to procure a divorce in the first place. The proposition in both cases would be that as more people are able to divorce, divorce rates will go up, divorce will become more accepted, and the likelihood of liberalizing divorce procedures will increase.\textsuperscript{15} Education attainment has been related to changes in divorce policy in a similar fashion. Education is linked to greater tolerance which is reflected in a greater acceptance of divorce. While state aggregate data in past studies have supported these propositions, the relationship between divorce and income and education at the individual level seems to be just the opposite. The people with lower incomes and less education have the higher divorce rates. The higher levels of divorce among lower income groups has been attributed to the dis-stabilizing influence of financial pressures on a marriage.\textsuperscript{16}
Population mobility is another factor which is frequently linked to attitudes toward divorce. Social norms generally are harder to maintain when the population of a society is rapidly changing. The effects of a high level of mobility seem especially noticeable in the American West where there were few social conventions to constrain the spirit of frontier individualism. Many of the social supports of the marriage relationship are removed when a couple leaves family and common friends to settle in an unfamiliar area. In the case of the frontier West, the migratory nature of the principal forms of employment, ranching and mining, created a further strain on permanent relationships. Mobility is normally associated with increasing levels of economic development which frees workers from the land. In the United States, the most dramatic surge in the level of population mobility did not occur as the result of industrialization but followed the opening of the American West. The influence of mobility on legislating morals is an influence distinct from that of increasing urbanization and industrialization.

The historical review of state divorce legislation shows a generally liberalizing trend as the country developed economically though, as in the case of gambling, the historical evolution of divorce policy does not support the contention that divorce law is a simple function of environmental changes. Policies were liberalized between the War of Revolution and the War between the States but in the period of greatest economic growth, a conservative
reaction set in and divorce 'reform' was aimed at tightening
divorce controls. While divorce mills were the subject of newspaper
exposes, what reformers were most concerned about was a sharp in-
crease in the incidence of divorce after the Civil War. Tighter
divorce laws were enacted in the face of growing demand for divorce.
Reform leaders frequently drew parallels between the breakdown in
family life in ancient Rome and the increasing divorce trend in
America warning that future prosperity depended on the ability "to
keep family life pure and simple." The high visibility of migratory
divorce kept attention focused on the problems caused by the 'easy'
divorce states and much of the effort to change divorce policy in
the twentieth century has been aimed at establishing national policies
that would prevent the "few states which offer bargain-counter di-
vorces [from controlling] the social policy governing domestic
relations in the many states which do not." Critiques of state divorce policy blame religious influences
for blocking the repeal of the restrictive laws enacted in the
late 1800's. In only a few states prior to the 1960's were there
open struggles over divorce reform, however. The most dramatic
battles took place in New York over attempts to increase the number
of grounds for divorce. New York enacted a general divorce bill
in 1787 that recognized only one ground for divorce, adultery,
but the legislature continued to enact private divorce bills through
the 1840's. It is unclear why New York did not follow the liberal-
izing trend evident in other states in the first half of the
nineteenth century. Many bills were introduced in the 1840's and 1850's but a majority in both houses of the legislature could never agree on an alternative law. Religious lines apparently were not important at this time as several backers of reform were Irish Catholics. Since the turn of the century, the religious basis of divorce conflicts has become more apparent. From 1900 to 1930 divorce reform bills were regularly introduced by Jewish Democrats but were never given serious consideration. The power of the Catholic Church to block divorce on its own was first demonstrated in 1934 when a Republican-backed divorce bill recognizing desertion as grounds for divorce was sent back to committee after Democratic leaders received a letter from New York Catholic Bishops condemning the bill. The secretary of the New York State Catholic Welfare committee was the only opposition witness to testify against the bill. He did not emphasize Catholic doctrine but argued that:

To weaken the law concerning the marital status is to strike at the foundation of society. The stability of the State itself is involved. Marriage is the basis of the family - and the family is the cornerstone of society. Civilized society either progresses or deteriorates from the moral point of view according as the importance of the family is emphasized in the minds of any civilized people.

He further warned that the reform was 'directly contrary to the religious faith of more than a third of our people' and charged that the backers of the bill represented a "few lawyers interested in this line of business." The bill was defeated with New York
Democrats voting solidly in opposition. This pattern was to be repeated periodically over the next thirty years.

Catholic intransigence on the divorce question continued into the 1960's but conflicts within the Church weakened Catholic lobbyists' ability to speak for 'over one third' of the state's population. A bill was finally passed in 1966 recognizing five additional grounds for divorce but also requiring a ninety day period of conciliation under the direction of a state conciliation bureau. While Catholic Bishops had denounced the grounds of a two year separation as "tantamount to divorce by consent," the New York Times reported that "it is not entirely clear how disappointed the Roman Catholic bishops of New York really are" since they had reportedly passed the word to legislature leaders that "they could live with the bill."22 One assemblyman attributed the bill's passage to the fact that "Catholic laity and clergy are in a state of ferment, in which old dogmas were undergoing an agonizing re-examination," and concluded that "what really got this divorce bill off the ground was a man named Pope John."23

In other states, Catholics have also upheld their right to urge policies which incorporate "those moral principles which flow from the natural law and are binding on all men."24 It is difficult to trace Catholic power to specific legislature proceedings in other states because the evolvement of divorce policies in the twentieth century in most states has occurred within the courts.
Lip-service was given to the legal fictions created by legislatures at the behest of clerics and the moral leaders of the community, but at the same time the law was relaxed and stretched to permit an institutionalization which would meet needs and expectancies when both parties had agreed upon divorce.25

The presence of large numbers of Catholics undoubtedly helped keep the 'legal fictions' as formal state policy but this is difficult to demonstrate since the actual practices of the courts kept statutory law from becoming a center of controversy except in those states like New York where the law actually curtailed divorce. Wide spread evasion of strict divorce laws had long been the practice before states began changing their laws in the 1970's to reflect actual practice.26 The Church, while maintaining the indisolubility of marriage, has raised little active opposition to these recent changes designed to allow couples who want to separate to do so without acrimony.

Protestant involvement in divorce legislation has involved a large number of different stances. Both Luther and Calvin rejected the sacramental nature of marriage and most protestant denominations allow for the possibility of divorce on serious enough grounds. The major exception is the Episcopal Church which has only recently recognized the possibility of divorce. Episcopal Bishop William Hare was the leader of the successful movement to shut down divorce mills in the Dakota's in the 1890's while Episcopal Bishops in New York generally took a cautious middle ground in the conflict between protestants and Catholics on divorce reforms.27 Methodists, Presbyterians and Lutherans have generally recognized the right of
an innocent partner to seek divorce, a position consistent with the demand for fault to be established contained in most state laws. The position of the more conservative churches is to condemn divorce as a violation of Christ's teaching but to accept the possibility of a marriage being dissolved. The major denominations were active in the attempts to establish uniform laws or put divorce under the jurisdiction of the federal government to eliminate the problems of migratory divorce. The Council of Churches in New York State regularly endorsed reform proposals in that state and individual clergymen were often leaders in the reform movement.

The greatest organized pressure for reform has come from professional groups involved in divorce proceedings. State bar associations played an active role in both the 1966 New York reform and the 1970 California no-fault law. Family law experts have also pushed for reforms. Divorce reform has also had long ties with the Women's movement in the country. Susan B. Anthony was one of many suffragate leaders who campaigned to free women from the bonds of unhappy matrimony. Much of the opposition to the women's rights issue in the 1870's was inspired by "feminist' views on divorce, which were equated with espousal of free love." The absolute right to dissolve a marriage relationship continues to be a goal of the women's liberation movement and is reflected in feminist support for no-fault divorce.
Public opinion and the role it has played in divorce legislation is difficult to determine. A 1936 Gallup poll indicated that a majority of the residents of New York State wanted divorce reform thirty years before it was enacted. The fear of a monolithic Catholic vote against divorce reform supporters was evidently a stronger factor in determining legislative action than general public opinion, however. Nationally, public sentiment through the 1960's continued to support strict laws. In 1966, only thirteen percent of a national sample indicated that they thought divorce laws were too strict while thirty-four percent indicated laws were not strict enough. Several polls have indicated that there is considerable opposition to migratory divorce: fifty-one percent in 1945 and sixty-four percent in 1954. Because divorce law depends so much on implementation policies, it is difficult to discuss the performance of political institutions in representing public opinion. The conventional wisdom of divorce policy is that implementation procedures have changed to meet contemporary needs even though statutory enactments have lagged behind.

The divorce policies of Nevada, South Carolina, and California represent three distinct approaches to the regulation of divorce. The following case studies will trace the evolvement of each state's divorce law and the major factors which shaped its development. Each of these cases is somewhat of an exceptional case: Nevada provides an example of commercialized divorce; South Carolina of strict divorce within a protestant culture, and California of no-fault divorce.
Divorce is usually not thought of as being primarily an economic issue, but it has been economic considerations that have guided the making of divorce policy in Nevada. It is the "quick and easy divorce that has made Nevada famous everywhere." The migratory divorce trade was one of the mainstays of Nevada's economy during the depression bringing up to five million dollars of business into the state annually. While the state's gambling laws now overshadow state divorce laws as a tourist attraction, the gambling industry was in part an offspring of the divorce industry. The large numbers of people coming into the state to establish residency so they could file for divorce needed recreational diversions, and the casino industry grew in response to this need. As other states liberalized their divorce laws, the importance of migratory divorces to the Nevada economy declined but divorce remained much more of a commercial enterprise in Nevada than it did in other states.

The first Nevada divorce law, passed in 1861, was liberal for its days but there is no evidence that it was designed to lure in divorce business from out of state. The grounds for divorce were copied from laws in effect in other Western states which reflected the generally liberal stance of the West. The original law had a six month residency requirement which was the same as the residency requirement for formal citizenship. The short residency requirement had been adopted because the "population was in constant flux,
222

stamped from one mining camp to the next all over the state" and the state government wanted to find some way to retain people for its census and tax rolls. Before 1900, Nevada's divorce rate was inconspicuous. A study of state divorce laws inspired by abuses in several divorce mill states in the East noted that Nevada divorce figures were of a "very conservative character." After the turn of the century, Nevada did begin to actively look on its divorce laws as a potential economic resource. A slump in the mining industry, the success of other states in benefitting from migratory divorces, and the development of means of rapid transportation were factors associated with this change in outlook. One analysis argues that the divorce boom had its start in an event over which policy-makers had no control. William Corey, president of U.S. Steel, the nation's first billion dollar corporation, created a national scandal when he and his wife of twenty years obtained a Nevada divorce so he could marry a young chorus girl.

This cause celebre made Reno. Laura [his wife] was the heroine. Nevada Divorce law was the fairy godmother. A 'rest' in Reno had cured a wretched marriage for a noble woman. The world learned of Reno and easy divorce. Other Easterners went West. Reno was no longer just a wayside railroad town. It was a famous terminus. It was a focal point in American Civilization.

Other western states - Utah, North and South Dakota - had earlier experienced sharp increases in divorce as easterners discovered their more liberal policies but "the result in each had been to attract such unfavorable publicity that the conservatives mobilized their forces and obtained a change in the laws."
This pattern was broken in Nevada, however, because of the state's financial needs. In 1913, reform groups led by clubwomen and church leaders persuaded the legislature to enact a one year residency requirement but local business slumped at once, tax receipts fell off and "even churches lost in attendance and income." The sponsors of the one year residency bill as well as the governor who signed it were defeated for re-election in 1914. In 1915, the legislature restored the six month provision. On signing the bill, the Nevada governor suggested that the gambling question would better be handled by public referendum since "moral and social questions on which the people are divided should be kept out of the legislature where they tend to obscure legislation of even greater moment to the serious detriment of good government."41

Local reform efforts were again mounted in the early 1920's when state divorce policies made national headlines as the site of the divorce of Mary Pickford and Owen Moore. The case involved what appeared to be obvious collusion and Nevada was subject to a barrage of criticism for its lax enforcement of its own laws. The Nevada Federation of Women's Clubs led a successful effort to get a repeal bill on the ballot but the public voted by a three to one margin to keep 'liberal' divorce. One Nevada historian notes that by the 1920's even the "good people realize[d] change would be economic suicide."42 State prosperity was dependent on tourism and it became "imperative to keep Nevada's divorce attractions bright in competition with those of France, Mexico and other
potential competitors." When rumors began circulating in 1927 that Paris and Mexico City were making inroads on Reno, the legislature lowered the residency requirement to three months. In 1931, Idaho and Arkansas also lowered their residency to three months to attract divorce business and Nevada retaliated by dropping its to the present six week requirement. It was in 1931 that Nevada also approved wide open gambling to keep its temporary residents amused.

Churches continued to condemn the increasing commercialization of the divorce trade but the economic advantages seemed to far outweigh moral considerations. Reno has been described as the city where "Catholic lawyers scramble to get divorce cases and the YMCA is happy to fill its dormitory rooms by renting to divorce seekers." State Presbyterians adopted a resolution after the six week law was adopted expressing their "extreme embarrassment and hot indignation at the legalized voice and disgraceful divorce laws" but churches, Protestant or Catholic, have demonstrated little real ability to influence policy in Nevada. This reflects in part the state's mining heritage which "did not offer the kind of stability necessary for the survival of any except the strongest and best organized religious groups" as well as the heterogeneity of the state's religious make-up where no one religious tradition was ever dominant. Even the early success at blocking easy divorce in 1913 represented Progressive reform sentiment and the desire of women's clubs to maintain their towns
as conventional residential communities more than it did religious indignation. Nevada represents a state where the face of religious culture was very weak and where divorce (and gambling) policies evolved almost entirely in response to economic needs. It is necessarily a unique pattern of development since it rests completely on the more restrictive patterns of legislation found in other states.

**South Carolina**

Several Southern states have attempted to exploit the migratory divorce trade in the same manner that Nevada has so successfully used. Both Florida and Arkansas reduced their residency requirement in explicit efforts to stimulate their tourist industry during the Depression. The absence of any significant number of Catholics may have been conducive to the adoption of these 'easy divorce' policies but the absence of Catholic pressure did not lead to a uniform easing of divorce regulations throughout the South. Until 1949, one of the provisions of the South Carolina state constitution was that "Divorces from the bonds of matrimony shall not be allowed in this state."[^4] That particular provision has now been repealed but it has been replaced in the constitution with one which specifies the lawful grounds for divorce. The constitution recognizes only four grounds: adultery, desertion, physical cruelty and habitual drunkenness so that the only way the grounds for divorce can be expanded is through another constitutional amendment.^[49]
The origin of the South Carolina ban on divorce lies in the canon law tradition which was imported in colonial times. While the Puritan colonies in the North made the regulation of marriage a civic responsibility, in the Southern colonies the Anglican church had exclusive control over marriage. Under canon law, ecclesiastical courts could grant the 'bed and board' divorce but since there were no ecclesiastical courts established in the colonies, there was no provision for even this modified divorce. After the revolution, marriage became a civil responsibility but policy continued to be guided by canon law. The opinion of a 1833 state court decision declared that "the marriage contract in South Carolina was indissoluble and nothing short of actual death or presumed death could terminate it." There appears to have been no organized pressure to institute a system of judicial divorce or even legislative divorce similar to the attempts being made in other states in the early 1800's. One explanation for this is the plantation economy of the state which protected the extended family from the pressures of the industrial revolution. O'Neill writes that "there was no divorce in the South because the loose, easy family system made it unnecessary, while the customs and doctrines of the prevailing Anglicanism forbade it." 

Divorce was legalized for a short time during Reconstruction but there is no record of any divorces being granted under the law. The overthrow of the carpetbaggers was followed by a return to the old policy in 1878. A new constitution drawn up in 1895
contained the prohibition on divorce quoted earlier. It reflected a desire to continue traditional state policy in lieu of the more liberal policy associated with carpetbag rule, and also represented a condemnation of divorce scandals in northern states which had received national publicity in the late 1800's. While South Carolina was charged with having more adultery and bigamy than any state in the union, there was little organized opposition to the prohibition until the Second World War. The state refused to participate in the uniform divorce law movement for fear changes would be required in South Carolina law. Couples who were determined to end their marriage had recourse in migratory divorces.

In the 1940's the South Carolina Bar Association began a drive to legalize divorce and was able to bring enough pressure on the legislature to hold a referendum in 1948. The proposal to legalize divorce passed with fifty-seven percent of the vote though opponents argued the small number of people voting on divorce compared with the number voting for president indicated that far less than a majority wanted divorce legalized. Since the vote was not binding on the legislature there was speculation that the prohibition would remain. Conservative religious groups fought repeal on the grounds that the new law would include non-Biblical grounds for divorce. The Charleston News and Leader editorialized that repeal would increase immorality among Blacks in that "divorce laws would make [divorce] immediately popular among them and would yield handsome revenue to colored attorneys." One legislator
argued that whatever the outcome of the referendum "the state cannot pass a law that is superior to the law of God." In 1949, the legislature did complete the legalization of divorce. Court interpretation of the new law has continued to emphasize "the state's historic opposition to divorce." The high opposition to divorce manifest in South Carolina is surprising in light of the state's large Protestant population and does not support the hypotheses linking strict divorce policy to Catholic pressures. However, state policy does reflect Catholic doctrine on divorce as it is incorporated in canon law and transmitted through South Carolina's Anglican heritage. Most of American protestantism has its roots in the Puritan heritage which rejected marriage as an indissoluble sacrament. While the evangelistic denominations which became dominant in the 19th century rejected the doctrinal justification against divorce, they did accept literally the Biblical injunction that "those whom God has joined together, let no man put asunder." The continued opposition to divorce by Protestants in South Carolina while opposition in other parts of the country was liberalizing also reflects South Carolina's continued agricultural economy and its association of divorce with immorality in the northern industrial states.

California

The late 1960's and early 1970's witnessed considerable activity in the area of divorce reform among the states. The most publicized and hardly fought battle occurred in New York where the state changed its 179 year old policy of granting divorces only for
adultery. The most revolutionary change in policy occurred in California, however, where the legislature enacted a completely new 'family law act' which authorized dissolution of marriage without regard to misconduct on the part of either party. The grounds for dissolution were set at two: irreconciliable differences and incurable insanity. As a recognition of Catholic belief, the new act does continue to provide for the old actions of legal separation and annulment. The concept of 'fault' has been eliminated, even from the question of property settlements. Under the new law, community property acquired since marriage is equally divided. This provision has been the subject of the greatest controversy regarding the reform, not the basic morality of no-fault divorce.

