
Lawyers for Conservative Causes: Clients, Ideology, and Social Distance

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Scholars have devoted attention to “cause lawyers” on the political left, but lawyers who work on the conservative side of the American political spectrum have received relatively little academic consideration. This article presents systematic data on the characteristics of and relationships among lawyers affiliated with organizations active on a selected set of 17 conservative issues. We find that the lawyers serve several separate and distinct constituencies—business conservatives, Christian conservatives, libertarians, abortion opponents—and that the credentials of the lawyers serving these varying constituencies differ significantly. The greatest degree of social separation occurs between the business constituency and the abortion opponents, with another clear separation between libertarians and the interest groups devoted to traditional family values and order maintenance. The divisions among these constituencies appear to reflect the difference between “insider politics” and “populism,” which is manifested in part in actual geographic separation between lawyers located in the District of Columbia and those in the South, West, and Midwest. In the center of the network, however, we find some potential “mediators”—prominent lawyers who may facilitate communication and coordination among the several constituencies. These lawyers and the organizations they serve attempt to merge morality, market freedom, and individual liberty concerns, and they convene meetings of diverse sets of lawyers and organizational leaders to seek consensus on policy goals. Nonetheless, the findings indicate that most organizations are seldom active on issues that lie beyond the relatively narrow boundaries of their own interests.

The American conservative coalition seeks to join together some quite distinct constituencies—religious conservatives who emphasize social order and personal virtue, libertarians who stress individualism and freedom, nationalists who seek to stem immigration and protect the culture of America’s middle class, and

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business interests that oppose regulation, taxes, and union activity.¹ Because the goals of these constituencies are sometimes at odds, maintaining the coalition requires effort and diplomatic skill. Some actors, individual and institutional, have characteristics that specially equip them to play the integrative role. Foundations can use their money to encourage cooperation, and lawyers might also have assets that would enable them to be effective in bridging the constituencies. If the bar functions as a professional community, with established communication networks, lawyers might be able to use these ties in the process of building coalitions. Lawyers, especially in the Washington context, have been characterized as professional mediators or “go-betweens” (Horsky 1952:10–11; Mills 1956:288–89).

Much of the work of the conservative movement proceeds through nonprofit organizations, including foundations (Dezalay & Garth 1999; Smith 1991), think tanks (Ricci 1993; Stefancic & Delgado 1996), trade associations, advocacy groups, and public interest law firms (Epstein 1985; O’Connor & Epstein 1983). Lawyers play important roles in these organizations: they help create, maintain, and advise the organizations and they represent them in the forums where law is made. Understanding who these lawyers are, the roles they play, and the relationships among them may thus yield insights about the nature of this political sector and the extent to which its parts are integrated.

Scholars have produced extensive research on lawyers who serve causes associated with America’s political left,² but much less empirical work has focused on the characteristics of lawyers who serve conservative causes, the structure of the relationships among them, or how these variables influence the degree of cohesion within the American conservative coalition. Epstein and O’Connor examined conservative interest groups’ use of the courts (Epstein 1985; O’Connor & Epstein 1983), and Houck addressed the

¹ Jerome Himmelstein identifies three principal sets of concerns: “economic libertarianism, social traditionalism, and militant anticommunism” (1990:14). Godfrey Hodgson labels these same elements of conservatism “economic concerns: the dollars and cents issues,” “social issues”,... more accurately called ethical and religious issues,” and “issues of the flag,” the “decline of the country’s influence and reputation in the world” (Hodgson 1996:158–59).

² They have studied these lawyers’ practices (e.g., Kelly 1994; Spangler 1986; Trubek & Kransberger 1998), aspirations (Handler et al. 1978; Katz 1982), strategies (Sturm 1993; Wasby 1995), resource allocation decisions (Menkel-Meadow & Meadow 1983), and interactions with clients (Olson 1984; Hosticka 1979; Southworth 1996). They also have analyzed the work of lawyers for particular social movements, including civil rights (Greenberg 1994; Handler et al. 1978; Kluger 1976; Tushnet 1987), welfare rights (Davis 1993; Sard 1988), the women’s movement (O’Connor 1978, Freeman 1975), gender-based pay equity (McCann 1994), the rights of disabled people (Olson 1984), children’s rights (Mnookin 1985), animal rights (Silverstein 1996), prison conditions (Sturm 1993), mental patient liberation (Milner 1986), and opposition to the death penalty (Sarat 1998). Sarat and Scheingold recently produced two large volumes of essays exploring the work and professional ideologies of left activist lawyers (Sarat & Scheingold 1998, 2001).

propriety of charitable status for business public interest law firms (Houck 1984).³ Although there are also some studies of corporate lawyers (e.g., Nelson 1988; Galanter & Palay 1991), and although those lawyers sometimes seek to advance the public policy goals of their clients, the scholarly studies of the corporate bar do not deal at any length with the political roles of those lawyers. Walker (1983), Schlozman and Tierney (1985), and other political scientists working in the interest group tradition have given some attention to lawyers who are active in politics, but that research does not especially focus on conservative interests.

We do not distinguish here between lawyers who serve these groups *pro bono* and those who are paid for their work, or between those who regard their work as a form of political activism and those who view their roles in more conventional professional terms. Some of the lawyers serving conservative causes are motivated by ideological commitment, often at a financial sacrifice, while for others the client relationship may be “just business.” Lawyers for religious, patriotic, and libertarian groups are, perhaps, more likely than business lawyers to be driven primarily by ideals rather than by financial gain or professional advancement, but it is difficult to make empirically sound generalizations about lawyers’ motivations based solely on the practice settings in which they work (law firms, advocacy organizations, think tanks, or academia) or the types of clients they serve.⁴ We need not determine motivation, however, in order to analyze the structure of the lawyers’ affiliations and the lines of division within their clientele. This article, therefore, adopts a purely functional definition of its subject—lawyers who serve organizations that pursue conservative causes.

³ There is some unpublished work in progress on conservative cause lawyers. See Bisharat (1996), den Dulk (2001), Hatcher (2001), and Nielsen and Albiston (2001).

⁴ Interviews with these lawyers reveal a complex picture of professional identity and political commitment in which two roles compete. In the activist or “cause lawyering” model, attorneys commit themselves to “furthering a vision of the good society” (Sarat & Scheingold 1998:3). The other model is a more conventional view of professionalism in which lawyers sell their services in an open market. The models roughly correspond to two large categories of lawyers—those who are employed by nonprofit organizations and those who work in private firms for business clients. But there are many exceptions. Although lawyers for religious, patriotic, and libertarian organizations typically viewed themselves as activists, many of these lawyers indicated that pragmatic concerns also influenced their employment decisions. Several of them suggested that they had accepted the best job offer, which happened to come from a nonprofit organization. Some said that they found cause lawyering attractive because it gave them greater responsibility than they would receive in conventional practice, because it was more intellectually engaging, or because it was more compatible with family commitments. Similarly, while lawyers for business interests often were well paid for their work, many of them pursued conservative causes *pro bono*. A few did not seem particularly invested in their clients’ goals, but others, including some who were paid for their services, expressed strong sympathy—even passion—for the cause. We do not present systematic evidence about lawyers’ motivations and political commitments here, but a separate paper will explore those issues in depth.

Our functional definition, thus, does not require that the lawyers view themselves as “conservative cause lawyers.”⁵ A majority of the lawyers considered here would probably accept that label, but some would not. In interviews, some lawyers for business organizations describe themselves as political moderates, pragmatists who can work across party lines. Several libertarian lawyers told us that the term “conservative” implies sympathy with the social conservative agenda, which they adamantly reject, and several lawyers who work on pro-life and religious liberty issues claim to be working in the liberal activist tradition, seeking to extend protections and liberties to citizens not served by the ACLU or the NAACP Legal Defense and Education Fund.

These lawyers, then, serve varying constituencies. To what extent do the same lawyers serve more than one constituency? Where are the dividing lines among the clients or causes? Are ideological divisions within the conservative movement reflected in organizations’ choices of lawyers? If there are clear divisions among the constituencies, what are the attributes of the lawyers who serve the various categories? What is the overall structure of relationships among the lawyers? If there are distinct cliques, how separate are these segments from other parts of the larger network? What brings these lawyers together or drives them apart? Is it ideological commitment, geographic location, law school ties, professional allegiances? Does the network have a core and, if so, who is in it? Do some lawyers serve as brokers among segments of the network?

Many of the questions just posed assume that the several elements of the conservative movement will want to work together because broader support for their positions will be advantageous.

⁵ Some have questioned whether lawyers for conservative causes really are “cause lawyers” in the sense in which that term is used to describe left activists. See, e.g., Menkel-Meadow (1998:34) and Sarat and Scheingold (1998:25). But if cause lawyer is defined to include lawyers who advocate broad redistribution of political, social, economic, and legal resources (see, e.g., Sarat & Scheingold 2001:13), many lawyers for conservative causes would certainly qualify because they challenge prevailing allocations of those assets. Pro-life advocates, for example, seek to reallocate legal protection from pregnant women to unborn children, and lawyers for some religious groups advocate giving religion a larger role vis-à-vis secular values in the public sphere. Groups that support the “defense of marriage” seek to redistribute political and legal legitimacy away from “civil unions” for gay couples. Advocates of tort reform assert that they are trying to restore balance to a system that has been hijacked by personal injury lawyers and runaway juries to the detriment of business and consumers. Property rights advocates argue in favor of transferring power from government regulators to landowners and entrepreneurs. Lawyers for groups that oppose affirmative action challenge employment and educational admission processes that they assert systematically disadvantage their clients. If the term “cause lawyer” includes all those who engage in law-related activity to achieve greater social justice (see, e.g., Menkel-Meadow 1998:37), the question is how “social justice” is to be defined. Definitions that insist on financial sacrifice and ideological commitment also would include many lawyers for conservative causes. Lawyers for religious, patriotic, and libertarian groups may be motivated more by commitment to ideals than by financial gain. The extent to which these lawyers are ideologically committed to their clients’ causes is an issue explored in interviews with these lawyers. See note 9.

But this is not necessarily the case. Interest groups make choices as to whether they will or will not cooperate with other groups in pursuing policy goals (Salisbury et al. 1987; Hojnacki 1997). Alliances may be costly. Apart from the transaction costs involved in putting together the coalition (and those costs may be substantial), there may also be the cost of modifying one's position in order to satisfy the needs or demands of potential partners, and costs associated with the sharing of credit for one's accomplishments or the loss of the distinctiveness of one's position. Interest groups, like other enterprises, need product differentiation. If the American Family Association has the same policy agenda as the Family Research Council, then the two may find themselves competing for members and, perhaps, for financial support. There are, therefore, reasons why interest groups may prefer to work alone. Unless the potential partner will bring to the joint enterprise new resources that have substantial value—votes, money, media contacts, the appearance of consensus—the costs may well outweigh the gains. Thus, if organization A has the same constituency as organization B, in Congress or among the public, an alliance may be unlikely because no new votes will be gained. But if their constituencies are entirely dissimilar, then an alliance will also be unlikely because it will be difficult for them to find common ground. Alliances may be more profitable, then, where the constituencies of the interest groups have some affinity but are not identical.

