State Constitution Reforms in the 1840s and 1850s
and
the Relationship of American Government and the Economy

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This paper was prepared for the DAE summer institute. It is a preliminary version and some of the tables are still under construction. Before you use the table please check with me to make sure that they have not changed.

1 In 1902, Guy Stevens Callender asked why governments in the early 19th century "showed the modern tendency to extend the activity of the state into industry" in, of all places, "here in America, where of all places in the world we should least expect to find it." Callender's conclusion, that the United States government did not pursue laissez faire policies before the 1840s, was substantiated by the research funded by the Committee on Research in Economic History, notably the work of the Handlins, Lee Benson, Goodrich and his students, Hartz, and many others.[1] The committee's research overturned the historical consensus that Americans had, from the time of the Constitution, favored a limited government role in promoting economic development. Yet, the other shoe never dropped: if American governments were not laissez faire in 1840, when, how, and why did they adopt laissez faire policies so prominently and widely accepted at the end of the 19th century?

Despite widespread and well articulated support for federal government involvement in economic development projects – banks, canals, roads, railroads, and aids to navigation – the federal government was rarely able to mount effective programs in these areas before the Civil War. The lion's share of active promotion of economic development was done by the state governments. Goodrich estimated that state governments spent over $300 million and local governments $125 million to promote transportation improvements between 1800 and 1860, while Malone documents that the federal government spent only $54 million.[2] The First and Second Banks of the United States were the largest and most powerful banks of their time, but both banks were dwarfed in capital and scale of operation by the state banks. In the 1840s and 1850s, states consciously scaled back or restricted their involvement in economic development through a series of constitutional changes. These changes prohibited incorporation by special act, established general incorporation procedures (including free banking); restricted the creation of

new public debts; restricted or prohibited public investment in private corporations; and restructured tax systems, particularly property taxes. Together, these constitutional restrictions drew a bright line over which state government could not step without further constitutional revisions: the kind of limited government we might call laissez faire.

While aware of their importance, historians and economic historians have not given states and their constitutions their due. The relative ease of studying one, well document national government instead of many, poorly documented state governments, is contributing cause. It is also much easier to begin the story of government intrusion into the economy with the Interstate Commerce Act and the Sherman Act. This is precisely the attitude and approach that the CREH wanted to debunk, but their explicit focus was early 19th century state governments. Goodrich, 1948, extended his work to include the constitutional changes in "The Revulsion Against Internal Improvements." His paper presents a paradox: while constitutional changes were portrayed as means to end state promotion of internal improvements, states nonetheless continued to pursue internal improvement investment, constitutional restrictions or not. This paradox can be resolved.

Holt's cogent historical analysis of the constitutional changes views the adoption of new state constitutions as the culmination of two decades of struggle between Whigs and Democrats:

> "Where new state constitutions were adopted, they contributed to what was undoubtedly the most important development between 1848 and 1853 that undermined the Second Party System – the muddying of the clear and different positions the parties had taken on the proper role of government in the economy. Since the 1830s, those stances had served as guideposts for distinguishing Democrats and Whigs. Because shaping or responding to economic growth was a basic responsibility of government at all levels, economic

questions were the most fundamental supports of the two-party system." (1978, P. 109)

The emphasis on parties is appropriate, economic issues lay at the heart of the dispute between the Whigs and Democrats, but constitutional changes were not primarily responses to well articulated positions taken by Whigs and Democrats. With the exception of the role of the national government, Whig and Democratic positions on most economic issues were not clearly defined, or perhaps more accurately, varied from state to state.[3]

Constitutional changes transcended party boundaries. They responded to a more fundamental problem of American government rooted in the nature of American democracy. Americans created a government responsive to the people. The people desired that their governments promote economic development, specifically that governments charter and build banks, canals, and railroads. The people also desired that no significant portion of the population be left behind with regard to these improvements. Unfortunately, canals and railroads (and to a lesser extent, banks) create quite specific geographical benefits, inevitably not enjoyed in equal measure by all. The people wanted to pursue two conflicting goals at once. As I will show in the next section, there were three ways to build internal improvement projects that satisfied both goals simultaneously. Of the three solutions, one did not result in canals getting built, and of the other two, ultimately only one was politically acceptable. In order to insure that governments would follow the one policy option that guaranteed a politically acceptable method for promoting economic development, states changed the way corporations were created, the way taxes were levied, and the way public debt was authorized. The first half of the paper shows how the national and state governments struggled with these problems. The second half documents the constitutional changes that solved the problem.

I. Theoretical considerations

A democracy faces inherent difficulties when it attempts to provide geographically specific benefits through taxation that is widely dispersed. To illustrate, imagine a simple majority rule polity where n people (or their representatives indexed by i) vote yes or no on legislation, indexed by j, on the following criteria:

(1) $\text{net benefit}_{i,j} = b_{i,j} - c_{i,j}$

If net benefit > 0, vote yes; else vote no. If the number of people with positive net benefits exceeds n/2, the legislation passes.

Tyranny of the majority was feared by the founders and they attempted to constrain the ability of majorities to coerce minorities by various institutional structures, described memorably in *Federalist #10*. But politicians in the early years of the Republic were, if anything, more concerned about the future of the Union and wished to insure every part of the country gained from their participation in the Union.[4]

(2) $\sum \text{net benefit}_i > O$ (for all i, summed over all j)

This was not just a desideratum of the founders and politicians in the early nineteenth century. Arrow's theorem teaches us that any majority approved allocation like (1) is unstable, subject to an alternative allocation where the losers buys off some of the winners. In order to obtain stable outcomes (perhaps an outcome like (2)), it is necessary to introduce an additional element of stability into the system. As Weingast and others have shown, stability can be accomplished by giving "gate keepers" in the legislative process control over the agenda and giving them incentive compatible reasons to enforce the agreements they make. For example, I may be willing to accept a particular policy, j, from which I realize a negative net benefit if, in return, I am assured that another policy, j+1, will be passed, such that the net benefit from the

two pieces of legislation together produce a positive net benefit. In order to make that "exchange," however, I need to be assured that the deal will be kept. With vote cycling in simple majority rule settings, I can never be sure that a deal today will not be overturned by a new majority tomorrow. As the nineteenth century passed, Congress developed institutions to make these kinds of deals more credible, but that took time, and in the early nineteenth century it was never clear that the nation would survive as a unified political entity.

Since transportation improvements produce specific geographic benefits to those living near the improvement, any proposal to finance a transportation improvement with general taxation, $c_i > 0$ for all i, results in a situation where the majority of voters receive (or perceive they would receive) a negative net benefit.[5] One possible solution is to bundle together a package of improvements such that net benefits for the package are positive for a majority of the voters. This was typically how rivers and harbors legislation was assembled. Important transportation investments were involved very large expenditures, long construction periods, and multiple pieces of legislation. In a long series of votes spread over a number of years, those who gain from early legislation have an incentive to defect from the coalition in later votes. Without credible commitment mechanisms in place, this type of bundling is to likely to be effective.

Even in the absence of credible commitment mechanisms, however, it is possible to solve the problem some of the time. It involves three restrictive conditions, each of which can produce a majority rule outcome that satisfies (2) where every voter receives a positive net benefit.

