Usury Law and the Christian Right: Faith-Based Political Power and the Geography of American Payday Loan Regulation

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USURY LAW AND THE CHRISTIAN RIGHT: FAITH-BASED POLITICAL POWER AND THE GEOGRAPHY OF AMERICAN PAYDAY LOAN REGULATION

Steven M. Graves* & Christopher L. Peterson**

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INTRODUCTION

The "culture war" has become a national moniker describing a variety of policy debates between social conservatives and secular liberal Americans. Hotly contested battlegrounds in this metaphorical war have included abortion policy, affirmative action, the right to bear arms, and gay marriage. Frequently these debates have divided secular Americans from people of faith. Indeed, some commentators argue that the size of the religious population, including especially members of the so-called "Christian right," is the most vital difference between "red" and "blue" states.1

Despite the colorful and polarizing salience of this depiction of the country, profound facts strain the accuracy of the stereotypes it suggests. For example, many secular people vigorously ascribe to the conservative social agenda of right-leaning advocacy organizations such as the Christian Coalition, the Family Research Council, and the Christian Action Network. Moreover, many deeply sincere people of faith wholeheartedly embrace the separation of church and state, abortion rights, gun control, and other stereotypically secular positions. This Article queries whether the public policy issues surrounding abusive high-cost consumer lending may offer one more example that confounds the assumptions behind the "culture war" label.

In the past fifteen to twenty years, America has witnessed a stunning transformation in the consumer financial services offered to the lower

1. See, e.g., Alex Koppelman, How the Christian Right Could Defeat Rudy—and Make Hillary President, SALON.COM, Oct. 19, 2007, http://www.salon.com/news/feature/2007/10/19/Giuliani (discussing the impact of evangelical Christian voting habits on electoral politics in the context of the 2008 presidential election, and noting "just how important white evangelical voters have proved to the GOP's dominance in [the South,] the region that is the source of its national strength").
and lower-middle classes. A new breed of "fringe" creditors charging prices well in excess of the old mafia loan-sharking syndicates has spread throughout the country. The archetype of fringe creditors, commonly referred to as "payday" lenders, charges average simple nominal annual interest rates of about 450%. These lenders have met a chorus of criticism from the media, consumer advocates, military leaders, and scholars. Critics argue that although payday loans have short initial terms, they quickly become debt traps when unsuspecting or desperate borrowers are unable to retire their rapidly swelling obligations. Pointing to a seemingly endless supply of consumer horror stories, payday lending critics label the loans "predatory" and have demanded that the traditional American rules that once banned this industry be re-imposed. Apologists for the industry counter that payday lenders are merely responding to legitimate demand for financial services; therefore, because consumers are not forced into their contracts, they can either shop for a lower priced deal or elect not to borrow. At their core, these arguments find their genesis in Jeremy Bentham's famous Defence of Usury from 1787.

While in recent years many sources have reconsidered Bentham's economic arguments, far less discussed today are the moral and religious arguments to which Bentham wrote his essay as a counterpoint. Indeed, today's debate over payday loans is merely a reverberant echo of the biblical usury debates that for at least a thousand years were arguably the marquee intellectual struggle in Western commercial history. This


4. See infra notes 30, 32-33 and accompanying text.

5. See infra notes 30-36 and accompanying text.

6. See infra notes 39, 42-44 and accompanying text.

Article stands as a vestibule to that ancient edifice, inviting today's scholars, advocates, financiers, regulators, political leaders, and clergy to reacquaint themselves with the moral heritage of our crumbling usury law.

Moreover, this Article attempts to ascertain whether the Christian legacy of skepticism regarding high-interest-rate loans has translated into consumer-protective regulation of today's payday lending industry. Employing the tools of the interdisciplinary law and geography movement, we explore the relationship between payday loan outlet locations and the political power of conservative Christians in all fifty states. Our study systematically surveys over 20,000 payday lender locations, cast against a backdrop of Christian political power, local and regional electoral districts, and a variety of demographic considerations. We conclude, with a high degree of statistical certainty, that states with powerful conservative Christian populations tend to host relatively greater numbers of payday loan locations per capita as well as a greater commercial density of payday lenders. These findings propound a tragic and sad irony. Those states that have most ardently held to their pious Christian traditions have tended to become more infested with the progeny of money changers once expelled by Christ from the Hebrew temple. Legislators in those states, who have effectively used biblical principles to shape their legislative agenda on social and cultural issues, have failed to consistently apply biblical principles to economic legislation.

Although our Article engages broad, ancient, and highly controversial issues, empirically, our study has only a modest goal. This Article reports a new geographic fact: payday lenders are relatively numerous in the Bible Belt and the Mormon Mountain West. That is, our data tell us where payday lenders are; they do not tell us why these lenders are where they are. Importantly, our data do not answer more difficult and ambitious questions regarding the causal relationship between lending practices and moral beliefs. The number of payday lenders in these and other states is likely caused by a complex pattern of social, political, and economic forces, including income, wealth, political affiliation, race, immigrant status, health, insurance, education, familial relationships, and others. Faith may or may not be one factor among others that created the geographic pattern we report. But, our empirical database of payday addresses will not answer this question. Of this large, complex puzzle, this study adds one discreet but important piece: there are relatively more payday lenders in Conservative Christian states. Part II of our Article describes the payday lending industry, including its origins and its

8. See infra notes 59-60 and accompanying text; see also discussion infra Part III.C.1.
products. This Part also introduces the biblical injunction against usury and discusses the way in which the Bible has been interpreted, including how the Bible gives rise to profound questions regarding the current political response to payday lending. Part III introduces leading law and geography theory and summarizes our empirical methodology. Part IV juxtaposes our empirical description of payday lender locations and conservative Christian political power with an analysis of state usury law. This Part highlights states that stand out as interesting examples of the current legal and geographic landscape. Part V then analyzes the results of this study, ultimately drawing descriptive and prescriptive conclusions for policy makers, including state and federal lawmakers, as well as spiritual leaders and people of faith themselves. An appendix presenting further state-specific results and methodological considerations follows.

I. BACKGROUND

A. Payday Lending Business Practices

Payday loans—which are also currently known as post-dated check loans, deferred deposit loans, or cash advances—are high-interest-rate loans with short initial durations. In most payday loans, the consumer borrows money by writing a personal check to the lender for the loan amount plus an additional fee. Usually, a payday lender asks its borrower to write a check with a date one or two weeks in the future. The date on the check represents the due date of the loan. Unlike credit card companies, payday lenders generally do not check a loan applicant’s credit history. Nor do payday lenders generally report the borrower’s repayment history to credit bureaus later on. Instead, payday lenders engage in minimal underwriting, usually only verifying an applicant’s identity and employment. In a matter of minutes, a payday

10. Id.
12. PETERSON, supra note 11, at 10; see also Fox, supra note 9, at 990.
13. Fox, supra note 9, at 990.
15. See Fox, supra note 9, at 989.
loan borrower can walk away with between one hundred and one thousand dollars in cash.\textsuperscript{16} The best available estimates suggest that in the current prototypical transaction, the borrower obtains a $325 loan with an initial two-week duration in exchange for a finance charge of $52.\textsuperscript{17} When the borrower’s two weeks are up, the lender is repaid by depositing the borrower’s check.\textsuperscript{18} If the check clears, the transaction is complete. The interest rate on this typical payday loan is approximately 450\%.\textsuperscript{19}

Unfortunately, payday loan borrowers frequently are unable to pay off their loans after the initial loan term. Many payday loan customers borrow to address difficult financial situations such as medical problems, job loss, and car troubles. Frequently, the very situation forcing the debtor to borrow may prevent the debtor from repaying quickly. Virtually every study or investigation that has explored the issue has found that payday loan borrowers consistently fall into recurring debt patterns, where unpaid loans compound for longer periods of time.\textsuperscript{20}

\begin{itemize}
  \item \textsuperscript{16} See King, Parrish & Tanik, \textit{supra} note 3, at 19 tbl. (reporting average payday loan amounts in twenty states ranging from $205 to $385, with a median of $325).
  \item \textsuperscript{17} \textit{Id.} at 8 tbl.3. Many lenders, including internet payday lenders, now obtain consent to debit the borrower’s back account with an ACH (automated clearinghouse) transfer, rather than using a check. Ronald J. Mann & Jim Hawkins, \textit{Just Until Payday}, 54 UCLA L. REV. 855, 861-62 & n.14 (2007); see also Michael S. Barr, \textit{Banking the Poor}, 21 YALE J. ON REG. 121, 149 (2004).
  \item \textsuperscript{18} Fox, \textit{supra} note 9, at 990. Alternatively, the borrower can use cash to redeem the check or may pay another fee to extend the loan. \textit{Id.}
  \item \textsuperscript{19} See supra note 3.
  \item \textsuperscript{20} See, e.g., Gregory Elliehausen & Edward C. Lawrence, Georgetown Univ. McDonough Sch. of Bus., \textit{Payday Advance Credit in America: An Analysis of Customer Demand} 39 tbl. 5-11 (2001), available at \url{http://www.business.gwu.edu/research/centers/fsrp/pdf/Mono35.pdf} (showing that about forty percent of borrowers rolled over more than five times in the preceding year, including about ten percent of borrowers who renewed existing loans nine to thirteen times and another ten percent who renewed fourteen times or more); Ill. Dept. of Fin. Insts., \textit{Short Term Lending: Final Report} 26 (1999), available at \url{http://www.idfpr.com/dfi/ccc/pdfs/ShortTerm.pdf} (reporting that the average payday loan customer in Illinois borrows thirteen times per year and remains a customer of the payday lender for a minimum of six months); N.C. Office of the Comm’r of Banks, \textit{Report to the General Assembly on Payday Lending} 5-6 & tbl.III(F) (2001), available at \url{http://www.ncob.org/NR/rdonlyres/2A95D7DA-75C0-49F3-B896CA45D947727/0/CheckCashersReporttoGenAssembly.pdf} (showing that approximately eighty-seven percent of borrowers of a given payday lender use that lender’s services more than once per year); Laura E. Udis, Unif. Consumer Credit Code, \textit{Report of the Uniform Consumer Credit Code Revision Committee and Actions of the Colorado Commission on Consumer Credit} 23-24 (1999) ("Some lenders continuously refinance deferred deposit loans and collect more in refinance fees than the original loan amount, while the consumer continues to owe the original loan. . . . Instances of as many as thirteen or more refinances have been noted in compliance examinations."); U.S. Pub. Interest Research Group & Consumer Fed’n of Am., \textit{supra} note 3, at 8 ("[In 1999,] Indiana found an average of
Even in states that have attempted to legally limit the duration of payday loans, many borrowers fall into longer-term relationships with payday lenders. Investigations by federal banking regulators and statements of former payday lending employees confirm that payday lenders create compensation incentives encouraging employees to manipulate borrowers into long-term borrowing. Indeed, the best available

10.19 payday loans per year per customer, with the ten largest lenders averaging 12.05 loans per person per year.”); WASH. STATE DEP’T OF FIN. INSTS., PAYDAY LENDING REPORT: STATISTICS & TRENDS FOR 2003, at 3 tbls. (2005) (showing that over thirty percent of borrowers borrow more than ten times per year, and almost ten percent borrow twenty times or more per year); SHANNON CALLAHAN & ED MIERZWINSKI, OR. STUDENT PUB. INTEREST RESEARCH GROUP, PREYING ON PORTLANDERS 4 (2005), http://www.ospirgstudents.org/uploads/8-ym/8ym_aNozeskvETQirBAg/preyingonportlanders.pdf (reporting that nearly three out of four payday loan borrowers cannot pay their loans when they come due); IND. DEP’T OF FIN. INSTS., supra note 3 (reporting that on average, seventy-seven percent of payday loans are extensions of previously existing contracts); IOWA CIVIC ANALYSIS NETWORK, UNIV. OF IOWA, PREDATORY LENDING 3 (2006), http://www.uiowa.edu/-ican/Papers%202006/predatorylending010207. pdf (reporting an average of 13.8 loans per customer per year in Iowa); see also Paul Chessin, Borrowing from Peter to Pay Paul: A Statistical Analysis of Colorado’s Deferred Deposit Loan Act, 83 DENV. U. L. REV. 387, 411 (2005) (noting that approximately sixty-five percent of Colorado’s payday loan volume is based on borrowers with more than twelve payday loan terms per year); Creola Johnson, Payday Loans: Shrewd Business or Predatory Lending?, 87 MINN. L. REV. 1, 55-77 (2002) (reviewing the phenomenon of consumer debt rollover); Michael A. Stegman & Robert Faris, Payday Lending: A Business Model that Encourages Chronic Borrowing, 17 ECON. DEV. Q. 8, 19-25 (2003) (examining the rollover problem in general and its specific manifestation on North Carolina’s payday loan industry).

21. See VERITEC SOLUTIONS LLC, FLORIDA TRENDS IN DEFERRED PRESENTMENT 12 & tbl. (2005), http://www.veritecs.com/FL_trends_sep_2005.pdf (showing that the average Florida payday lender customer borrows 7.9 times per year, and one out of four borrows twelve or more times per year); VERITEC SOLUTIONS LLC, OKLAHOMA TRENDS IN DEFERRED DEPOSIT LENDING 8 & tbl. (2005), http://www.veritecs.com/OK_trends_11_2005.pdf (showing that the average Oklahoma payday lender customer borrows 9.4 times per year, and one out of four borrows thirteen times or more per year, accounting for nearly sixty-two percent of all transactions).

nationwide estimate suggests that the average payday loan borrower repays $793 for a $325 loan.\textsuperscript{23}

Payday loans of this sort have made the industry extremely profitable. From the creditor's perspective, payday loan debts frequently perform like a monthly annuity purchased with a relatively small initial investment.\textsuperscript{24} According to a Federal Deposit Insurance Corporation (FDIC) study, forty-six percent of outstanding payday loans at a given point of time were actually "rollovers" of older obligations.\textsuperscript{25} In addition, payday loan collections offer many different fee generation opportunities. Payday lenders generally supplement revenue from their triple-digit interest rates with hefty late payment fees, insufficient funds fees (for bounced checks), and attorney fees.\textsuperscript{26} Consumers who merely pay interest and fees on their loans while making little headway on their loan principals generate the vast majority of the payday lending industry's profit.\textsuperscript{27} By one estimate, approximately ninety percent of payday lending industry revenue is based on "fees stripped from trapped borrowers."\textsuperscript{28} Because payday debt grows so quickly, lenders can still make handsome profits even if they are forced to write off significant amounts owed (though not necessarily advanced) under the terms imposed in their contracts.\textsuperscript{29}

Critics of the payday lending industry point to repetitive borrowing patterns in asserting that the loans are actually debt traps that become inescapable for families with limited resources. They frequently illustrate their points with the stories of individual borrowers who have

