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Policy Change in the Deep South: An Analysis of Three States

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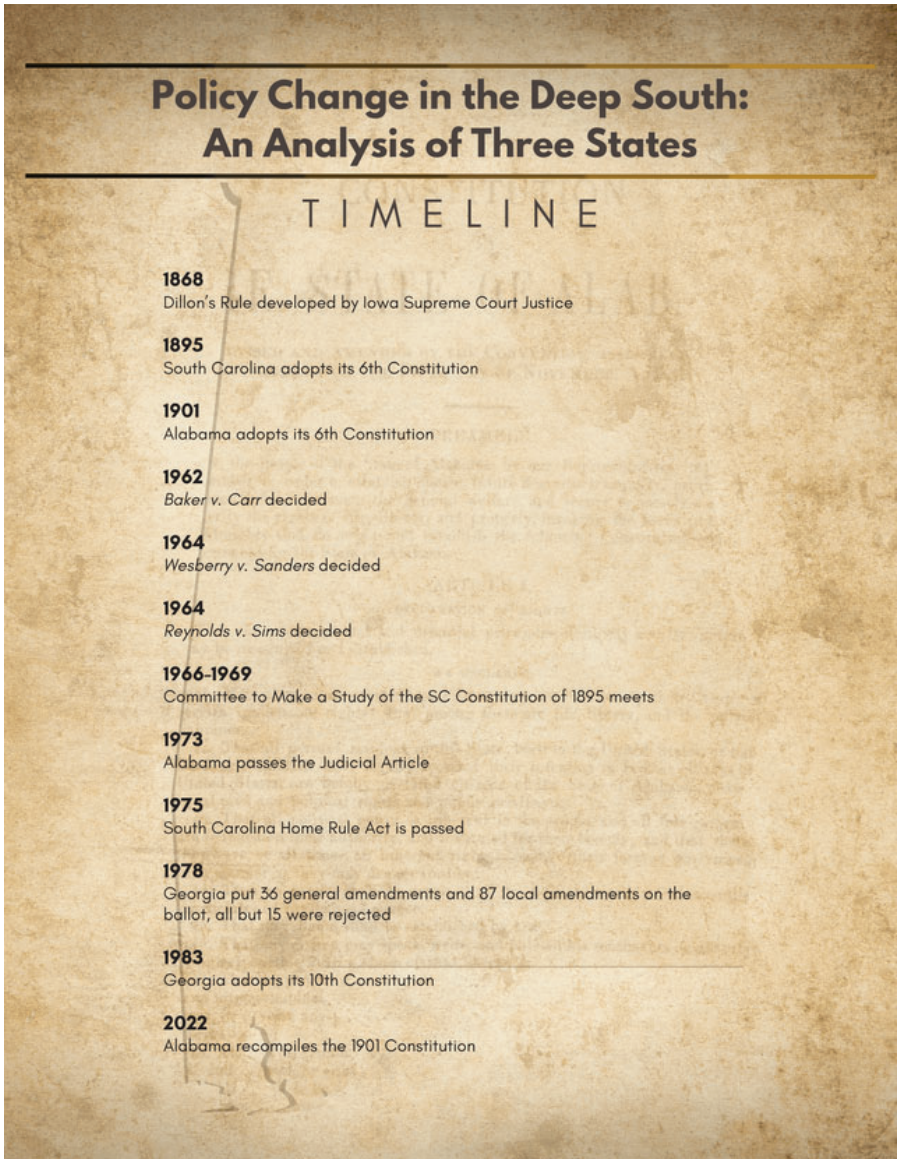
ABSTRACT

This chapter uses Kingdon's (2003) multiple streams framework (MSF) to explain policy changes that brought home rule to South Carolina, a modern constitution to Georgia, and the Judicial Article in Alabama. Policy change in the Deep South is rare, but it can happen. Short et al. provide a comparative study between three states in the Deep South to illustrate how policy changes can occur in traditionalistic political cultures. In every case, unusual events came together just at the right time. In Alabama and Georgia, ambitious politicians pushed their pet policies to attain policy change. In South Carolina, a confluence of events came together to allow some forms of local-level democracy in the state. Finally, this chapter applies the MSF to the 2022 recompilation of the Alabama Constitution of 1901. The voter-approved recompilation deleted the most racist and embarrassing parts of the document and reorganized it. These changes, though, have left the obstructionist spirit of the 1901 Constitution intact, as the Alabama constitution is still the longest, most statutory state constitution in the United States (McMillan, 1978).



Dates covered in this chapter

INTRODUCTION

Change in Alabama is difficult to achieve, and organization is absolutely necessary. Reform requires a grassroots movement and a collaborative effort on the part of like-minded individuals.