First is the something for everyone solution. One option is to use a rule for the allocation of taxes and allocation of spending that simultaneously gives everyone something. The easiest way to do this is through an allocation rule, such as equal per capita grants or allocation by representation in Congress. If an allocation rule has been agreed upon, particularly if the rule

was also used to allocate taxation, then it is relatively simple to get majority agreement to distribute the funds by the formula. The question then becomes how much to allocate, not how to allocate it. Legislative logrolling produces pork barrel legislation in which each legislator gets something to take home to his constituents, as in rivers and harbors legislation. This type of scheme was used over and over again by the federal government, for example the in the Surplus Distribution in 1836 (Bourne, 1885). Unfortunately, these types of allocation did nothing to promote specific internal improvement projects beyond small rivers and harbor projects.

Second is benefit taxation. If the total benefits of an investment are greater than the total costs:

(3) $\sum B_i = x \sum C_i$ where $x > 1$

And if the government can levy benefit taxes such that

(4) $c_i = b_i/x$

then legislation is supported unanimously. Such taxation schemes can be difficult to devise, but if property values reflect the net present value of public improvements, then such a benefit taxation scheme may be practical.[6] Despite the difficulty of creating arrangements that meet the criteria, the constitutional changes implemented in the 1840s and 1850s mandated that states use this method of finance.

Third is something for nothing. This policy option requires that projects be supported without taxation, in other words, set $c = 0$ for everyone. As long a majority of voters get a positive benefit, the legislation passes. The trick is finding a way to finance improvements without taxation. One way is to create a special group of individuals assume financial responsibility for the project in return for extra gains from the investment, an arrangements often used to create banks. The Second Bank of the United States paid the federal government a bonus

of $1.5 million dollars, lent the government funds to purchase stock, and provided more than enough income to the federal government in the form of dividend payments to service the interest on the federal debt issued to purchase the stock. No one paid any taxes to create the Second Bank, and in return, the stockholders of the Second Bank obtained a lucrative corporate charter. Nicholas Biddle engineered a similar deal when the bank obtained its charter from Pennsylvania in 1836, paying a bonus of $2 million to the state.

II. Federal Policies

The federal government was unable to overcome sectional dissension over the financing of internal improvement projects until after the Civil War had begun. This not a new story. Goodrich attributes the failure of the national government to develop a national system of internal improvements to sectionalism. "In the defeat of the federal program, however, the conflicts of state and sectional interests seem to have played a larger part than either the belief in states' rights or any positive faith in the states' capacities. Throughout the debates these rivalries stood in the way of the adoption of specific measures or agreement on a general program." (Goodrich, p. 45). John Larson has elaborated on Goodrich's insight in his book *Internal Improvements*.[7] My interests are with the states, but the federal experience is illuminating, since it so clearly shows the difficulties inherent in implementing an internal improvement system.

Table 1 reports Malone's figures on federal government expenditures for internal improvements between 1800 and 1860, taken from Senate Document 196, 47th Congress, 1st session, *Statement of the Appropriations and Expenditures for Public Buildings, Rivers and Harbors, Forts, Arsenals, Armories and Other Public Works from 1789-1882*. The report documents $54 million of federal expenditure, of which $36 million can be allocated to a specific

functional expenditure in an individual state, the remaining $18 million cannot be "itemized" in this way.[8] The lion's share of federal expenditures, 68 percent, went to aid navigation, a federal function explicitly authorized in the Constitution: $23 million for navigation (unspecified, coastal, or internal) and $14 million for rivers and harbors. There were a few large projects. Expenditures for the National Road came to $6.8 million. Expenditures were spread from 1808 over the entire period, and the road ran from Washington, D.C. to Vandalia, Illinois. Expenditures of $2.2 million for the Delaware Bay breakwater and $1 million federal subscription to the Chesapeake and Ohio Canal were the other big ticket items. Money for the breakwater was appropriated over a decade or so in the 1820s, while the canal subscription was the largest single appropriation.

Timing of expenditures is shown in the second panel. There is a surprise here. The decade with the largest internal improvement expenditures is the 1830s, when the federal government was under control of the anti-federal improvement Democrats Jackson and Van Buren. The explanation is quite simple: the early 1830s were a period of unusual fiscal ease for the federal government. The combination of extraordinary land sales and retiring the national debt produced large budget surpluses. In 1837, the federal government distributed $26 million in surplus funds to the states on the basis of congressional representation.

Ever since Jefferson's administration, Congress had before it some proposal for a national system of internal improvements, either Gallatin's original plan or a variant based on the Gallatin plan. The closest that supporters of internal improvements came to implementing a national system came in 1817. The charter of the Second Bank of the United States provided for a $1.5 million bonus. Under Calhoun's direction, Congress passed a "Bonus Bill" that would have allocated the $1.5 million (and subsequent dividends on the government's bank stock) among the

states to engage in internal improvement projects. As originally proposed, the Bonus Bill would have allowed Congress to engage in projects anywhere in the country. As passed, the bill divided the fund between the states on the basis of population and required joint state and national planning of projects. In one of his last acts as president, Madison surprisingly vetoed the bill. Madison's objections were constitutional: he repeatedly warned that he could support an internal improvement bill only after Congress had amended the constitution to allow the national government to expended funds on canals and roads.[9]

Although Madison's veto is often bemoaned for negating the best opportunity the national government had to implement the Gallatin plan, maneuvering in Congress gutted the bill before it passed. In order to secure majority support, Calhoun and Clay were forced to accept distribution of the $1.5 million between the states on the basis of population, effectively prohibiting the national government from pursuing a large project like the Erie Canal. Several constitutional amendments were brought before Congress in the following decade. Each, however, contained a provision allocating funds between states on the basis of population or Congressional representation, vitiating the intended effect of such an amendment.

The bulk of federal spending for transportation improvement was for aids to navigation and rivers and harbors. The redeeming feature of "rivers and harbors" legislation, was that multiple, small projects could be authorized in the same bill. An example of an early rivers and harbors bill is presented in Figure 1. Rivers and harbors legislation openly incorporated logrolling, and so solved the distributional issues that plagued larger improvement plans.

Under the administration of John Quincy Adams, the country had a President who openly supported a national system of internal improvements and desired that Congress should send him legislation to those ends. Adams did implement three land grants to support canals in Ohio,

Indiana, and Illinois as well as subscribing to the stock of the Chesapeake and Delaware Canal and the Chesapeake and Ohio Canal. The land grants cost nothing in higher taxes and Congress argued that foregone federal land revenues would be more than made up by the higher prices of the remaining federal lands when the canals were built.

Federal spending for transportation improvements was almost entirely of the something for everyone type. The creation of the First and Second Bank of the United States conformed to the something for nothing model, where the government created a specially privileged corporation in return for which the government received a bonus, stock, dividends, loans, and services. No federal taxes were used to establish either bank. Since, federal revenues were composed almost entirely of tariffs, short of a major overhaul of federal finances, it was impossible for the national government to finance internal improvement expenditures through benefit taxation. Such was not the case with the states.

