

**Essays on the Persecution of Religious Minorities**

by

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# Chapter 1:

## Introduction

The four papers in this dissertation all arise from the observation that tolerance of minorities, even in liberal democracies, is uneven and conditional. In any given regime, some minorities get persecuted while others do not. I was inspired but also dissatisfied by recent scholarship that systematically explores the general propensities of regimes to repress or to tolerate (Davenport 2007, Grim and Finke 2007) without addressing the question of why some groups seems so much more prone than others to *be* repressed or tolerated. Thus my project is concerned with incidents of religious persecution at the hands of state actors who generally uphold norms of religious freedom or at least tolerance.

Religion was the original arena in which ideas of state tolerance were formulated and tested; religious toleration is at the core of the historical development of liberalism both as an idea and as a political regime. But even the foundational philosophical document of religious toleration, John Locke's *A Letter Concerning Toleration*, comes with a substantial list of groups that are not to be tolerated. Locke warned against tolerating any Church that "is constituted upon such a bottom that all those who enter it so ipso facto deliver themselves up to the protection and service of another prince," by which he meant to exclude Catholics. He also explicitly ruled out tolerance of atheists, because "promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist." When modern states make exceptions to religious tolerance they may use different

language and different categories for exclusion, but the broader principle is the same—there are some criteria by which *particular groups*, even those recognized as genuine religions, are not entitled to the protection the state extends to other religions. States may no longer try to interfere with religious beliefs, but they will repress and persecute some religious groups that they see as threats to secular order.

These criteria vary dramatically not only between countries, but over time within countries, and they are applied very inconsistently. Determining why some religious groups are persecuted in otherwise non-persecuting regimes requires working out the conditions under which political actors come to see religious groups as secular threats, and the means by which they can convince others that the persecution of one group can be reconciled with an overall system of tolerance of minorities—that the rights of some can be undermined without undermining the rights of all. Identifying these conditions and mechanisms is, broadly, the goal of all four of the papers in this dissertation.

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## Chapter 2:

# The State Responds to Religious Charisma: The Mormons in the Nineteenth Century

### Introduction

The Church of Jesus Christ of the Latter Day Saints, which Tolstoy famously designated as “the American religion,”<sup>1</sup> is also one of the few religions with the distinction of having been violently persecuted in the United States. Between the appearance of Joseph Smith’s *Book of Mormon* in 1830 and Smith’s murder in 1844, the Mormons were chased out of New York, Ohio and Missouri at gunpoint by neighbors enraged over their aggressive proselytism and what they saw as the outright fraudulence of Joseph Smith. The Mormons’ flight from Missouri in 1838 was prompted by a bloody series of skirmishes with well-organized opponents; Governor Lilburn Boggs responded with an extraordinary, quasi-genocidal executive order declaring that the Mormons had “made war upon the people of this state” and “must be exterminated or driven from the state if necessary for the public peace.”

A few years after the Mormons fled to Illinois and established a thriving city, an anti-Mormon mob lynched Smith with the assistance of a local militia. Facing the prospect of more violence and coercion, most of the remaining Mormons undertook a long, hazardous journey to

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<sup>1</sup> See Bloom (1992), p. 97



Utah under the leadership of Brigham Young in 1847, believing they would be beyond the reach of any hostile authority in the United States. The federal government initially encouraged the move, seeing the Mormon exodus as an opportunity to establish an American presence in the western territories newly captured from Mexico. In return for Mormon allegiance to the United States, the Fillmore Administration appointed Brigham Young Governor of Utah Territory. Relations soured when the Mormon leadership's practice of plural marriage became public knowledge in the early 1850s, leading to the Buchanan Administration's brief invasion of Utah in 1857 (widely known as "Buchanan's Folly.")

The abortive invasion was followed by a series of increasingly aggressive Congressional actions designed to force the Mormons to conform to American anti-bigamy laws. These culminated in the Edmunds Act of 1882 and the Edmunds-Tucker Act of 1887, which forbade Mormons from voting, holding elected office or serving on juries, and authorized the federal government to confiscate Church property, including temples. These last measures induced the Church leadership to abandon polygamy in 1890, though it continued in secret for a while; Congress held up the seating of Senator Reed Smoot for seven years over the issue of whether the Mormon leadership was still allowing plural marriages to take place at the turn of the century.<sup>2</sup>

The story of how a nation of people who prided themselves on their religious liberty came to persecute the Mormons is controversial and complicated. While revulsion over polygamy has traditionally been cited as the main reason, polygamy cannot explain much on its own. The most violent anti-Mormon actions occurred before the practice even became known, and other religions that violated nineteenth-century sexual norms were usually left alone.<sup>3</sup> Polygamy certainly served as a focal point for anti-Mormon opposition,<sup>4</sup> but it generated as much titillation and amusement as

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<sup>2</sup> See Flake (2004).

<sup>3</sup> See Stein (1992).

<sup>4</sup> See Arrington (1958), pp. 238-9.

outrage.<sup>5</sup> Contemporary scholars tend to agree that material differences between Mormons and other Americans are not enough to explain conflict between them; a truly explanatory account of anti-Mormonism requires us to account for how the political construction of Mormon identity put Mormons beyond the pale of religious tolerance.

Scholarship on the Mormon experience has so far failed to deliver such an account. In recent work, historians and social scientists have argued that nineteenth century Mormons had a quasi-ethnic status as a “peculiar people,” similar to that of Jews, and that the differences in social organization that separated them from other Americans were real, but exaggerated and reified in public discourse. (O’Dea 1957, Moore 1986, Mauss 1995, Givens 1997) However, there are no well developed accounts of the causal mechanisms linking this social construction of difference to actual religious persecution. In this sense, scholarship on Mormonism resembles most constructivist scholarship on ethnicity—the fact that group identity *is* socially constructed is widely recognized and understood to be important to explaining ethnic violence, but the causal connections remain largely unexplored. In the words of Fearon and Laitin (2000), “no positive theory links processes of social construction as independent variables to the occurrence of ethnic violence as a dependent variable.”

While such a positive theory does not yet exist, how different scholars have accounted for the construction of Mormon distinctiveness has had important causal implications for how they have explained persecution. In particular, the question of whether Mormons or their antagonists were primarily responsible for creating the myth of Mormon “peculiarity” has led to very different stories about why Americans persecuted Mormons. Moore (1986) and Givens (1997) are the most important representatives of each side of this argument.

In the single most widely cited work on anti-Mormonism, Moore makes the case that Mormons themselves were responsible for most of the social construction of Mormon difference.

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<sup>5</sup> See Young (1954).

Dismissing the idea that there was any “objective” difference that should have caused conflict between Mormons and other Americans, Moore argues that “Mormons were different because they said they were different and their claims, frequently advanced in the most obnoxious way possible, prompted others to agree and treat them as such.” (p. 31) Smith and Young in particular “advertised deviance.” Their promotion of plural marriage and communal property created a distinctive “outsider” status—some form of which, Moore argues, all Americans crave. Mormons deserve Tolstoy’s “American religion” label because they embody the American search for an identity grounded in outsiderism.

This aggressive assertion of difference by Mormons and their leaders facilitated both persecution and growth, often in concert with each other. Moore notes that “the trait most commonly cited to denounce the Mormons, the one that clearly rankled anti-Mormons the most, was arrogance. Smith called God his ‘right-hand man’ and taught his followers all too well to regard themselves as superior to others.” (p. 33) In this respect Mormons resembled Christians and Jews in the early Roman Empire, who attracted persecution in a religiously pluralistic environment because they insisted that their monotheistic religions were greater than, rather than compatible with, the existing marketplace of cults.<sup>6</sup> Smith was well aware of the parallels, and of the fact that persecution of the early Christians had helped them to prosper rather than inhibiting their growth. (p. 35)

Givens (1997) makes the opposite argument that the enemies of Mormonism constructed a quasi-ethnic identity for Mormons. Rather than emphasizing their deviance as Moore argues, Givens claims Mormon leaders tried to downplay it: “Mormons engaged in a quite conscientious ‘campaign of superior virtue,’ by which they intended to persuade their compatriots that they were *not* social deviants, but rather more American than apple pie.” (p. 17) The widespread perception of Mormon deviance, according to Givens, was created by a cottage industry of hack writers who told lurid tales

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<sup>6</sup> See Stark (1997).

of harems and secret rituals.<sup>7</sup> The public hungrily consumed shocking stories about Mormon polygamy because these stories both outraged and entertained; they served as socially acceptable pornography in an era of Victorian morality. Authors constructed Mormon deviance in terms of foreignness, not only through oriental stereotypes about polygamous seraglios,<sup>8</sup> but also by giving Mormon characters dark complexions and East European accents.<sup>9</sup>

For Givens, it was this construction of Mormons as an ethnicized, separate group that enabled their persecution in a country where religious liberty was a hard-won norm. Even though anti-Mormons were most fundamentally disturbed by Mormon heresy, they could only mobilize public support behind the anti-Mormon cause by moving the issue away from a religious dispute and into the more comfortable territory of ethnic conflict.

I argue that neither of these accounts adequately links the social construction of Mormon identity to the persecution of Mormons or to other forms of conflict between Mormons and non-Mormons. While each author provides compelling, opposed reasons for the formation of anti-Mormon *attitudes*, neither explains the circumstances under which anti-Mormonism sometimes erupted into government or vigilante action against the Mormon polity, but at other times stayed relatively dormant, confined to sermons by the Mormons' religious opponents or the pages of cheap novels. In this paper, I argue that it was not enough for Mormons to be seen either as social deviants or as a quasi-ethnic separate people; to motivate political action, opponents of Mormonism had to construct the Mormons as a distinctly *political* threat in which the charismatic authoritarianism of Joseph Smith and Brigham Young was the most important factor. Smith and Young themselves

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<sup>7</sup> The role of fiction writers in creating a picture of Mormon decadence that came to be widely regarded as true has an interesting parallel with the career of *The Protocols of the Elders of Zion*, which also began as a novel. See Cohn (1967).

<sup>8</sup> In reality Mormon polygamy was usually involved men marrying destitute widows or the aging unmarried sisters of their current wives. See Young (1954).

<sup>9</sup> See especially Chapter 7 of Givens (1997). Mormons in reality were almost entirely descended from New England puritans and English and Scandinavian immigrants.

contributed to this process whenever they tried to consolidate their political power over the Mormon Church. I make three arguments against the existing literature:

1. The notion of a distinctive Mormon peoplehood, whether constructed by the Mormons or by their opponents, was salient only in areas where Mormons were engaged in material conflicts with their neighbors. Claims to separate Mormon peoplehood rarely registered in broader national discourse.
2. In debates over Mormon polygamy, sexual deviance was not the issue that provoked political repression; opponents of Mormonism could only inspire anti-polygamy action when they linked polygamy to a pernicious Mormon system of social control.
3. The most politically successful complaint against Mormons, and the one most likely to lead to persecution, was that the charismatic, theocratic authority of Joseph Smith and Brigham Young was fundamentally hostile to American democracy and religious liberty.

The Mormons became embroiled in many local conflicts with hostile neighbors for a variety of reasons. Rival religious groups objected to them poaching from their flocks, other community members objected to their buying-up of land and economic boycotts of non-Mormons, and disillusioned ex-Mormons embarked on often ferocious campaigns against them through newspapers. It was in these local conflicts that Mormon distinctiveness was most important; the Mormons were a close-knit, identifiable “other” engaged in competition over various scarce resources with other groups. To expand the scope of these conflicts,<sup>10</sup> however, required anti-Mormons to present the Mormons as a threat to broader American society.

Many Americans wanted to repress Mormonism or stamp it out altogether, for all kinds of reasons. Some, as discussed in the paragraph above, were involved in fierce local rivalries with them.

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<sup>10</sup> See Schattschneider (1960) for a classic account of how the ability to expand or restrict the scope of political conflict—to attract or dissuade outside parties from joining it—is frequently the decisive factor in the outcome of political conflicts.

Some religious leaders saw their heresy as intolerable, while others believed they were a threat to enlightenment rationality. The problem that all opponents of Mormonism faced was avoiding the appearance of religious persecution. To single out a religious minority as a threat needing to be quelled was to violate the norm of American religious liberty. Even when Mormons blatantly transgressed the laws of the land, as they did when they practiced polygamy, there were serious doubts over whether these transgressions were legally actionable when they were performed out of religious conscience.<sup>11</sup>

Legitimizing the Mormon threat, then, required *delegitimizing* the Mormon religion. There were two rhetorical components by which the various opponents of Mormonism tried, sometimes successfully, to circumvent the objection that repressing the Mormons would be an affront to American freedoms. The first was to claim that Mormonism was not a true religion. This charge was particularly prominent during the lifetime of Joseph Smith, and it generally revolved around the allegation that Smith was a fraud. This claim, as I will show by examining newspaper accounts of the time, was intimately linked to Smith's status as a charismatic "prophet." Charisma is a fundamentally relational and transactional phenomenon—it depends on the recognition of the charismatic leader's gifts by his followers, and also on the leader's ability to supply benefits to them.<sup>12</sup> Non-followers can recognize these gifts only in a limited way—they may see personal magnetism, but not a divine gift—and they cannot benefit from them as followers can. Therefore, there is an inherent tendency for non-followers to see the charismatic religious leader as a fraud, which was widely exploited by Smith's opponents.

The second claim was that the Mormon form of authority, a hierarchy led by a theocratic prophet, threatened the democratic culture that allowed religious freedom to exist in the United

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<sup>11</sup> It was not until 1878, more than thirty years after Mormon polygamy was first revealed, that the Supreme Court in its landmark *Reynolds* decision found that the First Amendment protected only religious *beliefs*, not any and all activities derived from those beliefs.

<sup>12</sup> See Wallis (1982).

States. This argument pitted two forms of liberal rhetoric against each other: on the one hand, anti-Mormons employed a muscular liberal rhetoric, strongly associated with the Republican party, equating Mormonism with slavery, a system antithetical to American liberties that had to be broken by force if necessary.<sup>13</sup> Mormon women, in particular, were portrayed in muscular liberal rhetoric as hapless victims of the Mormon hierarchy and sometimes their own husbands, captives who needed to be freed. On the other hand, civil libertarians would argue that Mormon difference had to be respected legally (if not morally), and that singling out any unpopular religious minority for persecution would threaten the liberties of all. The “muscular liberals,” as I will show, eventually won the national argument in the 1880s. Anti-Mormons dealt with the uncomfortable fact that most Mormons were converts who had chosen the theocratic life with “captivity narratives” in which women were lured into polygamous harems by spellbinding rogues, an obvious caricature of charismatic authority.

It is important to note that neither of these rhetorical devices—Joseph Smith as charismatic fraud or the Mormon hierarchy as theocratic slave-drivers—depended on any idea of radical Mormon difference. Indeed, justifying the political repression of Mormons required anti-Mormons to show that there was nothing distinctive about Mormons that justified giving their leaders any special rights or leeway. The Mormon people were to be regarded as “deluded fanatics” (prior to Smith’s death) or helpless captives (during the Utah period). To delegitimize the Mormon religion, Smith’s detractors denigrated him as an illiterate farm-boy whose only special talent was persuading the credulous to hand over their money, not as the leader of a distinctive community of faith. While later nineteenth-century anti-Mormons grudgingly accepted Mormonism as an actual religion, albeit a completely misguided one, they nonetheless insisted that Mormons were Americans who could not

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<sup>13</sup> Hamburger (2001) in his essay “Illiberal liberalism” shows a similar phenomenon in the nineteenth-century anti-Catholic discourse, a fundamentally repressive position framed as a defense of American liberties.

assume their full political rights until they abandoned the thoroughly un-American system of charismatic theocracy.

The body of this paper will proceed in three parts: first, I will explore how the discourse of fraud emerged Joseph Smith and how it related to his charismatic authority. Second, I will examine accounts of local conflicts between Mormons and their neighbors in Missouri and show how Mormon distinctiveness was created by the imperatives of electoral competition. Third, I will show how anti-Mormons crafted a narrative in which polygamy represented enslavement by the theocratic Mormon hierarchy, and assembled political support for the destruction of Mormon political hegemony in Utah.

### **Charisma and fraud**

In 1830, Joseph Smith published the *Book of Mormon*, a new body of Christian scripture he claimed he had translated from golden plates given to him by the angel Moroni. In a survey of reactions to the Book of Mormon in the 1830s, Cannon (2007) finds that reviewers almost unanimously pronounced the book fraudulent; they did not just disbelieve it, they saw it as a premeditated swindle. One widely reprinted review from the *Rochester Republican* concisely summarized in 1830 all the ways that the book would be described over the coming years: it was a “vile imposition,” “an evidence of fraud, blasphemy and credulity, shocking to the Christian and the moralist.” Little was known about Smith in those days, but the article describes him as “a fellow who, by some hocus pocus, acquired such an influence over a wealthy farmer of Wayne County, that the latter mortgaged his farm for \$3000, which he paid for printing and binding 5000 copies of the blasphemous work.”<sup>14</sup> It was not enough for early detractors to call Smith a blasphemer; blasphemy was no longer grounds for persecution or even serious social sanctioning in the United States

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<sup>14</sup> Unsigned, reprinted in the *Rhode Island American*, 04/16/1830.



(another review noted, somewhat regretfully, that the book “smacks pretty strongly of what we used to call blasphemy.”) Respectable Americans could no longer sanction conflict over mere religious differences, but the *Book of Mormon* was different—it was an act of fraud, thus putting Smith, for some, outside the realm of religious tolerance.

Before examining how and why this discourse of fraud developed around Smith, it is instructive to look at Weber’s treatment of him in his discussion of charismatic authority. In the well-known Henderson/Parsons 1947 translation of Weber’s *Theory of Social and Economic Organization*, Joseph Smith is presented as a cautionary example of an apparently charismatic figure who may not be what he seems. Weber defines “charisma” as “a certain quality of an individual personality by virtue of which he is set apart from ordinary men and treated as endowed with supernatural, superhuman, or at least specifically exceptional powers or qualities. These are as such not accessible to the ordinary person, but are regarded as of divine origin or as exemplary, and on the basis of them the individual concerned is treated as a leader.” (p. 358) One paragraph later, Smith is offered as an example of the charismatic type, but with the caveat that he “cannot be classified this way with absolute certainty since there is a possibility that he was a very sophisticated type of deliberate swindler.”

Weber, however, may have intended to say that a leader can be both charismatic and fraudulent, depending on the feelings of the observer. Strauss (1953) points out that it is Weber’s translators rather than Weber himself who introduce a strong distinction between genuinely charismatic figures and frauds. The original German, according to Strauss, is “to say the least, much less explicit and emphatic than the English translation.” But Strauss finds it unfair to condemn the translators for this because they raise an important problem with Weber’s entire social scientific program of value-neutrality: “the problem concerning the difference between genuine and pretended charisma, between genuine prophets and pseudo-prophets, between genuine leaders and successful

charlatans—cannot be disposed of by silence.” For Strauss, the sociologist of religion is obliged to distinguish between “higher” and “lower” religions, a judgment that has inescapably ethical content. Refusing to judge, Strauss argues, “exposes one to the danger of falling victim to every deception and self-deception of the people one is trying to study.” (pp. 51-5)

This scholarly argument illustrates well the fact, highly pertinent to the real world of political discourse, that any account of charisma depends on the position of the observer. While most social scientists would not accept Strauss’s claim that it is ethically irresponsible to take a purely detached view of the claims of a charismatic religious leader, it is true that most people evaluate charismatic leaders as *either* genuine or fraudulent. There is no indifferent middle ground. Wallis (1982), in his account of Children of God leader David Berg, gives an important insight into why this is the case. Charisma, Wallis argues, is a “transactional” phenomenon created by interactions between the charismatic leader and his followers. The personal qualities of a leader, which can be observed neutrally, are not enough to construct genuine charisma. Followers must believe that they are receiving the benefits of that charisma, that the charismatic gift has touched them in a way that has enhanced their own standing. In Wallis’s words, charisma “emerges out of a particular structure of social relationships in which an exchange takes place of mutual attribution of status and worth.”

Taking all of this into account, we can see why it was relatively rare for any non-Mormon to take a position of detached admiration for, or even neutrality towards, Joseph Smith. While in the crowded American religious marketplace one could express polite respect for many religions (especially other Christian denominations) that differed from one’s own, Smith made a set of claims that one either bought or had to denounce. He claimed to be a nineteenth-century prophet who had been given revelations from God that called for a radical revision of Christianity. Accepting Smith’s theological claims required accepting Smith and his story, and becoming a Mormon who actively

followed him. If one did not, then the obvious alternative explanation, since he did not seem to be insane,<sup>15</sup> was that he was lying on a massive scale.

Contemporary scholars have found ways to overcome this charisma/fraud dichotomy. Harold Bloom, a fervent though non-believing admirer of Smith, stresses his personal magnetism: “no one can study the portraits of Joseph Smith or read descriptions of him by his contemporaries and avoid the sense of mysterious charm. Whatever account of charisma is accepted, the Mormon prophet possessed that quality to a degree unsurpassed in American history.” (1992, p. 98)<sup>16</sup> It is important to note, however, that even such an admiring account is not consonant with how a Mormon believer perceives Smith’s charisma. Richard Bushman, Smith’s most recent and authoritative Mormon biographer, actually *downplays* any kind of personal magnetism on Smith’s part, arguing that his charismatic hold over his followers was purely due to his perceived divine gifts: “Joseph’s charismatic authority can easily be misconstrued. He was not the luminous figure he is sometimes made out to be. Attention focused on his gift, not his personality.” (2005, pp. 111-2)

In the early nineteenth century relatively few non-believers could take such a detached stance towards Smith, especially if they were in close proximity to him. Men from rival churches in particular were obliged to condemn his pretensions to being a prophet. One article, signed by “A PRESBYTERIAN” who lived close by a Mormon settlement in Ohio, wrote disgustedly of how Smith “pretends to go to the Lord occasionally for advice.”<sup>17</sup> Alexander Campbell wrote a lengthy review of the *Book of Mormon*, pointing out all the instances in which it disagreed with biblical history

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<sup>15</sup> None of the hundreds of newspaper articles about Joseph Smith from the 1830s and 1840s (that I have seen) suggests that Smith was insane.

<sup>16</sup> Bloom also sees no need to accept the dichotomy that Smith either genuinely translated the *Book of Mormon* golden plates or made the entire thing up: “The genesis of the Book of Mormon is not my concern (though I assume that magical trance-states were involved, so that we can dismiss the literalism both of golden plates and of conscious charlatanry).” (p. 86)

<sup>17</sup> “The Mormon Delusion,” originally in the *New Hampshire Gazette*, reproduced in the *Vermont Chronicle*, 06/24/1831.

and geography, and concluded that Smith was not only a fraud but an Atheist.<sup>18</sup> By the end of the 1830s, disillusioned ex-Mormons were adding their voices to the chorus of denunciation. As many previous scholars have shown, apostates frequently come to see their former religions as dangerous shams, and throughout history have played significant roles in fomenting hostile public opinion against these religions.<sup>19</sup> Opponents of religions place a high value on the accounts of apostates, who bring the authority of insider knowledge. In 1838, the *Waldo Patriot* printed a series of letters by former Mormons accusing Smith of fraud. One of the writers, John F. Boynton, claimed he “withdrew from the church, after having witnessed the abominations of Joseph Smith Jr. and Sidney Rigdon, in lying, cheating and defrauding; and also having access to their secret councils, we learned their private sentiments; and we are now fully convinced that they are infidels, while they proclaim Christianity; therefore they are base hypocrites, wolves in sheep’s clothing, seeking to devour their flock.”<sup>20</sup>

One conceptual problem Smith’s accusers faced was explaining how he had actually written his complicated epic. If Smith was, as they widely agreed, an ignorant, low-rent charlatan, then how had he crafted this lengthy book, which showed at least considerable familiarity with what was then known of the history and geography of the ancient Near East and North America? The question persists in some form to this day; a believer such as Bushman takes it to be one of the most compelling pieces of evidence that he really did translate the book: there is no historical evidence that Smith, aged 24 at the time, had ever read anything beyond “the Bible and perhaps the newspaper,” yet he produced a manuscript full of “sermons, Christian doctrine, biblical language, multiple characters, stories of adventure, social criticism, theories of Indian origins, ideas about Meso-American civilization, and many other matters.” (2005, p. 72)

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<sup>18</sup> “Delusions.” Originally in the *Millennial Harbinger* (Bethany, VA) 02/07/1831, reprinted in the *Haverhill Gazette* (Haverhill, MA) 09/08/1832 and 09/08/1832.

<sup>19</sup> See for example Richardson (1998), Hall and Schuyler (1998) and Shaw (2009).

<sup>20</sup> *Waldo Patriot* (Belfast, ME) 05/04/1838.

For Smith's nineteenth-century detractors, however, the answer to the puzzle came in the form of the "Spaulding hypothesis." Philastus Hurlbut, who had been excommunicated from the Mormon Church in 1832, traveled Ohio and New York collecting disparaging affidavits from people familiar with Smith in order to discredit him. His influential efforts (commissioned by an anti-Mormon committee in Ohio), most importantly contained the claim that the *Book of Mormon* was in fact a reworked version of the manuscript for an historical novel written twenty years earlier by Solomon Spaulding. The manuscript had allegedly fallen into Smith's hands via Sidney Rigdon, his highly educated follower. These claims were published in 1834 by E.D. Howe.<sup>21</sup> Despite Mormon attempts to refute them,<sup>22</sup> anti-Mormons took Hurlbut's claims as the truthful explanation of "the unaccountable fact that an ignoramus like him, who could neither read nor write, should have produced so connected a work as the pretended Mormon bible."<sup>23</sup> Thus literary theft was added to the list of charges against Smith.

For those who saw Smith as an obvious fraud, the willingness of hundreds, and eventually thousands of citizens to join his Church and submit to his prophetic authority provoked a range of reactions from bemusement to horror. Far from seeing Mormonism as a unique phenomenon, and Mormons as a distinctive people, many writers linked the propensity to follow Joseph Smith with what they saw as other religious excesses of the Second Great Awakening. They frequently mentioned Mormons alongside other vigorous sects of the period. Campbell's review, for example, noted that many historical eras had produced large numbers of false Messiahs who had gathered followers, and suggested that the present age was one such period. "The Mormonites" were "the most recent and most impudent delusion" in a religious scene that had included the Shakers and the Campbellites as well as numerous other "Barkers, Jumpers and Mutterers" that

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<sup>21</sup> Howe, E.D. (1834). *Mormonism Unveiled*.

<sup>22</sup> Winchester, Benjamin (1834). *The origin of the Spaulding Story, concerning the Manuscript Found*.

<sup>23</sup> In the *Philadelphia Mirror*, reprinted in the *Daily Commercial Bulletin and Missouri Literary Register*, 09/09/1836.

barely warranted a mention.<sup>24</sup> The Boston Courier, in an article examining both the Mormons and Campbellites, declared “there is no end to trickery and imposture in our land. ‘Fools are the game that knaves pursue,’ and until the people in some sections of the country become more enlightened, there will be plenty of game.”<sup>25</sup> The Vermont Gazette cried that “this is emphatically the age of excitement, fanaticism and propagandism.”<sup>26</sup>

Many Americans who saw themselves as enlightened, including members of long-established churches, were disturbed by what they saw as an undercurrent of irrationality in the novel religious expressions of the revival movements that were attracting poorer and less educated citizens. Mormonism in the early 1830s shared with these other Christian movements some of the practices that would later come to characterize Pentecostalism, including speaking in tongues and faith healing.<sup>27</sup> An 1833 article in Utica’s *Evangelical Magazine and Gospel Advocate*, the largest-circulation Unitarian publication in the United States, said that

The world has truly got to a strange pass, when people in numbers and companies can be juggled out of reason and common sense, so far as to give themselves up as the disciples and followers of the miserable scapegoat, Jo. Smith, jr., a juggling knave and a lazy swindler, who, having escaped from prison and the hand of legal justice, has set up for himself in religion, by publishing what he calls his golden Bible, his own wicked invention, filled with a tissue of the most glaring absurdities and nonsensical trash.

However, the article emphasized that Smith was not as dangerous as other revivalists, such as Jedediah Burchard, who had brought spirit-infused preaching to large, mainstream congregations: “But Jo. Smith jr. is not the only impostor and religious juggler of the present age. It is our honest, serious and deep conviction of mind, that *Jedediah Burchard* and his coadjutors in modern fanaticism,

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<sup>24</sup> Alexander Campbell, “Delusions.” Originally published in the *Millennial Harbinger* (Bethany, VA) 02/07/1831; reprinted in the *Haverhill Gazette* (Haverhill, MA) 09/08/1831.

<sup>25</sup> “Delusion.” *Boston Courier* 03/17/1831.

<sup>26</sup> “Mormon Religion.” *Vermont Gazette*, 09/13/1831.

<sup>27</sup> Smith actually curtailed these practices by the end of 1830s. According to Bushman (2005), this was a part of Smith’s attempts to “focus” charisma rather than letting it “run wild.” Smith wanted to concentrate on developing doctrine through divine revelation, rather than on manifestations of the spirit. (pp. 111-122)

are practicing as great an imposition, as vile an imposture, a worse kind of blasphemy, and exerting a far more extensively pernicious influence in society, than that of the Mormon prophet and his followers. For Burchard and his coadjutors are more enlightened, move in a different circle, and impose on more people than the Mormonites have it in their power to impose upon.”<sup>28</sup> Dozens of articles of a similar tenor appeared in the magazine over the next ten years.<sup>29</sup>

Still other writers lamented that Mormon “credulity” and “fanaticism” should be unfitting in an enlightened republic such as the United States, but sadly were all too commonplace in the current age. A widely reprinted account of the early Mormon Church from the *Ohio Atlas* in 1833 noted that Mormonism had “spread like a wildfire wherever it obtained a foothold,” but asserted that the Mormon scriptures were so ridiculous that the Church was doomed to fail within a few years. While the *Book of Mormon* was thankfully “free from vulgar obscenities,” it was such “an absurd collection of dull, stupid, and foolishly improbable stories” that the next generation will “remember . . . only to smile at the credulity of the present.”<sup>30</sup> The *U.S. Telegraph* editorialized in 1835 that “Our readers may be surprised to learn that any thing so absurd should gain credence in this country; but although our Congress did once declare that we were the most enlightened nation in the world, yet the spirit of Mormonism, and the progress of Jacksonism, are most convincing progress the contrary.”<sup>31</sup>

All of this suggests that the national discourse around Mormonism during Smith’s lifetime was shaped mainly by hostile reactions to his claims to charismatic prophecy. He was not seen as totally unique—instead he was a pretentious con artist, an “idle, worthless fellow”<sup>32</sup> accumulating

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<sup>28</sup> *Evangelical Magazine and Gospel Advocate* (Utica, NY) 04/13/1833.

<sup>29</sup> See Dale Broadhurst’s archive at <http://www.sidneyrigdon.com/dbroadhu/artindex.htm> last accessed 03/24/2010.

<sup>30</sup> “The Mormons,” from *The Ohio Atlas*, reprinted in the *U.S. Telegraph* (Washington, DC) 04/12/1833.

<sup>31</sup> “Mormonism,” from the *U.S. Telegraph* (Washington, DC) 03/30/1835.

<sup>32</sup> *Ibid.*

followers who otherwise probably would have gone to some other credulous sect. The fraud and credulity trope had taken hold in the initial reviews of the *Book of Mormon*, before Hurlbut's reports revealed his previous career as a treasure hunter. While rumors about Smith's treasure-hunting past added certainly enhanced the general perception of Smith as a charlatan, in writings denouncing Smith this image remained firmly anchored around the apparent absurdity of his claims. It is well documented that the United States had (and still has) both the freest religious marketplace and the highest incidence of unorthodox new religions of anywhere on earth;<sup>33</sup> political scientists have also noted that there is a prevalent "prophetic style" among political and social leaders such as William Jennings Bryan and Martin Luther King.<sup>34</sup> However, the American people were not willing to tolerate the claims of someone who actually claimed to be a religious prophet.

### **Local conflicts**

Mormons *were* considered a distinctive people by neighbors with whom they had serious material conflicts. Although Moore (1986) insists that Mormon communalism was consonant with typical American frontier values such as self-reliance and cooperation, it certainly had the effect of economically insulating them from nearby non-Mormon communities, reducing opportunities for interreligious trade and cooperation and creating real separateness.

Local opponents of the Mormons often linked their communal economic system to allegations of fraud. They warned that previously solid citizens had been persuaded to hand over their possessions to Smith. The "Mormon delusion" letter by an unnamed Presbyterian living in Mormon country in Ohio described a Mormon-dominated town near the author's home, which "is called the 'big family,' where no one says that aught of the things he possesses is his own; they have all things in common." The author describes Joseph Smith as "the head man in the big family," and

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<sup>33</sup> See Finke and Stark (1992).

<sup>34</sup> See, for example Shulman (2009), Morone (2003), Roelofs (1982).



claims that “There are many, who were once respectable and intelligent, who are now following these wretched impostors – these pretended prophets.”<sup>35</sup> An 1832 article by Joshua V. Hines, editor of the *Haverhill Gazette*, described how Mormons had been active in the area and had converted around fifteen townfolk. The converts included two “defenceless females,” who “had acquired by their hard industry \$2300 . . . which they have given up to go into the general stock.” The other converts “possess between \$3000 and \$4000, which they are going to put with the general fund, and which they can never draw out again, should they get sick of Mormonism and wish to return home to their friends. . . . Thus are our friends swindled out of their property and drawn from their comfortable homes, to endure the perils of a journey of about two thousand miles, by these *ignorant fanatics*; and when arrived at their earthly paradise, to become the miserable dupes of those temporal and spiritual lords.”<sup>36</sup>

However, Mormon communalism became a particularly volatile issue for non-Mormons when it was linked to electoral mathematics. The first of three armed conflicts known as the “Mormon wars” began in Daviess County, Missouri in 1838 with an election riot in the tiny municipality of Gallatin. Mormons, following Smith’s prophecy that they should congregate in Missouri, had been buying land in the sparsely populated county since 1836 and by 1838 were a clear majority, concentrated in the settlement of Adam-ondi-Ahman. It was well known that the Mormons would vote as a single bloc under the directions of their leader; this political practice would consistently provoke anti-Mormon hostility until they finally abandoned it in 1896 as an implicit condition of gaining statehood for Utah. According to LeSueur’s (1990) authoritative account of the Missouri conflict, both candidates in the 1838 visited the Adam-ondi-Ahman Mormons seeking their votes. When the Whig candidate Colonel William Peniston concluded that

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<sup>35</sup> “The Mormon Delusion.” From *The Hampshire Gazette*, reprinted in *The Vermont Chronicle*, 06/24/1831.

<sup>36</sup> Joshua V. Hines, “Prefatory remarks.” In the *Haverhill Gazette* (Haverhill, MA) 09/08/1832.

the Mormons would vote en masse for his opponent he sought non-Mormon support to prevent them from voting. On election day he gave a speech in Gallatin claiming that the practice of Mormon bloc voting threatened the democratic rights of non-Mormons, and urged them to take forceful action to stop them—“if you suffer such men as these to vote, you will soon lose your suffrage.” (p. 62) A riot ensued when Mormons attempted to vote.

In the following months, several armed conflicts broke out in Daviess and the surrounding counties as non-Mormons fought to prevent Mormons from settling and establishing numerical superiority in any jurisdiction. These conflicts were aggravated by the fact that Smith had formed a militia that fought back with considerable force, and rumors spread that he intended to try to take Jackson County by force and was massacring non-Mormons along the way. These conflicts culminated in the Haun’s Hill Massacre of eighteen Mormons in October 1838. Governor Lilburn Boggs, convinced that the Mormons were engaged in a full-scale insurrection against the state, declared in his notorious “Extermination order” that the Mormons were enemies of the state and they must leave or be eradicated by force.<sup>37</sup> He gathered a state militia of 2500 to accomplish the purpose. The Mormons fled to neighboring Illinois, where they were initially welcomed.

In local conflicts such as this, Mormon difference was related to real features of Mormon social structure, namely insular economic communalism and the ability to raise a militia under Smith’s authority. These differences became salient to social conflict because of the electoral implications of Mormon solidarity, and this provided antagonists with the political rhetoric necessary to expand the conflict. Anti-Mormon opponents, beginning with Peniston, claimed that Mormon electoral power, based on geographic concentration and disciplined voting, was itself undemocratic and a threat to cherished republican rights of non-Mormons. Later in the nineteenth century the

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<sup>37</sup> The complete text is available here: [http://en.wikisource.org/wiki/Extermination\\_Order\\_%28Mormonism%29](http://en.wikisource.org/wiki/Extermination_Order_%28Mormonism%29) (last accessed 03/25/2010). The order was not formally rescinded by the State of Missouri until 1978. Governor Christopher Bond apologized.

Know-Nothings would make similar complaints about Catholic immigrants, who were voting in blocs in major American cities.<sup>38</sup> In both cases, it was not enough for a minority to have a distinctive identity, either religious or political; to construct a minority as a political threat, antagonists had to show that their growing numbers and herd-like voting threatened the democratic rights of the American majority.

Smith's charismatic authority was central to the construction of the Mormon political and military threat. One account from the *St Louis Bulletin* in defense of anti-Mormon military action describes how Smith's standing as a prophet created the Mormon danger:

The Mormons believe they are the chosen people of God; that their leader, Joseph Smith, has continual revelations from heaven, and they look upon him as the mouth-piece of the Deity. When he issues orders to his tribe, he always says 'the Lord sayeth so and so,' and we understand his power is as absolute over this deluded people as is the Emperor's of Russia over his lowest serfs. They denominate us as heathens, and say the time will come when their power will spread over the kingdoms of the earth. At their meetings, some of their men or women always pretend to be inspired, and go on jabbering something unintelligible to us, but some of their chief men pretend to understand us by means of inspiration, and translate it to their people. By such means they work upon the superstition of ignorant men, and as Joe makes them believe that they will immediately go to heaven if they fall in battle, it is probable that they will make pretty good soldiers.<sup>39</sup>

The *Bulletin* certainly emphasized difference and distinctiveness. It refers first of all to the Mormon belief in their status as a chosen people, which Moore identifies as the very root of distinctive Mormon identity. But other terms and descriptions designating Mormons as a distinct group are used in a way that undermines and ridicules any true claim to quasi-ethnic standing. They are described as a "tribe," but in the same sentence as "this deluded people," suggesting their peoplehood is defined by collective credulity. The reason their "jabberings" are "unintelligible to us" is only because they are a result of "pretend inspiration." All of this would be merely ridiculous rather than threatening if it were not for Smith's charismatic hold over his followers, who regard his

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<sup>38</sup> See Hamburger (2001).

<sup>39</sup> *St Louis Bulletin*, reproduced in the *Vermont Chronicle* (Bellows Falls, VT) 11/28/1838.

word as the word of God. The last sentence ominously mentions that he has the power to mobilize a militia composed of men who would be happy to die in battle.

Even in the face of a compelling threat, it is not always easy to sell persecution. An unusual wave of editorial comment sympathetic to the Mormons appeared in the aftermath of the Missouri violence. The *St Louis Republican*, in an observation that was picked up by many other newspapers across the country, noted that the most dedicated opponents of the Mormons in Missouri were now profiting greatly by speculating on the land the Mormons had been forced to abandon. This suggested that the Missouri Mormon War had not been a struggle against a genuine threat, but a low, dirty fight over real estate. According to Cleveland's *Daily Gazette and Herald*:

Great distress and suffering exists among the plundered Mormons, many of whom were formerly quiet, inoffensive citizens of northern Ohio. They were wild and fanatical in their religious notions when among us, but peaceable, humble, and law-abiding in their deportment. There can be no excuse for the murder and rapine with which they have been desolated since emigrating. The infamy will be as lasting as the name of Missouri.<sup>40</sup>

The *Gazette and Herald* maintains the trope that the Mormons were “wild and fanatical in their religion,” but claims that this was not relevant to their relations with non-Mormons, which were “peaceable, humble and law-abiding.” Similarly the *Baltimore Chronicle* sided with the Mormons even while calling them “deluded”: “From the accounts which are now received, it now seems to us that the poor deluded Mormons are ‘more sinned against than sinning’ in the matter of this war, and their greatest *error* was settling down on some of the best lands in the State, and that in defense of their right to them, against the avarice of others, they were forced to take up arms.”<sup>41</sup>

One could subscribe to the leading anti-Mormon tropes of the day and still object to the persecution of Mormons; this is why any complete account of the causes of anti-Mormon

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<sup>40</sup> *Daily Herald and Gazette* (Cleveland, OH) 12/29/1838.

