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

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

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

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INTRODUCTION

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

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

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

1. See, e.g., Alex Koppelman, *How the Christian Right Could Defeat Rudy— and Make Hillary President*, SALON.COM, Oct. 19, 2007, <http://www.salon.com/news/feature/2007/10/19/Giuliani> (discussing the impact of evangelical Christian voting habits on electoral politics in the context of the 2008 presidential election, and noting “just how important white evangelical voters have proved to the GOP’s dominance in [the South,] the region that is the source of its national strength”).

and lower-middle classes. A new breed of “fringe” creditors charging prices well in excess of the old mafia loan-sharking syndicates has spread throughout the country.² The archetype of fringe creditors, commonly referred to as “payday” lenders, charges average simple nominal annual interest rates of about 450%.³ These lenders have met a chorus of criticism from the media, consumer advocates, military leaders, and scholars. Critics argue that although payday loans have short initial terms, they quickly become debt traps when unsuspecting or desperate borrowers are unable to retire their rapidly swelling obligations.⁴ Pointing to a seemingly endless supply of consumer horror stories, payday lending critics label the loans “predatory” and have demanded that the traditional American rules that once banned this industry be re-imposed.⁵ Apologists for the industry counter that payday lenders are merely responding to legitimate demand for financial services; therefore, because consumers are not forced into their contracts, they can either shop for a lower priced deal or elect not to borrow.⁶ At their core, these arguments find their genesis in Jeremy Bentham’s famous *Defence of Usury* from 1787.⁷

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

2. Simple nominal annual interest rates on extortionate mafia loan shark debts averaged 250%. *Syndicate Loan-Shark Activities and New York’s Usury Statute*, 66 COLUM. L. REV. 167, 167 (1966).

3. U.S. PUB. INTEREST RESEARCH GROUP & CONSUMER FED’N OF AM., SHOW ME THE MONEY! A SURVEY OF PAYDAY LENDERS AND REVIEW OF PAYDAY LENDER LOBBYING IN STATE LEGISLATURES 9 tbl. (2000), available at http://www.uspirg.org/uploads/0J/JI/0JJxjotQIIpsOOhaP_dg/showmethemoneyfinal.PDF; see also IND. DEP’T OF FIN. INSTS., SUMMARY OF PAYDAY LENDER EXAMINATIONS 1 (1999), <http://www.in.gov/dfi/legal/paydaylend/Payday.PDF> (reporting an average annual interest rate of 498.75% for more than 54,500 payday lending transactions conducted from July to September 1999); URIAH KING, LESLIE PARRISH, & OZLEM TANIK, CTR. FOR RESPONSIBLE LENDING, FINANCIAL QUICKSAND: PAYDAY LENDING SINKS BORROWERS IN DEBT WITH \$4.2 BILLION IN PREDATORY FEES EVERY YEAR 2 (2006), available at http://www.responsiblelending.org/pdfs/rr012-Financial_Quicksand-1106.pdf (“[P]ayday lenders across the nation routinely flip small cash advances into long-term, high-cost loans with annual interest rates in the range of 400 percent.”).

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

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

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

7. See generally JEREMY BENTHAM, DEFENCE OF USURY (1787), reprinted in 3 THE WORKS OF JEREMY BENTHAM 1-29 (John Bowring ed., Russell & Russell 1962) (1838-1843).

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

Moreover, this Article attempts to ascertain whether the Christian legacy of skepticism regarding high-interest-rate loans has translated into consumer-protective regulation of today's payday lending industry. Employing the tools of the interdisciplinary law and geography movement, we explore the relationship between payday loan outlet locations and the political power of conservative Christians in all fifty states. Our study systematically surveys over 20,000 payday lender locations, cast against a backdrop of Christian political power, local and regional electoral districts, and a variety of demographic considerations. We conclude, with a high degree of statistical certainty, that states with powerful conservative Christian populations tend to host relatively greater numbers of payday loan locations per capita as well as a greater commercial density of payday lenders. These findings propound a tragic and sad irony. Those states that have most ardently held to their pious Christian traditions have tended to become more infested with the progeny of money changers once expelled by Christ from the Hebrew temple.⁸ Legislators in those states, who have effectively used biblical principles to shape their legislative agenda on social and cultural issues, have failed to consistently apply biblical principles to economic legislation.

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

8. See *infra* notes 59-60 and accompanying text; see also discussion *infra* Part III.C.1.

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

I. BACKGROUND

A. Payday Lending Business Practices

Payday loans—which are also currently known as post-dated check loans, deferred deposit loans, or cash advances—are high-interest-rate loans with short initial durations.⁹ In most payday loans, the consumer borrows money by writing a personal check to the lender for the loan amount plus an additional fee.¹⁰ Usually, a payday lender asks its borrower to write a check with a date one or two weeks in the future.¹¹ The date on the check represents the due date of the loan.¹² Unlike credit card companies, payday lenders generally do not check a loan applicant's credit history.¹³ Nor do payday lenders generally report the borrower's repayment history to credit bureaus later on.¹⁴ Instead, payday lenders engage in minimal underwriting, usually only verifying an applicant's identity and employment.¹⁵ In a matter of minutes, a payday

9. Payday loans go by many other names, including deferred deposit transactions, deferred presentment check cashing, delayed deposit check loans, and check advance loans. See Jean Ann Fox, *What Does It Take to Be a Loanshark in 1998? A Report on the Payday Loan Industry*, 772 PRACTISING L. INST. COM. L. & PRAC. COURSE HANDBOOK SERIES 987, 989 (1998), available at 772 PLI/Comm 987 (Westlaw).

10. *Id.*

11. CHRISTOPHER L. PETERSON, TAMING THE SHARKS: TOWARDS A CURE FOR THE HIGH-COST CREDIT MARKET 10 (2004); SHEILA BAIR, UNIV. OF MASS. AT AMHERST ISENBURG SCH. OF MGMT., LOW-COST PAYDAY LOANS: OPPORTUNITIES AND OBSTACLES 6 (2005), available at <http://www.aecf.org/upload/PublicationFiles/FES3622H334.pdf> (prepared for The Annie E. Casey Foundation).

12. PETERSON, *supra* note 11, at 10; see also Fox, *supra* note 9, at 990.

13. Fox, *supra* note 9, at 990.

14. See Richard R.W. Brooks, Essay, *Credit Past Due*, 106 COLUM. L. REV. 994, 1013 (2006).

15. See Fox, *supra* note 9, at 989.

loan borrower can walk away with between one hundred and one thousand dollars in cash.¹⁶ The best available estimates suggest that in the current prototypical transaction, the borrower obtains a \$325 loan with an initial two-week duration in exchange for a finance charge of \$52.¹⁷ When the borrower's two weeks are up, the lender is repaid by depositing the borrower's check.¹⁸ If the check clears, the transaction is complete. The interest rate on this typical payday loan is approximately 450%.¹⁹

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

16. See KING, PARRISH & TANIK, *supra* note 3, at 19 tbl. (reporting average payday loan amounts in twenty states ranging from \$205 to \$385, with a median of \$325).

17. *Id.* at 8 tbl.3. Many lenders, including internet payday lenders, now obtain consent to debit the borrower's back account with an ACH (automated clearinghouse) transfer, rather than using a check. Ronald J. Mann & Jim Hawkins, *Just Until Payday*, 54 UCLA L. REV. 855, 861-62 & n.14 (2007); see also Michael S. Barr, *Banking the Poor*, 21 YALE J. ON REG. 121, 149 (2004).

18. Fox, *supra* note 9, at 990. Alternatively, the borrower can use cash to redeem the check or may pay another fee to extend the loan. *Id.*

19. See *supra* note 3.

20. See, e.g., GREGORY ELLIEHAUSEN & EDWARD C. LAWRENCE, GEORGETOWN UNIV. MCDONOUGH SCH. OF BUS., PAYDAY ADVANCE CREDIT IN AMERICA: AN ANALYSIS OF CUSTOMER DEMAND 39 tbl. 5-11 (2001), available at <http://www.business.gwu.edu/research/centers/fsrp/pdf/Mono35.pdf> (showing that about forty percent of borrowers rolled over more than five times in the preceding year, including about ten percent of borrowers who renewed existing loans nine to thirteen times and another ten percent who renewed fourteen times or more); ILL. DEP'T OF FIN. INSTS., SHORT TERM LENDING: FINAL REPORT 26 (1999), available at <http://www.idfpr.com/dfi/ccd/pdfs/Shorterm.pdf> (reporting that the average payday loan customer in Illinois borrows thirteen times per year and remains a customer of the payday lender for a minimum of six months); N.C. OFFICE OF THE COMM'R OF BANKS, REPORT TO THE GENERAL ASSEMBLY ON PAYDAY LENDING 5-6 & tbl.III(F) (2001), available at <http://www.nccob.org/NR/rdonlyres/2A95D7DA-75C0-49F3-B896CAC45D947727/0/CheckCashersReporttoGenAssembly.pdf> (showing that approximately eighty-seven percent of borrowers of a given payday lender use that lender's services more than once per year); LAURA E. UDIS, UNIF. CONSUMER CREDIT CODE, REPORT OF THE UNIFORM CONSUMER CREDIT CODE REVISION COMMITTEE AND ACTIONS OF THE COLORADO COMMISSION ON CONSUMER CREDIT 23-24 (1999) ("Some lenders continuously refinance deferred deposit loans and collect more in refinance fees than the original loan amount, while the consumer continues to owe the original loan. . . . Instances of as many as thirteen or more refinances have been noted in compliance examinations."); U.S. PUB. INTEREST RESEARCH GROUP & CONSUMER FED'N OF AM., *supra* note 3, at 8 ("[In 1999,] Indiana found an average of

Even in states that have attempted to legally limit the duration of payday loans, many borrowers fall into longer-term relationships with payday lenders.²¹ Investigations by federal banking regulators and statements of former payday lending employees confirm that payday lenders create compensation incentives encouraging employees to manipulate borrowers into long-term borrowing.²² Indeed, the best available

10.19 payday loans per year per customer, with the ten largest lenders averaging 12.05 loans per person per year.”); WASH. STATE DEP’T OF FIN. INSTS., PAYDAY LENDING REPORT: STATISTICS & TRENDS FOR 2003, at 3 tbls. (2005) (showing that over thirty percent of borrowers borrow more than ten times per year, and almost ten percent borrow twenty times or more per year); SHANNON CALLAHAN & ED MIERZWINSKI, OR. STUDENT PUB. INTEREST RESEARCH GROUP, PREYING ON PORTLANDERS 4 (2005), http://www.ospirgstudents.org/uploads/8-/ym/8ym_aNozckvET0qirBAG/preyingonportlanders.pdf (reporting that nearly three out of four payday loan borrowers cannot pay their loans when they come due); IND. DEP’T OF FIN. INSTS., *supra* note 3 (reporting that on average, seventy-seven percent of payday loans are extensions of previously existing contracts); IOWA CIVIC ANALYSIS NETWORK, UNIV. OF IOWA, PREDATORY LENDING 3 (2006), <http://www.uiowa.edu/~ican/Papers%202006/predatorylending010207.pdf> (reporting an average of 13.8 loans per customer per year in Iowa); *see also* Paul Chessin, *Borrowing from Peter to Pay Paul: A Statistical Analysis of Colorado’s Deferred Deposit Loan Act*, 83 DENV. U. L. REV. 387, 411 (2005) (noting that approximately sixty-five percent of Colorado’s payday loan volume is based on borrowers with more than twelve payday loan terms per year); Creola Johnson, *Payday Loans: Shrewd Business or Predatory Lending?*, 87 MINN. L. REV. 1, 55-77 (2002) (reviewing the phenomenon of consumer debt rollover); Michael A. Stegman & Robert Faris, *Payday Lending: A Business Model that Encourages Chronic Borrowing*, 17 ECON. DEV. Q. 8, 19-25 (2003) (examining the rollover problem in general and its specific manifestation on North Carolina’s payday loan industry).

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

22. U.S. OFFICE OF THE COMPTROLLER OF THE CURRENCY, FACT SHEET: EAGLE NATIONAL BANK CONSENT ORDER 2 (2002), <http://www.occ.treas.gov/ftp/eas/eaglenbfact%20sheet.pdf> (reporting the discovery that a payday loan company offered employee compensation incentives for promoting repeat borrowing); Mark Flannery & Katherine Samolyk, *Payday Lending: Do the Costs Justify the Price?* 16-17 (FDIC Ctr. for Fin. Research, Working Paper No. 2005-09, 2005), *available at* http://www.fdic.gov/bank/analytical/cfr/2005/wp2005/CFRWP_2005-09_Flannery_Samolyk.pdf (explaining that high frequency borrowers are more profitable because they generate lower loss ratios and lower operating costs); *see also* Video: Payday Loans Trap Borrowers (Center for Responsible Lending 2007), *available at* <http://www.responsiblelending.org/issues/payday/inside-the-payday-industry.html> (interview with Rebecca Flippo, a former payday loan store manager, who explains that she and her employees would downplay the high interest rate to customers).

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

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

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

23. KING, PARRISH & TANIK, *supra* note 3, at 7, 8 tbl.3.

24. *Cf.* Mann & Hawkins, *supra* note 17, at 886, 897 (comparing payday lending to credit card lending and noting that "the principal difference is that the payday lender need invest only \$200 to generate \$60 per month, while the credit card issuer will need to invest \$3000").

25. Flannery & Samolyk, *supra* note 22, at 12.

26. *See* U.S. PUB. INTEREST RESEARCH GROUP & CONSUMER FED'N OF AM., *supra* note 3, at 6-7 (reporting that payday lenders frequently exceed state fee limits; charge bounced check fees ranging from \$7.50 to \$40; and charge APRs ranging from 195% to 1092% on a two-week, one hundred dollar loan).

27. KING, PARRISH & TANIK, *supra* note 3, at 6-7.

28. *Id.* at 2, 6-7.

29. *See* U.S. PUB. INTEREST RESEARCH GROUP & CONSUMER FED'N OF AM., *supra* note 3, at 8 (reporting Tennessee's finding that its payday lenders "earned over 30% return on investment in the first nine months of legal operation"); Mike Hudson, *Going for the Broke*, WASH. POST, Jan. 10, 1993, at C1 ("In 1987, Entrepreneur magazine told its readers they could open a check casher with an investment as small as \$65,000 and pull in before-tax profits as high as \$117,000 a year. John Binder, a University of Illinois-Chicago economist, studied Illinois check cashers and found they earn 10 to 20 times higher 'return on equity' than banks."). *But see* Flannery & Samolyk, *supra* note 22, at 10 (positing that "payday loans may not necessarily yield extraordinary profits" because advance fees are comparable to operating costs).

suffered from payday lending obligations.³⁰ Other opponents of payday lending often argue that the payday loan market is inefficient because of information imperfections, cognitive distortions, and externalities.³¹ Some have compared the payday lending market to the market for illegal narcotics: both products can destroy families and are, in some sense, addictive.³² Other criticisms include the argument that payday loans—irrespective of individual consumer wishes—create poverty by extracting too much from low- and moderate-income families.³³ Payday lenders are generally recognized as among the most aggressive debt collectors in American society, sometimes using public humiliation, threats, and constant harassment to collect.³⁴ Some critics assert that payday lending also harms other businesses by capturing disposable income that would otherwise be paid to landlords, utility companies, professional service providers, and other creditors.³⁵ Still other critics complain that payday lender storefront locations lower property values by generating poverty, commercial ill-will, and possibly even attracting crime.³⁶ Some have also

30. See, e.g., Diana B. Henriques, *Seeking Quick Loans, Soldiers Race into High-Interest Traps*, N.Y. TIMES, Dec. 7, 2004, at A1 (recounting the story of a Navy petty officer who borrowed \$500 at a 390% interest rate, which then spiraled into a chain of loans with \$4,000 outstanding at interest rates as high as 650%); Cheryl L. Reed, *The 'Wild, Wild West' in Loans*, CHI. SUN-TIMES, Aug. 15, 2004, at 20A (reporting that a single mother of three borrowed \$1,000 at a 521% interest rate to deal with a financial emergency; unable to pay the loan back quickly, she found out that interest and fees on her debt soon inflated the balance to \$10,743).

31. E.g., PETERSON, *supra* note 11, at 128-36, 150-67, 199-241 (discussing economic inefficiency in high cost consumer finance markets); Lauren E. Willis, *Decisionmaking and the Limits of Disclosure: The Problem of Predatory Lending*, 65 MD. L. REV. 70, 749-61 (2006) (discussing the problems of logistics, incomplete information, and financial illiteracy as they relate to the recent phenomenon of overpriced home loans).

32. See PETERSON, *supra* note 11, at 173-75 (discussing the self-help group Debtors Anonymous); J. Andrew Curliss, *Lending Spurs Protest*, NEWS & OBSERVER (Raleigh, N.C.), Apr. 12, 2002, at B1 (quoting North Carolina State Senator Wib Gulley as having said that payday loans “‘suck[] people into a cycle of escalating debt and impoverishment’”).