III. State government investment

State support of economic development in the early nineteenth century was far more extensive, varied, and difficult to describe than the relatively limited efforts of the national government. The federal government spent $54 million on transportation before the Civil War, state and local governments spent at least $425 million. Federal investment in banks was minimal, while states invested roughly $80 million.[10] State governments used a wide variety of methods to finance investments. Describing them in detail is beyond the scope of this paper, but several representative examples can be examined, and estimates of the total amount of state expenditures financed by each method can be provided. Total state debts in 1841 are provided in Table 2.

Relatively little state expenditure was allocated within states on the basis of formulas.[11] Counties were capable of building roads, such as they were in the early 19th century, but possessed neither the fiscal capacity, administrative ability, nor geographic scope to build canals and railroads. Only state governments had the power to charter banks. It was impractical to allocate internal improvement funds between counties by formula, despite the enormous pressure to spread spending throughout the state.

Several states adopted financial plans that tried to implement benefit taxation. The earliest example of this was the compromise reached in New York to finance the Erie canal. Opposition to the canal came, rationally, from farmers on the Hudson and Long Island who would have to face competition from new lands in western New York, and somewhat irrationally from New York commercial interests, who feared higher state taxation.[12] New York did not expect that the Erie Canal would be as successful as it was, and the bill authorizing the canal set aside three additional sources of revenue for the canal fund. These were a share of the auction duties collected in New York City, revenues from the salt tax levied on the production of salt in (primarily) western New York, and a special property tax surcharge. The surcharge was to be levied on all counties bordering on the canal (the initial bill only authorized construction on the middle section of the route). The "canal tax" provision was they key element in the compromise between canal supporters and opponents. As it happened, the canal tax never needed to be levied, as the Erie returned unexpected revenues first to the canal fund and eventually to the general fund of the state. In fact, New York was able to suspend its state property tax entirely in the 1820s.

The canal tax coordinated the benefits of the canal with the costs of financing the canal debt. Similar arrangements were reached in Ohio, Indiana, and Illinois. As in New York, the

chief opposition to canals was geographic, although opposition came from those areas through which the two proposed canals would not pass. In each of these states prior to the authorization of canal construction, land was classified into quality grades and taxed on a per acre basis equally within each classification. In Ohio in 1828, and in Indiana and Illinois in 1836 and 1837, the key compromise between canal opponents and supporters was the adoption of *ad valorem* taxation. In each state the passage of a canal bill was tied to the restructuring of state property taxation in order to shift more of the burden of financing canal debt onto those counties whose land values would, presumably, rise with the construction of the canals.[13] *Ad valorem* taxation of land only partially mollified geographic interests. In 1828, Ohio built two canals simultaneously as a concession to geographic interests in the eastern and western parts of the state. Indiana would begin work simultaneously on seven projects, while Illinois would start work simultaneously of six (?). Expenditures made under these arrangements in New York, Ohio, Indiana, and Illinois came to $53 million dollars between 1817 and 1841, a figure equivalent to all federal expenditures for transportation between 1787 and 1860.[14]

The "something for nothing" way of financing projects required little or no immediate financial commitment from the states. Banks throughout the country were chartered by state governments, southern states often lent support to banks by purchasing stock in the banks.[15] For example, Mississippi chartered a number of banks in the 1830s (prior to that Mississippi had only one bank in which the state had a financial interest). The state invested in two of the largest banks, the Planter's Bank chartered in 1832 (?) and the Union Bank of Mississippi chartered in 1837. The state subscribed to $2 million in Planter's Bank stock and $5 million in Union Bank stock. The charters for both banks stipulated that state stock holdings would be purchased with state bonds. The charters also stipulated that the banks would service the bonds out of an

account funded by the dividend's paid on the state's bank stock. While the state was ultimately liable for its debts, the state anticipated that it would never have to pay a penny to service its bonds and that when the bonds came due for redemption the state could liquidate its holding in the banks. Mississippi would eventually repudiate all $7 million in bonds.

Although details varied, similar arrangements were reached between the national government and the First and Second Banks of the United States, as well as state investments in banks in Florida, Alabama, Louisiana, and Arkansas. State investments in the five states totaled $53 million in the1820s and 1830s.[16] While there were serious debates about the establishment of these banks, there was not a sectional debate over the allocation of taxation. The states never expected that the state bonds issued to these banks would ever be a burden to the taxpayers. This was a contributing factor in the repudiation of debts in Florida, Mississippi, Louisiana, and Arkansas.

Something for nothing financing also played an important role in transportation finance. The unexpected success of the Erie Canal, as well as the historic profitability of banks, led several states to anticipate that they could finance canal and bank investment without raising taxes. This involved the costly requirement of meeting interest payments in the first years of construction out of borrowed funds (or, in some cases, premiums on bond sales), thus increasing the total amount of debt needed issued to finance a project. But the policy obviated the politically costly need to raise current taxes. Canal and railroad investment in New York (in the 1830s), Maryland, Pennsylvania, and Massachusetts all proceeded without a concurrent increase in state taxation. State expenditures financed in this manner in these states amounted to $80 million between the late 1820s and the early 1840s.[17]

States found other ways to promote investment without committing resources. In New

Jersey, the Camden and Amboy Railroad gave the state a substantial share of stock in the company in return for the monopoly right to haul freight and passengers between New York and Philadelphia. Dividends on Camden and Amboy stock and railroad taxes made up over half of state revenues from the 1840s to the 1870s. Georgia and Alabama chartered state banks, and profits from their bank holdings enabled both states to eliminate their property taxes in the early 1830s. Massachusetts levied a tax on bank capital in the 1820s. The tax provided more than half of state revenues from the late 1820s up to the Civil War.[18]

This brief review of state financial practices encompasses $183 million in state expenditure for banks, canals, and railroads, of which $13 million was for bonds issued in New York and Ohio in the 1810s and 1820s that had been repaid by the early 1830s, and accounts for $170 million of the $198 million of state debt outstanding in 1841. States either addressed the problem of competing geographic interests by tailoring their system of taxation to coordinate benefits and taxes or they made inter-sectional disputes moot by avoiding the need to raise taxes at all. Voters and legislators were easily convinced that building a canal without raising axes was a good idea.

IV. The Debt Crisis

The boom years of the early 1830s were followed by a financial panic in 1837 and the onset of a prolonged deflation and depression in 1839.[19] In 1841 and 1842, eight states and the territory of Florida defaulted on their debts. Florida and Mississippi repudiated all of their debts, while Louisiana, Arkansas, and Michigan ultimately repudiated part of their debts. Pennsylvania and Maryland were the first to resume payments and repaid essentially all of their obligations. Indiana and Illinois negotiated with their creditors, and repaid most of their debts. New York,

Ohio, and Alabama narrowly averted default. States throughout the country curtailed or eliminated internal improvement investment in the 1840s and increased taxation. Just as the methods of financing investments varied across the states, so to the reasons for default varied across the states. Default in the Midwest (Indiana, Illinois, and Michigan) was closely tied to falling land values and the end of the land boom. The unwillingness and inability to raise property taxes in a timely manner brought on default in Pennsylvania and Maryland. Repudiation throughout the South (Mississippi, Florida, Louisiana, and Arkansas) stemmed from the sudden and unexpected need to service bonds when southern banks failed after 1839. The southern states had never expected to pay interest on any of this debt. Anti-bank sentiments contributed to repudiation as well.