\textsuperscript{23} KING, PARRISH & TANIK, supra note 3, at 7, 8 tbl.3.
\textsuperscript{24} Cf. Mann & Hawkins, supra note 17, at 886, 897 (comparing payday lending to credit card lending and noting that "the principal difference is that the payday lender need invest only $200 to generate $60 per month, while the credit card issuer will need to invest $3000").
\textsuperscript{25} Flannery & Samolyk, supra note 22, at 12.
\textsuperscript{26} See U.S. PUB. INTEREST RESEARCH GROUP & CONSUMER FED'N OF AM., supra note 3, at 6-7 (reporting that payday lenders frequently exceed state fee limits; charge bounced check fees ranging from $7.50 to $40; and charge APRs ranging from 195\% to 1092\% on a two-week, one hundred dollar loan).
\textsuperscript{27} KING, PARRISH & TANIK, supra note 3, at 6-7.
\textsuperscript{28} Id. at 2, 6-7.
\textsuperscript{29} See U.S. PUB. INTEREST RESEARCH GROUP & CONSUMER FED'N OF AM., supra note 3, at 8 (reporting Tennessee's finding that its payday lenders "earned over 30\% return on investment in the first nine months of legal operation"); Mike Hudson, Going for the Broke, WASH. POST, Jan. 10, 1993, at C1 ("In 1987, Entrepreneur magazine told its readers they could open a check cashier with an investment as small as $65,000 and pull in before-tax profits as high as $117,000 a year. John Binder, a University of Illinois-Chicago economist, studied Illinois check cashers and found they earn 10 to 20 times higher 'return on equity' than banks."). But see Flannery & Samolyk, supra note 22, at 10 (positing that "payday loans may not necessarily yield extraordinary profits" because advance fees are comparable to operating costs).
suffered from payday lending obligations.\textsuperscript{30} Other opponents of payday lending often argue that the payday loan market is inefficient because of information imperfections, cognitive distortions, and externalities.\textsuperscript{31} Some have compared the payday lending market to the market for illegal narcotics: both products can destroy families and are, in some sense, addictive.\textsuperscript{32} Other criticisms include the argument that payday loans—irrespective of individual consumer wishes—create poverty by extracting too much from low- and moderate-income families.\textsuperscript{33} Payday lenders are generally recognized as among the most aggressive debt collectors in American society, sometimes using public humiliation, threats, and constant harassment to collect.\textsuperscript{34} Some critics assert that payday lending also harms other businesses by capturing disposable income that would otherwise be paid to landlords, utility companies, professional service providers, and other creditors.\textsuperscript{35} Still other critics complain that payday lender storefront locations lower property values by generating poverty, commercial ill-will, and possibly even attracting crime.\textsuperscript{36} Some have also

\begin{itemize}
\item \textsuperscript{30} See, e.g., Diana B. Henriques, \textit{Seeking Quick Loans, Soldiers Race into High-Interest Traps}, N.Y. TIMES, Dec. 7, 2004, at A1 (recounting the story of a Navy petty officer who borrowed $500 at a 390\% interest rate, which then spiraled into a chain of loans with $4,000 outstanding at interest rates as high as 650\%); Cheryl L. Reed, \textit{The 'Wild, Wild West' in Loans}, CHI. SUN-TIMES, Aug. 15, 2004, at 20A (reporting that a single mother of three borrowed $1,000 at a 521\% interest rate to deal with a financial emergency; unable to pay the loan back quickly, she found out that interest and fees on her debt soon inflated the balance to $10,743).
\item \textsuperscript{31} \textit{E.g.}, Peterson, \textit{supra} note 11, at 128-36, 150-67, 199-241 (discussing economic inefficiency in high cost consumer finance markets); Lauren E. Willis, \textit{Decisionmaking and the Limits of Disclosure: The Problem of Predatory Lending}, 65 Md. L. REV. 70, 749-61 (2006) (discussing the problems of logistics, incomplete information, and financial illiteracy as they relate to the recent phenomenon of overpriced home loans).
\item \textsuperscript{32} See Peterson, \textit{supra} note 11, at 173-75 (discussing the self-help group Debtors Anonymous); J. Andrew Curliss, \textit{Lending Spurs Protest}, NEWS & OBSERVER (Raleigh, N.C.), Apr. 12, 2002, at B1 (quoting North Carolina State Senator Wib Gulley as having said that payday loans "suck[\textsuperscript{]]] people into a cycle of escalating debt and impoverishment").
\item \textsuperscript{33} Cf. King, Parrish & Tanik, \textit{supra} note 3, at 2 (noting that American families now pay $4.2 billion per year in predatory payday lending fees, and that states with a ban on such lending save their citizens approximately $1.4 billion per year).
\item \textsuperscript{34} Johnson, \textit{supra} note 20, at 77-78; see also Video: Payday Loans Trap Borrowers, \textit{supra} note 22 (describing the collection techniques used at one payday lending store).
\item \textsuperscript{35} See, \textit{e.g.}, Rick Jurgens, Nat'l Consumer Law Ctr., Utilities and Payday Lenders: Convenient Payments, Killer Loans 26-28 (2007), available at http://www.consumerlaw.org/reports/content/payday_utility.pdf (recognizing that payday loans "jeopardize [consumers'] ability to pay for the necessities of life—including utility services," and recommending that payday lenders who also collect utility bill payments be prohibited "from promoting or soliciting lending services before, during or after the transaction").
\item \textsuperscript{36} Annyssa Johnson, \textit{Payday Loan Stores in Crosshairs}, MILWAUKEE J. SENTINEL, Sept. 21, 2006, at 6A; see also Heather MacDonald, \textit{Oakland Curbing Check Cashiers},
complained that payday lenders clog the court system by bringing more small claims court debt collection lawsuits than other businesses or institutions.  

Payday lending may also tip consumers teetering on the edge of insolvency into bankruptcy, thereby frustrating the collection efforts of other creditors who otherwise might have been able to collect.  

The payday lending industry and its apologists respond to their critics with the argument that repetitive indebtedness patterns are not evidence of chain debts, but of satisfied, repeat customers.  

They explain that the transaction costs for small loans are comparable to those of larger loans, necessitating higher prices.  

Payday lenders remind critics that their loans are collection-intensive and also require high fixed costs because consumers demand close geographic proximity to lender locations.  

Many economists treat each individual debtor's choice to borrow as conclusive evidence that such decisions produce the greatest social utility possible.  

Some have argued that payday loans are necessary to help consumers bridge personal and communal tragedies.  

But most of all, payday lenders and their apologists argue that regulation of payday lending is ardently paternalistic.  

If a competent adult wants to pay triple-digit interest rates, he or she should not be hindered from doing so.  

Most of these arguments echo those found in Jeremy Bentham's eighteenth century letter Mischiefs of the Anti-Usurious Laws.  

The competing perspectives of the payday lending industry and its critics have created an incendiary national debate over usury law and consumer protection regulations. Recently, a payday lending industry

OAKLAND TRIB., Oct. 6, 2004, at 1 ("[C]heck-cashing facilities . . . [are] booming businesses [that] prey on the poor and inhibit economic development.")

37. Cy Ryan, Governor Signs into Law Payday Loan Bill, 27 More, LAS VEGAS SUN, June 15, 2005, at 4B (reporting that 67,000 lawsuits had been brought by payday lenders against consumers in Clark County, Nevada).

38. See Paige Marta Skiba & Jeremy Tobacman, Do Payday Loans Cause Bankruptcy? 21 (Feb. 19, 2008) (unpublished manuscript, available at http://www.law.vanderbilt.edu/faculty/faculty-personal-sites/paige-skiba/download.aspx?id=2221) ("We find that payday loan applicants approved for their first loans file for Chapter 13 bankruptcy significantly more often than rejected first-time applicants."). But see Mann & Hawkins, supra note 17, at 885-86 ("Although there must be some transactions in which the additional funds available from a payday lender tip the scale toward insolvency, these small loans probably do not contribute substantially to financial distress and insolvency.").

39. See Mann & Hawkins, supra note 17, at 885.
40. Id. at 857, 889.
41. Id. at 863, 865.
42. See, e.g., id. at 885.
44. Johnson, supra note 20, at 72.
45. See generally BENTHAM, supra note 7, at 9-11 (Letter VI).
trade association raised the stakes in this debate by kicking off a multi-
million dollar advertising and public relations blitz to squelch rising
criticism of the social fallout from their financial products. For their
part, critics of the payday lending industry have recently found a new and
formidable ally in the U.S. Department of Defense. In recent years, the
Pentagon has come to the conclusion that military service members were
encountering significant financial, personal, and even military problems
as a result of payday lending. Responding to the irony of predatory
lending to military personnel in a time of war, Congress recently passed
legislation which attempts to prevent payday lending to military service
members by limiting permissible interest rates on loans to service
members to no more than thirty-six percent per year.

While it is difficult to make generalizations about the American public,
as a society we have tended to be conflicted regarding the important
public policy issues that surround payday lending. On the one hand,
most Americans are naturally skeptical of government regulation of open
markets. On the other hand, very few Americans doubt the wisdom of
banning, or at least aggressively regulating, public commerce in some
especially dangerous products such as recreational narcotics, child
pornography, and weapons-grade plutonium. Moreover, safety measures
such as seat belt laws and automobile air bag regulations find wide
approval not only for the safety of the individual, but also because of the
external costs passed on to government and the public by violators. It
should not be unexpected that many will turn to their core moral and
philosophical beliefs in mediating between these divisive perspectives.

46. Stuart Elliott, Critics of Lending Practices Adopt a Harder Edge, N.Y. TIMES,
Mar. 6, 2007, at C6; Sue Kirchhoff, Payday Lenders Craft User Protections, USA TODAY,
Feb. 22, 2007, at 1B; Susanne M. Schafer, Payday Loan Industry Acts to Quell Criticism,

47. See U.S. DEP'T OF DEFENSE, REPORT ON PREDATORY LENDING PRACTICES
DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS 4-6 (2006),

Practices Directed at Members of the Armed Forces and Their Dependents: Hearing Before
the Senate Committee on Banking, Housing, and Urban Affairs of the United States Senate,
testimony of Christopher Peterson, Associate Professor, University of Florida, at 1,
http://banking.senate.gov/public/_files/ACF7541.pdf); Financial Services Needs of Military
Personnel and Their Families: Hearing Before the Subcomm. on Oversight and
Investigations of the H. Comm. on Financial Services, 109th Cong. 7 (2006) (statement of

2007)) ("A creditor . . . may not impose an annual percentage rate of interest greater than
36 percent with respect to the consumer credit extended to a covered service member or a
dependent of a covered service member.").
Because a large majority of the United States population is Christian, we should expect that the moral dictates of this religious perspective will play an important role in determining the future political and legal response to payday lending.  

B. Usury Law and the Christian Theological Tradition

Payday lending is new to neither world history nor the Christian tradition. Loans functionally similar to payday loans existed in Biblical times. There are extensive historical records of high cost, abusive loans throughout ancient Mesopotamia. Loan contracts and receipts were commonly recorded in cuneiform on clay tablets. Payday lenders in the ancient world frequently used the lunar cycle as a tool in establishing short-term loan due dates. Impoverished debtors were said to fear the coming of the new moon, when small-value, high-cost loans came due. Indeed, apparently recognizing the harmful social side effects of loans similar to today's payday loans, many religious and government institutions in the ancient world strictly regulated loan pricing. For example, the Babylonian Empire legally limited interest rates to thirty-three percent per annum on loans payable in grain, and twenty percent per annum on loans payable in silver. Similarly, the Roman Empire experimented with several different interest rate caps, eventually settling on a twelve percent per annum limit.

Against this historical backdrop, there can be little doubt that the Bible strongly condemns usurious lending. At least a dozen biblical passages suggest that usurious lending, especially to the poor, is a grave sin. For example, the first reference to usury in the Bible states: "If thou lend money to any of my people that is poor by thee, thou shalt not be to him as an usurer, neither shalt thou lay upon him usury."

The Book of

50. Our discussion of biblical and Christian theological perspectives on payday lending should not be read as an endorsement of one religious perspective over another. In a democratic society, all religious perspectives are entitled to consideration and respect. This Article focuses on the Christian tradition because of the demographic, geographic, and political importance of that perspective in influencing the American political process.


53. Exodus 22:25. Leviticus includes a comparable passage:

And if thy brother be waxen poor, and fallen in decay with thee; then thou shalt relieve him: yea, though he be a stranger, or a sojourner; that he may live with thee. Take thou no usury of him, or increase: but fear thy God; that thy brother may live with thee. Thou shalt not give him they money upon usury, nor lend him thy victuals for increase.
Ezekiel suggests that usurious lending is a sin comparable to extortion and murdering in exchange for money, and warns that grave punishment—hellfire—awaits usurers:

As they gather silver, and brass, and iron, and lead, and tin, into the midst of the furnace, to blow the fire upon it, to melt it; so will I gather you in mine anger and in my fury, and I will leave you there, and melt you. Yea, I will gather you, and blow upon you in the fire of my wrath, and ye shall be melted in the midst thereof. As silver is melted in the midst of the furnace, so shall ye be melted in the midst thereof; and ye shall know that I the LORD have poured out my fury upon you.

Leviticus 25:35-37; see also Psalms 15:1, 5 ("Lord, who shall abide in thy tabernacle? who shall dwell in thy holy hill? . . . He that putteth not out his money to usury, nor taketh reward against the innocent. He that doeth these things shall never be moved.").

54. The passage states:

In thee have they taken gifts to shed blood; thou hast taken usury and increase, and thou hast greedily gained of thy neighbors by extortion, and hast forgotten me, saith the Lord GOD. Behold, therefore I have smitten mine hand at thy dishonest gain which thou hast made, and at thy blood which hath been in the midst of thee. Can thine heart endure, or can thine hands be strong, in the days that I shall deal with thee? I the LORD have spoken it, and will do it. And I will scatter thee among the heathen, and disperse thee in the countries, and will consume thy filthiness out of thee. And thou shalt take thine inheritance in thyself in the sight of the heathen, and thou shalt know that I am the LORD.

Ezekiel 22:12-16.

55. Id. at 22:20-22. In a similar passage, usury and oppression of the poor are included in a list of sins that prevent redemption:

He that hath not given forth upon usury, neither hath taken any increase, that hath withdrawn his hand from iniquity, hath executed true judgment between man and man, Hath walked in my statutes, and hath kept my judgments, to deal truly; he is just, he shall surely live, saith the Lord GOD. If he beget a son, that seeth all his father's sins which he hath done, and considereth, and doeth not such like, That hath not eaten upon the mountains, neither hath lifted up his eyes to the idols of the house of Israel, hath not defiled his neighbour's wife, Neither hath oppressed any, hath not withholden the pledge, neither hath spoiled by violence, hath covered the naked with a garment, That hath taken off his hand from the poor, that hath not received usury nor increase, hath executed my judgments, hath walked in my statutes; he shall not die for the iniquity of his father, he shall surely live.