<sup>41</sup> Reprinted in the *New Bedford Mercury* (MA) 11/23/1838.

persecution must go beyond the formation of anti-Mormon attitudes, and explore what could politically legitimize suspending religious tolerance in the Mormon case.

### **Polygamy, deviance and the nationalization of the anti-Mormon cause**

Public consciousness of the Mormon practice of plural marriage began in Nauvoo, Illinois in 1844. It led directly to Joseph Smith's death. Smith had established Nauvoo in 1839 after fleeing Missouri, and had been given permission to charter a city by the Illinois legislature. The state had two reasons to welcome the Mormons; first, it was nearly bankrupt and welcomed an influx of tens of thousands of tax-paying immigrants. Second, Illinois legislators recognized the political opportunities presented by the Mormon voting bloc, and so willing to court them by granting them a city charter. This charter, crucially, allowed the city to pass any ordinance that did not conflict with state and federal laws, and also allowed the establishment of a militia.<sup>42</sup>

By 1844, Nauvoo's population of 15000 was the second largest in Illinois (second only to Chicago) and its militia, the Nauvoo Legion, numbered over 5000. Joseph Smith as Mayor of the city stood formally atop a political structure for the first time, as well as maintaining control over the Church. In surrounding communities there was rising fear about the political, economic and military power of Smith, and Missouri authorities were still trying to extradite him, along with other Mormon leaders. However, serious trouble for Smith began from within the Church. A group of high-ranking Mormons led by William Law had broken with Smith over what they saw as his increasing theocratic tendencies and his instigation of the practice of plural marriage. Smith had told other members of the Mormon hierarchy in secret about the revelation that all Mormon men would one day practice plural marriage (this was related to the need to populate the afterlife) but had so far concealed it

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<sup>42</sup> For a good brief overview of the events leading to the establishment of Nauvoo, see Hal Schindler, "Polygamy, Persecution and Power All Played a Role in the Nauvoo Exodus." *Salt Lake Tribune*, 06/16/1996.

from the rank and file of the Church as well as all non-Mormons.<sup>43</sup> Outraged by both the immorality of the practice and the perceived abuse of Smith's power that it entailed, the renegade faction published a single issue of a newspaper, called the *Nauvoo Expositor*, to expose Smith.

As well as accusing Smith of being a fallen prophet and becoming too powerful, the paper included a hair-raising account of how Smith supposedly used his charismatic power to induce women into becoming his "spiritual wives."

It is a notorious fact, that many females in foreign climes, and in countries to us unknown, even in the most distant regions of the Eastern hemisphere, have been induced, by the sound of the gospel, to forsake friends, and embark upon a voyage across waters that lie stretched over the greater portion of the globe, as they supposed, to glorify God, that they might thereby stand acquitted in the great day of God Almighty. . . . They are requested to meet brother Joseph, or some of the Twelve, at some insulated point, or at some particularly described place on the bank of the Mississippi, or at some room, which wears upon its front — Positively NO admittance. The harmless, inoffensive, and unsuspecting creatures, are so devoted to the Prophet, and the cause of Jesus Christ, that they do not dream of the deep-laid and fatal scheme which prostrates happiness, and renders death itself desirable, but they meet him, expecting to receive through him a blessing, and learn the will of the Lord concerning them, and what awaits the faithful follower of Joseph, the Apostle and Prophet of God, when in the stead thereof, they are told, after having been sworn in one of the most solemn manners, to never divulge what is revealed to them, with a penalty of death attached, that God Almighty has revealed it to him, that she should be his (Joseph's) Spiritual wife; for it was right anciently, and God will tolerate it again. . . . The Prophet damns her if she rejects. She thinks of the great sacrifice, and of the many thousand miles she has traveled over sea and land, that she might save her soul from pending ruin, and replies, God's will be done, and not mine. The Prophet and his devotees in this way are gratified.<sup>44</sup>

There were many issues at stake in the initial polygamy controversy. The violation of traditional morality clearly played a role, but the all-important political framing by the dissident Mormons was in terms of Smith abusing his charismatic power. Polygamy in this story was not a relationship into which women would enter consensually; Smith lured devout women into Nauvoo by his prophetic

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<sup>43</sup> For an important account of the development of the plural marriage doctrine see Quinn (1985).

<sup>44</sup> *Nauvoo Expositor* 06/07/1844, p. 2A. For the full text, see:

[http://en.wikisource.org/wiki/Nauvoo\\_Expositor](http://en.wikisource.org/wiki/Nauvoo_Expositor) last accessed 03/25/2010.

status then coerced them into marriage by threatening damnation. This was the very first of the “captivity narratives” that would later become a staple of sensationalist anti-polygamy literature.

Smith seemed to prove the *Expositor's* point when he ordered the Nauvoo Legion to destroy the paper's printing press a few days later after deliberating with the City Council. This gave surrounding anti-Mormons such as Thomas Sharp, editor of the nearby *Warsaw Signal*, the opportunity to provoke armed action against Smith. He had now violated both freedom of the press and property rights, two cornerstones of American liberty, and could no longer be tolerated. Sharp published the following account of the destruction of the *Expositor*:

I hasten to inform you of the UNPARALLELED OUTRAGE, perpetrated upon our rights and interests, by the ruthless, lawless, ruffian band of MORMON MOBOCRATS, at the dictum that of that UNPRINCIPLED wretch Joe Smith. . . . They also declared the "Nauvoo Expositor," a "*nuisance*," and directed the police of the city to proceed immediately to the office of the Expositor and DESTROY THE PRESS and also the MATERIALS, by THROWING them into the STREET!!!!

Following this outrage, there was only one possible course of action, according to Sharp:

We have only to state, that this is sufficient! War and extermination is inevitable! Citizens ARISE, ONE and ALL!!! -- Can you stand by, and suffer such INFERNAL DEVILS!! to ROB men of their property and RIGHTS, without avenging them. We have no time for comment, every man will make his own. LET IT BE MADE WITH POWDER AND BALL!!!!<sup>45</sup>

A lethal series of events followed. Numerous outsiders came to Nauvoo with warrants for Smith's arrest, which the Nauvoo court dismissed. Smith responded by declaring martial law, which the Governor of Illinois considered an act of treason against the state. Smith and fifteen other Mormon leaders were charged with treason, and after negotiations with the Governor he agreed to surrender to authorities in nearby Carthage, where he would face trial. The Carthage Greys, an anti-Mormon

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<sup>45</sup> *The Warsaw Signal* (Warsaw, Il) 06/11/1844.

militia, were assigned to protect that Carthage jail;<sup>46</sup> predictably, they allowed a mob (which some of them joined) to storm the jail and murder Joseph Smith and his brother Hiram.<sup>47</sup>

The death of the prophet and the continuing promise of further violence in Illinois prompted the majority of Mormons to flee west to Utah under the leadership of Brigham Young. Young had been the President of the Quorum of the Twelve Apostles, an important governing body of the Church hierarchy. Smith had not designated a successor, and Young had to overcome the claims of several others who saw themselves as his rightful replacement. The only widely agreed legitimate successor, Hiram Smith, had been killed alongside Joseph; Young ultimately prevailed over his rivals to fill the vacuum because he, unlike others, had not had substantial doctrinal disagreements with Smith. Young increased the power of the Quorum of Twelve, effectively installing it as the leadership of the entire Church, and himself assumed Smith's office of "seer, translator, prophet and apostle of Jesus Christ." Smith had created this office for himself in 1830 in order to consolidate his power. After his early disciples Oliver Cowdery and Hiram Page had begun promulgating revelations of their own that contradicted Smith's, Smith decreed at the 1830 conference that he alone received revelations and commandments, while others such as Cowdery only communicated them. While monopolizing revelation in the hands of a single prophet might seem likely to restrict the longevity of the religion after the death of the prophet, Smith's creation of an *office* of prophet which could be handed to a successor helped to ensure Mormonism's survival.<sup>48</sup>

Young, then, was also regarded as a prophet. His contemporary prophetic standing and his place in Mormon history took on legendary proportions after the epic, hazardous trip to Utah. Utah at the time was virtually uninhabited and extremely difficult to reach, and Young, citing a revelation from God, chose it as the Mormons' new home in the belief that it was outside the borders of the

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<sup>46</sup> See Hill (2005).

<sup>47</sup> See Arrington and Bitton (1979), pp. 60-9.

<sup>48</sup> Here, indeed Smith and the Mormons were following the classic pattern of routinization of charisma described by Weber (1947).



United States (though due to developments in the Mexican War it would be part of the United States by the time they reached it in 1847). 70 000 Mormons undertook the 1300 mile trip, beginning in 1846, mainly on foot and dragging handcarts with them. The title of Leonard Arrington's 1985 biography of Young, *American Moses*, accurately describes his place in Mormon memory and even the national imagination. An important part of Young's achievement was negotiating with the initially hostile federal government. The Polk administration enabled the passage of the Mormon pioneers by allowing them to winter in Indian lands, and in 1850 the Fillmore government, recognizing Young's role as the "colonizer" of the desolate Utah territory, appointed him Governor. Thus the Mormons enjoyed a brief period of very good relations with the federal government despite the fact that they practiced polygamy more or less openly.

Utah was overwhelmingly Mormon, and leading Mormons supported the practice of plural marriage from 1852 onwards. According to Arrington (1958) only about 11% of the male population had multiple wives at any given time—sheer demographic mathematics would make it impossible for many more to do so—but it had become a part of official Church doctrine and so, at least officially, all Mormons believed in the righteousness of it. In reality it seems likely that many poorer rank and file Mormons were resentful of the practice, which was mainly the domain of wealthier and higher-status Mormons and which depleted the pool of marriageable women. Certainly, when the Church finally renounced the practice in the 1890s there was no shortage of Mormons eager to turn in their neighbors who had continued it in secret.<sup>49</sup>

The nationalized anti-polygamy campaign began in earnest in 1856. In 1856, the Republican Party's national platform famously resolved that "it is both the right and the imperative duty of

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<sup>49</sup> See Bradley (1993).

Congress to prohibit in the Territories those twin relics of barbarism – Polygamy, and Slavery.”<sup>50</sup>

The first legislative attempt to abolish polygamy was the Morrill Act of 1862, which outlawed bigamy (states already had laws against bigamy, but this was the first extension of those laws to the territories). This law proved to be useless. Some Mormons simply evaded it by having one civil marriage and referring to supernumerary marriages as “sealings.” (Arrington 1958) Attempted prosecutions were thwarted by juries that reflected the large numerical superiority of Mormons in the territory. Brigham Young himself married six more wives after 1862. (Quinn 1985)

The transparent failure of the Morrill Act led to a series of far more punitive proposals in Congress. Arrington (1958) details five proposals discussed between 1866 and 1874, only one of which passed. The Poland Act of 1874 attempted to strengthen enforcement of the 1862 law by giving responsibility for cases in Utah to federal officials and courts, and giving “federal judges considerable leeway in the selection of jurors.” (p. 357) As harsh as the Poland Act would have been in circumscribing territorial authority, other proposals had been much more extensive. The Wade Bill (1866) had proposed barring church officers from solemnizing marriages and requiring extensive reporting on church finances to federal authorities; The Cragin Bill (1867 and 1869) proposed abolishing trial by jury in Utah bigamy cases; The Cullom Bill (1869-70) would have deprived plural wives of immunity from testifying against their husbands, as well as sending the army to Utah, raising a large militia there, and confiscating the property of any Mormon leaving the state on account of the law; and the Ashley Bill (1869) proposed “dismembering” Utah and transferring portions of it to Nevada, Wyoming and Colorado.

Although polygamy was, as Young (1954) describes it “the dominant moral issue” of the nineteenth century, for thirty years it failed to arouse any concrete action by Congress. Some

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<sup>50</sup> Platform text is available at [http://www.ushistory.org/gop/convention\\_1856republicanplatform.htm](http://www.ushistory.org/gop/convention_1856republicanplatform.htm) Last accessed 03/27/2010.

individual Congressmen were enthusiastic, proposing the measures discussed in the previous paragraph, but most of these were never voted on; party leaders and other legislators simply had more pressing priorities. Bense (2000) notes that despite polygamy's status as a "prototypical hurrah issue" it rarely featured in state-level party platforms as an immediate problem requiring political action.

A legislative agenda for repressive action against polygamy began to regain traction in the 1880s when liberals, proto-feminists and Temperance activists began a vigorous campaign against it. Advocates of women's suffrage had always condemned the practice of polygamy, but had previously shied away from coercive approaches to the problem in Utah. Instead they had supported federal legislation proposed by Radical Republicans that would have granted the vote to women in Utah and several other western territories. They believed this would effectively end the practice of polygamy, allowing women to liberate themselves from "the bond of degradation." The federal legislation failed, but the territories themselves embraced women's suffrage in the late 1860s. For Wyoming, this was a ploy to attract new settlers; for Utah, it was a way of dealing with new settlers. By granting women the vote, the Mormon-dominated legislature diluted the increasing power of (mainly male) non-Mormons in the territory. (Gordon 1996)

By the 1880s, however, proto-feminists and their allies were firmly against women's suffrage in Utah. They believed Mormon women were not ready to participate in consensual government; they voted according to the wishes of their husbands, and thus reinforced their subordinate position in family, sexual and childbearing relations. (Gordon 1996) Two distinct and powerful strands of anti-Mormon rhetoric were visible at this time. On the one hand, Nativist propaganda about Mormons reflected familiar, often outlandish themes about other "un-American" groups such as Catholics and Freemasons. Though relatively small and isolated, Nativists saw Mormons as a subversive threat to American nationhood, and Mormon men, especially Mormon leaders, were accused of almost

unimaginable acts of sexual depravity. (Davis 1960, Hofstadter 1964) On the other hand, proto-feminist and Temperance groups accused them of enslaving their women, resurrecting the association between polygamy and slavery that had first appeared in the Republican Party platform of 1856.

One of the leading manifestations of this second form of criticism was the *Anti-Polygamy Standard*, published in Salt Lake City by non-Mormon women. The first issue of this newspaper, which appeared monthly from 1880 to 1883, carried a prologue by Harriet Beecher Stowe:

To the Women of America:

Let every happy wife and worker who reads these lines give her sympathy, prayers and efforts to free her sisters from this degrading bondage. Let all the womanhood of the country stand united for them. There is a power in a combined enlightened sentiment and sympathy, before which every form of injustice and cruelty must finally go down.

The opening editorial further emphasized both the slavery theme and the idea that Mormon women were incapable of liberating themselves:

The saying “who would be free themselves must strike the first blow,” is undoubtedly true in the majority of cases, yet the questions seem pertinent are all those in bondage so circumstanced that they can or will “strike the blow,” and if freedom is not to be theirs, except through their own courage and resistance must they forever remain in fetters? Had the abolition of slavery in the South depended entirely on the slaves striking for freedom, they would have remained in bondage until this day.<sup>51</sup>

The paper contained many stories, purportedly from former Mormon wives, about the horrors of polygamous family life. It is important to note exactly how polygamy was being politicized here. Even the most depraved stories of sexual immorality by anti-Mormon propagandists had achieved little politically. Only the notion of women *in captivity* could bring together a political coalition that would take action. Polygamy had to be framed not in terms of Christian morality, but in terms of slavery.

In 1882 Senator George F. Edmunds, a radical Republican from Vermont, introduced

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<sup>51</sup> Both block quotes from *The Anti-Polygamy Standard* (Salt Lake City, UT) Vol. 1, No. 1, p. 1

legislation that would prevent polygamists from voting, holding office or serving juries. On the one hand, the latter provision would enable easier enforcement of anti-bigamy laws, but the first two provisions showed that the first priority of the bill was breaking the political hegemony of the Mormon leadership. In arguing for his legislation, Edmunds went beyond the idea that Mormon women were effectively in a condition of slavery and argued that nearly all Mormons needed to be “liberated” from their theocratic leaders. Edmunds was convinced that many Mormons would welcome federal intervention against polygamy: “Now if there be in this Mormon Church a body of people, as we believe there are, who have no more faith in this idea of polygamy than any Senator who hears me has, as a fact, and who wish to discourage it and who wish to emancipate themselves from the tyranny of this hierarchy that now has its foot on their necks, there will be a cause for them to assert themselves.”<sup>52</sup>

The Edmunds Act with its liberationist rhetoric was popular in both houses and would pass with substantial margins. Some Southern Democrats, however, offered resistance during debates, arguing that while they hated polygamy as much as the other legislators, the Edmunds legislation endangered religious liberty and represented an unconscionable federal incursion into local democracy. One Democratic Senator, John Tyler Morgan of Alabama, pointed out that out that three hundred thousand members of Indian tribes had grown up under a system of polygamous marriage within the jurisdiction of the United States, and no attempt had been made to dissuade them from polygamy because “we do not regard them as a Christian people.”<sup>53</sup> The implication seemed to be that the Mormons were so distinctive that, like the Indians, it was no matter of urgency to apply American bigamy laws to them. However, Edmunds derided this civil liberties rhetoric, answering it with rhetoric that was at once Christian, republican and nationalist:

No man, North or South, who believes in the Christian religion, who believes in a

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<sup>52</sup> *Congressional Record*, Vol. 11, p. 1212.

<sup>53</sup> *Congressional Record*, Vol. 11, p. 1196.

republican government, can maintain or has maintained in this body that this institution of polygamy is one that can exist consistently with our universal idea of the theory of a republican government. Nobody has pretended such a thing. Then may I not assume that we wish to get rid of it? Everybody says do. How are you going to do it? You say you do not like what we have proposed. Will you propose something else? Oh, no. It is always some other day, some other measure that is not now defined, that is not now brought forward. It is some other day, some other time, some other measure, than the one that is proposed.<sup>54</sup>

For Edmunds, breaking the Mormon hierarchy's power was necessary to maintaining "republican government" in the United States, and complaining about civil liberties in the face of this task was an act of cowardice. Republican legislators were also motivated by the old problem of Mormon bloc voting. In local elections, Mormons voted almost exclusively for the People's Party, which helped maintain Mormon control of school boards and municipal council. At the federal level they nearly all voted Democratic, while the ten percent of Utah citizens who were not Mormons voted Republican. This alignment of the territory's political and religious cleavage gave Republicans a particularly strong incentive to disfranchise the Mormons, and again showed that distinctiveness was most likely to lead to repression when it was combined with electoral mathematics.

The Edmunds Act and its successor, the Edmunds Tucker Act (1887) constituted the most devastating federal assault on religious freedom in American history. As federal authorities threatened to seize Mormon temples in the late 1880s, Church President Wilford Woodruff (the successor to Young's charismatic successor, John Taylor) issued a decree (the "First Manifesto") that the Church would abandon plural marriage for the sake of complying with the laws of the land. This restored the vote and representation for Mormons, but they still had yet to achieve full political rights in the form of statehood for Utah. By 1890 Utah had easily passed the unofficial population threshold required for statehood, but permanent Republican opposition ensured that Utah remained a territory without representation in the Senate.<sup>55</sup> The Mormon leadership had dissolved the

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<sup>54</sup> *Congressional Record*, Vol. 11, p. 1213.

<sup>55</sup> See Stewart and Weingast (1992).

People's Party in 1891, but the necessary Republican support for Utah statehood was unlikely to materialize while Mormons still voted as a bloc for Democratic candidates. From 1892, President Woodruff and his advisors conducted an aggressive campaign to change the affiliation of a large number of Mormons to the Republican Party. Three Church leaders who had campaigned for the Democratic Party were censured, and despite assurances from the Presidency that the Church would not dictate how its members should vote, one of the censured leaders noted that other leaders were "interfering with the agency of members of the church by going around trying to get Democrats to become Republicans or getting Democrats to vote for certain Republicans." Alexander (1986) concludes that "If no ecclesiastical influence had been used to recruit Republicans, it is highly unlikely not only that the old Mormon-Gentile political alignments would have returned in the form of national parties but that the Republicans would have refused to support the movement for Utah statehood." (pp. 8-9)

Ironically, this authoritarian action by the Church authorities convinced the Federal government that Mormons were ready for democracy.

## **Conclusions**

In this paper I hope to have shown two things. First, the persecution of Mormons in the United States occurred largely because of the political challenge of their charismatic and theocratic leadership. Even in a society in which religious freedom is a foundational axiom, there is an inherently limited tolerance for charismatic prophets. Many Americans doubted Joseph Smith's legitimacy as a religious figure and saw his successors as threats to American democracy and republican government, and opponents of Mormonism always constructed this threat in terms of the control they exercised over their followers. Even polygamy, when it was effectively mobilized as a political issue, was construed in these terms. Thus the very thing that made Mormon leaders

charismatic—the fact that their followers accepted their theocratic authority—also put them, to some extent, outside the bounds of religious tolerance.

Second, Mormon “peculiarity” or distinctiveness was most salient to the immediate neighbors and rivals of the Mormons, especially those who were in economic or electoral competition with them. It was reinforced most importantly by the Mormon tendency to vote in blocs, which posed a threat to electoral candidates they did not support. More broadly, American political actors did not see Mormons as a distinctive “people” but as errant Americans who needed to be brought under control.



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# Chapter 3:

## Voting to Repress:

### The 47<sup>th</sup> Congress and the Mormons

#### Introduction

“Tolerance” requires citizens to accept political rights for individuals and groups they do not personally like.<sup>56</sup> Studies of public opinion in the United States have repeatedly shown that such tolerance is in short supply; citizens may profess a belief in universal rights to freedom of speech, the franchise, and the right to run for office, but they are unwilling to extend these rights to groups with whom they strongly disagree.<sup>57</sup> This mass intolerance, though, does not map neatly onto repressive outcomes. For the most part, feared and hated groups are allowed to retain their political

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<sup>56</sup> Walzer (1997) lists five possible meanings of “tolerance,” ranging from not killing one’s opponents to “the enthusiastic endorsement of difference.” He rejects this last meaning; “how can I be said to tolerate what I in fact endorse?” Tolerance, to be useful and interesting as a concept, must include some sense that the thing to be tolerated is somehow negative for the tolerator. See also Williams (2005)

<sup>57</sup> For two paradigmatic pieces see Stouffer (1955) and Sullivan et al (1979). The latter importantly argued that the correct way to identify tolerance and intolerance in surveys was to allow the respondent to choose the group they disliked most and then comment on what political rights should be available to them. They argued this is response to previous studies which showed increases in tolerance based on the fact that fewer respondents were advocating banning Communism in the 1970s than in the 1970s. This, they pointed out, was due to the fact that fear and hatred of Communism had receded, not because people had become any more tolerant of feared and hated groups.

rights.<sup>58</sup> This may give us some faith in the Madisonian mechanisms of democratic government that prevent majoritarian hostility from translating into government repression of minorities,<sup>59</sup> but it should not give us complete faith. In some notable instances institutionalized tolerance has broken down, and intolerant public opinion has been reflected in repressive government policies. If we take democratic tolerance to be an important achievement we are obliged to examine these breakdowns carefully, because it is in these breaches that we can explore exactly what it is about democratic government that usually protects minorities, and why it is that these protective mechanisms do not always hold.

This paper explores one very significant repressive incident: the passage of the Edmunds Act in 1882. This act effectively barred Mormons in Utah from voting, holding public office or serving on juries. The act was designed to allow the enforcement of anti-polygamy laws passed in 1862, and to break the political hegemony of the majority Mormon population in Utah. Along with its 1887 successor, the Edmunds-Tucker Act, this constitutes the most devastating majoritarian assault on religious liberty ever to occur in the United States. There were no scientific polls to measure public opinion at the time, but a vast historical literature confirms that anti-Mormon feeling was very widespread, and the Edmunds Act was popular. Polygamy, as Young (1954) notes, was the dominant moral issue of the late nineteenth century, even more so than prohibition. Nineteenth-

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<sup>58</sup> Granting these groups political rights in the first place is another matter. For example, perhaps the most powerful repressive tool available to democratic countries today is immigration law; the ability to deport foreign nationals or to refuse them entry. This allows democracies to practice repression without practicing it *inside* the polity; there is no need to deny certain political rights to individuals when you can simply eject them altogether. In the mass discourse of civil liberties, these immigration measures seem far less controversial than restrictions on the domestic political rights of citizens and permanent residents.

<sup>59</sup> See *The Federalist Papers* #51: “Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects.”

century prohibitionists such as the Women's Christian Temperance Union enjoyed far more lobbying success on the polygamy issue than on temperance. Anti-Mormon literature was a substantial industry, feeding a curious public a steady diet of tales of the unimaginable sexual depravity of Mormon leaders.<sup>60</sup> Furthermore, the Supreme Court's *Reynolds* decision of 1879 had declared that the first amendment did not protect the practice of polygamy, as it was only concerned with religious beliefs, not practices.<sup>61</sup> Citizens and legislators alike, then, were free to pursue an anti-Mormon agenda without apparently endangering the cherished American commitment to religious liberty. Madison's "multiplicity of interests" could not protect the Mormons in this case, because nearly all sectors of society were agreed on their abhorrence of polygamy.

The specific puzzle I want to explore is not why this legislation was passed, but why Congressional opposition to it looked the way it did. Despite the overwhelming popularity of the anti-Mormon cause, Edmunds did not pass without controversy. There were days of debate in the House and Senate, and a notable group of Congressmen refused to support it even with modifying amendments. While those Republicans who voted did so unanimously in favor of the Edmunds bill, Democrats in both houses were split. There was a notable regional pattern to the split; Southern Democrats voted against the repressive measures in much greater numbers than Northern Democrats. The Southern Democrats, however, were far from unanimous. On some measures they too were split almost evenly.

[Table 3.1 about here, see appendix]

Why were Southern Democrats the most likely, indeed almost the only group in the 47<sup>th</sup> Congress to oppose the repression of the Mormons? This question warrants our attention for a

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<sup>60</sup> See Davis (1960), Hofstadter (1964) and Givens (1997).

<sup>61</sup> Fisher (2002) argues that contrary to popular myth, the judiciary has never been at the forefront of minority rights protection, including rights of religious minorities. The 1879 *Reynolds* decision is a fairly typical case of the Supreme Court affirming repressive legislation, in this case the 1862 Morrill Act. The Supreme Court would later uphold the 1882 Edmunds Act and, in 1890, an Idaho law that barred polygamists from voting.

number of reasons. First, Southern Democrats in the late nineteenth-century Congresses were not known to be more supportive of civil liberties than others. Most of them had served in the Confederate Army during the Civil War, and harbored deep grudges over Reconstruction efforts to empower African-Americans politically. The other major vote that year which involved stripping a group of its civil and political rights was the Chinese Exclusion Act, passed two months later; none of the Southerners who had opposed Edmunds opposed the Chinese Exclusion Act and some of them were its strongest supporters, despite the lack of proximity between the South and the Pacific West.<sup>62</sup> Second, Southerners arguably represented the most hostile constituencies for Mormons in the entire United States. There is one rough-and-ready measure of public opinion which may allow us to verify this: while anti-Mormon feeling was generally widespread, the South was the only region in which Mormon missionaries were actually killed during the post-war period. (Buice 1998, Sessions 1976) In the absence of polls, public violence should have served as an unusually clear signal to office-seeking legislators that Mormons were disliked.<sup>63</sup>

While these two facts should lead us to wonder why any Southern Congressman would vote against repressing the Mormons, there is another fact that poses the opposite problem. While Southern Democrats may have had every personal and office-seeking reason for voting to repress, they—along with all other Democrats—also had an extremely good strategic reason for voting *not* to repress. If the Edmunds Act was going to disfranchise most Mormons in the Utah territory, then it would also be disfranchising most Democrats. The party cleavage in this territory, as well as in neighboring Idaho, aligned almost perfectly with the all-important religious cleavage. There were good reasons to suspect that, having turned the territory Republican, the Republicans would then

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<sup>62</sup> See Chin (1998) for an account of Congressional debates over the act, which banned all Chinese immigration to the United States for ten years, and would be renewed in 1892 and 1902.

<sup>63</sup> See Mayhew (1974) for an account of Congressmen as political actors most strongly motivated by election and re-election. An alternative explanation is that violence of all kinds was higher in the South, which would have weakened any anti-Mormon signal in the killing of missionaries.

press to admit Utah as a state, thus adding a vital extension to their precarious advantage in both houses, and cementing their ability to pursue such projects as the tariff and the gold standard.<sup>64</sup> Thus, long-term party strategy should have mandated voting against the Edmunds bill. The passage of Edmunds was by no means inevitable, despite the Republican majority in both houses. Due to the high number of absences during the votes, unified Democratic voting could have at least altered the legislation. Indeed unified Democratic senators did succeed in passing one amendment, to make election boards bipartisan. But for the most part, especially in the final house vote, the Democrats were deeply divided. There is no obvious reason why this division should have been on conspicuously regional lines.

Thus neither ideational reasons nor strategic ones seem to be able to explain the distinctive pattern of opposition that we see, with Northern Democrats mainly voting with the Republican majority and Southern Democrats closely divided. In this paper I seek a more useful and fine-grained explanation by further exploring both intra-Democratic and intra-Southern differences.

The rest of this paper will proceed as follows. First, I will show how some Southern Democratic Congressmen argued against the Edmunds Act in their own words, using the accounts of floor debates from the *Congressional Record*. The point of starting here is simply that we should expect to see any explanation of voting patterns reflected in the public rationales of the voters, even if that explanation is strategic. The qualitative evidence of these speeches therefore allows us to generate hypotheses which can later be tested with the quantitative evidence of the floor vote. What we see in the *Congressional Record* is a strikingly liberal defense of the political rights of Mormons, combined with a set of distinctively Southern concerns about the use of election returning-boards, a device invented during the Reconstruction period which figured heavily in the Edmunds legislation.

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<sup>64</sup> See Stewart and Weingast (1992) for an account of the politics of statehood admission, and Bensch (2000) for a good overview of the American political economy at this time.



Second, I will analyze votes in the house quantitatively to try to explain the patterns of variance. There are four main hypotheses arising from the qualitative evidence of the floor speeches and from previous scholarship. First, Southern Democrats may have opposed Edmunds when Northerners did not because they had more to lose economically from the prospect of Republican dominance in Congress, which could be cemented by the admission of Utah as a Republican state without Mormon voters. Second, they may have found disfranchisement uniquely abhorrent because of the experience of Reconstruction, in which many Southern Congressmen had themselves been disfranchised. Third, they may have wanted to kill off any new federal device for interfering in state and local elections because such a device could be used in the future against the discriminatory electoral practices that would maintain white supremacy in the South. Fourth, drawing on the scholarship of Anderson and Tollison (1988), they may have opposed it because they had less to fear from polygamy than Congressmen from manufacturing-based states, who faced the prospect of losing highly productive women from the manufacturing industry.

This episode allows us to get at a much larger general question: under what circumstances do political elites defend unpopular minorities? This is an important case for this question, because the Southern Democrats were, for the reasons mentioned above, the last group of elites we should have expected to see defending the Mormons. We can safely dismiss any null hypothesis that they sided with the Mormons out of like or affinity; their personal distaste for the Mormons was in fact a frequent theme in their speech-making. By showing how members of this group, but not others, could be induced to support “the most unpopular white minority in the United States,”<sup>65</sup> we may begin to get a grasp of the democratic mechanisms that provide elites with incentives to protect minority groups.

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<sup>65</sup> Buice (1988).

## **Oppositional speeches on the Edmunds Act**

The Edmunds Bill was sent to the Senate Committee on the Judiciary in December 1881, and was returned to face votes in both houses in March 1882. Like the Morrill Act before it, the Edmunds Bill made provisions to punish polygamy in the territories, but in order to give these provisions “teeth,” the Bill also contained a number of hitherto unprecedented restrictions on polygamists’ legal and political rights. To make convictions easier to obtain—prosecutions under the Morrill Act had frequently been thwarted by all-Mormon juries—anyone practicing polygamy was barred from serving on a jury. Sections 8 and 9 of the Edmunds Bill would break down Mormon political hegemony in Utah by preventing any polygamist from voting or holding public office in Utah, and appointing a five-member commission to examine and certify all election returns.

Debate in the house, which took place in March, was mainly technical and procedural. The February debate in the senate, however, was highly impassioned and fought over basic matters of democratic principle. It is these debates that provide evidence of the public justifications of Southerners who voted against the Edmunds bill. Though there was no final roll-call vote in the senate (it was passed with a voice vote accompanied by highly irregular cheering from the galleries), the votes on most of the amendments reveal a pattern very similar to the one we see in the final house vote, with all Republicans in favor of repressive measures, most Northern Democrats also in favor, and Southern Democrats split. Thus we can infer that the opinions reflected in senate debate were similar to those in circulation in the house. The bill was debated in the Senate over the 15<sup>th</sup> and 16<sup>th</sup> of February. During this period four Democrats gave substantial speeches against the bill—John Tyler Morgan of Alabama, George Graham Vest of Missouri, Joseph E. Brown of Georgia, and Wilkinson Call of Florida. The language in these speeches is an intriguing mix of liberal constitutionalism, defense of due process and concern about the radical reconstruction flavor of the Edmunds measure.

Morgan, on February 16<sup>th</sup>, made the argument in terms that would resonate most strongly with contemporary liberals and civil libertarians. He began by pointing out that 300 000 members of Indian tribes had grown up under a system of polygamous marriage within the jurisdiction of the United States, and no attempt had been made to dissuade them from polygamy because “we do not regard them as a Christian people.” It is not clear if Morgan was implying that the Mormons should be exempt from Christian moral standards for the same reason, but in both cases, he explained, they would gradually be integrated under civilized law after “a great many years,” and a great effort to convince them of the benefits of civilization. Thus polygamy was not “to be looked at as a question which should invoke our sudden anger, and drive us into legislative excesses.” He developed this Madisonian theme in eloquent detail:

It is one of the highest duties of every government in moments of excitement to stem the current of the tide of fury, of rage, or of wrath, and to appeal to the Constitution; to place the people against whom as assault is made or against whom an accusation is brought upon the ground on which we place all other people in dealing with them, fearing lest we might, in an unguarded moment, do ourselves the wrong of violating the Constitution of the country in our attempt to inflict upon other people harsh and sudden legislation.

According to Morgan, the Bill was introducing one of the most serious violations of the Constitution imaginable—a bill of attainder, which inflicts punishment on an individual or group without a judicial trial. It may be constitutionally allowable to deprive someone of the vote as punishment for a crime, but this could only be done by proper courts in accordance with the law, not by a five-member electoral commission appointed by the federal government. “That right,” Morgan argued, “belonged to American civilization and law long before the Constitution was adopted.” For this reason, Morgan was taking the “great risk” of antagonizing the Committee on the Judiciary, because allowing such a bill of attainder would be an unprecedented violation not just of the American Constitution, but of the entire English legal tradition as well: “Never in the darkest days of the Tudors or the Stuarts, never in any of the darkest days of despotism, I undertake to say

here, weighing my words deliberately, was there ever enacted a statute more exactly within the meaning of a bill of attainder than the seventh and eighth sections of this bill.”<sup>66</sup> (*Congressional Record*, Vol. 11, pp. 1196-1200)

Joseph E. Brown’s speech, delivered the same day, also began with an instructive example of tolerance. Asserting that “three-fourths of the whole population of the globe” practices and supports polygamy, he pointed out that the British have made no attempt to exterminate the practice in India, “indeed they dare not,” because they could not possibly enforce such a law. While echoing many of Morgan’s themes, Brown also raised the idea that the bill would penalize *belief* in polygamy. A polygamist, according to Webster’s Unabridged Dictionary, is “a person who practices polygamy, *or maintains its lawfulness*,” and “there is scarcely a man, woman or child in Utah belonging to the Mormon Church who does not maintain the *lawfulness* of polygamy.” This led to a fierce exchange with George Edmunds himself, the original sponsor of the bill, who argued that according to all known laws a polygamist was someone actually practicing polygamy, and thus this bill would not punish anyone merely for believing in polygamy. The importance of this point became evident as the argument drew both senators into the realm of *reduction ad absurdum*. Edmunds, arguing for the legitimacy of disfranchisement, asked Brown “would the Senator really object to a law, supposing it were not unconstitutional, (which is another question,) which said that no man should be entitled to participate in the government of the State of Georgia that was in the practice of having all his father’s wives, one or more, burned, Hindoo fashion, when his father died?” Brown replied he

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<sup>66</sup> We can appreciate more fully the seriousness of the bill of attainder accusation if we consider the competing British and American plans about what to do with Nazi leaders at the close of the Second World War. Recently-released notes from Britain’s National Archive show that Churchill was resolutely against any trials for captured German leaders, including Hitler, should he fall into their hands (his specific plan for Hitler was to execute him summarily an electric chair rented from the Americans, which he saw as a fitting end “for gangsters.”) This would be facilitated by an Act of Attainder in parliament. Churchill, however, was forced to abandon these plans when the Americans made it clear that they were intent on trials. (“Churchill: execute Hitler without trial.” *The Sunday Times*, January 1 2006.)

would certainly inflict penalties upon anyone practicing wife-burning, “but if he really believes it is right I have no right to exclude him from holding office because he says he believes it.” Edmunds answered “So say I; so say we all.”

Thus, Edmunds could be induced to agree that no belief, even in Hindu *Sati*, could be used to disqualify a person from office. He would claim many times in the course of the two-day debate that belief itself was not the issue, and would not be used for the purposes of disqualification. However, Brown’s prediction that the bill would be “a sweeping disfranchisement of almost the entire people of a territory” turned out to be accurate. The officials charged with executing the provisions of the Edmunds Act usually did interpret “polygamist” as meaning anyone who professed a belief in polygamy. (Arrington 2005) Furthermore, the provisions of the Edmunds-Tucker Act of 1887 would abolish the distinction between belief and practice altogether.

Brown, a former Confederate governor of Georgia, then laid out concerns about the election commission that went beyond universalistic concerns about civil liberties and to the heart of the conjoined material interests of Democrats and Southerners. He remarked that Southerners were more familiar with the practice of returning-boards than Northerners:

Whenever it is necessary to make a Republican state out of a Democratic state, or a Republican State out of a Democratic Territory, the most convenient machinery for that purpose is a returning board, and it has worked admirably in the South. By fraud, perjury, forgery and villainy, the returning-board system cheated the people of these United States out of a legal election for President. It does not therefore specially commend itself to the American people. It stinks in the nostrils of honest men.

Brown was referring both to the Hayes/Tilden election controversy of 1876, in which the Republican-dominated returning boards of Florida, Louisiana and South Carolina overturned Tilden victories in those states by disallowing a sufficient number of Democratic votes, and also to the Reconstruction-era practice of returning-boards which had often disfranchised Democratic voters.

Brown accepted that the latter might have been justified, but argued it could not be justified for the Mormons:

After the end of the war the reconstruction measures were passed. I had then a little taste of the rule that we now propose to apply to Utah. I stood by the polls, disfranchised and not permitted to vote, while my former slaves, emancipated, walked up and deposited their ballots. I made no issue. I accepted it. Why? Because I had no power to do anything; and I held that Georgia had seceded from the Union, and having seceded, and having been conquered, the conquering power had the right to dictate the terms. But the Mormons have not seceded from the Union.

Beyond the normative matter of Mormon rights there was a more immediate material concern, and this was that the Republicans would use the returning boards, as Brown said, “to make a Republican state out of a Democratic territory.” Since the Civil War, the Republicans had ensured long-term control of both houses by voting to admit states that would reliably provide Republican Congressmen. As will be discussed below, the Republicans had proven far more adept at getting their “rotten boroughs” admitted than the Democrats. (Stewart and Weingast 1992) The Edmunds Act seemed to be preparing yet another one of these boroughs.

Finally, Brown warned that repressing the Mormons could lead to persecution of other groups: “let us be careful that we do not establish precedents that may lead to the destruction of freedom of opinion and the subversion of constitutional liberty and religious toleration in this country.” As Morgan had also warned, the popular feeling against the Mormons today could tomorrow be turned on another group: “We have passed the period where there is for the present any clamor against any particular sect except as against the Mormons; but it seems there must be some periodical outcry against some denomination. Popular vengeance is now turned against the Mormons. When we are done with them I know not who will next be considered the proper subject of it.”<sup>67</sup>

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<sup>67</sup> Consider the affinity between this statement and the famous poem attributed to Pastor Niemoller which has become popular shorthand for why people should speak out for unpopular minorities: “First they came for the Communists, and I didn’t speak up, because I wasn’t a Communist. / Then

Brown backed this warning with cautionary tales of past religious persecution in America, mainly in New England, such as the persecution of Baptists and Catholics in the New England colonies, the burning of the Ursuline convent in Massachusetts and New Hampshire's archaic law, only recently revoked, that Catholics could not serve in the legislature. Though he insisted he was not trying to be offensive to New England, he did seem to be baiting the North. Referring to Massachusetts, he asked, "If religious intolerance in this most enlightened and intelligent State was so great forty-eight years ago as to incite men to burn down and desecrate the convents of the Catholic Church, and the riot was permitted with impunity, how can we trust ourselves forty-eight years later to make indiscriminate warfare on any Territory of these United States on account of any opinion of theirs, religious or otherwise?" When he began to tell the story of a school for young colored girls in Connecticut that was burned down by a mob, George Frisbie Hoar of Massachusetts bellowed "How was it in Georgia?" (*Congressional Record*, Vol. 11, pp. 1202-1205)

George Vest of Missouri spoke on both days. On February 16<sup>th</sup>, he delivered a tirade on the bill of attainder theme that is noteworthy because it employs a trope very familiar to twentieth and twenty-first century liberals: the idea that in the course of fighting our enemies, we risk becoming worse than our enemies.