The California Family Act of 1969 had its origins in a study committee formed by the legislature in 1963 "to develop a legislative program to strengthen family relations." The committee's positive focus on how to improve marriages rather than simply how to liberalize divorce proceedings drew praise from even conservatives on the divorce question. There was virtually no opposition to the need to rewrite divorce laws and after early committee hearings had mobilized some public interest, Governor Edmund Brown, a Catholic, announced his support of the reform of divorce laws but urged the legislature not to act hastily. After the legislative study was completed, Governor Brown appointed a Commission on the Family to carry on "a concentrated assault on the high incidence of divorce in our society and its often tragic consequences."
The commission recommended legislation in two areas: substantive changes in the divorce law to allow for no-fault dissolution and the creation of a family court system with jurisdiction over all matters relating to the family. The two proposals were related in that the reconciliation services to be offered through the family court needed an atmosphere removed from the adversary climate of the traditional divorce court in order to be effective. The report of the commission was generally lauded and received the endorsement of numerous groups including the National Council of Churches and the four Roman Catholic Dioceses in northern California.\textsuperscript{60}

The proposals were introduced in the legislature in 1967 but held in committee by their sponsors to give them more time to organize support. Major criticisms centered on the cost of providing counseling services under the family courts and the property settlement and child custody provisions. After extended negotiations among legislators and the state bar association, the bill was submitted to a floor vote and passed with just six dissenting votes in the Senate and six in the House. Public support for the change was reported as "vocal and nearly overwhelming."\textsuperscript{61}

What is notable about the California reform from the standpoint of this analysis is the smoothness with which it was accomplished. Some clergy appeared at hearings and argued for strengthening divorce restrictions and during the final legislative debates "a handful of angry housewives turned out to protest against 'instant divorce' under the rallying cry 'God isn't dead but
marriage will be62 but organized opposition to the measure was slight. While Catholic's constitute over twenty-two percent of the state's population, they are not numerous enough to exercise the raw power held by Catholics in the New England states, nor do they have the cohesion and self identity which the ethnic Catholics of the eastern seaboard states possess. There is also a more liberal tradition among California Catholics. A California history book notes in a discussion of Northern California and Southern California conflicts over progressive reforms that "despite their Catholic background, San Franciscans were more liberal than the more strait-laced [Protestant] South on matters of divorce."63

Besides the lack of a well-organized Catholic opposition, another factor leading to repeal was the very skillful presentation of no-fault divorce as family relations legislation. At legislative hearings, opposition witnesses did not try to argue that the existing law was morally sound or very effective in curbing California's high divorce rate. The easy availability of Nevada and Mexican divorces weakened the position of those wanting strict laws for the sake of deterrence. The major point at issue was the necessity of having to establish fault in a break-up which both parties desired. This question of fault is not really relevant to the Catholic position on the dissolubility of marriage nor, since existing law recognized numerous grounds of divorce, was it relevant to the question of limiting divorce to Biblical grounds. The cruelty statute was liberally interpreted by California courts
so the question raised by the reform act was not who should be granted a divorce but how should they be granted. The courts of California had "long recognized that there is no justification in holding together at law a marriage that is dead in fact,"64 The substantive changes which the no-fault concept would bring about were in the area of property awards and alimony, issues having little connection with religious doctrine.

California's willingness to adopt a revolutionary new approach of regulation in a sensitive area reflects a certain self-confidence that comes from a tradition of often exercising policy leadership. California's leadership in divorce extends back to 1874 when the state enacted legislation recognizing six grounds for divorce which served as a model for other Western states, including Nevada.65 In 1903 California supported the uniform divorce law movement by increasing its six month residence requirement to one year, a reform which proved a great boom to the Nevada divorce trade.66 Later the legislature passed several resolutions calling for a federal divorce law.67 In 1939, the state established a Children’s Court of Conciliation to provide counseling and reconciliation services rather than simply functioning as a tribunal in adversary proceedings. Judge Ben Linsky of the Los Angeles Children's Court was nationally known for his advocacy of no-fault divorce. Innovation in the area of divorce was not new to California in 1969 but reflected a century of leadership in reform. Religious pressures have been present but divorce policy in California
seems to have responded to theories of social and legal reform more readily than it has to church doctrine.

**Conclusion**

Divorce regulations represent the most extreme case of religious influence over public policy. During much of the history of the Christian world, it was the Church and not the state that was the governing authority in the area of divorce. When the state did begin assuming jurisdiction over divorce in America in the late eighteenth century, civil regulations were based on the principles of canon law. In light of the close historical relationship between church and state in the regulation of divorce, it is somewhat surprising that Church lobbying has not been more intense in recent years on questions of divorce legislation. The survey of divorce controversies revealed some Church involvement but, with a few exceptions such as New York, open struggles over divorce law have been few. In the case of Eastern states with large Catholic populations, public officials may have deliberately avoided consideration of reform legislation to prevent opening up religious conflict. While the Church's presence may have prevented divorce from receiving legislative attention for much of the twentieth century, it has not prevented changes from taking place through the courts. By the 1960's the Catholic Church found itself in the awkward position in many instances of having to choose between liberalizing reforms and existing policies which encouraged hypocrisy and deceit but did not discourage divorce.
One type on environmental factor which seemed to have an important impact on divorce policies was the level of population mobility. The highly mobile character of life in the American West appeared to significantly reduce the importance of social norms and the degree of consensus on morality questions. High mobility also seemed to affect the churches ability to accrue political power. In highly mobile states with large religious populations, the churches did not develop the type of institutional power they gained in states with more stable populations. Not only did Western states with relatively large Catholic populations such as California and Nevada exert less influence on divorce policy than did the Catholic states of the Northeast, but protestants in western states having large protestant populations also appeared to have less political power than they did in other parts of the country. Arizona, for example, has a high number of fundamentalists but liberal liquor and gambling laws. One explanation for this deviant pattern is that the high fundamentalist population represents the recent influx of migrants from Southern states and that even though the membership figures are high, they do not reflect the type of entrenched power the churches represent in states which have a long protestant heritage.

This chapter's review of divorce policies suggests several ways in which political factors help shaped policies which are frequently overlooked in the literature. The involvement of a state in national organizations such as the Conference of
Commissioners on Uniform State Laws is one example. Because of the alleged abuses of migratory divorces, there have been several national movements to establish uniform divorce laws and the response of states to these efforts have varied considerably. Also related to the migratory divorce phenomena is the pressure on states to use their divorce laws to attract out-of-state business and bolster sagging economies, an opportunity made possible by the structure of the federal system. In the case of South Carolina, the state's prohibition on divorce until 1949 reflected in part a continuing rejection of anything having to do with Reconstruction. The recent California reform illustrates the impact that the skill and expertise of a study commission can have in instigating policy reform.
FOOTNOTES

CHAPTER SIX


3. Freed and Foster, "Divorce American Style," p. 73.


5. ibid., p. 117.

6. ibid., pp. 81-82.

7. ibid., p. 79.


12. ibid., p. 875.

13. Freed and Foster, "Divorce American Style," pp. 75-76.


17. Blake, Road to Reno, p. 131.


20. Ibid., p. 207.

21. Ibid.


23. Ibid., p. 36.


25. Freed and Foster, "Divorce American Style," p. 76.


27. Blake, Road to Reno, p. 218.

28. Ibid., pp. 86-87.


32. Ibid., pp. 519, 222.

33. Shaffer, "No Fault Divorce," p. 792.


36. Ibid., p. 259.

38. ibid., p. 339.
41. Blake, Road to Reno, p. 156.
42. Lillard, Desert Challenge, p. 82.
44. ibid.
46. ibid., p. 42.
47. Elliot, History of Nevada, p. 374.
49. ibid., p. 259.
50. Blake, Road to Reno, p. 41.
53. New York Times, April 1, 1948, p. 27.
54. Blake, Road to Reno, p. 235.
55. ibid.
59. ibid., pp. 163-164.


CHAPTER SEVEN

BIRTH CONTROL POLICY: ANTHONY COMSTOCK DEFINES THE OBSCENE

The nature of state birth control legislation has changed dramatically in the past twenty years. Prior to the mid 1960's, state birth control policies aimed at restricting the availability of birth control information and contraceptive devices. Since the mid 1960's the trend in state law has been to "affirm state support for freer access to voluntary family planning information and services, and to establish family planning programs for state residents." While some states still have restrictive laws among their criminal statutes, they have been so weakened by judicial and administrative interpretations that their practical effects are negligible. This chapter will review the history of birth control legislation in the American states and the forces which have led the states from policies of prohibition to policies of promotion. The birth control policies of three states—New York, Massachusetts, and North Carolina—will be examined in brief case studies to illustrate the various ways these policy changes came about.

History of State Contraceptive Laws

In 1873 Congress passed the Comstock Act which banned the importation, mailing and dissemination in interstate commerce of obscene materials. Listed in the legislation as obscene was
"every article or thing designed, adapted or intended for preventing conception or producing abortion" as well as advertisements for such articles, directories of where they could be obtained, and "description[s] calculated to induce or incite a person to so use or apply any such article."\(^2\) The intent of the legislation was, apparently, to squash a flourishing mail order pornography trade. Proponents of the bill justified its need by exhibiting "specimens of the disgusting pictures and publications which were then in circulation."\(^3\) At no place in the printed record of the consideration of the Comstock Act is any mention made of contraception. There is disagreement over what the actual will of Congress was in regard to birth control. Comstock interpreted the law to mean that a "reputable doctor may tell his patient in his office what is necessary" and may prescribe for them contraceptives through a licensed pharmacy.\(^4\) The Comstock Act was treated as a routine piece of legislation in Congress passing unanimously in the Senate and under a suspension of the rules in the House. At the time of its passage, the Act seems to have been thought of primarily as a prohibition against using the mails to send catalogs of "obscene pictures...vile books and rubber goods," not as a national policy against family planning.\(^5\)

After the federal statute was passed banning the mailing and dissemination in interstate commerce of obscene material, many states passed 'little Comstock Acts' barring the production, distribution, and sale of obscene material including contraceptives.
Fourteen states even prohibited the "telling of anything that will be calculated to lead another to use contraceptives." Colorado law prohibited anyone from bringing "contraceptive knowledge" into the state. Connecticut law was the most stringent, actually forbidding the use of any contraceptive. Like the federal legislation, state laws were aimed more at pornography than family planning when passed. Serious family planning, in fact, appears to have been given little attention, positive or negative, in the latter part of the nineteenth century when the Comstock laws were being introduced.

Whatever the original intention of the legislation, the Comstock laws did take on great significance as the birth control movement began in the early decades of this century. Margaret Sanger, the movement's founder, was arrested in 1916 for opening a birth control clinic in New York City and sentenced to thirty days in jail. Attempts to distribute birth control information in other states were similarly thwarted. Even states which did not specifically mention contraceptives in their obscenity statutes sometimes treated them as obscene. A 1938 Illinois court decision ruled that the inclusion of contraceptives in the federal statute and those of other states placed contraceptives "within the class of articles for indecent or immoral use." As a result of the obstacle the law posed to family planning efforts, a number of organizations, the most powerful of which was the National Birth Control League, began lobbying for the repeal of restrictive laws. Until the
1960's, few laws were repealed outright but many were nullified through court rulings and lax enforcement. Table 9 shows the variation in state policies that existed in 1960 and the types of activities that would be prohibited if the laws were read literally. By this time in most states, however, the prohibitions were meaningless.

In a series of cases involving the federal statute which culminated in 1936 in United States v. One Package, the Supreme Court ruled that the Comstock law embraced only such articles as Congress would have denounced as immoral if it had understood all the conditions under which they were suppose to be used. It's design...was not to prevent the importation, sale, or carriage by mail of things which might intelligently be employed by conscientious and competent physicians for the purpose of saving life or promoting the well-being of their patients.9

The Comstock Act was further modified in United States v. Nicholas when the Court ruled that contraceptive publications were mailable if they were being sent to appropriate qualified personnel.10 A 1960 ruling virtually exempted prophylactics from the contraceptive ban by deciding that the Government had the burden of proving that prophylactics were designed to be used as contraceptives rather than to prevent disease.11 Just as the enactment of the Comstock Act served as a model for state legislation, the act's modification through judicial interpretation established a standard by which state laws were also modified. Since the Second World War birth control services in most states have been
<table>
<thead>
<tr>
<th>State</th>
<th>All Sales Banned</th>
<th>All Ads Banned</th>
<th>Prescription Sales Only</th>
<th>Public Ads Banned</th>
<th>No State Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>All Sales Banned</td>
<td>All Ads Banned</td>
<td>Prescription Sales Only</td>
<td>Public Ads Banned</td>
<td>No State Support</td>
</tr>
<tr>
<td>----------------------</td>
<td>------------------</td>
<td>----------------</td>
<td>-------------------------</td>
<td>-------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>North Carolina</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>North Dakota</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Ohio</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Oklahoma</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Rhode Island</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>South Carolina</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>South Dakota</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Tennessee</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Utah</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Vermont</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Virginia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Washington</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>West Virginia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

readily available and accepted, legally tolerated, and sometimes actively promoted.12

Contraceptives medically prescribed, books and pamphlets not written in obscene language, and contraceptives that were also designed for the prevention of disease could be legally traded in most of the fifty states. Only in Massachusetts where the sale of all contraceptives including those prescribed by doctors was still illegal and in Connecticut where their use was prohibited did state law seriously hinder private access to contraceptives, and even in these states the effect was limited to preventing the establishment of public birth control centers for those too poor to consult with private physicians. Even in Massachusetts some birth control services could be offered in spite of the law. The law against distributing birth control information specified written information and thus could be circumvented by offering oral advice. A study of the Connecticut law concluded that no attempt was made to enforce the ban on use of contraceptives and that, on the whole, reproduction rates in Connecticut differed little from national rates.13 A challenge to the Connecticut law was dismissed by the Supreme Court in 1961 on the grounds that no case existed since the laws were no longer enforced. Interpreting this ruling as legally acknowledging the laws nullification, Planned Parenthood of Connecticut opened a clinic in New Haven and began to distribute information on contraception. A complaint was lodged with the police that the clinic was passing out "immoral literature and
breaking the law" and the clinic's two directors were arrested and convicted of violating Connecticut's little Comstock Act.\textsuperscript{14}

After a series of appeals, the Supreme Court in 1965 overruled the Connecticut law on a seven to two vote. This case, \textit{Griswold v. Connecticut}, is considered to represent a major turning point in the government's involvement in birth control. Four different majority opinions were written though the basis of the cases seemed to rely most heavily on "the declaration of a natural right to privacy in the case of married couples."\textsuperscript{15} A later case, \textit{Eisenstadt v. Baird}, (1972) relied on the Equal Protection Clause to extend the same right to unmarried people. Since Griswold, struggles over state birth control policies have centered around questions of affirmative state programs to provide contraceptive services, not around the issues of restriction and prohibition.

The National Center for Family Planning Services cites \textit{Griswold v. Connecticut} as a "benchmark dividing as era dominated by laws restricting the availability of contraception from an era which actually encourages convenient access."\textsuperscript{16} In the five years following Griswold, half of the thirty states which placed restrictions on the sale and distribution of contraceptives had repealed or liberalized their laws.\textsuperscript{17} Even more dramatic in this time is the growth of tax supported family planning programs. In 1963 only thirteen states, mostly in the South, had programs but by 1967, over forty states had such programs.\textsuperscript{18} The Nixon administration's proposals for enlarged family planning services within
the United States strengthened even more the trend toward affirmative action by the states. The number of states with restrictive laws has been declining steadily since 1965 and "the clear trend is toward the removal of all such barriers to the sale and distribution of contraceptives." This trend signifies the end of birth control as a 'morality policy' as defined in this paper.

Determinants of Restrictive Birth Control Laws

The religious nature of the controversy over the regulation of contraceptives has already been noted. The Catholic Church has supplied the only organized opposition to repeal of bans on contraceptives in recent years. The Catholic position is that the primary end of marriage is the procreation and education of children and that the deliberate frustration of this end is a sin against nature. Pope Pius XI's 1939 encyclical against contraception relied "heavily on the language of a natural law philosophy [which meant] the Pope did not see the immorality of contraception as a... sectarian Catholic doctrine [but as] immoral for all men." Catholics have unquestionably used their political muscle in efforts to block reform attempts but it would be historically inaccurate to hold them responsible for the adoption of the restrictive laws in the first place. Catholic political pressure was not a factor in passing any of the state Comstock laws; they were all passed by protestant majorities. Most of the Catholic impact has been to block the repeal of already enacted restrictions, not to push through strong new proposals for control.
The intensity of Catholic opposition to liberalized birth control legislation has not been uniform throughout the country. The sharpest controversies have occurred in the Northeast reflecting the political strength of the Catholic Church in this region but also reflecting the traditional hostility based on the cultural and economic tensions between the lower-class Irish Catholics and the upper and middle class native Protestants. In states where the basic class and cultural cleavages do not fall along religious lines, the issue of birth control has not engendered so much controversy. Nationally, the Catholic Church did not even take an official stand when the first serious attempts were made to repeal the national ban on contraceptives with the Cummins-Vaile bill of the 1920's. Catholic clergy, in fact, urged their parishioners to support Congressman Vaile in his home city of Denver in spite of Vaile's sponsorship of the repeal drive.

Since the 1960's, Catholic support for legislative bans on contraception has waned, even in the Northeast. In light of intense criticism from Catholics as well as non-Catholics, the archdiocese of Hartford, Connecticut, after adamently opposing any compromise on birth control policy for over forty years, announced in 1967 that it would not fight a program to give birth control information to welfare recipients who voluntarily requested it since it did not wish to restrict "the freedom and conscience of religion of those who do not accept the Catholic position." While Catholics still constitute a powerful voting block in many
states, growing opposition to the church's position from within the church has diminished the church's ability to lobby as a unified body. A survey of Roman Catholic priests in the early 1970's showed that almost two-thirds believed that Pope Paul had misused his power in issuing the 1967 encyclical reaffirming the church's traditional position on contraception.24 Other opinion surveys indicate increasingly widespread violation of Catholic teachings on birth control by Catholics as well as opposition to the Church's stand on birth control legislation. A Gallup poll showed in 1971 little difference between Catholics and the nation generally on the question of birth control information for unmarried people. Such surveys as well as the public debate among Catholic intellectuals over the church's position has made it impossible for Catholic leaders to claim that Catholics any longer "universally opposed" reform legislation.25 During the 1960's many states passed affirmative programs or eliminated restrictions on the sale of contraceptives in the face of formal Catholic opposition but without any electoral reproccussions. These legislative defeats, along with adverse court rulings, have taken much of the fight out of Catholic leaders who once were intransigent on the question of liberalizing birth control laws.