The first response to the debt crisis was legislative, not constitutional. In northern states where construction on canals and railroads was ongoing, states stopped or slowed construction and raised tax rates. The New York legislature passed the famous "Stop and Tax" law in 1842.[20] The law reinstated the state property tax, and halted construction on the canal system. Indiana, Illinois, and Michigan stopped construction in 1839 and early 1840, and also raised taxes. Ohio never stopped construction on its canals, but did raise taxes significantly after 1839. States with bank investments had no construction to stop, they generally invested in a lump sum. States that repudiated did not, of course, have to raise taxes.[21]

The debt crisis spurred constitutional changes in state government. Table 3 lists the existing states that wrote new constitutions between 1840 and 1855, new states that wrote their first constitutions, and the states that made significant amendments to their constitutions affecting corporations, taxation, or debt.[22] Table 4 list those states that imposed restrictions on debt issue (to be discussed in detail shortly). Of the eleven states that wrote new constitutions,

only Virginia did not restrict debt issue.

Figure 2 shows the number of new constitutions written each decade (excluding constitutions written by new states), and the number of new constitutions as a percentage of the number of existing states in the first year of the decade. For example, the numbers for 1830 represent the new constitutions created in the 1830s, both in level and as a percentage of states in existence in 1830. The obvious peak of new constitution writing was the 1860s. With a few exceptions, confederate states rewrote their constitutions in 1861 when they seceded; in 1865 when they were readmitted to the Union; in 1867 or 1868 under reconstruction governments; and again in the 1870s when control of state governments returned to the states. Removing these "Civil War" southern constitutions and counting the decades from years beginning in "2" produces Figure 3. The decade following 1842 produced the highest number of new constitution and, with the exception of the 1780s and 1790s when many states rewrote their revolutionary constitutions, the highest rate of constitution revision.[23]

V. The Constitutional Reforms

No constitution rewritten before 1842, nor any amendment to a constitution, restricted the issue of state government debt, either in amount or in the procedures governing the authorization of debt. Between 1842 and 1851, half of the existing states and three four new states entering the Union, placed constraints on debt issue.[24] This was the "revulsion against internal improvements." But Goodrich noted that the apparent revulsion did not stop states, and certainly not local governments from continuing to pursue internal improvements. To understand why this was, and what the states were doing, we need to examine debt restrictions in more detail.

With the exception the ban on the issue of debt for internal improvements in Indiana,

Ohio, and Michigan, states typically adopted procedural restrictions on debt issue. The first complete clause was Article 4, Section 6, Part 4 of the New Jersey Constitution of 1844:[25]

> The legislature shall not, in any manner, create any debt or debts, liability or liabilities, of the State which shall, singly or in the aggregate with any previous debts or liabilities, at any time exceed one hundred thousand dollars, except for purposes of war, or to repel invasion, or to suppress insurrection, unless the same shall be authorized by a law for some single object or work, to be distinctly specified therein; which law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within thirty five years from the time of the contracting thereof, and shall he irrepealable until such debt or liability, and the interest thereon, are fully paid and discharged; and no such law shall take effect until it shall, at a general election, have been submitted to the people, and have received the sanction of a majority of all the votes cast for and against it, at such election; and all money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This section shall not be construed to refer to any money, that has been, or may be, deposited with this State by the government of the United States.

The details of the New Jersey restriction would be repeated, with alterations, in seven other states. The issue of "casual" debt was limited to $100,000. Issue of more debt than that required legislation that specified the purpose of the debt, and the "ways and means," i.e. the tax revenues, to service the debt within thirty five years (such legislation was "irrepealable"). The legislation authorizing the debt issue could not take effect until it was approved by a majority of the voters in a general election. Limits on casual debt varied from a high of $1,000,000 in New York to a low of $50,000 in Rhode Island, but the casual debt limit was only a limit on the debt the legislature could approve without going to the voters. The key element in the procedural restrictions is the requirement that the "ways and means" shall be provided. State had to implement a tax increase as part of the legislation authorizing the bond issue and have it approved by the voters. In New York and Iowa, "ways and means" was replaced with "direct annual tax," i.e. a property tax. In most states the property tax would be the tax used to provide revenues. Table 4 gives details on the provisions on debt restrictions in individual states.

Despite specifying a debt limitation figure, only Indiana absolutely prohibited the issue of new debt.[26] The door was left open for any state that wanted to borrow money to do so, as long as a tax increase sufficient to service the debt was approved by the voters before the debt was created. In this way, the states allowed for the possibility of using benefit taxation to finance investments, but the door was closing on something for nothing finance.

There were other ways to finance investments, however. In his study of constitutional changes Goodrich was only concerned with internal improvements and so he did not look at other aspects of the constitutional changes relating more generally to corporations and taxation. But these changes were equally important, if not as dramatic.

First, states had to close of the possibility of more indirect ways of obligating the state or becoming entangled in the affairs of corporations. Constitutions in every state but Rhode Island and Louisiana required that "nor shall the credit of the State ever be given, or loaned, in aid of any person, association, or corporation." (Table 4). The prohibition was usually matched with "nor shall the State hereafter become a stockholder in any corporation or association." (both clauses from Indiana, 1851, Article 11, section 12.) Only New York, New Jersey, and Kentucky failed to prohibit stock ownership, see Table 5 which provides information on constitutional provisions with regard to corporations.[27] These restrictions made it impossible for states to invest in banks in the way that southern governments had in the 1820s and 1830s, even if they were willing to authorize the bond issue.

Second, the states had to close off the possibility that a select group would acquire special corporate privileges in exchange for payments to the state treasury, ala the Second Bank of the United States or the Camden and Amboy.[28] General incorporation laws had been used sparingly in the 1810s and 1820s. They became more prominent in the form of "free banking laws,"

passed in New York and Michigan in 1837. General incorporation laws provided incorporation to any one who met the stated qualifications. General laws did not, in themselves, prevent states from creating "special" corporations, although general acts did eliminate many of the rents created by corporate charters that limited entry and thus the bonus fees states received for issuing charters (for example, bank charters in Pennsylvania, see Wallis, Sylla, and Legler). What was new in the 1840s was tying the requirement that legislatures pass general incorporation acts, with a restriction, and in some cases prohibition on special incorporation. As Table 5 shows, most, though not all states, required general incorporation and prohibited special incorporation. In some state special incorporation was prohibited "except for municipal purposes, and in cases where in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws." (Wisconsin, 1848, Article 11, section 1). In others special incorporation was explicitly prohibited: "The General Assembly shall pass no special act conferring corporate powers." (Ohio, 1851, Article 13, section 1) In others the prohibition on special corporations was implicit.[29] Banks were inextricably linked with corporations in the constitutions. While some states banned banks outright, most states required that banks be incorporated under general laws approved by the voters.[30]

The third requirement was elimination of special tax arrangements.[31] States began requiring that: "Taxation shall be equal and uniform throughout the commonwealth, and all property other than slaves shall be taxed in proportion to its value, which shall be ascertained in such manner as may be prescribed by law." (Virginia, 1850, Article 4, section 23, of course, slaves were not an issue in northern states). These clauses required *ad valorem* taxation for all property (land and whatever wealth was also taxed), with equal tax rates for all types of property, assessed uniformly throughout the state. The New York scheme of levying a special canal tax in

the canal counties would not have been constitutional under this type of "general" property tax. The new tax restrictions, in combination with the need to specify in advance what taxes would be collected for debt service, effectively required a majority of voters to gain from any proposed investment to obtain majority support. Constitutional provisions with regard to taxation in individual states are presented in Table 6.