Id. at 18:8-17; see also Jeremiah 15:10 (hinting at punishment awaiting usurers).
Similarly, Nehemiah rebuked his fellow Israelites for tolerating predatory lending within their community.\(^5^6\) Proverbs even suggests that the prayers of usurers are an abomination.\(^5^7\) New Testament passages in both Luke and Matthew emphasize charity, suggesting that one should not seek profit when lending to those in need.\(^5^8\) And, Jesus's only recorded act of violence echoes the Old Testament's vitriol on the subject of ill-gotten profit. While the Bible is ambiguous on this point, as a historical matter, it is likely that the money changers that Jesus whipped and expelled from the Hebrew temple made usurious loans.\(^5^9\) Collectively, biblical injunctions against usurious lending are at the core of the moral tradition that formed a foundation for modern American cultural attitudes toward debt.\(^6^0\)

Moreover, the biblical condemnation of usurious lenders is closely related to the deep and consistent message of the Bible demanding kind and just treatment of poor and vulnerable members of society.\(^6^1\) For

57. *Proverbs* 28:6, 8-9 ("Better is the poor that walketh in his uprightness, than he that is perverse in his ways, though he be rich. . . . He that by usury and unjust gain increaseth his substance, he shall gather it for him that will pity the poor. He that turneth away his ear from hearing the law, even his prayer shall be abomination.").
58. As Luke states, quoting Jesus during the Sermon on the Mount:

And if ye do good to them which do good to you, what thank have ye? for sinners also do even the same. And if ye lend to them of whom ye hope to receive, what thank have ye? for sinners also lend to sinners, to receive as much again. But love ye your enemies, and do good, and lend, hoping for nothing again; and your reward shall be great, and ye shall be the children of the Highest: for he is kind unto the unthankful and to the evil.

*Luke* 6:33-35; see also *Matthew* 5:42 ("Give to him that asketh thee, and from him that would borrow of thee turn not thou away.").
example, Deuteronomy demands "[t]hou shalt not oppress an hired servant that is poor and needy, whether he be of thy brethren, or of thy strangers that are in thy land within thy gates." The Bible appears to demand special protection for society's most vulnerable members, commanding Christians to "[e]xecute true judgment, and shew mercy and compassions every man to his brother: And oppress not the widow, nor the fatherless, the stranger, nor the poor." Furthermore, Jesus expressed profound skepticism of "them that trust in riches," explaining that "[i]t is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of God." Moreover, Christ's Golden Rule would appear to place triple-digit interest rate loans in a jaundiced light: presumably usurous lenders ought not make abusive loans to others, because they themselves would prefer not to borrow on such terms. Indeed Jesus's exposition of the Golden Rule in the Gospel of Luke precedes an exhortation to lend without expectation of reward.

In the long centuries of evolving Christian theology following biblical times, the controversy regarding the biblical position on usury has focused on whether charging any interest at all is permissible. Some Old Testament passages appear to take the position that for Hebrew tribal members it was permissible to make interest-bearing loans to foreigners, but not to fellow Jews. Early Christians interpreted these passages as having changed in the wake of Christ's ministry. They believed that after Christ, the law permitting interest-bearing loans to foreigners no longer applied because the New Testament notion of universal charity and

62. Deuteronomy 24:14. Second Samuel provides a parable emphasizing the important of kind treatment of the poor:

And the LORD sent Nathan unto David. And he came unto him, and said unto him, There were two men in one city; the one rich, and the other poor. The rich man had exceeding many flocks and herds: But the poor man had nothing, save one little ewe lamb, which he had bought and nourished up: and it grew up together with him, and with his children; it did eat of his own meat, and drank of his own cup, and lay in his bosom, and was unto him as a daughter. And there came a traveller unto the rich man, and he spared to take of his own flock and of his own herd, to dress for the wayfaring man that was come unto him; but took the poor man's lamb, and dressed it for the man that was come to him. And David's anger was greatly kindled against the man; and he said to Nathan, As the LORD liveth, the man that hath done this thing shall surely die: And he shall restore the lamb fourfold, because he did this thing, and because he had no pity.

2 Samuel 12:1-6.

63. Zechariah 7:9-10.

64. Mark 10:24-25.

65. See Matthew 7:12 ("Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets."); see also Luke 6:31.


brotherhood rendered the Old Testament injunction against interest applicable to all humanity. For them, after Christ there were no "foreigners" as such. Thus, throughout the medieval era, both Papal and civil authorities banned all interest-bearing loans.

During the Renaissance and the Protestant Reformation, both Catholic and Protestant religious leaders began to question the prohibition of all interest. Instead, these leaders and theologians took the position that the Bible forbids only excessive interest. For example, John Calvin argued that ambiguity in the translation of the Bible led early Christians into a misinterpretation of God's moral vision. Calvin pointed out that the Old Testament uses two different Hebrew words that have given translators trouble: neshek and tarbit. Calvin is used more frequently and appears by itself in some biblical passages, such as the Bible's first mention of usury in Exodus. The Hebrew word neshek shares an entomological root with the Hebrew verb "to bite." Focusing on this word, Calvin argued that the Bible only prohibited "biting"—or exorbitant—interest. Moreover, Calvin and other early Protestants argued that the Parable of the Ten Talents suggested that loans with modest interest rates, especially for commercial purposes, were permitted. In this New Testament parable, a Master criticizes a servant for failing to invest funds entrusted to him. Like Calvin, Martin Luther

68. MILLS, supra note 59, at 9 (noting that Jerome, a leader of the early church, "contended that the prohibition of interest in Deuteronomy had been univeralised [sic] by the Prophets and the New Testament since Christians are to treat everyone as a 'brother.'"); see also NELSON, supra note 67, at 29.

69. See NELSON, supra note 67, at 29.


71. Buch, supra note 70, at 17.

72. Id. at 14-16 (reciting Old Testament passages and distinguishing between the use of neshekh and tarbit).

73. Id. at 13-14.

74. Speaking of the passage from Ezekiel at chapter 18, verses 7-8, Calvin explained: "Here, among other crimes, Ezekiel numbers foenus. The word usury is not properly apt in this passage. Neshek is derived from the word for biting and is the name the Hebrews give to fenory, because it gnaws away and progressively devours wretched men." KERRIDGE, supra note 70, at 25 (translating JOHN CALVIN, PRAELECTIONES IN LIBRUM PROPHETIARUM JEREMIAE ET LAMENTATIONES NECNON IN EZECHIELIS PROPHETA VIGINTI CAPITA PRIORA 169 (Amsterdam, 1567)); see also NELSON, supra note 67, at 75 & n.5; Buch, supra note 70, at 17; supra note 55.

75. See KERRIDGE, supra note 70, at 94-95 (translating JOHN CALVIN, EPISTOLAE ET RESPONSA 355-57 (Geneva, 1575)); see also J.E. Hartley, Debt, in 1 THE NEW INTERNATIONAL STANDARD BIBLE ENCYCLOPEDIA 905, 906 (Geoffrey W. Bromiley et al. eds., rev. ed. 1979).

believed that some commercial transactions with prices comparable to interest rates of between five and six percent per annum were biblically justified." Similarly, in the Catholic tradition, as early as 1461 Pope Paul II gave his tacit approval to church-sponsored charitable pawnshops to charge a six percent simple nominal annual interest rate.

But even in the comparatively relaxed usury theology following the Reformation, high-cost lending continued to be viewed as a grievous sin. For example, while Calvin believed that God permitted modest interest rates, he had nothing but contempt for those who made excessively priced loans to the impoverished, calling them "beyond doubt mean and money-grubbing," and suggesting that "an ockerer will always be a brigand, . . . and in his wickedness will go on the prowl, just as if there were no laws, no fairness, in short, no brotherly love among men." Moreover, Calvin would likely not have been impressed with contemporary justifications of payday lending that rely on new financial terminology or changing technology. To similar arguments made in his day, Calvin responded that "[w]e know the name of usurer has been everywhere and in all times detested and disreputable . . . For crafty men are forever inventing some little subterfuge or other to deceive God with." For his part, Luther argued that "[a] manifest usurer one should excommunicate, that is, one should not give him the sacrament." And if a high-cost consumer lender were to attempt to repent, Luther argued that to do so, "he must become a Zaccheus, give back in full what he has stolen to whom he skinned it off."

John Wesley, the theologian perhaps most influential on conservative Christian Americans, held a view of usury similar to Calvin's and Luther's. Wesley believed Christians should be wise stewards of their

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77. SIDNEY HOMER & RICHARD SYLLA, A HISTORY OF INTEREST RATES 77 (4th ed. 2005). Referring to Zinskauf, annual rent charges accompanying the sale of land comparable to a contemporary mortgage, Luther explained, "I readily allow what the law and emperor allow: 5 or 6 in the hundred. But 20, 30, 40 that is overmuch." KERRIDGE, supra note 70, at 41 (translating MARTIN LUTHER, TISCHREDEN, reprinted in 8 LUTHERS WERKE IN AUSWAHL 241 (O. Clemen ed., 1930-1935)).

78. HOMER & SYLLA, supra note 77, at 76.

79. KERRIDGE, supra note 70, at 111 (translating CALVIN, supra note 74, at 170); see also id. at 35 ("We should be deluding ourselves if we for one moment imagined that Calvin regarded ocker (usury in the narrow and common sense) with anything but the utmost loathing.").

80. Id. at 49 (translating JOHN CALVIN, COMMENTARI IN LIBROS MOSIS 527) (second alteration in original).

81. Id. at 38 (translating LUTHER, supra note 77, at 276-77).

82. Id. (translating LUTHER, supra note 77, at 276-77).

material wealth—avoiding and, wherever possible, responsibly repaying debts. But, Wesley also counseled against forming hasty judgment of those unable to repay debts because "[t]here may be secrets in the situation of a person which few but God are acquainted with." Wesley was less circumspect on usurious lending than he was of necessitous borrowing. He taught that one could not experience a true Christian transformation or conversion while continuing to make a living through high-cost lending. Indeed, like Calvin and Luther, Wesley was grimly dubious of the prospects for usurers in the afterlife—preaching on this point that nothing "can [be] gain[ed] by swallowing up his neighbour’s substance, without gaining the damnation of hell."

In comparison to Europe, the religious history of the United States is generally viewed as complex. For example, Alexis de Tocqueville noted that the constitutional protection of the free exercise of religion and relatively permissive concept of religious tolerance—at least toward Christians—allowed many different faiths and sects to flower in early American history. A complete catalogue of these faiths and their views on personal finance and abusive lending is beyond the scope of this Article. Still, we are aware of no new theological source, theory, or insight that has changed the basic Reformation interpretation of the biblical passages condemning usury. In fact, to our knowledge no

ETHICS (2001); Richard P. Heitzenrater, John Wesley, in HISTORICAL DICTIONARY OF METHODISM 225, 225-27 (Charles Yrigoyen, Jr. & Susan E. Warrick eds., 1996) (providing a biography of John Wesley). Jennifer Butler goes even further suggesting that it was Wesley’s evangelical revivalism and commitment to overseas proselytizing that helped shape and guide the development of Great Britain’s empire. JENNIFER S. BUTLER, BORN AGAIN 6 (2006).

86. Wesley believed, as do many Americans that salvation—being saved—begins as an action taken in the present rather than in the afterlife. DAYTON, supra note 83, at 45-47. In his view, usurious lending prevented one from having a truly Christian transformative experience. See WESLEY, supra note 84, at 270-71.
87. WESLEY, supra note 84, at 271. “We cannot devour the increase of [a neighbor’s] lands, and perhaps the lands and houses themselves, by gaming, by overgrown bills . . . or by requiring or taking such interest as even the laws of our country forbid. Hereby all pawnbroking is excluded, seeing whatever good we might do thereby all unprejudiced men see with grief to be abundantly overbalanced by the evil.” Id. at 270-71.
89. A small minority of theologians continue to maintain the Medieval view of interest-bearing loans. See, e.g., MILLS, supra note 59, at 36-42 (describing the features of the Medieval system of interest-free loans and the workability of such a system in the modern era).
Christian theologian, pastor, or priest has ever maintained that the Bible permits exorbitantly priced consumer loans. Indeed, if the biblical injunction against usury, or neshekḥ, is to have any meaning at all in today's society, then making payday loans to impoverished borrowers at a three hundred percent interest rate must surely be a sin. ⁹⁰

Herein lies the puzzle driving this Article: if the Bible so clearly and forcefully condemns usury, one would hypothesize that political jurisdictions with a traditional, conservative Christian perspective would adopt laws reflecting this biblical value. The views of conservative Christian Americans on usurious lending are important not only sociologically, but also in predicting the future political and legal response to recent explosive growth in payday lending and other forms of high-cost consumer credit targeting low- and moderate-income Americans. As a group, conservative Christians are one of (if not the) most influential demographic interest groups in American society. The Christian theology of usury is an indispensable backdrop in understanding the contentious national debate over payday lending. As powerful money lenders and consumer rights organizations battle over payday lending regulation, what role will those who endorse biblical values play?

II. METHODOLOGY

Interdisciplinary legal and geographic scholarship explores the relationship between law and space. It shows how law and legal institutions can manifest themselves in traceable ways across locations and boundaries. Although legal rules are a product of human thought and communication, they are designed to control and influence events in the physical world. Jurists, legislators, and administrators all perceive the physical world and craft their policies in relation to it. Thus, "law and geography" scholarship uses geographic tools to understand the consequences of legal policies and institutions. ⁹¹ And in turn, it explores the "inertia of space"—that is, how space shapes the process and substance of law. ⁹² Law and geography scholars have produced

⁹⁰ See Exodus 22:25 (“If thou lend money to any of my people that is poor by thee, thou shalt not be to him as an usurer, neither shalt thou lay upon him usury.”); see also Matthew 6:24 (“No one can serve two masters. Either he will hate the one and love the other, or he will be devoted to the one and despise the other. You cannot serve both God and Money.”).


⁹² Id. at 664. There is, of course, far too much useful law and geography scholarship to list here. For a short introduction to the still emerging field, see generally id.; David Delaney, Richard T. Ford & Nicholas Blomley, Preface to THE LEGAL GEOGRAPHIES READER, at xiii (Nicholas Blomley, David Delaney & Richard T. Ford eds., 2001); Jane
influential scholarship addressing legal issues in a variety of topical areas including race relations, homelessness, health care, gender, crime, and the environment. 93

Interdisciplinary law and geography analysis has also produced influential scholarship on consumer financial services. Several authors have used geographic analyses of home mortgage lending patterns to demonstrate racial bias in the approval of credit applications. 94 Geographic analysis helped convince Congress that in some communities banks accepted deposits but did not give out an equivalent amount in loans—a process sometimes called "disinvestment." 95 Accordingly, Congress adopted the Community Reinvestment Act (CRA), which requires that depository institutions make efforts to lend in low- and moderate-income neighborhoods within the contiguous geographic area

Holder & Carolyn Harrison, Connecting Law and Geography, in 5 LAW AND GEOGRAPHY 3 (Jane Holder & Carolyn Harrison eds., 2003).


surrounding their office or group of offices. With respect to payday lending in particular, previous geographic evidence suggests that these lenders disproportionately locate their branches in poor and minority neighborhoods. Moreover, geographic evidence suggesting that payday lenders cluster around military bases, in order to target service members, was influential in persuading Congress to adopt a federal usury law and arbitration ban in some loans to military personnel.