Situational variables will also affect the probability of alliances. For example, if the public has closed ranks behind a president during a time of war, an effort to form a coalition to oppose the development of a new weapons system, e.g., the atomic bomb or the Strategic Defense Initiative (Star Wars), would be likely to die aborning and, therefore, the effort would probably not be made. Since interest group alliances are goal-directed and not, for the most part, entirely irrational, the likelihood of their formation is related to the probability of their success at the particular time and place. The nature of the organizational bases of the groups may also affect the decision to pursue a joint venture. "Grassroots" organizations (i.e., those with a broad public membership) are probably more unwieldy, on the whole, than are groups composed of elites "inside the Beltway." It may well be easier to mobilize a limited set of elites in support of a new initiative than to persuade a broad membership to adopt a new cause and, in the latter case, to persuade policymakers that the membership has, in fact, adopted it. Groups that are principally defined by their message (e.g., "family values," "right to life") may be more difficult to redirect than those that are devoted to advancing the interests of a particular industry or set of companies (e.g., the National Association of Manufacturers or the Business Roundtable). Thus, "expressive groups" (Salisbury 1969:19) may be less likely to join

coalitions. Elite groups may well seek the support of grassroots organizations in order to create the appearance of broader public support, but broad support is not always the preferred strategy. Some groups find that they maximize success by confining their activity to narrow “issue niches” (Browne 1990) and, depending upon the issue, many groups may prefer to conduct their lobbying without much public attention. Broader public engagement could then be counterproductive.

Alliances among groups may be continuing working relationships of long standing, or, they may be *ad hoc*, formed for a particular election or a particular legislative battle. An example of the latter is the Product Liability Coordinating Committee, an alliance of business interests created in the late 1980s to pursue legislation limiting product liability lawsuits. These short-term “umbrella” groups can be distinguished from continuing “peak” organizations—those that represent a broad set of the interests within their policy domains and attempt to pull those interests together (e.g., the AFL-CIO and, perhaps, the Heritage Foundation) (Salisbury et al. 1987). Salisbury and his colleagues observe that the prominence of peak organizations is associated with greater polarization of group conflict within the policy area (1987:1229), but the direction of causation is unclear. It may be that the peak associations serve to focus the conflict. That is, by seeking to speak for “labor” or for “business,” broadly defined, they frame the issues in ways that guarantee that the conflict between labor and business will be clear and sharp. But it may also be that peak associations are more likely to emerge in policy areas that are already characterized by polarized conflict—and that is why the groups are able to coalesce around poles or peaks. These could well be mutually reinforcing processes, of course.

Another variable that will affect the probability of coalition formation is the presence or absence of trust. Alliances commonly call for some form of exchange, some version of “you scratch my back and I’ll scratch yours.” Often, the support of organization A for organization B’s initiative at time 1 is conditioned on the support of B for A’s goal at time 2. Where the two initiatives do not proceed simultaneously, A must trust B to deliver on the promise of future support. Such trust might be based on a history of satisfactory prior dealings and the expectation of future interactions (Axelrod 1984) or it might be based on reputation. Because social networks provide timely and credible reputational information, and because punishment for violations of trust can be more effectively enforced within a bounded community (Granovetter 1985; Coleman 1990), geographic proximity may be of some importance in establishing the basis for trust. Cultural or ethnic homogeneity may also serve to enhance the perception that potential partners share common understandings, belong to the

same community, and thus can trust one another (Portes & Sensenbrenner 1993). Conversely, social dissimilarity will diminish the basis for trust.

Lawyers may be useful links among these groups, then, in part because lawyers are all members of the same profession, they have had similar educational experiences (perhaps at a limited set of schools), and they share a common professional language and a common set of understandings about the legitimate processes of government. Professional reputation and mutual respect among professional brethren may be a basis for trust. Lawyers might, therefore, play an integrative role, serving as communication links among the various elements of the conservative movement and helping to forge those elements together.

I. The Research Design

We defined the set of organizations and lawyers to be studied by selecting 17 “issue events”—legislative events involving issues that were important to various conservative constituencies during the period from 1995–1998.⁶ These issues (listed in Appendix A) include proposals regarding partial birth abortion, affirmative action in federal programs, school prayer, product liability lawsuits, Superfund legislation, same sex marriage, flag desecration, funding for the National Endowment for the Arts, the minimum wage, compulsory union dues, property rights under the Endangered Species Act, gun locks, a provision of the 1995 crime bill regarding the use of illegally obtained evidence, securities class actions, Bill Lann Lee’s nomination to become Assistant Attorney General, funding for the Legal Services Corporation, and a proposal to make English the official language of the federal government. We then searched online archives for articles about these legislative controversies in 18 newspapers and magazines (listed in Appendix B), including major national newspapers, a few regional newspapers, and several prominent conservative journals. We identified all nongovernmental, nonprofit organizations that appeared in these articles on the conservative side of the issues. This method produced the names of 81 organizations. For each of these organizations, we gathered data about the organization’s income, foundation funding, board of directors, and lawyers.

The organizations identified include many of the best-known national conservative nonprofit organizations. The list includes the American Conservative Union, the Christian Coalition, Phyllis

⁶ A crucial issue in the study of political networks is the delineation of system boundaries (Laumann, Marsden, & Prensky 1983; Knoke 1994). The “issue-event” approach identifies organizations engaged in policy-making activities that were reported in newspaper accounts.

Schlafly's Eagle Forum, Gary Bauer's Family Research Council, and Dr. James Dobson's Focus on the Family; public interest law firms, including the Pacific Legal Foundation, the Center for Individual Rights, the Institute for Justice, and the Southeastern Legal Foundation; think tanks, such as the Heritage Foundation, the American Enterprise Institute, the Competitive Enterprise Institute, and the Cato Institute; and single-issue advocacy groups, including the National Rifle Association, the National Right to Life Committee, the National Right to Work Committee, U.S. English, and the Citizens' Flag Alliance. In addition, several business organizations and trade associations are included, some of which have long histories of involvement on the conservative side of issues affecting American business—the U.S. Chamber of Commerce, the National Association of Manufacturers, Associated General Contractors of America, the American Farm Bureau, and the American Federation of Independent Business—as well as newer advocacy organizations sponsored by business interests—e.g., the American Tort Reform Association, the Product Liability Coordinating Committee, and the Labor Policy Association. Also included are several major religious organizations—the Southern Baptist Convention, the National Conference of Catholic Bishops, and the National Association of Evangelicals. A few of the organizations identified, however, may appear to be anomalous. The American Medical Association, which many people would not regard as a conservative organization, appears on our list because it supported the proposed ban on partial birth abortions.⁷

This method is, perhaps, more likely to identify organizations active in legislative and administrative work than those focusing primarily on litigation, but many of the most prominent conservative organizations engaged in litigation do appear on our list. The method may also tend to select organizations that seek publicity for their work and undercount organizations that seek to influence law and public policy without drawing media attention. Nonetheless, we think that the “issue-event” approach to identifying the relevant set of organizations is preferable to using preconceived, unsystematic notions of the proper boundaries (whether the notions are ours or those of others).⁸

⁷ The *Wall Street Journal* reported:

The American Medical Association became steeped in politics this week when it surprisingly endorsed the ban; there are credible reports the doctors' lobby secretly struck a deal with GOP leaders over Medicare reimbursement in return for the endorsement ... (Hunt 1997).

⁸ We considered drawing organizations from two already compiled lists of conservative organizations: the *Conservative Directory*, published by RightGuide.com, and The Heritage Foundation's list of “U.S. Policy Organizations” (Wagner, Hilboldt, & Korsvall 2000:681). We concluded, however, that these lists were both under- and overinclusive. Nevertheless, almost two-thirds of the 81 organizations on our list also

The 1,300 lawyers included in this study are those we could identify as serving the 81 active organizations. All but 10 of the organizations used lawyers in some capacity. We drew upon a variety of sources to gather the lawyers' names: organization websites, board lists, litigation records from January 1994 through June of 2000, the *Washington Representatives Directory* (2000), and the *Lexis-Nexis Congressional Universe* (2000), a database of legislative testimony. We sought to identify lawyers who served the organizations in any role: as officers, employees, board members, litigators, lobbyists, consultants, in-house scholars, or outside counsel. Thus, our data include lawyers who were employed directly by the organizations as well as lawyers in private law firms and legal academics. We gathered biographies of these lawyers from the *Martindale-Hubbell Law Directory* (2000) and *Who's Who in American Law* (2001), and we have interviewed some of the most prominent and active of these lawyers.⁹

II. Organizational Categories

It is possible to divide the organizations into groups defined by their areas of principal interest. Table 1 lists the organizations included in each set. The categorization we use here was informed by an analysis of the patterns of activation of the 81 organizations on the 17 issue events, but the categories were not derived systematically. Thus, these are nominal categories, and one of our objectives should be to assess the similarities and differences among them. The seven types of organizations are business, religious, and libertarian organizations, organizations concerned with abortion, affirmative action, and "order maintenance" (i.e., organizations concerned with crime and/or with the preservation and nurturing of the established social and cultural order), and "mediators." The associations in this final category tend to have broader issue agendas, spanning several categories, and they say that one of their roles is bridging the various conservative constituencies.¹⁰ Six organizations that we could not clearly assign, each of which was

appear in one or both of these directories. Most of the remaining one-third are trade associations and religious entities.

⁹ The interviews focus primarily on lawyers' backgrounds, career histories, present work, and roles in setting strategy for the organizations they serve. As of this writing, 71 interviews have been completed.

¹⁰ The mission statement of the American Conservative Union, for example, states: "ACU's purpose is to effectively communicate and advance the goals and principles of conservatism through one multi-issue umbrella organization" (<http://www.conservative.org/about.htm>). The Heritage Foundation describes as its mission "to formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense" (<http://www.heritage.org/whoweare/>).

Table 1. Organizational Categories

Business

American Electronics Association
American Farm Bureau
American Insurance Association
American Tort Reform Association
Associated General Contractors of America
Center for Education Reform
Chemical Manufacturers Association
Citizens for a Sound Economy
Coalition for Natural Resources Reform
Employment Policies Institute
Labor Policy Association
National Association of Manufacturers
National Federation of Independent Business
National Restaurant Association
National Retail Federation
National Right to Work Committee
National Right to Work Legal Defense Foundation
Pennsylvanians for Right to Work, Inc.
Product Liability Coordinating Committee
Securities Industry Association
Small Business Survival Committee
U.S. Chamber of Commerce

Religious

American Center for Law and Justice
American Family Association
American Renewal
Black Americans for Family Values
Catholic Alliance
Christian Action Network
Christian Coalition
Christian Legal Society
Concerned Women for America
Arthur DeMoss Foundation
Eagle Forum
Family Research Council
Focus on the Family
Institute on Religion and Democracy
National Association of Evangelicals
National Conference of Catholic Bishops
Southern Baptist Convention
Traditional Values Coalition Education and Legal Institute, Inc.
Washington for Traditional Values

Abortion

Americans United for Life
Arizona Right to Life
Child Protection Fund
Life Dynamics, Inc.
National Right to Life Committee
Operation Rescue
Pro-Life Alliance
Virginia Society for Human Life, Inc.