-Robert Martin Schaefer, A Taste of Reform: The Judicial Article

The traditionalistic political cultures of Southern states like South Carolina, Georgia, and Alabama pose unique challenges to policymaking. The political culture across the South is characterized by the prevalence of the region's status quo – where policy change is met with resistance, and the government's role is perceived as preserving the hierarchical social order (Elazar 1972). Traditionalistic political cultures also tend to have low levels of participation in elections. Those who are not involved in politics are not expected to be active citizens and are unlikely to vote (Elazar, 1972, p. 99). This chapter delves into the intricacies of policymaking in areas resistant to change. We use Kingdon's (2003) multiple streams framework (MSF) to explain the serendipitous nature of policy change. Our aim is to highlight the conditions that led to home rule in South Carolina, constitutional reform in Georgia, and judicial reform in Alabama. Finally, we discuss the concerted efforts of reformers that led to the 2022 recompilation of the 1901 Alabama Constitution.

THE MULTIPLE STREAMS FRAMEWORK (MSF) AND PUBLIC POLICY

Scholars have sought to understand why some problems get addressed by the government while others get ignored. Kingdon (2003) offered a model of public policy that recognized that policymaking was inherently chaotic. Many idiosyncratic events must intersect for policy change to happen. In some cases, lawmakers have to act on mandatory issues that require action; for example, budgets must get passed within a certain timeframe, but most issues are discretionary, and lawmakers can choose to take up these issues or pass on them. Nonetheless, all issues are extremely important to some political constituency.

Kingdon's (2003) multiple streams approach posits that there are three streams – the problem stream, the policy stream, and the political stream – that converge in a "policy window," which is where policy change can occur (Rinfret et al., 2023, p. 41). The problem stream is comprised of the various issues that people worry about. Problems abound. They are ubiquitous. The country faces a myriad of issues and challenges in every state and community. Problems include issues like the cost and access to medical care, setting the minimum wage, or whether or not Alabama should adopt a new, modern constitution. Some of these issues get addressed, while most get ignored. Issues get overlooked because lawmakers have time constraints, limited information, and a lack of expertise. For example, the Alabama legislative session is "limited to 30 meeting days within a period of 105 calendar days." [1] If time is a limited resource, so are lawmakers' expertise and staff, who can help them analyze proposals sent to them by policy advocates. Further, it is unrealistic to have lawmakers fully understand the full scope of the numerous problems faced by the people of their state. All problems and the proponents who want their issues addressed compete for lawmakers' attention.

The policy stream is comprised of the "community of specialists – bureaucrats, people in planning and evaluations and the budget offices,... staffers, academics, interest groups, researchers – which concentrates on generating proposals" (Kingdon, 2003, p. 87). At any point in time, policies and proposed solutions are trying to garner the attention of policymakers. Policy advocates are trying to get their solution on the policy agenda. The proponents of the various solutions do their best to attach them to a problem and ultimately get on the policy agenda. Advocates of the solution, policy entrepreneurs, will attach their solution to whatever problem garners the attention of policymakers. For instance, a proposal for mass public transit will attempt to attach itself to any one of the many problems existing in the world: global climate change, traffic congestion/gridlock, or even a sluggish or slow economy. All could be solved by mass transit. In many cases, there are policy entrepreneurs who are serving as advocates for specific solutions (policies). Some of these individuals are "people that sense there is a problem, and they advocate solutions to solve the problem" (Kingdon, 2003, p. 123). Kingdon noted that policy entrepreneurs

> could be in or out of government, in elected or appointed positions, in interest groups or research organizations. However, their defining characteristic, much as in the case of a business entrepreneur, is their willingness to invest their resources—time, energy, reputation, and sometimes money—in the hope of a future return (Kingdon, 2003, pp. 122-123).

Finally, the political stream is comprised of the public's mood, public opinion, election results, changes in the legislature, and interest group pressure campaigns (Kingdon, 2003, p. 87). Kingdon's model offers that the streams exist independently of each other. On rare occasions, they converge – a problem attaches to a policy proposal (solution) that is facilitated by the politics of the moment – to allow for policy change to occur. The streams couple, and the opportunity to push the solution through a "policy window" opens for a short time. "The coupling of streams at opportune times is key for an item to rise to the decision agenda and it is the policy entrepreneurs, willing to invest resources and reputation on their pet projects, who affect this coupling" (Rawat & Morris, 2016, p. 610).

The multiple streams framework can help us understand why policy change was able to occur in the Deep South. Across two of the three cases offered in this chapter, there is a consistency in how problems were championed by well-established politicians, who also served as the policy entrepreneurs who successfully campaigned for a "modern constitution" in Georgia and judicial reform in Alabama. In the case of South Carolina, the streams converged around a rare set of circumstances, including a set of Supreme Court decisions that sought to improve representation and address malapportionment. In every case, the politics of the moment, the solutions, and the problems converged to produce policy change despite a political culture that makes reform difficult.