A. Locating the American Payday Lending Industry

To better understand the relationship between payday lending, usury law, and the Christian faith of many Americans, this Article explores the spatial location patterns of payday lenders and the political power of conservative Christians. To that end, we have attempted to compile a list of every payday lender location in the United States. Construction of our database was simplified in that eleven states have usury laws effectively prohibiting payday lending within their borders. With the exception of a few states, the addresses of payday lenders were available either via mail or online from each state's regulatory authority. Telephone directories were used to gather address data for the remaining states that either had no regulatory authority or otherwise did not make addresses of regulated payday lenders publicly available. Moreover, in addition to mapping payday lenders, we also mapped every brick-and-mortar FDIC-insured bank branch in the nation. Mapping banks


97. Steven M. Graves, Landscapes of Predation, Landscapes of Neglect: A Location Analysis of Payday Lenders and Banks, 55 PROF. GEOGRAPHER 303, 312 (2003).


99. KING, PARRISH & TANIK, supra note 3, at 5.

100. Mapping bank branches is much more simple than mapping payday lenders because the FDIC maintains a list of the location of every FDIC-insured bank. See Federal Deposit Insurance Corporation, Find an Institution, http://www2.fdic.gov/idasp/frm_inst.asp (last visited Mar. 19, 2008). The FDIC recognizes several categories of banks; for our purposes, we removed from our databases impermanent and limited purposes branches.
allowed us to compare the spatial pattern and density of an industry closely related to payday lending. The map of banks provided a control group and a barometer of commercial activity at each spatial scale studied.

Next, the addresses of over 24,000 payday lenders as well as every bank in the country were translated into latitude and longitude coordinates (a process known as geocoding) by an online address-matching service.\footnote{Map Multiple Locations by Address, http://www.batchgeocode.com/ (last visited Mar. 19, 2008). This website uses the Yahoo! Geocoding API, a commercial street map database, which is considered more accurate than the commonly-used TIGER street map database. \textit{Id.}} Using Geographic Information Systems (GIS) software, the latitude and longitude coordinates of every known payday lender and bank in the country were plotted as points on a map.\footnote{This software, ESRI ArcMap 9.2, is a common professional geography computer program that allows users to compile, author, analyze, map, and publish geographic information. \textit{See Environmental System Research Institute, ArcGIS: The Complete Enterprise System, http://www.esri.com/software/arcgis/index.html (last visited Mar. 19, 2008).}} Throughout most of the country the number and location of payday lenders and banks are constantly changing, making our database, to a degree, a moving target. Nevertheless, we believe that this database is the most comprehensive map of payday lender locations yet created.

Once the addresses of payday lenders and banks were plotted as points on a map of the United States, we superimposed series of boundary maps upon the point map. Altogether, we analyzed the payday lending in six different statistical categories: states, counties, ZIP codes, state lower house legislative districts, state upper house legislative districts, and federal U.S. House of Representatives districts. With the addition of Census data,\footnote{See U.S. Census Bureau, Census 2000: Demographic Profiles, Summary File 3, http://www.census.gov/Press-Release/www/2002/sumfile3.html (last visited Mar. 19, 2008).} these superimposed boundary maps allowed us to create a series of easily understood statistical measures of payday lending at a variety of geographic scale levels. Moreover, the legislative district mapping allowed some statistical analysis regarding the relationship between the prevalence of payday lending and the composition and party affiliations of congressional delegations. At the federal level, our database allowed us to compare payday lender density to Congressional voting patterns.

In addition to the simple count of payday lenders at each scale level, we also calculated the density of payday lenders on a per capita basis and a "per bank" basis. Taking per capita measures of this industry is important because simple counts of payday lending, especially at the more local scale, can be misleading. Some places, such as California and
many metropolitan counties, have enormous numbers of payday lenders; but when these counts are normalized by the number of citizens in each district, we find that other locations with smaller populations have much higher densities of payday lenders. By the same token, some locations with only a few payday lenders may appear unburdened by the industry until the per capita measurement is taken, whereupon one finds that this count may be far more than one would expect for the population in that region.

Finally, we combined our count of payday lenders and banks at each spatial scale level to create a statistical measure of commercial density called a location quotient. Location quotients are the primary method professional geographers use to measure the relative density of a variety of economic activities. Our location quotient formula allowed us to measure the density of payday lenders, relative to banks, within a given geographic area. Once payday lenders were counted and the per capita...
and location quotient figures were generated, each geographic area was then given a rank based on three variables for ZIP codes, counties, and states. Legislative districts were ranked using per capita and location quotient ranks because districts have roughly equal populations, making the third rank statistically redundant. The ranks were then averaged together to create a composite ranking. This composite ranking provides what we believe is the most reasonable and transparent measure of the prevalence of payday lending within a geographic area.

B. Measuring the Political Power of Conservative Christian Americans

Once the maps and statistical pictures of payday lending were complete, we then turned our attention to measuring the political power of conservative Christian Americans, in order to examine its effects on usury law. Measuring the power of Christian values in the legislative process is no easy task, especially at the state level, but we believe that we have created a reasonable proxy. This proxy, which we refer to as the Christian Power Index (CPI), was generated by ranking states according to three variables: (1) the per capita density of evangelical Christians and Mormons; (2) a Christian Political Organization score for state-wide delegations and individual members of Congress, calculated by averaging the “score” assigned to each member of the U.S. House of Representatives and U.S. Senate by a panel of three conservative Christian political action groups; and (3) an average statewide congressional delegation voting record on sociocultural issues as published online by Professors Keith Poole and Howard Rosenthal.107

The first of the three measures in our CPI involved trying to rank states based on the simple percentage of people whom we believe are prone to use their Christian faith to guide them as they vote for public officials. However, obtaining good data on religious affiliation was

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107. The Poole and Rosenthal index is a highly sophisticated and well-regarded measure of voting behavior for federal legislators. University of California, San Diego, Dr. Keith T. Poole, Welcome to the Voteview Website, http://voteview.com (last visited Mar. 19, 2008) [hereinafter Voteview]. We used data from the 108th Congress, because that Congress was the last session for which all the data could be obtained for each legislative district. Royce Carroll, Jeff Lewis, James Lo, Keith Poole & Howard Rosenthal, DW-NOMINATE Scores with Bootstrapped Standard Errors, http://voteview.com/dwnomin.htm (last visited Mar. 19, 2008) (last updated Aug. 15, 2007). This Congress also perhaps best reflects the public mood and the legislative and political environment during a period when many states were considering (or reconsidering) legislation on payday lending.
difficult. The geography of religion has been plagued by scant and unreliable data on church membership. Churches are known to overstate the size of their congregations, and congregations differ regarding who is a "member." For example, some churches count children while others do not. Some churches, perhaps those with little or no ties to national or regional organizations, are likely to be underrepresented because they may have addresses that change frequently or other conditions that make them hard to include in a census of church membership. Other means have been employed to define the "Bible Belt." For example, Stephen Tweedie used viewership ratings of so-called televangelist programs to demonstrate that televised evangelical preachers are most popular in the traditional Deep South, but also in the conservative Methodist and Lutheran areas of the Midwest. Fortunately, data on religious affiliation and membership has greatly improved in recent years and quality data is readily available from an online database maintained by the Association of Religion Data Archives (ARDA).

We used ARDA data to build one-third of our Christian Power Index. For this measure we collected the rates of adherents for all evangelical denominations in each state. To this rate, we added the rates of

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110. Id. at 421 & nn.5-9.


adherence for persons belonging to The Church of Jesus Christ of Latter-day Saints, commonly called Mormons. Many consider Mormons, though quite different from evangelicals in many respects on theological matters, to be largely in line with most evangelical Protestants on political and economic issues.

The second component of our CPI was built from the opinions of conservative Christian groups actively engaged in the political process. We believe that such groups are well-suited to evaluate the conservative Christian credentials of legislators and that it is important to use the public voice of conservative Christians themselves. We used vote "scorecards" published online by Project Vote Smart for three prominent Christian political action organizations: the Christian Coalition, the Family Research Council, and the Christian Action Network. Our
purposes would have been better suited if these organizations rated every member of every local state legislature, rather than just the members of Congress because state legislators are largely responsible for crafting much of the law that regulates payday lending. As it is, we have chosen to use the scores assigned to federal legislators as a proxy for their counterparts in state government. Our proxy measure was generated by calculating the average of the three organizations' performance evaluation ratings for each member of the U.S. House of Representatives and U.S. Senate during the 108th Congress (2003-2005). An average score for each state's federal delegation (House and Senate) was also calculated to provide a numeric value for each state.

The final third of our CPI was derived from research conducted by Poole and Rosenthal, two well-known and statistically sophisticated political scientists who publish their measures of congressional voting behavior online. Using Poole and Rosenthal's roll call data, we extracted scores that reflect the tendency of a legislator to vote as a "social conservative" or a "social progressive." We then calculated and ranked the average score for each state's entire congressional delegation, including its senators.


117. See Voteview, supra note 107.

118. We extracted the DW-NOMINATE second dimension scores from the Poole and Rosenthal database for each member of the U.S. House of Representatives and for each U.S. Senator for the 108th Congress. See Carroll, Lewis, Lo, Poole & Rosenthal supra note 107. The second dimension scores are based on actual yea or nay voting records. See id. The designation of voting as "social conservative" or a "social progressive" is Poole and Rosenthal's rather than our own.

119. It is worth noting that there were some significant discrepancies between the Christian political organizations' scores and the measure of social conservativism Poole and Rosenthal generated from congressional voting records. The discrepancies may be partly a result of differences stemming from the relatively few legislative items considered by the Christian political organizations, and the broader range of social/cultural votes measured by Poole and Rosenthal. It may also be due in part to the obvious differences in agendas driving the Christian political organizations and Poole and Rosenthal. These interesting discrepancies may be worthy of a separate research project, but they reinforce the logic that has driven our multi-faceted attempt to measure Christian political power. Even if it were to be proven that these three Christian political organizations do not accurately measure the voting record of the candidates they rate, these scores do accurately reflect
After each state had been ranked according to these three measures, the three rankings were then averaged to create the CPI and a CPI ranking. States in the Deep South and Mountain West rank high on our CPI, whereas states in New England and the Mid-Atlantic rank low. These findings confirm the common logic that many evangelicals and Mormons live in the Deep South and Mountain West respectively, that their congressional representatives vote in accordance with the Christian values publicly espoused by their constituency, and that these voting records have been favorably confirmed and recognized by Christian organizations such as the Christian Coalition, which monitor the political behavior of elected officials on behalf of their followers. Our hope is that this index of Christian political power, which is partly derived from the data collected at the federal level, will accurately reflect the political climate of the respective states.\textsuperscript{120} Our CPI does closely match the findings of other interstate measures of political ideology. Our measure of ideological power differs from others, however, in that it focuses more squarely on the role conservative Christians have on political ideology by including the opinions of Christian political organizations and accounting for the percentage of evangelical Christians and Mormons in the electorate. Finally, by using simple statistical methods and widely available data, we also hoped to make our rankings as transparent as possible.

III. FINDINGS: PAYDAY LENDING IN AMERICA AND IN THE BIBLE BELT

In applying these methodologies we reach two empirical findings: First, rapid growth in the payday lending industry has fundamentally transformed the American financial services landscape. Second, the opinions of these organizations. We gladly defer to their opinions because they are a legitimate barometer of what these powerful, openly evangelical Christian political advocacy groups believe, and want their congregations and affiliates to believe, about legislators.

\textsuperscript{120} Cf. William D. Berry et al., \textit{Measuring Citizen and Government Ideology in the American States 1960-93}, 42 Am. J. Pol. Sci. 327, 327-48 (1998) (discussing the challenges of measuring the political ideology of citizens and elected officials and using federal delegation data in addition to other data to produce a measure of state ideology); Thomas M. Holbrook-Provow & Steven C. Poe, \textit{Measuring State Political Ideology}, 15 Am. Pol. Q. 399, 399-400 (1987) (defining "state political ideology" and observing that "the ability to measure state political ideology is essential to many analyses carried out at the state level"); David Nice & Jeffrey Cohen, \textit{Ideological Consistency Among State Party Delegations to the U.S. House, Senate, and National Conventions}, 64 Soc. Sci. Q. 871, 877 (1983) (finding that state party delegations tend to show "ideological consistency. . . in the House, Senate, and national conventions" and attributing this to the efforts of political activists, the efforts of each party's coalition to adopt a certain position, and the cycle of attracting and repelling potential members of the party through emphasis on a consistent image).
conservative Christian Americans are a prime demographic target of payday lenders. This Part also includes four case studies of particularly illustrative states.

A. Payday Lending Has Fundamentally Transformed the American Financial Services Landscape

Historically, American usury law scrupulously conformed to biblical values. Early American usury law grew directly out of the condemnation of usury by early Protestant theologians.\(^2\) Indeed, the first American usury law, adopted by the Massachusetts colony in 1641, predated the United States Constitution by nearly 150 years.\(^2\) That statute, recalling moral limits suggested by Martin Luther, limited rates to no more than eight percent per annum.\(^2\) Although the Founding Fathers of the United States disagreed on many issues, they were virtually unanimous in their support of reasonable limits on the prices of loans.\(^2\) Indeed, each delegate to the Constitutional Convention returned home to a state with aggressively enforced usury limits.\(^2\) Historians agree that early American usury laws were generally modeled on the price cap included in the English Statute of Anne.\(^2\) This statute, in turn, was deeply influenced by the Christian perception of biblical truth prevalent at the time. Early American usury law was also premised on a deep skepticism, not only of the forthrightness of borrowers, but also of the morality and honesty of consumer creditors. The universality of Colonial adoption of simple nominal annual interest rate limits of between five and eight percent attests to an early American thrift ethic.\(^2\)

At the beginning of the twentieth century, reformers in many states believed that these limits were too low to provide legal, safe financing for middle class borrowers.\(^2\) At this point, many states passed small loan


\(^2\) RANSOM H. TYLER, \textit{A TREATISE ON THE LAW OF USURY, PAWNS OR PLEDGES, AND MARITIME LOANS} 50 (1873).

\(^2\) See id.; see also Peterson, \textit{supra} note 121, at 1118.

\(^2\) See Peterson, \textit{supra} note 121, at 1118.

\(^2\) Id., at 1118 & tbl.1 (showing that all thirteen original states adopted usury limits). At independence, Virginia had the lowest price cap, allowing a simple nominal annual rate of only five percent. Connecticut, Delaware, Maryland, New Hampshire, North Carolina, Pennsylvania, and Rhode Island capped rates at a simple nominal annual interest rate of six percent. New Jersey and New York limited rates to seven percent. Georgia, Massachusetts, and South Carolina allowed eight percent. \textit{Id.}; see also TYLER, \textit{supra} note 122, at 50-53.

\(^2\) See Peterson, \textit{supra} note 121, at 1116 & n.13.

\(^2\) See id. at 1118-19.