Libertarians

Cato Institute
Competitive Enterprise Institute
Defenders of Property Rights
Fairness to Landowners Committee
Institute for Justice
National Center for Policy Analysis
Pacific Legal Foundation
Southeastern Legal Foundation

Affirmative Action

Center for Individual Rights
Center for New Black Leadership

Table 1. Continued

Equal Opportunity Foundation
National Association for the Advancement of White People

Order Maintenance

American Legion
Benevolent and Protective Order of Elks of the USA
Citizens Flag Alliance
Loyal Order of Moose
National Center for Victims of Crime
National Rifle Association
U.S. English

Mediators

American Conservative Union
American Enterprise Institute
Claremont Institute
Empower America
Ethics and Public Policy Institute
Heritage Foundation
Hudson Institute

active on only one issue, have been omitted from these categories.¹¹

Table 2 displays the distribution of activity across the full set of 17 issue events. This shows both the types of organizations interested in an issue and, for each organizational category, the breadth of its issue portfolio. Some of the issues—such as the last two listed, “security suits” and “Superfund”—did not command the attention of a large share of the organizations in any category. In those two examples, only business organizations were active, and only 18% of them (i.e., four organizations) on each. Most of the issues engage the interest of organizations in only a few categories. For example, the private property issue engages only libertarians, product liability and compulsory union dues activate only mediators and business organizations, and school prayer gets the attention of religious organizations and one business organization. The crime bill, English only, flag desecration, and gun locks activate only order maintenance organizations (which are, in turn, active on only those issues). Moreover, some categories of organizations restrict their effort to one or two issues. All four of the organizations in the affirmative action category were active on affirmative action, and one was also active on the nomination of Bill Lann Lee to head the civil rights division of the Department of Justice, but none was active on any other issue. Seven of the eight abortion opponent organizations were active on the partial birth

¹¹ Those six organizations are the Izaak Walton League, the American Medical Association, the American Homeowners Association, Americans for a Balanced Budget, Americans for Hope, Growth, and Opportunity, and Public Advocate of the United States. Of the last three of these, two were rather ephemeral and are now out of business and the final one engages in “street theater.” The Izaak Walton League opposed the gun locks proposal, and the American Homeowners Association supported the “property rights” proposal. Regarding the American Medical Association, see note 7.

Table 2. Distribution of Activity of Organizational Categories Across Issue Events: Number of Organizations Active

| | Religious | Mediators | Business | Abortion | Libertarian | Affirmative Action | Order Maintenance |
|-------------------------------|-----------|-----------|----------|----------|-------------|-----------------------|----------------------|
| Affirmative Action | 1 | 5 | 1 | 0 | 3 | 4 | 0 |
| Crime Bill | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Defense of Marriage | 10 | 0 | 1 | 1 | 1 | 0 | 0 |
| English Only | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Flag | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Desecration | | | | | | | |
| Gun Locks | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Bill Lann Lee | 0 | 1 | 0 | 0 | 1 | 1 | 0 |
| Legal Services | 1 | 1 | 2 | 0 | 2 | 0 | 0 |
| Minimum Wage | 1 | 1 | 7 | 0 | 2 | 0 | 0 |
| NEA | 9 | 1 | 1 | 0 | 1 | 0 | 0 |
| Partial Birth Abortion | 7 | 1 | 0 | 7 | 0 | 0 | 0 |
| Private Property | 0 | 0 | 0 | 0 | 4 | 0 | 0 |
| Product Liability | 0 | 1 | 4 | 0 | 0 | 0 | 0 |
| Right to Work | 0 | 2 | 4 | 0 | 0 | 0 | 0 |
| School Prayer | 9 | 0 | 1 | 0 | 0 | 0 | 0 |
| Security Suits | 0 | 0 | 4 | 0 | 0 | 0 | 0 |
| Superfund | 0 | 0 | 4 | 0 | 0 | 0 | 0 |
| Total number of organizations | 19 | 7 | 22 | 8 | 8 | 4 | 7 |

abortion issue, and one organization in the category was also active on defense of marriage, but that was the limit of their issues. Five of the seven mediator organizations were active on affirmative action, two were engaged by compulsory union dues, and six other issues commanded the attention of one (but, of course, not always the same one) of the organizations in the category. The effort of the business organizations, however, was not focused on such a small set of targets. The largest share of them (seven of the 22 in the category) worked on the minimum wage, four were involved in each of four other issues—product liability, compulsory union dues, security suits, and Superfund—and one or two devoted effort to five other issues. The religious groups also had a relatively broad agenda. Ten of the 19 in the category were active on defense of marriage, nine were active on the National Endowment for the Arts and an equal number on school prayer, and three other issues also received attention.

Thus, the constituencies of some issues are narrower than others. Seven issues received the attention of only one organizational category, while four—defense of marriage, legal services, minimum wage, and the National Endowment—attracted activity from organizations in four categories, and one, affirmative action, drew some effort from five. Similarly, the interest of some

organizational categories was concentrated on a relatively narrow agenda, while that of others was broadly distributed.

The categories also differ in the age of their organizations and in the extent of their resources or revenues. The two newest categories (as measured by median founding year) are also the least prosperous (as measured by median annual revenue)—these are the abortion opponent and affirmative action categories. The three oldest categories are the richest—order maintenance, business, and mediators. Libertarian and religious organizations occupy intermediate positions on both variables. The degree of correspondence of the rank orders of the categories on the two variables is striking:

| Median Founding Year | | Median Annual Revenue ¹² | |
|----------------------|--------------------------|-------------------------------------|---------------------------------|
| 1. | Order maintenance, 1919 | 1. | Order maintenance, \$20,586,000 |
| 2. | Business, 1964 | 2. | Business, \$12,063,804 |
| 3. | Mediators, 1973 | 3. | Mediators, \$7,079,859 |
| 4. | Religious, 1982 | 4. | Libertarian, \$3,180,655 |
| 5. | Libertarian, 1983 | 5. | Religious, \$1,892,348 |
| 6. | Abortion, 1988 | 6. | Affirmative action, \$1,052,465 |
| 7. | Affirmative action, 1992 | 7. | Abortion, \$942,919 |

These data reflect the fact that many of the groups in the order maintenance category, such as the American Legion, the National Rifle Association, the Elks, and the Moose, are individual membership organizations, not established solely for political purposes, and many of the business organizations are trade associations that also have more general purposes and agendas. Many of the newer organizations, by contrast, are single-issue, “expressive” interest groups (Walker 1983; Salisbury & Conklin 1998).

Another difference between the categories is the extent of their use of lawyers. Generally, the business and libertarian organizations use lawyers much more than do the organizations advocating socially conservative interests. Of the lawyers identified in our sample, the mean number affiliated with each organization in the business category is 32, in the affirmative action organizations it is 18, and in the libertarian organizations it is 15. By contrast, the abortion opponent organizations average only 7 lawyers per organization, the religious organizations have 10 each, and the average order maintenance organization has 11. Interestingly, however, the organizations in the mediators category also

¹² We compiled these data from publicly available Form 990 returns filed with the Internal Revenue Service for 1998 and 1999. We were unable to get revenue information for six of the religious organizations, four of the business organizations, and one or two in some other categories. Religious groups enjoy an exemption from some filing requirements. We also lack founding dates for three religious and three business organizations, and for two in the abortion opponent category.

have a small number of lawyers—an average of only 7 each. This may be attributable to the fact that those organizations are mostly think tanks and lobbying groups that do not engage in litigation.

III. Lawyer Characteristics

Do the same kinds of lawyers serve these various types of organizations? To address this question, we tabulated the gender, number of years in the legal profession, type of law school attended, and practice location of each of the lawyers affiliated with one or more of the organizations. In the analysis presented in Table 3, the characteristics of a lawyer who represented organizations in more than one category will be counted in all of the categories in which those organizations appear. Thus, to the extent that lawyers practice (or serve in other capacities) across organizational categories, differentiation among the categories will be diminished. We can see in Table 3, however, that there are some quite pronounced differences in the lawyers' characteristics. For example, lawyers for the mediators have more experience than those in other categories. About half of the mediators' lawyers are in the most senior category, twice the percentage in any other kind of organization except the libertarian organizations. Only 20% of the mediators' lawyers had been practicing for 20 years or less. Of the lawyers for organizations devoted to opposing abortion, however, more than half are in the less experienced category and only 16% are senior. Only in the libertarian organizations are there no significant differences between the lawyers' characteristics and the distribution in the overall sample. This suggests that the libertarian lawyers are a mixture of types, mirroring the range of variety of the overall sample.

The variable on which we see the most, and the most pronounced, differences in the characteristics of these lawyers is their educational background—where they went to law school. For purposes of this analysis, we have used categories indicating the prestige of the schools. The “elite” law school category includes the top seven schools in the *2000 U.S. News & World Report* rankings. Those schools are, in alphabetical order, Chicago, Columbia, Harvard, Michigan, New York University, Stanford, and Yale. The “prestige” category is the schools ranked from 8th to 20th by *U.S. News*, the “regional” category includes those ranked 21 to 50, and the “local” schools are those ranked below 50. Of the mediators' lawyers, nearly half had attended one of the seven elite schools, but only 8% of the lawyers for the abortion opponents and 10% of lawyers for the order maintenance organizations had done so. More than half (57%) of the abortion lawyers had gone to a local

Table 3. Characteristics of Lawyers in Organizational Categories (column percentages)¹

| | Religious | Mediators | Business | Abortion | Libertarian | Affirmative Action | Order Maintenance | Total |
|-----------------------|-----------|-----------|----------|----------|-------------|--------------------|-------------------|-------|
| <i>Gender</i> | | | | | | | | |
| % male | 87 | 90 | 83 | 88 | 88 | 90 | 82 | 84 |
| % female | 13 | 10 | 17 | 12 | 13 | 10 | 18 | 16 |
| <i>Law Experience</i> | | | | | | | | |
| % 1–20 yrs | 40 | *** | 42 | 51 | 43 | 50 | 39 | 42 |
| % 21–30 yrs | 41 | 33 | 36 | 33 | 28 | 27 | 40 | 35 |
| % 31+ yrs | 20 | 48 | 22 | 16 | 28 | 23 | 21 | 22 |
| <i>Law School</i> | ** | *** | | *** | | *** | * | |
| % elite | 15 | 48 | 24 | 8 | 20 | 39 | 10 | 22 |
| % prestige | 19 | 24 | 26 | 12 | 28 | 31 | 19 | 25 |
| % regional | 24 | 15 | 19 | 24 | 16 | 8 | 21 | 19 |
| % local | 42 | 13 | 31 | 57 | 36 | 21 | 49 | 34 |
| <i>Location</i> | *** | | *** | ** | | | * | |
| % DC | 14 | 38 | 41 | 12 | 26 | 40 | 22 | 32 |
| % DC suburb | 4 | 4 | 5 | 2 | 3 | 0 | 12 | 5 |
| % major cities | 13 | 15 | 15 | 18 | 16 | 21 | 10 | 15 |
| % elsewhere | 69 | 43 | 38 | 69 | 55 | 40 | 56 | 47 |

¹Significant chi-square tests are indicated for each category, * < 0.05, ** < 0.01, *** < 0.001.

law school and nearly half (49%) of those affiliated with the order maintenance organizations had done so, while only 13% of the mediators' lawyers went to those schools. Clearly, the credentials of the mediators' lawyers are more elite than those in the other organizational categories: these lawyers went to more prestigious law schools and they have substantially more experience at the bar. As we will see, this probably reflects the standing of the mediator organizations as the "establishment" of the conservative movement. The experience and educational credentials of lawyers for religious groups much more clearly resemble those of the abortion opponents and order maintenance lawyers. Neither business nor libertarian lawyers depart from the overall norm on these two variables.

There are also some significant differences in the location of the lawyers' offices. Lawyers for business organizations tend to be located in the Washington, D.C., area and in other major cities, while lawyers for religious, abortion, and order maintenance groups are more broadly distributed. The mediators, libertarian groups, and affirmative action organizations are less distinctive in this respect.

