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# The Creation of State-Level Regulatory Systems: A Case Study of Post-Prohibition Alcoholic Beverage Regulation

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**The Creation of State-Level Regulatory Systems: A Case Study of Post-Prohibition  
Alcoholic Beverage Regulation**

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Spring 2012

## ABSTRACT

To better understand the way in which local and national forces operate to influence the design of subnational regulatory systems, this paper analyzes the development of alcohol regulation in the post-prohibition era. In particular, I examine why, in the period between 1933 and 1935, some states adopted a monopoly system of alcohol regulation and others a license system of alcohol regulation. I use fuzzy set qualitative comparative analysis (fsQCA) and case-based research to identify causal pathways leading to each regulatory outcome. I draw on state-level demographic, religious, and voting data, as well as measures of alcohol industry prevalence and prohibition enforcement to test hypotheses of alcohol regulatory origin and variation. My study shows that while the emergence of two universally adopted models of alcohol regulation was largely the design of capitalist elites, state-level variation reflected individual population and government preferences. I find the following conditions to be among those relevant to a state's choice of framework: Canadian heritage population, conservative religious population, immigrant population, and popular as well as government attitudes toward national prohibition. My analysis points more broadly to a hegemonic relationship between elite generated priorities and agendas at the national-level and (limited) pluralist based legislative processes at the local-level.

Systems of regulation involve discretion and choices at many stages; however, a government's initial design of regulatory scheme plays a powerful role in all subsequent choices available to regulators, citizens, and consumers. Importantly, within the U.S. system of federalism, this choice of design is often delegated to the individual states and their respective legislative bodies. While states are, in theory, free to independently design or select these systems, there are a variety of forces which can affect a state's choice of regulatory model. In order to better understand how and when different forces operate in the selection of states' regulatory designs, this paper examines the origins and adoption of post-prohibition systems of alcohol regulation. The case of alcohol regulation represents a unique opportunity to give more precise weight to the interests acting on states' choice of regulatory designs. As I show in my paper, although post-repeal alcohol control is an excellent example of the full delegation of regulatory responsibilities to state legislative control, the process of selecting a system remained subject to a constrictive combination of both local- and national-level forces.

In the short period between 1933 and 1935, every state, outside of those which retained their own prohibition laws, adopted either a monopoly or a license system of alcohol regulation. Aside from a broad view of which states created what kinds of systems, scholars have not looked carefully at how and why individual states chose their respective regulatory models. These systems were not adopted within a vacuum; rather, they were the product of particular social, political, and economic pressures and considerations. What factors influenced a state's decision to adopt one type of model over another? How can we explain the observed variation and similarities in state regulatory systems? And, more importantly, what insight might these explanations provide into the way states make important regulatory decisions within the federal system of American governance? In this paper, I begin to answer these questions through both a

comparative analysis of the causal patterns which distinguish and characterize the two groups of states that adopted each type of scheme, as well as through individual case studies.

Approximately two-thirds of states adopted the license system of alcohol regulation. In its simplest terms, the license system allows private enterprises to buy and sell alcohol at state discretion. In actual effect, the license operates as a device of restraint and not merely a grant of privilege or freedom. In a constitutional sense, the license confers no property right and the exercise of its privilege is continuously contingent upon the holder's compliance with required conditions and the general discretion of the licensing authority. The remaining states adopted the monopoly system of regulation, the more cautious of the two regulatory frameworks. Under the monopoly scheme, the government takes over the wholesale trade and conducts the retail sale of heavier alcoholic beverages through its own stores. That is, the state itself engages in the sale and distribution of alcoholic beverages.

The difference between these two systems is not inconsequential. Regulation, in addition to promoting public policy goals, helps to establish winners (and losers) in markets (Gormley 1983; Gerber and Teske 2000). In the case of alcohol regulation, the chosen form of control has serious implications for actors in every step of the production, distribution, and retail processes. Although few states have changed their system of regulation since its original creation following the repeal of national prohibition (Morgan 1988; Rorabaugh 2009), a framework adopted more than seventy years ago is not necessarily the most rational, efficient, or economically productive option for managing the sale and distribution of alcohol today. This issue has received increasing attention at the state and national levels, due to big box supermarkets like Costco aggressively lobbying for new systems. As recently as November of 2011, Washington abolished its monopoly system and replaced it with a modified license system. Oregon and Pennsylvania have

both tried and failed to repeal their own government controlled monopolies in the past decade, and the recent success in Washington has reignited debate in both states. Keeping in mind that the systems being debated today were established over seven decades ago, a better understanding of the conditions and processes which originally produced each system, as well as the issues they were intended to address, can make valuable contributions to contemporary policy debates.

Even more importantly, detailing the causal combinations and processes which led to the adoption of each model can contribute to general theory and research about power structures. While several prominent studies examine decision making processes of the federal government (Mills 1956; Block 1977; Skocpol 1980; Gilbert and Howe 1991; Burstein 1998) and intergovernmental organizations (Polsby 1960), far less work has explored regulatory decisions taken by individual states within a national context (Gerber and Teske 2000). The case of state-level alcohol regulation presents a unique opportunity to examine how and why individual state legislatures make important regulatory decisions, especially when the issue is of significant local *and* national interest. The work of Levine (1984) and Rumbarger (1987) provide a framework based around power elite theory within which to understand the general origins of the two post-prohibition systems of alcohol regulation, but there has yet to be an analytically rigorous examination of the forces and motivations shaping individual states' choice of alcohol regulatory model. This study fills in these gaps and draws new conclusions about the workings of power in lawmaking at the state-level.

To identify pathways to license and monopoly systems of alcohol regulation, I employ a comparative analysis of every state that legalized alcohol sales between 1933 and 1935 ( $N=40$ ). I use a fuzzy set qualitative comparative analysis (fsQCA) in order to identify broadly applicable complex causal combinations unattainable with mid-n samples when using an exclusively case-based methodology. I draw primarily from state-level demographic data reported in the 1930

U.S. Population Census and the 1936 Census of Religious Bodies, including national heritage, population distribution, and religious denomination. I also use additional state-level data reported by the Internal Revenue Service, such as the prevalence of bootlegging seizures during prohibition, the ratio of state to federal bootlegging arrests during prohibition, and the prevalence of the alcohol industry just prior to prohibition. I further supplement my comparative analysis with case studies of individual states gathered from local newspaper articles, legislative reports, repeal group publications, and prior research. Notably, no existing scholarship on alcohol regulation undertakes such an analytically rigorous comparative analysis and draws together a comparable wealth of state-level data sources and individual case studies.