\(^2\) See id. at 1120.
laws, which gave some lenders licenses to charge simple interest rates of between eighteen and forty-two percent per year.\textsuperscript{29} To obtain these licenses, lenders were required to submit to regulatory oversight and could be sued by customers for exceeding the legal interest rate limit or for violating other regulations.\textsuperscript{130} In most states, these special usury laws remained in force throughout most of the twentieth century, including during the Great Depression and the Second World War.\textsuperscript{131} As late as 1965, every state in the Republic retained relatively aggressive usury laws with a median limit of approximately thirty-six percent.\textsuperscript{132} Similarly, in 1968 Congress passed a loan-sharking law establishing a federal crime for engaging in extortionate lending.\textsuperscript{133} Under this law, one part of the Consumer Credit Protection Act, a price amounting to a simple nominal annual rate of more than forty-five percent is considered evidence of extortionate loan-sharking.\textsuperscript{134}

\begin{enumerate}
\item \textsuperscript{29} See id. (discussing the model Small Loan Law developed by the Russell-Sage Foundation and adopted by most states).
\item \textsuperscript{30} See id. (citing ROGER S. BARRETT, COMPILATION OF CONSUMER FINANCE LAWS AND OF USURY, SALES FINANCE AND ALLIED LAWS 677 (1952)) (noting the existence of the licensing requirement).
\item \textsuperscript{31} See id.
\item \textsuperscript{32} See id. at 121 & app. tbl.5.
\item \textsuperscript{34} The law provides:
\begin{enumerate}
\item In any prosecution under this section, if it is shown that all of the following factors were present in connection with the extension of credit in question, there is prima facie evidence that the extension of credit was extortionate . . . :
\begin{enumerate}
\item The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable, through civil judicial processes against the debtor
\begin{enumerate}
\item in the jurisdiction within which the debtor, if a natural person, resided or
\item in every jurisdiction within which the debtor, if other than a natural person, was incorporated or qualified to do business at the time the extension of credit was made.
\end{enumerate}
\item The extension of credit was made at a rate of interest in excess of an annual rate of 45 per centum calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.
\item At the time the extension of credit was made, the debtor reasonably believed that either
\begin{enumerate}
\item one or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment thereof had been punished by extortionate means; or
\item the creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonpayment thereof.
\end{enumerate}
\end{enumerate}
\end{enumerate}
However, in recent decades, the traditional American legal response to high-cost consumer loans has corroded. At least two factors facilitated the slackening in usury law. First, the Supreme Court sparked a new era of federal preemption of state usury limits by granting national banks the authority to export throughout the country high interest rate limits from states such as Delaware and South Dakota. Second, high inflation during this period caused prevailing market interest rates to rise, shrinking the potential profit margin separating lenders' cost of funds and their legal limits. Rather than creating temporary exceptions to ancient usury rules, or allowing interest rate limits to float with an index of prevailing rates, a few legislatures repealed their limits altogether. Other legislatures became more receptive to statutes that grant permission for lenders to lend at prices that would have shocked earlier generations of Americans. It was through this new breach in the wall of traditional American usury law that payday lenders began flowing at the end of 1980s to early 1990s.

(4) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded $100.


135. See Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp., 439 U.S. 299, 312-13 (1978). The impact of this decision has been widely discussed. See, e.g., William F. Baxter, Section 85 of the National Bank Act and Consumer Welfare, 1995 UTAH L. REV. 1009, 1010-11, 1028 (observing that Marquette "undoubtedly played a major role in fostering the spectacular growth of the credit card industry"); Richard P. Eckman, The Delaware Consumer Credit Bank Act and 'Exporting' Interest Under Section 521 of the Depository Institutions Deregulation and Monetary Control Act of 1980, 39 BUS. LAW. 1264, 1264-70 (1984) (discussing Delaware legislation designed to entice banking organizations to establish banks in the state, and noting that those banks relied on Marquette "in order to export the liberal Delaware rate structure to residents of other states"); Donald C. Langevoort, Statutory Obsolescence and the Judicial Process: The Revisionist Role of the Courts in Federal Banking Regulation, 85 MICH. L. REV. 672, 685-86 (1987) ("South Dakota and Delaware quickly seized upon the opportunity to take advantage of the ruling by deregulating interest rates and other banking functions in order to attract banks and credit card companies that operate solely on an 'export' basis. As in corporation law, the practical effect has been to force competing states to deregulate similarly . . . .") (footnote omitted)); Christopher L. Peterson, Truth, Understanding, and High-Cost Consumer Credit: The Historical Context of the Truth in Lending Act, 55 FLA. L. REV. 807, 873-74 (2003) ("In practice, nine Supreme Court justices eliminated two hundred years of democratic state interest rate regulation of bank loans."); James J. White, The Usury Trompe l'Oeil, 51 S.C. L. REV. 445, 447-48 (2000) ("[U]nder the Marquette doctrine, the sternest state laws are the first to be undermined and the quickest to fall.").

136. Peterson, supra note 135, at 872-73.

137. Id. at 873 (quoting KATHLEEN E. KEEST, NAT'L CONSUMER LAW CTR., THE COST OF CREDIT: REGULATION AND LEGAL CHALLENGES 55 (1995)).

138. See id.
The growth of American payday lending in the 1990s and 2000s was so rapid that some context is useful in comprehending it. Figure A contrasts the growth in the number of payday lending outlets with the growth in the number of Starbucks' coffee shops. There is, of course, no relationship between Starbucks and payday lending. Still, as a matter of historical coincidence, Starbucks began its rapid ascension to become the leading coffee chain in the country at about the same time it became clear that the financial services industry lobby had successfully removed legal impediments to payday lending. Starbucks' growth is thus a good yardstick against which to measure payday lending because that growth has been so widely heralded. One commentator called Starbucks' rise to prominence "[n]ot unlike the cultural blitz of personal computing," Some believe that Starbucks was the most explosively successful

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American retail company in the second half of the twentieth century. Still, this growth pales in comparison to the growth of payday lending outlets in the wake of slackening usury limits. By 2005, the seemingly ubiquitous 8,569 Starbucks locations were dwarfed by an estimated 22,000 payday loan outlets. Once usury laws were lifted, payday lenders poured into American neighborhoods like water over a breached dam.

Figure B. Payday Lender Location National Point Map, 2007

Figure B provides a point map that represents our accumulated database of payday lender addresses. We estimate that there are currently 24,017 payday lender locations in the United States. We believe this is the best estimate of the size and location of the American payday lending industry currently available to the public. The specific estimates of the number of payday lenders within each state, county, and legislative district are available in the Appendix following this Article. But, generally speaking, payday lenders charging average simple nominal annual interest rates of approximately 450% are now in every region of

141. See, e.g., HOWARD SCHULTZ & DORI JONES YANG, POUR YOUR HEART INTO IT 5 (1997) ("[W]e built Starbucks from a local business with 6 stores and less than 100 employees into a national one with more than 1,300 stores and 25,000 employees. . . . Both sales and profits have grown by more than 50 percent a year for six consecutive years.").
the country, both in the heartland and on the coasts. Lax usury laws in New Hampshire and Rhode Island have given triple-digit interest rate payday lenders a strong foothold in New England. Payday lending is flourishing in four out of five of the nation’s most populous states: California (first most populous), Texas (second), Florida (fourth), and Illinois (fifth).\textsuperscript{142} The upper Midwestern states have large and growing payday lending industries, as do the arid Western states relative to their population. Not pictured above, Hawaii and Alaska also have active payday lending industries.\textsuperscript{143} The only states where we could not find large payday lending industries were those states that have passed aggressive usury laws limiting interest rates to levels traditionally in force throughout American history.\textsuperscript{144}

\textit{Figure C. Payday Lender Locations vs. McDonald's Restaurant Locations}


\textsuperscript{143} See infra app. tbl.1.

\textsuperscript{144} See discussion infra Part III.C.4.
To put the fundamental nature of this change in financial services into context, Figure C compares the total number of payday lenders in each state to the state’s total number of McDonald’s franchises, the world’s most common and widely recognized restaurant chain. Each state number was generated by taking the number of payday lenders in each state and subtracting the total number of the state’s McDonald’s franchises. In most states where usury limits allow payday loans, the number of payday loan locations easily exceeds the number of McDonald’s restaurants. For example, in Florida, Texas, and California there are 436, 783, and 1286 more payday lender locations than McDonald’s locations respectively. The disparity is even greater in some smaller states. Missouri, Mississippi, and Alabama all have over nine hundred more payday lenders than they have McDonald’s franchises.

Payday lending was virtually non-existent in the United States in the early 1990s. But today, payday lenders, who charge prices nearly twice those of the New York City mafia during its heyday, have exploded into an industry with over twenty thousand retail outlets nationwide—more than the total number of McDonald’s, Burger King, Sears, J.C. Penney, and Target stores combined. For those who are concerned about the social, moral, and even spiritual wellbeing of lower- and moderate-income Americans, this is a profound, unprecedented, and troubling change in the American nation.

B. Conservative Christian Americans Are a Prime Demographic Target for Payday Lenders

The transformation in the American financial services industry under the new usury-permissive legal regime has not affected all Americans in the same way. Prior research has documented that payday lending is found in places with high poverty levels and large minority populations. However, it is more surprising that conservative Christian Americans also appear to be a prime demographic target for high-cost payday loans,
as Figure D illustrates. Moreover, it seems clear that their politicians are helping to place the target on their constituents’ backs. Our database of payday lender locations and index of conservative Christian political power suggests that payday lenders tend to concentrate in high densities in conservative Christian states.

Figure D. States Ranked According to Payday Lending and Conservative Christian American Political Power, 2007

Figure D provides a graphic illustration. This map compares national rankings of the intensity of payday lending within a state to the political power of conservative Christian Americans within that state. In state after state where conservative Christians hold high levels of political power, we found tremendous densities of payday lending relative to state population and to the number of banks. Indeed, by every measure and every test, we found that states with a high conservative Christian legislative score also have high densities of payday lenders. A quick examination of the map in Figure D, as well as that in Figure B above, makes it clear that the relationship would have been even stronger had Georgia and North Carolina, two states with significant conservative Christian political power, not recently outlawed payday lending. Despite these two recent exceptions, the evidence permits no doubt that living in a state with a great deal of conservative Christian legislative

150. GA. CODE ANN. § 7-3-14 (2007) (limiting credit prices to a level below which payday lending can successfully function); N.C. GEN STAT. § 53-173 (2005) (same).
power actually puts lower- and moderate-income consumers at greater risk from usurious payday loans due to their exposure to more opportunities to use payday lending services.

Similarly, the scatterplot diagram in Figure E illustrates the correlation between the political power of conservative Christian Americans and the prevalence of payday lending. In this figure, states in the upper-right quadrant are ranked above average in both Christian political power and payday lending activity. Conversely, states in the lower-left quadrant rank below average in both Christian political power and payday lending activity. Finally, states in the upper-left quadrant rank above average in Christian political power and below average in payday lending activity; the reverse is true for states in the lower-right quadrant. States that have no interest rate cap or explicitly authorize payday loans with a licensing statute are designated with a ♦ symbol, while those that retain a
traditional usury limit prohibitive of payday loans are designated with an $x$. One would expect more of the states with legal restrictions on usury to be in the upper quadrants because these states scored high on our index of Christian political power. Therefore, it would be reasonable to expect that states with a large evangelical and/or Mormon population and a legislature that is well-received by Christian political organizations to feature legislation restricting payday lending inspired by the numerous biblical injunctions against usury. Conversely, it is surprising that in many states where evangelicals and Mormons are few, and where legislators have proven to be neither socially conservative nor well-received by Christian political organizations, that scripturally-inspired usury laws effectively banning payday lending remain. Only a few states fit the pattern one would expect. Georgia, North Carolina, and to a lesser extent West Virginia each have above average rankings for Christian political power and have seen fit to ban usury. Georgia and North Carolina have recently reintroduced bans. West Virginia has maintained its ban on usury for many years.\footnote{See W. VA. CODE ANN. § 46A-4-107(2) (LexisNexis 2006).} Similarly, but in reverse, are Delaware, California, and Nevada, three states where low levels of Christian political power may have helped permit usurious businesses to flourish. Yet among the states with lower than average Christian political power, only Arizona and Nevada rank among the top ten worst states for payday lending. Compounding the curiously inverse relationship we have found is a statistical technique that has somewhat mitigated the intensity of this unexpected correlation. Several of the states that ranked high on payday lending activity, such as Ohio, California, and Florida, earned their lofty rankings partly because of the sheer number of payday lenders within their borders. Clearly this is a byproduct of the large populations in those states. If each of these states, all with low Christian political scores, were considered just on the basis of commercial and per capita densities, each would tumble in their ranking for payday lending and move toward the lower-left quadrant of the diagram.

Moreover, the inferences suggested by Figures D and E are borne out in statistical analysis. The Spearman's correlation coefficient of our payday lending severity index and Christian power index equals 0.559, which is statistically significant at the 0.001 level.\footnote{The standard Spearman's ranking formula is

$$r_s = 1 - \frac{6 \sum d^2}{n(n^2 - 1)}$$

University of the West of England, Spearman's Coefficient of Rank Correlation, http://hsc.uwe.ac.uk/dataanalysis/quantinfassspear.asp (last visited Mar. 19, 2008).} In simple terms, this
means that we can be ninety-nine percent sure that about fifty-six percent of the time, when the Christian political power goes up, payday lending per capita also rises. While this is by no means a perfect correlation—reflecting the great complexity of American life—it is nonetheless a strong relationship that bears further examination and reflection. By way of comparison, we also measured the correlation between our payday lending severity index and both the percent of the non-white population and the percent of persons living below the poverty level with the same Spearman's correlation coefficient. Again confirming past research, the race and poverty correlations with payday lending were strong and statistically significant. But, to our surprise, neither race nor poverty proved as highly correlated as our measure of conservative Christian political power. To state these relationships differently, other things being equal, the political power of conservative Christians within a state is a better predictor of payday lending severity than either race or poverty.

As interesting as these poverty and race correlation coefficients are, it is equally important to note what they do not establish. The core finding of this study is simply that lenders are relatively numerous in most Southern and Midwestern states. It is also true that payday lenders are relatively more numerous in states with larger populations living in poverty and with larger nonwhite populations. However, other things being equal, the likelihood of a state having higher payday lender densities is greater as Christian power rises than it is as poverty or nonwhite populations rise. Nevertheless, because we do not conduct multivariate regressions, our analysis cannot establish whether the greater numbers of payday lenders are present in conservative Christian states because of the faith orientation of those state's populations. The correlation coefficients with the percent of state populations living below the poverty line and the percent of the nonwhite population are provided only to give some context to our primary finding. While the correlation coefficient for Christian power and payday lending density is greater than race or poverty, it is nevertheless entirely possible that race or poverty have a causal effect on payday lender location density, whereas religious beliefs do not. Such a conclusion would be entirely consistent with our findings. The geographic overlap between payday lending density and conservative Christian states may be coincidental—our data cannot confirm or verify this proposition. Still, the simple and important

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153. Both measures were made at the state level of geographic resolution and relied on year 2000 minority status and poverty data reported by the U.S. Census Bureau.
154. The Spearman's correlation between our payday lending density index and the percent of the non-white population was 0.006. The correlation with the percent of the population below the poverty line was 0.499.
point remains: there are a disproportionate number of payday lenders in conservative Christian states.