Broadly, we see that lawyers serving mediator, business, and affirmative action organizations have more of an "Eastern establishment" character, while the religious, abortion, and order maintenance lawyers have more "populist" characteristics. These six categories tend clearly in one direction or the other on this continuum, but the characteristics of lawyers for the libertarian organizations are less clearly defined by social type.

Note that there are no significant differences among the categories in the percentages of male and female lawyers. In all categories, the lawyers are overwhelmingly male, with the percentage of women varying only from a high of 17% and 18% in the business and order maintenance categories to a low of 10% in the mediator and affirmative action categories. Such differences as there are in gender, then, cut across the "establishment" versus "populist" dimension.¹³

¹³ We are aware of no comparable studies of lawyers for liberal causes, and therefore we are unable to compare demographic characteristics of these lawyers with those of their counterparts on the left. The most similar research, conducted by the Alliance for Justice in 1983–1984 (Aron 1989), focused on lawyers for (liberal) public interest law organizations rather than the broader category of nonprofit organizations included here. The Aron book does not present data about the gender or educational background of these lawyers, but it does examine the organizations' geographic location and the lawyers' practice experience. It found that public interest law centers were concentrated in the Northeast—62% of the groups surveyed were headquartered there (1989:31). With respect to tenure in the profession, it found that "[a]bout one-fifth were experienced lawyers who had been practicing twelve years or more" and that "more than one-third had been at the bar for five years or less" (1989:36).

Table 4. Five Largest Foundation Funders of Each Organizational Category

| | Amount |
|---------------------------------------|-----------|
| Mediators | |
| Lynde and Harry Bradley Foundation | 7,792,117 |
| Sarah Scaife Foundation | 4,450,000 |
| Pew Charitable Trusts | 3,937,500 |
| Lilly Endowment | 3,473,852 |
| John M. Olin Foundation | 3,075,886 |
| Religious | |
| Edgar and Elsa Prince Foundation | 2,098,500 |
| Arthur S. Demoss Foundation | 1,950,000 |
| Richard and Helen Devos Foundation | 500,000 |
| McClellan Foundation | 317,523 |
| M.J. Murdock Charitable Trust | 250,000 |
| Libertarians | |
| Sarah Scaife Foundation | 1,675,000 |
| Lynde and Harry Bradley Foundation | 1,255,000 |
| John M. Olin Foundation | 915,000 |
| Claude R. Lambe Charitable Foundation | 905,000 |
| David H. Koch Charitable Foundation | 850,000 |
| Affirmative Action | |
| Lynde and Harry Bradley Foundation | 455,000 |
| John M. Olin Foundation | 350,000 |
| William H. Donner Foundation | 293,750 |
| Jaquelin Hume Foundation | 275,000 |
| Sarah Scaife Foundation | 260,000 |
| Business | |
| Claude R. Lambe Charitable Foundation | 645,375 |
| Jaquelin Hume Foundation | 245,000 |
| Dow Chemical Company Foundation | 100,000 |
| Gordon and Mary Cain Foundation | 100,000 |
| John M. Olin Foundation | 100,000 |
| Lynde and Harry Bradley Foundation | 100,000 |
| Abortion | |
| Boswell Foundation | 50,000 |
| Stewardship Foundation | 30,000 |
| Arthur S. Demoss Foundation | 10,000 |
| Helen Brach Foundation | 10,000 |
| Order Maintenance | |
| F.M. Kirby Foundation | 40,000 |
| Foundation for the Carolinas | 10,000 |
| Weingart Foundation | 10,000 |

IV. Sources of Funding

Using information compiled by the *Foundation Grants Index* (Foundation Center 2000) for the years 1996–1998, we identified the five largest foundation funders of the organizations in each category. The list is presented in Table 4.¹⁴ Three foundations, Bradley, Scaife, and Olin, appear among the top five funders in three categories—the mediator, libertarian, and affirmative action organizations—and two of these three foundations, Bradley and Olin, also appear in the top five in the business category. The Hume Foundation appears in both the business and the affirmative action categories. Clearly, these foundations were very important

¹⁴ We have aggregated the data for these three years. Table 4 reflects total foundation grants for the period 1996–1998.

sources of financial support for conservative causes, but note that they do not appear among the funders of religious, abortion opponent, or order maintenance organizations. There is no overlap between the funders of those three categories and the benefactors of the other four, and the last two categories receive relatively little foundation support from any source.

In some cases at least, membership dues appear to substitute for outside funding—order maintenance organizations, which had the largest revenues, receive the smallest grants. This difference in funding sources may have implications for the organizations' political posture. Organizations that seek to recruit a broad membership may adopt roles or strategies designed to give them greater public visibility, but foundation-funded organizations may be able to operate as insiders, tending networks, facilitating communication among elites, and doing research, while remaining relatively inconspicuous. The sources of funds, however, do not correspond neatly to the establishment versus populist distinction suggested above. That is, although the mediator organizations (which are the most establishment in character) receive by far the largest foundation grants, the religious organizations (much more populist) are in second place, and grants to the business and affirmative action organizations (where the lawyers have more establishment credentials) receive relatively modest grant amounts. No doubt business organizations do not need (or it is perceived that they do not need) much outside funding because of the resources of their sponsors.

The total amount of foundation funding received by the various categories of organizations displays much the same pattern.¹⁵ The largest amount, by far, went to the mediators, a total of \$38,652,341. In second place, with less than a third of that amount, is the libertarian category (\$12,859,845). The total then drops again by about half, to \$6,980,986 for the religious organizations. The affirmative action and business organizations received \$2,386,250 and \$1,869,300, respectively, and the abortion opponent and order maintenance organizations brought up the rear at a relatively paltry \$100,000 and \$60,000, respectively.

V. Lawyer Constituencies

In addition to examining the attributes of these organizations and their lawyers, we analyzed the relationships among the lawyers for these conservative constituencies, using social network analysis

¹⁵ As is the case with the data in Table 4, we compiled these totals from the *Foundation Grants Index*.

to “map” those connections. Lawyers serve these organizations in a variety of roles: some are employed by them full-time, either as counsel or in an executive capacity; some serve on boards of directors or boards of advisors; others work as outside counsel, either on litigation or on other legal matters; some serve them as scholars, or as intellectual consultants; and many lawyers are among the principal organizers of the associations. Although these roles can be quite different, the data analyzed here do not distinguish among them. Moreover, the data do not measure degrees of involvement. Rather, they simply record whether the lawyer was or was not affiliated with each organization.¹⁶ The extent of the contact or communication among the lawyers in the various roles might well differ from organization to organization or person to person, but lawyers who work for the same organizations may be thought to share an ideological position or issue agenda. Even this is not necessarily the case, however. Some of the lawyers representing these organizations may have done the work for hire, without an ideological commitment—that is, they may not be “cause lawyers,” in the usual sense. This is perhaps more likely if the client was a business association than if the lawyer worked with Americans United for Life or the Cato Institute.¹⁷ Nonetheless, some affinity among the lawyers may be inferred if they work for the same organizations (Breiger 1974; Feld 1981). We can, then, estimate proximities among the lawyers by analyzing similarities and differences in the sets of organizations they serve. The analysis reported here measures the degree to which the organizational affiliations of each pair of lawyers overlap.

Of the 1,300 lawyers identified as having an affiliation with one or more of these organizations, 1,119 were active in only one, 127 were active in two, and 54 were active in three or more. There were no statistically significant differences among the three activity levels in gender, seniority as a lawyer, or type of law school attended, but we did find differences in the region where their offices were located. Of lawyers active in only one organization, nearly two-thirds were located outside of the District of Columbia metropolitan area, while more than half of all lawyers active in three or more organizations were in the District itself and another 8% had offices in the D.C. suburbs. Thus, as we might have expected,

¹⁶ To create a systematic and replicable data set, we relied solely on publicly available information concerning lawyers’ organizational affiliations and did not supplement it with data gathered from interviews. It would have been impractical to interview all 1,300 lawyers whose institutional affiliations are analyzed here.

¹⁷ The mission of Americans United for Life is “reinstating respect for human life through law and education” (Americans United for Life 2000). It is active in opposition to both abortion and euthanasia. The Cato Institute says that its scholars and fellows are “among the country’s leading advocates of free markets and limited government” (Cato Institute 2000).

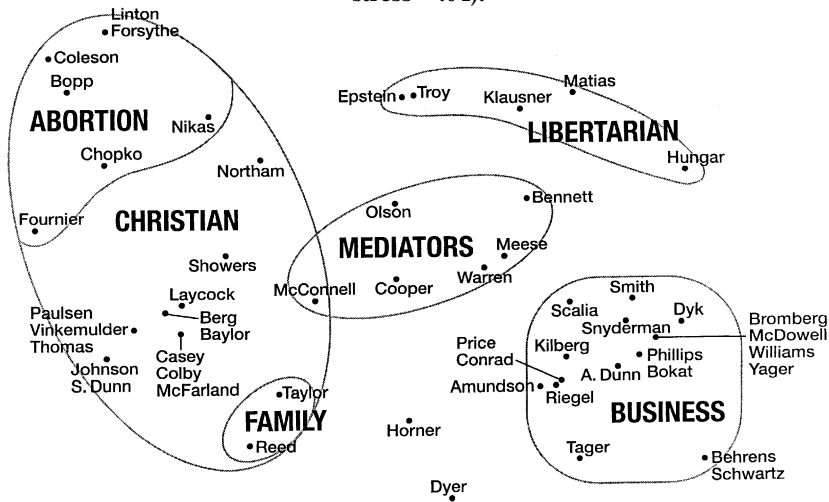
lawyers who are more broadly affiliated with these organizations tend to congregate at the seat of government. Most of the elites, even on the conservative side of the spectrum, reside within the Beltway.

We have analyzed the similarities in the patterns of organizational affiliation of the 54 lawyers who were active in three or more organizations. We also did an analysis, not presented here, that included the 127 lawyers active in two or more. The structure of the relationships in the two analyses is quite similar, but the analysis using cases with two or more connections suffers from a “sparse data” problem. That is, because there are fewer overlapping affiliations *per capita*, the solution (the representation of the relationships) is less stable. We make no assumption that the 54 lawyers with three or more affiliations are, in any sense, the most influential players or even necessarily the most active. It is entirely possible that one might optimize influence by concentrating one’s effort on a single subject and a single organization rather than by spreading it across several, and a lawyer who works full time on one cause may well devote more time and commitment than a free agent who approaches the matters *ad hoc*.

We approached this analysis by constructing a matrix in which each lawyer was recorded as either active or not active in each organization. Since most lawyers were not involved in most organizations, however, we are not primarily concerned with noting where they were inactive. It is their activity, not their inactivity, that interests us. Therefore, in analyzing the matrix, we have used a measure that ignores similarity between lawyers that is attributable solely to their joint inactivity.¹⁸ Using this measure, we summarized the data through multidimensional scaling (MDS), which produced a graphic representation (Figure 1). In this figure,

¹⁸ That is, in this matrix there will be a great predominance of zeros—each indicating that, in a given organization, a particular lawyer was inactive—and there is therefore a much greater probability that two lawyers will be similar (i.e., will match in the matrix) because they were both inactive in an organization (i.e., both have zeros) than that they will match because they were active in both. Therefore, we have used a measure of similarity known as the Jaccard measure. In a four-cell table, where the “a” cell represents cases in which both of two actors are present, “b” represents cases in which one is present but the other is absent, “c” represents cases in which the second party is present but the first is absent, and “d” represents cases in which both are absent, the proximity measure $a/(a+b+c)$ ignores congruence or similarity that is attributable simply to the absence of both parties. That is, the measure is the number of instances of joint activation of two actors (i.e., the presence of both) divided by the total of the three types of activation, joint and several. Thus, an actor has an instance of joint activation with every other actor who is active in the same organization. If two actors, each of whom is active in three organizations, are active in the same three, then the measure will be 3 divided by $3+0+0=1$. If these two actors overlap in only one of their organizational affiliations, the measure will be 1 divided by $1+2+2=0.20$. For all pairs of actors where there is no overlap (i.e., no joint affiliation), the measure will be zero divided by some number greater than zero (the total number of organizational affiliations of the two actors) = zero. Thus, the measure of proximity ranges between 1 (a perfect match) and zero (no match).