HOME RULE IN SOUTH CAROLINA

The critical comparison between the Alabama and South Carolina constitutions is that they are both reactive rather than proactive. For example, each state creates legislation for a particular problem in a particular jurisdiction, and each amendment to the state constitution is specific to that topic. Even if the next problem is only slightly different, the prior legislation will typically not address it because of the specificity of the previous issue. South Carolina's constitution is significantly smaller than Alabama's, but the number of amendments (over 400) makes both documents unwieldy. South Carolina's 1895 Constitution, like Alabama's, was established out of fear of Black voting power after the Civil War. It mandated literacy or "intelligence" as a prerequisite for voting, imposing reading and writing tests on potential voters. While the framers of the 1901 Alabama Constitution sought to institutionalize white supremacy, the framers of the 1895 South Carolina Constitution created their governing document to "avoid erecting a numerous democracy" (Underwood, 1989, p. 81). South Carolina created its state government where the governor is merely a symbol, and the legislature is the primary core of governmental action. James Underwood, an emeritus professor from the University of South Carolina Law School, wrote a four-volume narrative about South Carolina's Constitution, which focuses on the evolution of power allocation under the South Carolina Constitution. Underwood (1986) argued that South Carolina's Constitution reflects the popular opinion of when the document was written. Like Alabama, the power of local governance was centralized in the state legislature. Centralizing local policy decisions within the state legislature offers advantages to interest groups, who can influence state and local politics by having an overwhelming presence in the capitol. Additionally, centralization of power shifted issues from the local governments to the state house, causing citizens to seek representation from interest groups to access the political decision-making processes.

Local governments are recognized as creatures built by the state. Local and county governments can only do what the state legislature empowers them to do. This conceptualization of local power was developed in 1868 by an Iowa Supreme Court Justice, John F. Dillon. Dillon held:

> that local governments are limited to the powers expressly granted to them by their state and to those powers indispensable to the stated objectives and purposes of each local government... Dillon built a legal argument that the Tenth Amendment secures power for the states but not for the local governments... Dillon's Rule holds state power trumps local government power, which means that state legislatures invariably win when they engage in power struggles with local governments (Smith & Greenblatt, 2024, p. 357).

Dillon's Rule impedes local democracy, power, and autonomy. Local governments are limited in their ability to solve local problems. State legislatures ultimately control what municipal and county governments can and cannot do across the fifty states. Alabama's Constitution keeps much of the local-level policymaking authority centralized with the state legislature. [2] Not all states limit their local governments' power - "Oregon and Maine give localities the most freedom" (Smith & Greenblatt, 2024, p. 357). The independence of local governments, as they relate to their respective state government, varies significantly across the United States. Some states allow for substantial local autonomy, known as "home rule." States with home rule give wide latitude to local governments to exercise policymaking authority. Limiting home rule was a means by which the state legislature could control local governments.

The Problem Stream. The South Carolina Constitution of 1895 made local and county governments virtual wards of the state (Albert, 1977). Before 1975, state legislators split their time as policymakers for statewide issues and as the local legislators for their particular counties (Tyler, ND). "The county delegations, which consisted of the senator and the House members from that county, was the county governing body" (Ulbrich et al., 2011, p. 3). They were responsible for preparing the county budget, which was enacted into law by the General Assembly. They "also approved requests from school districts to levy taxes for school purposes" (Ulbrich et al., 2011, p. 3). The centralization of policymaking in the state capitol stifled local-level democracy by consolidating matters of local governance with state legislators.

The Policy Solution Stream. South Carolina's General Assembly realized the 1895 Constitution was "no longer suited for the times" (Underwood, 1989, p. 116) and created the *Committee to Make a Study of the S.C. Constitution of 1895* (which met from 1966 to 1969). Home rule issues were the catalyst for the committee's formation because "not only does special legislation consume much General Assembly time on matters that essentially are local in nature but such laws may afford inequitable advantages to favored political actors" (Underwood, 1989, p. 120). Many of the committee's recommendations were included in the 1973 amendments to the South Carolina Consitution that ultimately created Article VIII – "the Revised Article on local government" (McFadden, 1976, p. 26), which called for stronger local government provisions. Article VIII gave South Carolina local governments more power and led to the passage of The Local Government Law of 1975, the Home Rule Act (Tyler, ND).