Protestant opinion on birth control is more difficult to summarize since there is no one official view such as that represented by the Pope for Catholics. The National Council of Churches has formally supported birth control since 1961,26 but
TABLE 10: SUPPORT FOR RESTRICTING THE AVAILABILITY OF BIRTH CONTROL INFORMATION

"How do you feel about birth control information and services being available to unmarried young persons, 18 years and older?"

<table>
<thead>
<tr>
<th></th>
<th>Approve</th>
<th></th>
<th>Disapprove</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>69%</td>
<td></td>
<td>31%</td>
</tr>
<tr>
<td>Catholics</td>
<td>65%</td>
<td></td>
<td>35%</td>
</tr>
<tr>
<td>Protestants</td>
<td>72%</td>
<td></td>
<td>28%</td>
</tr>
</tbody>
</table>


TABLE 11: CATHOLICS NOT CONFORMING TO CHURCH TEACHING ON BIRTH CONTROL

"Percent of white, unmarried Roman Catholic women not conforming to church teachings on birth control."

<table>
<thead>
<tr>
<th>Year</th>
<th>age 20-24</th>
<th>25-29</th>
<th>30-34</th>
<th>35-39</th>
</tr>
</thead>
<tbody>
<tr>
<td>1955</td>
<td>30%</td>
<td>37%</td>
<td>30%</td>
<td>28%</td>
</tr>
<tr>
<td>1960</td>
<td>43%</td>
<td>40%</td>
<td>40%</td>
<td>46%</td>
</tr>
<tr>
<td>1965</td>
<td>51%</td>
<td>54%</td>
<td>50%</td>
<td>52%</td>
</tr>
<tr>
<td>1970</td>
<td>78%</td>
<td>74%</td>
<td>68%</td>
<td>50%</td>
</tr>
</tbody>
</table>


until the end of the nineteenth century, contraception was condemned by most Protestants as strongly as it was by Catholics. The original Comstock laws were passed not a Catholic urging but by "protestants of the Puritan variety."²⁷ The major protestant denominations never campaigned specifically for the legal prohibition of family planning services, however. By the 1930's, Protestant opinion was
shifting reflecting in part the increased social welfare concerns of the major denominations. The Federal Council of Churches in Christ approved artificial methods of birth control in 1931 and most of the major protestant denominations have since formally adopted similar positions. While the stand of fundamentalist groups is more ambiguous than that of the mainline denominations, spokesmen for conservative protestants such as Billy Graham have tended to oppose legal restrictions on the grounds of freedom of conscience. In some areas, protestant spokesmen's support for birth control is shown primarily through their attacks on the Catholic position. Protestant interest in birth control legislation has, in fact, been strongest in those areas where Catholic interests have been the most active. In Massachusetts and Connecticut where Catholic power is most visible, the "conflict has loomed larger and larger throughout the country as a symbol of the realities of Protestant - Catholic controversy." Protestant political pressure has not been an independent force in birth control politics but has been exerted in reaction to Catholic pressures. St. John-Stevas analyzes the reasons why Protestant opinion has reversed itself on the question of contraception while Catholic doctrine remains the same. He suggests that the major reasons are theological developments which place less emphasis on procreation as the basis of Christian marriage, advances in knowledge about contraception, and concern over the social-welfare obligations of the church in combating over-population.
Providing the most consistent opposition to restrictive birth control laws has been the planned parenthood groups. Local birth control organizations were formed in many parts of the country shortly before the First World War, many as the result of Margaret Sanger's lecture tours. Mrs. Sanger's arrest in 1916 for opening a birth control clinic in violation of state law brought widespread public attention to the illegal status of birth control and resulted in many local and state attempts to change restrictive laws. Mrs. Sanger's National Birth Control League, organized in 1914, and Mary Ware Dennett's Voluntary Parenthood League, organized in 1919, joined forces in 1921 as the American Birth Control League to fight for repeal of the federal Comstock law. Though the Comstock law was not to be amended until 1971, court decisions in the 1930's permitted mailing birth control information and devices for medical purposes thus doing what the League had been attempting to accomplish through legislation. As the legal right of doctors to prescribe contraceptives for the "well being of their patients" became accepted in most parts of the country, efforts to change the literal wording of restrictive laws gave way to efforts to educate the public about birth control. The Clinical Research Bureau, a medical group founded by Mrs. Sanger in 1923, combined with the League in 1942 as the Planned Parenthood Association of America, to promote wider acceptance of the principle of family planning. Planned Parenthood has been a party in some efforts to further weaken birth control restrictions, most notably in the Griswold case, but
it no longer engages in the direct confrontation, and open defiance once recommended by Mrs. Sanger. William Baird, the defendant in *Eisenstadt v. Baird*, was, in fact, highly critical of the association for its lack of support in his successful effort to overturn a Massachusetts ban on giving contraceptives to unmarried people.\(^{33}\)

Numerous civil liberty and welfare organizations have joined with birth control advocates in fighting for greater accessibility of birth control services. The argument made by welfare spokesmen is that if family planning is a right of the well-off, it should also be a right of the impoverished. Welfare officials have sometimes taken the lead in efforts to provide publicly sponsored birth control services for the poor. In Illinois, a bitter struggle developed in 1963 between the Illinois Public Aid Commission and the state legislature after the IPAC, under the leadership of its chairman, announced that it would begin paying birth control costs for welfare recipients, both married and unmarried. Some legislators threatened to block the plan, calling it immoral and a state subsidy of extramarital sex while the IPAC chairman charged that Republican legislators were simply opposing the plan "to get even with the Negroes on relief who vote Democratic."\(^{34}\) Though the Aid Commission chairman was forced out of office because of his anti-Black charges against the Republicans, his policy was eventually adopted. Support for birth control services for the poor comes from a wide variety of sources and welfare departments, even in heavily Catholic states like Connecticut now offer them. These services are
promoted by welfare advocates as a basic right of the poor while they are endorsed by fiscal conservatives as a means of reducing the amount of aid a state must pay for dependent children.

Reacting to the position that freer access to birth control services will lower the number of welfare births, some Black activists have charged that the aim of publicly sponsored birth control programs is "race genocide" against Black people. The fact that the first state programs offering birth control services were in the Southern states with large Black populations suggests that racial considerations may indeed have been a factor in some decisions to sponsor birth control services. The formal population policy of one southern state health department was to increase the birth rate among the financially and intellectually competent while curbing the rate among dependent families. In Virginia, Catholic leaders attempted to block a plan for voluntary sterilization by charging that it was racially motivated and intended to lower the Black birthrate. A historical account of the American birth control movement argues that the high fertility during the depression in the rural South gave significant impetus to the adoption of affirmative contraceptive policies:

Since the problematic Southern rural population was largely Negro, many began to fear the implications of an increasingly prolific indigent black population. When Sam Rayburn, for example, who had never been particularly noted for his support of the movement heard that birth control was being carried to Southern Negroes, he was reportedly brought to his feet with enthusiasm. 'Now you're talking,' he said, 'when you're getting birth control to them.'
Mississippi had the interesting policy for thirty years of providing contraceptive advice under its public maternal health services while at the same time outlawing the distribution of contraceptive information under its obscenity statute. As with its tax on illegal liquor, little effort was made to resolve the contradiction.

The medical profession has generally been a pro-birth control lobby though it has not made the increased accessibility of contraceptives an item of high priority. The president of the American Cynaecological Society spoke out on birth control in 1890 and warned his fellow doctors that they "should have nothing to do with the nasty business." Attitudes changed gradually as doctors began to see contraceptives as necessary to the health of some women. In 1929, police raided Margaret Sanger's Clinical Research Bureau and seized doctors' records. The medical profession saw this as a violation of medical privacy and strongly defended its right to give whatever information was necessary to a patient's health, a right later supported by the Supreme Court. In 1937 the American Medical Association went on record accepting birth control "as an integral part of medical practice and education." In cities with large Catholic populations, hospitals generally forbade until the late fifties or early sixties the dispensation of birth control services in deference to Catholic views. Catholic medical associations have formally supported their church's position though many individual Catholic doctors have not. While birth control restrictions affect doctors more than any other occupational
group, medical associations have not been notably visible in the
general struggle against restrictive birth control legislation.
The drug industry, which has the greatest financial interest in birth
control legislation, has also maintained a relatively low profile
in legislative battles though the industry has been a party to many
court cases which resulted in the relaxation of restrictions.

The impact general public opinion had in ending restrictive
birth control laws is difficult to gauge but it is a factor acknow-
ledged in most analyses of the policy reversal. Gallup polls sug-
gest that, at least since 1936, a large majority of the American
public - seventy percent in 1936 - believed that the "distribution
of information on birth control [should] be made legal."41 Gallup's
figures show no dramatic increase in support over the next twenty
years but a slow edging upward to around eighty percent in the
1960's.42 Survey results were used in legislative debates on
contraception. The Public Aid Commissioner in Illinois produced
polls showing sixty-three percent support in the state for his
program to provide birth control services to those on relief.43
The impact which public opinion had on legislation seems not so
much based on the aggregate level of support but on changes in
both the intensity of support and the intensity of the opposition.
One Wisconsin legislator explained his state's refusal to relax
its birth control laws on the grounds that:

legislators were basically politicians [who] live by
political rules. One of these rules was that it was
better to offend a passive majority than an active
minority...because of the strong contingent favoring
the present law many legislators voted against [reform] since it was a roll call vote...if it had been a voice vote [it would have] passed by a great majority.44

The Court reversals of outright bans on the sale and use of contraceptives cannot be ascribed to public pressure but other reforms of a more positive nature can be linked to a more intense support for widening public access to birth control services, encouraged in part by concern over the population explosion which surfaced in the early 1960's.45 While the intensity of support for more liberal birth control policies was increasing the intensity of opposition was decreasing. By 1967, seventy percent of American Catholics opposed their church's stand on contraception according to a Louis Harris poll.46

To illustrate the interaction of the above forces in the birth control policy process, the evolvement of birth control policies in three states - Massachusetts, New York and North Carolina - will be presented in brief vignettes. Massachusetts is a state with very restrictive laws, North Carolina is a state with no restrictions at all, and New York a state which permitted the sale and distribution of contraceptives but only through physicians.

Massachusetts

Massachusetts for many years was second only to Connecticut in the severity of its birth control laws. In a survey of laws in the early 1960's, the Planned Parenthood Federation noted that "despite variously worded laws most states do not actively interfere... Only in Connecticut and Massachusetts is there serious
interference with birth control or family planning activities."\textsuperscript{47}

At the time of the survey, Massachusetts' law prohibited "selling, lending, giving away or exhibiting any article or drug for the prevention of conception" as well as the "advertisement or circulating of any written information on preventing pregnancy."\textsuperscript{48} In 1940 a ruling was made in the state courts allowing the sale of contraceptives that were also for the prevention of disease. As with most state laws against contraception, the Massachusetts restrictions were enacted under an obscenity statute modeled after the federal Comstock law. The Massachusetts law was enacted "not at the behest of the Catholic Church but of Anthony Comstock and of Protestants of his Puritan persuasion,"\textsuperscript{49} but it has been the Catholic Church who in this century has blocked all efforts to modify the law.

Many of the early legislative struggles were over attempts to exempt doctors from the law's ban. In 1932 the Massachusetts Birth Control League with the backing of the 'Boston Brahmins' opened several clinics but they were closed by local officials for violating the obscenity law. After protracted court deliberations, the state court ruled in 1938 that no exemption for physicians prescribing contraception for health reasons could be read into the statute and that the birth control proponents would have to seek relief through the legislature. Courts in other states were following the reasoning of the One Package decision which exempted contraceptives from the obscenity category if they were prescribed
by a physician. The effort to pass a doctor's exemption bill in Massachusetts "ignited a religious war between Catholics and non-Catholics." A spokesman for Cardinal O'Connell, Archbishop of Boston, argued before the legislature that the doctors bill would precipitate 'widespread immorality' and that the medical profession in Massachusetts was "of too low an order to be entrusted with such responsibility." After a ten year struggle, a doctors only bill was brought up for a floor vote in 1941 but was defeated 133 to 77 in the House and 18 to 16 in the Senate. Proponents of a physicians exemption launched initiative petitions in 1942 and 1948 but were defeated by public votes of 700,000 to 500,000 each time, elections during which "Massachusetts was torn by mounting strife between the opposing factions." Bills continued to be introduced in the legislature but were not allowed out of committee.

The Catholic intransigence on the birth control law was explained in a Catholic journal as a part of the traditional hostility between Brahmin and Catholic in the Northeast.

Catholics in the Northeast had their noses rubbed in the dirt by Yankee Protestants for a long, long time... As a result, they now enjoy being in a position to say 'no' - on something like birth control laws too much to give it up.

The late 1950's witnessed a growing public debate in the Church over its position on birth control and birth control laws. Some Catholic leaders were embarrassed by the Church's opposition and argued that to "oppose the general religious and moral conviction of a majority by legislative fiat would be to invite the same breakdown
of law and order that was occasioned by the ill-starred Prohibition experiment."55 Other argued, even while admitting the ineffectiveness of the law, that "if the Church were to withdraw its opposition to repeal or modification of the civil law...the general public might conclude it was taking a relaxed attitude toward the moral law."56

In 1963 some relaxation in the Church's traditional posture was noted when Cardinal Cushing announced that the Church intended "just to explain our position [on the birth control ban] and not go on campaigning."57 In 1965 Cardinal Cushing requested further study of a proposal to repeal the ban but stated that he did not find it reasonable to prohibit in civil law "a practice that can be considered a matter of private morality."58 He mentioned there was no change in Catholic policy but said that Catholics could be true to their own convictions without imposing them on others. During its 1966 session, the Massachusetts legislature legalized sales of birth control devices and the distribution of literature for married persons by votes of 132 to 74 in the House and 25 to 12 in the Senate. Still prohibited was the advertising and vending machine sales of contraceptives as well as sales or distribution to unmarried persons. The New York Times analysis of the story stated that the end of the ban on birth control "is considered to be due largely to the changes in attitudes of the Catholic Church." Cardinal Cushing's public comment before the vote on the bill was "It's up to them [the legislators]; it's their business."59
Massachusetts law was further liberalized in 1972 when the U.S. Supreme Court upheld a lower court ruling that the state's ban on birth control services to unmarried persons violated the equal protection of the law guarantee of the Fourteenth Amendment. The Appeals Court decision held that the law's intent "was not to control a health hazard but to regulate morality [which is] beyond the competency of the state." The state's Attorney General argued that Massachusetts did indeed have the right to protect "purity and chastity" and that the court erred in declaring there was "some right of the unmarried to have sexual intercourse free from unwanted pregnancy." In an act of defiance, the Massachusetts legislature refused by a vote of 116 to 105 to repeal the law after it was declared unconstitutional.

New York

New York state has the distinction of having passed the original Comstock law. Its birth control law was part of an obscenity statute which prohibited the manufacture, sale, distribution and advertisement of indecent articles including contraceptive devices. It was technically in effect until 1965 though there had been little effort at enforcement since Margaret Sanger's well publicized arrest in 1917. Court rulings and a "Doctors only" amendment had emasculated the law to the extent that any medical justification for contraception, including the well-being of the mother, was grounds for legitimately trading in birth control devices. As in most states, the practical effects of the law on private couples was negligible.
There have been many legislative struggles over birth control laws in New York. Agitation for repeal began as a result of Mrs. Sanger's arrest. A bill to remove the words 'preventing conception' wherever they occurred in the obscenity statute was jointly introduced in 1917 by a Democrat and a Socialist but was buried in committee by the Republican majority. Mary Ware Dennett and Margaret Sanger were both active leaders of the repeal movement. Mrs. Dennett believed a large majority of the legislature privately favored repeal but did not want to be publicly associated with the issue because it received strong backing from radical groups and because association with anything 'sexy' was seen as politically dangerous. Mrs. Dennett's account of the early legislative struggles in New York indicates that there was Catholic opposition to reform but argues that the failure to change the law was due to the extreme caution of the legislators rather than to organized opposition. Public opinion, as reported in surveys taken by the National Birth Control League, indicated that there was strong support for changing the law, as much as 95% in some upstate counties. One New York legislator reportedly advised Mrs. Dennett that it had been the national Congress which had declared contraceptive information unfit to print and that it would be bad politics for him to vote for what had been declared unfit by Congress. Because of his urging to stop "beating around the bush with state legislation," Mrs. Dennett did go to Washington to concentrate her efforts on the repeal of the federal law. Efforts to repeal outright the ban on the sale
of contraceptives in New York were dropped though Margaret Sanger continued to work to exempt doctors from the law's coverage. An amendment was eventually passed which exempted from classification as "indecent articles, articles or instruments used or applied by physicians in their lawful practice for the cure or prevention of disease.65

A more recent birth control controversy arose in 1958 over the right of doctors in New York City hospitals to prescribe contraceptives to patients. An unwritten hospital policy had been that no birth control service should be authorized through the city hospitals. The 1958 controversy was precipitated by Board of Hospitals Commissioner Morris Jacobs prohibiting a doctor from fitting a diabetic woman with a diaphram. Jacob's order was publicized in the papers and for two months details of the altercation were front page news.66 The Archdiocese and some Catholic medical and lay groups supported the Commissioner but Catholic opinion was not unanimous. The Catholic periodical Commonweal compared Catholic support for the anti-birth control policy to past Protestant attempts to impose prohibition and their current efforts to outlaw gambling.67 Commonweal charged the Church's position strained "the limits of the community" and strengthened "in the minds of non-Catholics the already present worries about Catholic power."68 Catholic support for the anti-birth control policy was expected in the hospital controversy "but the unexpected development was the near unanimity of the rest of the community
in denouncing the Commissioner's prohibition in the most vigorous terms." After the extent of the consensus for birth control became visible, the Board of Hospitals reversed the Commissioner's ruling by an eight to two vote and adopted a new policy which made birth control services available to those who desired them. This controversy has been called a turning point in the birth control struggle because it brought the basic questions into full public view and revealed a large number of proponents of birth control who felt just as intensely about the issue as the opponents. The national exposure given the New York controversy resulted in other city hospitals throughout the country also changing their policies.

