

Founding Errors: Making Democracy Safe for America

March 2008

John Joseph Wallis

This paper is truly a first draft, prepared for the Harvard Economic History Seminar, March 14, 2008. I have many obligations to acknowledge in the larger project of which this paper is a piece, but I would like to say thank you to Bill Novak and Richard John (in absentia), Jim Snyder, Ken Shepsle, Gerry Leonard, Claudia Goldin, Naomi Lamoreaux, and Eric Hilt for helpful comments and suggestions as well as patiently enduring monologues and rambling emails as I tried to sort out the issues in the paper over the last month.

The basic thesis of this paper is that the founding generations held ideas about the interaction of political and economic organizations, of parties and corporations, in a democracy that turned out to be grossly in error. Working out the implication of their errors produced the symbiotic systems of competitive politics and economics that characterize America after the 1840s. Because the paper ties together several very disparate literatures to provide evidence for the central hypothesis, the seminar is quite likely to get out of hand within a few minutes. Therefore, I propose to monopolize the first 15 minutes, lay out the framework of the hypothesis and evidence so everyone can see the basic pieces, and then open up for discussion.

Close connections between economics and politics have been carefully drawn by Americans since before the Revolutionary War. Those connections have also provided a framework for telling American history. Emerging competition provides the overarching themes of American political and economic history: the rise of competitive national mass political parties and democracy, and the rise open access competitive firms and a national markets.¹ Whether competition is extolled or excoriated, political and economic competition seem inextricably linked. From the very beginning of the nation, conflict over economic issues gave rise to political parties. Polarization of Federalists and Republicans over chartering of the First Bank of the United States gave birth to the first party system in the 1790s. Polarization of Democrats and Whigs over the rechartering of the Second Bank of the United States produced the second party system in the 1830s. Economic historians have taken the political institutions that support secure property rights and the free movement of goods and people in an open national economy as the framework for understanding America's rise to the position of a global economic leader by 1900. National politics, national markets; competitive political parties, competitive corporations; the pieces of the puzzle all fit nicely together to support a national political economy explanation of American development.²

¹“The rise of political parties is indubitably one of the principal distinguishing marks of modern government. The parties, in fact, have played a major role as *makers* of governments, more especially they have been the makers of democratic government. It should be stated flatly at the outset that this volume is devoted to the thesis that the political parties created democracy and that modern democracy is unthinkable save in terms of the parties.” Schattschneider, 1942, p. 1.

²Many historians use economic development to frame political and social development. For the early national period Appelby's title conveys the essential connection, *Capitalism and a New Social Order*. McCoy begins his study of political economy in Jeffersonian America by noting that “after independence when the thorny issues related to social and economic

Unfortunately, there are two big caveats to a national story linking political and economic developments. The first is that the Founding Fathers feared the dangers to liberty presented by any close links between political parties (or factions) and economic corporations. They were paranoid – to borrow Bailyn’s phrase – about the possibility that political factions would use economic corporations as a way to subvert democracy. These fears were not merely muttered under the breath of a few elite members of the Constitutional Convention, they were broadcast wholesale from the 1770s up through the 1850s. The fears were based on a set of intellectual

development became central to intellectual and political debate, Americans could agree almost without exception that the new nation should be republican, but within that broad and increasingly ambiguous consensus they differed over a wide range of issues... Thus to the Revolutionaries in America, the notion of ‘political economy’ reinforced the characteristically republican idea of a dynamic interdependence among polity, economy, and society.” (1980, p. 5 and 6). For Sellers, in the Jacksonian era, land and market are the two economic poles of social development, “In the beginning was the land... Understanding of both the world they lost and the world we have gained begins with understanding the differences between the cultures of land and market.”(1991, p. 4 and 6). Meyers consciously adopts an economic frame to explain *The Jacksonian Persuasion*: “I have thus far treated economic processes as somehow external to the Jacksonians who experienced and judged them. If, however, I am right that the Monster Bank of Jacksonian rhetoric represented – in fact and vaguely in perception – pervasive qualities of an altered economic life, then the case is far more difficult.” (1957, p. 121) To his credit, Meyers wrestles with the possibility that economic and political change are endogenous.

Not all histories take an economic background as given, but many do. For the Jacksonian period see Schlessinger 1941, Meyers 1957, Pessen 1985, McCormack 1986, and Sellers 1991. These histories all take distinctively different views of how national political and economic development interrelate and all use economic processes and problems to frame political development. For histories of Jacksonian politics that take a national view see Altschuler and Blumin 2000, Feller 1995, Kohl 1989, Wilson 1974, and Watson, 1997. Another large literature in political science studies the rise of national parties. For the early period, see the papers assembled in Banning’s 1989 anthology and for the whole 19th century the papers assembled in Chambers and Burnham’s 1975 anthology. The new political history spans history and political science, particularly the work of Silbey 1985 and 1991, and Formisano 1971 and 1983. In economic history, the classic statement on the importance of the national economy is Callender 1902, which is taken up by Schmidt 1939, North 1961, and Fishlow 1964; and is the centerpiece of Fogel’s 1964 study of the railroads. Despite some challenges to the details of the Callender framework, the importance of the national economy remains central to American economic history.

beliefs, developed first in England as Whig or Commonwealth theory, which Americans used as a lens to interpret events in Britain in the 18th century, eventually led them to revolt, and then profoundly affected political thinking after independence. Bailyn's *Ideological Origins of the Revolution* and Wood's *Creating the American Republic* articulate how Commonwealth ideas shaped America's founding. The ensuing understanding of the republican synthesis has dominated American history for the last fifty years.³ The Founders worried that political factions would use the creation of economic privileges to create interests that could be used to dominate the government.⁴ They were much more concerned that politics would corrupt economics than our modern concerns that economics would corrupt politics. Given their deep fear of parties and corporations as threats to liberty and democracy, we must ask how such a society came by 1850 to have the world's first mass political parties, ten times more corporations than Britain and France combined, and the first institutions that allowed free and open access to the corporate form? Why did the Founders make such a foundational error about parties and corporations? Fundamental as the question is, it has received very little attention from general historians and almost no attention at all from political and economic historians.⁵

³On Commonwealth ideas in America see Bailyn 1967 and Wood 1969. For England see Robbins 1959 and Weston 1965, and in the wider European context the work of Pocock 1973, 1975, 1977, 1985, and 1987 and Skinner, whose little book on *Liberty before Liberalism* is a lucid short introduction to the language of the Commonwealth thinkers. For application to the first party system in the 1790s see Banning 1978, McCoy 1980, and the bibliographic essays of Shalhope, 1972 and 1982.

⁴Wallis, 2006, uses the term "systematic corruption" to denote the Commonwealth fears that a faction would use political manipulation of the economy to secure political power, in contrast to the modern notion of "venal corruption" in which economic interests distort the political process to obtain economic benefits.

⁵The most obvious exception is Hofstadter's marvelous 1969 book *The Idea of a Party System* and subsequent work by Wallace 1969, Sheehan 1992, and Leonard 2002. Both Madison

The other caveat grabs even harder, for it concerns the direct relationship between government actions and economic outcomes. In order for there to be a profound link between political and economic development, governments must actually do things that effect the economy and changes in the economy must effect government actions. At best, there were only weak and general interactions between the policies of the national government and the economy. The national government took so few actions that affected the economy that national history can not give us a clear picture of how government and the economy interrelated. State governments, however, were deeply involved in actions that affected the economy in the early 19th century and were in turn affected by economic changes.

National constitutional protection of property rights and the national market were surely critical elements in the development of the American economy, but those provisions did not change after 1790. Beyond providing the framework, the national government did very little of economic significance before the Civil War.⁶ The national government chartered two banks and allowed the charters of both to expire because of political controversy.⁷ It invested a very small amount in transportation improvements, about 10 percent of what state and local governments invested, again largely because of unresolvable political complications involved in national

and Van Buren speculated about the role of parties. Madison in a series of articles written for the *National Gazette* in 1791 and 1792, included in his papers (Rutland, et. al. 1983). Van Buren at length in his *Autobiography* and his *Inquiry into the Origins and Course of Political Parties in the United States*.

⁶One can certainly argue that providing the national framework was the single most important contribution of government to development in the early 19th century, but then all of the interesting questions about how that framework was made self-sustaining disappear, since the *action* that sustained the national framework occurred at the state level.

⁷The national government also chartered a few small banks in the District of Columbia.

provision of transportation infrastructure. When it did invest in railroads in the 1860s it failed spectacularly to get its money back in the case of the Union Pacific. It transferred large portions of the public lands into the hands of private owners and state governments under a policy whose basic framework was laid out by the Confederation Congress in 1785 and 1787. Despite numerous attempts to change land policy, it stayed in place with only minor adjustments until the Civil War. It utilized the tariff as its main revenue source, but again political problems prevented the government from actively using the tariff as a tool of economic policy except in very limited circumstances.⁸ Nonetheless, national government involvement in banking, transportation, land development, and international trade (where it deserves emphasis) dominates both economic and political history. It is no wonder that Americans commonly believe that laissez-faire policies are the natural tendency of American government and that a minimal state promoted economic development. For seventy years after the nation's founding, the national government did very little, but the economy, polity, and society developed nonetheless.

The idea that we should examine the national government to understand how governments promote or retard economic development has never stood up well to historical scrutiny, however. Callender captured the irony in the opening words of his classic 1902 article: "It is a commonplace observation that the last century witnessed everywhere a great extension of the activities of the State into the field of industry. Americans are not accustomed to think of

⁸The general argument about the lack of national economic activity is laid out in Wallis and Weingast, 2005. A similar, less detailed, argument is made in Formisano, ??? There is a large literature that supplies specifics on each of the topics. For banking Hammond 1957, Redlich 1968, Sylla 1972, and Bodenhorn, 2000 and 2003. For transportation investments see Taylor 1951, Goodrich 1960, and Larson 2000. For the public lands see Gates 1968 and Feller 1984. For trade see Taussig 1931 and Irwin 2008.

their own country as taking a very prominent part in this movement, much less as having ever occupied a prominent role in it. To them, as to the rest of the world, America is the land of private enterprise par excellence, the place where 'State interference' has played the smallest part, and individual enterprise has been given the largest scope, in industrial affairs; and it is commonly assumed that this was always so." But Callender knew that states had played a large role in the economy: "It is the purpose of this paper to explain at length the conditions which gave rise to this remarkable movement toward state enterprise here in America, where of all places in the world we should least expect it."⁹

Fifty years later another generation of scholars supported by the Committee on Research in Economic History, the Handlins, Hartz, Benson, Goodrich, and others revealed again the myth of an early 19th century laissez-faire America. Like Callender, they found that the important interaction of the government with the economy at the state level.¹⁰ The actions of the states are supported by the numbers: by 1836 the national government had chartered two banks, the states over 600; between 1790 and 1860 the national government spent roughly \$60 million on transportation investments (mostly post roads and lighthouses), state and local governments spent over \$450 million; the national government built no canals, the states dozens; the national

⁹Callender, 1902, the first quote from p. 111 and the second from p. 114. Although there are no obvious connections with Callender, a group of social scientists at Johns Hopkins was also focusing on state level government policy at the turn of the 20th century. See Sowers 1914 and Hanna 1907, this group was associated with Richard Eli and Hollander (need to fill in), see Teaford 1985, for local government studies.

¹⁰The research supported in the 1940s by the Committee on Research in Economic History, somewhat confusingly also named the commonwealth tradition by Lively 1955, includes among many others the Handlins 1969 (second edition), Hartz 1948, Benson 1955 and 1961, and Goodrich 1960. The review articles by Cole, 1953 and 1970, give a good overview of the committee's work.

government chartered no non-bank corporations, the states chartered thousands.

If democracy and markets are intimately linked in the process of modern development by connections that we do not yet completely understand and it was state governments that were intimately involved in the interaction of economic and government behavior in the United States, then the formative interaction of economic outcomes and government actions should have occurred at the state level. If we think of history as a jigsaw puzzle, the pieces representing political and economic development at the national level are shaped like plain squares. They can be arranged by color, but they never interlock. In contrast, the pieces at the state level are deeply indented, with strong interconnections between political and economic events. Reconstructing the puzzle requires us to start with the state pieces.

The central hypothesis of this paper is that the interaction of economic and political forces at the state level defined and shaped American development between 1790 and 1850, in contrast to the accepted (and competing) hypothesis that the structure of political and economic development in the United States was determined by national institutions and politics. The second “foundering error” has been building our political, economic, and social histories on a national foundation and so missing the close interaction between governments and economies at the state level. In terms of the contemporary research and debate over development policy in the 21st century: today’s developing countries have little to learn about promoting modern development from the national institutions and national government policies in the United States before the Civil War, but they have a great deal to learn about what policies and politics produces modern development if they look at states, state governments, and state politics.

The hypothesis states the important implication about national and state governments, but

carries no specific implications. Political and economic competition were made tangible in the form of political parties and corporations, although formal parties and corporations represent the tips of very large bodies of political and economic organizations as we shall see. Concrete versions of the hypothesis can be formulated in terms of parties and corporations and verified using the existing historical record. The following paragraphs lay out three connected hypotheses with just a hint of evidence. Each is considered in detail in the following sections.

First, the electoral procedures adopted in the second national Constitution in 1787 created incentives for a two party system at the national level. Following Duverger's law, an electoral system with single member winner take all districts tends to generate just two competitive parties. Moreover, a system with a single executive directly elected in winner take all elections with one or more electoral districts has an even stronger predisposition to two parties.¹¹ One way of writing American political history is to see the failure of two stable and persistent parties to emerge immediately in 1790s as the result of the virulent anti-party sentiment Americans inherited from the Commonwealth tradition – thus the importance of the first founder's error for understanding American history. In part, this also resulted from the unwillingness of early Presidents to assert all of their constitutional powers. When Jackson ran a party campaign in 1828 and then fully exerted the powers of an independent presidency, a stable two-party system finally emerged in the 1830s and 1840s. One can easily see how the establishment of two national political parties quickly affected the party structure of state electoral competition.¹²

¹¹See Duverger 1959, Riker 1976 and 1982, and Cox 1997 among many others in the political science literature.

¹²Jackson's assertion of Presidential powers is a main theme of Remini's biography 1998 and the specific focus of his little book on Jackson and the Bank War, 1967. The importance of

The national hypothesis is easily challenged, however. Note first that sustained national two-party competition emerged at the national level without any change in national electoral institutions. There is nothing more concrete to point to in institutional terms than the personality of Andrew Jackson and his associates. The explanation relies on latent possibilities in national institutions, rather than active change. Second, the first and second national party systems certainly existed and were very important, but they were not very stable. If we accept Silbey's date of 1838 for the origin of the second system it lasted less than 15 years. Duverger's law and national electoral rules were incapable of sustaining permanent national parties and competition between them until after the Civil War.

In place of the hypothesis that two party competition emerged only from national origins, consider hypothesis (1): stable and sustainable two-party competition at national level was not possible until institutional changes occurred at the state level that made two-party, as opposed to multi-party, competition sustainable. The hypothesis has the virtue of being testable, both in terms of the institutions that made two-party competition at the state level and the timing of their adoption. Since stable two-party competition emerged at the national level in the 1880s and 1890s, the hypothesis suggests that state institutions must have changed in the years leading up to the 1870s and 1880s. What institutional changes enhanced two-party competition in the states, where did they come from, when did they occur, and were they connected to the economy?

The prevalent method by which governments promoted economic activity before the 19th

Jackson's personality and his aggressive use of the presidency are central to the work on Jacksonian politics, see Meyers 1957, Pessen 1985, and Holt 1999 for examples.

century had been through the granting of charter privileges to corporations. This was true in banking, finance, transportation, and public utilities. Americans who wanted their government(s) to promote economic development wanted governments to create corporations. The creation of corporations, indeed of any type of organization, ran up against the founding fear of faction and economic interests. Fear of parties made corporations the third rail in early 19th century American national politics. If the national government wouldn't or couldn't charter corporations, it would play a limited role in promoting economic development until other tools were found.

The second hypothesis builds on the obvious fact that states, not the national government, chartered corporations in the early 19th century. Hypothesis (2): states figured out a way to solve the political conundrum of chartering corporations without creating economic and other privileges that distort the democratic political process. The direct connection between economic and government activity comes out crystal clear in this hypothesis. The hypothesis has the virtue of being testable both in substance and in chronology. States determined, through a long process of experimentation, that the way to neutralize the adverse political incentives created by chartering privileged corporations was to make charters available to everyone and to eliminate any special privileges attached to specific corporations.