The Politics Stream. In 1975, local governments were under severe financial stress (Watson, 1977), which set the conditions for policymakers to adopt new policies that dealt with issues concerning the structures and powers of local governments. Additionally, citizens simultaneously demanded more from their local governments and wanted to pay fewer taxes. "This imbalance between people's aspirations for local government services and their willingness and ability to pay for them is at the heart of the fiscal problems of the nation's cities and counties" (Watson,

1977, p. 57). Further, structural changes that improved voter representation and addressed malapportionment were changing the political landscape of state and local governments:

In the 1960s, the decisions of the U.S. Supreme Court in *Baker v. Carr, Wesberry v. Sanders,* and *Reynolds v. Sims* brought about the "one-man, one-vote" requirement for state legislatures, which resulted in the redrawing of legislative and electoral district lines. This, together with urbanization and the growing complexity of state government, led to a movement to give local governments more autonomy and restrict micromanagement by the General Assembly. Reapportionment resulted in a shift of power in the 1970s from rural legislators to urban and suburban-elected legislators, who were more sympathetic to the home-rule argument (Tyler, 2016).

Coupling/convergence, the policy window, and the creation of public policy. South Carolina's General Assembly saw growing resident demands for new and improved services. Likewise, they also saw that residents did not wish to pay the additional taxes necessary to provide these services. In 1975, the problem stream – centralized policymaking, lagging self-determination of local governments; the policy stream – proposals that sought to empower local government through home rule; and the political stream – public demands for new local government services while keeping taxes low – converged to create the passage of new policy. The Home Rule Act (1975) provided local lawmakers control over the ability to approve or deny new services along with the following powers that affected cities, but mostly counties:

- Cities provide penalties for violations of ordinances they enact.
- Counties were empowered to assess uniform service charges for a wide range of services.
- Counties could levy uniform license taxes.
- Counties increased their ability to finance their operations.
- A broadening of the ability of counties to raise revenue locally. [3]

Though there continues to be fragmentation of power that causes inefficiency, duplication of efforts among counties and the state, confusion between state agencies, and an added expense to the state, the revision process in South Carolina has been a continuous one, article by article, since 1968. The reform is piecemeal but consistent and reflects a political culture that is open to reform but cautious in its approach.

GEORGIA ADOPTS A MODERN CONSTITUTION

Georgia has adopted ten constitutions since 1777. The most recent, ratified in 1983, gave the state the second newest Constitution in the United States, proceded by Rhode Island in 1986. The Georgia Constitution of 1877 closely resembled the 1901 Alabama Constitution. Among other goals, it extended voting to "free white male citizens,"

addressed many "vagrancy and anti-enticement statutes designed to restore white control of Black labor," created public schools for whites, and excluded Blacks from juries (Cobb, 1997, pp. 29-30). Similar to Alabama, Georgia had adopted a poll tax as part of the 1877 Constitution and also instituted an elaborate literacy test to exclude poor white and Black voters from participating in elections. During the Depression Era, politics in Georgia began to take a gradual turn. The state's leadership was concerned with rebuilding the economy and focusing on economic growth. Although it took several years after the Depression to create momentum, the state started to see change during the 1940's.

In 1948, Governor Herman Talmadge advocated for Georgia's move toward a new political era. He enhanced public education by sponsoring a three percent sales tax to narrow the gap between segregated schools. While appealing to "the farmer," he became an influential proponent of the Industrial Era. In turn, voters approved a constitutional amendment for tax breaks for new factories (Cobb, 1997, pp. 62-63). In 1965, the Voting Rights Act changed Georgia's political landscape, meaning more African Americans gained political office. William B. Hartsfield, the longest-serving Mayor of Atlanta, was quoted as saying that Atlanta was "too busy to hate" (Cobb, 1997, p. 70). Georgia's 1945 constitution was its first after the post-Civil War document of 1877. Revision of the 1945 document began in 1963. This revision was mainly due to efforts from the state legislature and Governor Ellis Arnall, who pushed for revision. Although the document intended to revise the 1877 constitution, not much in the way of change was implemented.

The Problem Stream. Georgia's previous nine constitutions created fatigue among voters who had to make numerous choices, sometimes over issues that were not directly affecting voters' communities. The Constitution was full of "statutory detail, that every time there was a need for a change in one minor provision, there would be a need for a new constitutional amendment to fix it" (Hill, 2011, p. 24). Georgians demanded a leaner constitution that would eliminate the need for so many amendments every other year (p. 24). A watershed moment occurred in 1978. There were 36 general amendments and 87 local amendments on the ballot. Voters rejected all but 15 general amendments. This served as the catalyst that drove policymakers to push for change.

