

The Secularization of Government

(Revised)

By Ethan Book

February 11, 2012

The nationwide problem of the existence of systematic biases in American courts is a function of, a result of the evolutionary process of the secularization of American government. Few observers question that this has occurred although some differ as to when they see the process to have begun.

It is my view that although other steps likely contributed to the emergence of this process, the real foundation for the process was laid with several federal actions of 1913. Those actions include (1) the questioned ratification of the 16th Amendment (that action which gave to the federal government the power to impose taxes on income during peacetime, a first in federal government and an action which was explicitly prohibited in the original Constitution), (2) the questioned ratification of the 17th Amendment (which shifted the election of U.S. Senators from state legislatures to the general public, a step which was promoted as giving to the general public a greater say in the decision process, but considering the manner that the general public can be influenced by the major media which is often controlled by large corporations, for the ready access that the large corporations have in Washington, it was rather a step toward the centralization of government, that in conflict with the delicate but real separation of powers of the states and the federal government that our Founding Fathers intended and carefully designed) and (3) the Congressional approval of the Federal Reserve Banking Act (an action which abolished the United States Central Bank and gave the ownership and the regulation authority of our banking and monetary system to a select group of banks including several European banks) (I raised current issues about these critical events in a letter sent to Congressman Christopher Shays in June of 2001.).

In 1802, Thomas Jefferson gave the following prophetic warning:

I believe that banking institutions are more dangerous to our liberties than standing armies. If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around the banks will deprive the people of all property – until their children wake-up homeless on the continent their fathers conquered.

The process of such secularization took a major step forward with the 1947 Supreme Court case of Everson v. Board of Education, 330 U.S. 1, 18. That was where the non-constitutional concept of separation of church and state emerged. Then another important step occurred with the 1989 decision of County of Allegheny v. ACLU, 492 U.S. 573, 574. In that, the high Court commented as follows:

[T]he Constitution mandates that the government remain secular.

In reality, ***what happens is that when government conduct follows such a secularist policy, it becomes even more likely that the fundamental, inalienable, God-given rights of the people as are affirmed in various Constitutional provisions including the 9th Amendment will be disregarded!***

I describe this evolutionary process of the attempt at Constitutional nullification as the secularization of government. Others describe it as the emergence of relativism or pragmatism and others describe it as the Progressive rejection of the Constitution. These terms interrelate. A significant portion of that process occurred during the term of Chief Justice Earl Warren (1953 to 1969). The high Court decision in Trop v. Dulles, 356 U.S. 86, 101 (1958) became a harbinger of what would follow:

The [Constitutional] Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.

David Barton in Original Intent¹ provides an astute analysis of the Warren Court:

During Warren's sixteen year tenure, the Court indeed became a powerful societal force, striking down numerous long-standing historical practices, while proudly acknowledging that it was doing so without precedent [Abington v. Schempp, 374 U.S. 203, 220-221 (1963)²; the landmark case in which the Court struck down the official use of the Bible in public schools]. In other words, the Court publicly announced that it finally arrived at its fully evolutionary state, no longer being bound by history or precedent.³

Attorney General Edwin Meese, III stated the following:

[U]nder the old system, the question was *how* to read the Constitution; under the new approach, the question is *whether* to read the Constitution. (italics added)⁴

There are various other current references which concur in this position of constitutional disregard and constitutional dysfunction. These include Restoring the Lost Constitution by Law Professor Randy E. Barnett (2004, Princeton University Press, Princeton, NJ); Whatever Happened to America? by Jon Christian Ryter (2000, Hallberg Publishing Corp., Tampa, FL); Constitutional Chaos by Judge Andrew Napolitano (2004, Thomas Nelson, Nashville, TN); The Constitution in Exile, by Judge

¹ Original Intent by David Barton (2010, WallBuilders Press, Aledo, TX) p. 236.

² That case came a year after Engel v. Vitale, 370 U.S. 421, 422 (1962) which banned prayer in public schools.

³ It is a notable observation here that this series of steps taken during the Warren Court also include Pierson v. Ray, 386 U.S. 547 (1967), the landmark case which, in a manner contrary to historical precedent and Constitutional provisions, and also in a manner which was contrary to a usual established principle of exception to established common law principles through legislation, excluded the long-existing waiver of the common law doctrine of judicial immunity for judicial acts which are performed with malice or corruptly. The same decision overlaid the common law judicial immunity doctrine over the explicit wording of the 14th Amendment .