Figure 1. Relationships among lawyers with ties to three or more organizations (Jaccard similarity measure, two-dimensional MDS solution, stress = .04).



the extent of the similarity in the organizational constituencies of each pair of lawyers is represented as proximity or distance. The closer the pair of lawyers, the more similar are their constituencies. The more distant they are, the more dissimilar are the sets of organizations in which they are active. In this representation, only distance counts. That is, the direction of the distance—right to left, top to bottom—is of no significance. The figure would be equally valid if it were reversed or rotated in any direction, so long as the relative proximity of each pair of points is not distorted.

The picture of the relationships produced by an MDS solution should display groupings or clusters of the cases (lawyers, here) that are similar to the categories that can be derived through statistical techniques that aggregate data into groups or “blocks,” such as hierarchical clustering or block modeling. That is, if the cases divide into separate blocks, then those blocks should occupy more or less distinct regions of the MDS space. The MDS representation is more nuanced than block modeling categories, however, because it does not specify a particular number of categories and set arbitrary criteria for inclusion or exclusion from them. Rather, it permits representation of gradations of proximity.

Figure 1 presents an MDS analysis of the proximities among the 54 lawyers in our sample who had three or more organizational affiliations.¹⁹ To represent the full complexity of the relationships

¹⁹ Twenty-eight of the 81 organizations had no representative among these most active lawyers. Thus, the relationships analyzed here are based on affiliations with a total of 53 organizations.

among each pair of lawyers, simultaneously considered, is a rather tall statistical order. Here, since there are 54 lawyers, there are 2,862 pairs. The challenge is to describe, accurately, the distance (i.e., similarity) between lawyer A and lawyer B, while also giving an accurate depiction of the distance between A and C, B and C, A and D, and 2,858 other pairs. Such a representation can be done perfectly in a solution with one less dimension than the number of cases being analyzed. That is, here we could obtain a perfect representation of all the relationships among 54 lawyers in a solution with 53 dimensions, but we fear that such a space would be difficult to comprehend. If the structure of relationships among the lawyers' constituencies is highly systematic, however (perhaps principally determined by two or three major variables that separate them into categories), we may be able to get a satisfactory representation (i.e., a solution with an acceptable level of distortion or "stress" in the depiction of the relationships) in only two or three dimensions (or possibly even one). The number of dimensions required to depict the relationships within an acceptable limit of stress is, then, an indication of the simplicity or complexity of the structure of relationships.

The solution presented in Figure 1 has a very low level of stress in two dimensions (.04), and a solution with only one dimension would, in fact, fit the data quite well (.08 stress). The conventional standards for levels of stress suggest that values below .10 are excellent and those above .20 are unacceptable (Kruskal & Wish 1978). Thus, these relationships appear to be highly structured by some organizing principle. In Figure 1, however, we nonetheless choose to present the two-dimensional solution because we believe that the additional dimension adds nuance that is of interest, which will be discussed next.

To understand the structure of this space, it is necessary to know which organizations the lawyers work with and, perhaps, the issue agendas of those organizations. The labels placed on particular regions of the space are intended to reflect the characteristics of the organizational constituencies concentrated within those regions. The ellipses or boundary lines drawn in the figure were not derived through computation, but are interpretive and are intended to facilitate our discussion of the structure of the space. We have attached to the article, as Appendix C, a list of the organizational affiliations of the 54 lawyers analyzed in Figure 1, but we will not try to touch on all of those affiliations in this text. Rather, we will give illustrative examples and note general categories of organizations. The reader can evaluate our generalizations by consulting the appendix.

There are two primary clusters of lawyers in Figure 1, one at the lower right and one on the lower left. The group at the right is entirely composed of lawyers working for business organizations.

Kilberg, for example, was active in the American Insurance Association, the National Association of Manufacturers (NAM), and the U.S. Chamber of Commerce, and Yager represented the Labor Policy Association, NAM, and the Chamber.²⁰ Of the 16 lawyers in the region bounded by Scalia, Dyk, Bokan, and Amundson, all were affiliated with both the NAM and the Chamber except Williams, who was affiliated with the Chamber, the Labor Policy Association, and the National Restaurant Association. The three lawyers just below that group—Tager, Behrens, and Schwartz—were also affiliated with business organizations (Tager represented the Chamber, while Behrens and Schwartz worked with the NAM), but they also represented the American Tort Reform Association (i.e., the campaign to limit liability verdicts). To the left of Tager, we find Horner and Dyer. Horner worked with the Competitive Enterprise Institute, the Small Business Survival Committee, and the Chemical Manufacturers Association. Dyer worked with the Associated General Contractors of America and the American Insurance Association, but was also active in U.S. English. The fact that they were associated with neither the NAM nor the Chamber of Commerce separates them from the other lawyers representing business associations.

The other large cluster, bounded by Paulsen, Laycock, McFarland, and Johnson, is composed of lawyers active on Christian issues. All 11 persons in that group were affiliated with both the Christian Legal Society and the National Association of Evangelicals, and all except Johnson and S. Dunn had also represented the Southern Baptist Convention.²¹ A number of other Christian organizations, including the Traditional Values Coalition, the Inter-Varsity Christian Fellowship, and the Institute on Religion and Democracy, were also represented by lawyers in that cluster. Just a bit to the right in the space we find Showers, who was affiliated with several of these Christian religious groups, but also with the Eagle Forum²² and with Empower America.²³

²⁰ The Labor Policy Association describes itself as a “public policy advocacy organization representing corporate executives interested in human resource policy from more than 200 leading corporations” (Labor Policy Association 2001). Of the issues in our sample, it was active only on compulsory union dues.

²¹ This alignment reflects the frequent participation of the National Association of Evangelicals and the Southern Baptist Convention on briefs filed by the Christian Legal Society in religious free exercise cases.

²² The mission of the Eagle Forum, founded and controlled by Phyllis Schlafly, is “to enable conservative and pro-family men and women to participate in the process of self-government and public policy making so that America will continue to be a land of individual liberty, respect for family integrity, public and private virtue, and private enterprise” (Eagle Forum n.d.).

²³ Empower America was founded in 1993 by four prominent Republican public officials, William Bennett, Jack Kemp, Jeanne Kirkpatrick, and Vin Weber. It “encourages public policy solutions that maximize free markets and individual responsibility” (Empower America n.d.).

McConnell, located farther to the right of the main religious cluster, was affiliated with the Christian Legal Society and other Christian organizations, but he had represented the American Insurance Association as well, and is thus drawn closer to the business representatives. The lawyers in this region of the space were associated with Protestant organizations, primarily of an evangelical stripe.

Just above them we find Chopko, the general counsel of the U.S. Catholic Conference, and Fournier, a staff attorney for the American Center for Law and Justice²⁴ who was also affiliated with the Catholic Alliance, the Christian Legal Society, and Operation Rescue (anti-abortion). Thus, Fournier had affinities with the Protestant activists, Catholics, and the right-to-life advocates, and he is located about equidistant from each. Nikas, above and to the right of Chopko, was the general counsel of Americans United for Life, another anti-abortion organization. Moving up further in the space, Bopp, Coleson, Linton, and Forsythe were all affiliated with the National Conference of Catholic Bishops and other anti-abortion groups. Northam, to the right of Nikas, was affiliated with two Christian and two right-to-work (i.e., anti-union) organizations. The latter pull him closer to the business interests.

Below McConnell, in the lower left quadrant of the space, we find Taylor and Reed. They worked with Focus on the Family,²⁵ the Family Research Council, and other organizations promoting “family values.”

High in the space, just to the right of the mid-line, we see Troy and Epstein. Both were affiliated with the Institute for Justice²⁶ and the Center for Individual Rights;²⁷ Epstein also worked with the Cato Institute and Troy with the American Enterprise

²⁴ The American Center for Law and Justice, founded by the Rev. Pat Robertson in 1990, says that its mission is “protecting the rights of Christians to spread the Gospel to the general public” and describes itself as the “nation’s preeminent public interest law firm and educational organization dedicated to defending and advancing religious liberty, the sanctity of human life, and the two-parent, marriage-bound family” (American Center for Law and Justice n.d.).

²⁵ The mission of Focus on the Family is “to cooperate with the Holy Spirit in disseminating the Gospel of Jesus Christ to as many people as possible, and, specifically to accomplish that objective by helping to preserve traditional values and the institution of the family” (Focus on the Family n.d.).

²⁶ The Institute for Justice, founded in 1991, is a libertarian public interest law firm that pursues “economic liberty, private property rights, and the right to free speech” (Institute for Justice 2001).

²⁷ The mission of the Center for Individual Rights, founded in 1989, places “particular emphasis on civil rights, freedom of speech, the free exercise of religion, and sexual harassment law” (Center for Individual Rights 2000). It provides free representation to “deserving clients,” but litigates only “precedent-setting cases, primarily in federal court.”

Institute.²⁸ These organizations pursue agendas devoted to libertarian values, and Troy and Epstein are prominent advocates for those values. To their right, Matias and Klausner share with them an affiliation with the Institute for Justice (and Klausner shares the Center for Individual Rights as well), but Matias and Klausner also worked with the Center for New Black Leadership, an organization that “emphasizes personal and spiritual dimensions of the nation’s most serious problems, and advocates market solutions.” In addition, they were affiliated with the Center for Equal Opportunity, an organization opposed to racial preferences in hiring and in admission to educational institutions. Hungar (below them and to the right) also worked with the Center for Equal Opportunity. Thus, this region of the space is characterized primarily by opposition to affirmative action.

The five remaining lawyers, Cooper, Olson, Bennett, Warren, and Meese, are in the center of this space, surrounded by the other actors (and, thus, by the other constituencies). They appear to be in a position to facilitate the transmission of information from one side of the network to the other and, perhaps, to mediate disputes. If there are central coordinators in this structure, these would appear to be the most likely candidates, and Meese does, in fact, convene regular meetings at the Heritage Foundation of lawyers representing a number of conservative organizations.²⁹ Bennett, Meese, and Olson are public figures. In the Reagan Administration, Bennett was Secretary of Education and Meese was the Attorney General, and Olson is now the Solicitor General (although, in the period covered by our research, he was in private practice). Cooper and Warren are prominent members of D.C. law firms, and both are well known among conservative activists. When Meese was Attorney General, Cooper was the Assistant Attorney General in charge of the Office of Legal Counsel (which, among other things, screened candidates for judgeships). All five of these lawyers (as well as McConnell, who is also close to the center of the space) were affiliated with the Ethics and Public Policy Center, which was established in 1976 “to clarify and reinforce the bond between the Judeo-Christian moral tradition and the public debate

²⁸ The mission of the American Enterprise Institute is “preserving and strengthening the foundations of freedom—government, private enterprise, vital cultural and political institutions, and a strong foreign policy and national defense—through scholarly research, open debate, and publications” (American Enterprise Institute n.d.).