The Policy/Solution Stream. The Select Committee on Constitutional Reform had three goals: brevity, clarity, and flexibility. The intent was to revise the document, ultimately making the undertaking a constitutional reform and not a revision. The new document was one-half the length of the 1976 constitution and was easier to navigate. In addition, the new document allowed the General Assembly to deal with policy matters through statutes. One of the most significant changes was that amendments dealing with one county, city, or locality were absent. These types of amendments have been strictly prohibited through legislation. In addition to home rule, Georgia's current constitution allows counties to amend or repeal local acts by ordinance under

some circumstances. Counties can write ordinances to govern their property, affairs, and local government. Georgia's Constitution eliminated laws that excluded home rule by creating a more general document allowing localities to create laws within certain limitations.

The Political Stream. George Busbee, who was a state legislator during the 1976 revision, claimed revision was too complicated at this point in the process. He then ran for governor on the platform of revising the Constitution on an article-by-article basis. This came to fruition after he won the election. He decided on a simple reorganization of the document, which was implemented after approval from the legislature. This proved to be the catalyst for the reform and drafting of the 1983 constitution. By 1978, Georgia Governor George Busbee (1975-1983) saw a problem – that the 1976 Constitution had made local governance untenable. Local communities were rejecting local legislation as a means of objecting to the bloated constitution and the "bed sheet ballot," ballots so long they looked like bed sheets. In this case, Governor Busbee served as the policy entrepreneur who advocated for constitutional revision, and his position as governor made it possible for his being an effective spokesman who campaigned for the change.

Coupling/convergence, the policy window, and the creation of public policy. Constitutional revision of the 1976 constitution was already on the policy agenda. Shortly after Georgia's 1976 constitution was ratified, the state legislature created the Select Committee on Constitutional Revision. In 1977, the members started working on a complete document revision. The article-by-article revision of the 1976 constitution was a lengthy process. Each revised article was drafted and approved by the Select Committee on Constitutional Reform and the General Assembly. The outcome of the 1978 general election, where the majority of general and local amendments to the constitution failed, opened the policy window for the new constitution. The final version of the document was submitted to the General Assembly in 1981. The legislature approved the new document in September 1981. The amendment process continued through the regular session in 1982 and was submitted to voters for approval that year. All three branches of government supported the ratified version, which was "bolstered by a strong effort to educate the public about its content" (*The Georgia Encyclopedia*, The Constitution of 1983). It became effective on July 1, 1983, after being ratified by voters – 657,663 in favor to 211,342 opposed.

The 1983 Georgia Constitution was new and not merely revised. It was the first reformed Constitution since 1877. The new document resulted from almost 20 years of intense discussion and debate among Georgia's leadership. While the new Constitution contained some of the original provisions of the 1877 document, it contained an equal protection clause, a division of the courts into seven distinct classes, a requirement for uniform court rules, record-keeping rules by class for all divisions of courts, nonpartisan election of judges, and is "a reflection of the state's rich political and social history" (Cobb, 1977, p. 80).

ALABAMA JUDICIAL ARTICLE

The Judicial Article of 1973 marks the most significant change to the 1901 Alabama Constitution since its inception. Unlike South Carolina's piecemeal reforms over many years, which have effectively revised its still unwieldy constitution, or Georgia's replacement of its old constitution with a new one, Alabama's 1901 Constitution remains largely intact despite several efforts over the years to reform it (refer to footnote 2). A case study of one of the most successful instances of reform can perhaps shed light on why Alabama has not followed a path of reform like either South Carolina or Georgia.

The Problem Stream. Before 1973, Alabama had one of the worst court systems in the United States. Its dockets were backed up. Justices of the Peace arbitrarily ruled fiefdoms. Judicial procedures were not uniform across the state, making it difficult for nonlocal lawyers to try cases. "Home cooking" was the euphemism used to describe "justice" dished out to nonresidents (Schaefer, 2002). "Among state supreme courts, Alabama's was considered to have the notable record for cynical disregard of the law" (Schaefer, 2002, p. 141). In the 1950s and 1960s, the Alabama Supreme Court "purposely thwarted individuals' civil rights." Federal courts overturned many decisions issued by Alabama judges (p. 141). The courts were often mysterious to the general public, creating an atmosphere that would ultimately stimulate a change to improve the system (Short, 2015). Reformers were motivated by the judicial branch's lack of professionalism. "For decades, the conservative planters and the Big Mule industrialists ruled the legislature… [and] effectively controlled the judicial rules and procedures. It was common for a legislator to adversely affect court procedures in his county" (Schaefer, 2002, p. 142).

The Policy/Solution Stream. The key to judicial reform was the Unified Court System. Chief Justice Howell Heflin (1971-77) had five detailed principles for the system:

1. Simple appeals process
2. Time and energy savings for appellate courts and litigants
3. Permit judges to specialize and reduce the need for special courts
4. Avoid waste of manpower attributable to personnel unavailability and lack of justifications for needed assignment
5. Cooperation among courts would increase if courts and judges had equal jurisdiction

Heflin also wanted judicial reform to eliminate Justices of the Peace (JOPs). Often appointed by mayors for political or nepotistic reasons, Justice of the Peace

> courts were rackets; Justices would be in trailers, and the highway patrol or sheriff's people would be out on the highways. They would stop somebody, take

> them to a moveable trailer housing the JOP, and collect fees and the fine right there, and maybe split the take among themselves (Schaefer, 2002, p. 143).