⁴ Benchmark, Vol. 2, No. 1, January – February 1986, p. 5, "Toward a Jurisprudence of Original Intention," by Attorney General Edwin Meese, III.

Andrew Napolitano (2006, Thomas Nelson, Nashville, TN): Coercing Virtue by Judge Robert H. Bork (2003, The AEI Press, Washington, DC); The Tempting of America – The Political Seduction of the Law by Judge Robert Bork (1991, Simon & Schuster, New York) and Taking Back the Courts by nationally-acclaimed Connecticut Attorney Norm Pattis (2011, Sutton Hart Press, Vancouver, WA). A representative statement is made by Professor Barnett in Restoring the Lost Constitution:

The Constitution that was actually enacted and formally amended creates islands of government powers in a sea of liberty. The judicially redacted constitution creates islands of liberty rights in a sea of governmental powers. (at p. 1)

These subjects are relevant to Connecticut jurisprudence and its history. As the population of the Colony of Connecticut increased, there emerged a desire for some type of governmental instrument to deal with *a social compact*. In 1639, there were established the Fundamental Orders of Connecticut. Those Orders explained why the document had been created:

[W]ell knowing when a people are gathered together, the word of God requires that to maintain the peace and union of such a people, there should be an orderly and decent government established according to God.

That constitution next declared the colonists' desire to:

[E]nter into combination and confederation together to maintain and preserve the liberty and purity of the Gospel of our Lord Jesus which we now profess . . . which, according to the truth of the said Gospel, is now practices amongst us.

Those Fundamental Orders of Connecticut were “not only the first constitution written in the United States but also the direct antecedent of our current federal Constitution”.⁵

Shortly before the Declaration of Independence, Jonathan Trumbull, the Governor of the Colony of Connecticut, stated the following:

⁵ Original Intent at p. 85.

[Pray t]hat God would graciously pour out His Spirit upon us and make the blessed Gospel in His hand effectual to a thorough reformation and general revival of the holy and peaceful religion of Jesus Christ.⁶

Similar philosophy is found for states which neighbor Connecticut. At an “An Inaugural Discourse Delivered Before the New York Historical Society by the Honorable Gouverneur Morris” given in 1821, New York Governor Morris, a penman and signer of the Constitution, stated:

The reflection and experience of many years have led me to consider the holy writings not only as the most authentic and instructive in themselves, but as the clue to all other history All public and private life is there displayed. . . . From the same pure fountain of wisdom we learn that vice destroys freedom, that arbitrary power is founded on public immorality.⁷

Notwithstanding other concurrent decisions such as are discussed above, the Supreme Court in Walz v. Tax Commission, 397 U.S. 664, 681 (1970) commented:

[I]n resolving such questions of interpretation “a page of history is worth a volume of logic.” . . . The more long-standing and widely accepted a practice, the greater its impact on constitutional interpretation.

James McHenry, a signer of the Constitution, stated,

[T]he Holy Scriptures . . . can alone secure to society, order and peace, and to our courts of justice and constitutions of government, purity, stability, and usefulness. In vain, without the Bible, we increase our penal laws and draw entrenchments [protections] around our institutions.⁷

In 1954, President Dwight Eisenhower (a native of Abilene, KA, the hometown of my father), spoke in Washington, DC before the National Conference on the Spiritual Foundation of American Democracy:

⁶ Original Intent at p. 169

⁷ Original Intent at p. 179

And no matter what Democracy tries to do in terms of individual liberty . . . when you come back to it, there is just one thing . . . man is worthwhile because he was born in the image of God.

Then in 1961, President Eisenhower gave before Congress his famous Farewell Address in which he prophetically warned against a build-up of the military-industrial complex.

To these important references for constitutional intent and interpretation and of apparent deviances from such principles by our nation's courts, there is cause again to refer to the above statement of Thomas Jefferson made in 1802:

I believe that banking institutions are more dangerous to our liberties than standing armies. If the American people ever allow private banks to control the issue of their currency, first by inflation, then by deflation, the banks and corporations that will grow up around the banks will deprive the people of all property – until their children wake-up homeless on the continent their fathers conquered.