My study shows that while the emergence of two universally adopted models of alcohol regulation following prohibition was largely the design of nationally prominent capitalist elites, state-level variation in regulatory adoption was the result of a more complex process. I argue that there were multiple pathways at the state-level to each regulatory outcome and that, consistent with the traditions of pluralist and state autonomy theories, these pathways often reflected state population and (to a lesser extent) government preferences. Through my analysis, I offer new insights into the relationship between national and state-level power structures, suggesting that there exists a hegemonic relationship between elite generated priorities and agendas at the national level and (limited) pluralist based legislative processes at the state level. I conclude by outlining the limits of my study and providing potential avenues for further research.

## THEORETICAL CONSIDERATIONS

In order to understand why particular regulatory systems emerged, I draw on insights from power structure research. Theories of power structures provide a strong framework for understanding what groups and forces help to shape subnational regulatory systems. Power

structure research has two goals: (1) to identify who is in power and (2) to explain how those in power perpetuate their power through their influence on the political institutions that regulate and structure economic life (Peoples 2009: 4). Importantly, these goals help to advance knowledge about the origins of change in regulatory law by presenting models of who can influence legal change and how this influence operates.

Scholars who advance a power structure approach deal primarily with the debate over what role class-based groups play in the actions and decisions of governments. From this debate, three competing theories have emerged to help explain how and why governments take specific actions: elite/class theory, pluralist theory, and state autonomy theory. In the following section I review each of these perspectives and outline gaps and weaknesses in the power structure literature. I overlay these perspectives with theories of pre-prohibition regulatory variation and post-prohibition regulatory origin, drawing out competing variables consistent with each power structure theory which might help to explain the observed variation in alcohol regulatory models. This analysis demonstrates the importance of considering how different elements of local and national level power structures intersect in ways that influence legal and social developments.

### *Theories of Power Structure*

Articulated first by Hunter (1953) and Mills (1956), elite/class theory holds that big business and its associated wealthy individuals dominate government. Hunter's study on community power structure in Atlanta demonstrated that powerful local politicians are either members of the big business class or are closely connected to it. This exclusivity, he argued, promotes one bloc of interests (big business, in particular) and precludes the average citizen from decision making processes (Hunter 1953: 233). Similarly, Mills showed that there is significant overlap between big business and the most powerful political actors in American society. Expanding the scope of Hunter's thesis to the national level, Mills argued that the highest



decision making posts in American economic, political, and military institutions are controlled by a small group of interconnected actors. This group, which he labeled the ‘power elite,’ exerts a vastly disproportionate amount of influence over crucial policy decisions, and in so doing promotes policies which most benefit its own interests (Mills 1956: 4). In later years, others argued more explicitly that big business exerts a *direct* influence on policy and policymakers (Domhoff 1967, 1980, 1990 and Miliband 1969).

Critics of elite/class theory contend that no single set of interests dominates the government. Pluralist theory, one alternative school of thought, suggests that the government is a “neutral arena open to societal influence” (Gilbert and Howe 1991: 205). Rooted in ideal conceptions of representative democracy (Peoples 2009), pluralist theory argues that pressure on governmental decision making is diffuse, and that no one bloc exerts greater influence than another; that is, the majority rules. From this perspective, elite/class and state autonomy theories ignore the *social* nature of state institutions and policy intellectuals (Gilbert and Howe 1991: 218). “Democratic governments often do what their citizens want, and they are especially likely to do so when an issue is important to the public and its wishes are clear,” (51) writes Burstein (1998). There are, therefore, multiple centers of power within society. This is an important contention, one which the competing power structure perspectives largely disregard.

A third and final perspective, state autonomy theory, argues that state actors are the dominant force in decision making. In a direct rebuke of the other two schools of power structure research, state autonomy theory emphasizes the independent nature of the state and contends that individuals are central to governmental decision making. That is, predominant power is located in the government, not in the general citizenry or a dominant social class. Block (1977), for instance, argued that “the ruling class does not rule” (59). While the interests of state actors often correspond with those of big business, he suggested, the autonomy of state managers leads them

to decide against big business when their interests do not correspond. Skocpol (1980, 1992) hardened this line of thinking, arguing in more direct terms that government bodies and their members hold almost exclusive power over decision making processes.

State-level alcohol regulation provides an especially important case for testing each of these perspectives, as well as for exploring how they might fit together. Although scholars typically consider power structure theories in isolation, I put them into conversation with one another in order to explore how different groups influence state-level regulatory outcomes and at what levels they operate. As touched on above, the creation of regulatory systems, as well as their implementation, is often delegated to individual states. Although the ultimate power of selection lies in the hands of state legislatures, there are a host of state- and national-level influences which can affect regulatory outcomes (see Gerber and Teske 2000). In looking more closely at the post-repeal regulation of alcohol—a nationally and locally prominent issue—each power structure perspective can be tested at the national and state levels, providing insight into which actors (i.e. elites, governments, citizens) influence what dimensions of the federal system of power and, more importantly, how they interact.

#### *Alcohol Regulation: Origins and Variation*

Levine (1987) and Rumbarger (1984) argue that the national origins of post-prohibition alcohol regulation fit within a framework of power elite theory. Both scholars suggest that the repeal of federal prohibition was the result of a push from the capitalist elite to protect their interest in an ordered and sedate society. Corporate titans like John Rockefeller, Pierre DuPont, and their close advisors felt seriously threatened by the near anarchy which they believed prohibition was slipping into. Accordingly, the two models of alcohol regulation popularized *after* repeal were designed by this same power elite and meant, first and foremost, to address their interest in manufacturing the respect for legal order which had been eroded during the prior

15 years of prohibition. “State legislators faced with difficult political choices, and with little personal expertise in the subtle question of liquor regulation,” writes Levine (1984), “turned to the authoritative and virtually unchallenged plans of the Rockefeller Commission and the National Municipal League,” (27) the main disseminators of the elites regulatory designs.<sup>1</sup>

This hypothesis, however, in attributing the origins of alcohol regulatory systems to the power elite does not account for the variation between states, either in the form of their adopted regulatory model (i.e. license or monopoly) or in the severity of their individual regulations (i.e. where alcohol could and could not be sold). This top-down approach is such that the differences between states’ regulatory schemes are smoothed over in favor of an emphasis on their common origin. Yet, the presence of regulatory variation suggests that states perceived these systems as materially different, and that they had different reasons and rationales for adopting each framework. If the two available models of alcohol regulation were designed and propagated by a relatively homogenous power elite, then might variation in the form and severity of these systems between states be attributable to them as well, or is this variation better understood as the result of state-level government preferences (state autonomy theory) or diffuse popular pressures (pluralist theory)?

