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IN THE *COMMONWEALTH*

GERARD J. FITZPATRICK
Editor

Although I regret the inordinate amount of time that has passed since the last release of *COMMONWEALTH* in 2009, I am immensely pleased with the results and I believe our readers will be impressed too. Like the last issue of *COMMONWEALTH*, this one continues the journal's traditional emphasis on Pennsylvania government, history, politics, and public policy. Indeed, four of the five articles presented here have such a focus, as do four of the five reviewed books.

In our lead article, **David A. Latzko** conducts original research on a dark—and seldom explored—chapter of Pennsylvania history: the disenfranchisement of the state's African American population by the delegates to Pennsylvania's state constitutional convention in 1837–38. Subjecting the delegates' votes on the issue to quantitative analysis, Latzko finds that their ignominious decision is best explained not by racism, political partisanship, or competition between blacks and whites for scare jobs, as most scholars have thought, but rather by the delegates' party labels and the number of free blacks living in their home counties.

J. Wesley Leckrone and **Justin Gollob** combine politics and public policy in their analysis of intergovernmental relationships. Convinced that past studies of state–federal associations are insufficient because their various methodologies overlook the contrasting intergovernmental issue priorities of Democratic and Republican legislators, the authors examine the link between the two levels of government by studying the legislative resolutions submitted to the federal government between 1979 and 2011 by state legislators in Pennsylvania. They find varying levels of support for federal policy among Pennsylvania's legislators, depending on the legislators' party affiliation.

Students of agenda setting—and consumers of electricity—will appreciate **Daniel J. Mallinson's** case study of the politics behind the recent legislative effort to impose rate caps on Pennsylvania's electric-power companies. He reveals surprising findings about the political and economic

dynamics behind this movement, and he shows that the making of public policy is often more spasmodic than scientific. Not only does he augment significantly the work of other political scientists on policy formulation, adoption, and implementation, but in the process he also vindicates the often maligned case study as a valuable tool for examining issues of public policy.

Consumers driven to drink by Pennsylvania's rising electric rates will find no solace in **George Hale's** exploration of the failed efforts of three Republican governors of the state to dismantle the Commonwealth's monopoly over the sale of liquor within its borders that has existed since the repeal of Prohibition in 1933. Using the concepts of "client politics" and "morality politics" to explain why the privatization effort failed—even though it enjoyed broad public support—the author not only tells a fascinating tale of Pennsylvania politics but also demonstrates how interest group pressure, ideological fervor, and partisan maneuvering can drive public policy.

Collective bargaining between state governments and public employees, such as teachers, police officers, and firefighters, has been an explosive issue in recent years, as shown by the particularly bitter battles in Ohio and Wisconsin over the economic rights of public employees. **Erik L. Soliván** follows the fight to Pennsylvania where he finds that local governments face financial disaster because of their disadvantageous position when bargaining with public-employee unions over the salaries and benefits of municipal workers. The solution, he argues, is for the state legislature to grant local governments more authority and discretion in contract talks with their employees.

Providing a respite from our plethora of Pennsylvania-focused articles, **Joshua Ozymy, Denis Rey, and Samuel S. Stanton Jr.** study policy making in all 50 states in terms of legislative–bureaucratic interaction. Intrigued by the impact of legislative professionalization on oversight of state agencies, the authors use legislator-supplied data to illuminate how institutional professionalization and legislative careerism shape the relationship between state legislatures and bureaucracies. Their findings demonstrate that the relationship between careerism and legislative professionalization—and their impact on administrative oversight—is more complex than scholars have previously realized.

I close by acknowledging the journal's new production team. When the Pennsylvania legislature abolished the Legislative Office for Research Liaison (LORL) in 2011, we lost the free printing services which that agency had generously been giving to us. In need of a new publication platform for

its journal, the Pennsylvania Political Science Association (PPSA) explored several options before finding a new printer, Sheridan Press of Hanover, PA. Phil Wolfe Graphic Design, also based in Hanover, worked in conjunction with Sheridan Press to prepare my working files for printing. Thanks to their efforts, I feel like Humphrey Bogart in the closing scene of the classic film *Casablanca* when he tells his new partner, Claude Rains, “Louis, I think this is the beginning of a beautiful friendship.”

THE DISENFRANCHISEMENT OF BLACK PENNSYLVANIANS IN THE 1838 STATE CONSTITUTION: RACISM, POLITICS, OR ECONOMICS?—A STATISTICAL ANALYSIS

DAVID A. LATZKO

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Delegates to Pennsylvania's state constitutional convention in 1837–38 approved an amendment limiting the right to vote to "white freemen." Some scholars argue that simple racism explains this decision. Others emphasize the partisan nature of the issue of black suffrage or the economic rivalry between blacks and whites for jobs. This article quantitatively examines the factors affecting how convention delegates voted on black suffrage. The delegates' political affiliation and the share of free blacks in the populations of the delegates' home counties are robust determinants of how the delegates voted. Democrats voted to disenfranchise black Pennsylvanians. Delegates from counties with proportionally large black populations opposed disenfranchisement.

In 1838, Pennsylvania's voters approved a state constitution that restricted the right to vote to "white freemen." Blacks had voted for many years in some parts of the state, but under the new constitution Pennsylvania's black males could no longer vote. Eric Ledell Smith (1998, 279) maintains that "scholarship on this topic has failed to give us a complete and cohesive picture of why disenfranchisement occurred in Pennsylvania." Some historians argue that simple racism explains why delegates to the state's constitutional convention voted to deny blacks the franchise. For example, Mueller (1969, 37) contends that "in the closing days of the convention party lines were forgotten, prejudice was appealed to, and the clause was altered by the insertion of the word 'white' by a large non-partisan vote."

Brown (1970, 22) similarly notes that the convention vote “seems to have been largely a matter of responding to growing race prejudice in the State.” Other scholars emphasize the partisan nature of the issue of black suffrage in Pennsylvania (Smith 1998). Still others point to the economic rivalry “between Negroes and the Irish immigrants for the same menial jobs” as a contributing factor (Brown 1970, 27–28).

Because the reasons for disenfranchising blacks in the state constitution of 1838 are disputed (Malone 2008), examining the factors that influenced the votes of convention delegates on this issue is an important step in understanding the state’s political and economic history. Despite the intense debate, no scholars have employed formal statistical analyses to test their hypotheses about why delegates to the state’s constitutional convention voted to strip black males of the franchise. This article offers statistical and econometric tests of voting behavior at the constitutional convention.

The 1790 Pennsylvania Constitution gave the right to vote to “every freeman of the age of twenty-one years, having resided in the state two years next before the election, and within that time paid a state or county tax, which shall have been assessed at least six months before the election” (Commonwealth of Pennsylvania 1790, Article III, Section I). In practice, voting rights for blacks depended on the policies of local officials, meaning that blacks voted in some counties but not in others. “Blacks voted in Bucks, York, Dauphin, Cumberland, Juniata, Westmoreland and Allegheny Counties, whereas in Philadelphia, the county with the largest black population, the officials refused to assess blacks for the purpose of taxation, thereby denying them the right to vote” (Price 1976, 357). As a result of such policies and the tax requirement, the majority of black men in Pennsylvania were not able to vote (Price 1973, 92).

The political status of black Pennsylvanians was not a public issue before the state constitutional convention assembled in May 1837. Agitation for a new state constitution had erupted periodically over several decades. Finally, in 1835, voters approved a referendum calling for a constitutional convention. Reformers generally wished to reduce the governor’s appointment power, to permit direct election of state officers, and to abolish life tenure for judges (Akagi 1924, 309). Reformers also objected to the power of the state legislature to charter corporations and to authorize banks to issue notes (Snyder 1958, 96).

On May 2, 1837, the 133 delegates to the constitutional convention convened in Harrisburg. The delegates included 66 Democrats, 52 Anti-Masons, and 15 Whigs, giving a narrow majority to the coalition of Anti-Masons and Whigs. The article on suffrage reported to the convention on May 17 was practically the same as the text of the 1790 Constitution, except that the tax qualification was removed. Neither the committee report nor the report of the committee’s minority contained a racial restriction on voting.

The suffrage article was taken up on June 19.¹ John Sterigere, a Democrat from Montgomery County, moved to strike the report of the committee and insert instead a clause restricting the franchise to “every free white male citizen” who had “paid a State, county, road or poor tax” (Commonwealth of Pennsylvania 1837–38, 2:472). He argued that this racial restriction was proper, “as it was the language of some seventeen or eighteen Constitutions in the Union” (Commonwealth of Pennsylvania 1837–38, 2:472).

Phineas Jenks, a Bucks County Whig, moved to eliminate the word “white” from Sterigere’s amendment. Jenks said there were black individuals in Bucks County worth between \$20,000 and \$100,000; and it would be improper for someone with such a stake in society to be excluded from exercising the franchise Commonwealth of Pennsylvania 1837–38, 2:476).

Benjamin Martin, a Democrat from Philadelphia County, opposed the motion to strike the word “white” from the amendment, warning that

any attempt to amend the Constitution to place the black population on an equal footing with the white population, would prove ruinous to the black people. He was certain that in the county of Philadelphia any attempt of the black population to exercise the right of suffrage would bring ruin upon their own heads. (Commonwealth of Pennsylvania 1837–38, 2:477)

James Merrill, an Anti-Mason from Union County, argued that according to the U.S. Constitution every man who was not a fugitive from justice was a free man. “Was it possible,” Merrill asked, “that freemen who possessed property . . . were not allowed to vote, on account of their complexion. If there were men in Pennsylvania so situated, he would like to know under what sort of Government we had been living—what kind of freedom we were supposed to enjoy, and whether we deserved to continue free under such an extraordinary state of things” (Commonwealth of Pennsylvania 1837–38, 2:478). Merrill also worried that because the word “white” was vague, too much discretion would fall to the judges of elections. The debate ended temporarily when Sterigere withdrew his motion. Edward Price (1973, 104) says the proponents of racial exclusion feared that they might not be able to win a vote on the amendment.

On June 23, Benjamin Martin moved to amend Sterigere’s proposal by adding the provision that “the rights of an elector shall in no case extend to anyone but free white male citizens” (Commonwealth of Pennsylvania 1837–38, 3:83). He argued that his amendment was necessary because of the rapid increase in the number of blacks in Pennsylvania. The failure to make Native Americans equal to whites, Martin remarked, belied the promise to blacks that they could achieve equality with whites. He further warned that if Pennsylvania allowed blacks to vote, the state would attract free blacks and runaway slaves from the southern states.

John Dickey, a Whig from Beaver County, said he was sure his constituents did not expect the issue of voting rights for blacks to come up; he thus desired no action on it. Yet he demanded that Martin explain what he meant by “white” and whether “all the various shades, departing from white and carnation, are to be disfranchised” (Commonwealth of Pennsylvania 1837–38, 3:86). John McCahen, a Philadelphia Democrat, noted that at the state constitutional convention in 1790 Albert Gallatin “thought that the word ‘white’ was too indefinite; that it might exclude him from the enjoyment of the rights of a voter; and upon his suggestion, the word was stricken out” (Commonwealth of Pennsylvania 1837–38, 3:87). Charles Brown, a Philadelphia Democrat, countered that other states that had restricted the franchise to white males had no difficulty determining who was eligible to vote. Besides, Brown contended, the principle had been established that “no negro could become a citizen of the United States” (Commonwealth of Pennsylvania 1837–38, 3:89).

George Woodward, a Democrat from Luzerne County, objected to Martin’s proposal because there was a case currently pending before the state supreme court on the question whether blacks had a right to vote under the current state constitution (*Fogg v. Hobbs*).² He counseled the convention delegates to wait for the court’s decision, due the next month, before taking up the issue. Brown replied that it was for the people, not the courts, to decide who had the right of suffrage.

The amendment to restrict the vote to “free white males” was rejected by a vote of 61–49. Twelve Democrats joined a large number of Whigs and Anti-Masons to vote “no,” whereas 43 Democrats and 6 members of the Anti-Mason/Whig coalition voted to restrict the franchise to white males. The voting rights of black Pennsylvanians were temporarily preserved. The convention considered other matters up to July 14 when it adjourned until October 17, 1837.

On October 10, 1837, the Democratic candidates lost five of six electoral contests in Bucks County to their Whig and other anti-Van Burenite opponents. Several of the races were exceedingly close; the Democratic candidate for auditor lost by just two votes. The Democratic Party challenged the results, alleging that the anti-Van Burenite coalition prevailed only because of illegal votes by blacks. W.E.B. Du Bois ([1899] 2007, 258) wrote that the “friends of exclusion now began systematic efforts to stir up public opinion.” Public meetings were held throughout the county to organize against black suffrage (Rosenberger 1974, 30–31; Smith 1998, 289–291). Citizens in Bucks County submitted to the constitutional convention memorials against black suffrage.

The defeated candidates asked a judge in Bucks County to overturn the election results because of the votes of 39 blacks who, the losers alleged, had no right to vote. In December 1837 Judge John Fox announced his

ruling (Price 1976, 359). The central question was whether blacks were “freemen” under Pennsylvania law. Fox reviewed documents as old as William Penn’s original charter and concluded that because there was no evidence that blacks had ever been thought to possess the rights of freemen, they could not vote.

On November 16, 1837, John Sterigere presented a petition from citizens of Bucks County advocating a constitutional provision prohibiting black suffrage. Referring to the previous month’s disputed election, Sterigere argued that blacks “could not be placed on an equality in political and social rights, with white citizens” (Commonwealth of Pennsylvania 1837–38, 4:414). After some debate over the political status of blacks in Pennsylvania, the convention voted overwhelmingly to print the petition. Robert Mittrick (1985, 28) notes that “the debate strongly suggested what a vote (84–29) in favor of printing the petition confirmed, that the anti-Negro forces had indeed gained support and perhaps were now in the majority.”

On January 17, 1838, Benjamin Martin moved to amend the suffrage clause by inserting the word “white” before the word “freeman” in the first and seventh lines. Martin said he had no

hostility to the coloured man; on the contrary, no person would go further to protect them in all their natural rights . . . but to hold out to them social rights, or to incorporate them with ourselves in the exercise of the right of franchise, is a violation of the law of nature and would lead to . . . the resentment of the white population. . . . The divisionary line between the races, is so strongly marked by the Creator, that it is unwise and cruelly unjust, in any way, to amalgamate them, for it must be apparent to every well judging person, that the elevation of the black is the degradation of the white man; and by endeavoring to alter the order of nature, we would, in all probability, bring about a war between the races. (Commonwealth of Pennsylvania 1837–38, 9:321)

The debate continued until January 20 with speaker after speaker making the same arguments. Opponents of black suffrage continued to insist that blacks were not citizens under either the state or the federal constitution and therefore did not have the right to vote. Even if they did have that right, public opinion demanded that they have it no longer, for white Pennsylvanians “are for continuing this commonwealth, what it always has been, a political community of white persons”; and they were opposed to “investing our own negroes with this valuable right, and to a policy which will bring upon us hords [sic] of negroes from other states” (Commonwealth of Pennsylvania 1837–38, 9:357). Opponents accordingly asserted that a violent backlash would be provoked if blacks were granted the franchise. Charles Brown, a Democrat representing a district in Philadelphia with 3,000 to 4,000 blacks,

predicted that “in twenty-four hours from the time that an attempt should be made by blacks to vote, not a negro house in the city or county would be left standing” (Commonwealth of Pennsylvania 1837–38, 9:393).

Supporters of voting rights for blacks continued to argue that the word “white” was too vague, that blacks were freemen and entitled to vote under the state constitution, and that violence would not result from blacks exercising the right to vote. “Although the arguments had been presented before, the debate became extremely emotional, and tensions were at the breaking point. The few men who maintained cool heads were unable to calm the antagonists” (Price 1973, 115). Finally, the vote was taken and the amendment to insert the word “white” was adopted by a vote of 77–45. Only three Democrats voted against the motion; 19 Whigs and Anti-Masons joined 58 Democrats in supporting it.³ Efforts to soften the restriction failed. With the narrow approval of the new state constitution by voters that October, black Pennsylvanians lost the right to vote.

Data and Methods

This article examines quantitatively why black voters lost their suffrage rights in the 1838 Pennsylvania constitution. Limiting the franchise to “white freemen” was part of a package of controversial changes to the state constitution submitted to the electorate in October 1838 and approved by a vote of 113,971 to 112,759. Indeed, black disenfranchisement was the least controversial change proposed by the convention. Charles Snyder (1958, 105) argues that the “growing force of anti-Negro prejudice in the State was clearly revealed by the overwhelming backing which was given to this amendment. . . . No other alteration cut so completely across party lines or received such decisive support.” The decisive vote to disenfranchise blacks occurred at the constitutional convention on January 20, 1838. Explaining it requires ascertaining why the 122 delegates voted 77–45 to restrict the suffrage to white men. For revealing the relationship between the delegates’ personal and constituent interests and their voting on black suffrage, the dependent variable is the vote a delegate cast on January 20 on the motion to insert the word “white” before the word “freeman” in the suffrage clause of the proposed state constitution. The dependent variable has a value of 1 if the delegate voted in favor of disenfranchising black voters and 0 if the delegate voted against the motion.

Voting patterns are estimated using the general specification $V = f(P, C)$, where V is the dummy variable representing a delegate’s vote on the black disenfranchisement amendment, P is a set of delegate-specific variables, and C is a set of measures of the characteristics of the county represented by the delegate. Where the delegate represented multiple counties, the variables reflect the characteristics of his county of residence.

Racial prejudice and violence increased in Pennsylvania during the 1820s and 1830s (Du Bois [1899] 2007, 15–18; Nash 1988, 273–279; Winch 1988, 130–152). Much of it was directed against abolitionists, with the most notorious event perhaps being the burning of Pennsylvania Hall in May 1838 (Brown 1970, 24–28). Radical abolitionists had found it difficult to find meeting places because churches and public halls increasingly refused them entrance. So a group of Philadelphians built an auditorium that would be open to antislavery and other reform groups. The hall opened on May 14, 1838. On the evening of May 16 a public meeting devoted to the discussion of slavery convened, during which a noted female abolitionist, Angelina Grimke Weld, gave an address to a group of men and women of both races. It was not regarded as proper at that time for women to give speeches to mixed gender audiences. A mob gathered outside the hall to shout insults and throw stones at the windows. On May 17 the hall allowed a meeting of a national women's antislavery group. Rumors spread that white women had been seen walking arm in arm with black men to and from events held at Pennsylvania Hall. A mob once again gathered outside the hall. At one point the mayor of Philadelphia appeared in person to plead with the mob to disperse. The mob later broke into the building and set fire to the hall. Extinguishing only the adjacent buildings, fire companies made no effort to save Pennsylvania Hall. The next night more rioting occurred outside a building occupied by a newspaper friendly to abolitionists, and a black orphanage was burned.

Against this background, the transcript of the debate over ending black suffrage cannot be read without concluding that racism played some role in the outcome. John Sterigere, the leader of the antiblack delegates, declared blacks to be

physically and morally an inferior species of population. They are incompetent by nature . . . to exercise this valuable privilege. . . . The God of nature has made them a distinct, inferior caste, and placed a mark on them too visible to be disregarded. The evidence of their inferiority is everywhere. . . . They are also a debased and degraded portion of our population. . . . Is it proper to confer this important right . . . upon such an inferior, low, degraded and ignorant mass as our black population? Is the right of suffrage so little prized by us, that we are willing to share it with the scum and outcasts of the negro population of other states? If the black population had sufficient capacity to exercise the right of voting, their colour and other circumstances must prevent any amalgamation or association with the white population. . . . It is an insult to the white man to propose this association, and ask him to go to the polls, and exercise the right of a freeman with negroes. Our antipathies are too great to

allow such an association, and if attempted, will produce conflicts and bloodsheds at our elections, where all must meet, and on the same day. (Commonwealth of Pennsylvania 1837–38, 9:364–65)

According to Edward Turner (1912, 189), “The really decisive factors, in the Convention at any rate, were the general dislike of the negro in Pennsylvania, and the general prejudice against him.” Speaker after speaker echoed the same themes: that blacks were inferior to whites, that racial amalgamation was to be feared, that black suffrage would attract southern blacks to the state, and that violence against black citizens would result from their attempting to vote.

I test six racial variables: the percentage of county population in 1840 accounted for by free black persons; the growth rate of the free black population between 1830 and 1840; the distance from Philadelphia to the county seat; a dummy variable taking a value of 1 if the county borders Delaware, Maryland, or Virginia; a dummy variable taking a value of 1 if blacks customarily voted in the county; and a variable measuring the partisan competitiveness of the county.

Conflict theories of racial prejudice imply that whites perceive the heightened presence and visibility of blacks to be a political and economic threat (Blalock 1967; Key 1949). Indeed, Marylee Taylor (1998) finds that white racial hostility rises as the black population in an area increases. If delegate voting behavior reflected the preferences and prejudices of their constituents, then both the percentage of free black persons in the county population and the growth rate of the free black population are expected to increase the probability that a delegate voted to disenfranchise blacks. Just over 40% of the state’s free blacks lived in Philadelphia; 58% resided in the five counties comprising southeastern Pennsylvania. If the proximity of blacks to whites increases white racial prejudice, then this prejudice would be strongest in the counties closest to Philadelphia and weaken the farther the distance from Philadelphia.

The fear that suffrage rights would attract blacks from the South would be most keenly felt in counties along Pennsylvania’s southern border, so delegates from these counties ought to have been more likely than other delegates to support black disenfranchisement. Blacks had been voting in several counties: Allegheny, Bucks, Cumberland, Dauphin, Juniata, Luzerne, Westmoreland, and York (Commonwealth of Pennsylvania 1837–38, 9:380). Being accustomed to blacks exercising the right to vote, delegates from these counties were perhaps less likely to support black disenfranchisement.

Opponents of black suffrage denied that blacks were equal to whites. Such people would not want black votes to determine the outcome of elections. Accordingly, the more politically competitive a county is, the more decisive are its black voters. I create a variable to measure

the political competition in a county by taking the absolute value of the difference between 50 and the percentage of the county vote received by the Democratic candidate in the gubernatorial race in 1838. This number was then subtracted from 100. The greater the resulting value, the greater the political competition in the county. Regardless of political affiliation, racial ascriptivists from politically competitive counties were more likely than other people to support limiting the vote to white freemen.

Although the standard Pennsylvania history text (Klein and Hoogenboom 1980, 148) refers to the vote on black suffrage as “nonpartisan,” partisan politics figured into the debate over black suffrage (Malone 2008, 72–82; Smith 1998, 280). Black votes were alleged to have determined the outcome of the 1837 elections in Bucks County (Rosenberger 1974). Democrats believed that blacks would overwhelmingly vote for Whigs and Anti-Masons. John Sterigere asked,

But what is to be [the] effect of this negro suffrage? The memorial presented on behalf of the coloured people, says the effect of this amendment would be to deprive 40,000 of their rights. I presume that is about the number of blacks in this state. That number would produce 10,000 voters. These will, in the mass, join one of the great political parties, or be controlled by some political demagogue, or modern abolitionist, and must become the umpire between the two great political parties of the state. (Commonwealth of Pennsylvania 1837–38, 9:365)

Democrats, then, would be more likely than non-Democrats to vote in favor of eliminating black voting rights. In addition to a dummy variable denoting whether the delegate was a Democrat, I test four other political variables. One tests for the interaction between the Democrat dummy variable and the political-competition variable described above. Democrats from competitive areas were likely to support disenfranchisement on partisan political grounds rather than on the basis of political philosophy or racial prejudice.

The constitutional convention also voted to retain the tax qualification for voters. As Rebecca Keister (2005, 47) notes, both the tax qualification and black suffrage votes were concerned with whether “a group of men who were neglected members of society, by 1838 standards, should vote.” Those delegates favoring elimination of the tax qualification may have possessed an inclusive view of citizenship and political rights and may have favored black suffrage for philosophical reasons. The variable takes a value of 1 if the delegate voted to remove the tax qualification for voting; otherwise, its value is 0. I posit a negative relationship between votes on the tax and race requirements for voting. That is, those delegates who voted against eliminating the tax qualification would be expected to vote in favor of black disenfranchisement.

I also test the percentage of the county vote for the Democratic candidate for governor in the 1838 election and expect it to be positively related to support for black disenfranchisement. Another political variable measures the percentage of adults in the county, both white and black and male and female, that voted in the 1838 gubernatorial election. This variable is intended to capture the extent to which citizens participate in democratic decision making. I expect it to be negatively related to a vote against black suffrage. Communities in which a large fraction of the population participates in political activities are less likely to deny some of their members their political rights. Blacks did organize to protest and prevent disenfranchisement (Smith 1998, 292–96). Mancur Olson's (1965) classic study suggests that collective action is more difficult to organize in large groups than in small groups. Population density may strengthen the social interactions necessary for collective action. Counties with a high black-population density may have experienced more effective black protest against disenfranchisement, implying that delegates from these counties would have been less likely to support black disenfranchisement.

Economic issues may also have played a role in the vote. Ira Brown (1970, 22) writes, "Another factor was the continuing influx to Pennsylvania of slaves and freedmen from the states to the south. This element competed with recent immigrants from Europe for jobs which were becoming scarcer in the wake of the Panic of 1837." The Panic of 1837 began on May 10 when banks in New York City refused to redeem their notes in coin. When the news reached Philadelphia late that evening, the city's leading bankers met and agreed to suspend specie payments immediately (Cyril 1940, 78). Banks needed to reduce the volume of loans and increase reserves until it became possible to resume and maintain specie payments. Therefore, both money and credit became scarce.

The resulting recession brought prices down to the lowest recorded level in the nation's history (Cyril 1940, 79). Manufacturing output fell. In the fall of 1837, 90% of factories in the East were reported closed (Rezneck 1935, 665). Annual production at the Baldwin Locomotive works in Philadelphia fell nearly by half (Clark 1966, 435). Unemployment rose. In August 1837 a New York newspaper reported that 500 men had applied in a single day in answer to an advertisement for 20 spade laborers (Rezneck 1935, 664). The Baldwin works laid off about one-third of its 300 workers (Clark 1966, 435). Suffering was extensive. In 1837, a committee in Philadelphia recommended that the state set up public granaries and coal yards where consumers might purchase those necessities at cost; another committee was appointed to beg for the poor who were "dying of want" (Rezneck 1935, 667).

I test seven economic variables. The first three are the manufacturing density in the county as measured by the total capital invested in

manufacturing, the density of agricultural employment in the county, and county population density. All densities are per square mile of county area. Although most Pennsylvanians were engaged in agriculture at the time, manufacturing was expanding rapidly in some areas. In Philadelphia, for example, 3.5 people were employed in manufacturing in 1820 for every agricultural worker. By 1840, the ratio had risen to nearly eight manufacturing workers for each person employed in agriculture. Large numbers of workers were employed in iron forges, bloomeries, and flour and rolling mills; printing and bookbinding; the construction of carriages and wagons; the manufacture of brick, lime, liquor, and machinery; and the creation of leather, cotton, and woolen goods (Snyder 1958, 9). The industrial workforce consisted of both skilled artisans and unskilled wage earners of both races and genders (Sullivan 1955, 59–83). The jobs competition hypothesis holds that the competition between blacks and whites for scarce jobs during the Panic of 1837 exacerbated racial tensions. The Panic of 1837 hit the state's manufacturing sector much harder than it hit its farm sector. The competition for jobs would thus be strongest where manufacturing was important and weakest where agriculture dominated. Blacks and whites competed for jobs primarily in manufacturing, for "in 1840 most of the work on the farm, except at hay and small grain harvest, was done by the farmer and his family" (Fletcher 1955, 76). Manufacturing employment severely contracted during 1837 and 1838. Also, population density ought to be positively associated with the size of the potential labor force and so with competition for jobs and, therefore, with a vote to deny blacks the franchise.

The fourth variable is the county's population growth rate between 1830 and 1840. I expect that delegates from fast-growing counties were more likely than other delegates to support black disenfranchisement, as migration into the county increases competition for jobs. The fifth variable, the ratio of manufacturing employment to agricultural employment, ought to be positively related to a vote to limit suffrage to whites. The greater this ratio, the greater the relative importance of manufacturing to the county economy and the greater the competition for jobs. If the jobs competition hypothesis has any merit, it would be for those delegates representing counties with relatively large black populations. Accordingly, I also test a variable measuring the interaction between the free black population percentage and the ratio of manufacturing workers to agricultural workers. The number of newspapers can be taken as an indicator of the level of economic development in the county. Economic development at the time related primarily to manufacturing, so delegates from counties with many newspapers are expected to have been more likely than other delegates to vote to disenfranchise blacks. These economic and population variables are taken from the 1830 and 1840 U.S. censuses.

I test 19 variables. The dichotomous nature of the dependent variable and the small number of observations create obvious testing problems. Standard statistical methodology, which requires a single simultaneous test of all variables, is inapplicable. The power of the test is simply too weak. Consequently, I adopt a second-best approach that involves testing the variables in a variety of ways and forming conclusions using an accumulation of results. These conclusions must be viewed with caution, for the omitted-variable problem may be a significant yet inescapable source of error. The choice is either to test, and acknowledge the existence of possible errors, or not to test at all.

Testing the Variables

I begin by testing the racial, political, and economic variables one at a time without taking into account inter-relationships among independent variables. Table 1 below lists the simple correlations (phi for the binary variables and point biserial for the continuous variables) between a delegate's vote on black disenfranchisement and the independent variables. The results produced some surprising correlations. Delegates from counties with a relatively large black population and delegates from counties along the state's southern border were less likely to have voted to strip blacks of the suffrage. Of the 47 delegates from counties in which blacks accounted for at least 3% of the population, only 23 voted in favor of disenfranchisement; 36 of the 48 delegates from counties whose population was less than 1% black voted to deny blacks the right to vote. Also, supporters of lifting the tax qualification for voting tended to support black disenfranchisement. Otherwise, the signs of the coefficients are mostly as expected. Economic variables perform least well. The political variables measuring political affiliation have the largest correlation coefficients. Of all the convention delegates, Democrats and delegates from heavily Democratic counties were the most likely to vote to restrict the suffrage to white freemen.

Table 1 Individual Tests of the Relationships between the Independent Variable and a Delegate's Vote on Black Disenfranchisement.	
Variables Used	Correlation Coefficient with a Delegate's Vote on Black Disenfranchisement
Racial Variables	
Free black persons as percent of county population	-.205**
County politically competitive	-.133
Southern border county	-.124
Black population growth	-.104
Distance from Philadelphia	-.092
Blacks customarily vote in county	.048
Political Variables	
Democrat	.663***
Democrat * county politically competitive	.662***
Percentage of county vote for Democratic gubernatorial candidate	.414***
Opposed tax qualification for voting	.400***
Percentage of adults voting in 1838 gubernatorial election	.032
Black population density	-.026
Economic Variables	
Agricultural density	-.151*
Number of daily, semi-weekly, and weekly newspapers	-.082
Population growth	.064
Population density	-.025
Percent black population * manufacturing/agriculture employment ratio	-.025
Manufacturing density	-.021
Ratio of manufacturing to agricultural employment	-.011
Note: ***, **, * indicate significance at the 99%, 95%, and 90% levels, respectively.	

I next allow the variables to compete against one another in explaining black disenfranchisement. Because the dependent variable in my analysis is dichotomous, I use logistic analysis to estimate voting patterns. Having already ruled out the inclusion of all variables as a useful statistical tool, I use stepwise logistic regression. Given the number and nature of the variables being tested, a choice has to be made between an arbitrary variable selection

procedure and some formal procedure. Formal procedures like stepwise regression have the advantage of making clear the way in which the variables are selected. The main disadvantage is that repeated application of tests invalidates the probability statements resulting from the tests. I nevertheless present these test statistics to illuminate the relative explanatory power of the variables, even though the absolute level of significance is meaningless when using stepwise regression.