To that, we can add also a famous quote of Daniel Webster made in 1852 to the New York Historical Society:

If we and our posterity . . . live always in the fear of God and shall respect His Commandments . . . we may have the highest hopes of the future fortunes of our country But if we . . . neglect religious instruction and authority, violate the rules of eternal justice, trifle with the injunctions or morality, and recklessly destroy the constitution which holds us together, no man can tell how sudden a catastrophe may overwhelm us and bury all our glory in profound obscurity.

It is with this background including discussion of the original intent of the Constitution and of the more recent process of the secularization of our courts and of government that some relevant facts are in order. Discussion above points to the 1947 decision of Everson v. Board of Education in which there emerged the concept of separation of church and state, the 1962 decision of Engel v. Vitale which banned prayer in public schools, and the 1963 decision of Abington v. Schempp which struck down the official use of Bibles in public schools. Original Intent provides five graphs which depict

changes in several categories of statistics which deal with public integrity and educational performance. The graphs deal with the categories of morality (2), violent behavior, educational achievement and family stability with the statistics covering the time period of the 1950's through the 1990's. The set of these accompanies this memorandum. ***The changing trend of deterioration of these figures at the point of 1963 is marked!***

To this information, we can add of the decade beginning at 2000 the dramatic surge of international terrorism and drastic national economic decline. Also, we can add credible public claims that in the last three decades, the prison population in the United States has increased five-fold. Additionally, there is the revealing and disturbing claim that while the U.S. has only 5% of the world's general population, it has a whopping 25% of the world's prison population.

Several additional background references are provided. On March 23, 1775, Patrick Henry made a famous speech which began as follows:

Shall we try argument? Sir, we have been trying that for the last ten years . . . Our petitions have been slighted, our remonstrances [complaints] have produced additional violence and insult, our supplications have been disregarded; and we have been spurned with contempt from the throne⁸

Sierra Bell, a Yale University graduate student in anthropology, has sought to compare the Tea Party Movement with Occupation Wall Street. She recently said that "it seems like there are similarities in that corrupt government-corporate relations are seen as the cause of the Recession and decreased liberties for individuals."

In 1777, Nicholas Street preached in East Haven, Connecticut:

⁸Original Intent at p. 101

The British tyrant is only acting over the same wicked and cruel part, that Pharaoh king of Egypt acted toward the children of Israel some 3,000 years ago.⁹

The national media has portrayed the majority of the members of Congress as being part of the elite one-percent. In my view that the majority of those one-percenters have become the replacement substitute of the mentioned British tyrant and the Pharaoh king of Egypt!

The opening editorial of the February 2012 edition of The Philadelphia Trumpet (www.theTrumpet.com) is entitled "Germany Is Betraying Britain – Again". An ironic historical twist is revealed in a 1941 quote from Emil Ludwig:

Not a single neighbor of the Germans could ever trust the Germans to remain peaceable. No matter how happy their condition, their restless passion would urge them on to even more extreme demands. (at p. 3)

In his Inaugural Address of April 30, 1789, President George Washington stated:

[I]t would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aid can supply every human defect No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency.... [W]e ought to be no less persuaded that the propitious [favorable] smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained.¹⁰

Finally, I refer to the Inaugural Address given by President Barack Obama on January 20, 2009. Several pertinent portions follow:

⁹ "Americanism – and its Enemies" by David Gelernter (2005)

¹⁰ Original Intent at p. 120

. . . We remain a young nation, but in the words of Scripture, the time has come to set aside childish things. The time has come to reaffirm our enduring spirit; to choose a better history; to carry forward that precious gift, that noble idea, passed on from generation to generation; the God-given promise that all are equal, all are free, and all deserve a chance to pursue their full measure of happiness. . .

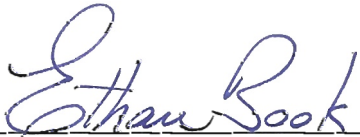
Our capacity remains undiminished. But our time of standing pat, of protecting narrow interests and putting off unpleasant decisions – that time has surely passed. Starting today, we must pick ourselves up, dust ourselves off, and begin again the work of remaking America


Nor is the question before us whether the market is a force for good or ill. Its power to generate wealth and expand freedom is unmatched, but this crisis has reminded us that without a watchful eye, the market can spin out of control – and that a nation cannot prosper long when it favors only the prosperous. . . .

