

Systematic and Venal Corruption in American Politics

or

Big C (= Political Control) and Small c (= Personal Gains) Corruption

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This is the first draft of a paper prepared for the NBER constitution on “Corruption and Reform.” Any comments and suggestions are welcome. I have been writing on the road, thus the lack of references and the sparseness of citations. Complete footnotes and citations will accompany the next draft.

In recent decades, economists have rediscovered the notion that the quality of political and social institutions are the primary determinants of economic performance: institutions rule. To the extent this is true, the quest for economic development requires an understanding of how governments formulate the right economic and social policies, in such a way that those policies will be enforced by the government. By definition, sovereign governments do only those things that are in their perceived best interest. “Corrupt” governments do not obey their own laws, do not respect the rule of law, and run governments for the benefit of the governors rather than the general population because it is in their interest to do so. History is the only laboratory to observe how institutions develop that change the perceived interest of the governors, for good or bad. The United States is a particularly interesting case, as it developed democratic institutions early and the problem of constraining self-interested politicians vexed American politics from the founding fathers through the Progressive movement in the early 20<sup>th</sup> century. Although politicians became no less self-interested as the 20<sup>th</sup> century progressed, corruption no longer occupies the central place in American political discourse that it did from 1760 to 1920. Is this because American government became less corrupt in the 20<sup>th</sup> century, or is it because the meaning of the term corruption underwent a transformation – was the change substantive or semantic?

This essay argues that it was a bit of both. Corruption meant something different to 19<sup>th</sup> century Americans than it did to 20<sup>th</sup> century Americans. Corruption occurred when the legitimate aim of government, promoting the common good, was frustrated by the pursuit of private interests. As today, corruption in the 19<sup>th</sup> century encompassed the venality of politicians and government bureaucrats: using political office and position for advancing personal interests,

sometimes legally, sometimes illegally, and sometimes extra legally. But corruption in the 19<sup>th</sup> century contained a larger component that has disappeared in the modern day. 19<sup>th</sup> century Americans fixated on systematic corruption. Systematic corruption, big “C” Corruption, occurred when the pursuit of private interests subverted the very design of the political system. Systematic corruption was more than diverting public funds to private coffers, systematic corruption distorted the channels by which the venal interests of the politicians were harnessed to promote the general welfare. Venal corruption, little “c” corruption, was like acne, disfiguring and unpleasant, but not life threatening. Systematic corruption was like a cancer, eating at the vitals of the body politic. The uncontrollable growth of one particular interest, that eventually would bring the entire system to collapse. Americans understood that venal corruption would never be eliminated from politics and government. It took 150 years of tinkering with political institutions to convince Americans that they had created a set of political institutions, constitutional and electoral, that sufficiently channeled the self-interest of politicians into promoting the general welfare. In part, Americans accepted the inevitability of politics as well as venality, some systematic corruption in 1800 would be called “politics” in 1950. But the larger part was also the result of systematic change in the political system itself. These changes were implemented in waves of constitutional changes in the 1780s, 1840s, and 1900s.

This first draft contains brief sketches of American political thought and practice in the 17<sup>th</sup> and 18<sup>th</sup> century, during the revolution and constitutional era, in the 1830s and 1840s, and finally in the early 20<sup>th</sup> century Progressive Era. Americans acquired an exquisite sense of systematic corruption from the English Whigs, a perception so acute they saw corruption everywhere in the actions of King and Parliament after 1763. As Bailyn and others have

persuasively argued, the root of revolutionary sentiments in America was the palpable sense that the King and Parliament were conspiring to undermine the British constitution. The American perception of corruption in Britain, the cause of the revolution in America, forced the new nation into several hard choices about how it would govern itself. Americans could not simply adopt British political institutions. Monarchy and aristocracy, two institutions of British mixed government, were not all available to the Americans and there was little popular sentiment to create them just to balance government. The new institutions constructed in their place, executives and legislatures primarily, were made up from electoral cloth. The classic interests of the one, the few, and the many could only be roughly approximated by popular election. As suffrage expanded, the growing many chose the one and the few. Popular election contained its own risks: there was a dark side to democracy. Tyranny of the majority and the evil of faction and party were persistent fears. In 1830s and 1840s, Americans faced the conclusion that the political institutions they chose in the 1770s and 1780s led irresistibly to the presence of political parties. Parties were the hotbed of faction and corruption. When permanent political parties formed, their primary weapons against one another were charges of “Corruption!” Fundamental discomfort with a political system run by organized political parties persisted throughout the 19<sup>th</sup> century, until the Progressive electoral reforms and the experience of the New Deal and World War II finally laid Americans those fears to rest, and brought the era of systematic corruption in American politics to an end.

## I. The British Whigs

On 21 June, 1642, with about two months to go before the formal beginnings of civil war, two of Charles I’s advisors – Viscount Falkland and Sir John Colepeper – drafted,

and persuaded him to issue, a document in which the king, not parliament, took the step of declaring England a mixed government rather than a condescending monarchy. *His Majesty's Answer to the Nineteen Propositions of Both Houses of Parliament*, as has been emphatically and correctly asserted by Corrine C. Weston, is a crucial document in English political thought, and among other things one of a series of keys which opened the door to Machiavellian analysis. In essence, it asserts that the government of England is vested in three estates, the king, the lords, and the commons, and that the health and very survival of the system depend upon the maintenance of the balance between them. This drastic departure from the thesis of descending authority was both constitutionally incorrect and a disastrous tactical error in royalist polemic; but it was, in a very short time, so widely accepted and so diversely employed as to present us with a clear case of paradigmatic innovation – here, we must believe, was a new formulation of a kind for which many men had been searching for many reasons. (Pocock, p. 361)

J.G.A. Pocock's *The Machiavellian Moment* is a masterpiece of intellectual history, readable and accessible, yet complicated. Nothing in the training of an economist prepares one to read, much less critically evaluate or accept, an argument like Pocock's. Yet the weight of evidence is clearly that people did hold ideas about the nature of government that affected how they behaved. Ala Douglass North, these ideas underlay the "mental models" that individuals used to evaluate the world around them. The ideas of the British Whigs, grounded in the experience of the Puritan Revolution and restoration, exerted a formative influence on American political ideas, as shown by Bailyn, Pocock, Wood, and others. What were these ideas?

According to Pocock, medieval society was dominated by the vision of an eternal and unchanging God, watching over humanity from a place outside of time. Change in the human condition was neither inevitable nor desired. The emergence of a philosophy of Christ in history raised the possibility that society had a meaningful history, that societies change, and that time mattered. This concept of time dramatically changed the nature of political interaction. The "thesis of descending authority" fitted a society that did not fundamentally change, but a society in the process of change required actors. Would the only actor be the monarch, acting on the

passive lumps of aristocrats and masses? Florentine politics as conceived by Machiavelli and others, involved a multitude of actors, a “body politic” with a “civic conscious” in which the head and all the parts interacted.