33. Cf. KING, PARRISH & TANIK, *supra* note 3, at 2 (noting that American families now pay \$4.2 billion per year in predatory payday lending fees, and that states with a ban on such lending save their citizens approximately \$1.4 billion per year).

34. Johnson, *supra* note 20, at 77-78; see also Video: Payday Loans Trap Borrowers, *supra* note 22 (describing the collection techniques used at one payday lending store).

35. See, e.g., RICK JURGENS, NAT'L CONSUMER LAW CTR., UTILITIES AND PAYDAY LENDERS: CONVENIENT PAYMENTS, KILLER LOANS 26-28 (2007), available at http://www.consumerlaw.org/reports/content/payday_utility.pdf (recognizing that payday loans “jeopardize [consumers'] ability to pay for the necessities of life—including utility services,” and recommending that payday lenders who also collect utility bill payments be prohibited “from promoting or soliciting lending services before, during or after the transaction”).

36. Annysa Johnson, *Payday Loan Stores in Crosshairs*, MILWAUKEE J. SENTINEL, Sept. 21, 2006, at 6A; see also Heather MacDonald, *Oakland Curbing Check Cashiers*,

complained that payday lenders clog the court system by bringing more small claims court debt collection lawsuits than other businesses or institutions.³⁷ Payday lending may also tip consumers teetering on the edge of insolvency into bankruptcy, thereby frustrating the collection efforts of other creditors who otherwise might have been able to collect.³⁸

The payday lending industry and its apologists respond to their critics with the argument that repetitive indebtedness patterns are not evidence of chain debts, but of satisfied, repeat customers.³⁹ They explain that the transaction costs for small loans are comparable to those of larger loans, necessitating higher prices.⁴⁰ Payday lenders remind critics that their loans are collection-intensive and also require high fixed costs because consumers demand close geographic proximity to lender locations.⁴¹ Many economists treat each individual debtor's choice to borrow as conclusive evidence that such decisions produce the greatest social utility possible.⁴² Some have argued that payday loans are necessary to help consumers bridge personal and communal tragedies.⁴³ But most of all, payday lenders and their apologists argue that regulation of payday lending is ardently paternalistic.⁴⁴ If a competent adult wants to pay triple-digit interest rates, he or she should not be hindered from doing so. Most of these arguments echo those found in Jeremy Bentham's eighteenth century letter *Mischiefs of the Anti-Usurious Laws*.⁴⁵

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

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

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

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

39. See Mann & Hawkins, *supra* note 17, at 885.

40. *Id.* at 857, 889.

41. *Id.* at 863, 865.

42. See, e.g., *id.* at 885.

43. E.g., Adair Morse, *Payday Lenders: Heroes or Villains?* 7, 9 (Dec. 2006) (unpublished manuscript, available at http://www.fdic.gov/bank/analytical/cfr/2007/apr/CFRSS_2007_Morse.pdf).

44. Johnson, *supra* note 20, at 72.

45. See generally BENTHAM, *supra* note 7, at 9-11 (Letter VI).

trade association raised the stakes in this debate by kicking off a multi-million dollar advertising and public relations blitz to squelch rising criticism of the social fallout from their financial products.⁴⁶ For their part, critics of the payday lending industry have recently found a new and formidable ally in the U.S. Department of Defense. In recent years, the Pentagon has come to the conclusion that military service members were encountering significant financial, personal, and even military problems as a result of payday lending.⁴⁷ Responding to the irony of predatory lending to military personnel in a time of war,⁴⁸ Congress recently passed legislation which attempts to prevent payday lending to military service members by limiting permissible interest rates on loans to service members to no more than thirty-six percent per year.⁴⁹

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

46. Stuart Elliott, *Critics of Lending Practices Adopt a Harder Edge*, N.Y. TIMES, Mar. 6, 2007, at C6; Sue Kirchoff, *Payday Lenders Craft User Protections*, USA TODAY, Feb. 22, 2007, at 1B; Susanne M. Schafer, *Payday Loan Industry Acts to Quell Criticism*, L.A. TIMES, Mar. 8, 2007, at C8.

47. See U.S. DEP'T OF DEFENSE, REPORT ON PREDATORY LENDING PRACTICES DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS 4-6 (2006), available at http://www.defenselink.mil/pubs/pdfs/Report_to_Congress_final.pdf.

48. See *A Review of the Department of Defense's Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents: Hearing Before the Senate Committee on Banking, Housing, and Urban Affairs of the United States Senate*, 109th Cong. (2006) [hereinafter *Hearing on Predatory Lending Practices*] (written testimony of Christopher Peterson, Associate Professor, University of Florida, at 1, http://banking.senate.gov/public/_files/ACF7541.pdf); *Financial Services Needs of Military Personnel and Their Families: Hearing Before the Subcomm. on Oversight and Investigations of the H. Comm. on Financial Services*, 109th Cong. 7 (2006) (statement of Rep. Maxine Waters, Member, H. Comm. on Financial Services).

49. John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 670(a), 120 Stat. 2083, 2266 (codified at 10 U.S.C.A. § 987(b) (West Supp. 2007)) ("A creditor . . . may not impose an annual percentage rate of interest greater than 36 percent with respect to the consumer credit extended to a covered service member or a dependent of a covered service member.").

Because a large majority of the United States population is Christian, we should expect that the moral dictates of this religious perspective will play an important role in determining the future political and legal response to payday lending.⁵⁰

B. Usury Law and the Christian Theological Tradition

Payday lending is new to neither world history nor the Christian tradition. Loans functionally similar to payday loans existed in Biblical times. There are extensive historical records of high cost, abusive loans throughout ancient Mesopotamia. Loan contracts and receipts were commonly recorded in cuneiform on clay tablets. Payday lenders in the ancient world frequently used the lunar cycle as a tool in establishing short-term loan due dates. Impoverished debtors were said to fear the coming of the new moon, when small-value, high-cost loans came due.⁵¹ Indeed, apparently recognizing the harmful social side effects of loans similar to today's payday loans, many religious and government institutions in the ancient world strictly regulated loan pricing. For example, the Babylonian Empire legally limited interest rates to thirty-three percent per annum on loans payable in grain, and twenty percent per annum on loans payable in silver. Similarly, the Roman Empire experimented with several different interest rate caps, eventually settling on a twelve percent per annum limit.⁵²

Against this historical backdrop, there can be little doubt that the Bible strongly condemns usurious lending. At least a dozen biblical passages suggest that usurious lending, especially to the poor, is a grave sin. For example, the first reference to usury in the Bible states: "If thou lend money to any of my people that is poor by thee, thou shalt not be to him as an usurer, neither shalt thou lay upon him usury."⁵³ The Book of

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

51. See Andrew Simmonds, *Amah and Eved and the Origin of Legal Rights*, 46 S.D. L. REV. 516, 537 n.348 (2001).

52. Donna M. Kish-Goodling, *Using The Merchant of Venice in Teaching Monetary Economics*, 29 J. ECON. EDUC. 330, 332 (1998).

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

And if thy brother be waxen poor, and fallen in decay with thee; then thou shalt relieve him: yea, though he be a stranger, or a sojourner; that he may live with thee. Take thou no usury of him, or increase: but fear thy God; that thy brother may live with thee. Thou shalt not give him they money upon usury, nor lend him thy victuals for increase.

Ezekiel suggests that usurious lending is a sin comparable to extortion and murdering in exchange for money,⁵⁴ and warns that grave punishment—hellfire—awaits usurers:

As they gather silver, and brass, and iron, and lead, and tin, into the midst of the furnace, to blow the fire upon it, to melt it; so will I gather you in mine anger and in my fury, and I will leave you there, and melt you. Yea, I will gather you, and blow upon you in the fire of my wrath, and ye shall be melted in the midst thereof. As silver is melted in the midst of the furnace, so shall ye be melted in the midst thereof; and ye shall know that I the LORD have poured out my fury upon you.⁵⁵

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

54. The passage states:

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

Ezekiel 22:12-16.

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

He that hath not given forth upon usury, neither hath taken any increase, that hath withdrawn his hand from iniquity, hath executed true judgment between man and man, Hath walked in my statutes, and hath kept my judgments, to deal truly; he is just, he shall surely live, saith the Lord GOD. If he beget a son that is a robber, a shedder of blood, and that doeth the like to any one of these things, And that doeth not any of those duties, but even hath eaten upon the mountains, and defiled his neighbour's wife, Hath oppressed the poor and needy, hath spoiled by violence, hath not restored the pledge, and hath lifted up his eyes to the idols, hath committed abomination, Hath given forth upon usury, and hath taken increase: shall he then live? he shall not live: he hath done all these abominations; he shall surely die; his blood shall be upon him. Now, lo, if he beget a son, that seeth all his father's sins which he hath done, and considereth, and doeth not such like, That hath not eaten upon the mountains, neither hath lifted up his eyes to the idols of the house of Israel, hath not defiled his neighbour's wife, Neither hath oppressed any, hath not withholden the pledge, neither hath spoiled by violence, but hath given his bread to the hungry, and hath covered the naked with a garment, That hath taken off his hand from the poor, that hath not received usury nor increase, hath executed my judgments, hath walked in my statutes; he shall not die for the iniquity of his father, he shall surely live.

Id. at 18:8-17; *see also Jeremiah 15:10* (hinting at punishment awaiting usurers).

Similarly, Nehemiah rebuked his fellow Israelites for tolerating predatory lending within their community.⁵⁶ Proverbs even suggests that the prayers of usurers are an abomination.⁵⁷ New Testament passages in both Luke and Matthew emphasize charity, suggesting that one should not seek profit when lending to those in need.⁵⁸ And, Jesus's only recorded act of violence echoes the Old Testament's vitriol on the subject of ill-gotten profit. While the Bible is ambiguous on this point, as a historical matter, it is likely that the money changers that Jesus whipped and expelled from the Hebrew temple made usurious loans.⁵⁹ Collectively, biblical injunctions against usurious lending are at the core of the moral tradition that formed a foundation for modern American cultural attitudes toward debt.⁶⁰

Moreover, the biblical condemnation of usurious lenders is closely related to the deep and consistent message of the Bible demanding kind and just treatment of poor and vulnerable members of society.⁶¹ For

56. *Nehemiah* 5:1-13.

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

58. As Luke states, quoting Jesus during the Sermon on the Mount:

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

Luke 6:33-35; see also *Matthew* 5:42 ("Give to him that asketh thee, and from him that would borrow of thee turn not thou away.").

59. See *John* 2:13-16. Throughout the ancient Mediterranean, exchanging currency and lending money were closely linked. It is likely that some or most of the money changers operating at temples throughout the ancient Mediterranean also loaned money in addition to exchanging currency. See EDWARD E. COHEN, *ATHENIAN ECONOMY AND SOCIETY* 7 (1992); HENRI DANIEL-ROPS, *DAILY LIFE IN THE TIME OF JESUS* 251-52 (Patrick O'Brian trans., Hawthorn Books 1962) (1961); JAMES WILLIAM GILBERT, *THE HISTORY AND PRINCIPLES OF BANKING* 2-4 (3d ed. 1837); BERNARD LEWIS, *THE MIDDLE EAST* 172-73 (1995); SCOTT B. MACDONALD & ALBERT L. GASTMANN, *A HISTORY OF CREDIT & POWER IN THE WESTERN WORLD* 25 (2001); PAUL MILLS, *JUBILEE CTR., INTEREST IN INTEREST: THE OLD TESTAMENT BAN ON INTEREST AND ITS IMPLICATIONS FOR TODAY* 7 n.8 (1989), available at <http://www.jubilee-centre.org/pdfs/Interest%20in%20Interest.pdf>; Christopher Howgego, *The Supply and Use of Money in the Roman World 200 B.C. to A.D. 300*, 82 *J. ROMAN STUD.* 1, 14 (1992).

60. Paul B. Rasor, *Biblical Roots of Modern Consumer Credit Law*, 10 *J.L. & RELIGION* 157, 192 (1993-1994).

61. See Richard H. Hiers, *Biblical Social Welfare Legislation: Protected Classes and Provisions for Persons in Need*, 17 *J.L. & RELIGION* 49, 49-57 (2002) ("[B]iblical law is distinctive in its consistent regard for the welfare of 'the poor' and otherwise vulnerable or needy members of society.").

example, Deuteronomy demands “[t]hou shalt not oppress an hired servant that is poor and needy, whether he be of thy brethren, or of thy strangers that are in thy land within thy gates.”⁶² The Bible appears to demand special protection for society’s most vulnerable members, commanding Christians to “[e]xecute true judgment, and shew mercy and compassions every man to his brother: And oppress not the widow, nor the fatherless, the stranger, nor the poor.”⁶³ Furthermore, Jesus expressed profound skepticism of “them that trust in riches,” explaining that “[i]t is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of God.”⁶⁴ Moreover, Christ’s Golden Rule would appear to place triple-digit interest rate loans in a jaundiced light: presumably usurious lenders ought not make abusive loans to others, because they themselves would prefer not to borrow on such terms.⁶⁵ Indeed Jesus’s exposition of the Golden Rule in the Gospel of Luke precedes an exhortation to lend without expectation of reward.⁶⁶

In the long centuries of evolving Christian theology following biblical times, the controversy regarding the biblical position on usury has focused on whether charging *any* interest at all is permissible. Some Old Testament passages appear to take the position that for Hebrew tribal members it was permissible to make interest-bearing loans to foreigners, but not to fellow Jews.⁶⁷ Early Christians interpreted these passages as having changed in the wake of Christ’s ministry. They believed that after Christ, the law permitting interest-bearing loans to foreigners no longer applied because the New Testament notion of universal charity and

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

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

2 *Samuel* 12:1-6.

63. *Zechariah* 7:9-10.

64. *Mark* 10:24-25.

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

66. *Luke* 6:31-36.

67. See *Deuteronomy* 23:19-20; *Nehemiah* 5:7-8; see also BENJAMIN NELSON, *THE IDEA OF USURY* 29 (2d ed. 1969).

brotherhood rendered the Old Testament injunction against interest applicable to all humanity.⁶⁸ For them, after Christ there were no “foreigners” as such. Thus, throughout the medieval era, both Papal and civil authorities banned all interest-bearing loans.⁶⁹

During the Renaissance and the Protestant Reformation, both Catholic and Protestant religious leaders began to question the prohibition of all interest. Instead, these leaders and theologians took the position that the Bible forbids only excessive interest. For example, John Calvin argued that ambiguity in the translation of the Bible led early Christians into a misinterpretation of God’s moral vision.⁷⁰ Calvin pointed out that the Old Testament uses two different Hebrew words that have given translators trouble: *neshek* and *tarbit*.⁷¹ *Neshek* is used more frequently and appears by itself in some biblical passages, such as the Bible’s first mention of usury in Exodus.⁷² The Hebrew word *neshek* shares an entomological root with the Hebrew verb “to bite.”⁷³ Focusing on this word, Calvin argued that the Bible only prohibited “biting”—or exorbitant—interest.⁷⁴ Moreover, Calvin and other early Protestants argued that the Parable of the Ten Talents suggested that loans with modest interest rates, especially for commercial purposes, were permitted.⁷⁵ In this New Testament parable, a Master criticizes a servant for failing to invest funds entrusted to him.⁷⁶ Like Calvin, Martin Luther

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

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

70. *See* Joshua Buch, *Neshekh and Tarbit: Usury from Bible to Modern Finance*, 33 JEWISH BIBLE Q. 13, 17-18 (2005); *see also* ERIC KERRIDGE, USURY, INTEREST AND THE REFORMATION 25-27 (2002).

71. Buch, *supra* note 70, at 17.

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

73. *Id.* at 13-14.