²⁹ Organizations whose lawyers regularly attend Heritage Foundation meetings include the American Center for Law and Justice, Cato Institute, Center for Equal Opportunity, Christian Legal Society, Center for Individual Rights, and Southeastern Legal Foundation. A Heritage Foundation representative said that the Heritage Foundation also invites representatives of “the business community” to meetings about issues of particular concern to them. Interview (June 2001).

over domestic and foreign policy issues.”³⁰ The combination of the moral emphasis, which appeals to the religious conservatives, and the “limited government” values, which appeal to the business constituency, place it between the two factions, with ties to both. Meese and Warren also had direct ties to the Chamber of Commerce. In addition, the Center for Individual Rights, the Heritage Foundation, Empower America, Citizens for a Sound Economy, and the Southeastern Legal Foundation were served by one or more of these four lawyers.

Thus, the structure is clearly divided in the horizontal dimension between business conservatives on one side of the space and religious conservatives on the other. The relatively few lawyers who have ties in both of these constituencies are found closer to the center of the structure. Note that the maximum distance occurs between the core business constituency and the abortion constituency. Because the order of the points along the horizontal dimension, alone, fits the data adequately, we will not give much emphasis to the vertical dimension of the space.

We have chosen to present the two-dimensional solution, however, to make clear the separation between the libertarian and the “family values” constituencies. If the points were all arrayed along one line, those groups would appear to be more proximate. Although the one-dimensional solution satisfies conventional criteria for “fit,” it fails to capture the social reality that the libertarian and family values constituencies are, in fact, quite separate. The vertical dimension also discloses the separation between the Catholic (abortion) and the evangelical Christian constituencies.

We should note the quite clear division of this structure into quadrants with distinct substantive content. The lower right quadrant of the space is focused on the promotion of free enterprise and opposition to economic regulation. The lower left is dedicated to Christian values—especially as defined by evangelical Protestants. The upper left is principally identified with opposition to abortion, and the Catholic interest groups are found in this quadrant. Finally, the upper right quadrant is devoted to libertarian values and, especially, to opposition to racial preferences. There are, in turn, particular organizations that appear to have a dominant presence in these respective sectors: in the lower right quadrant, those organizations are clearly the National Association of Manufacturers and the Chamber of Commerce; at

³⁰ Another organization that may well serve as a central meeting place for conservatives of various stripes is the Federalist Society, but it does not appear in our sample of organizations (probably because it does not take explicit stands on policy issues) (Edsall 2001). In its statement of purpose, the Federalist Society says that it “has created a conservative and libertarian intellectual network that extends to all levels of the legal community” (Federalist Society 2002).

business) constituency and a Christian (especially, evangelical Protestant) constituency. This strongly suggests that the essential political problem for the American right is to find the common ground of these two constituencies and to unite them behind an agenda that serves the interests of both. That will not be accomplished easily: there is substantial social, cultural, and political distance between the abortion opponents and the National Association of Manufacturers.³² Of the 54 lawyers included in Figure 1, only two served both a business organization and a religious or socially conservative organization—McConnell was affiliated with the American Insurance Association as well as Christian and family values organizations, and Dyer served the American Insurance Association, Associated General Contractors of America, and U.S. English. Otherwise, there was no overlap in the lawyers working with the two broad constituencies.

C. Wright Mills argued that elites “from the great law factories and investment firms ... are almost professional go-betweens of economic, political and military affairs” (1956:289). Mills had in mind such legendary lawyers as John Foster Dulles, Dean Acheson, and John J. McCloy, who migrated between Washington posts and private law practice. Similarly, lawyers like Meese, Bennett, Olson, and Cooper, all of whom have held high office, may have been able to coordinate the legislative programs and other policy activities of these conservative organizations in the late 1990s. But this is not necessarily the case. Persons who are located at the center of a network structure may or may not be able to control the flow of information through the network. This depends on the nature of the network. In one type, the actors are densely connected—i.e., most of them are in communication with most others. In another type, information flows around the perimeter—i.e., the actors are in touch with only their immediate neighbors in the structure. But a third type is hierarchical—information moves through central actors who are the communication links between the elements arrayed around them, and the more peripheral elements are not in direct contact with each other (Heinz et al. 1993:300–08). In this third type, the central actors may be mediators or brokers. Because they control the information flow, they have an important form of power.³³

³² The financial community and abortion opponents clashed, for example, concerning a provision in proposed bankruptcy reform legislation (Shenon 2002). “A decade-long effort to rewrite the U.S. bankruptcy code was derailed Thursday in the House as abortion opponents and consumer advocates overpowered credit-card companies and their allies in the chamber’s Republican leadership” (*Chicago Tribune* 2002).

³³ There are at least two senses in which the term “broker” is commonly used. One is the “honest broker,” i.e., a relatively disinterested intermediary. This is the sense Charles Horsky had in mind when he described the Washington lawyer as “principal interpreter between government and private person, explaining to each the needs, desires, and demands of the other” (1952:10). The other sense is the “power broker,” a lawyer of the

Since we do not have data on the nature of the information flow in the network considered here, we cannot definitively characterize its type. But the fact that there are some centrally located actors suggests that this is not a network in which the communication occurs only around the periphery of a circle or the surface of a hollow sphere. Moreover, the division of the interest groups into quite distinct clusters, well separated by both social and geographic distance, suggests that the actors are probably not densely connected to each other. If the network is of the hierarchical type, however, that does not guarantee that the central actors will in fact function as mediators or unaligned brokers. Because central positions in such a network are empowering, persons who occupy those positions will acquire significant value in the market for services. The special power they have is an asset and competing players may be expected to bid to acquire that asset. Classical theory tells us that the rarer the asset is and the greater the demand for it, the higher the price will be. Lawyers, consultants, and politicians ordinarily participate in these markets. At some price, agents who are in the market will make their services available to one of the bidders. When they do, they become aligned (or acquired) and thus are no longer able to function as independent mediators. For that reason, a political structure with truly unaligned brokers will tend to be an unstable equilibrium in a free market for services (Heinz et al. 1993:307). In the present case, of the six lawyers located in the central region of Figure 1, only Bennett is not affiliated with a business clientele. Cooper, Warren, and Olson (at the relevant time) were all in private law firms and represented corporate clients. Meese was on the board of the litigation group of the U.S. Chamber of Commerce. McConnell was affiliated with the American Insurance Association; he also had extensive ties to Christian groups, but was the only one of the six central actors who had direct ties to the religious groups, so far as we could determine. Thus, there is at least the distinct possibility that the central region of the space, which we have labeled “mediators,” has a pronounced tilt toward the business side of the network.

VI. Conclusion

As the reader may be well aware, there is a certain tension in this article—it has some difficulty deciding whether its subject is lawyers and their activities, affiliations, and backgrounds, or,

Clark Clifford model. Both have the potential to shape political decisions, the one by providing information and communication linkage, the other by access to money, officeholders, or votes. It is not at all clear that one type is necessarily more influential than the other (Heinz et al. 1993:3–7).

instead, the structure of relationships among conservative organizations. The article deals with both, but which of these subjects is primary depends on whether one believes that the lawyers have distinctive influence on the nature of the organizational relationships. If they do, then the story of the relationships is also a story about the power that lawyers *qua* lawyers possess to shape the political process. If, however, the linkages among organizations provided by lawyers duplicate those created by others, the story is primarily about the organizations and the affinities and aversions among them. The issue, then, is lawyer exceptionalism. Do lawyers have a special office, a distinctive set of skills, credentials, contacts, or other attributes that serve to create links among these organizations where none would otherwise exist? Although we offer some evidence that is relevant to this question, we cannot provide a definite answer because we lack comparative data. We do not know, for example, what the structure of relationships among the organizations would look like if the connections considered were those provided by lobbyists or by interlocking directorates.³⁴

The issue of lawyer exceptionalism has previously been addressed in other contexts. Political scientists sought to determine whether lawyers who were elected to legislatures behaved differently than other legislators, and concluded that they did not (Derge 1959, 1962; Eulau & Sprague 1964). Other research addressed the question of whether lawyer lobbyists played different roles than nonlawyer lobbyists (Nelson & Heinz 1988). It found that “the division of labor [among lobbyists] is determined primarily by organizational position, not by professional education” (1988:255). Apart from “their monopoly of litigation and their specialization in the arcane procedures of particular regulatory agencies” (1988:293), lawyer lobbyists did not appear to be exceptional in function or in their degree of autonomy. Thus, in the limited political contexts where the performance of lawyers has been compared to that of nonlawyers, lawyers have not been found to be a special class. It is, perhaps, possible that particular characteristics of the conservative constituencies might create opportunities for lawyers to perform a distinctive role, but our analysis of the structure of organizational affiliations of those lawyers suggests that there are clear divisions or cleavages among them, which only a few of the lawyers appear to bridge. The lack of overlap in their affiliations does not necessarily mean, of course, that the values or goals of these lawyers, or of the organizations they represent, are inconsistent or irreconcilable, but in the final paragraphs of this article we quote statements from the interviews indicating that there are, in fact, pronounced ideological conflicts among at least some of them.

³⁴ Our analysis includes directors who are lawyers, but not directors generally.

One of the most important stories in American politics since the 1970s has been the building of an infrastructure of resources and organizations to advance conservative goals. Conservative foundations and private donors invested heavily in think tanks, campus newspapers and academic journals, internships and scholarship programs, academic fellowships, leadership training, advocacy organizations, public interest law firms, and professional associations, seeking to create a kind of “counterestablishment”—an intellectual infrastructure that could serve as an antidote to the liberal establishment’s perceived influence in public opinion, national policy, and law (Blumenthal 1986). Although our sample includes many old, established organizations such as the NAM, the Chamber of Commerce, the Farm Bureau, the American Legion, the National Rifle Association, and the Loyal Order of Moose, 38 of the 72 organizations for which we have founding dates began in 1980 or later. Thus, most had been in existence for less than two decades when they were engaged in the issues considered here. Moreover, 28% of them were established in the 1990s. The *New York Times* quoted James Piereson, executive director of the Olin Foundation:

It’s just over the last 20 years, partly through the organizations we’ve funded, that this whole network of conservatives has been created ... While Reagan was conservative, he didn’t have this network to turn to when he was filling jobs. It is satisfying to see all these Federalist Society members in the White House. (Lewin 2001)

One lawyer and long-time observer of the conservative movement interviewed for this project asserted that conservatives had cultivated “the next generation of Lloyd Cutlers and Joe Califanos” (referring to two pillars of the Democratic Party establishment in Washington), who are prepared to run law firms and to assume major government positions.³⁵ Another conservative activist said that conservative donors had recognized the importance of building this institutional base:

One of the things that had been learned from the early Reagan years was how important it would be to have an institutional conservative infrastructure, which didn’t then exist, with few exceptions. I mean, there was the Heritage Foundation, but that was basically the end of the line. So we built places like the Federalist Society. ... You see the value of those kinds of enterprises now. This Administration, unlike earlier Republican Administrations, has actually a monstrous infrastructure to build on.³⁶

³⁵ Interview (April 2001).

³⁶ Interview (June 2001).