In English politics, the concept of a “ancient constitution,” rooted in custom and precedent, defined the rights and responsibilities of Englishmen, most importantly their rights to property and liberty. Over time, Parliament became the “bastion of liberty” protecting the rights and liberties of Englishmen against the depredations of the King. Rather than a deliberative, representative, legislative body, Parliament played an important, but essentially passive role.

Mid-century [16<sup>th</sup>] humanism had, perhaps, entertained the vision of parliament legislating for the commonweal; but by the end of the century, the gentlemen of the House of Commons more and more saw parliament’s function as the preservation of liberty, and liberty as rooted in the fabric of immemorial custom with which it was possible to identify every major juridical and governmental institution, up to and including parliament itself. The ideology of the Ancient Constitution can be ... (Pocock, p. 340).

This was the foundation of the system of mixed government articulated in Charles I’s response to Parliament’s questions. A balanced government in which the three major estates were equally represented, but where one was active and the others passive. The 17<sup>th</sup> century English revolutions did not change the balance. The concessions made to Parliament by William the III in return for revenues to fight his wars against France, granted Parliament the authority and responsibility to initiate change. The moving parts were the same, but the order of movement could now differ. England acquired a new civic consciousness.

The new arrangement between King and Parliament produced a complementary set of institutional changes in fiscal policy and administration, including the Bank of England (Dickinson) and the professionalization of tax collection (Brewer), allowing the English

government to credibly commit to debt repayment. This lowered the costs of government borrowing significantly (North and Weingast) and provided a critical element in England's ability to successfully contend with France in the long century of wars that followed, not ending until the defeat of Napoleon in 1815. Continuous warfare created a military-industrial complex in England. Between 1700 and 1800 government expenditures rose from 5 percent of income to 20 percent of income (Mathias and O'Brian, Brewer). This unprecedented expansion of state power was equally the accomplishment of Parliament and the King, for Parliament controlled tax policy.

As the military-industrial and, one might say, the military-financial complex grew, its leaders sought access and influence in Parliament. Influence in this new world of finance and industry did not stem from one's position on the land. Millions of pounds were at stake in letting government contracts, marketing and servicing government debt (the South Sea Bubble, for example), and obtaining these plums required connections in Parliament and the administration. The King necessarily forged alliances with powerful political groups within Parliament, employed the assistance of Prime Ministers like Walpole to manipulate the system, rewarded his followers with patronage and influence, and held the new system together with the funds and support of the new financial and industrial elites. The British Empire flourished, taxes increased steadily, the army and navy multiplied, yet some began to question whether this whole system was constitutional.

The essence of the Whig complaint about the new political system rested on the collusion between King and Parliament. Mixed government worked because the King, the Lords, and the Commons independently looked out for the interests of the one, the few, and the many. In the

past, Parliament's role as the bastion of liberty required a passive and typically negative relationship with royal authority, enforcing (and occasionally defining) boundaries rather than actively formulating policy. But the new powers over fiscal policy Parliament acquired from William and his successors demanded an active Parliament, one that initiated rather than reacted. The King could no longer respect the independence of Parliament, he had to work with and maintain an influence in Parliament. The influence of the King in Parliament was magnified by the power of the "monied conspiracy," the combination of private wealth generated from the military, industrial, and financial development stimulated by the growing state. The new economic leaders were willing to put their newly gained wealth at the service of molding Parliamentary opinion. This "influence" was the very essence of systematic corruption for the Whigs. If the King controlled Parliament, there was no guarantee of liberty and property. Tyranny and slavery would certainly follow (in the overheated language of the 18<sup>th</sup> century political discourse), for the bulwark against tyranny was an independent Parliament.

Perhaps economists do not need to have pointed out that the method of developing industrial and financial capacity in Britain by promoting and protecting the interests of favored groups of manufacturers, bankers, and merchants lay at the heart of Adam Smith's critique of government in the *Wealth of Nations*. What mattered to Whigs in general, however, was less Smith's conclusions about the appropriate way to foster economic growth, than the basic understanding that creating economic privileges immediately created pressures on the political system to maintain those privileges (Adam Smith meets Mancur Olson). Of necessity, the King's ministers had to choose who would build ships, supply arms, and market bonds. Those they chose reinvested a portion of their profits from government largess into insuring that they



were chosen again. The “evil” ministers could use these resources to buy influence in Parliament to insure a steady and growing stream of appropriations, financed by higher borrowing and ever rising taxation, which produced more contracts and more political support. Individual members of Parliament might or might not be venally corrupt, but the system was insidious and corrupt, a cancer on the body politic.

The Whig critique did not come from the mainstream of British political thought. Mainstream politicians were busy crafting a more powerful state by allying royal privilege with Parliamentary authority. The core of the British economy and government were growing rapidly, hand in hand. Thus the concerns by some, like Adam Smith, that government favors for the privileged few generated a network of interests linking the King, the monied elites, and Parliament. The Whigs raised the alarm, the Americans responded.

## II. The American Whigs, the Revolution, and the Constitution

18<sup>th</sup> century British Whigs warned that liberty was imperilled; that the corruption of Parliamentary independence by the conspiracies of government ministers would ultimately result in tyranny and slavery because there would be no agency left in British government to stand for liberty and property against the avarice of political power. Whig arguments fell on receptive ears in the American colonies, where, after 1763, the colonists began wondering just how the British system of mixed government would protect their liberty and property against the depredations of political power. This story told by Bailyn and others is so persuasive on this point that I wish only to highlight several of their key conclusions.

Corruption in British politics, caused by the eroding independence of Parliament from royal and ministerial influence, was the foundation upon which American Whigs built their case for independence. If Parliament had lost its independence, then it no longer stood as a bastion of liberty. People in Britain and the colonies who could not yet see the looming crisis, had only to wait and watch for the signs. When the British first attempted to impose taxes on the colonies, an attempt successfully rebuffed, American critics of British policy, who would shortly become advocates of independence, predicted that soon the empire would threaten deeper liberties: would close ports, quarter troops, deny colonial access to western lands, coerce the colonists by violence, and ultimately suspend the legitimate, chartered governments of the colonies. They argued that Parliament, rather than standing up to these ministerial plots to deprive the colonists of their basic freedoms, would instead accede to the actions. In 1763, predictions like this were ravings of a radical fringe, by 1775 they had all come to pass. If Parliamentary dependence was judged not by the words of the politicians, but by the action of the British government, then liberties were at risk.