Constitutional provisions mandating general incorporation laws became widespread in the north in the 1840s and spread through the rest of the country in the 1870s. One of the most famous of all the general incorporation laws, the New York Free Banking law of 1838, the year Silbey dates the emergence of the two-party second party system at the national level. The New York case provides a fascinating example of how states solved the problem of corruption and

corporations.¹³ The passage of constitutional provisions mandating general incorporation laws is the most visible indication of institutional change in government policy with direct and enormous implications in the economy. The United States was the first society ever to embody free and open access to economic organizations in its fundamental laws, the state constitutions, a feature of that the national constitution lacks to this day.¹⁴

Mandatory general incorporation laws were only one part of a suite of constitutional changes that reflected a larger political transition made by American states as they adjusted their fear of faction and organizations to the realities of democratic politics controlling governments that actively pursued economic development. Commonwealth fears that politicians could use any special privilege to create an interest that could be manipulated by the dominant political faction extended well beyond business corporations. In the case of corporations, the evil was not in the corporate form itself (although there were many who argued that corporate privileges were somehow unnatural) but in the special grant to a small group. The solution was extending the corporate form to everyone through general, as opposed to special, incorporation acts. A similar movement occurred in the form of prohibitions on special legislation of any kind, much of which was directed at economic issues. Complete or partial bans on special legislation began to spread

¹³General incorporation laws made corporate charters available to everyone who met minimum requirements through an administrative procedure. In contrast, special incorporation required an act of the state legislature. Special and general incorporation will be discussed in detail later. Special and general incorporation are representative of the more general process of special and general laws and legislation, which play a central role in hypothesis (3). “Free banking” is simple a general incorporation law for banks. Benson 1961 makes the passage of the free banking law in 1838 the centerpiece of his analysis of Jacksonian democracy.

¹⁴Britain would adopt a similar registration law in 1844, extend limited liability to corporations in 1856, and France adopted a registration law in 1866. Wallis 2005, provides a detailed history on the constitutional developments leading up to the changes in the 1840s.

throughout state constitutions in the 1840s along with mandatory general incorporation acts and provision requiring that state legislatures only pass general laws that applied equally to everyone.

Bans on special legislation have been interpreted as part of a larger movement to limit the discretionary authority of legislatures.¹⁵ Legislative restrictions were embodied in other institutional reforms as well. Constitutional changes restricted the appointment powers of legislatures, for example, through direct popular election of judges; transferred discretionary authority from legislatures to governors through direct reallocation of functional powers between the legislative and executive branch; and strengthened gubernatorial veto powers over legislative acts.

These reforms affected parties at the state level in two ways. First, as intended, they reduced the ability of the legislatures to create special benefits for small groups and individuals. Trimming legislative discretion reduced the incentives of politicians to form third parties or splinter parties whose potential role as a pivot player could produce tangible political rewards, particularly after banning special acts made it more difficult to craft legislation benefitting narrow groups.¹⁶ Second, expanding the power of the governor and direct popular election of judges created larger benefits from increasing the degree of party cohesion.

Bans on special legislation and the reduction of legislative discretion were a deliberate

¹⁵See Tarr's 1998 history of state constitutions for the overall theme of limiting legislative discretion in and after the 1840s.

¹⁶Of course, it was not impossible to write legislation that benefitted small and distinct groups, it just became more costly and difficult to do so. For a clear example of how narrow parties in a pivotal position could hold sway in state politics, see McCurdy's 2001 study of the Anti-Rent party in New York in the 1840s.

attempt to reduce the impact of special (economic) interests in the legislative process. By limiting how the legislature could manipulate the economy, the new reforms hoped to reduce that adverse political incentives that led to systematic corruption. It was an economic solution to a political problem. Hypothesis (3): as states banned special laws, trimmed the discretionary power of legislatures, and strengthened the executive branch relative to the legislature, two-party competition became more prevalent, stable, and sustainable at the state level. Again, the hypothesis is readily testable. The third hypothesis connects back to the first hypothesis, providing an answer to the questions of what institutional changes made two-party competition more likely, why state governments adopted the institutions when they did.

For reasons that will be discussed later in the paper, states were always more vulnerable to third-party movements than the national parties. The hypothesis refers to a relative increase in two-party competition at the state level rather than an absolute movement to two-party competition. Indeed, the ability to form splinter and third-party movements at the state level has played a central role in political competition in the American system right up to the present.

This way of viewing the connections between economic and political development provides an answer to why Americans have never thought the Founder's were wrong about the dangers of organized political factions or economic interests. In the 1790s and 1800s the Federalists and Republicans each argued that the other group was attempting to manipulate the political system to there own ends through organized activity. Divisions and debate between the Whigs and Democrats in the 1830s and 1840s were even more intense, essentially each side of the political debate accused the other of leading the American political nation into abject submission to tyranny and slavery. A fear or organized political and economic interests lingers

in American society today.

Sorting out how fear of faction and corporations eventually produced profound institutional changes in the organization of the American polity and economy is almost impossible if our focus remains on the national level and the national government. The overriding concern of early American politics was not the coming of the Civil War, it was the impending corruption and ultimate destruction of the democratic American Republic by organized political and economic interests. Americans figured out how to stop that from happening at the level of state constitutions and state institutions because it was at the state level that economic and political interests interacted intensely.

The following section documents the paranoia over parties and corporations in the early 19th century. Then we examine more closely how corporations and parties developed in the states between 1780 and 1820. Then we move to the entanglement of state public finances, state investments, state politics, and state corporation policies that eventually led to a conceptual solution to the political dangers of parties and corporations in the late 1830s and 1840s. The constitutional changes that implemented these new ideas are tracked from the 1840s to the 1870s. The implication of those changes for party competition at the state level is then examined empirically, which completes the argument.

Americans initially believed that political and economic organizations sanctioned by governments represented a dire threat to republican government. They feared parties and corporations. The electoral rules adopted in the state and national constitutions made some kind of organized political competition inevitable, but Americans resisted the formation of explicitly political organizations. They gradually figured out ways to make access to economic

organization open to all who wished to form an organization. When special economic organizations were eventually eliminated altogether, it was then safe to begin forming more durable political parties. Democracy had finally become safe for America.

II. Fear of Faction, Party, and Corporation

An enormous amount has been written about Commonwealth or Whig ideas, their origins in Europe and Britain in particular, and their spread and influence in the colonies that became the United States.¹⁷ The ideas were neither homogenous nor held by everyone. They generated controversy, a revolution, and continuing debate over how basic ideas about republican democracy should be implemented in concrete political and economic institutions. Several elements of Whig thinking were not internally consistent with each other, conflicts that became clearer as Americans actually tried to make some of the ideas work in a real society. When Alexander Hamilton and James Madison described the evils of faction and how the Union would “form a barrier against domestic faction and insurrection” (Hamilton) or have a “tendency to break and control the violence of faction” (Madison) through the agency of a “confederate republic” (Hamilton) or an extended republic (Madison) in Federalist papers #9 and #10, they drew on Whig ideas, the best political theory of their time.

The concept of corruption was central to Whig thinking and they conflated two different concepts of corruption in the same word. One may be called systematic corruption, which

¹⁷Pocock’s work on the European origins of Commonwealth ideas is central, 1973, 1975, 1977, 1985, and 1987 but embedded in a much larger body of work, including Robbins 1959, Weston 1965, Skinner 1978 and 1998, Kramnick 1968 and 1990. Bailyn 1967 and Wood 1969 are the pole stars of the American literature, with again, a vast array of complementary and competing work, including Shallope 1972, 1982, and 1990, Banning 1967 and 1995, McCoy 1980, and Appleby 1984.

occurs when a political faction creates economic privileges and then uses the distribution of those privileges to build a coalition that secures control of the government. The other may be called venal corruption, which occurs when an economic interest bribes or influences government officials to provide special treatment. Systematic corruption is the construction of private interests through government policy to maintain a coalition in power. Venal corruption is the use of public office for private gain.

Republican democracy, a political system with democratic choice of representative political leadership through elections, can operate quite effectively in the presence of venal corruption. Republican democracy is a system of balanced contending interests and the interests do not only have to be expressed only through voting. Early American politicians were more concerned with republics and less concerned with democracy that we are today. Even without the democratic element, the republic conceived by classic European political theorists like Machiavelli maintains a balance of interests, including interests expressed through venal corruption. Systematic corruption, however, makes both classic republics and republican democracy unworkable. The essence of systematic corruption is the creation of economic interests that interlock with political interests, destroying the larger social balance by concentrating interest in one faction. Thus the fear of faction and corruption in western political thought from Machiavelli to Madison. In a democratic republic, the manipulation of interests renders the expression of economic interests through voting moot. Russia under Putin and Venezuela under Chavez are good examples of systematically corrupt democracies.

The welter of ideas that made up Whig thinking contained insights about both systematic and venal corruption. Unfortunately, the use of the same term for both types of corruption leads

to quite a bit of confusion. The confusion is compounded by the ever present manifestations of venal corruption in our world, even in 21st century America. Basic human nature makes venal corruption inevitable. The electoral rewards from successfully painting one's opponent as venally corrupt explain its continued salience in political discourse. Corruption never disappeared from the lexicon of American politics. Fears of systematic corruption, however, virtually disappeared from discussions of corruption by sometime in the late 19th century, the time when systematic corruption had largely been eliminated from American political and economic institutions through the changes identified in this paper.¹⁸

While late 18th and early 19th discussions of corruption usually mixed venal and systematic concepts, the overriding concern with systematic corruption usually showed through the rhetoric. Political and social leaders saw systematic corruption as the primary threat to republican democracy.¹⁹ Not only do their words document their concern, their actions demonstrate it. This section documents their words, largely the words of national politicians in printed and widely circulated documents intended for public reading. The remainder of the paper documents their actions, largely those of state governments. Ultimately, by their actions Americans devised an form of republican and democratic government that eliminated systematic corruption and dramatically reduced the possibility that it would return.

Fear of faction, party and organization stand out in George Washington's farewell address. After his plea to appreciate the value of the Union and his prescient prediction that

¹⁸Wallis 2006 provides a more detailed historical discussion of systematic corruption in western political thought.

¹⁹“Corruption on an eighteenth-century tongue – where it was an exceedingly common term – meant not only venality, but disturbance of the political conditions necessary to human virtue and freedom.” Pocock 1985, p. 78.

geographic divisions could imperil it, he went first to the danger of faction combined with organized interests:

All obstructions to the execution of the laws, all *combinations and associations*, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. *They serve to organize faction; to give artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community, and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction rather than the organ of consistent and wholesome plans, digested by common counsels and modified by mutual interests.*

However combinations or associations of the above description may now and then answer popular ends, *they are likely in the course of time and things to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.* (Richardson, 1897, vol.1, pp. 209-210; emphasis added).

“Combinations and associations” reflect more than business corporations, of course. The Whig concern about corporations was part of a larger concern with the danger of organizations in general. If politicians could use the powers of the state to form organizations, even if the organizations themselves “answered popular ends,” then the politicians had potentially created the means by which a political faction “of artificial and extraordinary force” could be forged to control the state. In the key passage, Washington argues that combinations and associations “serve to organize factions.” It isn’t just that factions may use organizational privileges to grant special favors to interest groups, which is venal corruption, but that the organizations themselves are tools to organize political factions.

Then Washington moved to the dangers of party:

I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful

effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy,.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it. (Richardson, 1897, vol. 1, pp. 210-11.)

Washington neatly lays out the case against parties. First, organized factional competition can, and often did in history, lead to internal violence and civil war and a most “frightful despotism.” But this leads to an even more “formal and permanent” danger when one faction forms durable enough arrangements to elevate themselves to permanent power.²⁰ This is the deepest Whig fear. That a group within society will use the manipulation of organizational privileges to create a set of interlocking interests. When such a pattern of interest combines with the popular fear of disorder and civil war, a stable coalition of interests arises that is not subject to political competition through electoral means and directly leads to the destruction of public liberty. Washington was warning against the dangers of systematic corruption.

²⁰ In the way of his time and ours, Washington’s use of the words “an individual... or later the chief” reflect the strong attraction of reification and metonymy: identifying the existence of a coalition of individuals who actually control the state with a single individual. This produces statements like “George Bush invaded Iraq,” even when we are perfectly aware that it was the United States government, specifically its army, that invaded Iraq. This shorthand way of referring to factions has dangers for us, however, as focus on a single individual quickly leads us to forget the insight of the first quotation: that deliberate manipulation of combinations and associations enable the organization of faction, which is what creates power.

Washington had first hand experience with the power of formal economic organizations to both create political interests and to incite factional conflict. The first challenge facing the new national government was getting its finances in order. The Constitution of 1787 was motivated, in part, by the need to give the national government an independent power to tax in order to raise revenue to repay debts from the Revolutionary War. When the first Congress met, the new Treasury Secretary, Alexander Hamilton, proposed a three part scheme. All of the existing national and state debts would be refunded into a new set of bond issues, with the national government assuming responsibility for existing state debts. A national bank, the Bank of the United States, modeled on the Bank of England, would be chartered by the national government and act as the government's financial agent in servicing the new bonds. Finally, a moderate revenue tariff would be established on imports and excise taxes would be levied on alcohol and other commodities to service the bonds and supply the national government with revenue. All three elements of Hamilton's plans passed Congress in March of 1791. Washington's endorsement of Alexander Hamilton's plan for refinancing the national and state debts and chartering the Bank of the United States produced the first factional party split in American political history, between the Federalists and the Republicans.

Hamilton's arguments for America's new financial system contained ominous overtones to Whig ears. In the *Report on the Public Credit* in January 1790, Hamilton proposed that "If all the public creditors receive their dues from one source... their interests will be the same. And having the same interests, they will unite in support of the fiscal arrangements of the government."²¹ Hamilton proposed to create precisely the of type factional interest in support of

²¹"Report on the Public Credit" *American State Papers, Finance*, Vol I, p. 15. See Ferguson, 1961, for an analysis of how constitutional issues and the public debt interacted in

the government – an alliance with the monied interest – that Whigs feared in Britain.

Opposition to Hamilton’s plan centered on the power of the national government to create corporations. When considering whether to sign or veto the Bank bill, Washington asked Hamilton, Jefferson (his Secretary of State), and Randolph (his Attorney General) for their opinions. Hamilton vigorously encouraged Washington to sign the bill. Jefferson and Randolph opposed it. Their arguments were couched in constitutional terms: the Constitution did not explicitly give the national government the power to create corporations, therefore the national government did not possess the power. Hamilton argued that the powers were implied in the constitution.²² Thus was launched one of the most enduring political debates in American history about the powers implied by the Constitution.

As Banning noted, it would have been difficult to consciously design a financial program that provoked Whig fears of executive influence distorting the constitutional balance more directly than Hamilton’s.²³ The debate about the implications of the financial plan after it was

Hamilton’s thinking.

²²“That every power vested in a government is in its nature *sovereign*, and includes by *force of the term*, a right to employ all the *means* requisite and fairly applicable to the attainment of the *ends* of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the *essential ends* of political society.” McKee, p. 101, emphasis in the original.

²³ “It is hard to imagine how by deliberate intent, Alexander Hamilton’s economic program for the new republic could have been better calculated to exacerbate these [commonwealth] fears... they inevitably brought to mind the entire system of eighteenth-century English governmental finance, with all the consequences that entailed for minds shaped by British opposition thought.” Banning, 1980, p. 128.

passed in 1791 opened a division within the national government.²⁴ On the Federalist side the Adamses, joined by Hamilton, praised the British constitution and argued against extending democracy too far. On what would become the Republican side, Jefferson and Madison, abetted by Thomas Paine and Phillip Freneau, attacked the Adamses as monarchists and Hamilton as an aspiring Walpole. The Republicans castigated the financial plan as an attempt by Hamilton to use his position as Treasury Secretary to secure control of the government through systematic corruption. Public acrimony between the participants set in motion the formation of distinct Federalist and Republican factions in national politics. The debate placed systematic corruption in government promotion of economic development at the center of American politics for the next seventy years. When parties first appeared in the national elections of the 1790s they were not yet legitimate and corporations remained a threat to republican principles.

In the intense and occasionally vicious contest between the Federalist and Republican persuasions, it is easy to lose sight of the staunch anti-party and anti-corporation stances taken by both sides of the debate. It was here that one of the fundamental inconsistencies in Whig thinking produced a political crisis. The Federalists proposed one national corporation, not a policy of generous or widespread incorporation, and did so on the grounds of public utility. Responsible government should be able to pursue policies that increase the general welfare. Hamilton's eloquent defense of the Bank as a means for increasing public well being was undercut by his political blunder of invoking the Bank of England.²⁵ The Republicans countered

²⁴The events of 1791 and their subsequent impact on national politics are described in Banning, 1978, and McCoy, 1980.