Table 2 below shows the results of a binary logistic regression. I use a stepwise backward likelihood ratio procedure to give all the variables an opportunity to demonstrate some explanatory power. Variables were included in the equation only if they passed a 5% significance test. The results confirm that Democrats were more likely than other delegates to support black disenfranchisement, with other factors remaining the same. Three racial variables have some explanatory power in the joint test. Delegates from politically competitive counties were more likely than other delegates to support disenfranchisement, which is consistent with a racially ascriptivist motive. The other two racial variables with sufficient explanatory power are the percentage of free blacks in the county population and the county's distance from Philadelphia. But the hypothesis that a concentration of black residents in a county would cause its delegates to vote to restrict suffrage to whites is not supported by the findings. In fact, the greater the percentages of blacks, the less likely county delegates were to vote to disenfranchise them. On the other hand, delegates from counties far from Philadelphia were less likely to support disenfranchisement than were those from counties close to the state's largest concentration of black citizens. The jobs competition hypothesis is supported by the finding that the greater a county's ratio of manufacturing employment to agricultural employment multiplied by its free black population percentage, the more likely were its delegates to vote to deny blacks the vote.

Table 2
Summary of Stepwise Regression Results.

Variables Selected	Coefficient and Standard Error
Intercept	-11.585 (6.499)
Democrat	4.554 (0.859)
Free black persons as percent of county population	-1.503 (0.380)
Manufacturing density	-0.001 (0.000)
Percent black population * manufacturing/agriculture employment ratio	2.091 (0.673)
Distance from Philadelphia	-0.007 (0.003)
County politically competitive	0.152 (0.071)
<p>Notes: Variables were included in the equation if they passed a 5% significance test and excluded if they failed the test. The Homer and Lemeshow statistic has a significance level of 0.461. The Nagekerte R-squared for the equation is 0.696. The variables were removed in this order: ratio of manufacturing to agricultural employment, Democrat * county politically competitive, blacks customarily vote in county, population density, percentage of adults voting in 1838 gubernatorial election, population growth rate, tax qualification vote, number of newspapers, percentage of county vote for Democratic gubernatorial candidate, agricultural density, black population density, black population growth rate, and southern border county.</p>	

Knowing the most important variables affecting convention delegates' votes on black disenfranchisement, the worst effects of the omitted variable problem can be counteracted by controlling for these variables when testing hypotheses. Each of the remaining variables is added separately to the equation shown in Table 2, and the resulting coefficient estimates are presented in Table 3 below.

Table 3
Estimated Coefficients and Standard Errors When Each Variable is Added Separately to the Regression Equation in which Democrat, Free Black Persons as Percent of County Population, Manufacturing Density, Percent Black Population * Manufacturing/Agriculture Employment Ratio, Distance from Philadelphia, and County Politically Competitive are Already Included.

Variables	Coefficient and Standard Error
Racial Variables	
Southern border county	1.571 (0.994)
Black population growth	-0.009* (0.005)
Blacks customarily vote in county	-0.096 (0.819)
Political Variables	
Democrat * county politically competitive	0.086 (0.156)
Percentage of county vote for Democratic gubernatorial candidate	-0.010 (0.044)
Opposed tax qualification for voting	-0.086 (1.054)
Percentage of adults voting in 1838 gubernatorial election	0.039 (0.101)
Black population density	-0.322 (0.335)
Economic Variables	
Agricultural density	-0.063 (0.131)
Population growth	-0.004 (0.012)
Population density	-0.019 (0.025)
Ratio of manufacturing to agricultural employment	1.319 (2.389)
Note: ***, **, * indicate significance at the 99%, 95%, and 90% levels, respectively.	

The standard errors are provided solely for judging the explanatory power of the variables. The most significant aspect of the results in Table 3 is the number of times the signs of the coefficients fail to support the relevant hypothesis. For the racial variables, one sign in three is incorrect; for the political variables, two in five are incorrect; and for the variables measuring a county's economic development, three in five are incorrect. The only variable with remotely any explanatory power is the growth rate

of the county's free black population, which (inconsistent with the racial motivation thesis) is negatively related to a vote on disenfranchisement.

Conclusions

The best way to summarize the findings is to classify the variables into three groups: (1) those that can be accepted because they are supported in both tests, (2) those that can be rejected because no test results support them, and (3) those whose significance remains unclear because they are not consistent with the test results. The first group includes the delegate's political party affiliation and the percentage of free black persons in the county population. These two variables undoubtedly are determinants of how convention delegates voted on the issue of black suffrage. Democrats were more likely than other delegates to support disenfranchising blacks. As Table 2 shows, being a Democrat increases the predicted probability of a yes vote from 0.56 to 0.68 for a hypothetical delegate, with average values on all other independent variables. Whether this outcome is due to partisan electoral concerns or to political philosophy is unclear. The only racial variable robustly related to black suffrage rights is the relative size of the county's black population. Unexpectedly, delegates from counties with a proportionally large black population were less likely to support the effort to disenfranchise black voters. A black population percentage one standard deviation above the state average decreases from 0.67 to 0.61 the probability that a delegate from that county would vote for black disenfranchisement, assuming mean values for other variables. This finding is not consistent with a racial motive for denying blacks the right to vote. Perhaps Whigs and Anti-Masons from counties with large black populations had developed political ties with blacks and were therefore reluctant to deny them the right to vote. Of the 30 Whigs and Anti-Masons representing counties in which blacks accounted for more than 3% of the population, 23 voted against the motion to disenfranchise free black males. Twenty Whigs and Anti-Masons came from counties where blacks were less than 1% of the population. Only 12 of those delegates voted against the race-based voting restriction.

The remaining racial variable and most of the economic variables fall into the second group. Their relevance is easily rejected. The political variables also tend to fall into the "rejected" group. The tax qualification vote changes signs when tested with other variables, and the relevance of the interaction between the Democrat dummy variable and the political competition variable disappears when the two variables are tested jointly. The strong correlations of the political variables in Table 1 likely result from their collinearity with party affiliation. Controlling for political party in the joint tests eliminates the explanatory power of the other political variables.

A stepwise discriminant analysis confirms the primacy of a delegate's political affiliation. Even with a generous inclusion-significance criterion of 5% and an exclusion criterion of 20%, only the Democrat variable enters into the discriminant function. This finding makes it at least plausible that Democrats voted to disenfranchise blacks for reasons of political or racial philosophy rather than for purely electoral concerns, for even Democrats representing overwhelmingly Democratic counties voted to deny blacks the right to vote.

As for the third group of variables, two economic variables have some explanatory power in the joint tests. Tested individually, though, these variables have no correlation with black suffrage votes. Consistent with the hypothesis that economic competition between blacks and low status whites for jobs contributed to antiblack sentiment, the ratio of manufacturing employment to agricultural employment is positively related to black disenfranchisement in the joint tests when corrected for the size of the black population. Representing a county for which the product of the black population percentage and the manufacturing to agricultural employment ratio is two standard deviations above the mean increases from 0.64 to 0.82 the probability that a delegate voted for black disenfranchisement, assuming mean values of the other independent variables. Manufacturing density has a negative sign in the logistic regression. If this variable is taken as a proxy for the level of socioeconomic development, then delegates from the more economically advanced counties would have been less likely to vote to disenfranchise black Pennsylvanians, everything else being the same.

Two racial variables also have some explanatory power in the joint test and both are consistent with a racial motive for denying blacks the right to vote. Delegates from areas far from Philadelphia were less likely to support disenfranchisement than were delegates representing areas close to Philadelphia. A delegate living in a county 200 miles from Philadelphia was nearly 2% less likely to support disenfranchisement than was a delegate from a county 100 miles from Philadelphia, all things being equal. Also, as political competition in a county increased, so too did the probability that its delegates, Democrat or Whig or Anti-Mason, voted in favor of disenfranchisement.

Taken together, these results fit the broad pattern identified by Christopher Malone (2008) that led to the disenfranchisement of blacks in Pennsylvania and other northern states before the Civil War. The competition between blacks and whites for suddenly scarce jobs inflamed racial prejudice, especially in areas around Philadelphia. Opponents of black suffrage found overwhelming support in the Democratic Party and enough allies among the Whigs and Anti-Masons representing counties with relatively small black populations. At the convention, almost all the Democrats and nearly half of the Whigs and Anti-Masons voted to deny blacks the suffrage. Blacks in

Pennsylvania would not regain the right to vote until the ratification of the Fifteenth Amendment to the U.S. Constitution in 1870.

Notes

1 Malone (2008, 91–97), Mittrick (1985, 22–33), and Price (1973, 100–116) each provide a summary of the debate at the 1837–38 constitutional convention over the racial qualification for voting.

2 In October 1835 William Fogg, a black property owner and taxpayer in Luzerne County, was prevented from voting by Hiram Hobbs, the county elections inspector. Fogg appealed to the county court of appeals, where Judge David Scott ruled that neither the federal nor the state constitution prohibited blacks from voting. Hobbs appealed to the state supreme court. The case was argued in July 1837 but the court withheld its decision until 1838, after the constitutional convention amended the suffrage article to prohibit blacks from voting. Judge John Gibson ruled that because blacks were not freemen under the state's 1790 constitution, they were not entitled to vote. See Smith (1998, 294–95).

3 Eighteen delegates changed their positions on the issue in the time since it had been voted on the previous summer. Sixteen delegates, six of whom were Democrats, now voted to disenfranchise blacks, and two delegates, one a Democrat, switched from yes to no. Of the 23 delegates who did not vote on the amendment the first time, 18 voted in favor of disenfranchisement.

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FEDERALISM AND THE PENNSYLVANIA LEGISLATURE: PARTISANSHIP AND INTERGOVERNMENTAL PRIORITIES¹

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State governments use many tools to convey their policy preferences to the federal government. Most studies of these tools focus on intergovernmental lobbying groups or individual state representatives in Washington, D.C. Though instructive, these studies fail to compare political parties' intergovernmental issue priorities. Our article fills this void by means of a longitudinal analysis of legislative resolutions submitted to the federal government between 1979 and 2011 by state legislators in Pennsylvania. This dataset reveals varying levels of support for federal policy among Pennsylvania's legislators, depending on their partisan affiliation.

Introduction

The primary method of studying state positions on federalism issues has been to examine the policy positions of intergovernmental lobbying groups (IGR), such as the National Governors Association and the National Conference of State Legislatures. This research shows that states have difficulty achieving consensus on the details of intergovernmental policy issues. The IGR lobby generally seeks federal money and decision-making authority, but its members disagree on substantive statements about how these resources should be distributed. This disagreement is due primarily

to diverse memberships that produce cleavages that divide the IGR lobby. State officials construe intergovernmental priorities in light of their own personal policy and political goals. Consequently, they interpret federalism to suit their partisan views and the needs of their constituents.

This article examines one understudied cleavage that offers promise in explaining positions on federalism issues: partisanship. It explores the role of partisanship in determining intergovernmental priorities by examining 1,773 resolutions to the federal government that were introduced in Pennsylvania's General Assembly between 1979 and 2011. The article concludes that partisan issue positions rather than commitment to a theoretical concept of federalism is the primary determinant of what Pennsylvania's state legislators have asked of the federal government.

Literature

The division of responsibility for policy in the American federal system is fluid and adaptable (Elazar 1962; Grodzins 1966; Wright 1990). Daniel Elazar argues that the "federalism of the Constitution was crystal clear, just as the division and sharing of powers was left ambiguous" (1988, 43). A major issue in understanding American federalism is how states interact with Washington on questions of intergovernmental power. Do states prefer clearly delineated policy responsibilities so that they can retain decision-making capabilities without federal interference, or do they prefer federal policy intervention? Are positions on intergovernmental issues inherent in states, or are they dependent on other explanatory variables, such as partisanship?

Literature on Intergovernmental Lobbying

Literature exploring these questions focuses on the agendas of intergovernmental lobbying groups like the National Conference of State Legislatures (NCSL) or the National Governors Association (NGA). Some studies examine the activities of individual organizations or genres of groups, such as regional or professional associations (Arnold and Plant 1994; Brooks 1961; Hall 1989; Weissert 1983). Others concern IGR lobbying on specific issues or during particular eras (Hays 1991; Levine and Thurber 1986; Marbach and Leckrone 2002). Case studies based on levels of policy conflict also exist (Cammissa 1995 and Haider 1974). Unfortunately, these groups have difficulty reaching consensus, not only because their memberships are diverse but also because they focus on spatial rather than material interests (Cammissa 1995, 129; Haider 1974, 226). Difficulty achieving quasi-unanimity on positions means that IGR groups address only a small range of issues, and they often do so only in general philosophic

terms rather than with concrete policy statements (Haider 1974, 217–18, Smith 1998, 356). Accordingly, groups take no positions on issues lacking consensus. Even when policy statements pass, the positions expressed do not represent state voices that were in the minority.

The IGR Literature and Cleavages among Subnational Officials

Priorities of the IGR lobbies do not accurately portray the multiplicity of subnational interests. The IGR lobbying literature, however, provides instruction concerning the cleavages preventing these officials from achieving consensus on the role of the federal government in intergovernmental relations. Elected officials are concerned with policy substance, but their primary goals are to ensure that they receive federal money and the authority to use funds with minimal restrictions (Cammissa 1995; Farkas 1971, 248–49; Haider 1974; Wallin 1998, 139–40). Consequently, they accept federal activity, seeking advantageous terms rather than rolling back the national presence in their policy realms (Nugent 2009, 50). Federal money allows state officials to “free ride” off the national government as they claim credit for implemented intergovernmental policies in hope of gaining electoral advantage (Nicholson-Crotty and Theobald 2010, 247).

This emphasis leads to cleavages as state and local officials attempt to reap advantages for their constituent interests. One cleavage is between elected and appointed officials (Beer 1978). Both sides advocate for more federal funding, but appointed officials prefer specificity from Washington to ensure that the money is spent on their policy interests. Conversely, elected officials like to use money at their own discretion (Haider 1974, 223). Most of the cleavages, however, are related to differences in spatial representation by subnational officials. Both Haider (1974) and Cammissa (1995) show that state and local governments often split over who should receive direct funding from Washington and which level of government should be assigned decision-making capabilities. Conflict among states is also attributable to regional differences (Hall 1989) and to issues related to size (Smith 1998, 362). Because this article focuses on a single state (Pennsylvania), intrastate cleavages are instructive. Such cleavages include: counties versus mayors (Haider 1974, 219; Marbach and Leckrone 2002, 54); large cities versus small cities (Haider 1974, 284); and rural versus suburban versus urban areas (Cigler 1995, 144; Haider 1974, 225–26).

Literature on Partisan Cleavages and Federalism

Unfortunately, the literature on IGR lobbying ignores the potentially divisive role that partisanship can play in stifling state consensus on federal policy activity. Some literature concerning political parties shows that

neither Democrats nor Republicans have defended theoretical federalism or the interests of state or local governments in the federal system. Scholarship cites three reasons for this anomaly: (1) a lack of centralized programmatic parties, (2) candidate-centered elections, and (3) the prevalence of ideology in defending the structure of government.

As to the first reason, Grodzins (1960) asserts that the design of American government thwarts strong political parties, thus making unlikely any coherent platform focusing on the operation of federalism. Parties are made national only by joining together in “interstate coalitions” based on the collectivization of parochial interests (Elazar 1972, 143). Epstein (1989) extends this analysis by arguing that the lack of programmatic parties in the United States releases partisans to focus on their discrete local needs rather than on more abstract concepts such as federalism.²

Candidate-centered elections encourage elected politicians to adhere to a personal agenda rather than to a party platform. Truman (1969, 47) contends that the individual ambition of various state and federal elected positions leads to the “development of largely independent, hostile, and internally cohesive factional groupings” within state parties. Hence, federal officials are more concerned with the impact of policy on their own ambitions than on the way it affects the powers of their home state. Chubb (1985) reinforces this point in noting that members of both political parties rely on centralizing power in Washington because the delivery of federal largesse to their constituents promotes politicians’ electoral success.

Finally, Nathan (1990, 251–56) finds that partisan belief on issues of federalism is more related to ideological goals than to fixed affiliation with structures of government interaction. He sees liberal Democrats as generally predisposed toward a centralized federalism reminiscent of Grodzins’s marble cake model, whereas he believes conservative Republicans favor contracting government and thus focus on a scheme of “dual federalism.” Adherence to these principles fluctuates, however, depending on which political party controls power in Washington. Conservative Republicans advocate devolution in times of liberal-Democratic retrenchment, but they favor centralization when they are in power so that they can cut the scope of the central government.

Many scholars, particularly during the early 1980s, attempted to construct voting indices for federalism. Like party support scores, these indices were designed to determine what types of legislators supported state and local autonomy in the federal system. All the studies using such indices found a mild to strong relationship between partisanship and support for state and local autonomy. Republicans in both houses of Congress were more likely to score higher on the federalism index than were Democrats (Schechter 1981; Caraley and Schlusell 1986; Hero 1987, 1989; Malaby and Webber 1991). Recent literature has found less support for this partisan

theory of federalism, particularly with regard to the last two presidential administrations, with both George W. Bush (Conlan and Dinan 2007; Milkis and Rhodes 2007) and Barack Obama (Conlan and Posner 2011) stepping out of the usual partisan roles related to intergovernmental relations. Support for or opposition to federal intervention on intergovernmental issues appears to be based more on policy preference than on theoretical federalism (Krane and Koenig 2005; Peterson 2005; Posner 1998, 36–56). This tendency receives little attention at the state level, but evidence suggests that partisanship and ideology affect opposition to federal mandates within state governments (Palazzolo et al. 2008; Regan and Deering 2009). In sum, even though neither party appears to be completely “federalism friendly,” partisan affiliation may be an important determinant of support for or opposition to federal policy activity.³

States as a Testing Ground for Understanding Cleavages

The most useful way to examine these cleavages is to study the intergovernmental policy positions of individual states. Scholars have generally neglected this topic, although several have made first attempts at exploration (Cingranelli 1983; Jensen 2010; Jensen and Emery 2011; Nugent 2009; Pelissero and England 1987; Smith 1998). These studies have been primarily descriptive in examining the activities of individual state lobbying or the intergovernmental activities of governors and their staffs. Missing from this literature is a longitudinal exploration of the intergovernmental priorities of states. This article addresses the scholarly void by using state legislative resolutions presented to the federal government to explore the specific policy topics important to Pennsylvania. Resolutions are policy positions passed by one or both houses of a state legislature that make requests of the federal government.⁴ Such resolutions have received scant attention in the literature, but they are a useful tool for understanding the intergovernmental policy preferences of states over time (Leckrone and Gollob 2010).

Resolutions are designed fundamentally to voice explicit preferences either supporting or opposing federal action across a wide range of policy issues (see the Appendix for an example). They lack policy content when they merely ask Congress to name a bridge or designate a date to commemorate a person or event. As the Appendix shows, however, most resolutions include serious statements of policy bolstered by solid evidence and a policy prescription. Our prior research polled legislators in several states on how and why they used resolutions to the federal government (Gollob and Leckrone 2011). We found two primary reasons for why legislators used resolutions. First, resolutions give state legislators a vehicle for transmitting preferences to Congress and entering them in the official record of legislative

deliberation.⁵ Second, resolutions contribute to the larger scope of agenda setting and deliberation that occurs in Washington. One state legislator said that resolutions might influence the policy agenda if “a critical mass of states express the same policy goal.”⁶ At a minimum, resolutions to the federal government help reinforce arguments being concurrently discussed by advocates for a state. We are not arguing that these resolutions influence Congress or that they affect policy outcomes (although prior research shows that state legislators believe resolutions are effective in conveying a policy position). At a minimum, resolutions are a valid measure for understanding what states want from the federal government.

Research Questions and Data

We assert that partisanship is a significant factor in determining the tone and content of state legislators’ statements on federalism. We test this proposition by analyzing resolutions introduced in Pennsylvania’s General Assembly between 1979 and 2011. Three questions guide our analysis. The first compares partisanship to other potential explanatory variables, whereas the two others take a more nuanced look at partisanship and federalism.

Our first question asks which of several variables affect Pennsylvania legislators’ support for or opposition to federal actions as expressed in resolutions. The variables include individual (sponsor/partisan identification), district (urban/rural dynamics), and state (regional influences) factors. Our second question addresses the level of partisan congruence by examining the policy issues of resolutions sponsored by Republican and Democratic state legislators in Pennsylvania. We analyze whether the rival political parties have different policy foci and whether they have differing levels of support for federal action across policy categories.

Finally, our third question considers whether partisan alignment between Harrisburg and Washington affects support for or opposition to Washington’s actions as expressed in resolutions. The literature cited above reaches no clear conclusion about the level of congruence on intergovernmental issues between members of a state party and their counterparts at the national level. Some scholars say state officials band together regardless of party to oppose undesired federal action. Others say the ideological predispositions of the participants affect their willingness to support a federal role in certain areas of policy. We test these ideas by analyzing the relationship between partisan support for resolutions and the partisan affiliation of the branch of government addressed in the resolution. We do so to determine whether partisan identification at the state level translates into support for or opposition to partisan policy proposals in Washington.

We answer these questions by using a unique dataset of legislative resolutions introduced in both chambers of Pennsylvania’s General

Assembly between 1979 and 2011 (the period corresponding to the 96th Congress through the first session of the 112th Congress). A total of 1,773 resolutions to the federal government were culled from Temple University's Pennsylvania Policy Database Project (PPDP). This project, funded by Pennsylvania's General Assembly, includes a usable database containing over 100,000 bills, resolutions, governors' speeches, state supreme court decisions, and print articles from the Commonwealth (see McLaughlin et al. 2010 and www.temple.edu/papolicy). Each piece of data was coded with one of 20 policy topic headings developed by the Policy Agendas Project (see Baumgartner and Jones 2002, 29–46 and www.policyagendas.org) and adapted to state politics by the PPDP.⁷

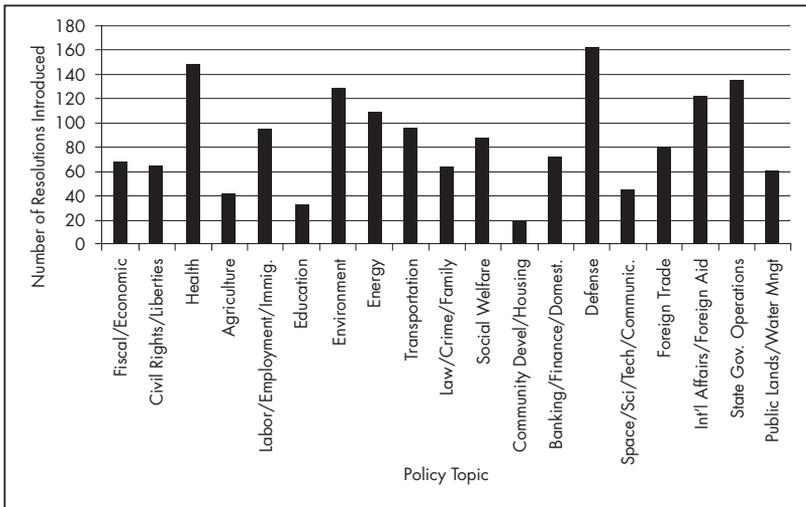
Some of the data provided by the PPDP include the primary sponsor of each resolution, the session in which it was introduced, information on whether the resolution was passed, and the policy code. The authors conducted additional analysis to assess the content and level of support for federal policy and mandates. Each resolution was analyzed to determine whether it supported or opposed existing policy or actions proposed by the federal government. In addition, criteria from the U.S. Advisory Commission on Intergovernmental Relations (1994) were used to determine whether resolutions mentioned a mandate.⁸

Between 1979 and 2011, legislators in Pennsylvania's General Assembly introduced 1,773 resolutions addressed to the federal government. Representatives introduced 1,288 of them; senators introduced 485. Only 133 of the resolutions were purely commemorative, meaning that they lacked either substantive policy content or policy prescriptions.⁹ Of the 1,640 substantive resolutions, 52% were addressed to Congress, 21% were directed at the president, and 16.5% spoke to both Congress and the president. Only 4.3% were aimed at the U.S. Supreme Court.

The resolutions were largely supportive of federal activity (62.7%). Mention of a mandate, however, made legislators less likely to approve of Washington's actions. Of resolutions with a positive tone, 91.4% did not mention a mandate. Conversely, 70% of resolutions mentioning a mandate opposed federal action.

As shown in Figure 1 below, the resolutions were broadly distributed across the policy codes. The codes used most often were for areas where federal control of policy is almost complete or where intergovernmental relations are extensive. Among the five most often used policy topics, defense (#1) and international affairs / foreign aid (#5) are primarily federal responsibilities; yet some components of these policy areas affect Pennsylvania's economy. For example, there was a strong focus on defense during the rounds of military base reductions that followed the end of the Cold War, given the economic consequences that base closures had on localities within the Commonwealth.

Figure 1
Resolutions Introduced in the Pennsylvania General Assembly, 1979–2011.



Health (#2) and environment (#4) received attention because they are important intergovernmental programs. Indeed, health was Pennsylvania’s second largest area of expenditure between 1979 and 2011. The budgetary importance of this policy topic, along with Medicaid’s status as a shared intergovernmental program, helps to explain why state legislators paid so much attention to health. The environment was one of the top policy topics for a different reason: 46.3% of the introduced resolutions mentioned mandates. In fact, this topic had the most references to mandates. Legislators used it regularly to deride what they perceived to be federal overreach.

Government operations ranked third among the policy areas used. This category includes many topics related to the federal government that affect states, such as the census, election procedures, and intergovernmental relations. The last of these subcategories accounted for 3.2% of all resolutions to the federal government from Pennsylvania because it comprises discussion of mandates, block grants, and general state–federal relations. In short, the overall record of attention by Pennsylvania’s legislature to these specific issues is in line with expectations.

Results

Question 1: Variables Affecting Support for or Opposition to Federal Action.

The literature highlights several cleavages that prevent unanimity among state officials when creating an intergovernmental agenda. We argue

that of these variables, partisanship plays a significant role in determining state officials' attitudes toward federal action. We tested this argument by using logistic regression with support for federal policy as the dependent variable and measures of the contending explanations as the independent variables.

The units of analysis are 923 substantive resolutions introduced in Pennsylvania's General Assembly between 1992 and 2011 that address the activities of Congress, the president, or both branches. The dependent variable is the support for or opposition to (0=opposition, 1=support) existing or proposed federal policy as expressed in the resolutions. The independent variables include: sponsor party identification (0=Republican, 1=Democrat); the regional location of the sponsors' home districts in Pennsylvania (southeast, southwest, central, northeast, northwest dummy coded); and the percentage of the urban population living in the sponsors' legislative districts (0%–100%).¹⁰ Because longitudinal data for some of the independent variables are not available before 1992, the analysis includes only resolutions submitted between 1992 and 2011.¹¹

Data for the partisan identification of each sponsor were obtained through the PPDP. The PPDP provides the name of each resolution's primary sponsor, which we then paired with the sponsor's partisan affiliation. The second independent variable is the regional location of each sponsor's legislative district. The county (or counties) that each sponsor represents were identified using the Wilkes University Election Statistics Project (<http://staffweb.wilkes.edu/harold.cox/index.html>). The results were then linked to a regional location using the county–region alignment adopted by the Center for Opinion Research's Franklin and Marshall Poll of Pennsylvania (<http://www.fandm.edu/fandmpoll>).¹²

The final independent variable, urban/rural district dynamics, was collected through two sources. The first is the Census Bureau (2010), which began linking census data to state legislative districts beginning with the 2000 census. Using *State Legislative Elections: Voting Patterns and Demographics* (Barone, Lilley, and DeFranco 1998), we were able to extend our analysis back to 1992.

Results of the logistic regression show that both sponsor party identification and the urban characteristics of sponsors' legislative districts exhibit a statistically significant relationship with the tone of resolutions introduced in Pennsylvania's General Assembly. The positive coefficient for sponsor partisan identification ($B = .417$, $S.E. = .147$, $p < .05$) shows that Democratic sponsors are more likely than Republicans to be positive in their tone. The odds ratio of 1.52 indicates that Democrats are more likely than Republicans to introduce positive resolutions in the state legislature.

Because urban districts are generally liberal and thus likely to be represented by Democrats, state legislators representing urban districts are,

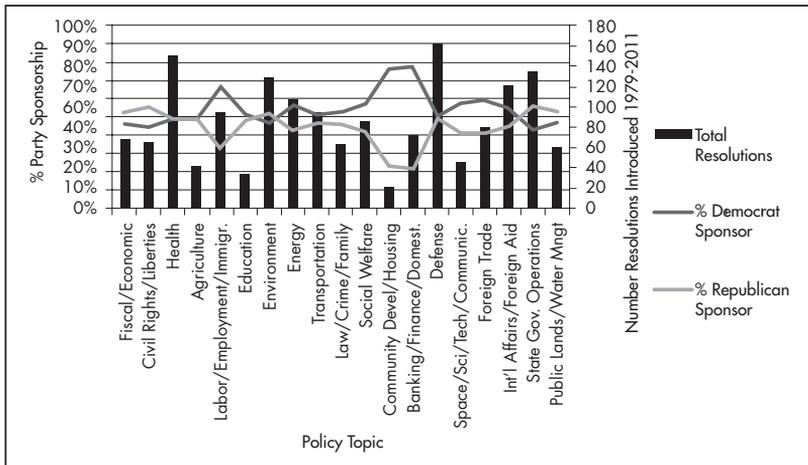
unsurprisingly, more positive in their resolutions than are rural legislators ($B = .006$; $S.E. = .002$; $p < .05$; $\text{Exp}(B) 1.006$). Although some alignment between regional location and urban/rural characteristics exists, the regions are large enough to act not simply as another measure of urban characteristics. In fact, the regional location of sponsors' legislative districts is not statistically significant.¹³ These findings suggest that partisanship does influence the views of Pennsylvania's state legislators on federalism, whereas regionalism does not.

Question 2: Partisan Congruence by Policy Issue.

The question whether Republicans and Democrats establish areas of issue ownership is important to the study of intergovernmental relations. If partisanship at the state level influences the content of messages the state sends to Washington, it might be possible to predict the future policy foci of a state in light of the partisan distribution within its legislature. Our dataset allows us to test whether partisanship had an impact on the policy topics of resolutions introduced in Pennsylvania's legislature between 1979 and 2011. Figure 2 below shows that partisan differences in most policy areas are generally small. Policy areas with a differential of less than 5% between Republican and Democratic sponsorship include fiscal/economic, health, agriculture, education, transportation, and defense.

Where levels of policy activity vary, however, political parties establish some areas of issue ownership. For instance, Democrats are more active

Figure 2
Party Sponsorship of Resolutions Introduced in the Pennsylvania General Assembly, 1979–2011.