Catholic opposition still remains an important factor in New York politics and efforts to repeal the state's Comstock act failed to pass the legislature even after the hospital dispute. In 1965, on the day the Griswold case was decided, a bill to permit the sale of contraceptives through pharmacists was reported out of committee and passed through the legislature within the month. The New York Times reported that "chief opposition came from the New York State Catholic Welfare Committee" and that "some legislators admitted privately that they had voted 'nay' because of the Catholic Church's position." A bill to further liberalize the law on contraception by permitting the sale of contraceptives to those under sixteen, allowing sales through family planning centers, and allowing their display where they were sold was
passed in 1973. The bill was supported by "the Rockefeller administration, the New York Council of Churches, and a score of family planning, civil liberties and consumer groups." Chief opposition again was from the State Catholic Committee which charged that the bill would "invade the responsibility of parents for the moral training of their children and drive a wedge in the family unit, breed promiscuity and encourage easy marital breakups and result in an even higher incidence of venereal disease." These birth control struggles, as well as recent reforms in divorce and abortion in New York, suggest that the Roman Catholic Church can no longer block legislation it feels is in violation of the moral law. One Catholic leader characterized the Church's continued attempts to block the liberalization of birth control policy in New York as "the rearguard action of a battle which has been lost all over the country."  

North Carolina

North Carolina is one of twenty states which had no legislation pertaining to the sale and distribution of contraceptives, or to the dissemination of birth control information. No evidence could be found that there has even been public controversy over the sale or use of birth control devices. Like most Southern states, North Carolina has a small Catholic population. Apparently the absence of Catholic opposition along with the supposed benefits birth control services provided in limiting the Black population, has created a tolerant atmosphere toward contraception. North
Carolina's political tradition may also help explain the state's liberal position on birth control. In *Southern Politics*, Key argued that North Carolina had escaped the gothic political horrors which befell the rest of the South because it had never had a rich plantation economy and so was not shackled by the ghosts of lost grandeur as were other Southern states. Key identified the state's political leadership as "an aggressive aristocracy of manufacturing and banking" interests concerned over the state's future, not its past. As a result, the state had a "more sophisticated politics than exists in most southern states," one which "has not tolerated strident demagoguery."77

One evidence of North Carolina's progressive politics is its record in providing family planning services. North Carolina is the first state in which there is record of public monies being used for birth control services. In 1937, the State Health Department officially adopted a birth control program designed to:

1) reduce the high infant death rate, 2) curb the high birth rate among dependent families, and 3) endeavor to increase the birth-rate among the physically fit, and the financially and intellectually competent.78 The program was not actually statewide since North Carolina "health departments are autonomous, the ultimate decisions as to policies to be adopted and practices is that of each county."79 The state does offer policy guidelines to the community health units including the recommendation that services
be provided to all regardless of marital status, and that minors be treated with parental consent.\textsuperscript{80}

Unlike Illinois, the proposal to use public monies for birth control services engendered little controversy. A study of the efforts to institute county Family Planning Programs in North Carolina was subtitled, "The Politics of a Lukewarm Issue."\textsuperscript{81} Measham found the main obstacles to starting programs were lack of initiative by county boards of health, low saliency of the population problem, a low level of expertise among county officials, and a concern over the lack of funds and personnel. Health directors surveyed did not perceive any organized opposition to the programs but Measham found evidence that several county medical associations feared the services were a form of socialized medicine and opposed them for this reason. Some objections from fundamentalists were made at County Commission meetings and isolated charges of 'race genocide' by Black activists were also reported. Meashon could find no evidence the Catholic spokesmen made any effort to influence the adoption of programs.

Measham examined the social-economic environments of the counties adopting programs but found the "relative affluence and the urban or rural nature of a county provide no useful predictors of the formulation or implementation of policy to provide family services to the indigent."\textsuperscript{82} What was important, Measham judged, was the presence of "dynamic leadership... awareness of need, the caliber of professional personnel, the attitude of the county
commissioners, and the degree of coordination between individuals and agencies. 

Usually the entire policy process relating to birth control was "dominated by one or two individuals or a single agency" and was affected by "a large number of idiosyncratic variables." For policy makers, the issue had low salience. County Commission members showed little interest in the family planning program except as a means of reducing welfare rates.

Another indicator of the low importance placed on birth control as a public policy issue in North Carolina is the finding that no formal decision to start programs was ever made in half the counties examined. County health officials simply would begin using funds for family planning services or would obtain funds from outside sources such as the Children's Bureau or the Office of Economic Opportunity or private sources. In counties where programs had been in effect for a long period of time Measham found no formal records of decisions and found participants to be quite hazy about the origins of the programs. The general situation in North Carolina seems to be that the only group which considers birth control to be an important issue are the family planning proponents and that the major obstacles are public and official apathy and general budget constraints. Leading politicians, interest groups, the press and the general public have had little involvement in this area of policy making.

Conclusion

This examination of birth control policies supports the contention that a state's religious make-up is closely linked
to the restrictiveness of its regulations governing contraception. In the disputes analyzed, the Catholic Church was the major and often the only organized opposition to the expansion of the availability of contraceptives. The imput of the Church in the policy process appears to have been largely negative, however. Where laws banning contraceptives were already in effect as part of nineteenth century obscenity statutes, Catholics were often successful in defeating reform attempts. Where there were no laws, Catholics showed neither the will nor the ability to push through the enactment of such restrictive measures. The impact Catholic population could have on birth control legislation was dependent on the legislation passed in the previous century by non-Catholic majorities. Another factor modifying the linkage between Catholic population and contraceptive regulations is the variation in attitudes within the Catholic Church. The great intensity with which Catholics fought birth control in Massachusetts and Connecticut can be explained in terms of the traditional antagonisms between Protestants and Catholics, antagonisms having their origins in historical events unique to that region.

Reviewing the evolvement of state birth control policies does not reveal any clear impact exerted by urbanization. While newspaper analyses of legislative struggles in states where birth control is an issue suggest that support for restrictive laws is greatest in urban areas, this is undoubtedly due to the concentration of Catholics in urban areas. Several observers have suggested
that the pressures of urbanization have not only changed attitudes
generally but have been responsible for changing attitudes in
the Catholic Church as well. Catholic opposition to official
doctrine, by one analysis, shows a linking of sociology to theology
and reflects the fact that Catholicism's social setting is now
"well imbedded in American urban and technological life."86 One
reason given for the liberalization of the New York laws was that
the "demographic facts of life were becoming so obvious they could
no longer be ignored."87 Another explanation of the change in
Catholic attitudes was based on studies indicating that it is
"socio-economic cultural attainment rather than church cannons
that basically determine a birth control method" and that as
Catholics become more affluent, their support for their Church's
position diminishes.88 These analyses do support the hypothesis
that urbanization does reduce the support given to regulating
morals. In the area of birth control, the lessening of support
seems not simply due to greater tolerance but to specific social
welfare concerns or ecological concerns or changes in personal
family planning practices.

There is little evidence suggesting that the nature of a state's
party system had much impact on its birth control legislation.
Birth control restrictions were given the greatest attention in
states with competitive parties which is contrary to the hypothesis
based on the Key analysis but these states were also the ones with
large Catholic populations. In North Carolina, until recently a
one-party state, birth control appears to have been an issue which politicians felt was not worth giving much attention to. There is nothing to suggest that the lack of competitive parties in any way thwarted the development of the issue, however. It could not be determined in this chapter what the likely relationship was between this type of morality policy and the party system; if a conclusion has to be drawn it would be that there is no relationship.

Political factors other than party competition did have an impact, however. The influence of federal policies and court decisions was evident throughout the history of the conflict. Another type of political factor having considerable weight was the status quo bias that had to be overcome to change policies that had long been in effect. Mrs. Dennett believed the failure to change either the New York law or the federal Comstock Act in the 1920's was due to the reluctance of legislators to tinker with existing legislation for fear of stirring up a controversy. Legislators justified their inaction on the grounds that the laws were not enforced anyhow. If a state had restrictive legislation, even if it had been adopted for purposes other than stymying family planning, the advantage clearly lay with those seeking to preserve restrictions over those trying to change them. The point has already been made that the Catholic Church's success in restricting access to contraceptives came in those states where it needed only to protect the status quo.
FOOTNOTES

CHAPTER SEVEN


3. Ibid., p. 25.

4. Ibid.

5. Ibid., p. 27.

6. Ibid., p. 10.

7. Ibid.


10. Family Planning, p. 56.

11. Ibid.


15. Ibid., p. 54.


273
17. Ibid.
32. Dennett, *Birth Control Laws*, p. 73.
40. Rock, *Time Has Come*, pp. 82-86.
47. *New York Times*, November 18, 1962, p. 82.
49. Bromley, *Catholics and Birth Control*, p. 139.
51. *ibid.*
52. *ibid.*, p. 78.
55. *ibid.*, p. 140.
56. *ibid.*, p. 141.
57. *ibid.*, p. 146.


63. *ibid*.

64. *ibid.* , p. 79.


66. Rock, *Time Has Come*, p. 120.


68. *ibid*.

69. *ibid.* , p. 120.

70. *ibid.* , p. 17.


73. *ibid*.


75. The other states having no regulations over the sale of contraceptives are shown in Table 9.


80. *ibid*.


82. *ibid.* , p. 57.
83. ibid., p. 85.
84. ibid., p. 42.
85. ibid.
87. Rock, Time Has Come, p. 118.
89. Dennett, Birth Control Laws, pp. 166-199.
CHAPTER EIGHT

A QUANTITATIVE ANALYSIS OF MORALITY POLICY

The preceding four chapters have shown the ways in which environmental, religious, and political factors interact with one another to influence the type of 'morality' policies a state pursues. The short historical sketches of individual states illustrated different ways in which current policies in morality areas have evolved. An attempt was made in each of the four areas to identify the specific pressures which led to the passage and the repeal of morality measures and to relate these pressures to the environment and religious culture of the state, and also to the state's political institutions. When policy analyses are built exclusively around a simple input-output model, they are unable to shed any illumination on the actual processes through which policies are being made. Case analyses or descriptive analyses are better suited to studying the ways in which such factors as economic and religious forces manifest themselves in the political process. A case analysis is not an appropriate method by which to identify the general pattern of relationships that exist among a finite number of variables, however. As the literature review of Chapter Two indicated, much of the recent state policy work has utilized an input-output model to develop parsimonious explanations of the reasons why states pursue different types of policies. Typically,
a correlation or regression analysis has been used to show the relative strength over all fifty states of the ability of various input variables to account for interstate variation in policy variables. To more systematically and rigorously examine the relationships posited in the morality policy model presented in Chapter Three, and to make this study more comparable to other recent state policy studies, the morality policies under investigation in this paper will be subjected to a similar type of quantitative analysis.

One reason the state policy literature has focused so heavily on spending policy is that a quantitative analysis requires a quantitative measure. Researchers such as Froman, Walker, Dye, and Erikson have shown that statutory and constitutional provisions can be subject to statistical analyses with the development of quantitative measures. To operationalize morality policy a simple technique can be used that was used by McCrone and Cnudde in their analysis of civil rights legislation: Guttman scaling. A Guttman scale is a cumulative scale where scale items are arranged in their order of difficulty so that a positive response to any one item on the scale indicates a positive response to all items of lesser difficulty as well. McCrone and Cnudde suggest there are three advantages to using Guttman scaling in the analysis of state regulatory policies: 1) it indicates whether the legislation being studied is unidimensional or not, 2) it allows specific types of legislation to be ranked according to their 'difficulty',
and 3) it provides a legislative score for each state that facilitates interstate comparisons. 6

In order to pick out likely items for the construction of Guttman scales for the four policies of divorce, birth control, gambling and liquor, thirty-five dichotomous variables indicating the presence or absence of specific morality regulations in each state were factor analyzed to determine the strongest dimensions in each policy area. This procedure permitted the detection of groups of variables in each policy area which were measuring the same phenomena, a necessary condition for a unidimensional scale. Various combinations of regulations in each policy area were examined to determine which set of items best met the requirements of the Guttman scale. Table 12 lists the items which were eventually used to construct a five item scale for each of the policy areas. Each state's record on these items can be seen in Tables 2, 5, 8, and 9 which were presented in the preceding chapters. The coefficient of reproducibility and the coefficient of scalability are given for each set of scale items to indicate their acceptability as the basis for Guttman scales. The coefficient of reproducibility is a measure of the extent to which a respondent's score accurately reflects his whole response pattern and should be above .9 to be acceptable. Coefficients of scalability indicate if the scale is truly unidimensional and cumulative and should be above .6. 7 It should be noted that a few of the scale items are naturally cumulative. In divorce policy, for
<table>
<thead>
<tr>
<th>Birth Control</th>
<th>Divorce</th>
<th>Gambling</th>
<th>Liquor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale of contraceptives prohibited - 10.4%</td>
<td>Residency requirement of two years or more - 16.6%</td>
<td>All forms of gambling prohibited - 25.0%</td>
<td>Liquor by the drink prohibited - 27.1%</td>
</tr>
<tr>
<td>Advertising of contraceptives prohibited - 29.2%</td>
<td>Less than seven grounds for divorce - 20.8%</td>
<td>Pari-mutuel betting in horses prohibited 47.9%</td>
<td>Billboard ads of liquor prohibited - 29.2%</td>
</tr>
<tr>
<td>Non-prescription sale of contraceptives prohibited - 45.8%</td>
<td>Less than eight grounds for divorce - 47.9%</td>
<td>Pari-mutuel betting on harness racing prohibited - 70.8%</td>
<td>Package sales only in liquor stores - 52.1%</td>
</tr>
<tr>
<td>Public advertising of contraceptives prohibited - 60.4%</td>
<td>Residency requirement of one year or more - 79.2%</td>
<td>More than 200 racing days prohibited - 77.1%</td>
<td>Minimum mark-up on liquor sales - 52.1%</td>
</tr>
<tr>
<td>Contraceptive services not provided through state health agencies 85.4%</td>
<td>Residency requirement of six months or more 89.6%</td>
<td>Pari-mutuel betting on dog racing prohibited 87.5%</td>
<td>Sunday package sales prohibited - 85.4%</td>
</tr>
</tbody>
</table>

Coefficients of Reproducibility:
- Birth Control: 0.9250
- Divorce: 0.9542
- Gambling: 0.9583
- Liquor: 0.9333

Coefficients of Scalability:
- Birth Control: 0.7313
- Divorce: 0.8037
- Gambling: 0.8485
- Liquor: 0.8000

---

aItems listed in order of difficulty. The percentage of states having each regulation in 1960 is given after each item.
example, a state which grants divorces only after a six month residency will logically have to grant them after one and two year residencies as well. The inclusion of these naturally cumulative items does not affect the scales' usefulness as a measure against which to compare state morality legislation, however.

Table 13 presents the score of each of the continental United States on all four morality scales. The policy scores reflect the position of the states in 1960. The varied ranks of each state on different scales indicate that there is no one morality dimension. Somewhat surprising is the absence of any relationship between the states' birth control scores and their divorce scores (Pearson r = .1345) since both were thought to reflect the extent of Catholic pressure. Gambling and liquor policies are moderately related (r = .4442) which is consistent with the suggestion that both policies reflect a protestant influence. Most strongly related, though in a negative direction, are birth control and liquor policies (r = .4608) which suggest that the support for one form of morality control regulation may be quite opposed to other types of regulations. The assignment of state scores in each of the four policy areas permits the type of correlational analysis used by Dye and others in studies of spending policy to be used in the analysis of morality legislation. Guttman scales are technically ordinal rather than interval scales but ordinal level data is frequently assumed to have interval qualities in social science research to permit the use of a larger number of statistical manipulations. That assumption will also be made in this research.
# Table 13: Morality Scale Scores for the States

<table>
<thead>
<tr>
<th>State</th>
<th>Birth Control</th>
<th>Divorce</th>
<th>Gambling</th>
<th>Liquor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>0</td>
<td>2</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Arizona</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Arkansas</td>
<td>3</td>
<td>0</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>California</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Colorado</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Connecticut</td>
<td>5</td>
<td>5</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Delaware</td>
<td>4</td>
<td>5</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Florida</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Georgia</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Idaho</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Illinois</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Indiana</td>
<td>3</td>
<td>2</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Iowa</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Kansas</td>
<td>5</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Kentucky</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Louisiana</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Maine</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Maryland</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>5</td>
<td>5</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Michigan</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Minnesota</td>
<td>4</td>
<td>3</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Mississippi</td>
<td>5</td>
<td>2</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Missouri</td>
<td>3</td>
<td>2</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Montana</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Nebraska</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Nevada</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>New Jersey</td>
<td>4</td>
<td>5</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>New Mexico</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>New York</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>North Carolina</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>North Dakota</td>
<td>1</td>
<td>3</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Ohio</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Oregon</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>1</td>
<td>5</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>South Carolina</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>South Dakota</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Tennessee</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Texas</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Utah</td>
<td>1</td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Vermont</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Virginia</td>
<td>0</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Washington</td>
<td>4</td>
<td>2</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>West Virginia</td>
<td>1</td>
<td>5</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Wyoming</td>
<td>3</td>
<td>0</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>
After the dependent variable, morality policy, is operationalized, the analysis of the determinants of interstate variation in morality legislation can be accomplished through the same techniques that has been used to analyze spending policies. It involves determining the impact that three classes of independent variables—religious-cultural variables, environmental variables and political variables—have on morality policy. The environmental and political variables have been used frequently in other studies and provide no new measurement problems. The environmental indicators are all based on census information while most of the political indicators are synthetic measures developed in other studies.\(^\text{10}\) Among the religious-cultural indicators being used are fundamentalism index developed by Hutcheson and Taylor\(^\text{11}\) and Sharkansky's operationalization of Elazar's cultural classifications\(^\text{12}\) as well as the Catholic, Protestant and Jewish populations of each state. The Hutcheson-Taylor fundamentalism scores were found to be based heavily on the strength of one denomination, the Southern Baptist Church, so several other alternative indicators of conservative Protestant strength were developed. One such indicator is the percentage of Protestants in each state belonging to churches that are not affiliated with the National Council of Churches. The underlying assumption is that the NCC is the voice of liberal Protestantism and that most of those denominations not belonging to this group are more conservative than member churches. Because of the historic role played by the Methodist church in the
temperance movement, its strength was also computed and used by itself as an indicator as well as combined with the protestant churches not belonging to the NCC as a second measure of conservative protestantism. The simple correlation between the Hutcheson-Taylor measures which are purportedly based on the churches who believe in the literal interpretation of the scriptures and the non-NCC churches is .5318 which increases to .6266 when the Methodists are added to the non-NCC total. While no hypotheses were developed in this paper concerning the impact of liberal protestantism, two measures of liberal protestantism - NCC membership and NCC membership plus Lutheran membership - were also included in the analysis. Because total church membership seldom exceed fifty percent of the total state population, these religious indicators are not mutually exclusive of one another. States can rank high both in Catholic culture and in fundamentalist culture though the -.6053 correlation between the two indicates that this would not be the usual pattern.