²⁵Hamilton earned the admiration of generations of social scientists who value financial development, but he also earned the unending animosity of social scientists who value democracy. Since most people value both, Hamilton's position in the American pantheon has

that the Bank was an instrument of systematic corruption, not of venal corruption. The Republicans were not worried that Hamilton and his friends were making too much money, they worried that Hamilton was a budding Walpole, using his control of the Bank's activities to build a dominant coalition within American politics. The formation of a political party to oppose these corrupt practices gave rise to the Republican party and put anti-party ammunition in the hands of the Federalists. Anti-party arguments were almost as powerful for the Federalists as the anti-corporation ammunition possessed by the Republicans.

Neither party was pro-corporation or pro-party. The dynamic relationship between factional interests in the presence of electoral rules for the Presidency that produced strong incentives to organize voters into two competing groups, led the both the Republicans and Federalists to accuse the other of committing a mortal sin, the use of organized interest to control the government. The Republicans had organized a political party and the Federalists had chartered a powerful corporation operating throughout the country. Both sides were vulnerable to charges of systematic corruption. The charges took on particularly heated meaning, since the inevitable implication of systematic corruption in classic Whig thinking was tyranny, slavery, and the end of all public liberties.²⁶ Thus a debate over a single corporation and the formation of

always been a bit problematic.

²⁶Skinner 1998, is particularly helpful in understanding the language and logic of this argument. Because tyranny and slavery *would follow* this was not an argument about what the Federalists or Republicans were actually doing, it was an argument about what would happen next if the other group wasn't stopped. The argument, as a result, took on a character which can appear to be both paranoid and excessive to our ears. Bailyn makes a similar argument about the exact same fears expressed by the colonists in the 1760s and 1770s: "I began to see new meaning in phrases that I, like most historians, had readily dismissed as mere rhetoric and propaganda: "slavery," "corruption," "conspiracy." These inflammatory words...meant something very real to both the writers and their readers; that these were real fears, real anxieties, a sense of real danger behind these phrases, and not merely the desire to influence by rhetoric and propaganda the inert

one political party took on an apparently apocalyptic dimension: apocalyptic because it was not a debate about what was happening now, but how the end of American republican society would transpire if actions were not taken today to check the actions of the other side of the factional fence.

The contest between the Federalists and Republicans developed in the 1790s as a classic case of negative campaigning. Both sides had legitimate complaints about the other and neither had any claims to a strong policy position. Only a few attempted to justify positively what were after all very dangerous political positions. Hamilton's "Report on the Public Credit" laid out the positive case for the Bank and Hamilton continued to support corporations, but at some political costs. His former collaborator and now Republican leader, James Madison, attempted to lay out a justification for political parties in a series of pieces in the *National Gazette* in 1791 and 1792.²⁷ Positive spin did not dominate the struggle, however. This was an internal argument within a closely knit group of leaders who were argued as only family members can.

A direct parallel developed in the debate between the Democrats and Whigs in the 1830s. Before moving on to the Second Party system and the 1830s, however, three features of the struggle between the Federalists and Republicans should be noted. First, in a struggle where one side charters corporations and the other side organizes a political party the side that sins by building a political organization has a better chance of winning elections. Second, the first party system did not lay down a basis for building a sustainable party system, since both sides remained strongly anti-party. Intense party competition at the national level lasted barely a

minds of an otherwise passive populace." (1965, p. ix).

²⁷See Sheehan, 1992 for a discussion of Madison's thinking. The pieces themselves can be found in Rutland, et. al. 1983.

decade.

Third, while the origins of the party conflict were not economic or social to begin with, the division of the two parties into one that was more intensely anti-corporation and one that was more intensely anti-party created poles of argument that attracted different elements within American society and, ultimately, poles of economic and social interests as well. When Sellers (1991) focuses on “land versus market” he finds justification for the division in the more general support of commercial interests for the Federalist position which, when translated to the state and local level, implied more positive government support for economic organizations. Similarly, the interests of land organized politically and use their numerical superiority to influence government at all levels. As we will discuss shortly, while there were economic and social differences between the parties, the differences appear to be the result of the particular form that party conflict took, rather than the opposite, that the parties arose from distinct conceptualizations of economic and social interests.²⁸

National party competition subsided in the 1810s, not to rise again until the Presidential election of 1824 produced four candidates and the selection of John Quincy Adams as President in the House of Representatives, despite his receiving fewer popular and electoral votes than Andrew Jackson. When Clay was offered the position of Secretary of State and threw his support and supporters behind Adams in the House to secure Adams’ election, Jackson and his supporters cried “Corrupt Bargain.” The first true organized party campaign for the Presidency

²⁸I do not want to push hard on this point, because the actual composition of interests represented by the two parties had to differ along several dimensions. Making clear causal statements about the direction of causation between the existence of party competition and the distribution of interests within the parties is fraught with complexity. I return to the question later in the paper.

began in 1824 and its theme was systematic corruption.²⁹

When Jackson won the election of 1828 he and his supporters did not dismantle the Democratic party. Jackson's opponents slowly came to realize the need to form a party of their own if they were to successfully contend for political power. The issue, again, was the chartering of a national bank, this time the extension of the charter of the Second Bank of the United States (BUS). The Second Bank had been chartered in 1816, by James Madison, who had come to realize the public utility of a national bank. Jackson based his political stance less on positive policies and more on opposition to "consolidation," an expansion of the role of the national government in American life, particularly in the form of national support for internal improvements. Jackson claimed that a moneyed conspiracy, centered on the BUS, was manipulating economic privileges in a bid to gain political control of the government. When BUS president Nicholas Biddle and Jackson's political rival Henry Clay attempted to embarrass Jackson by forcing him to sign or veto a bill rechartering the bank in 1832, Jackson responded not only with a veto, but with a scathing denunciation of corruption in the Bank and an active dismantling of the Bank's finances by withdrawing government deposits.³⁰

²⁹"Look to the city of Washington, and let the virtuous patriots of the country weep at the spectacle. There corruption is springing into existence, and fast flourishing, Gentlemen, candidates for first office in the gift of a free people, are found electioneering and intriguing, to worm themselves into the confidence of members of congress, who support their particular favorites, are bye and bye to go forth and dictate to the people what is right." Eaton, 1824, p. 3-4, as quoted in Larson, 2001, p. 154. The quote is from *Letters of Wyoming*, campaign pamphlets that began appearing in 1823, written by John Eaton, later Jackson's Secretary of War. "Eaton was constructing for Jackson out of older republican cloth a coat of virtue and simplicity that made other candidates appear to be draped in ancient, British-style corruption." Larson, 2001, p. 155

³⁰The history of the Bank and the Bank War has been told in many places. Hammond 1947 and 1957, Remini 1967 and 1998, and Temin 1968 and 1969.

In Jackson's Seventh Annual Message, in December 1835, as he urged Congress to change the way in which national governments dealt with the banks, he looked back on the tumultuous battle with the BUS:

After the extensive embarrassment and distress recently produced by the Bank of the United States, from which the country is now recovering, aggravated as they were by pretensions to power which defied the public authority, and which if acquiesced in by the people *would have changed the whole character of our Government*, every candid and intelligent individual must admit that for the attainment of the great advantages of a sound currency we must look to a course of legislation radically different from that which created such an institution...

All the serious dangers which our system has yet encountered may be traced to the resort to implied powers and the use of corporations clothed with privileges, the effect of which is to advance the interests of the few at the expense of the many... The bank is, in fact, but one of the *fruits of a system at war with the genius of all our institutions* -- a system founded upon a political creed the fundamental principle of which is a distrust of the popular will as a safe regulator of political power, and whose great ultimate object and inevitable result, should it prevail, is the consolidation of all power in our system in one central government. Lavish public disbursements and corporations with exclusive privileges would be its substitutes for the original and as yet sound checks and balances of the Constitution – the means by whose silent and secret operation a control would be exercised by the few over the political conduct of the many by first acquiring that control over the labor and earnings of the great body of the people. *Wherever this spirit has effected an alliance with political power, tyranny and despotism have been the fruit. If it is ever used for the ends of government, it has to be incessantly watched, or it corrupts the sources of the public virtue* and agitates the country with questions unfavorable to the harmonious and steady pursuit of its true interests.³¹

Jackson excoriated the bank for venality, but more importantly for systematic corruption. It was not the establishment of banks and corporations *per se* that Jackson feared, but the systematic erosion of democracy by a group manipulating the economy “in an alliance with political power” that inevitably would produce tyranny and despotism.

³¹Emphasis added. The quotations are from Richardson, 1897, Volume III, pp. 164-165. Different editions of Richardson have different volume contents and pagination. In the edition available online at the University of Michigan, the quote is in Volume III, pp. 1383-84. Interesting, both forms of the publications have printing dates in 1908! Similar descriptions of systematic corruption can be found in Jackson's public messages, including Jackson's Veto Message, July 10, 1832, Richardson, 1897, pp. 1153-4.

By 1833, Clay and the Whigs had formed an opposition party. In a speech in December 1833 protesting Jackson's removal of federal deposits, Henry Clay concluded:

The eyes and the hopes of the American people are anxiously turned to Congress. They feel that they have been deceived and insulted; their confidence abused; their interests betrayed; and their liberties in danger. They see a rapid and alarming concentration of all power in one man's hands. They see that, by the exercise of the positive authority of the Executive, and his negative power exerted over Congress, the will of one man alone prevails, and governs the republic. The question is no longer what laws will Congress pass, but what will the Executive not veto? The President, and not Congress, is addressed for legislative action... We behold the usual incidents of approaching tyranny. The land is filled with spies and informers, and detraction and denunciation are the orders of the day. People, especially official incumbents in this place, no longer dare speak in the fearless tones of manly freemen, but in the cautious whispers of trembling slaves. The premonitory symptoms of despotism are upon us; and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die – ignobly die – base, mean, and abject slaves; the scorn and contempt of mankind; unpitied, unwept, unmourned!³²

In parallel to the debates of the 1790s, Jackson hammered the Whigs for being monarchists and harboring corporations in a bid to control the government, while Whigs hammered right back that Jackson's formation of an ongoing political party which Whigs argued reflected Jackson's overt attempts to subvert American democracy through executive usurpation.

Again, both sides argued the same point: democracy was vulnerable to systematic manipulation of organizations, political or economic, by small groups with their own agendas and their own interests at heart. Both claimed that tyranny and slavery was just around the corner should their opponents succeed in claiming the reins of power. Just like the Federalists, the Whigs were initially handicapped by being an anti-party party.³³ It was not until the Whigs

³²Henry Clay's speech on the "Removal of Deposits," December 30, 1833. *Register of Debates*, 21st Congress, 1st Session, p. 94.

³³Holt, 1999, describes convincingly the origins of the Whig party as an anti-Jackson movement "concerned primarily with resisting the tyranny of the national executive," (p. 33) and

dropped their promotion of a national bank and seriously began organizing as a party that the second party system appeared in 1838 and 1840. Sustained competition between the Whigs and Democrats as organized parties would last little more than decade, however.

Much more could be said about anti-party and anti-corporation fears in the early 19th century, but enough has been said for now to indicate the pervasiveness of Whig ideas on both sides of whatever political divides arose at the national level.

III. States and Corporations

Please take as stipulated for the seminar version of the paper that state governors and other leaders shared the same fear of systematic corruption as national leaders and that we can document their words if need be.³⁴ Pauline Maier asked “One of the great unanswered questions about the American Revolution is why, during the 1780s, state legislatures began creating corporations in record numbers. With Independence, the legislatures acquired the power to incorporate, which in Britain was a prerogative of the crown. Their willingness to exercise that power remains puzzling, however, since corporations were considered so much a part of the old order that in 1791 revolutionary France outlawed them altogether.” The question must be extended to ask why states chartered the kind of corporations they did and ultimately how those choices led to enormous numbers of corporations being created.

Table 1 list five dimensions on which the structure of corporations vary. Before

the difficulties the Whigs had transforming their anti-party sentiments into an effective party organization.

³⁴For examples see Maier 1992 and 1993, particularly the discussion of “anti-charter” attitudes; Handlin 1945, Handlin and Handlin 1948, Handlin and Handlin, 1969; and Hartz, 1948.

considering the list in detail, however, two clouds of legal and historical obfuscation can be gently blown away. Corporations have always been legal persons in American law, as they were in most of western law back to the Roman Republic. A legal person is any entity capable of bearing rights and responsibilities. What or who a legal person is lays within the authority of the courts and the larger political entity in which the courts are embedded.

Section II, Article IV of the national constitution guarantees that “The *Citizens* of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.” The constitution clearly distinguished between persons and citizens.³⁵ Citizens all enjoy an impersonally defined bundle of rights, defined in the national and state constitutions, the “privileges and immunities” referred to. The national constitution made explicit that all rights of citizens in any specific state extended to all citizens of the United States when they were in that specific state, that is that citizens rights applied impersonally to all citizens. Corporations were never citizens in that sense and still are not today, since states have always been free to change the nature of legal personhood for the corporations they create and foreign, i.e. out of state, corporations have always been subject to some, although now more limited, discrimination.³⁶

Nonetheless, the 14th amendment declared that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the

³⁵The next clause of section 2 states that “A *Person* charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.” Slaves were persons, not citizens, as were a number of other individual human beings within the borders of the United States.

³⁶Henderson 1918 is extremely good on foreign corporations and on questions of legal personality and citizenship for corporations more generally.

privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” In *Santa Clara County v. Southern Pacific Railroad*, a complicated property tax case about the assessment of fences along the border of the railroad property decided in 1886, the Supreme Court unanimously agreed that: “The court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are all of opinion that it does.”³⁷ *Santa Clara* did not imply, however as some have argued, that corporations are persons just like any natural person. The decision distinguished “the case of railroads operated in one county, and of other corporations, and of natural persons...” *Santa Clara* did not imply that corporations enjoyed the same bundle of legal rights as a natural person. *Santa Clara* simply affirmed that, as legal persons, corporations enjoyed equal protection of the law.³⁸

³⁷The details of the case are fascinating if you enjoy the arcana of property taxation, which I will omit here.

³⁸ Just an example, pulled off the web, of how *Santa Clara* is often interpreted. “In 1886, . . . in the case of *Santa Clara County v. Southern Pacific Railroad Company*, the U.S. Supreme Court decided that a private corporation is a person and entitled to the legal rights and protections the Constitution affords to any person. Because the Constitution makes no mention of corporations, it is a fairly clear case of the Court's taking it upon itself to rewrite the Constitution.

Far more remarkable, however, is that the doctrine of corporate personhood, which subsequently became a cornerstone of corporate law, was introduced into this 1886 decision without argument. According to the official case record, Supreme Court Justice Morrison Remick Waite simply pronounced before the beginning of argument in the case of *Santa Clara County v. Southern Pacific Railroad Company* that “The court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are all of opinion that it does...”

Thus it was that a two-sentence assertion by a single judge elevated corporations to the

Similarly, in the famous *Dartmouth v. Woodward* case decided in 1819, when the Supreme Court decided that the state of New Hampshire did not have the right to unilaterally alter the corporate charter of Dartmouth College without the college trustees permission, the decision was based on the contract clause of the constitution.³⁹ The court interpreted the original grant given to the college trustees by George III in 1759 as a contract and then ruled that the attempt by the state to increase the number of trustees and place certain state officials, like the Governor, as trustees *ex officio* was an impairment of the original contract. *Dartmouth* did not establish a precedent that all corporate charters are private contracts and that charters cannot be altered unilaterally by state governments. The decision clearly states that “public corporations” could be altered by the state, and many of the corporations then in existence fit the public category as we will see shortly.⁴⁰ Private corporate charters were contracts, but states could reserve the right to alter private corporate charters at will, and states soon began inserting those provisions in charters.

The important dimensions on which corporate charters varied in the late 18th and early 19th century were not those of legal personality or of contract, but in their internal structure and relationship to the external world. All these dimension were subject to the control of the state, were issues of deliberate state policy, and eventually moved towards a consistent pattern across

status of persons under the law, prepared the way for the rise of global corporate rule, and thereby changed the course of history.” From Kortzen, p. 185-6.

Corporate personhood was not invented in 1886, nor were corporations elevated to equality with natural persons.

³⁹Trustees of Dartmouth College v. Woodward, 17 U. S. 518 (1819).