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

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

76. *Matthew* 25:14-30.

believed that some commercial transactions with prices comparable to interest rates of between five and six percent per annum were biblically justified.⁷⁷ Similarly, in the Catholic tradition, as early as 1461 Pope Paul II gave his tacit approval to church-sponsored charitable pawnshops to charge a six percent simple nominal annual interest rate.⁷⁸

But even in the comparatively relaxed usury theology following the Reformation, high-cost lending continued to be viewed as a grievous sin. For example, while Calvin believed that God permitted modest interest rates, he had nothing but contempt for those who made excessively priced loans to the impoverished, calling them “beyond doubt mean and money-grubbing,” and suggesting that “an ockerer will always be a brigand, . . . and in his wickedness will go on the prowl, just as if there were no laws, no fairness, in short, no brotherly love among men.”⁷⁹ Moreover, Calvin would likely not have been impressed with contemporary justifications of payday lending that rely on new financial terminology or changing technology. To similar arguments made in his day, Calvin responded that “[w]e know the name of usurer has been everywhere and in all times detested and disreputable . . . For crafty men are forever inventing some little subterfuge or other to deceive God with.”⁸⁰ For his part, Luther argued that “[a] manifest usurer one should excommunicate, that is, one should not give him the sacrament.”⁸¹ And if a high-cost consumer lender were to attempt to repent, Luther argued that to do so, “he must become a Zaccheus, give back in full what he has stolen to whom he skinned it off.”⁸²

John Wesley, the theologian perhaps most influential on conservative Christian Americans, held a view of usury similar to Calvin’s and Luther’s.⁸³ Wesley believed Christians should be wise stewards of their

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

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

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

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

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

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

83. DONALD W. DAYTON, *THEOLOGICAL ROOTS OF PENTECOSTALISM* 88-89 (1987). *See generally* MANFRED MARQUARDT, *JOHN WESLEY’S SOCIAL ETHICS* (John E. Steeley & W. Stephen Gunter trans., 1992); RONALD H. STONE, *JOHN WESLEY’S LIFE &*

material wealth—avoiding and, wherever possible, responsibly repaying debts.⁸⁴ But, Wesley also counseled against forming hasty judgment of those unable to repay debts because “[t]here may be secrets in the situation of a person which few but God are acquainted with.”⁸⁵ Wesley was less circumspect on usurious lending than he was of necessitous borrowing. He taught that one could not experience a true Christian transformation or conversion while continuing to make a living through high-cost lending.⁸⁶ Indeed, like Calvin and Luther, Wesley was grimly dubious of the prospects for usurers in the afterlife—preaching on this point that nothing “can [be] gain[ed] by swallowing up his neighbour’s substance, without gaining the damnation of hell.”⁸⁷

In comparison to Europe, the religious history of the United States is generally viewed as complex. For example, Alexis de Tocqueville noted that the constitutional protection of the free exercise of religion and relatively permissive concept of religious tolerance—at least toward Christians—allowed many different faiths and sects to flower in early American history.⁸⁸ A complete catalogue of these faiths and their views on personal finance and abusive lending is beyond the scope of this Article. Still, we are aware of no new theological source, theory, or insight that has changed the basic Reformation interpretation of the biblical passages condemning usury.⁸⁹ In fact, to our knowledge no

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

84. See John Wesley, *Sermon 50: The Use of Money*, in 2 THE WORKS OF JOHN WESLEY: SERMONS II 34-70, at 266, 266-67 (Albert C. Outler ed., 1985).

85. John Wesley, *Sermon 131: The Danger of Increasing Riches*, in 4 THE WORKS OF JOHN WESLEY: SERMONS IV 115-151, at 178, 179 (Albert C. Outler ed., 1987).

86. Wesley believed, as do many Americans that salvation—being saved—begins as an action taken in the present rather than in the afterlife. DAYTON, *supra* note 83, at 45-47. In his view, usurious lending prevented one from having a truly Christian transformative experience. See WESLEY, *supra* note 84, at 270-71.

87. WESLEY, *supra* note 84, at 271. “We cannot devour the increase of [a neighbor’s] lands, and perhaps the lands and houses themselves, by gaming, by overgrown bills . . . or by requiring or taking such interest as even the laws of our country forbid. Hereby all *pawnbroking* is excluded, seeing whatever good we might do thereby all unprejudiced men see with grief to be abundantly overbalanced by the evil.” *Id.* at 270-71.

88. See ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 278 (Harvey C. Mansfield & Delba Winthrop eds. & trans., Univ. of Chi. Press, 2000) (1992) (“There is an innumerable multitude of sects in the United States.”).

89. A small minority of theologians continue to maintain the Medieval view of interest-bearing loans. See, e.g., MILLS, *supra* note 59, at 36-42 (describing the features of the Medieval system of interest-free loans and the workability of such a system in the modern era).

Christian theologian, pastor, or priest has ever maintained that the Bible permits exorbitantly priced consumer loans. Indeed, if the biblical injunction against usury, or *neshekh*, is to have any meaning at all in today's society, then making payday loans to impoverished borrowers at a three hundred percent interest rate must surely be a sin.⁹⁰

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

II. METHODOLOGY

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

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

91. See Nicholas K. Blomley & Joel C. Bakan, *Spacing Out: Towards a Critical Geography of Law*, 30 *OSGOODE HALL L.J.* 661, 662-64 (1992).

92. *Id.* at 664. There is, of course, far too much useful law and geography scholarship to list here. For a short introduction to the still emerging field, see generally *id.*; David Delaney, Richard T. Ford & Nicholas Blomley, *Preface to THE LEGAL GEOGRAPHIES READER*, at xiii (Nicholas Blomley, David Delaney & Richard T. Ford eds., 2001); Jane

influential scholarship addressing legal issues in a variety of topical areas including race relations, homelessness, health care, gender, crime, and the environment.⁹³

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

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

93. E.g., Robert C. Ellickson, *Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning*, 105 YALE L.J. 1165, 1171-72 (1996) (arguing for street-by-street variation in panhandling ordinances); Richard Thompson Ford, *Geography and Sovereignty: Jurisdictional Formation and Racial Segregation*, 49 STAN. L. REV. 1365, 1366 (1997) (contrasting the legal treatment of electoral districts with that of local government boundaries); Robert J. Goldstein, *Putting Environmental Law on the Map: A Spatial Approach to Environmental Law Using GIS*, in LAW AND GEOGRAPHY, *supra* note 92, at 523, 535-37 (arguing for the use of mapping technology to measure success of environmental laws); Tom Koch & Ken Denike, *Geography: The Problem of Scale, and Process or Allocation: The US National Organ Transplant Act of 1986, Amended 1990*, in LAW AND GEOGRAPHY, *supra* note 92, at 109, 122-23, 127-29 (reporting that geographic analysis of the Organ Transplant Act showed pockets of inadequate organ distribution and missed opportunities for organ harvesting in rural areas and among ethnic minorities); Erik Luna, *Transparent Policing*, 85 IOWA L. REV. 1107, 1178-93 (2000) (conducting spatial analysis of drug arrests along the northern coast of California’s San Diego County); Carol Sanger, *Essay, Girls and the Getaway: Cars, Culture, and the Predicament of Gendered Space*, 144 U. PA. L. REV. 705, 709 (1995) (arguing that post-automobile suburban geographic patterns and zoning ordinances have helped rigidify gender roles by creating “the chauffeur-mother, now tethered less to the hearth than to the garage”).

94. Joe T. Darden, *Lending Practices and Policies Affecting the American Metropolitan System*, in THE AMERICAN METROPOLITAN SYSTEM 93, 93-94 (Stanley D. Brunn & James O. Wheeler eds., 1980); Steven R. Holloway, *Exploring the Neighborhood Contingency of Race Discrimination in Mortgage Lending in Columbus, Ohio*, 88 ANNALS ASS’N AM. GEOGRAPHERS 252, 252-53 (1998); Michael Reibel, *Geographic Variation in Mortgage Discrimination: Evidence from Los Angeles*, 21 URB. GEOGRAPHY 45, 45-46 (2000).

95. *Community Credit Needs: Hearings on S. 406 Before the S. Comm. on Banking, Housing, and Urban Affairs*, 95th Cong. 17-18 (1977) (statement of Ralph Nader, Center for the Study of Responsive Law); Robert G. Boehmer, *Mortgage Discrimination: Paperwork and Prohibitions Prove Insufficient—Is it Time for Simplification and Incentives?*, 21 HOFSTRA L. REV. 603, 622 & nn.156-57 (1993).

surrounding their office or group of offices.⁹⁶ With respect to payday lending in particular, previous geographic evidence suggests that these lenders disproportionately locate their branches in poor and minority neighborhoods.⁹⁷ Moreover, geographic evidence suggesting that payday lenders cluster around military bases, in order to target service members, was influential in persuading Congress to adopt a federal usury law and arbitration ban in some loans to military personnel.⁹⁸

A. Locating the American Payday Lending Industry

To better understand the relationship between payday lending, usury law, and the Christian faith of many Americans, this Article explores the spatial location patterns of payday lenders and the political power of conservative Christians. To that end, we have attempted to compile a list of every payday lender location in the United States. Construction of our database was simplified in that eleven states have usury laws effectively prohibiting payday lending within their borders.⁹⁹ With the exception of a few states, the addresses of payday lenders were available either via mail or online from each state's regulatory authority. Telephone directories were used to gather address data for the remaining states that either had no regulatory authority or otherwise did not make addresses of regulated payday lenders publicly available. Moreover, in addition to mapping payday lenders, we also mapped every brick-and-mortar FDIC-insured bank branch in the nation.¹⁰⁰ Mapping banks

96. Community Reinvestment Act of 1977, Pub. L. No. 95-128, § 804, 91 Stat. 1111, 1148 (codified as amended at 12 U.S.C. § 2903(a)(1) (2000)). Under the CRA, banking regulators are required to conduct periodic legal and geographic analyses of depository institutions, and may potentially deny permission to institutions receiving poor evaluations to merge or open new branches. See Jonathan R. Macey & Geoffrey P. Miller, *The Community Reinvestment Act: An Economic Analysis*, 79 VA. L. REV. 291, 300 (1993).

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

98. John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, § 670(a), 120 Stat. 2083, 2266 (codified at 10 U.S.C.A. § 987(b), (e)(3) (West Supp. 2007)); *Hearing on Predatory Lending Practices*, *supra* note 48 (written testimony of Christopher Peterson, Associate Professor, University of Florida, at 8, http://banking.senate.gov/public/_files/ACF7541.pdf); Steven M. Graves & Christopher L. Peterson, *Predatory Lending and the Military: The Law and Geography of "Payday" Loans in Military Towns*, 66 OHIO ST. L.J. 653, 657-58 (2005); see also *supra* notes 47-49 and accompanying text.

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

100. Mapping bank branches is much more simple than mapping payday lenders because the FDIC maintains a list of the location of every FDIC-insured bank. See Federal Deposit Insurance Corporation, Find an Institution, http://www2.fdic.gov/idasp/frm_inst.asp (last visited Mar. 19, 2008). The FDIC recognizes several categories of banks; for our purposes, we removed from our databases impermanent and limited purposes branches.

allowed us to compare the spatial pattern and density of an industry closely related to payday lending. The map of banks provided a control group and a barometer of commercial activity at each spatial scale studied.

Next, the addresses of over 24,000 payday lenders as well as every bank in the country were translated into latitude and longitude coordinates (a process known as geocoding) by an online address-matching service.¹⁰¹ Using Geographic Information Systems (GIS) software, the latitude and longitude coordinates of every known payday lender and bank in the country were plotted as points on a map.¹⁰² Throughout most of the country the number and location of payday lenders and banks are constantly changing, making our database, to a degree, a moving target. Nevertheless, we believe that this database is the most comprehensive map of payday lender locations yet created.

Once the addresses of payday lenders and banks were plotted as points on a map of the United States, we superimposed series of boundary maps upon the point map. Altogether, we analyzed the payday lending in six different statistical categories: states, counties, ZIP codes, state lower house legislative districts, state upper house legislative districts, and federal U.S. House of Representatives districts. With the addition of Census data,¹⁰³ these superimposed boundary maps allowed us to create a series of easily understood statistical measures of payday lending at a variety of geographic scale levels. Moreover, the legislative district mapping allowed some statistical analysis regarding the relationship between the prevalence of payday lending and the composition and party affiliations of congressional delegations. At the federal level, our database allowed us to compare payday lender density to Congressional voting patterns.

In addition to the simple count of payday lenders at each scale level, we also calculated the density of payday lenders on a per capita basis and a “per bank” basis. Taking per capita measures of this industry is important because simple counts of payday lending, especially at the more local scale, can be misleading. Some places, such as California and

101. Map Multiple Locations by Address, <http://www.batchgeocode.com/> (last visited Mar. 19, 2008). This website uses the Yahoo! Geocoding API, a commercial street map database, which is considered more accurate than the commonly-used TIGER street map database. *Id.*

102. This software, ESRI ArcMap 9.2, is a common professional geography computer program that allows users to compile, author, analyze, map, and publish geographic information. See Environmental System Research Institute, ArcGIS: The Complete Enterprise System, <http://www.esri.com/software/arcgis/index.html> (last visited Mar. 19, 2008).

103. See U.S. Census Bureau, Census 2000: Demographic Profiles, Summary File 3, <http://www.census.gov/Press-Release/www/2002/sumfile3.html> (last visited Mar. 19, 2008).

many metropolitan counties, have enormous numbers of payday lenders; but when these counts are normalized by the number of citizens in each district, we find that other locations with smaller populations have much higher densities of payday lenders. By the same token, some locations with only a few payday lenders may appear unburdened by the industry until the per capita measurement is taken, whereupon one finds that this count may be far more than one would expect for the population in that region.

Finally, we combined our count of payday lenders and banks at each spatial scale level to create a statistical measure of commercial density called a location quotient.¹⁰⁴ Location quotients are the primary method professional geographers use to measure the relative density of a variety of economic activities.¹⁰⁵ Our location quotient formula allowed us to measure the density of payday lenders, relative to banks, within a given geographic area.¹⁰⁶ Once payday lenders were counted and the per capita

104. This statistic, which is essentially a ratio of payday lenders to banks, helps put into context the zoning and business climates in which payday lenders operate. For an excellent introduction further explaining statistical geography, see JAMES E. BURT & GERALD M. BARBER, *ELEMENTARY STATISTICS FOR GEOGRAPHERS* 1-30 (2d ed. 1996).

105. One standard location quotient formula is,

$$LQ = \frac{\frac{X_i}{\sum X}}{\frac{Y_i}{\sum Y}}$$

where LQ is the location quotient, X and Y are the businesses in question, and i is the geographic location, such as a ZIP code or a county. GARETH SHAW & DENNIS WHEELER, *STATISTICAL TECHNIQUES IN GEOGRAPHICAL ANALYSIS* 313 (2d ed. 1994).

106. Because there are many ZIP codes with no payday lenders, the standard location quotient formula is not suited to measuring this industry. Accordingly, we modified this formula in order to include those areas without payday lenders and to allow analysis of subtle differences between two areas with identical ratios of banks to payday lenders, but with different numbers (volumes) of banks and payday lenders. Some ZIP codes, and indeed some entire counties, function as retail, service, and commercial districts for surrounding areas. These areas have a tendency to have both higher numbers of payday lenders and higher per capita densities of payday lenders than those areas they serve. Moreover, our location quotient allows us to determine if the ratio of payday lenders to banks is greater than the statewide (or nationwide) ratio for these two industries. Accordingly, our location quotient formula is:

$$LQ_i = \frac{X_i / (X_i + Y_i)}{X_n / (X_n + Y_n)}$$

where LQ_i is the local location quotient for a given geographic area, X_i are the payday lenders for that area, Y_i are the banks, X_n equals the sum of payday lenders statewide or nationally, and Y_n equals the sum of banks statewide or nationally. Thus, the formula might be expressed as “the location quotient at location i is equal to the ratio of payday lenders at location i (X_i) to the sum of payday lenders (X_i) and banks (Y_i) at location i , divided by the ratio of all payday lenders (X_n) to the sum of all payday lenders (X_n) and

and location quotient figures were generated, each geographic area was then given a rank based on three variables for ZIP codes, counties, and states. Legislative districts were ranked using per capita and location quotient ranks because districts have roughly equal populations, making the third rank statistically redundant. The ranks were then averaged together to create a composite ranking. This composite ranking provides what we believe is the most reasonable and transparent measure of the prevalence of payday lending within a geographic area.

B. Measuring the Political Power of Conservative Christian Americans

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

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

all banks (Y_n).” More simply stated, the location quotient equals the local ratio of payday lenders to banks plus payday lenders, divided by the equivalent ratio at the state (or national) level. In states where payday lending is legal, we assigned a value of 0.01 to those ZIP codes and the occasional county that lacked a bank or a payday lender, which enabled us to assign a location quotient to those areas.

107. The Poole and Rosenthal index is a highly sophisticated and well-regarded measure of voting behavior for federal legislators. University of California, San Diego, Dr. Keith T. Poole, Welcome to the Voteview Website, <http://voteview.com> (last visited Mar. 19, 2008) [hereinafter Voteview]. We used data from the 108th Congress, because that Congress was the last session for which all the data could be obtained for each legislative district. Royce Carroll, Jeff Lewis, James Lo, Keith Poole & Howard Rosenthal, DW-NOMINATE Scores with Bootstrapped Standard Errors, <http://voteview.com/dwnomin.htm> (last visited Mar. 19, 2008) (last updated Aug. 15, 2007). This Congress also perhaps best reflects the public mood and the legislative and political environment during a period when many states were considering (or reconsidering) legislation on payday lending.

difficult. The geography of religion has been plagued by scant and unreliable data on church membership.¹⁰⁸ Churches are known to overstate the size of their congregations, and congregations differ regarding who is a “member.”¹⁰⁹ For example, some churches count children while others do not. Some churches, perhaps those with little or no ties to national or regional organizations, are likely to be under-represented because they may have addresses that change frequently or other conditions that make them hard to include in a census of church membership.¹¹⁰ Other means have been employed to define the “Bible Belt.” For example, Stephen Tweedie used viewership ratings of so-called televangelist programs to demonstrate that televised evangelical preachers are most popular in the traditional Deep South, but also in the conservative Methodist and Lutheran areas of the Midwest.¹¹¹ Fortunately, data on religious affiliation and membership has greatly improved in recent years and quality data is readily available from an online database maintained by the Association of Religion Data Archives (ARDA).¹¹²

We used ARDA data to build one-third of our Christian Power Index. For this measure we collected the rates of adherents for all evangelical denominations in each state.¹¹³ To this rate, we added the rates of

108. James R. Shortridge, *Patterns of Religion in the United States*, 66 GEOGRAPHICAL REV. 420, 420 (1976) (pointing out the need for “more generalized, diagnostic aspects of [religious geography]”); Wilbur Zelinsky, *An Approach to the Religious Geography of the United States: Patterns of Church Membership in 1952*, 51 ANNALS ASS’N AM. GEOGRAPHERS 139, 139-40 (1961) (observing that a literature review revealed “surprisingly little discussion of the subject”).