For 75 years before the American revolution, British government nurtured a growing cooperation between crown and Parliament. The American position created a catch-22 for the British. When the British demonstrated the legitimacy of their new colonial policy by presenting a united front -- the King, ministers, and Parliament all in agreement -- the Americans interpreted this as *prima facie* evidence that the independence of Parliament was compromised. Only a conflict between Parliament and the crown over colonial policy, moreover a conflict in which Parliament took the colonists side, would convince Americans that the system was still working. Such an outcome was unlikely in the 1770s, as the British believed they were exercising their

constitutional rights to govern the colonies.

Americans revolted because they felt their constitutional rights and liberties were at risk. They believed that the British were acting unconstitutionally, and the source of the unconstitutional actions was systematic corruption of the British political system.

When the Americans settled on independence in 1776, they took two steps. In May the Continental Congress asked the states to write their own constitutions.<sup>1</sup> In July the Congress issued the Declaration of Independence. By July 3, New Jersey had drafted a new constitution whose preamble declared:

And whereas George the Third, king of Great Britain, has refused protection to the good people of these colonies; and, by assenting to sundry acts of the British parliament, attempted to subject them to the absolute dominion of that body; and has also made war upon them, in the most cruel and unnatural manner, for no other cause, than asserting their just rights, all civil authority under him is necessarily at an end, and a dissolution of government in each colony has consequently, taken place.

Among its many features, the New Jersey constitution articulated the separation of powers and distinct prohibitions on politicians holding office in more than one branch of government:

New Jersey, Constitution of 1776, Article 20:

XX. That the legislative department of this government may, as much as possible, be preserved from all suspicion of corruption, none of the Judges of the Supreme or other Courts, Sheriffs, or any other person or persons possessed of any post of profit under the government, other than Justices of the Peace, shall be entitled to a seat in the Assembly: but that, on his being elected, and taking his seat, his office or post shall be considered as vacant.<sup>2</sup>

The Constitution of Maryland ratified in November, stipulated in Section 6 of the Declaration of Rights: “That the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other.” Separation of powers was only one of the ways that Americans attempted to address systematic political corruption, and it is easy to

document. Interestingly, eleven state constitutions (Connecticut and Rhode Island continued under their slightly revised colonial charters) addressed these structural problems by adopting systems with multiple and interacting electoral bodies and officials, while the Articles of Confederation created a national government with only a legislature.<sup>3</sup> It was not until the Constitution of 1787, drafted in light of the states experience, that the national government acquired its now famous system of checks and balances. The links between Constitution of 1787 and the British concept of mixed government are clear.

American adaptation of mixed government in an extended republic posed a whole host of new problems the British had barely begun to consider. Two of the three estates in the British system, the King and Lords, were chosen by a birth lottery. The only elected estate, the Commons, was not a representative body. In theory and in practice, representation was “virtual” not direct. Members of Parliament did not represent their districts, they represented the interests of the general population, including the colonies.<sup>4</sup> Parliament was the bastion of freedom, not a forum in which competing interests (including the King) worked out their compromises. As Parliament became more of a deliberative legislative body in the 18<sup>th</sup> century, it did not become more representative. The “evil of faction” was present in Britain, but it was not yet exacerbated by a representative political system.

In America, the lack of public sentiment for a king or aristocracy, created the need for democratically elected republican institutions of government. British government was not the best government in the world because it was democratic or representative, it was the best because it balanced off the competing interests of distinct groups. When the House of Commons struggled with the King and Lords over some violations of liberty, there was no question that the

Commons had a different interest from the King and Lords. But if all of the actors in the government were elected, how would it be possible to insure that they were not all influenced by the same interests, even if it was a majority interest? This was not a question of venal corruption. A representative of a specific geographic area could not be politically corrupt if he represented the interests of those who had elected him, indeed the logic of representative democracy required him to listen to his constituents. By the same token, when a majority of uncorrupted legislators came together and promoted the interests of their individual constituencies by logrolling an appropriations bill, the legislators acted honorably as individuals, but the outcome was not only wrong, it was corrupt. Uncorrupted legislators could produce corrupt outcomes. American political thinkers had been steeped in the British tradition of promoting the common wealth by setting the major interests of society against one another. Any political outcome in which the interests of an individual group or combination of groups (logrolling) was promoted over the interests of society was, by definition, corrupt. Majority rule in an elected legislature was no guarantee that liberty and property would be respected. Americans could not adopt a system that promoted only those interests that could command a passing majority in the legislature, every citizen deserved to have their liberties and property respected and protected.

With elected officials and legislatures, America would be hard put to avoid the evils of faction and political party -- the combinations and conspiracies that so bedeviled English Whigs and American patriots. The task was somehow to harness those forces. Madison's answer was an extended republic, both in the structural sense of multiple decision making points within the national government and between the national and state governments, and in the geographic

sense. As the nation developed, mechanisms at the state and national level emerged that enabled the checking and balancing of interests. But it would be a serious mistake to assume that these mechanisms went into operation immediately, or that people naively thought corruption would be prevented. Americans were deeply worried about the dark side of democracy. At worst, they feared a popular majority under the leadership of a demagogue or tyrant would seize control of the government. At best, they worried that everyday politics would become a scramble for privilege and precedent, that governments would raise taxes and redistribute the gains to those with the most votes. The result was a sometimes arcane collection of constitutional mechanism to share power and decision making between popularly elected legislatures, executives, and specially constituted bodies.

For example, the New York constitution of 1777 began by reciting the Declaration of Independence. In Article I (there were no sections in this constitution), the constitution declared that power was derived from the people. In Article II, that the supreme legislative power would be vested in two bodies. And in Article III

III. And whereas laws inconsistent with the spirit of this constitution, or with the public good, may be hastily and unadvisedly passed: Be it ordained, that the governor for the time being, the chancellor, and the judges of the supreme court, or any two of them, together with the governor, shall be, and hereby are, constituted a council to revise all bills about to be passed into laws by the legislature; and for that purpose shall assemble themselves from time to time, when the legislature shall be convened; for which, nevertheless, they shall not receive any salary or consideration, under any pretence whatever. And that all bills which have passed the senate and assembly shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revision and consideration, it should appear improper to the said council, or a majority of them, that the said bill should become a law of this State, that they return the same, together with their objections thereto in writing, to the senate or house of assembly (in which soever the same shall have originated) who shall enter the objection sent down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, two-thirds of the said senate or house of assembly shall, notwithstanding the said objections, agree to pass the same, it shall, together with the

objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and, if approved by two-thirds of the members present, shall be a law. And in order to prevent any unnecessary delays, be it further ordained, that if any bill shall not be returned by the council within ten days after it shall have been presented, the same shall be a law, unless the legislature shall, by their adjournment, render a return of the said bill within ten days impracticable; in which case the bill shall be returned on the first day of the meeting of the legislature after the expiration of the said ten days.