V. Why?

Goodrich examined internal improvements, George Benson examined property tax rules, and Evans examined general incorporation laws, all from a constitutional perspective. Hurst discussed the evolution of the American corporation and Holt the development (and collapse) of American political parties. They concede the ideology and vocabulary of Jacksonian democracy played a role in these changes. All the changes were, in some sense, egalitarian, anti-elitist, and appeared to limit government. But no one is comfortable with the conclusion that these changes represented only the triumph of Jacksonian ideals or of laissez faire. If we view the constitutional changes of this era piecemeal, we are doomed to produce weak conclusions. If we think of the individual changes as the outcome of interest group competition, or in larger terms, competition between two loosely organized political parties trying to control the agenda and direction of American government, we miss the main point. In 1842, just as in 1787, Americans were concerned about the potential for systemic failure in a democratic system. As Larson's book makes clear, leaders like Madison and Adams saw the failure of the national government to develop a system of internal improvement not as a failure of democracy, but as a symptom of a fundamental weakness in a truly democratic society where legislators and legislatures refused to be bound by anything more principled than the will of the people as expressed at the last

election.[32] The Gallatin report itself was commissioned by Congress because Adams, then a Senator from Massachusetts, was horrified at the log rolling he saw going into proposals for a canal around the Falls of the Ohio and the Chesapeake and Delaware Canal.[33] He believed, as did Madison (albeit with the condition of a constitutional amendment), that the national government had a prominent role to play in planning and directing a rational system of improvements. He may have been right, but the political obstacles were simply to great to overcome.

After Jackson's election in 1828 his partisan political organization did not fade away. His administration marks the beginning of ongoing, professional national political parties. The focal point of Whig organization was opposition to Jackson, as much as a distinctive Whig persuasion, but there were consistent differences between the parties.[34] Jackson shattered hopes of any national system of internal improvements, and his veto of the Maysville Road bill (regularly traveled by the Whig standard bearer, Henry Clay) staked out the Democratic position that the national government had no business in internal improvements within the states. The salient difference between the Whigs and Democrats was not support for internal improvements in general, but the role of national and state governments. The Whigs constantly pressed for more active national government support, such as the Surplus Distribution Act of 1836. At the state level many Democrats were prominent supporters of canals, railroads, and of banks. Whether parties were for or against internal improvements at the state level was a function of circumstance, personality, and history.

The parties had different perspectives the economy. As Holt has shown, an economic slump was the Whigs best friend: Whigs one national and state elections more readily when the economy was in a slump or recession, the Democrats when the economy was in a boom or

recovery. Early in the 1830s the nascent Whigs supported a national bank, but by the early 1840s that position had become untenable. In individual states Democrats sometimes promoted and defended banks most energetically, in other states Whigs.

The parties differed philosophically. Whigs were more likely be wealthy or middle class, to believe that government could play a positive role in the economy, and to subscribe to the idea that society could be improved and the human condition bettered through conscious and deliberate effort. Democrats were more likely to be poor, live in rural hinterlands, to emphasize downside of government intervention in the economy, and to believe that those who wished to perfect society were likely to do it by depriving other people of their pleasures, including beer and whiskey.

The two parties agreed much more than they disagreed, since both parties had their roots in the of republicanism of Madison and Jefferson. Both parties agreed that government had an obligation to promote economic development, and while they may have disagreed on how to do this, they agreed that the purpose of development was not to make the rich richer, but to benefit all society. Both parties were republican. Both parties feared corruption in government. Corruption had been a central concept in America's case for revolution.

> "'Corruption' was a central term in neoclassical discourse, a term that linked a number of specific threats into a single process of decay. 'Corruption' might refer to bribery, embezzlement, or other private use of public office, much as it does today. For seventeenth- and eighteenth-century thinkers, though, the word most often brought to mind a fuller, more coherent, and more dreadful image of a spreading rot. A frequent metaphor compared corruption to organic cancer, eating at the vitals of the body politic and working a progressive dissolution."[35]

The Whigs accused Jackson of corruption, of "usurping executive authority," of suborning the independence of the legislature through the use of patronage and the distribution of federal bank deposits. The Democrats accused the Whigs of corruption, of slavish obedience to

the money conspiracy and the hydra-headed monster that the Bank of the United States had become, of pursuit of private privilege embodied by the aristocratic pretension of the Federalists. In several very real ways, both the Democrats and Whigs were right: American politics was becoming more corrupt in the larger sense (and perhaps in the venal sense). Republican virtue, the selfless sacrifice of individual ends to the common good, was a belief shared by the founding generation.[36] Virtue was thinner on the ground by 1830, near gone by 1840. Popular democracy had arrived, both its bright hopes and darker threats were in evidence.

The fountainhead of corruption is privilege: the use of government office and authority to create advantages for specific individuals and groups. While Whigs and Democrats clamored endlessly about the other's corruption, both parties were vulnerable to those claims when they created privileges through special incorporation of a bank or railroad, or special benefits by routing a canal or railroad. Taxpayers were impressed that the Camden and Amboy provided enough in fees and dividends to eliminate the New Jersey property tax, but they understood the privileges they granted justified the state's unofficial nickname, "The State of Camden and Amboy." As the 1830s progressed, it became more difficult for politicians to openly support grants of special privilege in return for revenues, even as the opportunities for governments to do so multiplied. Voters became more dissatisfied with the coarsening of the political process, the apparent inability of legislatures to lead effectively, and the growing evidence that state governments were financing government investments in a way that exacerbated the problems of privilege and corruption and ultimately produced a severe fiscal crisis.

In concert, Whigs and Democrats closed off the third way of financing economic development: they eliminated something for nothing finance. They deliberately turned of the fountainhead of corruption. States explicitly prohibited the grant of privileges to a group or

section in return for promises of current or future revenues. At the same time, states left open the opportunity to pursue economic development projects via a process that required popular approval of not only the project, but the taxes necessary to finance it. The solution was profoundly democratic and deeply American. Both Democrats and Whigs came away with gains. The Democrats could point to the prohibitions on special incorporation as limiting the power of the moneyed elites just as the Whigs could point to general incorporation as opening up enterprise to every American. As far as I can tell, and friendly reader I would like to be corrected if I am wrong on this one, none of the major economic changes were critical issues for either party.[37]

VI. Implications and Conclusions

General incorporation laws, uniform taxation, debt limitations, prohibitions on lending the credit of the state or investing in private corporations, in modified forms, remain integral parts of the institutional structure of the American economy. America's innovative leadership in developing the corporate form was stimulated by the wide adoption of general incorporation laws, the substantial reduction in the cost of acquiring charters, and the transparent uniformity in the conditions under which corporations operate. By the 1880s, when New Jersey, New York, and Delaware took the lead in establish more flexible and modern forms of corporations, there were tens of thousands of corporations in the United States, all but a handful chartered by state governments.