109. Shortridge, *supra* note 108, at 420-21.

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

111. Stephen W. Tweedie, *Viewing the Bible Belt*, 11 J. POPULAR CULTURE 865, 874-75 (1978).

112. See The Association of Religion Data Archives, Maps and Reports, <http://www.thearda.com/mapsReports/> (last visited Mar. 19, 2008). This archive, housed at Pennsylvania State University, is valued by researchers as the best data source of its sort anywhere. For further information regarding data quality see The Association of Religion Data Archives, About the ARDA, <http://www.thearda.com/about/> (last visited Mar. 19, 2008).

113. For a list of which denominations are included under the umbrella of “Evangelical Protestant Denominations” see The Association of Religion Data Archives, Evangelical Protestant Denominations, <http://www.thearda.com/mapsReports/reports/evangelical.asp> [hereinafter ARDA Evangelical Protestant Denominations] (last visited Mar. 19, 2008). Generally speaking, ARDA researchers define evangelical Christians as those who believe in a strict interpretation of biblical scripture, claim a personal relationship with Jesus Christ, actively seek new converts, and ascribe to the notion that Christian doctrine is a useful guide to political and cultural issues in the modern world. See Brian Steensland et al., *The Measure of American Religion: Toward Improving the State of the Art*, 79 SOC. FORCES 291, 294 (2000); see also The Association of Religion Data Archives, Sources for Religious Congregations & Membership Data,

adherence for persons belonging to The Church of Jesus Christ of Latter-day Saints, commonly called Mormons.¹¹⁴ Many consider Mormons, though quite different from evangelicals in many respects on theological matters, to be largely in line with most evangelical Protestants on political and economic issues.¹¹⁵

The second component of our CPI was built from the opinions of conservative Christian groups actively engaged in the political process. We believe that such groups are well-suited to evaluate the conservative Christian credentials of legislators and that it is important to use the public voice of conservative Christians themselves. We used vote “scorecards” published online by Project Vote Smart for three prominent Christian political action organizations: the Christian Coalition, the Family Research Council, and the Christian Action Network.¹¹⁶ Our

thearda.com/mapsReports/RCMS_Notes.asp (last visited Mar. 19, 2008). Denominations included in the evangelical category include many of the denominations commonly associated with the Christian Right, including many Baptist churches, various Pentecostal denominations, and a host of other conservative and fundamentalist groups, as well as most non-denominational congregations. See ARDA Evangelical Protestant Denominations, *supra*. Mainline Protestants, in contrast to evangelicals, tend to be less literal in their interpretation of the Bible and less aggressive in their proselytizing activities, and tend to keep separate their religious and political activities. See Steensland, *supra*, at 293-94. Among the denominations included in the mainline Protestant category are most Lutheran churches, many Methodists, Presbyterians, Episcopalians, and others. See The Association of Religion Data Archives, Mainline Protestant Denominations, <http://www.thearda.com/mapsReports/reports/mainline.asp> [hereinafter ARDA Mainline Protestant Denominations] (last visited Mar. 19, 2008).

114. ARDA researchers exclude Mormons from both the evangelical and mainline Protestant classifications. See ARDA Evangelical Protestant Denominations, *supra* note 113 (excluding the Mormon Church from the list); ARDA Mainline Protestant Denominations, *supra* note 113 (same). Because Mormons are a significant presence in several Western states and clearly exert an influence on politics in the states in which they are numerous, they were included in this study. Moreover, because the Mormon Church is frequently allied with evangelical Christians on political and cultural issues, their rates of adherence were added to the rates for evangelical Christians to provide a measure of religious conservatives that is both robust and nationally representative.

115. The combination of evangelical Christians and Mormons is not intended to suppose some theological similarity, but rather reflects the fact that adherents of the two groups tend to share political values. See Shortridge, *supra* note 108, at 425 tbl.1 (including Mormons on a list of “[c]onservative [p]rotestant [b]odies” in a geographic study of religion in the U.S.). Some mainline Protestant and evangelical Christians take a skeptical view of Mormons, arguing they are not Christians. For their part, the Church of Jesus Christ of Latter-day Saints describes itself as part of the Christian faith and all Mormons consider the Bible part of their scriptures. See Gary J. Coleman, “*Mom, Are We Christians?*”, *ENSIGN*, May 2007, at 92, 93-94. It is not our intention to take a position on this or any other theological view. With respect to this controversy, our description of Mormons as tending to be conservative Christians should be seen as a rhetorically convenient characterization, rather than a position of faith.

116. Project Vote Smart is a leading non-partisan, non-profit political research organization whose goal is the promotion of democracy through the dissemination of

purposes would have been better suited if these organizations rated every member of every local state legislature, rather than just the members of Congress because state legislators are largely responsible for crafting much of the law that regulates payday lending. As it is, we have chosen to use the scores assigned to federal legislators as a proxy for their counterparts in state government. Our proxy measure was generated by calculating the average of the three organizations' performance evaluation ratings for each member of the U.S. House of Representatives and U.S. Senate during the 108th Congress (2003-2005). An average score for each state's federal delegation (House and Senate) was also calculated to provide a numeric value for each state.

The final third of our CPI was derived from research conducted by Poole and Rosenthal, two well-known and statistically sophisticated political scientists who publish their measures of congressional voting behavior online.¹¹⁷ Using Poole and Rosenthal's roll call data, we extracted scores that reflect the tendency of a legislator to vote as a "social conservative" or a "social progressive."¹¹⁸ We then calculated and ranked the average score for each state's entire congressional delegation, including its senators.¹¹⁹

candidate information. See Project Vote Smart, About Project Vote Smart, http://www.votesmart.org/program_about_pvs.php (last visited Mar. 19, 2008); see also Project Vote Smart, American Government, Election, Candidates and Voting, <http://www.votesmart.org/index.htm> (last visited Mar. 19, 2008). These performance evaluations provide voters with a zero to one hundred rating or a letter grade for each legislator, with higher numbers or grades going to officials who voted for legislation favored by the organization creating the scorecard and against legislation not favored by these organizations. Project Vote Smart, About Our Special Interest Group Ratings, http://www.votesmart.org/issue_rating_category_about.php (last visited Mar. 19, 2008). To view these interest group ratings for specific legislators, see http://www.votesmart.org/official_five_categories.php?dist=issue_rating_category.php (last visited Mar. 19, 2008) (providing a database searchable by state).

117. See Voteview, *supra* note 107.

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

119. It is worth noting that there were some significant discrepancies between the Christian political organizations' scores and the measure of social conservatism Poole and Rosenthal generated from congressional voting records. The discrepancies may be partly a result of differences stemming from the relatively few legislative items considered by the Christian political organizations, and the broader range of social/cultural votes measured by Poole and Rosenthal. It may also be due in part to the obvious differences in agendas driving the Christian political organizations and Poole and Rosenthal. These interesting discrepancies may be worthy of a separate research project, but they reinforce the logic that has driven our multi-faceted attempt to measure Christian political power. Even if it were to be proven that these three Christian political organizations do not accurately measure the voting record of the candidates they rate, these scores do accurately reflect

After each state had been ranked according to these three measures, the three rankings were then averaged to create the CPI and a CPI ranking. States in the Deep South and Mountain West rank high on our CPI, whereas states in New England and the Mid-Atlantic rank low. These findings confirm the common logic that many evangelicals and Mormons live in the Deep South and Mountain West respectively, that their congressional representatives vote in accordance with the Christian values publicly espoused by their constituency, and that these voting records have been favorably confirmed and recognized by Christian organizations such as the Christian Coalition, which monitor the political behavior of elected officials on behalf of their followers. Our hope is that this index of Christian political power, which is partly derived from the data collected at the federal level, will accurately reflect the political climate of the respective states.¹²⁰ Our CPI does closely match the findings of other interstate measures of political ideology. Our measure of ideological power differs from others, however, in that it focuses more squarely on the role conservative Christians have on political ideology by including the opinions of Christian political organizations and accounting for the percentage of evangelical Christians and Mormons in the electorate. Finally, by using simple statistical methods and widely available data, we also hoped to make our rankings as transparent as possible.

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

In applying these methodologies we reach two empirical findings: First, rapid growth in the payday lending industry has fundamentally transformed the American financial services landscape. Second,

the opinions of these organizations. We gladly defer to their opinions because they are a legitimate barometer of what these powerful, openly evangelical Christian political advocacy groups believe, and want their congregations and affiliates to believe, about legislators.

120. Cf. William D. Berry et. al., *Measuring Citizen and Government Ideology in the American States 1960-93*, 42 AM. J. POL. SCI. 327, 327-48 (1998) (discussing the challenges of measuring the political ideology of citizens and elected officials and using federal delegation data in addition to other data to produce a measure of state ideology); Thomas M. Holbrook-Provow & Steven C. Poe, *Measuring State Political Ideology*, 15 AM. POL. Q. 399, 399-400 (1987) (defining "state political ideology" and observing that "the ability to measure state political ideology is essential to many analyses carried out at the state level"); David Nice & Jeffrey Cohen, *Ideological Consistency Among State Party Delegations to the U.S. House, Senate, and National Conventions*, 64 SOC. SCI. Q. 871, 877 (1983) (finding that state party delegations tend to show "ideological consistency . . . in the House, Senate, and national conventions" and attributing this to the efforts of political activists, the efforts of each party's coalition to adopt a certain position, and the cycle of attracting and repelling potential members of the party through emphasis on a consistent image).

conservative Christian Americans are a prime demographic target of payday lenders. This Part also includes four case studies of particularly illustrative states.

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

Historically, American usury law scrupulously conformed to biblical values. Early American usury law grew directly out of the condemnation of usury by early Protestant theologians.¹²¹ Indeed, the first American usury law, adopted by the Massachusetts colony in 1641, predated the United States Constitution by nearly 150 years.¹²² That statute, recalling moral limits suggested by Martin Luther, limited rates to no more than eight percent per annum.¹²³ Although the Founding Fathers of the United States disagreed on many issues, they were virtually unanimous in their support of reasonable limits on the prices of loans.¹²⁴ Indeed, each delegate to the Constitutional Convention returned home to a state with aggressively enforced usury limits.¹²⁵ Historians agree that early American usury laws were generally modeled on the price cap included in the English Statute of Anne.¹²⁶ This statute, in turn, was deeply influenced by the Christian perception of biblical truth prevalent at the time. Early American usury law was also premised on a deep skepticism, not only of the forthrightness of borrowers, but also of the morality and honesty of consumer creditors. The universality of Colonial adoption of simple nominal annual interest rate limits of between five and eight percent attests to an early American thrift ethic.¹²⁷

At the beginning of the twentieth century, reformers in many states believed that these limits were too low to provide legal, safe financing for middle class borrowers.¹²⁸ At this point, many states passed small loan

121. See Christopher L. Peterson, *Usury Law, Payday Loans, and Statutory Sleight of Hand: Salience Distortion in American Credit Pricing Limits*, 92 MINN. L. REV. 1110, 1116-18 (2008).

122. RANSOM H. TYLER, A TREATISE ON THE LAW OF USURY, PAWNS OR PLEDGES, AND MARITIME LOANS 50 (1873).

123. See *id.*; see also Peterson, *supra* note 121, at 1118.

124. See Peterson, *supra* note 121, at 1118.

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

126. See Peterson, *supra* note 121, at 1116 & n.13.

127. See *id.* at 1118-19.

128. See *id.* at 1120.

laws, which gave some lenders licenses to charge simple interest rates of between eighteen and forty-two percent per year.¹²⁹ To obtain these licenses, lenders were required to submit to regulatory oversight and could be sued by customers for exceeding the legal interest rate limit or for violating other regulations.¹³⁰ In most states, these special usury laws remained in force throughout most of the twentieth century, including during the Great Depression and the Second World War.¹³¹ As late as 1965, every state in the Republic retained relatively aggressive usury laws with a median limit of approximately thirty-six percent.¹³² Similarly, in 1968 Congress passed a loan-sharking law establishing a federal crime for engaging in extortionate lending.¹³³ Under this law, one part of the Consumer Credit Protection Act, a price amounting to a simple nominal annual rate of more than forty-five percent is considered evidence of extortionate loan-sharking.¹³⁴

129. See *id.* (discussing the model Small Loan Law developed by the Russell-Sage Foundation and adopted by most states).

130. See *id.* (citing ROGER S. BARRETT, COMPILATION OF CONSUMER FINANCE LAWS AND OF USURY, SALES FINANCE AND ALLIED LAWS 677 (1952)) (noting the existence of the licensing requirement).

131. See *id.*

132. See *id.* at 121 & app. tbl.5.

133. Consumer Credit Protection Act, Pub. L. No. 90-321, § 202(a), 82 Stat. 146, 159-62 (1968) (codified as amended at 18 U.S.C. §§ 891-896 (2000)).

134. The law provides:

(b) In any prosecution under this section, if it is shown that all of the following factors were present in connection with the extension of credit in question, there is prima facie evidence that the extension of credit was extortionate . . . :

(1) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable, through civil judicial processes against the debtor

(A) in the jurisdiction within which the debtor, if a natural person, resided or

(B) in every jurisdiction within which the debtor, if other than a natural person, was incorporated or qualified to do business at the time the extension of credit was made.

(2) *The extension of credit was made at a rate of interest in excess of an annual rate of 45 per centum calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.*

(3) At the time the extension of credit was made, the debtor reasonably believed that either

(A) one or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment thereof had been punished by extortionate means; or

(B) the creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof.

However, in recent decades, the traditional American legal response to high-cost consumer loans has corroded. At least two factors facilitated the slackening in usury law. First, the Supreme Court sparked a new era of federal preemption of state usury limits by granting national banks the authority to export throughout the country high interest rate limits from states such as Delaware and South Dakota.¹³⁵ Second, high inflation during this period caused prevailing market interest rates to rise, shrinking the potential profit margin separating lenders' cost of funds and their legal limits.¹³⁶ Rather than creating temporary exceptions to ancient usury rules, or allowing interest rate limits to float with an index of prevailing rates, a few legislatures repealed their limits altogether.¹³⁷ Other legislatures became more receptive to statutes that grant permission for lenders to lend at prices that would have shocked earlier generations of Americans.¹³⁸ It was through this new breach in the wall of traditional American usury law that payday lenders began flowing at the end of 1980s to early 1990s.

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

18 U.S.C. § 892 (emphasis added).

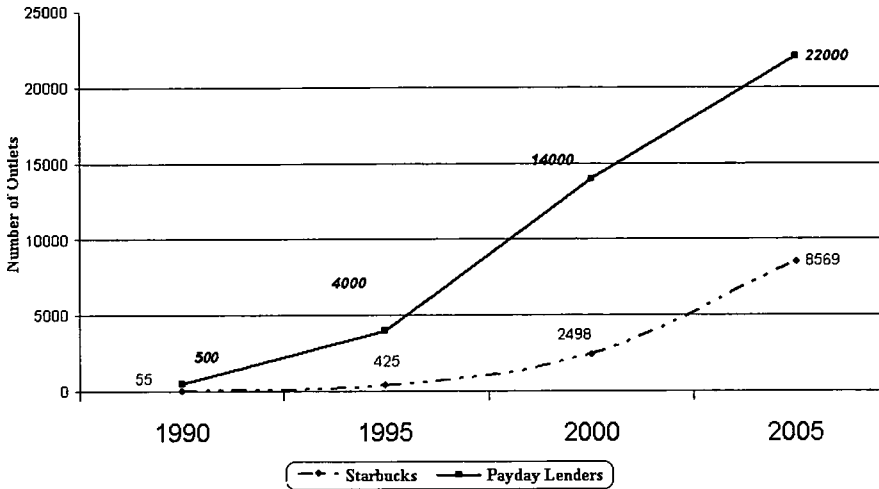
135. See *Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp.*, 439 U.S. 299, 312-13 (1978). The impact of this decision has been widely discussed. See, e.g., William F. Baxter, *Section 85 of the National Bank Act and Consumer Welfare*, 1995 UTAH L. REV. 1009, 1010-11, 1028 (observing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

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

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

138. See *id.*

Figure A. Nationwide Growth of Payday Lender vs. Starbucks Coffee Shop Locations, 1990-2005



The growth of American payday lending in the 1990s and 2000s was so rapid that some context is useful in comprehending it. Figure A contrasts the growth in the number of payday lending outlets with the growth in the number of Starbucks' coffee shops.¹³⁹ There is, of course, no relationship between Starbucks and payday lending. Still, as a matter of historical coincidence, Starbucks began its rapid ascension to become the leading coffee chain in the country at about the same time it became clear that the financial services industry lobby had successfully removed legal impediments to payday lending. Starbucks' growth is thus a good yardstick against which to measure payday lending because that growth has been so widely heralded. One commentator called Starbucks' rise to prominence "[n]ot unlike the cultural blitz of personal computing."¹⁴⁰ Some believe that Starbucks was the most explosively successful

139. See Starbucks Coffee Company, Company Timeline, http://www.starbucks.com/aboutus/Company_Timeline_Feb06.pdf (last updated Feb. 2008) (providing Starbucks location data). Payday lender location data are estimates gathered from a variety of sources. See MICHELLE HODSON, SERENA OWENS & STEVE FRITTS, FED. DEPOSIT INS. CORP., PAYDAY LENDING (2003), <http://www.fdic.gov/bank/analytical/fyi/2003/012903fyi.html> (providing 1990 estimate); Stegman & Faris, *supra* note 20, at 8 (providing 2000 estimate); Flannery & Samolyk, *supra* note 22, at 1 (providing 2005 estimate). The 1995 estimate of four thousand locations is the estimate of the authors of this Article.