Gentlemen proclaim, and justly proclaim, that the hierarchy which, within the dark chamber inaugurated by Brigham Young and Joe Smith, carry out their ecclesiastical theory to the destruction of both body and soul is monstrous, and so it is; but here we propose to inaugurate another star-chamber of five men, responsible to nobody, governed alone by their own prejudices, or passions, or feelings, or opinions; who can say who shall be elected; who can say who shall vote, and who can pass upon all the laws; who can say to the people of the United States 'we order this thing.' Never in the days of the inquisition was there any more questionable mode of punishment. (*Congressional Record*, Vol. 11, p. 1201)

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they came for the Jews, and I didn't speak up, because I wasn't a Jew. / Then they came for the Catholics, and I didn't speak up, because I was a Protestant. / Then they came for me, and by that time there was no one left to speak up for me." For variants, see [http://en.wikipedia.org/wiki/First\\_they\\_came...](http://en.wikipedia.org/wiki/First_they_came...)

The previous day, Vest had examined the specific constitutional issues involved in this kind of measure. He declared it *a priori* unconstitutional, because “under the Constitution I say that no man can be deprived of the right to vote or to hold office except after conviction.” The Edmunds bill had been framed largely as a means of reforming a territory, but Vest argued that the bill was not the way to do it because it entailed taking away inalienable individual rights: “If Utah were applying for admission into the Union then we could say to her, ‘Accept certain conditions;’ and if they were within the limitations of the Constitution those conditions of course must be accepted or rejected. But here these rights have been conferred; they are already given.” (*Congressional Record*, Vol. 11, p. 1157)

Florida’s Wilkinson Call, speaking on the 15<sup>th</sup>, made the case in terms most similar to the traditional Southern concern with “states’ rights.” States’ rights were not the issue here, as Utah was not a state, and the repressive measures of the Edmunds legislation were unlikely to be directly replicated in any Southern state. Nonetheless, a broader principle of democratic self-determination was at stake. “It seems to me,” argued Call, “that if there is anything in the institutions of this country and in the idea of self-government, that is a proposition (the Edmunds electoral commission) which destroys the whole of it. . . . For myself, sir, I can never vote for a provision which contains a power of this discretion in defiance of the popular will, based entirely upon five persons selected by the executive power of the country.” Call made the familiar declaration that he would personally like to see polygamy stamped out, but that only the judiciary—not a committee appointed by the executive—was fit to enforce any prescriptions for electoral disqualification. To put this power in the hands of the executive took it away from the realm of justice and into that of politics: “It is a subterfuge of creating an assembly which has been done before and elsewhere—creating an assembly of a particular kind by these five persons to really say who shall be the legislature, or allowing them to pass upon this subject.” (*Congressional Record*, Vol. 11, p. 1156)



What insights can we glean from all this speechmaking? The first major point is that the overall outcome of the Edmunds Act was not an inevitable product of nineteenth-century illiberalism. The fact that Southern Democrats saw fit to use pleas for tolerance and civil liberties as tools of persuasion shows that they carried substantial rhetorical power and were familiar to nineteenth-century audiences. Appealing to liberal tolerance was clearly an important strategy. Whether they were sincere in their pleas is less important than that they show the language of liberalism and due process was valuable currency in the 1882 Congress. We can look at this in the terms proposed by Schattschneider (1960): the Southern Democrats were trying to “expand the scope” of political conflict by showing that more was at stake than the individual fates of a few polygamists. If an executive-appointed committee could disfranchise voters, then the United States was abandoning much of the protection it had traditionally provided for dissident minorities and for individuals generally. Thus congressmen should not complacently approve the Edmunds measures as a matter of course, thinking they would not affect them personally.

The question then becomes, why did these liberal appeals fail? They failed to convince any Republicans, a majority of Democrats, and even many Southern Democrats. We may be able to explain away the Republicans by the fact they were obviously voting on strict party lines, but we still need to explain why many Democrats were not swayed. We may get some guidance on this question by looking to debates a few years earlier on the assimilation of Catholic migrants. While the driving force of anti-Catholic politics in America was usually the Republican Party (which had absorbed much of the now defunct Know-Nothing party), Democrats often also acquiesced to anti-popery, despite the fact their party was the natural political home of Catholic immigrants. The Blaine Amendment, for example, which would have made it nationally illegal to provide government funds for Catholic schools, while retaining funding for Protestant “common schools,” passed the house in 1876 with only seven opposing Democratic votes. Hamburger (2002) argues that this nineteenth-

century anti-Catholicism was no violation of the American liberal tradition; in fact, the perpetrators of it *saw themselves as liberals*, and frequently described themselves as such. Anti-Catholicism was part of the nineteenth-century liberal Protestant consensus that had adherents on both political sides, and anti-Catholic citizens, politicians and clergy believed that breaking down the internal authoritarianism of the Catholic church was an eminently liberal cause.

It is easy to extend this logic to anti-Mormonism. The perceived authoritarianism of the Mormon Church and family structure was a popular target for crusading liberals, and particularly for early feminists. Gordon (1996) notes that late nineteenth-century feminists opposed woman suffrage in Utah because Mormon women were not ready to participate in consensual government; they voted according to the wishes of their husbands, and thus reinforced their subordinate position in family, sexual and childbearing relations. One feminist anti-Mormon publication declared explicitly that Mormon women in Utah needed to be liberated by outside intervention, because they were themselves incapable of doing anything about their servitude:

The saying “who would be free themselves must strike the first blow,” is undoubtedly true in the majority of cases, yet the questions seem pertinent are all those in bondage so circumstanced that they can or will “strike the blow,” and if freedom is not to be theirs, except through their own courage and resistance must they forever remain in fetters? Had the abolition of slavery in the South depended entirely on the slaves striking for freedom, they would have remained in bondage until this day. (*The Anti-Polygamy Standard* (Salt Lake City), Vol. 1 No. 1)

Nineteenth-century liberalism, then, had a decidedly authoritarian tone in America. It was about creating a liberal culture, by force if necessary. Before personal autonomy could be respected, individuals had to be liberated from oppressive influences. This may be why the appeals of the Southern Democrats failed to persuade other Democrats, including some Southern Democrats. They were trumped by the rhetoric of the anti-Mormons, which was made in more muscular liberal terms.

Edmunds, for example, argued that his bill would empower those Mormons who did not support polygamy, whom he had frequently insisted were actually the majority: “Now if there be in this Mormon Church a body of people, as we believe there are, who have no more faith in this idea of polygamy than any Senator who hears me has, as a fact, and who wish to discourage it and who wish to emancipate themselves from the tyranny of this hierarchy that now has its foot on their necks, there will be a cause for them to assert themselves.” He scorned those who claimed that they wanted to see polygamy abolished, but opposed his measures:

No man, North or South, who believes in the Christian religion, who believes in a republican government, can maintain or has maintained in this body that this institution of polygamy is one that can exist consistently with our universal idea of the theory of a republican government. Nobody has pretended such a thing. Then may I not assume that we wish to get rid of it? Everybody says do. How are you going to do it? You say you do not like what we have proposed. Will you propose something else? Oh, no. It is always some other day, some other measure that is not now defined, that is not now brought forward. It is some other day, some other time, some other measure, than the one that is proposed. (*Congressional Record*, Vol. 11, p. 1212-13)

If appeals to crusading Protestant liberalism were inherently more appealing to nineteenth century American politicians than appeals to constitutionalism and due process, this still does not explain why a majority of Southern Democrats were swayed by the latter rather than the former. To explain this, we must turn to quantitative analysis of the vote itself.

## **Hypotheses**

### *Hypothesis 1: statehood politics, sectionalism, and party competition*

As noted earlier, every Congressional Democrat should have had a good reason to vote against Edmunds: if the Mormon population of Utah were disfranchised by the returning board, then the heavily-Democratic territory would turn Republican. Stewart and Weingast (1992) extensively document the role of statehood admission politics in the nineteenth-century Congress. They argue that Republican dominance in Congress, which was vital to the continuation of such

policies as the tariff, was maintained by Republican maneuvers around the admission on new states. Republicans, for example took advantage of their overwhelming Civil War majority to admit heavily-Republican Nevada in 1862, long before its admission could have been justified on the grounds of population. In 1889, Democrats tried to redress the imbalance with the Omnibus Statehood Admission Bill, which in its original form would have admitted two Democratic and two Republican states. However, Republicans managed to get heavily-Democratic (and Catholic) New Mexico excluded from the final act with the help of twenty dissenting Democratic votes. Thus, Brown's warning that the returning board was a vehicle "for making a Republican state out of a Democratic territory" was entirely plausible in the case of Utah.

Stewart and Weingast's analysis does not directly explain variance in Democratic voting on statehood matters, but extending their analysis is simple enough. If the goal of Congressional Republican office-holding was to facilitate the enactment and maintenance of particular policies then Democrats who were hurt more by these policies should have been more likely to vote against any legislation that established or increased Republican dominance. As Bense (1984) shows, Republican economic policies during this period redistributed from South to North. A high tariff barrier protected Northern manufacturing centers at the expense of the cash-crop South, and some rents from the tariff were redistributed to Union Civil War veterans in the form of a pension. Thus, we might expect that Southern Democrats would generally be more hawkish on statehood matters than their Northern counterparts, many of whom were sectionally aligned with manufacturing and may have actually benefited from Republican policies. On the other hand, Northern Democrats, while no more anti-Mormon than their Southern counterparts, would have felt less economically threatened by Republican hegemony in Congress, and thus more free to vote on their anti-Mormon ideational tendencies.

To test this explanation, we need a measure of economic interest that is not reducible to regional effects. In this paper, I use a logged measure of congressional district-level manufacturing value-added. I obtained the raw measure from Parsons *et al* (1986), *United States Congressional Districts and Data 1843-1883*. The most important caveat about this data is that it does not disaggregate manufacturing activity in urban districts; therefore I assign to urban districts an average measure obtained by dividing total city value-added by its number of districts. I do not believe this will affect the substance of the analysis. One further problem is that, due to coding error, Colorado's manufacturing score is excluded and thus Colorado's representative James Bedford Burns is excluded. As he was a Republican who voted in favor of Edmunds, his vote has extremely low analytical leverage and the analysis will not suffer by his absence.

*Hypothesis 2: disfranchisement and the legacy of Reconstruction*

Scholars who have examined the Edmunds vote previously have tended to emphasize the pain and humiliation of the Reconstruction-era returning boards, and infer that white Southerners empathized with the Mormons who were about to be subject to the same "tyranny." (Buice 1977, Driggs 1988).<sup>68</sup> This is certainly one of the things Brown's speech implies. We can imagine a psychological mechanism by which the victims of a certain technique of repression would be so averse to it that they would oppose the use of it even for individuals and groups they hated.<sup>69</sup> If this explanation is correct, then we should expect to see that Congressmen who had closer ties to the Confederacy would be more likely to vote against the Edmunds Act. Congressmen who had served in Confederate armies or governments would be more likely to have personally experienced

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<sup>68</sup> One of the things that makes this explanation important is the fact that Mormon scholars themselves favor it.

<sup>69</sup> Consider the commonplace phrase "I wouldn't wish that on my worst enemy." A concrete example is Sen. John McCain's opposition to the use of torture by American interrogators and their surrogates.

disfranchisement, and also would be more likely to identify with the plight of the South. To obtain a binary measure of whether the congressman served in the Confederate Army or in any Confederate government I searched every congressman's biography using the government's online Biographical Dictionary of the United States Congress, 1774-present.<sup>70</sup>

*Hypothesis 3: election boards and racial threat*

White Southern Democratic Congressmen had good reason to fear any extension of federal authority in state and local elections. Southern Democrats were committed to white supremacy in their states, and were building institutions (such as the White Primary and literacy tests for voting) that would prevent most of the Southern black population from voting until the mid-twentieth century. (Mickey 2009) Edmunds, by allowing federal authorities to decide who could or could not vote, threatened to re-establish a norm of federal intervention which had already been used during Reconstruction to increase black representation at the expense of white Southern Democrats. If this concern was influencing Southern congressmen, then we should expect to see significantly more negative votes from congressmen in districts with higher black populations. While Democratic congressmen right across the South might have had strong feelings against federal intervention regardless of their own district's racial make-up, there is good reason to believe that office-seeking politicians would have been particularly wary of electoral reforms that would threaten their own seats. This hypothesis also conforms to the expectations of Key (1949) that whites in areas with higher black populations are more likely to vote to maintain white supremacy.

In this paper I use a logged measure of the black population percentage of congressional districts to assess racial threat. The raw data was also obtained from *United States Congressional Districts and Data*, and it contains the same caveats as the manufacturing value-added data.

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<sup>70</sup> <http://bioguide.congress.gov/biosearch/biosearch.asp>

*Hypothesis 4: high marginal product of women*

In the only previous systematic quantitative analysis of the Edmunds vote, Anderson and Tollison (1998) argue that the most important variable driving the voting pattern was whether Congressmen came from states where women possessed a relatively high marginal economic product, as measured by the ratio of female to male manufacturing workers in the state. The political-economic logic is as follows. Polygamy is more attractive to women with a high marginal product, given the greater bargaining power they would enjoy in a polygamous marriage (as argued by Becker, 1981). Polygamy is bad for men with a low marginal product, who tend to lose out in the marriage market as a result. The anti-polygamy movement in Congress reflected male concerns (as only men could vote at the time) among which was the supply of marriageable women. States with a higher ratio of women in manufacturing employment were those in which women generally had the highest marginal product, and so where men had the most reason to be concerned about “leakage” in the marriage market as women left for polygamous communities in Utah or elsewhere (including in-state). Therefore, congressmen from these states should have had the greatest incentive to vote in favor of the Edmunds Bill.

To measure this effect, Anderson and Tollison construct a ratio (FMRATIO) of average number of women employed in manufacturing to average number of men employed in manufacturing in a congressman’s state. In earlier quantitative analyses of the vote, this variable proved to be significant and amazingly robust. However, it became apparent to me that FMRATIO is a proxy for industrialization in general. FMRATIO correlates with a state-level measure of manufacturing value-added at a very high level of 0.82. Given this high degree of collinearity, it seems prudent to drop FMRATIO from the analysis altogether. I am comfortable dismissing Anderson and Tollison’s hypothesis as implausible, as the cognitive demands it places on actors are

too high. It requires women with high marginal product to be aware of the benefits of polygamy, and congressmen to be aware of the relative threat this poses to their state's marriage market according to female/male manufacturing ratios.<sup>71</sup> Furthermore, as Carrie Miles has pointed out, urban women who worked in nineteenth-century manufacturing enterprises were more likely to be poor than urban women who did not, which casts doubt on FMRATIO's usefulness as a proxy for high female marginal product.<sup>72</sup>

## Results

I tested the first three hypotheses using logistic regressions in which the congressman's vote on the Edmunds Act was the binary dependent variable ("yea" = 1, "nea" = 0, non-voters are omitted). I have run three models here; the first encompasses the whole sample of voting congressmen, the second is all voting Democrats, and the third is all voting Southern Democrats, including the Border South (Congressmen from Kentucky, Maryland and Missouri). I decided to include the latter with the South because they too were subject to some Reconstruction measures, and because previous scholarship on this subject has lumped them together. (Buice 1988) I have included the first model, although no Republicans voted against the measure, to avoid truncating the sample; it is entirely possible that all Republicans voted sincerely and not out of a sense of party loyalty, in which case we must include them or our estimates for the Democrats could have problems. The results are as follows:

[Table 3.2 about here, see appendix]

The first thing to note here is that only the manufacturing variable retains any significance across all three models. It is positively related to a "yes" on the Edmunds vote in all three samples,

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<sup>71</sup> Bill Clark suggested to me that all congressmen really needed was an intuitive understanding of the mechanics of exit and voice, and to understand that women in manufacturing jobs enjoyed relatively good bargaining positions within marriages. This does seem much more plausible.

<sup>72</sup> Personal correspondence at SSSR Conference, Louisville, KY, October 15 2008.



suggesting that congressmen from districts with higher levels of manufacturing were more likely to vote in favor of Edmunds. In the Democratic-only and Southern Democratic-only samples, its  $p$ -values are 0.059 and 0.062 respectively—meaning the variable does not quite reach the canonical 0.05 level of significance, but nonetheless allowing for substantial confidence in these results. Thus it appears that the logistic regression provides support for hypothesis 1, with level of manufacturing explaining intra-Democratic and intra-Southern variance on the Edmunds vote.

The other two variables are insignificant in the Democratic and Southern Democratic models, meaning they cannot explain any part of intra-party or intra-regional variance. The black population variable is highly significant in the overall sample, reflecting the joint fact that the overwhelming majority of black Americans lived in Southern Democratic congressional districts, and the overwhelming majority of “no” votes against Edmunds came from Southern Democrats. Without significant results in the other two models, however, there is no evidence that the black population measure has any explanatory power over *why* these congressmen voted as they did. This perhaps suggests that Southern congressmen believed the Edmunds provisions contained could only be applied to territories such as Utah. Post-reconstruction and redemption, the federal government could not impose similar measures on Southern states.

The Confederate disfranchisement variable is not significant at any level. This suggests, unfortunately, that the victims of repressive measures are not deterred from using the same measures against others. Despite the impassioned personal speeches on the senate floor, formerly-disfranchised Southern Congressmen were no less adverse to mass disfranchisement than anyone else, once we control for more strategic material variables. Overall, then, only the first hypothesis seems capable of explaining the “Southern” character of the “no” vote, and why some Democratic congressmen voted against the long-term strategic interests of their party while others voted against the overwhelming national mood of anti-Mormonism.

Table 3.3, representing the substantive effects of each independent variable, provides further confirming evidence for this picture. Over the whole sample, the difference in probability of voting yes on Edmunds between Congressmen from the least and most industrialized districts is about .27, while the difference in probability between Congressmen from the districts with the lowest and highest black populations is about -.61. However, the magnitudes of these effects change in opposite directions when we examine more specific sub-samples; the difference in probability between the least and most industrialized jumps to .53 within the Democratic sample and .62 within the Southern Democratic sample, while the difference between the least and most black districts declines slightly to -.54 within the Democratic sample and then sharply to -.08 within the Southern Democratic sample. The difference between having not served and having served in the Confederate army is very small (as well as insignificant) across all three samples.

[Table 3.3 about here, see appendix]

In summary, the very Southern and Democratic profile of the Congressional “no” vote on the Edmunds Act cannot simply be explained by “Southern-ness” or “Democratic-ness” due to substantial variance within these groups. It may be explained by other variables that correlated with Southern and Democratic identity—agrarian economic interests, racial composition of congressional districts or the presence of men who had experienced disfranchisement as the result of serving in the Confederate army. A careful examination of intra-Democratic and intra-Southern variance, along with variance in the whole House, reveals that long-term strategic considerations based on economic interests are what seem to be driving the Southern and Democratic composition of the “no” vote.

### **Replication and further discussion**

If, as this finding suggests, sectional economic competition was driving the Edmunds vote, then we should expect to see this pattern replicated in other votes around statehood and religion.

The 1889 Omnibus Statehood bill, in which New Mexico was excluded from joining the Union, provides a useful test. The final vote was mainly split along party lines, but twenty Democrats voted with the Republicans to keep out New Mexico, with its largely Spanish-speaking, Catholic population and Democratic-voting. Stewart and Weingast note that New Mexico's Catholicism was a major issue at a time when Congress was attempting to ban federal funding to Catholic schools; New Mexico had no secular public schools at the time, and all common schooling was provided by the Catholic Church. Weingast and Stewart admit that the twenty Democratic defections are a "mystery" requiring further investigation, but we can imagine once again that those Democrats who had relatively little to lose from continuing Republican dominance might have felt freer to indulge their anti-Catholic sentiments in the Omnibus Statehood vote. On the other hand, as Stewart and Weingast conjecture, the twenty defecting Democrats may have been more anti-Catholic, or attempting to prove their anti-Catholic credentials.

To test these two hypotheses, I construct measures of (a) logged manufacturing value, and (b) logged Catholic population. I assume once again that higher logged manufacturing will make congressmen more favorable to Republican economic policy, and thus more likely to vote in favor of the statehood bill. I assume that a higher Catholic population would make a Democratic congressman *less* likely to vote for a bill with anti-Catholic ramifications, as Catholic voters became important constituencies for the Democratic Party from the 1850s onwards. Unfortunately, I have been unable to locate relevant congressional district-level data for 1889; as there was substantial redistricting after 1883 we cannot simply reuse the earlier data. For this replication, then, we will have to make do with state-level data, which is inferior because it essentially assigns each congressman the state average of these measures, which should result in much larger standard errors around any effect. Once more, I am running a logistic regression on three samples: all voting congressmen, Democrats and Southern Democrats. The binary dependent variable is the

congressman's vote on Omnibus Statehood admission (“yea” = 1, “nay” = 0, non-voters omitted).

The results are as follows:

[Table 3.4 about here, see appendix]

These results support the primacy of sectional economic competition. The logged measure of state Catholic population is not significant in any model, suggesting that the “ethnocultural” concerns of their constituents were relatively unimportant to congressmen even when deciding on an issue that had important ethnocultural implications.<sup>73</sup> The logged manufacturing variable is positively related to a positive vote for the Omnibus Statehood Bill, as my first hypothesis predicts, and is highly significant for the whole house (which partly reflects the fact that more Republicans represented more manufacturing districts). For the Democratic sample, the *p*-value of the manufacturing variable is 0.093, which again does not meet the canonical standard of 0.05, but nonetheless provides a certain acceptable level of confidence in the result. This variable is not significant for the Southern-only sample. Substantively, the difference in probability of voting to exclude New Mexico between congressmen from the least and most industrialized districts was around .8 in the whole House sample and .33 in the Democratic sample. This suggests that sectional competition may have been less important in explaining intra-Democratic variance in the New Mexico vote than in the Edmunds vote, but it still had significant and substantial marginal importance in a very close vote.

[Table 3.5 about here, see appendix]

## Conclusion

Perhaps the most important finding of this paper is that while the basis of religious *intolerance* in 1882 was ideological, reflecting the national rise of crusading Protestant liberalism, the basis of

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<sup>73</sup> See Swierenga, 1971, for a survey of literature than emphasizes the importance of ethnocultural issues such as prohibition in nineteenth-century American voting.

religious *tolerance* was material, reflecting the agrarian economic interests of Southern Democrats. Southern Democrats seem to have voted against the bill because the economic interests with whom they most strongly identified had the most to lose from Republican domination of the Congress that could eventuate if Utah became a state with no Mormon voters. Ideational factors such as the trauma of Reconstruction seemed to have little to do with the final vote, though the liberal rhetoric of the floor debates show that they understood the importance of making the argument in ideational terms. This has bleak but important implications for minorities in general. Madison argued this:

Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects.

Occasionally a repressive movement arises which enjoys a near-consensus; anti-Mormonism in the 1880s was one such movement. Anti-Mormonism could become “an interested combination of the majority” because, like anti-Catholicism and anti-Chinese sentiment, it cut across party lines. An 1870 floor speech by Benjamin Butler, arguing for proposed legislation which would prevent Mormons from serving on juries,<sup>74</sup> provides a stark counterpoint to Madison’s vision:

The feeling of all our people demands this question be settled. I think the sentiments of the people are more enlisted in favor of this measure than of any other that is before the house. Upon this I think there is no party division. There is no division of sentiment among good men on the subject. Upon funding bills, tariff bills and tax bills we disagree and divide into parties and sections of parties. But that something should be done here, I think there is no division of sentiment.

Precisely because polygamy was in some ways such a trivial issue—it affected no-one but a small, isolated sect of polygamists—the liberal Protestant crusaders were free to pursue their campaign against Mormons without much fear of treading on anyone else’s interests, religious, economic or

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<sup>74</sup> This legislation, the Cullom Bill, passed the House but died in committee, as did several other pieces of anti-Mormon legislation in the 1870s. Butler’s speech reflects the frustration of the vocal anti-Mormons in the House at their failure to enact seemingly popular legislation.

otherwise. The only thing that tied Southern Democratic interests to the Mormons was the issue of electoral apportionment, which exposed a sectional cleavage that ran deeper than party competition. Were it not for the fact that the anti-polygamy campaign had the potential to further entrench Republican and industrial interests at the expense of Democrats and especially agrarians, Southern Democrats conceivably would have been as anti-Mormon as anyone else.

This suggests that it is over the most seemingly trivial, purely symbolic issues—such as marriage rites or flag salutes—that the most serious religious or political persecution is likely to occur in democracies, because it is on these issues that would-be persecutors are most likely to enjoy an ideological consensus without the interference of opposition based on material interests.

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Appendix: Tables

Table 3.1: Edmunds bill, final house vote									
Party	Northern states			Southern states			Totals		
	Yea	Nay	Abs.	Yea	Nay	Abs.	Yea	Nay	Abs.
Republican	120	0	17	7	0	3	124	0	20
Democrat	38	6	6	28	36	22	66	43	28
Other	5	0	0	4	1	1	9	0	1
<b>Totals</b>	163	6	23	39	37	26	202	43	49

Table 3.2: Logit analysis of final house vote on Edmunds bill; binary dependent variable is “yea” vote			
	Whole house	Democrats	Southern Democrats
Constant	-1.764 (2.262)	-3.305 (2.751)	.447 (6.325)
Logged district manufacturing	.532 (.245)**	.552 (.292)*	.632 (.338)*
Logged district black population	-.585 (.167)***	-.471 (.205)**	-.097 (.362)
Served in Confederate army / government	-.600 (.544)	.405 (.629)	.571 (.670)
Pseudo-R <sup>2</sup>	0.338	0.178	0.050
N	238	108	64

\*Significant at  $p < 0.1$ ; \*\*Significant at  $p < 0.05$ ; \*\*\*Significant at  $p < 0.01$

<b>Table 3.3: Change in probability of voting “yea” on Edmunds from minimum to maximum values of independent variables</b>			
	<b>Whole house</b>	<b>Democrats</b>	<b>Southern Democrats</b>
Logged district manufacturing	.265	.535	.632
Logged district black population	-.606	-.514	-.096
Served in Confederate army / government	-.056	.090	.138

<b>Table 3.4: Logit analysis of final house vote on 1889 Omnibus Statehood bill; binary dependent variable is “yea” vote</b>			
	<b>Whole house</b>	<b>Democrats</b>	<b>Southern Democrats</b>
Constant	-2.315 (1.214)*	-3.335 (2.465)	-6.373 (5.724)
Logged manufacturing value (state)	1.310 (.314)***	.999 (.594)*	-.575 (2.341)
Logged Catholic population (state)	.151 (.207)	.298 (.458)	-.746 (.809)
Pseudo-R <sup>2</sup>	0.234	0.180	0.107
N	250	116	73

\*Significant at  $p < 0.1$ ; \*\*Significant at  $p < 0.05$ ; \*\*\*Significant at  $p < 0.01$

<b>Table 3.5: Change in probability of voting “yea” on Omnibus Statehood Bill from minimum to maximum of independent variables</b>			
	<b>Whole house</b>	<b>Democrats</b>	<b>Southern Democrats</b>
Logged manufacturing value (state)	.799	.332	-.019
Logged Catholic population (state)	.191	.118	-.075

# **Chapter 4:**

## **Violent Civil Society:**

### **The American Legion, The State, and the Persecution of Jehovah's Witnesses**

#### **Introduction**

Between 1940 and 1942 there were many hundreds of violent attacks on Jehovah's Witnesses in the United States, with estimates of the exact number ranging between 800 and 2500. These attacks nearly always took place in public spaces, and frequently with the acquiescence of local law enforcement officials. In the words of prominent Witness attorney Marley Cole, "In 44 states they were beaten, kidnapped, tarred and feathered, forced to drink castor oil, tied together and chased through the streets, maimed, shot, and otherwise consigned to mayhem."<sup>75</sup> In hundreds of other instances Jehovah's were subject to threats, intimidation, arbitrary arrest and detention. This violence and harassment, while it resulted in no recorded deaths, was nonetheless an extraordinary episode in American history. It is one of very few times when Americans have been persecuted in the course of fulfilling a religious duty, in this case proselytism. How was this allowed to happen given the strength of legal and social norms around religious freedom in the United States?

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<sup>75</sup> Cole, Marley, "Jehovah's Witnesses." *The Crisis*, April 1953.

Previous scholarship on the persecution of Jehovah's Witnesses has emphasized the Witnesses' refusal to salute the American flag. Since 1935 when Carlton Nicholls Jr. refused on religious grounds to stand during the flag ritual at a school assembly in Massachusetts, hundreds of Witness schoolchildren had been expelled from American elementary and secondary schools for failing to salute the flag. Large-scale violence against Jehovah's Witnesses began shortly after the Supreme Court's *Minersville School District v. Gobitis* case, when the majority ruled that school districts were within their rights to expel children for refusing to salute. Coupled with a series of alarming German victories in the European war, this prompted spasms of patriotic violence against Jehovah's Witnesses, who were widely accused of being "Fifth Columnists."

In this paper I accept the importance of the flag salute as the symbol that incited violence against Jehovah's Witnesses, but strongly disagree with the mechanism by which it did so. The cause of anti-Witness violence was not any change in the public mood caused by war developments or signals from the government—if that had been the case then many other groups would have been targeted for similar treatment. To understand the campaign of violence, intimidation and harassment we must instead look at the strategic imperatives of those who organize it. I argue in this paper that the role of the American Legion in causing Witness violence has previously been underestimated, and that various puzzling patterns in the violence—why no other groups were targeted, why it effectively ended after American entry into the war, and why it was never lethal—can be explained as rational outcomes of the Legion's aims as a vigilante organization.

Anti-Witness violence was an exercise that enhanced and maintained the social status of American Legionnaires. For reasons I will explore, the flag salute was a particularly important piece of symbolic capital to the Legion, and local Command Posts felt obliged to defend it from "intrusions" by Jehovah's Witnesses. Furthermore Anti-Witness violence, unlike other political vigilante behavior, attracted little attention outside of the locales where it took place, so Legionnaires

could practice it—as long as they did not kill anyone—without fear of outside interference or damaging publicity. I argue that this better explains patterns of anti-Witness violence than existing narratives stressing wartime panics and patriotism, and I examine some hypotheses arising from my theory using an original dataset derived from several hundred sworn affidavits by Jehovah’s Witnesses residing in ACLU archives.

This paper proceeds in four parts. In Part 1 I explore existing causal narratives and the theoretical frameworks to which they conform. In Part 2 I show what these causal narratives fail to explain. In Part 3 I outline my theory of the American Legion as a status-seeking vigilante organization. In part 4 I test this theory using quantitative and qualitative data.

### **Part 1: Existing causal explanations and covering theoretical perspectives**

The 1941 ACLU pamphlet *The Persecution of Jehovah’s Witnesses* offers the following explanation for the persecution of Jehovah’s Witnesses, a “record of violence against a religious organization unparalleled in America since the attacks on the Mormons”:

The cause of this extraordinary outbreak was the “patriotic” fear aroused by the success of the Nazi armies in Europe and the panic which seized the country at the imagined invasion of the United States. From California to Maine this emotion expressed itself in searching out “Fifth Columnists” and “Trojan Horses”—phrases which sprang into almost immediate popularity to characterize those thought to be opposed to national defense.

Jehovah’s Witnesses were the object of immediate and widespread attack, chiefly because of their position on flag saluting, well advertised by their widespread distribution of the May 29, 1940 issue of *Consolation* giving the details of the hearing before the U.S. Supreme Court of the Gobitis flag salute case. Following the decision of June 3, 1940, in which school boards were upheld in their right to expel children of this sect who refused to salute the flag, this propaganda was taken by some as seditious. (American Civil Liberties Union 1941, p. 3)

Subsequent literature on anti-Witness violence in the 1940s has affirmed the main elements of this original ACLU explanation, namely (1) the role of war hysteria; (2) the role of the *Gobitis* decision; (3) the role of Jehovah's Witness publications.

### The role of war hysteria

According to existing explanations, anti-Witness violence was motivated by a widespread fear of espionage and subversion that had reached hysterical levels by June 1940. According to Manwaring "public apprehension was growing steadily with the German march through the lowlands, the evacuation of Dunkirk, and the invasion of Norway, closely followed by the shocking collapse of France in early June." (1960. P. 164) The term "Fifth column" became shorthand for the supposed existence of Nazi and Fascist agents within the United States who were preparing the ground for an Axis invasion,<sup>76</sup> and various antagonists frequently applied the term to Jehovah's Witnesses. Peters (2000) in particular emphasizes the role that the Fifth Column scare had in the early violence, noting that "In Texas, Witnesses were generally considered to be Fifth Columnists," and that inhabitants of Kennebunk, Maine developed elaborate fantasies about Witnesses plotting an invasion of the north-east before they burned their Kingdom Hall down. (pp. 73-4, see more generally chapters 3 and 4) References to "Fifth columns" and to Nazi spy panics pervade documents from the period. A widely-cited article in *The Nation* from August 1940 described how police had run Witnesses out of Del Rio, Texas in May accusing of them of being Nazi agents

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<sup>76</sup> The term arose from the Siege of Madrid during the Spanish Civil War. When asked which of his four besieging columns would take Madrid, Nationalist general Emilio Mola Vidal replied that a "fifth column" of Nationalist supporters within the city would seize it in an uprising. Harrison (2008) notes that this statement reflected propaganda aims rather than reality but that it was very effective propaganda, greatly influencing Stalin's ideas about the prevalence of internal enemies and helping to trigger the Soviet Great Terror of 1937-8. (p. 9) The term was popularized in the United States by Ernest Hemingway's play *The Fifth Column* (written in Madrid during the siege and published in 1938).

because of the swastikas on their literature, when in reality they were carrying anti-fascist pamphlets depicting a swastika adorning a ball and chain. (Southworth 1940)

### The role of the *Gobitis* case

In existing explanations the Supreme Court's *Gobitis* decision, upholding the right of school boards to expel children for refusing to salute the flag, played a major role in the outbreak of violence in June 1940. The two main books dealing with the causes of the persecution of Jehovah's Witnesses both embed the 1940s violence in larger narratives about the dozens of court cases between 1935 and 1943 in which Jehovah's Witnesses fought for their legal rights to refuse to salute the flag. In Peters' (2000) account, Felix Frankfurter's majority opinion in *Gobitis* was heavily influenced by his personal reaction to the Nazi capture of France and the decision, as the ACLU suggested, established a connection in public discourse between refusing to salute the flag and sedition. (See chapters 2 and 3)

For example, In a story for *Survey Graphic* Beulah Amidon described a July scene in an unnamed Deep South village where a sheriff passively observed a jeering mob running a small group of disheveled men and women out of town under a hail of brick fragments and other missiles. When Amidon asked the sheriff what this was all about, he replied "Jehovah's Witnesses, they're running 'em out of here. They're traitors—the Supreme Court says so, ain't you heard?"<sup>77</sup> Although this was an obvious misinterpretation of what was actually said in *Gobitis*, parts of Frankfurter's opinion (e.g. "National unity is the basis of national security")<sup>78</sup> were open to the interpretation that the refusal to salute the flag was a dangerous act of disloyalty. H. Rutledge Southworth in *The Nation* argued that the decision, "coming at the height of the fifth-column scare, made the Witnesses obvious targets

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<sup>77</sup> This story, preserved by the ACLU in the Religious Freedom section of its archive, is a major and striking piece of evidence in Peters' account of the effect of *Gobitis* on the public.

<sup>78</sup> *Minersville School District v. Gobitis*, 310 U.S. 597 (1940).



for persecution.” While Manwaring (1960) cautions against blaming *Gobitis* entirely for the ensuing violence (noting that it actually began in May, several weeks before the decision), he says the persecution “probably was more widespread and vigorous because of the Supreme Court’s apparent indorsement,” and that the outburst following the conclusion of the case was “impressive.” (p. 161)

### The role of Jehovah’s Witness writings about the flag salute

Jehovah’s Witnesses’ own writing about the flag salute issue helped inform the public of their stance and further antagonized the situation. In October 1935 Judge Rutherford’s lecture “Saluting the Flag” had been reprinted in the Watch Tower Society pamphlet *Loyalty*, which had been distributed in the millions and had articulated what became the official Witness position on flag saluting.<sup>79</sup> However, the more inflammatory publication was the May 29, 1940 issue of *Consolation*, devoted entirely to the Witness view of the unfolding *Gobitis* case. According to the ACLU it was this publication that “advertised” the Witnesses’ refusal to salute, and Manwaring shows that its appearance coincided exactly with a marked increase in the severity of assaults against Witnesses. (p. 164) More generally, Manwaring emphasizes that Witness tactics were confrontational, that Witnesses expected to be persecuted, and that they sometimes willingly put themselves in the way of persecution. He argues that the pattern of violence against Jehovah’s Witnesses “is a reflection of both the temper of the public during that period and that of the Witnesses. . . . (Persecution) would not have been so high, had not the Witnesses leaped forward so eagerly to be persecuted.” (p. 185)

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<sup>79</sup> Manwaring (1960) points out that Rutherford wrote it only after and in response to Carleton Nicholls’s refusal to salute the flag at his school assembly in Lynn, MA in September 1935. (pp. 31-2)

### Theoretical implications of existing causal explanations

While previous scholars of anti-Witness violence have not tied their explanations to broader theoretical frameworks, their three-part causal story fits the theoretical expectations of a number of broader research agendas. First, it supports the long-standing idea that the presence of malicious rumors about a group or individual is a necessary condition for collective violence against them. Gordon Allport claimed in his 1954 study *The Nature of Prejudice* that “We may state as a dependable law that no riot or lynching ever occurs without the aid of rumor.” Subsequent work on riots, especially in the American context, has continued to assign an important causal role to rumors in episodes of collective violence (see Rosenthal 1971, Knopf 1975 and Langlois 1983 for American studies; see Brass 1997 for an Indian example). Anti-Witness violence seems to fit the pattern this literature describes, as violence was generated by rumors about Jehovah’s Witnesses being enemy agents preparing the way for an impending invasion.

Second, the dominant causal narrative fits with expectations that external threats, in particular wars, increase the likelihood that minorities will be repressed in democracies. Minorities can expect a two-pronged attack in time of war: on the one hand, feelings of political tolerance towards minorities decline among the citizenry in the face of threats such as war and terrorist attacks (Davis 2007, Berinsky 2009); on the other hand democratic checks and balances designed to restrain the tyranny of the majority are less effective at protecting minorities during wartime (Davenport 2007). In the context of Jehovah’s Witnesses in the 1940s, the willingness of members of the public to violate the rights of Jehovah’s Witnesses on suspicion that they sympathized with the (prospective) enemy is an example of the former, while the willingness of Frankfurter and the

Supreme Court to support the repressive actions of school boards because of wartime developments in Europe is an example of the latter.<sup>80</sup>

This second theoretical framework about war is obviously related to the first theoretical framework about rumor because the rumors in question were about the supposed wartime disloyalty of Jehovah's Witnesses, or at least the potential for it. Making the connection even stronger is the fact that the Federal government openly *fostered* fears of the Fifth Column. As MacDonnell's (1995) definitive account of the Fifth Column scare shows, the Roosevelt Cabinet, the House Un-American Affairs Committee and the FBI all publicly warned of the need for vigilance against a Fifth Column, as I will discuss further in the following section. In times of war and emergency, governments can and do use rumors about disliked outgroups for their own political ends.