⁴⁰The distinction between public and private corporations was drawn by Justice Story. It was not a distinction of much importance subsequently.

most of the states. Table 1 lays out the basic dimensions on which corporate charters varied. The only black and white dimension was special or general. A corporation created by an act of the state or national legislature is a special corporation, even if its charter is exactly the same as all charters issued to similar corporations. A general corporation is created by an administrative process open to all who meet certain objective requirements.

Corporations can be open or close. The original charter of Dartmouth College offers a good example of a close corporation. The twelve trustees of the College, along with the President, were given complete authority to act as a corporate body and to chose their own successors.⁴¹ Municipal corporations were often close with alderman and mayors who selected their own replacements or controlled the nomination procedures. Membership in an open corporation was through simple entry, stock purchase or residency, and the governing body of the corporation was subject to periodic selection and alteration by the corporation's members. The degree of openness/closeness in a corporate charter varied with internal governance structure as well as external features governing entry.⁴²

⁴¹ The original charter is included in the *Dartmouth* decision. "And also that the said trustees and their successors, or the major part of any seven or more of them, which shall convene for that purpose, as is above directed, as often as one or more of said trustees shall die, or by removal or otherwise shall, according to their judgment, become unfit or incapable to serve the interests of said college, do, as soon as may be after the death, removal or such unfitness or incapacity of such trustee or trustees, elect and appoint such trustee or trustees as shall supply the place of him or them so dying, or becoming incapable to serve the interests of said college;" 17 U. S. 532 (1819).

⁴²For voting rules in American corporations and their associated degree of openness, see Dunlavy 2004 and Hilt 2007. Guinnane, Harris, Lamoreaux, and Rosenthal 2007 and 2007A have argued that a more close form of business enterprise is actually better suited for most business than the aggressively open form required by most states in the 1840s, and thus that the choices made in the 1840s imposed some costs on American businesses. These issues are also related to the literature on the protection and security of minority stockholders, Lamoreaux and Rosenthal 2006.

Internal dimensions of corporate structure refer to aspects that relate only to the members of the corporation, like voting rules. External dimensions refer to aspects that relate to the corporations interaction with external actors, like limited liability rules. Many aspects of corporate structure blend internal and external effects. For example, liability rules can affect the internal distribution of liability within the corporation as well as external relationships with creditors.

Whether features of a corporation were shared with other corporations or unique (or somewhere in between) applies to almost all aspects of corporate structure. So, for example, a corporation that possesses a monopoly on the provision of a particular commodity, enjoys a unique external privilege. Banks might be chartered with the same internal structure, yet each might be assigned a unique geographic area to operate within. When corporations were rare, just the privilege of incorporating was, itself, a unique privilege that conferred substantial advantages on the incorporators, even if there was nothing unusual or unique about the charter provisions. The extent to which a particular privilege was truly unique depended on the environment in which the corporations operated. Chartered banks in Massachusetts and Pennsylvania both enjoyed the privilege of note issue, but there were many more banks in Massachusetts that shared the privilege, making it less valuable than in Pennsylvania (Wallis, Sylla, and Legler, 1994). Similarly, an open corporate structure made little difference if all the stock was given to a narrow interest group.⁴³

Finally, the terms of charters regulating corporate structure could be flexible or fixed, again with many degrees of variation. Most early charters fixed the amount of capital for each

⁴³The Real Estate Bank of Arkansas chartered in 1837 provides a sanguinary example, see Wallis 2008 and Worley 1950.

corporation and the lines of business a corporation could engage in, while later charters eased the fixed capital requirements and allowed corporations considerable latitude over their internal structure through by-laws.

If we track how actual corporations and charter patterns changed along these dimensions from the colonial period into the 1840s, we can follow directly what state legislatures were trying to accomplish and explain why they acted as they did, both from inference and by using their own words.⁴⁴ There was never any serious doubt that states had the authority to regulate and structure corporations on all of these dimensions. This was true whether the corporation was ecclesiastic or lay; civil, municipal, business, or eleemosynary; private or public; state owned, private owned, or mixed. The shared patterns over all types of corporations gives us a window into American ideas about politics and economics.

Municipal and business corporations eventually became quite independent of one another and the deep historical connection between the two in the colonial period is often overlooked. Most of the corporations chartered in the 1780s were municipal corporations.⁴⁵ Kaufman provides information on the number of corporations chartered by state in Figure 1 and the share by type in Massachusetts in the 1780s, his Figure 3, and in the 1790s, his Figure 4. Massachusetts led the way in the absolute number of incorporations and they were, overwhelmingly at the beginning, municipal incorporations.

⁴⁴The traditional focus on personality, contract, and legal theory makes sense for historians of legal theory, but doesn't help us understand the relationship between political and economic factors that shaped the development of the corporate form. Substantial and important changes in the practice of chartering corporations occurred with no associated change in legal theory or practice.

⁴⁵Maier 1992 and 1993; Horwitz 1997 p. 112 "the archetypal American corporation of the nineteenth century is the municipality;" Davis, 1917; and Kaufman, 2008.

It is a serious error to overlook the important economic role of municipal corporations in the 17th and 18th century. As Teaford 1975 emphasizes, American municipal incorporations were patterned directly after English municipal corporations and English municipalities were legal entities with distinct economic functions. English municipalities were most often closed corporations, charged directly with the regulation of trade, the provision of local economic infrastructure, and the provision of order and economic security. Teaford suggests that two-thirds of all English municipalities were close corporations, run by mayors and aldermen who were self-perpetuating, or nearly so.⁴⁶ Corporate membership was limited to freemen, who status resulted from combinations of residence, occupation, and purchase.

American municipal charters and the cities they created also focused on economic issues. The 1686 charter of Albany, for example, gave the city and its freemen a monopoly on the fur trade within the province. City government played a large role in the provision of urban commercial infrastructure “New Yorkers trod through dusty thoroughfares along open sewers to draw putrid water from the city well at the same time that the municipal corporation was constructing wharfs, cranes, jetties, and market houses for the use of shippers and dealers.”⁴⁷ By 1750 there were fourteen chartered municipalities in the colonies, all of them charged with “stimulating commercial development by regulating and promoting trade.”⁴⁸ The physical

⁴⁶“By 1700 the rule of approximately two-thirds of England’s municipalities lay in the hands of self-perpetuating oligarchies.” p. 6. Teaford cites Stevenson, 1889, vol. 3, p. 341 which I have not yet checked. For another close (??) municipal corporation directly concerned with economic development see Bogart’s articles on turnpike trusts, 2005a and 2005b.

⁴⁷Teaford 1975, quotation from pp. 18-19, Albany citation p. 21, general discussion of the economic importance and orientation of American municipal governments pp. 16-34.

⁴⁸Teaford, p. 17. The fourteen cities, with their dates of incorporation, are New York City 1663, 1665 (first English charter), 1686, 1731; Albany, 1686; Philadelphia, 1691, 1701;

infrastructure of commerce, warehouses and market places, were typically owned by the municipal corporations, and these were close corporations limited to freemen of the city.

The exception to the pattern was, surprisingly, Massachusetts, where the City of Boston resolutely resisted any attempts to create a municipal corporation and the colony was populated by unincorporated towns rather than incorporated cities. The citizens of Boston refused incorporation on grounds of systematic corruption. Bostonians argued that incorporation would inevitably lead to aristocracy and an elimination of liberty as favored groups used the levers of economic regulation to build an unassailable political coalition.⁴⁹ Boston would not accede to a charter until 1822.

What changed after the revolution, in Massachusetts and throughout the country? We can easily be misled if we accept the implicit assertion that the nature of municipal incorporation remained the same before and after the revolution and explain the rapid increase in municipal and other local government charters after 1780 as pent up demand frustrated by two centuries of intractable English rule.⁵⁰ In reality, the structure of municipal corporations shifted decisively on

Chester, Pennsylvania, 1701; Annapolis, 1708; Perth Amboy, 1718; Bristol, Pennsylvania, 1720; Williamsburg, 1722; New Brunswick, New Jersey, 1730; Burlington, New Jersey, 1733; Norfolk, 1736; Wilmington, Delaware, 1739; Elizabeth, New Jersey, 1740; and Lancaster, Pennsylvania, 1742.” Footnote 5 text, pp. 119-120.

⁴⁹Teaford, chapter 3; Maier 1992 and 1993; Lockridge describes the pattern of New England town settlement, which I would like to discuss in detail but will not.

⁵⁰In the end of both of her papers on incorporation Maier concludes that the corporation “was therefore transformed” after the revolution (1992, p. 117) and “the charters granted in the United States after Independence created corporations undeniably distinct from those of an earlier day that had inspired the hostility of Hume, Smith, and the leaders of revolutionary France” (1993, p. 83-84), but a careful reading suggests that what was transformed was the political situation surrounding the creation of corporations, not the actual structure of the corporations themselves.

two dimensions. First, the close municipal corporation began disappearing rapidly after the revolution. Between 1775 and 1789, twenty-five towns received charters and none of them “created a governing body with life-tenure officers chosen by co-option.” Municipal elites in formerly close corporation cities fought rear guard actions, but state legislatures, disregarding the English tradition that municipal charters were inviolate, restructured the charters of Newport in 1787, Norfolk in 1788, Philadelphia after a long struggle in 1796, and New York City in 1803 and 1804 over the strong objections of the existing municipal governments.⁵¹ This was an expansion of state power over corporations directly at odds with the idea that “rule of law” regarded all contracts as sacrosanct. The exercise of state power over public corporations was explicitly recognized and condoned in *Dartmouth*, the Supreme Court did not take on the growing power of state legislatures in this arena.

The movement from close to open corporate structure was paralleled by a movement from unique to shared features. Maier teases us when she quips that the first general incorporation act in Massachusetts acknowledged by the Handlins, an act incorporating proprietors of common lands in 1784, merely extends a “general incorporation law of 1753 to facilitate the development of land outside constituted towns and precincts,” and then notes that “Neither act specifically used the word ‘incorporate.’”⁵² While it is fine for Maier to cite Davis or Williston as saying that all corporations were fundamentally the same around 1780, it is strikingly clear that acts such as these in Massachusetts began to move municipal corporations

⁵¹Teaford, 1975, quotation from p. 65, discussion of charter revisions, pp. 79-90.

⁵²Maier 1992, p. 78. The citation is to Handlin and Handlin, 1969, p. 91 and the discussion on pp. 90-92 about the exercise of corporate decision making power in the case of common land ownership.

into a new form where all corporations were open and whoever received them shared the same features.⁵³ The movement to shared features in an environment where anyone, or almost anyone, could get a charter changed dramatically the privilege inherent in the charter. Open entry and shared privileges, even for geographically fixed municipalities, dissipates rents and reduces the benefit of privilege.

The two movements, from close to open and from unique to shared, would prove to be significant innovations in the structure of American corporations. In initially quite small ways states began to pick up this pattern of chartering. In 1784, New York passed a general incorporation act for churches, followed by soon thereafter by several other states.⁵⁴ A general regulatory act was a form of structuring the chartering process that still required an act of the state legislature, so it was technically a special incorporation, but provided fixed guidelines for the form the corporation could take, and so charters under regulatory acts became a shared and much more fixed. New York passed general incorporation acts or general regulatory acts for county loans officers, colleges and academies, municipal corporations, overseers of the poor, and medical societies between 1784 and 1808. Massachusetts and New York both passed general incorporation acts for manufacturing firms, Massachusetts in 1808/9 and in New York in 1811.⁵⁵

⁵³ “The most striking peculiarity found on first examination of the history of the law of business corporations is the fact that different kinds of corporations are treated without distinction, and, with few exceptions, as if the same rules were applicable to all alike. Subdivisions into special kinds are indeed made, but the classification is based on differences of fact rather than on differences in legal treatment.” Williston, 1888, p. 105.

⁵⁴Seavoy 1982, pp. 9 - 12, New Jersey and several other states followed with general incorporation acts for churches, but I cannot put my hand on the reference.

⁵⁵For dates in New York see Seavoy, 1982, pp. 283-285. For Massachusetts see Maier, 1992, Handlin and Handlin, 1965, p. 127.

Massachusetts created general regulatory act for banks in 1820 (? Handlins, 1969, pp. 162-170) and essentially allowed open entry into banking thereafter (Wallis, Sylla, and Legler, 1994).

Changes in the underlying structure of corporations were beginning to shift ideas about the danger posed by corporations to republican democracy. It took time. Henderson points out that the courts “have been but slow to grasp” the implications of a “general right open to all” to form a corporation. But as “one far-seeing judge saw it while the change was in its infancy,” commenting in 1822 on the 1811 general incorporation act for manufacturing, Chief Justice Spencer of New York wrote:

The object and intention of the legislature in authorizing the association of individuals for manufacturing purposes, was, in effect, the formation of partnerships, without the risks ordinarily attending them, and to encourage internal manufacturers. There is nothing of an exclusive nature in the statute; but the benefits from associating and becoming incorporated, for the purposes held out in the act, are offered to all who will conform to its requisitions. There are no franchises and privileges which are not common to the whole community. In this respect incorporations under the statute differ from corporations to whom some exclusive or peculiar privileges are granted.⁵⁶

The move to more open and shared corporate forms began with municipal corporations. As cities both moved to open corporate forms and their populations grew, functions that were previously the purview of municipal authorities began to be contracted out to private groups. New corporations to provide infrastructure, sometimes induced by special charters to provide public services, began to increase as a percentage of all charters in the 1790s (Figure 4). Banks and insurance companies, as well as water companies, bridge and turnpike companies, and even canal companies began to proliferate. The movement to incorporate churches through general acts spread more widely into open incorporation for voluntary associations, which given its

⁵⁶Quotes from Henderson, p. 68, Spencer quotation pp. 68-9 citing *See v. Bloom*, 19 Johns. 456 (1822).

important connection with political associations are discussed in the next section.

The early movement toward general incorporation hardly swept all before it, however. All states continued to create corporations with exclusive privileges, Massachusetts included, like the Massachusetts Bank 1784, the Charles River Bridge 1785, the Beverly Cotton Manufactory in 1789, and the State Bank in 1812. The need for better overland transportation led states to corporations that were doubly privileged by exclusive special charters and state investment as well. The political advantages of creating economic privilege were not lost on American politicians. As Whig theories of systematic corruption predicted, states were jealous of their chartering privileges and quite easily drawn into them for financial and political advantage. States could not credibly promise not to create special corporations to provide valuable public services at no or low costs to taxpayers (although perhaps higher costs to users), the political advantages of such arrangements were simply too attractive. Neither could state legislatures made up of many competing factions pass up the opportunity to cement a coalition of interest through the granting of corporate privileges to all coalition members. Special incorporation and the real fear of systematic corruption were far from dead in 1830.

IV. Parties and Associations

When we turn from corporations to parties in the early nineteenth century there is a curious disconnect. The growth and development of political parties, party competition, and political leaders at the national and state level is the best developed part of American history and American political science; students of corporations can only dream of such a rich and detailed literature. Yet, while there is an extensive legal history and case law of corporation law and

practice, there is no comparable legal history or case law of political parties. There simply appears to be no law of political parties in the United States until after the Civil War. I am afraid, at the moment, that I cannot give you unqualified evidence for the absence of a law of political parties in the early 19th century, but I am becoming reasonably confident that I will not, at some point, find a way into a literature about the legal structure that governed electoral competition before the Civil War. At the moment, I have not found such a literature or evidence of the institutions.

The absence of formal institutions governing political competition goes past the case of a dog that doesn't bark in the night and into the realm of immaculate conception. The United States somehow managed to obtain a system of intense and sustained political competition without any visible institutional supports, except for the call in national and state constitutions for elections at the national, state, and local level. These early 19th century developments stand in sharp contrast to politics after 1880 or so, when party competition was not only intense but institutional change in electoral systems played a key role in changing systems of representation and party competition. Institutions like the Australian ballot required states to intervene directly in the management of elections and to institute procedures by which parties were legally recognized.

Exactly how the United States managed to sustain political competition in a nascent democracy, when the failure rate for new democracies throughout history has been so high, is not a question that will be completely answered here. But the elements of a complete answer will be advanced. The strong anti-party sentiments of the founding generation inhibited the overt formation of political organizations at the local level. The clearest example is the brief

appearance and rapid disappearance of “democratic-republican societies” in 1793 and 1794, which are discussed in this section. Popular aversion to overt political organizations did not prevent those who sought office from coordinating their activities in the legislatures, but they had to do it existing social institutions. Deferential politics, a politics in which the leading elements of society advanced names and individuals for public consideration in the electoral process, was capable of manning the offices of government while keeping a strict eye out for factions and parties. But deferential politics was not a long term solution to implementation of broad based democracy in a republic. Political networks, based in the growing numbers of voluntary associations formed for a civic purpose and sanctioned by the state governments, were quite fragile coalitions of disparate interests.