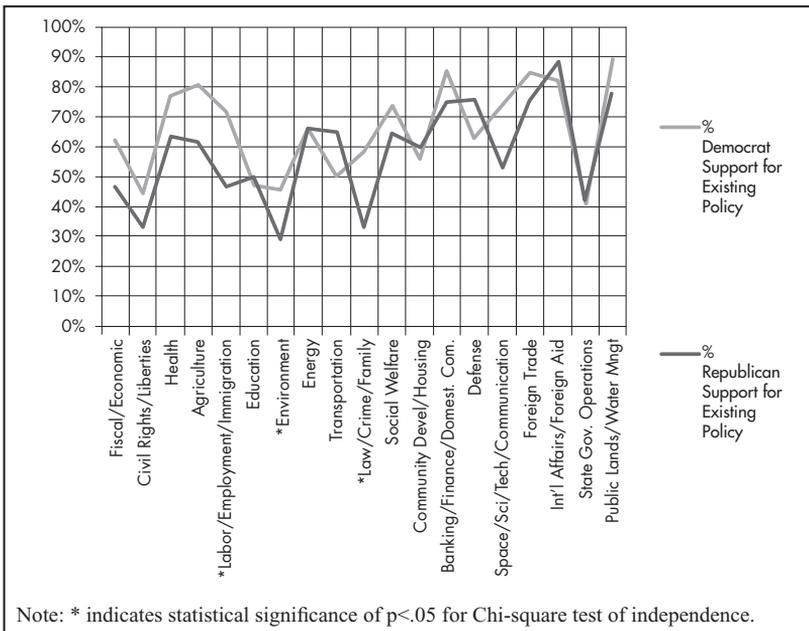


on energy, social welfare, international affairs, community development and housing, law/crime/family, labor/employment/immigration, banking/finance/domestic commerce, and space/science/communications. Republicans are more active on civil rights, environment, state government operations, and public lands. Additionally (as previously noted), resolutions addressing the environment frequently mentioned federal mandates, a tendency that may explain Republicans' emphasis on this issue. Further testing this relationship, a chi-square test shows a statistically significant association between sponsors' party identification and the policy topic of their resolutions,¹⁴ indicating a relationship between sponsor party identification and the policy issues of resolutions.

Partisan divides are more obvious when analyzing the tone of resolutions. Each resolution was coded using a measure to determine whether it expressed support for or opposition to existing or proposed federal policies. Figure 3 below reveals substantial differences between the political parties in their respective levels of support for federal action across policy domains.

Democrats supported federal activities 66% of the time versus 58% for Republicans. The 8% differential between parties is unsurprising given Republican ideology and rhetoric about small government and federalism.

Figure 3
Partisan Support for Existing or Proposed Federal Policy, 1979–2011.



Issue ownership is also supported, for there were statistically significant differences between Republicans and Democrats in their support of federal policy in the policy areas of environment, law/family/crime, and labor/employment/immigration.¹⁵

Analysis of support for or opposition to federal mandates provides further evidence that resolutions reflect partisan beliefs about the appropriate role of the federal government in state affairs. Republicans were more likely than Democrats to mention federal mandates (21% versus 16%). Environmental policy and government operations were the top two issues mentioning mandates for both the GOP and the Democrats. Not surprisingly, Republicans were also more likely than Democrats to oppose the imposition of mandates (89% versus 78%).

Question 3: Partisan Congruence across Levels of Government.

Federal–state relationships could be influenced by the partisan alignment between state legislators and the party in power in Washington. At issue is whether support for or opposition to federal activities is primarily a result of shared partisan priorities between the state and national political parties, or whether levels of support/opposition remain constant regardless of which party is in power nationally. If partisan alignment between state legislators and the federal government has an impact, we would expect to see more positive resolutions submitted by state legislators when their party is the majority party in Washington and the opposite when their party is in the minority there. This expectation is in keeping with the literature showing that party is a predictor of support for or opposition to presidential agendas (Grose and Middlemass 2010) and individuals’ support for or opposition to their party’s legislative program in the states (Jenkins 2008).

Partisan alignment was measured by comparing the partisan identity of each resolution’s sponsor with the majority party of the federal branch addressed in the resolution. For example, if a Republican state legislator introduced a resolution to a Republican president, then their partisanship is aligned. If the same sponsor introduced a resolution addressed to a Congress controlled by Democrats, then their party identity is not aligned. If a Republican state legislator introduced a resolution to both a Republican president and a Democratic-controlled Congress, then their party identity is split (given that the federal government is divided). The data analyze 1,640 substantive resolutions introduced in Pennsylvania’s General Assembly between 1979 and 2011.

The results in Table 1 below suggest that federal–state partisan alignment does not affect the tone of resolutions submitted in Pennsylvania’s legislature. State legislators of both parties exhibited only middling support of Washington when their party was in control nationally. They were more

supportive of Washington when their party dominated there than when it did not. Yet a chi-square test found no statistically significant relationship between tone and federal–state partisan alignment (sorted by partisan affiliation of sponsor).¹⁶

Table 1
PA Sponsor—Washington, D.C., Partisan Alignment on Support of Existing or Proposed Federal Policy, 1979–2011.

Partisanship of Resolution Sponsor	Republicans Hold D.C. Power	Democrats Hold D.C. Power	Divided D.C. Government
Democratic	50.4% Support	52.1% Support	63.5% Support
Republican	46.7% Support	40.6% Support	50.4% Support

The data show that state legislators were most supportive of Washington during periods of divided government in the nation’s capital. One plausible explanation is that state legislators’ support of their national parties is most important during periods of partisan division in Washington. Another possibility is that state legislators do not request major changes to the status quo regarding federal–state relationships during periods of partisan division in the nation’s capital. Instead, they try to protect those attributes of federal–state relationships that they view as positive. Finally, state legislators may attempt to influence divided government more by affirmation than by exacerbating existing partisan cleavages in Congress. Though plausible, these explanations require further testing before they can be validated.

A similar pattern emerges in substantive resolutions passed by Pennsylvania’s General Assembly between 1979 and 2011 (N=710). Table 2 below examines partisan alignment between Democratic- and Republican-controlled chambers in Harrisburg and partisan control in Washington.

Table 2
Harrisburg—Washington, D.C., Partisan Alignment on Support of Existing or Proposed Federal Policy, 1979–2011.

Partisan Control of PA Legislature	Republicans Hold D.C. Power	Democrats Hold D.C. Power	Divided D.C. Government
Democratic	42.5% Support	61.7% Support	70.7% Support
Republican	51.3% Support	42.2% Support	57.2% Support

Only a weak relationship exists between partisan control of the state legislative chamber that passed the resolution and party control of the federal branch to which it was addressed. A chi-square test finds a statistically significant relationship for Democratic alignment but not for Republican

alignment.¹⁷ If national party politics influenced the passage of supportive or oppositional resolutions at the state level, we would expect to see significantly more support when partisanship at the national and state level align. What is clear in Table 2 is that support is highest during periods of divided government and lowest when state–national partisanship is not aligned.

Conclusions and Future Research

This article has used a new means of assessing the intergovernmental agendas of states over time. A database of more than 1,700 resolutions introduced in Pennsylvania's General Assembly between 1979 and 2011 was constructed to examine the seldom studied topic of the relationship between partisanship and intergovernmental relations. State legislative resolutions sent to the federal government were used to determine whether partisan differences exist in the types of issues states raised with the federal government and whether levels of support for federal action vary. The study contributes three findings to the existing literature.

First, the dataset as a whole affirms prior research showing that state governments have accepted the federal government as the lead partner in American intergovernmental relations. Sixty-two percent of all resolutions viewed federal policy positively, whereas negative resolutions often related to displeasure with federal mandates. State officials thus appear willing to work cooperatively with the federal government as long as their authority to make decisions is not completely displaced.

Second, partisanship proved to be a statistically significant factor in determining support for or opposition to federal policy. Compared with other widely accepted explanations, partisanship significantly influenced support for or opposition to existing or proposed federal policy. Partisanship also had a significant relationship with the policy focus of resolutions. This important finding shows there is no innate state position on the policy activities of the federal government. Rather, the package of ideological and policy predispositions that define partisan differences significantly affects how state legislators and legislatures approach issues of intergovernmental relations.

Finally, we found some relationship between state partisanship and support for and opposition to party activities in Washington, especially when accounting for partisan control of the state legislature. Both political parties were more likely to support their own partisans in Washington than they were to aid their opponents. This pattern, combined with the previous finding, shows an interesting relationship between federalism and partisanship. Previous scholarship argued that the decentralized, candidate-centered nature of American political parties prevents a uniform, programmatic approach by state and federal officials to issues of intergovernmental relations. By contrast, our evidence shows that the

ideological predispositions of partisan affiliation often trump state officials' spatial identity. The intergovernmental agendas of state and federal officials are thus more nationalized than scholars have believed.

Drawing firm and generalizable conclusions from a single case study of Pennsylvania's General Assembly is difficult. Still, our conclusions go beyond the existing literature to promote deeper understanding of state attention to intergovernmental issues. Studies of national and regional intergovernmental organizations allow scholars to explore areas of state consensus on federalism issues. Studying state resolutions to the federal government provides a more nuanced understanding of federalism issues subject to partisan conflict. This method of analysis uncovers issues that would not be addressed by peak IGR groups because passage of their policy positions requires bipartisan super majorities.

Appendix
Example of a Resolution to Congress:
Pennsylvania House Resolution 775 of 2010

A RESOLUTION

Memorializing the Congress of the United States to refrain from imposing unfunded mandates on the Commonwealth of Pennsylvania and its citizens.

WHEREAS, The taxpayers of the Commonwealth of Pennsylvania are already facing the prospect of difficult budget cycles because of diminished tax revenues and growing public entitlement obligations; and

WHEREAS, This situation is expected to grow worse because of:

- (1) an end to Federal stimulus money;
- (2) unfunded pension obligations;
- (3) urgent infrastructure needs;
- (4) the General Assembly's other budgetary obligations; and

WHEREAS, According to the Kaiser Family Foundation, 12% of the Commonwealth of Pennsylvania's population is now enrolled in Medicaid; and

WHEREAS, This enrollment costs the Commonwealth of Pennsylvania billions in public assistance programs, thus making welfare entitlements one of the top spending categories in the State budget; and

WHEREAS, The Urban Institute estimates the Commonwealth of Pennsylvania will see an additional 818,390 people become eligible, representing a 25% increase in those enrolled in the Medicaid program if Medicaid eligibility is increased to 133% of the Federal Poverty Level as contained in HR No. 3590, passed by the United States Senate; and

WHEREAS, On September 9, 2009, the President of the United States promised that legislation being considered by the Congress of the United States would not add to the Federal deficit but was silent about states bearing the weight of unfunded mandates; and

WHEREAS, Data from the National Conference of State Legislatures shows the impact on states will be significant from this increase with the Commonwealth of Pennsylvania's added matching obligation to total \$2.31 billion in the 2014–2019 period; therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to refrain from imposing unfunded mandates on the Commonwealth of Pennsylvania and its citizens; and be it further

RESOLVED, That a copy of this resolution be transmitted to the office of each United States Senator and to the office of each of the members of the United States House of Representatives.

Notes

1 The ordering of the authors' names is arbitrary, for both contributed equally to this article. Previous versions of this work were presented in 2012 at the annual meeting of the Southern Political Science Association and the State Politics and Policy Conference. The authors would like to thank the discussants and other panelists for their critiques. They would also like to thank their research assistant, Katrina Kelly, who collected portions of the dataset. Parts of this research were funded through a Widener University Faculty Development Grant.

2 Epstein implies that one of the reasons for the rise of intergovernmental lobbying organizations is the lack of a party devoted to protecting state and local governments.

3 The literature review focuses on the intergovernmental policy positions of elected officials. Additional evidence suggests that partisanship affects the stances of citizens (Kincaid and Cole 2008; Malhotra 2008) and scholars (Kincaid and Cole 2002) on issues of federalism.

4 Legislative resolutions directed to the federal government are also referred to as Memorials. For a more extensive overview of the origins and historical use of resolutions to Congress, see Leckrone and Gollob (2010).

5 Resolutions to Congress are entered in the Congressional Record. Abstracts of the resolutions are entered for resolutions submitted to the House of Representatives, whereas the full text becomes part of the official record for resolutions received by the Senate.

6 Although research on resolutions to the federal government is scarce, this practice reinforces conclusions from previous studies on a federal balanced budget amendment (Nice 1986) and opposition to REAL ID (Regan and Deering 2009).

7 This coding methodology has been widely used in the policy field, including databases such as the Congressional Bills Project (www.congressionalbills.org) and the international Comparative Agendas Project (www.comparativeagendas.org). For a bibliography of the research employing this coding scheme, see <http://www.policyagendas.org/biblio>.

8 The Pennsylvania Policy Database codes data by reading the abstract of the resolution created by the General Assembly's Legislative Reference Bureau. The abstract contains enough information for determining the policy topic of the resolution but not enough to understand exactly what is being asked of the federal government or whether a mandate exists. Consequently, this project examined the full text of resolutions when coding for tone and mandates.

9 The following is an example of a commemorative resolution: “A Resolution memorializing AMTRAK to designate the station at 30th and Market Streets in Philadelphia as the Pennsylvania Station.”

10 Early analysis examined several models with a variety of independent variables that were later dropped from the model used here. Independent variables excluded from this model include the average household income in sponsors’ home districts, the average Social Security income in sponsors’ home districts, and 10-year party competition in sponsors’ home districts. Because turnover is low in Pennsylvania’s General Assembly, sponsor partisan identity was highly correlated with the 10-year intradistrict party competition variable. Moreover, the region of Pennsylvania was highly correlated with both the average household income and the average Social Security income in the sponsors’ home districts.

11 $N=923$ substantive resolutions. The dependent variable included 376 resolutions coded as oppose and 547 coded as support. Resolutions were supported by 453 Republicans and 470 Democrats, with 214 of these representatives representing the southwest region of the state, 152 the central region, 134 the northwest region, 103 the northeast region, and 320 the southeast region. The average percentage of residents living in urban areas for these 923 cases is 66%.

12 The Franklin and Marshall College Poll treats Philadelphia and Allegheny County (Pittsburgh) as their own regions of Pennsylvania. We merged Philadelphia and Allegheny County with their appropriate regions (southeast and southwest, respectively).

13 The pseudo $R^2 = .03$

14 Chi-square test results: $\chi^2 = 48.24 (19), p < .01$.

15 Results of chi-square results for Democratic/Republican sponsor and oppose/support: $\chi^2 = 12.7 (1), p < .000$. Results for individual policy topics: Environment $\chi^2 = 3.9 (1), p < .05$; Labor/Employment/Immigration $\chi^2 = 5.6 (1), p < .05$; Law, Family and Crime $\chi^2 = 4.15 (1), p < .05$

16 Chi-square test results: Republicans $\chi^2 = 4.76 (2), p > .05$; Democrats $\chi^2 = 5.46 (2), p > .05$

17 Chi-square test results: Republicans $\chi^2 = 5.08 (2), p > .05$; Democrats $\chi^2 = 7.19 (2), p < .05$

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WHERE WAS THE ELECTRICITY? AGENDA SETTING AND THE POLITICS OF ELECTRIC-RATE CAPS IN PENNSYLVANIA

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Electric-power deregulation policy in the United States has served as useful research material for political scientists. This article uses a case study of the implementation of electric-rate deregulation in Pennsylvania to draw conclusions about broader agenda-setting theory. Case studies are useful for testing and improving broad theoretical concepts, particularly when deviations from the expectations of those theories occur. There was reasonable expectation for a policy punctuation surrounding electric-rate mitigation in 2008, but that punctuation never came. This article supports the notion that punctuations do not always follow periods of policy stability, even if policy has become misaligned with preferences. In this case, environmental factors (i.e., economic conditions) served to release pressure in the system for policy punctuation. This article also reinforces the usefulness of case studies in political science.

The deregulation of electricity supply in the United States has provided political scientists with useful research material. For instance, Ka and Teske (2002) used deregulation policy to draw conclusions about the influence of legislative ideology and bureaucratic professionalism on redistributive and technical policies, respectively. Likewise, Andrews (2000) used the spread of electric-rate deregulation legislation among the American states in the 1990s to augment the literature on policy diffusion. A case study of the implementation of electric-rate deregulation in Pennsylvania in particular tests our current understanding of the agenda-setting stage of the policy process and how agenda dynamics drive policy outcomes.

In the midst of expiring electric-rate caps, rising energy prices, active policy entrepreneurs, consumer concern, multiple legislative proposals, and

a supportive governor, a window was open in Harrisburg in 2008 for policy to mitigate the negative effects of the impending expiration of rate caps on electricity. But that policy never came. The deep recession triggered by the collapse of major financial institutions in 2008 and the protracted state budget battle in 2009 substantially altered the policy agenda in Pennsylvania. Changes in the political and economic environments acted like a pressure-release valve, dissipating political pressure for rate-cap mitigation.

This article contributes to the agenda-setting literature in political science by presenting a case study of the history of rate caps in Pennsylvania. It illuminates four aspects of agenda setting: policy punctuation (Baumgartner and Jones 2009; Jones, Baumgartner, and True 1998), pressure valves (Berkman and Reenock 2004), policy windows (Kingdon 2003), and feedback loops contributing to the evolutionary nature of policy change (Majone and Wildavsky 1978). Such a case study clarifies how these broad theoretical ideas actually operate within state government. Additionally, the article shows that sudden changes in either the economic or the political environment can act as a safety valve releasing the pressure for policy punctuation. This finding is important because it facilitates better understanding of punctuated equilibrium.

The article begins with a discussion of these concepts and their importance as cornerstones of our understanding of agenda setting. It then provides background information on the issue of electric-market regulation in Pennsylvania. After setting the stage in terms of theory and history, the article addresses the opening and closing of the policy window on rate caps. The article ends with conclusions about both the contribution of this case study to the literature on agenda setting and the usefulness of case studies generally in providing deeper context on broader theoretical concepts.

Agenda Setting and Policy Outcomes

Because the policymaking process in the United States is complex, scholars have largely taken a piecemeal approach to ascertaining its dynamics (Sabatier 1991), even with the narrow agenda-setting phase of the process. Hence, some scholars study issue framing (Rocheftort and Cobb 1994) and media effects (Cook 1989; 2005), whereas others focus on specific institutions, such as Congress (Sulkin 2005), the presidency (Beckmann 2010), and the U.S. Supreme Court (Baird 2006). More recently, scholars have developed macro-level models of the process (Baumgartner and Jones 2009; Jones and Baumgartner 2005; Kingdon 2003). The core argument for examining the process of agenda setting is that who sets the agenda—and how they do it—provides insight into the question why particular political outcomes are produced.

Kingdon (2003) and Baumgartner and Jones (2009) provide different explanations for the macro-level dynamics of agenda setting. Starting with

Cohen, March, and Olsen's (1972) "garbage can" model of organizational choice, Kingdon built a garbage can model of agenda setting through detailed interviews of policy actors at the national level. Essentially, the model describes a process whereby policy ideas are metaphorically floating around in a garbage can. When a policy window is opened by events and policy entrepreneurs who draw attention to a problem, legislators reach into the garbage can and retrieve a solution to the problem. A significant drawback of Kingdon's model is that it really addresses only substantial policy change (i.e., policy punctuations), not incremental changes, which are far more frequent. Much past work on policymaking in the United States has focused on these incremental changes (see Davis, Dempster, and Wildavsky 1966; Lindblom 1959).

Baumgartner and Jones (2009) and Jones and Baumgartner (2005) depart from this previous work on agenda setting by fusing both incremental and substantial policy change into a single theory of punctuated equilibrium (see also Jones, Baumgartner, and True 1998). They argue that a key to this pattern is the ability of government to process policy information both serially and in parallel. Typically, the system processes information in a parallel fashion where, for example, Congressional committees pass noncomprehensive policy changes or bureaucracies institute new rules that slightly alter existing policy. This process continues until policy becomes misaligned with the preferences of new or previously marginalized actors. Subsequent mobilization of these actors causes pressure to build for a shift from the current equilibrium to a new one. To achieve this shift, the legislature must enter a mode of serial processing where it focuses attention on a single policy area.

The Affordable Care Act of 2009 (ACA) is a useful example. The election of Barack Obama, combined with Democratic control of Congress, brought considerable attention to healthcare policy in the United States. The government thus devoted substantial political resources to healthcare reform, which facilitated passage of comprehensive legislation. The ACA altered the policy equilibrium not only for the national government but also for the states. One example of serial processing at the state level is the occasional use of special legislative sessions to focus governmental attention on a particularly pressing problem. Granted, not all special sessions achieve their intended policy goals, and given the high resource demand of serial processing, such sessions are short lived.

Subsequent research by Berkman and Reenock (2004) adds to the macro-level punctuated equilibrium theory by addressing why periods of incremental change are not always followed by punctuations. Their work examined the reorganization of state administrative agencies over time. Although they found both comprehensive and incremental changes to state organizational structures, they did not find that incremental changes were always followed by punctuations. Instead, they concluded that "incremental

steps may be enough of a middle-level response to relieve internal political pressure that comes about . . . from the growing misalignment of design with demands” (Berkman and Reenock 2004, 810). In this way, incremental changes act like a pressure-relief valve instead of contributing to a buildup of pressure for punctuated change.

Additionally, the cyclicity of the policy process is widely understood and consistently communicated in most courses and textbooks on public policy. Indeed, a political matter is not settled merely because a law has been passed. Bureaucracies must implement that policy, and policy entrepreneurs (and the bureaucrats themselves) continue to work to achieve their desired policy outcomes. Moreover, the subsequent success or failure of implementation leads to feedback loops where policymakers turn their attention to implementation problems and adjust a policy over time. In this way, policy has a tendency to evolve after reaching the implementation stage and implementation may, in turn, have an effect on agenda setting (Majone and Wildavsky 1978; see also Sabatier 1986 and 1991 for reviews of the implementation literature).

The work by Bryan Jones and Frank Baumgartner on punctuated equilibrium has gained widespread attention in political science as a compelling macro-level explanation of agenda setting. Nonetheless, many quirks and deviations in a given macro-theory inevitably appear when examining actual cases of a particular process. Closer review permits better understanding of the occurrence of deviations that remain unexplained by macro-theory. The work of Berkman and Reenock (2004) is a good example. Finding both support for the macro-theory of punctuated equilibrium and cases where the expected outcome was not realized, they added to our understanding of how the theory plays out in real life. That is also the intent of this article, which affirms the usefulness of case studies. The contextual information they provide, particularly in cases where a macro-theory does not play out as expected, can enrich theoretical understanding.

Through use of a case study, the remainder of this article connects the process of electric-rate deregulation in Pennsylvania to the relevant literature. After first presenting some background information on electric-rate regulation in the United States and Pennsylvania, the article then addresses the opening and subsequent closing of a policy window for policy intended to mitigate rate increases due to the expiration of electric-rate caps, showing how rapid changes in the political and economic environments can quickly alter the government’s agenda and deflate the pressure for policy punctuation.

Electric-rate Regulation in the United States

Understanding the basic structure of the electric-power market is important for understanding how electricity has been regulated and

deregulated in the United States.¹ The electric-power system has three primary elements: generation, transmission, and distribution. Generation involves the production of electricity from various sources, such as the sun, wind, coal, natural gas, and nuclear power. Demand for electricity is spread across the United States, but generation tends to be centralized. Therefore, the transportation of electric power (i.e., transmission), sometimes across great distances, is essential for matching supply with demand. Once the electricity arrives at the desired location, it is reduced to a lower voltage and distributed to residential, commercial, and industrial customers. Traditionally, electric-power companies controlled this entire supply chain (referred to as a vertical monopoly).

Regulation of the electric-power industry has its roots in a U.S. Supreme Court case about grain elevators (*Munn v. Illinois* 1877) where the Court ruled that the Fourteenth Amendment does not prevent states from regulating private property that affects the public interest. Through the Public Utility Holding Act of 1935 (PUCHA), regulation of electric power has become a shared responsibility of the national government and the states.² The Federal Energy Regulatory Commission (FERC) regulates the wholesale market for electric power that involves interstate transactions between suppliers and retailers of electricity. After retailers procure electric power from wholesale markets, they sell it to end users through retail markets that are regulated by the individual states. The electric-power industry in Pennsylvania is regulated by the state's Public Utility Commission (PUC).

More than 40 years after PUCHA subjected electric-utility holding companies to increased national and state regulation, the Public Utilities Regulatory Policies Act of 1978 (PURPA) started the process of electric-rate deregulation. PURPA was passed at the beginning of a sustained period of deregulation in the United States that touched a broad array of industries including transportation, natural gas, financial services, and telecommunications. The most significant national step toward electric-rate deregulation came with the passage of the Energy Policy Act of 1992 (EPAAct), which opened the wholesale electric-power market to competition and encouraged the participation of independent generators of electricity. Although FERC could enable "all players to request access to new wholesale markets" (Public Utility Commission 1995, 15), it could not force deregulation of retail electricity markets that remained under state jurisdiction. In essence, states still held power over whether individual consumers could shop for their own power.

Competition in Pennsylvania

It did not take long for deregulation of the retail electricity market to take hold in Pennsylvania after passage of the EPAAct. On April 14, 1994, the

Pennsylvania PUC started an investigation into the merits of deregulation in the Commonwealth. Before the PUC issued its report, the state's House of Representatives passed what would eventually become the Pennsylvania Electricity Generation Customer Choice and Competition Act.³ On August 4, 1995, the PUC released a staff report concluding that partial deregulation of the electricity industry was prudent for Pennsylvania. Governor Tom Ridge stood behind deregulation and argued that low-cost electricity resulting from competition would serve as "an enormously powerful economic development tool" (Ridge 1996, 2; Ridge 1997, 2). On November 25, 1996, the Pennsylvania Senate approved the amended Act, the House concurred, and restructuring of the electric-power industry was signed into law by the governor on December 3, 1996. Pennsylvania thereby became the nation's fourth state to restructure its electricity markets.

The electric-power market was only partially deregulated (i.e., restructured). The Act allows for competition among electric-power *suppliers*, but not for distribution or transmission. Monopoly control of these two aspects of electric-power supply and related regulation of distribution rates and transmission line siting by the PUC are still in place. As a result of restructuring, the PUC was granted the additional authority to license competitive suppliers who wished to enter the marketplace. The PUC also negotiated restructuring settlements with each existing electric-power supplier in the Commonwealth. A key outcome of these negotiations was the implementation of caps on electricity prices charged by these providers of last resort. Rate caps were put into place "to ensure that the transition to competition didn't lead to increased rates for consumers" (Ridge 1997, 4). In exchange for these caps, utilities were allowed to recover stranded costs for investments (e.g., new generation) that would be unwise or unnecessary in a newly deregulated environment.

Initially, Pennsylvania enjoyed much success with competition. Kiesling (2001) reports that customers saved \$3 billion between 1999 and 2001 as electric-power rates fell by 3%. Kiesling (2001) also reports that 130 competitive suppliers operated in Pennsylvania in 2001, and 600,000 customers had switched to a competitive supplier. That same year, Pennsylvania's deregulation program was ranked number one in the nation by the Center for the Advancement of Energy Markets.

Kiesling (2001) credits this success to multiple factors. The first is the level at which default-service prices and rate caps were set. Pennsylvania set higher default-service prices on the basis of "market models and forecasts" to encourage the entry of competitive suppliers (Kiesling 2001, 4). In addition, Pennsylvania had a rapid four-year phase-in of competition that allowed the benefits of increased competition and lower rates to be realized more quickly. Other factors that Kiesling (2001) credits with promoting competition were the lack of a divestiture requirement, which would have

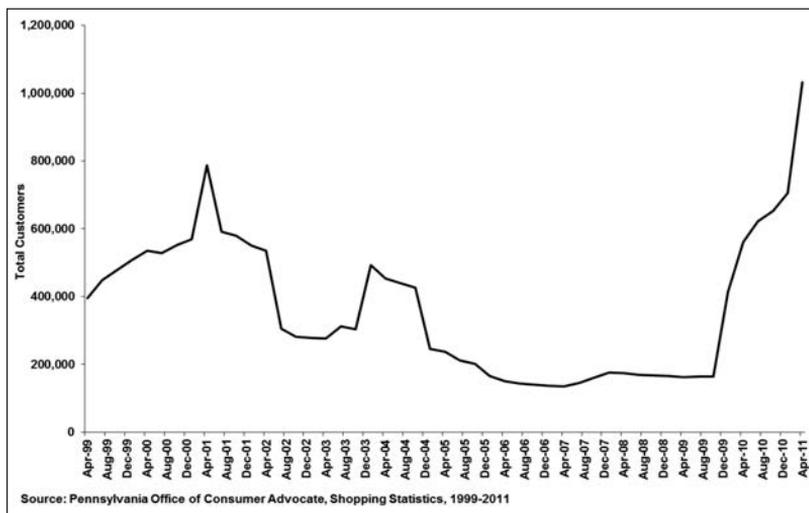
forced utilities to sell off their generation (although many did anyway), and Pennsylvania's participation in the PJM regional electricity market. In 2001, the PUC's chairman, John Quain, noted that "before electric choice, Pennsylvania electric-power rates were 15% above the national average, and now our rates are 4.4% below the national average" (Office of the Governor 2001, 2). This success would prove to be short lived.

Rate Mitigation and an Open Window

Even though Pennsylvania enjoyed initial success with electric-power competition, the recession in 2001 and rising energy costs drove competitive suppliers out of the state. Figure 1 below illustrates this trend using data on customer shopping for electric power collected by Pennsylvania's Office of Consumer Advocate. It shows the total number of customers—residential, industrial, and commercial—served by alternative suppliers from 1999 to 2011.⁴ Competition increased during the first three years of deregulation but then steadily declined beginning in 2002.⁵ Instead of turning to various competitors vying for business and providing lower prices, most customers simply relied on their original local distributor of electric power (i.e., providers of last resort) for purchasing their power.

Complex circumstances led to this situation. One major problem was the difficult economic environment that utilities faced after deregulation. Munson (2005, 173) writes that the recession that began in 2001 "curtailed

Figure 1
Total Number of Customers (All Types) Served by an Alternative Electric Supplier, 1999-2011.



power demand and put enormous financial pressure on entrepreneurs and others thinking of entering the power business.” Following directly on the coattails of this recession were dramatic increases in the price of fuels like natural gas, coal, and oil. This price increases caused a significant rise in the cost to produce a kilowatt of electricity (see Edison Electric Institute 2006a and 2006b; Edison Foundation 2006).⁶ According to the PUC, while natural gas prices increased 88.2% and coal prices rose 91% from 1996 to 2006, the average price for electricity in Pennsylvania increased only 6.53% (Public Utility Commission 2008a). Artificial rate caps thus kept electricity prices stable for consumers while simultaneously creating an artificial price ceiling that drove out competitive suppliers.

The impact of economic conditions and weak competition on electricity rates became clear as rate caps began to expire across the state. In 2002, Duquesne Light customers saw a 20% decrease in the cost of their electric power when the company’s rate caps expired. The drop was steep because Duquesne charged one of the nation’s highest rates for electricity until deregulation and thus had an unusually high cap. Furthermore, the expiration occurred in the midst of the recession during the early 2000s and before the subsequent rise in energy prices. In contrast, by the time Pike County Light and Power’s rate caps expired in 2006, competition was tepid and energy costs had spiked because of the devastating effects of Hurricane Katrina. Consequently, Pike County’s customers saw an increase of roughly 70% in their electric-power costs. Pennsylvania Power residential customers also saw their rates rise 20%–30% after their caps expired in 2006.

These large rate increases occurred during a period of what Baumgartner and Jones (2009) call “parallel processing” when multiple smaller organs of government are working on an issue and making incremental changes within their jurisdiction. Pike County Light and Power’s experience showed that the remaining 85% of the state’s consumers who were under rate caps could face substantial rate increases in 2010 and 2011 when the remaining caps expired. While awareness of this issue increased, parallel processing continued. For instance, in the lead up to rate-cap removal the PUC proposed a statewide consumer education campaign that would be a joint effort of the PUC and default electric-power suppliers. Legislative proposals and hearings on strategies for mitigating rate increases became serious after Sonny Popowsky, Pennsylvania Consumer Advocate, announced in May 2008 that rate increases for the five remaining capped companies would likely range from 8% to 63% (Levy 2008a).