The broader literature on alcohol regulation, focusing on both pre- and post-prohibition outcomes in more state-oriented terms, suggests that variation in regulatory forms is best explained by pluralist and state autonomy theories. Studies of *post*-prohibition regulation generally assume that variation in post-repeal regulatory outcomes is attributable to the presence or absence of two specific factors.<sup>2</sup> The first is geographical proximity to Canada. It is widely believed that the Canadian experience with a state-run control system made a strong and

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<sup>1</sup> State politicians were familiarized with these systems primarily (though not exclusively) through short publications from the National Municipal League, several longer books published by the Rockefeller Commission, and speeches given at the state repeal convention in October of 1933.

<sup>2</sup> These studies have not empirically proven these hypotheses.

favorable impression on many states, especially those bordering Canada. “A large number of persons in the upper tier of states,” argue Harrison and Laine (1936), “were well acquainted with the experience of Canadian provinces in handling liquor” (109). This familiarity, scholar’s contend (see Barker 1955; Denny 1950; Martin 1960; Mead 1955; Rorabaugh 2009), acted as an important influence on states that adopted monopoly systems of regulation. The second factor is favorable attitudes toward prohibition. Harrison and Laine again suggest that the presence of anti-liquor voting sentiment was equally important to a state’s choice of regulatory model. The more adverse a state’s population was toward the repeal of national prohibition, they argue, the more likely it was to adopt a monopoly framework of regulation (see also Barker 1955; Bolotin 1982; Frenreis and Tatalovich 2010; Kerr and Pennock 2005; Mead 1955; Rorabaugh 2009).

Similarly, empirical studies of *pre*-prohibition regulation suggest that variations in local regulatory outcomes (i.e. “wet” or “dry” areas) prior to passage of the Eighteenth Amendment were attributable to three specific factors: religion, national heritage, and population distribution (e.g. rural and urban). Although neither the monopoly nor license framework closely resembles a pre-prohibition dry regime, it is widely held (Frenreis and Tatalovich 2010; Harrison and Laine 1936; Martin 1955; Mead 1950) that the latter scheme was perceived by states as a cautious *alternative* to prohibition. As such, variables associated with pre-prohibition dry frameworks as well as the national temperance movement can suggest explanations or pieces of explanations for post-repeal regulatory outcomes.

In his classic study of prohibition, Gusfield (1963) argues that the debate over drinking and nondrinking was ‘status’ politics. National prohibition, he writes, was “a high point of the struggle to assert the public dominance of middle-class values; it established the victory of Protestant over Catholic, rural over urban, tradition over modernity, the middle class over both the lower and upper strata” (Gusfield 1963: 7). Building on this hypothesis, several other

scholars (Buenker 1973; Kleppner 1970; Lewis 2002; Sinclair 1962) have shown that the distribution of dry laws at the state and county level prior to prohibition closely mirrored the distribution of the cultural and religious groups identified by Gusfield. “Although the dries by April of 1917 could point to the impressive fact that twenty-six states had adopted prohibition, these states were primarily in the rural South and West,” (495) writes Hohner (1969). In contrast, the northeastern U.S. was the region with the highest concentrations of Catholic, foreign, and urban populations, and the one region that did not enact many statewide prohibition laws (Buenker 1973). Thus, taken together, prior research indicates that the presence of state-level prohibition and local dry laws was closely related to the prevalence of rural, native-born, and pietistic Protestant populations, and that the absence of such laws was closely related to the prevalence of urban, ritualistic Catholic, and foreign born populations (see also Frensdreis and Tatalovich 2010; Odegard 1928; Pegram 1992; Timberlake 1963).

Importantly, researchers have yet to integrate the disparate literatures on alcohol regulatory *origin* and alcohol regulatory *variation* into a coherent theoretical framework. That is, scholars have examined either commonality across states or variation between states, but never the way in which both fit together. In connecting these two bodies of literature, I hypothesize that power at the national level—wielded by capitalist elites—set a broader agenda on alcohol regulation, identified key issues of importance, established a shared vocabulary, and provided ready-made models for alcohol regulation, and that power at the state level—wielded in large part by the citizenry and state managers—was deeply nested within this national discourse but ultimately free to choose how alcohol was going to be regulated (resulting in the observed variation). In so doing, state populations were given the *appearance* of democratic choice, even though they were, in fact, selecting from a limited universe of systems and participating in a debate already shaped and defined by the national power elite.

If this hypothesis is true, then we would expect distinct causal combinations of variables, roughly reflecting population characteristics and (to a lesser extent) government preferences of a state, to exist for license and monopoly outcomes. We might also expect historical documents to reflect this paradoxical combination of commonalities in origin (i.e. from the power elite) and differences in selection processes (i.e. how legislatures presented and justified their choice of model). If, on the other hand, this hypothesis is false, then we would expect not to find distinct causal combinations of variables (or combinations that explain only a fraction of the cases) leading to each regulatory outcome, suggesting that a state's choice of system was meaningless or idiosyncratic. We might also expect historical documents to embody states' indifference toward choosing between the two available models.

#### *Explaining Alcohol Regulatory Variation*

The preceding discussion highlights five areas of inquiry, consistent with pluralist theory, which may help to illuminate the social pathways leading to state-level monopoly and license frameworks. They are: (1) the prevalence of a state's liberal and conservative religious populations, (2) the prevalence of a state's rural and urban populations (3) the prevalence of a state's foreign-born population, (4) the prevalence of anti-liquor sentiment in a state, and (5) a state's proximity to Canada. The more these themes are emphasized in the analysis output, the more state-level regulatory outcomes reflected popular pressures or preferences.