Table 14 shows the simple correlation coefficients between the independent variables and the state policy scores. Most of the relationships involving the religious indicators are in the direction suggested by the hypotheses in Chapter Three. Catholic population is positively associated with restrictive birth control laws (but very weakly) and divorce laws while the measures of conservative protestantism are positively associated with gambling and liquor regulations. Among the religious indicators, the
TABLE 14
SIMPLE CORRELATIONS BETWEEN MORALITY
MEASURES AND ASSORTED RELIGIOUS-CULTURAL,
ENVIRONMENTAL, AND POLITICAL VARIABLES\(^a\)

<table>
<thead>
<tr>
<th>Birth</th>
<th>Divorce</th>
<th>Gambling</th>
<th>Liquor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RELIGIOUS - CULTURAL VARIABLES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elazar's culture score</td>
<td>-0.387</td>
<td>-0.1365</td>
<td>0.1418</td>
</tr>
<tr>
<td>Hutcheson &amp; Taylor's Fundamentalism Index</td>
<td>-0.4266</td>
<td>-0.2775</td>
<td>0.3790</td>
</tr>
<tr>
<td>Percent Catholic</td>
<td>0.2597</td>
<td>0.4190</td>
<td>-0.03316</td>
</tr>
<tr>
<td>National Council of Churches</td>
<td>0.0179</td>
<td>0.3396</td>
<td>0.1149</td>
</tr>
<tr>
<td>Liberal Protestants (NCC plus Lutherans)</td>
<td>0.0736</td>
<td>0.3077</td>
<td>0.2305</td>
</tr>
<tr>
<td>Total percent Protestant</td>
<td>-0.3425</td>
<td>-0.2590</td>
<td>0.6069</td>
</tr>
<tr>
<td>Percent Jewish</td>
<td>0.1455</td>
<td>0.3096</td>
<td>-0.4304</td>
</tr>
<tr>
<td>Percent Methodist</td>
<td>-0.2232</td>
<td>0.0905</td>
<td>0.2152</td>
</tr>
<tr>
<td>Churches not in the National Council of Churches</td>
<td>-0.3675</td>
<td>-0.4602</td>
<td>0.3897</td>
</tr>
<tr>
<td>Conservative Protestants (non-NCC plus Methodists)</td>
<td>-0.4119</td>
<td>-0.4044</td>
<td>0.4302</td>
</tr>
<tr>
<td><strong>ENVIRONMENTAL VARIABLES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobility</td>
<td>0.0237</td>
<td>-0.3571</td>
<td>-0.3450</td>
</tr>
<tr>
<td>Urbanization</td>
<td>0.2500</td>
<td>0.1330</td>
<td>-0.4955</td>
</tr>
<tr>
<td>Median Educational Level</td>
<td>0.4244</td>
<td>-0.1151</td>
<td>-0.2982</td>
</tr>
<tr>
<td>Percent Black</td>
<td>-0.2600</td>
<td>-0.0215</td>
<td>0.1691</td>
</tr>
<tr>
<td>Percent Foreign Stock</td>
<td>0.3361</td>
<td>0.3853</td>
<td>-0.3969</td>
</tr>
<tr>
<td>Industrialization</td>
<td>0.1616</td>
<td>0.1722</td>
<td>-0.4924</td>
</tr>
<tr>
<td>Population Increase</td>
<td>0.0903</td>
<td>-0.1241</td>
<td>-0.4999</td>
</tr>
<tr>
<td>Population</td>
<td>0.0363</td>
<td>0.1612</td>
<td>-0.3260</td>
</tr>
<tr>
<td>Median Income</td>
<td>0.3679</td>
<td>0.1621</td>
<td>-0.4906</td>
</tr>
<tr>
<td>Population Density</td>
<td>0.1396</td>
<td>0.5309</td>
<td>-0.3046</td>
</tr>
<tr>
<td><strong>POLITICAL VARIABLES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zeller's pressure groups</td>
<td>-0.0886</td>
<td>-0.0801</td>
<td>0.03037</td>
</tr>
<tr>
<td>Grumm's professionalism</td>
<td>0.2005</td>
<td>0.4280</td>
<td>-0.3254</td>
</tr>
<tr>
<td>Lockard's party index</td>
<td>0.4478</td>
<td>0.2572</td>
<td>-0.3668</td>
</tr>
<tr>
<td>Minimum % to elect leg. maj.</td>
<td>0.1321</td>
<td>0.1377</td>
<td>0.1937</td>
</tr>
<tr>
<td>David-Eisenberg rating of urban representation</td>
<td>0.1856</td>
<td>0.2451</td>
<td>-0.2018</td>
</tr>
<tr>
<td>Dauer-Kesay measure of apportionment</td>
<td>0.0772(^-)</td>
<td>0.0249</td>
<td>0.1820</td>
</tr>
<tr>
<td>Voting turnout</td>
<td>0.3235</td>
<td>0.0593</td>
<td>-0.2052</td>
</tr>
<tr>
<td>Size of legislative majority</td>
<td>0.3000</td>
<td>0.0789</td>
<td>-0.2693</td>
</tr>
<tr>
<td>Ranney-Kendall competition</td>
<td>0.4810</td>
<td>0.0791</td>
<td>-0.3100</td>
</tr>
<tr>
<td>Hofferbert party competition</td>
<td>0.3982</td>
<td>-0.1248</td>
<td>-0.3106</td>
</tr>
</tbody>
</table>

\(^a\)The variables are described and their sources given in Appendix A.
strongest relationship is that between gambling and the percent of population that is protestant ($r = .6069$) reflecting, perhaps, the combined opposition of both social gospel protestants and salvation protestants to permissive gambling laws. Somewhat surprising are the high negative relationships between protestant indicators and birth control - divorce measures, and between Catholic indicators and gambling-liquor measures. The conservative protestant indicator, for example, is considerably more strongly related to a state's birth control regulations than is the state's Catholic population ($r = -.4119$ versus .2597). Similarly, the size of a state's Catholic population is more highly correlated with its liquor policies ($r = -.5312$) than is the Hutcheson-Taylor measure of fundamentalism ($r = .5134$). The explanation for these high negative correlations may rest partially in the type of struggles revealed in the descriptive analyses. Since the 1920's, struggles over morality legislation have usually involved attempts to remove legislation that was already on the books. The level of current morality regulations in many states reflects the relative success of efforts to repeal laws rather than to pass laws so it is not illogical that measures of non-support for a policy are more closely related albeit negatively to the policy than are measures of support.

The conventional wisdom linking efforts to regulate morality with rural, stable, homogeneous populations is supported by the negative correlations between gambling and liquor policies and the environmental variables. While the environmental variables
measure very different sorts of things, they have been used in many studies to indicate the over-all social and economic development of a society. The correlation coefficients suggest that as a state develops — i.e., as its levels of urbanization, industrialization, education and income increase — it will be less likely to have restrictive gambling and liquor regulations. Urbanization and income stand out as factors that are particularly important in accounting for more liberalized regulations. Black population, intended as a measure of heterogeneity, is the only environmental variable positively related to gambling and liquor laws and undoubtedly reflects the high concentration of Blacks in the rural South.

The nature of the relationship between the environmental indicators and birth control and divorce policy is more ambiguous. The observation was made in the birth control chapter that the most restrictive laws against contraception were found in densely populated, industrial states, an observation supported by Table 13. Restrictive laws seem most closely related to high levels of income and education though there is no basis for a direct linkage between these variables. The relationship probably reflects the concentration of Catholics in states which are more 'economically' developed. Divorce policy is positively related to some environmental variables while negatively linked to others. Its strongest relationship is with population density \( r = .5309 \) which would not be expected if high density leads to greater tolerance,
though again the explanation may be the high concentration of Catholics in densely populated states. The number of positive correlations between environmental variables and birth control and divorce scores indicate that at least some efforts to regulate private morality are not simple functions of the level of socio-economic development of a society.

Morality legislation was hypothesized to be negatively related to measures of a state's political institutions following Key's argument that more developed political institutions were more likely to keep politics centered around basic economic questions. The relationship between the political variables and liquor policy are consistent with the Key arguments. Strict liquor states have greater influence from lobbyists, lower professionalism, lower levels of party cohesion and competition and lower electoral participation. Liquor control policies were also linked to urban under-representation in the legislature as measured by the David-Eisenberg index, though they seem unrelated to other measures of apportionment. Gambling policy follows the same pattern though the relationships are somewhat weaker. Divorce and birth control, on the other hand, appear to be strongest in those states with competitive parties and high levels of participation. While the political variables are not strongly related to divorce policy, the measures of participation and party cohesion and competition are among the highest correlates of birth control legislation.
Multivariate Analyses

Simple bivariate analyses can be misleading in suggesting relationships between two variables which are actually due to their common relationship to a third variable. Dawson and Robinson\textsuperscript{14} were the first to present evidence showing that the relationship between welfare spending and party competition was due to the common relationship these two variables had with per captia income. When a bivariate relationship is totally dependent on the linkage the two variables have with a third, the relationship is said to be spurious. This type of relationship, diagrammed in Figure 3, can be identified by hold constant the variable believed to be responsible for causing the variation in the other two variables.

\[ \text{FIGURE 3: EXAMPLE OF A SPURIOUS RELATIONSHIP} \]

If, in Figure 3, the association between \( y \) and \( z \) dissapears when \( x \) is held constant, \( z \) would be spuriously related to \( y \). The existence of such spurious relationships is a potential problem whenever variables are intercorrelated. Table 15 shows that some of the environmental indicators are highly correlated with the religious measures so it is necessary to determine if religious beliefs do continue to vary with policy measures when the effects of the environment are held constant. While a measure of
TABLE 15: INTERCORRELATIONS BETWEEN ENVIRONMENTAL AND RELIGIOUS VARIABLES

<table>
<thead>
<tr>
<th></th>
<th>Fundamentalism Index</th>
<th>Percent Catholic</th>
<th>Percent Protestant</th>
<th>Percent Con. Prot.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobility</td>
<td>-.0891</td>
<td>-.0063</td>
<td>-.1887</td>
<td>.0070</td>
</tr>
<tr>
<td>Urbanization</td>
<td>-.3624</td>
<td>.5262</td>
<td>-.4503</td>
<td>-.2826</td>
</tr>
<tr>
<td>Education</td>
<td>-.6270</td>
<td>.2637</td>
<td>-.2134</td>
<td>-.2958</td>
</tr>
<tr>
<td>Industrial.</td>
<td>-.1722</td>
<td>.3587</td>
<td>-.5590</td>
<td>-.2061</td>
</tr>
<tr>
<td>Income</td>
<td>-.7130</td>
<td>.5211</td>
<td>-.4492</td>
<td>-.5052</td>
</tr>
</tbody>
</table>

association does not in itself imply causality, logically, environment must be considered as antecedent to both policy and religion. It might be argued that religion is simply a function of such influences as urbanization, income and education and that whatever relationship exists between religion and policy is due to their common dependence on other social and economic factors. This argument can be visualized by letting \( x \) in Figure 3 stand for environment, \( z \) for religion, and \( y \) for morality policy. If this argument is correct, holding environmental influences constant will eliminate the association between religion and morality policy, but if the contention that religious culture exerts an independent impact on policy is correct the association should remain. In Table 16, the partial correlations between religion and morality policy while controlling for environmental influences are shown. Most of the coefficients are smaller than they were before environmental influences were controlled for but the basic hypothesized relationships are by no means eliminated. The conservative
protestant index retains a relatively strong correlation with both the gambling and liquor policy scales while Catholic population retains an association with divorce policy though its originally weak correlation with birth control is diminished to the point of insignificance. The amount of reduction in the strength of the relationships between religious culture and policy could reflect that part of the way in which religion influences morality policy is determined by the way the environment influences religion. By controlling for religious culture, some indication is given of the extent to which its influence operates through an intervening variable. The partial correlation coefficients in Table 17 indicate that by holding religious influences constant, the impact of most of the environmental measures is reduced, though again by relatively small margins. This suggests that while some of the impact of environment on policy is medicated by the religious culture of a state, most of its impact is direct. The influence of one variable, mobility, is actually increased when religion is controlled for. Mobility is almost totally unrelated to the type of religious culture which develops within a state so that controlling for religious impact has the effect of removing an independent disturbing influence on the linkage between mobility and better reveals the true nature of the relationship. A state with a highly mobile population would not be expected to develop strong norms regarding personal morality so that the increase in the strength of the negative relationship between mobility and
### TABLE 16
PARTIAL CORRELATIONS BETWEEN RELIGIOUS INDICATORS AND MORALITY POLICY MEASURES WHILE CONTROLLING FOR ENVIRONMENTAL FACTORS

<table>
<thead>
<tr>
<th></th>
<th>Fundamentalism</th>
<th>Conservative Protestants</th>
<th>Catholic Population</th>
<th>Protestant Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Control</td>
<td>-0.1845</td>
<td>-0.3200</td>
<td>0.1251</td>
<td>-0.3264</td>
</tr>
<tr>
<td></td>
<td>(-0.4266)</td>
<td>(-0.4119)</td>
<td>(0.2597)</td>
<td>(-0.3225)</td>
</tr>
<tr>
<td>Divorce</td>
<td>-0.2974</td>
<td>-0.3512</td>
<td>0.3608</td>
<td>-0.2676</td>
</tr>
<tr>
<td></td>
<td>(-0.2775)</td>
<td>(-0.4044)</td>
<td>(0.4190)</td>
<td>(-0.2590)</td>
</tr>
<tr>
<td>Gambling</td>
<td>0.3128</td>
<td>0.3673</td>
<td>-0.1308</td>
<td>0.4005</td>
</tr>
<tr>
<td></td>
<td>(0.3790)</td>
<td>(0.4302)</td>
<td>(-0.3316)</td>
<td>(0.6069)</td>
</tr>
<tr>
<td>Liquor</td>
<td>0.3133</td>
<td>0.4577</td>
<td>-0.3252</td>
<td>0.3136</td>
</tr>
<tr>
<td></td>
<td>(0.5134)</td>
<td>(0.5731)</td>
<td>(-0.5312)</td>
<td>(0.4302)</td>
</tr>
</tbody>
</table>

*aControlling for urbanization, industrialization, median education, median income, and mobility. Simple coefficients are given in parentheses.

### TABLE 17
PARTIAL CORRELATIONS BETWEEN ENVIRONMENTAL INDICATORS AND MORALITY POLICY MEASURES WHILE CONTROLLING FOR RELIGIOUS CULTURE

<table>
<thead>
<tr>
<th></th>
<th>Mobility</th>
<th>% Urban</th>
<th>Education</th>
<th>Industry</th>
<th>Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Control</td>
<td>-0.0613</td>
<td>0.1200</td>
<td>0.2344</td>
<td>0.0139</td>
<td>0.0593</td>
</tr>
<tr>
<td></td>
<td>(0.0237)</td>
<td>(0.2500)</td>
<td>(0.4244)</td>
<td>(0.1616)</td>
<td>(0.3679)</td>
</tr>
<tr>
<td>Divorce</td>
<td>-0.3656</td>
<td>-0.0307</td>
<td>-0.3220</td>
<td>0.1828</td>
<td>-0.0806</td>
</tr>
<tr>
<td></td>
<td>(-0.3571)</td>
<td>(0.1330)</td>
<td>(-0.1151)</td>
<td>(0.1722)</td>
<td>(0.1621)</td>
</tr>
<tr>
<td>Gambling</td>
<td>-0.2177</td>
<td>-0.3021</td>
<td>-0.0407</td>
<td>-0.1814</td>
<td>-0.2108</td>
</tr>
<tr>
<td></td>
<td>(-0.3450)</td>
<td>(-0.4955)</td>
<td>(-0.2982)</td>
<td>(-0.4942)</td>
<td>(-0.4906)</td>
</tr>
<tr>
<td>Liquor</td>
<td>-0.3695</td>
<td>-0.4131</td>
<td>-0.1206</td>
<td>-0.1634</td>
<td>-0.3780</td>
</tr>
<tr>
<td></td>
<td>(-0.2776)</td>
<td>(-0.5132)</td>
<td>(-0.3377)</td>
<td>(-0.2584)</td>
<td>(-0.5977)</td>
</tr>
</tbody>
</table>

*aControlling for fundamentalism, conservative protestantism, Catholic population, and protestant population. Simple coefficients are given in parentheses.
divorce and liquor policies makes intuitive sense. If mobility does have a totally independent impact on morality policy, holding it constant should improve the hypothesized relationship between Catholic population and divorce and birth control policy, and conservative protestant population and liquor and gambling policy. As Table 18 shows, this is indeed what does happen. In every case, the size of the coefficient increases in the expected direction when mobility is controlled.