140. Jennifer Reese, *Starbucks: Inside the Coffee Cult*, FORTUNE, Dec. 9, 1996, at 190, 190.

American retail company in the second half of the twentieth century.¹⁴¹ Still, this growth pales in comparison to the growth of payday lending outlets in the wake of slackening usury limits. By 2005, the seemingly ubiquitous 8,569 Starbucks locations were dwarfed by an estimated 22,000 payday loan outlets. Once usury laws were lifted, payday lenders poured into American neighborhoods like water over a breached dam.

Figure B. Payday Lender Location National Point Map, 2007

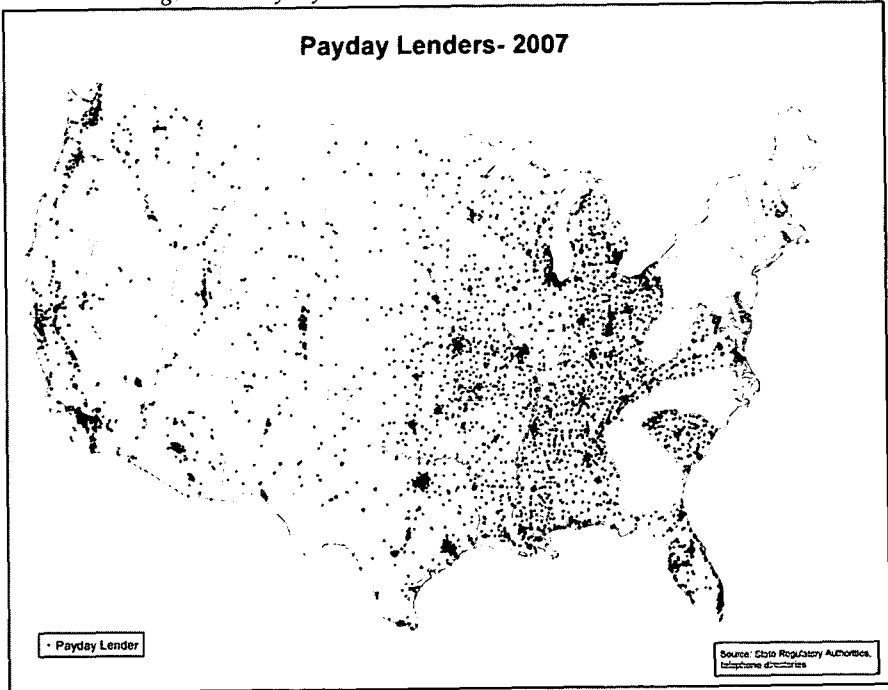
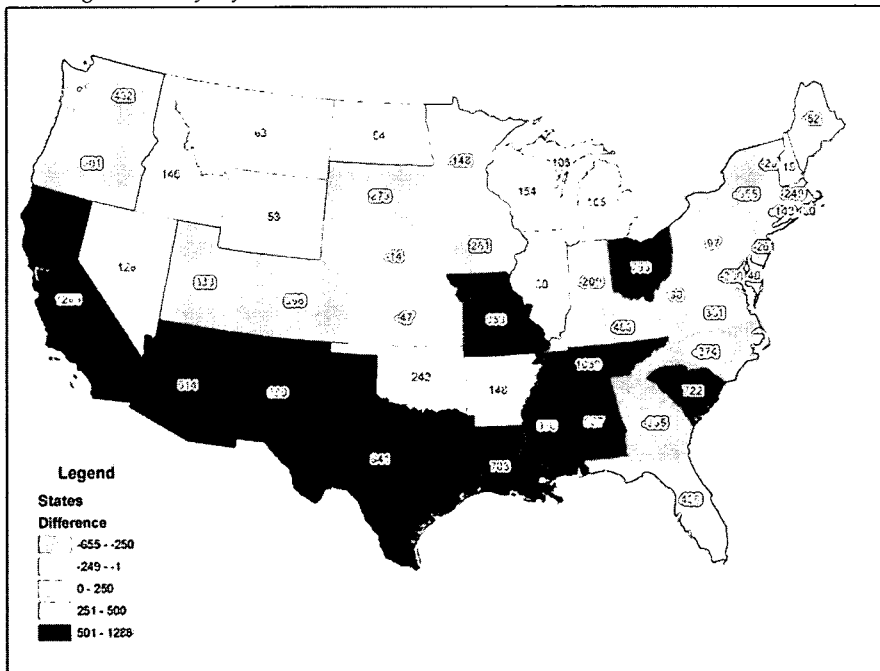


Figure B provides a point map that represents our accumulated database of payday lender addresses. We estimate that there are currently 24,017 payday lender locations in the United States. We believe this is the best estimate of the size and location of the American payday lending industry currently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

141. See, e.g., HOWARD SCHULTZ & DORI JONES YANG, POUR YOUR HEART INTO IT 5 (1997) (“[W]e built Starbucks from a local business with 6 stores and less than 100 employees into a national one with more than 1,300 stores and 25,000 employees. . . . Both sales and profits have grown by more than 50 percent a year for six consecutive years.”).

the country, both in the heartland and on the coasts. Lax usury laws in New Hampshire and Rhode Island have given triple-digit interest rate payday lenders a strong foothold in New England. Payday lending is flourishing in four out of five of the nation's most populous states: California (first most populous), Texas (second), Florida (fourth), and Illinois (fifth).¹⁴² The upper Midwestern states have large and growing payday lending industries, as do the arid Western states relative to their population. Not pictured above, Hawaii and Alaska also have active payday lending industries.¹⁴³ The only states where we could not find large payday lending industries were those states that have passed aggressive usury laws limiting interest rates to levels traditionally in force throughout American history.¹⁴⁴

Figure C. Payday Lender Locations vs. McDonald's Restaurant Locations



142. See U.S. CENSUS BUREAU, NST-EST2007-01, ANNUAL ESTIMATES OF THE POPULATION FOR THE UNITED STATES, REGIONS, STATES, AND PUERTO RICO: APRIL 1, 2000 TO JULY 1, 2007 (2007), available at <http://www.census.gov/popest/states/tables/NST-EST2007-01.xls> (providing population estimates as of July 1, 2007). New York is the nation's third most populous state. See *id.*

143. See *infra* app. tbl.1.

144. See discussion *infra* Part III.C.4.

To put the fundamental nature of this change in financial services into context, Figure C compares the total number of payday lenders in each state to the state's total number of McDonald's franchises, the world's most common and widely recognized restaurant chain. Each state number was generated by taking the number of payday lenders in each state and subtracting the total number of the state's McDonald's franchises.¹⁴⁵ In most states where usury limits allow payday loans, the number of payday loan locations easily exceeds the number of McDonald's restaurants. For example, in Florida, Texas, and California there are 436, 783, and 1286 more payday lender locations than McDonald's locations respectively. The disparity is even greater in some smaller states. Missouri, Mississippi, and Alabama all have over nine hundred more payday lenders than they have McDonald's franchises.

Payday lending was virtually non-existent in the United States in the early 1990s.¹⁴⁶ But today, payday lenders, who charge prices nearly twice those of the New York City mafia during its heyday,¹⁴⁷ have exploded into an industry with over twenty thousand retail outlets nationwide—more than the total number of McDonald's, Burger King, Sears, J.C. Penney, and Target stores combined.¹⁴⁸ For those who are concerned about the social, moral, and even spiritual wellbeing of lower- and moderate-income Americans, this is a profound, unprecedented, and troubling change in the American nation.

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

The transformation in the American financial services industry under the new usury-permissive legal regime has not affected all Americans in the same way. Prior research has documented that payday lending is found in places with high poverty levels and large minority populations.¹⁴⁹ However, it is more surprising that conservative Christian Americans also appear to be a prime demographic target for high-cost payday loans,

145. See generally McDonald's USA Restaurant Locator, http://www.mcdonalds.com/user/rest_locator.html (last visited Mar. 19, 2008) (providing a database of all McDonald's locations searchable by ZIP code or city, allowing for calculations to be made by state).

146. Stegman & Faris, *supra* note 20, at 8.

147. See *supra* note 2 and accompanying text.

148. See HOWARD KARGER, *SHORTCHANGED* 6 (2005).

149. See, e.g., KENNETH TEMKIN & NOAH SAWYER, URBAN INST. METRO. HOUS. & CMTYS. POLICY CTR., *ANALYSIS OF ALTERNATIVE FINANCIAL SERVICE PROVIDERS 1-2* (2004), available at http://www.fanniemaefoundation.org/programs/pdf/021904_altfin_servproviders.pdf (prepared for the Fannie Mae Foundation) (studying check-casher, pawnshop, and payday lender location patterns in Atlanta, Chicago, Houston, Kansas City, Los Angeles, Memphis, Miami, and Washington, D.C.); Graves, *supra* note 97, at 311-12 (studying payday lender location patterns in urban Illinois and Louisiana).

as Figure D illustrates. Moreover, it seems clear that their politicians are helping to place the target on their constituents' backs. Our database of payday lender locations and index of conservative Christian political power suggests that payday lenders tend to concentrate in high densities in conservative Christian states.

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

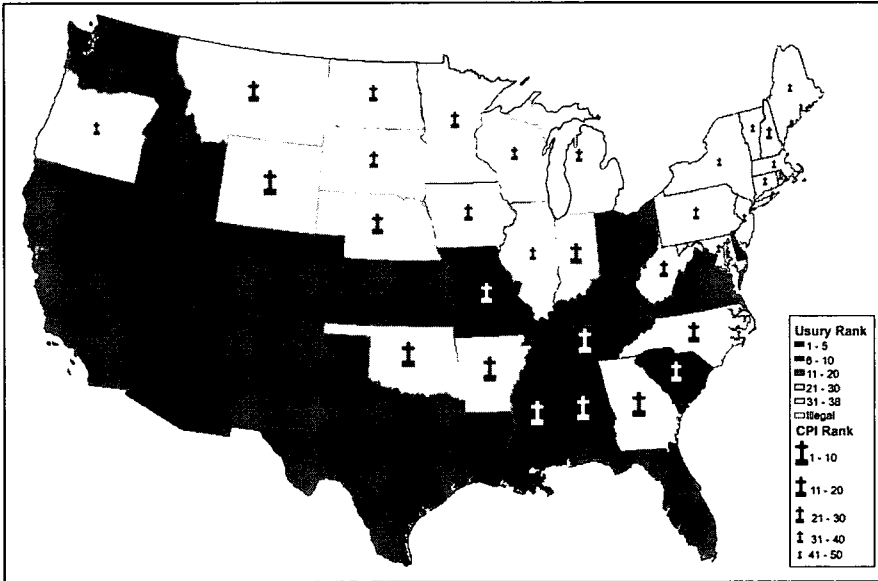
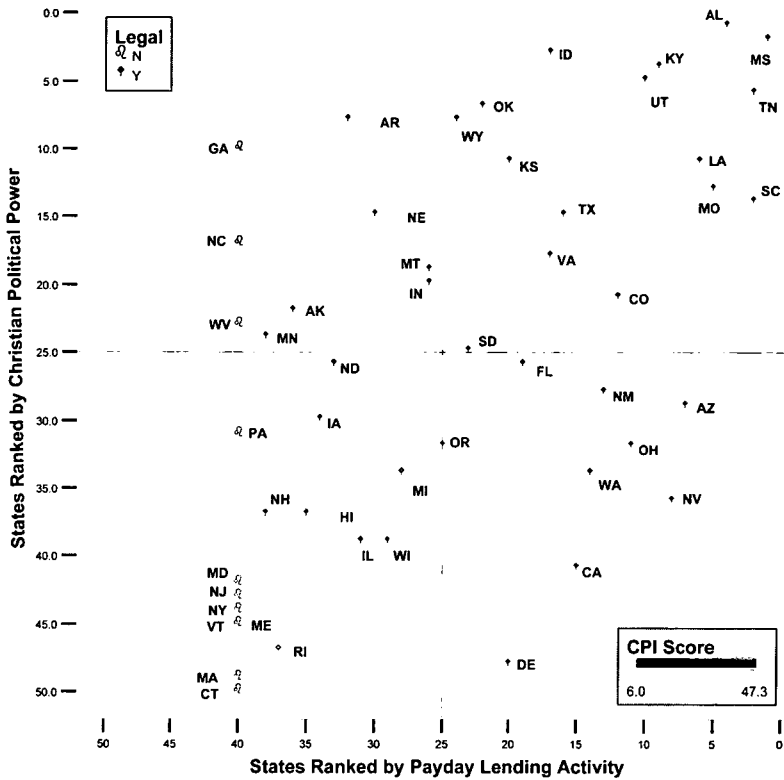


Figure D provides a graphic illustration. This map compares national rankings of the intensity of payday lending within a state to the political power of conservative Christian Americans within that state. In state after state where conservative Christians hold high levels of political power, we found tremendous densities of payday lending relative to state population and to the number of banks. Indeed, by every measure and every test, we found that states with a high conservative Christian legislative score also have high densities of payday lenders. A quick examination of the map in Figure D, as well as that in Figure B above, makes it clear that the relationship would have been even stronger had Georgia and North Carolina, two states with significant conservative Christian political power, not recently outlawed payday lending.¹⁵⁰ Despite these two recent exceptions, the evidence permits no doubt that living in a state with a great deal of conservative Christian legislative

150. GA. CODE ANN. § 7-3-14 (2007) (limiting credit prices to a level below which payday lending can successfully function); N.C. GEN STAT. § 53-173 (2005) (same).

power actually puts lower- and moderate-income consumers at greater risk from usurious payday loans due to their exposure to more opportunities to use payday lending services.

Figure E. States Ranked by Payday Lending Activity and Christian Political Power, 2007



Similarly, the scatterplot diagram in Figure E illustrates the correlation between the political power of conservative Christian Americans and the prevalence of payday lending. In this figure, states in the upper-right quadrant are ranked above average in both Christian political power and payday lending activity. Conversely, states in the lower-left quadrant rank below average in both Christian political power and payday lending activity. Finally, states in the upper-left quadrant rank above average in Christian political power and below average in payday lending activity; the reverse is true for states in the lower-right quadrant. States that have no interest rate cap or explicitly authorize payday loans with a licensing statute are designated with a ◆ symbol, while those that retain a

traditional usury limit prohibitive of payday loans are designated with an *x*. One would expect more of the states with legal restrictions on usury to be in the upper quadrants because these states scored high on our index of Christian political power. Therefore, it would be reasonable to expect that states with a large evangelical and/or Mormon population and a legislature that is well-received by Christian political organizations to feature legislation restricting payday lending inspired by the numerous biblical injunctions against usury. Conversely, it is surprising that in many states where evangelicals and Mormons are few, and where legislators have proven to be neither socially conservative nor well-received by Christian political organizations, that scripturally-inspired usury laws effectively banning payday lending remain. Only a few states fit the pattern one would expect. Georgia, North Carolina, and to a lesser extent West Virginia each have above average rankings for Christian political power and have seen fit to ban usury. Georgia and North Carolina have recently reintroduced bans. West Virginia has maintained its ban on usury for many years.¹⁵¹ Similarly, but in reverse, are Delaware, California, and Nevada, three states where low levels of Christian political power may have helped permit usurious businesses to flourish. Yet among the states with lower than average Christian political power, only Arizona and Nevada rank among the top ten worst states for payday lending. Compounding the curiously inverse relationship we have found is a statistical technique that has somewhat mitigated the intensity of this unexpected correlation. Several of the states that ranked high on payday lending activity, such as Ohio, California, and Florida, earned their lofty rankings partly because of the sheer number of payday lenders within their borders. Clearly this is a byproduct of the large populations in those states. If each of these states, all with low Christian political scores, were considered just on the basis of commercial and per capita densities, each would tumble in their ranking for payday lending and move toward the lower-left quadrant of the diagram.