To those who cling to power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history; but that we will extend a hand if you are willing to unclench your fist. . . .

Let it be said by our children’s children that when we were tested we refused to let this journey end, that we did not turn back nor did we falter; and with eyes fixed on the horizon and God’s grace upon us, we carried forth that great gift of freedom and delivered it safely to future generations.

May God Bless America!



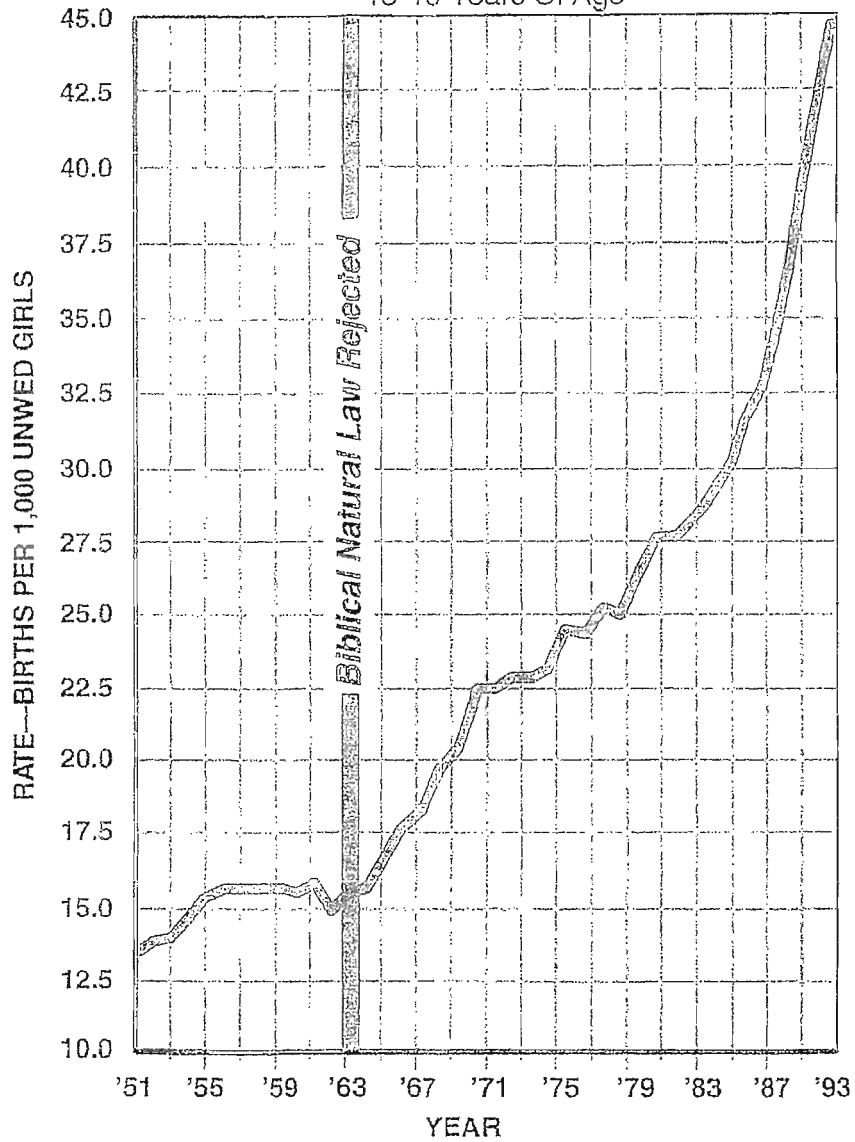
Ethan Book


Attachments (5)

Note: Born in Waynesboro, Pennsylvania, the author is a direct descendent of 17th Century Irish settlers of the Colony of Connecticut, those of the O’Cannon family. Also, he is an honors graduate of the non-denominational Christian college Azusa Pacific University (Azusa, CA) with a bachelors degree in business administration and he is an honors graduate of the world-acclaimed Thunderbird School of Global Management (Glendale, AZ) with a masters degree in international management.