The growing reality that rate-cap expiration in an unfavorable economic environment with limited competition would cause double-digit rate increases spurred the state government to consider rate mitigation strategies. In fact, Governor Ed Rendell called for a special session on energy during the 2007–8 legislative session. The window was open as

Pennsylvania's government moved from parallel to serial processing of the rate-cap issue. During this time, state officials proposed four approaches to rate-cap expiration: reregulation, rate-cap expiration, rate-cap extension, and legislative phase-in. Each of these potential solutions is recognizable within the agenda setting framework outlined above.

Reregulation

Of the four options, reregulation of the electricity industry most closely resembles Baumgartner and Jones's (2009) idea of policy punctuation. It is also a substantial enough policy response that it could be explained using the elements of Kingdon's (2003) garbage can model. Reregulation would require considerable state attention and resources and would therefore be a major shift in policy. To unwind deregulation completely, utilities would have to repurchase electricity generation facilities so that the original vertical monopolies could be restored.

Given the political and economic costs, full reregulation was not widely promoted in Pennsylvania. Apt, Blumsack, and Lave (2007, 78) argued that a return to a fully regulated electric-power industry in Pennsylvania "would send electricity prices skyrocketing" because of utility buyback of power plants. Moreover, utilities would revert to being fully regulated by the PUC and lose the opportunity to earn greater profits in the free market. A profit-driven corporation clearly would not favor this option. Even though this approach would have been a clear punctuation, there was never enough political pressure for such a change.

A less drastic option that still includes increased state regulation of the electricity market was presented as an alternative to reregulation. It involved the creation of a state Power Authority that would essentially become an alternative supplier of electricity along with the development of a long-term plan for financing the construction of new generation in an uncertain marketplace. This option garnered more political support in Harrisburg than did full reregulation. In fact, Representative Camille "Bud" George (D-Clearfield) introduced legislation in 2008 and 2010 that would have created such an authority. PUC's vice-chairman, Tyrone Christy, was a vocal proponent of this option (PA House 2009b), but he was fairly alone in the endeavor (see, e.g., Powelson 2010).

Rate-cap Expiration

At the opposite end of the policy spectrum from reregulation, the second option for the General Assembly was simply to do nothing and allow deregulation to run its course. This option would have put state government back into a parallel processing of the problem, leaving rate-cap mitigation to

agencies like the PUC and related committees in the General Assembly that could pass less comprehensive mitigation policy. Utilities were particularly supportive of this option, as they would be able to charge market rates for power that exceeded their negotiated rate caps. In addition, new suppliers were anxious to set up shop in Pennsylvania. In fact, PUC's chairman, James Cawley (2009, 3), reported that "suppliers have told our Commission that they are eager to enter . . . service territories in Pennsylvania beginning [in 2010]." Proponents assumed that competition would drive down electricity prices in the medium to long term (Apt, Blumsack, and Lave 2007). Accordingly, industry was firmly behind the status quo.

In terms of political support, there were proponents of rate-cap expiration on both sides of the aisle in Harrisburg. To be sure, Democrats in the House and Senate were more skeptical than Republicans about deregulation. Governor Rendell also generally supported the state completing the deregulation process, although he saw the need for some type of rate increase mitigation. In their testimony before the Assembly, PUC's Chairman Cawley and Commissioner Powelson vigorously supported electric-power deregulation. Outside of state government, interest groups representing utilities, such as the Electric Power Generators Association, actively and vocally advocated deregulation. Altogether, the diverse support for deregulation created a large hurdle for advocates of rate increase mitigation strategies like rate-cap extension and a state-mandated phase-in.

Rate-cap Extension

The option to extend rate caps resembles the pressure-release-valve idea inspired by Berkman and Reenock (2004). It would have provided short-term mediation of rate increases and given the General Assembly more time to develop a long-term solution to volatile electricity rates. The downside was that rate caps would remain barriers to entry for alternative suppliers and thus inhibit the development of new competition. As PUC's Chairman Cawley noted in testimony, "you can only defy gravity for so long" (General Assembly 2008a, 18). He argued that extending rate caps would have made the situation worse later. Indeed, others argued that utilities would pay a substantial cost for each additional day that rate caps were retained (Fumo 2008) and that artificially low prices result in the "over-consumption of electricity" (Fitzpatrick 2008a).

California was often cited by opponents of rate-cap extension as the worst-case scenario of this policy option (see Crutchfield 2008; Fitzpatrick 2008a; Lesser 2007; Tierney 2008). California has traditionally been a net importer of electricity from neighboring states because it uses more electricity than it produces. During deregulation the state required utilities to divest their generation components and buy power solely from the spot

market rather than through more stable long-term contracts. By 2001, California was facing rising wholesale market prices, increased consumer demand, and capped electricity rates that caused utilities to pay more for power than they could recover. California was not the only state experiencing increased electricity demand. Facing similar difficulties, neighboring supplier states could not meet California's increased demand. Worse, a shortage of transmission capacity prevented power from traveling to the places where it was needed most. As a result, an electric-power crisis rocked California with rolling blackouts and the bankruptcy of major electricity distributors (Hirst 2001). Forced to intervene to keep the lights on, the state has moved toward reregulation. Although Pennsylvania was arguably in a better position in 2008 than California was in 2001 (see EPGA 2001), there was fear that "the extension of rate caps . . . would bankrupt the transmission and distribution elements of energy, causing undue burden on the industry and consumers alike" (Powelson 2008, 6). This fear was pervasive among industry leaders and regulators.

Despite opposition from regulators and industry alike, there was political support in Harrisburg for rate-cap extension. In 2008, Senate Democrats threatened to "pass a bill to continue the freeze of rates at 1990 levels" if the utilities did not find a way to provide \$5 billion in rate mitigation (Levy 2008b).⁷ Representative George introduced legislation in the House that would have extended rate caps for 54 months. Senator Lisa Boscola (D-Northampton/Lehigh/Monroe) introduced companion legislation in the Senate. Finally, Governor Rendell expressed support for this policy option as a last resort if no other rate mitigation strategy was put in place. He warned that "if solutions . . . are not approved, the pressure to simply extend the current rate caps will be overwhelming, and none of us here today will be able to resist that pressure, nor should we. Consumers must be protected one way or another. That is our job and we must do it" (General Assembly 2008b, 12–13). Thus, there was a potential well of political support for rate-cap extension in both houses of the General Assembly as well as in the governor's mansion.

Legislative Phase-In

On July 1, 2008, State Senate Democrats Vince Fumo (Philadelphia), Lisa Boscola, Jim Ferlo (Allegheny), and Sean Logan (Allegheny/Westmorland) held a press conference at which they proposed an alternative pressure-release device to rate-cap extension. It involved a phase-in of electric-power rates. According to the senators, "the purpose of the phase-in is to prevent financial hardship and damage to the state economy" (Fumo 2008, 14). A phase-in allows customers to "adjust to higher prices gradually by introducing increases over a number of years rather than all

at once” (Fitzpatrick 2008b). The Senate Democrats specifically proposed a mandatory phase-in of electric-power rates that would last five years and would not allow the utilities to recover the revenue lost during the rate-raising period. The goal was to phase in the rates “without transferring additional cost to ratepayers” (Fumo 2008, 14).

Alternatively, while the General Assembly considered a state-mandated phase-in, the PUC was allowing utilities to propose their own voluntary phase-in plans. Such plans would allow utilities to defer recovery of revenue lost during the phase-in and collect interest on the deferred amount. The cost of the transition would thus be placed on the ratepayers rather than be absorbed by the utilities. The key question in this debate was who would pay for the phase-in of rates. The utilities and their supporters made clear that they would challenge any mandated phase-in that did not allow them to recover full payment for the electric power they supplied (see Dagan 2008; Fitzpatrick 2008a). For example, in testimony before the House Consumer Affairs Committee (2008, 101), Steve Feld of FirstEnergy alluded to potential “constitutional issues” arising from a “failure to allow a full implementation of the power-procurement costs the utilities will incur [from a phase-in of rates].”

Although the utilities supported voluntary phase-in plans, some interest groups doubted their effectiveness. Local representatives of the American Association for Retired Persons (AARP) testified in support of the voluntary phase-in approach, but they regarded it as the minimal policy option. They spoke of the extra measures necessary to reach out to elderly citizens because “it is difficult for older people to understand [the] options” (General Assembly 2009a, 26). Effectively reaching vulnerable populations like the poor and elderly was challenging for voluntary phase-in plans run by utilities, for such people would not register for a voluntary program that would cost them more in the long run as utilities recovered deferred costs.

As a compromise, Philadelphia’s Mayor Michael Nutter suggested a state-mandated rate phase-in allowing utilities to collect “the difference between the capped rate and the market rate . . . over several future years” (Nutter 2008, 3). Consumers would be required to pay interest to utilities for deferred costs, but the costs would be spread among all users. Politically, Nutter’s proposal appeared to be a good compromise between the competing demands of advocates of deregulation and supporters of rate mitigation. Alas, changes in the economy and legislative attention rendered such a compromise moot.

The Window is Shut

At a legislative hearing in February 2008, Representative Carole Rubley (R–Chester/Montgomery) called rate caps on electric power “one of

the most important issues our residents throughout the state are going to be facing in the next few years” (General Assembly 2008b, 75). Not apparent at the time was that the substantial recession that had already begun in the United States would change the economics and politics of deregulating electric power in Pennsylvania. The recession proved to be the release required to dissipate political pressure on the rate-cap issue and prevent policy punctuation.

The deep global recession in 2008 and 2009 brought a subsequent drop in the price of electricity that was particularly stark given the record-setting heat of the summer of 2008. Figure 2 below shows a plot of the weighted average wholesale price of electricity for PJM West (Pennsylvania) between 2007 and 2010. A smoothed trend line shows price movement during that time. The ramp-up and subsequent collapse of the cost of electric power in the wholesale market during 2008 is clear. Overall, the price recovered slightly before remaining relatively steady through the expiration of the remaining rate caps.

Figures 3 and 4 below illustrate how the recession and changes in the wholesale price of electricity affected retail prices in Pennsylvania. Both figures are drawn from spot estimates of rate increases for residential customers that were calculated by the PUC for the utilities whose rate caps expired in 2010 and 2011.⁸ Figure 3 shows the estimates for each provider of last resort. All the territories experienced downward pressure on their estimates as a result of the 2008 recession; PECO customers even went from estimated double-digit increases to single-digit decreases in their rates.

Figure 2
PJM West (Pennsylvania) Weighted Average Prices, 2007-2010.

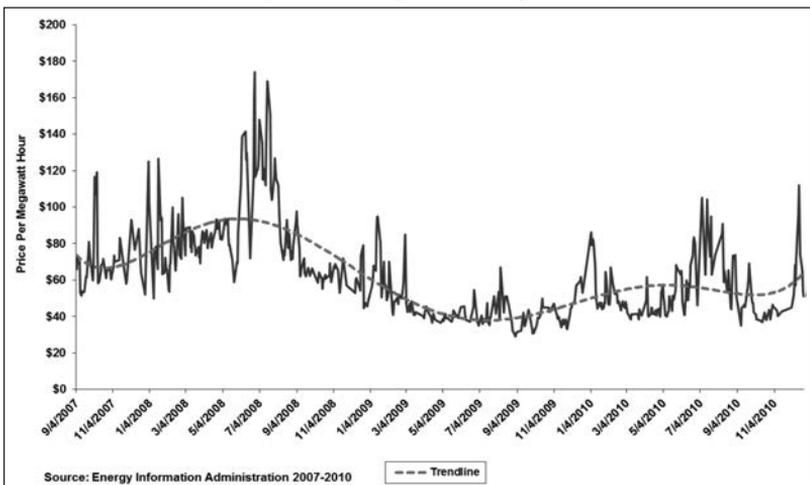
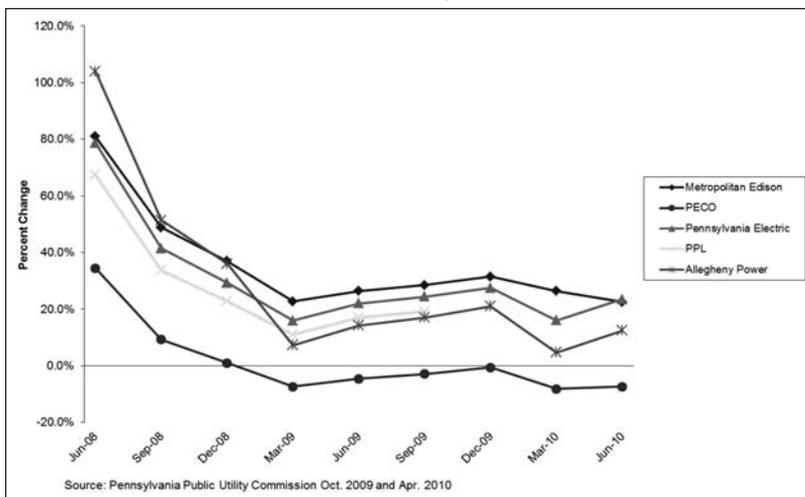


Figure 3
PUC Electric Price Estimates for Residential Customers in Each Service Territory.



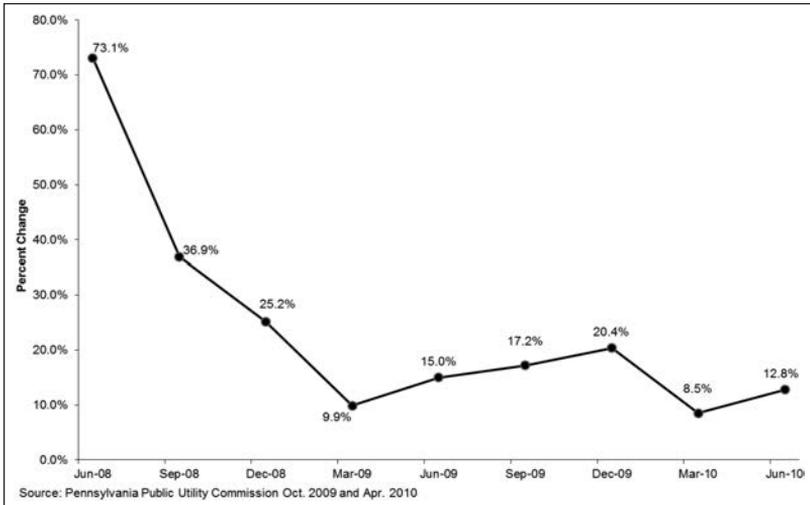
Allegheny Power went from the highest estimated increases to the second lowest in less than a year.

Figure 4 shows the average rate increase for residential customers in Pennsylvania, as calculated by the PUC. These data clarify how expectations for increases in electricity prices changed across the Commonwealth following the imposition of rate caps. The average increase dropped dramatically from a high of 73% in June 2008 to a range of 8%–20%. This rate drop reduced the fear of large increases typified by the OCA's spring 2008 projections. In fact, the PUC encouraged utilities to speed up procurement of long-term contracts from the wholesale market to lock in favorable prices and thus reduce increases in electric-power rates following the imposition of rate caps (Powelson 2009). As a result of all these factors, the dire situation that had drawn attention in 2007 and the spring of 2008 had changed substantially by the fall of 2008.

While rate mitigation continued to receive media and political attention in the Commonwealth in 2009 and 2010 (e.g., Tom Knox centered his 2010 gubernatorial campaign on the issue), most attention rapidly refocused on the economic downturn and its effects on state revenues and spending. The depth of the recession meant that Harrisburg could not simply spend its Rainy Day Fund to ride out the storm. Indeed, deeper cuts were necessary across multiple budget years.⁹

The protracted state budget battle in 2009 is a good example of how the poor budgetary environment affected issue attention. The Commonwealth

Figure 4
Average PUC Electric Price Estimate, 2008-2010.

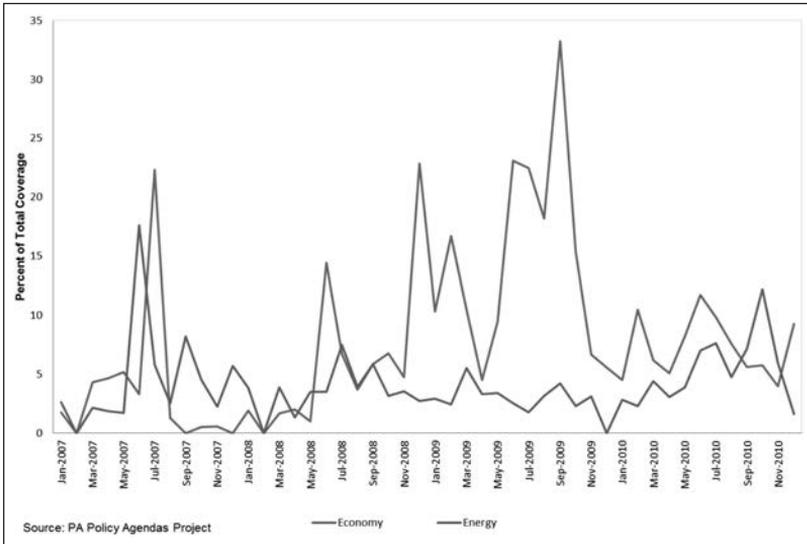


faced a projected \$3 billion budget deficit and a closely divided government with the Senate in Republican control, a slim Democratic majority in the House, and lame-duck Democrat Ed Rendell in the governor's mansion. As a result, the Commonwealth endured a 101-day budget impasse between Governor Rendell and Senate Republicans. As Senator Pat Vance said in November 2009, the budget process "sucked the oxygen out of every issue" (Seltzer 2009). Little will was left to tackle major legislation like rate-cap mitigation.

Data from the Pennsylvania Policy Agendas Project prove that Pennsylvania's agenda shifted drastically with the recession.¹⁰ One of the datasets includes a random sample of daily press clippings from the governor's press office that indicates what the press was covering and which issues the governor's office deemed important on a given day. Figure 5 below tracks attention to economic and energy issues from 2007 to 2010.¹¹ Figure 5 shows that even though attention to energy issues spiked a bit in 2007 and generally remained higher than attention to economic issues in fall 2007 and spring 2008, attention clearly shifted to economic issues as the recession became more severe in late 2008 and early 2009. The economy again becomes highly salient during the budget battle in 2009. These data show that attention to the economy far surpassed attention to rate-cap mitigation during its most important period. By January 2011 all the remaining rate caps had expired.

Although the Commonwealth was unable to pass a comprehensive rate increase mitigation strategy, it did not stop working on the issue. In fact,

Figure 5
Media Attention to Economic and Energy Issues as Percent of Total Media Coverage, 2007-2010.



the PUC and relevant committees in the General Assembly continued to process the issue jointly, even as the Commonwealth was more attentive to economic issues. As can be expected from parallel processing, these actions were incremental. For example, the PUC required utilities to provide individual education plans to consumers, it encouraged default suppliers to speed up their procurement of power contracts after rate caps were imposed so as to capitalize on lower electricity prices, and it approved voluntary rate phase-in plans proposed by the electric-power companies (see Powelson 2009; Public Utility Commission 2008b; 2008c; 2009a). These measures allowed the PUC to work within its jurisdiction to enact incremental change. In addition, the General Assembly passed two laws during the special session on energy that concerned the promotion of alternative energy in the Commonwealth. Finally, Act 129 of 2008 required electricity utilities to create plans for reducing electricity consumption, thus reducing demand pressure within the market. All these policies were incremental and promote long-term reductions in rates through investment in new technology and reduction in demand.

Conclusion

Electric-power deregulation policy in the United States continues to provide political scientists with insight into significant theoretical concepts.

The history of deregulating electric power in Pennsylvania presented here leads to important conclusions regarding the broader theories of punctuated equilibrium and the interaction between policy implementation and agenda setting through feedback loops. In terms of punctuated equilibrium theory, Pennsylvania is a case where a reasonable expectation for policy punctuation was not realized. After the drastic rate increases experienced by Pike County Light & Power and the subsequent dire projections by the OCA for the remaining 85% of Pennsylvania's electricity consumers, Harrisburg turned its attention to rate mitigation. With the special session on energy, the General Assembly appeared to be in serial processing mode, and calls for action were coming from multiple actors. Yet the rapid shift in public attention to the economy in the fall of 2008 deflated the apparent pressure for punctuation. This finding builds on the idea of Berkman and Reenock (2004) that punctuations do not always follow periods of stability where policy becomes misaligned with preferences. Indeed, shifting environmental factors (e.g., the economy) that are beyond government control can deflate this pressure.

This finding also supports aspects of Kingdon's (2003) garbage can model, such as policy windows, entrepreneurs, and focusing events. The window for governmental action opened when attention focused on the potential for double-digit price increases for electricity after the expiration of rate caps. Meanwhile, policy entrepreneurs from inside and outside of government worked to draw attention to the four policy options described above. Unfortunately, another major focusing event—the recession—drew governmental attention away from rate caps and slammed the policy window shut. Yet that is not the entire story. The PUC and committees of the General Assembly were still able to parallel-process the policy and produce incremental changes to address rate-cap mitigation, thus confirming the argument of Baumgartner and Jones (2009) that models of large policy change like Kingdon's (2003), as well as models of incremental change (e.g., Lindblom 1959), do not fully capture the dynamics of attention in American policymaking.

Finally, this case study of the implementation of electric-power deregulation in Pennsylvania affirms the notion that policy is often evolutionary. Indeed, a relationship exists between the final implementation stage of the process and the initial agenda-setting stage. In fact, deregulation of electricity rates in Pennsylvania is particularly well suited as a case study of this phenomenon because there was a 15-year gap between the passage of the Choice Act and the expiration of the final rate caps. Even though the early process of implementing retail electric-power choice was fairly smooth, misalignment between capped and market rates went largely undetected until rate caps expired for Pike County Light & Power and Pennsylvania Power in 2006. The attention of state government was drawn

to this potential implementation problem and deregulation found itself back on the agenda. Through the incremental policy changes made by the PUC and the General Assembly, deregulation evolved somewhat to account for this growing problem.

In a field that has most recently been celebrating macro-level theories that explain the aggregated actions and outcomes of our political system (e.g., Erikson, Mackuen, and Stimson 2002), this article shows the continued usefulness of the much maligned case study for testing and building on broader theory. Although these theories prove to be robust in explaining the norm, practical politics is not always normal. This case study reveals how policy punctuations do not always occur when expected by examining temporal variation in attention (see Gerring 2004). By using a case study to determine how deregulation policy and issue attention in Pennsylvania changed over time, this article augments broader theories of agenda setting, thereby demonstrating that case studies remain an important research method in political science.

Notes

1 For a more comprehensive explanation of the electric-power industry, see Philipson and Willis (2006).

2 PUCHA was a response to the collapse of large electric-utility holding companies during the Great Depression. Before the Depression, holding companies had absorbed many smaller electric utilities into much larger corporations. This development resulted in fiscal mismanagement and high rates for customers, as well as control by 19 holding companies of 90% of the electric-power providers in the United States. See Energy Information Administration (1993) for a more detailed history of PUCHA.

3 The law was passed on June 12, 1995, as House Bill 1509.

4 Discrepancies in totals for April 1, 2003, and October 1, 2003, are due to addition errors in OCA reports (see Office of Consumer Advocate 1999–2011).

5 Two clear outliers require additional explanation. The spike in competition on April 1, 2001, is the result of PECO's electric-power restructuring agreement. The plan required that 300,000 residential customers not already being served by a competitive supplier be randomly selected and switched to the New Power Company's Competitive Discount Service. Customers could then either opt out of the program or choose an alternative supplier without any penalty. The New Power Company left Pennsylvania in 2002 and PECO absorbed its 180,000 remaining customers. The smaller jump, reflected in the OCA report of January 1, 2004, is attributable to PECO's Market Share Threshold Program, which required PECO to "turn over" a portion of its customers to a competitive supplier as a stipulation in the settlement of the merger between PECO and Unicom (Henderson 2004, 3). This requirement provided a short-term bump in competition that returned to the normal rate of decline after customers switched back to PECO.

6 Fuel prices were not the only driver of increased production costs for electric generators. Other factors included environmental regulations, construction costs for new generation, infrastructure investment, and political uncertainty regarding proposed regulations (see Electric Power Generation Association 2008).

7 Quotation from Senator Robert J. Mellow (D–Lackawanna).

8 These are spot estimates rather than projections, meaning that had rate caps suddenly been removed in June 2008, for example, electric rates for Allegheny Power's

residential customers would have more than doubled. This does not mean that the PUC was projecting in June 2008 that Allegheny's rates would double in 2011. For this reason, the PUC's spot estimates are useful for tracking how the retail price of electricity in each territory was changing between 2008 and 2011. See Public Utility Commission 2009b; 2010).

9 See Schlosstein (1975) on how state fiscal responses differ according to the depth of a recession.

10 The Agendas Project codes 20 topics. I used "Fiscal and Economic Issues," which is issue code 1, and "Energy," which is issue code 8. See the *Pennsylvania Policy Database User Guide and Codebook* for more detail on the coding scheme and available data. http://www.temple.edu/papolicy/The%20Pennsylvania%20Policy%20Database%20_UserGuide%2008221.pdf.

11 Because the number of press clippings varies over time, the absolute number of clippings on a given topic is not useful. Therefore, like the Agendas Project recommendation, I used the proportion of the total news coverage in a given month for each topic to generate Figure 5. See <http://www.temple.edu/papolicy/DatasetDescriptions.htm#NewspaperArticles>.

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THREE STRIKES AND YOU'RE OUT? WHY THREE REPUBLICAN GOVERNORS FAILED TO PRIVATIZE PENNSYLVANIA'S STATE LIQUOR MONOPOLY

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After the repeal of Prohibition in 1933, Pennsylvania adopted one of the nation's strongest governmental monopolies for the sale of wine and spirits. Since 1980, three Republican governors—Dick Thornburgh, Tom Ridge, and Tom Corbett—have tried to privatize the state's monopoly. Despite support from more than 60% of the public, they failed. James Q. Wilson's work on client politics, where costs are widely distributed and benefits are narrowly concentrated, partly explains why the state's liquor policy is difficult to change. In addition, unionized workers in the state-owned liquor stores, the primary beneficiaries of the policy, are supported by the Democrats in the General Assembly. Moreover, the Republican governors were supported by only about half the Republican lawmakers, who were divided among themselves. So far the potential beneficiaries of privatization have been unorganized and on the sidelines. The evidence suggests that governors acting alone cannot change policy. Client politics and morality politics are likely to continue to block major reforms until or unless the issue is moved into the arena of interest group politics that Wilson describes.

Introduction

Pennsylvania is one of only two states operating a governmental monopoly of the selling of wine and spirits at both the wholesale and retail levels. This policy dates from the repeal of Prohibition in 1933 (Schell 2006, 77), but it is supported by only a third of the state's residents (George 1997; Madonna 2012). Nonetheless, three Republican governors—Dick

Thornburgh, Tom Ridge, and Tom Corbett during the first two years of his term—tried but failed to privatize the state liquor monopoly.

Privatization of the sale of alcoholic beverages periodically surfaces as an issue for several reasons. First, many people view the monopoly system as expensive and inefficient. Others consider the sale of alcoholic beverages to be a matter best left to the private sector, as is the case in most states. Furthermore, the sale of state liquor stores (“state stores”) and the auction of private licenses can provide a significant one-time infusion of revenue. On the other hand, supporters of the system argue that it provides well-paid jobs with good benefits. Religious and social groups like Mothers Against Drunk Driving (MADD) oppose the private sale of alcoholic beverages out of fear that it could cause increased consumption and related social problems. Finally, opponents believe the state would lose ongoing revenues associated with the profits generated by state stores.

Research findings are mixed and support some claims on each side of the debate. Public Financial Management (PFM) concludes that the Pennsylvania Liquor Control Board (PLCB) has high personnel costs compared with other states (Public Financial Management 2011). Economists Seim and Waldfogel (2013, 835) contend that states with private liquor retailing have lower labor costs. They find that unionized store workers averaged \$43,680 in pay and benefits in 2007 compared with \$21,000 for private employees in other states. Additionally, state stores average 7.9 employees compared with 4.6 employees in privately owned stores.

Seim and Waldfogel (2013,850) also claim that the governmental system inconveniences consumers who must drive longer distances to shop. While the state operates only 600 stores, a private system could address potential demand for at least 1,500 stores. Nonetheless, some areas of the state benefit from the monopoly. Rural areas have better coverage than might occur under a free-market approach because 198 of 203 legislative districts have one or more state stores.

Seim and Waldfogel (2013) uncover no systematic evidence that prices for wine and spirits are higher in Pennsylvania than in neighboring states, yet many consumers believe otherwise. PFM estimates that 10%–30% of total sales for alcoholic beverages are lost to neighboring states through what is termed “border bleed” (Public Financial Management 2011, 9). The system also appears to result in approximately 15% lower alcohol consumption than in neighboring states (Seim and Waldfogel 2013, 852). Yet when PFM compared Pennsylvania with surrounding states, it found no clear relationship between whether a state uses either a public or a private system for selling alcoholic beverages and either its alcohol-related motor vehicle fatalities or its rate of underage drinking (Public Financial Management 2011, 11).

On balance, the evidence suggests that unionized employees are major beneficiaries of current policy and that the public is inconvenienced. Pennsylvanians travel longer distances to purchase alcoholic beverages, and a significant volume of business “bleeds” into surrounding states. Conversely, reduced consumption is viewed by others as a social benefit. Finally, state stores are less efficient and less profitable than private stores, but the PLCB does transfer approximately \$90 million to the state’s General Fund annually.

To understand why three governors failed to change the state’s policy for the sale of alcoholic beverages, I examine the creation of the state monopoly and then consider models of policy making that may explain why policy proves to be so resistant to change. I then review the three governors’ efforts to reform public policy and identify some obstacles to changing long-established policy.

Creating the Governmental Monopoly

Prohibition was an effort by Protestant, middle class, and rural Americans to reassert their values over a growing Catholic, immigrant, and urban population (Gusfeld 1963). The repeal of Prohibition came swiftly in 1933 when the Democratic landslide of 1932 was interpreted as a referendum on the issue. The Twenty-first Amendment repealing Prohibition granted states power to control the sale of alcoholic beverages. States could remain “dry” and eight southern and plains states chose to do so. Many states, including Pennsylvania, also gave their local governments the option to remain “dry.” For states allowing the sale of alcoholic beverages, the major options were a licensing system or a monopoly system with government stores selling directly to the public. The monopoly option was promoted to address problems thought to be associated with private enterprise, including favoritism in licensing, political corruption, and overconsumption. Initially, 15 states adopted the monopoly model and 25 established a licensing system (Meier 1994, 161).

In Pennsylvania, Republican governor Gifford Pinchot, a Progressive and a “dry,” pushed to establish the nation’s first governmental monopoly for the sale of wine and spirits. According to one observer at the time, Pinchot “is an out-and-out dry. He is just as dry in a wet city when he is campaigning as he is in a dry country district. There is not a drop of moisture in any of his speeches” (Beers 1980, 74). Establishing the monopoly was a remarkable accomplishment given that the state had voted to repeal Prohibition by better than a 3:1 margin. Lawmakers from rural areas overrepresented in the General Assembly gave Pinchot the necessary support, making Pennsylvania the largest and “wettest” state to adopt a liquor monopoly (Schell 2006).

Public Policy Making

To understand why the state liquor monopoly has proved so resistant to change, I consider several models of the policy-making process. Agenda building is central to making policy. Downs (2005) depicts an “issue-attention cycle” where triggering events spark public interest in an issue, thereby creating conditions for non-incremental policy making. Nonetheless, opportunities for policy change become limited as public interest declines and the issue is displaced by other issues. Cobb and Elder (2005) focus on triggering events but note that authoritative decision makers can place items on the agenda. Using a more sophisticated model that incorporates both external events and the actions of policy makers, Kingdon (2003) argues that policies change when three streams—problems, solutions, and politics—come together at critical times. As he notes, “A problem is recognized, a solution is available, the political climate makes the time right for change, and the constraints do not prohibit action” (Kingdon 2003, 88). “Policy windows open infrequently,” he adds, “and they do not stay open long” (Kingdon 2003, 166).