New York would invest the supreme legislative power in its Assembly and Senate, but in case they goofed, the Governor and any two members of the state supreme court could recommit the bill. This, of course, is an early version of an executive veto, but its prominent place at the beginning of the constitution is evidence of the concern over majority rule in elected legislatures.<sup>5</sup> Eternal vigilance was the watchword.

The fear of corruption in the national legislature was illustrated by the political machinations leading Congress to commission the Gallatin report in 1807. Senator Bayard of Delaware and the newly appointed Senator Clay of Kentucky and were both interested in obtaining national support for transportation projects within their states. Clay wanted to build a canal around the Falls of the Ohio at Louisville and Bayard to begin construction on the Chesapeake and Delaware Canal. Individually the bills could not pass, but together it appeared they could command a majority. As the Senate considered the final bill, John Quincy Adams, then Senator from Massachusetts and a supporter of federal support for internal improvements rose to oppose the bill. Arguing that if this bill were to pass, that only nine states could combine “to divide the public lands and public treasuries among them,” Adams called for the Secretary of the Treasury to prepare a report on the feasibility of constructing a rational and truly national transportation system. Clay and Bayard’s bill failed, and while Adam’s motion failed that day, it was taken up later in the week and the Gallatin report was set in motion.<sup>6</sup>

Adams condemned logrolling as corruption. “Neither bill commanded a majority, but linked together by some kind of arrangement (the very definition of “corruption”) they were likely to pass.” (Larson, p. 59). His sensitivities offended, and unnamed (?) Senator replied to Adams:

But the gentleman has referred us to a similar project before the Senate for a canal at the Falls of Ohio, and tells us that three States are immediately interested in that, likewise in this, and that consequently twelve members of this floor feel the same particular influence. The gentleman certainly did not mean to intimate that any private understanding had taken place among the supporters of these respective measures, in relation to them, or that they were capable of any such conduct.<sup>7</sup>

Of course, that was exactly what Adams intended to intimate; but the idea that gentlemen were capable of reaching a private understanding amongst themselves about these matters would have been a gross insult, a brazen charge of corruption. Raising the specter of corruption was enough for Adams to kill the bill. Early 19<sup>th</sup> century politicians understood and feared how the dynamics of electoral politics and legislative maneuvering could produce policies that served the interests of agglomerations of minorities rather than the true interests of the commonwealth.<sup>8</sup>

### III. Whigs and Democrats

The nature of systematic corruption in the United States called forth the need for systematic, constitutional remedies just as it had done in Britain. As the new nation began confronting the reality of managing an extended republic, systematic corruption took two forms – one at the national level and another at the state. Venal corruption was everywhere, there was no lack of examples. Rapid, unplanned, and uncontrolled growth brought ample opportunities for politicians, most of whom were amateurs, to engage in a bit of graft and corruption, honest or



otherwise. All national and state government jobs were patronage jobs, there was nothing like a civil service. Ballots were not secret, but printed on color coded forms by parties and candidates, better to verify that voters who were bought stayed bought until they put their ballots in the box.

The systematic problem was deciding what powers fell within the legitimate domain of what governments, and how legislatures could go about deciding to allocate money for roads, canals, bridges, and banks. At the national level, there was a clear need for a coordinated effort to improve the transportation system, and states in the west and mid-Atlantic hoped for national assistance even as they began laying out plans for their own roads and canals. Where should the roads and canals go? Which companies should get the contracts? The number of banks was growing steadily, the national government had chartered one, the states hundreds by the 1820s. How should they be governed? Who should get charters? In Massachusetts charters were given to all qualified applicants, in New York only the friends of Martin Van Buren and the Albany Regency obtained charters. Millions of acres of public land were on the market, with millions more in the offing. Should this national estate be sold to the highest bidder or given to the poorest settler? Should states in the east earn generous patrimony or should states in the west be able to attract population quickly by lowering land prices, perhaps even giving land to outright to the western states? Should the tariff be raised or lowered? Should it be designed only to produce revenues, only to protect American producers, or some combination of the two?

All of these question affected the pace and pattern of economic growth in the United States, and theirs answers meant millions of dollars to entrepreneurs, farmers, land speculators, industrialists, and bankers. In Britain in the 18<sup>th</sup> century decision about who would receive bank

charters and where roads would go were not matters of debate, they were issues of patronage. Between the King and Parliament there was only the question of who would get to make the decision, there was no question that political plums would go to the favored few. In the United States the situation was far different.

At the national level sectional debates over internal improvements, public lands, and the tariff were continuous from the 1800s to the 1830s. In the end, however, debates on the public lands produced very little change in public land policy – a reduction in the minimum acreage sold, suspension of credit sales in 1820, and permanent preemption in 1841.<sup>9</sup> Debates over internal improvements never produced much in the way of national action. The Cumberland Road, the largest national project, was the subject of constant wrangling. State and local governments combined spent roughly nine times as much for transportation improvements between 1790 and 1860 as the federal government did. The tariff was a nightmare of sectional conflict, constantly irritating, and erupting in the Nullification crisis of 1832. The source of the problem was the fear that one group or one region would somehow manipulate the legislative process and walk away with the lion's share of the gains by putting together a coalition of interests that commanded a majority. So great was the fear of this outcome that the national government was essentially paralyzed, debating but not acting.<sup>10</sup>

Henry Clay, the Great Compromiser, has already entered into this story in his short freshman term in the Senate. He was instrumental in reaching compromises of great sectional crisis over slavery in 1820 and 1850, and over Nullification in 1833. He was a four time candidate for President and the guiding force in the formation of the Whig party. Clay's vision was to use the national government to promote commerce and development throughout the

county, and he was the foremost nationalist of the early nineteenth century. His genius was for crafting precisely the kind of legislative compromise feared by the founding fathers: one that pulled together disparate groups into a giant log roll. His failure came because compromise always required something for everyone. An example.