In addition, two other areas of inquiry, consistent with state autonomy theory and not alluded to in the literature, may also help to explain the variation in post-prohibition regulatory outcomes. In particular, the prevalence of the alcohol industry in a state just prior to the passage of federal prohibition and a state's commitment to the enforcement of alcohol laws during prohibition can each provide deeper insight into the diverse experiences of states in the decades leading up to repeal. For instance, the commitment of a state to enforcing laws related to

prohibition could indicate that it placed a high value on legal order and strict control of alcoholic beverages. One would expect this theme to contribute to a monopoly outcome. Similarly, the prevalence of the alcohol industry in a state could indicate that industry interests were taken into greater consideration by the government when designing a regulatory framework after repeal. One would expect this variable to contribute to a license outcome.<sup>3</sup> The more these themes are emphasized in the analysis output, the more regulatory outcomes reflected the individual preferences or priorities of state governments and politicians.

## DATA AND METHODS

My study employed a set-theoretic approach based on fuzzy-set qualitative comparative analysis (fsQCA), an analytic technique grounded in set theory that allows for a detailed analysis of how causal conditions contribute to specific outcomes (Ragin 2000, 2008). In particular, a qualitative comparative analysis was ideal for exploring the broad range of causal variables and cases (i.e. states) tested for each regulatory outcome. The use of an exclusively case-based approach would have made comparisons across significant numbers of cases and independent variables almost impossible. As Fiss (2009) writes, “[qualitative comparative analysis] is uniquely suited for analyzing causal processes across multiple cases because it is based on a configurational understanding of how causes combine to bring about outcomes and because it can handle significant levels of causal complexity” (25). The basic premise underlying qualitative comparative analysis is that cases are best understood as configurations of attributes resembling overall types and that a comparison across cases can allow the researcher to strip away attributes that are unrelated to the outcome in question. Thus, using Boolean algebra and a set of algorithms that allow for the logical reduction of numerous, complex causal conditions,

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<sup>3</sup> Depending on the context, however, this same variable could contribute to a monopoly outcome if, for instance, the state had a negative experience with prevalent alcohol sales prior to prohibition.

qualitative comparative analysis can transform multiple cases and variables into a reduced set of configurations that lead to an outcome.

Importantly, the use of ‘fuzzy sets’ offered several advantages to the traditional crisp set qualitative comparative methodology. As Ragin (2008) explains, “fuzzy sets are especially powerful because they allow researchers to calibrate partial membership in sets using values between 0.0 (nonmembership) and 1.0 (full membership) without abandoning core set theoretic principals and operations” (29). Indeed, fuzzy sets are simultaneously qualitative and quantitative, incorporating both kinds of distinctions in the degree of set membership. Thus, concludes Ragin (2008), “fuzzy variables have many of the virtues of conventional interval- and ratio-scale variables, but at the same time they permit *qualitative* assessment” (30).

The use of a fuzzy set comparative analytic approach, therefore, also did not preclude me from incorporating extensive case oriented research. In particular, I used a case based methodology to achieve three things. First, I combined in-depth examinations of individual states with the theoretical framework outlined above in order to identify and calibrate independent variables. This allowed me to draw out potential causal factors which were empirically grounded, and to establish appropriate values for the cut-off points of fuzzy set membership scores. Second, I complemented my comparative analysis with qualitative accounts of the way in which state legislatures framed their choice of regulatory systems. This illustrated how states interacted with the power-elites pervasive national discourse. Finally, I incorporated into my discussion of the comparative analysis several state-specific illustrations of causal pathways. These mini-case studies provided a window into how sets of causal influences operated to influence outcomes.



*Variables and Sources*

Based on the theoretical considerations outlined in the previous section, as well as the exploration of several individual cases, I compiled seven measurements in each of the 40 states where alcohol could legally be sold in 1935.<sup>4</sup> These measurements were (1) total rural population, (2) total conservative religious population, (3) total German, Austrian, and Irish heritage population, (4) total Canadian heritage population, (5) the ratio of state to federal bootlegging arrests, (6) the percentage of inhabitants who voted for repeal of national prohibition in 1933, and (7) the total number alcohol retail outlets conducting business just before national prohibition was passed in 1917. Conservative religious groups were classified as all members of Protestant denominations other than Episcopalians, German Lutherans, and Missouri Synod Lutherans (Wasserman 1990; Lewis 2002). All immigrant heritage populations were defined as first-generation immigrants and native-born individuals with at least one immigrant parent (Lewis 2002).

Information on the demographic and ethnic makeup of states was found in the 1930 United States Census and the 1936 Census of Religious Bodies. These years were selected because they were the temporally closest census to the period between 1933 and 1935, and were likely more accurate than earlier and later years. Measures of bootlegging activity and the enforcement of prohibition laws were taken from the U.S. Treasury Department's Bureau of Industrial Alcohol for the year 1932. Statistics concerning the prevalence of the alcohol industry in each state for the year 1917 and 1918 were reported by the U.S. Internal Revenue Service and found in the Anti-Saloon League Yearbook.

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<sup>4</sup> Alabama, Georgia, Kansas, Mississippi, North Dakota, Oklahoma, and Tennessee did not repeal their state prohibition laws until after 1935. Wyoming is a special case and has also been excluded from this analysis.

Case-oriented work drew on dissertations, historical accounts, archived local newspapers, temperance and repeal group publications, and reports issued by state legislative committees tasked with studying the question of alcohol regulation. Dissertations and historical accounts provided in-depth background information on individual states' approaches to alcohol control both before and after national prohibition; archived local newspapers and temperance and repeal group publications provided insight into the public and legislative debates that took place in individual states between 1933 and 1935; and legislative reports provided the specific aims and rationales used by each state to justify its adoption of a regulatory system, as well as certain details about the process of how a state arrived at its chosen model of regulation.