A third important theoretical perspective covering the existing causal narrative is that for upstart sects such as Jehovah's Witnesses, tension with broader society (even to the point of persecution) serves important purposes both for recruitment and for group cohesion. Exposing oneself to persecution is the most visible of many sacrifices that sect members can make, along with observing dress and dietary restrictions and forgoing material gain for the sake of working for the religious organization. These sacrifices help to screen out uncommitted members, reducing "free rider" problems in sects that depend on high levels of collective effort, and they also signal to prospective members that the religion offers spiritual rewards for which adherents are prepared to suffer. (Iannaccone 1992, Stark and Finke 2000 Chapter 6) Under the right circumstances persecution may actually promote organizational growth—that is, if the persecution is severe enough

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<sup>80</sup> For detailed examinations of the disproportionate roles that Frankfurter's fears about national security played in his *Gobitis* decision see Danzig (1977 and 1984). Danzig's convincing interpretation forms part of the basis of Peters' explanation of the wartime fears underlying *Gobitis*.

to publicize the courage and commitment of the religious group without being so severe that it destroys it.<sup>81</sup>

From this perspective it is to be expected that Jehovah's Witnesses would seek out (or at least not avoid) confrontation and that patterns in persecution would be at least partly explained by developments in their own tactics. There was no violence directed at Jehovah's Witnesses until nearly five years after the flag salute controversy began; the probable reason that it began in 1940, along with Hitler's invasions and the *Gobitis* case, was the inauguration of a new form of proselytism that year. Under their leader Joseph Rutherford's instructions Witnesses greatly expanded their activities from the traditional practice of going door-to-door to houses on Sundays, and would now travel in groups to street corners and other public venues on weekends and some evenings to distribute literature and proselytize in public. This substantially raised the total amount of proselytism performed by Witnesses,<sup>82</sup> but more importantly it put them in a position where they now encountered potential antagonists in large numbers and in public spaces, a necessary condition for the kind of mob violence that would ensue. Street corner witnessing officially began in February but, as Manwaring plausibly argues, it probably did not begin in earnest until the warmer spring and summer months. (1960, p. 23 and 164)

If Joseph Rutherford did not intend for the aggressive new proselytism to result in violence, it seems that he did not shy away from it once it arrived. In the 1941 *Yearbook of Jehovah's Witnesses* which reported on the service year of 1940, Rutherford described the public violence that Witnesses had suffered during the previous year, explaining that the Lord had said to his faithful followers and

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<sup>81</sup> See Stark (1997) for the argument that the persecution of Christians in the Roman Empire—the magnitude of which has been widely overestimated—provided positive conditions for religious growth.

<sup>82</sup> The monthly average number of “publishers” (missionaries who fulfill a quota of hours) in the field increased from 35 466 in 1939 to 47 762 in 1940, and the total hours they spent in the field increased from about 9.1 million to 12.3 million. They distributed a combined total of around 8.2 million copies of *Watchtower* and *Consolation* magazines, up from about 6.7 million the previous year. (Watch Tower Bible and Tract Society 1941, pp. pp. 70-2).

servants that at the time of the second coming, “Ye shall be hated of all nations for my name’s sake.” (Matt. 24:9) He went on to extol the positive role that persecution played in the Witness experience:

Although daily suffering cruel persecution at the hands of religious fanatics, Jehovah’s Witnesses are not in the least bit discouraged or dismayed. On they joyfully go performing their God-given commission. They know that the persecution they suffer is indisputable proof that they are the children of God and that nothing can befall them except by the permission of almighty God and that all things shall work together for the ultimate good of them because they love God and are called according to his purpose. (Watch Tower Bible and Tract Society 1941, pp. 46-7)

Even if this did not accurately describe the subjective experiences of persecution of most Witnesses (affidavits overwhelmingly show that Witnesses petitioned local law enforcement to try to stop or prevent acts of persecution), the *Yearbook* illustrates that in Witness theology, at least, persecution was something to be expected rather than avoided. Moore (1986) argues that Rutherford in particular made central to Jehovah’s Witness identity the irreconcilable differences between themselves and all other groups, making persecution almost inevitable: “Witnesses have been persecuted; but in ways that rivaled the actions of the early Mormons, they placed themselves knowingly in the way of persecution and wound up making persecution essential to their religious identification.” (pp. 137-8)

## **Part 2: Problems with existing explanations and theories**

The causal narrative of anti-Witness violence assembled by the ACLU, Manwaring and Peters provides an internally consistent and compelling story that conforms to the expectations of several major bodies of theory about the treatment of minorities: malicious rumors are a precondition for violence, the threat of war decreases tolerance, and contentious religious sects themselves create much of the antagonism that leads to violence. Taking all of this into account, the

fact that violence began in mid-1940 seems over-determined given the coincidence of Nazi conquests in Europe and the attendant Fifth Column rumors occurring at the same time that Jehovah's Witnesses undertook an aggressive new program of proselytism that exposed their radical differences with society to arguments in public spaces.

However, the existing causal narrative fails to explain a number of important features of anti-Witness violence, and it also carries theoretical implications that are at odds with the broader picture of political repression and tolerance in the United States during the Second World War. I will show in this section that we are left with difficult puzzles about four aspects of anti-Witness violence and its relationship to the United States during World War II: (1) why Jehovah's Witnesses were the targets of mob violence and not other dissident groups; (2) why the immense and strident anti-Catholic literature of Jehovah's Witnesses provoked so little response from Catholics; (3) why violence actually died down after the United States entered the Second World War; and (4) why violence was consistently non-lethal, in contrast to the historically normal pattern of lethal punishment for suspected traitors. I discuss each of these puzzles in this section, and conclude with a brief discussion of the weakness of the implicit causal mechanism in the dominant narrative, that citizens acted on a threat they perceived. Citizens, I argue, barely perceived Jehovah's Witnesses at all.

### Target selection

While several different organs of the Federal government were responsible for propagating "Fifth Column" and "Trojan Horse" rumors, no Federal official ever accused Jehovah's Witnesses of being part of the Fifth Column. Frankfurter's opinion that religious liberty could not trump national unity only made the most oblique connection between Witness activity and sedition. Why did this capture the public imagination and fuel panicked violence, while there was no mob violence

or casual brutality by local officials against groups that the Federal government publicly denounced as seditious, such as Communists or Bundists? And if the result of a Supreme Court case could gain enough publicity to generate nationwide anti-Witness hysteria within days, why were the massive efforts of written and broadcast government propaganda against other political dissidents so ineffective at stirring up violence?

It must be noted first that no organ of the government had anything to gain from smearing Jehovah's Witnesses with the Fifth Column rumor. For the Roosevelt Administration the Fifth Column rumor was a method of attacking opponents of war on the Right who, they could insinuate, were doing Hitler's work by trying to remove the threat of American intervention. For HUAC, the Fifth Column rumor was a chance to attack the Roosevelt administration and the Communists who supposedly held many high-ranking positions in it. For the FBI, the Fifth Column rumor showed the need for massively increased funding and powers for the burgeoning security organization. (MacDonnell 1995, Chapter 4 esp. pp. 78-81, Chapters 8 and 9, for a summary see pp. 6-7)

The fact that Fifth Column vigilance apparently resulted in violence against a group that no part of the Federal government saw as a serious threat led to attempts by Administration liberals to redirect anti-Fifth Column vigor. Solicitor General and civil libertarian Francis Biddle, often at odds with other Justice Department officials obsessed with national security and enemy propaganda,<sup>83</sup> warned in a June 1940 radio address that mob outrages against Jehovah's Witnesses "who had committed no crime" would be investigated, and that "we shall not defeat the Nazi evil by emulating its methods."<sup>84</sup> Writing in her syndicated "My Day" newspaper column of June 21 1940, Eleanor Roosevelt described brutal mob violence against Witnesses in Wyoming and asked, "Are we going to be swept away from our traditional attitude toward civil liberties by hysteria about 'Fifth

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<sup>83</sup> See Gary (1999), Chapter 5 (esp. pp. 182-3) for an account of this tension.

<sup>84</sup> Reprinted in American Civil Liberties Union (1941), *The Persecution of Jehovah's Witnesses*.

Columnists,' or are we going to keep our heads and rid ourselves of 'Fifth Columnists' through the use of properly constituted government officials?"<sup>85</sup>

Both of these communiqués would have gained much wider publicity than Frankfurter's opinion in *Gobitis*, which as Manwaring notes attracted "a complete absence of comment in the general circulation magazines." (1960, p. 160) Even though the government was trying to keep the Fifth Column rumor alive (as Eleanor Roosevelt's article indicates), it did make an effort as early as June 1940 to quash the idea that Jehovah's Witnesses were part of it. In contrast, from 1939 onwards the government had produced a considerable amount of well-publicized propaganda linking various other groups directly to the Fifth Column.

In 1940 Martin Dies, the chair of the House Un-American Affairs Committee, published *The Trojan Horse in America*, a compendium of the threats posed by domestic organizations working for foreign powers. The chapter titles give a good idea of the tenor of the book: "The Whole World Becomes a Modern Troy," "Stalin Bids For American Youth," "A Trojan Horse For Negroes," "An Australian Communist Controls American Shipping," "The Communist Party is Run from Moscow," "Treason is a Communist Virtue," "Kuhn Rides a Trojan Horse for Hitler," "A Trojan Horse of German War Veterans," "Mussolini's Trojan Horse in America." The contents would have been familiar to any American who had followed the news of HUAC's hearings since 1938, which had found that hostile foreign powers (particularly the Soviet Union) had installed a network of willing and unwitting agents who were attempting, with some success, to influence government policy.

Dies was a professional anti-communist who considered far-right figures such as Gerald K. Smith reliable authorities on the subject of Communist infiltration. His inclusion of native fascist groups in hearings of HUAC reflected the publicity and credibility he stood to gain by promoting

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<sup>85</sup> Eleanor Roosevelt, "My Day." June 21 1940. United Feature Syndicate.



the “Brown Scare,” the Roosevelt Administration’s campaign from 1939 onward to smear isolationists as fascist sympathizers. (Ribuffo 1983) This campaign was extremely direct and public. In May 1940, Roosevelt called the America First Committee “unwitting agents for Hitler” in one of his radio addresses.) Fine (2007) argues that while the use of judicial or legislative sanctions against right-wingers during the “Brown Scare” was less frequent than the use of comparable sanctions against left-wingers during either “Red Scare,” the use of government propaganda and rhetoric affected many more individuals in the “Brown Scare.” (See also Fine and McDonnell 2007).

The Federal government, then, had vigorously promoted the idea that specific groups (the Communist Party, the German American Bund, the America First Committee) and even specific individuals (Harry Bridges, Gerald K. Winrod, Fritz Kuhn and many others) were ready to commit or had committed treason against the United States for the benefit of foreign powers. It had done so through very far-reaching means—tens of millions of Americans would have heard their President call America Firsters “unwitting agents of Hitler” on May 26 1940, the day that Anthony Eden ordered the evacuation of Dunkirk.<sup>86</sup>

Furthermore, these targeted groups often held rallies and other events in which they promoted their views through speeches and the distribution of literature in public spaces. However, a survey of the secondary literature on the targeted “Brown” groups reveals almost no evidence of physical attacks on members or even significant disruption of rallies after the outbreak of war. Doenecke (1990) shows that several local authorities prevented the America First Committee from holding public meetings in 1941. While he describes this development as “a particularly ugly turn” in anti-AFC hostilities, he does not mention any instance when AFC meetings that were held were

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<sup>86</sup> No precise estimate exists of how many Americans listened to the May 26 1940 radio address, but we can surmise from the ratings of other Roosevelt addresses that the number was in the tens of millions. His June 10 address was heard by an estimated 42.5 million Americans while his March 7 address had been heard by an estimated 10.3 million, the lowest recorded number of listeners for any Roosevelt address after June 1936. (Winfield 1990, p. 121)

subsequently disrupted. (p. 36, see also pp. 1-51 and Cole 1953) In contrast, Jehovah's Witnesses were regularly prevented from holding meetings or renting meeting halls *and* also suffered violent disruptions to the meetings they were able to hold legally.

The German American Bund had effectively ceased to function in late 1939 but its prewar experience is also instructive. Diamond (1974) describes the height of anti-Nazi activity in 1938 as a period of mainly low-level legal harassment of Bundists by local authorities: "To be sure, there was never any organized plot to persecute the Bundists, but there were several concerted efforts to harass the Bund, to make life uncomfortable, and, if possible, to obtain indictments under existing statutes. Frequently, Bund locals and camps had their tax records examined; their liquor licenses were suspended and in some cases revoked. Bundists were bothered by police surveillance of their meetings." (p. 307) The Bund became extremely unpopular with the American public that year. A *Time* magazine article in March 1938 declared that "If a nationwide vote were taken to discover the most despised politico-social organization currently extant, the Amerikadeutscher Volksbund would stand at least a fair chance of winning." The article also reported on how German ambassador Hans Heinrich Dieckhoff, in cooperation with the State Department, had warned German nationals in the United States not to join the Bund because of the bad publicity it was giving Nazi Germany in the still-neutral United States.<sup>87</sup> However, the most contentious incidents the article mentioned were the refusals of authorities in rural Connecticut and St Louis to allow Bundists to meet.

Canedy (1990) mentions "a series of fist fights" breaking up a Bund meeting in Buffalo and the involvement of the American Legion in "fisticuffs" at a private Bund meeting in Bergen, New Jersey (p. 150), but it is clear this violence was of a very different quality—two-sided rather than one-sided—and far smaller quantity than that which Jehovah's Witnesses would encounter two years later. For the most part Bund meetings of several hundred or even several thousand Nazi

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<sup>87</sup> "National Affairs: Bund Banned." *Time*, March 14 1938.

sympathizers went unmolested by members of the public. One occasion when Bundists did find themselves dramatically outnumbered by a crowd with potentially violent intentions was when 20000 of them exited a rally at Madison Square Garden in February 1939 and faced an “angry mob” of 100 000 demonstrators. But 2000 New York City police managed to keep the peace, and the only victim of violence was a young Jewish demonstrator who broke through the ranks of security to charge Kuhn and was badly beaten by a dozen Bundists. Police escorted him to safety. (p. 196)

Communists and other leftists seem to have faced more mob and local opposition in the period 1939-40, though still relatively little. Despite the Roosevelt Administration’s emphasis on “Brown” subversive elements, the Communists’ opposition to the war and the Nazi-Soviet pact meant the government could associate them with the German Fifth Column threat as well as the traditional “Red Scare.” The Nazi-Soviet pact, according to Morgan (2003) was a “godsend” for the Dies Committee, which had ceased to interest the public once the war began. The Committee demanded that Communists brought before it repudiate the pact, and if they refused it could present this as evidence of American Communists’ subservience to Moscow and Stalin’s geopolitical aims. (p. 205) When the war began in Europe the Roosevelt Administration abandoned its traditional skepticism of Red Scares, and Roosevelt allowed Attorney General Frank Murphy to launch wide-ranging investigations into Communist figures. Isserman (1982) observes the effect this had on the public mood: “If flaming New Deal liberals like Frank Murphy were concerned with the threat posed by the Communists, then the Republic truly had to be in grave danger.” (pp. 67-8)

According to Isserman there were mob attacks on Communist meetings in San Antonio, Detroit and Aberdeen, Washington in the fall of 1939, while violence in 1940 was concentrated in disputes over elections. “The CP hoped to get on the ballot in forty-two states,” writes Isserman, “in more than half they faced mob and vigilante violence, arrests and legislative attempts to drive them off the ballot.” (1982, p. 51 and p. 70) However, Isserman’s primary sources suggest that the main

form of repression was legislative—many states simply barred Communists from the ballot, despite their legal status as an organization—and that actual violence or use of police force was relatively rare. Violence seems to have occurred almost exclusively in Illinois,<sup>88</sup> where one mob attack resulted in cars being burned and a man losing his eye, while arrests were confined to Florida, Ohio and Arizona. (Lampell 1940)

State and non-state violence against Communists, while real, was relatively small in comparison both to violence against Jehovah's Witnesses in 1940 and also to violence against Communists and Socialists in the past. The IWW-led San Pedro waterfront strike of 1923, for example, was broken by the combined efforts of the police, who arrested over 700 strikers, and the Ku Klux Klan and American Legion, who carried out vigilante raids including assaults on women and children and the tarring and feathering of organizers. (Nelson 1990, pp. 61-2) The National Guard cooperated with vigilantes in 1934 to end the ILA-led general strike in San Francisco by destroying strikers' headquarters. (Quin 1949, p. 161)

We should not expect that all violence-causing rumors originate with governments or serve their political ends. Another question about target selection is why there was not more violence against other groups who, while not identified by the government as enemies, were nonetheless seen that way by large segments of the population. If rumor is an important causal agent in mob violence, the prevalence of anti-Jewish rumors in the United States during the Second World War makes the absence of anti-Semitic violence surprising. In September 1942 the Massachusetts Committee on Public Safety collected more than 1000 war-related rumors circulating in all parts of the country which the assistance of *Reader's Digest*, which urged its readers to send rumors they had heard to the

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<sup>88</sup> Newspaper reports emphasize a general outburst of mob violence in Illinois in June/July 1940, with targets including Jehovah's Witnesses, Communists, civil rights organizations and trade unions. The violence came to the attention of Attorney General Robert Jackson, and is the only instance I know of where mob violence against Jehovah's Witnesses was considered part of a broader wave of violence. The International Labor Defense held the American Legion responsible. ("Red Beatings Bring Protest." *New York Amsterdam News*, July 13 1940.

Committee. 9.3% of these rumors were anti-Semitic, compared to 6.9% which were about the Fifth Column. (Knapp 1944, see also Allport and Postman 1965) By this phase of the war, then, it is possible that anti-Semitic rumor-mongering had higher circulation than Fifth Column panic. There were more rumors about Jews than about any other group, including Negroes (3.1%) and Russians (0.6%). There were no rumors at all recorded about Jehovah's Witnesses.<sup>89</sup>

Historians agree that anti-Semitic public opinion peaked in the United States in the late 1930s and early 1940s. (Dinnerstein 1995, ch. 6 and 7) At this time Father Charles Coughlin, a Catholic priest and popular broadcaster from suburban Detroit, could be heard telling millions of listeners about connections between Jews, international finance, and the coming European war into which President Roosevelt (some believed his real name was "Rosenfeld") seemed intent on dragging the United States. Coughlin's weekly publication *Social Justice* extensively excerpted the *Protocols of the Elders of Zion* in 1938. Protestant anti-Semites who found Coughlin's Catholicism unpalatable had their own prophet in Gerald B. Winrod, a Kansas evangelist who alerted readers that "Modern Communism and old Jewish Illuminism are one and the same thing." (Lipset and Raab 1970, ch. 5) Charles Lindbergh told a Des Moines crowd in 1941 about the pernicious effects of Jews' "large ownership and influence in our motion pictures, our press, our radio and our government." Although he felt that the Nazis had handled their Jewish problem "unreasonably," Lindbergh nonetheless warned that Jewish leaders should cease "agitating for war," because America's tolerance for them was unlikely to endure a prolonged armed conflict. (Wallace 2005, p. 193) This comment reflected public sentiment uncovered in a 1938 Gallup poll, in which 54% of respondents said that Jews were partly responsible for their own persecution in Europe, while 11% said they were entirely responsible.

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<sup>89</sup> James Sparrow has thoroughly explored the archives of the Massachusetts Committee / *Reader's Digest* study and also Gordon Allport's Rumor Clinic (established during the war to counteract rumors) and saw no documentation in either archive of rumors about Jehovah's Witnesses. (Personal correspondence, January 2009)

As the United States greatly increased its intake of Jewish refugees from 1938, rumors spread that they were taking American jobs, assisted by the government and major capitalist enterprises. The 1939-40 *American Jewish Yearbook* reported that “The persecutions abroad, the recurring emergencies attracting refugees, and the widespread discussion in this country of refugee problems, gave rise to rumors and whispering campaigns, zealously spread by false propaganda, to the effect that this country was being swamped by refugees who were displacing Americans from jobs, and that large department stores were deliberately discharging their American employees to make room for refugees.” (Fine 1940, pp. 195-6)

After the United States entered the war, anti-Semitic rumors tended to follow the theme that Jews were not doing their part for the war effort or were undermining it for their own profit. Sparrow (2004) shows that gentiles often suspected their Jewish neighbors of war profiteering or getting their sons out of the draft. The profiteering rumors—that Jews had monopolized the government’s drives to collect rubber and other important war materials and were making money from shortages that made life difficult for Americans—became an open part of wartime popular culture, appearing in songs and jokes that were anthologized in books. Many rumors emphasized that Jews were President Roosevelt’s “intimate advisors” and that they “ran” Washington. (pp. 15-26)

These rumors echoed old and dangerous accusations against Jews: that they controlled governments and capitalism, that they started wars for their own profit, that they undermined national and religious solidarity among Christians, and that Christians always bore the brunt of suffering caused by Jewish schemes.<sup>90</sup> Despite the seriousness of the anti-Semitic rumors that raged between 1938 and 1945, however, there was hardly any collective violence or even vandalism against Jews or Jewish businesses. Anti-Semitic violence seems to have been limited to gangs of parochial

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<sup>90</sup> These were all common themes of the *Protocols of the Elders of Zion*; see Bronner (2000) and Cohn (1967).

schoolboys in northeastern cities who would waylay and beat Jews their own age, a commonplace form of hooliganism that continued well into the 1950s. (Fearon and Laitin 1996) While Morris Fine stated in the 1939-40 *American Jewish Year Book* that “the activities of Jew-baiting groups and persons not only increased, but were brought out into the open more than ever before,” (p. 209) his detailed report contained no accounts of violence or vandalism as a result of organized anti-Semitic campaigns.

In summary, neither the Fifth Column rumors nor anti-Semitic rumors were capable of generating vigilante violence, despite the well-documented fact that both were widely circulated in the years immediately prior to and after America’s entry into the Second World War. The government had energetically promoted the Fifth Column rumors, which served various political purposes, and had tried to thwart the anti-Semitic rumors, which had an anti-establishment character and threatened to bring political disorder. Both sets of rumors, however, identified dangerous out-groups and detailed their threatening behavior, seeming to invite persecution. In contrast, rumors about Jehovah’s Witnesses do not seem to have circulated anywhere near as widely, rarely featured in government or other media, and did not involve a group that was either directly connected to the enemy or about which there was a readily available stock of rumor tropes (as in the case of anti-Communism or anti-Semitism). From this we can conclude that neither the breadth of public circulation of rumors nor the intensity of the threat that they posit explains when rumors cause violence and when they do not. Wartime hysteria about spies and subversives may have played a role in the persecution of Jehovah’s Witnesses, but it cannot explain why they and not other groups were singled out for persecution.

### Lack of Catholic response to Jehovah's Witness confrontation

If, as the literature suggests, Jehovah's Witnesses' confrontational style contributed to their persecution, then there is a puzzle about why they were persecuted over the flag salute issue and not their anti-Catholicism. While they actively sought to create tension over the latter issue, they tried to downplay it over the former.

Previous accounts of the Jehovah's Witnesses in the 1940s have tended to overstate their stubborn rejection of patriotism and national allegiance. The Witnesses did not want to be known as unpatriotic and did not seek out confrontations over the flag—this conflict was largely foisted upon them by their antagonists. By 1942 the Witnesses had devised an alternative flag salute for Witness schoolchildren emphasizing allegiance to everything for which the flag stands, just not the flag itself, which they hoped would allow their expelled children to be reinstated in public schools.<sup>91</sup> The Witnesses, in other words tried to reduce rather than increase this area of tension between themselves and broader society. One of most provocative things they did was to label their opponents “unpatriotic” and “un-American,” indicating that they normatively embraced patriotism. Where the Witnesses actually looked for and expected confrontations was in the arena of religious rivalry, and in particular their continuous campaign against the Catholic Church.

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<sup>91</sup> The ACLU archives contain many examples of petitions for reinstatement that Jehovah's Witnesses presented to school boards in early 1942 suggesting an alternative ceremony for Witness children. The petition would ask:

“Since the highest court of the land has shifted the burden of deciding this matter from the courts to the boards of education, we come to you and respectfully ask to be permitted to substitute for the prescribed pledge and ceremony the following, which we can and gladly will subscribe to and publicly declare, to wit:

‘I have pledged my unqualified allegiance and devotion to Jehovah, the almighty God, and to his Kingdom, for Jesus commands all Christians to pray.

‘I respect the flag of the United States and acknowledge it as a symbol of freedom and justice to all.

‘I pledge allegiance and obedience to all the laws of the United States that are consistent with God's law, as set forth in the Bible.’” (From petition to the school board of Adair County, Missouri, 04/11/1942, ACLUP vol. 2414.)



In the terminology of Glock and Stark (1966), Jehovah's Witnesses had one of the most "exclusivist" theologies imaginable. In their understanding only Christians who recognized the great truths revealed by Jehovah's Witnesses had any chance of being saved, and even for them there were only 144 000 places in heaven. Judge Rutherford put it in stark terms in "Angels," a 1934 pamphlet: "The two classes are clearly and distinctly marked out by the Scriptures, one doomed to absolute and complete destruction, the other having a possibility of recovery." (quoted in Stroup, 1945, p. 150) It followed from this that other religions, including other Christian churches, were worse than wrong, they were actively obstructing salvation. Thus the Witnesses distinguished themselves, true Christian people, from religions, instruments of Satan. In 1937 they coined the slogan that would become a prominent and antagonistic part of their proselytism, "Religion is a racket." (Stroup 1945, p. 152) When they defended their constitutional rights during the persecutions of the 1940s, Jehovah's Witnesses almost never referred to "freedom of religion," but to their freedom of speech, assembly, and their right to worship Jehovah God as they saw fit. In legal documents individual Witnesses would refer to themselves as "a Christian" or "one of Jehovah's Witnesses," never as "a Jehovah's Witness," which would have reified the name to refer to them as members of a man-made group.

It would be a mistake (and has been a recurring mistake in the literature) to put too much emphasis on the theoretical fact that all religions are equally evil in the Witness mind, or to assume that the Witnesses' exclusivist theology was the only driver of their animosity towards other religions. The Catholic Church always held a privileged position in Witness demonology, and Rutherford and others spilled far more ink denouncing the Catholic hierarchy than any other religious group. Furthermore Witness critiques of Catholicism, particularly the accusation that Catholics were intent on destroying American democracy and religious freedom, reflected century-old American Protestant fears about the foreign, authoritarian religious monolith. The Witnesses

may have had a distinctive theological justification for loathing the Catholic Church, but that loathing followed established albeit archaic patterns in the rhetoric of American politico-religious conflict.

For Jehovah's Witnesses Catholicism represented the original corruption of Christianity. Rutherford's Introduction to the 1927 Yearbook of the International Bible Students' Association (the name by which the Jehovah's Witness organization was known until 1934) tells the story, which is worth recounting to illustrate the way that Jehovah's Witnesses defined themselves in opposition to Catholics. Rutherford's account is intended to refute "The enemy," who has "attempted to induce the people to believe that the International Bible Students' Association is another religious sect operated for selfish purposes." Rutherford identifies the Witnesses as contemporary performers of the divine commission of evangelism described in the Book of Isaiah,<sup>92</sup> a commission that Jesus and then his disciples had begun to perform.

The disciples planted the "noble vine" of God's church, but soon after "Satan planted the false seed among the true"; selfish men entered the church and used it for their own aggrandizement. They posed as representatives of the Lord but were "the representatives of the world, which is the Devil's organization." The selfish men—the clergy—sought worldly rank and distinction and allied themselves with the state. They relied on state revenues rather than voluntary contributions and the church became an enormous source of wealth, while the clergy became lazy and indifferent to the wants of the people. Magistrates enforced dogmas. An imposing hierarchy was formed, culminating in the Bishop of Rome, and men rose through its ranks not by their piety but by their influence with the powerful. "The Catholic system" writes Rutherford, "organized in the name of the Lord, soon became a mighty component of the Devil's organization. The true worship

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<sup>92</sup> "The Spirit of the Lord God is upon me; because the Lord hath anointed me to preach good tidings unto the meek: he hath sent me to bind the broken-hearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound; to proclaim the acceptable year of the Lord, and the day of vengeance of our God; to comfort all that mourn."—Isaiah 61: 1, 2.

of God was forgotten, and there was substituted formalism instead, and the Devil's organization paraded in the name of the Lord.” (Rutherford 1926, p. 3-4)

Rutherford's charges against Catholicism thus bound together secular and religious complaints; that the Catholic Church was inherently oppressive because of its alliance with the state was a long-standing accusation by American Protestants who juxtaposed their own traditions of state non-involvement with the specter of Catholic allegiance to foreign princes. (See Hamburger 2001 and Higham 1965, pp. 77-87) Rutherford's innovation was to argue that the Church/State alliance was the means by which Satan had brought the religious organization under his control.

Rutherford believed that the Protestant churches were also part of “Satan's organization,” but he at least credits their founders such as Luther and Calvin with making “bold strokes for religious freedom” and “turning the minds of the people back to the true worship of God,” and he notes that there were many good and honest Christians in the Protestant churches before they were captured by the enemy. The mechanism by which they were captured was association with worldly power. “All of these so-called church organizations combined and affiliated with the political part of Satan's organization, and there properly applies to them the name of Babylon.” (p. 5)

Jehovah's Witnesses defined themselves as the group that would save Christianity from Satan's various earthly fronts. For 1500 years, Rutherford explains, “true Christians” had been captives of the religious organizations, and all they could do was pray for the second coming of Christ to deliver them completely. Charles Taze Russell, the Witnesses' founder, was one of those who was hoping for the second coming, and while studying the Lord's word God “opened his mind to a clearer understanding,” revealing to him some of the “great truths” that had been suppressed by the self-interested leaders of religious organizations. The great truths Rutherford describes form the core of doctrine that distinguish Jehovah's Witness theology from mainstream Christianity: that hell is a condition of oblivion rather than eternal torment, that the judgment of men will be based on

their actions after the resurrection when they are given the chance to know the Lord, and the Lord's kingdom will be established on earth. Russell began to preach these revelations to a small congregation in Pennsylvania in around 1878, and thus the Lord began to gather the "true saints," truly consecrated Christians who had been in captivity to the false church systems. When they saw the truths proclaimed by Russell they "broke away from Babylon. . . .The Lord turned their captivity into freedom, and they rejoiced in the knowledge that he had given them and delighted to spread this good news to others."

This account, which the prolific Rutherford repeated in many publications, is the constitutive story of the Jehovah's Witnesses. It is a story that implies the necessity of antagonistic proselytism among other Christian denominations, so that other "true Christians" might hear and recognize the great truths that have been suppressed by their religious leaders. As the agents of Satan had for centuries been suppressing true Christianity while using Christianity as protective coloration, Witnesses could expect organized resistance to their efforts—this was how they explained the various persecutions they encountered across America and around the world. Whatever the evidence, in the 1930s and early 1940s Jehovah's Witnesses nearly always saw the Catholic Church at the root of these persecutions. They may have objected to all other churches, but like other American Protestants a century earlier, the Witnesses saw the Catholic Church as the "threatening other," the prime antithetical force against which they defined themselves.<sup>93</sup>

For Rutherford the Catholic Church was uniquely demonic because of the historical extent of its intertwining with earthly states, which gave it a leading role in the repression of true Christians. The ultimate culmination of the Satanic church/state alliance was Nazism and Fascism, which he believed was directed by the Vatican. Jehovah's Witnesses were particularly concerned with Nazism

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<sup>93</sup> For a discussion of the "threatening other" concept as a tool of identity-building, see the introduction to Michlic (2006). For a discussion of constitutive stories of peoplehood, see Smith (2003).

because Bible Students (as Witnesses were known in Germany) were being imprisoned and killed by the regime; the first conscientious objector executed in Germany was August Dickmann, a Bible Student, shot for “refusing to fulfill his duties as a soldier” in September of 1939.<sup>94</sup> By the end of the war 10 000 Bible Students had been put in concentration camps and 2500 had been killed. (Hesse 2001)

In 1940 Rutherford was interviewed by the *New York Post* about the persecution of Jehovah’s Witnesses and the Watchtower Bible and Tract Society (the Witnesses’ publishing arm) published an expanded version as *Judge Rutherford Uncovers Fifth Column*, one of the most useful documents available for understanding the Rutherford-era worldview of the Jehovah’s Witnesses and one to which individual Witnesses repeatedly referred in legal documents.<sup>95</sup> When asked why there has been “a sudden recent outburst of violence against Jehovah’s Witnesses in widely separated parts of the country,” Rutherford replies that “The Roman Catholic Hierarchy, operating what they call ‘Catholic Action,’ are carrying out a well-laid scheme to destroy everything in this world that publishes the truth, and this the Hierarchy are doing to camouflage their own wicked action in attempting to grab control of the nations of the earth.” The Hierarchy, Rutherford claims, is working in concert with the Nazis, Fascists and Communists. In the United States various public officials have acted in conjunction with Catholic priests to attack Jehovah’s Witnesses because they have written and published more than anyone else against Nazism, Fascism and Communism. The oft-repeated charge that Jehovah’s Witnesses are “fifth columnists” serves to disguise the efforts of the Catholic Church to bring about a totalitarian seizure of the United States: “When the time comes, and that seems to be in the near future, it will be found that there are at least ten million

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<sup>94</sup> “Germans Execute Objector to War.” *New York Times*, September 17 1939.

<sup>95</sup> One of the reasons this pamphlet is useful is that Rutherford uses it to summarize the arguments he makes in many of his other voluminous writings, which he accuses the press of ignoring. Among his other writings and lectures he cites in this pamphlet are: *Vindication*, vol. 2 (1932), *Enemies* (1937), *Face the Facts* (1938), *Fascism or Freedom* (1938) and *Government and Peace* (1939).

‘fifth columnists’ in America, and that ninety percent of these are under the absolute control of the Roman Catholic Hierarchy.” (pp. 6-8)

Against a bleak picture of global Catholic and Satanic domination, Rutherford identifies the United States as an historic bastion of righteousness and Christianity. He does not hold the United States responsible for persecution of Jehovah’s Witnesses, nor even its military or “martial spirit.” The United States was “founded as a Christian nation, not a religious nation,” by men who “loved God and His Kingdom” and who “prayed and worked for righteousness.” American case law and the fundamental laws state that “this is a Christian nation.” But the United States is under siege from the Catholic Hierarchy, who have installed agents in every newspaper and government. “Nazi-Catholic Action” does not only operate by institutional subterfuge; Rutherford stresses that “they are a military organization,” and in one passage suggests using the House Un-American Activities Committee to unmask it:

Why not let the public press demand of Congress an investigation of the cellars and crypts of the Catholic cathedrals in the United States and prove to the public whether or not they have stored away a great amount of arms and ammunition to use against the government? Why does not the Dies Committee go after the Hierarchy and the Nazis? If the Hierarchy deny that they have a large amount of guns and ammunition stored, then they should not object to being investigated. If they do vigorously deny it, that is the best reason why an investigation should be had. There are many people in the United States who have worked in building these crypts or cellars, and others who have helped unload what appeared to be piano boxes, which were filled with rifles and are stored in these crypts. (p. 22)

Rutherford was suggesting the existence of a full-blown treasonous conspiracy of the Catholic Hierarchy against the free, Christian United States, complete with military plans to aid a Nazi takeover. It was understandable, then, that the Witnesses fought bitterly against state attempts to make laws against inciting religious hatred. In the 1941 Illinois court case of *Bevins v. Prindable*, Jehovah’s Witnesses sued state and county officials for arresting Witnesses under the Revised Statutes of Illinois, which stated that it was illegal to sell or offer literature that exposed any “race, color, creed or religion to contempt, derision or obloquy or which is productive of breach of the

peace or riots.” The defendants quoted the above passage as an example of the kind of statements that had led to the arrests of Witnesses distributing literature in Belleville and Harrisburg, Illinois. The Witness plaintiffs claimed predictably that the defendants “have conspired among themselves and with priests and representatives of the Roman Catholic Hierarchy and its allies to shield and protect said Roman organization from exposure in its nefarious work of destroying democracy.”<sup>96</sup>

If Witness anti-Catholic rhetoric seems extreme in the context of the 1940s, it would not have been out of place in nativist circles during the nineteenth century. Despite the restraints of temporal power under which the Catholic Church operated in the United States, mid-nineteenth century Protestant intellectuals repeatedly referred to the Church power in the old world from which dissident Protestant sects had fled, and claimed there was an open Catholic plot to subsume the United States under the power of the Vatican. When Irish and German Catholic voting blocs became electoral majorities in major cities, nativists shrieked that this was the beginning of the fulfillment of the Popish plot for domination. (Hamburger 2002, pp. 201-219; Davis 1960) Rutherford’s accusations that Catholic Action was acting as the beachhead for Papal/Nazi domination of the United States fits this basic narrative well. Though the American version of Catholic Action was small, poorly organized and politically ineffective compared to its European counterparts, it nonetheless aroused xenophobic suspicions about Catholic and immigrant power in the cities, and in the lead-up to the Second World War anti-Catholic groups (some of them left-wing Italian organizations) successfully smeared it as a pro-Mussolini organization. (See Issel 2009) Although Rutherford and the Witnesses had a more elaborate theological story for explaining Catholic evil, their rhetoric accorded with the well-established elements of a scheming Catholic Hierarchy tied to a despotic foreign power, attempting to use local political organizations to overthrow religious freedom in the last truly Christian country on earth. Despite the oft-emphasized

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<sup>96</sup> *Bevins v. Prindable*, 39 F. Supp. 708 (E.D. Ill. 1941). The Eastern District of Illinois found the statute was valid.

Witness phobia of state power, Rutherford was prepared to advocate the use of a particularly repressive state apparatus (the Dies Committee) to free America from the Catholic plot.

Despite the vast and widespread dissemination of anti-Catholic literature by Jehovah's Witnesses, there were few written responses from the Catholic Church or Catholic laity. Even those Catholics who did respond seemed to care little about the Witnesses' anti-Catholicism, and much more about their supposed anti-Americanism.

One example was *Judge "For Four Days" Rutherford*, written in 1940 by the well-known anti-Communist radio campaigner Rev. Edward Lodge Curran. Curran, described by *Time* in 1939 as the "florid, bald, hammer-handed president of the International Catholic Truth Society . . . a specialist in picturesque 'and' invective," was like his contemporary Father Coughlin beyond the bounds of mainstream clerical or political respectability.<sup>97</sup> Despite being published under the auspices of the International Catholic Truth Society, the 32-page pamphlet devotes relatively little space to tackling Rutherford's accusations against the Catholic Church, and gives equal space to his attacks on Protestants and Jews. Though he describes Rutherford as "a greater enemy in our midst than Adolf Hitler" and "a Fifth Column all by himself," Curran says nothing in response to Rutherford's charges that the Catholic Church is seeking a Nazi takeover of the United States and the World. The main emphasis of *Rutherford* is that he is personally fraudulent (he is not entitled to be known as "judge") and willfully misinterprets the scriptures, including on the flag issue—Curran implores Witnesses to "return to true Americanism and salute the flag." (p. 29) Curran also accuses Rutherford of promoting hatred of the United States. His tract hardly seems to be a specifically Catholic response to Rutherford and his anti-Catholicism.

There also appears to have been little Catholic involvement in mob violence. Though Jehovah's Witnesses remained convinced that the Catholic hierarchy must be behind the

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<sup>97</sup> "Religion: Shatterer." *Time*, May 29 1939.



persecution, they did not produce any evidence of organized Catholic involvement and the numbers of Catholics they identified in mobs were disproportionately low compared to the overall population. (Manwaring 1960 p. 176) Nor was there much reporting of violence against Jehovah's Witnesses in heavily Catholic areas of the country, despite the notoriously confrontational tactics Witnesses often used in these areas. In April 1940 two Witnesses faced charges of breaching the peace in Connecticut for touring a neighborhood that was 90% Catholic and playing phonographs of Rutherford's lecture "Enemies." In the lecture Rutherford argues that "a great religious system, operating out of Rome, has by means of fraud and deception brought untold sorrow and suffering on the people."<sup>98</sup> While the state's Supreme Court was very concerned about the effect that such provocations would have in the religiously divided state of Connecticut, there is no evidence, that aggressive Witnessing in specifically Catholic neighborhoods ever led to violence or even police harassment.

This lack of a Catholic response to Witness provocations suggests that the Witness penchant for confrontation is of little value for explaining how and why persecution occurred in the early 1940s. Jehovah's Witnesses made extremely serious allegations against Catholics. While the claim that the Catholic Church was an instrument of Satan could have been dismissed as absurd, the claim that it was in alliance with the Nazis was genuinely inflammatory. This and other anti-Catholic claims appear far more in Witness literature than writings about the flag salute. Moreover, Jehovah's Witnesses' anti-Catholic rhetoric shows that despite their hostility to earthly governments and their symbols, the Witnesses did not disavow patriotism. They embraced an ideal of America as a land of freedom in a world controlled by dark forces that constantly besieged it. They did not wish to be seen as outsiders, and though they refused to salute the flag they did not emphasize this point of tension between themselves and broader society. Nonetheless, it would be their alleged lack of

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<sup>98</sup> "Religion: Freedom of Faith." *Time*, April 8 1940.

patriotism and not their open hostility to other religious groups that generated public violence against them.