When the Second Bank of the United States was chartered in 1816, it paid a charter bonus of \$1.5 million, and dividends on the government's stock holdings throughout the Bank's life. In 1817, Clay and Calhoun drafted the Bonus Bill to place the bonus money and dividends into a national fund to promote transportation investment. Clay and Calhoun both knew that specify which projects the fund would support would kill any chance of the bills passing. As Clay pointed out: "If we touch the details; if we go into a specification of the objects on which the fund is to be expended, the inevitable effect will be, that we shall do nothing."<sup>11</sup> Many supporters of internal improvements opposed the Bonus Bill as proposed by Clay and Calhoun. Until they knew where the money was going to go they would not vote for the bill. It was not until an amendment requiring that the fund be distributed among the states on the basis of Congressional population was accepted that the bill was able to pass. Clay and Calhoun both opposed the amendment, knowing that equal per capita allocation of a small fund between the state meant that no significant projects could be built. Madison vetoed the bill on constitutional grounds.

Frustrating for Clay and Calhoun, the Bonus Bill debate was a template for Congressional debate on most issues. Congress was unable to pursue a positive policy in transportation, public lands, or the tariff (which along with slavery and banks comprised the major issues of the day) unless every region of the country was in agreement. Sectional

preference was corrupt. Any simple majority that acted to benefit one section at the expense of another was subverting the system. Only the sectional preferences stipulated in the Constitution were allowed to stand.<sup>12</sup> Proposals to renegotiate the original agreement threatened collapse to the entire structure and were vigorously opposed.<sup>13</sup> Clay's legendary legislative skills were admired, but they also threatened the existing balance of interests.

Paralysis in the national government was abetted by the lack of permanent political parties. Traditionally, parties were evil, the source of faction and corruption in politics. The first past the post structure of the Presidential election created an incentive for two party competition, but animosity towards parties was such that permanent national parties did not form until the Democrats under Jackson in 1828.<sup>14</sup> Jackson and his supporters boldly created the Democratic party, and by doing so forced the Whigs to organize themselves after 1832.

As the Democrats and Whigs struggled to build identities as political parties that transcended the traditional concerns, they both hit upon the same answer: charge the other party with corruption. Jackson took the lead. Robbed of the election of 1824 by the "corrupt bargain" between John Quincy Adams and Henry Clay, Jackson and his supporters fashioned a campaign in 1828 that emphasized the corrupt abuse of power by the existing administration, indeed, by the entire government.

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 the first office in the gift of a free people, are found electioneering and intriguing, to worm themselves into the confidence of the members of congress, who in support of their particular favorites, are bye and bye to go forth and dictate to the people what is right.<sup>15</sup>

This rhetorical strategy involved the simple and obvious ploy of painting Jackson's opponents as corrupt, but Jackson's Democrats went further and attacked the current system as

corrupt. They were the first to nominate their candidate at popular party conventions, rather than in the Congressional caucus. They vigorously support expansion of the franchise, a key issue in several states in the 1820s. But the heart of the Jackson strategy was the old English Whig concern about corruption and the “monied conspiracy.” Throughout his campaign and Presidency, Jackson always stood against the creation of special government privileges (specially for banks), which created rents that the privileged tried to protect and sustain by interfering in the political process. In Jackson’s veto of the Second Bank of the United States he excoriated it as a “monster of privilege.”

While carrying on the tradition of decrying the corruption of money, privilege, and power in politics, Jackson was far from an English Whig. His solution to the problems of his day were, as President, the traditional Whig’s worst nightmare: Jackson wanted to consolidate power in his own person. As the only national government official duly elected by the people, Jackson claimed that he was the chosen one, that he represented the people, that he spoke for the common wealth. It was everything the founding fathers had feared about the dark side of democracy.

Jackson’s opponents were not slow to take up the challenge. In the Bank War following Jackson’s veto of the bill rechartering the Second Bank of the United States, Jackson directed the Secretary of the Treasury to remove federal deposits from the Bank in clear violation of the Bank’s charter and the desire of Congress. His opponents immediately cried “Executive Usurpation!” It was the King in Parliament again. In the debate over the Senate bill censuring Jackson for removing the deposits, Clay explicitly addressed Jackson’s contention that his election gave him the authority to remove the deposits:

Sir, I am surprised and alarmed at the new source of executive power which is found in the result of a presidential election. I had supposed that the constitution and the laws

were the sole source of executive authority... that the issue of a presidential election was merely to place the Chief Magistrate in the post assigned to him... But it seems that if, prior to an election, certain opinions, no matter how ambiguously put forth by the candidate, are known to the people, those loose opinions, in virtue of the election, incorporate themselves with the constitution, and afterwards are to be regarded and expounded as parts of the instrument.”

Opposition to executive usurpation would be a touchstone of the American Whig party, named, in part, to draw on the memory of the English Whigs and their stand against executive tyranny. Clay and the Whigs also drew on a completely American part of the tradition, however, the fear of a popularly elected demagogue.

The contest between Clay and Jackson, and the longer struggle between the Whigs and the Democrats was fought over concepts like executive usurpation, the monied conspiracy, the Bank War, and the appropriate role of government in promoting economic development. The major issues between Democrats and Whigs were economic, but the foundation for the debate over economic policy was a larger debate over systematic corruption. Both sides of the debate painted the other as corrupt, and both sides claimed a part of the English Whig heritage. Time were fast changing, however. Jackson dramatically expanded the discretionary power of the President and gave a new importance to electoral politics at the national level. Clay was the great compromiser, always on the lookout for life’s biggest log roll, the one that would finally put his American system into place.

Looking back from the present, the rise of parties, Clay and other politicians growing utilization of log rolling and coalitions to shape majorities, and Jackson and the Presidents who followed him growing assertion of President powers and prerogatives are not surprising. These outcomes seem inevitable responses to the incentives built into national and state constitutions. Americans formed systems of government in the 1770s and 1780s that, perhaps following the

law of unintended consequences, produced the behavior the constitution writers had hoped to avoid. We might expect a constitutional response. At the national level, however, the government was actually doing relatively little, and the perils of undoing the original constitutional settlement made any substantial changes unlikely.

But the states had not been paralyzed. They had moved steadily into banking and then into transportation (Callender). States faced exactly the same geographic and ideological constraints as the national government. Building a canal inevitably meant that some counties were served and others were not, while every county bore a share of the taxes to pay for the canals. Bank charters were hotly contested and, in most states, not readily available to all applicants. States developed several ways to mitigate geographic competition. In fiscal terms, the quantitatively the most important solution provided public infrastructure investments in transportation and finance without raising taxes.<sup>16</sup> For example, the state of Louisiana chartered a number banks between 1816 and 1830. It invested in these banks by issuing state bonds which the state used to pay for its stock. Dividends on the state stock were sufficient to cover the interest on the state bonds, and the banks serviced the bonds directly. Taxpayers paid nothing, and the state Treasury received a small but steady flow of dividends from the bank (dividends in excess of interest payments). This type of state investment had proved profitable in a number of states before 1835. Funding for canals often involved a type of benefit taxation. Taxes in canal counties were raised by adjusting the property tax, and so those living closest to the canal paid the most in taxes.<sup>17</sup> In New York, however, the Erie Canal produced so much in canal revenues that the new property taxes were never levied, another kind of taxless finance.