Heflin's judicial reform plan created a system allowing citizens to lodge complaints about judges or justices formally. The reform also gave "the chief justice authority to regulate financial functions, court workloads, and juror selection procedures" (Schaefer, 2002, p. 143)

The Political Stream. Court reform swept across most states by the 1970s (Halloman, 1970). As an advocate for judicial reform, Heflin was the policy entrepreneur who shouldered the responsibility for the reform's success. He organized the Citizens Conference on the Alabama Courts in 1966 (Schaefer, 2002, p. 142). He was respected in Alabama legal circles, serving as president of the state bar, and was later elected to the state Supreme Court as Chief Justice in 1970. Heflin was a savvy politician and framed the judicial reform platform around politically neutral goals: greater administrative efficiency, legal professionalism, and improving legal services for Alabama's people (Freyer & Pruitt, 2001, p. 116). The Citizens Conference served to bring together disparate groups who were all motivated to reform the Alabama court system. Heflin believed that the key to success would be to gain support from all segments of the state's population and that citizen support would be critical. His strategy was to enlist support from everyday citizens such as laborers, small business people, and other professional business positions. He would use attorneys and judges to work behind the scenes to implement the revision. Heflin led the statewide ratification campaign, which involved a strategic publicity campaign to ensure judicial reform became a household topic.

Coupling/convergence, the policy window, and the creation of public policy. It was the task of the key players who supported the revision to persuade those in opposition to accept the positive changes the Article would bring. Proponents of judicial reform played up the idea of a uniform system, cost savings, and efficiency. The opposition came from probate judges and rural attorneys "who felt the article centralized judicial power" (Freyer & Prutt, 2001, p. 125). Ultimately, the opposition could not stop the state-wide coalition of diverse groups all backing reform. The Alabama House and Senate narrowly approved the judicial article, placing it on the state ballot as a proposed amendment to the 1901 Constitution (*Encyclopedia of Alabama*, 2023). On December 18, 1973, 118,449 Alabamians voted. Of this number, 73,609 (62.1%) voted for the article and 44,840 (37.9%) voted against it.

The success of judicial reform in Alabama was the result of several events. First was the tireless work of Howell Heflin. He leveraged his position in various influential groups, such as the Alabama Bar Association, to ensure judicial reform remained on the policy agenda. Second, the timing of Albert Brewer's governorship (1968-1971) was also crucial to the Judicial Article. Brewer's Constitutional Commission worked with Heflin's Citizens' Conference to propose a judicial reform proposal. Though Brewer

was no longer governor, judicial reform passed despite Governor George Wallace – who claimed indifference to its passage. [4] A third reason for success was that the membership of the state legislature had the correct individuals in key positions to ensure the passage of the Judicial Article. Specifically, the "Muscle Shoals Mafia," or members of the legislature who were loyal to Howell Heflin and represented towns near his hometown of Tuscumbia, were influential in the legislature.

The Alabama Judicial System identifies several key factors that contributed to the successful campaign to pass the Judicial Article of 1973. First, the national state court reform movement provided a platform for the topic to be discussed in Alabama. Second, the availability of federal funds through the Law Enforcement Assistance Administration enabled leaders in the reform movement to conduct research and educate citizens during the reform process. Third, the leadership role of Howell Heflin was crucial in both the developmental and adoption stages of the Judicial Article. Fourth, the leadership role of CC “Bo” Torbert as the Chief Justice (1977-89) was instrumental in implementing the revisions to the Judicial Article. Fifth, the work of legislators, commissions, conferences, and committees within and outside of the General Assembly was key to the success of the reform. Sixth, the success of those involved in generating media and public acceptance of the revisions to the Judicial Article was a significant factor. In addition to these six prominent factors, the ability of key players to take specific actions at the opportune times and places was crucial to the success of the reform. [5]

Kingdon’s (2003) MSF can be used to understand the passage of the Judicial Article:

> In the case of Alabama judicial reform, Howell Heflin and Bo Torbert were the principal policy entrepreneurs. Through determination and work through the Alabama Bar Association, Heflin placed the issue of state judicial reform on the state's policy agenda. He played the lead role by joining forces with the Alabama Constitutional Commission in the development of the options for providing a solution to the problems of case backlog, which resulted, he believed, from an uncoordinated, ununified, and unmanaged judicial system. He was a principal policy entrepreneur in the third stream, the political stream, in getting public and official support to adopt the judicial article. At this point, the role of the principal policy entrepreneur changed from Heflin to Torbert. As previously stated, it is debatable to what degree the causal factors that brought these three streams together can be attributed to a single or set of factors. It is also debatable as to whether or not, or how, they could be brought together again to achieve the same or different objectives. In the context of the policy landscape of Alabama and regardless of the merits of the specifics of judicial reform, the adoption of comprehensive judicial reform is an impressive achievement (Short, 2015, p. 68).