For James Q. Wilson (2012, 344–49), the policy-making process is shaped by the structure of an issue. He considers public policies in terms of a four-cell typology that reflects whether the perceived costs and benefits are widely or narrowly distributed. This typology also explains why some policies are harder to change than others. For example, the state monopoly on the sale of wine and spirits features aspects of what Wilson (2012, 344) calls “client” politics or “policy under which some small group receives the benefits and the public at large endures the costs.” Wilson (2012, 346) suggests that client policies are difficult to change because the costs are small and “payers have very little incentive to organize.”

Patashnik (2008, 16) builds on Wilson’s typology by asking what happens after enactment of “general interest reforms.” To enact reforms, policy advocates must overcome entrenched opposition by placing reforms on the agenda, neutralizing opponents, mobilizing supporters, and building winning coalitions. Patashnik (2008, 20) contends that adoption of general interest reforms also requires advocates to link reforms to salient issues. Often it is necessary as well to employ strategies that shift the venue for policy making to new arenas where self-interested economic groups lose their customary advantages. Finally, tactics such as compensation, side-payments, and transition measures are needed to neutralize the opposition of beneficiaries or clients of the policy. To make reforms last, says Patashnik (2008, 19), it is essential to accomplish a “recasting of interests, institutions, and ideas.” He notes too that “reforms may persist for reasons other than those which prompted the reforms’ original adoption” (Patashnik 2008, 161). When specific groups receive economic benefits from a policy, client

groups can grow up around a particular policy and shield it from change.

Aside from generic models of policy making, studies of policies regulating the sale of alcoholic beverages reveal a persistent role for “morality” politics. Since the 1930s, fundamentalist Protestant groups have helped shape policy regarding the selling of wine and spirits. Schell (2006) attributes the Pennsylvania monopoly system to the “politics of provincialism.” Meier and Johnson (1990) find that “dry” religious groups opposing alcohol consumption have a significant impact on the regulation of alcoholic beverage sales in many states. Frenndries and Tatalovich (2010, 315) identify a “strong linkage between Evangelical Protestant population and the decisions of U. S. counties to elect to be ‘dry’ counties, demonstrating the persistence of religion as a vital factor in some public policy debates, especially those falling into the realm of morality politics.” Similarly, Pennsylvania allows municipalities to remain “dry” and to ban the sale of malt beverages and distilled liquor. The dry municipalities are heavily concentrated in the state’s rural central and northern regions. According to Zelinsky (1995, 148–49), the “pattern of partial and complete prohibition seems to be related, to a significant degree, to ethnic and religious factors and to even more fundamental social attitudes, which do vary considerably among various Pennsylvania localities.”

Significant regional differences within Pennsylvania are reflected in partisan identification, political ideology, and views about moral issues. Pennsylvania is a highly diverse state with two major urban centers and a vast rural area—the Republican-dominated “T”—in its central and northern regions (Kennedy 1999, 8–11). Lamis (2009, 230) uses five regions of the state to analyze public opinion. Republican identification and conservatism is strongest in the central and northern tier (see Table 1 below). Regional differences also exist on political and cultural issues. In a 2004 survey, 25% of central and northern tier respondents identified moral issues as their top concern. This region also is the one most likely to have “dry” municipalities. Furthermore, an August 2012 poll found support for “selling the state-owned liquor stores to private companies as a way for the state of Pennsylvania to balance its budget” to be weakest in the northern and central regions of the state (Madonna 2012).

Table 1
Party and Political Philosophy in Pennsylvania, by Region.

Region	Party Identification: Republican	Political Philosophy: Liberal	Top 2004 Issue: Moral Values
Philadelphia	14%	35%	7%
Philadelphia Suburbs	45%	23%	11%
Northeast	37%	27%	15%
Pittsburgh & West	34%	20%	19%
Central & Northern Tier	54%	16%	25%

Source: Lamis (2009, 232–33, 237)

Policies involving the sale of alcoholic beverages thus involve aspects of morality politics as an overlay to what might otherwise be a straightforward contest over the role of government and private enterprise or a struggle among competing private interests. Schell (2006, 313) argues that religious and social conservatism not only explain the formation of the state monopoly but also are among the factors—along with union power and concern over the state’s revenues—that insulate the policy from change.

Efforts to Reform Public Policy in Pennsylvania

Governor Richard Thornburgh

Several Pennsylvania governors have entertained notions of abolishing the state-store system. In 1934, Democrat George Earle complained that prices in state stores were too high. In 1968, Republican Raymond Shafer’s Liquor Code Advisory Committee reviewed problems with the state liquor system. The committee considered privatization but ultimately backed retention of the monopoly (Schell 2006, 302–4). In the 1970s, Governor Milton Shapp unsuccessfully proposed privatization of the state-store system (Beers 1980, 369). Republican Richard “Dick” Thornburgh’s 1978 platform included privatization of state liquor stores, but his campaign focused instead on “corruption and mismanagement in state government” and the need to “clean up Harrisburg” (Thornburgh 2003, 74).

Thornburgh initially addressed improving PLCB management by trying to secure confirmation of his nominees as commissioners, a move that required a two-thirds vote in the state senate. According to Thornburgh’s former Chief of Staff, Richard Stafford, when Democrats blocked the governor’s efforts

to name a majority of the PLCB commissioners, Thornburgh “turned into a champion of privatization” (Stafford, personal communication). A Democrat also observed that if Thornburgh could not gain political control of the board, “he would join forces with those advocating abolition of the liquor control system in Pennsylvania” (Carocci 2005, 191).

Two years into his term, Thornburgh proposed dismantling the retail store system. He acknowledged: “I had stated its transformation to a private, consumer-oriented system as a goal in our 1978 campaign, but our efforts were largely rhetorical until, early in my second term, I then presented a detailed plan to accomplish that goal” (Thornburgh 2003, 167). According to Stafford, the governor’s staff viewed the issue as a “hard sell”; for the governor, privatization was a matter of reform. “Established following the repeal of Prohibition,” he wrote, “the much-derided state store system had become a monument to inefficiency, inhospitality and occasional corruption” (Thornburgh 2003, 167). In 1983, a report by Touche Ross & Co. (1983) to the state auditor general identified needed improvements in PLCB operations and predicted falling operating profits resulting from inefficient pricing, merchandising, inventory, and distribution practices. According to Thornburgh (2003, 167), “poor service was driving many customers out of state for their purchases, causing a loss of revenue, while expenses continued to rise. I hoped declining profits, if nothing else, would sound the death knell for this dinosaur.”

Recognizing that the issue was a “hard sell,” Thornburgh’s advisors developed a “back-up plan” (Stafford, personal communication). While working on legislation for the sunset review of state agencies, which required the periodic reauthorization or termination of agencies, gubernatorial aides saw to it that the PLCB was scheduled for sunset review. Stafford noted that this effort would have given Thornburgh “an opportunity to block reauthorization in one legislative chamber or to sustain a veto of reauthorizing legislation” (Stafford, personal communication).

From 1981 to 1986, Thornburgh had no success pushing privatization. The state’s House of Representatives refused to vote on his plan. The Republican-controlled state senate also took no action. S.B. 597, introduced in 1981 by Republican Senator Stewart Greenleaf, provided for a private-license system, but it remained bottled-up in committee. At Thornburgh’s request, Greenleaf sponsored S.B. 92 for a statewide referendum in 1983. Greenleaf also introduced S.B. 407 to abolish the PLCB. Both measures failed to reach the floor, as did S.B. 87, a bill introduced in 1984 by Senator Richard Tilghman to abolish the PLCB, and S.B. 1157, which had 17 co-sponsors.

Thornburgh (2003, 167) concluded that his plan “was stymied by a strong, if somewhat odd, coalition of organized labor, especially the powerful state-store employees’ union; Bible Belt ‘drys,’ opposed to liquor in general and fearful of more convenience to consumers; and organizations like MADD.”

Democrats were solidly arrayed against Thornburgh's plan. Vincent Carocci (2005, 213), an aide to the next governor, noted that "it was largely a jobs issue for them; the LCB's three-thousand-plus employees enjoyed some sort of job protection either through unionized collective bargaining or by civil service status." He continued, "A considerable number of Republicans also were opposed, though for entirely different reasons, having largely to do with unfettered access to the purchase and consumption of booze."

As his tenure neared its end, Thornburgh grew more passionate about the issue. During a goodwill mission to the Democratic Republic of the Congo, Thornburgh bought a bottle of wine at a privately owned store. "That was the last nail in the coffin, the straw that broke the Camel's back," he said. "That Marxist-Leninist state has privatized liquor sales," he exclaimed, "but Pennsylvania, this bastion of free enterprise, has a state-run socialist monopoly" (Gruson 1986). In 1986, the back-up plan took center stage and for a time it looked as though it might work. The PLCB was to be terminated unless reauthorized by the General Assembly. This maneuver transferred the advantage to Thornburgh, who needed only one chamber's support to block reauthorization. After the House voted 158-40 to extend the PLCB for ten years, Republican leaders in the state senate kept the reauthorization off the agenda. In a 27-22 party-line vote held after midnight on the last legislative day of 1986, Democrats failed to get the extension issue onto the agenda.

In December 1986, Thornburgh issued an executive order to terminate the PLCB, to auction off 705 state stores, and to create the Alcoholic Beverage Control Coordinating Council to phase-out the agency by July 1, 1987. The governor also transferred the PLCB's licensing role to the Revenue Department, and he moved enforcement to the state police. Thornburgh (2003, 168) recalled, "With undisguised glee, I affixed huge symbolic 'For Sale' signs to retail outlets. Predictability, our opponents sought redress in the courts." Thornburgh's directive was challenged by a variety of parties. The Commonwealth Court overturned the executive order, but it also ruled that without legislative action by June 30, 1987, the PLCB would expire (Munshi 1997).

Nonetheless, Thornburgh's leverage was limited because his privatization-supporting lieutenant governor, William Scranton III, lost the 1986 race for governor to Democrat Bob Casey. Thornburgh's efforts to dismantle the state's liquor monopoly played out during the new governor's first months in office. Casey had pledged to continue liquor control, conditioned upon passage of reforms to make the agency more responsive to consumers. A Casey legislative aide, Vincent Carocci, worked to gain passage of reforms and reauthorization. H.B. 1000 contained reforms

sought by Casey: placing enforcement powers with the state police, creating administrative law judges, and permitting consumer-oriented reforms such as discounts, variable hours, and credit card payment for purchases. An amendment submitted in the state House of Representatives to privatize wholesale and retail sale of wine failed by a vote of 163–34, but H.B. 1000 passed the House on April 29, 1987, by almost the same margin with support from all Democrats and a majority of Republicans.

On June 17, 1987, the state senate defeated by a vote of 39–10 Senator Greenleaf’s amendment to allow the sale of liquor and wine in private retail stores. Only one Democrat supported the amendment, as did barely a third of the chamber’s 26 Republicans (See Table 2 below). A majority of Republicans from the Philadelphia and Pittsburgh suburbs backed Greenleaf’s amendment, but only a single Republican among the 13 from the rural “Republican T” did so. On June 29, 1987, H.B. 1000 passed the state senate on an identical 39–10 vote.

Table 2
Vote on Greenleaf Amendment to H.B. 1000 Allowing Privatization, by Party and Region (June 17, 1987).

Region	Senate Democrats		Senate Republicans	
	Yes	No	Yes	No
Philadelphia	0	6	0	1
Philadelphia Suburbs	0	2	6	1
Northeast	0	5	0	2
Pittsburgh & West	1	6	2	2
Central & Northern Tier	0	2	1	12
Total	1	21	9	18

On the same day, the state House of Representatives approved H.B. 1000 as amended 155–45. Democrats supported the bill 99–2, and Republicans supported it 56–43. Only Republicans from suburban Philadelphia opposed PLCB reauthorization. In the central and northern regions, just 16 of 43 Republican lawmakers voted against reauthorization (See Table 3 below). These votes illustrate why Governor Thornburgh failed. Republicans were divided on the issue, with majority support coming only from those members representing Pittsburgh and suburban Philadelphia.

Table 3
Final Legislative Vote on H.B. 1000 Reestablishing the Liquor Control Board,
by Party and Region (June 17, 1987).

Region	House Democrats		House Republicans	
	Yes	No	Yes	No
Philadelphia	21	0	5	0
Philadelphia Suburbs	4	0	10	20
Northeast	17	1	9	2
Pittsburgh & West	42	1	5	5
Central & Northern Tier	15	0	27	16
Total	99	2	56	43

The 1992 Vote

During Governor Casey's tenure, privatization got to a floor vote in the state House of Representatives one more time. In February 1992 a Republican amendment to a liquor-licensing bill proposed selling the 681 state stores to the highest bidder subject to several restrictions designed to mollify opponents concerned about any expansion of liquor sales. No licensee could hold more than 10% of the statewide licenses or more than 20% of the licenses in an individual county. The number of stores would not increase. Licenses also could not be transferred between counties. Proponents claimed the auction of stores and inventory would yield over \$600 million to fund school district property-tax relief. The amendment failed 47–149 (see Table 4 below); only a pair of the chamber's 111 Democrats supported it. Republicans narrowly favored the amendment 45–40. Again Republicans representing suburban Philadelphia backed privatization 18–9. Elsewhere fewer than half the Republicans supported privatization.

Region	House Democrats		House Republicans	
	Yes	No	Yes	No
Philadelphia	0	24	1	3
Philadelphia Suburbs	1	3	18	9
Northeast	0	17	4	8
Pittsburgh & West	1	42	6	4
Central & Northern Tier	0	23	16	16
Total	2	109	45	40

Governor Tom Ridge

In his 1994 campaign, Republican governor Tom Ridge, a former member of Congress from Erie, supported privatizing the liquor monopoly, claiming the state did not need to provide the service. Like Thornburgh, however, Ridge waited two years before presenting a plan. According to John Jones, Ridge’s point man on the issue as PLCB chair and now a federal district judge, Ridge got to the issue “ahead of schedule in 1996 when he was grappling with how to provide state funding for new sports stadiums in Philadelphia and Pittsburgh” (Jones, personal communication). After hiring Price Waterhouse to study the issue, Ridge’s team developed a privatization proposal. According to Jones, Ridge was “all in” on the issue: “The numbers made sense, and it was not a core function of state government” (Jones, personal communication).

In early 1997, Ridge proposed to sell the state stores and use the estimated \$650 million in proceeds to fund the construction of stadiums and other projects. Neither Ridge nor Jones appreciated “how tough it would be” (Jones, personal communication). Once more unions, especially the United Food and Commercial Workers and its labor allies, religious groups such as the Pennsylvania Council of Churches, and MADD dominated the debate. Other unions, such as the United Electrical, Radio and Machine Workers of America, joined the fight to support PLCB employees (Schell 2006, 307–8). As Thornburgh had done, Ridge proposed to privatize only the retail stores. After being criticized for his intended use of auction proceeds, Ridge broadened his proposal to include funding for education,

health, infrastructure, alcohol-law enforcement and awareness programs, scholarships, and tax credits for employers hiring state-store employees (George 1997, 65).

A poll conducted by Mansfield University found 60% of voters in favor of selling state stores (George 1997, 52). Notwithstanding its support among the public, the proposal remained in the state senate's Law and Justice Committee during the 1997–98 legislative session. Ridge could not muster support for his proposal before the summer recess. Democratic legislators then held hearings around the state highlighting opposition from state-store employees, religious organizations, and groups such as MADD. After receiving multiple death threats, Jones was given a security detail. He later recalled the long hearings on the subject: "It was brutal. I had the stuffing kicked out of me. It was blood sport" (Couloumbis 2010). In short, he said, "I felt like George Custer at the Battle of the Little Bighorn" (Jones, personal communication).

While Ridge's proposal sparked pitched opposition from employee unions and their allies among Democrats, Republican lawmakers looked for ways to duck the issue, as PLCB employees fanned out to tell lawmakers about the jobs to be lost in their districts. PLCB's Chairman Jones fielded calls throughout the summer of 1997 from Republicans who "didn't want to have to vote on Ridge's plan" (Jones, personal communication). "The jobs issue was the key one," recalled Jones. "Nobody wanted to vote to put thousands of people out of work. As a result, lawmakers never got to making decisions based on the numbers" (Jones, personal communication). One legislator noted, "Governor Ridge did everything in his power" to privatize state stores but got little support from committee members (Couloumbis 2010). "This is a very conservative state," he said, "They didn't even want to hear about it" (Couloumbis 2010).

Ridge's plan also lacked support from business. As Jones remarked, "The proponents were few and the objectors were many" (Twedt 2008). Noting strong opposition from state-store employees and those favoring the tightest controls, Jones reflected: "What that taught me from a political standpoint is that there is no overarching passion within the General Assembly, or in the public at large, for privatization. Unless and until there is a general hue and cry, it is very unlikely there will be a privatization initiative that succeeds" (Twedt 2008). The leader of the state-store employees union, Wendell Young IV, agreed. "There isn't this critical mass screaming for change," he observed (Couloumbis 2010). As Jones concluded, "Major initiatives do better when there are private entities pushing them. You need not just a governor, you also need lobbyists" (Jones, personal communication). That fall, Ridge abandoned the proposal when legislative leaders told him "this dog isn't going to hunt" (Jones, personal communication); and it did not resurface after his 1998 reelection.

Governor Tom Corbett

The issue of what to do with the state's monopoly over the sale of alcoholic beverages receded until the 2010 gubernatorial election. In 2002, Democrat Ed Rendell defeated Attorney General Mike Fisher, who had championed Thornburgh's liquor-control proposals as a state senator. Under Rendell, as under Casey, steps were taken to make the PLCB more businesslike and consumer friendly. A few discount state stores were established in several locations near state borders, selected stores were allowed to open on Sundays, and some stores were set up within grocery stores.

In 2010, Attorney General Tom Corbett supported privatization during his successful campaign for governor. Corbett entered office as a more ideologically committed Republican than either Thornburgh or Ridge. His support for liquor privatization fit into a broader framework of promoting free-market privatization solutions. He also proposed privatizing the state lottery and appointed a high-level task force to identify other privatization options. When Republicans also won control of the General Assembly, many observers expected privatization to become a top priority. The Republicans' edge over Democrats in the state senate widened to 30–20, and they won a 111–90 majority in the state house. Public opinion seemed favorable, as 60% of Pennsylvanians supported the sale of state stores. Many newspaper articles predicted action on the measure.

During his first term, however, Corbett wrestled with the impact of the Great Recession, a state budget that faced a potential \$4 billion deficit, and his own no-tax pledge. With the governor preoccupied with the budget, House Majority Leader Mike Turzai took the lead on the liquor issue and introduced H.B. 11. The governor's major contribution was in the form of agenda setting and commissioning PFM to study privatizing the wholesale and retail operations of the PLCB.

Supporters of the state monopoly also prepared for battle. Of the \$216,550 contributed by the United Food and Commercial Workers to state candidates in the 2010 elections, a lone Republican received just \$1,000; all the rest went to Democrats. The PLCB also proposed its own legislative package to undercut charges of being unresponsive to consumers. It sought permission to ship wine directly to residents, to remove restrictions on Sunday sales, to extend Sunday hours, to allow state stores to be retailers for the Pennsylvania Lottery, and to expand market-based pricing. During the spring of 2011, the House Democrats' Policy Committee held hearings attacking Turzai's proposal.

Nothing happened until after PFM issued its report in October 2011. PFM documented a negative 10-year trend where PLCB revenues increased at a 3.5% compounded annual growth rate, while expenses climbed at 5.5% annually (Public Financial Management 2011, 6). PFM found that most

PLCB stores are unprofitable and operating costs, personnel costs, and full-time staff levels are high when compared with other control states. PFM also determined that Pennsylvania's relatively low levels of consumption of wine and spirits partly resulted from high mark-ups and a tax structure that encouraged "cross-border" purchasing. In a finding seized upon by opponents, PFM also argued that tax adjustments were necessary to achieve fiscal neutrality so that Commonwealth revenues would continue to match current tax revenues and PLCB profits. PFM concluded that the number of retail licensees could be increased to approximately 1,500 (Public Financial Management 2011, 9). It also estimated the range of cost for retail and wholesale licenses to be between \$1.1 billion and \$1.6 billion.

Two months later, the House Liquor Committee gutted Turzai's H.B. 11. On a 15–10 party-line vote, the Republican majority torpedoed their majority leader's proposal for full privatization by replacing it with an amendment allowing private beer distributors to sell wine. The amendment also retained the state stores. Committee Democrats opposed this provision as a partial privatization measure that would undermine the PLCB's revenue stream. Moreover, even many beer distributors opposed it for fear that only the largest distributors could afford the enhanced license.

In June 2012, floor debate over privatization took place for the first time since 1992. Turzai offered a proposal to replace the more than 600 state stores with 1,600 private outlets while also giving approximately 1,000 beer distributors a chance to buy retail wine and liquor licenses. After three hours, debate was suspended at 10:00 p.m. on June 11 with over 300 amendments still pending. Republican leaders had failed to corral the necessary votes. Opposition came from the state-store workers and the state AFL-CIO. Despite Turzai's efforts to find allies by giving beer distributors a chance to buy retail licenses, the Pennsylvania Malt Beverage Distribution Association opposed the measure. It complained that allowing "big box" stores to obtain multiple licenses would damage the competitive position of the "Mom and Pop" distributors holding single licenses.

Despite supportive statements from the governor, some Republicans complained that his office was not sufficiently involved in securing votes for Turzai's measure. The very groups—beer distributors, big box stores, convenience stores, and grocery chains—that might benefit from privatization also feared the potential harm they would suffer if their competitors dominated the bidding for licenses. These rivalries complicated the process of building a coalition in support of privatization. Republican John Taylor, chair of the House Liquor Committee, compared putting together the votes for privatization to solving a Rubik's cube: "As soon as you twist one color, another color gets out of joint" (Krebs 2012).

When the General Assembly adjourned its two-year session in 2012, Turzai expressed optimism about the future chances for privatization but said

that next time the proposal needed to come from the governor (Couloumbis 2012). Nonetheless, the prospects for change were not promising. The Republican-controlled state senate was not enthusiastic about the issue, and the 2012 election reduced the Republicans' edge over Democrats to 27–23. Additionally, Governor Corbett also confessed weakness by noting in November the difficulty of getting Republican support for his agenda. “Getting them all on the same page, and working in the same direction, is probably the most difficult job I’ve ever had to do,” he lamented (Levy 2012).

In 2013, Governor Corbett was ready to push the issue in preparation for the 2014 election. Representative Turzai introduced H.B. 790, the governor’s proposal to auction off the state stores and use the expected \$1 billion in proceeds to fund education. It did not take long for Republicans on the House Liquor Committee to water down the proposal. They amended the bill to give beer distributors the first opportunity to purchase the new wine-and-spirits licenses, and they protected the distributors from competition by insisting that grocery stores applying for a license to sell beer could do so only in a restaurant-style seating area within their stores. Additionally, state stores would not be sold immediately; they would be phased out over time and possibly remain open permanently in the most rural areas of the state. Word went out that Corbett badly needed a legislative win. On March 21, 2013, following heavy lobbying by the governor’s office, Republicans gave Corbett a victory. The state house passed the weakened measure 105–90, with all Democrats and only five Republican lawmakers in opposition.

When the bill moved to the state senate, things slowed down. Unlike the larger chamber’s leadership, no senate leader championed privatization; several of them spoke instead of a desire to “modernize” the PLCB. The Law and Justice Committee waited more than a month before holding hearings, which were dominated by opponents concerned with increased liquor consumption and firms convinced that the bill placed them at a competitive disadvantage. Opposition from the employee unions and beer distributors, worried that privatization might increase competition from supermarkets and convenience stores, made it likely that any legislative action would result in modest reforms compared with those advocated by governors Thornburgh, Ridge, and Corbett.

Conclusion

Three times in thirty years Pennsylvania governors failed to dismantle the state’s liquor monopoly and replace it with a free-market system. All three governors encountered unified opposition from Democrats, and they were stymied by a divided Republican party. The opposing coalition skillfully mobilized its members—the United Food and Commercial Workers Union,

the AFL-CIO, Mothers Against Drunk Driving, the Pennsylvania Council of Churches, and beer distributors. Representative Dante Santoni, formerly the ranking minority member of the House Liquor Committee, described the coalition as “strange bedfellows” not accustomed to working together. “While many members feared the loss of union jobs,” he noted, “other more conservative lawmakers worried about the negative impact of increased consumption” (Santoni, personal communication). The formidable alliance of unions and social and religious groups encountered little opposition.

From the perspective of Kingdon’s model, it appears that favorable conditions did not exist in the problem, solution, and political streams. The governors unsuccessfully tried to mobilize support by linking privatization to other issues. Thornburgh tried “reform” and “inefficiency.” Ridge tried connecting it to financing for sports stadiums. Corbett linked it to relief for the state’s fiscal problems. None of these issues caught fire. Despite the success of Thornburgh and Ridge on a wide range of issues, they failed on this one. Corbett is pushing harder on his second try, but it seems likely that in some form the PLCB will continue to play a role in the sale of wine and spirits.

One problem with Kingdon’s model is that it does not explain why the timing may never be right on some issues. For example, all three governors encountered opposition within their party from the same areas of the state that supported Prohibition eighty years earlier. Sorauf (1963) and Kennedy (1999) may offer an explanation. They examined the classic issue of “delegate” versus “trustee” by asking Pennsylvania lawmakers whether their voting is guided more by their constituency’s views, by their own judgment, or by a combination of the two. Both scholars found Republican lawmakers to be more likely than Democrats to cite constituency as their decision-making guide. Writes Kennedy (1999, 77): “In the tightly knit rural and small-town communities, perhaps a closer, more personal relationship develops between legislator and constituents. These areas tend to be represented by Republicans.” Rural Republican legislators and those from metropolitan districts may simply be reflecting different constituencies, and constituency may trump party on this issue.

Wilson’s typology of public policies provides a partial explanation of the outcomes. His model focuses exclusively on the distribution of economic costs and benefits without accounting for the intensity or persistence of public opinion based on noneconomic considerations. Nonetheless, Wilson’s description of client politics as resistant to change is convincing: “Client politics seems like an irresistible force, but sometimes it gets changed” (Wilson 2012, 146). Client politics rarely changes unless the public decides the beneficiaries are illegitimate or the costs of the policy become too high. So far the debate has taken place in the arena of client politics. The beneficiaries of the current policy—the state store workers, beer distributors, and their allies—are well organized. The groups that

might benefit from privatization have largely been on the sidelines. As Jones noted, “Governors alone can’t do the job” (Jones, personal communication). It is unlikely that policy will change unless the issue is transformed from “client” politics to “interest group” politics with the potential winners from privatization actively contesting the issue.

Patashnik (2008) argues that reformers often need to change the venue or the rules for making decisions so that the economic beneficiaries of current policy no longer have the advantage. Thornburgh recognized this idea by proposing a referendum and by maneuvering so that the sunset legislation might allow him to prevail. Patashnik (2008) also suggests that side payments may promote reform by providing benefits to others to buy their support. While Governor Thornburgh did not undertake this strategy, Ridge’s and Corbett’s proposals for using the proceeds from the sale of the state stores did not enlist any allies. Finally, none of the governors expanded the pro-reform coalition beyond a few general-purpose business organizations.

It is not likely that different tactics would have overcome the combined force of “morality” politics and “client” politics. Recent experience in other states shows the difficulty of the legislative route to policy change. Governor Bob McDonnell of Virginia twice failed in recent years to win lawmakers’ approval for privatization. By contrast, 60% of voters in Washington approved a ballot measure, backed by Costco and other “big box” retailers, to privatize the wholesale distribution of liquor and wine as well as the retail sale of liquor.

If Corbett’s second attempt at reform fails, it is unlikely to become a top priority for some time. Furthermore, incremental reforms will only reduce the pressure for major changes. Wilson suggests that client politics rarely change unless the beneficiary becomes illegitimate or the costs of the policy become too high. Absent a major scandal or a long-term deterioration in the profitability of the state-store system, the prospects for change appear limited as long as morality and client politics dominate the debate. Unless the potential beneficiaries of privatization coalesce, or unless legislators link privatization to an issue popular with rural Republicans, governors acting alone face long odds.

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COLLECTIVE BARGAINING AND MUNICIPAL DISTRESS: STATE PROBLEM, STATE SOLUTION

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The limited authority that municipalities have over the costs of police and fire personnel is a primary cause of fiscal distress in local governments in Pennsylvania. This article argues that the state legislature must amend Act 111 to give local governments and uniformed-employee unions equal standing under the law. The currently inequitable standing between a police or firefighters' union and a local government during negotiation and arbitration is the flaw in Act 111. The root of this flaw lies in the historical relationship between the state legislature and local governments and the parallel history that led to the passage of Act 111 in 1968. The defect in Act 111 is a prime cause of the substantial growth in the cost of local governments' municipal police pensions. The state legislature recognized the legal deficiency of Act 111 by enacting the Municipalities Financial Recovery Act, known as Act 47, which is the state program for municipal bankruptcy. To curtail the pending municipal fiscal crisis, the state legislature must amend Act 111. The amendments proposed in this article would correct the defect in Act 111 by granting equal standing under the law to local governments and police and firefighters' unions.

Introduction

A primary cause of fiscal distress in local governments in Pennsylvania is the limited authority that municipalities have over the costs of police and fire personnel. The collective bargaining law for police and firefighters, known as Act 111, grants employee unions authority to negotiate for almost every term and condition of employment; but the law does not provide local

governments with any explicit managerial rights. If the parties cannot reach a negotiated agreement, the law empowers an arbitral chair to set the terms and conditions for employment without a mandatory consideration of a municipality's financial position.

This article argues that Act 111 must be amended to curtail the municipal financial crisis in Pennsylvania. It begins with an overview of the relationship between the state legislature and local governments and the parallel history that led to the passage of Act 111 in 1968. After analyzing the unequal standing between public-employee unions and local governments under the law, the article argues that Act 111 is a primary cause of the expansive growth of municipal police-pension liabilities when the law is combined with the Municipal Police Pension Law (Pennsylvania General Assembly 1955). The state legislature recognized the flaw in Act 111 when it passed the Municipalities Financial Recovery Act, known as Act 47.

The article ends with a set of proposed amendments to correct Act 111 by granting local governments and police and firefighters' unions equal standing under the law during negotiation and arbitration. The proposed amendments are: (1) require an arbitration panel to assess a municipality's financial position before and during the term of a collective bargaining agreement; (2) require that an arbitral award be confined to the limits of a municipality's multiyear financial plan, if available; and (3) require the arbitral chair to write an opinion that specifically articulates how a municipality will pay for all the provisions in an award. These amendments would equalize the standing of the parties under the law during negotiation and arbitration, thereby ensuring fair compensation to police and firefighters at a reasonable cost to local governments and, ultimately, taxpayers.

State Supremacy and Limited Local Governance

Pennsylvania's political culture is rooted in a strong belief in the philosophy that government closest to the people is best. This belief is reflected in the existence of over 2,500 local governments across the state. Nonetheless, the state legislature has a long tradition of limiting—either directly or indirectly—the powers of political subdivisions. Act 111 and its functional predecessor, the Act of June 30, 1947, are byproducts of the evolving relationship between the state legislature and municipalities. This relationship explains why Act 111 vests an arbitrator with power over municipal fiscal affairs. This section summarizes how that relationship developed and how it functions today.