**TABLE 18: PARTIAL CORRELATIONS BETWEEN RELIGION AND MORALITY POLICY CONTROLLING FOR MOBILITY**

<table>
<thead>
<tr>
<th></th>
<th>Percent Conservative Protestant</th>
<th>Percent Catholic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Control</td>
<td>-.4122</td>
<td>.2599</td>
</tr>
<tr>
<td></td>
<td>(-.4119)</td>
<td>(.2597)</td>
</tr>
<tr>
<td>Divorce</td>
<td>-.4302</td>
<td>.4462</td>
</tr>
<tr>
<td></td>
<td>(-.4044)</td>
<td>(.4190)</td>
</tr>
<tr>
<td>Gambling</td>
<td>.4610</td>
<td>-.3556</td>
</tr>
<tr>
<td></td>
<td>(.4302)</td>
<td>(-.3316)</td>
</tr>
<tr>
<td>Liquor</td>
<td>.5986</td>
<td>-.5548</td>
</tr>
<tr>
<td></td>
<td>(.5713)</td>
<td>(-.5312)</td>
</tr>
</tbody>
</table>

Testing the hypotheses that religious pressure leads to the enactment of moral regulations through the use of simple and partial correlation coefficients assumes that the relationship between religious strength and morality policy is a linear one. It is doubtful that this relationship is strictly linear, however. In some states, a religious movement may constitute such a small percentage of the total population that it will have no impact
on the policy process at all and though there may be variation in
the relative strength of the movement in these states, it would
make little sense to look for a relationship between religious
strength and policies supported by the religious movement. Hopkins
suggests that there are thresholds of support at which point the
likelihood of a policy being enacted greatly increases. While
no attempt will be made to replicate Hopkins' efforts to empirically
determine what threshold of support is needed to enact specific
pieces of morality legislation, her notion of threshold will be
used to show that it only makes sense to look for a religious
impact after the level of religious support reaches a minimal
threshold. In Table 19, the states have been divided into three
equal groups of sixteen states each based on the size of the
percentage of the Catholic populations and the conservative
protestant populations. The correlation between religion and
policy is calculated for each group and shows that, with the
exception of birth control, the association between religion and
policy does not support the hypothesis in the third of the states
with the lowest religious strength but does support them in the
groups of states where religious influence is higher. This sug­
gests that a religious movement must have the support of fifteen
to twenty percent of the population before it will begin having
a systematic impact on morality policy.

One of the hypotheses suggested in Chapter Three concerned
the nature of the impact that economic and social changes have
TABLE 19: RELIGION AND MORALITY POLICY IN STATES HAVING HIGH, MEDIUM, AND LOW LEVELS OF RELIGIOUS CULTURE\textsuperscript{a}

<table>
<thead>
<tr>
<th></th>
<th>Conservative Protestants and -</th>
<th>Gambling</th>
<th>Liquor</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-third of states with\textsuperscript{b} highest percentage of conservative protestants -</td>
<td>.4873</td>
<td>.5284</td>
<td></td>
</tr>
<tr>
<td>One third of states with medium percentage of conservative protestants -</td>
<td>.2742</td>
<td>.3364</td>
<td></td>
</tr>
<tr>
<td>One third of states with lowest percentage of conservative protestants -</td>
<td>-.5502</td>
<td>-.0354</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Catholics and -</th>
<th>Divorce</th>
<th>Birth Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-third of states with\textsuperscript{c} highest Catholic percentage</td>
<td>.4648</td>
<td>-.2995</td>
<td></td>
</tr>
<tr>
<td>One third of states with medium Catholic percentage</td>
<td>.4475</td>
<td>-.0922</td>
<td></td>
</tr>
<tr>
<td>One third of states with lowest Catholic percentage</td>
<td>-.1857</td>
<td>.6985</td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{a}Controlling for urbanization, industrialization, median education, median income, and mobility.

\textsuperscript{b}The highest percentage states have at least 18.7 percent conservative protestant, the medium percentage states at least 8.9 percent and the low states under 8.9 percent.

\textsuperscript{c}The high percentage states have at least 22.1 percent Catholic, the medium percentage states at least 10.7 and the low states under 10.7 percent.
on morality. It was argued that such things as increasing urbanization and higher income undoubtedly do change attitudes and lower public support of efforts to regulate morals but that their absence would not in itself necessarily lead to greater support for any particular type of morality policy. The specific efforts to regulate aspects of private behavior were pictured as reflecting certain belief patterns associated with different religious cultures, and not with rurality or low income in themselves. According to this reasoning, if a state had never been subject to the influence of one of the religious cultures it would have low scores on the morality scales, regardless of its level of urbanization or income. The partial correlations shown in Table 17 presented disconfirming evidence for this hypothesis, however, for they indicate that measures of social economic environment retained an independent impact on morality policy when the impact of religious culture was controlled for.

In Table 20 the relationship between two powerful environmental variables, urbanization and income, and morality policy are examined in the subgrouping of states reflecting the low, medium or high influence of the religious culture. If urbanization and income serve only to react against religiously inspired efforts to regulate morality, their impact should be most noticeable in those states where religious efforts to control morality have been greatest. If positive efforts to legislate morals have been slight, the impact of environmental variables would presumably
TABLE 20: ENVIRONMENT AND MORALITY POLICY IN STATES HAVING HIGH, MEDIUM, AND LOW LEVELS OF RELIGIOUS CULTURE

<table>
<thead>
<tr>
<th>Protestant Culture</th>
<th>Gambling and</th>
<th>Liquor and</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban.</td>
<td>Income</td>
</tr>
<tr>
<td>Third of states having highest percentage of conservative protestants -</td>
<td>-.2720</td>
<td>-.2450</td>
</tr>
<tr>
<td>Medium third -</td>
<td>-.0266</td>
<td>-.1761</td>
</tr>
<tr>
<td>Lowest third -</td>
<td>-.6045</td>
<td>-.3566</td>
</tr>
<tr>
<td>Catholic Culture</td>
<td>Birth Control and</td>
<td>Divorce and</td>
</tr>
<tr>
<td></td>
<td>Urban.</td>
<td>Income</td>
</tr>
<tr>
<td>Third of states having highest percentage of Catholics -</td>
<td>.3201</td>
<td>.1971</td>
</tr>
<tr>
<td>Medium third -</td>
<td>.3040</td>
<td>.0479</td>
</tr>
<tr>
<td>Lowest third</td>
<td>-.6143</td>
<td>-.4371</td>
</tr>
</tbody>
</table>

\[a\] Controlling for fundamentalism, conservative protestantism, Catholic population, and protestant population.

also be slight. But in fact, the correlation coefficients in Table 20 indicate that the relationship between urbanization and income and morality policy is most dramatic in states where there is minimal religious influence. For liquor policies in particular, the impact of urbanization and income in states having low protestant populations is extremely impressive for single indicators.

While contrary to the original hypothesis, these findings are not surprising when considered in light of the historical analysis of morality policy. In each of the four areas examined, twentieth century conflicts have centered around efforts to repeal
existing laws. Almost all states had restrictive morality controls around the turn of the century. These morality controls reflected not only the more general dominance of conservative protestantism at that time (protestants passed the Comstock laws as well as prohibition) but also the acceptance by Progressives and Populists of such things as liquor and gambling prohibitions as legitimate social reforms. Differences in the strength of religious cultures in the 1960's does not indicate where efforts to legislate morality originated, they indicate rather where efforts to prevent the repeal of morality legislation has been the most successful.

Liquor provides the best example of this. The original hypothesis was based on the assumption that urbanization could only affect liquor policy if liquor policy had been influenced by conservative protestant beliefs to begin with. Testing for differences in protestant influence with 1960 data failed to take into account that many state liquor policies had their roots in the nineteenth century when opposition to liquor was more general than it is today. All states experienced prohibition under the eighteenth amendment until its repeal in 1933. In analyzing recent liquor policies it must be remembered that current policies have evolved from a tradition of total prohibition, not one of total license. The logic of the original hypothesis was not lacking, just the efforts to test it with current data. The impact of urbanization and income is completely negative: increases in these variables increases the pressure on a state to deviate more sharply from
Its prohibition heritage. Conservative protestant strength is a countervailing force which supports the continuation of strict controls. Viewed within their historical context, the relationships in Table 20 are quite reasonable. Where protestantism is no longer a factor, liquor control becomes a simple function of urbanization, income, and other environmental changes. Where protestant pressure is still strong, environmental forces have little impact. The same type of argument can be made for the other three policy areas as well since the evolvement of policy in each area has common out of a common tradition of stringent controls, though not as dramatic in nature as that of National Prohibition. Because of this common protestant heritage, it is not possible to test for the independent effect of rurality in promoting moral controls.

One final area to examine is the impact of political factors when other variables have been controlled. The case analyses suggested that the reliance on referenda to settle policy questions in the area of morality legislation undoubtedly reduces any impact the conventional indicators of participation, party competition and apportionment would have. Table 21 shows the partial correlations between a set of political measures and morality policy while controlling for environment and religion. With the exception of a surprisingly high .5358 coefficient between divorce and legislative professionalism, the correlations suggest that there is no independent relation between the political
factors and morality factors. Key's notion that weak, disorganized politics tend to give rise to morality questions instead of economic issues is not supported. While the absence of significant correlations indicates political variables do not have any independent effect on morality policy, they may still serve as intervening variables. Table 22 indicates that political factors do affect the linkage between the environmental and religious variables and the policy variables. The association with morality policy of both environment and religious indicators is greatly weakened. The near elimination of environmental impact suggests that the ability of urban forces to repeal restrictive morality controls is dependent on political factors such as party competition and equitable apportionment. The high intercorrelations among the political and environmental indicators may exaggerate the effect of the political variables, however. There was little evidence in the case analyses to suggest that the condition of a state's political party system or its electoral turnout were important intervening variables in shaping the nature of the association between policy demands and policy responses.

The degree of co-variation between the morality policy scores and the combined set of religious, socio-economic and political variables can be calculated through multiple correlation analysis. Multiple correlation coefficients indicate the over-all ability of the model to account for policy differences but do not indicate the strength of an individual variable vis-a-vis the other
TABLE 21: PARTIAL CORRELATIONS BETWEEN MORALITY POLICY AND ASSORTED POLITICAL VARIABLES WHILE CONTROLLING FOR RELIGION AND ENVIRONMENT\textsuperscript{a}

<table>
<thead>
<tr>
<th></th>
<th>Competition Ranney - Kendall</th>
<th>Grumm's Profession-</th>
<th>Apportion-ment David &amp; Eisenberg</th>
<th>Voter Turnout 1952-60</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Control</td>
<td>.3760 (.4810)</td>
<td>.2346 (.4478)</td>
<td>.0239 (.2005)</td>
<td>.0218 (.1856)</td>
</tr>
<tr>
<td>Divorce</td>
<td>-.1181 (.0791)</td>
<td>.0966 (.2572)</td>
<td>.5388 (.4280)</td>
<td>.0653 (.2451)</td>
</tr>
<tr>
<td>Gambling</td>
<td>.0756 (-.3100)</td>
<td>.1708 (-.3668)</td>
<td>.0722 (-.3254)</td>
<td>-.0632 (-.2018)</td>
</tr>
<tr>
<td>Liquor</td>
<td>-.1940 (-.5392)</td>
<td>-.0460 (-.5731)</td>
<td>-.0549 (-.3489)</td>
<td>-.0867 (-.3100)</td>
</tr>
</tbody>
</table>

\textsuperscript{a}Controlling for urbanization, income, percent Catholic, and percent conservative protestant.

TABLE 22: PARTIAL CORRELATIONS BETWEEN MORALITY POLICY AND ASSORTED RELIGIOUS AND ENVIRONMENTAL VARIABLES WHILE CONTROLLING FOR POLITICAL VARIABLES\textsuperscript{a}

<table>
<thead>
<tr>
<th></th>
<th>Level of Urbanization</th>
<th>Median Education</th>
<th>Median Income</th>
<th>Percent Catholic</th>
<th>Percent Con. Prot.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Control</td>
<td>-.1580 (.2500)</td>
<td>.1818 (.4244)</td>
<td>-.1456 (.3679)</td>
<td>.0505 (.2597)</td>
<td>-.2671 (-.4119)</td>
</tr>
<tr>
<td>Divorce</td>
<td>-.2081 (.1330)</td>
<td>-.1805 (-.1151)</td>
<td>1.0924 (.1621)</td>
<td>.3226 (.4190)</td>
<td>-.2677 (-.4044)</td>
</tr>
<tr>
<td>Gambling</td>
<td>-.3050 (-.4955)</td>
<td>-.2041 (-.2982)</td>
<td>-.2413 (-.4906)</td>
<td>-.1733 (-.3316)</td>
<td>.2974 (-.4302)</td>
</tr>
<tr>
<td>Liquor</td>
<td>-.1765 (-.5132)</td>
<td>.0011 (-.3377)</td>
<td>-.1720 (-.5977)</td>
<td>-.3259 (-.5312)</td>
<td>.3675 (.5731)</td>
</tr>
</tbody>
</table>

\textsuperscript{a}Controlling for Ranney & Kendall's competition measures, Lockard's party classification, Grumm's professionalism index, David & Eisenberg's apportionment index, and voter turnout 1952-1960.
variables. Some studies are able to determine the importance of individual variables through regression analysis but the relatively high level of intercorrelation or multicollinearity between the three sets of variables used in this study makes a regression analysis unsuitable. Some analyses of spending policy have attempted to show the importance of a variable by adding it to the group of variables in a multiple correlation analysis and noting the resulting change in the coefficient. This procedure shows the extent to which the addition of a variable increases the combined impact of all variables but it does not show the strength of that variable alone because of the multicollinearity problem.

Table 23 indicates the degree of covariance between the five most important religious variables, economic variables and political variables, and the four sets of policy measures. The coefficients given are coefficients of multiple determination which are the squares of the multiple correlation coefficient. They can be "interpreted as being the proportion of variation in the dependent variable which is explained by the independent variable." Thus, in the area of state birth control policy, twenty-three percent of the variation can be accounted for by five environmental measures, twenty-five percent by five religious measures, thirty-five percent by the environmental and religious variables combined, and forty-six percent when five political variables are added to the analysis. In the case of liquor regulations, the three sets
of variables are able to account for seventy-two percent of inter-
state policy variations. This multiple correlation analysis does
not show which type of variable is most important but it does
show that each makes a significant contribution to the ability of
the model to account for policy differences.

TABLE 23: COEFFICIENTS OF MULTIPLE DETERMINATION BETWEEN SETS
OF RELIGIOUS, ENVIRONMENTAL AND POLITICAL VARIABLES,
AND MORALITY POLICY

<table>
<thead>
<tr>
<th></th>
<th>Religious &amp; Rel. &amp; Env.</th>
<th>Religious &amp; Rel. &amp; Env.</th>
<th>Religious &amp; Rel. &amp; Env.</th>
<th>Religious &amp; Rel. &amp; Env.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Variables</td>
<td>Variables</td>
<td>Variables</td>
<td>Variables</td>
</tr>
<tr>
<td>Birth Control</td>
<td>.25161</td>
<td>.23433</td>
<td>.34899</td>
<td>.46420</td>
</tr>
<tr>
<td></td>
<td>(.50161)b</td>
<td>(.48408)</td>
<td>(.59075)</td>
<td>(.68133)</td>
</tr>
<tr>
<td>Divorce</td>
<td>.26743</td>
<td>.22172</td>
<td>.38212</td>
<td>.51217</td>
</tr>
<tr>
<td></td>
<td>(.51715)</td>
<td>(.47088)</td>
<td>(.61816)</td>
<td>(.71566)</td>
</tr>
<tr>
<td>Gambling</td>
<td>.46233</td>
<td>.38780</td>
<td>.54642</td>
<td>.58068</td>
</tr>
<tr>
<td></td>
<td>(.67995)</td>
<td>(.62274)</td>
<td>(.73920)</td>
<td>(.76203)</td>
</tr>
<tr>
<td>Liquor</td>
<td>.43855</td>
<td>.47262</td>
<td>.62498</td>
<td>.72272</td>
</tr>
<tr>
<td></td>
<td>(.66223)</td>
<td>(.68748)</td>
<td>(.79056)</td>
<td>(.85013)</td>
</tr>
</tbody>
</table>

aThe environment variables are income, education, industrializ-
ation, and urbanization; the religious culture variables are the percent Catholic, protestant, fundamentalist protestant, con-
servative protestant and the Elazar culture score; and the political variables are the voting turnout measure, David & Eisenberg's apportionment score, Grumm's Professionalism Index, Lockard's party system scores, and Ranney and Kendall's party competition rating. Figures in parentheses are multi-
ple correlation coefficients.

bMultiple correlation coefficients are given in parentheses.
Summary

The preceding multivariate analysis shows that each of the three sets of variables stipulated by the model significantly affects the type of morality controls the states pursue. Morality policy is independently associated with both environmental and religious variables though historically the impact of the environment has been a negative one. The relationship between religious culture and policy is not linear, however. When religious movements are small they have little impact on the policy process but after a certain 'threshold' is reached, their impact becomes much more pronounced. The most difficult policy to explain through multivariate analysis has been birth control. Birth control laws, to a much greater extent than laws in the other areas, have regularly been ignored or circumvented in most states for many years. Despite a variety of restrictive statutes, The Planned Parenthood Federation stated that in the 1950's only in two states was a person's ability to get contraceptives seriously impeeded. If a morality control fails to interfere with people's lifes, it is more likely to be ignored than openly fought and thus difficult to account for on the basis of measures of political pressures. Political indicators were shown to have no independent effect on morality legislation though they may influence the extent to which environmental and religious factors are able to affect morality policy. The addition of political indicators to the multiple
correlation analysis significantly increase the size of the $R^2$'s. The reasonableness of most of the findings in this analysis suggests that the Guttman scale scores of the restrictiveness of morality legislation were generally valid measurements.
FOOTNOTES

CHAPTER EIGHT


6. ibid., p. 524.


8. The intercorrelation between gambling and birth control is -.1900, between gambling and divorce -.0716, and between liquor and divorce -.1807. The intercorrelations among all the independent variables used in this analysis are shown in Appendix B.


10. These variables are described and their sources given in Appendix A.


13. Paul T. David and Ralph Eisenberg, Devaluation of the Urban and Suburban Vote (Charlottesville: Bureau of Public Administration, University of Virginia, 1961).


16. The high correlation between divorce policy and professionalism might reflect a greater responsiveness on the part of 'professional' legislatures to recommendations from groups such as the Conference of Commissioners on Uniform State Laws. Until recently, the model divorce legislation proposed by such national groups tended to be rather conservative.

17. This is the point of view expressed in Allan G. Pulsipher and James L. Weatherby, Jr., "Malapportionment, Party Competition, and the Functional Distribution of Governmental Expenditures," American Political Science Review 62 (December, 1968) p. 1212. Collinearity "poses problems for substantive interpretation [of regression results] since statistical inference will often err in the direction of showing variables to be insignificant when, in the absence of multicollinearity, they might be statistically significant." (Gillian Dean, "Impact and Feedback Effects: Divorce Policy and Divorce in the American States," Unpublished paper delivered at the annual meeting of the Midwest Political Science Association, May 3, 1975, Chicago, p. 13).