Morality

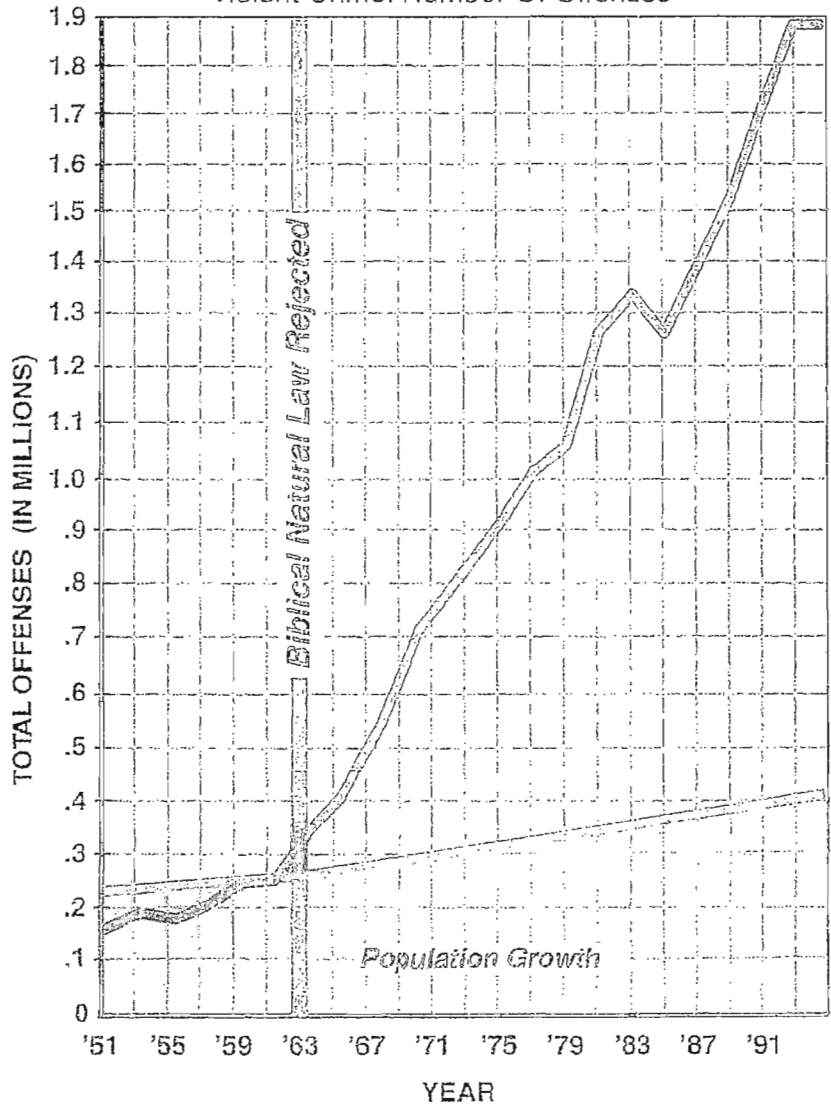
Birth Rates For Unwed Girls
15-19 Years Of Age



Basic data from Department of Health and Human Services and
Statistical Abstract of the United States.