By the mid-1830s states throughout the country were deeply involved in investing in and

promoting banks and transportation systems. In the mid-1830s state investment exploded, reaching over \$100 million between 1836 and 1841 alone (GNP was roughly \$1.5 billion). Many of the investments were something for nothing schemes. The economic depression that began in earnest in 1839, the collapse of the boom in western land, and a rapid deflation brought the investment boom to an end. By 1842, eight states and the territory of Florida were in default on their bonded debts, and three additional states narrowly avoided default. The crisis in public finance naturally brought investigations into its causes. Venal corruption was occasionally a problem, but the bulk of the blame was placed on faulty institutions.<sup>18</sup> Specifically, that the interplay of interests between promoters, legislators, and voters led to the creation of a majority interest (often approaching consensus) that public investments could be made with little risk of failure. It was a systemic problem, it was a problem of systematic Corruption: the interests of a few commanding the resources of the state. It called for a systematic response.

Unlike the national government, states were willing and able to change their constitutions. Between 1842 and 1852, new state constitutions were written in twelve states (Louisiana wrote two new constitutions). Eleven of the twelve states imposed new procedural restrictions on the issue of state and local government debt. These restrictions did not limit the amount of debt that could be incurred, but required that taxes sufficient to service the debt be raised before bonds were issued and that the increase in tax rates be approved by a majority of the voters (bond referenda). Eleven of the twelve states required that legislatures create general incorporation laws, allowing access to the corporate form to any qualified applicant. In banking, these general incorporation acts produced free banking. Nine states prohibited incorporation by special legislative acts altogether, prohibiting state legislatures from creating corporations with



special privileges.<sup>19</sup>

State governments took the lead in infrastructure investments in transportation and finance in the early 19<sup>th</sup> century. States governments took the lead in developing the corporation as a flexible form of business enterprise (the national government chartered two of note, the first and second BUS, and a few banks in the District of Columbia). In these critical areas, economic development depended on state action and initiative, not the national government. Within a decade, states substantially altered their constitutions in order to provide 1) hard budget constraints for state and local governments and a transparent process for democratically deciding whether large long term projects should be undertaken by governments; and 2) a transparent form of corporate organization, that was not idiosyncratic to the individual enterprise, widely accessible to the population (not limited to those with access to political influence), with clear and enforceable rules about shareholder rights and the internal structure of firms. The recent literature on economic growth has emphasized how important both of these reforms are (Levine and coauthors, Knack and Keefer, La Porta, et. al, etc.)

In the 1840s, a third of American states adopted these new institutional in response to what was widely believed to be systematic corruption. The Jacksonian attack on special privilege, harking back to the monied interest in 18<sup>th</sup> century Britain, was tailor made for the campaign to adopt general incorporation. But general incorporation appealed to the Whigs as well, with their interest in using the agency of government to promote progress and development. Support for general incorporation and debt limitation was not a party issue, both parties supported the constitutional reforms.<sup>20</sup> Constitutional reforms were supported by both parties as part of their attack on systematic corruption.

#### IV. The Progressive Era, The New Deal, and World War II

The state constitutional reforms gradually spread to the rest of the country in the 19<sup>th</sup> century. They fundamentally changed the relationship of the economy and governments, and surely played a role in the rapid development of American corporations, the transportation and financial systems, and the economy as a whole. Yet, systematic Corruption had not been eradicated. There were two reasons for this. First, the success of corporations in general was dwarfed by the spectacular success of a small number of extremely large corporations. Corporations like Standard Oil and U.S. Steel, investment bankers like J. P. Morgan, market manipulators like Jim Fisk, ignited fears of a monied conspiracy on a scale unthought of in early 19<sup>th</sup> century America. Second, political parties endured and continued to be maligned as the font of corruption, particularly at the state and local levels. The “curse of localism,” to borrow a phrase from Patterson, was widely blamed for the failure of governments in America to provide effective and honest government. Politics was still corrupt, and though the political system had grown more resistant, it was still not capable of suppressing systematic corruption. There was no end to examples of venal corruption, ala George Washington Plunkitt, but the inability to limit venality was laid at the design of the system. Progressive reformers in the from the 1890s to the 1910s, pressed for systematic political reforms to suppress venality and systematic perversion of the political process to serve private ends.

Benjamin Parke DeWitt, progressive reformer and historian, wrote in his *Progressive Movement: A Non-partisan, Comprehensive Discussion of Current Tendencies in American Politics* in 1915:

In this widespread political agitation that at first sight seems so incoherent and chaotic, there may be distinguished upon examination and analysis three tendencies. The first of

these tendencies is found in the insistence by the best men in all political parties that special, minority, and corrupt influence in government – national, state, and city – be removed; the second tendency is found in the demand that the structure or machinery of government, which as hitherto been admirably adapted to control by the few, be so changed and modified that it will be more difficult for the few, and easier for the many, to control; and, finally, the third tendency is found in the rapidly growing conviction that the functions of government at present are too restricted and that they must be increased and extended to relieve social and economic distress. These three tendencies with varying emphasis are seen to-day in the platform and program of every political party; they are manifested in the political changes and reforms that are advocated and made in the nation, state, and the cities; and because of the universality and definiteness, they may be said to constitute the real progressive movement. (DeWitt, pp. 4-5).

The first tendency, that special, minority, and corrupt influence in government be removed could have been written in England in 1720, Philadelphia in 1787, Albany or Indianapolis in the 1840s, or today for that matter. The venal will always be with us and venal corruption can only be prevented by eternal vigilance. The third tendency, a call for government policies to relieve social and economic distress translated into new social programs like workmen's compensation and mother's pensions in the 1900s and 1910s, but would reach its full measure in the New Deal.<sup>21</sup>

The second tendency, changes in the "structure and machinery of government," while not unique to the Progressive movement (this essay has traced its influence in the 1770s and 1780s and the in the 1840s) constituted the heart of the Progressive reform agenda. It aimed directly at limiting systematic corruption by changing the structure and machinery of government. Part II, III, and IV of DeWitt's history delineate the Progressive strategy.

Part II is the "Progressive Movement in the Nation:" composed of "Measures of Corporation Control," "Measures of Government Control," and "Measures of Relief."