Moreover, the inferences suggested by Figures D and E are borne out in statistical analysis. The Spearman's correlation coefficient of our payday lending severity index and Christian power index equals 0.559, which is statistically significant at the 0.001 level.¹⁵² In simple terms, this

151. See W. VA. CODE ANN. § 46A-4-107(2) (LexisNexis 2006).

152. The standard Spearman's ranking formula is

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

means that we can be ninety-nine percent sure that about fifty-six percent of the time, when the Christian political power goes up, payday lending per capita also rises. While this is by no means a perfect correlation—reflecting the great complexity of American life—it is nonetheless a strong relationship that bears further examination and reflection. By way of comparison, we also measured the correlation between our payday lending severity index and both the percent of the non-white population and the percent of persons living below the poverty level with the same Spearman's correlation coefficient.¹⁵³ Again confirming past research, the race and poverty correlations with payday lending were strong and statistically significant.¹⁵⁴ But, to our surprise, neither race nor poverty proved as highly correlated as our measure of conservative Christian political power. To state these relationships differently, other things being equal, the political power of conservative Christians within a state is a better predictor of payday lending severity than either race or poverty.

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

153. Both measures were made at the state level of geographic resolution and relied on year 2000 minority status and poverty data reported by the U.S. Census Bureau.

154. The Spearman's correlation between our payday lending density index and the percent of the non-white population was 0.006. The correlation with the percent of the population below the poverty line was 0.499.

point remains: there are a disproportionate number of payday lenders in conservative Christian states.

Table 1. Top 30 Payday Lending Counties in the United States, 2007.

County	St.	Pop.	PDL	Banks	PDL per 10K Pop.	PDL Rank	Per Capita Rank	LQ Rank	Overall U.S. Rank
Jones	MS	64958	34	22	5.23	142	24	22	1
Florence	SC	125761	57	48	4.53	77	56	81	2
Dunklin	MO	33155	24	13	7.24	214	6	12	3
Panola	MS	34274	23	13	6.71	227	7	13	4
Lauderdale	MS	78161	37	32	4.73	126	44	89	5
Marshall	AL	82231	41	40	4.99	117	34	112	6
Aiken	SC	142552	49	31	3.44	89	153	21	6
Stoddard	MO	29705	25	19	8.42	202	3	63	8
DeSoto	MS	107199	56	59	5.22	78	25	167	9
St. François	MO	55641	28	24	5.03	175	32	84	10
Butler	MO	40867	24	19	5.87	214	15	66	11
St. Mary	LA	53500	26	21	4.86	191	38	71	12
Talladega	AL	80321	29	17	3.61	164	125	15	13
Montgomery	AL	223510	77	70	3.45	51	152	101	13
Tangipahoa	LA	100588	42	41	4.18	113	79	113	15
Grenada	MS	23263	18	8	7.74	296	4	5	15
Ascension	LO	76627	29	21	3.78	164	109	43	17
Houston	AL	88787	37	36	4.17	126	83	111	18
Hinds	MS	250800	83	82	3.31	44	169	115	19
Pike	MS	38940	23	20	5.91	227	13	90	20
Portsmouth	VA	100565	32	13	3.18	154	182	3	21
Spartanburg	SC	253791	80	75	3.15	47	188	106	22
Neshoba	MS	28684	17	11	5.93	314	10	22	23
Leflore	MS	37947	19	13	5.01	280	33	34	24
Sumter	SC	104646	33	17	3.15	150	187	11	25
Lincoln	MS	33166	17	8	5.13	314	28	6	25
Terrebonne	LA	104503	38	36	3.64	121	121	108	27
Scott	MO	40422	21	17	5.2	252	26	72	27
Russell	AL	49756	21	14	4.22	252	75	25	29

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

bank location quotient. We were surprised to find that *every* county ranking within this list is located squarely within the American Bible Belt. Underscoring the extent to which the provision of financial services has changed, there are more payday lender locations than bank locations in all of these counties save one. Analyzing the location data through the geographic frame of ZIP codes and legislative districts paints a comparable picture. Of the thirty ZIP codes most saturated with payday lending in the United States, all but three are located in one of the fifteen most conservative Christian states.¹⁵⁵ All but five of the thirty worst payday lending states' upper house legislative districts¹⁵⁶ and eight of the worst lower house legislative districts in the country are found within the fifteen most conservative Christian states.¹⁵⁷ And of the thirty U.S. House of Representatives districts most saturated with payday lending, twenty five (including the top ten) are located within the most conservative Christian states.¹⁵⁸

C. Payday Lending In Bible Country: Four Case Studies

While our database of payday lenders and political power of conservative Christian leaders covers all fifty states, space limitations prevent a presentation of the complete results for each state.¹⁵⁹ Instead, this section discusses, from a law and geography viewpoint, four states that shed light on the relationship between payday lending and the political power of conservative Christians. Alabama, Mississippi, Utah, and North Carolina are all states with a significant conservative Christian population and either have or had large payday lending industries.

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

The Alabama legislature has never explicitly repealed its traditional usury law, which still purports to cap loan prices at a simple nominal annual interest rate of eight percent.¹⁶⁰ However, today this cap is riddled with exceptions for various types of lenders, most notably

155. See *infra* app. tbl.2.

156. See *infra* app. tbl.3.

157. See *infra* app. tbl.4.

158. See *infra* app. tbl.5.

159. In addition to the presentation of state-specific findings of the four states included in this Article, we have also drafted summary findings for the remaining forty-six states. The findings for all fifty states are separately available to researchers online at <http://www.csun.edu/~sg4002/research/usury.html>.

160. ALA. CODE § 8-8-1 (LexisNexis 2002); see also ALA. CODE § 5-18-15(a) (LexisNexis Supp. 2007) (regulating interest rates on loans of less than one thousand dollars); ALA. CODE § 5-19-3(a) (LexisNexis 1996) (setting maximum finance charges on loans of less than two thousand dollars).

including payday lenders.¹⁶¹ Shrinking from expressing its state credit price limit in the time-tested traditional way—with an interest rate—with some sleight of hand the Alabama legislature authorized licensed payday lenders to charge up to “17.5 percent of the amount advanced.”¹⁶² Although this modest number may seem innocuous because payday loans have short initial durations (that frequently remain outstanding for longer time periods), the Alabama Code actually legalizes loans with simple annual interest rates of around 456%.¹⁶³ In addition to the statute’s loose price cap, Alabama law also has a variety of other largely cosmetic provisions that do not meaningfully impede payday lending.¹⁶⁴ These provisions mean little given that the legislature has explicitly authorized loans over two hundred percentage points more expensive than average New York City mafia loans made in connection with illegal gambling operations.

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

161. The Deferred Presentment Services Act (DPSA) regulates payday lending. ALA. CODE § 5-18A-1 (LexisNexis Supp. 2007).

162. *Id.* § 5-18A-12(a).

163. This figure assumes a \$325 loan with an initial duration of fourteen days. The APR figure was calculated with the U.S. Office of the Comptroller of the Currency’s APR calculation software. Office of the Comptroller of the Currency, Annual Percentage Rate Calculation Program for Windows (APRWIN), <http://www.occ.treas.gov/aprwin.htm> (last visited Mar. 19, 2008); see also Peterson, *supra* note 121, at 1128-35 (discussing methodology of calculating maximum permissible annual percentage rates under state usury laws). Although payday lenders also could operate under the authority of the Alabama Small Loan Act, including its thirty-six percent annual interest rate, see ALA. CODE § 5-18-15(a), lenders clearly would prefer the generous interest rates authorized by the DPSA. Lenders also may charge a fee of thirty dollars for any bounced check. *Id.* § 5-18A-12(d); see also ALA. CODE § 8-8-15(b) (LexisNexis 2002).

164. Loans made under the DPSA are limited to an amount of five hundred dollars. ALA. CODE § 5-18A-12(a). Their duration must be between ten and thirty-one days. *Id.* § 5-18A-13(c). Lenders may renew or extend the loan one time. *Id.* § 5-18A-12(b). Also, a lender is prohibited from making a new payday loan to pay off an old loan. *Id.* § 5-18A-13(n). Consumer advocates, however, have argued that this type of limit has proven unenforceable both in Alabama and elsewhere. See RON GILBERT & JIM CARNES, ARISE CITIZENS’ POLICY PROJECT, HARD CASH: PREDATORY LENDING IN ALABAMA 1 (2004), <http://www.alarise.org/Predatory%20lending%20fact%20sheet%2010-04.pdf>.

165. See *infra* app. tbl.5.

district has 205 payday lenders, which is the seventh most nationally and seventh most per capita. Everett's district does have more banks than payday lenders, but the ratio is still the twenty-first worst in the country.¹⁶⁶ Other congressional districts in Alabama have almost as much payday lending, with only one representative's district, Spencer Bachus's, actually falling outside the worst thirty in the country.

When measured through the lens of state legislative districts, Alabama again appears to have a severe payday lending problem. The nineteenth, twentieth, and thirty-first state senate districts also rank among the twenty-five worst for payday lending nationally and statewide. Jimmy Holley's thirty-first district, adjacent to Fort Rucker, is the worst among the upper house districts with fifty payday lenders and thirty-seven banks.¹⁶⁷ Moreover, the nineteenth, forty-fifth, and seventy-fourth state congressional districts have the most payday lending among the lower house districts, and each ranks among the top twenty-five nationally. Jay Love's seventy-fourth district on the north side of Montgomery, and only a few miles from Maxwell Air Force Base, has twenty-five payday lenders and only eight banks for a relatively small population. Taking all three measures into account, this is the worst lower house district in the country.¹⁶⁸ Using only the retail and per capita density figures, it ranks fifth worst nationally. With twenty payday lenders and only seven banks, Owen Drake's forty-fifth district ranks twenty-third worst in the nation.¹⁶⁹ Laura Hall's nineteenth district, near Huntsville's Redstone Arsenal, also has high numbers and densities of payday lenders, ranking twelfth worst nationally for payday lending.¹⁷⁰ Several counties in Alabama also rank very high nationally for payday lending. Jefferson County has 159 payday lenders, *double what some entire states have*. Marshall County has some forty-one payday lenders and forty banks, as well as a high per capita density, making it the sixth worst overall in the nation. Dallas County has the highest per capita density in Alabama and ranks among the worst one percent nationally in that category. Russell County, adjacent to Fort Benning, ranks third worst in the state. Several ZIP codes in Alabama also rank among the worst in the nation for payday lending. Birmingham's 35228, Northport's 35473, and Montgomery's 36107 ZIP codes, having no banks but multiple payday lenders, each rank among the ten most lopsided ratios nationally. Decatur's 35601 ZIP code has twenty-five payday lenders, which is the ninth most of any ZIP code in the U.S. Overall, Birmingham's 35214 ZIP code is Alabama's worst,

166. See *infra* app. tbl.5.

167. See *infra* app. tbl.3.

168. See *infra* app. tbl.4.

169. See *infra* app. tbl.4.

170. See *infra* app. tbl.5.

with almost twenty payday lenders, but just five banks for a relatively small population.¹⁷¹

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

2. *When Payday Lenders Outnumber Banks: The Mississippi Example*

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

171. *See infra* app. tbl.2.

172. *See infra* app. tbl.1.

173. *See infra* app. tbl.1. With 1,192 payday lenders (seventh most) for its roughly 4.5 million people, Alabama ranks third in per capita density of payday lenders. *See* U.S. Census Bureau, State and County Quick Facts: Alabama, <http://quickfacts.census.gov/qfd/states/01000.html> (last visited Mar. 19, 2008) (listing the population of Alabama as 4,599,030 in 2006). Because there are only 1,438 banks in the state, it also ranks third highest among the states in our relative banking density location quotient measure. Using our composite index, Alabama has the fourth worst payday lending problem in the country. *See infra* app. tbl.1.

174. Mississippi’s general usury limit caps rates at “the greater of ten percent (10%) per annum or five percent (5%) per annum above the discount rate . . . on ninety-day commercial paper in effect at the [relevant] Federal Reserve bank.” MISS. CODE ANN. § 75-17-1(2) (West 1999).

175. *Id.* § 75-17-21(a).

176. *Id.* § 75-67-519(4).

simple nominal annual interest rate, the law actually allows an interest rate of 572.29% on a typical payday loan.¹⁷⁷

This legal environment has facilitated the most severe payday lending problem in the nation. With only about 2.8 million people, Mississippi is one of the least populous states, but according to the best data available from the state of Mississippi, it has 1069 payday lenders. For its population and number of banks, this easily earns Mississippi the distinction of having the highest density of payday lending of any state.¹⁷⁸ If present trends continue, Mississippi will soon be the only American state to have more payday lenders than banks. Every one of Mississippi's four U.S. congressional districts ranks among the nation's most saturated by payday lenders. The dubious distinction of worst in the nation goes to Bennie Thompson's second district, which has 308 payday lenders to 236 banks, the second most lopsided ratio in the nation.¹⁷⁹ This is also the second most payday lenders of any district in the nation, and the second highest per capita ratio in the country, trailing only the first district of Roger Wicker. Representative Wicker's district has 337 payday lenders—more than any other district in the nation. With 287 banks, Representative Wicker represents a district with the seventh worst relative location quotient ranking nationally. Wicker's district also has the most payday lender locations per capita, giving his district the second worst composite ranking in the nation for payday lending.¹⁸⁰ Hardly any better off are Gene Taylor's fourth district, which ranks fifth worst nationally and Chip Pickering's third district, which ranks sixth worst nationally.¹⁸¹

Most of Mississippi's state legislative districts also have very high numbers and densities of payday lenders, several of them ranking among the worst nationally when they are compared to their counterparts outside Mississippi. Only a few of the highly gerrymandered, mostly white, safe districts have normal or below average concentrations of payday lenders. The worst among the upper house districts are Nolan Mettetal's tenth and Lydia Chassaniol's fourteenth, both rural districts

177. This interest rate figure assumes a fourteen-day loan of \$325. The APR figure was calculated with the U.S. Office of the Comptroller of the Currency's free APR calculation software. Office of the Comptroller of the Currency, *supra* note 161; *see also* Peterson, *supra* note 121, at 1128-35.

178. *See infra* app. tbl.1. Our estimate of the number of payday lenders in Mississippi is derived from licensing information gathered by the Mississippi Department of Banking and Consumer Finance. This estimate was further verified in a telephone interview with the Mississippi Banking Commissioner, John S. Allison. Surveys of multiple telephone directories also support our Mississippi estimate.

179. *See infra* app. tbl.5.

180. *See infra* app. tbl.5.

181. *See infra* app. tbl.5.

along I-55 north of Jackson. Merle Flowers' Memphis-area district, though it has the second highest per capita density of payday lenders (forty-one for a population of around 54,000) among all upper house districts, still only manages to rank tenth on our scale, which highlights the problems other districts have with payday lending.¹⁸² Among the districts in the lower chamber, Omeria Scott's eightieth district, which includes a small Choctaw Indian reservation, is worst, with twenty-six payday lenders for just over 20,000 people, or about 1.2 payday lenders per every one thousand persons in the district.¹⁸³ As unbelievable as that figure is, Ray Rogers' sixty-first district, surrounding Pearl, has thirty payday lenders for roughly the same population, or 1.23 payday lenders per one thousand people. Warner McBride's tenth district ranks second worst statewide and Sid Bondurant's twenty-fourth district is third worst.

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

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

182. See *infra* app. tbl.3.

183. See *infra* app. tbl.4.

appears to have twelve payday lenders and not a single bank for a population of nearly 15,000 people.¹⁸⁴

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

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

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

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

184. *See infra* app. tbl.2.

185. *See infra* app. tbl.1.

186. *See infra* app. tbl.1.

187. *See* Act of Mar. 14, 1907, ch. 46, § 2, 1907 Utah Laws 43, 43.

188. *See* Utah Small Loan Act, ch. 15A, § 13(a), 1945 Utah Laws 31, 39 (repealed 1969) (allowing charges up to three percent monthly).

189. The Utah Code merely provides that "the parties to a consumer credit agreement may contract for payment by the debtor of any finance charge and other charges and fees." UTAH CODE ANN. § 70C-2-101 (2001).

190. Check Cashing Registration Act, UTAH CODE ANN. §§ 7-23-101 to -110 (2006 & Supp. 2007).

which is a large number considering its small population. Per capita, Utah has the ninth highest density of payday lenders in the nation. Its payday lender to bank ratio is also far above the national average—eighth highest in the country—giving Utah a composite total rank in the top ten.¹⁹¹ All of Utah's U.S. House districts have above average densities of payday lenders, the worst of the three being Rob Bishop's first district, which ranks forty-fifth out of 435 House districts for overall payday lending activity.