DISCUSSION

This chapter has argued that change is possible in states with traditionalistic cultures, but a lot has to go right. The confluence of idiosyncratic events eventually came together to allow for policy change. In 2022, constitutional change finally happened in Alabama. Policy entrepreneurs like Representative Merika Coleman, the assistant minority leader in the Alabama House, argued that reforming the constitution would improve the state's reputation. The campaign for reform started in 2020, with the COVID-19 Pandemic, the murder of George Floyd by Minneapolis police, and the Black Lives Matter movement (Swetlik, 2022) all being part of the political stream. These events called attention to the 1901 Constitution's racist roots, enforced segregation (which are gone but still part of the document), and its deliberate efforts to disenfranchise Black voters. Despite not being enforced, these portions of the constitution were all still part of the state constitution, which can make up the problem stream. The effort toward reform took place in two steps. First, Representative Colemen proposed Amendment 951 to the Alabama Constitution. The Amendment directed "the head of the Legislative Services Agency (LSA) to develop the draft of the recompiled Constitution" (Cason, 2022). Voters approved Amendment 951 with a margin of 2 to 1 in 2020. The LSA spent two years working on drafts of the amendment's passage.

> *There were numerous public meetings, opportunities for the public to engage and participate. When we were done with that process it had to pass both legislative bodies again by a three-fifths vote. They were debated, talked about during the legislative process. Then, of course, it's got to be ratified in November. So, we're not talking about a quick or simple process. It really was a process with multiple, pretty significant hurdles that had to be checked through the representative government process.*
>
> Othni Lathram, Director of the Alabama Legislative Services Agency [6]

Representative Coleman was able to campaign across the state to garner support for the Constitution's recompilation, building a bipartisan coalition in the process. Like Heflin with the Judicial Article, Coleman brought attention to the politically neutral issues that made up the reform proposal. "The bill limited changes to four categories: Remove racist language; delete duplicative and repealed sections; consolidate economic development provisions; and arrange local amendments by county" (Cason, 2022). Ultimately, the constitution's recompilation was passed in the November 8, 2022 general election with 76% of the vote. The 1901 Constitution stood "at 420,000 words, while the 2022 Constitution's deletion of repeated text puts it at 373,274" (Swetlik 2022). The recompilation did not address any of the fundamental problems of the 1901 Constitution. Even in its recompiled state, the 2022 Alabama Constitution remains the longest state constitution in the United States.

The accomplishment of Representative Coleman, Director Lathram, the Alabama Citizens for Constitutional Reform, and others for generating a document that has had the racist relics of the 1901 Constitution removed while also creating a more user-friendly document by "removing duplicative and repealed provisions, and organizing local constitutional amendments by county" is significant (Spencer, 2024). That it happened in conservative, traditionalistic Alabama is astounding. It is also important to note that the reorganized constitution made no substantial changes in Alabama's governance.

> The 1901 Constitution turned out to be the longest, most statutory, rigid and prohibitive in state history... the electorate in 1901 did not trust their state or local governments and wanted the least government possible – their fears of a strong unrestrained government coming out of their nineteenth-century history (McMillan, 1978, p. vi).

This statement still holds true, and despite its recompilation, which extricated the portions of the document that were a national embarrassment, the spirit of the 1901 Constitution continues.

CONCLUSION

Policy change in the Deep South is possible. As Kingdon's (2003) model illustrates, the streams must line up, and the policy window has to open at just the right time. Serendipity plays a vital role in this model. In many cases, the right people, conditions, and solutions had to line up to get the policies turned into law. In South Carolina, the right circumstances had to align to get the Home Rule Act passed; that is, Supreme Court decisions changed the representation in the state, the population became less rural and more urban, and, generally, residents wanted more control over the direction of their local governments. State legislators wanted to give local governments more control. Governor George Busbee in Georgia made better governance an issue and shepherded Georgia's proposal for a modern constitution. Likewise, the recompilation and passage of Alabama's 2022 Constitution is one of the most significant forms of constitutional reform seen in Alabama since the passage of the Judicial Article in 1973. In both cases, it took savvy, innovative policy entrepreneurs. While Kingdon's (2003) model explains how these issues' "time has come," that is, these agenda items eventually became laws, policymaking never stops, and there is always room for improvement via the feedback loop of the policy process (Anderson, 2011). The failure of Alabama's Judicial Article to address partisan elections for judges has made Alabama the "land of unseemly judicial election wars" (Schaefer, 2002, p. 148). The recompilation of the 1901 Constitution is a significant step towards a modern constitution, but there is still work to do (Spencer, 2024). In the policy stream, there are groups and policy entrepreneurs who are still campaigning for constitutional