In 1874, local governments in Pennsylvania were shielded under Article 3 § 20 of the Pennsylvania Constitution from any act of the legislature empowering a third party with authority over municipal affairs. This protection, adopted during the Constitutional Convention of 1873, mandated

that “the General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever” (Pennsylvania Constitution 1873, art. 3 § 20). In addition, the constitution set a limit on the amount of debt that a municipality may incur: “No debt shall be contracted or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefore by the municipal government” (Pennsylvania Constitution 1873, art. 15, § 2). This clause prevented local governments from entering into contracts until appropriations to pay for them were secured, and it prohibited any increase of a municipality’s debt until the local government identified the means to pay for the obligation. Articles 3 and 15 of the Pennsylvania Constitution seemed to provide an adequate structure for municipal financial regulation, while shielding local governments from legislative acts intruding into local fiscal affairs. Unfortunately, Pennsylvania’s supreme court did not adopt this interpretation.

In 1870, the state legislature established the Pennsylvania Commission for the Erection of Public Buildings. Four years later, the Pennsylvania Supreme Court granted a writ of mandamus ordering the City of Philadelphia to fund the development of a building requested by the Commission. The city refused to do so. In 1878, the Commission sought a writ of mandamus to compel the General Council of Philadelphia to requisition the necessary funds to construct the building. The writ sought funding for the building from either Philadelphia’s general fund or a special tax that the city would be ordered to levy. Despite the perceived constitutional protections for local government from such actions under Article 3§ 20 of the state constitution, the state supreme court overturned the trial court’s decision and granted the writ. The supreme court reviewed the legislative history of Article 3 § 20 and held that “section 20, article 3, voids no law relative to any commission created prior to 1874” (*Perkins v. Slack* 1878, 279). The court reasoned that the legislature would have inserted specific language to nullify all such commissions that existed before enactment of the constitutional amendment had it intended to strip those commissions of their powers. The court ordered Philadelphia to provide the necessary funds to finance a building for the benefit of the legislature’s commission (*Perkins v. Slack* 1878, 279). The Commission for the Erection of Public Buildings is an early example of the willingness of the legislature and the Pennsylvania Supreme Court to grant power to third parties over municipal fiscal affairs.

As local governments grew bigger and wealthier, they began to challenge the authority of the state government over their fiscal affairs. At the turn of the nineteenth century, the U.S. Supreme Court affirmed the state legislature’s authority over local governments. The Pennsylvania Supreme

Court held in *In re Pittsburgh* (1907, 238) that “municipal corporations are agents of the state, invested with certain subordinate governmental functions for reasons of convenience and public policy. They are created, governed, and the extent of their powers determined by the legislature and subject to change, repeal, or total abolition at its will.” In this case a resident taxpayer challenged a statute enabling the City of Pittsburgh to consolidate with the City of Allegheny to form the current City of Pittsburgh. On appeal, the U.S. Supreme Court affirmed the state supreme court decision by holding that municipalities have no rights under federal law because they are creatures of the state legislature. The U.S. Supreme Court ruled that “municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. . . . The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State” (*Hunter v. Pittsburgh* 1907, 178). These federal and state court decisions clearly held that local governments had no immunity from the state legislature, and that the legislature may do as it pleases with local governments within the constraints of the state constitution (as interpreted by the courts).

The Pennsylvania Supreme Court has reviewed the authority of local government in light of two questions: does a local government have authority to take action, and if so, is there a limitation on that authority (Martinez and Libonati 2000, 70)? Municipalities draw their authority from statutes, and the breadth of that authority is decided under the Dillon Rule of statutory interpretation (Martinez and Libonati 2000). Under the Dillon Rule, Pennsylvania’s statutes are interpreted against the authority of the municipality. Municipalities possess and can exercise the following powers: those granted in express words, those necessarily or fairly implied in or incident to the powers expressly granted, and those essential—not simply convenient, but indispensable—to the accomplishment of the declared objects and purposes of the corporation. Any fair, reasonable, substantial doubt concerning the existence of a municipal power is resolved by the courts against a municipality and the power is denied (Martinez and Libonati 2000).

Although Pennsylvania has many diverse local governments, the state legislature established early a clear intent to limit the scope of their authority over their affairs and the judiciary has upheld that intent. The historical path to the passage of Act 111 in 1968 was a direct byproduct of the state legislature’s control over local governments’ fiscal affairs. An unintended consequence of that control, however, is the inability of local governments to control the growth of their financial obligations to police and firefighter unions.

The History of Act 111

The Pennsylvania Supreme Court's decisions in *Perkins* (1878) and *Hunter* (1907) limited the protections afforded to local governments from the actions of the state legislature under Article 3 § 20 of the state constitution. Yet the provision survived the Constitutional Convention of 1923. The conflict between the state legislature and local governments' authority reemerged in 1947 and was resolved in a dispute between a firefighters' union and a city council. This section discusses the events leading up to the passage of Act 111 in 1968.

On June 30, 1947, Pennsylvania's legislature passed a law prohibiting labor strikes by police and firefighters (Pennsylvania General Assembly 1947). The Act of 1947 also established a process to resolve disputes between a local government and its police and firefighters. Under the law, the parties had 30 days to negotiate. If no agreement was reached, a hearing would be held before a panel composed of one member from each party and a third member selected by the other two and designated as the panel's chair. If the two appointees could not agree within 15 days on who should chair the panel, the county Court of Common Pleas would select the chair. The panel's decision would be final and binding on both the union and the municipality. The chair of the panel had authority to decide how a municipality would compensate police and firefighters and to bind the municipality and the union to that decision.

The Act of 1947 governed without challenge until 1961 when the Erie City Council refused to accept a panel's decision for the resolution of a dispute with the Erie Firefighters Association (*Erie Firefighters Local No. 293 v. Gardner* 1962, 328). The panel's decision called for the establishment of a pension fund for survivor benefits that would have required the local government to enact a tax on residents to pay for the pension. The city council voted against implementation of the panel's award. The law did not prohibit court appeals, so the Firefighters Association filed suit.

The county Court of Common Pleas held that the state legislature's delegation of authority over municipal fiscal affairs to the panel's chair was unconstitutional under Article 3 § 20 of the state constitution (*Erie Firefighters Local No. 293 v. Gardner* 1962, 333). The state supreme court affirmed the decision of the trial court and adopted its opinion. The court identified the primary issue in *Erie* as whether it had "the duty and power to command the Council of the City of Erie to pass ordinances consonant with the findings of the negotiation panel" (*Erie Firefighters Local No. 293 v. Gardner* 1962, 333). In addition, the court considered whether "the power to fix municipal salaries and to create a pension plan is non-delegable under our [state] Constitution" (*Erie Firefighters Local No. 293 v. Gardner* 1962,

335). The court held that Article 3 § 20 fixed the power to decide municipal salaries and to create pensions for public employees as “pure municipal functions.” It also found the Act of 1947 unconstitutional and unenforceable in the case at hand. The legislature’s delegation of authority over municipal fiscal affairs to a third party was deemed to be a violation of the protections afforded to local governments under Article 3 § 20 of the state constitution.

The state supreme court’s holding in *Erie* was overturned by a constitutional amendment that protected the legislature’s empowerment of arbitral chairs over local fiscal affairs. The Constitutional Convention of 1967–68 provided a timely opportunity for the legislature to restate its prerogative to allow third-party arbitral chairs to settle disputes between a local government and public employees. In May 1967 the legislature adopted an amendment to Article 3 § 20 of the state constitution (Duquesne University, Pennsylvania Constitutional Conventions) exempting arbitration panels from the constitutional limitation upheld by the state supreme court (Pennsylvania Constitution 1967, art. 3 § 20). Known as the “ripper clause” (Porter 1969), the amendment empowered the General Assembly to enact laws regarding “the findings of panels or commissions, selected and acting in accordance with law . . . for collective bargaining between policemen and firemen and their public employers” (Pennsylvania Constitution 1967, art. 3 § 20). In addition, the legislature was empowered to grant a third party authority to make decisions that bind “upon all parties” and that “shall constitute a mandate to the head of the political subdivision which is the employer . . . and the lawmaking body of such political subdivision” (Pennsylvania Constitution 1967, art. 3 § 20). The constitutional amendment paved the way for the swift enactment in 1968 of Act 111, which the judiciary would decisively uphold.

Judicial Review

On June 24, 1968, the state legislature passed an act authorizing collective bargaining between police and firefighters and their public employers and providing for arbitration to settle disputes (Pennsylvania General Assembly 1968). The statutory authority given to an arbitral chair has received strong deference from the state supreme court. This section discusses how the court acquired jurisdiction to hear an appeal of an Act 111 award, the limited scope of judicial review, and the court’s rejection of an attempt by the state legislature to expand the jurisdiction of the court over arbitral awards.

The first lawsuit over the powers of an arbitral chair and the limited authority granted to local governments to protect their fiscal affairs under Act 111 reached the Pennsylvania Supreme Court in 1969. An arbitral award mandated that the City of Washington “at its sole expense, [provide] hospitalization coverage for the members of the family of each member

of the Police Department of the City of Washington, equal to the coverage now provided . . . for the member himself” (*Washington v. Police Dep’t of Washington* 1969, 439). Act 111 prohibits the appeal of an award to the courts, so the judiciary struggled to find a nexus for review (Pennsylvania General Assembly 1968, 43 P.S. § 217.7a). Acknowledging the authority of the legislature to preclude appeals, the court ruled that the state constitutional right of appeal did not apply to this law because “an arbitration panel is neither a court nor an administrative agency” (*Washington v. Police Dep’t of Washington* 1969, 440). The court declared that the city’s due process rights under the federal and state constitutions were not harmed by the prohibition against judicial appeal. The Pennsylvania Supreme Court upheld a trial court’s decision that Act 111 prevented the judiciary from acquiring subject matter jurisdiction to hear the local government’s appeal of the arbitrator’s decision. It also ruled that the city did not have a right to appeal, for “neither constitution [state or federal] requires that there be a right of appeal from an arbitration award” (*Washington v. Police Dep’t of Washington* 1969, 440).

The court nonetheless decided to grant the appeal of the award because of Pennsylvania Procedural Rule 68.5, which is the mechanism for protecting constitutional rights under Article 2 § 31. It set a narrow standard of review—that it still uses today—tied to these factors: (1) jurisdiction, (2) the regularity of the proceedings before the agency, (3) questions of excess in the exercise of powers, and (4) constitutional questions (*Washington v. Police Dep’t of Washington* 1969, 441).

The court began its analysis of the award granted in *Washington* by acknowledging that as “creature[s] of the legislature” local governments have no sovereignty and that the language of Act 111 contained “no explicit reference to the scope of the arbitrator’s power” (*Washington v. Police Dep’t of Washington* 1969, 441). The court then turned to Article 2 § 31 of the state constitution to acquire jurisdiction. It ruled that arbitrators are bound by the clause “acting in accordance with the law” and that courts may ensure that arbitrators “in conducting their hearings and making an award, may not violate the requirements of due process and must adhere to the mandates of the enabling legislation” (*Washington v. Police Dep’t of Washington* 1969, 442).

The City of Washington had argued that the award exceeded the power granted to the arbitrator, so the Pennsylvania Supreme Court also set the test for defining an excessive exercise of arbitral power. The excessive power test asked whether the local government was mandated to “carry out an illegal act” (*Washington v. Police Dep’t of Washington* 1969, 442). An illegal act was defined by combining several considerations, including the general legal standing of municipalities, the language of Act 111, and Article 2 § 31 of the Pennsylvania Constitution. In a conflicting final decision, the supreme court held that it lacked subject-matter jurisdiction to hear this dispute, but it excluded the hospitalization coverage for the family of

retirees as a violation of the Third Class City code. The court noted that the constitutional provision applied in this case, Article 2 §31, did not delineate the statutory authority granted to an arbitrator under Act 111 (*Washington v. Police Dep't of Washington* 1969, 442).

Although the state supreme court established a scope of review for Act 111 awards, it declined to expand its jurisdiction over arbitral awards. In 1980, the legislature amended the Uniform Arbitration Act (UAA) (Pennsylvania General Assembly 1980, 43 Pa. C.S. § 7301). The new law applied to all arbitration awards and expanded the judicial scope of review of the awards. Under the UAA, a court may “modify or correct the award where the award is contrary to law and is such that had it been a verdict of a jury the court would have entered a different judgment or a judgment notwithstanding the verdict” (Pennsylvania General Assembly 1980). The language of the statute would allow a court to review the fact-finding of the arbitral chair and to decide whether another award would be more suitable under the facts. In 1985, the Pennsylvania Supreme Court rejected the broader analysis as applied to Act 111 awards (*Township of Moon v. Police Officers of the Township of Moon* 1985). In analyzing whether the UAA applied to its scope of review of Act 111 awards, the court acknowledged that Act 111 has no provisions for judicial review, that the legislature did not add a scope of review to Act 111 when it amended the Act in 1974, and that a provision of the UAA stated a legislative intent not to change an existing scope of review. The court reasoned that the legislature was aware of *Washington* (1969) and its progeny when it enacted the UAA, and it interpreted the lack of explicit language to mean that the legislature was satisfied with judicial precedent. In addition, the court argued that the rules of statutory interpretation state that when courts attempt to ascertain the intention of the General Assembly, the presumption is that “language used in a statute [and] in subsequent statutes on the same subject matter intends the same construction to be placed upon such language” (Pennsylvania General Assembly 1972). Adhering to the legislative intent, the Pennsylvania Supreme Court held that arbitration decisions under Act 111 are to be given considerable deference and limited review.

The judiciary sustained the broad authority of the arbitral chair to set the terms and conditions of employment under Act 111, which gives employee unions the power to negotiate almost every aspect of the terms and conditions of employment. The local governments’ limited control over personnel expenses for police and fire unions under Act 111 spurred a municipal pension and fiscal crisis.

The Act 111 Process

Since 1947, police and fire units have been prohibited by law from labor strikes (Pennsylvania General Assembly 1947). Similar to the law of June 30,

1947, Act 111 requires an employee union and a municipality to negotiate a labor contract. If they cannot reach agreement, a panel of arbitrators is convened with the arbitral chair empowered to make a final decision binding on the parties. The broad authority and judicial deference given to the arbitral chair encumbers the negotiations between the parties because Act 111 does not require the arbitral chair to consider for the terms and conditions of employment the financial position of a local government and its ability to pay. This section reviews the provisions of Act 111 and highlights the structural inequities between the negotiating parties and the statutory flaws of the arbitration process that spurred the municipal pension crisis.

Under the law, a local government and an employee union must begin negotiations six months before the expiration of the current contract (Pennsylvania General Assembly 1968). Act 111 permits the union to negotiate with the local government over the union's "compensation, hours, working conditions, retirement, pensions and other benefits" (Pennsylvania General Assembly 1968). The law does not define these terms and conditions of employment. Courts have mandated negotiation over any topic that is "rationally related" to those issues (*FOP Rose of Sharon Lodge No. 3 v. Pennsylvania Labor Rels. Bd.* 1999, 1281).

Moreover, Act 111 does not explicitly set any terms or conditions of employment as the managerial prerogative of the local government (*Guthrie v. Wilkinsburg* 1985). Courts have deemed some terms and conditions of employment to be the managerial prerogative of local government, but those judicial stipulations have not prompted the state legislature to amend the provisions of Act 111. Therefore, local governments have limited ability to control the costs of police and fire personnel. Act 111 allows the employee unions to set the terms and conditions of their employment.

The law imposes a duty on parties to bargain in good faith during negotiations, with the determination of whether that duty has been fulfilled being dependent on whether "reasonable efforts" have been made to do so (Pennsylvania General Assembly 1968, 43 P.S. § 217.2). Neither Act 111 nor the judiciary has provided a clear definition of "reasonable efforts" at good-faith bargaining between a local government and an employee union.¹ It would be reasonable under Act 111 and current case law for a union to state its position on "compensation, hours, working conditions, retirement, pensions and other benefits" and, if its demands are not met, to declare an impasse and proceed to arbitration. The only prohibition against either party declaring the negotiations to be at an impasse is the mandatory 30-day negotiation period (Pennsylvania General Assembly 1968, 43 P.S. § 217.4). To date, there is no case law based on a plaintiff's claim that the other party failed to negotiate in good faith.

Act 111 also places on local governments the financial burden of arbitration by requiring that "the compensation of the two other arbitrators,

as well as all stenographic and other expenses incurred by the arbitration panel in connection with the arbitration proceedings, shall be paid by the political subdivision” (Pennsylvania General Assembly 1968, 43 P.S. § 217). The employee union is responsible only for the costs of its arbitrator, and because this cost is borne by the members of the Fraternal Order of Police or the firefighters’ union, it is not a financial impediment to declaring an impasse to the negotiations and proceeding to arbitration.

Once an impasse or stalemate is declared, the parties select their arbitrators and the arbitrators choose the arbitral chair. Under Act 111, the arbitration panel is composed of one member from each party and those two select a third to act as chair of the panel (Pennsylvania General Assembly 1968, 43 P.S. § 217.4b). If the two members cannot agree on who should chair the panel, the Pennsylvania Labor Relations Board (PLRB) provides a list of three persons from which the two arbitrators would pick a chair (Pennsylvania General Assembly 1968, 43 P.S. § 217.4b). Each party has the option of striking a name, in which case the remaining person becomes the arbitral chair.

The list provided by the PLRB is primarily composed of people who have previously served as arbitral chairs. Act 111 does not structure how the pool of eligible arbitral chairs would be developed, nor does it explicitly empower a state agency to determine such criteria by regulation. The law does not require the arbitral chair to have any competencies, knowledge, or training, nor does it set the terms or conditions of employment for the arbitral chair. It requires only that an arbitral chair be a “resident of Pennsylvania” (Pennsylvania General Assembly 1968, 43 P.S. § 217.4b). An arbitral chair may thus make a career of dispute resolution, but Act 111 provides no minimal qualifications for that practice.

As chair of the arbitration panel, the third arbitrator is the ultimate decision maker for resolving a dispute between a local government and an employee union. Like a judge’s ruling, an arbitrator’s decision is enforceable by the state. Unlike a judicial proceeding, however, Act 111 prohibits the parties from appealing an arbitral award to a higher court (Pennsylvania General Assembly 1968, 43 P.S. § 217.7a). Therefore, under provisions of Act 111, the decision of the arbitral chair on what wages and pensions a local government will pay its police and firefighters is final, even though the arbitral chair is not required by law to consider a municipality’s financial position.

Although arbitral chairs are not required by law to consider a local government’s financial strength, a chair does not want municipalities to litigate the panel’s decision or have it scrutinized by the courts. Many local governments will argue that they have limited resources to pay for high wages and fringe benefits. An award that provides the majority of benefits through long-term costs such as pensions, as opposed to immediate costs

such as salaries and vacation time, is more attractive to an elected body. Furthermore, political reality makes it easier for a mayor, township, or borough council to balance the annual budget and show public support for police and firefighters than to consider the multiyear effects of the award on the municipality's finances. Accordingly, arbitration awards that extend pension benefits by taking advantage of the permissions granted by the pension laws, such as Act 600 of 1955, are more frequent than grants of high salaries, vacation days, or other immediate costs. Nonetheless, an arbitral chair may decide to grant wage increases, minimum manning provisions, and fringe benefits despite a local government's lack of funds because courts have readily deferred to such decisions absent the "excess in the exercise of powers" granted by Act 111 (*Washington v. Police Dep't of Washington* 1969, 442).

Police and firefighters' unions throughout Pennsylvania have a consistent set of representatives and common issues before the PLRB's set of arbitral chairs. The Pennsylvania Lodge of the Fraternal Order of Police represents the 1,053 local police departments across the state (Pennsylvania Fraternal Order of Police 2010). The International Association of Firefighters is the statewide organization for the 25 paid fire departments throughout Pennsylvania (Intr'l Association of Fire Fighters 2010). By contrast, local governments throughout Pennsylvania do not have a consistent set of representatives before the select group of arbitral chairs. The 1,053 local governments that engage in collective bargaining under Act 111 have election cycles that may bring a new solicitor or contract for legal services. Therefore, a professional arbitrator on the PLRB's list interacts with a consistent group of representatives for police and firefighters' unions, whereas the representation of local governments varies, as do the issues driven by each municipality's financial position.

Additionally, the fragmentation of local governments throughout the state creates regions of similarly situated municipalities. A decision in one municipality may set the basis for a decision in neighboring municipalities, for the common union representatives argue before a consistent set of arbitral chairs for similar wages and benefits throughout a region. In 2008, Richard Friedberg of the Pennsylvania League of Cities and Municipalities (PLCM) testified before the state senate's Urban Affairs Committee that "arbitrators making the decision are not required to take into account what a municipality can afford," and they may "award items that were not a part of the initial negotiation sessions," with benefits given in one municipality having "a domino effect in the neighboring communities" (Friedberg 2008). Friedberg argued that "unequivocally, Act 111 has had a tremendous impact on the pension benefits police and fire unions received and costs incurred by municipal employers" (Friedberg 2008).

The Pension Crisis

Act 111 arbitral awards are a significant factor in the development of municipal pension distress. When the procedural law of Act 111 is combined with the substantive law of pensions, specifically the Municipal Police Pension Law, known as Act 600 of 1955, the optional pension benefits become mandatory costs for a municipality. This combination has increased the pension liabilities for many municipalities without increasing—or even considering—the local governments' ability to pay for the costs. This section analyzes how Act 600, when combined with Act 111, sparked an uncontrollable growth in pension liabilities.

Cities and boroughs were required to provide pensions to police officers as early as the 1930s, and this requirement is reflected in the Act of June 1947 discussed above. Early municipal codes set the minimum pension benefits for police and paid firefighters, limited expansion of pension benefits, and established funding requirements. The Municipal Police Pension Law of 1955, known colloquially as Act 600 (Pennsylvania General Assembly 1955), changed the pension landscape by setting the criteria for providing police with pension benefits. The law had few mandates but many optional benefits, and it did not require funding adjustments to maintain actuarial soundness.

Act 600 governs police pensions in all cities, boroughs, and townships employing three or more full-time police officers. There are more than 3,160 municipal-employee pension plans in Pennsylvania, of which police and firefighter pensions comprise one-third (Pennsylvania Employee Retirement Commission 2008). Every city in the Commonwealth has a pension program for police, and most cities fund a firefighters' pension as well.

Notwithstanding the large urban plans, more than 98% of the pension plans in Pennsylvania can be characterized as small (Pennsylvania Employees Retirement Commission 2008). Borough police pensions make up over half the total number of municipal police pensions in the state (485 out of 965). The vast majority of borough and township pension plans for police have fewer than eight members. About two-thirds of municipal pension plans have ten or fewer active members and 29% of them have three or fewer active members (Pennsylvania Employee Retirement Commission 2010).

Act 600 contained only a few mandatory provisions, most notably that pension recipients must complete 25 years of service in the same municipality and that the monthly pension benefit must be at least 50% of the average monthly salary (Pennsylvania General Assembly 1955). In addition to the mandates, the law contained a series of optional provisions to expand the pension benefits offered by a municipality. The optional provisions under Act 600 far outnumber the mandates. They include

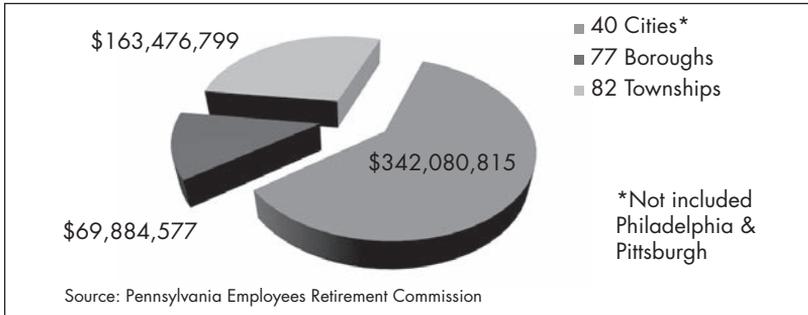
reducing the age of retirement to 50, which could make municipalities liable for an average of 25 years of pension payments; reducing the Social Security offset to zero, which could raise the local government's monthly payments per retiree; reducing the service time for vesting in the fund to just 12 years, which could significantly reduce the total contributions per employee while expanding the period of liability for the municipality; reducing employee contributions to the fund to zero, thereby leaving the local government with the full responsibility for the costs of the fund; and granting early retirement after 20 years of service, which could significantly extend the duration of monthly payments for the municipality. The law also authorized cost-of-living adjustments (COLAs) based on 75% of the average salary, a level that could be exceeded if the fund is actuarially sound in a year when the decision to enact an increase is made.²

Although some options require the plan to be actuarially sound before benefits may be expanded, actuarial soundness rests on uncertain economic assumptions (Peterson 1953). For example, enacting an arbitral award with a cost-of-living adjustment in 2007 when the stock market was on the upswing could have destabilized the fund in 2008 after the stock market crashed. Many municipalities throughout Pennsylvania are currently struggling with this predicament because Act 600 does not require local governments to have the funds to pay for the growth of pension liability. Consequently, pension benefits for employees can be expanded without the constraint of affordability by the municipality. Arbitral chairs have used their authority to turn the optional benefits under Act 600 into mandates without considering whether local governments can pay for the added benefits.

As of 2008, almost 50 years after the state supreme court's decision in *Erie Firefighters Local No. 293 v. Gardner* (1962), the City of Erie had almost \$40 million in unfunded pension liabilities for its police and firefighters (Pennsylvania Employee Retirement Commission 2010). Erie is not alone. The Pennsylvania Employees Retirement Commission (PERC) reports that statewide there is \$2,674,894,695 in unfunded liabilities for municipal police and firefighter pensions. Not counting Pittsburgh and Philadelphia, the total comes to \$1,112,412,667 in unfunded pension liabilities for over 400 medium and small municipalities across the state (Pennsylvania Employee Retirement Commission 2010).

About one-third of Pennsylvanians live in a municipality with a distressed pension, and poor stock market performance in 2008 likely increased that number despite the market's subsequent rebound. Estimating the impact of the economic downturn on the pensions of approximately 600 municipalities, PERC found that almost 200 of them would see their minimum municipal obligation (MMO)³ at least double, 80 would see their MMO at least triple, and 32 would see their MMO at least quadruple. The minimum municipal obligations for these municipalities would increase by an average of \$500,000

Figure 1
Total Unfunded Liabilities Police & Fire Pensions Under Act 600
(liability per muni < \$300k).



a year (Pennsylvania Employee Retirement Commission 2008). Figure 1 below represents 199 municipalities (ranging from boroughs to Third Class cities) that have \$300,000 to over \$1 million in unfunded pension liabilities for police and firefighter unions. This group of municipalities collectively owes \$513,341,430 to the pension plans for these unions. That total does not include Philadelphia and Pittsburgh, which collectively owe over \$2 billion in unfunded pension liabilities to their police and firefighter unions (Pennsylvania Employee Retirement Commission 2010).

In response to municipal pension distress, the Pennsylvania legislature passed the Municipal Pension Funding Standard and Recovery Act, known as Act 44 of 2009. Act 44 was an amendment to the original Municipal Pension Plan Funding Standard and Recovery Act of 1984, known as Act 205 (Pennsylvania General Assembly 1984 and 2009). Act 205 was the first action by the state legislature to provide municipalities experiencing fiscal distress with options and funding to reduce the burden of their employee-pension obligations. Act 44 is the latest attempt by the state legislature to offer local governments experiencing fiscal distress due to their pension obligations options like extending the amortization of the pension to reduce immediate costs. Act 44 also grades pension funds in terms of the level of unfunded liability, and it requires the consolidation of severely distressed pensions into the Pennsylvania Municipal Retirement System. These municipal pension recovery acts demonstrate the legislature's recognition of the problem of funding municipal employee pensions, a problem due in part to the combination of Act 111 and Act 600.

The legislature enacted the Municipal Police Pension Law to empower local governments to provide retirement pensions for police officers. The pension options may have improved the employee recruitment opportunities for municipalities, which in turn may have provided for better service to taxpayers. Yet the permissible options under Act 600, when combined

with Act 111, were turned into overwhelming costs for local governments. Although recovery laws for funding municipal pensions have provided a means for addressing severely distressed municipal pensions, the laws do not fix the problem that is causing municipal fiscal and pension distress. Local governments still have only limited authority to control police and fire personnel expenses under Act 111.

Municipalities Financial Recovery Act

The state legislature recognized the need to limit the financial impact of Act 111 awards when it enacted the Municipalities Financial Recovery Act in 1987 (Pennsylvania General Assembly 1987). Known colloquially as Act 47, the law establishes a state program for financially distressed municipalities that sets dollar limits on an arbitrator's collective bargaining awards as determined by a municipality's multiyear financial recovery plan. Under the law the Department of Community and Economic Development (DCED) declares a municipality distressed if it meets a variety of financial conditions, such as expenditures outpacing revenues for more than three years, inability to make minimum municipal obligations for employee pension funds, and operating expenses exceeding revenues in the current fiscal year (Pennsylvania General Assembly 1987). If any of the requisite conditions are met, DCED may declare a local government fiscally distressed. The program requires a municipality to work with a consultant to develop a multiyear fiscal plan that will set the terms for financial recovery under the oversight of the state government (Pennsylvania General Assembly 1987, 53 P.S. § 11701.221). The program promotes substantive changes to collective bargaining agreements to help local governments return to balanced budgets and avoid future fiscal crises (Pennsylvania General Assembly 1987, 53 P.S. § 11701.241). The terms for financial recovery thus include limits on the wages and pension benefits of police and firefighters awarded by an arbitral chair under Act 111 (Pennsylvania General Assembly 1987).

Pennsylvania's courts have heeded the legislature's intent to afford distressed local governments fiscal protections under Act 111. The first appellate court case concerning the intersection between Acts 111 and 47 occurred in 1989 and involved the Wilksburg Borough Police Officers Association (*Wilksburg Police Officers Ass'n v. Commonwealth* 1989). The police union argued that the limits on bargaining agreements imposed by Act 47 violated the state constitution's requirement that "municipalities engage in collective bargaining" (Pennsylvania Constitution 1968, art. 3 § 31). The Pennsylvania Supreme Court affirmed the appellate court's decision that Act 47 may amend Act 111 because Act 111 is a permissible statute, although its provisions are not constitutionally protected (*Wilksburg Police Officers Ass'n v. Commonwealth* 1993, 137).

In 2005, the state's Commonwealth Court held that "Act 47 allows a coordinator to include in a recovery plan recommendations proposing changes to collective bargaining agreements that could alleviate a municipality's financial distress. . . . Once a plan is adopted, no collective bargaining agreement adopted thereafter may violate, expand or diminish the plan's provisions" (*Pittsburgh Fire Fighters, Local No. 1, et al. v. Commonwealth of Pennsylvania, et al.* 2005, 669). The court also ruled that the state legislature had constitutional authority to "limit or contract the rights it has bestowed," and it held that "plans developed pursuant to Act 47 represent such a limitation" (*Pittsburgh Fire Fighters, Local No. 1, et al. v. Commonwealth of Pennsylvania, et al.* 2005, 671).

In October 2011 the Pennsylvania Supreme Court rescinded the limitations imposed by an Act 47 Recovery Plan on an arbitral decision, effectively severing Act 111 from Act 47 (*Scranton v. Firefighters Local Union No. 60 of the IAFF* 2011). The legislature swiftly addressed the technical issues raised by the court by adopting Act 133 of 2012. This legislative response did not return a Recovery Plan's predominance over collective bargaining for police and firefighters. Instead, Act 133 granted the Recovery Plan Coordinator the power to set a financial limit on a distressed municipality's total expenditure on an employee union and on the union's right of appeal to a Court of Common Pleas under a *de novo* standard if an arbitral award should exceed the cap on expenses (Pennsylvania General Assembly 2012). In addition, the cap set by the coordinator must include a list of economic considerations that may be difficult to calculate, a requirement that may limit the constraints imposed by the cap.