19. ibid., p. 64.
CHAPTER NINE

THE STATES AS MORAL REGULATORS: A CONCLUSION

This paper has attempted to identify the kinds of forces which affect a state's regulatory policies over public morals. Four types of policies - liquor, gambling, divorce, and birth control - were selected as examples of morality legislation and subjected to a dual form of analysis. First, the historical origins and major factors influencing the development of each policy were reviewed and then each policy was operationalized and its inter-state variation investigated through cross-sectional correlational analysis. This dual approach permits the identification of the general pattern of relationships among policy related variables as well as some insight into the way these relationships manifest themselves in specific political struggles. A descriptive analysis also permits the identification of idiosyncratic factors which are not apparent in extended cross-sectional comparisons.

The first hypothesis developed in this paper was that the larger the percentage of a state's population belonging to conservative protestant denominations, the more likely the state would be to restrict its citizens from gambling and consuming liquor. The historical accounts of these two policy areas indicate that
early efforts to prohibit these activities were not church-led crusades but by the middle of the nineteenth century, they had become issues of great significance to American protestants. Both liberal and conservative protestant groups tended to back liquor and gambling prohibitions into the twentieth century but for different reasons. As the social benefits of the morality laws were called into question, the mainline protestant denominations began to withdraw their support for restrictive policies. Since national prohibition, protestant groups have had little success in enacting new forms of liquor and gambling restrictions but the earlier successes of protestant lobbying are still apparent in the legislation of many states today. Recent struggles over liquor and gambling law have generally centered around attempts to remove restrictions passed at an earlier time. In these struggles, opposition to liberalization has come from the more conservative protestant churches. The success of these churches in blocking the liberalization of regulations depends on many factors including the skill of their leadership and the strength of their opposition, but where the repeal of restrictive laws has been blocked, credit can be attributed to the efforts of protestant churches.

The six case accounts illustrated the ways in which church pressure actually manifests itself in the enactment or repeal of liquor and gambling laws. Protestant pressure, where it was exerted, relied on classic lobbying techniques. Church members deluged legislators with letters and petitions; money and manpower were
given to favored candidates, and sizeable numbers of people were mobilized to vote solely on the morality issue. The distribution of churches throughout a state provided the basis of a grass roots organization that could be quickly activated through the communication chains within existing church structures. The organizational structures of the churches were a particular advantage when policy questions were settled in initiatives and referenda. Large turnouts among determined church members in special elections and the difficulty of mobilizing the unorganized opponents to strict liquor laws gave protestant groups a distinct advantage in direct electoral battles.

The quantitative analysis in Chapter Eight provided a statistical measure of the degree of co-variance between protestant population and liquor and gambling laws. The simple correlation between the percentage of conservative protestants in a state and its score on the liquor index was .5731 while the coefficient between percent protestant and the gambling measure was .6067. While controlling the environmental factors weakened the relationships, the partial correlation between the religious indicators and the policy measures while controlling for environment was higher than the partial correlation between any environmental indicator and the policy measures while controlling for religious culture. This indicates that of the independent variables tested, measures of religious culture have the greatest systematic impact on the level of morality controls enacted in a state. The more qualitative analysis of liquor and gambling laws help in the interpretation of these
statistics. They suggest that the high correlations reflect the religious heritage of a state as well as the current political strength of religious groups. They also illuminate the defensive nature of most of the recent protestant 'imput' into the political system. That the various analyses provided support for the hypothesis is not surprising since the hypothesis was based on widely held conventional wisdom. The analyses did expand upon the conventional wisdom, however, by showing the nature of the churches' strength and morality laws over time, by revealing the dynamics that occur within the relationship, and by providing a means of measuring the religious impact vis-a-vis the impact of other factors.

The second hypothesis linking the size of the Catholic population in a state to the restrictiveness of the states' divorce has birth control laws is also supported by the analyses in this paper. Opposition to divorce and birth control is more deeply rooted in Catholic doctrine than is concern over gambling and liquor rooted in protestant doctrine. There is little evidence to suggest that Catholics had much to do with the original enactment of restrictive divorce and birth control laws. These laws were passed in response to protestant pressures, not as a result of Catholic pressure. But in the last fifty years the opposition to liberalizing divorce and birth control laws has come from Catholics. Catholics in different parts of the country have not all reacted strongly against efforts to liberalize restrictive laws, but in those states where Catholic consciousness is high, the Catholic Church constituted the most powerful interest opposed to liberalization. Since the mid-sixties,
after several highly publicized defeats as well as growing internal dissensions, the Catholic Church became noticeably active in fighting divorce and birth control reforms.

The quantitative analysis revealed that the Catholic indicator was not as closely related to the divorce and birth control measures as the conservative protestant indicators had been to gambling and liquor policies. One explanation for this difference is that divorce and birth control are not as uniquely Catholic concerns as gambling and liquor are unique concerns of fundamentalist protestants. Historically, protestants viewed birth control and divorce almost as negatively as Catholics and were responsible for passing much of the restrictive legislation in these two areas. South Carolina is an example of a state where Protestant rather than Catholic pressure retained restrictive laws. The lower correlations for divorce and birth control policies suggest that Catholics were not the only force opposing liberalization of these morality policies.

Hypothesis three predicted that restrictive morality measures would be negatively associated with increases in measures of economic development. Because economic development refers to such a wide range of environmental phenomena, it is difficult to evaluate the support which evidence collected through qualitative research gives to this proposition. In the four morality areas studied in this paper, there is less regulation today than there was fifty
years ago, so the claim can be made that historically, the liberalization of morality regulations has accompanied environmental changes such as increases in wealth, education, industrialization and urbanization. Nineteenth century divorce and liquor policies do not follow this pattern, however. The historical analyses suggested that in the last century more restrictive laws were passed in response to pressures released by increased levels of economic development. This gives support to the thesis that when social norms are under the greatest attack, the pressure to enshrine these norms in law will also reach its maximum.¹

The gradual attitude changes purportedly brought about by environmental changes cannot be illustrated in short case studies but such studies can provide examples of more specific kinds of environmental impact. The liberalization of Washington liquor laws was shown to be due to the influx of industrial workers into the state in the 1940's. Economic pressures were a factor in repealing restrictive laws in all the liquor and gambling studies reflecting the increasing revenue demands being made on state governments. Urban-rural cleavages were also apparent in referenda votes on these issues. The difficulty of enforcing standards of private behavior in densely populated urban areas was an additional factor in the repeal of liquor and gambling prohibitions. In fact, revenue considerations and questions of organized crime have dominated recent legislative debates in these two areas. In the area of birth control, general
population pressures and the growing number of lower class individuals on welfare were frequently cited by proponents of more liberal policies as justification for reform. The shorter residency requirements for divorce in many Western states appeared to be a product of the high level of population mobility in these states.

In the quantitative analysis, no single environmental indicator showed a significant negative correlation with all four policy areas. The simple correlation coefficients between many of the indicators and divorce and birth control were in fact positive, reflecting the presence of the most restrictive laws in these two areas in the highly industrialized Northeastern states. Even when religion was controlled for, only one environmental measure, mobility, was a negative impact on birth control policies and it was an insignificant -.0613. The partial correlations between divorce and economic development measures are more consistent with the hypothesis with mobility and education apparently exerting the greatest liberalizing influence. All of the environmental variables are related to gambling and liquor policies in the predicted way with urbanization having the greatest impact followed by income and mobility.

The final hypothesis was based on the premise that weak political institutions would respond more quickly to highly emotional morality-type issues than they would to basic economic questions and that states with weak institutions would therefore be the states where moral behavior was most strictly regulated. The qualitative analysis revealed little evidence to support this proposition,
however. The institution which has been given the greatest attention in past policy studies, the political party, appeared to have little impact on the making of morality policy. The case accounts suggest that the reason for this was that morality issues were rarely partisan either in competitive or non-competitive states. The more controversial policy questions became, the more likely were public officials to try to escape the responsibility of deciding the question.

While there was little evidence to support the specific relationship suggested by the hypothesis, the descriptive accounts of all four areas revealed examples of political institutions influencing morality policies. Initiatives and referenda were used to settle policy questions in each area of morality policy. In the area of liquor regulations, control programs were set up in some states to deliberately protect the program from political pressures. The degree to which restrictions were enforced seemed an important variable affecting the level of opposition to the restrictions. A governor's control over enforcement agencies gave him the opportunity of forcing issues to a head. In the area of divorce, the responsiveness of the judicial system to changing marital values kept demands to liberalize divorce statutes minimized. Past policy decisions, which some have considered to be a political variable, as well as the constitutional framework a state is working in were shown to have great impact in every area studied.

The measures of political influence included in the correlational analysis were those used in previous studies and did not tap the type
of political impact which seemed most important in the case analyses. When the partial correlations between the political measures and morality policy were calculated, the coefficients were very low. Controlling for the political variables did reduce the size of the correlation coefficients between the religious and environmental variables and the policy scores and including them in the multiple correlation analyses did increase the size of the $R^2$. Because of the absence of any evidence suggested a political party impact in the case studies, it seems likely that the statistical impact shown by the political variables were reflecting the impact of other phenomena highly correlated to the factors of party competition and cohesion rather than to these factors themselves.

The model developed in Chapter Three to account for interstate variations in morality policies provided a useful framework for the different types of analysis used in this study. The rationale of several of the hypotheses had to be modified but the three sets of variables examined all seemed to significantly affect the type of morality policy a state pursues. The efforts to test the model were promising enough to justify future research in several areas. More systematic longitudinal analysis is needed to indicate the extent to which the relationships found with 1960 data hold true over time. Finer policy measures could undoubtedly be developed and more sophisticated methodologies used to identify their determinants. The basic policy model could be expanded to account not only for
formal policy enactments but enforcement policies and results as well. Future research could also compare more explicitly the determinants of morality policy with the determinants of other types of state policies for the purpose of developing more general policy theories. Besides testing specific hypotheses, one of the goals of this study was to examine the importance of a state's religious culture to its political system and to investigate the nature of religious influences on politics and policies. Existing policy models have focused on the economic determinants of spending policies and have ignored factors associated with the determination of moral beliefs. The quantitative and qualitative analyses of this study have emphasized that in issue areas such as liquor, gambling, divorce and birth control, beliefs about morality have great policy relevance. Many state regulations of human behavior have their origins in religious notions of right and wrong and efforts to make moral precepts binding on all of society continue to be present. Nisbet in *The Quest for Community* writes that since the Reformation, the Western World has seen a conflict of authority among institutions.

Basically, we are dealing with two momentous conceptions of religion: on the one hand, a conception that vests in the Church alone control of man's spiritual, moral and economic existence; on the other, a conception that insists upon restricting the sphere of religion to matters of individual faith... This is a conflict that goes on even at the present time. ²

The politics of morality regulation represent this conflict in a very real sense. Catholic doctrine has not relinquished the Church's authority in questions involving Natural Law. Catholic political
pressures to prevent birth control or divorce reform represent a rear-guard attempt to maintain Church influence in civil society.

Protestant efforts to regulate society's morals are based less on doctrinal beliefs and more on cultural values. Gambling and liquor were not claimed to violate Natural Law but to hinder man from achieving his purpose on earth and hinder his ability to achieve salvation. While protestant concern over liquor and gambling is a nineteenth century phenomenon, its roots are in the nation's Puritan heritage and its tradition of regulation of social activities. Man's duty was to win his salvation through his industry and the political authority was seen as having the responsibility to remove temptations which would hinder man from achieving his duty.

Many other variables affect morality policies but their nature can best be accounted for on terms of their religious basis. The protestant issues - liquor and gambling - have engendered more frequent controversy than have divorce and birth control. This is because of the more public nature of gambling and drinking which makes it more difficult to systematically circumvent laws in these areas. These protestant inspired regulations are aimed at regulating social behavior so by their nature they directly affect large numbers of people. Systematic evasion of such regulations carries with it visible consequences which will in time force policy and practice to be reconciled. The liquor studies of Washington and Oklahoma illustrated this. The social impact of gambling and liquor regulations result in a high level of public salience and, according
to Sutton's data, a high level of congruence between citizen opinion and policy. The correlations presented in Chapter Eight support the argument that because of their social character, the level of regulation in these areas is closely related to the level of support for the regulation.

Birth control and divorce are also social controls but they neither exert as continuous effect on individual's lives nor are they, with some exceptions, as difficult to circumvent. Catholic concern is based on doctrinal principles, not on social control per se. In most states, birth control and divorce policies have not become highly salient issues because they have generally not exerted the type of control they are purportedly designed to exert.

The low correlation between Catholic strength and birth control was explained in Chapter Eight as reflecting the irrelevance of such laws to actual behavior. Only in Massachusetts and Connecticut was any effort made to curtail birth control services and there is no question but that Catholic pressure was responsible for the continuation of policy in these two states. In the area of divorce, divorce laws did affect the conditions under which divorce proceedings were conducted but judicial implementation more than statutory law determined the extent to which individual preferences were curtailed. New York was the only state after 1948 which seriously hindered the ability to get a divorce and, again, the Catholic influence was clear.
An additional factor, and an important one, which helps account for the different treatment given the protestant and Catholic-based reforms is the potential for commercializing the activity being regulated, and also, the potential for taxing it. The most obvious types of economic influences found in the qualitative analysis of liquor and gambling policies were the pressures to liberalize laws to provide jobs, raise taxes, attract tourists, and generally stimulate the state economy. The economic significance of a morality control heightens its salience and its potential for controversy. Birth control and divorce liberalization provide few direct economic benefits, at least of a commercial sort. An exception is found in those states that have attempted to exploit the migratory divorce trade. In those states that have pursued 'quick and easy' divorce policies, controversies have been greater.

The greatest level of controversy has been engendered over morality issues, not by commercial consideration, but by the direct confrontation of Catholic and Protestant moralities. Birth control in Connecticut and Massachusetts is the best example of this type of conflict though Catholics and Protestants have in the past also disagreed fundamentally on divorce in New York as well as on bingo in several Northeastern states. Economic conflict is more manageable than religious conflict since "economic interests are divisible whereas...religious beliefs are not." Pure religious conflicts are of considerable intensity because "members of a
religious group feel little cross pressure when faced with a conflict between their religious group and another.\textsuperscript{5} There has been little of this direct confrontation between Protestants and Catholics in recent years.

While difficulties in obtaining data prevented a systematic longitudinal analysis in this paper, the historical analyses do suggest the future direction of American 'morality policy'. The churches have clearly been the losers in struggles over morality policy in recent years. In fact, the whole history of morality politics in the twentieth century shows the churches fighting a holding action to prevent the repeal of existing laws. Interest within the church in the conventional areas of moral control has fallen off dramatically. Catholics are slowly but gradually "dismantling [their] anti-contraception ideology" while Protestants have lost interest in "holy wars in defense of principles - few are willing to offend their neighbors over some awkward principle."\textsuperscript{6} Secularism and rationalism are becoming increasingly powerful forces in directing the pattern of national culture. These forces are personified by the "young, liberal, highly educated first generation professionals who... often dabble in reform politics" and who view those operating from religious premises as "irrelevant fuddie-duddies (if Protestant)... or narrow-minded anachronisms (if Catholic)."\textsuperscript{7}

Because the impact of religious culture is apparently on the decline, it is not clear what its policy impact will be in the future. Religious difference will be less important and future
morality struggles may center on those policy areas where Catholics and conservative protestants can unite in a common stand against the rational, secular culture. While conservative protestants continue to reject Catholic creed, they do "share with the Catholics a strong distrust of human reason, an other-worldly and individualistic concept of salvation, and an ascetic rejection of pleasure and secularity."8 A common concern over sexual morals may provide one basis for increased cooperation. It is not inconceivable that even today another 'fundamentalist reaction' will set in to reaffirm traditional attitudes on social behavior. In the future, "beliefs concerning dogma, salvation, the control of impulse, the value of reason, and the nature of evil" will undoubtedly continue to be useful factors to investigate when "political behavior bear[s] no rational relationship to maximizing a group's material and social self interests."9

Weber and Shaffer have argued that "if current research in comparative state politics is to be cumulative, the focus of current research should be upon areas not previously studied, and upon building on the contributions of past research."10 They further urge policy research to be conducted within a framework which recognizes that "policies are made in response to someone's preferences" and that "policy outputs will not be produced in the absence of preferences."11 This study has attempted to proceed in the directions suggested by Weber and Shaffer. It has shown that 'morality policy' is subject to some of the factors which account for inter-state
variations in spending policy but that it is most directly associated with a non-economic factor, religious culture. In the analysis of the impact of both the environmental factors and of religious culture, policy outputs were related back to the preferences actually being articulated in the political system. The results of this analysis suggest that future analyses of other types of regulatory policy are possible and useful and that religious culture is a policy variable worthy of continued investigation.
FOOTNOTES

CHAPTER NINE

1. This is the thesis in Joseph R. Gusfield's Symbolic Crusade (Urbana: University of Illinois Press, 1963).


5. ibid., p. 128.

6. ibid., pp. 136, 134.

7. ibid., p. 131.


9. ibid., p. 159.


11. ibid., p. 684.