### Timing of the violence

As observed in the previous section, the fact that violence and police harassment began on a large scale in May-June of 1940 is not surprising given the coincidence of news about Nazi victories in Europe, an aggressive new campaign of proselytism by Witnesses, and the *Gobitis* case. However, the subsequent temporal pattern of incidents, declining sharply in 1941 and then again in 1942 after American entry into the war, has never been satisfactorily explained.

[Figure 4.1 about here, see appendix]

Why would violence generated by fears of spies and subversives decline in this way if such fears were primarily related to the war? According to MacDonnell (1995) Franklin Roosevelt talked consistently about a Fifth Column threat through to the fall of 1942, while J. Edgar Hoover frequently mentioned it until early 1943. Each of them had a different reason for de-emphasizing the threat when they did. For Roosevelt, who had become convinced by July 1942 that any Nazi spy threat had evaporated, the Fifth Column had lost its political utility as isolationist opposition deteriorated following American entry into the war. (pp. 142-3) For Hoover it became more valuable to talk about his defeat of the Fifth Column rather than the threat of the Fifth Column as the war proceeded. The prominent capture of a few German saboteurs in the summer of 1942 was a major publicity coup for Hoover, and in MacDonnell's telling by 1944 "whenever Hoover discussed the Axis Fifth Column, he did so with the pride of a man who feels he has done his job well." He told newspapers of how he had "erased" the Fifth Column threat. (p. 182) The Fifth Column threat

remained a prominent part of American discourse throughout 1941 and 1942. In 1942 alone, Hollywood made more than 70 films dealing with the subject. (p. 136)

Manwaring (1960) attributes the decline of violence in 1942 to the actions of the Civil Rights Section of the Justice Department that year. 1942 had seen the first (and only) successful prosecution of a law enforcement official who had participated in anti-Witness violence, Deputy Sheriff William Catlette of Richwood, West Virginia. This was one of the first prosecutions under Section 20 of the criminal code,<sup>99</sup> giving credibility to future threats by United States attorneys to prosecute local officials who oversaw violence against Jehovah's Witnesses. The Civil Rights Section sent a memo to US attorneys in May 1942 instructing them how to deal with local authorities that consistently presided over harassment of Jehovah's Witnesses. The memo emphasized mediation and education about Witnesses while mentioning the possibility of prosecution. According to Manwaring this resulted in a "wave of admonitions" from US attorneys to local officials that "served to make the Jehovah's Witnesses a little more respectable." This extended earlier mediation efforts when Civil Rights Section officials had traveled to trouble spots such as West Texas and given speeches about the harmlessness of Jehovah's Witnesses and the nature of their constitutional rights. Thus it seems to Manwaring that "the Civil Rights Section of the Department of Justice must receive almost all of the credit for finally putting an end to the rash of anti-Witness activity." (pp. 180-1 and p. 186) He further notes that after the memo arbitrary arrests declined at a much faster rate than private violence, thus indicating that the message got through to local law enforcement officials.

While the memo may have had an effect, particularly on the incidence of arrests, it came when persecution was in a second phase of steep decline, down from rates in 1941 that were already far lower than rates in 1940. It is also not clear why *Catlette*, which was a remarkably brutal and

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<sup>99</sup> Section 20 made it a misdemeanor offense for anyone "under any color of law" to subject any inhabitant to the deprivation of any constitutionally guaranteed rights, privileges or immunities.

grotesque case in which a Deputy Sheriff openly led a mob attack in front of thousands of eyewitnesses, would have inspired much fear of prosecution in local officials who abetted violence by simply not turning up. The Federal government had been threatening mob leaders and those officials who assisted them with prosecution since mid-1940, and the ACLU had publicly offered rewards for people who provided evidence that could lead to prosecutions. These never seemed to have any deterrent effect.

Furthermore, the Civil Rights Section had a reputation for ineffectiveness and had its hands full with racist violence in the South. In 1941 the unit had changed its name from the Civil Liberties Unit to the Civil Rights Section to reflect its shift in priorities away from labor and free speech issues and towards protection for African Americans. The chief of the unit, Victor Rotnem, also wanted to break any linguistic association with the “radical” American Civil Liberties Union. (Goluboff 2007, p. 112) The Civil Rights Section was tiny even at its peak in the 1940s, employing just twelve attorneys and a handful of assistants. (McMahon 2004, p. 145) This lack of staff meant the unit had to rely on US attorneys to carry out any legal action; even if these attorneys sent “admonitions” to local officials on the instructions of the Civil Rights Section it is doubtful whether anyone would have expected them to lead to prosecutions. On issues of race the US attorneys had been deliberately ineffective at actually prosecuting violations, because they came from the areas where violations took place and often sympathized with those they were supposed to prosecute. (Belknap 1987, p. 35)

The timing, then, remains a mystery. Fifth Column concerns were still vivid in the public imagination throughout 1941 and 1942, yet violence declined steeply even as American involvement in the war prompted new rounds of rumors about foreign spies. Mid-1942 did mark the peak of bureaucratic action to halt anti-Witness violence, but this effort was small and there is no reason to believe it should have been effective.

### Non-lethality of the violence

The final puzzle is why, in the course of hundreds of violent incidents which included beatings, shootings, stonings, bombings, a castration and a tarring and feathering,<sup>100</sup> none of the mob violence ever resulted in the death of a Jehovah's Witness. There seem to have been some close calls; in Litchfield, Illinois nearly 1000 citizens violently ran 65 Jehovah's Witnesses out of town after incinerating their cars, and African American newspapers claimed a lynching was only narrowly averted by a "Negro resident of Litchfield who pleaded with them for mercy."<sup>101</sup> Peters (2000) opens with a hair-raising eyewitness account of a brutal beating and near-lynching of Witnesses in Imperial, Pennsylvania in the summer of 1942 involving axes, crowbars and knives. According to Peters' interviewee, a hanging was only prevented by the arrival of state police cars. (pp. 1-8) However, there are no recorded murders of Jehovah's Witnesses. Even when Jehovah's Witnesses shot and wounded attackers in Maine in June 1940, the angry crowd did not respond with lethal violence.<sup>102</sup>

This non-lethality is puzzling because the supposed inspiration for much of the violence, the accusation that Witnesses were enemy spies or agents, traditionally carries lethal sanctions with it. While these sanctions are usually carried about by governments, during the First World War there were multiple lynchings in America of individuals accused of being spies. (Capozzola 2002) There was often little or no concrete evidence motivating these killings. In the most famous case, the murder of Robert Prager by a Southern Illinois mob, historians cannot agree whether the victim was targeted because he was originally German or because he was known to have socialist sympathies. (Schwartz 2002)

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<sup>100</sup> For the latter two incidents see "Do you condemn or wink at UNSPEAKABLE CRIMES?" *Kingdom News*, October 19 1940; and "Tarred and Feathered." *Washington Post*, June 23 1940.

<sup>101</sup> See "Prevents Lynching of White Cultist." *Atlanta Daily World*, June 26 1940.

<sup>102</sup> See "Townfolk Fire Sects Meeting House; 2 Shot." *Chicago Daily Tribune*, June 10 1940.

The fact that the violence was never lethal, even at the hands of mobs numbering in the hundreds or thousands, raises questions about whether violent actors took seriously their own claims about Jehovah's Witnesses being Fifth Columnists, or whether "Fifth Columnist" was more of a term of abuse. It also suggests that terms like "hysteria," "panic" and even "mob" itself may be inappropriate for describing the conditions that created the violence. Unless the violence failed to produce killings because of coordination problems or the kind of last-minute interventions described in the account above, the consistently non-lethal nature of the violence may indicate a level of purposefulness and rationality on the part of the violent actors which has been hitherto unexplored.

#### Jehovah's Witnesses, the unknown threat

One of the main problems with the existing causal narrative is that it assumes far too much public knowledge of Jehovah's Witnesses. It assumes that, because of the Witnesses' own writings and the *Gobitis* decision, citizens knew who Jehovah's Witnesses were, were widely familiar with the Witnesses' position on flag saluting and engaged in spasmodic violence against them as panics over espionage and subversion escalated. This seems highly unlikely. Very little was known about Jehovah's Witnesses in 1940, and prior to that point there had been almost nothing written about them, positive, negative or neutral. The absence of written denunciations and elaborate demonologies about the Witnesses is a crucial factor distinguishing them from other unpopular religious minorities who have suffered persecution.<sup>103</sup> This has been the case since the founding of Jehovah's Witnesses it and continues to this day.

Moore (1986) in his study of American religious outsiders, notes that little is known about the Witnesses' founder, Charles Taze Russell, despite his founding of a publishing empire, his

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<sup>103</sup> For the role of demonologies in American political history see Rogin (1987), and see Morone (2003) for the role of elaborate, widely-held fantasies about the misdeeds of outsider groups.

establishment of an international missionary network, and his own copious output of prophetic writing. “Unlike many other religious innovators in the nineteenth century, Joseph Smith, Ellen White, Mary Baker Eddy, we do not have any adequate biography of Russell. That is too bad, because he is one of the most interesting.” (pp. 136-7) Later Christian “anti-cult” polemicists who wanted to denounce Russell had to rely on the only denunciation of him during his own lifetime, a 1916 obituary by the *Brooklyn Eagle*, a paper against which he had litigated for seven years. The obituary stated that “Although he styled himself a ‘pastor’ and was so addressed by millions of followers around the world, he had never been ordained and had no ministerial standing in any religious sect other than his own.” It also suggested that Russell had moved from Pennsylvania to Brooklyn to escape adverse publicity over alimony litigation, and that the Witnesses were primarily a money making operation for Russell.<sup>104</sup> (See Hoekema 1963 and Martin 1996 for “anti-cult” tracts that make use of this).

While the *Eagle's* obituary contained familiar elements in the rhetoric of denouncing self-styled prophets, such as the denial of his clerical credentials and allegations of fraud, it was probably only written because of Russell's close proximity to the newspaper and his personal battles with it. Despite being a national (and indeed international) religious figure by this point, Russell's death attracted no other media attention and neither did his life. In comparison, Mormon founder Joseph Smith had thousands of newspaper articles (usually negative) written about him before his death in 1844. His *Book of Mormon* was closely scrutinized and painstakingly refuted by other Christian authorities, and a great deal was written about his previous history as a treasure-hunter who had been accused of fraud. (See Smith 2010a) Smith was a well-known figure within his own lifetime, and the details of his life inspired both Mormons and anti-Mormons for over a century afterwards.

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<sup>104</sup> “‘Pastor’ C.T. Russell dies; burial here.” *Brooklyn Eagle*, November 1 1916.

Numerous biographies have been published, including a bestselling critical account a century after his death that rehabilitated the fraud allegations, Fawn Brodie's *No Man Knows My History*. (1945)

Public knowledge of Jehovah's Witnesses did not increase much during the Rutherford era. Rutherford himself complained about the lack of press coverage he and his organization received. In 1940 a reporter from the New York *Post* asked Rutherford to tell him about the beliefs, work and persecution of Jehovah's Witnesses. Rutherford begins the interview, which the Watchtower Society later published as a pamphlet, with a note of disbelief that the *Post* has asked him to supply information about Jehovah's Witnesses. "For the past fifteen years," writes Rutherford, "at the request of the public press, I have repeatedly furnished information concerning the work of our organization, and that without any of the facts being published." He points out that he has written 99 books, 300 million copies of which have been placed in the hands of the people in 78 languages, and he has been broadcast on 240 radio stations per week, "and yet the public press asks for information." (Rutherford 1940 pp. 3-5)

Newspaper coverage of Jehovah's Witnesses was indeed scant, even at the height of the flag salute controversy. Reporters included general information about the Witnesses in nearly every article they wrote involving them, indicating they believed their readers would probably not know who they were. The reporting was rarely very deep or detailed, and often reflected condescending amusement; the *Chicago Daily Tribune's* carried a story in September 1940 titled "44 000 Americans Join Freak Cult That Hates Everything!"<sup>105</sup> Thus, despite their immense and often aggressive effort to disseminate information about themselves—they distributed nearly 7 million pieces of literature in 1939—the Witnesses failed to generate much knowledge about themselves.

The probable reason for commonplace ignorance about Jehovah's Witnesses despite their efforts is that their signature aggressive style of proselytism was effective for distributing large

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<sup>105</sup> *Chicago Daily Tribune*, September 11 1940.



amounts of literature but not for making people read it. Recent work by Iannaccone and Stark (2008) suggests this may be the case. These authors describe the “dismal arithmetic” of door-to-door Witnessing: based on readily available data, it is likely that a congregation of 100 Jehovah’s Witnesses will collectively make contact with 72000 people a year through proselytism, yet can only expect on average to gain around 2.5 new adherents by this method per year (and even this estimate involves optimistic assumptions). At this rate each pair of dedicated Witnesses has about a 95% failure total rate per year, and even after three years and having met 14000 strangers, there is about a 60% chance that a Witness pair will have failed to make any converts.<sup>106</sup> (Iannaccone and Stark 2008) If we take the conversion rate as a poor but suggestive proxy for the Witnesses’ ability to communicate information about themselves (as absorbing such information is a necessary condition for converting) we can begin to appreciate the magnitude of the Witnesses’ problem. In the absence of much press coverage, the only way for people to find out about Jehovah’s Witnesses was by accepting their aggressive overtures, and this, then as now, was a relatively rare occurrence.

In conclusion, it is unlikely that there was any “public opinion” about Jehovah’s Witnesses, and despite the *Gobitis* decision their position on flag saluting was probably not very well known. I will argue in this paper that in localities where people did know about the flag salute refusal and responded to it with violence, this was probably because of the activities of organized antagonists.

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<sup>106</sup> The authors argue that nearly all conversions to Jehovah’s Witnesses (as well as Mormons) occur through interpersonal contact with family and friends. Cold-call conversion, while nearly always unsuccessful, has nonetheless been critical to the phenomenal success of both groups because networks of families and friends tend to become saturated with converts, meaning that new converts become less likely to be able to recruit from within the same network. “Long shot” cold calls are necessary because their occasional successes seed new networks in which family members and friends can be converted by more successful means.

### **Part 3: Theory**

I argue that all of the various puzzles around the persecution of Jehovah's Witnesses—why they and not others were targeted, why Catholics did not respond to their provocations, why the violence ended when the United States became involved in the war and why it was never lethal—can all be explained by the strategic imperatives of the American Legion, the major organizing force in anti-Witness violence. The Legion, I argue, was far more extensively involved in the persecution than has previously been realized. What Jehovah's Witnesses and other observers have called “mob violence” was actually well organized, purposive violence that seemed ferocious but was deliberately restrained to suit the organizational imperatives of the Legion and its local Command Posts.

The American Legion was concerned above all with enhancing and maintaining the social status of veterans of the Great War at both the national and the local level. While they had been dedicated to fighting “subversives” throughout their entire organizational career, Jehovah's Witnesses were particularly antagonistic to them because the flag salute was the Legion's most important piece of symbolic capital. Legionnaires observed prohibitions against attacking other subversive groups in order to maintain good relations with local and national governments, but they saw Jehovah's Witnesses as fair game. The national leadership of the Legion never issued any orders or instructions about dealing with Jehovah's Witnesses, and so members of local Command Posts responded to them as they saw fit.

Anti-Witness violence by Legionnaires was calculated to serve three purposes: defending the honor of the flag, demonstrating their role as protectors of local communities, and avoiding intervention by higher levels of government. They saw Jehovah's Witnesses as an affront to their dignity and status rather than as a serious subversive threat. This, I argue, much better explains the nature of the violence than prevailing explanations emphasizing a mood of public hysteria over spy rumors.

In this section I construct and explain my theory in four parts. First I show generally that we can expect vigilante violence by organizations with corporate identities to be more restrained and employed more strategically than violence by ad hoc mobs. One of the main aims of such organizations is to assert local authority without attracting the attention of higher authorities. Second, I show that organizations which are not specifically constituted as vigilante groups often turn to vigilantism when they see it as a status-enhancing activity, rather than as a response to a growing threat or a failure of government. Third, I show why the organizational imperatives of the American Legion demanded a violent response to the activities of Jehovah's Witnesses but not other groups. Fourth, I show exactly what this theory explains about the puzzles around anti-Witness violence, and what further expectations the theory gives us.

#### Theory part 1: Group organization and vigilante violence, restraint and purpose

An important implication of Brown's (1976) study of American vigilantism is that more organized acts of vigilante violence are less likely to be lethal than "unorganized" violence. Though Brown never explicitly makes this argument, this is what his data suggests. Between 1767 and 1910 the 326 organized vigilante movements he identifies executed 729 individuals and inflicted corporal punishment on thousands more. In contrast, between 1882 and 1951 4730 people were put to death by unorganized lynch mobs. (pp. 80-1) There are factors other than the level of organization that may explain this disparity, including the purpose of the violence—vigilantes primarily engaged in crime control on the poorly-governed frontier while lynch mobs sought to maintain racial hierarchy in the post-reconstruction South (See Rosenbaum and Sederberg 1974 for a detailed explanation of the crime control/social control dichotomy). Nonetheless there are theoretical reasons to believe that organization itself may be an important variable in reducing lethality.

A likely causal mechanism for this is that organizers of vigilante violence have political aims beyond the purposes of crime control and social control that the violence serves. They seek an established role as maintainers of order, and if they cannot hope to get explicit recognition of this role from the state, they at least do not want the state to interfere. The greater and more high-profile the violence they inflict, the more likely it is that some level of government will intervene and not only put an end to vigilante activity, but also stigmatize vigilantes as criminals, threats to community order rather than guardians of it. This is a very bad outcome for status-seeking organizers of violence, even worse than the continuation of crime or social disorder, which at least provides a pretext for their vigilante actions. Thus the leaders of vigilante organizations will, to the extent that they control their members, rein in their more violent impulses and only allow the minimum of violence they see as necessary for maintaining order.

A respectable and effective vigilante organization would ideally maintain order by threats alone, though it seems intuitive that some violence is nearly always required to give those threats credibility. Whatever violence is committed must stop short of a level of atrocity that would attract intervention from outside authorities. A paradigmatic example is the San Francisco Vigilance Committee, which first appeared in 1851 and then again in 1856.

Claiming to act for “the people,” free of all other political, class or sectarian attachments, the Vigilance Committee’s mission was to ensure that “no thief, burglar, incendiary or assassin shall escape punishment either by quibbles of the law, the insecurity of prisons, the carelessness or corruption of police, or a laxity of those who pretend to administer justice.” (Kirkpatrick 2008, p. 42 and pp. 48-9) While the stated reason for the establishment of the Vigilance Committee was the mayhem and impunity of mainly Australian criminals who controlled parts of the city, (see Asbury 1933 ch. 3) another clear motive for the predominantly middle-class and Anglo-Saxon Committee was to wrest political control from the Irish-Catholic Democratic municipal machine. The Vigilance

Committee enjoyed the height of its power as a parallel law enforcement structure in the summer of 1856, when it publicly hanged four criminals. A few well-publicized acts of extrajudicial justice were all that was required for the Vigilance Committee to effectively assume control of the city; it was able to leave routine law enforcement to the regular police and judges whose corruption and ineffectiveness it had scorned. (Brown 1976 p. 94)

However, there were limits to the Vigilance Committee's power and capacity for violence. A respectable opposition emerged (the Law and Order Committee), and while it was not strong enough to challenge the Vigilance Committee's power in San Francisco, it had the potential to summon outside authorities. On June 21 1856, a small group of the Law and Order faction including Judge David S. Terry resisted the arrest of James Maloney by the Vigilance Committee, and in the ensuing skirmish Terry stabbed prominent vigilante Sterling Hopkins in the neck. The Law and Order men retreated to the armory and in a few hours were surrounded by 1100 armed vigilantes, who apprehended them.<sup>107</sup> Brown argues that the Vigilance Committee refrained from hanging Terry because the Law and Order Committee would have obtained federal intervention. (Brown 1976, pp. 97-8)

Even if a vigilante organization establishes local supremacy it stands to lose control if its actions alert outside authorities to the need for intervention, or if it causes local opposition to raise the alarm in the broader polity. This state of affairs (especially the example above) conforms to Schattschneider's (1960) model of boundary control: the winners of political conflicts are those who can control who joins them. Vigilante groups walk a fine line, as their local dominance is based on the perception of their capacity for violent retribution, which can both intimidate enemies and induce local authorities to cooperate if they believe it will maintain order. However, violence that crosses some threshold of quantity, brutality or publicity will cause the central state to reassert its

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<sup>107</sup> The story of the incident, originally from the San Francisco *Daily Town Talk*, is available at <http://www.sfmuseum.org/hist10/shopkins.html> last accessed 11/18/2010.

authority as the sole purveyor of legitimate violence, in accordance with Weber's model of state function.

I argue that the greater the level of organization in a vigilante association—i.e., the extent to which it has a decision-making hierarchy and a corporate identity—the more likely it is to restrain the use of violence in order to deter outside intervention. There are four reasons for this. First, organized groups have a permanent or semi-permanent status, and are involved in repeated games rather than one-shot actions. They must take into account the reactions of others (the authorities, their enemies) when they decide on a course of action. Restraint becomes a necessary strategy for a vigilante group if it is interested in continuing as a vigilante group without state interference that would force it to cease its activities. An unorganized mob, on the other hand, comes together for the purpose of committing an act of violence and then disbands. While its members are interested in the broader picture of maintaining community order, the mob itself has no collective interests beyond the violence it is about to inflict. Unorganized mob violence involves an impressive feat of collective action; the more people are involved, the greater is its capacity for savagery, and the less likely it is that any individual can be held responsible.<sup>108</sup> Moreover, there is little possibility of collective punishment afterwards (at least in countries that observe the rule of law) because there is no identifiable organizing entity.

Second, the leaders of vigilante groups are concerned with social and political status, and they will opt for restraint to protect that status, even if it means compromising the effectiveness of their violence. As noted earlier, the consequences of outside intervention by state authorities typically involve not just termination of vigilante activity but also a reversal of status from protector to criminal. There are two reasons why more hierarchically organized and identifiable groups are more averse to this fate. First, following Michels's (1915) model of political parties, the leaders of

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<sup>108</sup> See Kuran (1991) for a similar model of much more positive spontaneous group action.

organizations develop interests separate from the rank and file, interests that are tied to the organization as an end in itself rather than the purposes that it is supposed to serve, which remain the interests of the body of members. The disgrace of their organization becomes a personal disgrace that they must avoid. Second, vigilante groups are fundamentally concerned with protecting established patterns of social power (Rosenbaum and Sederberg 1974, Ingalls 1987) and as such are often composed of local elites, especially in the leadership ranks, as documented by Brown (1976). These elites have much to lose from either a personal loss of respectability or from their locale gaining a reputation for disorder. Maintaining the appearance of decency in the eyes of other local and national elites weighs heavily in their decision calculus, leading them to curtail violent spectacles that attract undue attention or provoke feelings of disgust.

Third, individuals may join vigilante organizations *because of* the status it confers on them, while organizations that exist for other purposes may begin vigilante activities because of the status it will confer on the organization (I elaborate on this theme in Part 2 of the theory section below). In these cases, actual effectiveness in controlling crime or maintaining social order is a secondary concern to fulfilling a high status social role, and the rank and file will be just as committed as the leadership to maintaining the respectability of the organization while putting on a show of protecting the community. Many quite harmless vigilance organizations during the First World War fit this description, such as local Committees on Public Safety, and the government made public distinctions between them and the lawless “mobs” that engaged in lynchings. (See Capozzola 2002)

Fourth, vigilante organizations can discipline the often-volatile specialists in violence they attract to their ranks, while unorganized groups are more likely to follow the lead of their most extreme members. Chambers and Kopstein (2001) illustrate this “containment” argument with a quote from Minuteman leader Robert DePugh (originally quoted in Rosenblum 2000) who argues that society is better off with “kooks and nuts” inside rather than outside organizations such as his:

“If they decide to blow somebody up, okay they go blow somebody up. But if they are part of a group . . . well then there’s a good chance that someone in the organization will know about it and they’re going to take steps to bring this person under control.”

Chambers and Kopstein doubt the value of this argument, noting that organizations such as DePugh’s “sometimes promote, organize and execute violence” as well as preventing it. While it is true that the existence of militia organizations may not reduce overall levels of violence in society, DePugh’s point does stand as an illustration of the fact that organizations certainly act as a filter for violent plans. Any idea for collective violence that a member has will have to be considered and approved by an organization’s leadership before other members are willing to act on it. This will screen out plans that conflict with organizational imperatives such as maintaining respectability and keeping a low national profile. In unorganized mob violence, on the other hand, there is much less consideration of plans. The most militant are likely to take on impromptu leadership roles, being the most aggressive and the most ideologically pure, and they can incite violence by challenging others to prove their ideological purity and courage.

In summary, then, while hierarchical organization and corporate identity can certainly increase the capacity of a group of vigilantes to do violent damage, it also imposes restraints that reflect the autonomous interests of the organization and its leaders. They seek an optimal level of violence that maximizes local control while minimizing the probability of outside interference and broader negative publicity. The location of this optimum is in different places depending on the circumstances. A key variable is the capacity of the central state. For the San Francisco vigilantes of the 1850s, the Federal government was sufficiently weak and remote that it could kill a few criminals without the risk of intervention, but it had to stop short of killing a judge. By the 1950s the Federal government was taking steps to ensure its judicial and police capacity to investigate and prosecute in lynching cases where local and state governments were unwilling or unable to act; killings became



risky enterprises for vigilante organizations that wanted to avoid Federal intervention. (Belknap 1987 pp. 20-21)

While warding off outside intervention and bad publicity, vigilante organizations must nonetheless remain locally credible. They must be seen as willing to do violence to those who transgress their order without fear of retribution from any higher authority. This poses a difficult problem: how does an organization maintain a local reputation for violence and terror while seeming innocuous to state and federal authorities? I believe the key to this problem lies in differences between the way the state “sees” threats to public order and the way individuals see threats to themselves.

The legal-rational state is obliged to investigate and counteract dangers to public order. However, its agents are bound by legal norms—they must follow often costly and time-consuming procedures to protect the rights of those they investigate—and limited resources. They cannot investigate every possible problem and must make choices between them. In the course of their jobs, law enforcement officials are likely to see, or hear of, thousands of individuals making physical threats to other individuals. The vast majority of these threats never amount to anything and for an experienced official most threats can safely be dismissed as “cheap talk,” not worthy of investigation. Individuals, however, are usually much less used to hearing violent threats personally and are less able to assess the (low) likelihood that they will be carried out. Their judgment of the importance of threats is also naturally clouded by their psychological reactions to personal danger.

The effectiveness of a threat of physical violence, then, is not proportionate to the likelihood that the state will respond to it. A violent threat that is highly effective in controlling an individual’s behavior may not provoke any response from a state official, if the official even hears of it—part of the effectiveness of a threat might be that it persuades its target not to go to the authorities. One of

the most effective tools of a viable vigilante organization is the violent threat that intimidates opponents without attracting outside attention.

One important characteristic of such a threat is that there is no material evidence of it. Written or recorded threats make state intervention more likely because (a) they provide tangible evidence that the threat actually occurred, making it harder for authorities to ignore or dismiss; (b) they can be easily publicized, putting pressure on authorities, and (c) they provide material evidence that assists prosecution. Effective vigilante threats, then, should be circulated by word of mouth and rarely publicized in any kind of media.

Another characteristic is that a vigilante organization becomes associated with violence and violent threats without ever having to make them explicitly. The vigilante association must become a “violent brand.” This requires a strong associational identity—it must be widely recognized, and its members must be widely recognizable as members. Various symbols such as uniforms, rituals and distinctive language can propagate the brand and its violent identity. The association also needs stories and rumors to circulate about the vigilantes’ violence or potential for violence. Actual or apocryphal violent events should enjoy a long shelf life in local memory.

An example of a group that consciously tried to maintain a threatening local reputation and a respectable national reputation was the reconstituted Ku Klux Klan of the 1920s. The new Klan was inaugurated in the shadow of one of the highest-profile lynchings in American history, the killing of Leo Frank in Marietta, Georgia in August of 1915. Two months after the lynching the Klansmen burned a cross on Stone Mountain, ten miles from Atlanta. The Populist newspaper editor who had helped instigate the Frank killing, Tom Watson, had urged the re-formation of the Klan (“to restore HOME RULE”) in response to vehement Northern condemnation of the lynching. (Woodward 1938, p. 446 and 448-9) *Birth of a Nation*, which celebrated reconstruction-era Klan violence at its peak, had premiered in Los Angeles earlier in the year and was set to open in Atlanta in December.

The new Klan under William J. Simmons, then, consciously associated its inception with both a famous lynching and the violent past of its predecessor organization.

After a slow initial start—it had fewer than 2000 members by 1920—the Klan enjoyed rapid growth throughout the early 1920s. A major reason for the sudden growth was a newly-organized, highly incentivized recruiting scheme in which recruiters/salesmen (“Kleagles”) would sell costly subscriptions and robes on commission. (See Moseley 1972, Fryer and Levitt 2007, and McVeigh 2009, p. 21) It had also expanded its targets of prejudice from its traditional Southern obsession with blacks to fears about Jews, Catholics, immigrants and various social deviants such as bootleggers. This allowed for massive recruitment drives beyond the South, especially in the West and Midwest. Simmons, importantly, also marketed the Klan as a fraternal order with connotations of exclusivity, respectability and lawfulness. Simmons told a Congressional hearing that:

If the Knights of the Ku Klux Klan has been a lawless organization, as has been charged, it would not have shown the remarkable growth it has, for in the Klan is as fine a representative body of citizens as there is in the United States. In each community where there is a Klan will be found members from the leading citizens, men who stand at the forefront in their cities. These men would not stand for lawlessness. (Quoted in McVeigh 2009, p. 22)

Simmons wanted the Klan to be seen as a status-enhancing organization for its members, and the high price of joining probably ensured that its membership was disproportionately composed of social elites. Fryer and Levitt (2007) in their analysis of Klan membership in Indiana and Pennsylvania find that Klan members were better educated and more likely to be professionals than average Americans.

The mid-1920s was the height of the Klan’s membership and respectability and also the nadir of its violence. The involvement of the Klan in acts of violence is often difficult to establish (see Newton 2001 p. 49-53) but it is uncontroversial that the level of violence the Klan inflicted in the 1920s was minute compared to that of the guerilla-style Klan organization of Reconstruction or the covert terrorist organization that adopted the Klan mantle in the 1950s and 1960s. This is

especially true if violence is measured in fatalities. National Klan leaders, seeking to expand their political influence, condemned violence in their publications and claimed the Klan had a positive record of preventing it. Hiram Evans, who wrested control of the national organization from Simmons in 1922, threatened in 1923 to discipline Klansmen who participated in illegal vigilante activity. He attributed the large numerical decline in Southern lynchings to the presence of the Klan. (Horowitz 1999, pp. 3-4)

However, the anti-violence rhetoric was largely for national media consumption. According to McVeigh, Klan leaders were interested in curtailing the “unorganized and non-selective use of violence,” but promoted selective and institutionalized violence as a means of achieving Klan ends. The Klan vigorously recruited policemen and Klansmen would offer their assistance to local law enforcement agencies (where it was often welcome). McVeigh notes that the Klan was careful about where it actually applied violence, avoiding trouble in places where there was organized opposition or where law enforcement was unfriendly—there are even recovered Klan documents from Indiana containing notes on the relative supportiveness of various local law enforcers and politicians. (2009, pp. 160-3) Experience taught the Klan what thresholds it could not cross without attracting outside intervention, and those thresholds were often well short of murder. In 1923, Oklahoma Governor Jack Walton declared martial law after a series of Klan floggings. (Horowitz 1999, p. 4)

At the same time, Klans across the country cultivated local reputations for terror. The two signature displays of Klan force—cross-burnings and parades in white robes--communicated the Klan’s presence and its potential for violence, and were used around occasions such as elections to warn their enemies against challenging the social order. (See e.g. Newton 2001 p. 49) Shows of intimidation were designed to frighten the Klan’s targets, even if others did not take them seriously. (See e.g. Gerlach 1982 p. 79) Regardless of their effectiveness as agents of terror (Fryer and Levitt claim their impact on social order was negligible) the Klan certainly attempted to invoke symbols of

violence in support of their program of white Protestant social dominance, while curtailing their actual violence in accordance with their organizational aims of maintaining respectability and good relations with governments.

To conclude this part of the theory construction, vigilante organizations circulate threats and engage in displays that communicate their violent intentions to their targets, while trying to avoid activities that will alert outside authorities to the need for intervention. This involves heavy reliance on symbols associated with violence that establish continuity between the organization and its past violent acts. Organizations will prefer threats to be circulated by word of mouth (where they will often be exaggerated) rather than by media which will leave material evidence.

In “The Moral Economy of the English Crowd,” E.P. Thompson (1971) warns against the use of the terms “mob” and “riot” in describing mass disturbances.<sup>109</sup> These terms, according to Thompson, convey the “spasmodic view of popular history,” wherein “common people can scarcely be taken as historical agents,” but simply as predictable, violent respondents to negative stimuli such as economic downturns. Thompson argues in contrast that every contentious crowd action has “some legitimizing notion,” that its members believed they were defending traditional rights or customs and enjoyed widespread social consensus and sometimes tacit official approval. Hobsbawm (1971) argues that the violence of “mobs” is purposive, a rational strategy given their position in society: “the historical mob did not merely riot as protest, but because it expected to achieve something by its riots.” (p. 111)

In this paper I broadly agree with Thompson and Hobsbawm that “mob” violence is both purposive and legitimate in the minds of its members, rather than an automatic mass response to external changes. Mass violence against Jehovah’s Witnesses was not a manifestation of wartime “hysteria” or an inevitable result of government propaganda about the Fifth Column. The term

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<sup>109</sup> I found this important caveat via Mickey (2006, p. 2).

“mob,” so frequently used by observers in the 1940s to describe the violence, is itself misleading, implying a lack of organization and purpose. Anti-Witness violence, I will argue, often displayed the signs of having been well organized and rationally executed. Capozallo (2002) surveys the responses of government agencies, newspapers and prominent intellectuals to mob violence during the First World War, and concludes that their preoccupation with the category of the “mob” obscured the role of organized groups and local elites, and also helped legitimize “the more systematic, organized and passionless coercions.” This, I argue, was equally true of the Second World War.

### Theory part 2: Civil society and vigilantism—the politics of joining and the politics of joining in

While vigilante activity is not a uniquely American phenomenon, compared to other countries vigilantism in the United States has generally been more preponderant, more geographically diffuse, more persistent over time and more culturally accepted as a permanent (if not desirable) feature of social organization.<sup>110</sup> I argue that one of the main reasons for this is the strength and density of civil society organizations in the United States. Acts of collective violence, like any other collective effort, require relatively high levels of trust among the individuals involved, as well as planning and coordination. A vast body of literature from Tocqueville’s *Democracy In America* to Putnam’s *Bowling Alone* suggests that Americans are (or at least have been) uniquely adept joiners and organizers, reflected in their historically high membership of organizations that both promote fellowship and also work for specific political goals. (See Skocpol et al 2000)

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<sup>110</sup> Abrahams (1998) notes that the overwhelming majority of scholarship on the subject has concentrated on the American context and there are very few comparative studies. For some exceptions see Rosenbaum and Sederberg (1974 and 1976) for comparative theory building; Lebow (1976) on Northern Ireland; Mazrui (1976) on tropical Africa; Potholm (1976) on South Africa; Kowalewski (1991) on the Philippines; Abrahams (1998) on Britain (Ch. 5) and Latin America (Ch. 6); Fleisher (2000) on Tanzania; and Godoy (2006) on Guatemala. I make my claim for the uniqueness of the form that vigilantism takes in the United States based on the observations in these studies.

The richness of civic participation in the United States provided both the habits of community participation necessary for vigilante activity,<sup>111</sup> and in some cases it provided the organizational framework for vigilantism itself. Many vigilante organizations in American history were specifically constituted as such, but other vigilante organizations served multiple roles as civic associations, and turned to vigilante activity after establishing or while establishing reputations as fraternal organizations or community associations. The original Ku Klux Klan began as a social club for Confederate veterans in 1865 (the term “Ku Klux” was derived from the Greek *kyklos*, meaning “circle”) and adopted violent tactics in response to Reconstruction measures. (Wade 1987 p. 33, Foner 1988 pp. 425-6) The second Klan, as discussed in the previous section, emphasized its role as an elite fraternity. The American Legion, as I discuss in Part 3 of my theory section, began in 1918 as an advocacy and social organization for veterans of the Great War, and turned to vigilantism during the “Red Scare” of the early 1920s.

In the same way that individuals join organizations in order to develop their social capital, and organizations undertake various public tasks and activities to do the same, so we should expect participation in vigilantism by both individuals and groups to be undertaken as a status-enhancing exercise. This does not preclude other altruistic (and self-interested) motives for vigilantism, but I argue that particularly for vigilante organizations with dual identities as civic associations, the imperatives of promoting and maintaining the social status of members should be visible in patterns of vigilante activity. As well as protecting their communities, vigilantes try to act in ways that maximize their community recognition as protectors. The acquiescence of a local government is, therefore, one of the most important aims of vigilante associations. Their status as protectors will also be increased to the extent that they magnify public perceptions of the threat at hand.

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<sup>111</sup> Capozzola (2002) shows that the government fostered vigilantism during the First World War by “appealing to habits of voluntary association” to create organizations such as committees of safety, women’s vigilance leagues and home guards.

In Part 3 below I show how the public, altruistic aims of the American Legion—fostering patriotism, maintaining law and order and promoting social harmony—interacted with its material and status-seeking aims as a Veteran advocacy organization to create incentives for engaging in violence against Jehovah’s Witnesses.

### Theory Part 3: The American Legion

“One thing it did. It gave expression to the purpose of the victorious American soldier to be a little more than an average routine citizen. It said in clear and ringing tones that we wanted the United States for which we fought to achieve our highest hopes as the United States where we would live.”  
--Richard Seelye Jones (1946), *A History of the American Legion*, p. 34

From its birth in 1918 the American Legion was a civic association that blurred boundaries between state and non-state and political and non-political. While it was formed independently of any government organization (including the military) its sole criterion for membership was service in the largest federal bureaucracy, the armed forces. For those who had served, moreover, the Legion’s stated goal was to *continue* to serve outside the formal structure of the military in peacetime. As the preamble to the Legion’s constitution puts it:

#### WE ASSOCIATE OURSELVES TOGETHER FOR THE FOLLOWING PURPOSES

To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy, to consecrate and sanctify our comradeship by our devotion to mutual helpfulness. (“For God and Country,” preamble to the Constitution of the American Legion, quoted in Rumer, 1990, p. vii.)

The text is thick with verbs: uphold, defend, maintain, foster, perpetuate, preserve, inculcate, combat, make, promote, safeguard, transmit, consecrate, sanctify. It was not enough to desire that America be just, free and harmonious; members of the American Legion expected they would have



to make it so. The preamble contains both vague and specific elements of a program of action that Legionnaires would follow faithfully, and some of those elements (such as “maintaining law and order”) suggested the need to take part in functions of the state.

“One hundred percent Americanism” would serve as the Legion’s slogan from 1919 and became the official abbreviation of its aims. (Rumer 1990, p. 89) The term had arisen in the First World War to denote private and government campaigns to promote patriotism and cultural unanimity, and to suppress “foreign cultural and political traditions that seemed to nurture antiwar or anti-American sentiments.” (Gerstle 1997; see also Tischler 1986) For the postwar Legion one hundred percent Americanism referred to constructive as well as repressive efforts. While Legion branches (“posts”) would sometimes challenge the credentials of schoolteachers in their districts suspected of harboring anti-American tendencies, their better known and longer lasting contribution to patriotism in American schools was the widespread implementation of the flag salute.