### *Analytic Strategy*

The fsQCA analysis was a three step process. First, the seven measurements outlined above were converted into fuzzy membership groups (i.e. independent variables) and then organized in a 'truth table'. For each state, the membership groups were: (1) high rural population, (2) high conservative religious population, (3) concentration of Canadian heritage inhabitants, (4) concentration of German, Austrian, and Irish heritage inhabitants, (5) low repeal vote for national prohibition, (6) significant contribution to total bootlegging arrests, and (7) pervasive alcohol retail outlets in 1917. Each measurement was calibrated and given a score between 0 and 1 in order to reflect degree of membership in each of these groups.<sup>5</sup> The negated form of each variable was automatically included in the algorithm and is expressed in Tables 1.1 and 1.2 as the variable name in lower case letters.<sup>6</sup>

Next, the truth table was processed using several different computational methods, resulting in three types of solutions: complex, parsimonious, and intermediate. Although these

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<sup>5</sup> A detailed description of the calibration process is available from the author upon request.

<sup>6</sup> If a variable is negated then it indicates that the variable needed to be *absent* in order for the outcome in question to occur. Thus, if the negated form of the variable high rural population appears, then it means that achieving the outcome in question required the *absence* of a large rural population.

methods all produce results of a slightly different form, their broad intent is the same: “to generate succinct statements about the different combinations of causal factors which are systematically associated with the outcome of interest, and the manner in which they combine” (McClellan 2011: 15). The results appear, superficially, to be strong claims about causes, but strictly speaking they are statements of *potential* causal relationships (Fiss 2009). These causal combinations are referred to as pathways and together they constitute one ‘solution’ (my analysis has two solutions, one for each outcome). The strength of each solution and causal pathway within each solution was evaluated through two descriptive measures: consistency and coverage. The latter indicates how closely a perfect subset relation is approximated, while the former gauges empirical relevance or importance (Ragin 2008: 44).

Finally, since fsQCA only produces statements of potential causal relationships, it always consists of a third step: examining causal statements in light of theory and evidence, and identifying avenues for further detailed research in order to confirm or refute their specific implications (Ragin 2008). As mentioned above, I carried out case studies of specific states and used these detailed accounts to elaborate on the causal statements. This was a labor intensive yet integral part of my analysis.

## RESEARCH FINDINGS

Consistent with the arguments put forth by Levine (1984) and Rumbarger (1989), the vast majority of states framed their choice of regulatory model in terms of the rhetoric and discourse promulgated by the American power elite. This meta-discourse emphasizing legal order through the curtailment of private profit saturates the legislative debates and committee reports published throughout the period following repeal. It is clear that a vast majority of states genuinely shared in the national atmosphere created by the capitalist elite.

In Wisconsin, for instance, a license state and one of the most liberal control regimes, the stated aim of its license framework was to (1) prevent the return of the saloon, (2) eradicate the bootlegger, (3) promote temperance, and (4) discourage excess profit seeking (Wisconsin Legislature; *La Cross Tribune* December, 14, 15, and 20, 1933). Similarly, in West Virginia, a monopoly state and one of the most restrictive control regimes, the stated aim of its monopoly framework was to (1) prevent the return of the old saloon, (2) drive bootleggers out of business, (3) encourage temperate habits, and (4) remove private profit from the liquor trade (*Charleston Gazette* February 14, 15, and 17, 1935). Notably, the stated aims of alcohol control in both states were virtually identical to one another and the language used to articulate them was drawn nearly verbatim from the published liquor control plans of the elite controlled Rockefeller Commission and the National Municipal League.

However, upon closer examination, considerable variation emerges in the rationales used by individual state legislatures to actually justify their choice of regulatory scheme. Again taking into consideration the examples of Wisconsin and West Virginia, it becomes clear that the theories of Levine (1984) and Rumbarger (1989) fail to account for the more subtle and perhaps more revealing differences that existed between the states and their relation to the power elite's popular discourse. Indeed, despite sharing many of the same stated aims (those derived from the power elite at the national level), states often put forth fundamentally different rationales for their chosen courses of regulatory action. Thus, to the vast majority of states, it very much mattered which system of alcohol regulation they were going to adopt—this was not a blind or random choice carried out by indifferent legislative bodies.

For example, lawmakers in West Virginia argued that private profit seeking—the principle stated aim of its regulatory efforts—was to be prevented through state ownership of all liquor stores. As one West Virginian senator noted, “You’re playing with fire when you talk

about returning the profits of this business to private hands” (*Charleston Gazette* February 23, 1935). In contrast, Wisconsin politicians argued that private profit seeking—also one of the principle stated aims of its regulatory efforts—was to be reduced through uniform licensing fees, not careful state control of retail sales. The Legislative Interim Committee on the Regulation of the Sale of Intoxicating Liquor in Wisconsin reported that the simple act of “centralizing control of alcohol regulation—thereby allowing for the imposition of a reasonable and uniform license fee—[would] prevent the undesirable outcome of extreme profit seeking” (4).

While these differences in experience between Wisconsin and West Virginia are by no means representative of every license or every monopoly state, they function to highlight the presence of meaningful variation in how states perceived and arrived at particular regulatory outcomes. The following comparative analysis supports this finding and demonstrates that a state’s choice of alcohol control system was shaped in large part by pluralist pressures, and to a lesser extent government preferences. Indeed, my analysis suggests that states chose their particular regulatory model based largely on what laws political actors thought inhabitants would accept and respect. Thus, although state lawmakers readily bought into the two systems disseminated by the American power elite, they were likely still cognizant of how their particular inhabitants would receive each system as they decided between them. In the proceeding section I outline these fundamentally different pathways to each regulatory outcome and explain in detail the specific influences which pushed states to adopt one system over the other.

### *Monopoly Pathways*

The solution shown in Table 1.1 indicates that three primary combinations of causal influences led to a monopoly system of regulation. In the first causal recipe, a high Canadian

concentration needed to be accompanied by the absence of a prevalent alcohol industry, the absence of a high German, Austrian, and Irish heritage concentration, and the absence of a high conservative religious population. The states with membership in this causal group are Vermont, Washington, New Hampshire and Michigan. In the second causal recipe, a high Canadian concentration needed to also be accompanied by the presence of a high rural population and a prevalent alcohol industry, as well as the absence of a high conservative religious population. Unlike the first recipe, this pathway required both a high rural population and a strong retail presence prior to prohibition. The states with membership in this group are Maine and Montana.