Procedural limitations on the creation of state debt, prohibitions against internal improvement spending in some states, and the requirement that taxes be uniform raised the cost of using state governments to promote economic development. The same sectional conflicts that

made national government investment politically difficult, were now heightened at the state level. In 1840, local government debt was roughly one-eighth of state government debt. In 1902, local government debt would be eight times state government debt. The requirement that governments use benefit taxation (or something approaching it) shifted borrowing and spending to smaller, more homogeneous geographic units. Cities, counties and special districts took the lead in providing basic social infrastructure investments in public utilities (water, sewage gas, and electric), public health, and education. In aggregate these investments were enormous, but their scale was well suited for local governments. Constitutional changes account for much of the decentralization of 19th century American government.[38]

The perfection of railroad technologies and the growing sophistication of private capital markets shifted the focus of transportation investment from the public to the private sector after the 1840s. American's developed the largest manufacturing economy in the world by the end of the 19th century. It was an economy remarkably free of government intervention and control, an economy organized by corporations. At the same time, American governments remained committed to promoting and regulating economic growth and development. The development of the automobile in the early 20th century created an insatiable demand for public roads, a demand filled largely by federal, state, and local governments operating in concert. The bright lines between the public and private sector, while blurred in places, continues to delineate separate cooperative spheres in the America economy as it enters the 21st century.

Whether America has ever truly had a laissez faire economy remains an open and intriguing question. From the 1790s to the 1840s state governments actively pursued policies promoting economic development, in ways that brought state finances and officials into intimate contact with the economy. When state governments shrank from the task, local governments

grew in importance and took up the challenge of promoting economic growth through infrastructure investment. In the 20th century, the national government, in a cooperative effort with state and local governments, now shoulders the fiscal burden of raising the majority of government revenue, while governments at all levels continue to promote economic growth. There may never have been a pure age of American laissez faire. Yet, the years from 1842 to 1852 were a turning point in American government's relation to the economy, an era when government did shrink back from economic activism and tied its own hands. The limits that constitutions established were not driven by laissez faire ideology or conditions in the economy. The limits were required to accommodate the stress put on American democracy by the simultaneous demands that government promote development, be geographically equitable, and incorruptible.

Table 1
Federal Expenditures on Transportation, 1790 to 1860
(Thousands of dollars)

By Function	Level	Share	Itemized	Not Itemized
Unspecified Navigation	$14,240	0.26		$14,240
Roads	$9,821	0.18	$9,821	
Harbors	$8,256	0.15	$7,737	$519
Coastal Navigation	$7,428	0.14	$5,511	$1,917
Rivers	$5,845	0.11	$5,327	$518
Public Land Funds	$4,745	0.09	$4,745	
Canals	$1,917	0.03	$1,917	
Internal Navigation	$1,695	0.03	$1,692	$3
Other	$940	0.02		$940
Total	$54,888	1.00	$36,750	$18,137
Itemized Total	$36,750	0.67		
NonItemized Total	$18,138	0.33		
By Decade				
1800-1809	$193	0.01		
1810-1819	$1,931	0.05		
1820-1829	$4,465	0.12		
1830-1839	$16,365	0.45		
1840-1849	$3,178	0.09		
1850-1859	$9,790	0.27		
1800-1860	$36,750	1.00		
By Region				
New England	$3,185	0.09		
Mid-Atlantic	$4,260	0.12		
East-North Centrald	$10,006	0.27		
West-North Central	$2,414	0.07		
South Atlantic	$9,340	0.25		
East-South Central	$3,081	0.08		
West-South Central	$3,152	0.09		
Mountain	$663	0.02		
Pacific	$648	0.02		
Total	$36,750	1.00		

Table 2

State Debts Outstanding, 1841
(Thousands of dollars)

	Total State Debt	Bank Debt
Illinois	13,527	3,000
Indiana	12,751	2,390
Michigan	5,611	0
Kentucky	3,086	0
Tennnessee	3,416	3,000
Missouri	842	2,662
Alabama	15,400	15,400
Florida	4,000	5,500
Mississippi	7,000	7,000
Arkansas	2,676	3,660
Louisiana	23,985	23,400
Ohio	10,924	0
		0
Maine	1,735	0
Massachusetts	5,969	0
New York	21,797	0
Pennsylvania	36,336	0
Maryland	15,215	0
Virginia	8,744	450
South Carolina	3,691	200
Georgia	1,325	0
Total Outstanding	198,030	66,662

Table 3
Constitutional Changes, 1840 to 1860

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

The following states did not write new constitutions or significantly amend their existing constitutions between 1840 and 1860
ME, VT, MA, CT, DE, NC, SC, AL, TN, MS, MO

Table 4
Constitutional Restrictions on State Debts

New Const.		Procedural Restriction	Credit Not Loaned	Short Term Limit	Absolute Limit	Refer- enda	Time Limit	Ways and Means	Single Object	No Repeal
Rhode Island	1842	Y		50,000	N	Y				
New Jersey	1844	Y	Y	100,000	N	Y	35	Y	Y	Y
Louisiana	1845	Y		100,000	N			Y	Y	Y
	1851	Y		100,000	8,000,000			Y	Y	Y*
New York	1846	Y		1,000,000	N	Y	18	Direct Tax	Y	Y
Illinois	1848	Y		50,000		Y		Y		Y
Kentucky	1850	Y	Y	500,000		Y	30	Y		
Michigan	1843	Y				Y			Y	
Michigan	1850	NO II	Y	50,000						
Virginia	1850		Y				34			
Indiana	1851	Prohibited		Prohibite d						
Maryland	1851	Y	Y	100,000	100,000		15	Y		
Ohio	1851	NO II	Y							
First Const.										
Iowa	1847	Y		100,000	N	Y	20	Y	Y	
	1857	Y	Y	250,000	N	Y	20	Direct Tax	Y	
California	1849	Y		300,000		Y	20	Y	Y	Y
Wisconsin	1848	Y		100,000			5	Y	Y	Y
Florida	1838	nothing								
Amended										
Pennsylvania	1857	Limited	Y	750,000						
Michigan	1843									

Notes:

Procedural Restriction is Yes if state has some legislature cannot increase debt unilaterally.

No II if state cannot issue debt for internal improvements.

Credit Not Loaned is Yes if state cannot loan credit to private individual or corporation.

Short Term Limit is the limit on “casual debt”

Absolute limit is limit of the total amount of debt outstanding, regardless of purpose.

Referenda is Yes if voter approval is required for debt issue (aside from casual debt).

Time Limit is the maximum number of years bonds can be issued for.

Ways and Means is Yes if a taxes must be provided to service the debt.

Direct Tax if a property tax increase must be provided.

Single Object is Yes if legislation authorizing debt must be constrained to one object.

Repeal is Yes if the laws authorizing taxation cannot be repealed, are “irrepealable.”