From the early 1920s the Legion’s Americanism Commission lobbied across states and school districts for the adoption of various patriotic exercises in schools, most notably the flag salute, along with compulsory citizenship classes for children and night courses that would offer the same to aliens. This campaign brought both material success and organizational prestige. In 1924, as states and cities began making patriotic exercises mandatory and adopting Legion regulations for the care and use of the flag, the Americanism Commission reported to the Legion’s Sixth Annual Convention that “nothing ever undertaken by the Legion has done more good than the Flag Conference and the flag campaigns inaugurated by us. . . . (they) placed Legion squarely before the people as standing for those principles and ideals (for which they were willing) to sacrifice.” (Pierce 1933, pp. 33-45) By 1935 fifteen states had made the flag salute compulsory, along with countless school districts. (Fennell and Friedlander 1936)

It is a major oversight in previous scholarship on Jehovah's Witnesses that while everyone agrees on the important role that refusal to salute played in their persecution, no previous work acknowledges that the flag salute was so widely institutionalized almost exclusively because of the efforts of the American Legion. Leepson's (2005) history of the flag in America discusses the immense symbolic importance of the flag to the Legion's and public standing. He describes a pro-Legion cartoon titled "The New National Figure," which "depicts a giant of a man attired in a World War I army hat and britches, his face resolute, his well-muscled arms crossed at his chest, and the words 'American Legion' on his shirt. Behind him a large American flag is unfurled. At his feet are small, shiftless figures labeled 'Anarchy,' 'Lawlessness,' 'Class Autocracy,' and 'Petty Politics.'" (p. 195)

The American Legion's vow to "combat the autocracy of both the classes and the masses" was another expression of its drive for national harmony and unity over radicalism and division. It is tempting to see this as a cover for conservative anti-labor belligerence, especially since state and city governments had previously used the "one hundred percent Americanism" battle-cry while intervening forcefully in labor disputes on behalf of industrialists. (Barrett 1992) One Marxist critic charged that the Legion "clearly represents an interest group in American society, an interest group which has a very definite stake in the preservation of the status quo and wishes to see its interest protected against those forces which recognition of class conflict might release. . . . Its middle class membership pretty largely identifies its interests with the interests of those who are in control of American society." (Gellerman 1938, pp. 251-2) Legionnaires did violently skirmish with strikers where they suspected Communist involvement, and the killing of four Legionnaires by Wobblies in Centralia, Washington in 1919 became a "baptism in the blood of martyrs" with powerful symbolic importance. (See Jones 1946, p. 41) However, while the Legion was certainly anti-Communist and anti-radical, it was not on the whole anti-labor or even anti-union. The national Legion leadership

saw union men as naturally patriotic and an important source of recruitment, and worked hard to maintain relations with the AFL, with whose leadership it shared concerns about Bolshevik attempts to infiltrate American labor. The Legion issued statements supporting labor's right to organize, and Pencak notes that by the early 1920s "The Legion's cooperation with the AFL reached the point where antiunion Legionnaires in fact wondered whether the Legion was becoming a tool of organized labor." (1989 p. 217, see Ch. 8)

Both the campaign for patriotism in schools and the attempt to broker peaceful labor relations represented an urge to transcend "politics." In a laudatory but revealing account of the Legion's interwar years, Jones (1946) triumphantly describes the success of the Legion's non-"political" politics:

From the outset the American Legion kept out of politics. As a result it rapidly acquired great political power. It supported no political party, endorsed no candidate for office. All parties and officeholders sought its approval. By adhering to principles and avoiding partisanship it became so powerful that books were written about it as a "political pressure group," and about its national legislative committee as the "Legion Lobby." Advertised by its opponents, its influence upon the Congress became in time a tradition, steeped in mystery and magic, a thing to conjure with. There was in fact some basis for this illusion, but a good deal of it was mythical. (Jones, 1946, p. 45)

As Jones describes it, a debate at the 1919 national convention resulted in a clause in the Legion's constitution prohibiting any part of the organization from promoting any candidate for office, over the objections of those members who wanted to use the numerical power of the Legion's membership to install candidates friendly to their aims. In this way, the organization would be "absolutely non-political." However, the Legion intended to influence government through its National Committee on Legislation, a permanent bureau in Washington that it resolved to establish the same year. The office would lobby Congress directly but also keep all members and posts informed of forthcoming Congressional activity so that they could lobby their own Representatives and Senators. (1946, pp. 45-50) At the 1920 convention when some members again demanded that

the Legion get involved in elections, the “non-political” clause was reaffirmed with the clarification that Legionnaires could “publicize disagreements” between the Legion and hostile legislators, but could not openly support their opponents “as Legionnaires” (though they were free to do so “as individuals”). (Pencak 1989, p. 110)

“Staying out of politics,” then, meant avoiding parties and elections, the venues of conflict that required participants to stand on one side or the other of a social divide. The Legion had much loftier aims than that, as an organization devoted to national unity and consensus. This was reflected in its direct, friends-in-high-places style of lobbying, which Jones notes it never called lobbying because “lobbying was used as a term of shame or infamy.” (1946, p. 45) Individual Legionnaires were not prohibited from holding political office (though political office-holders were prohibited from holding Legion offices) and Legionnaires in the Federal and State legislatures became valuable allies. In 1924 Legionnaires accounted for 14 of the 21 members of the House Veterans’ Affairs Committee and one of the five members of the Senate’s Veterans’ Sub-committee; by 1941 at least nine state Governors were Legionnaires, along with 24 United States Senators and 145 Congressmen. (Pencak 1989. P. 112) The large number of legislators with ties to the American Legion doubtless simplified lobbying greatly, and the Legion’s presence in both parties enhanced the reputation for nonpartisanship which Jones claims was a major source of its political power. (1946 p. 49)

The Legion’s self-image repudiated existing divisions in American society based on class, ethnicity and party. Its membership, after all, was composed of veterans who had been drawn from nearly every social niche. A major part of the Legion’s mission was to ensure that veteran status trumped other social identities, both in the lives of its members and in the eyes of the public. Inevitably, this meant that the Legion effectively organized veterans as a political interest group of their own. The Legion’s most impressive uses of its legislative influence were to secure increased

benefits and bonuses for Great War veterans. Initially, the Legion's efforts in this area appeared simply to represent social consensus. In 1920 the Legion mobilized friendly Senators to support the Sweet Bill, raising the total disability pension from \$30 to \$80 per month. This legislation was relatively uncontroversial and had already passed the House, but the Legion's achievement was getting it before the consideration of the Senate while it faced a daunting backlog of matters related to the Treaty of Versailles. Thomas Jones, the bard of Legion accomplishments, describes how this happened:

On December 16 the Legion conference recessed at noon. Each Department Commander agreed to call that afternoon on the senators from his state. National Commander D'Olier would call on the majority leader and on Senator Reed Smoot, of Utah, Chairman of the Finance Committee. The calls were made and the talk was of the immediate needs of the disabled. That evening a congressional group dined with the Legion leaders. They heard again about the Sweet Bill. Twenty-four hours later the Finance Committee favorably reported the bill to the Senate. The next day it was passed under suspension of the rules.

The Legion lobby could carve the first notch in its gun. The war disabled were living on a compensation basis. (Jones 1946, p. 48)

This passage describes Legion power at its most idealized, with Legionnaires quietly and persuasively working with all sides to ensure agreeable legislation escaped congressional red tape. By the 1930s, however, after a string of Legion-inspired increases in the veterans' bonus, many of which involved Congress overriding presidential vetoes, some commentators were describing the Legion as a "pressure group," whose interests were at odds with those of the American people more broadly. Marcus Duffield of *Harper's* and *The Nation* made this point in a book-length denunciation in 1931, *King Legion*. Duffield estimates that courtesy of Legion lobbying veterans were by this time costing 900 million dollars a year in taxes, and that the bonus they were then demanding would cost an extra 3.5 billion dollars. Chapter VII of his book, entitled "Mutual Helpfulness Extended" (referring to the last line of the Legion's constitutional preamble) begins with the observation that "Once ex-soldiers, in the process of obtaining legislation for disabled comrades, realize their power and learn how to use it, a strong temptation arises to employ their combined voting strength and skill to

obtain financial benefits for themselves. For a veterans' organization the temptation is doubly strong because such a policy helps build up the organization by making evident to non-members to tangible results of uniting." (p. 70)

As perceptive as Duffield is here about the organizational imperatives of the American Legion, he is wrong about the mechanism by which they were able to act on them, which was not electoral. V.O. Key (1943) describes the Legion's impressive track record of mobilizing Congressmen to override Presidential vetoes of bonus bills and tests whether the source of its influence was an ability to discipline Congressmen at elections. Comparing the electoral fortunes between 1922 and 1936 of Congressmen who supported the Legion position on the bonus with those who did not, Key finds almost no evidence for this. The differences between the likelihoods of getting re-elected for each group were so slight that "the claims of mighty veteran influence in elections become ridiculous." The electoral threat posed by veterans could only sway Congressional votes if Representatives had a completely exaggerated idea of it, and Key posits that Legion influence instead came through the kind of lobbying process Jones describes: "The simple fact that a group is represented before Congress by skilled and aggressive legislative strategists may bring it influence. The aggressive personalities in the person-to-person Legion-Congressional relationships are apt to get what they ask for in the absence of counter-balancing demands." (Key 1943; see also Somit and Tannenhaus 1957)

The Legion, then, did faithfully "stay out of politics" to the extent that Legionnaires did not even constitute an electoral bloc. The Legion disavowed the Schumpeterian mechanism of democracy—the ability to punish at the polls—in favor of inside lobbying that depended on its strong personal relationships and its broader prestige. On the one hand, Legion power rested on the skill and long tenure of its Washington and Statehouse operatives, especially National Legislative Committee chief John Thomas Taylor, whom one Senator described as "the greatest lobbyist the

world has ever known.” (Pencak 1989, p. 120) On the other hand, the Legion was fittingly obsessed with its symbolic capital. The Legion’s self-appointed role as guardian of the flag, its nationwide organization of youth baseball leagues and its occasional violence against subversives all helped to enhance its standing as a patriotic organization that worked tirelessly for the whole American community, even as it labored to elevate the status and material well-being of one particular group, veterans of the Great War.

When discussing the Legion’s maintenance of its symbolic capital we can depart from referring to “The Legion” as a unitary actor and examine more closely the actions of individual Legionnaires. The cultivation of the Legion’s prestige depended on thousands of uncoordinated local activities every day. Local Legion posts and individual Legionnaires were the communicators of the Legion’s principles, the organizers of its picnics and ballgames and its vigilantes against un-American schemes. Due to the Legion’s federal structure, nearly all Legion activity depended on the initiative of these local units. The Legionnaires’ relationship with local power structures in many ways resembled the Legion’s relationship to national power. Legionnaires developed strong relationships with and wielded great influence over elected and unelected officials alike, and were frequently able to enlist them, in the name of quelling subversion, in their fights to preserve the hallowed status of the symbols of veteran privilege, most importantly the American flag.

As noted earlier, the campaign to implement the flag salute in schools was instigated by a centralized national body of the American Legion (the Americanism Committee) but was executed at the local level. State-level Legion lobbying resulted in some states making the flag salute compulsory, and this was preceded by campaigns at the school district level to persuade individual school boards to adopt various flag salute rituals. When individual Jehovah’s Witnesses first began challenging the flag salute in schools in Massachusetts in 1935, American Legion branches led the fight to preserve the flag ritual’s sacrosanct status. (Manwaring 1960, p. 175) An AP article from

October 1935 notes that the state's tough flag salute legislation was "sponsored by the American Legion and fathered by Representative Thomas Dorgan, Boston world war veteran," and that it was "pushed through over the practically unanimous opposition of heads of Massachusetts institutions of higher learning."<sup>112</sup> The Principal responsible for expelling the first child who had refused to salute the flag was a Great War Veteran, who had shouted "I will stand for no such insult to the American flag" when the child, Carleton Nicholls, refused to stand during the salute ceremony at the school's assembly.<sup>113</sup>

A *Washington Post* article from 1936 describes typically direct local lobbying by Legionnaires on the flag salute issue. When four children refused to salute the flag in Oxon Hill, MD, the local Command Post met to discuss the issue. Paul Smith, the Commander of the Marlboro Post, refused to say whether his organization took a position on the issue until the post meeting, highlighting the local and democratic nature of American Legion activism.<sup>114</sup> A few days later the *Post* reported that the Prince Georges County School Board had voted to expel the children, and that officials "had been visited during the day by members of the Marlboro American Legion Post who urged that respect of the flag be made a paramount factor."<sup>115</sup>

Grass-roots activism on the flag issue, I argue, reflected Legionnaires' concerns about the local as well as the national prestige of the American Legion. Because states and local districts were responsible for implementing and maintaining flag rituals and because local Legion Command Posts shouldered the burden of lobbying for them, the failure of a district to enforce the salute would have reflected poorly on the status and influence of Legionnaires in that area compared to other areas. Local Legionnaires would have faced a similar problem when Jehovah's Witness proselytizers began

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<sup>112</sup> "Flag Dispute Now Involves Religious Sect." *Chicago Daily Tribune*, October 13 1935.

<sup>113</sup> "Jehovah Witness' and Kin of Henry James Are Arrested for Flag 'Insult' at Lynn." *New York Times*, October 1 1935.

<sup>114</sup> "Legion to Act Tonight in Flag Salute Incident." *Washington Post*, May 25 1936.

<sup>115</sup> "Prince Georges School Expels Four Who Refused to Salute Flag." *Washington Post*, June 10 1936.



appearing in their towns. Legionnaires knew that Jehovah's Witnesses defied the flag salute, so the sight of them distributing literature on local streets would have appeared to be an affront to the local Command Post.

Legionnaires had a history of physically attacking those they considered "subversives" in the name of maintaining law and order and Americanism. In the mid-1930s the militant leader of the Legion's Americanism Office, Homer Chaillaux, had a "general demeanor" that encouraged local posts to "go beyond the law," according to Pencak. After a series of "spectacular" public brawls with Communists and Socialists in Manhattan and Jersey City in 1937 and 1938, newspapers condemned the American Legion's excessive zeal and its continuing role in leading public disruptions. National Commander Daniel Doherty, realizing that these disruptions were hurting the Legion's image, issued a public statement condemning the tactics and a private warning to New Jersey's State Commander. When New York Legionnaires broke the windows of Bund leader Fritz Kuhn's home and engaged Bundists in fights in 1938, Chaillaux himself stepped in, warning that "the publicity was not good." (Pencak 1989, pp. 239-247). There were no further Legion attacks on Communists or Bundists after mid-1938.

These incidents showed that, despite the autonomy of local Legionnaires and Command Posts, the national offices had both the desire and the capacity to rein in local branches when they posed a threat to the Legion's image, especially on widely-publicized law and order issues. Crucially, however, no national Legion officials ever responded publicly to reports of Legionnaires engaged in violence against Jehovah's Witnesses. When the ACLU asked National Commander Lynn Upshaw Stambaugh to prevent further Legion violence against Witnesses in 1941, Stambaugh replied that the National Command had no control over the actions of local posts.<sup>116</sup> This suggests that for local

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<sup>116</sup> Letter of Lynn Upshaw Stambaugh to Roger N. Baldwin, December 31 1941. ACLUP vol. 2386.

Legionnaires, there was no prohibition on attacking Jehovah's Witnesses, as there was on attacking more high-profile enemies such as Communists and Bundists.

American Legionnaires, then, had multiple incentives for attacking Jehovah's Witnesses that were far more concrete than suspicions that they might be enemy agents or sympathizers. They wanted to defend the honored status of the flag, which for them was a symbol not just of patriotism but of the national prestige of veterans and their organization. They wanted to demonstrate the strength and status of the Legion in their own jurisdictions, which reflected personally on the esteem of Legionnaires both in their communities and within the broader organization. And because the attacks on Witnesses brought little or no national publicity, Legionnaires were free to use attacks on Witnesses to play the role of protective vigilantes, defending their communities against spies and subversives.

#### Theory Part 4: Implications and expectations

##### *What this theory explains*

This theory has important implications for explaining why Jehovah's Witnesses and not other dissident minorities were the targets of vigilante violence. In the First World War, a large network of government sanctioned and semi-sanctioned vigilante organizations such as the American Protective League had targeted all kinds of perceived dissidents: German nationals, socialists, religious pacifists, and sympathizers with any of these groups. The frequent violent excesses of these groups haunted the institutional memory of the American government, and with the approach of the Second World War the government refrained from commissioning any more vigilante organizations. With the decline of the Second Ku Klux Klan in the late 1920s, this left the American Legion as the only large supplier of organized, pro-establishment political violence. Despite the unpopularity of various "subversive" groups, vigilantism had largely vanished in the

United States because the government had decommissioned vigilante organizations, in the case of the American Protective League, or because they had lost public esteem, in the case of the Ku Klux Klan.

The American Legion not only remained organizationally strong but had a covert sanction “vigilant” activity from one of the highest levels of government. As Theoharis’s (1985) archival work shows, in late 1940 J. Edgar Hoover initiated a secret program to commission thousands of Legionnaires as “Confidential National Defense Informants,” who would perform surveillance in their communities and workplaces of individuals they considered suspicious. Legionnaires had lobbied Hoover for this program after they were initially rebuffed by Attorney General Robert Jackson when they offered him their services in mid-1940. Hoover notes in his memos that Legionnaires were upset by the treatment they received from Jackson, and he argues that if the Federal government did not take advantage of their offer they would take their intelligence services to state and local governments, which would welcome them. While Hoover’s contact program certainly did not amount to an endorsement of vigilante violence, it shows that Legionnaires saw themselves as auxiliary law enforcers, and that with some reason they expected governments to see them in the same way.

As the only remaining vigilante organization in America by the Second World War, it is not surprising that vigilante violence at this time was limited by the American Legion’s organizational aims. Jehovah’s Witnesses were both particularly offensive to Legionnaires, for reasons described above, and were also the only group they could violently engage without endangering their status as a pro-law and order organization. This is why Bundists, Communists, Socialists and other pacifists had little to fear from public violence in the late 1930s and early 1940s while Jehovah’s Witnesses experienced large-scale persecution.

The lack of Catholic violence response to Jehovah's Witness provocations was due partly to the fact that most Catholics probably had no knowledge of Witness anti-Catholicism, but also because American Catholics did not have the organizational will or capacity to mobilize it. While Catholic Action was one of the largest civic organizations in many European countries (see Poggi 1967), its existence in the United States was largely a fantasy of Jehovah's Witnesses. In the few places it did exist it was very small and circumscribed (see Issel 2009). Other Catholic Civic Associations such as the Knights of Columbus had no interest by 1940 in emphasizing conflict between themselves and any other sector of society. Since the 1890s, American Catholics had been trying to de-emphasize the differences between themselves and other Americans, resulting in a notable strain of nationalism in Catholic cultural and political life. (Dohen 1967) Any Catholic who participated in anti-Witness violence probably did so out of patriotism rather than religious outrage.

The timing of the violence reflects the status concerns of the Legion. The onset of the Second World War brought huge organizational benefits to the American Legion, including the prospect of a vastly increased membership and the generally increased esteem for veterans that was the natural consequence of involvement in a new war. These factors probably meant that for Legionnaires, any sense of urgency about the need to protect their honor from Jehovah's Witnesses would have steeply declined in relative importance. Just as importantly, the onset of the war meant a new draft, which resulted in the Federal government detaining Witnesses who refused to serve. By November 1942 over 450 Witnesses had been imprisoned for refusing to respond to induction notices. This coercive action probably convinced Legionnaires that the Federal government had now taken responsibility for dealing with the Witnesses, just as it previously had for dealing with Communists and Bundists, and so further vigilante action would be unwelcome and possibly bring Federal intervention. Contra to Manwaring, persecution was halted not by the Justice Department "making Witnesses more respectable," but by the Draft Board making them less respectable.

Finally, the organizational imperatives of the Legion explain why the violence was not lethal. As discussed in Part 1 of this section, vigilante organizations may want to create a murderous impression, but they will stop short of murder if they fear it will bring outside intervention. I also posit that the stakes of the Witness “threat” did not truly involve suspicions of espionage and subversion, which might have generated a lethal response. Instead, Legionnaires were more concerned about the affront to their organizational dignity, for which they were not generally prepared to kill.

I do not suggest that the American Legion was responsible for all of the violence. Reverence for the American flag and suspicion of “Un-Americanism” were widespread at the time, and these may have motivated many citizens to engage in violence and intimidation if they happened to know about the Witnesses’ stance on the flag salute. However, I argue that Legionnaires, much more than anyone else, had incentives for taking the law into their own hands between mid-1940 and mid-1942. Therefore, I argue that their involvement was probably high enough that it affected the overall nature of the violence in the ways that I suggest.

### *Expectations*

Before evaluating new data on the nature of anti-Witness violence, it is important to specify what my theory leads me to expect I will find, and what alternative hypotheses would explain other findings. First and foremost, I expect that American Legion involvement in the violence was higher than has previously been posited. The highest estimate of Legion involvement in anti-Witness violence to date is involvement in just under 20% of violent incidents; I expect it to be substantially higher. I expect this involvement to be particularly high in conjunction incidents involving Witnesses’ refusal to salute the American flag. Furthermore, I expect involvement of the American

Legion to be more likely when more people were involved in violent acts, reflecting its organizational capacities.

The main alternative hypothesis would be that the likely culprits of most violence were the same people largely responsible for illegal collective violence everywhere: young and often socially marginal men, acting impulsively. (see e.g. Courtwright 1999) If this is the case, then an alternative explanation for why violence declined when the United States entered the war would be that the draft largely removed the population of young risk-takers from the streets.<sup>117</sup> It is important to note that Legionnaires themselves, at least by 1940, were not young men, as service in the First World War was a prerequisite for membership. My explanation for the decline of violence—that it reflected the declining concerns of the American Legion with the need to defend their symbolic capital from Jehovah’s Witnesses—suggests that we should see American Legion involvement in violence drop more steeply and rapidly than violence as a whole.

I also expect local boundary maintenance to be a major theme of the violence, especially where the American Legion was involved, in accordance with the idea that Legionnaires were concerned with keeping “their” jurisdictions free of people who insulted the flag. The focus of the violence should be on running Jehovah’s Witnesses out of town rather than inflicting violence to wound or kill. An alternative hypothesis is that attackers should have been concerned with the larger subversive threat that Witnesses posed, and so threatened to report or turn them over to the FBI or some other authority.

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<sup>117</sup> Thanks to Paul Poast for this excellent suggestion.

## **Part 4: Evidence from ACLU data**

### Data

I use a unique dataset to explore the 1940s persecution of Jehovah's Witnesses, drawing on the papers of the American Civil Liberties Union. From 1940 onwards the ACLU encouraged Jehovah's Witnesses to write affidavits recording incidents of violence and police harassment and send them to the Solicitor General, Francis Biddle. Witnesses would often send copies of these affidavits to the ACLU, which it kept in its State Correspondence archive. The total number of affidavits and other legal documents regarding persecution of Jehovah's Witnesses in this archive amounts to 3677, which I read and scanned from the microfilm version of the ACLU archives contained in the University of Michigan library.

While other authors including Peters (2000) and Manwaring (1960) have examined and used documents from this archive before, I am the first to use it to construct a systematic dataset. Taking each "incident"<sup>118</sup> as an observation, I coded all of them on twenty dimensions, including the dates and locations of incidents, whether an assault took place, what threats were made, whether arrests or detentions took place, whether members of the American Legion were identified among the assailants or referred to, whether law enforcement officers refused to protect Witnesses, and whether the flag salute problem was mentioned. I therefore have a large quantitative as well as a rich qualitative dataset, and I exploit both aspects of it.

It is important to note the limitations of this dataset. It is almost certainly not a representative sample of all the actual violence that took place. I imagine that Witnesses were far more likely to write affidavits about incidents where law enforcement officials were involved or were

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<sup>118</sup> An "incident" here can refer to more than one event, if the events were mentioned in the same document. For example, many affidavits describing arrests in detail also mention previous arrests or harassment. I did not record these other events as separate "incidents" because of the great disparity in information between the main event described and these secondary mentions. This means that my overall counts of incidents are undercounts.

acquiescent, as these were the incidents in which the Civil Rights Section was interested. It is also not the complete sample of affidavits that Witnesses wrote; in the 1950s Manwaring briefly had access to the affidavits housed in the Department of Justice archives; from the description in his book this archive was larger (pp. 167-73) For example, he mentions a few (not very many) affidavits from 1943, which the ACLU archive does not contain, and a large number of very hard-to-read handwritten affidavits, of which there are relatively few in the ACLU archive. Manwaring constructed a less detailed dataset from these affidavits, which no longer appear to exist. In terms of temporal and spatial distribution our datasets follow roughly the same patterns, which gives me confidence that my dataset is fairly representative of the affidavits as a whole if not the violence as a whole.

There are, broadly speaking, three overlapping categories of incidents in my dataset: violence, threats of violence and police harassment, including arbitrary arrest and imprisonment. Of the 538 total incidents in my dataset, 254 involved physical assaults and 253 involved threats of violence that went beyond any violence actually committed. 245 incidents involved arrests, 168 involved detentions, and in 232 cases the affiant mentions that law enforcement authorities explicitly refused to protect Witnesses or failed to intervene when asked to do so.

There is substantial geographic concentration. Although affidavits came from nearly every state, five states between them had 53% of incidents: Texas, 110 incidents (20%); Oklahoma, 59 incidents (11%); Illinois, 54 incidents (10%); Mississippi, 35 incidents (7%); Indiana, 26 incidents (5%).



## Findings

### *Overall involvement of Legion and socially marginally young men*

Quantitatively, my data provides partial if not complete support for my theory. The American Legion is specifically mentioned in 199 of 538 incidents in the ACLU affidavits, while “war veterans” were mentioned in another four affidavits and Veterans of Foreign Wars are mentioned in a further six affidavits. In my sample, therefore, the American Legion features in 37% of incidents while all veterans and veterans groups appear in 39% of incidents. These numbers include mostly incidents where affiants identified their persecutors as Legionnaires, but also a few cases where law enforcement officials made explicit threats to turn Witnesses over to the American Legion when the Legion itself was not visible. For example, one affidavit describes how a city patrolman and deputy sheriff in Winslow, AZ interrogated and detained three Witness women and one man after hearing that they had been distributing “Fifth Column stuff.” After calling the chief of police to ask what to do with the Witnesses in custody, the patrolman informed them they would have to leave town within an hour or the police would bring charges against them, and “next time they returned to Winslow they would be turned over to the American Legion.”<sup>119</sup>

In cases where actual assaults took place, the Legion or veterans were mentioned in 107 out of 253 incidents, about 42%. They were mentioned in 82 out of 242 arrest cases, or 34%. In cases where affiants claimed that law enforcement officers had refused to protect them from possible violence, the American Legion was mentioned 111 out of 235 times, approximately 47%. In 56 cases, the affiant identified a law enforcement agent as a Legionnaire. These are all almost certainly underestimates of actual Legion involvement. Given that affiants only mentioned the American Legion where they were specifically able to identify Legionnaires or when other assailants mentioned them, number of false negatives where Legionnaires were not identified is likely to be much higher

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<sup>119</sup> Affidavit of Roy Crabb, 01/09/1941, ACLUP vol. 2317.

than the number of false positives in which they were incorrectly identified. In any case, the amount of Legion involvement in persecution and harassment of Witnesses was certainly much higher, probably more than twice as high, as has previously been recognized. Legionnaires may have been involved in at least half of all violent incidents.

There is little evidence for commonsense alternative hypothesis that assailants were disproportionately young or marginal men, the group we would normally expect to be responsible for most assaults and harassment in public.<sup>120</sup> While assailants were nearly always male there are very few occasions when affidavits describe them as young. Most of the affidavits in which young men are specifically mentioned refer to events in a single location, a series of assaults in South Bend in the summer of 1941. Between July and October of 1941 Witnesses described being assaulted by a gang of “hoodlums” aged between 16 and 20. However, they appear to have been under the control of a local Legion commander, John DeGrove, who regularly appeared at the scenes of assaults and warned Witnesses to leave. Occasionally DeGrove participated in assaults himself. One of the young assailants, Harry Stanfield, told police in an interview that he was 19 and that John DeGrove had told him and others to carry out the assaults, adding “they say that the American Flag is a rag and I don’t like that. He won’t go in the draft and I will.”<sup>121</sup> DeGrove was brought to the police station for questioning several times but was never charged. On one occasion a detected admitted to one of the affiants that “the police force was ninety percent American Legion, that the Legion ran the town and that the police had no control over the Legion.”<sup>122</sup>

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<sup>120</sup> The State Department’s *International Religious Freedom* reports, a major source of data for Smith (2010b), indicate that in Eastern Europe, for example, that adolescent males are responsible for the vast majority of assaults of Jews and vandalism of Jewish cemeteries and memorials.

<sup>121</sup> Statement of Allan D. Weaver, 07/05/1941. See also letters of A.M. Mellander to Department of Justice Civil Liberties Unit, 07/03/1941 and 07/11/1941; statements of Anton Kadzjik, David Nalepinski, Ray Rose and Mae Armstrong, 06/28/1941; statements of A.M Mellander, Mike Mesarik, Lane Hare, William Baumgartner, Eugenia Buzalski and Robert Barwig, 10/03/1941. All contained in ACLUP vol. 2328.

<sup>122</sup> Statement of Harry Barwig, 10/16/1941. ACLUP vol. 2328.

In two statements Witnesses describe being attacked by children; in one of those incidents the American Legion again played the organizing role. A letter from a Witness to the ACLU in October 1940 describes how “an angry mob dragged and beat two men” in Connersville, Indiana, while others “threw stones and decayed fruit.” Members of the American Legion were present, “directing and advising the men how to go about beating the two men,” and “the riot was premeditated by the aforementioned (American Legion) because the small children near the age of twelve gathered decayed fruit in the afternoon that it might be used that night.”<sup>123</sup> In another statement, a Witness describes a series of attacks by “a mob of boys ranging from ten years old upwards” in Corning, California. The Witness describes how the boys had “the backing of the town” and they were specifically urged to act by prominent local businessmen. In one case: “The boys were encouraged by a Corning business man, Mr. A.B. Steelman, who is manager and proprietor of the Hotel Corning. The boys obtained a large flag on a staff and tried forcing some of the Witnesses to salute the flag. Because the Witnesses would not salute the flag the boys tormented the Witnesses with paper bags filled with water and clumps of dirt. Another Witness was struck many times.”<sup>124</sup> Prior to the attacks, an American Legion member had ordered the Witnesses to leave town.

Apart from the South Bend cases, Witnesses rarely described their attackers in terms suggesting criminality or social deviance. While they sometimes claimed their assailants were drunk, this was nearly always in reference to Legionnaires, who had a reputation for drunkenness.<sup>125</sup> Rather than marginality, Witness affidavits often emphasized the high social status of their persecutors. When Witnesses recognized their attackers they would sometimes provide their occupations along

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<sup>123</sup> Letter to ACLU (author name not visible), 10/22/1940. ACLUP vol. 2230

<sup>124</sup> Letter of Payne Creek Company of Jehovah’s Witnesses to Department of Justice Civil Liberties Unit, 01/14/1942. ACLUP vol. 2319.

<sup>125</sup> Drinking was such an important part of the Legion’s social activities that in 1923 one Legion leader identified the Women’s Christian Temperance Union as an “Un-American” organization. (Pencak 1989, p. 9)

with their names, and businessmen and professionals are disproportionately represented in these accounts.

In Sandpoint, Idaho in December 1941 the chief of police told a group of Witnesses who had been working there for a year that they would have to leave because they were about to be mobbed. There was nothing he could do to prevent this because “the largest percent of the businessmen were against (them),” and they would be “hurt and killed” if they did not leave. A month later the president of the Bonner County National Bank, along with three other bank employees, attacked one of the Witnesses as he worked in the street, kicking him and striking him in the face as he passed by an American flag hanging in front of the Elks Building. The affidavit mentions that all four were members of the Elks Lodge.<sup>126</sup> This story indicates that higher-status rather than lower-status individuals may have been primarily responsible for anti-Witness violence, partly because they were able to intimidate law enforcement officers and partly because, as posited in my theory section they were more defensive of towns’ symbolic capital.

Levels of Legion involvement declined as time went on. Legionnaires are recorded as having been involved in 47% of incidents in 1940, 36% of cases in 1941, and 24% of cases in 1942. This conforms to the theoretical expectation that Witness involvement would decline faster than overall violence because of the rapidly increasing status they enjoyed as the United States prepared for and entered the war.

### *Crowd numbers*

As predicted, American Legion involvement in incidents increased as the crowd numbers mentioned by affiants rose. Jehovah’s Witness affiants identified specific numbers of assailants in

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<sup>126</sup> Letter of Read A. Wilkinson to Department of Justice Civil Liberties Unit, 01/17/1942. ACLUP vol. 2408.

154 incidents, and in a further 97 incidents identified a “mob.” The American Legion was present in 30 of the 55 incidents where a group of more than 20 was involved, in 14 out of 23 incidents where a group of more than 100 was involved, and in all 10 incidents where a group of more than 300 was involved. In these very large incidents Legionnaires nearly always played leading and instigating roles. Large crowd incidents required not only organization but also some sense of legitimacy, which the American Legion was able to provide. Two incidents demonstrate the extent to which the Legion could both mobilize crowds and authorize them to commit violence.

In Holyoke, Colorado on June 24 1940, Emil Koch and his family were distributing petitions protesting the Ohio State Fair Association’s cancellation of the annual Jehovah’s Witness convention at the Columbus fairgrounds.<sup>127</sup> A bystander, John Zeiler, ordered them to stop their work and leave town, then forcibly took a petition and destroyed it. When Koch asked him by what authority he gave these orders, he answered “By the authority of the American Legion!” In the meantime, a crowd had gathered under Zeiler’s leadership which stopped the Witnesses from doing any further work. The chief of police appeared, and Koch asked him if he had violated any

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<sup>127</sup> Witnesses distributed this petition, addressed to the Governor of Ohio, nationally. It read as follows:

“We, the citizens of the United States, are unalterably in favor of freedom of speech and worship, as guaranteed by the fundamental law of the land.

Jehovah’s Witnesses, a body of Christian people, have been invited to hold their annual convention at the Ohio State Fair Grounds, Columbus, July 24 to 29, 1940. The Ohio State Fair Association has previously contracted with and agreed with Jehovah’s Witnesses for the holding of that convention. Acting under pressure of selfish interests, the Association has canceled the contract and refuse Jehovah’s Witnesses the use of the Fair Grounds. This affects more than thirty simultaneous conventions to be tied in with the key assembly at the Fair Grounds.

We vigorously protest against efforts of selfish religious organizations and others to induce the cancellation of said contract. We demand that the officials of the Fair Association carry out the contract that the convention of Jehovah’s Witnesses may be held and that the fair name of Ohio may not be besmirched by selfish opponents of freedom of speech, worship and assembly.”

Incidents involving this petition appear in dozens of affidavits from around the country in June and July of 1940. It is difficult to tell whether the act of distributing petitions was itself particularly antagonistic, or whether the petition is highly represented in the early affidavits because this was one of the major activities of the Witnesses at the time that other factors converged to begin the initial wave of persecution.

ordinance that would warrant arrest. The police chief replied “I’ve got this bunch behind me. Leave town and don’t come back.” According Koch, “we were pushed, approximately a block, back to our car. While we were being escorted, we were threatened by the mob.”<sup>128</sup>

In Guymon, Oklahoma in August 1940, a crowd of 1000 gathered outside a courthouse where six Jehovah’s Witnesses entered pleas on charges of violating an anti-peddling ordinance that had been passed a few weeks earlier at the instigation of a local Legion and VFW member. After all six pleaded “not guilty,” a local man, not a court official, rose to make a speech. According to an affidavit, he declared before the court that “Jehovah’s Witnesses were un-American, that they did not believe in laws made by man, that they said the flag was the same as an old shirt on a fence post, and that they distributed literature that was un-American. He stated that until the laws were enacted which would stop the spread of such literature that the people would stop it, and the organizations of the Veterans of Foreign Wars, the American Legion, and others were behind them in this. The court house rang with applause.” Outside the courthouse, members of the crowd subsequently beat the affiant “so badly about the face and head that I am hardly recognizable.”<sup>129</sup>

### *The flag salute*

The American Legion appears in 71 out of 143 affidavits in which refusal to salute the flag was mentioned as a specific source of antagonism, indicating that they were even more disproportionately represented in these incidents than in others. Among the ACLU’s documents is a copy of a Syracuse, Nebraska newspaper from July 1940 which contains one of the few written statements in existence about the American Legion’s position on Jehovah’s Witnesses. The document is a letter by a local Legionnaire in response to an article a week earlier that had alleged

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<sup>128</sup> Affidavit of Emil Koch, 07/03/1940, ACLUP vol. 2220.

<sup>129</sup> Affidavit of Ernest Miller, Jerome Fain and Otto Bauer, 08/14/2010. ACLUP vol. 2242.

Legion involvement in “mob rule and violence” against Jehovah’s Witnesses. The Legionnaire, W.K. Kathly, writes as follows:

What happened is this. A certain organization, whose principles are against saluting the American flag and against other primary ideals which we all hold dear, and which has led to disturbances in other communities of this nation, appeared soliciting at the various doors of Syracuse householders on Sunday morning.

The Syracuse American Legion, which is not a law enforcing body, appealed to the Marshal to request to these people to refrain from disturbing the peace and leave town. . . . Because we felt the peace of a Sunday morning shouldn’t be disturbed by the happenings which have marred other towns, when requests were made to salute the flag, caused outbursts of patriotism, and led to harm to those disloyal to our principles.

The Sheriff without any officiousness, but with calm, merely told these people that they were not wanted in this town, and they left. He himself can testify that there were no threats of violence, but an orderly assembled gathering with pride of the town’s good name in their hearts, and patriotism, that led them to resent in their minds the intrusion of a non-patriotic organization in their midst.

This is not an apology, we are patriotic Americans, we believe that all who are sheltered under our glorious American Flag should be proud of its protection, and we of the American Legion affirm our allegiance, that we will always be on guard against anything subversive, but always, like Sunday, through properly constituted authority.<sup>130</sup>

This is an important document because it shows how the American Legion wanted its vigilance to be seen on the public record—as an orderly aid to properly constituted authority. Furthermore it shows the pre-eminence of the flag in the Legion’s self-image and how it wanted to be seen. The final paragraph seems to equate the flag, the Legion, and the protection of nation and community. As discussed in the theory section, this made the ejection of Jehovah’s Witnesses an especially important symbolic activity for the American Legion.

American Legion “authority” to defend the flag was not always so properly constituted. In St Clairsville, Ohio in March 1941, vigilantes apprehended 35 Jehovah’s Witnesses from nearby Wheeling and took them to the American Legion Hall where a Legion spokesman told them to

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<sup>130</sup> W.K. Kathly, “What Happened Sunday in Syracuse?” *The Syracuse Journal-Democrat* (Otoe County, NE), 07/05/1940.

leave, and said “the only thing we have against you people is that you don’t salute the flag.” As the Witnesses protested that they respected the flag as a symbol of freedom of speech and religion, around 60 people gathered in the hall, turning the proceeding into a pseudo-judicial hearing. The Witnesses were “not allowed to say much,” but one towns person spoke up for them, declaring they had a constitutional right to distribute their literature because they were living in a democracy. The Legion spokesman retorted “Are you one of them? Why don’t you go over with them?” They were eventually escorted out of town.<sup>131</sup>

#### *Concerns with local boundary maintenance*

There is overwhelming evidence in the affidavits that the primary concern of all assailants, not just Legionnaires, was removing Jehovah’s Witnesses from their towns and cities. The vast majority of arrests, assaults and threats involved some form of the utterance “get out of town.” Witnesses were always well-armed with the legal citations and copies of various government documents saying that their work was not subversive and allowed under the Constitution. They would display these to city officials or others who were harassing them, and frequently—in 94 of the affidavits—they met with the reply that the law or constitution didn’t apply here, because “we are the law in this town,” or “I am running this town,” or some other similar statement. The American Legion was involved in 94 of these 97 incidents, and in several cases the statement took the form of “The American Legion is running this town.”

A series of incidents in Snohomish, Washington in June and July 1940 illustrate the influence the American Legion had in some towns and the extent to which their crusading caused the wave of anti-Witness activity. On June 18 a Snohomish insurance agent approached Edmond Perrenoud, a Witness and resident of nearby Everett and told him that “We have taken up the matter of you

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<sup>131</sup> Affidavit of R.L. Drummond, 06/04/1941. ACLUP vol. 2339.



people at our last Legion meeting and we are going to stop you.” Four days later, chief of police O.D. Morse warned Perrenoud and other Witnesses to stop their work or they would be mobbed. He told them that he was not interrupting their work at the behest of city officials, but because of an “outside source.” When “ardent” Legionnaire Noble Des Press began harassing the Witnesses while they worked on July 6, the police chief arrested them. Mayor Chas Banworth was present at the police station and when the Witnesses asked him why they had been arrested he answered “because you people don’t salute the American flag.”