325
SELECTED BIBLIOGRAPHY

Theories of Policy Analysis and Literature Reviews


Cross-Sectional State Policy Studies


General Works on State Politics


Works on Religion, Morality and the State


References on Liquor Policy


References on Gambling Policy


References on Divorce Policy


References on Birth Control Policy


<table>
<thead>
<tr>
<th>Variable</th>
<th>Description</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberal Protestants (NCC plus Lutherans)</td>
<td>Percent of state population belonging to denominations having membership in the National Council of Churches or to Lutheran bodies.</td>
<td>Calculated from data in Churches and Church Membership in the United States.</td>
</tr>
<tr>
<td>Variable</td>
<td>Description</td>
<td>Source</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Total percent protestant</td>
<td>Percent of state population belonging to protestant denominations</td>
<td>Churches and Church Membership in the United States.</td>
</tr>
<tr>
<td>Percent Jewish</td>
<td>Percent of state population that is Jewish.</td>
<td>Churches and Church Membership in the United States.</td>
</tr>
<tr>
<td>Percent Methodist</td>
<td>Percent of state population that is Methodist</td>
<td>Churches and Church Membership in the United States.</td>
</tr>
<tr>
<td>Churches not in the National Council of Church</td>
<td>Percent of state population belonging to denominations not affiliated with the National Council of Churches.</td>
<td>Calculated from data in Churches and Church Membership in the United States.</td>
</tr>
<tr>
<td>Conservative Protestants (non-NCC plus Methodists)</td>
<td>Percent of state population belonging to denominations not affiliated with the National Council of Churches or to the Methodist Church.</td>
<td>Calculated from data in Churches and Church Membership in the United States.</td>
</tr>
<tr>
<td>Variable</td>
<td>Description</td>
<td>Source</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Median educational level</td>
<td>Median number of school years completed in state.</td>
<td>Statistical Abstract of the United States, p. 118.</td>
</tr>
<tr>
<td>Percent foreign stock</td>
<td>Percent of state population having at least one parent who was born outside of the United States.</td>
<td>Pocket Data Book USA 1967, p. 47.</td>
</tr>
<tr>
<td>Variable</td>
<td>Description</td>
<td>Source</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Minimum percent to elect leg. majority</td>
<td>Minimum percentage of voters who could elect a majority in the upper house of the state legislature.</td>
<td>Book of the States (Chicago: Council of State Governments), p. 74.</td>
</tr>
<tr>
<td>David-Eisenberg rating of urban apportionment</td>
<td>Index based on state's vote ratio in largest category of county over the average vote ratio for the whole state.</td>
<td>Paul David and Ralph Eisenberg, Devaluation of the Urban and Suburban (Charlottesville: Bureau of Public Administration, University of Virginia, 1961) p. 15.</td>
</tr>
<tr>
<td>Variable</td>
<td>Description</td>
<td>Source</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
### APPENDIX B

**CORRELATION MATRIX OF INDEPENDENT VARIABLES**

<table>
<thead>
<tr>
<th></th>
<th>Elazar</th>
<th>Hutcheson/Taylor</th>
<th>Catholic</th>
<th>NCC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elazar</td>
<td>1.0000</td>
<td>.8059</td>
<td>-.4561</td>
<td>.0754</td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>1.0000</td>
<td>1.0000</td>
<td>-.6053</td>
<td>-.0183</td>
</tr>
<tr>
<td>Catholic</td>
<td>-.4561</td>
<td>1.0000</td>
<td>1.0000</td>
<td>-.1477</td>
</tr>
<tr>
<td>NCC</td>
<td>-.0183</td>
<td>-.1477</td>
<td>1.0000</td>
<td></td>
</tr>
<tr>
<td>NCC/Lutheran</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobility</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urbanization</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Black</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrialization</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Density</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure Group</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lockard Index</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% for Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>David/Eisenberg</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dauer/Kelsay</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vote Turnout</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Size - Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hofferbert IPC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>NCC/Lutherans</td>
<td>All Protestants</td>
<td>Jews</td>
<td>Methodists</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------</td>
<td>-----------------</td>
<td>------</td>
<td>------------</td>
</tr>
<tr>
<td>Elazar</td>
<td>-.2751</td>
<td>.1793</td>
<td>-.1404</td>
<td>.6029</td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>-.2373</td>
<td>.3727</td>
<td>-.2943</td>
<td>.4812</td>
</tr>
<tr>
<td>Catholic</td>
<td>-.0251</td>
<td>-.6127</td>
<td>.3851</td>
<td>-.5407</td>
</tr>
<tr>
<td>NCC</td>
<td>.6822</td>
<td>.1027</td>
<td>-.0634</td>
<td>.7138</td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>1.0000</td>
<td>.2748</td>
<td>-.1310</td>
<td>.3465</td>
</tr>
<tr>
<td>All Protestants</td>
<td>1.0000</td>
<td>1.0000</td>
<td>-.4318</td>
<td>.3312</td>
</tr>
<tr>
<td>Jews</td>
<td>1.0000</td>
<td></td>
<td></td>
<td>-.2389</td>
</tr>
<tr>
<td>Methodists</td>
<td></td>
<td></td>
<td></td>
<td>1.0000</td>
</tr>
<tr>
<td>Non-NCC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mobility
Urbanization
Education
Percent Black
Foreign
Industrialization
Population Increase
Population
Income
Population Density

Pressure Group
Professionalism
Lockard Index
% for Leg. Maj.
David/Eisenberg
Dauer/Kelsay
Vote Turnout
Size - Leg. Maj.
Ranney/Kendall
Hofferbert IPC
<table>
<thead>
<tr>
<th></th>
<th>Non-NCC</th>
<th>Non-NCC Methodists</th>
<th>Mobility</th>
<th>Urbanization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elazar</td>
<td>.3638</td>
<td>.5226</td>
<td>.0195</td>
<td>-.2290</td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>.5138</td>
<td>.6266</td>
<td>-.0891</td>
<td>-.3624</td>
</tr>
<tr>
<td>Catholic</td>
<td>-.5438</td>
<td>-.6727</td>
<td>-.0063</td>
<td>.5262</td>
</tr>
<tr>
<td>NCC</td>
<td>-.3998</td>
<td>-.1601</td>
<td>-.2487</td>
<td>-.1911</td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>-.4721</td>
<td>-.3385</td>
<td>-.3158</td>
<td>-.3205</td>
</tr>
<tr>
<td>All Protestants</td>
<td>.7179</td>
<td>.7729</td>
<td>-.1887</td>
<td>-.4503</td>
</tr>
<tr>
<td>Jews</td>
<td>-.3011</td>
<td>-.3543</td>
<td>-.1115</td>
<td>.5775</td>
</tr>
<tr>
<td>Methodists</td>
<td>.0530</td>
<td>.3507</td>
<td>-.1497</td>
<td>-.3752</td>
</tr>
<tr>
<td>Non-NCC</td>
<td>1.000</td>
<td>.9538</td>
<td>.0056</td>
<td>-.1809</td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>1.0000</td>
<td>.0070</td>
<td>.2350</td>
<td>1.0000</td>
</tr>
</tbody>
</table>

Mobility 1.0000 Urbanization 1.0000
Education
Percent Black
Foreign
Industrialization
Population Increase
Population
Income
Population Density

Pressure Group
Professionalism
Lockard Index
% for Leg. Maj.
David/Eisenberg
Dauer/Kelsay
Vote Turnout
Size - Leg. Maj.
Ranney/Kendall
Hofferbert IPC
<table>
<thead>
<tr>
<th></th>
<th>Education</th>
<th>Percent Black</th>
<th>Foreign</th>
<th>Industrialization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elazar</td>
<td>-.6854</td>
<td>.7868</td>
<td>-.7467</td>
<td>.0053</td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>-.6270</td>
<td>.6609</td>
<td>-.7687</td>
<td>-.1722</td>
</tr>
<tr>
<td>Catholic</td>
<td>.2637</td>
<td>-.4386</td>
<td>.7700</td>
<td>.3587</td>
</tr>
<tr>
<td>NCC</td>
<td>-.0335</td>
<td>-.0561</td>
<td>-.1475</td>
<td>-.0649</td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>-.0066</td>
<td>-.2856</td>
<td>.1014</td>
<td>-.4775</td>
</tr>
<tr>
<td>All Protestants</td>
<td>-.2134</td>
<td>.1432</td>
<td>-.5049</td>
<td>-.5590</td>
</tr>
<tr>
<td>Jews</td>
<td>.1090</td>
<td>-.0581</td>
<td>.5543</td>
<td>.4851</td>
</tr>
<tr>
<td>Methodists</td>
<td>-.3874</td>
<td>.4575</td>
<td>-.6412</td>
<td>-.1655</td>
</tr>
<tr>
<td>Non-NCC</td>
<td>-.1911</td>
<td>.3384</td>
<td>-.5365</td>
<td>-.1666</td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>-.2958</td>
<td>.4551</td>
<td>-.6961</td>
<td>-.2061</td>
</tr>
<tr>
<td>Mobility</td>
<td>.4996</td>
<td>-.1704</td>
<td>-.0279</td>
<td>.0488</td>
</tr>
<tr>
<td>Urbanization</td>
<td>.4689</td>
<td>-.2216</td>
<td>.5409</td>
<td>.7410</td>
</tr>
<tr>
<td>Education</td>
<td>1.0000</td>
<td>-.6892</td>
<td>.4793</td>
<td>.1685</td>
</tr>
<tr>
<td>Percent Black</td>
<td>1.0000</td>
<td>-.5922</td>
<td>.0618</td>
<td>.3309</td>
</tr>
<tr>
<td>Foreign</td>
<td>1.0000</td>
<td></td>
<td></td>
<td>1.0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Mobility</th>
<th>Urbanization</th>
<th>Education</th>
<th>Percent Black</th>
<th>Foreign</th>
<th>Industrialization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pressure Group</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lockard Index</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% for Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>David/Eisenberg</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dauer/Kelsay</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vote Turnout</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Size - Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hofferbert IPC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure Group</td>
<td>Population Increase</td>
<td>Population Income</td>
<td>Population Density</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>---------------------</td>
<td>-------------------</td>
<td>--------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td>.8388</td>
<td>.2754</td>
<td>-.2076</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lockard Index</td>
<td>.5090</td>
<td>.5279</td>
<td>.5799</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% for Leg. Maj.</td>
<td>.4355</td>
<td>-.0115</td>
<td>.7183</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td>-.0526</td>
<td>.1180</td>
<td>-.5745</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vote Turnout</td>
<td>.0903</td>
<td>.2381</td>
<td>.6829</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Size - Leg. Maj.</td>
<td>.3250</td>
<td>.4441</td>
<td>.5567</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td>.0841</td>
<td>.4384</td>
<td>-.0219</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase 1.0000</td>
<td>1.0000</td>
<td>.3234</td>
<td>.2622</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>-.0364</td>
<td>-.1806</td>
<td>-.3590</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Lutherans</td>
<td>-.1275</td>
<td>-.0166</td>
<td>-.1082</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td>-.2676</td>
<td>-.4492</td>
<td>-.4358</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td>.6770</td>
<td>.4586</td>
<td>.5307</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td>-.1687</td>
<td>-.1235</td>
<td>-.1918</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign</td>
<td>-.0091</td>
<td>-.7130</td>
<td>-.2895</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrialization</td>
<td>-.2657</td>
<td>-.0085</td>
<td>.0641</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase 1.0000</td>
<td>.5211</td>
<td>.6096</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase</td>
<td>.0350</td>
<td>-.5817</td>
<td>-.0960</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>-.1590</td>
<td>-.0091</td>
<td>-.2895</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>.0745</td>
<td>.1347</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>-.3214</td>
<td>-.1275</td>
<td>-.1082</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td>-.2370</td>
<td>-.2676</td>
<td>-.4358</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td>.1103</td>
<td>.6770</td>
<td>.5307</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td>-.1687</td>
<td>-.1235</td>
<td>-.1918</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Lutherans</td>
<td>-.0091</td>
<td>-.7130</td>
<td>-.2895</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>-.2657</td>
<td>-.0085</td>
<td>.0641</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase 1.0000</td>
<td>.5211</td>
<td>.6096</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase</td>
<td>.0350</td>
<td>-.5817</td>
<td>-.0960</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>-.1590</td>
<td>-.0091</td>
<td>-.2895</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>.0745</td>
<td>.1347</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>-.3214</td>
<td>-.1275</td>
<td>-.1082</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td>-.2370</td>
<td>-.2676</td>
<td>-.4358</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td>.1103</td>
<td>.6770</td>
<td>.5307</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td>-.1687</td>
<td>-.1235</td>
<td>-.1918</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Lutherans</td>
<td>-.0091</td>
<td>-.7130</td>
<td>-.2895</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>-.2657</td>
<td>-.0085</td>
<td>.0641</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase 1.0000</td>
<td>.5211</td>
<td>.6096</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure Group</td>
<td>Professionalism</td>
<td>Lockard Index</td>
<td>% for Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------------</td>
<td>---------------</td>
<td>-----------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elazar</td>
<td>.2071</td>
<td>-.5018</td>
<td>-.1335</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>.4024</td>
<td>-.6382</td>
<td>-.0280</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>-.3007</td>
<td>.5734</td>
<td>.2753</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC</td>
<td>-.2530</td>
<td>.0598</td>
<td>.3152</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>-.1402</td>
<td>.0489</td>
<td>-.0005</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td>.1154</td>
<td>-.4743</td>
<td>-.6075</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td>-.2695</td>
<td>.5036</td>
<td>.0120</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td>.1072</td>
<td>-.3701</td>
<td>.0590</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC</td>
<td>.2074</td>
<td>-.4704</td>
<td>-.2287</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>.2268</td>
<td>-.5525</td>
<td>-.1967</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morality</td>
<td>-.0434</td>
<td>-.2515</td>
<td>-.3404</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urbanization</td>
<td>-.3190</td>
<td>.6483</td>
<td>-.2512</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>-.2087</td>
<td>.4677</td>
<td>.0328</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Black</td>
<td>.2919</td>
<td>-.5045</td>
<td>.0991</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign</td>
<td>-.3418</td>
<td>.6585</td>
<td>-.0452</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrialization</td>
<td>-.1961</td>
<td>.5211</td>
<td>-.0452</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase</td>
<td>.0042</td>
<td>.1583</td>
<td>-.6495</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population</td>
<td>.0164</td>
<td>.3170</td>
<td>.0157</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income</td>
<td>-.4484</td>
<td>.8353</td>
<td>.2117</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Density</td>
<td>-.4947</td>
<td>.5757</td>
<td>.0704</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure Group</td>
<td>1.0000</td>
<td>-.4903</td>
<td>-.0047</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td>1.0000</td>
<td>.3915</td>
<td>.0311</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lockard Index</td>
<td>1.0000</td>
<td>1.0000</td>
<td>.0549</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% for Leg. Maj.</td>
<td></td>
<td></td>
<td>1.0000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>David/Eisenberg</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dauer/Kelsay</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vote Turnout</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Size - Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hofferbert IPC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>David/Eisenberg</td>
<td>Dauer/Kelsay</td>
<td>Vote Turnout</td>
<td>Size - Leg. Maj.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------------</td>
<td>--------------</td>
<td>--------------</td>
<td>-----------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elazar</td>
<td>-.3391</td>
<td>-.1227</td>
<td>-.7633</td>
<td>-.6546</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>-.4546</td>
<td>.0228</td>
<td>-.7845</td>
<td>-.6551</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>.3747</td>
<td>-.0443</td>
<td>.4313</td>
<td>.3095</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC</td>
<td>.0298</td>
<td>-.0053</td>
<td>.1406</td>
<td>.2118</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>.1032</td>
<td>.1456</td>
<td>.3135</td>
<td>.3466</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td>-.2977</td>
<td>-.0591</td>
<td>-.1592</td>
<td>-.1373</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td>.2103</td>
<td>-.0314</td>
<td>.1644</td>
<td>.2405</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td>-.3112</td>
<td>-.1144</td>
<td>-.3989</td>
<td>-.2988</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC</td>
<td>-.3479</td>
<td>-.0514</td>
<td>-.3731</td>
<td>-.3772</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>-.4200</td>
<td>-.0826</td>
<td>-.4700</td>
<td>-.4437</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morality</td>
<td>-.3326</td>
<td>-.4240</td>
<td>.0665</td>
<td>.1286</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urbanization</td>
<td>.1086</td>
<td>-.2552</td>
<td>.2598</td>
<td>.3027</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>.0094</td>
<td>-.1687</td>
<td>.6488</td>
<td>.6232</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Black</td>
<td>-.2491</td>
<td>-.1202</td>
<td>-.8715</td>
<td>-.8322</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign</td>
<td>.4124</td>
<td>.0074</td>
<td>.6314</td>
<td>.5140</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrialization</td>
<td>.2316</td>
<td>-.2137</td>
<td>.0360</td>
<td>.0972</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase</td>
<td>-.2608</td>
<td>-.4983</td>
<td>.0092</td>
<td>.1483</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population</td>
<td>.1287</td>
<td>.0758</td>
<td>-.0826</td>
<td>.0886</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income</td>
<td>.2543</td>
<td>-.2053</td>
<td>.6825</td>
<td>.6869</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Density</td>
<td>.2592</td>
<td>-.1733</td>
<td>.2096</td>
<td>.0848</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure Group</td>
<td>-.2436</td>
<td>.1553</td>
<td>-.4998</td>
<td>-.3584</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td>.1728</td>
<td>-.0035</td>
<td>-.1395</td>
<td>-.0615</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lockard Index</td>
<td>.3653</td>
<td>-.0770</td>
<td>.7093</td>
<td>.6519</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z for Leg. Maj.</td>
<td>.6140</td>
<td>.6809</td>
<td>.0636</td>
<td>.0773</td>
<td></td>
<td></td>
</tr>
<tr>
<td>David/Eisenberg</td>
<td>1.0000</td>
<td>.5921</td>
<td>.3293</td>
<td>.2966</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dauer/Kelsay</td>
<td></td>
<td>1.0000</td>
<td>.0271</td>
<td>.0668</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vote Turnout</td>
<td></td>
<td></td>
<td>1.0000</td>
<td>.8440</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Size - Leg. Maj.</td>
<td></td>
<td></td>
<td></td>
<td>1.0000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hofferbert IPC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td>Hofferbert IPC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elazar</td>
<td>-.6773</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hutcheson/Taylor</td>
<td>-.7259</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>.4157</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC</td>
<td>.0592</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC/Lutherans</td>
<td>.1351</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Protestants</td>
<td>-.2478</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jews</td>
<td>.2448</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Methodists</td>
<td>-.4164</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC</td>
<td>-.3252</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-NCC/Methodists</td>
<td>-.4303</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morality</td>
<td>.1648</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urbanization</td>
<td>.4872</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>.7228</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Black</td>
<td>-.7299</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign</td>
<td>.6100</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Industrialization</td>
<td>.2794</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Increase</td>
<td>.1991</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population</td>
<td>.0510</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income</td>
<td>.8064</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population Density</td>
<td>.2769</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure Group</td>
<td>-.4500</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionalism</td>
<td>.0651</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lockard Index</td>
<td>.8240</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% for Leg. Maj.</td>
<td>-.0711</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>David/Eisenberg</td>
<td>.2911</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dauer/Kelsay</td>
<td>-.0168</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vote Turnout</td>
<td>.8725</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Size - Leg. Maj.</td>
<td>.7811</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranney/Kendall</td>
<td>1.0000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hofferbert IPC</td>
<td>1.0000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>