This correlation between payday lending density and conservative Christian political power is also evident when looking at payday lender severity by county, ZIP code, and legislative district. Table 1 lists the thirty U.S. counties with the worst payday lending problem after controlling for both population and commercial density patterns with a

<table>
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<th>County</th>
<th>St.</th>
<th>Pop.</th>
<th>PDL</th>
<th>Banks</th>
<th>PDL per 10K Pop.</th>
<th>Per Capita Rank</th>
<th>LQ Rank</th>
<th>Overall U.S. Rank</th>
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<td>5.2</td>
<td>252</td>
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<td>Russell</td>
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<td>4.22</td>
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bank location quotient. We were surprised to find that every county ranking within this list is located squarely within the American Bible Belt. Underscoring the extent to which the provision of financial services has changed, there are more payday lender locations than bank locations in all of these counties save one. Analyzing the location data through the geographic frame of ZIP codes and legislative districts paints a comparable picture. Of the thirty ZIP codes most saturated with payday lending in the United States, all but three are located in one of the fifteen most conservative Christian states. All but five of the thirty worst payday lending states' upper house legislative districts and eight of the worst lower house legislative districts in the country are found within the fifteen most conservative Christian states. And of the thirty U.S. House of Representatives districts most saturated with payday lending, twenty five (including the top ten) are located within the most conservative Christian states.

C. Payday Lending In Bible Country: Four Case Studies

While our database of payday lenders and political power of conservative Christian leaders covers all fifty states, space limitations prevent a presentation of the complete results for each state. Instead, this section discusses, from a law and geography viewpoint, four states that shed light on the relationship between payday lending and the political power of conservative Christians. Alabama, Mississippi, Utah, and North Carolina are all states with a significant conservative Christian population and either have or had large payday lending industries.

1. Payday Lenders in the Heart of the Bible Belt: The Alabama Example

The Alabama legislature has never explicitly repealed its traditional usury law, which still purports to cap loan prices at a simple nominal annual interest rate of eight percent. However, today this cap is riddled with exceptions for various types of lenders, most notably

155. See infra app. tbl.2.
156. See infra app. tbl.3.
157. See infra app. tbl.4.
158. See infra app. tbl.5.
159. In addition to the presentation of state-specific findings of the four states included in this Article, we have also drafted summary findings for the remaining forty-six states. The findings for all fifty states are separately available to researchers online at http://www.csun.edu/~sg4002/research/usury.html.
160. ALA. CODE § 8-8-1 (LexisNexis 2002); see also ALA. CODE § 5-18-15(a) (LexisNexis Supp. 2007) (regulating interest rates on loans of less than one thousand dollars); ALA. CODE § 5-19-3(a) (LexisNexis 1996) (setting maximum finance charges on loans of less than two thousand dollars).
including payday lenders.\textsuperscript{161} Shrinking from expressing its state credit price limit in the time-tested traditional way—with an interest rate—with some sleight of hand the Alabama legislature authorized licensed payday lenders to charge up to "17.5 percent of the amount advanced."\textsuperscript{162} Although this modest number may seem innocuous because payday loans have short initial durations (that frequently remain outstanding for longer time periods), the Alabama Code actually legalizes loans with simple annual interest rates of around 456\%\textsuperscript{163}. In addition to the statute's loose price cap, Alabama law also has a variety of other largely cosmetic provisions that do not meaningfully impede payday lending.\textsuperscript{164} These provisions mean little given that the legislature has explicitly authorized loans over two hundred percentage points more expensive than average New York City mafia loans made in connection with illegal gambling operations.

This legal environment has facilitated a state commercial pattern saturated with payday lending when viewed by any of the various geographic scales of resolution considered in this study. For example, Congressman Artur Davis has the third most severe payday lending problem of any U.S. House of Representatives district in the entire country. In Davis' seventh district there are 202 payday lenders, which is not only the ninth most of any district, but also ranks eighth worst per capita nationally. With only 157 banks in the district, the seventh district's location quotient is fifth worst nationally.\textsuperscript{165} Terry Everett's

\begin{itemize}
  \item \textsuperscript{161} The Deferred Presentment Services Act (DPSA) regulates payday lending. \textit{ALA. CODE} § 5-18A-1 (LexisNexis Supp. 2007).
  \item \textsuperscript{162} \textit{Id.} § 5-18A-12(a).
  \item \textsuperscript{163} This figure assumes a $325 loan with an initial duration of fourteen days. The APR figure was calculated with the U.S. Office of the Comptroller of the Currency's APR calculation software. Office of the Comptroller of the Currency, Annual Percentage Rate Calculation Program for Windows (APRWIN), http://www.occ.treas.gov/aprwin.htm (last visited Mar. 19, 2008); see also Peterson, supra note 121, at 1128-35 (discussing methodology of calculating maximum permissible annual percentage rates under state usury laws). Although payday lenders also could operate under the authority of the Alabama Small Loan Act, including its thirty-six percent annual interest rate, \textit{see ALA. CODE} § 5-18A-15(a), lenders clearly would prefer the generous interest rates authorized by the DPSA. Lenders also may charge a fee of thirty dollars for any bounced check. \textit{Id.} § 5-18A-12(d); see also \textit{ALA. CODE} § 8-8-15(b) (LexisNexis 2002).
  \item \textsuperscript{164} Loans made under the DPSA are limited to an amount of five hundred dollars. \textit{ALA. CODE} § 5-18A-12(a). Their duration must be between ten and thirty-one days. \textit{Id.} § 5-18A-13(c). Lenders may renew or extend the loan one time. \textit{Id.} § 5-18A-12(b). Also, a lender is prohibited from making a new payday loan to pay off an old loan. \textit{Id.} § 5-18A-13(n). Consumer advocates, however, have argued that this type of limit has proven unenforceable both in Alabama and elsewhere. \textit{See RON GILBERT \& JIM CARNES, ARISE CITIZENS' POLICY PROJECT, HARD CASH: PREDATORY LENDING IN ALABAMA} 1 (2004), http://www.alarise.org/Predatory%20lending%20fact%20sheet%202010-04.pdf.
  \item \textsuperscript{165} \textit{See infra} app. tbl.5.
\end{itemize}
district has 205 payday lenders, which is the seventh most nationally and seventh most per capita. Everett's district does have more banks than payday lenders, but the ratio is still the twenty-first worst in the country. Other congressional districts in Alabama have almost as much payday lending, with only one representative's district, Spencer Bachus's, actually falling outside the worst thirty in the country.

When measured through the lens of state legislative districts, Alabama again appears to have a severe payday lending problem. The nineteenth, twentieth, and thirty-first state senate districts also rank among the twenty-five worst for payday lending nationally and statewide. Jimmy Holley's thirty-first district, adjacent to Fort Rucker, is the worst among the upper house districts with fifty payday lenders and thirty-seven banks. Moreover, the nineteenth, forty-fifth, and seventy-fourth state congressional districts have the most payday lending among the lower house districts, and each ranks among the top twenty-five nationally. Jay Love's seventy-fourth district on the north side of Montgomery, and only a few miles from Maxwell Air Force Base, has twenty-five payday lenders and only eight banks for a relatively small population. Taking all three measures into account, this is the worst lower house district in the country. Using only the retail and per capita density figures, it ranks fifth worst nationally. With twenty payday lenders and only seven banks, Owen Drake's forty-fifth district ranks twenty-third worst in the nation.

Laura Hall's nineteenth district, near Huntsville's Redstone Arsenal, also has high numbers and densities of payday lenders, ranking twelfth worst nationally for payday lending. Several counties in Alabama also rank very high nationally for payday lending. Jefferson County has 159 payday lenders, double what some entire states have. Marshall County has some forty-one payday lenders and forty banks, as well as a high per capita density, making it the sixth worst overall in the nation. Dallas County has the highest per capita density in Alabama and ranks among the worst one percent nationally in that category. Russell County, adjacent to Fort Benning, ranks third worst in the state. Several ZIP codes in Alabama also rank among the worst in the nation for payday lending. Birmingham's 35228, Northport's 35473, and Montgomery's 36107 ZIP codes, having no banks but multiple payday lenders, each rank among the ten most lopsided ratios nationally. Decatur's 35601 ZIP code has twenty-five payday lenders, which is the ninth most of any ZIP code in the U.S. Overall, Birmingham's 35214 ZIP code is Alabama's worst,
with almost twenty payday lenders, but just five banks for a relatively small population.\textsuperscript{171}

All this—both Alabama's weak regulatory environment and its raging payday lender infestation—is puzzling given Alabama's impressive Bible Belt credentials. Alabama ranks first in the country according to our measure of the political power of conservative Christian Americans. This ranking is a result of very favorable opinions of its congressional delegation by the Christian political advocacy groups (seventh best), their solidly conservative voting behavior (seventh); and the fact that about forty-one percent of its population is evangelical Christian (fourth most).\textsuperscript{172} Yet these leaders, who in so many other policy arenas vote in accordance with biblical values, have stood essentially idle while the state developed one of the very worst payday lending problems in the country.\textsuperscript{173}

2. When Payday Lenders Outnumber Banks: The Mississippi Example

Like Alabama, Mississippi retains a low general usury limit that harkens back to the vanishing American ethic of thrift.\textsuperscript{174} Moreover, Mississippi retains a small loan law authorizing licensed lenders to charge up to thirty-six percent per annum on loans of one thousand dollars or less.\textsuperscript{175} But these limits are now less commercially relevant given Mississippi's lax payday lending authorization legislation. Mississippi law prohibits payday lenders from charging more than eighteen percent of the face amount of a personal check used by a borrower in obtaining a payday loan.\textsuperscript{176} While a casual observer might equate this cap with once common state usury laws limiting consumer loans to an eighteen percent

\begin{itemize}
\item \textsuperscript{171} See infra app. tbl.2.
\item \textsuperscript{172} See infra app. tbl.1.
\item \textsuperscript{173} See infra app. tbl.1. With 1,192 payday lenders (seventh most) for its roughly 4.5 million people, Alabama ranks third in per capita density of payday lenders. See U.S. Census Bureau, State and County Quick Facts: Alabama, http://quickfacts.census.gov/qfd/states/01000.html (last visited Mar. 19, 2008) (listing the population of Alabama as 4,599,030 in 2006). Because there are only 1,438 banks in the state, it also ranks third highest among the states in our relative banking density location quotient measure. Using our composite index, Alabama has the fourth worst payday lending problem in the country. See infra app. tbl.1.
\item \textsuperscript{174} Mississippi's general usury limit caps rates at "the greater of ten percent (10%) per annum or five percent (5%) per annum above the discount rate . . . on ninety-day commercial paper in effect at the [relevant] Federal Reserve bank." MISS. CODE ANN. § 75-17-1(2) (West 1999).
\item \textsuperscript{175} Id. § 75-17-21(a).
\item \textsuperscript{176} Id. § 75-67-519(4).
\end{itemize}
simple nominal annual interest rate, the law actually allows an interest rate of 572.29% on a typical payday loan.\footnote{177}{This interest rate figure assumes a fourteen-day loan of $325. The APR figure was calculated with the U.S. Office of the Comptroller of the Currency's free APR calculation software. Office of the Comptroller of the Currency, supra note 161; see also Peterson, supra note 121, at 1128-35.}

This legal environment has facilitated the most severe payday lending problem in the nation. With only about 2.8 million people, Mississippi is one of the least populous states, but according to the best data available from the state of Mississippi, it has 1069 payday lenders. For its population and number of banks, this easily earns Mississippi the distinction of having the highest density of payday lending of any state.\footnote{178}{See infra app. tbl.1. Our estimate of the number of payday lenders in Mississippi is derived from licensing information gathered by the Mississippi Department of Banking and Consumer Finance. This estimate was further verified in a telephone interview with the Mississippi Banking Commissioner, John S. Allison. Surveys of multiple telephone directories also support our Mississippi estimate.}

If present trends continue, Mississippi will soon be the only American state to have more payday lenders than banks. Every one of Mississippi's four U.S. congressional districts ranks among the nation's most saturated by payday lenders. The dubious distinction of worst in the nation goes to Bennie Thompson's second district, which has 308 payday lenders to 236 banks, the second most lopsided ratio in the nation.\footnote{179}{See infra app. tbl.5.} This is also the second most payday lenders of any district in the nation, and the second highest per capita ratio in the country, trailing only the first district of Roger Wicker. Representative Wicker's district has 337 payday lenders—more than any other district in the nation. With 287 banks, Representative Wicker represents a district with the seventh worst relative location quotient ranking nationally. Wicker's district also has the most payday lender locations per capita, giving his district the second worst composite ranking in the nation for payday lending.\footnote{180}{See infra app. tbl.5.} Hardly any better off are Gene Taylor's fourth district, which ranks fifth worst nationally and Chip Pickering's third district, which ranks sixth worst nationally.\footnote{181}{See infra app. tbl.5.}

Most of Mississippi's state legislative districts also have very high numbers and densities of payday lenders, several of them ranking among the worst nationally when they are compared to their counterparts outside Mississippi. Only a few of the highly gerrymandered, mostly white, safe districts have normal or below average concentrations of payday lenders. The worst among the upper house districts are Nolan Mettetal's tenth and Lydia Chassaniol's fourteenth, both rural districts
along I-55 north of Jackson. Merle Flowers' Memphis-area district, though it has the second highest per capita density of payday lenders (forty-one for a population of around 54,000) among all upper house districts, still only manages to rank tenth on our scale, which highlights the problems other districts have with payday lending.\textsuperscript{182} Among the districts in the lower chamber, Omeria Scott's eightieth district, which includes a small Choctaw Indian reservation, is worst, with twenty-six payday lenders for just over 20,000 people, or about 1.2 payday lenders per every one thousand persons in the district.\textsuperscript{183} As unbelievable as that figure is, Ray Rogers' sixty-first district, surrounding Pearl, has thirty payday lenders for roughly the same population, or 1.23 payday lenders per one thousand people. Warner McBride's tenth district ranks second worst statewide and Sid Bondurant's twenty-fourth district is third worst.

About half of all Mississippi counties rank in the top ten percent nationally for payday lending. Hinds County alone has more payday lenders than all of Minnesota and is nineteenth worst overall nationally for payday lending. But, Hinds County is actually only about average in Mississippi for per capita and commercial payday lending densities. The highest ratio of payday lenders (fifteen) to banks (six) among Mississippi's counties is in Attala County, which has the second highest such ratio nationally. With less than 20,000 people, Attala County also has the fifth highest per capita ranking nationally and ranks worst nationally overall when those two statistics are considered together. If the total number of payday lenders is added to the ranking, then Jones County is worst nationally for payday lending because its overall ranking in three categories is lowest. However, when Mississippi's counties are considered apart from the rest of the U.S., then Panola and Grenada counties rank worst and second worst overall.