The mayor then told the Witnesses he was letting them go but warned them “Don’t come back with your propaganda anymore.” They asked Banworth who turned in the complaint against them and he replied “the American Legion,” which was immediately confirmed by two Legionnaires present at the station, Noble Des Press and John Bird. The Witnesses, as was customary, began trying to explain their work but the mayor waved his arms and shouted over them “we won’t listen to you. All we want is for you to get out of town and stay out. The American Legion says your literature is subversive propaganda and they will lynch you fellows if you don’t get out of town.” The Witnesses tried to explain that *Lovell v. Griffin* had established that they were within their rights to distribute literature but the mayor refused to listen, threatening them again with mob action.<sup>132</sup>

This incident demonstrates three important characteristics common in small-town police harassment of Jehovah’s Witnesses. First, the American Legion often exercised considerable influence over law enforcement and city officials. Second, the American Legion in this case seems to have been the main channel of information through which the “subversive” rumor was spreading. Third, the Legion’s aim was to get the Witnesses out of town, and to accomplish this they threatened a lynching in order to force city officials to take action.

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<sup>132</sup> Edmond M. Perrenoud affidavit, 07/08/1940, ACLUP vol. 2249.

An affidavit by an Oklahoma attorney entitled "Is this Germany or is it America?" tells a similar story of law enforcers acting according to Legion instructions. On July 7 the attorney (whose name is illegible) traveled to Guthrie in Logan County to represent two Jehovah's Witnesses charged with peddling without a license. The Witnesses had told him that no attorney in Guthrie would defend them because of the "public sentiment." The attorney agreed to represent them "though not believing as do Jehovah's Witnesses, and though their literature condemns certain of my ideas." He traveled to Guthrie motivated by the belief that everyone has the right to a fair trial and a defense, and "believing as Voltaire said 'I despise the thing you say but will defend to the death your right to say it.'"

The attorney defended the two Witnesses, Mr Nichols and Mrs Sprague, before a police judge. When he gave notice of appeal, two other Witnesses stepped forward to provide bond, at which point they were immediately arrested and thrown in jail. Then "a number of officers and legionnaires" rushed the attorney and demanded that he salute the flag. The attorney replied that he had no objection to saluting the flag but would like to make a statement. They shouted "No! Any lawyer that would represent the sons of bitches is just as bad as they are!" The crowd pushed and shoved the attorney and took his wallet, watch and keys, and then scattered his papers and put him in jail. A number of officers later took him to be fingerprinted, where they told him the Legion was planning to tear down the jail that night. Sometime between midnight and 1AM, police chief Fred Streeter took him from the jail to another room and told him that he was allowed to go, but there were Legionnaires in the city hall and the police could not guarantee his safety. The police could put him on a bus, said Streeter, but he could not guarantee that the Legionnaires would not take him off. They might then take him to the city limits and leave him there. When the attorney asked to call friends to come and get him the police chief refused, saying that would be dangerous. He said "I want you to know that I will not give you protection for if the Legionnaires get hold of you, there

will be bloodshed and I will not shed any of their blood to protect you because this is my home and I have to protect it.” Eventually the attorney persuaded the police chief to take him to the nearby town of Coyle.<sup>133</sup>

Again, the major theme here is local boundary maintenance. The Legion was determined to eject the attorney because he defended individuals who refused to salute the flag. Again, the way they accomplished this was by threatening violence that forced law enforcement officials to remove the “offender.” And though there was a definite element of “lawlessness” to the Legionnaires’ actions, they were allowed to take a very active role in legal proceedings. This is a recurrent pattern in the affidavits: the appearance of cooperation between Legionnaires and law enforcement officials who claim to be scared of them. An Orlando Witness reported in June 1940 that the city’s police chief had expressed his view that anyone who refused to salute the American flag ought to be investigated, and remarked that they “had better be careful, or some of those patriotic Legionnaires will get after them.” The following day, the Witnesses had been apprehended by a carload of Legionnaires who took them by force to the Legion Hall, questioned them and threatened them. The Legionnaires claimed they had been deputized by the police. While the police chief later denied this, other Orlando Witnesses reported that police had picked them up and turned them over to the Legion at their hall.<sup>134</sup>

In only one incident that I could find did the American Legion—or any other assailant—discuss the need to keep Jehovah’s Witnesses out of *other* towns, or anywhere else. J.W. Jones, a Witness and resident of Pascagoula, Mississippi, had been distributing the *Watchtower* there without incident on street corners for most of 1942, but at the beginning of April he was approached by the Chief of Police who told him that “I don’t know anything about your work, and don’t want to know, but I do know that we are not going to have it here in Pascagoula.” Five weeks later the Chief

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<sup>133</sup> “IS THIS GERMANY OR IS THIS AMERICA?” Affidavit, 07/19/1940, ACLUP vol. 2220.

<sup>134</sup> Affidavit of John R. Barnes, 07/15/1940, ACLUP vol. 2220.

personally arrested Jones on a charge of peddling without a license. Jones's explanation of events follows the usual Witness theory that all persecution was masterminded by the Catholic hierarchy: "My observation of Chief Ewell is that he would not willfully persecute Christians, but there is considerable cumulative evidence that his unfortunate part in the persecution of Jehovah's witnesses was apparently due to pressure from the American Legion, which does the bidding of the Roman Catholic Hierarchy at Vatican City, Rome."

In the meantime, the American Legion had been conducting its own "investigation" of Jones and his activities. On April 14 the local Legion commander and a deputy sheriff had interrupted Jones's work in the street, claiming that they "represent the law here in Pascagoula" and requesting that Jones appear before the American Legion post the following evening so the Legion could thoroughly investigate his work. The deputy, Lee Byrd, instructed Jones to "bring all you got, don't hold back anything," while the Legion Commander, L.L. Stigler warned him that "if your work is not on the square it is going to be bad for you." Jones appeared before the Legion post the next evening ("at considerable inconvenience") where the scene resembled a "kangaroo court." Before 30 to 35 Legionnaires and with Stigler acting as a kind of presiding judge, Harold Gautier (a "Catholic Legionnaire") conducted a "very harsh and severe cross-examination" for nearly two hours, despite Jones suffering an attack of angina.

Jones says he was interrupted too frequently to be able to him explain himself and Witness doctrine, which he was eager to do despite the uncomfortable circumstances. Legionnaires, however (some of them drunk), were permitted to make speeches. Some Legionnaires urged that Jones be arrested because of the subversive threat he posed, rather than allowed to go free. "Why dump our garbage on some other town?" asked one Legionnaire. "If we don't arrest him tonight, he will sneak off to some other town and continue his detestable propaganda, and that would not be fair to the other town." Jones describes the pseudo-judicial conclusion to the ordeal:

After a considerable display of “parliamentary law” involving motions and a substitute motion, and considerable speech making and strict admonition from Stigler that “the will of the people is the law,” and strict instructions that whatever they voted to do with me WOULD BE DONE, and after the final vote, I was “politely” dismissed for the stated reason that they “invited” me there, but that I and all other persons of like “ilk” must DESIST at once within the “jurisdiction” of Post #160, and the boundaries of the post were carefully defined. Otherwise, failure to desist immediately would result in my arrest as American Legion Post #160 would see that I was arrested.

A few days later an article by Stigler appeared in the *Chronicle Star*, the leading newspaper of Jackson County, urging anyone who was subjected to “Jehovah witness propaganda” to call the police or the American Legion and to detain the Witness until somebody arrived to arrest him. After the Chief of Police arrested Jones on May 9 he was visited by a group of Legionnaires in the county jail. They warned him that “we gave you a chance to get out of town and you didn’t go . . . we will keep on fighting you. The Constitution says everyone must salute the flag. . . . Those who refuse will be put in concentration camps.”

Jones continued to distribute literature his arrest and was harassed by multiple law enforcement authorities. On May 30<sup>th</sup> a county highway patrolman alerted the sheriff to Jones’s activities, and the sheriff physically menaced him. When Jones requested protection from the patrolman he walked away. The sheriff called Jones a “dirty cur” and said he couldn’t afford to beat him up in front of all the people in the street, but that if he ever caught him alone “I am going to beat the living hell out of you.” Jones replied that the sheriff was there to protect him instead of persecuting him, to which the sheriff sneered “You’re not worthy of protection. You won’t salute the flag.” He added that he had been elected twice as sheriff and enjoyed the full esteem and support of the people. On another occasion a county patrolman apprehended Jones and called the sheriff to see what he should do. The sheriff’s department referred him to the Legion Commander, L.L. Stigler, who in turn referred him to the Legion’s “investigator,” Harold Gautier. Gautier advised the patrolman not to arrest Jones but to keep an eye on him, as he was “studying the law on my case”

before making an arrest. This patrolman indicated that he was sympathetic to Jones, and was also a Catholic.

Matters came to a head on June 3, when three Jehovah's Witnesses went to the mayor's and sheriff's offices to present a written notice that Jehovah's Witnesses would hold the county and city answerable for any damage to their persons or property if the county and city refused them protection. Three hours later a small group of drunken Legionnaires threatened and assaulted Jones on a lonely country roadside. While restraining Jones "with the strength of a madman," their leader told him that "This war has got to come first with everybody, you're no better than anyone else; who is Jehovah? Damn Jehovah!" Jones's account continues:

He became wildly hysterical and shouted "You have tried to make a fool out of the officers here. They have had their chance to handle you and your God damn propaganda. They have failed. Now we, the American Legion Post #160, are going to handle you. If you are not out in 24 hours, and have all your belongings out, we are not going to kill you, but we are going to put you across a log and give you a damn good beating. We had figured on the penitentiary for you, but if you are not already cleared out in 24 hours, you won't be able to get to a penitentiary or a concentration camp either."

Just before the Legionnaires forced Jones and his wife into their car, threatening to "break every bone in your God damn body," Jones asked their leader where the American Legion got its authority. "From 130 red-blooded Americans, members of post 160," he replied. Upon returning to town, Jones visited the sheriff's office, requesting urgent protection. A receptionist told him that the sheriff and his deputies were gone for the day, their resources urgently needed to attend to another emergency. Jones concludes his affidavit that "if I were going to be killed, I wanted to make this statement before that happened."<sup>135</sup>

This incident shows that ultimately, Legionnaires cared most of all about keeping Jehovah's Witnesses out of their own Command Posts. Even though they discussed the "unfairness" of passing the Witness along to another town with his "detestable propaganda," they would only take

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<sup>135</sup> J.W. Jones affidavit, June 8 1942, ACLUP vol. 2414.

action to keep him out of their city. When the law failed to do so, local Legionnaires became infuriated and asserted their authority to keep Jones out of their town. In no other affidavit was there ever even a discussion of turning Witnesses over to a higher authority—anti-Witness action was almost exclusively about local boundary maintenance, and Legionnaires, local officials and other citizens did not want to involve the outside state.

### **Conclusion**

In this paper I have argued against the “spasmodic view” of mass violence, to adapt E.P. Thompson’s term. Unlike Thompson’s crowds, the vigilantes and law enforcement officers who beat and harassed Jehovah’s Witnesses did so in defense of a symbolic order rather than material rights, but they were no less rational and strategic because of that. Even as they inflicted damage on those they considered unpatriotic, made lurid threats and repeatedly violated the law, they carefully chose their targets and acted within boundaries to ensure that their violence was a status-enhancing rather than a status-diminishing activity.

The ACLU data confirms to some extent that anti-Witness violence was an organized phenomenon that conformed to the strategic aims of a particular group, the American Legion. The fact that the Witnesses’ refusal to salute the flag was the proximate cause of the violence has been something of a red herring in previous literature, which has emphasized the importance of the flag as a national symbol at the expense of the importance of the flag as a symbol of the organizational status for the Legion. The decentralized structure of the flag salute regime combined with the federal structure of the Legion gave individual Legionnaires at the local level the responsibility for maintaining this symbolic capital, which they sometimes did with violence and the help of acquiescent officials.

Anti-Witness violence was an outgrowth of American civil society, made possible by habits of interpersonal trust and community participation, and serving the aims of a prominent civic association. It flourished for two years because Legionnaires and others understood where the boundaries of state intervention lay.



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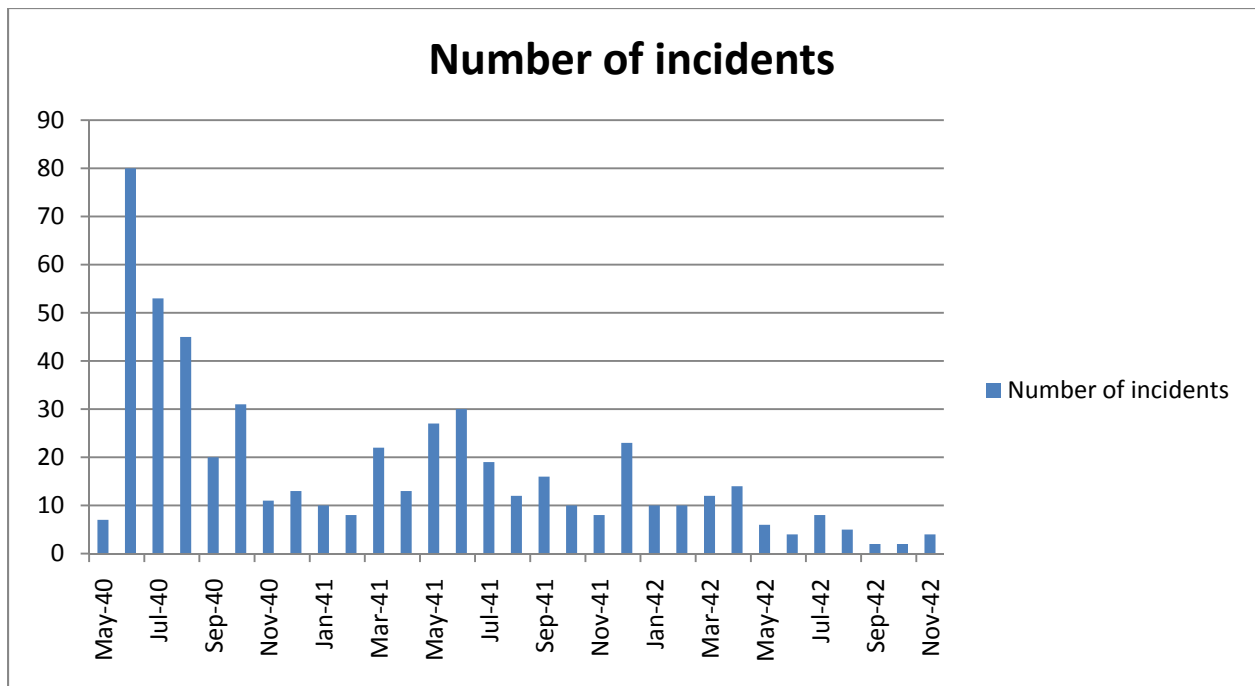
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## Appendix: Figures

Figure 4.1: Temporal distribution of assaults and police harassment



## **Chapter 5:**

### **Proselytism and Persecution:**

### **The case of Jehovah's Witnesses in Europe**

#### **Introduction: Differential treatment of religious minorities**

A great deal of recent scholarship from a number of disciplines addresses the question of why different states exercise different levels of control over religious groups. Among others, Monsma and Soper (1997), Stark and Finke (2000), Stepan (2000), Barro and McCleary (2005), Grim and Finke (2007), Fox (2008) and Gill (2008) have made major inroads into explaining the enormous variance in how states interact with religion around the world. Increasingly high-quality data such as that made available by Fox (2004), Grim and Finke (2006) and Pew (2009) has enabled more fine-grained analysis of the variance. Most of these authors have tried to explain differences in the general features of national religious regimes, such as which countries have state churches (Barro and McCleary), the different configurations of relations between the state, majority religions and minority religions (Stepan) and which states engage in religious persecution (Grim and Finke). So far, however, there has been relatively little work attempting to explain one of the most vexing aspects of cross-national religious regulation, which is the differential treatment of groups within

and across countries, especially minority groups. Why do states persecute some groups but not others, and why are certain groups tolerated in some countries but not others?

While many countries legally privilege majority religious groups over minorities to some extent,<sup>136</sup> not all of them actively repress or persecute religious minorities. Those states that do repress minorities very often do so *selectively*: some are singled out for special mistreatment involving physical harassment and violence, targeted discrimination or government campaigns of negative propaganda, while others are left in relative peace. For example, the Indonesian government has recently passed specific laws against the Ahmadiyya sect, which many Muslims consider heretical. These laws forbid the sect from proselytizing and in 2008 the agency responsible for monitoring religious organizations recommended it be disbanded.<sup>137</sup> On the other hand the Baha'i sect, while also considered heretical by many Muslims, has been allowed to organize since 2000, albeit it is not entitled to the privileges of mainstream Islam.<sup>138</sup>

Moreover, religious minorities with a presence in multiple countries are treated very differently from country to country, even between countries with similar regimes of religious regulation. While Baha'is are tolerated in some Muslim countries such as Malaysia and Indonesia, they are persecuted in Egypt, to which Grim and Finke assign a very similar score on their governmental regulation of religion index. The Church of Scientology encounters state monitoring, restrictions and legal attempts to dismantle it in many western European nations such as Germany and Italy, while eastern European states such as the Czech Republic and Croatia have generally accepted its presence. What accounts for the differential treatment of religious minorities both within and between countries?

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<sup>136</sup> According to Grim and Finke's data (2006), around 60% of countries grant some religions, usually traditionally dominant religions, privileges and access to government that other groups do not have.

<sup>137</sup> See <http://www.alarabiya.net/articles/2008/04/28/49020.html> last accessed 11/30/2010.

<sup>138</sup> See "Indonesia" in the US State Department's 2001 *International Religious Freedom Report*.

This is an important and largely unanswered question that creates both scholarly puzzles and real-world political friction. The US State Department's annual *International Religious Freedom* report regularly upbraids many countries, including close allies, for their specific treatment of certain minorities. The State Department in recent years has castigated Germany for its treatment of Scientologists, Belgium for its publication of a list of "dangerous sects," and several western countries for their harassment of Islamic radicals even at the height of the global war on terror. A common and angry response from these countries is that they have no problem with religious freedom, but certain groups simply will not cooperate with the state, pose a political threat, refuse to fit in to broader society or do not, in their estimation, qualify as genuine religious groups at all. Reports on religious freedom by Amnesty International and the Council of Europe criticizing the treatment of specific minorities draw similar responses.<sup>139</sup> Why do countries in agreement on many issues, including human rights issues in general, disagree so radically over which religious groups deserve to be tolerated and which do not?

In this paper I argue that a group's levels of proselytism are a key (though not all-encompassing) factor in explaining both why a group may be persecuted in some countries but not in others, and why it may be persecuted in one country when other groups there are not. Both authoritarian and democratic governments have often used excessive, norm-breaking proselytism as a rationale for repressing or restricting certain groups. In the words of one former US diplomat explaining global policies on religion, "proselytism has sometimes been socially disruptive and even

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<sup>139</sup> For one representative example, in 2000 a Council of Europe rapporteur announced he was "surprised" and "delighted" by the overall progress that Armenia had made in the field of human rights, but cautioned that Armenia's refusal to register Jehovah's Witnesses and some other Protestant sects did not meet standards that would be required for admission into the Council. Armenia's Justice Minister David Arutyunyan responded that Armenia had "no problem" with the registration of sects, but that Jehovah's Witnesses were "creating problems themselves by breaking Armenian laws and trampling on the rights of other people." ("Council of Europe envoy 'delighted, surprised and pleased' with Armenia." Noyan Tapan news agency (Yerevan), May 6 2000; via BBC Worldwide Monitoring, May 6 2000.)

rapacious, undermining the structures of families and communities.”<sup>140</sup> However, I go further to examine the circumstances under which proselytism does provoke a repressive response, and I find little evidence that maintaining social order is the usual motivation. Instead I find some evidence that states tend to respond to proselytism with repression when traditionally dominant religions are most likely to be concerned about the competitive threat that proselytizing religions pose. Though this finding is not surprising given existing scholarship on religious competition, it is a theoretical advance on existing literature because I specify the conditions under which traditionally dominant religions are most likely to see upstart sects as a competitive threat—not necessarily when proselytizers are making converts from within their congregations, but when there is a large pool of nonaffiliated religious believers over which they are competing.

### **Theory: Proselytism, social conflict and religious markets**

“Where I do not go, Jehovah’s Witnesses will go, all sorts of wheelers and dealers will go.” –Serbian Orthodox Bishop Vladika Filaret, August 7 2007.<sup>141</sup>

My theory builds on and modifies Grim and Finke’s (2007) theory that greater governmental regulation of religion—measured by the extent to which the state imposes various barriers to religious practice within its borders—leads to greater levels of persecution, the physical abuse and displacement of religious adherents on the grounds of their belief. I argue that the effect of the overall regime of religious regulation on the treatment of any *specific* religious minority will be modified by how much that group proselytizes. The more that a religious minority attempts to make converts from the rest of the population, the greater is the likelihood that the state’s religious

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<sup>140</sup> Thomas Farr, “Proselytism and Religious Identity Theft.” Part of Berkley Center forum on Proselytism and Religious Freedom in the 21<sup>st</sup> Century, available at: [http://newsweek.washingtonpost.com/onfaith/georgetown/2010/02/human\\_right\\_or\\_identity\\_theft\\_-\\_proselytism\\_in\\_the\\_21st\\_century.html](http://newsweek.washingtonpost.com/onfaith/georgetown/2010/02/human_right_or_identity_theft_-_proselytism_in_the_21st_century.html) last accessed 10/25/2010.

<sup>141</sup> M. Pesic, “Bishop Filaret, lover of virtues under suspicion.” *Politika* (Belgrade), August 5 2007; via BBC Worldwide Monitoring, August 7 2007.

regulations will penalize that group in some way. While there has been much written on the normative and legal aspects of proselytism,<sup>142</sup> there has been very little scholarship in any discipline on the effects of proselytism on church-state relations or religious intergroup relations. In formulating my theory of the effects of proselytism, I draw on several bodies of literature from political science and sociology which address the question of the circumstances under which religious, racial and political minorities can expect to meet repression.

First, I take from the racial threat hypothesis in political science that individuals will feel more threatened by minorities when they are present in larger numbers, and will be more likely to support political candidates and policies that promise to hurt those minorities. (Key 1949) However, Wong et al (2005) argue that the effect of a larger or smaller minority presence will be conditioned by how people perceive the size of it—individuals may have very inaccurate perceptions of the presence of a minority even within their local neighborhoods, and may overreact or underreact to it accordingly. This is an important insight when considering the likely effects of proselytism. Acts of proselytism reveal the presence of members of otherwise indistinguishable religious minorities. Individuals are much more likely to be aware of the local presence of groups that proselytize in public such as Mormons, Hare Krishnas and Scientologists than those which do not, such as Buddhists. It is possible that visible campaigns of group proselytism create exaggerated perceptions of that group's size, at least in relation to other minority groups. Furthermore, vigorous proselytism may create fears that the group will grow and absorb other members of the community. Thus, individuals who are ill-disposed to religious minorities are more likely to feel threatened by those groups that proselytize more than by those who proselytize less or not at all, and are more likely to lobby some level of government to take action against them.

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<sup>142</sup> See Lerner (1998), Witte (2000), and the essays collected in Witte and Bourdeaux (1999), Witte and Martin (1999), and Hackett (2008).

Second, regardless of the legal status of proselytism, local or national governments may see acts of proselytism as threats to their authority or to the well-being of the population, and accordingly respond with repression. (see Davenport 2007 on this “law of responsive coerciveness”) There are various ways in which governments may see proselytizing groups as a threat to public order, from obstructers of traffic and unauthorized peddlers to brainwashers of the vulnerable and sophisticated frauds. While many or even most governments may see proselytizing groups as harmless, nonetheless acts of proselytism strictly raise the likelihood that some government officials may come to see a group as a threat.

Third, drawing on scholarship from the political economy of religion (e.g. Gill 2008) I argue that proselytizing minorities are more likely to be seen as competitors by traditionally dominant religious groups, and this raises the probability that these groups will lobby governments to take action against the proselytizing minority. While these lobbying efforts will not always be successful, there are numerous instances of where they have succeeded. Gill points out that as under Russia’s 1997 legislation on religious associations, the three accepted minority “religious organizations” in Russia (Judaism, Buddhism and Islam) are groups that do not compete with the state religion of the Russian Orthodox Church, while the less privileged “religious groups” and even more precarious “unregistered groups” are frequently made up of those the Orthodox Church sees as competitors, including Catholics and Protestants whom it accused of “aggressive proselytizing.” (pp. 204-210) Knox (2005) extensively documents the role the Russian Orthodox Church played in convincing the state to enact this legislation. Regardless of whether the lobbying of established religious groups against minorities will be successful, proselytizing raises the likelihood that it will take place.

We can derive a fourth causal factor from the language that states themselves use to justify the regulation of proselytism. This usually takes the form of statements emphasizing the need to protect the integrity of religious subgroups within the population. (Kao 2008) Especially in polities

where multiple religious communities must coexist (which describes most countries), the state may see efforts to convert individuals from one community as another violating “at least the implicit rules of the pluralist game,” in the words of Marty (1999). For some states, conversion efforts are direct attacks on other religious groups, to the extent that trying to change an individual’s mind about religion amounts to an attack on that individual’s rights as a member of their existing religious community. Greece’s 1975 Constitution for example prohibits proselytism, defining it as:

Any direct or indirect attempt to intrude on the religious beliefs of a person of a different religious persuasion, with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support or material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, need, low intellect or naivety. (Quoted in Kao 2008, p. 87)

A commonplace theme in statements that emphasize group rights against proselytism is that individual reason or spirituality plays little role in the decision to change religions; persons are “induced” to do so by psychological pressure or material rewards. Thus Metropolitan Kirill of Smolensk and Kaliningrad described proselytism in 1999 as “violence to people’s conscience” facilitated by “bribery.” (Kirill 1999, p. 74) Bardyl Fico, the director of the Albanian government agency monitoring religious activity, told the *Christian Science Monitor* in 1995 that many of the 150 foreign Christian and Muslim proselytizing groups in the country were “creating a disarray and changing the base of the society’s religion,” and making converts “not through the conscience but through the offering of gifts.”<sup>143</sup> In these cases, the state sees itself as the enforcer of existing social norms against changing religions in order to protect religious communities from “intrusion.”

The combination of these four causal factors means that the state’s religious regulatory apparatus is more likely to punish groups that proselytize more. While a group’s level of proselytism is certainly not the only factor determining how it will be treated in any given locale, I argue this is an important factor generalizable across groups and national contexts.

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<sup>143</sup> Marianne Sullivan, “After Years of Atheism in Albania, Religions See Land of Promise.” *Christian Science Monitor*, July 10 1995.



## **Testing the theory**

### *Hypotheses*

From my theory, the main hypothesis I derive is as follows:

**H<sub>1</sub>:** The repressive effect of a state's religious regulatory framework on its treatment of any given religious minority will increase the more that the group in question proselytizes.

The effect I propose is a conditional effect. Given Grim and Finke's (2007) findings I expect that states with more extensive religious regulatory frameworks will act more repressively towards any given religious minority. But given my theoretical expectations about proselytism, I expect that this repressive effect will increase in respect to groups that proselytize more.

From my theory I can derive two further hypotheses about second-order conditional effects. In my theory I posited that proselytism increases the lobbying efforts of traditional religions that feel threatened by competitive religious minorities, thus increasing the likelihood of a repressive state response. I also posited that when states feel the need to enforce social norms against switching between religious communities, increased proselytism by a religious minority will increase the state's repressive response to that minority. There are social circumstances under which we can expect both of these effects to increase, and changes in these circumstances should produce second-order conditional effects on the main conditional effect.

In the first case, I argue that traditionally dominant religious groups should feel most threatened by proselytizing minorities in countries in which there is a large pool of unaffiliated religious believers over which they are competing. In countries with relatively high levels of religious belief in which traditionally dominant religions have high levels of service attendance, they will be less concerned about the proselytizing efforts of minorities because they enjoy a healthy market share. In countries with relatively low levels of religious belief where traditionally dominant religions

suffer from low attendance, they will also be less concerned about minority proselytism because they have a market share that is at least consonant with the low levels of religiosity in the country. However, in countries which have high levels of religious belief but traditionally dominant religions have low levels of attendance, they will be very concerned about proselytizing minorities because these groups could be obtaining converts which the traditional religions believe “rightfully” belong to them. My second hypothesis, therefore, is that:

**H<sub>2</sub>:** The larger the number of religious believers with low participation rates in a country, the greater is the effect of proselytism levels on the effect of the state’s religious regulatory framework on its treatment of any given religious minority.

In the second case, the state should feel more compelled to enforce social norms against switching religions in countries where that social norm is stronger. There are two reasons for this. First, in democracies politicians should feel electoral pressure to enact legislation that conforms to such norms. Second, in any country government officials may worry that their failure to enforce strong social norms maintaining group boundaries will lead to vigilante enforcement and a subsequent breakdown of public order. (see Rosenbaum and Sederberg 1974) Thus my third hypothesis is as follows:

**H<sub>3</sub>:** The stronger are the social norms in a country prohibiting switching between religions, the greater is the effect of proselytism levels on the effect of the state’s religious regulatory framework on its treatment of any given religious minority.

Including tests of these two second order conditional effects enables us to test two important claims. The first, prevalent in the political economies of religion literature, is that the religious regulatory regimes of states are responsive to the demands of privileged religious groups within those regimes, a situation more generally described in the literature of regulatory capture. (see e.g. Stigler 1971) The second, reflected in claims made by state actors themselves, is that states are primarily concerned with maintaining social order when they act to repress specific religious groups.

## *Data*

**Case selection.** In this paper I will test my hypotheses cross-nationally using data on Jehovah's Witnesses in 35 European countries. There are several reasons why Jehovah's Witness data is appropriate. Because Jehovah's Witnesses are present in most countries in the world and because there is great variance in their treatment across the world—the last ten years of *International Religious Freedom Reports* identify 63 countries which have repressed or restricted Jehovah's Witnesses in various ways—their experiences are highly amenable to cross-national analysis. But just as importantly, the Witnesses keep high-quality data on their numbers and activities in each country, data that also exhibits great variance. Jehovah's Witnesses are the only group I am aware of that actually keeps cross-national data on their proselytizing activity. Every year Jehovah's Witnesses publish international service reports in their *Yearbook of Jehovah's Witnesses*, which detail the number of “publishers” (i.e. actively proselytizing missionaries) in each country, the total amount of hours of proselytism performed in the country, and other data.

This is unusually reliable data for a religious organization because it exists partly to hold members to account for their efforts throughout the year. (See Stark and Iannaccone 1997) The one drawback to this data is that Jehovah's Witnesses do not publish data on their activities in countries in which they are banned in order to protect their members in these countries (though every service report contains aggregated numbers for all of these “other countries”). The advantage of using European data is that, despite the very wide range of treatment Witnesses receive in Europe, they are not banned outright in any European country and thus data is available for all of them. The other important characteristic of all the countries in the dataset is that there is high-quality data about religious belief and practice in each of these countries because of the European Values Study.

**Dependent variable.** My dependent variable is a 0-5 scale of negative treatment of Jehovah's Witnesses in each of the 35 European countries. To construct this scale I evaluated states

on five dimensions: whether, in the previous ten years, they had (1) issued negative propaganda about Jehovah's Witnesses; (2) made or maintained laws that discriminated against Jehovah's Witnesses; (3) imprisoned Jehovah's Witnesses who refused military service; (4) harassed Jehovah's Witnesses while they were meeting, traveling or proselytizing; (5) engaged in or tolerated violence against Jehovah's Witnesses. The full scores can be found in Table 5.4 in the Appendix.<sup>144</sup>

To obtain this data I followed Grim and Finke's (2007) method of going through State Department *International Religious Freedom* reports (from 1999 to 2009), but also supplemented this with searches of newswires. The newswire searches delivered thousands of stories involving Jehovah's Witnesses which proved a valuable source of triangulation with State Department data in resolving borderline cases, as well as providing additional information and more detailed explanations of events mentioned in the *International Religious Freedom* reports. In most cases these newswires came from local news agencies which had been translated into English by the BBC's Worldwide Monitoring service.

**Independent variables.** My measure of the extent of a state's overall regime of religious regulation is a composite of the measures of such provided by Grim and Finke (2006) and Pew (2009). Both sets of authors (who both call their measures the "government regulation index") measure government regulation of religion in very similar though slightly different ways (Pew's index was modeled on Grim and Finke's), but each covers a different set of years. Grim and Finke's data from their aggregated *International Religious Freedom* dataset covers the years 2001, 2003 and 2005, while Pew's dataset covers 2007 and 2008. Taking the average of the two provides me with a score which covers roughly the entire time period covered with my dependent variable. I feel confident in the internal consistency of this average measure because both sets of authors constructed scales of 0-10, and both used State Department data gathered from *International Religious Freedom Reports* to take

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<sup>144</sup> I will make available on request a full list of explanations of borderline decisions in the coding.

measures of very similar things, the “the restrictions placed on the practice, profession or selection of religion by the official laws, policies or administrative actions of the state,” in Grim and Finke’s words (2007). The values for each quartile of this variable are displayed in Table 5.4 in the appendix, and the full scores are available in Table 5.6 in the appendix.

To represent the magnitude of Witness proselytizing in any given country, I have devised a scale of average hours of citizen exposure to proselytism using service report data from 2003 and 2009. This is the number of total hours of Jehovah’s Witness proselytism (as many as 30 million hours in Russia) divided by the total population of the country. This results in a measure ranging from .02 hours (Azerbaijan) to .83 hours (Armenia). The values for each quartile of this variable are displayed in Table 5.4 in the appendix, and in Table 5.7 in the appendix I show the scores from both years for each country.

I used European Values Study data to construct a variable representing the proportion of the country with strong religious beliefs but little or no formal participation in any religious organization.<sup>145</sup> To make this variable of “unaffiliated belief,” I took the total percentage of each country’s sample who answered 8 or higher to the 0-10 question “is God important in your life?” (10 being the highest answer), and who also answered that they attended religious services only on special occasions or never attended services. While many of the respondents in this group probably have a nominal affiliation with a religious organization (most likely the state church), I believe this variable captures the condition of what Davie (1994) calls “believing without belonging.”<sup>146</sup> The values for each quartile of this variable are displayed in Table 5.4 in the appendix, and the full scores are displayed in Table 5.6 in the appendix. It is worth noting that the countries with the lowest scores include both those with low levels of importance assigned to God and low service attendance

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<sup>145</sup> European Values Study data available at <http://www.europeanvaluesstudy.eu/>  
Last accessed 11/30/2010.

<sup>146</sup> Davie coined this term to describe religious belief in Britain, though I concur with Voas and Crockett (2005) that Britain in fact shows substantial erosion in both belief and belonging.

(such as the Czech Republic and Denmark) and those with high levels of each, such as Ireland, Poland and Malta.

To obtain an index of social norms against switching religions, I again took the average of country measures from Grim and Finke (2006) and Pew (2009). Grim and Finke's "social regulation index" measures "the restrictions placed on the practice, profession, or selection of religion by other religious groups, associations, or the culture at large." Pew's "social hostility index" takes a similar measure, though also includes incidents of physical harassment and violence by non-state actors. Both use a 10 point scale and data from the same source, the State Department's *International Religious Freedom* reports. The values for each quartile of this variable are displayed in Table 4 in the appendix, and the full scores are shown in Table 6 below.

#### *Models and estimation*

To test my main hypothesis and two second-order hypotheses I construct two fully interactive models. Due to computational limitations I am unable to test both second-order conditional hypotheses in the same model here, so I will test each of them separately and leave the question of how the second-order variables affect each other for later research.

In Model 1 I test my main conditional hypothesis that group proselytism increases the repressive effect of state religious regulation on the treatment of religious minorities, and the second-order conditional hypothesis that the size of the country's pool of unaffiliated believers positively affects the first order effect. I also include a binary control variable for whether Orthodox Christianity is the country's predominant religion. This is necessary because some previous literature suggests that states in countries with Orthodox populations are inherently more repressive to religious minorities (Radu 1998) and because in Eastern Orthodox Christianity there is less emphasis on weekly church attendance than exists in other Christian denominations. Without an Orthodox

dummy in the model it is possible that any estimation would bias the effect of the second-order modifying variable upwards. Formally, the model is as follows:

$$\hat{Y} = \beta_0 + \beta_1 GRI + \beta_2 WH + \beta_3 UB + \beta_4 GRI * WH + \beta_5 GRI * UB + \beta_6 WH * UB + \beta_7 GRI * WH * UB + \beta_8 ORTH + \varepsilon$$

Where  $Y$  = negative treatment of Jehovah's Witnesses since 1999 (0-5);  $GRI$  = Grim/Pew measure of extent of national religious regulation (0-10);  $WH$  = average annual hours of Jehovah's Witness proselytism per citizen;  $UB$  = percentage of non-belonging religious believers;  $ORTH$  = binary variable denoting that Orthodox Christianity is predominant country religion. The marginal effects of  $GRI$  on  $Y$  are:

$$\frac{\partial Y}{\partial GRI} = \beta_1 + \beta_4 WH + \beta_5 UB + \beta_7 WH * UB$$

In Model 2 I again test my main conditional hypothesis that group proselytism increases the repressive effect of state religious regulation on the treatment of religious minorities, and the second-order conditional hypothesis that the extent of social norms against switching religions positively affects the first-order effect. Again, an Orthodox binary variable is necessary because of literature suggesting that social norms against switching religions are particularly strong in Orthodox countries due to widely-held national conceptions of the unity of Orthodoxy, the ethnos and the state. (see Pollis 1992) Formally, the model is as follows:

$$\hat{Y} = \beta_0 + \beta_1 GRI + \beta_2 WH + \beta_3 SRI + \beta_4 GRI * WH + \beta_5 GRI * SRI + \beta_6 WH * SRI + \beta_7 GRI * WH * SRI + \beta_8 ORTH + \varepsilon$$

Where  $Y$  = negative treatment of Jehovah's Witnesses since 1999 (0-5);  $GRI$  = Grim/Pew measure of extent of national religious regulation (0-10);  $WH$  = average annual hours of Jehovah's Witness proselytism per citizen;  $SRI$  = Grim/Pew measure of the extent of informal social regulation of

religion; *ORTH* = binary variable denoting that Orthodox Christianity is predominant country religion. The marginal effects of *GRI* on *Y* are:

$$\frac{\partial Y}{\partial GRI} = \beta_1 + \beta_4 WH + \beta_5 SRI + \beta_7 WH * SRI$$

I estimate the parameters of both models using OLS models with bootstrapped standard errors due to the small sample size (5000 replications). The results of both models are shown in Table 5.1 below:

[Table 5.1 about here, see appendix]

These results show that in both models, the conditional effect of proselytism on the effect of religious regulations is positive, as *GRI\*WH* is positive in both models. However, the coefficients on the triple interaction terms show that while the second-order modifying effect is positive in Model 1, against theoretical expectations it is *negative* in Model 2—if the social norms against switching religion have any effect on the first-order conditional effect, it is a negative effect. It is worth noting that the dummy variable for Orthodox Christianity is nowhere near any accepted level of significance in either model.

Following the recommendations of Brambor, Clark and Golder (2006) and Kam and Franzese (2007), I show two different representations of the marginal effects from each model below.

[Table 5.2 about here, see appendix]

[Figure 5.1 about here, see appendix]

[Table 5.3 about here, see appendix]

[Figure 5.2 about here, see appendix]

In both models we can see the importance of the conditional effect of levels of proselytism. In most of this data, the state’s level of religious regulation has no statistically significant



effect on the persecution of Jehovah's Witnesses when their levels of proselytism are relatively low at 12 minutes per citizen per year, but in each model the line slopes upwards and in Model 1 the effect is significant for most values of the second modifying variable by the time the amount of proselytism reaches 20 minutes per year, about the median of the sample. Substantively, the differences are large. In Model 1, the difference that 18 extra minutes of annual proselytism per citizen makes is an increase of around .2 in the effect of GRI on treatment of Jehovah's Witnesses at the lower percentages of unaffiliated citizens, and about .3 at the higher values. This means that a difference of 3 in GRI (about the difference between the Czech Republic and France) has a .6 to .9 point greater effect on negative treatment of Jehovah's Witnesses (on a 6 point scale) for every extra eighteen annual minutes of Witness proselytism per citizen.