Part III is "The Progressive Movement in the States:" composed of "Measures of Control over the Nomination and Election of Officials," "Measures of Post-Electoral Control: the

Initiative, Referendum and Recall,” “Measures to Prevent and Relieve Social and Economic Distress.”

Part IV is “The Progressive Movement in the City:” composed of “Municipal Home Rule,” “The Charter Movement,” “The Efficiency Movement,” and “The Social Movement,”

The progressive movement went forward in three distinct areas. First, they altered the relationship between corporations and governments through active regulation and changes in chartering. Second, they pressed for a series of electoral reforms including the initiative, referendum, and recall that brought direct democracy into the policy process. Third, they altered the relationship between state and local governments through home rule amendments and the local charter movement.

Battling venal corruption and regulating the excesses of the plutocrats charged the progressive movement with a populist morality, the machinery of the progressive constitutional reforms were electoral and democratic. At the national level, the direct election of Senators by popular majorities and suffrage for women were the key progressive accomplishment. At the state level, the adoption of the initiative, referendum, and recall gave voters direct control over legislation and officials. Initiative, referendum, and recall were adopted at the local level as well, but the critical change was the widespread adoption of home rule provisions and new methods of chartering local governments (some of these innovations, like city managers, reduced voter control over local government). These transferred control of local governments from state to local governments, providing voters with the ability to directly shape local government policies to suit the ends of local majorities.<sup>22</sup>

The medicine prescribed by progressive to cure systematic corruption would have

seemed insane to a founding father. The original American problem with systematic corruption flowed from the excesses of electoral politics, from the fear of uncontrolled majorities. In the 1910s the progressives increased rather than limited popular control. Of course, the progressives did not dismantle the checks and balances that set interests against one another in the Madisonian system, nor did they dismantle the constitutional reforms that required popular approval of state and local debt issue and therefore spending. Progressive reforms embodied the concept that the voters were the ultimate judge of government policy. Whether politicians and policies were corrupt would be left to popular choice. The many would decide whether the few had violated their mandate to govern on behalf of the common good. Constitutional reforms in the early 20<sup>th</sup> century would institutionalize popular control, majorities really would rule.

The progressive reforms, implemented in the 1910s and 1920s, met their first serious challenges in the Great Depression and World War II. The third tendency of the progressive platform was increased government responsibility for relieving social and economic distress; a responsibility that progressives believed called for a larger and more active national government (the progressives also believed that the national government had a unique role to play in regulating large corporations). After a timid start in the 1910s and 1920, the national government assumed new responsibilities for social welfare during the New Deal. The welfare system put in place by the Social Security Act was a federal system, with substantial independent responsibilities for state governments. By 1935, American government at the national and state level were committed to a more active social welfare policy. Over the course of the 1930s, national expenditures for relief explain almost all of the increase in national government expenditures.

World War II brought a second permanent expansion of the national government. The United States, Great Britain, France, the Soviet Union and China called their alliance the “United Nations.” The Americans fought, but their primary contribution to the war effort was to spend, lend, and build. In the new post-war world, the five allies held permanent seats on the United Nations Security Council. In an arrangement reminiscent of the Articles of Confederation, each ally would have a veto over the actions of the collective. In the post-war world, the United States continued its wartime role: to spend. Prior to World War II, military expenditures in peace time never exceeded one percent of GNP, in the post-war period they never fell to less than three percent of GNP, and for most of the 1940s, 1950s, and 1960s were closer to 10 percent of GNP.

In the two decades between 1932 and 1952, government in the United States had assumed new responsibilities for social welfare provision and as the world’s policeman. Welfare was a “federal” function, jointly administered by state and national governments, while the military was a purely national function. Expenditures on defense and social welfare (including social security) were 1 percent of GNP in 1902, in 2002 they were over 15 percent of GNP. Inevitably there was venal corruption. Yet this vast expansion of government authority occurred without the suggestion or debate that the political system was corrupt or corrupted. Politicians, bureaucrats, and government contractors continued to go to jail for corruption; evidence accumulates that individuals within and around government succumb to temptation with regularity; social commentators from the left and right steadily complain about the decline in American values and virtues; but public life goes on with none of the paranoia about corruption so prevalent in the nation’s first 150 years. Why?

## V. The end of Systematic Corruption

In 1915, DeWitt identified the second tendency of the progressive movement “in the demand that the structure or machinery of government, which as hitherto been admirably adapted to control by the few, be so changed and modified that it will be more difficult for the few, and easier for the many, to control.” From the English Whigs to the founding fathers, from Jackson, Clay, Democrats, and Whigs of the 1840s to the progressive’s of 1900, the definition of political corruption had always been perversion of the system of government to serve the interests of the few rather than the good of the many. The American paranoia about corruption was not directed a venal, small “c” corruption. Americans worried that their political institutions possessed a defective auto-immune system, that the very working of politics was capable of generating coalitions of interests, cancers, that would multiply out of control and, if unchecked, eventually threaten the very life of political society.

“Eternal vigilance” was the watchword: tyranny must always be opposed, extremism in the defense of liberty was no vice. But vigilance was not enough. Americans believed that the opportunity for systematic corruption stemmed from flaws in the design of the structure and machinery of government. Unlike the 18<sup>th</sup> century British, who entrusted their liberties to an unwritten constitution and unrepresentative government, 18<sup>th</sup> century Americans wrote mechanisms into their written constitutions designed explicitly to limit corruption. All American governments derived the power from the explicit consent of the people.<sup>23</sup> How people were to grant their consent to the government was the nub of the problem.

The first American constitutions addressed the problem of systematic by expanding the British idea that liberty and property could be protected by setting the interests of different

groups in society against one another through a balanced government, constrained by separation of powers. Yet Americans relied on popular election to fill the places from which power was exercised, and the dangers posed by the dark side of democracy -- tyranny of the majority and the susceptibility of popular majorities to demagoguery -- were never far from their thoughts. New mechanisms, created in the 1840s, delineated the process by which the government enabled the power of organized private interests in corporation law, and limited the susceptibility of popular government to the siren song of canal and railroad promoters through procedural debt limitations. Americans instituted mechanisms to counter systematic corruption.

Mechanism design in the progressive era returned the power which citizens granted to governments back to the people. The progressive experiment, consistent with the fundamental idea that the legitimacy of a government flowed from the consent of the people, raised the possibility that popular majorities could not just consent to be governed but could actually determine which policies the government should follow. Simple in retrospect, the idea that the many should vote to decide whether the few had chosen policies which promoted their welfare was the fundamental progressive movement addition to the American political system.