One potential cement for holding the pebbles of local political interests together was the systematic creation of economic interests organized by a party organization. Such a system arose in New York under Van Buren and the Albany Regency. States found it almost impossible to resist the claims of their citizens for infrastructure investments in finance and transportation. On the one hand many highly regarded individuals urged the projects for the best reasons and on the other hand the projects themselves held out the specter of systematic corruption on a scale not seen before.

Another possible cement was to allow open entry into economic organizations and then tweak electoral rules and methods so that stable competition between two well organized political parties emerged. As long as economic competition remained vigorous and economic entry remained open, then neither political party would be able to suborn the economy for its political ends. In the end, economic competition would sustain two-party political competition.

Stable two-party competition at the national level after the 1880s depended on the prior development of electoral institutions sustaining two-party competition at the state level. This required state level changes that began to squeeze out third-parties or, at the very least, made the likelihood of a third-party success at the state level less likely.

The successful revolution and subsequent independence required a tremendous effort to coordinate political, economic, and social resources within the American colonies. The danger of consolidation, of creating a uniform and despotic national government remained a live issue long after the revolution was won, but it contended with the equally powerful realization that coordinated public action was necessary to win American freedom and would continue to be necessary to protect and sustain it.

As we have already seen, the years following the revolution saw a marked increase in the creation of formal political organizations in the form of municipal government organized with open structures and shared features that made them transparent vehicles for expressing the popular will (at least in theory). General incorporation acts and general regulatory acts for churches, library societies, militia societies, fire societies, and the like spread throughout the colonies, particularly in New England and the Mid-Atlantic regions. These were organizations of public utility, formed not as alternatives to government action but as private initiative explicitly supported by government sanction.⁵⁷

Naturally, some attempts to create organizations for political purposes also arose, most

⁵⁷The civil society literature stresses the importance of independent private organizations to discipline and check the government, but in fact the existence of a rich and varied network of private organizations requires at the very least the tacit approval of the state. As Novak 2001 describes, in early 19th century America there was much more than tacit support for private organizations, few of which existed as truly voluntary associations with no assistance from the state.

notably the Democratic-Republican societies formed in 1793.⁵⁸ The societies met regularly to discuss resolutions and correspondence from other societies and to then disseminate their resolutions and discussion in the rapidly growing number of newspapers. “The societies’ publications combined and emphatic affirmation of the popular right to unrestricted speech and association with interventions in the perpetual debate over the United States position relative to France and Great Britain, one of the crucial faultlines of the decade.” (Koschnik 2007, pp. 16-17) The societies were associated with emerging Republican political movement in Philadelphia, organized quietly by Jefferson and Madison to oppose the Federalist policies of Washington and Hamilton. The societies immediately came in for criticism not only as parties, but given their explicit use of old revolutionary tactics of correspondence committees and call for public action, they drew fire as potentially revolutionary organizations. The Democratic-Republican societies raised a complicated and, for their time, insoluble problem. How could organized opposition to the policies of a democratically elected government that presumably reflected the will of the people -- and only a fanatic few could doubt that Washington’s selection and his policies did not truly reflect the people’s choice – legitimately criticize that will and should the state condone and sanction such organizations? In the face of strong adverse reaction from the government and the possibility of association with the whiskey rebellion in western Pennsylvania, the Democratic

⁵⁸The Democratic Society formed in May 1793 in Philadelphia was central to the movement because the national capital was in Philadelphia, the Philadelphia Society played an active role in publicizing its activities and coordinating other societies throughout the colonies, the importance of the Philadelphia newspapers in which the societies published their resolutions, and the geographic proximity to the societies in Western Pennsylvania which were implicated in the Whiskey Rebellion. I have called these Democratic-Republican societies following the standard nomenclature and have drawn on Koschnik 2007 and Elkins and McKittrick 1993 discussion of the 1790s and later to make connections between the voluntary associations and political parties. Also see Link 1942, Foner 1976, Handlin and Handlin 1961, and Brown, 1972, 1973, and 1976.

Society of Philadelphia faded away. Ultimately the Democratic-Republican societies could not resolve the problem and “their claim to represent the people appeared as partisanship, and their existence suggested an insurrection in the making. Within eighteen months of the societies’ inception, an effective involvement in national politics had become impossible.” (Koschnik 2007, p. 23)

The Democratic-Republican societies raised a fundamental question about the shape of political and cultural life in the new nation. There was no grant of “freedom of association” in the national or state constitutions and there were strong, widely shared reasons for believing that some associations could be very dangerous.⁵⁹ Nonetheless there was a strong movement to encourage the formation of state sanctioned private organizations to perform a wide variety of functions. As Novak describes, between 1789 and 1865, even the small state of Connecticut formally recognized over 3,000 special corporations through “private” legislative acts. The compilation of these acts consists of five bound volumes, arranged into 46 titles by the purpose of the acts and the organizations they created. The titles are given in table 2. While the table includes many headings describing economic organizations one type of organization is conspicuously missing: political parties or political organizations of any type.

What happened in Philadelphia after the demise of the Democratic Society holds out a potential explanation for both the vigorous growth of voluntary organizations and the lack of formal political parties at the local level. Chastened by the failure of the Democratic-Republican societies, politically active individuals began to channel their organizing activities into voluntary associations with an explicit public purpose. The Federalists in Philadelphia were particularly

⁵⁹On the freedom of association in constitutional history see Rice 1962, Horn 1956, and Novak 2001.

adept at the creation of volunteer militia companies, which then expanded into a network of literary, scholarly, and social associations.⁶⁰ These associations were formally recognized by the state through charters which granted them existence as legal persons, enjoyed rhetorical protection against claims that they were naked attempts to organize political power because of their dual purpose as social organizations, and enabled the coordination of political, economic, and other social activity within a fluid society in which entry into organizational forms was not limited by the state. Entry into a specific organization could be limited, but if anyone could form an organization as long as it was not overtly political those organizations could serve as the basic units of nascent political coalitions.

Note, however, that these organizations could not be cemented together by strong legal ties. There was no law of political parties to do that and the still virulent anti-party ideas as late as the 1820s mitigated against any formal state actions to make an overt party system more sustainable. Political parties would have to be built out of pebbles that were hard to manage, but there were ways to do it. Special economic privileges had not been banished from the arsenal of state legislatures and they could and would be used for partisan purposes.

V. Canals, Corporations, and Collapse

The constraints on forming legal parties did not prevent politicians at the state and national level from forming coalitions to govern and, to a lesser extent, to nominate candidates and campaign. Many coalitions built around a charismatic individual, others were built more systematically around patronage and the distribution of public services. As Richard L.

⁶⁰Koschnik 2007 documents the network of associations and individuals through several Philadelphia voluntary associations.

McCormick has emphasized, nineteenth century political parties can be thought of as machines for economic redistribution:

Throughout the party period, while these characteristic forms of voting continued, economic policy-making manifested distinctive patterns of its own. The government's most pervasive role was that of promoting development by distributing resources and privileges to individuals and groups. An understanding of distributive policies and their centrality in nineteenth century politics helps establish the complementary relationship between electoral behavior and government decision-making.⁶¹

McCormick surely touched an important issue, but one that has to be considerably qualified, as Formisano (2001) has pointed out. First, as discussed earlier, the national government simply did too little to be seriously redistributive. Between 1790 and 1860, roughly two-thirds of all national government expenditures went for direct military expenditures or interest on the national debt. Little of that expenditure could be easily used for patronage. The remaining third was a small share of income. Certainly rivers and harbors appropriations and the post office offered considerable latitude for patronage, and both were used extensively by national politicians to consolidate their positions, but the allocation of these kind of expenditures had little or no effect on economic development or performance.⁶² Second, although the states did pursue economic projects that were quite large, relative to their own budgets, their own economies, and the national government, state projects were often authorized in a way that commanded bi-partisan support rather than intense party conflict. Canals were rarely built because Whigs or Democrats got control of the state house.⁶³ We need to understand both why

⁶¹McCormick, 1979, p. 283 and McCormick 1986 throughout.

⁶²The presence of a post office was important, but the location of individual post offices which is what patronage is about, is of third or fourth order importance as long as a postal system exists. See Margo, NBER DAE paper.

⁶³See Formisano, 2001, on consensus between the parties rather than competition.

the national government did so little and why, though economic issues were important in state politics, many state projects were bi-partisan.

Elsewhere, I have sketched out a simple model of political economy to answer these questions.⁶⁴ It begins by noting that most economic improvements in finance or transportation generate geographically specific benefits. If a legislature operates according to majority rule and legislators represent the interests of their constituents, infrastructure projects will typically fail to generate majority support since most legislative districts will pay taxes and not receive any benefits. Simply raising existing taxes to pay for infrastructure, what we can call normal taxation, won't work politically.

A second constraint on a legislature is that the sum of net benefits of all the activities engaged in by the state must be positive for all the districts. This is the exit constraint. If a district receives negative net benefits from the combined action of the state, its citizens have strong incentives to exit.⁶⁵ One way around the majority constraint is logrolling, putting together many projects that generate positive benefits for a majority of districts. The exit constraint is not inconsistent with log rolling, it simply requires that the sum of all the log rolls be positive for every district. The exit constraint is likely to bind for a very large project, like a canal, where there are simply not enough other things the state is doing to make the log roll work.

There are alternatives even if the exit constraint binds, however. One is benefit taxation.

⁶⁴Wallis 2005 and Wallis and Weingast 2005 present and utilize the model. Wallis 2003 which concerns Indiana in 1836 does not present the model but provides the detailed historical examination.

⁶⁵The exit constraint need not bind at zero, it could be that residence in the state generates positive benefits so that the exit constraint begins to bind only at significant negative amounts, but that is a technical detail.

If the total benefits of the project exceed the costs, and if taxes can be allocated among individuals (or districts) in proportion to the benefits received from the project, then a project can receive majority support, indeed even unanimous support of those legislators who are left indifferent because they receive no benefits but pay no taxes are willing to vote yes. Because the value of transportation improvements may be capitalized in land values, an *ad valorem* property tax can serve as a kind of benefit tax.⁶⁶ So, obviously, can user fees. Benefit taxation offers the possibility of meeting the majority constraint and the exit constraint in the same piece of legislation.

Another set of alternatives can be grouped together in the category of taxless finance. This way of financing improvements does not involve raising current taxes but may involve taxpayers assuming a contingent liability in the future. The simplest form of taxless finance is the classic case of the special corporation that receives privileges, like limited competition, to induce the corporation to provide a valuable public service, like supplying money, water, or transportation. A slightly more complicated form of taxless finance occurs when the state actually invests in the corporation. The state may borrow funds and buy stock in the corporation, in return the corporation agrees to pay dividends on the state stock holdings sufficient to service the bonds, so that tax payers do not incur higher taxes.⁶⁷ Taxpayers do incur a contingent liability to service the debt if the corporation is incapable of generating sufficient profits. This

⁶⁶Wallis 2003 considers the effect of canal construction on property values in Indiana, Heckelman and Wallis 1997, Coffman and Eschelbach 1998, Craig, Palmquist, and Weiss 1998, and Haines and Margo 2006 all consider the effect of transportation improvement on land values in the early nineteenth century.

⁶⁷Specific examples of charters embodying these arrangements can be found in Mississippi and Louisiana in the 1820s and 1830s, cited in Wallis 2005.

method of finance was often used for banks, including the first and second Banks of the United States and almost all of the southern state investments in banks in the 1820s and 1830s.

Finally, a state may decide to operate the project itself, as Pennsylvania did with the Mainline canal. In order for such an investment project to be taxless, the state must borrow more money than necessary to finance construction, using the additional borrowed funds to pay interest on outstanding bonds. If the project comes through as anticipated, tolls or user fees sufficient to service the debt mean that taxpayers are not affected, but if the project fails to deliver, taxpayers must bear the cost of the contingent liability. In all of these cases, taxpayers who do not directly benefit from the project, must nonetheless expect to benefit in the form of lower taxes if the project succeeds. If expected benefits exceed expected costs for all taxpayers, a taxless finance scheme can meet both the majority and exit constraint as well.

A final method of financing infrastructure is something for everyone. Each district gets a small allocation of funds or projects, and each district pays taxes through the normal system or through a well defined contribution. Often something for everyone schemes involve formulas for collecting taxes and for distributing benefits. At low levels of spending, something for everyone schemes meet both the majority and exit constraints.⁶⁸

Collect together the four schemes and three predictions follow. Normal taxation will rarely be used for infrastructure investment because of geographic mismatch. Something for everyone schemes can work, but only for small projects that can be widely dispersed. Both benefit taxation and taxless finance can potentially be used to finance large projects. Both

⁶⁸The current interstate highway system is a something for everyone scheme in which taxes are collected on user fees levied on gasoline and expenditures across the states are determined by a formula.

schemes may be risky, *ex ante*, but benefit taxation at least opens the possibility of raising taxes to finance expenditures.

The national government is prohibited from levying property taxes by wealth, all direct taxes must be levied by population share (Article I, Section 2). So we expect to see the national government using something for everyone and taxless finance. Keeping with the small scale of national expenditures, that is exactly what we did see. Between 1790 and 1860, of the \$60 million the national government spent on transportation improvements, two-thirds were spent on rivers and harbors improvements: small projects widely scattered among districts. The national government did use taxless finance for the first and second Banks of the United States, and to finance the Union Pacific and Central Pacific railroads in the 1860s (Wallis and Weingast, 2005). States, on the other hand, could use both benefit taxation and taxless finance. Of the almost \$200 million in state debt outstanding in 1841, roughly one-quarter had been issued for projects using benefit taxation and three-quarters for projects using taxless finance (Wallis, 2005).

We are now in a position to answer the earlier questions. The national government could not use benefit taxation because of the restriction on direct taxation. Using taxless finance required the creation of a privileged corporation, government borrowing, or both. As we have already seen, anti-charter fears made it extremely difficult for the national government to charter corporations for political reasons. The combination of strong geographic antagonisms and a fear of privileged corporations made it extremely difficult for the national government to engage in economic development projects.

The states were in a different position. First, they could use benefit taxation to solve the

problem of geographic mismatch. New York, Ohio, Indiana, and Illinois all used *ad valorem* property taxation to coordinate the benefits of canal investments with the distribution of tax burdens when they began canal construction (Wallis 2003).

Second, states had more political room to create corporations as long as those corporations either served a clear public purpose or brought significant economic advantages to the state taxpayers in the form of lower taxes.⁶⁹ Wallis, Sylla, and Legler (1994) look at revenues from banks in the early 19th century. They find that states that tax bank capital, like Massachusetts, encouraged bank entry and received between a third and a half of the revenues from bank sources. States that owned bank stock, like Pennsylvania which received a third of its revenues from bank charter fees and dividends on state investments, discouraged entry to raise bank profits and state revenues. Both states were deeply involved in banking, although with two very different outcomes for financial development.

The final state advantage was the growing ability of state governments to confer valuable privileges, even if just in the form of charters for voluntary associations, that could be used to balance interests within a geographically diverse coalition. State governments were steadily increasing their capacity to provide government services. The proponents of an expansion of state services usually emphasized public utility and their opponents often raised the specter of systematic corruption, but in many cases big and important decisions about state programs were made under conditions of rough consensus. For big infrastructure projects both the majority and exit constraints were binding at the same time.

⁶⁹Because the national government received most of its revenue from import tariffs, it is not clear that their was reducing taxes would, on net, produce greater political support for the national legislature. Lowering or raising tariffs was fraught with political complexity in the early 19th century.

There were cases of systematically corrupt state political factions, the Albany Regency in New York and the ___ Families in Arkansas come immediately to mind.⁷⁰ Nonetheless, states became significantly more important and active promoters of economic development through investments in finance and transportation in the 1820s and 1830s. Rising state involvement clearly reflects the ability of states to solve the political coordination problem that national government had not. The cobbling together of diverse factions, that may or may not ever have united under a party banner, had advanced far enough in the states to begin large scale investments. It is important not to underestimate the importance of the degree of consensus in the state decisions. At the national level in the 1830s, the Democrats were anti-bank and the Whigs were pro-bank, but those distinctions did not translate easily into positions in the states. In some states, the Democrats were not only pro-banking in general, they were running the banks! The national competition between Democrats and Whig was personal and vicious, it was two groups accusing the other of following policies that would lead to tyranny and slavery if the other were elected. It was not a competition closely tied to policies, and certainly not to policies that shaped party positions at the state level.⁷¹

State politics remained factional and fragmented. There were cases of stable party machines developing, but by no means everywhere. Whether rising state involvement would

⁷⁰In New York Martin Van Buren and his political allies, the Regency, used the granting of bank charters and other public patronage to build the most sophisticated political organization in the country. The Regency and their political skills served as the base for Jackson's rise to national prominence and the Democratic party's development. For the specifics of banking in New York see Bodenhorn 2006 and Benson 1961. For Arkansas see Wallis 2008 and Worley 1950.