Violent Behavior

Violent Crime: Number Of Offenses

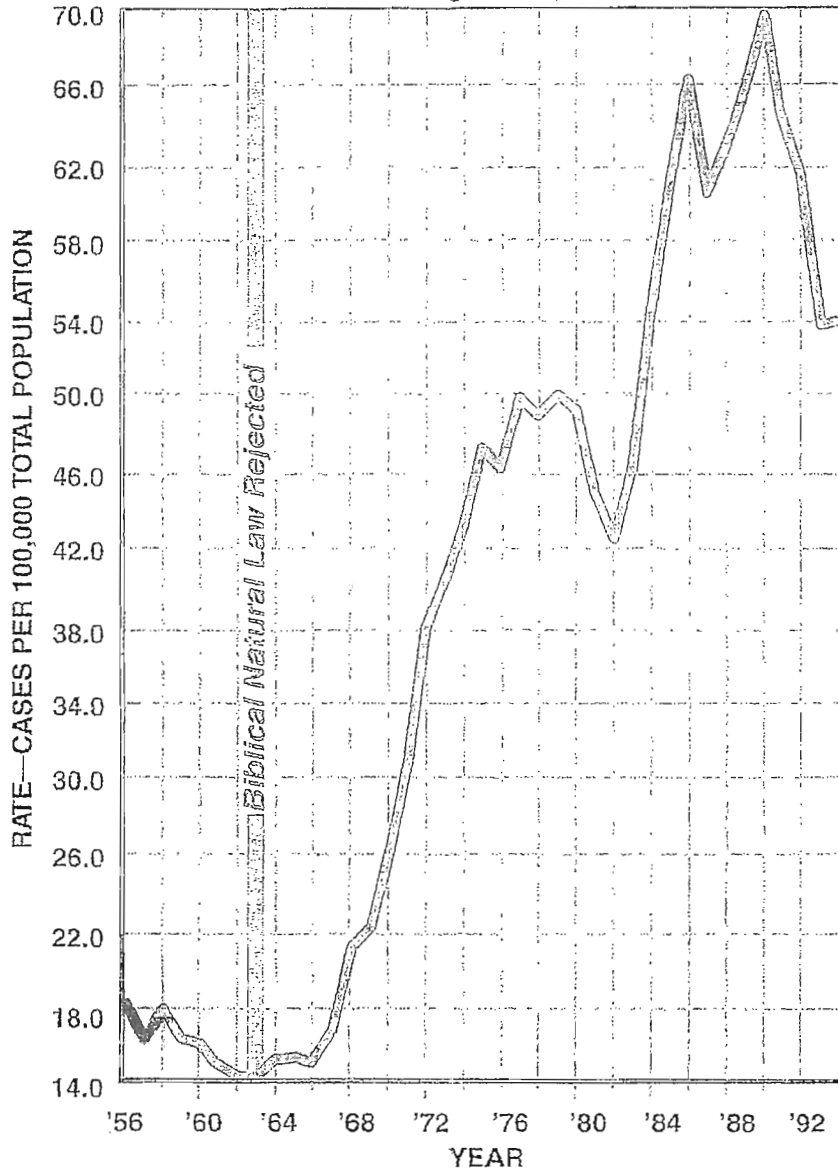


— Indicates population growth profile.

Basic data from *Statistical Abstract of the United States*, and the Department of Commerce, Census Bureau.