The third and final causal recipe illuminates a much different path to monopoly regulation. In this third solution, a high conservative religious population, a high rural population, and a high ratio of state to federal bootlegging arrests needed to be accompanied by the absence of a high German, Austrian, and Irish heritage concentration, as well as the absence of a prevalent alcohol industry. The states with membership in the final group are Idaho, Virginia, and West Virginia.

This solution suggests several things. First, it confirms that Canada's experience with a state run control system played an important role in shaping many states' decision to adopt a monopoly system of regulation. However, it challenges the assumption made popular by Harrison and Laine (1936) that geographical proximity to Canada is what produced a monopoly outcome. My analysis, notably, indicates that causation is more closely linked to the presence of Canadian heritage concentrations, the only constant variable in the first two causal combinations. The cases of Minnesota, Wisconsin, and New York illustrate this point nicely. Despite their proximity to Canada, all three states adopted license systems of regulation and had below average Canadian heritage populations (2.2 percent, 3.7 percent, and 2.7 percent respectively).

It is possible that states in the first and second pathways were most strongly influenced by contact with Canadian government officials, and not popular pressure from local Canadian populations. Indeed, legislative reports show that exchanges between state and provincial governments were not uncommon, and some states like Washington adopted laws nearly identical to those used in various Canadian provinces. However, it is unlikely that government preference would have been able to manifest itself absent popular support. That is, as hinted at above, for a monopoly system to be politically viable it needed to garner a certain level of acceptance from the citizenry. As the case of Washington illustrates, the presence of a Canadian heritage concentration (as well as Scandinavians) could provide this support.<sup>7</sup> In Washington, argues Rorabaugh (2009), the Canadian population, along with its rural inhabitants, played an important role in promoting the system and positioning it in the minds of lawmakers as a viable alternative to prohibition. This support, he concludes, along with lawmakers' positive impression of the monopoly system, was instrumental to shaping regulation in the state.

The first two combinations, nevertheless, also indicate that a Canadian population was not itself sufficient to produce a monopoly outcome. That is, there also needed to be a lack of political will to *prevent* the adoption of a monopoly system. Importantly, the first and second pathways demonstrate that groups like Evangelical Christians—who might have favored retaining state prohibition laws—and German, Austrian, and Irish immigrants—who might have favored a more liberal system of regulation—needed to be absent in certain cases in order for the influence of a state's Canadian or other populations to be felt.<sup>8</sup> For instance, drawing on the case of Washington again, lawmakers were keenly aware that the lack of German, Austrian, and Irish immigrants, as well as the lack of a large conservative religious population, meant that there

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<sup>7</sup> Scandinavian countries also had extensive experience with government-run alcohol control systems; future work must incorporate a variable to reflect state Scandinavian populations.

<sup>8</sup> This pattern also suggests that conservative religious groups held the most deeply rooted (negative) opinions toward alcohol as compared to other groups (e.g. rural) that also supported prohibition in the 1910s and 1920s.

would be little opposition to a government-run control scheme (Rorabaugh 2009). Thus, while Canadian concentrations were necessary for the monopoly scheme to gain traction in Washington, they were alone insufficient to ensure that it would garner sufficient acceptance.

The second combination further indicates that rural populations and conservative religious populations often acted as distinct political blocs. That is, the second pathway achieved a monopoly outcome through the presence of a high rural population and the absence of a high conservative religious population. It is impossible to say whether this was consistent with pre-prohibition dry law patterns since prior research has not looked closely at causal *combinations* (i.e. necessary and sufficient); however, it once again suggests that conservative religious groups could independently act as an impediment to state-level repeal and, thus, to the adoption of a monopoly system. Moreover, the prevalence of alcohol retail outlets prior to prohibition in states with membership in this second pathway also suggests that prior experience with pervasive alcohol sales could contribute to producing a cautious and controlling regulatory response.

The experience of Montana illustrates this second causal combination, as well as aspects of the first, effectively. When national prohibition was repealed in December of 1933, Montana, like many other states, found itself in the middle of a fiscal crisis induced by the Great Depression. Desperately in need of revenue and reeling from the loss of federal relief funds in November of 1933, the state turned its attention to alcohol as a potential supplemental revenue stream (*Billings Gazette* December 3, 1933). However, as indicated in the analysis output, the state and its rural population still held at the front of its mind the memory of a bad experience with alcohol sales in the years leading up to prohibition (Quinn 1970: 10). This meant that, if people were going to accept and respect its laws, the state faced a choice not so much between a license and a monopoly system, but rather between a monopoly system and prohibition.



The need for revenue, combined with two additional factors, pushed the state toward a monopoly framework. First, after consulting officials in Alberta and British Columbia, lawmakers decided to copy the state run system used in Alberta. “No organization,” explains Quinn (1970), “made itself known to favor a more liberal policy,” (11) and there was considerable support for the system based on the familiarity of the state’s Canadian heritage population. Second, there was a lack of ideologically rooted opposition to repealing prohibition, as the state had only a small conservative religious population (*The Helena Independent* December 18, 1933; Quinn 1970). Thus, while the state’s rural population still unconditionally demanded tight control of alcohol sales, there was no political impediment to repealing prohibition and enacting a revenue producing system of regulation. Notably, this case highlights the way in which a state’s choice of regulation was shaped around both the presence and absence of population groups, as well as their specific shared experiences and the way in which lawmakers perceived what people would accept and respect.

None of this is to say, however, that the pathways predicted by traditional temperance literature (Buenker 1973; Kleppner 1970; Lewis 2002; Sinclair 1962) were irrelevant. The third combination actually confirms that the archetypical pre-prohibition temperance pathway still applied to a small but significant group of agrarian based states. Specifically, the three cases displaying full membership in the final combination—Idaho, Virginia, and West Virginia—were highly rural, highly conservative, and lacked large Germanic and Irish immigrant populations. The government’s attitude toward illicit alcohol sales during prohibition was also highly adverse, suggesting once again that government preference was also a meaningful ingredient.