⁷¹Holt, 1978, has a great set of examples of where the Whigs take different sides on the same issues in different parts of the country, and the Democrats do the same.

turn out to be a good idea or bad idea would depend on whether the contingent liabilities embedded in the taxless finance schemes of the 1820s and 1830s ever came due.

Unfortunately, the contingent liabilities did come due after 1839, for reasons that I will not go into here.⁷² In 1841 and 1842, eight states and the Territory of Florida defaulted on their interest payments and five states repudiated all or part of their debts. In the aftermath of the crisis, states considered how they got into the situation in the first place. Obviously, the states that did not borrow did not face a crisis. Why had states been willing to borrow so much? Interestingly, only one state, Indiana, decided to prohibit future state borrowing altogether. Most states did not want to forego the chance to pursue valuable investments in finance, transportation, or other public utilities in the future.

States did, however, see that systematic corruption may have been part of the problem. In general, states blamed their bad decisions in the 1820s and 1830s on taxless finance. They remembered how in their democracies, both voters and legislators had been incapable of resisting offers from project promoters to give privileged corporations special advantages, including preferred access to state credit, in return for which taxpayers would receive valuable services at little or no cost. States moved decisively to eliminate taxless finance in the 1840s by revising their constitutions. Eleven existing states wrote new constitutions between 1842 and 1852, Table 3. The three major constitutional changes implemented in the new constitutions were designed to eliminate taxless finance.

⁷²Whether states thought that their fiscal crises after 1839 were caused by forces internal or external to the United States, or by corruption or incompetence in their own governments, certainly mattered to how they responded in 1841 and 1842 when they chose to default, repudiate, or continue servicing their debts. I do not think those issues played a significant role in the constitutional reforms that followed after 1842.

First, states amended their constitutions to impose procedural debt restrictions. The procedural restrictions required that all state borrowing be preceded by a bond referendum. The referendum asked voters to approve the higher taxes necessary to service the bonds. Without voter approval, bonds could not be issued. Procedural debt restrictions did not limit the amount of debt a state could incur, but they directly eliminated taxless finance by requiring that voters agree to raise taxes immediately before any bonds could be issued. Ten states passed debt restrictions.

Second, states eliminated the pressure to create special corporate privileges by enacting constitutional provisions requiring legislatures to pass general incorporation laws. These laws allowed unlimited entry into corporate status via an administrative procedure. Eight states passed mandatory general incorporation laws.

Third, most states forbade state and local investment in private corporations. Governments could not acquire an ownership stake in a private venture. State and local government could operate their own canal, for example, but they could not invest in a private canal. It was still possible for a government to subsidize canal construction, but it could not be an owner in a private company with a residual claim to profits. Eight other states prohibited state governments from investing any state funds in private corporations.

The point of these reforms was not to eliminate state and local government investments in finance and transportation. State governments could borrow for as long and as much as they wanted to, but every time they borrowed they had to go to the voters and raise taxes immediately before any bonds could be issued. States could build canals and railroads, but they could no longer take an equity position in a private company to build a canal or railroad. They could

contract with private companies to provide services, but states could not become partner with private entities through stock ownership. The reforms were not designed to limit the creation of corporations. General incorporation acts made it much easier to get a charter. The reforms were designed to reduce or eliminate the private economic rents that were created when the political system limited entry and to change the process by which states decided to borrow money to bring some of the costs of debt service immediately to the attention of voters.

VI. Generality, Politics, and Parties.

We are about to shift gears. Everything up to this point has been speculation about the development of political and economic behavior, grounded in things that happened and that we can document. What is speculative is not the facts themselves, but the lines connecting them. Now we are about to shift perspective and follow the lines that have been laid out to facts that may or may not exist. In other words, it is time to propose a hypothesis; one that no one is in a position to verify or refute at the moment but which is in principle amendable to empirical verification.

With the possible exception of New York, and there I think the evidence is weak, no state was on the verge of two-party competition in 1840. Every state was filled with faction. Even in New York, where the political history is perhaps the richest and the party politicians were ‘magicians’ as one of Van Buren’s nickname’s suggests, reading the political history requires you to keep track of a seemingly endless lists of groups competing to old center stage.⁷³ It is no

⁷³In New York alone, the Free Banking Act is passed in 1838 because the Whigs ally with a splinter faction of anti-bank democrats, the Loco-focos; after 1840 the “Anti-rent party” holds the balance between Whigs and Democrats for a few years in the 1840s (McCurdy 2001), the Anti-Masons were an important third party threat in the early years and the Know nothings

different in any other state. At election time the factions may line up in what looks like party orders, after all, it doesn't pay to vote for a candidate who cannot win. Strategic voting seems to ensure in most elections that two candidates dominate the polls, and we can assign a party that more or less fits.⁷⁴ Two-party competition seems to be the outcome. But even Durverger (1959), who coined the law that single member districts with plurality winner take all elections tends to produce two-party systems, would have to grapple with the history of each American state on an individual basis.

The constitutional reforms of the 1840s were directed at limiting the discretion of legislatures. Debt restrictions affected procedures for issuing debt, requiring legislatures to go to the people. Table 4 gives the dates at which other states adopt procedural restrictions. The 1840s states from table 3 pass restrictions in the 1840s, followed by the remainder of the northern states in the 1850s, the southern states in the 1870s, and the remaining western states as they become states. The exceptions are a few New England states which have not adopted debt restrictions by 1900.

Mandatory general incorporation acts and procedural debt restrictions were two ways of restricting legislative discretion. Another was requiring legislatures to pass general laws that applied equally to everyone and/or forbidding special laws. Lengthy and detailed provisions preventing special legislation was first included in the New York constitution of 1846. Table 6 gives the date at which states adopted blanket, full scale prohibitions against special laws in their

are soon to arrive on the scene. That is not to mention Hulkers, Barnburners, or Bucktails, Clinton Democrats, Canal Democrats, or Bank democrats.

⁷⁴Strategic Voting occurs when a voter casts his ballot not for the candidate she favors, but the candidate with the best chance to win closest to the voters preferences. See Cox, 1997 for an extended discussion.

constitution (there were always some exceptions where special laws were allowed). Many states adopted partial restrictions, like the requirements that legislatures must pass general incorporation laws. The states are arranged by the date in which they first implemented a full set of prohibitions on special laws in their constitutions, as well as the dates at which they adopted more limited prohibitions on special laws. The constitutions of the 1840s are the first in the table. The remaining states follow the pattern of Table 4, but with somewhere in the neighborhood of a twenty year lag. Several mid-Atlantic states adopt general laws in the 1870s, many southern states in the 1890s.

As mentioned much earlier in the paper, restrictions on special laws was often pared with other restrictions on the discretion of legislatures. The three most important were shifting powers from legislatures to governors, increasing the veto power of governors, and moving from judges appointed by legislatures (or by governors with the consent of legislatures) to direct popular election of the judiciary. [I do not yet have a time series of adoptions for these last three changes, but will sometime soon.] I suspect that the time pattern of adoption of these measures is similar to the debt and general law restrictions, but I am not yet certain.

The effect of all these changes was to make political parties more valuable to individual politicians. The restriction on special legislation of all types made it more costly for legislatures to create special provisions to help individual groups or areas. Benefits and cost would be more widely spread, and the ability of individual legislators to cut deals and log rolls that benefitted specifically their constituents alone were commensurately reduced. Belonging to a winning coalition that predictably produced outcomes that were better on average probably increased for every legislator, rather than risking being stuck with a general law that benefitted a small

minority who happened to be a key pivot. Party discipline would acquire greater benefits and lower costs.

Shifting power from the legislature to the Governor would produce the same effects. Not only did Governor's have more goodies to distribute, but maintaining a coalition with the Governor in the legislature became more important. So to did party discipline when it came to the election of judges.

In the late 19th century states began changing their electoral laws in systematic ways. One of the most famous is the Australian ballot. Before the Australian ballot voters typically cast ballots prepared by parties on which slates of candidates for the offices up for election were listed. Voters often cast a straight party ticket, splitting a ballot was literally difficult, and because ballots were not cast in secret party officials could observe with individual voters actually cast votes for the party candidates. A voter who was bought could be monitored. Once the secret ballot was introduced, voter participation declined (one hypothesis is that parties were no longer willing to pay for votes they could not observe.)

The Australian ballot not only introduced secrecy, it required that the state print up ballots. The position of the names on the ballot, their listing by party or office, and the number of times individual names could be listed all became issues with potentially important impact on the election results. In states where Republican possessed a plurality of votes, but the minority Democrats and other splinter groups could obtain a majority if they united their forces and "fused" their votes, the shift to the Australian ballot offered a party in control of the government

to manipulate the ballot to aid their cause.⁷⁵ The spread of Australian ballots and anti-fusion laws made third party efforts much more difficult and, in the end, significantly reduced the frequency of third party candidates.

The secret ballot was adopted in the 1880s and later, just about the time that states were adopting the restrictions on legislative discretion begun by a handful of states in the 1840s.

The secret ballot is only one of several measures that could help enforce party discipline and reduce the benefits from third party movements. I do not have time (or space!) to list them here and I am still learning how political scientists have approached these issues over the last twenty years. What appears to be the case is that the adoption of these electoral measures does have a significant effect on party outcomes.

Hypothesis #3 can now be restated:

States that adopted restrictions on legislative discretion in the form of debt limitations, mandatory general incorporation, and restrictions on special incorporation and special laws were more likely, *ceteris paribus*, to adopt changes in electoral institutions that favored two major parties and discouraged third party and other fragmented political groups to compete electorally for inclusion in state legislatures.

And then back to hypothesis #1:

The adoption of legislative rules favoring two-party competition and discouraging third-party and splinter groups at the state level preceded the beginning of stable two party competition at the national level.

⁷⁵See Argersinger, 1980 for a discussion of how Australian ballots could be combined with “anti-fusion” laws to strengthen the position of a party with a plurality, but not a majority.

VII. Lessons, Conclusions, and Speculations

Since 1959, when Lipset first set out the modernization hypothesis economists, political scientists, and historians have wrestled with the establishing finer details of social behavior and institutions structure the pattern Lipset noticed. Societies that develop economically also develop politically.

This paper has set out a way to think about the process of modernization in American history. First, the founders were not only wrong about parties and corporations. They turned out to be wrong to fear a close connection between economics and politics in general, and particularly between economic and political organizations. A healthy republic and, even more, a healthy republican democracy required political competition, not rule by a virtuous elite. The founders feared that political competition would lead to civil war, it almost always had in history why not in the United States? They were wrong. To work well, democracy required open political competition and that, in turn, required economic competition. Economic competition required open entry. The severe limits on political and economic entry that the founders probably would have been willing to live with, were something the American people were not content to bear.

But entry and competition in and of themselves were not self-sustaining. Political competition in a world with limited economic entry, particularly a world where the political winners get to pick the economic winners, produces systematic corruption. Electoral competition counts for little if people's underlying economic interests are being manipulated by the political system. The founders saw the danger of systematic corruption, they didn't see the solution.

Nobody did. No one alive in 1800 had any experience with a competitive, yes modern, society where political and economic competition sustained each other. Most Americans feared the growth of economic organizations, many Americans still do today. But by establishing open economic entry in the 1840s as the solution to the political problem of constraining powerful political factions, American states were able to create the economic conditions in which organized political party competition would not only be sustainable but would produce reasonably good political policies. Not policies that were the best, but policies that were continually subjected to Schumpeterian competition and that produced Northian adaptive efficiency.

We can't see this process at work at the national level, because until 1933, national governments in the United States did very little of central importance besides conquer the continent and defend the borders. The process wasn't working at the national level. Time and history corrected the founder's errors about parties and corporations, it is time we stopped fixating on the national government.

Table 1
Dimensions on which corporation charters vary.

Special	General	Whether a charter is passed by legislature or by administrative procedure.
Open	Close	Whether membership in the corporation is open to a wide range of individuals, e.g. shareholders or restricted to specific to certain individuals and is self-perpetuating, e.g. a board that appoints replacement members.
Internal	External	Aspects of the corporation that refer to internal relationships, e.g. election of Boards, voting schemes for shareholders, etc. versus aspects of the corporation that refer to non-corporate entities, e.g. limited liability, restrictions on entry, etc.
Shared	Unique	Whether features of the corporation are shared by other corporations or unique to it.
Flexible	Fixed	Flexible attributes are subject to change by the corporation through by-laws without approval of the state, Fixed attributes can only be changed with approval of the state.

Note that with the exception of the general/special distinction, these are all continuous dimensions not bivariate states of the world. All of the dimensions can be, and were, combined in many ways.

Table 2
Voluntary Associations

1. Academies	24. Manufacturing Companies
2. Agricultural Societies	25. Masonic Lodges
3. Aqueducts	26. Markets
4. Banks	27. Mechanics Societies
5. Boroughs	28. Medical Institutions
6. Bridges	29. Mining Companies
7. Burial Grounds	30. Monument Societies
8. Canals	31. Musical Societies
9. Charitable Associations	32. Powder House Companies
10. Churches	33. Railroad Companies
11. Cities	34. Religious Associations
12. Colleges	35. Saving Societies
13. Companies Navigation	36. Schools
14. Ecclesiastical Societies	37. School Districts
15. Ferries	38. School Societies
16. Fire Companies	39. Scientific Associations
17. Fishing Companies	40. Sewer Companies
18. Governors Guard	41. Steam Boat Companies
19. Highways	42. Theft Detecting Societies
20. Highway Districts	43. Towns
21. Hotel Companies	44. Turnpike Companies
22. Insurance Companies	45. Villages
23. Library Companies	46. Work House

Source: Novak, 2001, p. 175. “Taken from *Resolves and Private Laws of the State of Connecticut, 1789–1865*. 5 vols. (New Haven, 1837–1871). Also known as “private” acts, these statutes were often published separately to distinguish them from the more “public” acts of general legislation. Here the public private distinction is deployed to designate the specific versus general (applying to some versus applying to all) character of the legislation rather than the presence or absence of the state. The presence of the state is only too apparent in all these statutes.”

Table 3
States That Wrote New Constitutions
Or Amended Constitutions between 1842 and 1852,
And whether the changes affected Debt, Corporations, and Taxation.

Wrote New Constitutions		Debt	Corporations	Taxation
Rhode Island	1842	Y	Y	Y
New Jersey	1844	Y	Y	Y
Louisiana	1845	Y	Y	Y
	1851	Y	Y	Y
New York	1846	Y	Y	
Illinois	1848	Y	Y	Y
Kentucky	1850	Y	Y	
Michigan	1850	Y	Y	Y
Virginia	1850			Y
Indiana	1851	Y	Y	Y
Maryland	1851	Y	Y	Y
Ohio	1851	Y	Y	Y
Wrote First Constitution				
Iowa	1847	Y	Y	
	1857	Y	Y	
California	1849	Y	Y	Y
Wisconsin	1848	Y	Y	Y
Florida	1838		Y	Y
Amended Constitutions				
Arkansas	1846			
Pennsylvania	1857	Y		
Michigan	1843			

Source: Wallis, 2005.

A “Y” means that the state adopted some provisions regarding debt, corporations, or taxation. See appendix tables for specific features of the constitutions.

