Comments on Berkowitz and Clay:
2. Chapter 3: "Initial Conditions and State Legislatures"

Peter Grajzl
Central European University

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"Legal Origins and the Evolution of Institutions: Evidence from American State Courts"

- Paper's significant value added, in particular w.r.t. Berkowitz and Clay (2006 JLS)
  - scrutiny of how intrinsic legislature attitudes lead to a more independent judiciary in "always common-law states" in comparison with "formerly civil-law states"
  - alternative to the Landes-Posner-Ramseyer-Hanssen view on judicial independence
  - elaboration on mechanism of persistence of initial legal conditions in American states

- Suggested title
  - "Legal Origins, Legislatures' Preferences, and Judicial Independence: Evidence from American States"
• Fact: Removal of elections as judicial retention method slower in formerly civil-law states
  - may, or may not, have to do with legislature preferences
    → e.g., ABA, lobbying for removal of elections, historically stronger in common-law states
    - indication that common-law legislatures prefer strong legal profession, part of which is judiciary (✔)
    - state legislature captured by a powerful interest group (♀)
    → Further remark: If Rajan and Zingales (2003) were correct, and if there was indeed persistence of civil-law heritage, then, given strong lobbies, we could expect faster elimination of elections in once civil-law states (✔)

• Theoretical framework
  - key assumption: common-law legislature receives a higher payoff from an appointed judge's socially efficient ruling than does civil-law legislature
→ Can we really argue that some legislatures have a stronger intrinsic preference for efficiency than others?

→ The observed variation of legislatures' attitudes toward the judiciary may be an equilibrium outcome of a game in which self-interested politicians are subject to constraints, one of which is the structure of the legal system. (See e.g. Grajzl and Murrell (2006))

• Mechanisms of persistence
  - missing some anecdotal evidence on how the "state political culture" got transmitted from generation to generation

• Minor note on the empirics
  - removal of elections as judicial retention method in Southern states actually increased the judicial budget -- Why?
Chapter 3: "Initial Conditions and State Legislatures"

- The book (?) is an ambitious and stimulating project attempting to quantify the significance of different initial conditions for different measures of the state political system in the U.S.

- A variety of empirical results raises interesting "Why?" questions, e.g.
  - "[T]he influence of climate on voting based political competition is significantly different than its influence on the Ranney index of political competition in state legislatures" (p.21).
  - Legal origin does not have a significant effect on state legislatures through political competition (pp.18, 21).
  - The states with a civil law origin seem to be less conducive for legislation that allows for voter initiatives. (p.26)
  - "The climate is…positively associated with the length of a state's first constitution and positively associated with the total number of constitutions" (p.29).