Finally, several states do not fit into any of the causal pathways in the first solution. However, as the cases of Ohio and Pennsylvania illustrate, many of these outlying states possessed readily explainable intervening influences which blocked or skewed the pluralist

pressures that prevailed in other states. For instance, the case of Pennsylvania suggests that states with highly determined or opinionated governors could adopt systems at odds with popular opinion. Despite overwhelming disapproval of national prohibition and an extremely liberal culture, Pennsylvania Governor Pinchot used political maneuvering to secure the creation of a monopoly system in the state (Catherman 2009). As Pinchot explained in 1934, “I accept the decision of the American people, [but] that does not mean I have weakened or surrendered my allegiance to the dry cause” (quoted in “The Rotarian” 1934: 53).

Conversely, the case of Ohio suggests that powerful interests groups could exert tremendous influence on a state’s choice of regulatory system.<sup>9</sup> Stegh (1975) writes that “newly formed special interest groups (and old ones, too) diligently pressured the General Assembly regarding the future of liquor control legislation,” (472) playing a major role in the eventual adoption of a monopoly framework and blunting popular opinion. Importantly, interest groups were *especially* active and influential in Ohio due to the state’s symbolic importance as the birthplace of leading dry organizations like the Woman’s Christian Temperance Union and the Anti-Saloon League. This meant that, despite popular discontent with prohibition, dry interest groups were sufficiently entrenched so as to steer lawmakers toward a monopoly outcome.

### *License Pathways*

The situation in states that adopted a license system was markedly different. Indeed, as the output shown in Table 1.2 demonstrates, the conditions leading to a license outcome were fundamentally different from those leading to a monopoly system. There were four primary causal combinations leading to a license outcome. In the first and most important causal recipe,

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<sup>9</sup> Interest groups were an inconsistent influence from state to state. Not only were they more prevalent in some states, but groups from the same industry sector could advocate different positions. For instance, the hotel lobby in Washington actively supported monopoly, whereas the hotel lobby in West Virginia and Ohio actively opposed it.

an absence of high arrest rates needed to be accompanied by an absence in high Canadian heritage concentrations and an absence in low percentages of repeal votes. The states with membership in this group are Delaware, New Jersey, Illinois, Kentucky, Louisiana, Maryland, Minnesota, Missouri, Nevada, New York, Texas, and Wisconsin.

In the second causal recipe, high concentrations of German, Austrian, and Irish heritage populations needed to be accompanied by an absence in high Canadian heritage concentrations, an absence in the prevalence of alcohol retail outlets, and an absence in low percentages of repeal votes. The states with membership in this group are Nebraska and South Dakota. In the third causal recipe, a high rural population needed to be accompanied by an absence in high Canadian heritage concentrations, the absence of a high conservative religious population, and an absence in low percentages of repeal votes. The states with membership in this group are Arizona, New Mexico, and Nevada. In the final causal recipe, the prevalence of alcohol retail outlets and the presence of high German, Austrian, and Irish populations needed to be accompanied by the absence of high arrest rates, the absence of high conservative religious populations, the absence of high rural populations, and an absence in low repeal votes.

Several points of interest emerge from this solution. First and foremost, a high repeal vote was instrumental for achieving a license outcome. Indeed, every one of the causal combinations generated in this second solution required a high repeal vote in order to produce a license framework. This attribute strongly suggests that a state's popular attitude toward the experience of national prohibition influenced its selection of a regulatory framework after repeal. Moreover, none of the causal combinations leading to a *monopoly* outcome (see Table 1.1) required this same variable, indicating that its explanatory power is unambiguously linked to a license

outcome.<sup>10</sup> This point is especially interesting in light of the assumption made popular by Harrison and Laine (1936) that a low repeal vote led to a monopoly framework. If anything, my analysis suggests that a high repeal vote led to a license framework, and that a low repeal vote had only marginal importance for achieving a monopoly outcome.

A high repeal vote, however, was not itself sufficient to produce a license outcome. The second and fourth causal combinations also required a concentration of German, Austrian, and Irish heritage residents, and the first and fourth causal combinations required a low state level arrest rate. These patterns suggest two things. First, immigrant populations continued to play an important role in shaping alcohol regulation. While my analysis has indicated that conservative religious populations were of decreasing importance in achieving restrictive regulatory outcomes (see above), the influence of liberal immigrant populations appears to have remained key in producing permissive outcomes. The states with membership in the solutions second pathway illustrate this point nicely. Each was predominantly rural and conservative, yet the concentration of liberal immigrant populations combined with a shared negative opinion of national prohibition in order to facilitate a pathway to a license outcome.

Second, a weak law enforcement effort during prohibition also contributed in many cases to arriving at a license framework. This suggests that, in addition to the pluralist pressures already outlined in both solutions, the attitude of a state's government toward alcohol consumption could also affect regulatory outcomes. If responsible individuals in the executive and legislative branches of a states government were so adverse (or passive) toward controlling illegal alcohol sales *during* prohibition, then it is highly improbable that they would have advocated for a regulatory system designed for careful state control of alcohol after prohibition.

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<sup>10</sup> Unlike, for instance, the prevalence of alcohol retail outlets, which appears in both solutions in a negated and non-negated form.

It is unclear, however, whether a state government's attitudes toward alcohol were a reflection of populist influences or individual politicians who exerted disproportionate influence and imposed their own personal preferences. I suspect the latter is true, given that the first and fourth pathways contain additional variables indicating favorable views of alcohol consumption, but further detailed case-based analysis is needed to confirm this hypothesis.

The third causal combination is perhaps the most intriguing. In this pathway, a high *rural* population was necessary to achieve a license outcome. This finding once again runs counter to the path predicted by traditional temperance literature. However, upon closer examination, the three states with membership in this group—New Mexico, Nevada, Arizona—shared two other important characteristics which help to explain the outcome. First, the states are closely grouped together in the Southwest corner of the U.S. Though not discussed in this paper, the process of diffusion may have contributed to producing common outcomes. Second, the population in all three states strongly favored repeal and lacked large conservative religious concentrations. Hence, although their inhabitants were predominantly rural, there was also a popular discontent toward prohibition and the absence of an ideologically rooted political impediment to repeal (e.g. Evangelical Christians). This third pathway underscores, once again, the importance of population composition and the way in which the presence or absence of different groups could combine to dictate an acceptable regulatory outcome.