Table 4
State Debt Limit Adoption Dates

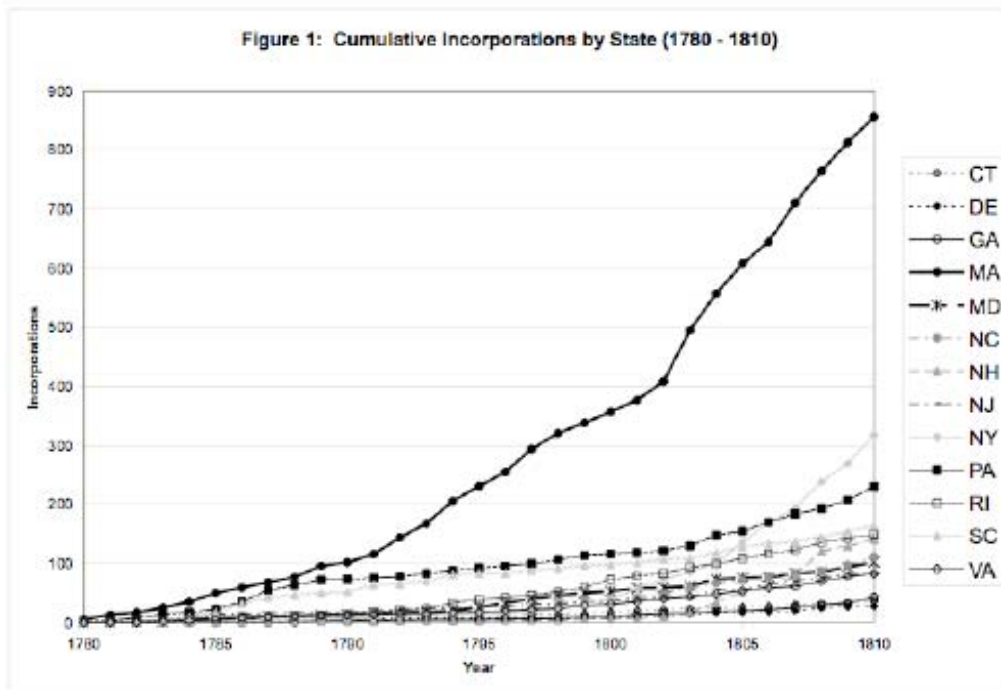
State	State Debt Measure	State Debt Limit	Local Provisions
New Jersey	1844		1875
Texas	1845, 1876	1876	1876
Louisiana	1845, 1879	1879	1879
New York	1846		1846, 1874, 1884
Maine	1848	1848	1868, 1878
Wisconsin	1848		1848, 1874
Illinois	1848, 1870		1870
California	1849, 1879		1879
Michigan	1850		1850
Kentucky	1850		
Ohio	1851		1851
Indiana	1851	1851	1851, 1881
Maryland	1851, 1867		1867
Iowa	1857		1885(?)
Oregon	1857		1857
Minnesota	1857		1879
Pennsylvania	1858, 1873		1873
Kansas	1859		
Nevada	1864		1864
Nebraska	1866, 1875	1866, 1875	1875
South Carolina	1868, 1873, 1884		1868, 1884
Florida	1868, 1875		1868, 1875
Tennessee	1870		1870
Virginia	1870		
West Virginia	1872	1872	1872
Missouri	1875		1875
Mississippi	1875		1875
Alabama	1875	1875	1875
North Carolina	1876		1876
Colorado	1876	1876	1876
Georgia	1877	1877	1877
Idaho	1889		1889
Wyoming	1889		1889
Montana	1889		1889
Washington	1889		1889
North Dakota	1889		1889
South Dakota	1889		1889
Utah	1895		1895
Delaware			
Vermont			
Connecticut			1877
New Hampshire			1877
Massachusetts			
Arkansas			1874
Rhode Island			

Table 5
Date When States Adopts General Framework for Laws

State	Full	Partial Early Adoptions	
New York	1846		
Indiana	1851		
Iowa	1857	1846	
Nevada	1864		
Maryland	1864	1851	
Florida	1868	1839	1869
Texas	1869		
Illinois	1870	1848	1872
West Virginia	1872		
Pennsylvania	1874		
New Jersey	1875	1844	
Colorado	1876		
Louisiana	1879	1879	1845
California	1879	1849	
Minnesota	1881		
Washington	1889		
North Dakota	1889		
Wyoming	1889		
Montana	1889		
Idaho	1889		
South Dakota	1889		
Mississippi	1890		
Kentucky	1891		
Utah	1895		
South Carolina	1896		
Alabama	1901	1861	
Oklahoma	1907		
New Mexico	1911		
Arizona	1912		
Georgia		1865	
Michigan		1835	1909
Kansas		1859	
Maine		1875	
North Carolina		1835	1916
Delaware		1831	
Arkansas		1868	1951
Rhode Island		1951	

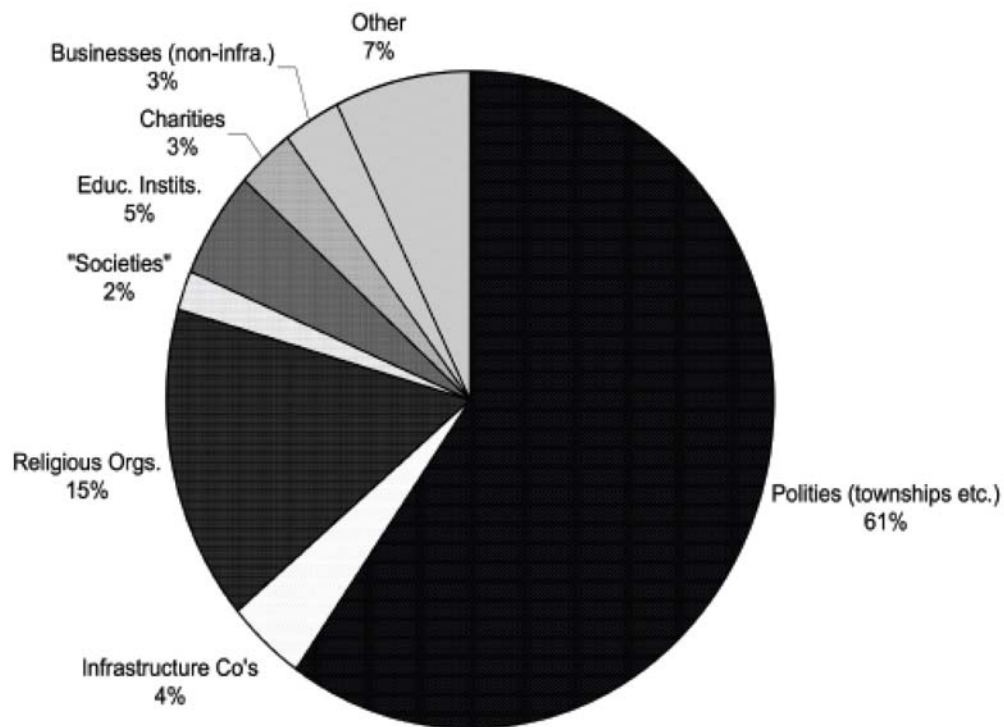
Source: Jessica Hennessey (thank you)

Note, states that are not included in the table are states for which we do not yet have constitutions or have not yet made a determination about general legislation.



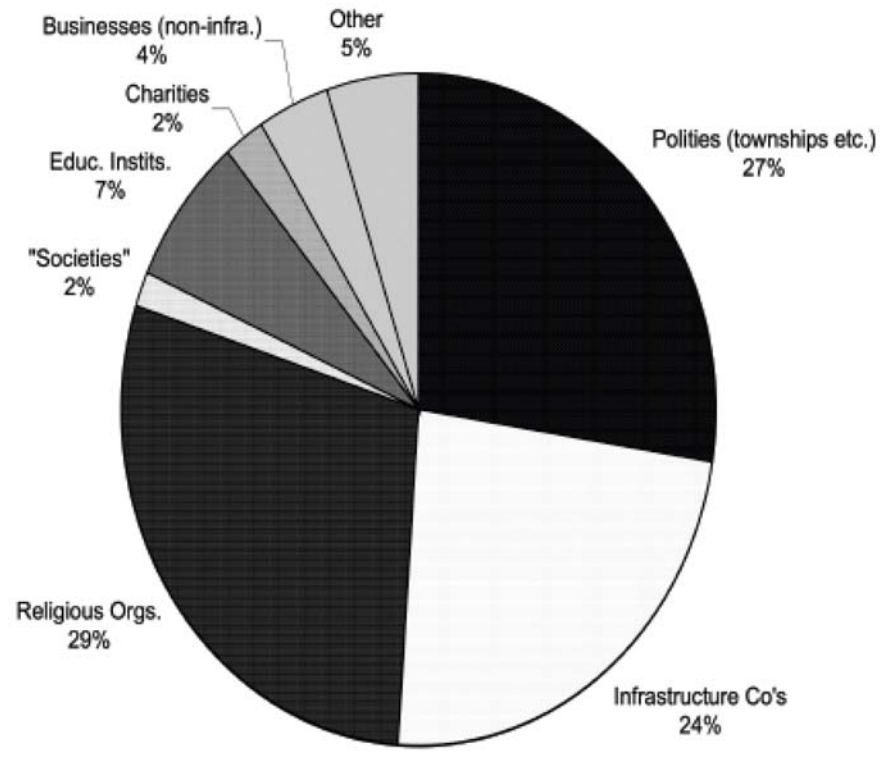
Kaufman, 2008

Figure 3: Incorporations (by type): Massachusetts, 1781-1790



Kaufman, 2008.

Figure 4: Incorporations (by type): Massachusetts, 1791-1800



Kaufman, 2008

References

- Altschuler, Glenn C. and Stuart M. Blumin. *Rude Republic: Americans and Their Politics in the 19th Century*. Princeton: Princeton University Press, 2000.
- Appelby, Joyce. *Capitalism and a New Social Order: The Republican Vision of the 1790s*. New York: New York University Press, 1984.
- Argersinger, Peter H. "'A Place on the Ballot': Fusion Politics and Antifusion Laws." *American Historical Review*, Vol 85 (2) April 1980, pp. 287-306.
- , "The Value of the Vote: Political Representation in the Gilded Age." *Journal of American History*, Vol, 76 1 (June 1989), pp. 59-90.
- Bailyn, Bernard. *The Ideological Origins of the American Revolution*. Cambridge: Harvard University Press, 1967.
- Banning, Lance. *The Jeffersonian Persuasion*. (Ithaca: Cornell University Press, 1978).
- , "Some Second Thoughts on Virtue and the Course of Revolutionary Thinking." In Terence Ball and J.G.A. Pocock, eds. *Conceptual Change and the Constitution*, University Press of Kansas, 1988.
- , *Sacred Fire of Liberty: James Madison and the Founding of the American Republic*. Ithaca: Cornell University Press, 1995.
- Banning, Lance. *After the Constitution: Party Conflict in the New Republic*. Belmont, CA: Wentworth Publishing, 1989.
- Benson, Lee. *The Concept of Jacksonian Democracy: New York as a Test Case*. (Princeton: Princeton University Press, 1961).
- Benson, Lee. *Merchants, Farmers & Railroads: Railroad Regulations and New York Politics, 1850 - 1887*. Cambridge: Harvard University Press, 1955.
- Bodenhorn, Howard. "Bank Chartering and Political Corruption in Antebellum New York: Free Banking as Reform." In *Corruption and Reform: Lessons from America's History*, edited by Edward Glaeser and Claudia Goldin. Chicago: University of Chicago Press, 2006, pp. 231-257.
- Bogart, Dan. "Did Turnpike Trusts Increase Transport Investment in Eighteenth Century England?" *The Journal of Economic History*, 65 (June 2005a), 439-468.
- , "Turnpike Trusts and the Transportation Revolution in Eighteenth Century England." *Explorations in Economic History*, 42 (October 2005b), 479-508.
- Bolingbroke. 1997. *Political Writings*. Edited by David Armitage, New York: Cambridge University Press.

- Brown, Richard D. "The Emergence of Voluntary Associations in Massachusetts, 1760-1830." *The Journal of Voluntary Action Research*, Vol 2 (April 1973), pp. 64-73.
- , *Modernization: The Transformation of American Life, 1600-1865*. New York:??, 1976
- , "Modernization and the Modern Personality in Early America, 1600-1865: A Sketch of a Synthesis." *Journal of Interdisciplinary History*, Vol. 2 3 (Winter 1972), pp. 201-228.
- Burnham, Walter Dean. "The Changing Shape of the American Political Universe." *American Political Science Review*, Vol. 59 (1) March 1965, pp. 7-28
- Cadman, John W. *The Corporation in New Jersey: Business and Politics, 1791-1875*. (Cambridge; Harvard University Press, 1949).
- Callender, Guy Stevens. "The Early Transportation and Banking Enterprises of the States." *Quarterly Journal of Economics* , vol. XVII, no. 1, 1902.
- Chambers, William Nisbet and Walter Dean Burnham, ed. *The American Party Systems: Stages of Political Development*, New York: Oxford University Press, 1975.
- Chambers, William Nisbet. *Political Parties in a New Nation: The American Experience, 1776-1809*. New York: Oxford University Press, 1963.
- Coffman, Chad and Gregson, Mary Eschelbach "Railroad Development and Land Values." *Journal of Real Estate Finance and Economics*, Vol. 16, No. 2, March 1998, 191-204.
- Craig, Lee, Palmquist, and Thomas Weiss, "Transportation Improvements and Land Values in the Antebellum United States" *Journal of Real Estate Finance and Economics*, Vol. 16, No. 2 March 1998, 173-190.
- Cole, Arthur H. "The Committee on Research in Economic History: An Historical Sketch." *Journal of Economic History*, 20 (4) December 1970, pp. 723-41.
- Cox, Gary W. *Making Votes Count: Strategic Coordination in the World's Electoral Systems* (Cambridge: Cambridge University Press, 1997).
- Davis, John P. *Corporations: A Study of the Development of the Origin and Development of Great Business Combinations and their Relation to the Authority of the State*. (New York: Capricorn, 1961).
- Dickson, P. G. M. *The Financial Revolution in England: A Study in the Development of Public Credit, 1688-1756*. London: Macmillan, 1967.
- Dodd, Edwin Merrick, 1954. *American Business Corporations until 1860; with Special Reference to Massachusetts*. Cambridge; Harvard University Press.
- Dodd, Edwin Merrick, 1936, "Statutory Developments in Business Corporation Law, 1886-

1936." *Harvard Law Review*, 50, pp. 27-.

Dunlavy, Colleen A. "From Citizens to Plutocrats: Nineteenth-Century Shareholder Voting Rights and Theories of the Corporation." in *Constructing Corporate America: History, Politics, and Culture*, in Kenneth Lipartito and David B. Sicilia, eds. (New York: Oxford University Press, 2004).

Duverger, Maurice. *Political Parties: Their Organization and Activity in the Modern State*. Translated by Barbara and Robert North, second revised English edition, London: Methuen, 1959.

Elkins, Stanley and McKittrick Eric. *The Age of Federalism: The Early American Republic, 1788-1800*. New York: Oxford University Press, 1993.

Feller, Daniel. *The Jacksonian Promise: America, 1815-1840*. Baltimore: Johns Hopkins University Press, 1995.

Feller, Daniel. *The Public Lands in Jacksonian Politics*. Madison: University of Wisconsin Press, 1984.

Fishlow, Albert. "Antebellum Interregional Trade Reconsidered." *American Economic Review*, 54 (3) 1964, pp. 352-364.

Fogel, Robert William. *Railroads and American Economic Growth: Essays in Econometric History*. Baltimore: Johns Hopkins University Press, 1964.

Foner, Philip S., ed. *The Democratic-Republican Societies, 1790-1800: A Documentary Source book of Constitutions, Declarations, Addresses, Resolutions, and Toasts*. Westport, CT: ?? 1976.

Ford, Henry Jones. *The Rise and Growth of American Political Politics*. New York: Macmillan, 1914.

Formisano, Ronald P. "Deferential-Participant Politics: The Early Republics Political Culture, 1789-1840." *American Political Science Review*, LXVIII (June, 1974) pp. 473-487.

-----. *The Birth of Mass Political Parties: Michigan 1827-1861*. Princeton: Princeton University Press, 1971.

-----. *The Transformation of Political Culture: Massachusetts Parties, 1790s - 1840s*. New York: Oxford University Press, 1983.

-----. "The "Party Period" Revisited." *The Journal of American History*, Vol. 86, No. 1. (Jun., 1999), pp. 93-120.

Gates, Paul Wallace. *History of Public Land Law Development*. Washington, D.C.: GPO, 1968.

Goodrich, Carter. *Government Promotion of American Canals and Railroads*. New York: Columbia University Press, 1960.

Griffith, Ernest S. *History of American City Government: The Colonial Period*. New York: De Capo, 1972, reprint of Oxford University Press, 1938.

Guinane, Timothy, Ron Harris, Naomi R. Lamoureaux, and Jean-Laurent Rosenthal. "Putting the Corporation in its Place." *Enterprise and Society*, Vol 8 (3) September 2007, pp. 687-729.

-----, "Ownership and Control in the Entrepreneurial Firm: An International History of Private Limited Companies." Economic Growth Center, Yale University, Discussion Paper No. 959, December 2007A.

Gunn, L. Ray. *The Decline of Authority: Public Economic Policy and Political Development in New York, 1800-1860*. Ithaca: Cornell University Press, 1988.

Haines, Michael and Robert A. Margo. "Railroads and Local Economic Development: The United States in the 1850s." NBER Working Paper w12381, July 2006.