reform. The problem stream sees that these reform groups have defined a myriad of problems that are all related to the constitution's framework, taxing, education funding, and the centralization of local policymaking in Montgomery. The political stream, or public mood for reform, has heretofore not coupled with the other streams. Because of the role of serendipity in Kingdon's model, it is difficult to assess when or what form the public demand for constitutional change will arise.

In a study that compared political and economic variables and their effect on public policy, Dye (1966) found that policymaking in the states was more a result of forces of economic development than political factors. In the case of Alabama's 2022 recompilation, the blatant racism of Alabama's 1901 Constitution continued to serve as a national embarrassment for the state and undermined its ability to attract industry (e.g., Sher 2019). In an environment where states are compelled to compete with each other for residents and industries, the 1901 Constitution made the process of convincing national and international businesses to move to Alabama more difficult, all things being equal.

> *On the economic development side, we also want folks to know we're open for business. We want people to come to the state of Alabama, spend your tax dollars, and that we again are a state that is this 21st century state, all kinds of different people, all kinds of different cultures, and we do not reflect what was in that 1901 constitution.* [7]
>
> Representative Merika Coleman (D – Pleasant Grove)

Implicit in the political stream, in all the cases presented, is that the changing old policies, lack of home rule in South Carolina, a dated Constitution in Georgia, a convoluted judicial system in Alabama, and the 1901 Constitution, can be understood as being "good for business." In all these cases, the status quo can be argued to be bad for the states' economy – which is key in shaping policy (Dye, 1966) and the public's capacity to palate change.

KEY TERMS

Agenda Setting – The agenda is comprised of all the issues to which policymakers and the public might pay attention. Policy advocates will work to get their preferred policy solutions and pay attention to these issues, thus placing them on the agenda.

Decision Agenda – The part of the policy process where policymakers deliberate about whether or not the policy will become a law.

Dillon's Rule – Formulated by Iowa Supreme Court Justice John F. Dillon in 1868, this rule holds that local governments are creatures of the state and that local governments only have the powers allotted to them by the state legislature.

Home Rule – The power of local governments to make laws for themselves so that they have autonomy over what happens in their jurisdiction.

Local Governance – The doing of public policy at the local level. Local governance includes quality of life issues including trash collection, filling potholes, administering schools, county jails, hospitals, etc.

Policy Entrepreneur – An advocate for a preferred policy solution. Policy entrepreneurs can be public officials, bureaucrats, interest group leaders, or citizen activists.

DISCUSSION QUESTIONS

1. What do you think the framers of the South Carolina constitution meant when they opted to create a document that sought to "avoid erecting a numerous democracy?"

2. How does centralizing power in the legislature, away from local governments, empower interest groups? Why would this structure give advantages to organized interest? Which types of groups will have the greatest advantage?

3. Was South Carolina's adoption of the Home Rule Act (1975) a way for the state legislature to defer blame for raising taxes to provide the services that voters demanded? Why or why not?

4. How did the "bed sheet ballot" lead to voters' rejection of the Georgia constitution and in favor of a new one?

5. How would you characterize Alabama's judicial system prior to the passage of the 1973 Judicial Act?

6. What factors led to the passage of the 2022 recompilation of the Alabama constitution? Frame those factors within the multiple streams framework.

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NOTES

1. See https://alison.legislature.state.al.us/session-information-sublanding
2. Note that the recompilation shows that Alabama has a new constitution passed in 2022. The 2022 Alabama Constitution made important steps towards removing explicitly racist parts from the document and organized it more intuitively, it did not deal with any issues that meaningfully affect governance in the state. Notably, local-level democracy is still stifled, there is no home rule, and the tax structure is still embedded within the document.
3. This list is excerpted from Watson (1977) p. 57-59.
4. See LibGuides: Alabama's Unified Judicial System Celebrates 50 Years: The Legislative Process, n.d. at https://judicial-alabama.libguides.com/alabamasunifiedjudicialsystem/factorsincourtreform
5. See LibGuides: Alabama's Unified Judicial System Celebrates 50 Years: The Legislative Process, n.d. at https://judicial-alabama.libguides.com/alabamasunifiedjudicialsystem/factorsincourtreform
6. Cited in Cason (2022, July 31).
7. Cited in Cason (2021, September 2).