Mississippi's payday lending problem is also evident when viewed through the lens of ZIP codes—several of which also rank among the nation's worst. Indeed, the three highest ZIP code rankings in the U.S. are all found in Mississippi. For example, Batesville ZIP code 38606 has three times more payday lenders than banks and a very high per capita density (1.4 per 1000), suggesting it is fairly considered among the nation's worst. Jackson has several ZIP codes swamped with payday lenders; worst among them appears to be 39204, which is the second worst in the nation with nineteen payday lenders and only three banks. But, the place with the worst payday lending problem in the entire United States appears to be Columbus' 39705 ZIP code. This tract

\textsuperscript{182} See infra app. tbl.3.
\textsuperscript{183} See infra app. tbl.4.
appears to have twelve payday lenders and not a single bank for a population of nearly 15,000 people. 184

Mississippi's payday lending problem has developed under the watch of political leaders that aggressively promote biblical values on many other legal questions. According to our methodology, Mississippi is second only to Alabama in the political power of conservative Christian Americans. 185 About forty percent of the people in Mississippi are evangelical Christians, the fifth highest concentration of any state. Moreover, the Christian political advocacy organizations we surveyed gave Mississippi's Congressional delegation the eleventh best evaluation in the country. And, in tune with its constituents on many issues, the Mississippi congressional delegation ranked fourth on Poole and Rosenthal's measure of social conservatism. 186 Given these Christian credentials, one would expect the leaders of Mississippi to give legal voice to the biblical injunction against usury. Our results suggest they have not.

3. Payday Loans in the Mormon West: The Utah Example

Throughout most of the twentieth century, Utah had a general usury law capping interest rates at a simple nominal annual rate of twelve percent. 187 Moreover, the state also adopted a small loan law authorizing licensed lenders to make small consumer loans at up to thirty-six percent per annum. 188 Unlike Alabama and Mississippi, however, Utah retains no consumer credit price limitation—either in a general usury law, a small loan law, or in its payday lending authorization legislation. 189 Nevertheless, the Utah legislature has passed a payday lending authorization statute. 190 This legislation includes a variety of essentially cosmetic rules that do not meaningfully impede or change payday lending business practices within the state. Some of the rules simply echo federal law in force irrespective of the Utah statute.

This legal environment has facilitated the development of a powerful payday lending industry in both Utah's sparsely populated desert areas and the rapidly growing capital city. Utah has about 383 payday lenders,

184. See infra app. tbl.2.
185. See infra app. tbl.1.
186. See infra app. tbl.1.
188. See Utah Small Loan Act, ch. 15A, § 13(a), 1945 Utah Laws 31, 39 (repealed 1969) (allowing charges up to three percent monthly).
189. The Utah Code merely provides that "the parties to a consumer credit agreement may contract for payment by the debtor of any finance charge and other charges and fees." Utah Code Ann. § 70C-2-101 (2001).
which is a large number considering its small population. Per capita, Utah has the ninth highest density of payday lenders in the nation. Its payday lender to bank ratio is also far above the national average—eighth highest in the country—giving Utah a composite total rank in the top ten. All of Utah’s U.S. House districts have above average densities of payday lenders, the worst of the three being Rob Bishop’s first district, which ranks forty-fifth out of 435 House districts for overall payday lending activity.

Measuring payday lending through the lens of state legislative districts also suggests a large payday lending industry given Utah’s population. Following this population, most of the state’s payday lenders can be found in the urban and suburban Interstate 15 corridor between Ogden and Provo. Among state senate districts, the largest absolute number of payday lenders is in Gene Davis’ Salt Lake City-area third district, but the highest densities controlling for population and commercial activity are just south of Hill Air Force Base in Sheldon Killpack’s twenty-first district and just north of the base in Scott Jenkin’s twentieth district. Among the lower house districts, Oda Curtis’ fourteenth district, which also borders Hill Air Force Base, may be worst, with fifteen payday lenders and only six banks for its approximately 34,000 citizens—roughly one payday lender for every 5,000 citizens. The other district with similar levels of payday lending is Mark Wheatley’s thirty-fifth district in the South Salt Lake City area.

Utah’s payday lending problem is perhaps even more apparent at the county and ZIP code level. By way of comparison, Salt Lake County has more than twice the number of payday lenders than the entire state of Minnesota. Yet, about ten Utah counties are worse than Salt Lake County overall for payday lending when controlling for their population and commercial activity. Topping the list are Tooele and Uintah Counties, which both have more payday lenders than banks and high per capita densities. Weber County ranks a strong third in this dubious category. In terms of ZIP codes, Ogden’s 84405 and Layton’s 84041 ZIP codes are tied for second worst in Utah for payday lending, again possibly owing to their close proximity to Hill Air Force Base. Other ZIP codes with especially high densities of payday lenders are found in the Salt Lake suburbs of West Valley (84119) and Kearns (84118). The suburb of South Salt Lake City has the sad distinction of hosting the ZIP code (84115) with the worst payday lending problem in a state replete with payday lenders.

191. See infra app. tbl.1.
192. See infra app. tbl.4.
Utah's payday lending saturation is both puzzling and ironic given its large majority of Mormons and history of easy integration of religious doctrine into political life. Utah easily ranks first in percent of evangelicals and Mormons per one thousand persons, with Mormons comprising nearly two-thirds of its population. Although the Christian political organizations scoring politicians may vary greatly with Mormons on theological issues, they approve of Mormon politicians, ranking them sixth nationally, which is higher than the score given to any delegation from any state in old Dixie. The Poole and Rosenthal data suggest that Utah's delegation is not quite as conservative as the former measure, but they nevertheless show the delegation on the conservative side, ranking it nineteenth. Overall, Utah ranks fifth in our Christian Power Index. Given these political facts, the state would seem to be the ideal candidate for an outright ban on payday lending and other usurious lending practices. Like many other Americans, Mormons unequivocally embrace the Bible, and presumably its blistering condemnation of usury. It is true Mormons also embrace some of their own additional scriptural works, but these scriptures do not contradict biblical teachings on usury. In fact they appear to echo biblical condemnation in passages suggesting God's "sword of vengeance" awaits those who oppress wage earners and the poor. Utah's payday lending infestation is made all the

193. See infra app. tbl.1.
194. See infra app. tbl.1.
195. See The Church of Jesus Christ of Latter-day Saints, Gospel Topics: Bible, Inerrancy of, http://www.lds.org/ldsorg/v/index.jsp?vngnextoid=bbd508f54922d010VgnVCM1000004d82620aRCRD&locale=0&sourceId=59a22f234d98010VgnVCM1000004d82620a (last visited Mar. 19, 2008) ("Latter-day Saints revere the Bible. They study it and believe it to be the word of God. However, they do not believe the Bible, as it is currently available, is without error.").
197. See, e.g., THE BOOK OF MORMON 367 (Joseph Smith, Jr. trans., 1920) (1830) (Helaman 4:11-12) ("[T]he great slaughter which was among them, would not have happened had it not been for their wickedness and their abomination which was among them; yea, and it was among those also who professed to belong to the church of God. And it was because of the pride of their hearts, because of their exceeding riches, yea, it was because of their oppression to the poor . . . ."); id. at 446 (3 Nephi 24:5) ("And I will come near to you to judgment; and I will be a swift witness . . . against those that oppress the hireling in his wages, . . . saith the Lord of Hosts."); id. at 475 (Mormon 8:37-38, 41) ("For behold, ye do love money, and your substance, and your fine apparel, and the adorning of your churches, more than ye love the poor and the needy, the sick and the afflicted. O ye pollutions, ye hypocrites, ye teachers, who sell yourselves for that which will canker, why have ye polluted the holy church of God? Why are ye ashamed to take upon you the name of Christ? Why do ye not think that greater is the value of an endless happiness than that misery which never dies—because of the praise of the world? . . . Behold, the sword of vengeance hangeth over you; and the time soon cometh that he avengeth the blood of the saints upon you, for he will not suffer their cries any longer."); see also THE DOCTRINE AND COVENANTS OF THE CHURCH OF JESUS CHRIST OF
more surprising by its generally white, middle class demographic profile, highly educated population, and reputation for strong family bonds. Despite all these factors, Utah retains a payday lending problem more severe than many Bible Belt states in the Southeast including Arkansas, Georgia, North Carolina, Texas, and Virginia.

4. Born Again? The North Carolina Example

Throughout the twentieth century the North Carolina legislature retained usury laws limiting prices on consumer loans. For example, the state’s highest price limit in the mid-1960s limited finance charges on a loan principal comparable to a typical contemporary payday loan to no more than one dollar per five dollars loaned per year—an interest rate limit of about twenty percent. But like many other state legislatures in the 1980s and 1990s, the North Carolina legislature responded to consumer finance industry pressure by liberalizing its usury limits. In 1997, the North Carolina legislature passed a statute allowing payday lenders to obtain a license that authorized charging fees of fifteen percent of the face amount of a check to defer the deposit of the check. In a typical loan with an initial duration of two weeks, this law capped interest rates at about 360%. However, unlike many states, North Carolina embraced this price limit somewhat more cautiously, treating the change in its laws as an experiment, rather than a permanent elimination of consumer protection law. The legislature included a “sunset” provision in the law, stating that the licensing statute and its extremely high price limit would expire four years later, absent a vote to extend its provisions.

LATTER-DAY SAINTS 254 (1949) (§ 136:8) (“Let each company bear an equal proportion, according to the dividend of their property, in taking the poor, the widows, the fatherless, and the families of those who have gone into the army, that the cries of the widow and the fatherless come not up into the ears of the Lord against this people.”).


199. See BARBARA A. CURRAN, TRENDS IN CONSUMER CREDIT LEGISLATION 163 (1965).


201. This figure was calculated using APRWIN. See Office of the Comptroller of the Currency, supra note 161.

Despite the uncertain long-term future of their capital investments in North Carolina, payday lenders flooded the state without hesitation. The number of payday lending outlets exploded from 307 in 1997, to 1,204 by the year 2000. As the four-year sunset date drew closer, consumer rights organizations and many officials in the Bank Commissioner’s Office and the legislature grew horrified at both the prices payday lenders were charging over long durations, as well as the disregard for many of the modestly protective rules that remained in the licensing statute. The Bank Commissioner’s Office found that North Carolina consumers were purchasing about sixty-three percent of their payday loans at annual interest rates between 460.08% and 805.15%. Eighty-seven percent of borrowers were unable to pay the loans back after the initial duration, instead rolling over their loans at least one time with any given lender. Not counting debtors who borrowed from multiple locations, nearly forty percent of North Carolina borrowers renewed their payday loans more than ten times. A study by a consumer advocacy organization estimated that long-term borrowers fueled the industry’s profits, with eighty-five percent of revenue coming from North Carolinians who took five or more payday loans per year. Moreover, the Bank Commissioner’s Office found an industry-wide culture of lawlessness wherein regulators found 8911 violations of simple state consumer protection rules after conducting 713 payday lender inspections over a three-year period. Recognizing the social trauma these numbers represented, the North Carolina legislature resisted tremendous industry pressure when it refused to extend the licensing statute past the four-year sunset date.

When the North Carolina legislature let its payday lending authorization legislation expire, the state reverted to its traditional small loan law, which included a far more modest usury limit of thirty-six percent per year. Despite this, payday lenders refused to comply with the law for several years and continued to market their triple-digit

204. See id. at 1-2.
205. Id. at 3.
206. See id. at 6 tbl.III(F).
207. See id.
210. Graves & Peterson, supra note 98, at 768.
211. North Carolina Consumer Finance Act, N.C. GEN. STAT. § 53-173(a) (2005) (imposing an interest rate cap of thirty-six percent for loans under six hundred dollars and a cap of fifteen percent on any amount loaned from six hundred dollars to three thousand dollars).
interest rate payday loans throughout the state under a variety of dubious legal rationales. The state attorney general and the banking commissioner both began to attempt to force payday lenders to comply with the law or shut their doors. But by 2005, over six hundred payday lender locations continued to openly operate in clear violation of the law.\textsuperscript{212}

Nevertheless, North Carolina's experience demonstrates that while returning to the traditional American legal environment can be difficult, it is not impossible. After long efforts, North Carolina's regulatory authorities have had substantial success in enforcing their reemployed usury limits. Most notably, in 2006 several of the largest payday lending chains, including Check Into Cash, Check 'n Go, and Advance America, entered into consent agreements with state authorities and stopped making payday loans.\textsuperscript{213} The major national chains have all either left North Carolina altogether, adopted new lending practices to comply with state law, or limited their business practices to traditional check cashing without a credit component.\textsuperscript{214}

Today the government officials have no database or other information on payday lenders that continue to have a physical presence in the state. Furthermore, the authors conducted an informal review of telephone directory listings in the state and could discern no significant brick-and-mortar payday lending presence.\textsuperscript{215} After nearly seven years of

\begin{enumerate}
\item Gravens \& Peterson, \textit{supra} note 98, at 769-70.
\item \textit{See id.} ("The agreements [between payday lenders and the state of North Carolina] mean that payday lending by all major companies in North Carolina has come to a halt. . . . Check Into Cash and Check 'n Go plan to leave the state, while First American [Cash Advance] plans to try to get licensed as a consumer finance lender and would have to abide by state laws that limit interest rates on small loans."); \textit{see also} Ben Werner, \textit{Payday Lender Closing 103 U.S. Branches}, THE STATE (Columbia, S.C.), Sept. 21, 2007 (noting that Advance America vacated North Carolina completely); \textit{infra} note 215 (noting that some establishments still operate to cash checks without extending credit).
\item Some business chains, such as ACE Cash Express, still operate store locations in North Carolina. However, the authors' calls to store outlets within the state indicate that these locations merely cash checks without offering credit by agreeing to hold the checks for the duration of a loan. In a few locations we did find telephone directory listings purporting to offer payday loans, but all of the listed telephone numbers are now disconnected. North Carolina, like other states, still has a significant problem of payday lenders operating through the Internet. \textit{See generally} JEAN ANN FOX \& ANNA PETRINI, CONSUMER FED'N OF AM., \textit{INTERNET PAYDAY LENDING} 5 (2005), \textit{available at} http://www.consumerfed.org/pdfs/Internet_Payday_Lending113004.PDF ("Internet payday lending is the latest ploy used by small loan companies to evade consumer protections and usury laws in the state where borrowers apply for and receive loans and few state regulators have attempted to enforce state credit laws against online lenders."); \textit{see also id.} at 10 ("Non-bank internet lenders would be subject to state law in North Carolina.").
\end{enumerate}
aggressive enforcement efforts—following the legislature’s four-year experiment—North Carolina once again appears to be largely free of payday lending operations.