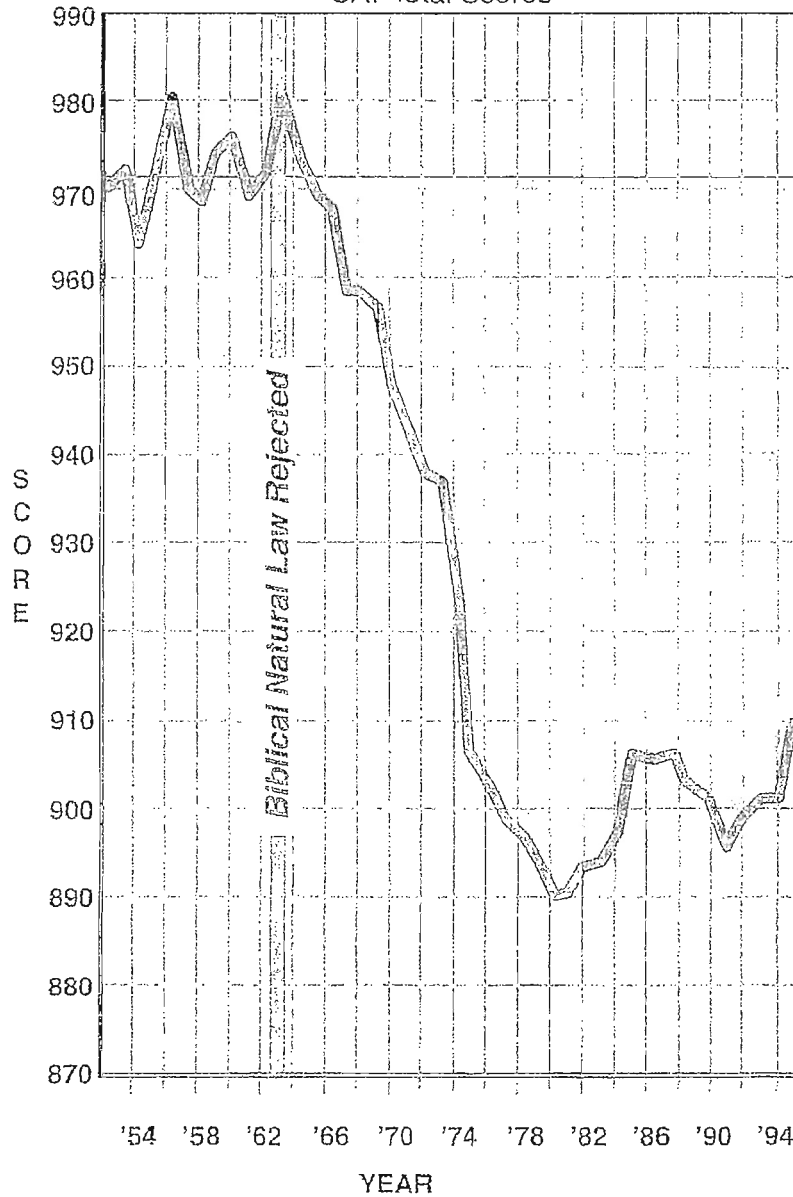
Morality

Sexually Transmitted Diseases
Gonorrhea: Age Group 10-14

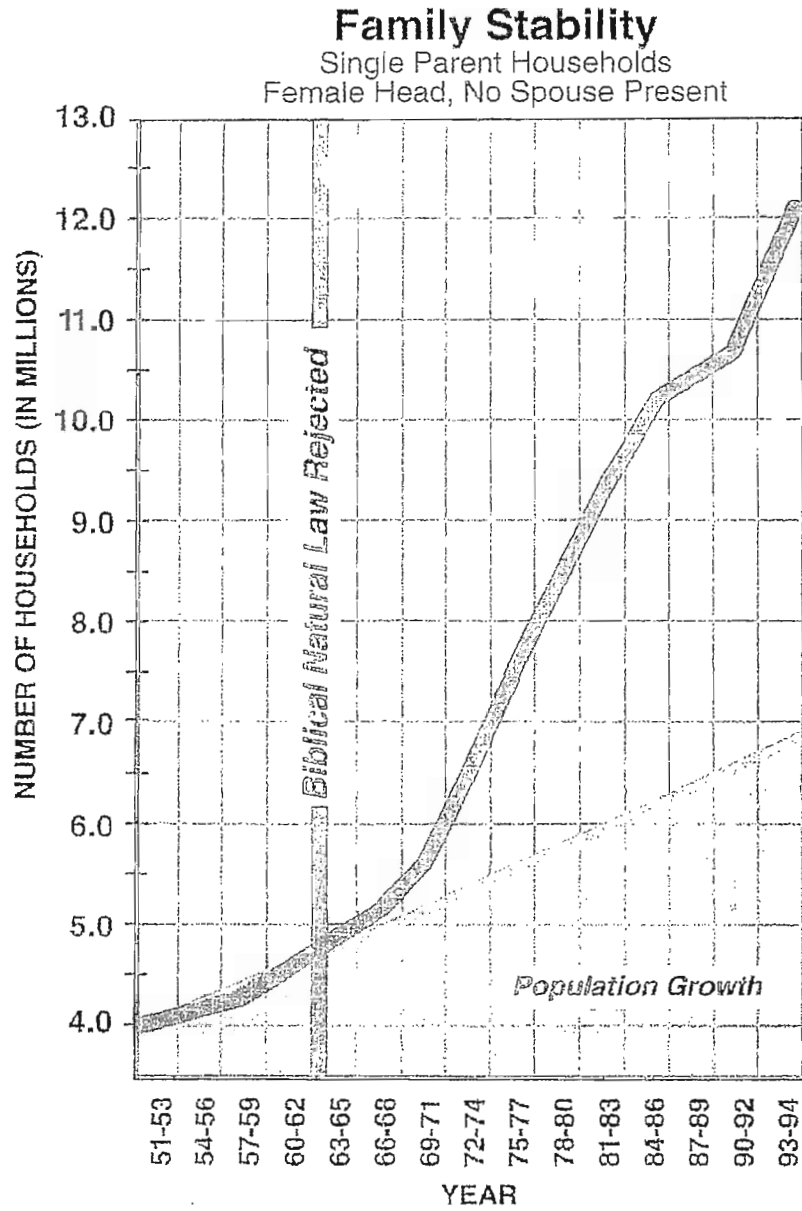


Basic data from the Center for Disease Control and Department of Health and Human Resources.

Educational Achievement SAT Total Scores



Basic data from the College Entrance Exam Board, New York.



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Basic data from *Statistical Abstract of the United States*, and the Department of Commerce, Census Bureau.