Some of the organizations, such as the Heritage Foundation, the Federalist Society, and the Ethics and Public Policy Center, make an effort to span the ideological and cultural divisions among conservative organizations. The Ethics and Public Policy Center, for example, has “projects” on Catholic studies, Evangelicals and civic life, Jewish studies, the federal judiciary, and foreign policy, a program well designed to touch many bases (Ethics and Public Policy Center 2001), and it says that it seeks “to foster a wiser moral and political debate across ideological barricades” (Ethics and Public Policy Center 2001). Many of the organizations, however, such as U.S. English, the National Right to Life Committee, Focus on the Family, and the Fairness to Landowners Committee, have relatively narrow agendas.

When the conservative organizational base is developed and elaborated, as it has been over the past 25 years, there are at least two possible consequences. The new organizations could serve as meeting places for conservatives of various persuasions, where policy positions are debated, differences resolved, and support mobilized for a common political agenda. In the alternative, the creation of new organizations, each with a specified mission and each with a need for “product differentiation,”—i.e., a need to distinguish itself from other, existing organizations so that it can recruit new adherents or compete for old ones, might tend to delineate and formalize the divisions among the several constituencies.

Clearly, some organizations consciously try to bridge differences among conservatives. They convene meetings that are broadly inclusive and they seek to activate diverse constituencies by providing benefits for each. A Heritage Foundation representative told us that “[o]ne of Heritage’s purposes when it was founded in 1972 ... was to be kind of a clearinghouse for what we might call, for want of a better name, ‘conservative’ organizations—organizations that were dedicated to individual liberties, limited government, free market economics, a strong national defense.”³⁷ Last year’s annual Heritage meeting convened more than 400 people representing 210 or more organizations from 17 countries.³⁸ Twice per year, Heritage conducts a “Legal Strategy Forum” with lawyers from about 30 organizations around the country, to “talk about joint efforts and cooperation.”³⁹ A libertarian lawyer interviewed for this project said that these meetings serve “an exceedingly valuable function” in coordinating the conservative movement and enabling diverse constituencies to operate as “a loose commu-

³⁷ Interview (June 2001).

³⁸ Interview (June 2001).

³⁹ Interview (June 2001).

nity.”⁴⁰ Heritage also holds a monthly meeting of legal organizations in the D.C. area to “keep them informed about each others’ activities,” to educate them about “what’s going on on the Hill,” and to promote cooperation on amicus briefs and seminars.⁴¹ A lawyer with a long history of work with religious organizations said that these meetings facilitate “philosophical interfacing,” allowing him to test his arguments with other smart lawyers “who are not necessarily in our circle.”⁴² Heritage produces a weekly summary of Supreme Court decisions, delivered by e-mail to organizations around the country,⁴³ and it sponsors moot court sessions judged by “the best appellate lawyers from the law firms downtown and from some of the public interest groups” to prepare conservative lawyers of all stripes who have arguments before the Supreme Court.⁴⁴ One lawyer active in religious liberties issues described the Heritage Foundation (and the Federalist Society) as the “cross-roads of the conservative movement.”⁴⁵

Grover Norquist, the president of Americans for Tax Reform, convenes each Wednesday morning a meeting of “more than 100” representatives of conservative organizations, Congressional staff, and Republican Party operatives (Toner 2001). Norquist was quoted in the *New York Times*: “Part of what we’re doing is bringing K Street [i.e., Washington lawyers and professional lobbyists] and the business community in ... They should be an integral part of the center-right coalition. What does the business community want? Deregulation. Free trade. Tax cuts” (Toner 2001). There is, however, no guarantee that bringing people together to discuss their policy differences will serve to unite them behind a common plan of action. Harold Lasswell observed that the discussion of contentious issues is more likely to sharpen the lines of disagreement than to resolve the differences.⁴⁶ Norquist insists that this is not a problem: “Mr. Norquist laughs at those who argue that the tension between economic and social conservatives will inevitably plague the Republicans. ‘It’s like the physicists who tell you bumblebees can’t fly’, he said. ‘But bumblebees fly’” (Toner 2001).

⁴⁰ Interview (February 2001).

⁴¹ Interview (June 2001).

⁴² Interview (October 2001).

⁴³ Interview (June 2001).

⁴⁴ Interview (June 2001).

⁴⁵ Interview (October 2001).

⁴⁶ “The time has come to abandon the assumption that the problem of politics is the problem of promoting discussion among all the interests concerned in a given problem. Discussion frequently complicates social difficulties, for the discussion by far-flung interests arouses a psychology of conflict which produces obstructive, fictitious, and irrelevant values” (Lasswell 1960:196–97). This view conflicts with some of the “deliberative democracy” literature, which suggests that open-minded dialogue will produce consensus on divisive public policy issues (e.g., Sunstein 1988:1545, 1993:24–25).

Note, however, that we found clear divisions among these constituencies and distinct separation of their issue agendas. There was no overlap between organizations active on the flag burning and English language issues and organizations active on any other issue in the set of 17. On flag burning, the organizations identified in our search of news stories were the American Legion, the Citizens' Flag Alliance, the Elks, and the Moose. On the English language issue, the only organization identified was U.S. English. Thus, the NAM, Chamber of Commerce, Christian Legal Society, Center for Individual Rights, Cato Institute, Heritage Foundation, and other major players in the conservative movement did not, so far as we could determine, choose to become prominent in these issues. Similarly, the gun locks and crime bill issues involved only a small set of organizations. The National Rifle Association was active on both, the Izaak Walton League lobbied on gun locks, and the National Victims Center spoke on the crime bill. None of those organizations was active on any other issue in the set, and none of the major players in the conservative establishment chose to take a prominent role in those issues. The abortion issue also had a distinct and insular constituency. Of the broad-based conservative organizations, only Empower America is found among the 18 organizations active on abortion. None of the business organizations—none of the organizations involved in the minimum wage, for example—was also active on abortion.⁴⁷

When social conservatives seek to regulate personal behavior or impose cultural conformity (as in abortion, flag desecration, or official English) those positions do not fit comfortably with advocacy of limited government. Thus, organizations committed to libertarian values will seldom be willing to strike deals in which pledges of mutual support are exchanged with groups supporting the imposition of a moral code or limits on personal freedom. Moreover, even organizations that advocate strengthening “traditional values,” such as Focus on the Family, do not appear to be motivated to take an active role in proposals concerning flag desecration or official English, although one might think that they would be more comfortable with a governmental role in reinforcing values that they consider important. None of the many Christian organizations in our sample was found in the media coverage of gun locks, flag desecration, official English, or the exclusionary rule. Thus, it may be that organizations that define themselves in terms of the sanctity of innocent life, the threat of moral degeneracy, or “the traditional family unit and the Judeo-

⁴⁷ Organizations on the left also may find it difficult to cooperate to achieve public policy goals, but we are aware of no empirical research exploring that issue. See Hojnacki (1997), observing that there has been almost no research about interest groups' relations with one another or their decisions whether to form alliances or work alone.

Christian value system on which it is built” (Family Research Council 2000) will be so devoted to the cause that concerns them that they will have little time or interest to invest in other issues. They may have no difficulty in forming an electoral alliance with other conservatives when presented with a dichotomous choice between an Al Gore and a George W. Bush, but the pursuit of legislative issues day-to-day, week-to-week, and month-to-month is a demanding and ambiguous enterprise. Legislative success often requires compromise. When ideological commitment is strong and pure, pragmatism may not be highly valued. As Salisbury and Conklin have observed:

At the core of expressive political action is the idea that political success is not a necessary condition. It is the moral declaration itself that is the essential justification of the effort and making the effort creates its own reward. (1998:286–87)

Near the outset of this article, we suggested some reasons why lawyers might share a community of interest that would be a basis for cooperation, trust, and exchange among them, and thus perhaps for the formation of linkages among the organizations with which they are affiliated. We speculated that these lawyers might have had “similar educational experiences (perhaps at a limited set of schools),” might defer to fellow members of the bar or perhaps be brought together by bar associations, and might hold common “understandings about the legitimate processes of government.” But that is not what we found. Instead, as indicated in Table 3, lawyers serving the various categories of organizations are drawn from systematically different types of law schools, occupy different positions in the professional hierarchy, and live and work in different areas of the country. The institutional homes of these lawyers also vary. Most of the lawyers for business organizations work in law firms, while a large share of the social conservatives are employees of one or more of the organizations that they represent. Of the 19 lawyers in the Business region of Figure 1, 15 are outside counsel (either paid or unpaid) and only four are employed by the conservative organization. Of the 23 lawyers in the Christian sector, by contrast, 11 are inside employees of the associations.⁴⁸ The difference between “free agents” and housed employees probably has implications for the degree of their autonomy and/or ideological commitment, but we are not prepared to demonstrate that here.

One could, of course, have a different set of goals or priorities, or even somewhat different political values, and yet be generally

⁴⁸ Moreover, three of the “outside” lawyers in this sector are academics, not in law firms.

supportive of another's legislative proposals or electoral ambitions. The fact that one does not choose to allocate one's scarce resources to a particular matter does not mean that one is hostile to that initiative. In interviews with some of these lawyers, however, we found considerable antipathy between the core constituencies. An attorney who worked on religious liberty matters described his contempt for law school classmates whose "big ambition was to work for a large, smelly corporate 'big dog' law firm in downtown Chicago and commute from their nice home."⁴⁹ A lawyer who had been a partner in a prominent corporate firm before abandoning that position to devote himself full-time to Christian legal work noted that he had become increasingly uncomfortable in a law firm culture that worshipped "two false gods—personal autonomy and wealth."⁵⁰ By his own account, his partners were equally uncomfortable with him; he could see that they viewed him as "one of those wild-eyed evangelicals." Eventually his partners confronted him and asked him to stop handling anti-abortion matters *pro bono*.⁵¹ Similarly, a corporate lawyer said that "the religious right ... makes my skin crawl."⁵² Several libertarian lawyers observed that monthly meetings at the Heritage Foundation often generated heated exchanges between socially conservative and libertarian lawyers. We conclude that the lawyers who serve the two core constituencies within the American conservative movement inhabit separate social worlds. For the most part, they identify with the views of their clients. When those views conflict, the lawyers are, perhaps, no more likely to forge consensus than are other interested parties.

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⁴⁹ Interview (December 2001).

⁵⁰ Interview (September 2001).

⁵¹ Interview (September 2001).

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Appendix A: List of Issue Events

Securities Class Actions: In 1995, Congress passed legislation restricting securities class action lawsuits. Clinton vetoed the measure, but Congress overrode his veto by sweeping margins.

School Prayer: In 1995, Congress considered several proposals to amend the Constitution to prohibit government from denying people benefits because of their religious beliefs or practices and to permit school prayer. The GOP leadership let these proposals die without a vote.

Flag Desecration: In 1995, Congress considered joint resolutions to amend the Constitution to grant Congress power to prohibit flag desecration. The House passed the measure, but the Senate rejected it.

National Endowment for the Arts: In 1995, the House considered legislation to place funding for the National Endowment for the Arts on a "glide path" to termination by fiscal 1999. The Senate bill reduced the agency's budget but supported continued funding.

Property Rights: In 1995, the House passed a bill that would have required federal officials to compensate private landowners whose property values were reduced by 20% or more because of regulation under the Endangered Species Act, the wetlands provisions of the clean water law, the 1985 farm bill, and certain laws relating to Western water rights. The Senate Judiciary Committee reported a broader property rights bill, but it never reached the Senate floor.

Exclusionary Rule: In 1995, the House passed a bill allowing federal prosecutors to use evidence obtained illegally, including evidence from a search conducted without a warrant, if police had

reason to believe the search was legal. The Senate did not take up the measure.