For purposes of this study, North Carolina also provides an important counterpoint to the claim that the density of payday lender locations correlates with the political power of conservative Christian Americans. North Carolina, like many states in the Southeast, has solid Christian credentials. Twenty-six percent of North Carolinians are evangelical or Mormon.216 The conservative Christian advocacy groups gave the North Carolina delegation respectable scores, placing the state twenty-eighth out of fifty. And North Carolina’s Congressional delegation ranks thirteenth on Poole and Rosenthal’s measure of social conservatism. Together, these three factors made North Carolina seventeenth in our Christian Power Index. While this places North Carolina behind many of the other more traditional Bible Belt states, the state’s population and leaders are clearly more in tune with conservative notions of biblical values than most of the country. North Carolina, along with Georgia (tenth in our CPI ranking) and West Virginia (twenty-third in our CPI ranking), should stand as legislative and regulatory models for other conservative Christian states wishing to reimpose traditional biblical values in their consumer financial services markets.

IV. DISCUSSION

A. The Politics of Usury in Conservative Christian States

As we emphasized in Part III, this Article does not provide a causal explanation of the correlation between our payday lending density index and our Christian Power Index. For example, our research does not attempt to explain why—despite comparable legal environments—some states, such as Minnesota and New Hampshire, have fewer payday lenders relative to population and commercial activity than states such as Mississippi, Alabama, and Utah. We have refrained from attempting such an analysis for two reasons: first, because of the formidable methodological challenges posed by such an explanation; and second, because we are reluctant to enter into a potentially controversial, and perhaps even painful, debate about culture and faith that such a causal explanation might invite. Our data merely report a simple—but nonetheless important—geographic fact: there tend to be more payday lender locations in areas where conservative Christians live and control government. We leave it to others to explain why this relationship exists.

Table 2. Maximum Annual Percentage Rates of Top Fifteen Conservative Christian States’ Usury Limits on Typical Payday Loans, 2007

<table>
<thead>
<tr>
<th>2007 CPI Rank</th>
<th>State</th>
<th>APR of 2007 Usury Limit on a Typical Payday Loan 217</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Alabama</td>
<td>456.29%</td>
</tr>
<tr>
<td>2</td>
<td>Mississippi</td>
<td>572.29%</td>
</tr>
<tr>
<td>3</td>
<td>Idaho</td>
<td>No limit</td>
</tr>
<tr>
<td>4</td>
<td>Kentucky</td>
<td>460.06%</td>
</tr>
<tr>
<td>5</td>
<td>Utah</td>
<td>No limit</td>
</tr>
<tr>
<td>6</td>
<td>Tennessee</td>
<td>240.66%</td>
</tr>
<tr>
<td>7</td>
<td>Oklahoma</td>
<td>381.04%</td>
</tr>
<tr>
<td>8</td>
<td>Wyoming</td>
<td>521.43%</td>
</tr>
<tr>
<td>8</td>
<td>Arkansas</td>
<td>432.38%</td>
</tr>
<tr>
<td>10</td>
<td>Georgia</td>
<td>219.40%</td>
</tr>
<tr>
<td>11</td>
<td>Kansas</td>
<td>391.07%</td>
</tr>
<tr>
<td>11</td>
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<td>360.99%</td>
</tr>
<tr>
<td>13</td>
<td>Missouri</td>
<td>1955.36%</td>
</tr>
<tr>
<td>14</td>
<td>S. Carolina</td>
<td>460.04%</td>
</tr>
<tr>
<td>15</td>
<td>Nebraska</td>
<td>460.06%</td>
</tr>
</tbody>
</table>

Typical payday loan defined as a $325 loan of fourteen-day duration.

Nevertheless, we believe one causal observation is plain from our data. Irrespective of the religious tendencies, it is clear that states that continue to impose and aggressively enforce traditional American usury laws do not have significant payday lending industries. Thus, one necessary but insufficient causal explanation of the correlation between payday lender density and conservative Christian political power is legal: most conservative Christian states have abandoned their traditional usury limits. Indeed, of the fifteen states ranking highest on our measure of conservative Christian political power, fourteen have legislation explicitly authorizing payday lending. As Table 2 shows, two of these states have no usury limit whatsoever218 and eleven of the remaining thirteen have crafted arguably misleading statutes that authorize interest rates of over 350%.219 Only Georgia has attempted to forbid payday lending with a usury limit that, although generous by historical standards, is generally recognized as below the threshold necessary to facilitate the payday lending business model.220

217. Peterson, supra note 121, at app. tbl.6.
218. These states are Idaho and Utah.
219. These states are Alabama, Arkansas, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, South Carolina, and Wyoming.
Going beyond this legal reality, a deeper question remains: why have so many socially conservative, Christian states come to abandon their traditional response to usury? After all, in past generations, socially conservative Christian Americans have not always, and indeed have rarely, allied themselves with powerful corporate and financial interests. In the eighteenth and nineteenth centuries, born-again Christians and evangelicals tended to be at the forefront of a variety of campaigns to ameliorate the living, working, and financial conditions of the poor.221 For example, evangelicals supported the prohibition of child labor and promoted universal education.222 Many evangelicals have traditionally seen great peril to one's salvation in excess prosperity, and have approached wealthy financiers with profound skepticism. At the beginning of the twentieth century, conservative Christian Americans repeatedly declared that "love of money was the root of all evil," and bemoaned what they saw as the growing materialism and consumerism of American society.224

This skepticism of those who too aggressively seek riches for themselves generated universal support of usury law in conservative Christian states. Beginning in the colonial period and continuing through the early and mid-twentieth century, legislatures in Bible Belt states rigorously condemned and prohibited usury. At the founding of the American republic in 1776, Georgia, North Carolina, South Carolina, and Virginia all joined their northern counterparts in limiting simple nominal annual interest rates to between five and eight percent.225 At the turn of the twentieth century, except for the still relatively unsettled

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222. Id.
224. Id. at 62.
225. Peterson, supra note 121, at 1118 & tbl.1.
Florida, every state in the Old South had a usury law. By 1965, every state on our list of the current most conservative Christian states, as well as every state in the Old South, had a traditional usury limit. Almost all of these states limited credit interest rates to between thirty and forty-two percent. The average interest rate limit on a short-term consumer loan with a balance and initial duration comparable to today's payday loans was thirty-six percent.

Starting in the 1980s, but more fully coming to fruition during the first term of George W. Bush, socially conservative Christians formed an alliance with powerful business interests. One of the key outcomes of the "Reagan Revolution" of the 1980s was the cementing of a powerful political marriage between business-minded, economic liberals and social conservatives within the Republican Party. For generations following the Civil War, southern evangelical Christians, presumably still embittered by the Republican legacy created during Reconstruction, staunchly supported the Democratic Party. Similarly, populists in the Democratic Party appealed to the biblically-inspired notions of charity faithfully adhered to by millions of socially conservative "Dixicrats." But, the Democratic Party also included a host of other interest groups, including a variety of secular social progressives. While there was much common ground between socially conservative Christians and progressives on economic policy issues, such as usury law, the century-long alliance was unable to withstand the tension created by issues like civil rights, abortion, prayer in school, and gun control. Ronald Reagan, and later George W. Bush, was able to capitalize on the disaffected social conservatives who felt the Democratic Party had become too liberal on many social issues. The Republican Party welcomed the enormous number of politically-energized conservative Christians and their favored candidates, many of whom won election contests all the way from local

226. See id. at 1119 ("Th[e] deep American skepticism of consumer lending entrenched a legal commitment to limited interest rates that continued largely unabated through the end of the nineteenth century.").
227. Id. at 1138.
228. See id. at app. tbl.A.
229. Id. at 1139-40 & fig.1.
230. See John Kincaid, Foreword: The New Federalism Context of the New Judicial Federalism, 26 RUTGERS L.J. 913, 924-25 (1995) (noting that "[w]ith the election of Ronald Reagan in 1980... social conservatives glimpsed their first opportunity to wield federal power on behalf of their policy preferences" and listing a number of President Reagan's reforms supporting various business interests).
school boards to the halls of the U.S. Senate.\textsuperscript{232} Biblical values were used unabashedly to forward legislation on a host of cultural issues, especially abortion, prayer in schools, capital punishment, and gay rights.\textsuperscript{233} However, the relatively new alliance between business-minded corporate capitalists and social-values conservatives profoundly muted biblical values that had been historically used by Christian legislators to justify standards of basic commercial decency. The result of this alliance has been a purging of biblical values from the economic policy realm in many otherwise conservative Christian states. Ironically, a fundamentally liberal moral relativism with respect to consumer finance has supplanted traditional Christian condemnation of the sin of usury. In turn, this facilitated the indebtedness, apparently at virtually any price, of millions of low- and middle-income Americans.

\textbf{B. Biblical Values and the Economics of Usury Law}

Payday lenders and their apologists argue that payday loans merely respond to legitimate economic demand. They contend that repeated borrowing is evidence of customer satisfaction and of the social utility of salary loan products. In this view, payday loans have higher prices because of high default rates as well as the high costs of originating and servicing payday debts. As discussed above, these arguments are all foreshadowed in Jeremy Bentham’s classic treatise \textit{Defense of Usury} and have been the subject of hot dispute amongst academics for hundreds of years.\textsuperscript{234} Today, more judges, legislators, regulators, professors, and businesspersons harbor suspicion of usury laws based on these economically-inspired arguments than at any other time in American history. Ultimately, however, engaging in this economic debate is beyond the scope of this Article.

Nevertheless, it would seem that the task for conservative Christians and their leaders is to choose between these arguments and the Bible’s apparent rejection of them.\textsuperscript{235} For those Christians to whom the Bible’s indictment of usurious lending is by itself insufficient, many of the economists, philosophers, and leaders who paved the way for the American republic and its economic system may supply further compelling justification. For example, Western civilization’s most

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{233} \textit{Cf.} Lamare, Polinard & Wrinkle, supra note 231, at 72-73.
\item \textsuperscript{234} \textit{See supra} notes 39-45 and accompanying text.
\item \textsuperscript{235} \textit{See Matthew} 16:6 ("[B]eware of the leaven of the Pharisees . . . .").
\end{itemize}
\end{footnotesize}
venerated economist, Adam Smith, recognized the need for laws placing a reasonable ceiling on credit pricing.\textsuperscript{236} While he rejected the medieval prohibition of all interest, Smith recognized that the market for loans could never be expected to perform efficiently so long as "prodigals and projectors" could be enticed into loans contrary to their own best interest.\textsuperscript{237} Human nature being what it is, Smith argued usury limits "ought always to be somewhat above the lowest market price, or the price which is commonly paid for the use of money by those who can give the most undoubted security."\textsuperscript{238} Surely Christians need not apologize for biblical economics when Adam Smith himself shared the same view. Moreover, characterizing usury law as a constraint on freedom overlooks the fact that predatory lending itself is a form of tyranny. In the words of John Locke, "ill deserves the name of confinement [that] which hedges us in only from bogs and precipices."\textsuperscript{239} Usury law hedges in families from bogs of inescapable 450\% interest rate loans—thus, meaningfully preserving their ability to pursue life, liberty, and property.

On this point, America's Founding Fathers found no difficulty in reconciling the biblical injunction against usury with their commitment to political and economic freedom because they recognized that usurious loans too easily become traps that ensnare our neighbors, children, siblings, and friends. If Proverbs is correct that the borrower is a slave to the lender,\textsuperscript{240} then a free people ought to have no qualms about using the rule of law to prevent themselves and their fellow citizens from falling into indenture. This is why Benjamin Franklin exhorted his fellow

\begin{thebibliography}{9}
\bibitem{236} 2 Adam Smith, The Wealth of Nations 43 (Am. Dome Library Co. 1902) (1767).
\bibitem{237} Id. at 44. \textit{But see} Joseph M. Jadlow, Adam Smith on Usury Laws, 32 J. Fin. 1195, 1199-1200 (1977) (critically dismissing Smith's view of usury ceilings). Smith's mention of prodigals and projectors perhaps seems more portentous today than in 1977. Presumably it would be precisely these individuals who are most likely to suffer from imperfect heuristics and bounded rationality, as demonstrated by a host of behavioral economists in recent years. See, e.g., Willis, \textit{supra} note 31, at 748-54, 766-72.
\bibitem{238} 2 Smith, \textit{supra} note 236, at 43.
\bibitem{239} John Locke, Two Treatises of Government 123 (Ian Shapiro ed., 2003) (1690). Locke continued:

\begin{quote}
[T]he end of law is not to abolish or restrain, but to preserve and enlarge freedom: for in all the states of created beings capable of laws, "where there is no law, there is no freedom;" for liberty is to be free from restraint and violence from others; which cannot be where there is not law: but freedom is not, as we are told, "a liberty for every man to do what he lists:" (for who could be free, when every other man's humour might domineer over him?) but a liberty to dispose and order as he lists his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be subject to the arbitrary will of another, but freely follow his own.
\end{quote}

\textit{Id.} at 123-24.
\bibitem{240} Proverbs 22:7.
\end{thebibliography}
Americans to “disdain the chain, preserve your freedom; and maintain your independency: be industrious and free; be frugal and free.” The notion of freedom as an organizing social and economic principal does not compel a community of citizens to ignore the tyranny of usurers any more than it does that of murders, thieves, or opium traders.

It is true that the Bible instructs borrowers to repay their debts. In the view of most conservative Christian Americans, sound financial stewardship is a personal responsibility borne by every adult individual. Nevertheless, one would hope a debtor’s weakness does not excuse a usurer’s sin. Moreover, neither debtor weakness nor usurer avarice obviate the responsibility of community leaders to use law in the service of a just, humane, and well-ordered society. For those who do believe the Bible condemns usury, the empirical findings of this Article should serve as a wakeup call highlighting the unprecedented practice and acceptance of usurious lending throughout most of the United States.

V. CONCLUSION

This Article presents an empirical analysis of the correlation between payday lender locations and the political power of conservative Christian Americans. This study compiled an original nationwide database of payday lender locations—the most comprehensive catalogue of its kind yet created. Moreover, this study proposes a new index measuring political power of conservative Christians Americans. This analysis suggests that with over 24,000 payday lender locations nationwide, the payday lending industry has now fundamentally transformed the financial services sector catering to lower-income Americans. Our findings should serve as conclusive proof that conservative Christian Americans are a prime demographic target of the payday lending industry. The elimination of traditional state usury law has facilitated nationwide growth of an industry of lenders charging average simple annual interest rates of over 450%. Rather than bastions of Christian charity, many conservative Christian states have become legal safe havens for money changers who aggressively market usury to America’s poor.

## APPENDIX

### Table 1. Payday Lending Activity and Christian Power Index Rankings for States with Legalized Payday Lending, 2007

<table>
<thead>
<tr>
<th>State</th>
<th>PDL</th>
<th>PDL/10K</th>
<th>Banks</th>
<th>PDL Rank</th>
<th>PDL/10K Rank</th>
<th>LQ Rank</th>
<th>U.S. PDL Total Rank</th>
<th>Christian Org. Rank</th>
<th>Poole/Renthl Rank</th>
<th>Evon &amp; Mormon Rank</th>
<th>CPI Rank</th>
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Table 2. Top Thirty ZIP Codes in the United States for Payday Lenders, 2007

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<th>PDL/10K</th>
<th>PDL Rank</th>
<th>PDL/10K Rank</th>
<th>LO Rank</th>
<th>Overall U.S. Rank</th>
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