Measuring payday lending through the lens of state legislative districts also suggests a large payday lending industry given Utah's population. Following this population, most of the state's payday lenders can be found in the urban and suburban Interstate 15 corridor between Ogden and Provo. Among state senate districts, the largest absolute number of payday lenders is in Gene Davis' Salt Lake City-area third district, but the highest densities controlling for population and commercial activity are just south of Hill Air Force Base in Sheldon Killpack's twenty-first district and just north of the base in Scott Jenkin's twentieth district. Among the lower house districts, Oda Curtis' fourteenth district, which also borders Hill Air Force Base, may be worst, with fifteen payday lenders and only six banks for its approximately 34,000 citizens—roughly one payday lender for every 5,000 citizens. The other district with similar levels of payday lending is Mark Wheatley's thirty-fifth district in the South Salt Lake City area.¹⁹²

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

191. *See infra* app. tbl.1.

192. *See infra* app. tbl.4.

Utah's payday lending saturation is both puzzling and ironic given its large majority of Mormons and history of easy integration of religious doctrine into political life. Utah easily ranks first in percent of evangelicals and Mormons per one thousand persons, with Mormons comprising nearly two-thirds of its population.¹⁹³ Although the Christian political organizations scoring politicians may vary greatly with Mormons on theological issues, they approve of Mormon politicians, ranking them sixth nationally, which is higher than the score given to any delegation from any state in old Dixie. The Poole and Rosenthal data suggest that Utah's delegation is not quite as conservative as the former measure, but they nevertheless show the delegation on the conservative side, ranking it nineteenth. Overall, Utah ranks fifth in our Christian Power Index.¹⁹⁴ Given these political facts, the state would seem to be the ideal candidate for an outright ban on payday lending and other usurious lending practices. Like many other Americans, Mormons unequivocally embrace the Bible,¹⁹⁵ and presumably its blistering condemnation of usury. It is true Mormons also embrace some of their own additional scriptural works, but these scriptures do not contradict biblical teachings on usury.¹⁹⁶ In fact they appear to echo biblical condemnation in passages suggesting God's "sword of vengeance" awaits those who oppress wage earners and the poor.¹⁹⁷ Utah's payday lending infestation is made all the

193. See *infra* app. tbl.1.

194. See *infra* app. tbl.1.

195. See The Church of Jesus Christ of Latter-day Saints, Gospel Topics: Bible, Inerrancy of, <http://www.lds.org/ldsorg/v/index.jsp?vgnextoid=bbd508f54922d010VgnVCM1000004d82620aRCRD&locale=0&sourceId=59a22f2324d98010VgnVCM1000004d82620a> (last visited Mar. 19, 2008) ("Latter-day Saints revere the Bible. They study it and believe it to be the word of God. However, they do not believe the Bible, as it is currently available, is without error.").

196. See BRUCE R. MC CONKIE, MORMON DOCTRINE 819 (2d ed. 1966).

197. See, e.g., THE BOOK OF MORMON 367 (Joseph Smith, Jr. trans., 1920) (1830) (Helaman 4:11-12) ("[T]he great slaughter which was among them, would not have happened had it not been for their wickedness and their abomination which was among them; yea, and it was among those also who professed to belong to the church of God. And it was because of the pride of their hearts, because of their exceeding riches, yea, it was because of their oppression to the poor . . ."); *id.* at 446 (3 Nephi 24:5) ("And I will come near to you to judgment; and I will be a swift witness . . . against those that oppress the hireling in his wages, . . . saith the Lord of Hosts."); *id.* at 475 (Mormon 8:37-38, 41) ("For behold, ye do love money, and your substance, and your fine apparel, and the adorning of your churches, more than ye love the poor and the needy, the sick and the afflicted. O ye pollutions, ye hypocrites, ye teachers, who sell yourselves for that which will canker, why have ye polluted the holy church of God? Why are ye ashamed to take upon you the name of Christ? Why do ye not think that greater is the value of an endless happiness than that misery which never dies—because of the praise of the world? . . . Behold, the sword of vengeance hangeth over you; and the time soon cometh that he avengeth the blood of the saints upon you, for he will not suffer their cries any longer."); see also THE DOCTRINE AND COVENANTS OF THE CHURCH OF JESUS CHRIST OF

more surprising by its generally white, middle class demographic profile, highly educated population, and reputation for strong family bonds.¹⁹⁸ Despite all these factors, Utah retains a payday lending problem more severe than many Bible Belt states in the Southeast including Arkansas, Georgia, North Carolina, Texas, and Virginia.

4. *Born Again? The North Carolina Example*

Throughout the twentieth century the North Carolina legislature retained usury laws limiting prices on consumer loans. For example, the state's highest price limit in the mid-1960s limited finance charges on a loan principal comparable to a typical contemporary payday loan to no more than one dollar per five dollars loaned per year—an interest rate limit of about twenty percent.¹⁹⁹ But like many other state legislatures in the 1980s and 1990s, the North Carolina legislature responded to consumer finance industry pressure by liberalizing its usury limits. In 1997, the North Carolina legislature passed a statute allowing payday lenders to obtain a license that authorized charging fees of fifteen percent of the face amount of a check to defer the deposit of the check.²⁰⁰ In a typical loan with an initial duration of two weeks, this law capped interest rates at about 360%.²⁰¹ However, unlike many states, North Carolina embraced this price limit somewhat more cautiously, treating the change in its laws as an experiment, rather than a permanent elimination of consumer protection law. The legislature included a “sunset” provision in the law, stating that the licensing statute and its extremely high price limit would expire four years later, absent a vote to extend its provisions.²⁰²

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

198. See U.S. Census Bureau, American FactFinder, Utah: 2006 American Community Survey, http://factfinder.census.gov/home/saff/main.html?_lang=en (select “Utah” from the dropdown menu under “Get a Fact Sheet for your community”) (last visited Mar. 19, 2008); U.S. Census Bureau, American FactFinder, Selected Social Characteristics in the United States: 2006, http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=04000US49&-qr_name=ACS_2006_EST_G00_DP2&-gc_url=null&-ds_name=ACS_2006_EST_G00_&-_lang=en&-redoLog=false (last visited Mar. 19, 2008).

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

200. 1997 N.C. Sess. Laws. 1030 (codified at N.C. GEN. STAT. § 53-281(d)) (expired 2001).

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

202. 1997 N.C. Sess. Laws. 391, § 3 (“This act becomes effective on October 1, 1997, and the provisions of G.S. 53-281 shall expire on July 31, 2001.”); see also Graves & Peterson, *supra* note 98, at 768.

Despite the uncertain long-term future of their capital investments in North Carolina, payday lenders flooded the state without hesitation. The number of payday lending outlets exploded from 307 in 1997, to 1,204 by the year 2000.²⁰³ As the four-year sunset date drew closer, consumer rights organizations and many officials in the Bank Commissioner's Office and the legislature grew horrified at both the prices payday lenders were charging over long durations, as well as the disregard for many of the modestly protective rules that remained in the licensing statute.²⁰⁴ The Bank Commissioner's Office found that North Carolina consumers were purchasing about sixty-three percent of their payday loans at annual interest rates between 460.08% and 805.15%.²⁰⁵ Eighty-seven percent of borrowers were unable to pay the loans back after the initial duration, instead rolling over their loans at least one time with any given lender.²⁰⁶ Not counting debtors who borrowed from multiple locations, nearly forty percent of North Carolina borrowers renewed their payday loans more than ten times.²⁰⁷ A study by a consumer advocacy organization estimated that long-term borrowers fueled the industry's profits, with eighty-five percent of revenue coming from North Carolinians who took five or more payday loans per year.²⁰⁸ Moreover, the Bank Commissioner's Office found an industry-wide culture of lawlessness wherein regulators found 8911 violations of simple state consumer protection rules after conducting 713 payday lender inspections over a three-year period.²⁰⁹ Recognizing the social trauma these numbers represented, the North Carolina legislature resisted tremendous industry pressure when it refused to extend the licensing statute past the four-year sunset date.²¹⁰

When the North Carolina legislature let its payday lending authorization legislation expire, the state reverted to its traditional small loan law, which included a far more modest usury limit of thirty-six percent per year.²¹¹ Despite this, payday lenders refused to comply with the law for several years and continued to market their triple-digit

203. N.C. OFFICE OF THE COMM'R OF BANKS, *supra* note 20, at 5.

204. *See id.* at 1-2.

205. *Id.* at 3.

206. *See id.* at 6 tbl.III(F).

207. *See id.*

208. PETER SKILLERN, CMTY. REINVESTMENT ASS'N OF N.C., SMALL LOANS, BIG BUCKS 4 (2002).

209. N.C. OFFICE OF THE COMM'R OF BANKS, *supra* note 20, at 2.

210. Graves & Peterson, *supra* note 98, at 768.

211. North Carolina Consumer Finance Act, N.C. GEN. STAT. § 53-173(a) (2005) (imposing an interest rate cap of thirty-six percent for loans under six hundred dollars and a cap of fifteen percent on any amount loaned from six hundred dollars to three thousand dollars).

interest rate payday loans throughout the state under a variety of dubious legal rationales. The state attorney general and the banking commissioner both began to attempt to force payday lenders to comply with the law or shut their doors. But by 2005, over six hundred payday lender locations continued to openly operate in clear violation of the law.²¹²

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

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

212. Graves & Peterson, *supra* note 98, at 769-70.

213. Press Release, N.C. Dep't of Justice, Payday Lending on the Way Out in N.C. (Mar. 1, 2006), available at <http://www.ncdoj.com/DocumentStreamerClient?directory=PressReleases/&file=paydaylenders3.06.pdf>.

214. See *id.* ("The agreements [between payday lenders and the state of North Carolina] mean that payday lending by all major companies in North Carolina has come to a halt. . . . Check Into Cash and Check 'n Go plan to leave the state, while First American [Cash Advance] plans to try to get licensed as a consumer finance lender and would have to abide by state laws that limit interest rates on small loans."); see also Ben Werner, *Payday Lender Closing 103 U.S. Branches*, THE STATE (Columbia, S.C.), Sept. 21, 2007 (noting that Advance America vacated North Carolina completely); *infra* note 215 (noting that some establishments still operate to cash checks without extending credit).

215. Some business chains, such as ACE Cash Express, still operate store locations in North Carolina. However, the authors' calls to store outlets within the state indicate that these locations merely cash checks without offering credit by agreeing to hold the checks for the duration of a loan. In a few locations we did find telephone directory listings purporting to offer payday loans, but all of the listed telephone numbers are now disconnected. North Carolina, like other states, still has a significant problem of payday lenders operating through the Internet. See generally JEAN ANN FOX & ANNA PETRINI, CONSUMER FED'N OF AM., INTERNET PAYDAY LENDING 5 (2005), available at http://www.consumerfed.org/pdfs/Internet_Payday_Lending113004.PDF ("Internet payday lending is the latest ploy used by small loan companies to evade consumer protections and usury laws in the state where borrowers apply for and receive loans and few state regulators have attempted to enforce state credit laws against online lenders."); see also *id.* at 10 ("Non-bank internet lenders would be subject to state law in North Carolina.").

aggressive enforcement efforts—following the legislature’s four-year experiment—North Carolina once again appears to be largely free of payday lending operations.

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

IV. DISCUSSION

A. The Politics of Usury in Conservative Christian States

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

216. See The Association of Religion Data Archives, State Membership Report, North Carolina, http://www.thearda.com/mapsReports/reports/state/37_2000.asp (last visited Mar. 19, 2008).

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

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

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

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

217. Peterson, *supra* note 121, at app. tbl.6.

218. These states are Idaho and Utah.

219. These states are Alabama, Arkansas, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, South Carolina, and Wyoming.

220. E.g., Aimee A. Minnich, Comment, *Rational Regulation of Payday Lending*, 16 KAN. J.L. & PUB. POL'Y 84, 99 (2006) ("The Georgia legislature recently enacted legislation that so restricts payday lending as to effectively ban the practice." (citing GA.

Going beyond this legal reality, a deeper question remains: why have so many socially conservative, Christian states come to abandon their traditional response to usury? After all, in past generations, socially conservative Christian Americans have not always, and indeed have rarely, allied themselves with powerful corporate and financial interests. In the eighteenth and nineteenth centuries, born-again Christians and evangelicals tended to be at the forefront of a variety of campaigns to ameliorate the living, working, and financial conditions of the poor.²²¹ For example, evangelicals supported the prohibition of child labor and promoted universal education.²²² Many evangelicals have traditionally seen great peril to one's salvation in excess prosperity, and have approached wealthy financiers with profound skepticism.²²³ At the beginning of the twentieth century, conservative Christian Americans repeatedly declared that "love of money was the root of all evil," and bemoaned what they saw as the growing materialism and consumerism of American society.²²⁴

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

CODE. ANN. § 16-17-1(a) (2003 & Supp. 2005))). The interest rate limit listed for Tennessee in Table 2 is likely an overly conservative estimate. Tennessee has a payday lending authorization statute that caps prices at "the lesser of: (1) Fifteen percent (15%) of the face amount of the check; or (2) Thirty dollars (\$30.00). The fee, when made and collected, shall not be deemed interest for any purpose of law." TENN. CODE ANN. § 45-17-112(b) (2007). Because the annual percentage rates in Table 2 assume a loan of \$325, Tennessee's maximum finance charge of \$30 is relatively low in comparison to other states where payday lending is legal. We anticipate that, as a result, payday lenders in Tennessee tend to make loans with smaller dollar amounts (perhaps making multiple loans to one customer) in order to preserve their high margins. The idiosyncratic result is that, despite comparable APRs listed in Table 2, Georgia's legislation is much more consumer friendly than Tennessee's.

221. STEVE BRUCE, *CONSERVATIVE PROTESTANT POLITICS* 145 (1998).

222. *Id.*

223. Gary Scott Smith, *Evangelicals Confront Corporate Capitalism: Advertising, Consumerism, Stewardship, and Spirituality, 1880-1930*, in *MORE MONEY, MORE MINISTRY* 39, 62-63 (Larry Eskridge & Mark A. Noll eds., 2000).

224. *Id.* at 62.

225. Peterson, *supra* note 121, at 1118 & tbl.1.

Florida, every state in the Old South had a usury law.²²⁶ By 1965, every state on our list of the current most conservative Christian states, as well as every state in the Old South, had a traditional usury limit.²²⁷ Almost all of these states limited credit interest rates to between thirty and forty-two percent.²²⁸ The average interest rate limit on a short-term consumer loan with a balance and initial duration comparable to today's payday loans was thirty-six percent.²²⁹

Starting in the 1980s, but more fully coming to fruition during the first term of George W. Bush, socially conservative Christians formed an alliance with powerful business interests.²³⁰ One of the key outcomes of the "Reagan Revolution" of the 1980s was the cementing of a powerful political marriage between business-minded, economic liberals and social conservatives within the Republican Party.²³¹ For generations following the Civil War, southern evangelical Christians, presumably still embittered by the Republican legacy created during Reconstruction, staunchly supported the Democratic Party. Similarly, populists in the Democratic Party appealed to the biblically-inspired notions of charity faithfully adhered to by millions of socially conservative "Dixicrats." But, the Democratic Party also included a host of other interest groups, including a variety of secular social progressives. While there was much common ground between socially conservative Christians and progressives on economic policy issues, such as usury law, the century-long alliance was unable to withstand the tension created by issues like civil rights, abortion, prayer in school, and gun control. Ronald Reagan, and later George W. Bush, was able to capitalize on the disaffected social conservatives who felt the Democratic Party had become too liberal on many social issues. The Republican Party welcomed the enormous number of politically-energized conservative Christians and their favored candidates, many of whom won election contests all the way from local

226. See *id.* at 1119 ("Th[e] deep American skepticism of consumer lending entrenched a legal commitment to limited interest rates that continued largely unabated through the end of the nineteenth century.").

227. *Id.* at 1138.

228. See *id.* at app. tbl.A.

229. *Id.* at 1139-40 & fig.1.

230. See John Kincaid, *Foreword: The New Federalism Context of the New Judicial Federalism*, 26 RUTGERS L.J. 913, 924-25 (1995) (noting that "[w]ith the election of Ronald Reagan in 1980 . . . social conservatives glimpsed their first opportunity to wield federal power on behalf of their policy preferences" and listing a number of President Reagan's reforms supporting various business interests).

231. Cf. James W. Lamare, Jerry L. Polinard & Robert D. Wrinkle, *Texas: Religion and Politics in God's Country*, in *THE CHRISTIAN RIGHT IN AMERICAN POLITICS* 59, 63 (John C. Green, Mark J. Rozell & Clyde Wilcox eds., 2003) (discussing the influence of the Moral Majority and the Religious Roundtable in Texas politics and noting that the Roundtable "pledged its support to the Reagan candidacy").

school boards to the halls of the U.S. Senate.²³² Biblical values were used unabashedly to forward legislation on a host of cultural issues, especially abortion, prayer in schools, capital punishment, and gay rights.²³³ However, the relatively new alliance between business-minded corporate capitalists and social-values conservatives profoundly muted biblical values that had been historically used by Christian legislators to justify standards of basic commercial decency. The result of this alliance has been a purging of biblical values from the economic policy realm in many otherwise conservative Christian states. Ironically, a fundamentally liberal moral relativism with respect to consumer finance has supplanted traditional Christian condemnation of the sin of usury. In turn, this facilitated the indebtedness, apparently at virtually any price, of millions of low- and middle-income Americans.