Legal Services: In 1995 and 1996, Congress reduced funding for the Legal Services Corporation and imposed new restrictions on the legal work of grant recipients.

Affirmative Action: In 1996, Congress considered several proposals to end federal affirmative action programs. President Clinton preempted congressional action by suspending, by executive order, all affirmative action in federal programs for three years.

Defense of Marriage Act: In 1996, Congress passed legislation prohibiting the federal government from recognizing same sex marriages and authorizing states to refuse to honor same sex marriages conducted in other states. President Clinton signed it into law.

English Only: In 1996, the House passed legislation declaring English the official language of the federal government. The Senate did not act on the bill and it died at the end of the session.

Minimum Wage: In 1996, Congress increased the minimum wage from \$4.75 to \$5.15 per hour. President Clinton signed the bill.

Compulsory Union Dues: In 1996, the Senate rejected a bill that would have prevented unions from requiring workers at unionized companies to pay union dues or other fees. The legislation died in a filibuster.

Partial Birth Abortion: A bill to outlaw “partial birth” abortion was passed by both chambers in 1997. President Clinton vetoed the bill. The House voted to override the veto, but the Senate fell three votes short of the necessary two-thirds majority.

Product Liability: In 1997, the Senate Commerce, Science and Transportation Committee approved a bill that would have imposed limits on product liability awards. Negotiations between key Republicans and the White House ended without a compromise, and the proposal died.

Superfund: In 1997, Republicans introduced a bill to overhaul the Superfund hazardous waste law. The session ended without a markup in either chamber.

Gun Locks: In 1997, Senate Republicans defeated an amendment to a juvenile crime bill that would have required gun dealers to sell safety locks with all handguns.

Bill Lann Lee: In 1997, President Clinton nominated Bill Lann Lee, former director of the NAACP Legal Defense Fund, to become Assistant Attorney General for Civil Rights. Republicans on the Senate Judiciary Committee effectively blocked his nomination, but President Clinton appointed Lee as *Acting* Assistant Attorney General for Civil Rights.

Appendix B: List of Media for Issue-Event Searches

Wall Street Journal
The New York Times
The Washington Post
Los Angeles Times
Chicago Tribune
The Dallas Morning News
The Atlanta Journal & Constitution
Time
Newsweek
U.S. News & World Report
National Journal
Washington Monthly
Roll Call
The Washington Times
National Review
Weekly Standard
American Spectator
The Public Interest

Appendix C: Lawyers with Affiliations with Three or More Organizations

(Home institutions as of 1998–1999. In parentheses are organization(s) for which the lawyer was affiliated if not his or her home institution.)

Jan Amundson, VP and General Counsel, National Association of Manufacturers, Washington, DC (National Center for Policy Analysis; U.S. Chamber of Commerce)

Gregory Scott Baylor, Staff Attorney, Christian Legal Society, Annandale, VA (Family Research Council; National Association of Evangelicals; Southern Baptist Convention)

Mark A. Behrens, Crowell & Moring, Washington, DC (Product Liability Coordinating Committee; American Tort Reform Association; National Association of Manufacturers)

William J. Bennett, Distinguished Fellow, Heritage Foundation, Washington, DC (Center for Education Reform; Empower America; Ethics and Public Policy Center)

Thomas C. Berg, Birmingham, AL (Christian Legal Society; Family Research Council; National Association of Evangelicals; Southern Baptist Convention)

Steven A. Bokart, VP and General Counsel, U.S. Chamber of Commerce, Washington, DC (National Association of Manufacturers; American Medical Association)

James Bopp, Jr., Bopp, Coleson & Bostrom, Terre Haute, IN (Christian Coalition; National Conference of Catholic Bishops; National Right to Life Committee; Virginia Society for Human Life)

Daniel H. Bromberg, Jones, Day, Reavis & Pogue, Washington, DC (U.S. Chamber of Commerce; Labor Policy Association; National Association of Manufacturers)

Samuel B. Casey, Executive Director, Christian Legal Society, Annandale, VA (Family Research Council; National Association of Evangelicals; Focus on the Family; Southern Baptist Convention; Institute on Religion and Democracy)

Michael E. Chopko, General Counsel, U.S. Catholic Conference, Washington, DC (National Right to Life Committee; Christian Legal Society)

Kimberlee Wood Colby, Special Counsel, Christian Legal Society, Annandale, VA (Family Research Council; National Association of Evangelicals; Focus on the Family; Southern Baptist Convention; Institute on Religion and Democracy)

Richard E. Coleson, Bopp, Coleson & Bostrom, Terre Haute, IN (National Right to Life Committee; Virginia Society for Human Life; National Conference of Catholic Bishops; Christian Legal Society)

Robin S. Conrad, Chamber Litigation Center, U.S. Chamber of Commerce, Washington, DC (National Association of Manufacturers; American Farm Bureau; American Insurance Association)

Charles J. Cooper, Cooper & Carvin, Washington, DC (Citizens for a Sound Economy; Ethics and Public Policy Center; South-eastern Legal Foundation)

Alexandra Depolito Dunn, Winston & Strawn, Washington, DC (National Association of Manufacturers; U.S. Chamber of Commerce; Chemical Manufacturers Association)

Sandra Dunn, Mayer, Brown & Platt, Chicago, IL (Christian Legal Society; National Association of Evangelicals; Institute on Religion and Democracy)

Robert O. Dyer, Jennings & Haug, Phoenix, AZ (U.S. English; American Insurance Association; Associated General Contractors of America)

Timothy B. Dyk, Jones, Day, Reavis & Pogue, Washington, DC (Labor Policy Association; National Association of Manufacturers; National Retail Federation; U.S. Chamber of Commerce)

Richard A. Epstein, Professor, University of Chicago Law School, Chicago, IL (Cato; Center for Individual Rights; Institute for Justice)

Clarke Forsythe, President, Americans United for Life, Chicago, IL (National Conference of Catholic Bishops; National Right to Life Committee)

Keith A. Fournier, Staff Attorney, American Center for Law and Justice, Virginia Beach, VA (Catholic Alliance; Christian Legal Society; Operation Rescue)

Christopher C. Horner, Competitive Enterprise Institute (Small Business Survival Committee; Chemical Manufacturers Association)

Thomas G. Hungar, Gibson, Dunn & Crutcher, Washington, DC (Center for Education Reform; National Federation of Independent Business, Equal Opportunity Foundation)

Steffen N. Johnson, Mayer, Brown & Platt, Chicago, IL (Christian Legal Society, National Association of Evangelicals; Institute on Religion and Democracy)

William J. Kilberg, Gibson, Dunn & Crutcher, Washington, DC (National Association of Manufacturers; American Insurance Association; U.S. Chamber of Commerce)

Manuel S. Klausner, Los Angeles, CA (Equal Opportunity Foundation; Center for Individual Rights; Institute for Justice; Center for New Black Leadership; Claremont Institute)

Douglas Laycock, University of Texas Law School (Concerned Women for America; Family Research Council; National Evangelical Association; Traditional Values Coalition; Christian Legal Society; Southern Baptist Convention)

Paul Benjamin Linton, Northbrook, IL (Americans United for Life; National Conference of Catholic Bishops; National Right to Life)

Donna G. Matias, Institute for Justice, Washington, DC (Equal Opportunity Foundation; Center for New Black Leadership; Claremont Institute)

Michael McConnell, University of Utah Law School, Salt Lake City, UT (American Insurance Association; Center for Individual Rights; Ethics and Public Policy Center; National Association of Evangelicals; Family Research Council; Christian Legal Society)

Douglas S. McDowell, McGuiness & Williams, Washington, DC (National Association of Manufacturers; U.S. Chamber of Commerce; Labor Policy Association)

Steven T. McFarland, Director, Center for Law & Religious Freedom, Christian Legal Society, Annandale, VA (Family Research Council; National Association of Evangelicals; Focus on the Family; Southern Baptist Convention; Institute on Religion and Democracy)

Edwin Meese, III, Heritage Foundation (U.S. Chamber of Commerce; Ethics and Public Policy Center)

Nikolas T. Nikas, General Counsel, Americans United for Life, Chicago, IL (American Center for Law and Justice; American Family Association)

Frank Myers Northam, Webster, Chamberlain & Bean, Washington, DC (Christian Coalition; Christian Action Network; National

Right to Work Committee; National Right to Work Legal Defense Fund)

Theodore B. Olson, Gibson, Dunn & Crutcher, Washington, DC (Center for Individual Rights; Ethics and Public Policy Center; Securities Industry Association)

Michael Paulsen, Professor, University of Minnesota Law School, Minneapolis, MN (Christian Legal Society; Southern Baptist Convention; National Association of Evangelicals)

Carter G. Phillips, Sidley & Austin, Washington, DC (American Medical Association; National Association of Manufacturers; U.S. Chamber of Commerce)

Daniel M. Price, Powell, Goldstein, Frazer & Murphy, Washington, DC (U.S. Chamber of Commerce; American Farm Bureau; National Association of Manufacturers; American Insurance Association)

Stephen Reed, Reed & Brown, Pasadena, CA (Family Research Council; Focus on the Family; American Renewal)

Quentin Riegel, Deputy General Counsel, National Association of Manufacturers, Washington, DC (U.S. Chamber of Commerce; Chemical Manufacturers Association; American Farm Bureau Federation; American Insurance Association)

Eugene Scalia, Gibson, Dunn & Crutcher, Washington, DC (American Insurance Association; Center for Education Reform; Equal Opportunity Foundation; National Association of Manufacturers; National Federation of Independent Business; U.S. Chamber of Commerce)

Victor Schwartz, Crowell & Moring, Washington, DC (American Tort Reform Association; Product Liability Coordinating Committee; National Association of Manufacturers)

H. Robert Showers, Gammon & Grange, McLean, VA (Christian Action Network; Christian Coalition; Christian Legal Society; Eagle Forum; Focus on the Family; Southern Baptist Convention; Traditional Values Coalition; Empower America)

Stephen F. Smith, Sidley & Austin, Washington, DC (National Association of Manufacturers; U.S. Chamber of Commerce; Center for New Black Leadership)

Mark Snyderman, The Coca-Cola Company, Atlanta, GA (U.S. Chamber of Commerce; NAM; Center for Education Reform)

Evan M. Tager, Mayer, Brown & Platt, Washington, DC (U.S. Chamber of Commerce; American Tort Reform Association; American Farm Bureau Federation)

Bruce A. Taylor, President and Chief Counsel, National Center for Children and Families, Fairfax, VA (Family Research Council; Focus on the Family; American Family Association)

Ralph I. Thomas, Inter-Varsity Christian Fellowship of the U.S.A., Madison, WI (Southern Baptist Convention; Christian Legal Society; National Association of Evangelicals)

Daniel E. Troy, Wiley, Rein & Fielding, Washington, DC (AEI; Institute for Justice; Center for Individual Rights)

H. Yvonne Vinkemulder, Inter-Varsity Christian Fellowship of the U.S.A., Madison, WI (Southern Baptist Convention; Christian Legal Society; National Association of Evangelicals)

Edward W. Warren, Kirkland & Ellis, Washington, DC (Center for Individual Rights; Ethics and Public Policy Center; U.S. Chamber of Commerce)

Robert E. Williams, McGuiness & Williams, Washington, DC (U.S. Chamber of Commerce; Labor Policy Association; National Restaurant Association)

Daniel V. Yager, McGuiness, Norris & Williams, Washington, DC (Labor Policy Association; Chamber of Commerce; National Association of Manufacturers)