What brought an end to systematic Corruption? The New Deal and World War II provided a test of the new system. Government expenditures were 8 percent of GNP in 1920, in 1952 they were 28 percent. Were the innovations in social welfare and defense policies corrupt or not? They certainly presented the opportunity for venal corruption on an unprecedented scale. They people spoke and they said: this is what we want. Ever jealous of their liberty, property, and freedoms, Americans feared that a larger government would only promote the interests of the politicians who ran it. Americans were not opposed to higher taxes and bigger government,



*per se*, they opposed a bigger government if it was corrupt, if the government served the interest of the few rather than of the many.

When, in the 20<sup>th</sup> century, government dramatically expanded its size and functions, took on responsibility for policing the world, and for providing social security for all Americans, American voters stopped, thought, and decided that this is what they wanted. The system was working. It was providing direction to the government that the many desired. Venal corruption was not eliminated, indeed the opportunities for venal corruption expanded with the size of government. "Politics," always a dirty word in America, continued as a term of opprobrium. But politics as usual no longer carried the sinister threat of systematic corruption. Systematic corruption stopped being a problem when the fears of systematic corruption were not realized.

Throughout America's history, critics and advocates have always warned that Americans are too complacent, that liberties are threatened by corruption in some quarter: eternal vigilance is required. But a system of liberty and law that depends only on the vigilance of its citizens will ultimately fall under tyranny, as it is surely inevitable that people make mistakes and are swayed by the temptations of demagogues. Defense of liberty, property, and the rule of law requires that mechanisms of government, systems of politics, constitutions be installed that channel the interests of politicians so that the employees of the people do the people's bidding. American history is not best thought of as a struggle against venal corruption, that is still with us. The lessons of American history that apply most readily to developing countries today are the long term fascination with systematic corruption and the paranoid fear that factions and parties will seize control of the government to the detriment of the common good. The complacency with which most Americans treat public life today is a reflection of our collective faith in the efficacy

with which the mechanisms of governments convert the popular will in government policies through the mechanism of venally corrupt and self-interested politicians.

## Endnotes

1. The call was repeated in the Declaration of Independence: "Therefore, ' ' Resolved, That it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.' "

2. The New Jersey Constitution of 1844 would read: Article 3, Section 1: "1. The powers of the government shall be divided into three distinct departments-the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided."

3. Wood's argument in *The Creation of the American Republic* that the first state constitutions naively gave too much power to the legislative branch and weakened the executive branch is successfully refuted in Kruman, *Between Authority and Liberty*. For the first state constitutions also see Willi Paul Adams and Donald Lutz.

4. When colonists argued that their interests were not represented in Parliament because they did not participate in elections for the House of Commons, the British replied that 95 percent of the population of England did not vote for the House of Commons either, but that all interests were represented by every member of Parliament.

5. Kruman's book, *Between Authority and Liberty*, is a thorough consideration of how and why the first state constitution constrained their legislatures.

6. For a discussion of the legislative maneuvering see Larson, p. 59. I have taken the material in quotes from him.

7. *The Annals of Congress*, 9th Cong. 2nd Sess, 80.

8. I have written elsewhere about how geographic competition (of which sectionalism at the national level is a component) operates with a majority rule democracy. Early 19<sup>th</sup> century Congresses regularly log rolled small appropriations bills for rivers and harbors that funded millions of dollars of transportation improvements (see Malone), but Congress was never able to log roll a deal where New York received \$7 million for the Erie Canal and other states received like amounts. Large national appropriations for transportation were always killed by sectional opposition, and the step necessary to mute sectional opposition were regarded as inherently corrupt. Much the same happened at the state level, although there is was possible to craft arrangements for the financing of infrastructure that benefitted everyone. See Wallis, 2003, forthcoming "The Property Tax as a Coordinating Device."

9. See the concluding chapter of Feller, *Public Lands in Jacksonian Politics (??)*, where he argues that after decades of debate and contention, little substantive change occurred in public land policy.

10. There could not be national support for a project like New York's Erie Canal unless every state or region could get its canal, and since there was not enough money in the Treasury to pay for that, the national government stayed pretty much out of the transportation business.

11. *The Annals of Congress* 14th Cong., 2nd Sess., 866

12. For example, the west was allowed the preferences granted in the Land Laws of 1785 and 1787 and the south was allowed the preferences granted to slave owners.

13. The clear example is the Wilmot Proviso, but the Nullification Crisis, the Missouri Crisis, and attempts to overhaul the land laws were also opposed.

14. Jefferson and Madison had put together a political coalition to win the election of 1800 from Adams, and the coalition stayed loosely together to support Jefferson, Madison, and Monroe. Jefferson, in particular, cultivated the image that he was above politics, and his image suffered considerably, both in the eyes of contemporaries and history, when his political maneuvers came to light. Overtly playing party politics was politically dangerous in the early 19<sup>th</sup> century.

15. John Henry Eaton, *Letters of Wyoming*, p. 3-4, as quoted in Larson, p. 154. Eaton was a prominent Jackson supporter, who was later Secretary of War and Governor of Florida. Larson describes Eaton's strategy: "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, p. 155.

16. Elsewhere I have termed this "something for nothing" or "taxless finance." Wallis, "Constitutions, Corporations, and Corruption."

17. For a detailed study of the use of property taxes to coordinate benefits across geographic areas in the mid 1830s, see Wallis, "The Property Tax as a Coordinating Device."

18. Venal corruption played a role in most states, but in only a few was the cause of the crisis graft and corruption. Mississippi appears to be the case where venality played the largest role, but few details of the sordid history of the Union Bank of Mississippi are available.

19. The history of these constitutional changes is presented in Wallis, "Constitutions, Corporations, and Corruption." The general relationship between public finance and corporations is discussed in Wallis "Market Augmenting Government." For a history of incorporation laws see Evans, and a larger discussion of the 19<sup>th</sup> century corporation see Hurst, *Legitimacy of the Business Corporation*.

20. New constitutions were more likely to be adopted in states where the strength of Democrats and Whigs was balanced and politics was most competitive. States with less party competition

were less likely to adopt new constitutions, regardless of their dominant party. Wallis, “Constitutions, Corporations, and Corruption.”

21. See Wallis, Fishback, and Kantor for a discussion of social welfare in the New Deal and the end of corruption in relief administration.

22. In 1902, local government revenues and expenditures were over 60 percent of total government revenues and expenditures in the United States. Control of local government meant control over most of the functions of government.

23. Article 1 of the New York Constitution of 1777: “This convention, therefore in the name and by the authority of the good people of this State, doth ordain, determine, and declare that no authority shall, on any pretence whatever, be exercised over the people or members of this State but such as shall be derived from and granted by them.” Section 1 of the Declaration of Rights of the Maryland Constitution of 1776: “That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.”