Hammond, Bray. "Jackson, Biddle, and the Bank of the United States." *Journal of Economic History*, 7, 1, May 1947, 1-23.

-----, *Banks and Politics in America: From the Revolution to the Civil War*. Princeton: Princeton University Press, 1957.

Handlin, Oscar. "Laissez-Faire Thought in Massachusetts, 1790-1880." *Journal of Economic History*, Vol. 3 (December, 1943), pp. 55-65.

Handlin, Oscar and Mart Flug Handlin. "Origins of the American Business Corporation." *Journal of Economic History*, Vol. 5 1 (May, 1945), pp. 1-23.

-----, *Commonwealth: A Study of the Role of Government in the American Economy, Massachusetts, 1774-1861 Revised Edition*. Cambridge: Harvard University Press, 1969.

Handlin, Oscar and Mart Flug Handlin. *Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861*. Cambridge: Belknap Press, 1969.

Handlin, Oscar and Mart Flug Handlin. *The Dimensions of Liberty*. Cambridge: Harvard University Press, 1961.

Hanna, Hugh Sisson. *A Financial History of Maryland (1789-1848)*. Johns Hopkins University Studies in Historical and Political Science, Series XXV, no 8-9-10. Baltimore: Johns Hopkins University Press, 1907.

Hartz, Louis. *Economic Policy and Democratic Thought: Pennsylvania, 1776-1860*. Chicago: Quadrangle Books, 1948.

Heckelman, Jac and John Joseph Wallis. "Railroads and Property Taxes," *Explorations in Economic History*, 34, pp. 77-99, January 1997.

- Henderson, Gerard Carl. *The Position of Foreign Corporations in American Constitutional Law: A Contribution to the History and Theory of Juristic Persons in Anglo-American Law*. Cambridge: Harvard University Press, 1918.
- Hilt, Eric. "When Did Ownership Separate from Control? Corporate Governance in the Early Nineteenth Century." NBER Working Paper #13093, May 2007.
- Hofstadter, Richard. *The Idea of a Party System*. Berkeley: University of California Press, 1969.
- Holt, Michael F. *The Political Crisis of the 1850s*. New York: Norton, 1978.
- . *The Rise and Fall of the American Whig Party*. New York: Oxford University Press, 1999.
- Horn, Robert A. *Groups and the Constitution*. Stanford: Stanford University Press??, 1956.
- Hurst, James Willard, 1970. *The Legitimacy of the Business Corporation in the Law of the United States, 1780-1970*. (Charlottesville: University of Virginia Press).
- Irwin, Douglas A. "Antebellum Tariff Policies: Coalition Formation and Shifting Regional Interests." *Journal of Law and Economics*, forthcoming November 2008.
- John, Richard R. "Governmental Institutions as Agents of Change: Rethinking American Political Development in the Early Republic, 1787-1835." *Studies in American Political Development*, 11 (1997), pp. 347-80.
- . *Spreading the News: The American Postal System from Franklin to Morse*. Cambridge: Harvard University Press, 1995.
- Kaufman, Jason. "Corporate Law and the Sovereignty of States." *American Sociological Review*, 2008 (?), in mimeo.
- Kessler, William C. "Incorporation in New England: A Statistical Study, 1800-1875." *Journal of Economic History*, 8 (May 1948), pp. 43-62.
- Kohl, Lawrence Frederick. *The Politics of Individualism: Parties and the American Character in the Jacksonian Era*. New York: Oxford University Press, 1989.
- Koschnik, Albrecht. *Let a Common Interest Bind Us Together:: Associations, Partisanship, and Culture in Philadelphia, 1775-1840*. Charlottesville: University of Virginia Press, 2007.
- Kramnick, Issac. *Republicanism and Bourgeois Radicalism: Political Ideology in Late Eighteenth-Century England and America*. Ithaca: Cornell University Press, 1990.
- . *Bolingbroke and His Circle: The Politics of Nostalgia in the Age of Walpole*. 1968.
- Kruman, Marc W. *Between Authority and Liberty: State Constitution Making in Revolutionary America*. (Chapel Hill: University of North Carolina Press, 1997).
- . *Parties and Politics in North Carolina, 1836-1865*. Baton Rouge: Louisiana State

- University Press, 1978.
- Lamoreaux, Naomi and Jean-Laurent Rosenthal, "Legal Regime and Business's Organizational Choice." NBER Working paper 10288, February, 2004.
- Larson, John Lauritz. *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States*. (Chapel Hill: University of North Carolina Press, 2001).
- Leonard, Gerald. *The Invention of Party Politics: Federalism, Popular Sovereignty, and Constitutional Development in Jacksonian Illinois*. Chapel Hill: University of North Carolina Press, 2002.
- Link, Eugene P. *The Democratic-Republican Societies, 1790-1800*. New York:??, 1942.
- Lipset, Seymour Martin. "Some Social Requisites of Democracy: Economic Development and Political Legitimacy." *The American Political Science Review*, Vol. 53, No. 1. (Mar., 1959), pp. 69-105.
- Lively, Robert A. "The American System: A Review Article." *Business History Review*, 29 (1) March 1955, pp. 81-96.
- Maier, Pauline, 1993 "The Revolutionary Origins of the American Corporation." *William and Mary Quarterly*, 3d series, 50, 1 (January 1993), 51-84.
- Maier, Pauline, "The Debate Over Incorporations: Massachusetts in the Early Republic," in Conrad Wright, ed. *Massachusetts an the New Nation*. (Boston: Massachusetts Historical Society, 1992).
- McCormick, Richard L. *The Party Period and Public Policy*. New York: Oxford University Press, 1986.
- McCormick, Richard L. "The Party Period and Public Policy: An Exploratory Hypothesis." *Journal of American History*, Vol. 66 2 (September 1979), pp. 279-298.
- , "The Discovery the Business Corrupts Politics." *The American Historical Review*, 86 (April), 247-274,1981.
- McCoy, Drew R. 1980. *Elusive Republic: Political Economy in Jeffersonian America*. Chapel Hill: University of North Carolina Press.
- McCurdy, Charles W. *The Anti-Rent Era in New York Law and Politics, 1839-1869*. Chapel Hill: University of North Carolina Press, 2001.
- Meyers, Marvin. *The Jacksonian Persuasion: Politics and Belief*. Stanford: Stanford University Press, 1957.
- Miller, Nathan. *The Enterprise of A Free People: Aspects of Economic Development in New York State during the Canal Period, 1792-1838*. Ithaca: Cornell University Press, 1962.

- Murrin, John M. "Escaping Perfidious Albion: Federalism, Fear of Corruption, and Democratization of Corruption in Postrevolutionary America." in Richard K. Matthews, ed., *Virtue, Corruption, and Self-Interest*. Bethlehem: Lehigh University Press, 1994.
- North, Douglas C. *The Economic Growth of the United States 1790-1860*, New York: Norton, 1961.
- Novak, William J. "The American Law of Association: The Legal-Political Construction of Civil Society." *Studies on American Political Development*, 15 (Fall 2001), pp. 163-188.
- , "Public Economy and the Well-Ordered Market: Law and Economic Regulation in 19th-Century America." *Law & Social Inquiry*, Vol. 18, No. 1. (Winter, 1993), pp. 1-32.
- Ostrogorski, M. *Democracy and the Organization of Political Parties, vol. II. The United States*. Edited and Abridged by Seymour Martin Lipset, Originally published by Chicago: Quadrangle Books, 1964 and reprinted by New Brunswick: Transaction Books, 1982. The English translation of Ostrogorski was originally published in 1902.
- Pessen, Edward. *Jacksonian America: Society, Personality, and Politics, Revised Edition*. Chicago: University of Illinois Press, 1985
- Pocock, J.G.A. *Virtue, Commerce, and History*. Cambridge: Cambridge University Press, 1985.
- , 1977. ed. *The Political Works of James Harrington*. Cambridge: Cambridge University Press.
- , 1975. *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: Princeton University Press.
- , 1973. *Politics, Language, and Time*. New York: Atheneum.
- , 1987. *Ancient Constitution and the Feudal Law*. New York: Cambridge University Press.
- Pocock, J.G.A. "Virtue and Commerce in the Eighteenth Century." *Journal of Interdisciplinary History* 3 (72) p 124-5.
- Redlich, Fritz. *The Molding of American Banking: Men and Ideas*. New York: Johnson Reprint Corporation, 1968.
- Remini, Robert. *Andrew Jackson and the Bank War*. New York: Norton, 1967.
- , *Andrew Jackson: The Course of American Empire, 1767-1821, Vol. 1*. Baltimore: Johns Hopkins University Press, 1998.
- , *Andrew Jackson: The Course of American Freedom, 1822-1832, Vol. 2*. Baltimore: Johns Hopkins University Press, 1998.
- , *Andrew Jackson: The Course of American Democracy, 1833-1845, Vol. 3*. Baltimore: Johns

- Hopkins University Press, 1998.
- Rice, Charles E. *Freedom of Association*. New York:??, 1962.
- Richardson, James D. *Messages and Papers of the Presidents*, Washington: Bureau of National Literature, 1897.
- Riker, William H. "The Two-Party System and Duverger's Law: An Essay on the History of Political Science." *The American Political Science Review*, Vol. 76, No. 4. (Dec., 1982), pp. 753-766.
- "The Number of Political Parties: A Reexamination of Duverger's Law." *Comparative Politics*, Vol. 9, No. 1. (Oct., 1976), pp. 93-106.
- Robbins, Caroline. *The Eighteenth-Century Commonwealthman*. Cambridge: Harvard University Press, 1959.
- Rutland, Robert A. et al., eds., *The Papers of James Madison, vol. 14: 6 April 1791-16 March 1793*, Charlottesville, Va., 1983., pp. 157-169.
- Scarrow, Howard A. "Duverger's Law, Fusion, and the Decline of American 'Third' Parties." *Western Political Science Quarterly*, Vol. 39 4 (December 1986), pp. 634-647.
- Schattschneider, E.E. *Party Government*. New York: Rhinehart and Company, 1942.
- Schlessinger, Arthur M., Jr. *The Age of Jackson*. Boston: Little, Brown, and Company, 1945.
- Schmidt, Louis Bernard. "Internal Commerce and the Development of the American Economy before 1860." *Journal of Political Economy*, 47 (6) 1939, pp. 798-822.
- Seavoy, Ronald E. *The Origins of the American Business Corporation, 1784-1855*. (Westport: Greenwood Press, 1982).
- Sellers, Charles. *The Market Revolution: Jacksonia America, 1815-1846*. New York: Oxford University Press, 1991.
- Shade, William Gerald. *Banks of No Banks: The Money Issue in Western Politics, 1832-1865*. Detroit: Wayne State University Press, 1972.
- Shalhope, Robert E. "Toward a Republican Synthesis: The Emergence of an Understanding on Republicanism in American Historiography." *The William and Mary Quarterly*, 29 (January), 49-80, 1972.
- "Republicanism and Early American Historiography." *The William and Mary Quarterly*, 39 (April), 334-356, 1982.
- *The Roots of Democracy: American Thought and Culture, 1760-1800*. Boston: Twayne, 1990.

- Sharp, James Roger. *The Jacksonians versus the Banks: Politics in the States After the Panic of 1837*. New York: Columbia University Press, 1970.
- Sheehan, Colleen A. "The Politics of Public Opinion: James Madison's "Notes on Government." *William and Mary Quarterly*, 3rd series, 39 (4), October 1992, pp. 609-627.
- Silbey, Joel H. *The American Political Nation*. Stanford: Stanford University Press, 1991.
- *The Partisan Imperative: The Dynamics of American Politics Before the Civil War*. New York: Oxford University Press, 1985.
- *Political Ideology and Voting Behavior in the Age of Jackson*.
- Skinner, Quentin. *Foundations of Modern Political Thought, 2 volumes*. New York: Cambridge University Press, 1978
- Skinner, Quentin. 1998. *Liberty Before Liberalism*. New York: Cambridge University Press.
- Sorauf, Frank J. "Political Parties and Political Analysis." *The American Party Systems: Stages of Political Development*, William Nisbet Chambers and Walter Dean Burnham, ed. New York: Oxford University Press, 1975.
- Sowers, Don C. *The Financial History of New York State*. Columbia Studies in the Social Sciences, 140, 1914.. Reprinted by AMS Press: New York, 1969.
- Stevenson, W. H. ed. *Records of the Borough of Nottingham*. London, 1889.
- Sylla, Richard. " American Banking and Growth in the Nineteenth Century: A Partial View of the Terrain," *Explorations in Economic History*, (Winter 1971-72), pp. 197-227.
- Sylla, Richard, John B. Legler, and John Joseph Wallis. "Banks and State Public Finance in the New Republic." *Journal of Economic History*, 47, 2 (June, 1987.), 391-403.
- Tarr, Alan *Understanding State Constitutions*, (Princeton: Princeton University Press, 1998).
- Taussig, Frank William. *The Tariff History of the United States, 8th edition*. New York: Putnam, 1931.
- Taylor, George Rogers. *The Transportation Revolution, 1815-1860*. New York: Harper, 1951.
- Teaford Jon C. "New Life for an Old Subject: Investigating the Structure of Urban Rule." *American Quarterly*, Vol. 37, No. 3. (1985), pp. 346-356.
- *The Municipal Revolution in America: Origins of Modern American Government, 1650-1825*. Chicago: University of Chicago Press, 1975.
- Temin, Peter. "The Economic Consequences of the Bank War." *Journal of Political Economy* 76, March 1968, 257-274.

-----. *The Jacksonian Economy*. New York: W. W. Norton and Company, 1969.

Van Buren, Martin. "The Autobiography of Martin Van Buren." In *Annual Report of the American Historical Association for the Year 1918*, edited by John C. Fitzpatrick, vol. 2, Washington, D.C.: Government Printing Office, 1920.

-----. *Inquiry Into the Origins and Course of Political Parties in the United States*. New York: Huard and Houghton, 1867.

Wallace, Michael L. "Changing Concepts of Party in the United States: New York, 1815-1828." *American Historical Review* 74 (December 1968), pp. 453-91.

Wallis, John Joseph. "Constitutions, Corporations, and Corruption: American States and Constitutional Change, 1842 to 1852." *Journal of Economic History*, March 2005.

-----. "The Concept of Systematic Corruption in American Economic and Political History." Goldin and Glaeser, ed. *Corruption and Reform*. Chicago: University of Chicago Press, 2006.

-----. "Answering Mary Shirley's Question: What Can the World Bank Learn from American History?" In Haber, North, and Weingast, ed. *Political Institutions and Financial Development*. Stanford: Stanford University Press, 2008.

-----. "The Property Tax as a Coordinating Device: Financing Indiana's Mammoth System of Internal Improvements, 1835 to 1842." *Explorations in Economic History*, July 2003.

Wallis, John Joseph, Richard Sylla, and John Legler "The Interaction of Taxation and Regulation in Nineteenth Century Banking." In Claudia Goldin and Gary Libecap, eds., *The Regulated Economy: An Historical Approach to Political Economy*, NBER, University of Chicago Press, 1994, pp. 121-144.

Wallis, John Joseph and Barry R. Weingast. "Equilibrium Impotence: Why the States and not the American National Government Financed Economic Development in the Antebellum Era." NBER Working Paper No. 11397, June 2005.

Wallenstein, Peter. *From Slave South to New South: Public Policy in Nineteenth Century Georgia*. Chapel Hill: University of North Carolina Press, 1987.

Watson, Harry. *Liberty and Freedom???????*

Webb, Sidney and Beatrice Webb. *English Local Government: The Parish and the County, Vol. I. The Manor and Borough, Vols. II and III*. Hamden, CT: Archon, 1963 (originally published 1906).

Weston, Corinne Comstock. *English Constitutional Theory and the House of Lords, 1556-1832*. London: Routledge & Kegan Paul, 1965.

Wiebe, Robert H. *Self-Rule: A Cultural History of American Democracy*. Chicago: University of Chicago Press, 1995.

Williston, Samuel. "History of the Law of Business Corporations Before 1800." *Harvard Law Review*. Vol. II, nos 3 and 4, October and November 1888, pp. 105-124 and 149-166.

Wilson, Major L. *Space, Time, and Freedom: The Quest for Nationality and the Irrepressible Conflict, 1815-1861*. Westport, CT: Greenwood Press, 1974.

Wood, Gordon S. 1969. *The Creation of the American Republic, 1776-1787*. Chapel Hill: University of North Carolina Press.

Worley, Ted R. "The Control of the Real Estate Bank of the State of Arkansas, 1836-1855." *The Mississippi Valley Historical Review*, 37, 3 (December 1950), 403-426.