Table 5
State Constitutional Provisions with Regard to Corporations

New Constitutions		Investment Prohibited	General Laws	Special Prohibited	Special Absolute	Repeal or Revoke	Banks
Rhode Island	1842	Y					
New Jersey	1844	Y (local)	Y	Y			
Louisiana	1845	Y	Y	Y			No
	1851	Y*		Y, not Banks			
New York	1846		Y	Y	No No Banks		
Illinois	1848	In Banks	Y	Y	NO		No State Bank General Voters
Kentucky	1850	nothing					
Michigan	1850	Y	Y				General Voters
Virginia	1850						
Indiana	1851	Y (S & L)	Y	Y			General
Maryland	1851		Y	Y	NO	Y	General
Ohio	1851	Y (S & L)	Y	Y	Y	Y	General Voters
First Constitution							
Iowa	1847	Y	Y	Y	Y		No
	1857	Y	Y	Y	Y	Y	
California	1849	Y	Y	N	Y		No Deposit
Wisconsin	1848	Y	Y	Y	N	Y	General Voters
Florida	1838	Y		N 2/3 majority			
Amended							
Pennsylvania	1838					Y	6 months
	1857	Y				Y	

Table 5, continued

Notes:

The Louisiana constitution in 1851 allowed investment in Internal Improvement Companies up to 1/5 of their capital.

Investment Prohibited: State (Local) government prohibited from investing in corporations.
General Laws: Corporations can be created under General Incorporation Acts.
Special Prohibited: State cannot, under usual circumstances, create corporations by Special Act.
Special Absolute: State can never create corporations by Special Act.

Banks:
No - Banks Prohibited
General - Banks allowed under General Act only
General/Voters - Banks allowed only if voters approve a General Incorporation Act.
Deposit - In California the only banks allowed are deposit banks, no money creating banks.
6 months - In Pennsylvania, bank charters had a 6 month waiting period.

Table 6
State Constitutional Provisions with regard to Taxation

Wrote New Constitutions			Uniform Rules	Taxed By Value	Equal Rate
Rhode Island	1842				
New Jersey	1844		Y	Y	
Louisiana	1845		Y	Y	
	1851		Y	Y	
New York*	1846	nothing			
Illinois	1848		Y (local)	Y	
Kentucky	1850	nothing			
Michigan*	1850		Y	Y	Y
Virginia	1850		Y	Y	Y
Indiana	1851		Y	Y	Y
Maryland	1851			Y	
Ohio	1851		Y		
Wrote First Constitution					
Iowa	1847	nothing			
	1857	nothing			
California	1849		Y	Y	Y
Wisconsin	1848		Y		
Florida	1838		Y		Y
Other States					
Tennessee	1834		Y	Y	
Maine*	1819			Y	Y

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1.Thus Fishlow's noted conclusion that "the recent useful destruction of the myth of ideological laissez faire must not give rise to the equally erroneous impression of all-embracing, and essential, public promotion." Fishlow's quote served as the basis for Goodrich's, 18970, "Internal Improvements Reconsidered." Handlin, 1943, claimed that Massachusetts never pursued laissez faire policies: "This paper will not deal with the development, but rather the lack of development of laissez-faire thought in Massachusetts during most of the nineteenth Century." That *Tasks* issue of the 1943 *JEH* also concluded papers on laissez faire by Hartz on Pennsylvania and Heath on Georgia. For a similar conclusion to Handlin's see Sylla's review of *Crisis and Leviathan* in *Critical Review*, 1991.

The CREH work is described in Cole, 196_, and includes L. Benson, 1961, Goodrich, 1960, Handlin and Handlin, 1969, Hartz, 1948, Heath, 1954, and Primm, 1954.

2.Goodrich, 1960, p. 268. The term "internal improvements" is usually limited to transportation projects, and excludes banks. When I speak of investments to promote economic development I am explicitly including banks.

3.Goodrich, 1960, p. 266, cautioned that "In state politics, the suggestion that the Whigs favored and the Democrats opposed internal improvements should be viewed with equal caution." For the extremely complicated party positions on Banks see Shade, 1972, *Banks or No Banks*, and more generally, Ershkowitz and Shade, 1971, "Consensus or Conflict." In the early chapters of *The Rise and Decline of the Whig Party*, Holt 1999, argues that Whig positions were reactive: the Whigs policies were much more anti-Democrat than they were carefully thought out, internally consistent positions. So both Whig and Democratic positions in the states were a hodge podge of inconsistent policies. Ershkowitz and Shade present evidence on part differences in state legislatures and find persistent differences in Democratic and Whig positions with regard to corporations and banks, but not internal improvements.

4.See Ellis, 2001, *Founding Brothers*, throughout the book for a discussion of the fears that the Union would disintegrate. "... the safest bet was that the early American Republic would dissolve into a cluster of state or regional sovereignties, expiring, like all the republics before it, well short of the promised land." p. 8.

5. In the case of a proposed transportation improvement, the taxes were certain, the benefits were not, further exacerbating the problem.

6.Wallis, 2001, "History of the Property Tax," analyzes the evolution of the property tax in terms of benefit tax properties. The volume in which that paper appears, edited by Wally Oates,

contains an excellent series of papers by public finance economists, specifically on the issue of property taxes as a benefits tax.

7.See Larson, 2001, 1993, and 1967; Goodrich, 1960 and 1950. Also see Nettles, 1924 for a fascinating analysis of western voting on internal improvements. Nettles began by observing that representation of western states in the House rose from 24 (12 percent) in the 14th Congress (1815) to 47 (22 percent) in the 18th Congress (1823), as a result of the Census of 1820. After 1823, western states began voting as a block for internal improvements (western states in the north and south voted together). Their voting forced the sectional issues to the forefront. The distinction between loose and strict interpretations of the constitution, with all its many ramifications, crystalized around this debate on internal improvements.

8.These numbers are taken directly from Malone's tables. I am currently working with the original report, but do not yet have more detailed breakdowns, by time, function, and state. I hope to have all of Malone's original data by July.

9.For a discussion of Madison's thinking see McCoy, 1989, *Last of the Fathers*. McCoy devotes a chapter to Madison's veto. Also see Larson, 1987, "To Bind ..." and 2001, *II*, for a discussion of the Bonus Bill itself.

10.There is no estimate of how much state governments invested in banks. There are some very sticky issues of measurement that would have to be addressed to do this. We know that states had borrowed $66 million to invest in banks by 1841 (see Wallis, Grinath, and Sylla as well as *House Documents, 29th Congress, 1st Session, #226*. The William Cost Johnson Report). States like New York, Pennsylvania, Maryland had extensive bank holdings not purchased or acquired with borrowed funds. I gave those a ball park figure of $15 million to produce the $80 million figure in the text. The $80 million figure is certainly too low.

In 1841, state debts stood at $198,000,000 (table 2). Almost all of that debt had been incurred to support banks, canals, and railroads. The figure does not include expenditures for roads, banks, canals, and railroads not financed by debt issue (and road expenditures were a normal item in both state and local government budgets), not does it include the debt issued by New York and Ohio in the 1810s and 1820s to build canals which had already been repaid.

11.The major exception was education. School funds were often allocated between counties on the basis of either population or enrollment.

12.This paragraph is taken largely from Miller, 1962, *Enterprise of a Free People*.

13.Scheiber, 1969, has a detailed discussion of the process in Ohio. I am currently working on a paper describing how the compromise was reached in Indiana. I have not yet gotten to the bottom of how property taxes were administered in Illinois, there are several unanswered questions I hope to resolve in the near future.