The Municipalities Financial Recovery Act illustrates the Pennsylvania legislature's recognition of the municipal fiscal crisis sparked by Act 111. As amended, Act 47 requires the arbitral chair to give consideration to a municipality's fiscal status, as dictated by the multiyear financial plan, equal to the terms and conditions of employment demanded by a police or firefighter union. Pennsylvania's courts have followed the legislative intent of Act 47 and confined arbitral awards to the limits set forth in a municipality's multiyear financial recovery plan because the legislature "forecasted the chaos that would ensue if a municipality collapsed as a result of financial distress" (Desanto 1991).

Recommendations for Improving Act 111

The limits on Act 111 arbitral awards imposed by Act 47 show the state legislature's willingness to require an arbitral chair to weigh equally a municipality's financial position and an employee union's terms and conditions of employment before and during the term of a collective bargaining agreement. The state legislature must now provide equal standing

for local governments and uniformed-employee unions under Act 111 before a municipality may enter the state bankruptcy program. Accordingly, I propose the following amendments to Act 111:

1. Require an arbitration panel to assess a municipality's financial position before and during the term of a collective bargaining agreement;
2. Require that an arbitral award be confined to the limits of a municipality's multiyear financial plan, if available;
3. Require the arbitral chair to write an opinion that specifically articulates how a municipality would pay for the provisions in an award.

Under the first proposed amendment, arbitrators ought to begin their analysis by determining whether a local government has a structural deficit. A strong measure of municipal fiscal health is the ratio of the growth in revenue to expenditures over three or more years. Retirement pensions, healthcare expenditures, and ill-advised municipal bonds and notes are the traditional causes of structural deficits, for each year they set the fixed costs of a municipality for a long time regardless of the growth or decline in revenues. Recent economic stagnation is causing an unremitting decline in tax revenues (mainly from property taxes and the earned income tax) while municipal expenditures for employee wages, retirement pensions, and healthcare costs continue to rise. Recurring fluctuations in stock market prices undermine predictions of the minimum municipal obligation that local governments will owe to their employee pensions. Moreover, the growth of other post-employment benefits (OPEB)—and the lack of funding for those benefits—further strains annual municipal operating budgets.

Absent a structural deficit, an assessment of a local government's financial position ought to focus on projected revenues compared with expenditures during the term of the collective bargaining agreement. Expenses for police and fire personnel account for more than half the total expenditures of local governments. Even though a local government may not currently have a structural deficit, employee wages and the costs of pension benefits ought not to expand beyond what that jurisdiction can reasonably afford in light of its tax base, taxing options, and revenue projections. The arbitrators' analysis then ought to turn to a municipality's use of revenue options available under the law, including permissible taxes and fees to pay for the services it is required to provide under the various municipal codes. In addition, the Municipalities Financial Recovery Act provides specific criteria that may be the basis of the panel's assessment, along with various financial ratios that could help determine a local government's financial position.

This proposed amendment recognizes that government accounting, financing, and budgeting are complex processes that use a series of funds

to manage revenue, pay expenses, and securitize debt. The diversity of municipalities (in structure, size, and authority) in Pennsylvania also demands a practical understanding of local governance that includes taxpayer services, municipal operations, and law. The PLRB could work closely with the Center for Local Government at the Department of Community and Economic Development to train arbitrators to assess municipal finances.

Under the second proposed amendment, arbitrators would link their awards to the limits of a municipality's multiyear financial plan, if available. Police and fire protection are two of the fundamental and likely most expensive services that local governments provide. Municipalities that take the initiative to plan for these costs alongside other expenditures over a multiyear period have done the hard work of assessing their financial position. The opportunities or limitations posed by a municipality's projected revenues in relation to its expenses ought to confine the decision of the arbitral chair on the wages and pension benefits of police and firefighters, similar to the process under Act 47.

Under the third proposed amendment, the arbitral chair would write an opinion specifically articulating how a municipality would pay for the provisions in an award. Currently, some arbitral chairs provide a written award that lists the chair's findings and reasons for a decision, even though Act 111 does not require such action. A written opinion stating the basis for the arbitral chair's decision is prudent, given the mandatory analysis of a municipality's financial position compared with the terms and conditions demanded by an employee union.

These three proposed amendments to Act 111 would equalize the standing of municipalities and public employee unions during negotiation and arbitration. Police and firefighter unions would remain able to set the terms and conditions of employment, but local governments would be able to control their expenditures. As a result, taxpayers would receive quality—yet affordable—public services.

Conclusion

Local governments in Pennsylvania exist at the will of the state legislature to administer programs and services for local taxpayers. Police and fire protection are two of these primary services. The legislature prohibited police and firefighter unions from engaging in labor strikes, and it passed Act 111 to settle disputes between unions and the local governments that employ them. Act 111 empowered arbitral chairs to set the terms and conditions of employment, but it failed to require chairs to consider the financial impact of their decisions on local governments. Although the state legislature has attempted to mitigate the impact of this flaw on municipal pensions and finances, such alleviation does not correct the underlying problem.

Amending collective-bargaining laws for public employees is a painstaking process, as evidenced by events in Wisconsin, Minnesota, and Michigan between 2010 and 2012, events that brought the issue of paying for public-employee pensions and wages into our national discourse. In Pennsylvania, the pension crisis affecting local governments is slowly being recognized as more newspapers, magazines, news websites, chambers of commerce, and regional and local “good government” organizations tell the story about the current and future municipal fiscal crisis.⁴ The complexity of the crisis, aggravated by recent political fights over employee unions, has hindered the enactment of aggressive legislation to solve the problem. Nonetheless, the amendments to Act 111 proposed here are feasible because the state legislature has already shown a willingness to mitigate the impact of the law’s defects. The legislature’s minor improvements are not sufficient, however. It must provide a direct path to permanently alleviating municipal fiscal distress by formally amending Act 111.

Notes

1 Such is the case absent a unilateral action by the local government on an issue that is subject to collective bargaining (*City of Bethlehem v. Pennsylvania Labor Relations Bd.* 1993) or an outright refusal to bargain (*City of Coatesville v. Com., Pennsylvania Labor Relations Bd.* 1983).

2 Although the law has been amended to limit some of the optional provisions, many of these provisions existed for more than 35 years.

3 The minimum municipal obligation is the state-mandated smallest amount a municipality must contribute to any pension plan established for its employees. The amount is calculated using actuarial science.

4 Among the articles that have addressed the pension crisis are: <http://readingeagle.com/Article.aspx?id=220704>, http://www.pittsburghlive.com/x/pittsburghtrib/news/s_685786.html, <http://www.delcotimes.com/articles/2010/02/28/news/doc4b89f385eb4f6465512232.txt>, <http://www.alleghenyconference.org/MunicipalPension.asp>

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LEGISLATIVE CAREERISM, INSTITUTIONAL RESOURCES, AND ADMINISTRATIVE INFLUENCE OVER LEGISLATIVE POLICY MAKING IN THE AMERICAN STATES

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This article augments previous findings regarding the impact of legislative professionalization on oversight of state agencies. We examine how the twin processes of institutional professionalization and legislative careerism condition the power relationship between state legislatures and bureaucracies by utilizing individual-level data provided by legislators themselves. Our findings suggest that such influence is more nuanced than previously believed. The relationship between careerism and bureaucratic power over legislative policy making is curvilinear, with administrative power varying by the level of professionalism in state houses, and the influence of careerism conditioned by the level of professionalization.

Democratically elected legislators are afforded the primary responsibility of overseeing the actions of administrative agencies. As this authority has remained constant, many state legislatures have become more professionalized over the past four decades to bolster oversight capacity of

the bureaucracy (King 2000; Squire 1992). The added resources—better pay, benefits, and job prestige—make legislative service more attractive and, as a result, enhance legislative careerism (Carey, Niemi, and Powell 2000; Rosenthal 1996; Squire 2007). Scholars have found that while an increase in institutional resources stemming from institutional professionalization enhances legislative influence over agencies, careerism may lessen such influence because the personal incentive for oversight wanes with a constant focus on reelection (Rosenthal 1981; Woods and Baranowski 2006).

Prior research on the power relationship between legislative principals and administrative agents has generally operationalized influence through surveys of administrative personnel, such as the American State Administrators Project, that ask administrators how much influence they perceive legislators to possess over administrative policy making (Dometrius, Burke, and Wright 2008; Wright and Cho 2001). These research designs implicitly argue that professionalization enhances legislative influence that naturally results in lessened agency influence (Reenock and Poggione 2004; Woods and Baranowski 2006). Studies have generally overlooked how professionalization affects the capacity of administrative agencies to influence legislative policy making. By analyzing the interactive relationship between institutional and individual-level changes brought about by professionalization on administrative influence over legislative policy making, this article expands on previous findings that higher degrees of institutional-level professionalization result in legislators believing that bureaucrats have less influence over legislative policy making.

Professionalization and Power

Since the legislative-reform movement of the 1960s, state legislatures have generally experienced an enhanced level of professionalism (King 2000). Reformers called for increasing the ability of legislators to manage budgetary responsibilities, a complex policy environment, and the ever-growing demands of citizens. The result was increased staff resources, longer sessions, and better pay and benefits for legislators who engendered higher levels of legislative careerism (Squire 2007). Professionalization thus occurred at two levels: at the institutional level in the form of greater institutional resources, session lengths, and staff, and at the individual level in the form of enhanced legislative careerism (Rosenthal 1996).

The impact of increased professionalism on state legislatures has been profound. Scholars have noted its effects in a variety of areas. For example, Fiorina (1997) and Dometrius and Ozymy (2006) have demonstrated its effect on the partisan distribution of state legislatures. Connections have also been drawn between increased professionalism and legislative efficiency (Thompson 1986), divided government (Fiorina 1994), increased careerism

(Squire 1988), and public opinion monitoring and policy responsiveness (Maestas 2000; 2003).

One important expectation of combining full-time service with enhanced legislative resources was an increased capacity to engage in administrative oversight (Dometrius, Burke, and Wright 2008; Gerber, Maestas, and Dometrius 2005; Reenock and Poggione 2004). Greater service commitments provide additional opportunities to monitor agency actions. Enhanced institutional resources, such as more funds for legislative and policy staff, enable legislators to engage in more stringent oversight. The higher pay, benefits, and prestige of service in professional legislatures tends to broaden the candidate pool to include more highly educated individuals (Squire 2007). These variables provide professional legislators a distinct advantage regarding their ability to oversee and influence agency behavior.

Research on how professionalization influences the power relationship between state legislatures and administrative agencies tends to focus on whether added institutional resources and other variables empower legislators (Baranowski 2001; Gerber, Maestas, and Dometrius 2005; Ogul 1976). Little attention is paid to how legislative professionalization affects administrative influence over state legislatures. These studies generally assume a zero-sum game between actors. Analysis confirming that professionalization tilts the balance of power in favor of legislators naturally assumes it comes at the expense of agencies. It follows that, holding other variables constant, administrative agencies should enhance their ability to influence legislative policy making as professionalism wanes.

Previous research demonstrates that increased institutional professionalization weakens agency influence over legislative policy making (Carey et al. 2006). Theoretically, this result occurs because added institutional resources foster a greater legislative ability to hire staff, develop expertise, and oversee agency actions that enhances legislative influence at the expense of agencies. This work does not go far enough, however, as the impact of institutional resources is ultimately conditioned by how legislators use these resources.

Legislators do not always possess the appropriate incentives to use resources for oversight. Rosenthal (1981) says legislators are likely to spend their time on the job choosing activities that accrue credit with their constituents and bolster their chances of reelection. Engaging in higher levels of casework, constituency service, and campaigning becomes even more important as careerism increases and so does the subsequent need for constant reelection. Administrative oversight garners little attention from the press or constituents. Woods and Baranowski (2006) argue that the low visibility of administrative oversight creates a strategic disincentive for legislators with career ambitions to engage in the oversight of state agencies. They state that “career-oriented legislators tend to be far more

focused on electoral concerns and career advancement than on oversight, which is largely ignored by the electorate” (Woods and Baranowski 2006, 590). In their view, even if institutional professionalization brings a greater capacity to engage in agency oversight, careerists may simply deploy those resources accordingly. “Although the resources necessary to engage in active bureaucratic oversight improve with professionalization,” they note, “these resources may increasingly be employed for other purposes” (Woods and Baranowski 2006, 591).

Studies suggest that how legislators divide their time on the job is a combination of their incentive structure and the institutional resources available to them (Maestas 2003). When resources are constrained, legislators must make strategic choices about how to allocate their time and energy. Careerist legislators will no doubt prioritize activities that bolster their chances of reelection. We believe the careerism/oversight trade-off should occur only when institutional constraints force legislators to make such hard choices. Once institutional resources rise to a certain point, legislators should not be forced to make such extreme trade-offs.

High levels of institutional resources, such as policy and administrative staff, should allow legislators to balance their career aspirations with other less publicly salient activities like administrative oversight. Engaging in oversight should lead to greater legislative influence over agencies, and increased institutional resources should further reinforce this relationship, as long as adequate resources exist to accommodate the electioneering needs of careerist legislators. As Squire (2007, 214) notes, “A greater number of staff members leads to better-informed legislators, allowing members to have greater influence in the policymaking process. . . . A larger staff base likely improves re-election prospects by enhancing legislators’ ability to provide constituent services.”

A marginal increase in resources in amateur legislatures makes little difference to oversight because it is insufficient to reach the minimum threshold needed for legislative autonomy. Likewise, a marginal increase in resources in highly professional legislatures makes little difference because they are already well resourced to compensate for the effects of careerism. The largest effect of resources should occur in mid-range professional bodies, which contain higher levels of careerism but lack adequate resources for taking advantage of greater careerism. Therefore, we expect the effects of careerism on administrative power over state legislatures’ policy making to be strongest in moderately professional state houses.

Data

Individual-level data are derived from a survey of state legislators (Carey, Niemi, and Powell 1995). The survey was conducted by mail

and administered to state legislators in all 50 states during the spring of 1995. Former legislators who served in 1993 or 1994 were also surveyed. All members of the upper legislative chambers were surveyed (including Nebraska's unicameral chamber), along with three-quarters of the members of the lower house. The survey yielded a response rate of 47% and 3,542 cases. All states are represented in the survey.¹

Measuring Influence

It has become common practice to measure the power relationship between state agencies and the legislative and executive branches with surveys that ask state administrators to rate the influence of these actors on agency discretion. The long-standing American State Administrator's Project (ASAP) is widely used (Dometrius 2002; 2008; Gerber, Maestas, and Dometrius 2005; Wright and Cho 2001), but other similar surveys have also been implemented (Reenock and Poggione 2004; Woods and Baranowski 2006). These studies link individual-level data with data on gubernatorial approval ratings (Dometrius 2002), formal legislative powers (Gerber, Maestas, and Dometrius 2005), and other variables to assess their impact on agency discretion.

One section of the survey asks legislators to report the relative influence of a variety of actors on the legislative process. Included in this module is a question measuring the *influence of state agencies*: "What do you think is the relative influence of the following actors in determining legislative outcomes in your chamber?" [Bureaucrats/Civil Servants].² This variable is coded on a scale ranging from 1 to 7 where 1 = "no influence" and 7 = "dictates policy." We use this variable to measure the balance of power between legislators and state agencies (Carey et al. 2006; Carey, Niemi, and Powell 1998). Six percent of respondents report that agencies have "no influence," less than 1% respond "dictates policy," 14% answer "5", and 22% answer "2."

We recognize the cross-level inference problem posed by testing institutional-level theoretical constructs with individual-level indicators. Although legislators' perceptions of bureaucratic influence is an imperfect measure of bureaucratic influence over the legislature as a whole, in this context it is impossible to create a proper measure of influence at the institutional level without relying on the evaluations of individual-level actors. Studies examining formal characteristics of state political institutions, such as executive power (Holbrook 1993) and legislative power over administrative-agency rulemaking authority (Gerber, Maestas, and Dometrius 2005), can measure these institutional-level constructs with institutional-level variables. In the case of more subjective measures, such as political corruption or interest group influence in state houses, studies

turn to individual-level data derived from state house reporters (Boylan and Long 2003) or state legislators (Ozmy 2010) that can best gauge such constructs. Our variable for bureaucratic influence falls within these same parameters, and we believe that measuring bureaucratic influence over legislative policy making as a whole can be adequately represented by those who witness this influence first-hand. Moreover, careerism is best measured at the individual level, and querying these same individuals about their career aspirations and perceptions of administrative influence best captures this critical relationship.

Careerism and Resources

As prescribed by Rosenthal (1996) and Woods and Baranowski (2006), legislative professionalism is divided into careerism and institutional resources. Rosenthal (1996) notes that it is difficult to measure the concept of careerism unambiguously, for it is highly multi-faceted. He suggests that it should include more direct measures, such as self-identification by legislators, as well as indirect measures, such as salary (Rosenthal 1996, 176).

Our data include a question that allows legislators to self-identify as careerists, which is our primary indicator of *careerism*. It asks respondents: “Do you think of politics and public office as a career?” This variable is coded as a dummy. Given negative public perceptions about careerism in politics (as evidenced by the fact that term limits were about to be instituted in many states shortly after the survey was completed), respondents may be less than forthcoming about identifying themselves as careerists. We try to control for this factor with a measure of *legislative tenure* capturing the number of terms served in both upper and lower chambers. Legislative salary is included as an indirect measure of careerism. We utilize a measure of *total compensation* (in dollars) that takes into account both salary (in dollars) and per diem payments because most state legislators receive some or most of their pay from the latter (Dometrius and Ozmy 2006; Fiorina 1999).

Institutional resources are measured by legislative spending, staff resources, and session lengths. Total legislative expenditures (in dollars) for 1992 were determined by the survey administrators according to data derived from *The Book of the States*. Staff resources are measured by the total number of permanent legislative staff available to each legislature in 1996. The staffing variable is taken from data on total permanent legislative staff in 1996 gathered by the National Conference of State Legislatures (2004), with the exception of Massachusetts where a trend estimate over time was used because data were unavailable for 1996. Permanent staff ranged from 18 in Wyoming to 3,580 in New York. Session length (measured by total days in session) is also taken from NCSL (2004).

Additional Contributing Factors

Careerism is expected to shift the legislative focus toward electioneering activities (Rosenthal 1981). The survey includes questions on the amount of time legislators spend *campaigning*, *engaging in casework*, and *keeping in touch with constituents*. These questions are derived from a module that asks respondents: “How much time do you actually spend on each of the following activities?” [Campaigning/fundraising, helping constituents with problems with government, keeping up with constituents]. The variable is coded on a scale ranging from 1 to 5 where 1 = “hardly any” and 5 = “a great deal.” Most legislators claimed they spent little time campaigning (modal response = 2), but claimed they spent “a great deal” of time on casework and keeping up with constituents. Question responses may be less than candid and possibly represent a positive response bias. Caution should be used when interpreting results.

Legislative power over agencies can be greatly affected by the amount of formal oversight powers possessed by a legislature. We utilize the Legislative Administrative Rules Review Indicator (LARRI) developed by Gerber, Maestas, and Dometrius (2005) to control for this factor. This index takes into account the ability of each state legislature to review the rules of state agencies. States are coded 0 = “no legislative rule review authority,” 1 = “advisory authority only,” and 2 = “sanctioning power to change rules.” Most states have at least advisory authority, with the modal response being “sanctioning power.” The executive branch can also play a considerable role in organizing and influencing bureaucratic behavior (Sigelman and Dometrius 1988). To control for this factor, we include Holbrook’s (1993) measure of gubernatorial power, which captures the appointive, organizational, and budgetary powers of the executive branch in each state. This index varies in value from the most powerful executive office in Alaska (6.70) to the weakest in South Carolina (-7.91). Additionally, we use data provided by the survey administrators to control for the average amount of legislative turnover from 1992 and 1994, the size of the state’s population, and the gender, race, and family income of each legislator. The summary statistics for the variables are reported in Table A1 in the Appendix.

Results

To test our hypotheses, we model the relationship between professionalism and administrative influence across all state legislatures to demonstrate the interactive relationship with institutional resources and careerism. We then provide additional analysis by modeling this same relationship across highly professional, moderately professional, and amateur legislatures exclusively. We use a three-part scale constructed by

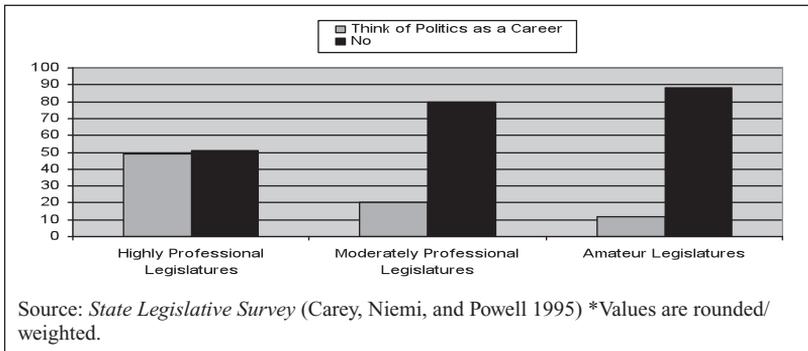
the NCSL that proves fruitful for this purpose because it takes into account legislative compensation, staff resources, and time spent on the job as measures of professionalism. This scale yields a three-fold categorization of highly professional (Red states), moderately professional (White states), and amateur legislatures (Blue states).

According to the NCSL, in 2008 average legislators in Red states spent 80% of their job time engaged in activities related to legislative service, they were compensated at an average pay of \$68,599, and they retained an average staff size of 8.9 individuals per member. Legislators in White states spent an average of 70% of their time on the job, received an average pay of \$35,326, and had an average of 3.1 staff members. Blue states are part-time legislatures (54% of the time spent on the job), with low pay (\$15,984), and minimal staff (1.2).

Before moving on to hypothesis testing, we consider two important assumptions about legislative behavior in this context. Namely, that professionalization engenders higher levels of careerism and that careerist legislators are likely to spend more time on reelection-oriented activities than are non-careerists. We find both these theoretical assumptions to be empirically supported by the data.

Figure 1 below compares the level of legislative careerism with legislative professionalism, using the careerism self-identification indicator and the three-group NCSL categorization for professionalism. The data suggest that across the states, legislators are generally more likely to be non-careerists than careerists. There does appear, however, to be a marked trend toward careerism that increases with professionalization. In amateur legislatures 12% of respondents view legislative service as a “career,” compared with 20% of respondents in moderately professional legislatures and 49% in highly professional legislatures.

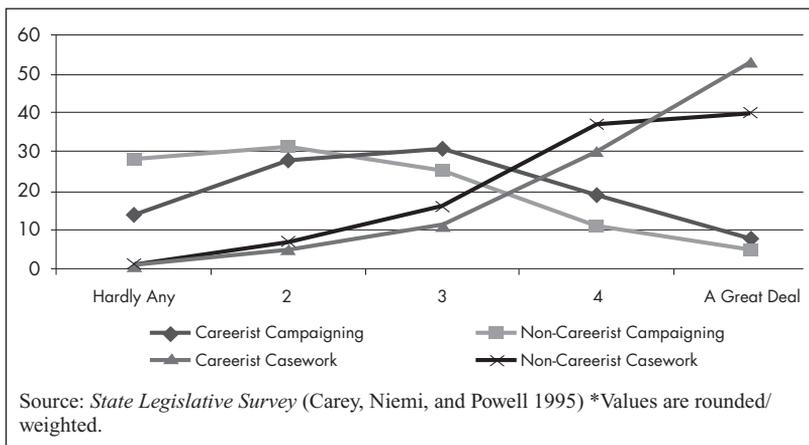
Figure 1
Legislative Careerism versus Legislative Professionalism
in American State Legislatures.



We now demonstrate that there are appreciable differences in the amount of time that careerists and non-careerists dedicate to electioneering activities. Figure 2 compares legislators in the sample who self-identify as careerists (versus those who do not) with the amount of casework and campaigning/fundraising undertaken while in office. Table A2 in the Appendix provides fuller analysis of these behavioral differences. The values range on a five-point scale from legislators who report engaging in “hardly any” to “a great deal” of such activities. Careerists are likely to spend much time on casework (53%) and keeping up with constituents (49%). A mere 14% report that they spend hardly any time fundraising. Fewer careerists also report spending a “great deal” of time or close to it studying legislation (28%) and writing new legislation (23%). By contrast, non-careerists report spending much less time on these activities, with 40% spending a great deal of time on casework, 39% keeping in touch with constituents, and 19% seeking pork barrel projects (as opposed to 28% of careerists). Twice as many non-careerists as careerists engage in campaigning/fundraising (28% versus 14%).

The results of the analysis are displayed in Table 1 below as a set of four models. Ordered-logit models are chosen in recognition of the ordinally measured dependent variables. Model 1 includes respondents from all legislatures and a variable to account for the interactive relationship between legislative resources and careerism. Model 2 comprises only legislators from amateur legislatures (Blue states). Model 3 comprises legislators from moderately professional legislatures (White states). Model 4 comprises legislators from highly professional legislatures (Red states).

Figure 2
Casework and Campaigning Differences Between Careerist and Non-Careerist State Legislators.



Model 1 contains three variables that demonstrate a statistically significant relationship with the dependent variable. Two indicators for careerism (legislative tenure and total compensation) are not statistically significant. Our primary measure of careerism (self-identification) is positively related to the dependent variable. As expected, the finding suggests that higher levels of careerism result in an increase in administrative influence over the legislative process in the states. Moreover, an interactive relationship is also present between careerism and institutional resources. The combined impact of careerism and resources has a negative impact on the dependent variable, suggesting that enough resources may override the influence of careerism.

The added effect of careerism and institutional resources thus appears to bolster administrative influence over state legislatures. Resources may therefore condition the impact of careerism. Increased executive power apparently enhances administrative influence over the legislative process. In an effort to refine the analysis further, we turn to the three additional models that divide the analysis into amateur, moderate, and highly professional legislatures. Here we are looking more for the significance of the careerism indicators than for the variables for resources. Although legislatures do vary in resources within these models, we can better examine resource differences (and their interaction with careerism) across models.

The second model for amateur legislatures is quite weak and the model itself is not statistically significant. The main indicators of interest for careerism and institutional resources are not significant either. Only casework and constituent service influence the dependent variable. This result is neither surprising nor unexpected since institutional resources do not vary greatly in this sample of legislatures and careerism is much more prevalent in more professional legislatures, where the incentive for career service is greater.

Table 1
Careerism, Legislative Professionalism, and Administrative Influence over
Legislative Policy Making in American State Houses

Careerism	All Legislatures	Amateur Legislatures	Moderately Professional Legislatures	Highly Professional Legislatures
Self-identification	.35** (.11)	.16 (.17)	.28** (.13)	.01 (.15)
Lower terms	.01 (.01)	.00 (.02)	.03* (.02)	-.05 (.03)
Higher terms	.00 (.01)	.01 (.02)	.00 (.01)	-.02 (.02)
Total comp.	-.00 (.00)	-.00 (.00)	.00001* (.00006)	.00 (.00)
Institutional Resources				
Session length	.00 (.00)	-.00 (.00)	.00 (.00)	.01** (.00)
Permanent staff	-.00 (.00)	.00 (.00)	.001** (.00)	-.00 (.00)
Expenditures	.00 (.00)	-.00 (.00)	-.00001* (.00001)	.00 (.00)
Constituent Service				
Campaigning	.02 (.03)	.04 (.05)	.04 (.04)	.03 (.07)
In touch with constituents	-.05 (.05)	-.14* (.07)	.18** (.08)	-.30** (.14)
Casework	.05 (.05)	.12* (.07)	-.05 (.08)	.20 (.13)
Controls				
Legislative rule review powers	-.06 (.04)	.07 (.13)	-.06 (.06)	-.26* (.16)
Executive power	.05** (.02)	.06 (.04)	-.05 (.04)	-.01 (.06)
Turnover	-.00 (.01)	.01 (.01)	-.02* (.01)	.05* (.03)
Population	.00 (.00)	.00 (.00)	.0001** (.00005)	-.00008* (.00004)
Gender	-.14* (.08)	-.13 (.13)	-.20 (.13)	-.12 (.18)
Race	.04 (.03)	.02 (.07)	.01 (.05)	.14* (.07)
Income	-.02 (.03)	.03 (.05)	-.09** (.05)	.03 (.07)
Expenditures *Career	-.000003** (.000001)	-	-	-

Source: *State Legislative Survey* (Carey, Niemi, and Powell 1995). Model 1 N = 2,876, Model 2 N = 1,114, Model 3 N = 1,166, Model 4 N = 596 ** p< .05 *p< .1 Data are weighted. Model 1 $\chi^2=34.34$, sig. = .01, Model 3 $\chi^2=42.57$, sig. = .001, Model 4 $\chi^2=26.84$, sig. = .0. We record Model 2 here as a placeholder; it has no statistical significance $\chi^2=18.18$, sig. = .3777

The third and fourth models consider the impact of resources and careerism in moderately and highly professional legislatures. These function specifically to test our hypothesis that careerism's impact on agency influence over legislatures should be greatest when institutional resources are modest. The models confirm this expectation. We find that the careerism effect is actually occurring disproportionately in moderately professional legislatures. It is absent in highly professional legislatures. This pattern is demonstrated with three of our four indicators of careerism, including our direct measure of self-identification and two indirect measures (lower terms served in office and total compensation). All these variables demonstrate a positive relationship with the dependent variable. This result suggests that careerism enhances agency influence over the policy-making process in moderately professional state legislatures, where higher levels of careerism exist, as opposed to more amateur state legislatures; but resources are too modest to compensate for the careerism effect, as in highly professional legislatures.

Although not as important for hypothesis testing as the effects of careerism, the actual indicators of institutional resources do affect influence in these models. The number of permanent staff has a positive relationship with administrative influence, and expenditures reduce influence in moderately professional legislatures. Expenditures and staff are not statistically significant in the fourth model, but session length does affect the dependent variable. While resources influence the dependent variable in both models, they cannot be interpreted by their coefficients alone. Resources do not vary to a high enough degree in many respects because the models restrict the cases to legislators in similarly situated legislatures. It is more fruitful to compare the impact of careerism across legislative types, of which the analysis demonstrates that its effect wanes in highly professional legislatures, as expected.

The logit coefficients in Table 1 do not have a direct, interpretable meaning in relation to the magnitude of change they cause in the dependent variable. One way of considering the magnitude of the effect that logit coefficients have on the dependent variable is to use the standard deviation (SD) of the independent variables to estimate the odds that a one-SD increase or decrease in the value of the standardized independent variable would increase or decrease the value of the dependent variable by one unit of measurement.

We use the *SPost*, post-estimation module (Long and Freese 2005) in Stata to create a standardization of the coefficient. Table 2 shows changes in the odds. The first model considers these effects within the full sample of legislatures. The results suggest that one standard deviation change in careerism causes a 15% change in the odds that bureaucratic influence would increase. A standard deviation increase in executive power increases the odds of bureaucratic influence increasing by 14%.

Table 2			
Change in Odds for Standard Deviation Increase in Influence of Administrative Agencies on Legislative Policy Making in U.S. State Houses			
Careerism	All Legislatures	Moderately Professional Legislatures	Highly Professional Legislatures
Career	1.15 (.42)	1.11 (.40)	
Lower terms		1.10 (2.94)	
Total compensation		1.26 (17,732.71)	
Institutional Resources			
Session length			1.36 (34.69)
Permanent staff		1.54 (361.95)	
Expenditures		.81 (26,631.94)	
Constituent Service			
In touch with constituents		1.16 (.83)	.79 (.76)
Controls			
Legislative rule review powers			.81 (.80)
Power of executive	1.14 (2.56)		
Turnover		.90 (6.26)	1.36 (6.29)
Population		.71 (3255.89)	.61 (6367.99)
Gender	.94 (.42)		
Race			1.16 (1.06)
Income		.90 (1.19)	
Expenditures *Career	1.00 (59267.39)		
Source: <i>State Legislative Survey</i> (Carey, Niemi, and Powell 1995). Only independent effects with at least $p < .1$ are reported. Data are weighted. Left number represents change in odds, and right number is standard deviation. Cells in italics represent negative directional relationships. Model 2 is dropped as the model Chi-Square was statistically insignificant.			