The two second-order modifying variables have very different conditional effects. The size of the pool of unaffiliated believers has, as my theory suggests, the effect of increasing the conditional effect of proselytism as the lines slope upwards. However, this effect is relatively slight. The difference in the effect of a one-point increase in GRI on negative treatment between 12 annual minutes of proselytism and 48 annual minutes of proselytism is about .5 when the pool of unaffiliated believers is at 10% about .65 when it is at 40%. This can definitely add up to a substantial effect across large increases in both GRI and proselytism, but amounts to relatively little between most cases. The size of the unaffiliated pool has a larger direct effect on the effect of GRI, increasing its intercept by about .3 for every 10% increase. This suggests that the presence of a large pool of unaffiliated believers has substantial effects on the regulatory regime's response to Jehovah's Witnesses that have nothing to do with their levels of proselytism. It may mean that a larger presence of the unaffiliated increases the lobbying efforts of privileged religions against *all* religious minorities, regardless of how much they actively compete with them.

Stronger social norms against switching religions, in this data, actually *decrease* the effect of proselytism on the repressive response of the government's regulatory regime. The gradient gets lower as the value of SRI increases. This suggests that for the most part governments do not enforce existing norms against switching religions for the purpose of keeping the peace, contra to the official rhetoric of some states. The presence of strong social regulation of religion does, on the other hand, effect government regulation directly, raising the intercept from .1 when SRI is at 1 to .54 when it is at 7. Governments, therefore, probably do respond to social norms around religious switching, but not through how they respond to proselytism itself. However, analysis of the effect of SRI is made difficult by likely endogeneity problems between SRI and GRI, which probably account for the fact that in Model 2 the effect GRI is insignificant at nearly all values of both modifying variables except for the middle range of proselytism when SRI is at a value of 3.

### **Qualitative example of within-country causal mechanisms: Armenia**

Armenia is an example of a country where the persecution of Jehovah's Witnesses and other minorities is directly linked to their levels of proselytism. Various Protestant groups including Jehovah's Witnesses entered Armenia in 1988 following a devastating earthquake, offering material aid and also proselytizing. In 1992 the primate of the New York diocese of the Armenian Apostolic Church in America, Bishop Khajag Barsamian, complained that Protestant groups had taken advantage of the earthquake to proselytize, converting Armenians whom the Armenian Apostolic Church had not yet had the chance to contact after decades of officially imposed Atheism and who knew little about Christianity. Barsamian said the Protestant groups should either work with the official church or "go to Azerbaijan, which is a Moslem country, and convert them." Barsamian specifically singled out Jehovah's Witnesses, Mormons, Pentecostals and Baptists for criticism, and his remarks reflected the position of the Armenian Apostolic Church that it alone in the proper

guardian of Armenia's 1700 year-old Christian identity ("there is no reason for Armenia to accept other denominations because we have an Armenian Church and it has been in existence for many centuries . . . so why should we have other denominations?")<sup>147</sup>

By 1995 the *Moscow News* was reporting a "wave of pogroms against religious minorities" in Armenia, including Jehovah's Witnesses, Seventh Day Adventists, Baptists and Krishnaites. Eleven Witnesses had been arrested and harassed and their prayer houses smashed. The other groups endured vandalism, beatings and book-burnings. The government apologized for these incidents but offered no legal recourse, which the *Nems* attributed to the Apostolic Church's privileges as the national church that had recently been enshrined in law. By the late 1990s official discrimination against all minority religions *except* for Jehovah's Witnesses seemed to be evaporating. In 1999 the Armenian Foreign Ministry defended Armenia's record on religious freedom following a critical US State Department report, noting that it had registered all 44 minority religious groups in the countries except for Jehovah's Witnesses, who did not meet constitutional requirements.<sup>148</sup> Lazar Sudzhyan, the head of Armenia's department for religion, had earlier stated that the areas of legal conflict were their advocacy of abstention from civil and military service, charging that they had been "carrying out active propaganda work."<sup>149</sup>

In November 1999 the acting chairman of the State Council for Religion, Levon Mkrtchyan, supplied Noyan Tapan news agency with a detailed explanation of why Jehovah's Witnesses were still not registered. Mkrtchyan said the Witnesses' membership of 10 000 did not appear dangerous but was "a large figure for a small state." The Witnesses were engaged in "catching souls," an illegal practice which "in the Christian Armenia of 1700 years is unacceptable." They "get into apartments

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<sup>147</sup> Thomas J. Billiterri, "Armenian Wary of Interlopers." *St Petersburg Times* (Florida), February 15 1992.

<sup>148</sup> "US Human Rights Report Impartial, Comprehensive, Armenian Foreign Ministry." Noyan Tapan news agency (Yerevan), March 16 1999; via BBC Worldwide Monitoring, March 16 1999.

<sup>149</sup> "Armenian State Commission Discusses Draft Law on Human Rights." Armenpress news agency (Yerevan), February 2 1999; via BBC Worldwide Monitoring, February 4 1999.

of citizens insistently, trying to preach, and come back after being driven out,” and numerous complaints from schoolteachers and other residents showed that they attempted “to bring elements of religious rites into kindergartens and primary schools, which is fraught with danger.” Mkrtychyan concluded that the Armenian Apostolic Church needed increased support to fulfill the population’s spiritual needs: “The state and church in the Republic of Armenia are separate from each other, but for Armenia the Armenian Apostolic Church is a sacred object, and it substituted for the state for centuries. At present, our society needs the support of the Armenian Apostolic Church and the church needs the support of the Armenian state.”<sup>150</sup>

The Armenian Apostolic Church celebrated 1700 years of Christianity in Armenia in 2001, including other mainstream Christian groups in the celebrations but conspicuously rejecting Jehovah’s Witnesses and other smaller sects: patriarch Karekin stated that “we reject the activities of these sects. They tear families apart, prompting perversion and suicide.”<sup>151</sup> Later in the year Jehovah’s Witnesses had a legal victory when their leader Levon Markarian and several others were acquitted of charges of “forcing young people to avoid military service” and recruiting members to an unregistered religious group, charges that carried up to five years’ imprisonment. The Organization for Security and Cooperation in Europe welcomed the verdict and expressed hope that a new draft on alternative military service would prevent future cases.<sup>152</sup> However, less than a month later, US State Department report pointed out that around 50 Jehovah’s Witnesses were still imprisoned in the country.<sup>153</sup> In January 2002 the Witnesses’ organization reported that

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<sup>150</sup> “Armenian official criticizes activities of Jehovah’s Witnesses.” Noyan Tapan news agency (Yerevan), November 25 1999; via BBC Worldwide Monitoring, November 26 1999.

<sup>151</sup> Angela Charlton, “Armenia marks 1,700 years as Christian State.” Associated Press, June 18 2001.

<sup>152</sup> Avet Damourian, “Armenian court acquits Jehovah’s Witness in ruling hailed by rights group.” Associated Press Worldstream, September 18 2001.

<sup>153</sup> “About 50 Jehovah’s Witnesses jailed in Armenia, US State Department says.” Arminfo (Yerevan), October 30 2001; via BBC Worldwide Monitoring, October 30 2001.

conscientious objectors were continuing to receive prison sentences, with 100 having been convicted to date.<sup>154</sup>

One of the most vocal advocates against Jehovah's Witnesses in the government was the President's Human Rights Commission, which in July 2002 recommended that the state draw up a program of measures against "soul hunters."<sup>155</sup> In 2003 it reiterated its demands for strengthened laws against "soul hunting" and urged the creation of a new agency "which would look at various religious sects from the point of view of whether they were engaged in destructive activities that could undermine Armenia's statehood." Human rights activist Aleksandr Amaryan argued before the commission that while Jehovah's Witnesses had 7644 members in Armenia, some 19 000 citizens "sympathized" with the Witnesses and could be regarded as potential members, thus necessitating urgent government action.<sup>156</sup>

In a 2004 interview with the London *Times*, Apostolic patriarch Catholicos Karekin II accused "born again sects" of "destroying Armenian families." The "American-oriented" Jehovah's Witnesses, Mormons and Charismatics were taking advantage of the poverty inflicted on Armenia by the 1988 earthquake, the war with Azerbaijan and the Azerbaijan-Turkey blockade: "these wealthier sects have created a situation whereby faith is a buyable and sellable commodity. They are offering food and materials in exchange for abandoning the Armenian church and becoming one of their followers. It hurts me to say that some Armenian families realize their faith is saleable."<sup>157</sup> The Witnesses' proselytizing continued to serve as a major public rationale for the government's refusal to register the group in 2004, though the official reasons provided to international organizations and

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<sup>154</sup> "Jehovah's Witnesses report ongoing persecution of Armenia's conscientious objectors." Arminfo (Yerevan), January 16 2002; via BBC Worldwide Monitoring, January 16 2002.

<sup>155</sup> "Armenia: 23 Jehovah's Witnesses in jail for evading military service." Arminfo (Yerevan), July 23 2002; via BBC Summary of World Broadcasts, July 23 2002.

<sup>156</sup> "Armenian human rights activist wants punishment for 'destructive' sects." Arminfo (Yerevan) July 24 2003; via World News Connection, July 24 2003.

<sup>157</sup> Greg Watts, "Celebrating the first Christian nation." *The Times* (London), July 17 2004.

the Witnesses themselves were always based on legal technicalities. Other groups such as Hare Krishnas and several Baptist groups were denied registration because they failed to meet minimal membership requirements.<sup>158</sup>

Armenian authorities finally agreed to register Jehovah's Witnesses in October 2004, in a move that surprised the Witnesses themselves and angered the Apostolic Church, which called the group "anti-Christian" and accused them of "hunting for souls, destroying families and creating a split in society."<sup>159</sup> The main reason offered by Deputy Justice Minister Tigran Muchukian was that the implementation of alternative service had removed the problem of Witnesses refusing to serve in the military. The parliamentary parties agreed that registration of Witnesses was a necessary step in meeting Council of Europe requirements; Republican Party leader Galust Sahakya argued it would make the group's activities more "predictable and transparent" and AFRD leader Levon Mrkchyan said it would make them easier to monitor for legal violations.

In January 2008 Amnesty International published *Armenia: Fear of the freedom of conscience and religion: Violations of the rights of Jehovah's Witnesses*. Among other things, this report noted that military service operated in essentially the same way as it had done during the Soviet period when there had been no provisions for conscientious objectors (apart from an unofficial silent agreement with the pacifist Molokan sect who were allowed to serve in kitchens and other unarmed roles, an arrangement that persisted to the present day). Despite legislation enacting alternative service in 2004, it was not genuinely civilian service because it remained under military control. The report noted that 92 Jehovah's Witnesses were prosecuted under the criminal code between January and September 2007. Conscientious objectors, whom Amnesty insisted were prisoners of conscience in

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<sup>158</sup> "US Representative Christopher H. Smith holds a hearing on religious freedom in the Caucasus." Briefing of the United States Commission on Security and Cooperation in Europe (Helsinki Commission), Washington DC, July 21 2004; via FDCH Political Transcripts.

<sup>159</sup> Avet Demourian, "Armenia registers Jehovah's Witnesses after years of debate." Associated Press, October 13 2004.

Armenia, tended to be given punitive maximum sentences, and faced lifelong administrative problems because of their lack of a military certificate. (pp. 6-10)

The report also noted a number of assaults on Jehovah's Witnesses since 2006 for which the Witnesses appeared to have no recourse to Armenian authorities. Two women were assaulted by an Apostolic priest in Shengavit in 2006 (one so hard she fractured her arm), and though police knew about the incident they refused to open an investigation because the priest expressed remorse. Also in Shengavit (a suburb of Yerevan) two Witnesses were beaten and threatened with being thrown out of a window in February 2007, and another beating took place there in March. Police failed to investigate promptly. Another Apostolic priest assaulted two Witnesses in Ararat in June 2007, and police dropped the case when he denied the incident. A number of other incidents including thefts and violent threats took place during this period. (pp. 13-14) Negative propaganda about Jehovah's Witnesses continued to appear in many media outlets and in schools, and students who failed to convert back to the Apostolic faith had been known to fail for that reason. (pp. 14-15)<sup>160</sup>

Granush Kharatyan, the head of Armenia's department for ethnic minorities and religion, complained Amnesty's report was biased and emphasized that assaults on Witnesses arose from conflicts between "sect votaries" and "simple citizens," who often complained to police about Witnesses "boldly visiting" their flats. Police often "intervened in favor of citizens and their rights."<sup>161</sup> The State Department reported in 2008 that there had been no change in the status of religious freedom for Jehovah's Witnesses, who were still receiving longer than usual prison terms for evading military service (though within the limits of the law).<sup>162</sup>

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<sup>160</sup> *Armenia: Fear of the freedom of conscience and religion: Violations of the rights of Jehovah's Witnesses*. Amnesty International, January 16 2008 (AI Index: EUR 54/001/2008).

<sup>161</sup> "International Amnesty's report is biased, head of department on issues of national minorities under Armenian government thinks." Arminfo news agency (Yerevan), January 28 2008.

<sup>162</sup> "US Department of State: RA legislation places some restrictions on religious freedom of adherents of minority religious groups." Arminfo news agency (Yerevan), September 22 2008.

In February 2009 the governing Republican Party proposed new amendments to the Law on Freedom of Conscience and Religious Organizations, making it illegal to proselytize without permission. Criminal penalties were specified for individuals who use “moral or psychological pressure” or who “offer material support” to induce others to join a religious organization,” including up to one year’s imprisonment or fines equaling 500 minimum salaries (about \$50 000). A EurasiaNet report said that “annoyance with the door-to-door work of missionaries seems to have prompted the proposed changes,” and quoted the author of the amendments, Republican MP Armen Ashotian: “We remember being stopped in the streets or having someone obstinately knocking on our doors and persuading us of the rightness of the doctrine they propose almost every day . . . it is not seen as a hunt for human souls if it happens just once, but the law establishes the right to take the visitor to court if such practices repeat themselves.” The restrictions would not apply to religious groups representing Armenia’s ethnic minorities, including Yazidis, Russians, Jews or Armenian Catholics.

The Armenian example shows several important causal mechanisms at work. In line with the Key-esque “threat” mechanism outlined in the theory section, proselytism made the Witnesses seem like a bigger threat than their numbers would warrant, and their opponents emphasized their potential for growth and their proportion to the rest of the country. Consistent with the “responsive coerciveness” mechanism I described in the theory, proselytism greatly aggravated other ways in which Jehovah’s Witnesses challenged the state: rather than just refusing military service, the state consistently charged Witnesses with “spreading propaganda” that encouraged others to refuse military service. Finally, the country’s dominant church specifically complained about groups, especially Jehovah’s Witnesses, which proselytized, while fostering good relations with other groups. The importance of Church lobbying to national religious policy, while difficult to observe directly, was clearly visible in the government’s adoption of the language of “soul hunting” and its tendency



to discriminate against groups disfavored by the Apostolic Church. Both Church and state emphasized that high levels of proselytism were unacceptable “in a Christian country” with its own denomination, but both also acknowledged the success of Jehovah’s Witnesses at making converts. This shows the aggravating effect of a situation where high religious belief is coupled with low participation in traditional Churches.

In contrast, Belarus is another Orthodox country with very high levels of religious regulation, but almost no persecution Of Jehovah’s Witnesses. In 2002 it passed a law banning registration for any group that had been present in the country for fewer than 20 years, which the US State Department described as “one of the most repressive religion laws in Eurasia,” and warning it would make necessary the mass emigration of Protestants.<sup>163</sup> However, the government has allowed Jehovah’s Witness activities to continue without harassment, despite the fact that they officially have been present for less than the required period for registration. Furthermore, while the Homel regional court has given prison sentences Jehovah’s Witness conscientious objectors to military service twice in the last decade (in 2000 and 2009), in both cases these sentences were overruled by the Belarus constitutional court, which maintained that under the constitution Belarusians have the right to refuse military service on the grounds of religious objections (the same right does not extend to those who object on political grounds).<sup>164</sup> Given our results, it is probable that this surprising tolerance occurs because of the tiny numbers of Jehovah’s Witnesses in Belarus—just 4669 out of a population of 9.7 million in 2009—which means the population receives very little aggregate exposure to them despite the high effort levels of individuals.

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<sup>163</sup> Matthew Lee, “US faults Russia, ex-Soviet states for religious freedom abuses.” Agence France Presse, October 7 2002.

<sup>164</sup> “Constitutional Court rules to ensure alternative to military service.” Belapan news agency (Minsk), May 31 2000; via BBC Worldwide Monitoring, May 31 2000. “Belarusian opposition activist charged with evading military service.” Belapan news agency (Minsk), March 23 2010; via BBC Worldwide Monitoring, March 23 2010.

## Conclusion

These results provide substantial evidence for the theory that a religious minority's proselytizing activities affect the treatment it receives at the hands of a government's religious regulatory apparatus. Where a group's levels of proselytism are low, the effect of government regulation on the treatment of that group is not significant. Where levels of proselytism are medium or high, levels of government regulation become a significant factor in the way that a minority is treated, and this effect increases as proselytism increases. The results go some of the way to explaining why, even in regimes with very strict regulation, states come to accommodate some religious minorities and not others. It also provides an explanation for why certain groups that are no more than small minorities in any country—Jehovah's Witnesses, Ahmadis, Scientologists and Hare Krishnas—have suffered repressive measures across such a wide range of national contexts. The vigorous proselytism of these groups causes them to activate the repressive apparatuses even of some states that have relatively low levels of religious regulation.

The results provide some support for the idea that states are most responsive to the "proselytism threat" in the circumstances under which traditionally dominant religions feel most threatened by them—when there is a large pool of unaffiliated religious believers over which they are competing. The results also suggest that regardless of the proselytism levels of minority groups, the religious regulatory apparatuses of the state are more repressive to minorities under these conditions. The results provide no support for the idea that the state's response to proselytizing minorities is linked to existing social norms against switching religions.

I do not purport to have produced a complete explanation for why some religious minorities are tolerated in some places and others are not. I have shown, however, that a behavior variable present to various degrees in different religions has an important conditional effect on institutional variables that effect the treatment of religious groups more generally.

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## Appendix

### Figures

Figure 5.1

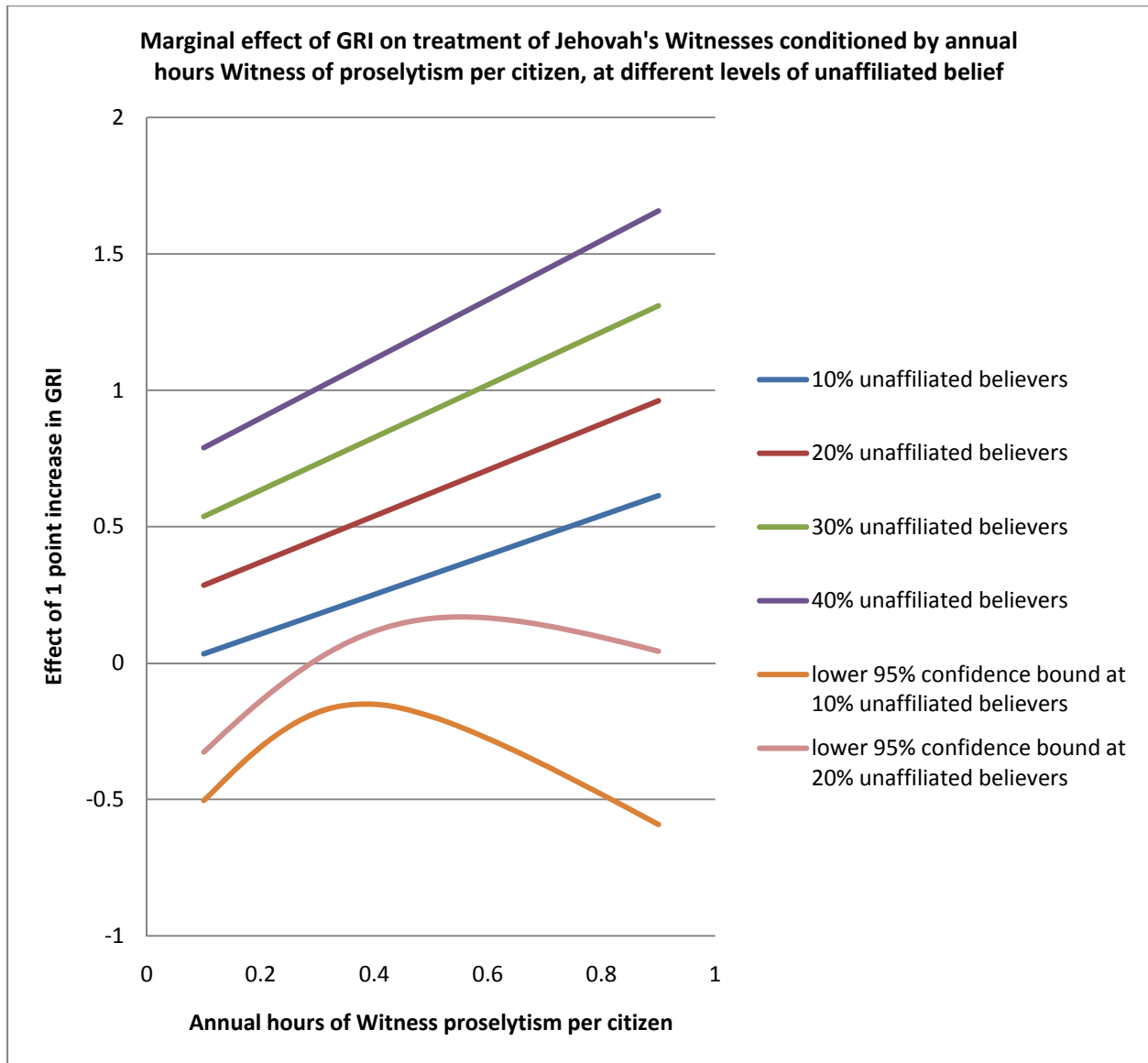
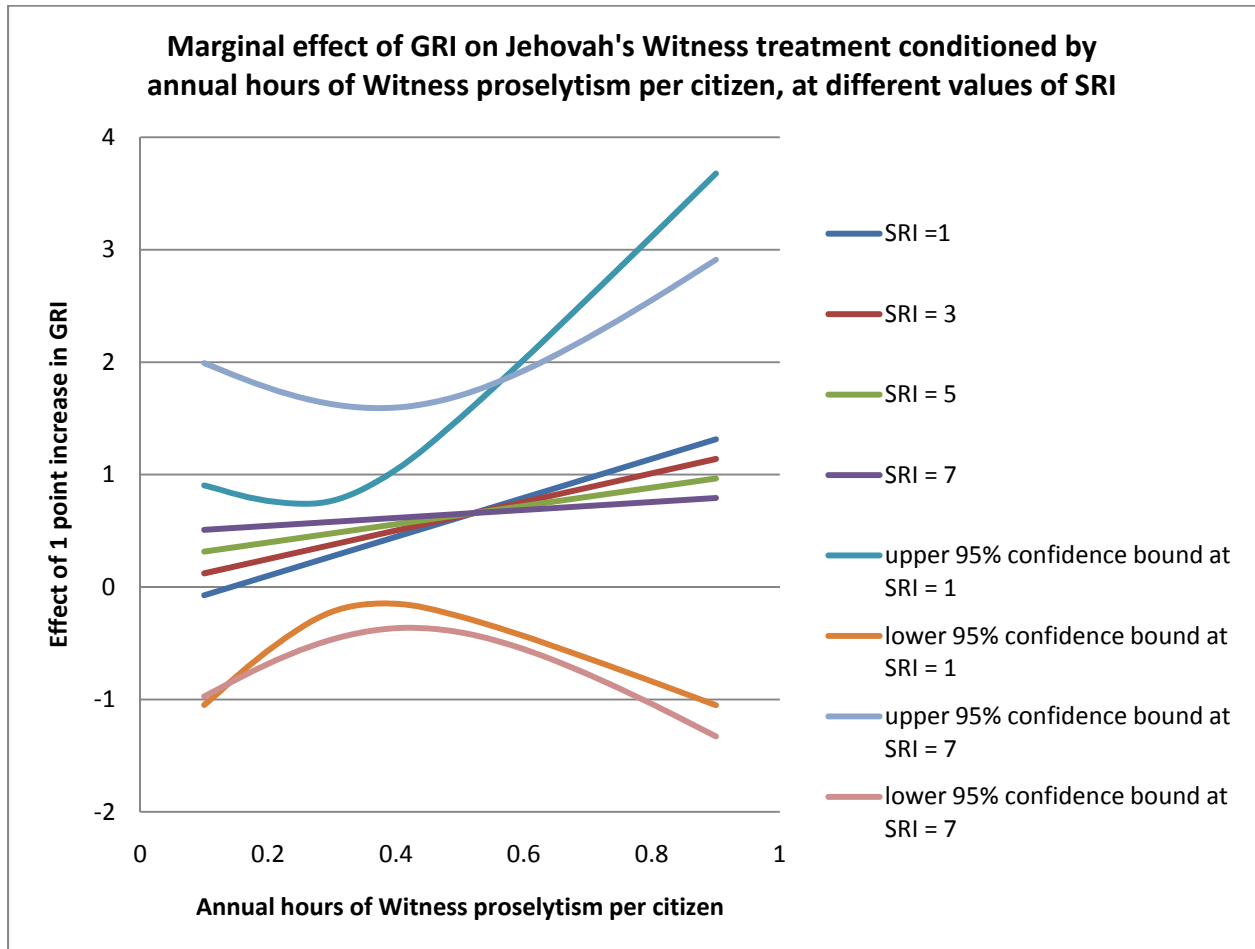


Figure 5.2



Tables

Table 5.1: OLS regression output for Model 1 and Model 2, standard errors bootstrapped 5000 times

Model 1 variables	Coefficient/Std. Err.	Model 2 variables	Coefficient/Std. Err.
GRI	-.278 (.431)	GRI	-.366 (.997)
WH	.611 (2.762)	WH	-2.008 (3.974)
UB	.033 (.073)	SRI	.094 (.830)
GRI*WH	.605 (1.391)	GRI*WH	1.963 (2.892)
GRI*UB	.024 (.013)	GRI*SRI	.120 (.256)
WH*UB	-.129 (.189)	WH*SRI	-.196 (1.807)
GRI*WH*UB	.012 (.036)	GRI*WH*SRI	-.230 (.643)
ORTH	-.429 (1.242)	ORTH	.694 (1.523)
Constant	-.121 (.871)	Constant	.517 (1.625)
<i>N</i>	35	<i>N</i>	35
<i>R</i> <sup>2</sup>	.831	<i>R</i> <sup>2</sup>	.670

Table 5.2: Effects of GRI on Jehovah's Witness treatment by percentage of unaffiliated believers and annual minutes of proselytism per citizen. 95% confidence intervals (one-tailed test) shown.

Mins.	10%	Upp.	Low.	20%	Upp.	Low.	30%	Upp.	Low.	40%	Upp.	Low.
12	.04	.57	-.50	.37	.88	-.33	.63	1.30	-.21	.90	1.74	.05
30	.32	.84	-.20	.62	1.08	.16	.93	1.47	.38	1.22	1.95	.50
48	.54	1.56	-.48	.88	1.66	.09	1.21	1.90	.52	1.55	2.35	.79

Table 5.3: Effects of GRI on Jehovah's Witness treatment by values of SRI and annual minutes of proselytism per citizen. 95% confidence intervals (one-tailed test) shown.

Mins.	1	Upp.	Low.	3	Upp.	Low.	5	Upp.	Low.	7	Upp.	Low.
12	.10	.77	-.56	.25	.73	-.24	.39	1.17	-.37	.54	1.77	-.68
30	.62	1.50	-.26	.63	1.22	.04	.64	1.31	-.03	.65	1.70	-.40
48	1.14	3.12	-.84	1.01	2.21	-.27	1.01	1.80	-.21	.76	2.55	-1.04

Table 5.4: Percentiles for the values of all independent variables

	25 percentile	50 percentile	75 percentile	99 percentile
GRI	.9	2.8	4.5	7.1
Average pros. hours	.22 (12 minutes)	.33 (20 minutes)	.50 (30 minutes)	.83 (48 minutes)
Unaffiliated believers	12.5	19.6	32.5	41.7
SRI	1.7	2.7	4.1	6.5



Table 5.5: Treatment of Jehovah's Witnesses, 1999-2009

Country	Does state issue negative propaganda about Jehovah's Witnesses?	Do state regulations discriminate against Jehovah's Witnesses?	Does state prosecute Jehovah's Witnesses for refusing military service?	Do police or other authorities harass Jehovah's Witnesses?	Is there state or tolerated non-state violence against Jehovah's Witnesses?	Overall score
Albania	Yes	No	No	No	No	1
Armenia	Yes	Yes	Yes	Yes	Yes	5
Austria	Yes	Yes	No	No	No	2
Azerbaijan	Yes	Yes	Yes	Yes	Yes	5
Belarus	Yes	No	No	No	No	1
Belgium	Yes	No	No	No	No	1
Bosnia	No	No	No	No	No	0
Bulgaria	Yes	Yes	No	Yes	No	3
Cyprus	No	No	Yes	No	No	1
Czech Rep.	Yes	No	No	No	No	1
Denmark	No	No	No	No	No	0
Estonia	No	No	No	No	No	0
Finland	No	No	No	No	No	0
France	Yes	Yes	No	No	No	2
Georgia	Yes	Yes	No	Yes	Yes	4
Germany	Yes	Yes	No	No	No	2
Greece	Yes	Yes	Yes	Yes	No	4
Hungary	No	No	No	No	No	0

Ireland	No	No	No	No	No	0
Latvia	No	Yes	Yes	No	No	2
Lithuania	No	No	No	No	No	0
Luxembourg	No	No	No	No	No	0
Malta	No	No	No	No	No	0
Moldova	Yes	Yes	Yes	Yes	Yes	5
Netherlands	No	No	No	No	No	0
Poland	No	No	No	No	No	0
Portugal	No	No	No	No	No	0
Romania	No	Yes	No	Yes	Yes	3
Russia	Yes	Yes	Yes	Yes	Yes	5
Serbia	Yes	Yes	Yes	No	Yes	4
Slovakia	No	No	No	No	No	0
Slovenia	No	No	No	No	No	0
Spain	No	No	No	No	No	0
Switzerland	No	No	No	No	No	0
Ukraine	No	No	No	No	Yes	1

Table 5.6: Scores for independent variables

Country	GRI score	SRI score	Percentage of unaffiliated believers
Albania	.9	.75	41.7
Armenia	5.9	5.1	40
Austria	2.3	3.2	12.5
Azerbaijan	6.6	5.4	43.9
Belarus	7.1	4.8	24.9
Belgium	3.5	2.7	11.8
Bosnia-Herz.	3.8	3.9	29.3
Bulgaria	6.2	3.4	24.6
Cyprus	2.9	4.7	27.1
Czech Rep.	.7	1.8	9.1
Denmark	2.1	1.7	8.8
Estonia	.5	3.8	14.3
Finland	1.2	1.4	21.2
France	3.9	3.9	12.8
Georgia	4.9	6.3	49.8
Germany	3.3	3.4	9.8
Greece	5.7	5.3	29.8
Hungary	.1	2.2	19.7
Ireland	.5	.5	9.9
Latvia	3.2	1.6	19.5
Lithuania	2.9	1.7	19.1

Luxembourg	.5	.1	13.2
Malta	.6	.1	10.6
Moldova	4.5	3.7	51.2
Netherlands	.2	2.6	9.5
Poland	.5	2.5	9.9
Portugal	1.1	.25	19.6
Romania	5.4	6.5	36.9
Russia	6.3	5.9	32.5
Serbia	2.8	4	35.9
Slovakia	2	2.45	13.7
Slovenia	.9	2.7	13
Spain	1.5	2.7	16.1
Switzerland	1	2.4	22.1
Ukraine	3.7	4.1	37

TABLE 7: Levels of Jehovah's Witness activity in 2003 and 2009

Country	Citizens per JW 2003	Hours of proselytism per JW 2003	Hours of proselytism per citizen 2003	Citizens per JW 2009	Hours of proselytism per JW 2009	Hours of proselytism per Citizen 2009
Albania	993	380	.40	873	392	.44
Armenia	406	261	.64	306	315	1.03
Austria	397	161	.41	400	165	.40
Azerbaijan	21146	268	.01	10023	361	.03
Belarus	2740	254	.09	2072	284	.13
Belgium	411	140	.34	431	143	.34
Bosnia-Herz.	3350	315	.08	3797	319	.09
Bulgaria	5958	264	.05	4255	302	.07
Cyprus	379	183	.43	381	212	.55
Czech Rep.	645	142	.23	688	149	.22
Denmark	368	143	.38	386	153	.40
Estonia	336	188	.57	312	197	.62
Finland	269	137	.52	280	158	.57
France	509	147	.29	508	184	.36
Georgia	300	183	.61	246	237	.95
Germany	497	148	.30	494	158	.32
Greece	374	177	.48	365	193	.53
Hungary	446	144	.32	423	176	.42
Ireland	1166	194	.16	1010	205	.20
Latvia	1018	267	.26	908	267	.32

Lithuania	1255	237	.20	1067	237	.20
Luxembourg	291	151	.60	291	167	.55
Malta	686	160	.25	684	178	.25
Moldova	229	138	.62	202	181	.77
Netherlands	510	125	.25	543	138	.25
Poland	302	115	.38	301	131	.41
Portugal	202	157	.78	205	177	.82
Romania	555	150	.27	548	171	.29
Russia	1094	231	.21	903	279	.26
Serbia	2072	213	.10	2097	248	.11
Slovakia	438	111	.26	483	117	.25
Slovenia	1076	201	.20	1034	216	.20
Spain	388	175	.44	424	217	.48
Switzerland	403	131	.33	426	138	.33
Ukraine	370	189	.51	312	231	.63

## Chapter 6:

# Conclusion

The findings of these four papers can be integrated into three broad theoretical contributions to political science. First, these papers posit new mechanisms linking the social construction of identity to intergroup conflict. Second, they provide an account of the relationship between “symbolic” and “realistic” group conflict. Third, they explore previously under-examined conflict-generating elements of civil society.

Constructivist approaches to ethnic intergroup conflict have largely been concerned with showing how and why political entrepreneurs inflame violence or other intense forms of conflict by promoting “folk primordialist” ideologies. According to these ideologies groups are locked in inevitable zero-sum struggles with others because of immutable differences between them that create fundamentally different preferences and visions of the good life. Explaining ethnic violence requires explaining both the process of boundary construction between groups that come to see themselves as different, and the construction and acceptance of ideologies by which members of these different groups come to believe they cannot live with each other. (Fearon and Laitin 2000)

The much less-studied phenomenon of religious intergroup conflict in democracies involves quite a different set of concerns. Religious antagonists frame conflict not in terms of irreducible difference but voluntary deviance: they may accept that the state cannot interfere with religious beliefs, but they charge that certain religious adherents engage by choice in unacceptable behaviors

that the state is responsible for curtailing. These religious adherents respond that the behaviors in question should be protected because they are religious obligations, prescribed by God. Neither side views religious differences as unchangeable; religious adherents believe that living up to their obligations requires continuous efforts with which the state should not interfere, while their antagonists believe that they should conform to the behavioral norms of the secular state. It is beliefs about the very *changeability* of religious identity—both sides believe that the other can and should yield—that generates conflict.

In this dissertation I have tried to make inroads into explaining the relationship between “symbolic” and “realistic” conflict. Each of these papers deals with situations where state actors persecute religious minorities (Mormons and Jehovah’s Witnesses) on the grounds that they are threats to national order. In the 1840s, the Mormons’ antagonists depicted them as a threat to American democracy and in the 1880s as a threat to American liberalism. During World War II opponents of Jehovah’s Witnesses presented them as a threat to national security or at least morale, while their antagonists in contemporary Eastern Europe argue that their aggressive proselytism endangers national religious harmony. In all cases, however, nationalist rhetoric masks the social divisions and material interests that provide incentives for persecution. Missouri gentiles were alarmed by the growing Mormon real estate empire in the west of the state in the 1840s; Republicans saw the opportunity to Utah from a Democratic territory to a Republican state in the 1880s. The American Legion fought against Jehovah’s Witnesses for the flag salute as a means of protecting their own status, and privileged national churches in Eastern Europe call for restrictions on proselytism of “their” peoples.

Why has nationalist symbolism been so important in religious persecution in democracies? I believe the answer to this question lies in the unique properties of nationalist rhetoric for manipulating the scope of conflict. In *The Semisovereign People*, Schattschneider (1960) argued that the



outcomes of political fights are determined by control of their scope: the winner is whoever can persuade spectators to enter or stay out of the fight. According to Schattschneider:

A look at political literature shows that there has indeed been a long-standing struggle between the conflicting tendencies toward the privatization and socialization of conflict. A long list of ideas concerning individualism, free private enterprise, localism, privacy and economy in government seems to be designed to privatize conflict or to restrict its scope or to limit the use of public authority to enlarge the scope of conflict. A tremendous amount of conflict is controlled by keeping it so private that it is almost completely invisible. Reference to this strategy abounds in the literature of politics, but the rationalizations of this strategy make no allusion to the relation of these ideas to the scope of conflict. The justifications are nearly always on other grounds.

On the other hand, it is equally easy to identify another battery of ideas contributing to the socialization of conflict. Universal ideas in the culture, ideas concerning equality, consistency, equal protection of the laws, justice, liberty, freedom of movement, freedom of speech and association and civil rights tend to socialize conflict. These concepts tend to make conflict contagious; they invite outside intervention in conflict and form the basis of appeals to public authority for redress of private grievances. Here again the rationalizations are made on grounds which do not avow any specific interest in an expansion of the scope of conflict though the relation becomes evident as soon as we begin to think about it. Scope is the unlisted guest of honor at all of these occasions.

Throughout this dissertation, we constantly see religious minorities and their defenders appealing to socializing rhetoric: the universal nature of legal protection and the rights to freedom of speech and worship. This rhetoric appeals to the highest authorities (the federal government, the constitution, the European Union and the United Nations) and makes the implicit argument that violating the rights of some raises the risk of violating the rights of all.

Antagonists to religious minorities *also* wish to broaden the scope of conflict rather than to privatize it, but not to the extent that it becomes about universal rights. Antagonists explicitly want to take these rights off the table. Instead, they appeal to nationalism, which contains an implicitly conditional version of rights: you only earn them by conforming to norms that strengthen rather than undermine national unity and harmony. As one Mississippi sheriff told a Jehovah's Witness facing the threat of mob violence, "you don't deserve protection—you won't salute the flag." In all

the cases in my dissertation, these nationalist appeals were to some degree successful, trumping more universalist liberal claims about rights and legal protection.

Why is nationalism more effective than liberalism in deciding the scope of conflict? Arguments for maintaining universal rights counter-intuitively lose some power in settings where those rights are normally guaranteed for most. People lose the capacity to imagine how their own rights would be threatened—they lack the “liberalism of fear” that Judith Shklar described (Shklar 1998). Realistically, violating the rights of others does not raise by very much the probability that their own rights will be violated. Nationalism has a far more immediate appeal because people recognize threats to symbolic as well as material order—they “feel” violations of the integrity of the national ingroup even when they do not see threats to their own rights.

Finally, in this dissertation I hope to have made a contribution to our understanding of civil society. In recent decades, scholarship about civil society has largely followed two paths. A strain of American scholarship led by Putnam (2000) emphasizes the social and political benefits of the Tocquevillean features of civic association: its horizontally organized nature, its independence from the state and its fostering of habits of democratic participation, which according to Putnam and others strengthens the institutions of the democratic state. Another strain of scholarship inspired largely by Polish experiences (Arato 1981, Ekiert and Kubik 1999) describes civil society as a force of political organization, often with vertically organized components, that provides resistance to a repressive state apparatus. In these papers we see a third kind of civil society at work, one that organizes in defense of established political order when citizens believe that the state is incapable of or unwilling to defend it. This is the kind of civil society that gives rise to vigilantism, or “establishment violence” (Rosenbaum and Sederberg 1974, Ingalls 1987).

As Theda Skocpol has argued in a number of papers, civic associations are rarely completely separate from the state. Nearly all civic associations, including religious organizations, spend

considerable time and resources making claims on the state. They seek autonomy from the state, but not independence: they also seek resources from the state and political influence over it. The claims civic associations make on the state are often claims *against* other civic associations that they see as competitors or undesirables. These papers, particularly the papers about the persecution of Jehovah's Witnesses, show that religious persecution often arises from this process of claim-making. Some civic associations stand to enhance their own symbolic and material status by mobilizing the resources of the state against unpopular religious minorities. Though they couch their anti-sect vigilance in terms of protecting national social order, their own organizations benefit directly from the repressive policies for which they lobby. This competitive and predatory aspect of civic associational life deserves more attention than it has received from social scientists.

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