B. *Biblical Values and the Economics of Usury Law*

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

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

232. Center for Religion, Ethics, and Social Policy, Cornell University, *The Rise of the Religious Right in the Republican Party*, <http://www.theocracywatch.org/introduction2.htm> (last visited Mar. 19, 2008) ("In the 1980 elections, the newly politicized Religious Right succeeded in unseating five of the most liberal Democrat incumbents in the U.S. Senate, and provided the margin that helped Ronald Reagan defeat Jimmy Carter.").

233. Cf. Lamare, Polinard & Wrinkle, *supra* note 231, at 72-73.

234. See *supra* notes 39-45 and accompanying text.

235. See *Matthew* 16:6 ("[B]eware of the leaven of the Pharisees . . .").

venerated economist, Adam Smith, recognized the need for laws placing a reasonable ceiling on credit pricing.²³⁶ While he rejected the medieval prohibition of all interest, Smith recognized that the market for loans could never be expected to perform efficiently so long as “prodigals and projectors” could be enticed into loans contrary to their own best interest.²³⁷ Human nature being what it is, Smith argued usury limits “ought always to be somewhat above the lowest market price, or the price which is commonly paid for the use of money by those who can give the most undoubted security.”²³⁸ Surely Christians need not apologize for biblical economics when Adam Smith himself shared the same view. Moreover, characterizing usury law as a constraint on freedom overlooks the fact that predatory lending itself is a form of tyranny. In the words of John Locke, “ill deserves the name of confinement [that] which hedges us in only from bogs and precipices.”²³⁹ Usury law hedges in families from bogs of inescapable 450% interest rate loans—thus, meaningfully preserving their ability to pursue life, liberty, and property.

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

236. 2 ADAM SMITH, *THE WEALTH OF NATIONS* 43 (Am. Dome Library Co. 1902) (1767).

237. *Id.* at 44. *But see* Joseph M. Jadlow, *Adam Smith on Usury Laws*, 32 J. FIN. 1195, 1199-1200 (1977) (critically dismissing Smith’s view of usury ceilings). Smith’s mention of prodigals and projectors perhaps seems more portentous today than in 1777. Presumably it would be precisely these individuals who are most likely to suffer from imperfect heuristics and bounded rationality, as demonstrated by a host of behavioral economists in recent years. *See, e.g.*, Willis, *supra* note 31, at 748-54, 766-72.

238. 2 SMITH, *supra* note 236, at 43.

239. JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* 123 (Ian Shapiro ed., 2003) (1690). Locke continued:

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

Id. at 123-24.

240. *Proverbs* 22:7.

Americans to “disdain the chain, preserve your *freedom*; and maintain your independency: be industrious and *free*; be frugal and *free*.”²⁴¹ The notion of freedom as an organizing social and economic principal does not compel a community of citizens to ignore the tyranny of usurers any more than it does that of murders, thieves, or opium traders.

It is true that the Bible instructs borrowers to repay their debts.²⁴² In the view of most conservative Christian Americans, sound financial stewardship is a personal responsibility borne by every adult individual. Nevertheless, one would hope a debtor’s weakness does not excuse a usurer’s sin. Moreover, neither debtor weakness nor usurer avarice obviate the responsibility of community leaders to use law in the service of a just, humane, and well-ordered society. For those who do believe the Bible condemns usury, the empirical findings of this Article should serve as a wakeup call highlighting the unprecedented practice and acceptance of usurious lending throughout most of the United States.

V. CONCLUSION

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

241. BENJAMIN FRANKLIN, *THE WAY TO WEALTH* (1757), reprinted in 1 *THE NORTON ANTHOLOGY OF AMERICAN LITERATURE* 442, 447 (Nina Baym et al. eds., 4th ed. 1994) (emphasis added).

242. See *Psalms* 37:21.

APPENDIX

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

State	PDL	PDL/10K	Banks	PDL Rank	PDL/10K Rank	LQ Rank.	U.S. PDL Total Rank	Christian Org. Rank	Poole/Rsnthl Rank	Evan. & Mormon Rank	CPI Rank
AL	1192	2.71	1438	7	3	3	4	7	7	4	1
AK	27	0.43	135	39	36	31	36	9	36	20	22
AZ	805	1.64	1194	11	11	6	7	15	43	26	29
AR	264	1.03	1348	27	26	32	32	34	3	2	8
CA	2477	0.74	6738	1	33	16	15	37	39	39	41
CO	652	1.58	1472	17	13	12	12	13	21	29	21
DE	104	1.36	250	32	17	13	20	45	47	42	48
FL	1352	0.88	5052	5	29	26	19	22	30	24	26
HI	54	0.46	290	36	35	34	35	50	24	31	37
ID	198	1.56	510	28	14	15	17	2	12	8	3
IL	762	0.63	4400	14	34	36	31	32	41	36	39
IN	588	0.98	2294	18	27	27	26	20	20	17	20
IA	274	0.95	1513	26	28	35	34	23	32	30	30
KN	388	1.45	1398	22	16	24	20	8	18	18	11
KY	788	1.98	1733	13	8	11	9	5	11	7	4
LA	977	2.23	1485	10	7	7	6	24	6	14	11
MI	753	0.76	3000	15	32	28	28	30	31	35	34
MN	62	0.13	1659	35	39	39	38	29	9	33	24
MS	1069	3.83	1075	9	1	1	1	11	4	5	2
MO	1278	2.32	2173	6	5	10	5	18	16	12	13
MT	109	1.23	350	31	19	22	26	18	14	22	19
NE	198	1.18	959	28	22	30	30	3	28	19	15
NV	420	2.23	526	20	6	4	8	26	37	34	36
NH	51	0.42	413	37	38	38	38	10	50	45	37
NM	280	1.60	455	25	12	9	13	31	27	21	28
ND	77	1.22	401	33	21	33	33	38	1	37	26
OH	1379	1.22	3858	4	20	17	11	21	35	38	32
OK	394	1.16	1198	21	23	20	22	4	22	3	7
OR	348	1.04	1051	24	25	19	25	40	29	25	32

RI	42	0.42	248	38	37	37	37	43	40	50	47
SC	1120	2.85	1286	8	2	2	2	25	15	9	14
SD	125	1.70	462	30	10	25	23	47	2	23	25
TN	1421	2.57	2099	3	4	5	2	14	8	6	6
TX	1706	0.84	5855	2	31	23	16	27	10	13	15
UT	383	1.77	607	23	9	8	10	6	19	1	5
VA	792	1.14	2443	12	24	21	17	12	25	16	18
WA	736	1.26	1860	16	18	14	14	42	26	28	34
WI	462	0.88	2184	19	30	29	29	36	46	27	39
WY	72	1.50	216	34	15	18	24	1	23	15	8

Table 2. Top Thirty ZIP Codes in the United States for Payday Lenders, 2007

ZIP	City	State	Pop 2003	PDL	Banks	PDL/ 10K	PDL Rank	PDL/10K Rank	LQ Rank	Overall U.S. Rank
39705	Columbus	MS	14010	12	0	8.57	241	116	1	1
39204	Jackson	MS	19778	19	3	9.61	42	91	290	2
38606	Batesville	MS	15492	21	7	13.56	32	50	397	3
37412	Chttnnga.	TN	20571	21	6	10.21	32	80	373	4
80214	Denver	CO	26755	21	4	7.85	32	154	304	5
29649	Greenwood	SC	24444	19	4	7.77	42	158	322	6
38122	Memphis	TN	24287	22	7	9.06	26	105	396	7
38703	Greenville	MS	18919	13	1	6.87	191	219	125	8
35214	Birmingham	AL	21329	18	5	8.44	55	124	372	9
29841	N. Augusta	SC	30260	22	6	7.27	26	191	368	10
70806	Btn.Rouge	LA	26829	24	10	8.95	16	107	527	11
38118	Memphis	TN	47977	28	7	5.84	4	328	328	12
39090	Kosciusko	MS	12072	15	6	12.43	109	58	497	13
70815	Btn.Rouge	LA	29102	23	9	7.9	22	149	496	14
36109	Mntgmry.	AL	24350	19	7	7.8	42	155	476	15
64124	Kansas City	MO	13130	10	1	7.62	389	168	127	16
39208	Pearl	MS	30153	28	13	9.29	4	102	578	16
38901	Grenada	MS	17926	18	8	10.04	55	83	558	18
63801	Sikeston	MO	23269	22	11	9.45	26	98	587	19
80909	Colorado Springs	CO	40483	23	6	5.68	22	343	365	20
23605	Nwpt.News	VA	14642	10	1	6.83	389	223	127	21
29169	W.Columbia	SC	21560	18	8	8.35	55	132	558	22
38751	Indianola	MS	13595	14	6	10.3	145	79	535	23
36303	Dothan	AL	31262	24	12	7.68	16	165	587	24

29560	Lake City	SC	13386	13	5	9.71	191	89	492	25
71446	Leesville	LA	23851	17	7	7.13	71	201	525	26
29303	Spartanburg	SC	25702	15	4	5.84	109	329	367	27
39440	Laurel	MS	21311	31	16	14.55	2	42	771	28
38115	Memphis	TN	42548	25	10	5.88	9	320	497	29

Table 3. Top Thirty State Upper House Legislative Districts for Payday Lenders in the United States, 2007

District	State	Office Holder	Party	Pop.	PDL/10K	PDL	Banks	LQ Rank	PDL/10K Rank	US Rank
28	MS	Alice V. Harden	D	54,810	5.66	31	16	25	11	1
10	MS	Nolan Mettetal	R	57,076	6.48	37	21	31	6	2
14	MS	Lydia Chassaniol	R	57,245	6.64	38	23	37	5	3
35	SD	William Napoli	R	22,018	7.72	17	11	43	1	4
42	MS	Stacey Pickering	R	53,999	6.11	33	21	42	9	5
30	SC	Kent M. Williams	D	89,859	4.67	42	23	28	27	6
42	SC	Robert Ford	D	82,928	4.94	41	24	34	21	6
20	AL	Linda Coleman	D	121,886	4.02	49	21	14	47	8
15	NM	H. Diane Snyder	R	44,654	6.72	30	22	60	3	9
40	MS	Sidney Albritton	R	56,885	5.1	29	19	47	17	10
13	MS	Willie Simmons	D	53,618	5.97	32	23	56	10	11
19	AL	Edward McClain	D	121,797	3.94	48	21	17	50	12
24	SC	W. Greg Ryberg	R	86,922	4.37	38	22	33	35	13
24	MT	Kim Gillan	D	17,307	4.62	8	5	41	29	14
39	MS	Cindy Hyde-Smith	D	54,891	4.92	27	19	52	22	15
18	MS	Gloria Williamson	D	57,035	5.08	29	21	57	18	16
15	AZ	Ken Chevront	D	170,479	3.81	65	29	18	59	17
16	MS	Bennie Turner	D	52,171	3.83	20	10	21	57	18
32	SC	J. Yancey McGill	D	84,525	4.14	35	23	48	41	19
35	SC	Phil P. Leventis	D	83,578	3.59	30	13	16	76	20
32	MS	Sampson Jackson	D	52,544	6.66	35	30	94	4	21
30	MS	Dean Kirby	R	56,800	6.34	36	31	96	7	22
31	AL	Jimmy Holley	R	122,750	4.07	50	37	61	45	23
11	SC	Glenn G. Reese	D	90,820	4.95	45	38	90	20	24
19	MS	Merle Flowers	R	54,180	7.57	41	37	108	2	24
25	MO	Rob Mayer	R	170,302	5.46	93	81	99	12	26
37	LA	Max T. Malone	R	109,121	4.58	50	40	80	31	26
29	CO	Bob Hagedorn	D	121,154	3.47	42	19	20	91	26
8	MS	Jack Gordon	D	55,086	4.18	23	18	72	40	29
21	MS	Joseph Thomas	D	53,358	4.12	22	17	70	42	29

Table 4. Top Thirty State Lower House District for Payday Lenders in the United States, 2007

District	State	Legislator	Party	Pop.	PDL	Banks	PDL/10K	LQ Rank	PDL/10K Rank	US Rank
7	MT	Jon Sonju	R	9468	9	2	9.51	25	4	1
87	TN	Karen Camper	D	54933	35	11	6.37	37	41	2
083	SC	Donald C. Smith	R	32672	21	7	6.43	41	38	3
95	SC	Jerry N. Govan, Jr.	D	32650	24	9	7.35	60	21	4
74	AL	Jay Love	R	40630	25	8	6.15	39	44	5
80	MS	Omeria Scott	D	22156	26	13	11.73	90	2	6
080	MT	Mary Caferro	D	8594	8	4	9.31	90	5	7
10	MS	Warner F. McBride	D	22837	20	10	8.76	90	10	8
24	MS	Sidney Bondurant	D	22164	18	9	8.12	90	14	9
35	MS	Dannie Reed	R	22182	12	4	5.41	41	68	10
8	MS	Larry Baker	D	22176	14	6	6.31	71	42	11
19	AL	Laura Hall	D	42416	22	7	5.19	38	78	12
26	LA	Israel "Bo" Curtis	D	42886	27	12	6.30	77	43	13
021	MT	Tim Callahan	D	8770	5	2	5.70	63	60	14
051	SC	J. David Weeks	D	32341	21	10	6.49	88	37	15
075	MT	Jim Keane	D	8638	4	0	4.63	1	126	16
40	MS	W.T. Mayhall, Jr.	R	24479	14	6	5.72	71	58	17
89	TN	Jeanne Richardson	D	54970	27	7	4.91	35	98	18
9	WY	David Lee Zwonitzer	R	8411	4	1	4.76	28	107	19
25	NM	Danice R. Picraux	D	25408	21	11	8.27	124	11	19
91	TN	Lois M. DeBerry	D	56402	28	10	4.96	54	87	21
14	UT	Curtis Oda	R	29701	15	6	5.05	63	82	22
45	AL	Owen Drake	R	40609	20	7	4.93	53	94	23
39	MS	Jeffrey C. Smith	D	24481	14	7	5.72	90	59	24
73	MT	Art Noonan	D	8698	7	4	8.05	140	16	25
57	MS	Edward Blackmon, Jr.	D	22239	12	6	5.40	90	70	26
69	MS	Alyce Griffin Clarke	D	22461	12	6	5.34	90	71	27
89	SC	Kenneth A. Bingham	R	32668	23	13	7.04	137	25	28
35	UT	Mark A. Wheatley	D	30138	16	8	5.31	90	73	29
9	NM	Patricia Lundstrom	D	26757	14	7	5.23	90	76	30

Table 5. Top 30 U.S. House of Representative Districts for Payday Lenders, 2007

Representative	State	District	Party	PDL	Banks	PDL/10K	LQ Rank	PDL Rank	PDL/10K Rank	Overall Rank
Bennie Thompson	MS	2	D	308	236	4.33	2	2	2	1
Travis Childers	MS	1	R	337	287	4.74	7	1	1	2
John Spratt	SC	5	D	209	161	3.13	3	6	10	3
Artur Davis	AL	7	D	202	157	3.18	5	9	8	3
Gene Taylor	MS	4	D	284	257	3.99	9	4	5	5
Chip Pickering	MS	3	R	286	294	4.02	16	3	4	6
Steve Cohen	TN	9	D	182	151	2.88	6	16	14	6
Ed Pastor	AZ	4	D	173	84	2.70	1	19	19	6
Jo Ann Emerson	MO	8	R	265	289	4.26	24	5	3	9
Jim Clyburn	SC	6	D	192	187	2.87	12	12	15	9
Terry Everett	AL	2	R	205	221	3.23	21	7	7	11
Mike D. Rogers	AL	3	R	172	177	2.71	17	20	18	12
J. Gresham Barrett	SC	3	R	190	207	2.84	23	14	16	13
John S. Tanner	TN	8	D	204	250	3.23	34	8	6	14
Bob Inglis	SC	4	R	201	236	3.01	29	10	12	15
Ed Perlmutter	CO	7	D	157	157	2.56	15	27	26	15
Lincoln Davis	TN	4	D	191	230	3.02	32	13	11	17
Robert Cramer	AL	5	D	175	200	2.75	26	18	17	17
Shelley Berkley	NV	1	D	155	153	2.33	13	29	33	19
Emanuel Cleaver	MO	5	D	155	176	2.49	25	29	28	20
Rodney Alexander	LA	5	R	185	247	2.90	41	15	13	21
Jim McCrery	LA	4	R	167	202	2.62	33	23	25	22
Jo Bonner	AL	1	R	169	218	2.66	39	22	21	23
Charlie Melancon	LA	3	D	167	213	2.62	37	23	24	24
Robert C. Scott	VA	3	D	130	140	2.02	20	47	44	25
Robert Aderholt	AL	4	R	171	235	2.69	50	21	20	26
Raul Grijalva	AZ	7	D	100	94	1.56	10	67	64	27
Zach Wamp	TN	3	R	159	218	2.52	48	26	27	28
Roy Blunt	MO	7	R	196	311	3.15	67	11	9	29
Al Green	TX	9	D	100	99	1.53	14	67	70	30