Finally, the fourth causal combination shows that, like the first solution, a small group of states still followed the archetypal pathway predicted by traditional temperance literature. Specifically, the five states with full membership in the last causal combination—New York, New Jersey, Connecticut, Rhode Island, Massachusetts—had large concentrations of German, Austrian, and Irish heritage populations and an absence of high rural and conservative religious

populations. Notably, however, two of these states also possessed membership in the first causal combination, detracting some of the unique explanatory power of the pathway.

## CONCLUSION

Taken together, the preceding analysis suggests that there were fundamentally different pathways to license and monopoly systems of state-level alcohol regulation. These pathways largely reflected pluralist pressures in each state and to a lesser extent the preferences of government actors. While two of these pathways resembled causal relationships characteristic of pre-1919 patterns of state- and county-level prohibition laws, others point to the importance of particular post-repeal specific variables and combinations. In the case of states that adopted a monopoly framework, the concentration of Canadian heritage inhabitants was a key ingredient, and the absence of conservative religious groups and liberal immigrant populations allowed cautious, often rural states to repeal their own prohibition laws and enact a strict monopoly system. In the case of states that adopted a license framework, the attitude of both a state's government and its inhabitants toward the experience of national prohibition was central, suggesting that disapproval of the 18<sup>th</sup> Amendment strongly affected regulatory outcomes in the post-repeal era.

Keeping in mind that both the monopoly and license systems originated from the same group of national power elites, my results support the hypothesis that there was an appearance of genuine choice for populations at the state level. That is, despite readily buying into the two systems created by the power elite, lawmakers remained cognizant of what rules and regulations state inhabitants would accept and respect, giving people the sensation of democratic influence. In reality, of course, this sensation constituted but a limited debate over two readily available models

of regulation, both of which were designed to advance the interests of the power elite.<sup>11</sup> The effect of this process was to reinforce the hegemonic power of elite-generated laws, as state populations were (1) given the impression that they were freely choosing their form of regulation and (2) more likely to respect legal order (the primary concern of the capitalist elite) since they were living under a system which they perceived as tailored to their specific needs.

Importantly, this finding points to a more general relationship between elite generated priorities and agendas at the national level and pluralist based legislative processes at the state level. While scholars often focus on the American system of federalism as either a simple institutional division of state and federal power (e.g. political scientists), or as one overriding structure of socially grounded power (e.g. sociologists), my study suggests that explaining how different manifestations of power (elite, popular, governmental) at the national and subnational levels fit together is vital to understanding state regulatory outcomes, as well as the maintenance of social stability. Indeed, the case of post-repeal alcohol regulation indicates that capitalist elites can use the federal system of power in order to (nationally) advance state-level policies which benefit their interests, while at the same time maintaining the consent of the governed through the cultivation of limited pluralism at the subnational level. Thus, from this perspective, ‘legitimate’ policy options are produced by the power elite and then democratically chosen from by the masses.

Moving forward, future research should test the applicability of this hypothesis within the contemporary context. Although the nature of the elite-pluralist relationship has undoubtedly evolved since the period discussed in my paper, the influence of private and corporate money on political priorities, agendas, and debates continues to increase (see Domhoff 1967; 2006; *Citizens United v. Federal Election Commission* 2010). It is, therefore, even more vital that scholars seek to

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<sup>11</sup> This fact did not preclude both systems from benefiting other groups; it simply meant that they were first and foremost designed to advance the power elite’s interest in effective social control.

better understand not only what forces shape state-level policies and regulations, but also how a political process structured by the wealthiest fraction of American society continues to remain viable. Finally, while my analysis has drawn out and emphasized prominent causal combinations in order to generate new hypotheses about the emergence of post-repeal alcohol regulation, further case oriented research is needed to test these hypotheses and to provide additional insight into states' decision making processes. The impact of industry, temperance group, and repeal group lobbyists deserve special attention. A closer examination of whether these systems are still appropriate to the needs and composition of individual states today is also needed.



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**Table 1.1** Solution for Monopoly Outcome

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Pathway 1:

CANADIAN CONCENTRATION\*conservative religious population\*retail outlets\*german, austrian, irish concentration

*Members:* Vermont, Washington, New Hampshire, Michigan

*Raw coverage:* .253

*Unique coverage:* .204

*Consistency:* 1.00

Pathway 2:

CANADIAN CONCENTRATION\*RETAIL OUTLETS\*RURAL POPULATION\*conservative religious population

*Members:* Maine and Montana

*Raw coverage:* .111

*Unique coverage:* .076

*Consistency:* .936

Pathway 3:

CONSERVATIVE RELIGIOUS POPULATION\*RURAL POPULATION\*retail outlets\*state arrest rate\*german, austrian, irish concentration

*Members:* Virginia, Idaho, West Virginia

*Raw coverage:* .232

*Unique coverage:* .197

*Consistency:* .896

**Total Solution Coverage:** .5278

**Total Solution Consistency:** .9388

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**Table 1.2** Solution for License Outcome

## Pathway 1:

state arrest rate\*canadian concentration\*low repeal vote

*Members:* Delaware, New Jersey, Maryland, Illinois, Louisiana, Missouri, Wisconsin, New York, Nevada, Minnesota, Kentucky, Texas*Raw coverage:* .493*Unique coverage:* .275*Consistency:* .902

## Pathway 2:

GERMAN, AUSTRIAN, IRISH CONCENTRATION\*canadian concentration\*retail outlets\*low repeal vote

*Members:* Nebraska and South Dakota*Raw coverage:* .124*Unique coverage:* .077*Consistency:* .784

## Pathway 3:

RURAL POPULATION\*canadian concentration\*conservative religious population\*low repeal vote

*Members:* New Mexico, Nevada, Arizona*Raw coverage:* .160*Unique coverage:* .064*Consistency:* .875

## Pathway 4:

RETAIL OUTLETS\*GERMAN, AUSTRIAN, IRISH CONCENTRATION\*state arrest rate\*conservative religious population\*rural population\*low repeal vote

*Members:* New York, New Jersey, Connecticut, Rhode Island, Massachusetts*Raw coverage:* .229*Unique coverage:* .081*Consistency:* .950**Total Solution Coverage:** .7357**Total Solution Consistency:** .8758