Model 2 reports changes in odds for the statistically significant independent variables in moderately professional legislatures. Here the analysis shows that a standard deviation increase in careerism causes an 11% increase in bureaucratic influence. The indirect measure of careerism (previous terms in office) produces a similar result, with a standard deviation increase causing a 10% increase in bureaucratic influence. Resources also produce significant impacts in the model, with a standard deviation increase in compensation causing a 26% increase in influence.

Taken together, the analysis provides important insights into the relationship between legislative professionalism, careerism, and administrative influence over policy making by state legislatures. Careerism appears in the first model in Table 1 to reduce legislative influence over agencies. This finding is, however, only part of the story. Further analysis actually reveals that the impact of careerism is felt mostly in moderately professional legislatures, as we expected. It is generally absent from both amateur and highly professional legislatures. This pattern can be attributed in large measure to the prevalence of careerism in moderately and highly professional legislatures and to a concomitant lack of resources to pursue both the constant reelection type of behaviors required of careerism and unrelated activities, such as administrative oversight in moderately professional legislatures. This finding is partially obscured in the first model. These findings advance our understanding of how the institutional- and individual-level changes that have accompanied legislative professionalization influence the power relationship between state agencies and their legislative principals.

Discussion

This article seeks to provide a better understanding of how legislative professionalization affects the power relationship between state legislatures and administrative agencies. Specifically, we focus on how the interaction between legislator careerism and institutional resources affects administrative influence over state legislatures. Our findings suggest that such influence appears more nuanced than previously believed.

Past research has found that the effects of careerism may mitigate those of enhanced legislative resources where administrative oversight is concerned. Woods and Baranowski (2006) have argued that careerism tempers professionalization in state legislators when it comes to providing oversight because ambitious politicians are more likely to engage in behaviors—such as casework and campaigning—that better serve their interests. Thus, as professionalization within legislatures increases, so do

careerism and the need to commit resources toward more fruitful activities. Yet such findings and their implications have never been applied to administrative influence over state legislatures.

Because it utilizes individual-level data provided by state legislators themselves, this research is able to measure careerism among respondents directly as well as indirectly, thereby providing a better model of careerism and explaining its effects on agencies in a way that past research has not appreciated. As stated above, we find a curvilinear relationship between careerism and bureaucratic power over legislative policy making. In moderately professional legislatures, as in the full model, the effects of careerism are such that they actually increase administrative power.

Our findings suggest indirectly that the effects of careerism are most likely to temper oversight when institutional resources are sufficient enough to matter but not excessive. The capacity for stringent oversight in amateur legislatures, for instance, is virtually nonexistent because of the lack of institutional resources. The incentives for careerism are also small. Similarly, within highly professional legislatures we also see that careerism likely has no significant effects on a legislator's capacity to provide oversight. In these legislatures institutional resources are so abundant that the ambitions of legislators do not lessen bureaucratic oversight, even though legislators may strategically target some activities over others. The abundance of resources essentially negates the narrowing of focus on electoral concerns and career advancement. Resources thus have the effect of lessening administrative power in the legislative process.

The evidence presented here shows that the relationship between careerism and legislative professionalization is more complex than previously thought. The capacity for administrative oversight varies by the level of professionalization in state houses, and the influence of careerism on such oversight is likewise affected by levels of professionalization. Our research suggests at least indirectly that, given enough resources, career-minded legislators will provide bureaucratic oversight, even though they prefer to engage in more self-serving legislative activities. Yet institutional resources must be high enough to combat careerism if legislators seek to reduce the power of state agencies over legislative policy making.

Appendix

Variable	Mean	Standard Deviation	Mode
Careerism self-identifier	.23	.43	0
Lower terms served	4.13	2.88	6
Higher terms served	6.37	3.54	9
Total compensation (\$)	49,108.19	35,609.23	200
Session length	85.75	40.83	90
Permanent staff	565.06	773.34	139
Legislative expenditures (\$)	57,938	70,489	15,956
Time campaigning	2.5	1.17	2
Keep in touch with constituents	4.13	.91	5
Casework	4.15	.93	5
Rule review authority	1.25	.8	2
Executive power	-.003	2.58	-1.27
Legislative turnover	26.33	7.82	28
Population	5044.2	5162.5	125
Gender	1.76	.43	2
Race	5.73	1.02	6
Income	3.5	1.22	3
Dependent variable	3	1	3

Source: *State Legislative Survey* (Carey, Niemi, and Powell 1995); Gerber, Maestas, and Dometrius (2005); Holbrook (1993); NCSL (2004).

Table A2
How Careerists and Non-Careerists Spend their Time in Office.

	Frequency %					
Careerist Activity	<i>Hardly Any</i>				<i>A Great Deal</i>	<i>N</i>
Studying legislation	1	7	28	36	28	768
Developing new legislation	2	9	32	34	23	771
Building within party coalitions	5	16	36	31	12	765
Campaigning and fundraising	14	28	31	19	8	767
Keep in touch with constituents	.3	3	15	33	49	771
Casework	1	5	11	30	53	770
Securing pork	6	10	25	31	28	767
	Frequency %					
	<i>Hardly Any</i>				<i>A Great Deal</i>	<i>N</i>
Non-Careerist Activity						
Studying legislation	1	6	24	38	31	2,479
Developing new legislation	4	15	32	32	18	2,479
Building within party coalitions	9	18	34	29	10	2,471
Campaigning and fundraising	28	31	25	11	5	2,468
Keep in touch with constituents	1	6	19	35	39	2,483
Casework	1	7	16	37	40	2,483
Securing pork	11	16	29	25	19	2,478

Source: *State Legislative Survey* (Carey, Niemi, and Powell 1995)

*Values are rounded/weighted

Notes

1 Legislators were sampled in proportion to the state’s population. The minimum sample size for each chamber is 70. For chambers with fewer than 70 legislators, all legislators from that chamber were sampled. The survey contains a weight that corrects for response biases. When weighted the survey is “representative of the population of all state legislators, where each legislator is counted equally” (Carey, Niemi, and Powell 1995). All states are represented in the survey. The largest representation is New Hampshire at 6.8% (242 cases), and the smallest is Nevada at 0.6% (21 cases), with most states constituting between 1% and 3% of the overall sample (approximately 40–100 cases each). The response totals for each state in the survey are as follows: AK (27), AL (73), AR (59), AZ (40), CA (70), CO (45), CT (75), DE (27), FL (69), GA (97), HI (31), IA (87), ID (50), IL (69), IN (72), KS (85), KY (66), LA

(39), MA (91), MD (94), ME (110), MI (77), MN (80), MO (80), MS (59), MT (98), NC (115), ND (71), NE (26), NH (242), NJ (46), NM (32), NV (21), NY (119), OH (63), OK (63), OR (43), PA (103), RI (58), SC (86), SD (52), TN (42), TX (88), UT (54), VA (83), VT (89), WA (81), WI (83), WV (64), and WY (44).

2 Even though the survey question asks legislators how much influence they think bureaucrats have on legislative outcomes, an inference can be made that the degree of bureaucratic influence directly relates to the amount of control legislators have over executive agencies. A large portion of the literature in this area features research designs that implicitly argue that influence is a zero-sum game, with greater legislative influence naturally resulting in less state agency influence.

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BOOK REVIEWS

Comments from the Book Review Editor

Continuing a recent tradition, *COMMONWEALTH* presents several reviews of books either pertaining to Pennsylvania's history, government, and politics, or whose authors are Pennsylvania political scientists. Two books deal with African American history in the state. The first concerns Octavius Catto, a black civil-rights activist of the Civil War era; the second explores race relations in Pittsburgh after World War II. Two other books address environmental matters. One is a memoir by Franklin Kury, a former member of the Pennsylvania General Assembly and a renowned environmental activist. The other is a collection of essays tracing Philadelphia's advances in environmental preservation and sustainability. The remaining volume is an introductory textbook on political philosophy by Donald Tannenbaum of Gettysburg College. Readers are encouraged to recommend books for review and to submit proposals for reviews. Guidelines for doing so can be found in the back section of this volume.

— Thomas J. Baldino, Book Review Editor

Tasting Freedom: Octavius Catto and the Battle for Equality in Civil War America. By Daniel Biddle and Murray Dubin. Philadelphia, PA: Temple University Press, 2010. 632p. \$32.95 cloth. ISBN: 1-59213-465-3

In their hefty biography of Octavius Catto, journalists Dan Biddle and Murray Dubin intended, in their own words, to spin “a good yarn.” They have succeeded. In fact, they have spun two yarns, for this is really two books in one. The book is first a delightful exploration of how a generation of young black activists came of age during the Civil War, how they saw their parents’ wildest dreams realized in that war, and how those dreams were dashed by the postwar outbreak of white violence just as, in the words of W.E.B. Du Bois, “they were first tasting freedom” (474). But the book is also a tribute to their more battle-worn parents, some of whom—like the Reverend William Catto, a self-made man not unlike Frederick Douglass—had escaped slavery, while others were veterans of the violence against blacks and abolitionists that plagued northern cities. After whites terrorized several of Philadelphia’s black neighborhoods in 1842 by attacking churches and schools, Robert Purvis remarked, “I am convinced of our utter and complete nothingness in public estimation” (57).

Despite these dark days, Catto, Purvis, James Forten, James Le Count, and Jacob White Sr. managed to raise children who expected to enjoy real racial equality. It was an inestimable gift that Octavius Catto, Harriet Purvis, Charlotte Forten, Caroline Le Count, and Jacob White, to name a few, received from their parents, and one that they did not waste. Indeed, a central tragedy of the book’s story is that William Catto managed to survive slavery and raise four free children only to have the youngest of them, Octavius, die before him—not on a distant Civil War battlefield but rather in a city that in William’s day had been a beacon of hope for the enslaved. Octavius Catto died in Election Day violence in the City of Brotherly Love in 1871.

Veteran newspapermen, Dubin and Biddle have done superb sleuth work here, excavating what little there is to know about Octavius Catto—even digging up an aging Catto ancestor, Leonard Garnet Smith, Catto’s great-grandnephew, who was stumping for presidential candidate Barack Obama when the authors made contact with him. Besides finding the biographer’s Holy Grail that provided them with the perfect closing anecdote, the authors discovered in period newspapers all sorts of surprises. For example, they tell the little known tale of a substantial slave auction held in 1859 by Philadelphia resident Pierce Butler, otherwise known as Fanny Kemble’s ex (the famous British actor had divorced her slave-owning husband years before). Although the auction took place near Butler’s Georgia plantation, a reporter covered the dramatic sale of hundreds of men, women, and children and the breakup of their families; and the story helped to fuel sectional sentiments in an otherwise very southern city. Readers might also find

interesting the story about the secession of a substantial number of the University of Pennsylvania's medical students in 1860. And scholars will want to examine a newspaper expose in which a reporter set out to get a feel for black life in the city. Like an early social worker, the reporter visited the homes of the rich and poor and described what he saw for white readers who were used to averting their eyes. This was a particularly wonderful find, considering that scholars usually date the first such study to 1896, when a young Harvard-trained sociologist named Du Bois set out to survey Philadelphia's Seventh Ward.

All this effort pays off, and the result is a lively biography of a little-known leader of the civil-rights movement in the years following the Civil War. Indeed, it might seem brash of the authors to offer up a 500-page biography of a young man who died at the sprightly age of thirty-two. But Catto's untimely death puts him squarely in the company of civil-rights leaders about whom volumes have been written; it pays to remember that Medgar Evers was thirty-seven when he died and Martin Luther King was thirty-nine. Of course, Evers's biographers have the best of all sources in his wife, Myrlie Evers-Williams, and the FBI thankfully kept close tabs on King. Catto left behind Caroline Le Count, a black educator and civil rights activist, but Le Count seems to have left no paper trail at all. Not deterred, Murray and Dubin fill in the substantial blanks by populating the book with Catto's friends and fellow travelers—and the ward bosses, corrupt politicians, and backroom dealers who ensured that Catto's killer, Frank Kelly, never faced justice.

Scholars will raise some quibbles about the book's structure. The endnote style was likely the publisher's choice; while keeping down the page count, it takes some getting used to. The narrative occasionally suffers from a strained transition, as the authors zealously piece together disparate events occurring in Boston, Cincinnati, and Charleston. The fast-paced narrative makes the book a quick read, but there are times when I found myself wanting to linger, as during the account of celebrations of the enactment of the Fifteenth Amendment in 1870 when Catto, Purvis, Douglass, and other luminaries addressed crowds of black celebrants and then adjourned to enjoy an exclusive dinner, leaving the common celebrants to evade as best as they could white thugs in the streets. Here the disjuncture seemed to call for some discussion of class and the economics that separated the black elite from those who lived in city slums.

Ambitious book clubbers will look in vain for an appended list of short biographies of the major characters in the book, indicating their relationship to each other. Like most elites, Philadelphia's black Brahmins had a tendency to intermarry—when Harriet Forten Purvis and Frances (Fanny) Jackson Coppin married, they each joined two elite families—but even determined readers might puzzle over the entwined limbs of their family trees.

None of these problems detract from a book that brings Octavius Catto and his generation to life. More than that, *Tasting Freedom* offers readers a nuanced and multi-layered portrait of Philadelphia during the Reconstruction era.

—Judith Giesberg, *Villanova University*

Nature's Entrepôt—Philadelphia's Urban Sphere and Its Environmental Thresholds. Edited by Brian C. Black and Michael J. Chiarappa. Pittsburgh, PA: University of Pittsburgh Press, 2012. 304p. \$38.00 cloth. ISBN: 978-0-8229-4417-1

Nature's Entrepôt is a collection of essays documenting the environmental history of Philadelphia, Pennsylvania—America's First City. The contributors track and discuss the many events that have influenced the navigation of Philadelphia's sustainability journey. The book is divided into four parts: "Ideal and Reality in the Early City," "Locating Patterns of Industry and Commerce in the Expanding City," "Landscape Transformation in the Growing City," and "Confronting the Ecologies." The chapters are organized to flow from Philadelphia before 1800 in Part I. Part II considers events in late eighteenth- and early nineteenth-century Philadelphia. Part III continues the examination of ensuing developments from the nineteenth through the early twentieth century. Part IV reflects on the ramifications of these earlier activities and provides discussion points and action items for the future direction of Philadelphia, as well as any other city. Inspirational stories and case studies are used by knowledgeable contributors to explain successes; and important lessons are drawn from failures. The essays delve into significant environmental themes that provide insight into understanding Philadelphia's current environmental status.

For example, Apel's essay on yellow fever in Philadelphia between 1793 and 1805 provides perspective on environmental health and its connection to the labor system at the time. Sciotte reviews environmental justice and environmental racism between 1981 and 2001, highlighting the environmental hazards that have resulted since the 1970s because of decreased manufacturing in the Philadelphia metropolitan area. Vitiello discusses evolving trends and policy failures in local agriculture and food security initiatives. Greene's chronology of the history of deer in a city setting shows the challenges and important policy issues of dealing with urban wildlife and animal management. Rilling presents an interesting perspective on solid-waste management in her tale of Charles Cummings, the bone boiler. Milroy reviews the history, legacy, and current challenges of one of Philadelphia's jewels, the Fairmount Park System. The issues Milroy identifies and discusses will be important to all who are interested in protecting public parks and recreational facilities.

Philadelphia is known for its grid-based street system. Levine traces the history of the grid system and its continued impact on the city. Spirn uses the history and landscape of Mill Creek as a “living laboratory” to teach about water, landscape, and urban design. The approach and experiences serve as a valuable teaching and planning model. Adams considers the role of the suburbs and the potential benefits of a regional approach to address the city’s environmental, infrastructure, and employment issues. Mason reviews the challenges of urban sprawl in Philadelphia and the similarity of the city’s issues to those of other aging metropolitan areas.

Chiarappa discusses Philadelphia’s proximity to the Delaware Estuary and its relationship with this important ecosystem. Examining the role of the oyster trade in the environmental history of the Philadelphia area, he explains how effective management of the Estuary’s resources is crucial to the development of a sustainable future for the region. McMahon uses the story of Dock Creek to show how water resources and waste management were treated in evolving urban technological systems in eighteenth-century Philadelphia. His essay depicts the consequences of narrow values and short-term thinking. Zabel lays the groundwork for understanding the direction that Philadelphia’s environmental history has taken by reviewing William Penn’s Philadelphia. Vintage maps and photographs complement many of the essays.

This book is a valuable resource and belongs in the library of anyone interested in learning about and from Philadelphia’s rich record of environmental triumphs and tribulations. As Benjamin Franklin observed: “Tell me and I forget. Teach me and I remember. Involve me and I learn.” *Nature’s Entrepôt* provides needed direction and lessons learned on how to be involved in deploying effective environmental policy and urban planning.

— Marleen A. Troy, *Wilkes University*

Clean Politics, Clean Streams: A Legislative Autobiography and Reflections. By Franklin L. Kury. Bethlehem, PA: Lehigh University Press, 2011. 274p. \$80.00 cloth. ISBN: 9781611460742

One of the major downsides of the changing landscape of news media over the past few decades is declining coverage of state legislative politics. One source for a solid and rich understanding of state legislative process is the biographies and autobiographies of state political players. In his autobiography, Franklin Kury takes the reader on a journey through his time in the Pennsylvania House of Representatives (1966–1972) and the Pennsylvania Senate (1972–1980).

Kury divides his autobiography into four sections: “Getting There” (1952–1966), “The House of Representatives” (1966–1972), “The

State Senate” (1972–1980), and “Political Life after the Legislature and Reflections” (1981–2010). Kury opens his book by recounting the formative experience of greeting President Truman as he campaigned for Adlai Stevenson during a train stop in Northumberland in 1952. That event, combined with talking history and politics while working at Barney’s Shoe Service in Sunbury, the gentle persuasion of his family, and an employment history with the Attorney General’s Office and U.S. Representative George Rhodes, provided the motivation for Kury’s venture into Pennsylvania politics.

Kury’s political ambitions and success in running for the General Assembly need to be contextualized within the Republican Party machine of Northumberland County, led by county chairman Henry Lark. While the Lark machine “had discipline and a sense of direction” and “produced consistent electoral success” (p. 25), the organization was beginning to show cracks that Kury capitalized on. First, when running for the State House, Kury set out to create a grassroots, volunteer-only organization that would create its own energy and sense of direction. Second, Kury determined to make his race an issue-driven one, “with heavy emphasis on clean streams” and the Republican incumbent’s “no” vote on an important bill to bring coal companies within reach of the clean-streams bill (p. 27). Finally, the Kury campaign made every effort to acquire Republican votes and to make personal contact with as many voters as possible. The strategy worked, as Kury pulled off an upset victory by a slim margin of 939 votes.

In Part II, Kury recounts his experiences and accomplishments in the Pennsylvania House of Representatives. Representative Kury hit the ground running and within two years worked with others to reform the absentee ballot, which had the effect of significantly reducing absentee-ballot controversies in Pennsylvania. Second, Kury’s chief legislative prize was a systematic reform of the state’s clean-streams law, which began in 1968 while Kury was in the House minority. The bill went nowhere until Democrats took control of the House after the 1968 election. The clean-streams bill catapulted to the top of the new legislative agenda. The bill, which became law when Governor Shafer signed it in 1970, expanded the definitions of key words in environmental law (e.g., “pollution” and “waters of the Commonwealth”), gave the Department of Health and the Sanitary Water Board wide authority to implement the statute, and prohibited any person from discharging any polluting substance into public waters.

Representative Kury’s dedication to the environment extended further with his objective of amending the Pennsylvania Constitution to give the natural environment some degree of constitutional protection. The result was Article I, Section 27 of the Pennsylvania Constitution, which states that “people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment.” Although

this constitutional provision has been limited by subsequent litigation, its place in the Constitution is significant.

In 1972, Kury won a seat in the state senate, where he continued his reform efforts. During his eight years there, Kury helped shepherd changes to the senate's process of confirming gubernatorial appointments, the determination of a governor's disability, the rewriting of the utility law, and reform of the floodplain- and storm-water-management laws.

When Richard Thornburgh became Pennsylvania's governor in 1979, politics shifted in the state and Kury "increasingly realized that the good fortune [he] had of serving in the Senate while [his] party controlled all three branches of government was over" (p. 146). Kury left the senate in 1980 but remained active in politics, serving as a fundraiser for various Democratic politicians in Pennsylvania and working on Walter Mondale's 1984 presidential campaign.

Kury concludes his autobiography by offering some personal reflections on politics. For Kury, the keys to electoral and legislative success include having a set of dedicated volunteers, being a consistent leader, and "maintaining willingness to compromise" (p. 158). Another important variable for success—and one that is perhaps lacking in modern politics—is the commitment to "doing the 'homework' necessary to document and justify the proposed legislation" (p. 158).

At a time when public distrust of politicians and government institutions is high, Kury's book offers an endearing and welcome perspective on how politics once worked and could work again. While Kury does not offer any strong prescriptions for the systemic ills that plague Pennsylvania's politics, the reader is left with a mildly comforting feeling that Pennsylvania's problems are enduring ones that simply manifest themselves in different ways over time. For example, corruption and malfeasance were present in Kury's time in the General Assembly, but their presence did not automatically preclude Kury and other reformers from passing significant legislation. While it may be tempting to dismiss this book as one man's legislative stories, it is much more, because it provides valuable insights into what it takes to be an influential and respected politician able to help move our great Commonwealth forward.

— Kyle L. Kreider, *Wilkes University*

Inventors of Ideas: An Introduction to Western Political Philosophy. 3d ed. By Donald G. Tannenbaum. New York: Wadsworth, Cengage Learning, 2012. 314p. \$97.00 paper. ISBN: 9780495908241

Political philosophy, one of the pillars of political science, has been under attack for more than four decades. This attack in the name of the modern scientific method led to the banishment of political philosophy from

the academy at various major universities. The past decade witnessed a new challenge in the form of a generation of web-browsing, text-messaging undergraduate students who admit that they do not enjoy reading, do not want to read, or ultimately refuse to read. These students are experts at finding data and isolated facts, but they have major difficulties with critical analysis and the formulation of logical argument (as opposed to personal opinion). These problems arise, in part, because the students have essentially no historical context in which to analyze the disparate facts they find electronically and no moral context within which to reflect upon personally or discuss publicly the fundamental questions of political philosophy: What is justice? Is there a common good? What is the best regime? More than most students in recent memory, today's students desperately need political philosophy as formulated by Plato and Aristotle and practiced by Machiavelli and Rousseau.

Thus Donald Tannenbaum's third edition of *Inventors of Ideas: Introduction to Western Political Philosophy* is a welcome counterweight and a valuable addition to the textbooks available for undergraduate courses in political philosophy. A balanced combination of breadth and brevity remains the hallmark of this textbook. The expanded edition is still only 300 pages long. Between an introduction and a conclusion setting out the author's analysis of political/societal crises and the role of political philosophers in addressing them, students will discover fifteen chapters, each devoted to a major political philosopher (or two). Plato, Aristotle, Augustine, Aquinas, Machiavelli, Hobbes, Locke, Rousseau, and Marx are all covered. Neglected political philosophers—Cicero, Burke, Mill, and Mary Wollstonecraft—also receive individual chapters. Luther and Calvin are paired in one chapter, and Freud and Nietzsche are paired in the final substantive chapter. Professors of political philosophy will find that the chapters on Cicero, Luther and Calvin, Burke, and Freud and Nietzsche provide both historical and moral context for undergraduates not readily available elsewhere.

Inventors of Ideas differs from other textbooks that seek to explain one or two of each political philosopher's key texts, e.g., Plato's *Apology* or Machiavelli's *Prince*. Tannenbaum explicates key terms and concepts (human nature, forms of government, law and citizenship) in each philosopher's work as a whole without expecting students to have read the original. For example, his chapter on Aristotle addresses "Happiness, Values, and Human Nature," "Community," and "Political Change," (34–44), while the chapter on Rousseau variously treats "State of Nature and Human Nature," "The Social Contract," "Citizenship, Gender and Education," and "Forms of Government" (188–204).

Each chapter contains a variety of study aids, including a one- or two-page conclusion by Tannenbaum, "Notes to the Chapter," and

recommendations for “Additional Readings.” This edition for the first time also contains a wide range of useful charts and figures to illustrate graphically the author’s analysis, such as Figure 11.3, “Comparing the Contracts of Hobbes, Locke and Rousseau” (194), and Figure 15.1, “Marx: The Stages of History” (267).

Another strength of this textbook is that from the beginning, the author asks students to reflect upon the methodologies of classical, medieval, and modern political philosophers and apply them to contemporary political problems. What if your regime allowed or compelled only one religion? What if you knew a friend was being convicted of a crime but was innocent? Is democracy the best regime under all conditions? If a law is unjust, must it be obeyed until it can be changed?

From Aristotle’s recognition that politics is choice of actions directed to ends, Tannenbaum wants students to find in the classical, medieval, and modern political philosophers not dried up, empty relics of fact or history but living choices that prevail today in many authoritarian and nominally democratic regimes. Interestingly, in her *Political Philosophy in the Twentieth Century: Authors and Arguments* (2011), Katherine Zuckert also sought to defend human agency and political choice by focusing upon the upwelling of political philosophy in the mid-twentieth century in the persons of Hannah Arendt, Leo Strauss, Eric Voegelin, Jurgen Habermas, and John Rawls, among others. In different ways, Zuckert and Tannenbaum each seek to advance “a rich and vibrant tradition of reflection and debate about the most fundamental issues of human existence” (Zuckert, 6).

Any two professors of political philosophy could disagree about the most reasonable interpretation of the key texts in political philosophy. Was Socrates describing an ideal state in *The Republic* or merely constructing a “city in speech”? Was Machiavelli a modern realist or a “teacher of evil”? Are Hobbes and Locke polar opposites or are they part of a common brotherhood of “possessive individualism”? Thus, I do not address the author’s interpretations of various political philosophers. Rather, disagreement about both “human nature” and the “best regime” may be indispensable to retaining the “tradition of reflection and debate” that both Tannenbaum and Zuckert seek.

I have two suggestions for the next edition. First, include a recommendation for the most literal and least expensive paperback translation of each philosopher’s major works for faculty who want students to confront the original texts while still using a basic textbook. Second, expand the list of “Additional Readings.” Arguably, two of the most significant political philosophers of the twentieth century are conspicuously underrepresented. Leo Strauss is mentioned only in passing, and Eric Voegelin is absent entirely. For example, in the chapters on Plato and Aristotle alone, none of the following are included: Voegelin, *The World of the Polis*; Voegelin, *Plato*

and Aristotle; Strauss, Socrates and Aristophanes; Strauss, On Tyranny; Zuckert, Plato's Philosophers: The Coherence of the Dialogues; Seth Benardete, Socrates' Second Sailing: On Plato's Republic; Joseph Cropsey, On Humanity's Intensive Introspection; Cropsey, Plato's World: Man's Place in the Cosmos; Michael Davis, The Soul of the Greeks; and Ronna Burger, Aristotle's Dialogue with Socrates: On the "Nicomachean Ethics."

— Michael R. Dillon, *La Salle University*

Race and Renaissance: African Americans in Pittsburgh since World War II. By Joe W. Trotter and Jared N. Day. Pittsburgh, PA: University of Pittsburgh Press, 2010. 304p. \$29.95 cloth. ISBN: 978-0822943914

Joe Trotter and Jared Day, two professors of history at Carnegie Mellon University, embarked on a daunting task with their newest book: to chronicle more than half a century of African American life in Pittsburgh. While many studies have been done of the African American experience in Chicago, New York, Philadelphia, and other American cities, this book is the first to examine Pittsburgh. Through interviews, oral histories, newspaper stories, and many other sources, the authors have created a fascinating and detailed overview of the last 60 (and more) years of the struggle of African Americans for equality and the obstacles they faced.

The authors believe that African American history in the United States cannot be fully understood without knowledge of the story of the black community in Pittsburgh. In writing this book, the authors provide a broad perspective on racial inequality in Pittsburgh since World War II. While reaching for improved conditions at work, school, and home, African Americans in the Steel City endured a deep and protracted struggle but eventually made great strides.

The book opens with a review of the turn of the twentieth century and the Great Migration of blacks to Pittsburgh. The authors discuss the difficulties experienced by the new arrivals in obtaining jobs and housing and the general discrimination they encountered. Blacks able to find work in the steel mills were usually employed as strike breakers or were subjected to constant layoffs. They were met with an attitude implying that they were not equipped to work in a non-farm environment. Pittsburgh's newly arrived Eastern European immigrants vehemently resisted the inclusion of blacks in the workforce. This pattern was repeated throughout the manufacturing sector. Most blacks were relegated to jobs at the lowest levels of the service industry. The Great Northern Migration of blacks between 1910 and 1930 brought more African Americans to Pittsburgh, thereby swelling the demand for housing and increasing the need for jobs.

Ever-increasing discriminatory practices forced newly arriving black families to live in areas of Pittsburgh that were already predominately black

and marked by substandard housing. These conditions led to the founding of a plethora of institutions to serve the black community. Fraternal organizations, churches, business groups, and music clubs flourished. A middle class grew in neighborhoods such as the Hill District. This was the beginning of civic engagement on a broader scale.

A presidential executive order prohibiting job discrimination in federal contracts, defense plants, and training programs improved opportunities for African Americans in employment. When World War II broke out and industries expanded their workforces, the new prosperity spread to the black community; and along with it came an increasing desire on the part of African Americans for greater participation in Pittsburgh's political life.

The steel industry plays an important role in this book, for it links many aspects of African American daily life in Pittsburgh. From the city's beginnings, steel brought people to Pittsburgh and steel is why people remained there. The industry's decline and the city's subsequent move to a service-oriented economy had a great impact on Pittsburgh's black residents, especially the latest wave of black migrants seeking opportunity in the postwar years. The black portion of Pittsburgh's population grew from 12% in 1950 to 20% in 1970. The book examines in great detail the engagement of the African American community in the processes of urban renewal, civil rights, politicization, and desegregation during this arduous period of deindustrialization.

The continued presence of inequality is not ignored by the authors. While conditions have improved, inequality of access to education, housing, employment, health care, housing, and education remains. Inequality increases poverty in the African American community. As the authors reflect on a country with an African American president, they ponder the impact of that monumental achievement on Pittsburgh.

Those interested in researching the City of Pittsburgh during the period examined in this book will find a treasure trove of source material and ideas. The appendix contains 25 pages of statistics and census data that illustrate what happened during this period. While the book is an informative beginning on many topics, the authors provide just enough to remind us that there is much more to be told. The book is also useful for teachers of African American studies, history, sociology, urban studies, and political science. Yet it is written in a manner accessible to a broad audience.

— Arthur M. Holst, *City of Philadelphia Water Department*

COMMONWEALTH: A Journal of Political Science

Founded by the Pennsylvania Political Science Association (PPSA) in 1987, *COMMONWEALTH: A Journal of Political Science* is a peer-reviewed journal that publishes original research in all subfields of political science along with interdisciplinary articles. From 2004 to 2010, the now defunct Legislative Office for Research Liaison (LORL) of the Pennsylvania House of Representatives jointly published the journal. *COMMONWEALTH's* editorial staff, Editorial Review Board, and referees maintain the highest standards of peer review and publication.

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Ursinus College
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