14.This is based on the following debts in 1841: Indiana $13 million, Illinois $12 million, Ohio $15 million, as well as the $7 million issued for New York to build the Erie and the $6 million issued by Ohio in the 1820s to build its first canals. This does not include the $21 million in

New York debt in 1841, which was incurred after the state abandoned the state property tax.

15.For southern banks in general see Schweikart, 1987, for southern property banks in particular see Sparks, 1932. For Mississippi banks see Bentley, 1978; Brough, 1901; and Kilbourne, 2000.

16.The $53 million figure is composed of $15 million for Alabama, $4 million for Florida, $7 million for Mississippi, $2.6 million for Arkansas, and $24 million for Louisiana. Some of the debt issued in support of the Alabama bank after 1837 should perhaps not be included in the total, as the state at that point was trying to prop up the bank after the Panic of 1837. There was no immediate prospect that the bank would service the bonds, although the state clearly hoped that the bank would do so after the crisis had passed. That is equals the total for canal and railroad construction in New York, Ohio, Indiana, and Illinois is coincidental.

17.This includes debt issue of $22 million in New York, $37 million in Pennsylvania, $15 million in Maryland, and $6 million in Massachusetts. Even through Indiana and Illinois made changes in their property tax systems in 1836 and 1837, they also planned to finance early debt service out of borrowed funds.

18.For New Jersey and the Camden and Amboy see Cadman, 1949; for Georgia see Wallenstein, 1987; for Alabama see Brantley, 1961; for Massachusetts and banking in general see Wallis, Sylla, and Legler, 1994. For a more general discussion of corporations and state finances see Wallis, 2000 and 2001(2?).

19.For the Panic of 1837 and the events that ensued see McGrane, 1924; Matthews, 1950; Temin, 1968 and 1969; Rockoff, 1971; Rousseau,2000; and Wallis, 2001. For the debt crisis see McGrane, 1935; Ratchford, 1941; English, 1996; Sylla and Wallis, 1998; and Wallis, Grinath and Sylla, 1998/2001.

20.See Gunn, 1988, for a detailed treatment of these events in New York.

21.Interestingly, Mississippi did change its property tax in 1839, and by 1843 the state was bringing in enough revenue that it could have serviced its bonds had it chosen to.

22.One should reasonably ask whether constitutional change occurs primarily through amendment or by writing completely new constitutions. For most times the answer would be through amendment. However, only a few states chose to amend their constitutions in the 1840s and 1850s to deal with economic issues. By far the most common action taken was writing a new document.

23.The numbers underlying the figures are taken from Sturm, *Methods of State Constitutional Reform,* Table 1, pp. 10-11. They differ slightly from the figures in my tables, because I appear to have made a transcription error. The figure shows 11 new constitutions from 1842 to 1851, while the correct number should be 12.

24.Missouri entered as the 24th state in 1820. No new states were created until Michigan and Arkansas in 1837, followed by Florida and Iowa in 1846. The Michigan constitution was written in 1835, the Arkansas constitution in 1836, the Florida constitution in 1838, and the Iowa

constitution in 1846. Significantly, the Florida constitution was written before the Crisis of 1839.

25.A procedural restriction was included in the Rhode Island constitution of 1842, but it simply required the consent of the people before the state could borrow more than $50,000. Its essence, but not its details, are the same as in New Jersey. All references to constitutions in the paper are to Thorpe, as corrected by me.

26.And in Indiana, 1851, Article X, section 5, made the usual exceptions: “No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for public defense.”

27.New Jersey prohibited local governments from holding stock. New Jersey held several million dollars in the stock of the Camden and Amboy railroad, an important source of state revenue.

28.I have not yet found a place to refer to the enormous literature on corporations. The classics are Davis; and Dodd, 1954; and Hurst, 1970. The classic history of incorporation laws is Evans, 1948. See also Handlin and Handlin, 1945; Seavoy, ; Maier 1992 and 1993; Lamoreaux, 2001, and Dunlavy, forthcoming.

29.States also began asserting their absolute authority to govern corporations, even after they had granted corporate charters, special or general: “ All general laws or special acts, enacted under the provisions of this section may be altered or repealed by the Legislature at any time after their passage.” (Ohio, 1851, Article 13, section 1). States also more carefully regulated banks.

30.See Sylla, 1985 and 1998, for the close connection between the incorporation of banks and the development of corporations in the United States. This is an enormous subject of great importance than I can only touch on at this point.

31.For a more in depth treatment of general property taxation, and the requirments for uniformity and universality see Benson and Einhorn.

32.This is also the central point of McCoy’s biography of Madison, *Last of the Fathers*, although his focus is wider than internal improvements.

33.See Larson, pp. And Goodrich, pp. For the origins of the Gallatin plan.

34.For an introduction to Jackson and Jacksonian Democracy see Schlessinger, 1945; Meyer, ; Lee Benson, 1961; Sellers, 1991; and Remini, 1967, 1977, 1981, and 1984. For the Whigs see Howe, 1979; Holt, 1978 and 1999; Remini, 1991. For the politics of the period see Silbey, 1991; McCormack 1960 and 1966.

35.Banning,” *Jeffersonian Persuasion*, p. 47. See the entire chapter 2, “Of Virtue, Balance, and Corruption for a deeper consideration of corruption in American thought.

36.This is the central them of Ellis's *Founding Brothers,* 2001.

37.While the discussion has reached to high a level of generality and perhaps lost touch completely with concrete events, establishing the general point about the parties would require several more papers. By way of example, in New York, the passage of the "Stop and Tax Law" was a critical step leading to the constitutional convention and the adoption of the new constitution. In ways, New York followed the stereotypical image of Whigs and Democrats. But the debate over internal improvements and state debts split the Democratic party into competing factions. "Partisan divisions alone, however, do not explain either the nature of the debate over state debts and development policy or its significance. For one thing, the most intense conflict occurred *within* the Democratic party and was partially responsible for a breach within the leadership that would endure throughout the 1840s. Nor was the Whig party united on the issue... It is equally clear that local and regional interests, when state policy affected them, were more important than partisanship." Gunn, p. 168

Calls for a constitutional convention divided the Democrats: "Thus the Whigs, who held the balance of power within the legislature, sided first with one and then the other faction, depending on the issue and the likelihood of its perpetuating dissension among their opponents. On the question of a constitutional convention, the Whigs supported the Radical position and Whig support proved crucial in 1844 and 1845." Gunn, p. 178-9.

At the constitution convention itself, "after four months of mostly nonpartisan deliberation, on October 9 the convention adopted a new constitution with only six dissenting votes." "The constitutional revision movement does not lend itself to a straight party analysis. Elements of both major political parties, as well as other political groups such as the Antirenters, eventually joined to demand changes in the state constitution... It would be extremely shortsighted, therefore, to attribute passage of the Constitution of 1846 to the machinations of political parties. To do so would be to seriously misjudge the significance of the critique of the existing constitution and to trivialize the long-run implications of constitutional change for the political system." Gunn, pp. 181-83.

38.See Wallis, 2000a and 2000b for elaboration of these themes.